

Communication from Public

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November 29, 2024

Planning and Land Use Management Committee
Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
200 N. Spring Street
Los Angeles, CA 90012

Re: 7716-7860 Beverly Boulevard, Los Angeles, CA 90036
TVC 2050 Project
Council File Nos. 24-1315-S1, 24-1315-S2
Case Nos. CPC-2021-4089-AD-GPA-ZC-HD-SP-SN;
CPC-2021-4090-DA; ENV-2021-4091-EIR (State Clearing House No.
2021070014); VTT-83387-1A

Honorable Committee Members:

This office represents the A.F. Gilmore Company (“Gilmore”), an important part of Los Angeles’ business community for over 150 years, and submits this information in support of Gilmore’s appeal of the above-captioned determination by the City Planning Commission, and in opposition to the requests for recommendation by this Committee to the City Council, in anticipation of the December 3, 2024 Committee meeting. This submission incorporates herein by this reference all other submissions, appeals, and documentation heretofore submitted on behalf of the numerous other appellants and project opponents, to be added to the administrative record for the subject action. For the reasons set forth herein, we urge the Committee to recommend that the subject appeals to the City Planning Commission actions be sustained, and that the Committee recommend to the City Council that it disapprove the requested Council actions, consisting of certification of the subject EIR, approval of the Development Agreement,

and approval of the Site Plan, General Plan Amendment, Zone Change, Height District Amendment, Sign District, and related planning actions.

1. APPROVAL OF THE VTTM VIOLATES THE SUBDIVISION MAP ACT BECAUSE THE STATUTORILY REQUIRED FINDINGS CANNOT BE MADE.

The information contained in the administrative record, within our earlier submittals and the submittals made by other interested parties, confirms that the required statutory findings predicate to approval of a Vesting Tentative Map pursuant to Section 13B.7.3 of Chapter 1A of the Los Angeles Municipal Code (the “LAMC”) cannot be made. First, LAMC Section 13B.7.3, and Section 66474.2 of the Subdivision Map Act (which the LAMC provision codifies), require that in order to approve a Vesting Tentative Map the City’s Advisory Agency must find that a proposed subdivision is consistent with applicable General and Specific Plans, *in effect at the time the subdivider’s application is deemed complete*.¹ The statutory purpose underlying these requirements is to freeze in place the plan requirements as of the time a subdivision map approval is sought. Here, the developer’s application seeks wholesale changes in the planning and regulatory framework affecting the TVC 2050 project site: a General Plan Amendment, a Zone Change, an entirely new Specific Plan and other legislative changes that effectuate a re-writing of the rules for development in the commercial area encompassing the TVC 2050 project. Such changes are permissible, subject to due process and statutory limitations and, of course, when compliant with the California Environmental Quality Act (CEQA). But the City has not yet approved those rulemaking changes. It is factually incorrect and legally impermissible to find that the proposed subdivision complies with General and Specific Plan polices that do not yet exist, and may not ever exist. Second, the design and improvements contemplated by the proposed subdivision are not consistent with the applicable General and Specific Plans applicable to the TVC 2050 Project site because the sought-after amendments to those plan have not been approved. As we have made clear in our earlier submissions and as is explained in the administrative record, the Subdivision Map Act, the LAMC and CEQA do not permit an agency to rotely make consistency findings without factual support, nor to anticipate that subsequent legislative approvals will cure the inadequacy. Instead, faithful deliberation and consideration of all statutory requirements must be made. The administrative record makes clear that neither the Advisory Agency nor the Planning Commission engaged in any such deliberation, and that the factual support for a consistency finding simply does not exist.

As a separate matter, the TVC 2050 Project site is not physically suitable for the proposed type and density of development anticipated by the subdivision request, and the required finding in relation thereto cannot be made. The TVC 2050 Project represents a categorically massive intensification of the former CBS Television City studio campus, originally a low-lying and well-ordered scattering of television broadcast and production uses focused upon a classic mid-century design by William Pereira and Charles Luckman. The redevelopment proposes to inject over 1,000,000 square feet of new commercial uses,

¹ North Murrieta Community, LLC v. City of Murrieta (App. 4 Dist. 2020) 263 Cal.Rptr.3d 589 (emphasis added).

predominantly office, onto the former Television City campus, and while the project description pays salutatory homage to media production and technology, the proposed subdivision and the Applicant's development plan does not provide any assurances that production uses will remain, let alone expand. In fact, new construction contemplated for the TVC 2050 Project site could take the form of traditional office buildings without any production or studio uses whatsoever, and could contain up to 500,000 square feet of General Office and 712,000 additional square feet of Production Office uses. Imposing such commercial edifices and intensive land uses onto a site that is improved with neighborhood-serving uses and already poses harmful impacts upon its surrounding communities will exacerbate the health and safety problems posed by dense, vehicle-centered development, and the administrative records does not support the required finding that the development and design of the subdivision will not likely cause serious public health problems.

2. **CERTIFICATION OF THE TV CITY 2050 EIR VIOLATES CEQA.**

CEQA requires disclosure and analysis of the environmental impacts posed by a proposed development. To comply with this statutory imperative, an environmental disclosure document such as the Environmental Impact Report (EIR) that was prepared for the TVC 2050 Project must contain an accurate, stable and finite project description, and consequently, "[a]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."² The specifics of an EIR's project description are essential to lawful compliance with CEQA so that government agency decision-makers have a full and accurate sense of the environmental impacts posed by a project they are evaluating, and so that members of the public may knowledgeably and effectively participate in the evaluation and approval process.³ Here, the TVC 2050 EIR fails to satisfy CEQA requirements for a sufficiently accurate and stable project description because it sets forth options and alternatives for the proposed development without commitment or details. The site plans and building orientations are tentative and imprecise, and building elevations and designs are conceptual in nature without final specifications.⁴ The "Land Use Exchange" proposed in the Specific Plan exacerbates the defectiveness of the project description by injecting further optionality and imprecision into the question of what might actually be built. The project description contained within the TVC 2050 EIR reflects the Applicant's desire for limitless flexibility to allow its development to evolve over time into virtually anything – a giant studio, an monstrous office complex, or any iteration of an amorphous

² County of Inyo v. City of Los Angeles (1977) 71 Cal. App. 3d 185, 193.

³ See Stopthemillenniumhollywood.com v. City of Los Angeles (2019) 39 Cal. App. 5th 1.

⁴ At the Planning Commission hearing, the planning deputy for the Councilmember requested a condition of approval requiring that the site plan for the TVC 2050 project remain as proposed and not amended without further discretionary action, but no such condition appears in the Planning Commission's letter of determination nor in the TVC 2050 Project Specific Plan itself. It is essential for CEQA compliance that any such deviation or alteration of the site plan require public comment and participation, reasoned disclosure and analysis of environmental impacts and discretionary Planning Commission approval rather than Director's level determination as is presently contemplated under the TVC 2050 Specific Plan.

plan camouflaged by a gray box of boundless permissions. Such endless permissibility represents the antithesis of the clear and disclosive project description that CEQA requires.

Project Description

The City has encountered before the CEQA-related defects of imprecise project descriptions before, notably with respect to the Hollywood Millenium project. Similarly, the TVC 2050 Project's EIR describes an "envelope" of possibilities that might entail one or more of any potential land uses, of varying intensities, and the EIR's impact analysis attempts to address maximum levels of various environmental impacts.⁵ This manner of illusory description is antithetical to proper environmental analysis and is legally insufficient under CEQA. As in the Hollywood Millenium case, the TVC 2050 Project's land use exchange further aggravates the CEQA defect by affording the developer greater optionality amidst little precision. The TVC 2050 Specific Plan's Land Use Exchange closely resembles the Millenium project's land use equivalency program ("LUEP"), anticipating various potential development scenarios, that the Second District Court of Appeal found violated CEQA. Like the Hollywood Millenium LUEP, the TVC 2050 Project's Land Use Exchange would allow the Applicant to transfer or change uses or development details within the TVC 2050 Project and empowers the Planning Director to approve change requests based on the maximum impact thresholds analyzed in the Project's EIR. The Hollywood Millenium LUEP similarly afforded no additional environmental review to ensure that changes to the project remained within the analyzed impact levels in the EIR, and "fail[ed] to ensure that the finally designated Project will not be approved without all necessary mitigations of environmental harm."⁶

By contrast, the TVC 2050 Project is distinguishable from the project analyzed and challenged in the Icon at Panorama case, in which the City approved and the Second District Court of Appeal affirmed a CEQA analysis that provided alternative development scenarios, one of which was ultimately adopted.⁷ In sustaining the Icon project's CEQA analysis, the Court of Appeal distinguished the *Stop the Millennium* case because that project's environmental document had no meaningful project description whereas the Icon project's "descriptions of the initial project, all alternatives, and the Revised Project were [all] sufficiently detailed [with]...site renderings and layouts, square footages, and building descriptions."⁸ Here, the TVC 2050 Project's environmental document mimics the failings of the Hollywood Millenium project. There is no clear and finite project description, and little clarity or specificity about the impacts of relative project iterations is proffered. The TVC 2050 EIR purports to conduct an environmental analysis upon a maximum building envelope of what *might* be built, but the proposed development under the Specific Plan affords nearly limitless options to the Project

⁵ Stopthemillenniumhollywood.com, *supra*, at 18 ("These concepts and development scenarios – none of which may ultimately be constructed – do not meet the requirement of a stable or finite proposed project."); *see also Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal. App. 3d 577, 592 ("[T]he defined project and not some different project must be the [EIR]'s bona fide subject").

⁶ Stopthehollywoodmillenium.com, *supra*, at p. 18.

⁷ *Southwest Regional Council of Carpenters, et al. v. City of Los Angeles, et al* (2022) 76 Cal.App.5th 1154.

⁸ *Id.*, at p. 33.

developer. Proposed studio space land uses under the TVC 2050 Specific Plan, for example, include Sound Stages and Production Support areas that could contain 238,560 square feet and 215,440 square feet, respectively, but by operation of the Land Use Exchange the square footage of those uses could nearly double – to 450,00 square feet each. While the Land Use Exchange provisions require that such an increase must be countered by a corresponding reduction in other land uses, the CEQA documentation does not qualitatively or quantitatively analyze the myriad of potential iterations that such changes might present, and does not address how changes to the site plan or building descriptions and details could alter the environmental impacts of such eventualities.

Impact Analysis

As we have argued in our earlier submissions and the administrative record confirms, the TVC 2050 EIR fails to adequately analyze, disclose and mitigate the direct and indirect significant environmental effects potentially caused by the TVC 2050 Project. Impacts upon traffic, greenhouse gas emissions and air quality have not been adequately disclosed and assessed based on the TVC 2050 EIR's insufficient analysis, because the full impact of the TVC 2050 Project has been undervalued due to lack of specificity and as a result of the Specific Plan's Land Use Exchange. The full buildout of any potentially exchanged uses provided for in the TVC 2050 Specific Plan – for example, a conversion to 100% office and studio-supporting office – is reasonably foreseeable given the operative provisions of the Land Use Exchange, and these eventualities are not fully analyzed in the TVC 2050 EIR. Given the lessons learned from the Hollywood Millenium case, the complex technical possibilities that are possible as a result of the Land Use Exchange should be subjected to more exhaustive quantitative environmental analysis, looking at the reasonable foreseeability of the potential permutations of the Land Use Exchange itself.

The CEQA documentation concedes the historic status of the Television City studio building located on the project site, as well as several historic resources located in close proximity to the site, including our client's Gilmore Adobe and Original Farmers Market (LA HCM No. 543). The TVC 2050 EIR, however, fails to adequately disclose and consider potential impacts of the TVC 2050 Project upon both the Gilmore Adobe and the Original Farmers Market, during both construction and operation of the TVC 2050 Project. For example, the TVC 2050 EIR fails to address the potential for damage to the Gilmore Adobe as a result of grading and vibration during construction. The TVC 2050 EIR also defectively fails to disclose and adequately analyze potential impacts upon the structures and setting of the Gilmore Adobe and Original Farmer's Market as a result of the imposition of hundreds of thousands of additional square feet of contemporary commercial buildings, massive ingress and egress of trucks and motor vehicles, intensified use of the TVC 2050 Project site, and the visual and physical impacts posed by the new development upon other structures and settings on the Gilmore property. The TVC 2050 EIR summarily concludes that impacts upon the Gilmore historic resources will be insignificant as a result of the conclusory and incomplete assumption that no change to the Gilmore resources is proposed, and makes the erroneous and unsupported

conclusion that the construction of the Grove shopping center in 2002 eliminated any historic significance of the Gilmore resource's setting. The TVC 2050 EIR also provides minimal insight into the means by which the historic resources on the TVC 2050 Project site will be preserved, whether only outside elements are to be retained, or how changes to various uses located and to be located on the project site might impact on-site resources.

Statement of Overriding Considerations

The TVC 2050 Project's Statement of Overriding Considerations also does not withstand CEQA scrutiny. The Statement of Overriding Considerations justifies both the project description's lack of specificity and the massive environmental and community impacts posed by the over-intensification of the former Television City studio site with vague references to the Applicant's "risk-adjusted return on investment," which are proffered as an identified objective of the TVC 2050 Project. In other words, the Applicant seeks unfettered flexibility and optionality to change its development plans, and alter the environmental impacts threatened by the redevelopment of Television City, so that its development will generate a profit. Return on investment is an arithmetic function of time and financial capital, impacted of course by market forces. CEQA, on the other hand, and the legal requirement for disclosure and analysis of the environmental impacts of proposed development, is not market-driven. CEQA does not require environmental analysis and disclosure *so long as a proposed project generates a profit*, and the significant impacts of a development upon the environment may not be discounted because an applicant's need to generate a return justifies a project's environmental impacts.

Similarly, neither the CEQA documentation nor the voluminous administrative record sufficiently relate the stated concerns for protection of the entertainment industry to the proposed TVC 2050 Project. There is little quantitative data in the record, and no causative link has been established between the industry's challenges and the need to redevelop the TVC 2050 Project site. Moreover, as explained below, neither the TVC 2050 Specific Plan nor its Land Use Exchange specifically require the Applicant to preserve the former Television City studio site as a studio use, and the TVC 2050 Development Agreement does not set forth any such commitment by the Applicant. If the TVC 2050 Project were to be approved, nothing in the corresponding Conditions of Approval, nor the TVC 2050 Development Agreement as a whole, bind the TVC 2050 Project site and its owners to the entertainment industry uses and skilled jobs that have been proffered to support the Statement of Overriding Considerations. This failing is virtually conceded in the FEIR's responses to public comments, which answer inquiries about the Applicant's obligation to deliver the rehabilitated studio facilities with permissive language of the Land Use Exchange.⁹ The preservation of studio uses are not specifically required – at any scale – by either the Statement of Overriding Considerations or the required Mitigation

⁹ See, e.g., FEIR Section II. Responses to Comments at Topical Response B ("Specific details about potential future buildings are unknown at this time The Specific Plan would only allow for development consistent with the parameters in the Draft EIR and would require future review by the City for conformance with the Certified EIR and the Specific Plan.")

Measures, and no such requirement to construct, rehabilitate and/or preserve such studio uses is set forth in the TVC 2050 Development Agreement described below. In fact, inasmuch as the Applicant's investment returns are a stated objective of the proposed Specific Plan, the Applicant would be seemingly free to abandon any studio or media development whatsoever and build only the General Office, Production Office and retail components of the Specific Plan if that option rendered greater profit.¹⁰

In other respects, the TVC 2050 Project's Statement of Overriding Considerations fails to withstand CEQA scrutiny because it impermissibly relies on the Applicant's stated objectives to suggest that achieving those objectives alone is sufficient to override the significant environmental impacts of the TVC 2050 Project. The administrative record contains no evidence to support the need for nearly one million square feet of sound stage and production facilities given the current state of the media industry. Moreover, if such need exists, the freedom with which the Applicant may utilize the Land Use Exchange proposed in the TVC 2050 Specific Plan to convert uses from Studio and Production to other uses (such as General Office) means that preservation of the TVC 2050 Project site as a production and studio facility might never be achieved, and the justification for the overriding consideration would be lost. Similarly, the Statement of Overriding Considerations justifies the TVC 2050 Project's imposition of significant environmental impacts by relying on the vision of increased media production within the City to reinforce its status as "the creative capital of the world," but the imprecise project description and non-commitment afforded by the Land Use Exchange fails to ensure that those objectives will be achieved. The Statement of Overriding Considerations is also deficient for its reliance upon the goals of the Wilshire Community Plan, which (i) is markedly out of date, and (ii) anticipates the provision of greater housing opportunities in transit-served areas, which the Project does not provide. Adoption of the Statement of Overriding Considerations also violates CEQA because the Project is not consistent with the applicable General and Specific Plans applicable to the TVC 2050 Project site, as explained above.

Mitigation Measures

A final category of CEQA-related insufficiencies relates to the TVC 2050 Project's proposed Mitigation Measures, which are insufficient and ill-defined. Moreover, the Mitigation Monitoring and Reporting Program sets forth insufficient methods of enforcing the proposed Mitigation Measures. The TVC 2050 Specific Plan imposes no update or compliance review measures, for example, and does not afford mechanisms for evaluating the impact of development of early phases or portions of the redeveloped TVC 2050 Project site prior to the construction of future elements. Nor do the Mitigation Measures realistically incorporate the requested changes from the Councilmember made by her representative at the Planning

¹⁰ Indeed, a repositioning of the main studio buildings of the site with typical commercial office uses, consistent with the City's adaptive reuse requirements, would accomplish none of the stated objectives to retain entertainment industry jobs, but would reflect full compliance with the requirements of the proposed TVC 2050 Specific Plan when bankers, lawyers, accountants and investment companies move into the historic buildings on the TVC 2050 Project site.

Commission hearing (and to which the Applicant's representative agreed) in a way that can meaningfully ensure compliance. Most starkly absent from the Mitigation Measures are any methods of enforcing a requirement that occupants and users of the TVC 2050 Project site are entertainment-industry-related, or that leasing priority with respect to the studio-related office and general office spaces within the TVC 2050 Project is actually afforded to studio-related uses. Nothing in the proposed Mitigation Measures or Conditions of Approval would prevent a user from leasing the several hundred thousands of rentable square footage to real estate companies, insurance companies, brokerages or other office users with no connection whatsoever to the entertainment or media industries, and with no positive impact on the skilled jobs that the Applicant's proposal allegedly seeks to preserve. No priority among project objectives is suggested anywhere in the administrative record, or the TVC 2050 Specific Plan documentation. Therefore, when preservation of studio uses, entertainment-industry jobs, and office uses that are directly related to the production activities on the TVC 2050 Project site generate an inferior risk-adjusted return on investment than, for example, general commercial office uses unrelated to media or production, enhancing the Applicant's return would satisfy the TVC 2050 Project's objective in one respect, but sacrifice the environment and the industry-related objectives in the name of greater profit.

3. APPROVAL OF THE TVC 2050 SPECIFIC PLAN IS NOT WARRANTED BECAUSE THE NEW ZONING REGIME PROPOSED FOR THE FORMER SITE OF TELEVISION CITY STUDIOS IS NEITHER SPECIFIC NOR A PLAN.

The TVC 2050 Specific Plan accomplishes a comprehensive re-zoning of the former Television City studios campus to permit a massive intensification of a single-purpose studio campus into nearly limitless potential for alternative uses that can all be added to this sensitive community on a "by-right" basis. The TVC 2050 Specific Plan contemplates at full build-out a total floor area of 1,686,000 square feet on a site that presently contains less than 500,000 square feet of development. Within that massive envelope of permissibility, the TVC 2050 Specific Plan proposes no thresholds, no conditions and no ability for periodic review of the progress toward implementation of the Specific Plan's buildout, and no mechanism for continued monitoring of the environmental impacts of this intense development.

The TVC 2050 Specific Plan's abdication of regulatory surveillance is most starkly revealed by its by-right optionality. The plan contemplates the addition, for example, of 1,212,000 square feet of office space to a site with virtually none at present, and there are no thresholds, parameters or other opportunities imposed within the plan framework to evaluate over time how this additional office use is absorbed into the Project site and its surrounding community, nor how its environmental impacts are realized. While the TVC 2050 Specific Plan's Land Use Exchange does require that office or other uses should be decreased if the Plan's designed flexibility results in an increase to Production Support and/or Sound Stage uses, the Plan establishes no mechanisms for monitoring the impact of such changes upon the Project site, the surrounding community or the City as a whole.

The TVC 2050 Specific Plan also suppresses and forestalls public input, commentary and participation in the planning and regulatory process. Build-out as contemplated by the Specific Plan involves municipal permitting and decision-making on a non-discretionary basis. Modifications, deviations and changes to the development contemplated by the Specific Plan are subject to Director-level discretionary approvals that do not require public hearing or comment, and for which the determination of the Planning Director is final and non-appealable. Coupled with the exceedingly long term of the TVC 2050 Development Agreement, the regulatory framework imposed upon the TVC 2050 Project site assures the Applicant and its successors unrestricted and unfettered development discretion on a nearly permanent basis, without public participation or community involvement. Such regulatory de-control without public input or involvement represents a long-term abdication of police power regulatory authority and municipal discretion on a scale rarely if ever seen within the City.

4. **THE TV CITY 2050 DEVELOPMENT AGREEMENT TYPIFIES POOR POLICY-MAKING: AFFORDING A DEVELOPER UNFETTERED OPTIONALITY FOR BY-RIGHT DEVELOPMENT OF VIRTUALLY ANY COMMERCIAL USE WITHOUT COMMITMENTS, MILESTONES OR REQUIREMENTS AND WITHOUT REGARD FOR THE INTER-RELATEDNESS OF USES AND COMMUNITIES IN THE SURROUNDING AREA.**

The Development Agreement Statute¹¹ was enacted to afford developers certainty to engage in effective planning and to expend the resources required to accomplish complicated or phased development without fear of the municipal rules changing over the course of a project. An additional objective of the Development Agreement Statute proffers to municipal authorities the ability to contract with developers for public benefits and private sector contributions that might not be possible through regulatory exactions and rule-making. As a policy matter, however, the “bargain” that the TVC 2050 Development Agreement represents reflects an exchange of promises and undertakings between the Applicant and the City that is manifestly one-sided. In exchange for modest payments and undertakings, the Applicant receives nearly limitless flexibility and optionality, free from municipal oversight or rule-making, and from public comment or hearings. Moreover, the by-right developability of the Applicant’s TVC 2050 Project site extends almost indefinitely. The TVC 2050 Development Agreement imposes no performance deadlines or milestones upon the Applicant, who is free to build any portion of the contemplated improvements or none at all. In fact, the Development Agreement does not require the Applicant to complete, or even commence, the rehabilitation efforts with respect to the historic resources on the former Television City studios campus. The Development Agreement does not obligate the Applicant to build, restore or repurpose any portion of the Sound Stage, Production Support or studio-related land uses that form the basis of the

¹¹ Cal. Gov’t Code §65864 et seq.

Applicant's efforts to re-invigorate the entertainment and media industry in Los Angeles. In other words, the Development Agreement affords the Applicant predictability and by-right permissibility of nearly any commercial use, almost in perpetuity, and in exchange the Applicant is required to construct – nothing. Given the exhaustive and diverse evidence contained within the administrative record detailing the community and environmental impacts that the TVC 2050 Project threatens, the Development Agreement's bargain suggests an imbalanced exchange to the detriment of the community and the Project's neighbors.

5. **THE TV CITY 2050 SPECIFIC PLAN VIOLATES STATE HOUSING LAW BY MAKING THE DEVELOPMENT OF HOUSING AND AFFORDABLE HOUSING ALONG THE MAJOR COMMERCIAL BOULEVARDS ADJACENT TO THE PROJECT SITE MORE DIFFICULT, DESPITE THE STATED INTENTIONS AND PRIORITIES OF THE CITY'S HOUSING ELEMENT.**

Responding to a statewide housing crisis, and a shortage of housing opportunity and resources, local and state housing officials have promulgated various legislative responses to incentivize and promote new housing production and to ensure that housing resources are allocated effectively to areas with greatest housing need. The City is required by State law, for example, to create and periodically update a Housing Element as part of its General Plan, and to maintain an inventory of housing opportunity sites within its jurisdictional limits.¹² The regulatory changes envisioned by the TVC 2050 Specific Plan, however, run afoul of the City's obligations under applicable housing law.

The TVC 2050 Project site is identified as a potential housing opportunity site in the City's Housing Element. The Project site's current zoning, combined with recent State housing laws, reveal the compatibility of the site for multifamily housing uses. The TVC 2050 Project site also qualifies for Tier 3 incentives under the City's Transit Oriented Communities program. The proposed uses for the TVC 2050 Project under the Applicants proposed subdivision, and under the contemplated TVC 2050 Specific Plan, do not, however, contemplate housing as one of the potential uses in the Land Use Exchange and do not recognize housing as a by-right use thereunder. The TVC 2050 Specific Plan provides that housing uses on the TVC 2050 Project site would be permitted as a discretionary approval matter only, and therefore change the treatment of medium and high density housing on the subject site from permissible by right, as it is under current zoning, to a use requiring discretionary approval. The TVC 2050 Specific Plan's regulatory changes would also subject any potential housing development on the site to more intensive CEQA review in connection with such a discretionary approval, as would have been applicable prior to imposition of the TVC 2050 Specific Plan. The Housing Crisis Act of 2019 expressly prohibits rezoning efforts that impede the approval and production of housing contemplated in a City's Housing

¹² Cal. Gov't. Code §§65580-65589.8.

Element. Specifically, Government Code Section 66300(b)(1)(A) prohibits, among other things, any change to a specific plan designation or other land use designation to something that reduces the intensity of land use on a proposed site. Accordingly, the future use of the Project site for housing should the Applicant's vision not be realized faces a more onerous hurdle than is currently in place, and as such, the approval of the subdivision, the Specific Plan and the improvements contemplated by the TVC 2050 plan violates Section 66300(b)(1) of the Government Code.

This reading of the requirements of Section 66300(b)(1) of the Government Code is consistent with the Second District Court of Appeal's ruling in *Yes In My Back Yard v. City of Culver City*, where the city had attempted to "downzone" single family residential neighborhoods to place greater hurdles to housing opportunity.¹³ The TVC 2050 Project site's inclusion in the City's Housing Element Inventory also triggers the "no net loss" provisions of the Housing Crisis Act of 2019,¹⁴ which specifically prohibit the enactment of land use policies or regulations that would operate to reduce the residential density for parcels identified on a municipality's housing inventory without a corresponding designation of replacement housing opportunities. In short, impeding or making more difficult the provision of housing opportunities on the TVC 2050 Project site, as contemplated by the proposed TVC 2050 Specific Plan conflicts with applicable state housing laws. In addition, the Advisory Agency's approval of the subdivision similarly affects the proposed City's ability to ameliorate the housing needs of the region, and as a result approval of the map fails to fulfill the requirements of the Subdivision Map Act set forth at Section 66412.3 of the Government Code.

In summary, the proposed TVC 2050 Project is opaque in both its design and its process. In addition to disclosing little of what actually might be built, the Applicant proposes an imprecise and vague process for how its development vision might change over time. In fact, while espousing the economic benefit of hypothetical, high-paying media industry jobs, the Applicant's proposal does not even commit to studio/media development at all. The Land Use Exchange contemplated by the proposed TVC 2050 Specific Plan allows changes and potentially increases in the portions of the site that could be occupied by general office or other commercial uses, all of which could be accomplished on a ministerial basis with limited if any municipal discretion. The administrative record contains no evidence that this flexibility and limitless optionality is appropriate for the TVC 2050 Project site or the surrounding community, or serves any public benefit beyond fulfilling what the Applicant has described as its investment-backed expectations.

For the foregoing reasons, and based upon the other evidence contained in the administrative record, we submit that Gilmore's appeal of the Advisory Agency's determination should be sustained, and the deficient CEQA documentation should be remedied. In addition, the proposed Specific Plan, Development Agreement, General Plan Amendment, Zone Change and Height

¹³ 96 Cal.App.5th 1103 (2023).

¹⁴ Cal. Gov't Code §65863.

District, exemplify ineffective and misplaced land use decision-making, and should not be lawfully made without significant modification to the proposed TVC 2050 Project.

Sincerely yours,

HOLLAND & KNIGHT LLP



By:
Andrew J. Starrels