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Via Email

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Design Commission
City of Pasadena
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Re: Comments on Agenda Item 3.B - 1336-1350 & 1347-1365 E. Colorado Boulevard, 35-39 N. Hill Ave. & 36-56 N. Holliston Ave.

Dear Design Commission:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the project proposed to be located at 1336-1350 & 1347-1365 E. Colorado Boulevard, 35-39 N. Hill Ave. & 36-56 N. Holliston Ave. (the “Project”), listed as Agenda Item 3.B on this evening’s Design Commission Agenda. As discussed below, approval of the Project at this time would violate the California Environmental Quality Act (“CEQA”). Further environmental review is necessary.

1. The City’s Reliance on a Six-Year-Old EIR Violates Procedural Requirements.

The Permit Streamlining Act requires that an agency must either approve or disapprove a project within 180-days of the certification of an EIR. A City “shall approve or disapprove the project within...one hundred eighty days from the date of certification [of the EIR],” subject to a single 90-day extension. Gov. §65950(a)(1). “No other extension, continuance, or waiver of these time limits by either the project applicant or lead agency shall be permitted.” Gov. §65957. This Permit Streamlining Act requirement meshes with the requirement that a CEQA lawsuit

must be brought within 180-days of EIR certification, (PRC §21167(a)), and prevents a project from being approved based on a “stale” EIR.

Contrary to Staff’s recommendation, the Project cannot rely on the Environmental Impact Report certified by the City Council in September 2016. Courts must scrupulously enforce CEQA’s procedural mandates. *Fresno*, 6 Cal.5th at 512. Approval of the Project would violate a clear procedural requirement that a project must be approved or rejected within 180-days of certification of an EIR prepared for that project. By ignoring the statutory requirement to approve or reject a project within 180-days of EIR certification, the City has created a legally untenable situation in which a Project is being approved based on an EIR that was certified six-years ago. Govt. Code § 65950(a)(1). The City is required to prepare a supplemental EIR for the Revised Project rather than relying on the 2016 EIR.

2. The EIR is Inadequate as an Informational Document, and a Supplemental EIR is Required.

Any time an agency makes a discretionary decision to approve or carry out a project, it must determine whether a subsequent or supplemental EIR should be required. Further environmental review is required if there are changes to the project, changed circumstances, or new information that indicate additional or more severe environmental impacts. CEQA § 21166. The agency’s determination must be supported by substantial evidence in the record before it concerning the existence or nonexistence of triggering conditions for further environmental review.

Here, Staff recommends the Commission approve the Project without further environmental review, but there is no evidence in the record that none of the conditions in CEQA § 21166 have not been triggered.

An SEIR is required because the Project now being proposed differs from the Project analyzed in the EIR. The Project differs from what was analyzed in the EIR, and since six-years have passed since the EIR was certified, there are likely to be significant changes requiring a supplemental EIR. For example, the current proposal includes a five-story mixed-use building with 40,916 square feet of commercial space, 49 residential units and subterranean parking. The project analyzed in the EIR was a 90,000 square foot hotel and commercial building, with 10,000 square feet being used for commercial purposes and the remaining 80,000 square feet used as a hotel with up to 150 rooms. The noise, VMT, GHG, traffic patterns, population, public services, and public safety impacts, among others, will differ between these very different use types. In addition, the proposal for the northern portion of the property now before is significantly different from what was analyzed in the EIR. The proposal for the northern property is now 20-feet higher than what was analyzed in the EIR, and this may significantly impact migrating birds, who may suffer due to window collisions. An SEIR is also needed because there have likely been substantial changes in circumstances and new information that have occurred since 2016.

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CONCLUSION

For the foregoing reasons, SAFER requests the Design Commission decline to approve the Project and instead require s supplemental EIR be prepared for the Project. Thank you for your attention to these comments.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'R. Davis', with a long horizontal flourish extending to the right.

Rebecca L. Davis
Lozeau | Drury LLP