

THE SILVER LAKE HERITAGE TRUST

2568 Griffith Park Boulevard #277
Los Angeles, CA 90039
www.silverlakeheritage.org

December 5, 2022

1911-1931 W. Sunset Blvd & 1910- 2018 W. Reservoir St.;
Case #'s: CPC-2020-3140-CU-DB-MCUP-SPR-1A; CF 22-0297-S1
RELATED CASES: ENV-2020-3141-SCPE

To the PLUM Committee:

We write this on behalf of the Silver Lake Heritage Trust in response to the 12/1/2022 letter from the applicant's representative Mr. Abshez and the 12/2 letter From City Planner, Oliver Netburn.

Both letters reference the approvals issued at one level or another by the LA City Council and the Planning Commission, culminating in the most recent decision by the City Planning Commission ("CPC") at its meeting of June 28, 2022. Since that time the Los Angeles City Council has changed drastically, due to the corruption that finally came to a head, the multiple criminal investigations, and voter mandates which have unseated more than half of its members - some of whom have served on this very Committee.

To say that we are "dissatisfied" with the City's approach to historic preservation is to grossly minimize the facts that exist in this case. While it may be true that we are extremely disappointed in the Department of City Planning and former Councilmember Mitch O'Farrell's approach to the alleged preservation of this historic site, this appeal delineates the ways in which the City has manipulated the approval process by subverting the Cultural Heritage Ordinance in a way that provides this development with complete exemptions from environmental review. That is the intention of Appeals - to alert the higher bodies where the approving department has significantly erred, in order for you to send it back to be corrected and to ensure the laws and requirements are followed. Consider this another alert.

We are exasperated that this body continues to make important decisions based not on the greater good of our community, but on the dubious, covert agenda of many of its members. This corruption spreads to the Mayor-appointed City Planning Commission, which is composed of real estate professionals who contribute to Councilmembers political campaigns and work with the Planning Department, where we have included in the record instances where professional reports from historical consultants have been altered to satisfy this project. More on this later.

The letter from City Planner Mr. Oliver Netburn states that the CPC approved the demolition of the historic Taix French Restaurant and the construction of the new project, which the City Council deemed to be exempt from CEQA as a Sustainable Communities Project Exemption or SCPE, “based on the whole of the administrative record”. However “the whole of the administrative record” is riddled with substantial evidence that has gone ignored and passed over as if the thousands of pages that make up “the whole record” are blank. But they’re not. They are filled with testimony, expert opinion, and by law is required to be considered pursuant to Public Resources Code 21082.2 which clearly states:

“substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.”

An outlined list of evidence that has gone ignored exists in the June 20, 2022 Letter to the PLUM Committee wherein we informed you that this case was currently in litigation in the Los Angeles Superior Court.

Other ignored evidence includes the Secretary of the Interior Standards for Historic Preservation by insisting that there are no environmental impacts and that this project is wholly compatible with its surrounding neighborhood. This appeal was submitted as a rejection of the convoluted way in which this project has been granted its SCPE exemptions and entitlements. The entire basis for every one of these approvals hinges on this exemption, which continues to ignore the fact that the project CANNOT be categorically exempt if it destroys a historic resource.

The determination of the City Council, which OVERTURNED the decision by the Cultural Heritage Commission by introducing former Councilmember O’Farrell’s eleventh hour amendment to subvert the nomination by cherry-picking salvage items and designating the site as a Legacy Business - when the City of Los Angeles has no program or criteria related to a “Legacy Business”, constitutes a shameful and illegitimate shredding of our Cultural Heritage Ordinance and a disrespectful violation for our State laws, including CEQA requirements and protections and the Secretary of the Interior Standards for Historic Preservation.

On the topic of historic preservation we direct you to an email exchange that took place between the deputy city attorneys and the City Planners handling this case. The one thing the DCP lacked in order to qualify for the SCPE was a historical report that concluded the Taix project was not historic. Because of the preponderance of evidence in the record proved that Taix was and is a historic resource, (which also required the DCP to treat it as the historical resource that it is pursuant to CCR 15064.5, 15064.5(3)), the project failed to qualify for a SCPE. Senior Planner Heather Bleemers demanded a new historic analysis be done that specifically concluded the site was not historically significant. See **email thread in Attachment 1**.

The project’s 51% Density Bonus and Site Plan Review were not properly approved since it is incumbent upon these approvals to show that there is no impact on the physical environment, which includes any specific adverse impacts to a historic resource.

Furthermore, aesthetics **constitutes a legitimate concern under CEQA** and, for that reason, is one of the “other” considerations under section 21081 subdivision (a)(3) for purposes of an infeasibility finding. An agency has a right to ensure that aesthetic and visual considerations are incorporated into its planning decisions. (*Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903 (Pocket Protectors)*). The community has submitted a plethora of evidence in “the whole record” in regards to the visually painful and totally out of scale and character that is this project. There has never been anything like it permitted in this neighborhood. This is because it does not comply.

A full Environmental Impact Report is the only way to properly assess the impact of this precedent-setting and out-of-scale development, yet we can see how the manipulation of the preservation process allows the circumvention of this exhaustive but necessary process. For anyone who still has a shred of independent thought, ask yourself this: Why designate Taix at all? Why did Councilmember O’Farrell go to such extremes to contort the nomination with his amendment to save two signs and a bar? Why not reject the designation outright? Why the extraordinary push to include this embarrassing salvage effort on the City’s list of Historic Cultural Monuments? We contend, and **we have proof**, that this was a desperate act contrived for the sole purpose of avoiding an EIR and gaining easy approvals for the categorically exempt status. Without this extraordinary bending of the law, this project is wholly unqualified for its Density Bonus status and the wrongfully issued entitlements.

Sincerely,

The Silver Lake Heritage Trust

From: Kimberly Huangfu <kimberly.huangfu@lacity.org>
Date: Fri, 4 Jun 2021 09:14:07 -0700
To: Oliver Netburn <oliver.netburn@lacity.org>
Cc: Lisa Webber <lisa.webber@lacity.org>, Heather Bleemers <Heather.Bleemers@lacity.org>, Kathryn Phelan <kathryn.phelan@lacity.org>
Subject: Re: SCPE - Echo Park Taix Square

ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL COMMUNICATION

Hi Oliver,

Thanks for sending over a copy of the draft SCPE criteria section. I will review and send you a redline with my comments. Please let me know what your timing is on this.

I also wanted to clarify that any email communications with the consultant and developer (as outside non-City folks) are not privileged. This is the case even if the City Attorney's Office is copied on the actual email or sent a copy of the email thread after the initial communication. It looks like the consultants are using dropbox, so it's good that the actual draft Word files aren't being sent as attachments, but the body of your transmittal emails (and any attachments) are discoverable and would be subject to a PRA request and/or included in the administrative record if a lawsuit follows. Let me know if you have any questions. Thanks.

Kimberly A. Huangfu | Deputy City Attorney
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kimberly.huangfu@lacity.org

On Fri, Jul 30, 2021 at 9:38 AM Tim Moran <tim@irvineassoc.com> wrote:

Hi Heather,

Based on our previous discussion there was no need to update the HRA. The important part for the SCPE was the decision from the lead agency, especially since everyone had a historic analysis with different conclusions. The SCPE was updated to include the decision from the City and show that the project is compliant with the requirements of that determination.

Timothy Moran
Senior Project Manager
Irvine & Associates, Inc.

From: Heather Bleemers <Heather.Bleemers@lacity.org>
Date: Fri, 30 Jul 2021 09:43:25 -0700
To: Tim Moran <tim@irvineassoc.com>
Cc: Alexander Irvine <alex@irvineassoc.com>, Oliver Netburn <oliver.netburn@lacity.org>
Subject: Re: Timeline

Hi Tim,

There must have been a misunderstanding. We need to have an updated HRA to proceed. Please let me know if you would like to discuss this further.

Best,

Heather

Heather Bleemers Senior City Planner
Preferred Pronouns: She, Hers, Her

Los Angeles City Planning
221 N. Figueroa St., Suite 1350
Los Angeles, CA 90012
Planning4LA.org
T: (213) 978-1322

ATTACHMENT 1

From: Kathryn Phelan <kathryn.phelan@lacity.org>

Date: Wed, 19 Jan 2022 17:28:51 -0800

To: Heather Bleemers <Heather.Bleemers@lacity.org>, Oliver Netburn <oliver.netburn@lacity.org>, Kimberly Huangfu <kimberly.huangfu@lacity.org>

Subject: Taix HRA

 [GPA_Taix HRTR_Draft_2021.11.19 \(1\) edits.docx](#)

<https://drive.google.com/file/d/1hRrPcJt_msbWzkRhVZVq8NVSgSgf088p/view?usp=drive_web>

Hi Heather and Oliver,

I am fine with the attached Technical Report and think it does what we need. I made a couple minor edits. With those edits I would be fine with moving forward with this Technical Report. DO NOT FORWARD MY EDITS WITH ANY PARTY OUTSIDE THE CITY. If you agree with them, you can communicate the edits orally in a call or meeting.

As to what I think is one of OHR's biggest issues re Taix eligibility for state listing, the HRA does not assess or conclude for itself that the Taix meets criteria for listing in state register or local register. It summarizes all the past surveys and actions and recognizes that there have been surveys identifying that the ppty is eligible for state listing and local listing and ultimately Council designated it on the HCM and found three features contributed to its eligibility for local and state listing. And then in Section 5 in the impact analysis it concludes the project won't impact what makes it eligible for state and local listing. The conclusion on Taix's eligibility for state listing under State criteria is found in the introduction, the impact analysis and the Report conclusion.

If OHR is against the conclusion in the Report that the Taix is eligible for state register we could do a minor touch and and drop a footnote in the impact analysis to say, the drafter of this document disagrees the property is eligible for state listing after reviewing the prior surveys and even notwithstanding Council's thoughts on the matter, but then conclude that even if it is eligible for state the project will not impact it based on the analysis provided therein and council's determination that the signs and bar top are the contributing features. Or if OHR won't have it at all, the intro, impact analysis and conclusion will need to be edited to remove any reference to state criteria eligibility/ listing, and Section 3 should be edited to say that the expert finds that the project is not eligible for state listing based on prior surveys (or some new analysis), notwithstanding Council's statement in its designation action. I think doing that would also give us a Technical Report that would help us defend the SCPE. Although you may have more trouble getting that from the applicant.

If you have any questions related to the above, please let me know.

Thanks,
Kathy

Kathryn C. Phelan | Deputy City Attorney | She/Her
Land Use Division | City Attorney's Office | City of Los Angeles
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ATTACHMENT 1