



Response to  
NBC UNIVERSAL EVOLUTION PLAN  
City of Los Angeles  
DRAFT ENVIRONMENTAL IMPACT REPORT  
ENV-2007-0254-EIR

February 4, 2011

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*Communities United for Smart Growth is a 501(c)(3) public charity [ID# 26-3598467]*

COMMUNITIES UNITED FOR SMART GROWTH  
 DEIR RESPONSE  
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February 4, 2011

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City of Los Angeles Department of City Planning  
200 N. Spring Street, Room 601  
Los Angeles, CA 90012

RE: Comments on the NBC Universal Evolution Plan  
Draft Environmental Impact Report  
EIR Case No. ENV-2007-0254-EIR

Dear Mr. Foreman:

The Board of Directors of Communities United for Smart Growth thanks you, the City of Los Angeles and the County of Los Angeles for the opportunity to respond in writing to the proposed NBC Universal Evolution Plan Draft Environmental Impact Report.

Communities United for Smart Growth [a 501(c)(3) public charity] is comprised of local residents and business leaders from the communities that surround the Universal Studios property, which include but are not limited to Toluca Lake, Studio City, the Cahuenga Pass, Hollywood Knolls and other Hollywood Hills associations, and representatives from Burbank. Prior to CUSG's nonprofit status, the group was originally created as the Working Group in 2006 from more than 14 highly respected community associations, chambers of commerce, business groups, and four neighborhood councils. CUSG's mission is to preserve the environment and quality of life and to educate the public on these issues within the City of Los Angeles, as well as to envision and help create a true 21<sup>st</sup> century development model that will chart a better course for development in the decades to come.

### **Urban vs. Suburban**

The DEIR improperly describes the area surrounding the proposed project site as urban. While the term "urban" may be a City Planning Department designation for the communities that encircle NBC Universal, it is our belief that such a designation is not only mistaken in its identification of our neighborhoods, but that it is possibly intended to permit a much denser level of development than should be allowed. Over-development will strangle this region in traffic gridlock and air pollution, burden our already overwhelmed infrastructure, further erode our forever-crumbling streets that no amount of pothole-filling can repair, sap our continually drought-wracked water supplies, and turn quiet family neighborhoods into bustling city thoroughfares that were never intended to bear the brunt of such boisterous activity.

These neighborhoods are suburban and not urban by almost anyone's standard. Many of the streets, particularly in the Cahuenga Pass, Hollywood Knolls/Manor, and the hilly areas of Studio City, are substandard in width, most with no sidewalks, and so narrow that on Red Flag Days even the residents are not allowed to park on them because the narrow widths prevent the passage of fire trucks. These communities, including the Island and Toluca Lake, are composed almost entirely of single-family homes, many on large irregularly shaped lots, many on hillsides with no walkable land at all, many with expansive canyon views, some with beautiful city or valley views. These quiet communities are quasi-rural, characterized by lush greenery and mature trees, and open space. Most of the landscaping is natural rather than manicured, and the streets are quiet. These neighborhoods lack the typical "urban" noise such as buses, automobile traffic, railway or subway noise, or excessive pedestrian traffic.

It defies imagination to characterize these areas as urban. The only thing urban in this region is Universal Studios.

All the neighborhoods and organizations represented by Communities United for Smart Growth are of a single mind in regards to this issue: These neighborhoods are suburban, not urban, and planning for them must recognize that the bucolic nature of these areas is to be valued and preserved.

### **Smart Growth**

This Board of Directors strongly favors a vigorous regional economy and a healthy and growing entertainment industry. Not only is our entertainment industry a crucial element of Los Angeles' economic viability, a large preponderance of all our commercial and residential communities rely on the entertainment industry in one form or another, and it would not be in the best interests of this region to stifle either economic growth or industry vitality.

While we are supportive of a healthy and growing entertainment industry, we do not support expansion at any cost. We favor smart growth of an appropriate size and type. Oversized and overly impactful development will not only harm our neighborhoods, but could also reduce the long-term viability of any such development.

NBC Universal is a neighbor and all the communities have a vested interest in the success of its Project. And this Board knows that in the future, as in the past, our communal interests will intersect. We hope in this comment letter to stimulate a dialogue about the ideas and issues presented in this response, and even if we do not always agree, we encourage a continuing open-door give-and-take exchange that can lead to a better quality of life for all concerned. We want to see a successful project that is not only appropriate in size but that does not bring harm to the quality of life of the communities that are most affected by the proposed expansion.

**We believe that, at the end of a project, the communities which it affects should be enhanced rather than diminished.**

We are loath to witness the evolution of a legendary Los Angeles icon from a movie studio that has traditionally provided our region's residents with well-paid entertainment industry

jobs into a tourist venue that provides primarily low-paying, part time and/or temporary service jobs and into a real estate development company that seems set on selling off an historic back lot to create housing that, given the current economic climate, likely will sit empty for a long time to come. It seems that there is an attempt to build a Disneyland – but in the middle of a mountain. This is a location, with its already gridlocked streets, its narrow hilly roads, and its lack of wide arterials to sustain heavy traffic demands, that cannot bear the burden of any more traffic.

Smart growth to this Board means creating a project that all interests can consider a success. We have taken some time, great care and considerable financial outlay to bring to life such a project. We will further discuss this visionary project in this document where we will reference the Metro Universal RiverWalk Vision Plan as an example of how a large commercial development can be accomplished while still preserving and enhancing the quality of life for all the surrounding communities.

To that end, we submit the comments and questions that follow.

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We request that all comments should be considered as questions and we respectfully request responses to each issue examined.

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### **CUSG Challenge to the Adequacy of the DEIR**

CUSG believes that this Evolution Plan DEIR is inadequate and deficient, and a revised DEIR must be reissued for the following reasons:

#### **Bifurcation of the MTA & the Evolution Plan**

The proposed MTA Universal development and the NBC Universal Evolution Plan are improperly segmented portions of an overarching plan for the Universal City area that must be considered in a single EIR. It is CUSG's belief that the two projects are, in fact, two sides of a single coin, inextricably linked, and the fact that they have been uncoupled in what appears to be a deliberate attempt to confuse the public renders this DEIR fatally flawed and subverts the environmental intent of the CEQA law. Because the two DEIRs cannot be considered in relation to each other, the evaluation of the identified alternatives becomes a fool's errand. "A public agency is not permitted to subdivide a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole." [*Orinda Assn v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.]

Moreover, to date, the DEIR for the MTA site, along with the public comments and other responses, is on file with the City of Los Angeles and no FEIR has been forthcoming. Only when the MTA FEIR is released and finalized will it be made known what the actual impacts will be and what mitigations the City will require. Until then, this Project's DEIR cannot possibly estimate or properly address those issues. The greater CEQA project – the overall

development that NBC Universal proposes for both sides of the street – is not clearly and adequately analyzed for its overall environmental impacts.

A necessary remedy for this inadequate document is to conjoin the two projects into one and to re-circulate a new DEIR that encompasses both the MTA station project and the Universal Studios expansion. This is based on Universal’s statement that it is still the main tenant of the MTA site.

Additionally, NBC/U clearly has a legal interest in the property, as it retained a Right of First Offer from the first negotiations through the contract of sale. Having this ROFO gives NBC-Universal a continued stake in the proceedings of the MTA’s site. While we all understand that the two sites have different owners of record, which allowed the initial bifurcation, the purpose of any DEIR is to address the real-world issues that the public deserves to know prior to city approval. In the real world NBC Universal is the occupant for both sites, and it is NBC Universal’s needs that both projects try to satisfy.

### **Reasons Why Bifurcation Should Not Have Been Allowed**

#### *1. Same Original Ownership of Both the Studio and the Parcel Now Owned by the MTA*

Before 1994, the owner of both the 391-acre studio parcel on the east side of Lankershim Boulevard as well as the majority of the several lots comprising a 12-acre area west of Lankershim was MCA (later NBC Universal). The east side was used for movie and television production, and the west side for parking, access to the east side, and other minor uses.

#### *2. Retention of a ROFO/Development Control of the MTA Site*

In 1994 MCA sold its interest in the western 12-acre parcel to the Los Angeles County Metropolitan Transportation Authority (MTA) for the Red Line subway station. MCA reserved the right of first offer (ROFO), which gave it substantial control over any future non-subway-related development at that site. Although the studio ownership changed several times, eventually NBC Universal became the owner, still retaining its ROFO over the MTA site.

#### *3. One Developer for Both the MTA Site and Universal Studios’ Expansion*

A December 2006 press release stated that although NBC Universal would not be directly involved in activating its ROFO and developing the western parcel, it identified Thomas Properties Group as its chosen planning firm. Three months later in March 2006, NBC Universal announced that TPG had been hired to develop a “long term vision plan” for its studio property. This was to be a “shared vision” on the development of all its properties in the Universal City area. Later that year, NBC Universal’s “Vision Plan” was introduced, specifically incorporating development for the properties on both the east and west sides of Lankershim. NBC Universal would become the major tenant of the west side property, particularly in regards to what was later called a “Content Center” (i.e., a 5-story digitally up-to-date production and broadcast studio) and a high-rise office building.

NBC Universal Vice President Tom Smith. in May 2007, was interviewed by a local reporter, during which he stated that NBC Universal and Thomas Properties Group had planned the future development for both the east and west sides – “A vision for developing Universal City.” He also was reported as saying that NBC Universal would develop the MTA site in a way that was syntonic with the expansion of the Universal Studios property. In the interview he is quoted as saying:

“[T]he Universal City Red Line is across the street from us. NBC Universal holds a right of first offer on that property because we used to own a portion of it and then sold it to the MTA. That parcel sits at the gateway to our property, and *we thought that there was a very compelling opportunity to somewhat guide the destiny of that site.* While we’re not developing that site ourselves, *we envision extending some of our production capacity from this side of the street to the other side of Lankershim.* We entered into discussion with Thomas Properties Group to explore whether they would develop that site, and then *we would become an anchor tenant.*”

It is clear from these statements that all entities involved in the development clearly acknowledge the interrelationships between the development of the MTA site and the Universal Studios expansion.

#### 4. Same Lead Agency

Although the County of Los Angeles is involved in the Evolution Plan for the studio, as a large portion of the studio sits on County land, the lead agency for the environmental review for both the MTA site and the Evolution Plan development is the same agency: the City of Los Angeles.

#### 5. Relationship in Time

The Notices of Preparation of both EIRs were issued within one month of each other.

#### 6. Proximity

The MTA site and the NBC Universal studio property are adjacent to each other, separated only by Lankershim Boulevard. Lankershim itself is the primacy access street to both the MTA site and to the main entrance to the Universal Studios property.

#### 7. Common Control

With the exception of the actual subway station, which is operated by the MTA, both the MTA site and the studio and associated businesses and structures are both under the common control of NBC Universal. Its ROFO continues to exert substantial control over the MTA site’s current development. NBC Universal’s planning team has created a unified developmental vision for both locations, and NBC Universal will be the primary tenant at the MTA site.

## 8. Shared Mitigation Measures

The NBC Universal Evolution Plan relies on the implementation of traffic mitigation included in the MTA Universal project to mitigate its own traffic impact. This comingling of mitigation again shows the interconnectedness of the two projects.

For all these reasons, both locations should have been conjoined in a single EIR. To divide them is to violate CEQA by preventing “the whole of an action” [to analyze all impacts from both project sites] [14 Calif. Code Regs. (“Guidelines”), Section 15378]. California courts have recognized that “piecemealing” does not ensure that the EIR provides “adequacy, completeness, and a good faith effort at full disclosure,” [Guidelines, §15378, §15151] and additionally does not ensure that “environmental considerations not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences.” [Glendale-Pasadena Airport Authority v. Hensler (1991) 233 Cal. App. 3d 577, 592.] Three criteria to be evaluated in determining what constitutes the whole of a project are: relationship in time, physical location and the entity undertaking the action. [Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora (2007) 155 Cal.App.4th 1214.] As shown above, the MTA Universal development and the Evolution Plan should be considered the whole of a single project under all three criteria. This would allow for a more accurate assessment of project impacts and analysis of alternatives.

### **MTA & Universal Studios: Even Now A Single Owner?**

The Contract of Sale and Escrow Instructions entered into on December 22, 1994 between the Los Angeles County Metropolitan Transportation Authority (MTA) and MCA, Inc., and the subsequent Memorandum of Understanding (MOU) dated February 25, 1994 establishes procedures for Joint Development Uses and a Right of First Offer. The Initial Offer has certain time restrictions in which the both parties must act.

***Have all the terms and conditions of the above agreements been met in a timely manner?***

***Is MCA, Inc., (or its successors) still the owner in part in the parcels identified in the above Contract of Sale?***

If MCA, Inc., is an owner of the above parcels, then this is all the more reason the NBC-Universal Evolution Plan and the Metro Universal Project must be combined into one multi-phase Project. The two DEIRs must be combined to more effectively evaluate issues of environmental impacts affecting the immediate area. Feasible alternatives can be re-evaluated and new ones added.

One such alternative that could be considered with the two plans combined would be the Metro-Universal RiverWalk Vision Plan, put forth by this organization (Community United for Smart Growth). This plan proposed hotel and studio facilities on Universal’s property as well as a housing component located on the MTA site, closer to the actual MTA Metro station. This Alternative would then become Alternative 10.

## **Significant and Unmitigatable Impacts**

The DEIR fails to acknowledge the significance of many of this project's adverse impacts. Yet the DEIR, even when it recognizes the significance of the impacts, is quick to declare the impacts "unavoidable" rather than making a good faith effort to fully evaluate feasible alternatives and mitigation measures or a proposal that does not have such an impact on the environment.

To adopt a statement of overriding considerations, the City must make several findings and those findings must be based on substantial evidence. [CEQA Guidelines § 15093(b).] The City must find that it has eliminated or substantially lessened all significant effects on the environment to the extent feasible, and has determined that any remaining significant effects are acceptable because of the Project's overriding benefits. [Pub. Res. Code § 21081; CEQA Guidelines §15092(b).] The DEIR is required to describe feasible mitigation measures and alternatives that would lessen significant impacts, including those proposed by other agencies and the public. [CEQA Guidelines § 15126.4] If feasible mitigation measures or alternatives exist that would substantially lessen the significant impacts, the City must reject the Project as proposed. CEQA places the burden on a public agency to affirmatively show that a project with significant adverse impacts is approved only after all feasible mitigation measures and alternatives are found to be infeasible and only if the project's benefits outweigh its adverse impacts.

The CEQA process is designed to identify the level of harmful environmental concerns caused by a project, and the onus is on the developer to provide relief through meaningful mitigations from these harmful effects. The fact that this DEIR simply gives up on providing these important mitigations and instead identifies them over and over as "significant but inmitigable" renders this report deficient, incomplete and ineffective; thus it fails in its primary purpose.

The entire DEIR summarily dismisses impact after impact by arguing that because a problem exists already, more of the problem should be allowed. Under CEQA, the exact opposite is true. When existing impacts are already significant, any increase caused by a new project should be considered cumulatively significant. [Los Angeles Unified School Dist. v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1024.] In Los Angeles Unified School District v. City of Los Angeles, the court found that when ambient traffic noise levels at a school were already above Department of Health recommended maximum noise level of 70 dBA, any further increase is a cumulatively significant impact. [Id. at 1024-1027.] The DEIR repeatedly argues that it is acceptable to add more noise because a certain level of noise already negatively impacts a neighborhood, more traffic despite intersections already rated "F," an increased demand on water despite ongoing drought conditions and restrictions on water usage, more solid waste even though our sewers are antiquated and operating at over-capacity now and there will be insufficient landfill space, more air pollution even though there is already an unacceptable level of particulate pollution, and more visual clutter to a viewscape because views have already been visually violated.

***If these elements cannot be mitigated, why allow them to remain? What is the overriding consideration that allows these negative impacts to be forced upon the public?***

*CEQA is designed to protect the public. What rationalization can the City use if it decides to impose a Statement of Overriding Considerations to be able to green-light this project in the face of so many elements that are harmful to the public?*

**Inadequate Delineation/Description of Streets**

There are four streets in the Hollywood/North Hollywood region that use the name Cahuenga:

Cahuenga Boulevard in Hollywood

Cahuenga Boulevard East on the eastern side of the 101 Freeway through the Cahuenga Pass

Cahuenga Boulevard West on the western side of the 101 Freeway through the Cahuenga Pass extending all the way to the Lankershim Boulevard intersection

Cahuenga Boulevard in Studio City/North Hollywood

It is CUSG’s belief that the DEIR is fatally flawed as at no time does it clearly explain which Cahuenga Boulevard it is referring to. Over and over, Cahuenga Boulevard is cited with no identifying location or east-west notation to make clear to the public which street it makes reference to. The lack of clear delineation of Cahuenga Blvd throughout the DEIR is particularly problematic given the project’s numerous significant traffic impacts.

For this reason alone, the DEIR should be revised and re-issued.

**Feasible Alternatives and Mitigation Measures Would Substantially Lessen the Project’s Impacts**

The DEIR acknowledges that the project would have the following significant impacts, but incorrectly claims these impacts are unavoidable:

- Traffic (during Project operations and cumulative conditions)
- Noise (during Project construction and cumulative conditions)
- Air Quality (during Project construction and operations and cumulative conditions)
- Solid Waste (during Project operations and cumulative conditions)
- Off-Site Mitigation Measures (during construction and operations)

CEQA prohibits approval of projects with adverse environmental impacts if there are feasible alternatives that would substantially reduce a project’s significant impacts. (Pub. Res. Code § 21002; CEQA Guidelines § 15021(a)(2).) The CEQA Guidelines require an agency to “Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.” In order to implement this policy, the CEQA Guidelines specify that:

A public agency may approve a project even though the project would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that:

- (a) There is no feasible way to lessen or avoid the significant effect...”  
[CEQA Guidelines § 15043, emphasis added]

Feasible is defined as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (Public Resources Code § 21061.1) Project alternatives can still be considered feasible “even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” (CEQA Guidelines § 15126.6(b).)

The EIR includes several feasible alternatives that would substantially lessen the Project’s significant impacts, but these alternatives are improperly rejected. Additionally, CUSG has submitted a detailed feasible alternative for analysis that would further reduce the project’s many impacts.

### **Feasible Alternatives / Mitigations**

All of the significant but unmitigatable impacts of this Project – air quality, solid waste, noise and traffic – during construction, operations and in the future – can be reduced with a reduced intensity development. The best feasible alternative is Alternative 1 No Project. While it is true that some of the benefits of that the DEIR claims for this Project might be lost, it is equally and perhaps more importantly true that none of the significant and unmitigatable impacts would be foisted off on the public for the rest of their lives.

Additionally, other less impactful alternatives would meet the majority of the project objectives, while providing relief from the many significant impacts of the project as proposed.

### **Increase in Tourism**

The DEIR fails to address the number of tourists that will be attracted to the “new and improved” tourist sections of the studio. Yet NBC Universal representatives have candidly stated in meetings that they are hoping for an increase 1.5 million people per year increase which is approximately 30% increase over current levels.

*How were these new visitors factored in to all of their base assumptions on traffic and infrastructure needs and environmental impacts, particularly noise and air quality?*

*Where are the trip generation estimates and the details of other impacts that this significant increase in attendance will bring?*

### **City Has Not Allowed for Adequate Public Participation in the CEQA Process**

One of the overarching goals of CEQA is to allow public participation in the environmental review process. The City has not done so here. The size, complexity, ambiguity, technical language and a limited 90-day public comment period of this DEIR document means that the public faced a grossly inadequate time period in which to read, understand and comment on a document of this size and scope. And CUSG believes the fact that this DEIR was released directly prior to a period of time in which numerous major holidays occur, and during which it is common for people to be traveling or out of town for extended periods of time, makes this process invalid.

And when a 30-day extension of the comment period was requested by both Councilmember Tom LaBonge and Supervisor Zev Yaroslavsky, in whose districts this Project falls, the City refused to grant that extension.

This DEIR is approximately 39,000 pages and 27 volumes in length with volumes of technical appendices that could be evaluated only by experts in each field. To find experts, engage them in this process, receive written reports and have the financial resources required to pay for such expert knowledge is clearly beyond the scope of the communities. [CUSC raised and paid in excess of \$250,000.00 to pay for legal and technical experts in response to the MTA DEIR, which was a fraction of the size of this Evolution Plan DEIR. This DEIR, as confirmed by City Planning, is a document enormously larger both in scope and complexity than the MTA DEIR, released in 2008.] Moreover, to accomplish the necessary steps for a cogent response during a 90-day comment period which began just prior to the Thanksgiving/Hanukkah/Christmas/-Kwanzaa/New Year holidays placed more than an overwhelming burden on the public. Its effect was to frighten the public from participation and discourage meaningful discourse among the developer, the City, the County and the public.

***Doesn't this process violate the spirit of CEQA, if not the letter of the law, by subverting the public's ability to participate in the environmental review process due to the project's complexity, the size and scope of the DEIR, and the limited time for public review?***

***By deterring public participation in the planning process, has the City created a situation where the far-reaching planning decisions for this large area are made solely based on interactions between the City and developers who may already wield much greater financial and political power? Is this not the antithesis of CEQA's intent?***

### **Ambiguous Phasing**

Courts have often stated that: "An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." [County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 192 93; accord San Joaquin Raptor/Wildlife Reserve Center v. County of Stanislaus (1994) 27 Cal.App.4th 713, 730.] The concern over a stable project description goes to the heart of the EIR's value as a document of disclosure, since without a complete and stable project description, it is impossible to definitively determine what impacts the project being evaluated would have. [McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District (1988) 202 Cal.App.3d 1136, 1143: "An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity."]

By failing to provide any comprehensible information regarding the phases in which this project will be developed, the DEIR has failed to provide an accurate, stable and finite project description and the public is unable to ascertain the full impacts of the project.

## **AIR QUALITY**

As this community is located adjacent to a major freeway (101) and within proximity to two other major freeways (134, 5), air quality is a major concern. The DEIR has estimated 36,451 pre-TDM trips per day at full build-out. Study after study has demonstrated that freeway pollution is damaging:

In a study described as “the largest and longest study of its kind,” USC researchers found that “children living near busy highways have significant impairments in the development of their lungs that can lead to respiratory problems for the rest of their lives.” [*Reported in the Los Angeles Times, “Freeway Air Damages Young Lungs,” 1/26/07*] The study goes on to state: “The greatest damage appears to be in the small airways of the lung and is normally associated with fine particulate matter emitted by automobiles.”

In a study published in the *Circulation*, the American Heart Association journal, it was found that “long-term exposure to air pollution from a nearby freeway or busy road can raise the risk of hardening of the arteries, which can lead to heart disease and stroke, German researchers have reported.” And further in the article: “‘Potential harm due to proximity to heavy traffic should be considered when planning new buildings and roads,’ said lead researcher Dr. Barbara Hoffmann at University of Duisberg-Essen in Germany.” [*Los Angeles Times, “More Freeway Risks Are Found,” 7/23/07*] And UCLA researchers reported the following: “‘Our results emphasize the importance of controlling air pollution as another tool for preventing cardiovascular disease,’ said Ke Wei Gong, UCLA cardiology researcher... The smaller the particle, the more harm it can cause... Smaller particles generally come from sources of combustion – mostly vehicles.” [*Los Angeles Times, “Pollution-cholesterol Link to Heart Disease Seen,” 7/26/07*]

This Board does not agree that, just because the communities now suffer in proximity to a freeway, its risk should be significantly elevated as a result of the proposed project. These are cumulatively significant impacts that must be acknowledged and mitigated.

***What studies have been performed to assess the health consequences of long-term exposure to higher levels of particulate matter around TODs and transit locations such as MTA stations and/or bus depots? Why were these studies not included in the DEIR?***

***What studies have been performed to assess the consequences of this particular project’s long-term effects on the health of all the affected communities during the construction phases and during operational phases?***

***If no such studies exist, why should a project such as this be allowed to move forward in the absence of credible health information informing the public about its risks, both short-term during construction phases and long-term during operational phases, especially since the build-out is projected to last 20 years?***

A potential mitigation that is not incorporated in this Project could have been the planting of hundreds of “mature” trees instead of the removal or destruction of hundreds of protected trees.

Trees, of course, are our most precious means of air purification. In an article in *The Los Angeles Times* (“*It’s Worse Than Dirty*,” 12/10/07) Thomas Cahill, a professor of physics and atmospheric sciences at UC Davis “has results suggesting they (trees) can reduce levels of ultra-fine particle pollution near freeways... trees along the side of a freeway can help mix the air and dilute the concentration of ultra-fine particles.” Removing hundreds of trees would have the *opposite* effect.

The residences will also have emissions from HVAC as well as other utility consumption.

***What mitigations are proposed for those discharges?***

As if to corroborate these studies, the DEIR finds again and again that negative impacts to air quality are significant and unavoidable even after mitigation:

**Air Quality - DEIR IV.H p. 1519, 4. Cumulative Impacts**

**a. Construction Impacts states:**

“According to the South Coast Air Quality Management District, individual construction projects that exceed the South Coast Air Quality Management District’s recommended daily thresholds for project-specific impacts would cause a cumulatively considerable increase in emissions for those pollutants for which the South Coast Air Basin is in non-attainment. Construction-related daily emissions at the Project Site would exceed the South Coast Air Quality Management District’s significance threshold for all criteria pollutants except sulfur oxides. Consequently, the Project would have a cumulative impact due to construction-related regional volatile organic compounds, carbon monoxide, nitrogen oxides, PM10 and PM2.5 emissions. In terms of localized air quality impacts, construction of the Project would have a cumulative impact due to nitrogen dioxide (1-hour), PM10 (24-hour), and PM2.5 (24-hour) emissions. Other construction projects in the vicinity of the Project Site could also contribute emissions that would cumulatively increase these concentrations.”

**b. Operational Impacts**

“According to the South Coast Air Quality Management District if an individual project results in air emissions of criteria pollutants that exceed the South Coast Air Quality Management District’s recommended daily thresholds for project-specific impacts, then the project would also result in a cumulatively considerable net increase of these criteria pollutants. Operational emissions of the Project would exceed the South Coast Air Quality Management District’s thresholds for volatile organic compounds, nitrogen oxides, carbon monoxide, and nitrogen dioxide. Consequently, the total emissions of these criteria pollutants would be cumulatively considerable even with the implementation of all feasible mitigation measures.”

Their conclusion DEIR IV.H p. 1520:

“Development of the Project supports the 2007 Air Quality Management Plan’s policies by providing infill residential units and commercial development in

the middle of a highly urbanized center. The Project is expected to: reduce average commuter work trips, thus advancing regional air quality goals; minimize regional air quality impacts from new development by infilling existing urban centers and not leading to additional sprawl; improve accessibility of the residents to places of employment, shopping centers, and other establishments by locating new residential and commercial development in proximity to a wide range of existing urban uses; ensure compatibility with pedestrians, and bicycles through site design that encourages pedestrian and bicycle use; and decrease vehicle trips through the implementation of a Transportation Demand Management program that would encourage the use of public transportation and alternative means of commuting.”

We question this on several counts:

*How can they claim that adding almost 3,000 residential units, approximately 6,000 residents with approximately 3,000 additional cars will reduce and minimize air quality impacts? How would this increase in traffic gridlock improve accessibility of residents to places of employment, shopping centers, and other uses?*

*How can they assure that the proposed TDM program will serve the needs of these residents? Business? Transporting children to school? Shopping? Recreation?*

*Again, we question the use of “urban” center in a “suburban” area.*

And in the DEIR p 1524:

**a. Construction**

**“(2) Localized Emissions of Criteria Pollutants**

Construction emissions would result in maximum ambient air concentrations, across all construction scenarios, that would exceed the South Coast Air Quality Management District’s thresholds, thereby resulting in significant impacts, for nitrogen dioxide (1-hour and annual). Estimated construction emissions would also cause maximum ambient concentrations to exceed the new federal 1-hour nitrogen dioxide standard (188 micrograms per cubic meter), resulting in a significant impact. In addition, significant maximum ambient air concentration impacts also occur with regard to PM10 24-hour and annual and PM2.5 24-hour during both Mixed-Use Residential Area 1-Phase and 3-Phase construction, as well as during concurrent construction across all four Areas. Even with implementation of the mitigation measures listed above, impacts associated with these concentration levels could be significant and unavoidable.”

**b. Operations**

**(1) Regional Daily Emissions**

The Project would generate mass daily emissions of volatile organic compounds, carbon monoxide, and nitrogen oxides that exceed the South Coast Air Quality Management District’s thresholds of significance. Even with implementation of the mitigation measures listed above, impacts associated with these criteria pollutants

could be significant and unavoidable.

**(2) Localized Emissions of Criteria Pollutants**

Operational emissions would result in maximum ambient air concentrations that would exceed the South Coast Air Quality Management District's thresholds for nitrogen dioxide annual. Even with implementation of the mitigation measures listed above, impacts associated with this concentration level could be significant and unavoidable."

Under concurrent construction and operations [p. 1526]:

**(1) Regional Daily Emissions**

"Even with implementation of the mitigation measures listed above, impacts associated with these criteria pollutants would be significant and unavoidable."

**(2) Localized Emissions of Criteria Pollutants**

"Even with implementation of the mitigation measures listed above, impacts associated with these concentration levels would be significant and unavoidable."

***With all of the above sited significant and unavoidable impacts to air quality after mitigation how is it possible that this project claims to be consistent with regional and local air quality plans and policies?***

Again, this Board does not agree that, just because the communities now suffer in proximity to a freeway, its risk should be significantly elevated as a result of the proposed project.

***What studies have been performed to assess the health consequences of long-term exposure to higher levels of particulate matter around TODs and transit locations such as MTA stations and/or bus depots? Why were these studies not included in the DEIR?***

***What studies have been performed to assess the consequences of this particular project's long-term effects on the health of all the affected communities during the construction phases and during operational phases?***

***If no such studies exist, why should a project such as this be allowed to move forward in the absence of credible health information informing the public about its risks, both short-term during construction phases and long-term during operational phases, especially since the build-out is projected to last 20 years?***

Another potential mitigation that is not addressed by the DEIR is the extensive use of trees to assist in air quality improvement. In an article in *The Los Angeles Times* ("It's Worse Than Dirty," 12/10/07) Thomas Cahill, a professor of physics and atmospheric sciences at UC Davis "has results suggesting they (trees) can reduce levels of ultra-fine particle pollution near freeways... trees along the side of a freeway can help mix the air and dilute the concentration of ultra-fine particles." Removing hundreds of trees would have the opposite effect.

It is estimated that there will be approximately 6,500 new residents of the 2,937 units and they will undoubtedly have personal vehicles for their use. These vehicles will add to the air quality concerns for the area.

***What considerations have been given to mitigating those added long term impacts as a result of these new emissions?***

Not only will the residents have personal vehicles, but the residences will also have emissions from HVAC as well as other utility consumption.

***What mitigations are proposed for those discharges?***

### **Health Risks**

***Why is there no single section that addresses the scope of the health risks to the public?***

This DEIR has no section either in the main portion or in the appendices that addresses the full scope of the health risks involved during the construction and operation phases. Although each individual section may raise some of the issues relating to health, this DEIR should compile all the health risk information in a single section so that the public can see the scope of the health risks during the 20-year build-out as well as during normal operations. We believe that this DEIR is deficient and inadequate without such a section.

## **ANNEXATION**

The only purpose that this Board could find for the annexation of the back lot from the County into the City is profit. Other than the “cleaning up” of boundaries that has been used as a rationale for many zoning and land use changes:

***What is the rationale for this annexation? What was the rationale for which entity receives which parcel?***

***Is the sole purpose financial gain for NBC Universal and its new owner Comcast? If so, presumably City funds and/or County funds, which are public monies, will be involved in this transaction, so what is the financial consideration for this annexation?***

***What will be the public process for this switching of lands?***

***What will be the benefit to the citizens of Los Angeles County as well as to the residents of the City of Los Angeles? Will this transaction add to the public good, and if so, how?***

***What are the short- and long-term financial ramifications of this change?***

***What will be the impacts to the County of Los Angeles and the City of Los Angeles if this annexation is finalized?***

## ANNUAL GROWTH & INFRASTRUCTURE REVIEW

The *Daily News* on 7/2/08 in an article entitled “Development Spurs Lawsuit” reported that the City of Los Angeles had not updated its annual analysis on infrastructure since 1998, despite requirements in the City’s General Plan for it to do so annually. This report includes transportation, sanitation, schools and police services that are needed to support new development. The article questioned why the City should be allowed to grant construction permits without full knowledge of the viability of the City’s infrastructure.

The latest infrastructure review [*Infrastructure Report Card for the City of Los Angeles – January 2003*] that this Board was able to find is dated 2003 and gives the City an overall grade of: C+

The report addressed the following areas of infrastructure, and assigned a letter grade, as follows:

<u>Infrastructure</u>	<u>Grade</u>	<u>Comment</u>
Bridges	B+	
Stormwater System	C+	“In general the City’s current stormwater capacity is deficient in capacity. The existing system cannot handle flows generated by a 10-year storm (a large large that is expected to occur once every 10 years).” [page 4]
Street Lighting	C	“...a significant number of streetlights are below an acceptable level.” [page 11] “As the years progress more streetlights will deteriorate into the Grade D category and will require replacement.” [page 13]
Wastewater Collection	B+	
Wastewater Treatment	B+	
Water	C	
Airports	TBD	
Public Buildings	TBD	
Parks	C	
Port	B	
Streets & Highways	D	A chart in this section shows over 40% of the pavement condition of the streets to be a level F “Poor.” [page 7]

Below shows the level of financial investment needed for each category in the 10-year period following 2003 [pages5-6]:

<u>Infrastructure</u>	<u>Ten-Year Investment Needed</u>
Bridges	\$.05 Billion

Stormwater System	\$0.1 Billion
Street Lighting	\$1.0 Billion
Wastewater Collection	\$1.8 Billion
Wastewater Treatment	\$.05 Billion
Water	\$3.2 Billion
Airports	TBD
Public Buildings	TBD
Parks	TBD
Port	\$.02 Billion
Streets & Highways	\$1.5 Billion for Pavement; \$.07 Billion for Congestion Relief

***Has a full infrastructure review or report, containing all the above information in one report so that costs can be evaluated and compared, been updated and released since 2003? Where in the DEIR is this information contained?***

***How can the citizens of this City be assured that there will be adequate infrastructure to support the size of a development such as this? How can the citizens be assured that there are adequate financial resources in the City to maintain the infrastructure that supports a development of this size and scope?***

***What legal recourse do the citizens have if this Project is built and the result is that the City's infrastructure is woefully inadequate, that streets continue to erode, for example, and that funding is unavailable to repair the damage to infrastructure from such an increase in use?***

***Why is the City legally allowed to grant construction permits without assurances that the infrastructure can sustain the development proposed?***

## **BACK LOT – PRESERVATION**

### **Long-Term Jobs from Industrial Use vs. Short-Term Construction Jobs**

Universal's intention to re-zone and develop a large portion of their property for residential use will result in the loss of the last undeveloped open space in Los Angeles County zoned for studio production. The net effect of these homes must be a loss of jobs. Even if Universal has no need of the back lot for their own production space, other filmmakers do. CBS Radford is just now planning to build new sound stages at Valley Plaza because they are out of room at their Studio City lot. The land should not be rezoned when studio production is still a viable use of the land.

***What is the number of jobs that could have been provided by leaving the zoning as is, compared with using the land for residential development?***

In meetings with NBC Universal and other consultants, it has become apparent that the City is very keen to annex the back lot in order to provide housing. Yet – as discussed elsewhere in this

comment letter – the housing does not appear, at least at this moment, to be affordable housing. And even if it is, locating such a dense Park La Brea-style housing complex in such a difficult location – far from transit, along one of the most gridlocked streets (Barham Boulevard) in the City – seems to make no sense, especially as there are many other infill locations that would more directly serve any increase in population growth in Los Angeles.

This destruction of Universal’s historic back lot in order to make way for the residential component will create short-term construction jobs but at the same time cause long-term, irreparable damage to Universal’s production capacity and thus severely undermines the prospects for well-paying production and production-related jobs for the local area.

*Is there any other benefit that the City derives immediately besides the property tax benefit?*

### **Historic Aspect of the Back Lot**

Additionally, this plan would destroy an important historic site which has been the locus of decades of noteworthy and unique activity. Indeed, the legacy of the Universal back lot is of vital significance to the very fabric of what has helped Los Angeles achieve global prominence.

*Whom did the applicant consult to determine if the back lot had any historic significance worth preserving?*

*Has the L.A. Cultural Commission or any other similar body reviewed the project to determine if there is significant cultural and historic value to the back lot?*

### **Impacts of the Loss of the Back Lot on the Environment**

We question the impacts of the removal and permanent loss of the open space “back lot” on the environment and on native species.

1. There is inadequate or no information in the DEIR regarding any acceptable studies on the short and long-term negative impacts on the local and regional environment caused by 3000 new homes and the loss of existing open space.
2. There is inadequate or no information to verify that there are no challenged, special status, or potentially endangered or endangered species – flora and or fauna – in the project area.
3. There is inadequate or no information on the loss of native tree and plant species, including protected native oak species and other protected species including the California poppy (*Eschscholzia californica*)
4. There is inadequate or no information on the potential loss of natural watershed, including recurring and seasonal vernal pools, crucial to the survival of native species.

5. There is indisputable evidence, including eye-witness and photographic evidence, that native species of deer, bobcat, coyote, opossum, raccoon and more are native inhabitants of the space proposed for destruction and development.

***Why is there no adequate information in the DEIR regarding the negative and potential negative impacts on these known native species?***

***What are the impacts?***

***How does Universal intend to protect their native habitat?***

6. The proposed residential component would destroy an area that is an important part of the native and crucial migratory corridor for species in the Santa Monica mountain range.

***What are the negative or potentially negative impacts on native species' genetic diversity that might or would come about because of the loss of this open space?***

7. The proposed residential component would cause the destruction of vital temporary habitat for a number of migratory species, including the Canadian goose (*Banta Canadensis*).

***Why is the DEIR silent on the negative and potentially negative impact on those transitory species?***

1) The DEIR does not adequately address or offer viable and reasonable solutions on how to mitigate the negative impacts of almost 3000 new residential units – including the added vehicle and population density – on existing and proposed new traffic and transportation systems and the long-term and wide stretching negative impacts of that proposed growth on surrounding communities.

2) While other components of the DEIR request amendments to existing zoning and the community plan, the residential component requests and requires changes to zoning and the intended and expected use of the land.

***How can the City and County consider granting new zoning and a change in the heretofore expected use of the land when they have not adequately provided for the above potential negative impacts?***

On Page 12 of this DEIR's Summary, in the section entitled "Continue the Tradition of Outdoor Uses," the DEIR states:

"Outdoor facilities play an important role for the on-site television and movie production activities ..."

***Then why sell off a valuable resource such as the historic back lot?***

## **BICYCLE PATHS**

For many years it was considered by all the communities as a settled matter that the bicycle path, which is needed to connect the downtown area with the San Fernando Valley, would run along the path of the Los Angeles River. In earlier times NBC Universal had created plans that provided a scenic connection between its property and the river/bicycle path, as well as incorporating the security that the studio stated it needed to protect its production facilities.

Now NBC Universal executives are claiming that since the 9/11 terrorist attacks, a greater level of security is needed and that the bicycle path bordering their property creates too great a security risk. To that end they have eliminated the Los Angeles River Bicycle Path from their plans and substituted a new torturous path through extremely hilly terrain.

This Board fully understands the need for heightened security and is sensitive to methods for ensuring that security. However:

***How does NBC Universal secure the rest of their perimeter from terrorist attacks? What security measures – for example, higher fences, infrared laser-triggered alarms, camera surveillance, armed guards patrolling 24 hours a day 7 days a week – have they instituted since 9/11?***

***Why does NBC Universal see a bike path along its northern perimeter as more threatening than its perimeter along Lankershim? What evidence is there to support any such claim?***

What is crucial about the bike path being situated along the river is that, in an era when gasoline prices are soaring and the green movement is encouraging all citizens to get out of their cars and use other less environmentally hazardous modes of transportation, encouraging the use of bicycles is environmentally important and would be in keeping with NBC Universal's motto that "Green is Universal."

The net effect is that this changed path will discourage the use of bicycles as it adds a number of natural impediments (steep hills) and unnecessarily creates an indirect route. The fact that this new but not improved bicycle path is now routed up and down two long steep grades (the Great Road – which is proposed but may not find approval by the City – and the main entrance to the studio on Lankershim Blvd.) means that the path now becomes unusable for all but the most physically fit riders.

Additionally, as the bike path leads to and from Lankershim Boulevard, an extremely heavily traveled thoroughfare, there is significantly increased danger to bicyclers who must now ride in fast-moving heavy traffic to return to the rest of the path. This will also discourage many potential bicycle commuters.

***Why has NBC Universal been given this special exception to the citywide bike path which calls for the path to follow the south side of the Los Angeles River whenever possible, and in this particular instance there is a publicly owned easement along that preferred route?***

***The DEIR would have the bike path travel up and down the main Lankershim hillside entrance to the park. Can it be seriously suggested that small children and/or seniors on bikes could manage the severe inclines of the currently suggested bike path?***

***How can these bicycle paths be offered when studies show that 80% of bicycle riders cannot climb the steep terrain hill?***

Since many riders would be unable or unwilling to use the bike path as proposed, the EIR must reduce any reduction in vehicle trips it assumes would be associated with bike path usage to accurately reflect the limited usage the proposed path would provide.

### **Pending 2010 Bicycle Master Plan**

The website [www.labikeplan.org](http://www.labikeplan.org) [home page] identifies the 2010 Bicycle Path as a component of the City's General Plan and goes on to state that this plan:

“... is part of the City's commitment to transform Los Angeles from an auto-centric city to a city with a multi-modal transportation system.”

The 2010 Bicycle Plan was approved by the City Planning Commission on 12/16/2010 and is tentatively scheduled to be presented at a joint meeting of the City Council's Planning & Land Use Management & Transportation committees on Wednesday, February 9, 2011. Included is a *Five-Year Implementation Strategy*.

In the section of the 2010 Bicycle Plan identified as “Policies and Programs: Evaluation/-Environment” is the following:

“ENVIRONMENT: Bicycles along Beaches, Rivers, Fixed Transit Corridors and in City and State Parks Objective 3.3.

Provide a safe and comfortable Class I Bikeway and park experience for all users.

Policy 3.3.1.

Provide a connected network of Class I Bikeways facilities linking bicyclists to recreational, transportation and community facilities.

Programs

A. Green Network

Establish a Green Network of Class I Bicycle Paths along Beaches, Riverways, Fixed Transit Corridors, and City and State Parks to provide a transportation bikeway system with recreational benefits that links users to recreation, transportation and community facilities. Identify opportunities to link the Green Network to bikeways on either the Backbone and/or Neighborhood Network...

## **B. Los Angeles River Path**

**Prioritize the design and construction of the bicycle path along the Los Angeles River...**

**Objective: Complete the full build-out of the bicycle path along the full 32 miles of the River by 2035.”** *[emphasis added]*

*Are the writers of the DEIR not aware of this pending 2010 Bicycle Path, or have they deliberately chosen to ignore the benefits to the community and the environment in favor of their own convenience?*

*What is the effect of this changed path on the new Los Angeles Master Bike Plan that is currently in the works? Would this change inhibit the implementation of the plan?*

The DEIR must analyze the land use, traffic, and air quality impacts associated with the project’s lack of compliance with the Citywide bike plan.

## **BIOTA**

### **Wildlife / Birds & Animals**

This DEIR [*DEIR Summary: Biota (iv) page 162*] states the following:

“Although limited wildlife movement may occur between the Project Site and areas to the east, such movement is very unlikely to areas north or west of the Project Site and, therefore, the Project Site does not act as a true wildlife corridor, movement pathway, or linkage between larger habitat areas for terrestrial wildlife. The remnant habitat areas and artificial water features on-site may provide “stepping stone” linkages for birds, bats, and insects during migration, although the Project Site is not unique in this respect, as there are also larger, more intact, and higher quality habitat areas available in the Santa Monica Mountains.”

In the above statement, the DEIR makes its own argument that this is an ecologically intact site, a wildlife island unto its own. The species that are there, for example Mule Deer and California Quail, require large areas, corridors, habitat connectivity, etc. They decline when there is too much development. Numerous studies support this. The simple fact that they are there tells us that the site is ecologically intact and connected. Small sites, like Elysian Park, do not have these animals.

The animals that live there have been there for a very long time. The statement that “A lack of genetic variability within a population may eventually lead to extinction, as the isolated population will not have the ability to evolve or adapt to changing conditions over time” is not substantiated and almost sounds like an excuse to just kill them all because they won’t live much

longer anyway. Yet the animals that live on the project site have already survived two fires on the lot in recent history.

What is happening, as a result of this project, is that hundreds of trees will be destroyed and an entire eco-system is being wiped out.

The DEIR makes mention of “the resident deer herd, raccoons, coyotes, bobcats, squirrels” but does not give any count for these animals. There is admission of their existence, but there is no description of where they live, where they find water, etc.

***What is their ecology?***

Deer are large animals. They require a spacious habitat. Since the open space that is being wiped out is basically the only place where they live (the DEIR repeatedly states how far Griffith Park is), this means that the animals that live on site would have nothing left. It’s the last stand for these animals.

Whatever birds and their babies that are not killed can fly over to Griffith Park (it’s only a mile away) and then points beyond, but no mitigation measures are given for any of these larger animals.

***What will happen to these larger animals and their young? Where will they go?***

***What experts did the consultants contact? What studies were used to justify the lack of mitigation measures? Please cite.***

***What assurances do we have that no endangered species will be harmed?***

***What oversight regarding wildlife and bird life will this project have during construction and operation?***

***What are the biological impacts on birds and wildlife from the increase in night lighting? What studies have been conducted by recognized experts in the field, and why are those studies not included in this DEIR?***

**Trees**

The oak (*Quercus agrifolia*), walnut (*Juglans californica*) and sycamore (*Platanus racemosa*) trees are all California protected. Five hundred of these are slated for removal. The DEIR describes in an extremely chaotic and confusing manner that there will be an exchange of trees between the City and the County, yet fails to identify exactly how these exchanges will occur. Regardless of whether it is City or County, the removal of so many trees seems unnecessary, unhealthy, and unenvironmental. The DEIR claims the tree removal would have a less than significant impact, but if and when they are replaced, the replacement trees would not be mature trees. The planting of mitigation trees contributes negligible CO2 mitigation because such trees won’t even begin to sequester significant carbon for at least 20 years.

***Since many of the Project's oak trees and other tree species are located on the back lot, does the annexation of the back lot into the City from the County account for this exchange? Please explain.***

It is clear, no matter how confusing the DEIR's explanation, that hundreds of trees will be indiscriminately chopped down, whether they are 4 inches or 8 inches in diameter. The DEIR says that trees will be planted on-site and off-site, yet the lot is being heavily developed. The City and the County both have a minimum size regarding removal of trees. Whichever regulation is the most stringent should apply.

***Where on-site will these mature trees be planted? Where off-site? Please cite.***

Griffith Park already has a significant quantity of oak trees and one cannot just clear away scrub habitat and randomly insert oaks.

An entire woodland is being strip-mined out and the DEIR says that multiple trees will be planted for every tree removed, so that means that NBC Universal will need to find significant open space in which to plant what amounts to an entire woodland. This is if they do not opt to pay a fee in lieu of planting.

The DEIR's Table 138 on page 1575 is hereby called into question.

***From what source did the DEIR derive the size of the canopy spreads for these tree sizes in Table 138?***

Studio City Beautification recently planted 13 15-gallon *Quercus agrifolia* (oak) and not one was anywhere near 18 feet in diameter. The largest were approximately 4 feet, some smaller. The final EIR needs to show documentation from various reputable nurseries/growers as to the trees they have and their sizes.

NBC Universal also needs to consider in its count the number of trees that will be killed during construction as well as the ones that don't survive after transplantation, and that number must be added to the already confusing number that they have now.

Additionally, the only supervision during construction is by "the contractor." To fully comprehend the inadequacy of allowing the contractor to supervise this area, it would be useful to remember any work we've ever had done at our homes by any kind of contractor and then consider whether or not that contractor is the proper supervisor in charge of protecting valuable trees and baby birds.

***Why are there no qualified, independent biologist and certified and licensed arborist required on-site during construction?***

The final EIR needs to specify EXACT mitigation measures that make sense. CEQA specifies that a project must not contribute to the cumulative degradation of resources, or if it does, this must be mitigated. This project is most definitely a cumulative degradation of resources. The

only way to mitigate these cumulative impacts is to reserve a substantial portion of the site as open space and the most logical place to accomplish this is right where it already is as well as along the river.

### **Migratory Bird Act**

The proposed project conflicts with the resource protection policies of the federal Migratory Bird Treaty Act (“MBTA”) by removing hundreds of trees used by numerous migratory bird species.

The MBTA provides that:

“[I]t shall be unlawful at any time, by any means or in any manner to pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention ... for the protection of migratory birds ... or any part, nest, or egg of any such bird.” [16 USC § 703.]

The list of migratory birds includes almost every native bird in the United States. This law also extends to parts of birds, nests, and eggs. It is therefore a violation of the MBTA to directly kill or destroy an active nest of any bird species. Many bird species breed in the vicinity of the project and almost certainly on the project site. The project provides no provision for compliance with this law and therefore would have a potentially significant impact on biological resources through violation of the MBTA.

### **The DEIR Fails to Acknowledge the Significance of Tree Removal**

The DEIR fails to acknowledge that the removal of hundreds of protected tree species would result in a significant and avoidable impact. Providing replacement trees would not reduce this impact to a less than significant level for several reasons. The replacement trees would be of a different size, planted at a different location, and would not mitigate the impacts to the species that now use the existing trees. It would also not mitigate the impacts to area residents that rely on those trees to block noise and night lighting impacts and to provide reductions in air pollution. The EIR must acknowledge the remaining significance of this impact and consider alternatives to the project that preserve many more trees in place.

### **Impacts of Artificial Lighting on Wildlife Must Be Analyzed**

Light pollution caused by artificial lighting can have significant impacts on wildlife species. Artificial lighting disrupts sleep patterns for wildlife much the way it does for humans, which can disrupt nesting and make sleeping wildlife more susceptible to predation. [April 7, 2006 *Science Magazine* article by David Hill: “*The Dark Side of Night Lighting.*”] The DEIR fails to analyze the cumulative impacts of increased light pollution on the many species that reside

in the nearby Santa Monica Mountains, Griffith Park (which is designated by the County as a Significant Ecological Area), and Weddington Park, as well as those that frequent the Los Angeles River, which is only a short distance from the development site.

Artificial lighting also physically attracts many species of birds, serving as a magnet that can cause night migrating birds to collide with brightly lit tall buildings. [see [www.audobon-magazine.org/darksideoflight.html](http://www.audobon-magazine.org/darksideoflight.html), incorporated by reference] The DEIR fails to analyze the cumulative impacts of the development's artificial lighting on migrating and other bird species.

## **CULTURAL RESOURCES**

The DEIR has not acknowledged nor explained why those existing portions of the Universal Studios production lot – which have been identified for demolition and construction of residential units – have not been considered as historic resources for the City of Los Angeles.

Universal Studios is one of the oldest continuously operating entertainment studios in the world. Countless productions have been made on portions of the lot – where iconic and classic scenes have taken place, using structures, vistas and features which still exist today – which have come to identify the works of numerous artists.

Various features of the proposed area to be demolished meet CEQA's definition of a historic resource. The demolition of any historic resource is considered a significant impact under CEQA. As such, the City is required to adopt mitigation measures to mitigate or avoid the significant adverse impact to the historic resources. CEQA provides a strong preference for preservation of historic resources and the City must show preservation to be infeasible.

The project proposes to demolish California Register eligible buildings and to mitigate this impact with the Universal Studios Historic District preservation plan.

***What does the preservation plan include?***

***Does this proposal comply with CEQA guidelines regarding historic preservation (§ 15064.5. Determining the Significance of Impacts to Archaeological and Historical Resources)?***

### **Libraries**

The DEIR proposes a new on-site library:

“Per the City of Los Angeles Planning Department's estimation, the population for the service area for the Goldwyn Hollywood Library will reach approximately 96,789 by 2030, whereas the service population for the North Hollywood Library will reach 74,813 by 2030. As this level of population would exceed the service capacity of the Goldwyn Hollywood Library, the library would not be adequate to serve the needs of the community in 2030...

As such, a new regional branch would need to be constructed in the service area to meet City's library service standards. Mitigation measures are recommended to ensure adequate library facilities are available within the service area to meet the Project's demand for library services. [DEIR, Summary, 11. Public Services (e) Libraries, page 209]

***Is this new library included in the traffic and parking analyses? If not, why not?***

***How would those analyses change with the inclusion of library statistics?***

## **CUMULATIVE PROJECTS' IMPACTS**

On February 28, 2008 four San Fernando Valley Neighborhood Councils joined together to sponsor the Southeast Valley Vision Town Hall. This Town Hall examined the potential impacts of seven significant developments in the southeast region, including the Evolution Plan (still named the Vision Plan at that time), as each project's impacts would extend well beyond its immediate area. These projects were all within a 4-mile radius and comprised a total of over 12 million square feet of development.

The focus of this Town Hall was to look at all the projects as "one" and to address the cumulative effects.

We believe that this Project's DEIR inadequately addresses the cumulative impacts of all the proposed and approved projects within a reasonable distance.

### **Adjacent Projects**

The DEIR talks about physical boundaries that separate the Project from adjacent communities and therefore lessens the impact significantly.

***Why is the same logic not used when considering the residential component of the Project to the Metro Station?***

### **Related Projects**

***Why are unavoidable unmitigated impacts of other related projects not evaluated as to their cumulative effects on the Evolution Project?***

## **DEVELOPMENT PHASES & 20-YEAR BUILD-OUT**

The proposed development agreement for the Evolution Plan requires additional detail to allow for an adequate analysis of the project's impacts. Areas where additional information is required include:

- Broken into 4-5 development phases
- Traffic mitigations in place before starting each phase
- Shuttle
- Who funds improvements after 20 years?

This Project is broken into 5 phases over a 20-year build-out, and because of the extraordinary impacts that this Project will have on the entire region, the following issues must be addressed and finalized:

All traffic mitigations for each phase must be in place and functioning concurrent with or at the end of that phase. It is not acceptable that the surrounding communities and the public who drive through these areas every day experience interminable delays for a 20-year period. No phase shall be allowed to begin until construction of the traffic mitigations for the previous phase is completed. No temporary certificates of occupancy or final certificates of occupancy should be issued until the traffic mitigations for each phase are finished.

There are additional transportation modes, such as added buses and a shuttle, that are part of the mitigations for this Project, but the DEIR gives no assurance that these assists will continue after the 20-year period. The City of Los Angeles must agree that these additional methods of public transportation will be maintained and paid for in perpetuity by NBC Universal.

## **EMPLOYMENT, HOUSING & POPULATION**

*How do they come up with indirect housing demand? If there are 5,193 new employees, don't they all need housing? And how many are they assuming would live at the project site?*

*What studies were conducted, and by whom?*

*Was SCAG the only source?*

*Over what time period, what time horizon?*

### **Housing**

One of the Project Objectives and Overall Goals is to provide new housing opportunities in proximity to jobs and adjacent to a Metro Rail Station. Yet the 2,937 dwelling units in the City of Los Angeles Specific Plan are located two miles distant, over hilly terrain, from the nearest Metro Station.

*Where is there housing located within feet, not miles of a Metro Rail Station?*

*Why does the Project not meet the planning guidelines and ordinances set by the City of Los Angeles and MTA that promote residential proximity to public transportation?*

### **Employment**

*Did any recognized expert in the field of population growth provide information or statistics to verify those provided by Southern California Association of Governments? If not, why not?*

*Isn't it considered to be good methodology to verify all data before relying upon it, especially for a Project of this size and scope? Why was that methodology not employed here?*

## **ENTITLEMENTS**

In every presentation by NBC Universal representatives, questions from the public about the annexation of the back lot to the city have been answered by statements from those representatives that once the back lot has become City property, that parcel (or parcels) will be sold off to a residential real estate developer or developers.

All the communities are united in opposition to this plan and all organizations representing those communities have been extremely vocal in arguing that the back lot is no place for residential real estate development. The proper place to locate residential development is on the MTA site in direct connection to public transit. That also is in keeping with the MTA's stated objective to provide transportation for the citizens of Los Angeles:

“Metro is responsible for the continuous improvement of an efficient and effective transportation system for Los Angeles County.” [*Mission Statement, [www.metro.net](http://www.metro.net) Overview, “About Us”*]

For NBC Universal to exercise their ROFO for the purpose of using the MTA site as a location for office high-rise buildings is, we believe, to participate in squandering the public's asset.

***Can NBC Universal or the DEIR demonstrate any reason why such office buildings cannot feasibly be located NBC Universal's own property on the back lot?***

Furthermore, the Board strongly opposes the change in land use from production space to residential housing. Los Angeles has for many years been plagued by runaway production, enticed by the generous tax credits and newly built studio production spaces that have been built in other cities and states. Even though the studio may no longer need vast open spaces to film Westerns or other extensive outdoor activities, it must have need of digital production housing, which is being built as fast as construction companies can manage.

We all recognize that production space is **where people work**. To take production space, valuable for creating what we all refer to as “jobs, jobs, jobs” and to sell off those entitlements to third party developers who will likely not reside in any of our communities and thus not live with the effects of their decisions, is short-sighted in the extreme. Thus, the profit motive appears to be the only conclusion we can draw for such a step.

## **ENVIRONMENTAL ISSUES**

### **Urban Hot Zones - Increased Electricity & Water Needs in Relation to Hot Zones**

Because the Project site is part of a Regional Center, this Board has great concern over the creation and/or increase of what environmentalists are now calling “urban hot zones.” As cities and counties replace vegetation with development, the urban canopy is being decimated, resulting in markedly higher temperatures in densely populated areas.

In an article in the *Los Angeles Times* [“*No Safe Arbor in the City*,” 3/08/04], “the nation’s urban areas as defined by the Census Bureau have lost 21% of their tree cover in the last decade.” In the same article, the following information is given: “Urban heat island: In large areas where pavement, rooftops and other man-made structures absorb solar energy, surface temperatures rise and make the overall air temperature higher by 2 to 8 degrees Fahrenheit.” A graph shows Los Angeles’ August average highs in 1910 as 80.49° and a 1992 August average high of 85.12°.

The same article states: “The gradual deforestation of urban landscapes contributes to pollution, erosion and loss of wildlife habitat, as well as higher temperatures in some downtown areas, which lead to higher energy costs.” And: “Bigger trees with large canopies and root systems tend to reduce smog by lowering ambient temperatures, releasing moisture and absorbing pollutants, such as ozone ...”

In an article entitled “Developing a Hotter L.A.” [*Los Angeles Times online*, 9/9/07], writer Ali Modarres notes:

“High density development is usually considered environmentally friendly if it occurs near subway, rail or bus lines, and people can abandon their cars to get around... One effect of high-density development that can potentially increase energy consumption is a phenomenon known as the ‘urban heat island’ ... Researchers have known about the effect of the urban heat island on ambient temperatures for more than 100 years. More recently, however, heat-island studies of such cities as London, Athens, Tokyo, Beijing, Phoenix and Los Angeles have not only shown the problem worsening but have documented the rising level of energy consumption associated with it. The greater the density and the less green space nearby, the more severe the urban heat island can become.”

Higher urban temperatures clearly mean a significant increase in the use of resources such as water and electricity to run air conditioners for much longer periods of time.

*Were studies performed that estimate the effect of such an urban hot zone in all the communities adjacent to or near this development? If so, why were these location-specific studies not included in the DEIR?*

*If temperatures in and around the Project are elevated over their current temperatures, what provision or mitigation is suggested to reduce temperatures or to accommodate for much higher resource allocation?*

*What would be the typical cost increase for a family of four in their use of electricity and water, as a result of the increase of such an urban hot zone?*

*How would such an urban hot zone affect greenhouse gas emissions?*

According to the Energy Department's 2006 Building Energy Data Book, quoted in the above-referenced article, "39% of primary energy in the U.S. is consumed in buildings, accounting for 38% of annual carbon dioxide emissions... In addition, 68% of all energy consumed in residential buildings – houses, apartment buildings, condo towers and so forth – goes for heating (space and water), cooling and lighting. This energy consumption produces 66% of carbon dioxide emissions in all U.S. residential buildings."

*Has this DEIR evaluated the above figures (or more recent figures) and how do those figures compare to levels in the neighborhoods adjacent to the proposed Project?*

Given that hillside areas, such as the Cahuenga Pass, Studio City, the Hollywood Knolls and Blair Drive, regularly experience electrical power outages during periods of high usage (particularly when temperatures reach 85° and above), and given that the State of California has experienced rolling blackouts and brownouts to deal with its continuing energy production problems, we do not see that this DEIR provides an adequate assessment of the real-life restrictions that all the communities will suffer as a result of the significantly increased use of resources at the Project site.

## **Water Resources**

### **The DEIR Does Not Adequately Analyze Water Resource Impacts**

The DEIR should analyze 100 year flood impacts, not just 50 year impacts.

Additionally, the DEIR claims dewatering impacts would be less than significant, but goes on to acknowledge that dewatering may be required. This should be considered a significant impact.

*What will be the effects of significant dewatering on each community and on the region?*

## **Mitigation of Water Quality Impacts is Improperly Deferred**

The DEIR includes a single hydrology mitigation measure, which consists of subsequent preparation of drainage plans showing how storm water runoff from the proposed West Side development would be conveyed to storm water conveyance facilities. Such information should not be deferred, but rather should be prepared as part of the DEIR. It is unclear what would be required in the drainage plan.

*Would drainage basins be necessary at the site?*

*If so, why has this project feature not been disclosed and analyzed to ascertain whether it would cause any additional impacts?*

## **Water Usage Impacts**

It is no secret that Los Angeles faces a dire situation in terms of its water resources. The heading of a press release on 8/14/08 from the Office of the Mayor reads: “Mayor Villaraigosa cracks down on excessive water use.” The release goes on to discuss the new water-use ordinance, which expanded water use restrictions and increased penalties for offenders. In the release, Nick Patsouras, president of the Board of Water and Power Commissioners, states: “The action today emphasizes the magnitude of not only our water supply situation, but that of the entire state.”

California faces a severe water crisis. In “Is Growth Over?” [a 7/20/08 article in *The Los Angeles Times*], the writer cites Governor Arnold Schwarzenegger’s recent executive order stating that “California is in a drought and directing state agencies to start thinking about what to do about it. It is only the latest sign that a way of life built on cheap and readily available water is coming to a close.” The article continues on to discuss recent court decisions limiting development where adequate water supplies cannot be shown to exist.

It also details the cutbacks by agencies such as the Metropolitan Water District of Southern California and the Los Angeles Department of Water and Power and the higher prices that consumers can expect to pay (“30% reduction in deliveries to agricultural customers ... similar cutbacks to urban consumers and rate hikes of up to 20%.”

The writer of the article, Cary Lowe, is a land-use lawyer and urban planning consultant. In the article he states, “Unlike previous droughts, the current shortage of water is largely the product of long-term climate change because of global warming. This means that the shortage will not abate without major changes in how we consume water... As things stand now, California is rapidly approaching the limits of growth... What remains to be seen is whether that [conservation measures] will just postpone the day of reckoning – when we have done all we can to cut consumption but demand still exceeds supply. At the [sic] point, California will have reached the limit of its growth.”

*In a time of severe and ongoing drought conditions that are not anticipated to relent, is it sensible to advance such a dense project, even when the project includes some water conservation, capture and recycling measures?*

***Can the public be assured that adequate and reliable water supplies will be available not only for normal residential and commercial use but in the event of fire?***

### **Fire and Earthquake Safety in Relation to Drought**

Prior to the comments below, this Board wants to unequivocally state its respect for and gratitude to the Los Angeles Fire Department and most particularly to our local fire stations for the magnificent protection and care it has offered to the residents and business owners in all our neighborhoods. Our concerns regarding the availability of water in no way suggests that our firefighters are not in every way equal to the task of fire-fighting. They have kept our communities safe for many years, and we cannot express in words the gratitude we feel for their courage and heroism.

However, the problems of inadequate water supply in Los Angeles are well-known.

Adequate water pressure for fire fighting – fire season is now an identified season in the Southern California region – is a serious question. On 11/22/08, the *Los Angeles Times* reported in its article, “Dry Hydrants Doomed Up To 5 Homes, Officials Say,” that inadequate water pressure caused homes to burn in the Hidden Hills Estates area in Orange County.

In reference to the sad and destructive studio fire in June of 2008, the *Los Angeles Times* article, “Water Glitches Hamper Fight Against Studio Fire,” [6/2/08] it was stated: “Low water pressure and an overwhelmed sprinkler system hampered the fight against a fast-moving fire that tore through two city blocks at the Universal Studios Hollywood back lot.” Supervisor Zev Yaroslavsky is quoted in the article as saying, “The water came out of hoses anemically; the water pressure issue is going to be the postmortem issue of this fire.” And the article goes on to state, “Some firefighters on the scene could get only a 10-foot spray from park hydrants and were unable to reach the vaulting flames.”

***Again, is it safe to plan such an enormous development in the middle of an identified fire hazard area – so dangerous that residential property owners can buy fire insurance only through the California Fair Plan – when drought conditions are anticipated to continue to be a standard feature of Southern California living?***

***What assurance does the public have that adequate and reliable water supplies will be available in the event of fire?***

### **Import/Export of Earth**

A total of 450,000 cubic yards of import or export of earth is identified in the City of Los Angeles Specific Plan area. This does not include movement of dirt within the Specific Plan area nor the Universal Studios Specific Plan area.

***Why is this figure used since dirt will be moved around the site to make new contours for the anticipated development?***

The DEIR must disclose all grading impacts of the project.

### **Airborne Pathogens / “Valley Fever”**

The soil at the Project site could potentially harbor a fungus termed *Coccidioides immitis*. This microbe leads to the development of coccidioidomycosis, also known as “Valley Fever,” a disease which causes pneumonia in humans, especially in people with weakened immune systems. The potential for this disease to cause pneumonia is increased in individuals with immune impairment, such as those with AIDS or chronic pulmonary diseases. Outbreaks of this disease occur following the disturbance of soils containing the fungus. These projects involve the movement of previously undisturbed soils and grinding of stones in a residential area and could therefore have significant health impacts due to the spread of coccidioidomycosis.

An article on the Mayo Clinic website [[www.mayoclinic.com/health/valley-fever](http://www.mayoclinic.com/health/valley-fever)] on 1/29/2011, entitled “Valley Fever” and written by Mayo Clinic staff, identifies Valley Fever as follows:

“Valley fever is a fungal infection caused by coccidioides organisms. It can cause fever, chest pain and coughing... The coccidioides species of fungi that cause valley fever is commonly found in the soil in certain areas. These fungi can be stirred into the air by anything that disrupts the soil, such as farming, **construction** (*emphasis added*) and wind. The fungi can then be breathed into the lungs and cause valley fever...”

Further in the article, it is stated:

“In the soil they [fungi] grow as a mold with long filaments that break off into airborne spores when the soil is disturbed. The spores are extremely small, can be carried hundreds of miles by the wind and are highly contagious. Once inside the lungs, the spores reproduce, perpetuating the cycle of the disease.”

And on the WebMD website [[www.webmd.com](http://www.webmd.com)], there is a definition of Valley Fever that states:

“The disease is endemic (constantly present) in the **southwestern U.S.** [*emphasis added*] and parts of Mexico and South America.”

Yet when this Board searched the DEIR for any mention of Valley Fever and how the Project proposes containment, if these spores are present, it failed to turn up even a single mention. Unless some sort of spore suppression activities are included in the mitigation measures for the Project, the potential for health impacts from Valley Fever remains significant.

***What measures will be used to ensure that valley fever isn't a health risk to all the communities surrounding the Project site?***

***What actions to prevent Valley Fever will the Project undertake?***

*What if other possible toxic substances, airborne or otherwise, are found on site during excavation? What methods of control and elimination will be instituted to protect workers as well as the public from harm?*

### **Trees, Carbon Emissions and Global Warming**

“(W)e cannot afford to ignore even modest contributions to global warming. If global warming is the result of cumulative contributions of myriad sources, any one modest in itself, is there not a danger of losing the forest by closing our eyes to the felling of the individual tree?” [*Center for Biological Diversity v. National Highway Traffic Safety Administration (US Ninth Circuit Court, 2007)*]

Trees are important tools in the fight to stave off global warming. They absorb and store the key greenhouse gas emitted by our cars and power plants, carbon dioxide (CO<sub>2</sub>), before it has a chance to reach the upper atmosphere where it can help trap heat around the Earth’s surface.

CUSG contends that this DEIR fails to meaningfully analyze or mitigate (CO<sub>2</sub>) biological emissions associated with the conversion of oak, walnut and sycamore woodlands to non-forest use. By this omission, the project disregards the California Environmental Quality Act (CEQA), Office of Planning and Research (OPR) guidelines, California Attorney General opinions and Court decisions by not making a good faith effort to analyze or mitigate project oak, walnut and sycamore woodlands CO<sub>2</sub> biological emissions.

The California Global Warming Solutions Act (AB32) defined thresholds are to reduce carbon dioxide emissions by 2020 to 1990 levels, with a further 80% CO<sub>2</sub> reduction by 2050. That means every ton of CO<sub>2</sub> emitted back into the atmosphere by this project’s woodlands conversion, plus the loss of future increases in tree carbon sequestration, represents a measurable potential adverse environmental effect.

The foundation of the AB32 reduction objectives and California Forest Protocol preservation standards is the “net present value” of GHG emissions – an emission avoided today is more valuable than an emission avoided tomorrow. Therefore, a ton of oak woodlands carbon currently sequestered is more critical than a ton of woodland carbon stored in the future.

A state standard (recognized universally) to measure oak woodland CO<sub>2</sub> biological emissions exists under the 2007 California Air Resources Board (CARB) Forest Protocol. This Protocol provides the analytic tools and methodology for measuring CEQA forest carbon baselines-impacts. Notably, COF has the Forest Protocol-accredited professional capability to calculate for any oak woodlands conversion both the amount of carbon dioxide currently sequestered and the CO<sub>2</sub> biological emissions if those woodlands are impacted.

A tree has the ability both to store atmospheric CO<sub>2</sub> and release CO<sub>2</sub> back into the atmosphere when killed. Thus two CO<sub>2</sub> biological emission impacts must be considered.

Dual woodland CO<sub>2</sub> emission effects must be considered for review.

- Direct CO2 emission impacts from dead tree disposal
- Cumulative impacts due to the loss of future increases in live tree carbon sequestration.

Notably, the absence of value and timeliness exclude on-site woodlands retention or the planting of trees as valid CO2 biological emission mitigation measures.

The remaining trees won't start growing any faster, so they contribute nothing toward mitigating for the CO2 that would be stored in the killed trees if they would be allowed to live.

Planting mitigation trees contributes negligible CO2 mitigation because they don't even begin to sequester significant carbon for at least 20 years. This means mitigation planting contributes zero mitigation for carbon biological emissions in the AB32 short-term (2020-2050). Also, their long-term (Forest Protocol 100-year) ability to store CO2 is greatly exceeded by the amount of carbon that would be sequestered by the trees that are planned to be killed.

On-site woodland retention and planting trees contribute negligible mitigation for CO2 biological emissions associated with the disposal of so many oaks, walnuts and other trees and shrubs.

***How much potential CO2 sequestration of the next 100 years will be lost due to impacts to live native trees 4" or greater?***

***How much sequestered CO2 will be released if the live trees, standing dead trees or woody debris are burned or otherwise disposed?***

***How will oak, walnut and sycamore woodland CO2 emission impacts be proportionally mitigated?***

California's official greenhouse gas policy categorically places a premium on conserving native forests over the next 100 years. Yet the project refuses to meaningfully analyze direct and cumulative CO2 emissions from the conversion of oak and walnut woodland to non-forest use, despite a universally accepted California standard for measuring those carbon biological emission effects.

### **Climate / Climate Change**

Given the multitude of challenges that California will soon face as a result of climate change, the Project must make greater efforts to reduce its greenhouse gas emissions, both during construction and operation. Although the DEIR suggests many ways in which the Project could reduce its carbon footprint, they must be made mandatory and enforceable.

The following are some steps that this Board considers crucial:

- Requiring gold or platinum LEED certification

- Requiring the use of low-flow shower heads, low-flow toilets, and waterless urinals
- Prohibiting the use of Styrofoam containers
- Eliminating the video signs and internal lighting of billboards and other creative signs (video billboards, operational 24 hours per day use an unnecessary amount of energy) [these types of signage use vast amounts of electricity and emit heat]
- Installing grid-tied gym equipment, which generates electricity instead of using it. Incorporation of such equipment is feasible as it is currently in use at The Green Microgym in Portland, Oregon.
- Incorporating rooftop photovoltaic solar panels into the design, and using this solar energy to power the Project. Although solar is hinted at in Project renderings, no commitments are made.
- Mandating the use of Energy Star appliances where applicable

Also, the DEIR claims that the project would include a 30 percent reduction in greenhouse gas emission over a “business as usual” project and uses this unsubstantiated claim to support a finding that the project has adequately reduced emissions. This claim is highly misleading for several reasons. First, the majority of new projects are required to include similar greenhouse gas reduction measures, so it seems highly unlikely this large project would be a 30 percent reduction over other similar projects now being approved. Additionally, this project would significantly increase the energy usage of the site by significantly increasing the amount of development for the site beyond what would currently be allowed. We request that there be further analysis and that additional measures for reducing GHG emissions are included.

***What are the procedures or processes that result in the reduction that is claimed in the DEIR? Give specific examples.***

### **Digital Billboards**

As stated in an article posted online from the *Philadelphia Environmental News Examiner* by Aaron Colsher [12/21/2010]:

“... Digital billboards can require thousands of LED bulbs that are lit both day and night... LED lights do not function well in excessive heat... Digital billboards require cooling systems to function properly... Digital billboards use an inordinate amount of energy...”

“A study conducted by Gregory Young, a Philadelphia based urban planner, states that in a year a digital billboard can consume up to 30 times the energy that an average American household uses. Compared in terms of CO<sub>2</sub> emissions, digital billboards emit over 100 tons of CO<sub>2</sub> a year compared to 10-15 tons of CO<sub>2</sub> generated by an average household...”

“Digital billboards are an unneeded burden on the environment.”

The loss of hundreds of mature trees that process the CO<sub>2</sub> will dramatically exacerbate the increasingly hazardous air quality in the surrounding communities.

## Wastewater Requirements

In a memo dated 1/5/11 to Jon Foreman, Senior City Planner, from Ali Poosti, Acting Manager in the Bureau of Sanitation, it is stated that “based on the estimated flows and the construction of a new 16-inch sewer line, it appears the sewer system **might** (*emphasis added*) be able to accommodate the total flow for your proposed project,” and further, “If the public sewer has insufficient capacity, then the developer will be required to build sewer lines to a point in the sewer system with sufficient capacity. A final approval for sewer capacity and connection permit will be made at that time.” The DEIR fails to analyze the reasonable possibility that the sewer system would not be able to accommodate the wastewater generated by the project.

***If solid waste is listed in the DEIR as a “significant and unmitigatable impact” [DEIR VI. Summary of Significant and Unavoidable Impacts, pages 2434-2440], why does the DEIR then require the developer to build sewer lines in the event that it is proven that the sewer has insufficient capacity?***

***If added or enlarged sewer lines will provide adequate capacity, why is solid waste considered to be unmitigatable? Please explain.***

## GEOTECHNICAL

The DEIR improperly defers the mitigation of grading, erosion, sedimentation, soil stability and liquefaction impacts, instead punting these issues to post-approval reports. This violates the requirements of CEQA. [Endangered Habitats League v County of Orange (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B).]

This improper deferral of mitigation is particularly problematic as there are potentially hazardous conditions at the project site. For example, the DEIR states the following:

“Based on on-site soil conditions, the potential for liquefaction to occur on the site ranges from high to low. Impacts would be considered significant for areas designated with a high to moderate potential for liquefaction.” [DEIR Summary, page 121]

Furthermore, slope failure appears to be a major consideration. The Summary states:

“An on-site slope hazard is present for most west, northeast and north-facing cut slopes. Excavation during Project grading in these areas could create geotechnical hazards related to landslides. Therefore, Project impacts related to landslides would be significant...” [Ibid., page 122],

To make matters worse, Appendix H-1 Figure 7 shows the entire back lot area as being designated a “Potential Slope Stability Hazard.”

The presence of methane gas has the potential to cause explosions. The Summary states:

“A closed landfill is located towards the central portion of the Project Site. Methane gas may be present at this closed landfill. Additionally, the closed landfill is subject to settlement.” *[Ibid., page 122]*

Given the history of methane gas explosions in Los Angeles, these casual mentions of what the public regards as great hazards are, we believe, completely inadequate. We do not believe there is adequate information regarding the closed landfill and the impacts that could result from it.

The DEIR identifies expansive soils as a potential hazard:

“Expansive soils are present within portions of the Project Site. As these soils are relatively impermeable, irrigation water could become trapped within the upper soils of landscaped areas... This trapped water could move laterally beneath slabs, curbs and paving, thereby resulting in significant impacts...” *[Ibid., page 123]*

And regarding fill:

“As a result of past on-site construction activities, both engineered and non-engineered fills are present at the Project Site. The non-engineered fills that are present may be weak and compressible, particularly with the addition of water... construction in areas with non-engineered fills could lead to significant impacts.” *[Ibid., page 123]*

Because of such fill, the DEIR itself warns against the location of a reclaimed water tank in the Mixed-Use Residential Area, which is already identified in the Appendix as a “Potential Slope Stability Hazard”:

“Because the slope consists of non-engineered fill, placement of the water tank at the proposed location could result in a potentially significant impact... These locations *[for smaller water tanks]* could potentially encounter other geologic hazards including liquefaction that could result in a potentially significant impact.” *[Ibid., page 123]*

A few of the mitigation measures do provide additional detail about how exactly they will be instituted, but on many mitigations the DEIR states that there will be mitigations, but remains silent on exactly what those mitigations will be, instead deferring all studies and investigations until after approvals, per the following:

**“Mitigation Measure F-1:** Prior to the issuance of the building permit for a building or structure, a site-specific geotechnical report shall be prepared for each project... *[Ibid., page 125]*

**Mitigation Measure F-2:** During construction, geotechnical observation and testing shall be completed... [Ibid., page 126]

**Mitigation Measure F-3:** ... Site-specific geotechnical investigations shall be performed... [Ibid., page 126]

**Mitigation Measure F-6:** Site specific liquefaction hazard studies shall be required... [Ibid., page 127]

**Mitigation Measure F-13:** ... The suitability of the materials shall be confirmed during the site-specific geotechnical report prepared for the individual development.” [Ibid., page 130]

**Mitigation Measure F-16:** A site-specific geotechnical report with detailed geotechnical recommendations shall be completed prior to the final design and construction... [Ibid., page 130]

*Why should the explanation for all the mitigations that will be utilized to reduce the potential hazard not be clearly stated and included in this DEIR?*

*How can the efficacy of the mitigations be evaluated by the public if they are not detailed openly in this DEIR?*

*Why has the DEIR not fully analyzed these impacts so that development can properly be located in areas that would not result in potential hazards?*

## **HAUL ROUTES**

### **Haul Routes & Impacts on Local Neighborhoods**

The DEIR itself admits that there will be years of construction vehicles coming to and from the site, and enormous quantities of material being hauled away through all our communities. Yet it summarily dismisses the potential impacts:

“Construction hauling could have impacts which are considered significant since the increases in community noise levels could fall above the established threshold of 5 decibels. It is important to note that such significant impact would only occur if hauling resulted in more than 78 haul trips PER HOUR on Forest Lawn Drive.” [DEIR Summary, page 89][emphasis added]

*Does this DEIR seriously suggest that one less trip per hour, say, 77 trips per hour along a haul route would NOT result in a significant impact?*

*Has this DEIR taken into account the following projects that are in the drawing board and could have concurrent construction:*

*The Headworks project on Forest Lawn Drive*  
*The Oakwood expansion*  
*Forest Lawn expansion*  
*Master Plan for Griffith Park*  
*Widening the Barham Bridge*

*How would the impact of this Project's haul routes – noise, air quality, danger of valley fever, dust – change if these projects were included in the evaluations?*

## **IMPROPER ANALYSIS OF IMPACTS**

### **Traffic Impacts are Underestimated Due to the Use of an Improper Baseline for Analysis**

The DEIR improperly uses the 2030 Future Traffic Without Project scenario as the baseline for evaluating whether project traffic impacts would be significant. A project's impacts must be assessed by adding the project traffic to existing conditions, not a future without project conditions. Specifically, the CEQA guidelines state:

“An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” [CEQA Guidelines, § 15125, subd. (a.)]

The courts have never permitted future or predicted consequences that may take place after an EIR certification of a project to be used as a foundation for assessing a project's environmental effects. Two recent cases have affirmed that principle: *Communities For A Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310 and *Sunnyvale West Neighborhood Assn. v. City of Sunnyvale City Council* (2010) 190 Cal.App.4<sup>th</sup> 1351.

The recent *Sunnyvale West Neighborhood Association v. City of Sunnyside City Council* case overturned an EIR for precisely the same improper use of future traffic levels as the baseline for analysis of a project's impacts. The Court found:

“The FEIR used projected traffic conditions in the year 2020, based on expected growth under the City of Sunnyvale's general plan and in neighboring communities, as its “baseline” to evaluate the roadway project's traffic and related impacts. The FEIR did not consider the project's traffic and related impacts on the existing environment.

... Respondents Sunnyvale West Neighborhood Association and named individuals maintain that the impacts of the project must be measured against current, existing physical conditions and a comparison against “a baseline as it

might exist in 2010 cannot substitute for a comparison with current, existing conditions.

We affirm.” [Sunnyvale West Neighborhood Assn. v. City of Sunnyvale City Council (2010) 190 Cal.App.4<sup>th</sup> 1351.]

Analysis of impacts by comparison with a current, existing baseline is required because “by using future traffic conditions as its “baseline,” [the City] “did not adequately explain to an engaged public how the proposed project was expected to change the present conditions in which they currently lived.” (*Ibid.*)

In light of CEQA’s requirement to use a current, existing baseline in analysis of impacts, a requirement that was elaborated upon and applied to this precise situation in the recent Sunnyvale court case cited above, the impacts of the project should be assessed against existing conditions and the DEIR re-circulated for public review, as the new analysis is likely to result in new undisclosed impacts. Failure to do so would mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts.

Moreover, it is particularly important to use the current, existing baseline conditions for analysis of traffic impacts because the 2030 Future Traffic Without Project baseline relies on uncertain conditions. For example, 2030 Future Traffic Without Project baseline assumes mitigation measures for the MTA project have been implemented. At this time, the MTA project is on hold and it is uncertain when it will go forward. This type of uncertainty regarding future conditions is precisely the reason CEQA requires impact analysis to be based on current, existing conditions, which can be accurately assessed.

## **LAND USE**

### **Residential Uses**

In Part IV.A.1. Land Use – Land Use Plans/Zoning, the DEIR states on page 473 that the residential housing component will:

“Encourage efforts of local jurisdictions in the implementation of programs that increase the supply and quality of housing and provide affordable housing as evaluated in the Regional Housing Needs Assessment;”

And goes on to state that:

“This group of policies are targeted towards actions to be taken by local jurisdictions (i.e., the City and County). As such, they are beyond the ability of any individual project to implement. Nonetheless, Project development advances the intent of these policies by proposing 2,937 new multi-family units that would assist the City of Los Angeles in addressing a chronic undersupply of housing in general... This would assist the City to meet its Regional Housing

Needs Assessment for the 2006-2014 Housing Element planning period, which was recently adopted by the Southern California Association of Governments. Should the proposed annexation not be implemented, the Project would also assist the County to meet its Regional Housing Needs Assessment objective.”

While this Board recognizes that the City and County are not required by SCAG’s guidelines to include specific amounts of affordable housing in their residential development, we believe it is inaccurate for them to claim that the proposed project meets the RHNA goals.

The RHNA Final Regional Housing Need Allocation Plan, approved by the SCAG Regional Council on July 12, 2007, lays out these percentages of affordable housing for Los Angeles:

Percentage of very low income households:	24.1%
Percentage of low income households:	15.5%
Percentage of moderate income households:	17.1%

The failure of the DEIR to unequivocally state that these goals will be met seems to provide too much room for vacillation, and is particularly problematic because the DEIR is claiming the meeting of the RHNA goals as a project benefit/objective, which in turn is used to determine which alternative should be chosen. The DEIR should not reject less impactful alternatives for failing to meet the RHNA goals when the proposed project itself does not do so because it fails to require affordable housing.

The DEIR states, in the same section and on the same page:

“Although the Project’s specific unit pricing has not been established at this time, the Applicant is considering providing a range of housing opportunities including work force housing. Although this may not accommodate households in the lowest income categories, the Project is not inconsistent with this policy.”

***Why are these policies beyond the ability of an individual Project to implement? Why can’t this individual Project follow the RHNA recommendations?***

***If the Project wants to use its compliance with the RHNA goals as a benefit that will guide which alternative is chosen, why aren’t the above-listed housing-to-income percentages being disclosed and met?***

***If the Project in fact intends to weight the scales in favor of housing for above moderate income households, why doesn’t the City force the DEIR to so state honestly, so that the project benefits and impacts can be accurately measured, as required by CEQA?***

It seems unfair that the Project can have it both ways: It can fail to disclose its residential pricing structure, while at the same time claiming it is in some kind of alignment with the RHNA goals. Additionally, it may attempt to use these formulas to try to minimize and override the enormous impacts that the residential housing component will have on the city’s services and the

communities around it. Without clear conditions requiring portions of the residential development to be affordable, it must be assumed that these units will be market rate. This information must be included in the DEIR so that the project's ability to meet Project objectives can be fairly considered by decision-makers and the public.

Further, if affordable housing requirements are not included as conditions for the Project, the DEIR must assume the residential units are market rate for purposes of analyzing the Project's impacts. In fact, at the 1-5-11 presentation by Universal's Tom Smith to the Hillside Federation, Mr. Smith stated that the target market for those residences would be middle to upper middle class. Only a small portion of the employees at the Project would be able to afford market rate units, requiring all other employees to commute to the site. Thus, an accurate analysis of the traffic and associated air quality impacts of the Project requires an accurate assessment of the number of affordable units, if any, that would be required at the Project.

An additional issue is that CEQA discourages project-project change to existing land use plans. Approving far-reaching land use plan changes on a case-by-case basis, as is being done for this Project, conflicts with the purposes of regional planning: "Case-by-case reconsideration of regional land-use policies, in the context of a project-specific EIR, is the very antithesis of that goal." [Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 572 -573.]

And it appears the only reason this Project is in compliance with land use plans is because it includes approvals to change the existing policies and regulations. This Project would be incompatible with existing uses because existing uses (and likely other future uses) are required to comply with the existing land use regulations, not those developed specifically for the NBC Universal Evolution Plan. For example, the Project exempts itself from the requirements of the Mulholland Scenic Parkway Plan, whereas all other projects in the area must comply with the stringent requirements of this plan.

Specific project features also make the project incompatible with existing land uses. The suggested removal of vegetation on Barham, for example, makes the Project more visible, which could be considered an eyesore by some, and is a curious choice, given that vegetation is cited in other parts of the DEIR as a Project "buffer."

The DEIR fails to acknowledge the lack of compatibility, in particular the cumulative lack of compatibility caused by the increased density, height and signage by both the NBC Universal Evolution Plan and MTA Universal projects.

### **Transit-Oriented Development**

NBC Universal suggests that the 2,937 homes on the east side of their property will comply with the accepted standards of transit-oriented housing:

"The Project is a transit-oriented development as the Project Site is a regional node containing a mixture of uses in close proximity, including office, residential, retail and civic uses. This, coupled with a high-density, high quality development near a Metro station and other transit systems,

helps reduce and manage parking and vehicle travel in and around the Project Site.” [DEIR, IV.B.1, page 651]

We find it interesting that this DEIR refers to the MTA site as high-density, even though the only density it offers is commercial with absolutely no residential use at all, which would be natural at a Metro subway location.

We question this suggested Project compliance as the use of the subway station by the residents will be predicated on using a shuttle service to access the subway. Surely this is not in alignment with TOD housing. The necessity of an above-ground vehicle (shuttle) is the same as any other above-ground vehicle (private automobile). A true transit-oriented development can and should be built at the MTA site itself, which is in keeping with the MTA’s development of its other subway locations. As an example of the efficacy of this, the Metro Universal RiverWalk Vision Plan (submitted as part of CUSG’s response comments to the MTA FEIR and submitted again herewith) shows the siting of the residential in close proximity to the Lankershim subway station.

### **Additional Issues**

An additional issue is that CEQA discourages project-project change to existing land use plans. Approving far-reaching land use plan changes on a case-by-case basis, as is being done for this Project, conflicts with the purposes of regional planning: “Case-by-case reconsideration of regional land-use policies, in the context of a project-specific EIR, is the very antithesis of that goal.” [Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 572 -573.]

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***How does this DEIR justify these changes to land use? Surely the profit motive is not adequate under CEQA law to support these large scale adverse changes.***

Specific project features also make the project incompatible with existing land uses. The suggested removal of vegetation on Barham, for example, makes the Project more visible, which could be considered an eyesore by some, and is a curious choice, given that vegetation is cited in other parts of the DEIR as a Project “buffer.”

The DEIR fails to acknowledge the lack of compatibility, in particular the cumulative lack of compatibility caused by the increased density, height and signage by both the NBC Universal Evolution Plan and MTA Universal projects.

***How does the Project comply with the local Community Plan? Please explain.***

## **LEED RATING**

From the earliest days of public knowledge of the two concurrent projects, and noted in writing in the Master Land Use Permit Application signed by Tom Smith and dated 7/9/2007, the Project is supposed to have a LEED rating, and the Project was promoted as having a Silver level rating. Yet an exhaustive search of the document by this Board failed to turn up any reference to “LEED” or a LEED rating.

*Where in the DEIR is it stated clearly that this Project will qualify for a LEED Silver rating?*

*And if it currently aiming for Silver, and since this Project is being promoted as an environmentally conscious development, why not a Gold or Platinum rating?*

### **Silver LEED Certification.**

Universal is claiming that their project will have a Silver LEED certification. The United States Green Building Council (USGBC) has certain standards and it is impossible to imagine that those standards can be met in this project. This Board questions how this Project can qualify for a LEED Silver rating, as has been promoted.

USGBC Guiding Principle #1 is to:

“Promote the triple bottom line. USGBC will pursue robust triple bottom line solutions that clarify and strengthen a healthy and dynamic balance between the environment, social and economic prosperity.”

The proposed project clearly profits the developer and the city coffers but there is no balance of benefits to the surrounding community. Universal will cite new jobs as a benefit, but new jobs are temporary and questionable at best. Moreover, the conversation of the Back Lot to residential instead of studio development would result in a long-term net loss of jobs.

Based on the analysis contained in Section IV of this Draft EIR, implementation of the Project would result in significant and unavoidable environmental impacts with regard to the following five issues.

- Traffic (during Project operations and cumulative conditions)
- Noise (during Project construction and cumulative conditions)
- Air Quality (during Project construction and operations and cumulative conditions)
- Solid Waste (during Project operations and cumulative conditions)
- Off-Site Mitigation Measures (during construction and operations)

These are the only areas that the DEIR concedes are significant and unavoidable. But it is this board’s contention that there are many other areas, where the DEIR claims “less than significant impact,” where the impacts are, in fact, highly significant.

***How can all the significant environmental impacts of this project be reconciled with the Guiding Principle #1 of the USGBG?***

CUSG contends that USGBC's mission statement, which is "To transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy, and prosperous environment that improves the quality of life," is completely at odds with every section of this DEIR.

The surrounding community has not been provided with a list of building supplies, so it is impossible to assess whether or not the interiors of the buildings are environmentally friendly and "green." But in every other way possible, it is clear that the project defies sustainability.

CUSG requests that the U.S. Green Building Council review this DEIR and this board's comments, as well as the comments of the rest of the community, and that the City explain in the FEIR how an assignment of a LEED certification can be given to a project that defies what that rating stands for in every category of the DEIR.

***According to the USGBC standards, how is this project environmentally responsible?***

***According to the USGBC standards, how is this project socially responsible?***

***According to the USGBC standards, how is this project creating a healthy environment?***

***According to the USGBC standards, how does this project improve the quality of our lives?***

"Sustainable Sites" means "Choosing a building's site and managing that site during construction are important considerations for a project's sustainability." The Sustainable Sites category discourages development on previously undeveloped land; minimizes a building's impact on ecosystems and waterways; encourages regionally appropriate landscaping; rewards smart transportation choices; controls storm water runoff; and reduces erosion, light pollution, heat island effect and construction-related pollution.

***According to USGBC standards, if this project is building almost 3,000 residential units on a current woodland site, do they overlook the fact that they discourage development on previously undeveloped land?***

***According to USGBC standards, doesn't this Project, which ignores the Los Angeles River Master Plan, refuses passage to the community along the Los Angeles River, and wipes out old-growth oak, sycamore and walnut woodlands, in fact maximize the Project's impact on ecosystems and waterways?***

***According to USGBC standards, does the Project consider all the traffic impacts of this Project, including vehicular, pedestrian and bicycle to be smart choices?***

*What is the logic in putting a residential component miles away from the MTA, reachable only by shuttle?*

*Why does the Project to discontinue bus service after 20 years, just at a point when the Project will just be approaching maximum build-out?*

*According to USGBC standards, does the Project not consider the Project's signage and billboards a major contribution to light pollution?*

According to USGBC they encourage "Locations & Linkages," which states:

"... that much of a home's impact on the environment comes from where it is located and how it fits into its community. The Locations & Linkages credits encourage homes being built away from environmentally sensitive places and instead being built in infill, previously developed and other preferable sites. It rewards homes that are built near already-existing infrastructure, community resources and transit, and it encourages access to open space for walking, physical activity and time spent outdoors."

The residential component of this project, in particular, is being built in an environmentally and historically sensitive place. The residential component is too far from the MTA and right alongside one of the most congested streets in the area. The bicycle path goes up such an incredibly steep hill that virtually nobody will be able to use it.

*How does any of this reconcile with the USGBC's "Locations and Linkages" philosophy?*

The USGBC recognizes "stewardship of resources and sensitivity to their impacts."

*According to USGBC standards, in what way does this project show good stewardship of resources and any kind of sensitivity to the Project's impacts on those resources?*

## **LOS ANGELES RIVER**

At the beginning of these comments this Board must state its primary focus in addressing the issues relating to the Los Angeles River. This Board sees this waterway as A RIVER. While it may have a technical designation as a flood control channel, the communities through which it travels, as well as adjacent neighborhoods and all those who have an interest in greening our city and in environmental progress, perceive this waterway as A RIVER.

This Board objects to the perpetual reference to the river throughout the DEIR as a flood control channel, as if to minimize its importance in order to direct all efforts away from it. To refer to it in this technical way is to minimize all the work that environmental and community groups have done through many years to reclaim the river and create a beautiful and environmentally important feature in this region.

This Board regards the planned Los Angeles River Greenway as an important connection that will link communities that have heretofore been divided. Thus this river has an important social and historic aspect that is equally as important as its role in improving the natural environment.

In 2007 the Los Angeles City Council adopted the Los Angeles River Revitalization Master Plan for the first 32 miles of the river within the City. Artist's renderings of the revitalized river have been heavily promoted by both City and County agencies. The City's General Plan Land Use Element Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan states the following regarding the river:

“Coordinate with City departments, neighborhood [sic] cities and County, State and Federal agencies to utilize existing public lands such as flood control channels, utility easements and Department of Water and Power properties to provide for such recreational uses as hiking, biking and horseback riding, where possible.” *[p. IV-1]*

“Where appropriate direct commercial storefront development toward the Los Angeles River by developing design standards that compliment [sic] the uniqueness of the river.” *[p. I-4]*

Policy 2-5.1: Require that future development of properties located along the Los Angeles River be designed with river access features. *[p. III-9]*

Policy 4-1.2: Increase accessibility to The Los Angeles River. *[p. III-12]* ...assure that properties adjacent to the river develop an integrated design element to promote the use of the river as a recreational asset. *[p. III-12]*

The Community Plan endorses full implementation of the City's Bicycle Plan, which designates bikeways for the following: Los Angeles River, Tujunga Wash, Laurel Canyon, Woodman, Valley Vista Boulevard, Mulholland Drive, Riverside Drive, and Sepulveda Boulevard. *[p. III-23]*

Given the clear mandate that the City has to create a true river, it is astonishing that now it would consider allowing a private owner to monopolize a public asset for its own benefit. Removing a 2-mile length from public use, from the recreational benefits it offers to the public, is, we believe, completely inconsistent with the Community Plan's goals for open space, as well as both the City's and County's original concept of a beautiful waterway to link neighborhoods.

The public should have access to a benefit that was always intended for public use. While NBC Universal has a lease for access rights along the County's access road, we question whether this lease should be continued, if it is at the expense of public access to an important natural resource.

Additionally, the Project fails to provide open space at its northern rim by the river, thus inhibiting and/or preventing bird and wildlife habitat possibilities and interrupting wildlife connectivity.

This Board believes that the implementation of the original concept of a green and thriving river-front walk- and bike-way are essential features and that this DEIR is deficient in failing to incorporate these features which are part of the City and County Plans.

## **MITIGATIONS**

It is this Board's belief that the DEIR is fatally flawed in its reliance on mitigations proposed as part of the MTA DEIR. The Metro DEIR, released in 2008 with a 90-day response period ending on November 24, 2008, appears to be stalled, and there is no word at this time as to when, if ever, that project may be built, or in what form. This Project's DEIR relies on mitigations in the MTA DEIR by citing over and over that it will contribute its "fair share." This is not acceptable. CEQA requires mitigation measures to be fully enforceable, and there is no guarantee the mitigation measures proposed as part of the MTA project would be implemented. Mitigations for this NBC Universal Project *must* stand alone and must adequately mitigate *this* proposed development without regard to any other development in process or not.

## **MULHOLLAND SCENIC PARKWAY SPECIFIC PLAN**

### **Removal of Southeastern Corner of Property from the MSPSP**

Page 4 of the Mulholland Scenic Parkway Specific Plan (MSPSP), created in 1992, states, in part, the following:

- “The purposes of this Specific Plan are as follows:...
- D. To assure that land uses are compatible with the parkway environment.
  - E. To assure the design and placement of buildings and other improvements preserve, complement and/or enhance views from Mulholland Drive...
  - I. To reduce the visual intrusion caused by excessive lighting.”

This DEIR [pg. 524] seeks to remove the corner of NBC-Universal's property, at the southeastern boundary, from the Outer Corridor of the Mulholland Scenic Parkway Specific Plan. This corner is part of the area that would be designated as Open Space District No. 2 under the proposed City Specific Plan. The DEIR itself states that “the intent of the Outer Corridor is to preserve the natural quality and setting of areas within the Santa Monica Mountains that are visible from, or within one mile of, the Inner Corridor of the Mulholland Scenic Parkway Specific Plan” and that “as such, permitted land uses within the Outer Corridor are subject to limitations in which the environmental protection measures applicable to the Inner Corridor are required.”

Although in the beginning, the NBC-Universal representatives were vague about the reasons for this change, recently they have been candid about their intention to use this location as the site for a digital billboard. In a recent phone call on 1/18/11 with Maria Hoy of Latham & Watkins, attorneys for NBC-Universal, when asked by Judy Marlin of the Cahuenga Pass Property Owners Association if NBC-Universal planned to convert the billboard at that site to a digital billboard, Maria responded: “We want the option to be electronic.”

The DEIR openly states that “some of the uses of the proposed Project would be inconsistent with the current land use designation” [pg. 524]. Yet, amazingly, it goes on to state on page 525 that “the proposed Project would also not be inconsistent with Mulholland Scenic Parkway Specific Plan goals to design projects that would be compatible and would preserve and enhance the range of visual experiences within the parkway environment” and “would be designed to be as inconspicuous as possible.”

***In what way is a digital billboard, which can be seen for miles, in any way consistent with the MSPSP goals?***

***How does a digital billboard at this location “preserve, complement and/or enhance views from Mulholland Drive”?***

***How does it “reduce the visual intrusion caused by excessive lighting”?***

The mitigation proposed (the City’s own Municipal Code on lighting restrictions) is completely inadequate. Even with a 2.0 foot candles limit, the quality of light from electronic signage is such that it appears more intense, and the flickering of changeable billboards poses a troubling and disturbing illumination to residential communities. Cahuenga Pass residents have already noticed and been disturbed by the intense and flickering images from the Disney sign at the southwest corner of Barham Boulevard and the 101 Freeway offramp at Barham.

In addition, locating an electronic billboard with its changeability and light intensity next to a freeway poses an additional danger to a location already burdened with a higher-than-normal accident rate. The changing images distracts freeway drivers who are often traveling at high speeds through the Cahuenga Pass or trying to negotiate the Barham/Cahuenga Blvd West intersection which is already at a LOS “F” and “FF,” and which every study (including the City’s famous “Dogbone” study [Barham Cahuenga Corridor Improvement Project: Draft Environmental Impact Report SVG# 96031067 in December 1998]) has shown to be unmitigatable.

This Board strongly opposes the removal of this portion of NBC-Universal’s property from the Mulholland Scenic Parkway Specific Plan, as this location can be seen not only from Mulholland Drive’s many outlook locations but also from the hillside residents in the Cahuenga Pass and adjacent areas and will specifically negatively impact the quality of life in the Cahuenga Pass and Hollywood Knolls residential communities.

## **NOISE**

### **Noise Impacts South of Project Site**

At the time the Board of Supervisors approved the Los Angeles County Noise Ordinance (the vote was 3 to 2, with Supervisors Ed Edelman and Baxter Ward, who represented the local neighborhoods adjacent to Universal Studios, voicing opposition). Universal Studios was exempted from that ordinance by a variance that allowed the studio to avoid the County's stringent nighttime noise restrictions.

***Why was NBC Universal excluded from the more restrictive nighttime limits of the LA County Noise Ordinance?***

***Why is no mention of this variance and NBC Universal's exemption mentioned in the DEIR?***

***Are there additional exemptions or variances that have been granted to NBC Universal of which the public is not aware?***

The noise section of the DEIR appears to identify a doubling of the noise levels at night over the noise levels allowable during the day.

***Doesn't this discrepancy render the DEIR's noise section inadequate as this disparity between the limits means there is twice as much noise at night?***

The DEIR claims that noise from nighttime construction would be mitigated to a less than significant level, but there are so many exceptions that would allow nighttime construction, nighttime noise would still be significant.

The DEIR must fully and accurately analyze nighttime construction noise impacts and must acknowledge that, as proposed, the project's nighttime noise impacts would remain significant even after mitigation is included. While nighttime noise is a significant impact of the project, the impact is not unavoidable. The project must eliminate all but emergency nighttime construction noise and come into compliance with the County's nighttime noise restrictions.

It appears that most of the noise receptor locations did not include locations that have proven to be a problem in the past, or locations for which NBC Universal has been cited for noise. For example, the community receptor area in table 55 for the Cahuenga Pass does not include any locations for which Universal was cited for violation of the L.A. County Noise Ordinance.

***Why were none of the locations where previous noise problems have occurred been used as noise receptor locations? Does this failure not render the noise section inadequate?***

***Were there any independent auditors from either the City or County of Los Angeles who were either present during these noise evaluations or who reviewed the studies?***

Another example lies in the Cahuenga Pass where a canyon or ravine forms an acoustical funnel for noise. During the summer season when an inversion layer is often present, sound from NBC Universal's property bounces to locations around the intersection of Woodrow Wilson and Passmore Drives. Around these locations, readings were taken twice by the Los Angeles County Health Department, and each time the amplified noise from NBC Universal's property was in excess of the level allowed by the Los Angeles County Noise Ordinance. After the second reading, NBC Universal received a citation from the County Deputy District Attorney's office.

A member of the Cahuenga Pass Property Owners Association visited many of the locations selected and reports that most of the current receptor locations chosen (HHC1 through HHC11) [Figure 93 in the DEIR IV.C. Noise page 973] appear to have been chosen for the following reasons:

- 1) The freeway noise is low and deep in this location.
- 2) The noise is around the corner from direct sound impact.
- 3) The noise is high and far away from Universal in an area where sound is more readily dispersed.
- 4) The noise is close to NBC Universal but totally sheltered from sound emanating from the freeway and NBC Universal.

***Why were locations chosen that do not appear to have a noise impact?***

***How was it determined if the locations selected correctly support the findings in the DEIR?***

Receptors at other sites would be significantly more impacted by project generated noise. The DEIR must analyze noise impacts at additional locations. In particular, ***noise levels should be analyzed and predicted for [list specific locations].***

Additionally, the anticipated approximately 5,400 new residents (in 2,937 units) with at least approximately 2,000 new cars (a very conservative estimate) will generate noise: Further increased noise sources include: Traffic noise, utility systems external to the buildings (such as HVAC systems), children playing outdoors, community outdoor activities, use of the parkland areas, not to mention noise problems that may arise as a result of new land uses.

***What mitigations will be provided to address this added noise pollution?***

### **Noise Impacts North of Project Site**

[Cited below is the response submitted by the Toluca Lake Homeowners Association regarding noise and included in this document by permission. CUSG fully supports their concerns and the issues addressed, and to that end, their response is included here, along with additional comments from CUSG, which will appear in a different font. ]

Notwithstanding the above, the TLHOA is concerned that future noise within the project will negatively affect the Toluca Lake residential area. This is based on the following:

1. New major project noise sources (the only types of future noise to be regulated by the two proposed Specific Plans) were included in the analysis in the DEIR based on the proposed Conceptual Plan (see p. 90 – Introduction). Alarming, as stated in the DEIR, the Conceptual Plan “represents just one of the possible ways the Project Site may be developed” (see p. 286). Further, the Conceptual Plan does not determine the location and orientation of actual future buildings (see p. 286). The TLHOA is unsure what value the analysis provides in the DEIR as the DEIR states that it is the two Specific Plans that will guide “actual development” and will govern “and not the Conceptual Plan.” (See p. 286)

As presently constituted, the Specific Plans proposed noise regulations do little for the TLHOA as they defer to the City and County Noise Ordinances at best. At worst, they include the elimination of seven sections of the Los Angeles County Noise Ordinance (Sections 12.08.390, 12.08.400, 12.08.440, 12.08.460, 12.08.470, 12.08.530, and 12.08.560 – see page 346), the very ordinance that the DEIR purports to be the most conservative (as opposed to the Noise ordinance of the City of Los Angeles) and the regulatory tool used to compare existing and future conditions in Section C of the DEIR. permits certain on-site activities that “do not result in an audible sound outside of the combined boundaries of the proposed Universal Studios Specific Plan and the proposed Universal City Specific Plan”. This type of performance standard in the DEIR and Specific Plans would “recognize and protect the neighboring off-

The TLHOA is not comforted by the “clear set of guidelines” in the DEIR that defer to the respective Specific Plans as the solution for addressing future environmental noise that will be inflicted upon its residents. The regulations identified in the proposed Specific Plans are the same tools that are being used currently to address existing environmental pollution in our neighborhood. The DEIR should identify regulations that indeed “protect” our community from impulsive sounds and other types of noise that exist today that are daily flying under the radar of the current City and County noise ordinances.

- 2) The DEIR (p.304) states that “the proposed Specific Plans include design principles, which address development along the four edges of the Project Site and how this development interfaces with the offsite uses, and design standards, which provide such requirements as screening, **sound attenuation** (emphasis added) and signage regulations that are included in both Specific Plans. Together, the design principles and standards provide an aesthetic design framework for the proposed Project based on the Project Site’s physical character, including Universal City’s identification with the entertainment industry, and the diverse conditions around the Project Site’s perimeter, particularly interactions with the neighboring residences to the east”.

The TLHOA is unable to locate any sound attenuation design principles in the DEIR that “manage the noise” that is assuredly going to impact its community during build-out of the Project Site. The DEIR should identify how onsite operational noise will not be allowed to travel beyond the boundaries of the Project Site. A performance standard to this effect should (and must) be required as a mitigation measure. The mitigation measure could be very similar in construct to proposed Mitigation Measure C-2 that site

residential and commercial developments”, thereby accomplishing one of the objectives of the Project.

*Note from CUSG:* CEQA requires that mitigation measures “be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” [CEQA Guidelines § 15126.4(a)(2); see also *Lincoln Place Tenants Assn. v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508 (“Mitigating conditions are not mere expressions of hope.”)] “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented... and not merely adopted and then neglected or disregarded.” [*Federation of Hillside and Canyon Association v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261, italics omitted.] The proposed mitigation for noise impacts appears to violate these requirements.

- 3) The DEIR should recognize that noise travels and does not respect the jurisdictional boundaries of the City and County pertaining to the Project Site and to residential communities within the Project area. The DEIR should “recognize the relationship between the Project Site and the local community, and strive to reduce potential impacts to the community” by having one regulatory standard that can be administered with ease. The two Specific Plans should contain the same standard to eliminate environmental noise in Toluca Lake. This is a permissible use of Specific Plans as a regulatory tool as one can see on page 341. It states the following:

“Whenever the proposed Specific Plans contain provisions that establish regulations (including, but not limited to, standards relating to densities, heights, uses, parking requirements, subdivision design, infrastructure/utility design and implementation including wireless/communications facilities, building separations and exiting, grading, signage, the sale and service of alcoholic beverages, landscape design, open space, protected trees and other vegetation), which are different from, more restrictive or more permissive than would otherwise be allowed pursuant to the provisions contained in the City of Los Angeles or Los Angeles County Code, **the proposed Specific Plans would prevail** (emphasis added) and supersede those applicable provisions of the City of Los Angeles or Los Angeles County Code. Whenever the proposed Specific Plans are silent, the provisions of the City of Los Angeles or Los Angeles County Code or other ordinances would apply”.

The DEIR should analyze the noise impacts that are associated with the Specific Plan and in particular those amendments that “would modify the applicability” of certain sections of the County Noise Ordinance. The TLHOA is unaware of the environmental consequences of this aspect of the proposed Project. Further, the problem of relying on the city and county objectives, standards and polices for establishing noise thresholds is that they do not create an acceptable noise environment for the residents of Toluca Lake. They should not be the standard for the Specific Plans as they do not provide adequate limits, mitigation or eliminate the likelihood of future intrusive noise.

- 4) The TLHOA is concerned with the DEIR section (p. 286) that describes the implementation of the “Equivalency Program”. The flexibility built into the program

means that future operational noise sources will be difficult to identify as “the potential for noise impacts to occur are site specific to the location of each related project” (see page 93). The DEIR needs to include mitigation measures to assure residents of Toluca Lake that no additional environmental impacts from new operational noise sources would result beyond the boundaries of the proposed Project Site.

- 5) The Environmental Impact Analysis section regarding Noise (Section IV.C.) must include timely existing ambient noise readings for the 12 receptor areas and their associated 47 receptor locations. As presently constituted, the DEIR contains noise data that was taken between February and July 2007 (DEIR, page 974). This data is almost 4 years old and more than likely inaccurately reflects the existing noise environment and must not be relied upon “to obtain a broad understanding of the existing ambient noise environment in the Project area”.

To be sure, the TLHOA concurs with the DEIR that many changes in the Project area have taken place in addition to changes within the Project Site (see page 274). An updated noise environment study needs to be prepared that includes recent data for public review which will enable the public to be more accurately informed as to existing conditions. Should such a more current study be prepared, it could show that the ambient conditions in the Project area will be closer to or exceed established criteria (i.e., the City and County Noise Ordinances) found in the November 2010, DEIR. A question comes to mind – why is the data set for the existing receptor locations dated 2007 when the date for the publication of the Veneklasen Associates, Inc report in Appendix F, is dated March, 2010?. Surely more recent measurements/readings could have been taken!

- 6) There are several statements in the DEIR that are incorrect and the TLHOA is concerned that the public is misinformed. The DEIR should accurately describe the ongoing environmental impacts that operational noise produces in the Toluca Lake community. Examples of false statements are provided below:

(Page 981)

“(2) Existing Project Site Noise Sources

*(a) Types of Noise*

There are a number and variety of noise sources currently located within the Project Site, but the majority of the noise sources **do not** impact the nearby community”. (emphasis added)

As evidence by comments in response to the NOP, there is a history of problems in the surrounding Project area and the standards being used to address future noise impacts are the very ones being suggested in the Specific Plans. They do not work and the nearby community of Toluca Lake is impacted by unwanted noise pollution.

*“(b) Major Existing Contributing Noise Sources*

The majority of noise sources on the Project Site, as discussed above, would not impact nearby communities, as they do not generate enough noise to be audible above

ambient noise levels at the sensitive receptors in the Project area. **However, noise generated by on-site attractions, heating, ventilation, and air conditioning equipment, car alarms, and special events are audible at off-site locations**". (Emphasis added)

The TLHOA requests that the DEIR provide analysis of the "audible" noise generated by the sources described in the section above and provide accurate predictions/estimates of future noise that is to be generated by said future sources per the Conceptual Plan and Specific Plans. Further, the DEIR should provide analysis of more on-site tests (as was done for the temporary pyrotechnic test in Appendix F – see page 10) to better understand the peak impulsive noise impacts. Parenthetically, the noise generated onsite by the DEIR consultants (Veneklasen Associates) was measured at an Lmax level of 102 dBA at 75 feet from the noise source and the level of noise for that event in Toluca Lake was measured at 75 dBA. This level of noise is environmentally unacceptable and creates a significant negative impact upon the residents of our community.

*Note from CUSG:* For community health, scientific consensus suggests an average noise level of closer to 50 or 55 dBA. The World Health Organization and most other health agencies define health broadly. Per the WHO, health is a "state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." If the Project intends to apply a health-based noise standard to its operations, it must be based on a truly healthy average noise level of 55 dBA or lower.

The EPA Noise Effects Handbook warns, "Exposure to such high noise levels is a health risk in that noise may contribute to the development and aggravation of stress related conditions such as high blood pressure, coronary disease, ulcers, colitis, and migraine headaches... Growing evidence suggests a link between noise and cardiovascular problems. There is also evidence suggesting that noise may be related to birth defects and low birth-weight babies. There are also some indications that noise exposure can increase susceptibility to viral infection and toxic substances." [EPA Noise Effects Handbook, <http://www.nonoise.org/library/handbook/handbook.htm>, incorporated by reference; see also EPA Noise: A Health Problem <http://www.nonoise.org/-library/epahlth/epahlth.htm#heart%20disease>, incorporated by reference.] Fatigue is another common side-effect of noise exposure.

Potentially deadly cardiovascular impacts can be triggered by long-term average exposure to noise levels as low as 55 decibels. [WHO Media Centre, [http://www.euro.who.int/eprise/main/WHO/MediaCentre/PR/2009/20091008\\_1?language](http://www.euro.who.int/eprise/main/WHO/MediaCentre/PR/2009/20091008_1?language) (elevated blood pressure and heart attacks), incorporated by reference; <http://whqlibdoc.who.int/hq/1999/a68672.pdf> (finding demonstrated cardiovascular impacts, including ischemic heart disease and hypertension after long-term exposure to 24 hour average noise values of 65-70 dBA), incorporated by reference.]

Exposure to even moderately high levels of noise during a single 8-hour period triggers the body's stress response. In turn, the body increases cortisol production, which stimulates vasoconstriction of blood vessels that results in a five to ten point increase in blood pressure. Over time, this noise-induced stress can result in hypertension and coronary artery disease, both of which increase the risk of heart

attack death. [World Health Organization Guidelines for Community Noise, p. x and pp. 47-48; see also, Maschke C (2003). “Stress Hormone Changes in Persons exposed to Simulated Night Noise”. *Noise Health* 5 (17): 35–45. PMID 12537833. <http://www.noise-andhealth.org/article.asp?issn=1463-741>; year=2002;volume=5;issue=17;spage=35;epage=45;aulast=Maschke, incorporated by reference; Attachment 6, Franssen EA, van Wiechen CM, Nagelkerke NJ, Lebret E (2004). “Aircraft noise around a large international airport and its impact on general health and medication use”. *Occup Environ Med* 61 (5): 405–13.doi:10.1136/-oem.2002.005488. PMID 15090660.]

High levels of community noise may also accelerate and intensify existing mental disorders and the development of new ones, especially of neurosis. [World Health Organization Guidelines for Community Noise, p. x. and pp. 48-49] Studies on the use of tranquilizers, sleeping pills, psychotropic drugs, and mental hospital admission rates suggest that high noise levels cause adverse impacts on mental health. [Ibid.]

7) The TLHOA would like the DEIR to discuss the “program” that is identified on page 994. It states in part:

#### **“c. Project Design Features**

As part of its goal to control and reduce noise to the surrounding communities, the Applicant or its successor would implement a **program** to place noise limitations on the output of major sources of noise through the implementation of the proposed Universal Studios Specific Plan and the proposed Universal City Specific Plan”.

The DEIR does not include a program that will adequately address future noise impacts that will be generated by future operational noise. The residents of Toluca Lake cannot rely on the standards of the City and County (that are in the Specific Plans) for resolution of their concerns.

While the emphasis of this response from the TLHOA has been aimed at addressing operational noise, the residents of Toluca Lake are concerned about the Significant and Unavoidable impacts of construction noise. The DEIR must provide a more detailed explanation of steps to be taken to ensure that impacts are indeed short-term and that cumulative impacts are addressed appropriately when correct and more updated noise data is provided as requested in this response.

In summary, the TLHOA concludes based on the above, that the DEIR is insufficient and defective and must be updated and re-circulated for public review.

“Analysis of Project construction noise concludes that un-mitigated construction noise may exceed the thresholds of significance at all of the receptors during the nighttime hours and all of the daytime hours...” [DEIR Summary, pages 88-89]

We question the claim that mitigation would make this less than significant since there are so many exceptions that would allow nighttime construction.

***Would there be cumulative construction impacts (noise, haul routes, air emissions) if this Project is in construction concurrent with the Metro Project? If so, what would they be, and***

*what mitigations over and above the currently promised mitigations would specifically deal with those cumulative effects?*

*Given that noise emanating from NBC Universal is already an issue on record, how can this DEIR claim that putting development and density closer to existing homes (e.g., the Manor) would not result in significant operational noise impacts? Please explain.*

*Won't removing hundreds of trees and other vegetation that the Project claims to be barriers and buffers also increase sound levels and the distance that sound will travel?*

## **PARKS & RECREATION**

### **Open Space**

The DEIR in its Parks section [*DEIR, IV.K.4 Public Services – Parks & Recreation, page 1774*] identifies the requirements for both neighborhood parks and community parks. Since NBC Universal has stated in many meetings since the first introduction of the original Vision Plan that the park space in the residential component is intended to be for the use of everyone in the larger community, it seems clear that the open space is intended to be a Community Park.

*Where in the DEIR does it state that the open space is in the category of Community Park?*

Furthermore, the DEIR relies on non-public space for its calculation and still appears unable or unwilling to meet the City's Public Recreation Plan [*page 1794*], which is a portion of the 1980 Los Angeles General Plan.

*Why can this Project not meet the minimum requirements of open space (4 acres per 1000 residents) that is required for a Community Park?*

If the open space is to be truly utilized by the entire community, as well as the employees of NBC Universal and other businesses on the lot, it seems evident that a great deal more open space should be supplied. It is clear to this Board that the Project must meet the minimum requirements for a Community Park.

This Board does not accept, in the particulars of this case, such areas as planted medians to be open space useable by the public. We would accept only active and passive park space open to the public.

*Is any portion of the open space calculations based on such features as terraces, balconies or patios attached to individual residential units?*

## **Quimby Funds**

There will clearly be an adverse effect by the Project on all the local and regional parks, so all Quimby funds should be utilized in those same local and regional parks, rather than be reinvested in the Project's own open space, to the advantage of the Project owners and to the disadvantage of the public. The park and open space provided by the Project should be paid for entirely by NBC Universal funding, rather than by funds which, though originating from developers, have by entering the Quimby funds category become public funds. To allow their use to further benefit the Project subverts the spirit and the intent of the Quimby Law.

## **Homeowner Association Control**

The DEIR identifies the eventual Homeowner Association as the operating entity that will maintain the open space. But the residents of the association may soon prefer that the open space directly in and around their homes be for only their own use, rather than for the use of the general public. Since it would be impossible to identify which park users are local residents and which might be visitors who have found their way to the park space from the theme park or from the subway, the homeowners may feel safer if eventually the park space is enclosed and only residents may use the space.

*If the open space is under the control of the Homeowners Association, how can the public feel sure that it will remain open to everyone in the community?*

*What remedies does the larger community have in the event that the HOA tries to privatize the open space? Will the City of Los Angeles provide enforcement, or will NBC Universal?*

*What safeguards will the Project provide in perpetuity to ensure that the park spaces are safe during both the day and the night, and not overrun by gangs or groups that use the park areas for non-recreational purposes? In other words, who polices and guards the open space area 24 hours a day 7 days a week?*

## **PHASING**

Project Phasing is talked about by representatives of NBC Universal as a means to ensure that run-away development is not rampant without the successful mitigation of additional infrastructure to handle the increase of development completed for the next phase. The NBC Evolution Plan has a 20-year horizon where more information is needed now during the environmental review when mitigations are being worked out.

*Why is there no development phasing strategy in the DEIR that indicates when the next phase of Project development will begin based on the successful mitigation of such environmental issues as regional and local transportation issues, traffic and circulation, water, air quality, and solid waste issues?*

The DEIR indicates that 95% of the mitigations are to be started in Phase 2, three years after Phase 1's office, media studio development and parking structures are built. This means that the public will have to years for even the beginning of the mitigation-building phase.

*What happens to the mitigations if Phase 2 is not built?*

All mitigations and improvements for each Phase must be completed concurrent with or prior to the completion of each Phase.

## **PUBLIC SERVICES**

### **Fire Protection / Emergency Services**

While CUSG applauds the decision to expand County Fire Station 51, which sits on NBC Universal's own land, there remains some question as to the relocation of City Fire Station 76 from its current location on the west side of Cahuenga Boulevard West.

The current site offers a major advantage: It is located at the intersection of one end of the Bennett Drive horseshoe. When the Barham/Cahuenga intersection is operating at LOS F – which is almost all the time – firefighters can reach the Cahuenga Pass and Hollywood Knolls/-Hollywood Manor/Blair Drive neighborhoods (as well as Toluca Lake and Studio City) by traveling on the Bennett “horseshoe,” bypassing the congested Barham/Cahuenga intersection.

CUSG is aware that Station 76 does not have the capacity to store the new equipment that is designed to fight high-rise fires that will be demanded by the high-rise residential buildings to be located on the back lot. But its current location has allowed for extremely rapid responses to emergency situations.

*What assurances do all our communities have that response time from Station 76 – which in the past has been beyond excellent – will not be slowed by moving this station to a less advantageous location?*

### **Police / Sheriff Protection**

It is no secret that City and State services budgets are being slashed daily as a result of the current economic times. Police and other protective personnel are seeing their shifts cut, overtime reduced, and benefits trimmed. Because of these budget cuts, response times have in the last few years been slow. It seems unconscionable that at such a time so much additional residential housing is being added.

*What studies have been done by recognized experts in the field of security to ensure that response times aren't further eroded by the addition of so many residential units?*

*Since it seems likely that additional security forces will be needed, will NBC Universal be required to fund those additional costs in perpetuity, since the addition of so much residential benefits its bottom line? If not, why not?*

### **Schools**

There will an estimated 6,500 new residents occupying the proposed housing on the back lot. Certainly a percentage of them will have children. Those children will need schools – and trips-per-day driving them to and from those schools.

*Have the daily trip numbers calculated the extra trips delivering children to and from the local schools or private/parochial schools? If not, why not?*

NBC Universal representatives have acknowledged that although there is adequate capacity in the LAUSD middle and high schools, there is not sufficient capacity in the elementary schools.

*Will NBC Universal fund the building of additional elementary schools, or the expansion of those already in existence?*

## **RESIDENTIAL**

### **Residential Units on the Back lot**

Nowhere in this DEIR is the square footage stated of the 2,937 town homes, condos and apartments that are to be constructed on the back lot after annexation into the City. Since this Project has been in the planning stage for years and the developer must have already considered these issues minutely, we ask the following questions:

*What is the exact number of condos? Of town homes? Of apartments?*

*What is the square footage of each? How many bedrooms does each unit contain?*

*Are any units intended for families with three or four bedrooms? Are there any single units?*

*What are the exact height and massing dimensions of all the structures that will contain residential units?*

*What market analysis has been done to assure the communities that these units will be able to be sold at the completion of their construction?*

*As the real estate market has been unreliable, to say the least, what will happen if they cannot be sold? Will they be leased? At what rate?*

Although it has been stated elsewhere in this comment letter, it is inarguably a shortsighted decision to build these units in a location that has no reasonable access to public transportation, thus encouraging the use of private vehicles at a time when most experts in the field are touting the benefits – both social and environmental – of public transportation. And the residents, in order to take public transportation, will need one mode of public transit (a shuttle) to reach another mode of public transit (bus or subway).

***What is the rationale for locating residential units so far away from public transportation when an excellent location – the MTA site – is available for just that use?***

CUSG strenuously objects to the back lot location as being considered an adequate fulfillment of the requirements for a transit oriented development.

### **Residential at Subway Station / No Residential on Back Lot**

One of the Project Objectives and Overall Goals is to provide new housing opportunities in proximity to jobs and adjacent to a Metro Rail Station.

***Why then is the housing component not in alignment with the Project's objectives by being situated at the MTA site rather than on Universal's back lot?***

The DEIR states that physical boundaries separate the Project from adjacent communities, thereby lessening the impacts significantly.

***Why is the same logic not used when considering the residential component of the Project to the Metro Station?***

To situate a large residential component on the back lot does not meet the planning guidelines and ordinances set by the City of Los Angeles and the MTA that promote residential proximity to public transportation.

## **SAFETY & SECURITY**

### **Crime & Safety Concerns to Residential Neighborhoods**

No public roads and traffic should connect the new development with the Manor community since narrow Manor streets and congested Barham Boulevard cannot accommodate the additional load. For safety reasons, Manor residents strongly object to CityWalk visitors having any access to adjacent residential communities.

The current plan does not include a traffic link with the Manor. The issue of pedestrian links has been explored since access to Universal commercial businesses, the MTA, open space trails and bike paths could be attractive for Manor residents. However, crime and safety concerns place a great damper on this potentially positive element.

The following items are a source of concern for the community:

- The apparent lack of marketing reorientation/redesign of CityWalk to a less criminally prone demographic while opening up and increasing exposure of the surrounding community. There is a strong gang presence associated with CityWalk [*see Daily News article of May 27, 2008: "Funds from the California Gang Reduction, Intervention and Prevention Program," a state effort that uses grants and extra resources to help local agencies prevent and reduce gang problems in troubled areas have been focused on CityWalk*]
- The lack of security safeguards in the residential Universal Village design coupled with opening this new residential area to CityWalk.
- The Evolution Plan currently includes a shuttle system between new residential Universal Village, Studio, and Entertainment Districts, Metro Red Line Station, & the Burbank Metrolink Station.

Residents commented that they felt very safe in Disneyland but did not perceive the NBC/Universal facilities, especially CityWalk as a safe environment for them and/or their families.

The Hollywood Manor community is already under pressure from the presence of transients and gangs seeking access to NBC/Universal territory. Any secluded area with a beautiful view is a magnet for gangs citywide. The ugly 11-foot chain link fence topped with barbed wire currently acts as a deterrent.

If the shuttle system links the Universal Village with CityWalk and the MTA, this buffer area will now be vulnerable from the Universal side. The non family-oriented customers of CityWalk will have access to the Village and to the Manor neighborhood.

Criminal elements currently use the MTA to access hillside communities in the Cahuenga Pass. Now the Village and the Manor neighborhoods will be accessible to them. The proximity of trails, the buffer zone, and isolated dark spaces at night are a built-in recipe for drug trafficking, prostitution and gang wars to control the area.

We are asking for a strong 24 hour private security with video and monitoring capabilities to keep the Manor and other adjacent neighborhoods safe since no public law enforcement agency has the manpower to effectively patrol all these areas. Different jurisdictions between LAPD and LASD will make effective prevention efforts difficult and compound the problem. The following mitigations should be included:

- Crime prevention through environmental design/landscaping
- Extensive private security with extra guards
- Thorough coverage with security video & monitoring ability
- Enhanced coordinated graffiti abatement
- Community-policing multi-disciplinary team under the umbrella of the nearby neighborhood groups

***Is the DEIR properly addressing the issue of security concerns for the closest and most impacted Manor neighborhood? Are proposed steps adequate?***

**Evacuation in the Event of Emergency**

In an audit released by City Controller Laura Chick and reported in the online edition of the *Los Angeles Times* [7/15/08 “California Briefing”]: “The city lacks an overall strategic plan to respond to an emergency such as an earthquake, fire or other calamity.”

The audit found that “16 of the city’s 28 emergency preparedness plans have not been updated for at least three years and that one, within the Fire Department, has not been updated since 1992.”

***What LAFD or City of Los Angeles evacuation plan is currently in place to address the evacuation of the communities surrounding the Project site?***

***What LAFD or City of Los Angeles evacuation plan has been prepared to meet the needs of the enlarged community during construction and at full build-out?***

**Emergency Vehicle Access**

Given that numerous streets in the Cahuenga Pass, Studio City, and Hollywood Knolls/Blair Drive have extremely limited ingress and egress, it is mandatory that the City study and address the issue of emergency vehicle access. This is an issue of life safety. Auto accidents on the stretch of the 101 Freeway through the Cahuenga Pass are exceedingly common, and when accidents tie up the freeway, pass-through traffic pours onto local streets such as Cahuenga Blvd West, blocking access for life safety vehicles to pass. At high traffic times, Barham Boulevard is gridlocked in both directions, as is Lankershim Blvd., Cahuenga Blvd in North Hollywood, and Riverside Drive in Toluca Lake.

***Has the city studied ways of getting emergency vehicles into residential locations if the access on these thoroughfares is blocked by gridlock?***

**SPECIFIC PLAN**

**Universal Studios Specific Plan**

The Universal Studios Specific Plan indicates that the Specific Plan area is surrounded on all sides by urban development [Page 7 of the *Universal Studios Specific Plan*]. This is untrue since on the west side of the Specific Plan area is located Campo de Cahuenga Historical Site, Weddington Park, the Islands subdivision, and the MTA Universal Metro Station surface parking lots. This is hardly an urban setting.

The Specific Plan fails to mention the Campo de Cahuenga Historical Site, the most important site west of the Mississippi in United States history, to California becoming a State, and the in realization of Manifest Destiny.

The Campo is located across from Lankershim Boulevard, adjacent to the Universal Studios Urban Edge, the Universal Studios Business District, and the Lankershim Edge Sign District 1 of the County's Specific Plan. All of the comments and questions in this section of the Campo de Cahuenga Historical Memorial Association's comment letter on the DEIR pertain to the environmental impacts of the proposed associated development located within these Edge and District boundaries. Within the Business District, most of the area is characterized by existing buildings with the exceptions of two new office buildings (O-1 and O-2 as identified in the Specific Plan) proposed in proximity to the tee of Bluffside Dr. and Lankershim Boulevard as it enters Universal private property at James Stewart Avenue.

***What are the different provisions between the proposed Universal City Specific Plan and the Universal Studios Specific Plan?***

***Will the two specific plans conflict with and override with negative impact the Ventura Blvd/ Cahuenga Blvd West Specific Plan?***

### **Lankershim Boulevard Corridor Streetscape**

The existing Lew Wasserman Building office building is at 750 ft MSL approximately 200 feet above the existing and future grade. The two new buildings are proposed to be 725 ft MSL approximately 155 feet above grade. While it appears that the streetscape zone being proposed with security fencing and walls will demark the Studios it will certainly provide an "urban moat" dividing the east and west side of Lankershim Bl. With the adjacent MTA Universal development proposed for the west side of the street, it seems that the two major Projects are planned to result in a lighted, flashing, wind blown horizon of lights and sound that will clearly result in an "urban moat" of automobiles traveling at dangerous speeds or not at all. Exhibit 3-6c is an illustration of an enhanced Lankershim streetscape program that shows fifteen autos traveling back and forth with flashing signs and a few pedestrians. This is totally unrealistic at any hour of the day or night. The DEIR must accurately disclose the large scale change to the Lankershim Boulevard streetscape that would result from the project as proposed.

***In what ways has the County considered how the Universal Studios Project and the adjacent Metro Universal Project impact Lankershim Boulevard.?***

### **Sign Program In The City Of Los Angeles Specific Plan**

The proposed City of Los Angeles Specific Plan includes the area of the residential and town center component of the Evolution Plan (1A & B), the Studio Administration area (2A), the Lankershim edge (2B), the Universal City Southern Entry Point (2C), and a few smaller areas. The remainder of the project property is covered by the Universal Studios Specific Plan in Los Angeles County. Included in both the City of Los Angeles Specific Plan and the County of Los Angeles Specific Plan is a highly objectionable and impactful sign program.

The more questionable types of signs that include motion, translucent graphics, inflatables permitted and the number allowed (#):

Animated Sign	2A, 2C
Billboard	2C
Building Wrap Sign	
Captive Balloon Sign	
Electronic Message Sign	2A, 2C
Entertainment Sign	1A & B (7), 2A (12), 2B (5)
Inflatable Sign	
Off-and On-Site Signs	2C
Projected Sign	2A
Private and Public	1A & B (2 private and unlimited public), 2A (same as 1)
Supergraphic Sign	2A (3), 2B (1)

***Why are Building Wrap, Captive Balloon, and Inflatable signs listed and defined if there are none permitted in the Specific Plan Area?***

***Is the Lankershim Edge Sign District in the County's Universal Studios Specific Plan the same area of 2B above in the City's Specific Plan? Why?***

***The sign area calculation is very specifically defined. Why?***

#### **Mixed Uses - City of Los Angeles Specific Plan**

***Is it anticipated that the storage for the entertainment attraction, displays, and equipment, production activities, production facilities, studio use and office, studio support facilities, and cellular and communications facilities are to be permitted in the Technical Support Overlay Sub District within the Mixed-Use Universal City District where the residential development is proposed?***

***Why is storage being allowed where residential is planned?***

***As the residential development subdivisions are built, is it anticipated that those above uses stored there will be moved? Where? Or is the residential use just imaginary?***

***Why is there no maximum seating specified for the theatrical venues?***

#### **Height Of Buildings – City Of Los Angeles Specific Plan**

Height of structures are proposed to be 625 feet above MSL (mean sea level) in the Overlay Sub District.

***Are these buildings warehouses for movie, television, entertainment equipment?***

The above listed uses are also allowed in the Studio Production District which is located adjacent to the Freeway and adjacent to City Walk/existing Hotels entrance from Lankershim Boulevard and Campo de Cahuenga Way. Height of buildings here are 700 feet and 850 feet above MSL.

***What is the Universal Black Building height in feet above MSL?***

**Land Use Equivalency Transfers – City Of Los Angeles Specific Plan**

Without further information on these transfers, the true impacts of the project cannot be assessed and the DEIR fails as a full disclosure document.

***Explain in greater detail what Land Use Equivalency Transfers are and how they apply to the Specific Plan? Give examples.***

**TRAFFIC / TRANSPORTATION**

**Mitigations**

Universal continues to use the dollar amount of \$100,000,000 for transit mitigations, but this Board has been unable to find justification for that amount.

***Where in the DEIR does it state that \$100,000,000 will be guaranteed for traffic mitigations?***

Even if Universal were to spend \$100,000,000, it seems that the traffic mitigations will be paid for by taxpayer money. Most of NBC-Universal's financial outlay seems not to be mitigations at all but instead used for compiling data and transit studies that would allow Caltrans to consider transit improvements that might be approved and might be funded.

***Where in the DEIR does it state that \$100,000,000 in transit improvements will actually be built? And in what time frame?***

Most of the mitigation measures in the transportation section include the phrase "implement or contribute to" the cost of implementation. This is unacceptable as it potentially allows the project applicant to contribute an unspecified amount of money to each mitigation measure and defer the actual implementation of mitigation but to claim that they have met the mitigation requirement of the DEIR. Tom Smith, NBC/Universal representative, has stated that the \$100,000,000 figure is not a maximum amount that they will pay for traffic mitigation, that they will pay whatever it costs to implement the measures specified in the DEIR, but that is not the way the DEIR mitigation measures are written. They must be rewritten to place full responsibility for their implementation on the project applicant.

The residents in and around Cahuenga Boulevard in North Hollywood want Universal Studios' visitors to stop using that overly congested feeder street to travel to the 134 Freeway. NBC-

Universal needs to discourage or eliminate visitor use of Cahuenga and to pay for mitigations such as turn lanes, channelization, controlled stop lights and turn arrows. Yet representatives from NBC-Universal have been heard to state that it is making no improvements or considering any mitigation for Cahuenga Boulevard in North Hollywood because “the people who live there don’t want them.”

*Where in the DEIR does it list the residents who were interviewed about this issue? Specifically, who did NBC-Universal representatives talk to, and when?*

### **Assurance of Completion of Mitigations**

It is not enough that the Applicant should be allowed to simply prepare and present raw data to various transportation authorities and by doing so be relieved of any and all obligations to see the various mitigations completed prior to or concurrent with the various phases of construction. Given the wide-ranging and complex necessary mitigations, the Applicant should be required to prepare, foster and ensure the completion of all mitigations.

### **Traffic**

The traffic analysis under-forecasts the amount of traffic that the proposed project will generate and then takes credit for an unrealistic transportation demand management (TDM) program to further discount the traffic by 22%. It erroneously assigns traffic to roadways and freeways that are over capacity and pretends that none of it will find alternate routes. And it relies on mitigation measures written in legalese that will allow the developer to weasel out of implementation of many of the measures.

The Project Site Trip Generation Table 30, page 780, indicates that the Entertainment Area currently generates traffic at the rate of 17.53 trips per 1,000 square feet. The new Entertainment Area square footage in that same table is forecast to generate traffic at the rate of 5.97 trips per 1,000 square feet, a 66% reduction in the trip rate, not a very positive assessment of the success of the new venues. Table 30 actually says that the 288,600 sq ft of new entertainment area and the 500-room hotel will **decrease** trips in the pm peak hour by 102 trips. If the new entertainment area square footage was forecast to generate traffic at the same rate as the existing entertainment area, the site would generate 3,336 more daily trips, 10% more than the net increase forecast.

The project’s trip generation analysis is based on the assumption that the Gibson Amphitheater is currently in use every evening on weekdays and that it is completely sold out. No data is provided to substantiate this claim. By making this assumption, the EIR authors reduce the impacts of the future project by taking credit for the elimination of pm peak hour trips on typical weekdays, which they claim were theoretically generated by the Amphitheater, but which in fact are not typical of weekday commute periods. This disguises the magnitude of the project’s traffic impacts.

Table 30 also includes no estimate of traffic expected to be generated by the additional 1.5 million annual theme park visitors forecast to be attracted to the Universal theme park. The

1.5 million additional annual visitors represent a 33% increase over current attendance figures<sup>1</sup>. Appendix I of the Traffic Study [*Appendix E-1*] estimates the daily theme park attendance as 24,896 and the future attendance as 31,399, a 27% increase. This under-represents the potential increase in theme park-related trips. The traffic analysis therefore significantly under-represents the traffic generation of the site and misrepresents the magnitude of its traffic impacts.

Even with the apparent under-forecasting of the project's trip generation, the DEIR does forecast that the amount of traffic generated by the project will nearly double, increasing from 44,883 trips per day to 81,334, an 81% increase. Morning peak hour traffic will double, increasing from 3,015 trips to 6,084, a 101% increase. Afternoon peak hour traffic will increase by 77%, from 4,714 vehicle trips to 8,337 vehicle trips. This is more than significant. It is outrageous!

The traffic analysis [*Table 35, page 798 – Site Transit Trip Analysis*] assumes that 13% of the AM peak hour person trips and 11% of the PM peak hour person trips will be made via transit. This is an unrealistic assumption given that 73% of the AM peak hour trips and 63% of the PM peak hour trips are forecast to be made by employees and residents on site, not tourists visiting the theme park. According to the Southern California Association of Governments, only 4% of home-to-work trips in Los Angeles County are made by public transportation.

The traffic analysis also discounts the trips by community retail and neighborhood retail by excessive amounts. Community retail trips are discounted by 40% to reflect people passing by and stopping at the retail stores. The neighborhood retail trips are discounted by **75%**, 50% for pass by trips and 25% for walk and bike trips. These unrealistic reductions in trip making downplay the potential impacts of the project on the surrounding community.

It is curious why the project applicant can forecast that its TDM program will be so effective at reducing trips from both the new land uses on site as well as the existing land uses on site.

***If they can reduce trip generation of the existing site so well, why don't they demonstrate it now?***

In order to ensure that the TDM mitigation measures are as effective as forecast, an additional mitigation measure should be included in the Final EIR; a trip cap should be established for each phase of development and subsequent phases should not be allowed to proceed without achieving the TDM goals established for each phase. This can easily be monitored with automatic loop detectors to count traffic entering and exiting the site. Such trip caps and annual monitoring programs have been in effect at Fox Studios in Century City and as part of UCLA's Long Range Development Plan for many years. LADOT has experience monitoring such trip caps based on annual reports submitted by the developments.

In the LADOT traffic assessment letter included in Appendix E-2 notes that the Transportation Demand Management (TDM) Program should include "a periodic trip monitoring and reporting program that sets trip-reduction milestones and a monitoring program to ensure effective

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<sup>1</sup> **Source of 4.5 million current attendance: Themed Entertainment Association**

participation and compliance with the TDM goals.” This language is not strong enough, nor enforceable without specifying what those TDM goals are by phase of development. A Mitigation Measure must be added to the Final EIR specifying the trip caps by phase and precluding advancement of development into a subsequent phase without meeting the TDM goals of the prior phase.

Establishment of the baseline number of trips generated by the site will be the first step in developing the trip caps for each phase of development. In reviewing the DEIR assessment of the existing trip generation of the site, it appears that the DEIR authors significantly overstate the number of existing trips generated. The trip generation analysis in Appendix I of Appendix E-1 estimates the peak hour trips of the site based on theoretical trip rates by land use and park attendance. Table A5 of that appendix lists the total existing trip generation of the site as 3,015 trips in the AM peak hour and 4,715 trips in the PM peak hour. Data provided in Figure 45 of the DEIR Section IV.B.1 contradicts that assessment. Figure 45 contains the empirical data with regard to peak hour turning movement traffic counts at all of the study intersections. If one adds up the movements into and out of the NBC/Universal site, represented by the movements at the project access points (intersections 72, 34, 35, 73, 43, and 55), the total number of trips into/out of the site in the peak hours are 1,600 trips in the AM peak hour and 1764 trips in the PM peak hour. Even including half of the trips accessing the site at intersection 36 (Lankershim/Campo de Cahuenga/Universal Hollywood), which includes trips to/from the hotels and office building on Universal Hollywood Drive, the total number of trips into/out of the site would only be 2,089 in the AM and 2,300 in the PM peak hours.

Overstating the theoretical trip generation of the site does not change the existing levels of service calculated at study area intersections, since they are based on the count data, nor does it change the identification of project impacts, since they are based on the incremental change in future conditions at those intersections. What it does affect is the determination of any future trip caps, as well as call into question the calibration of the theoretical trip generation calculations for the site.

The Improvement Phasing Plan of Attachment J of Appendix E-2 lists the maximum allowable PM peak hour trips that can be generated by the four phases of the project. These trip levels are presumed to be net new trips above the existing trip generation of the site. These are: Phase 1 – 1,101 trips; Phase 2 – 2,573 trips; Phase 3 – 3,284 trips; and Phase 4 – 1,309 trips. The table below illustrates how the use of empirical traffic counts changes the allowable trips per phase compared to the use of the project applicant’s theoretical assessment of PM peak hour trips.

Phase	Applicant’s Proposed Maximum No. of New Trips	Trip Cap Depending Upon Source of Existing Trips Data			
		Traffic Counts	Trip Cap	Theoretical Trips	Trip Cap
1	1,101	2,300	3,401	4,714	5,815
2	2,573		5,974		8,388
4	3,286		9,260		11,674
4	1,309		10,569		12,983
Total	8,269		10,569		12,983

The calculation above also calls into question the estimate of total Project Site Trip Generation presented in Table 30 of Section IV.B.1 of the DEIR. That table states that the project currently generates 4,714 PM peak hour trips and will add 3,623 trips for a future total of 8,337 PM peak hour trips. This contradicts the Phasing Plan in Attachment J of Appendix E-2 that proposes the addition of 8,269 trips over four phases of development.

On page 597, the DEIR states that four of the 117 study intersections in the City of Los Angeles currently operate under ATSAC and 109 are controlled by the more sophisticated ATCS and that the capacity analysis for these locations was adjusted by 7 and 10%, respectively, to reflect these existing signal system improvements. The project proposes to provide new traffic signal controllers at 49 intersections as part of its mitigation program. No additional capacity enhancement should be credited to these locations in their level of service analysis, as that would be double counting the benefits of ATSAC and/or ATCS.

The definition of LOS F on page 738 notes that it is “FAILURE. Back ups from nearby locations or on cross streets may restrict or prevent movement of vehicles out of the intersection approaches. Tremendous delays with continuously increasing queue lengths.” Yet in Table 20, “Existing Conditions,” the DEIR authors categorize Cahuenga Boulevard/Highland Avenue, Highland Avenue/Odin Street and Highland Avenue/Camrose Drive as LOS A, in spite of the fact that they all experience FAILURE with stopped traffic congestion extended back from the Highland/Franklin intersection. Similarly, the table categorizes Oakcrest Drive/Cahuenga Boulevard West and Mulholland Drive/Cahuenga Boulevard West as LOS A and B, respectively in the PM peak hour, when anyone who has ever driven that street would know that queues extending south from Barham/Cahuenga extend south of the Mulholland intersection causing both of these intersections to operate at LOS F. The traffic counts taken at these intersections and the LOS calculations are suspect because the traffic typically is barely moving through them during peak hours and is constrained by queues from downstream intersections. There are many other examples of misinformation in this table, which downplays the level of congestion currently experienced around the project site. These mischaracterizations are carried forward into the analysis of future conditions.

The traffic data used in the analysis of the transportation setting is outdated and many of the intersection turning movements were counted between Thanksgiving and New Years and are not representative of typical conditions in the project area. Many of the traffic counts were conducted in the summer of 2006 (May-June, 2006). Counts at intersection numbers 1 through 94 were collected between October 2006 and January 2007. The counts at Burbank intersections were mainly from March 2006, but three of the intersections in Burbank were counted in 2003 or 2004. LADOT traffic impact study guidelines require that traffic counts be not more than two years old for use in EIR traffic studies in the City of Los Angeles. The Transportation Setting Section is not representative of the true baseline conditions in the study area due to the use of outdated information.

Traffic counts were collected at the following intersections between Thanksgiving and Christmas in 2006 and are not representative of typical conditions in the project:

- Vineland/1010 NB Off Ramp
- Vineland/Ventura

- Plaza Parkway/Ventura
- Campo de Cahuenga/Ventura
- MTA/Campo de Cahuenga
- 101 SB Ramps/Cahuenga
- Barham/Cahuenga
- Barham/Cahuenga/Buddy Holly
- Oakcrest/Cahuenga
- Mulholland/Cahuenga
- Cahuenga/Hillpark
- Barham/Dewitt
- Barham/Lake Hollywood
- Barham/Coyote Canyon
- Highland/Pat Moor
- Cahuenga E/Odin

There is no reason that collection of traffic data at these critical intersections, many of which are in the immediate vicinity of the project site, could not have been delayed until after the Holiday Season. Their use calls into question the accuracy of the transportation setting section.

The Base Roadway Improvements listed on page 607 and shown on Figure 53 are not funded and are not likely to be in place prior to project completion. They should not be included in the future base traffic scenario as they present an overly optimistic characterization of traffic conditions. The widening of Highland Avenue at Franklin is not funded and requires right of way. The widening of Cahuenga Boulevard at Barham Boulevard and at Odin Street has no funding. Including these as base traffic conditions allows the NBC/Universal project to avoid having to implement these improvement concepts as mitigation for project impacts at those locations.

The statement on page 624, “The Internal-External and External-Internal trip categories represent approximately 3,498 of the 3,623 afternoon peak hour trip ends shown on Table 30 on Page 780,” is misleading as it makes it appear to the public that only 3.5% of the project’s trips have been assumed to remain on site. The trip generation data on Table 30, however, make the assumption that between 18% and 25% of the trips in the Mixed-Use Residential Area will remain internal. This is hidden in the blended trip estimate for the 2,937 dwelling units and 180,000 sq. ft. of commercial space, which is presented as one number, 20,465 daily trips. If they had been calculated separately, the residential would generate 17,210 trips (if assumed to be condos) and 19,137 trips (if apartments) and the commercial would generate 7,729 trips. Together they would total 24,939 trips (condos) or 27,416 trips (apartments) rather than the reported 20,465 trips, 18-25% less total traffic in that portion of the site.

The proposed project will result in significant impacts to four freeway segments in the AM peak and seven freeway segments in the PM peak hours [page 630]. These freeway segments are already at capacity and many of the on-ramps are also at capacity. It is not realistic for the traffic analysis to assume that project-generated traffic will be able to enter and use the freeway to the extent that it has. There is no more room on the freeway through the Cahuenga Pass for the amount of traffic that the project purports to add to it. This understates the project’s impacts

on the arterial street network by assuming that traffic will be able to get onto an over saturated freeway system.

The Transit Analysis [page 632] is flawed in that it bases its estimate of future available capacity on the Metro system, including the Metro Red Line, on the system's current average load factors. With the extension of the Metro Rail system that is underway since the passage of Measure R, particularly the western extension of the subway system, the future unused capacity on the Metro Red Line will be drastically reduced. The Metro Red Line is close to capacity today during peak hours. With the extension of the Metro Purple Line to Westwood and the other planned rail projects, people will be lucky to be able to find standing room on the Red Line in the future.

The construction traffic analysis incorrectly characterizes the truck trip activity as less than significant. For the Studio, Business and Entertainment Area construction, it forecasts 43 truck trips per hour for 10 hours per day for 8 months and for the Mixed-Use Residential Area it forecasts 89 truck trips per hour for 10 hours per day for another 8 months. This could only be considered not significant by someone who does not live in the area. The analysis underestimates the impact of the trucks on traffic by using a passenger car equivalency factor of 2.0. In congested roadways and on hilly streets with significant grades (i.e., Barham Boulevard), each truck is well more than a 2.0 PCE.

### **Neighborhood Traffic Intrusion**

The Neighborhood Intrusion Impact Analysis is completely inadequate and does not reflect the reality of traffic conditions in the project area. The DEIR authors contend that despite the fact that the proposed project will impact the freeways and parallel arterial streets, all of which will be at LOS F, that no traffic will divert to alternate routes through neighborhoods, because "no parallel routes via residential streets are available to bypass..." most of the congested streets. This is absurd and ignores the intrusion onto residential streets that is already happening today on roadways that wind through the hills. It demonstrates that the DEIR authors either don't understand traffic patterns in the study area, or they deliberately chose to ignore the impacts on residential streets.

The Neighborhood Intrusion Impact Analysis fails to acknowledge that the Mulholland-Outpost route between Hollywood and the San Fernando Valley is already a cut through route on which the City of Los Angeles has taken some steps to reduce cut through traffic. The DEIR graphics fail to even indicate that Outpost Drive connects to Franklin Avenue making it appear as an infeasible cut through route. The addition of project traffic to Cahuenga East and West, Highland Avenue and the 101 Freeway will significantly increase the amount of cut through traffic on Outpost Drive and the Outpost neighborhood must be eligible for Mitigation Measure B-42 funding for neighborhood traffic management. The fund in this mitigation measure should be significantly increased to \$5 million.

Astonishingly, one of the few neighborhoods that the DEIR authors think is in need of protection is the Orange Avenue "neighborhood" adjacent to the Hollywood Roosevelt Hotel. This is as a result of traffic diverting off of Highland to avoid congestion between Franklin and Sunset and instead traveling west on Franklin to turn south on Orange, traveling through the congested

offset intersection at Hollywood Boulevard, past the Hotel, and Hollywood High School and the In N' Out Burger, across the offset intersection at Sunset to reach DeLongpre Avenue, where it will turn left and head back to Highland. If the DEIR authors had ever driven this route, they would know that no one in their right mind would take that parallel alternate route to avoid two blocks of travel on Highland.

Most of the mitigation measures have been written to allow the project applicant to avoid responsibility for the measures' implementation. Many include the phrase "construct or contribute to the construction of..." or "implement or contribute toward the implementation of..." or "monitor" the need for a signal" or conduct periodic reviews of conditions..." or "make a fair-share contribution toward any improvements..." and "implemented to the extent feasible." The inclusion of such weasel words in virtually all of the mitigation measures makes it impossible to rely on the assumption that they will actually be implemented.

The project proposes to relocate the southbound 101 freeway on-ramp between Campo De Cahuenga Drive and Lankershim Boulevard and to provide a new southbound off-ramp terminating at the Ventura Boulevard/Fruitland Drive intersection. Having the freeway on and off ramps located on Ventura Boulevard at Fruitland Drive will result in Fruitland Drive, a residential street, being turned into a freeway access route. This could also attract additional freeway-oriented traffic to the Wrightwood route between Mulholland and Ventura Boulevard.

Mitigation Measure B-5 requires the widening and restriping of Barham Boulevard from Forest Lawn Drive/Lakeside Drive to Buddy Holly Drive to provide three southbound lanes and two northbound lanes. There are currently three northbound lanes on the approach to the Forest Lawn Drive/Lakeside Drive intersection. The third lane is a right-turn-only lane several hundred feet in length. During peak periods however, the queue of right-turning cars extends beyond the striped lane along the curb up Barham Boulevard. This mitigation measure should be modified to requiring sufficient widening along the entire NBC/Universal frontage on Barham Boulevard to accommodate three lanes in each direction, plus a median left turn lane. Only in the portion of Barham Boulevard south of the NBC/Universal frontage should the City settle for the reduced cross section with three southbound and two northbound lanes.

The secondary impacts associated with Mitigation Measure B-5 have not been disclosed, nor mitigated. Will parking be removed along the entire length of Barham Boulevard to implement this mitigation measure? How will that affect businesses and residents along Barham? How will the six-lane cross section be carried through the intersection at Lake Hollywood Drive? How will this affect the sidewalk widths and pedestrian environment, as well as access to businesses near that intersection?

The project applicant has stated publicly that the mitigation measures required for each phase of the development are clearly articulated in the DEIR. That is, if one can find them in Attachment K of Appendix E-2. The attachment is a table that lists phases of the project and associated mitigation measures, but it does not provide any information as to when the mitigation measures are required (before occupancy of any of the development constructed in that phase? Or before any construction begins on the subsequent phase?). The description of the phasing plan in Appendix E-2 also states, "This phasing plan may be modified in the future to adjust the

mitigation sequencing.” The fact that an important element of the mitigation program is buried in an Attachment to an Appendix and not even summarized in the body of the DEIR, illustrates how difficult it is for the public to understand the environmental analysis.

The format for the Draft EIR, with sections of text, followed by figures and then tables at the end of each section, makes it difficult for reviewers to easily read each section without having to flip back and forth.

In Section VI of the Draft EIR, Summary of Significant and Unavoidable Impacts, it is noted that Project and cumulative impacts related to Project access would remain significant at the following two access locations:

1. Lankershim Boulevard and Campo de Cahuenga Way/Universal Hollywood Drive – both peak hours; and
2. Barham Boulevard and Lakeside Plaza Drive/Forest Lawn Drive – both peak hours.

This illustrates the fact that the proposed project is too large and too dense for the project site, since the proposed project’s traffic generation is too great to handle at the two main project access points. The project should be reduced in scale so that its traffic generation can be accommodated with a reasonable level of service (i.e., LOS D) at its main access points. Failure to do so will result in significant project impacts to the surrounding community. The Transportation Setting Section is inadequate in its description of existing traffic conditions in the vicinity of the proposed project and as a result fails to disclose project impacts on residential streets. In Section IV.B.1.b Existing Conditions (2) Existing Traffic Volumes and Operating Conditions, beginning on page 596, the Draft EIR fails to address existing neighborhood cut through routes in the vicinity of the project, routes that the City of Los Angeles is well aware of and on which the City has already taken some actions to reduce cut through trips.

CUSG would like to point out that numerous websites exist to educate even newly arrived drivers about the shortcuts in Los Angeles driving. To list just a few:

- Traffic Shortcuts: The Barham Bypass [<http://studiocity.patch.co.>]
- 12 Driving Shortcuts in Los Angeles, by Shana Ting Lipton [<http://About.com Guide>]
- Santa Monica/LA Shortcuts [[www.A-1courier.com/lashortcuts.htm](http://www.A-1courier.com/lashortcuts.htm)]
- LA Driving Shortcuts [<http://keypad.net>]
- L.A. Shortcuts: Cut Through Traffic [[www.lashortcuts.co.](http://www.lashortcuts.co.)]
- My Traffic Shortcuts.com
- Los Angeles Driving Shortcuts: Best Sites [[www.associatedcontent.com](http://www.associatedcontent.com)]

Those routes – well-known to all – include but are not limited to the following:

- Mulholland Drive and Outpost Drive, between Cahuenga Blvd West and Franklin Avenue
- Outpost Drive, La Presa Drive and Camrose Avenue, between Highland Avenue and Franklin Avenue
- Camrose Avenue and Hillcrest, between Highland Avenue and Franklin Avenue
- Hollycrest Drive, Primera Avenue and Lake Hollywood Drive between Cahuenga Blvd East and Barham Blvd

- Wonder View Drive and Lake Hollywood Drive between Cahuenga Blvd East and Barham Blvd
- Wrightwood Drive between Mulholland Drive and Vineland Avenue
- Valley Spring Lane, between Cahuenga Boulevard and Forman Avenue
- Lake Hollywood Drive and Beachwood Canyon Blvd to bypass Barham Blvd
- Cahuenga Blvd East to Hollycrest Drive to Primera to Lake Hollywood Drive to Barham Blvd
- Cahuenga Blvd East to Benda to Primera to Lake Hollywood to Barham Blvd.
- Cahuenga Blvd East to Lakeridge Place to Wonder View Drive to Tareco to Wonder View Drive to Lake Hollywood Drive to La Suvida to Lake Hollywood Drive to Barham Blvd
- Franklin Avenue to Beachwood Drive to Ledgewood Drive to Mulholland to Tahoe to Lake Hollywood Drive to La Suvida to Lake Hollywood Drive to Barham Blvd.
- Cahuenga Blvd East to Hollycrest Drive to Benda to North Knoll Drive to Londo to La Falda to Lake Hollywood Drive to Barham Blvd
- Oakshire Drive off Cahuenga Blvd West to Passmore Drive to Woodrow Wilson Drive to Cahuenga Blvd West
- Oakshire Drive off Cahuenga Blvd West to Passmore Drive to Woodrow Wilson Drive to Pacific View Drive to Mulholland to Outpost Drive to Franklin Avenue
- Mulholland off Cahuenga Blvd West to Outpost Drive to Franklin Avenue
- Broadlawn Drive off Cahuenga Blvd West to Oak Glen Drive to Oakshire Drive to Cahuenga Blvd West
- Lankershim Blvd to Kentucky Drive to Fredonia Drive to Cahuenga Blvd West
- Fruitland Drive to avoid the Vineland/Ventura intersection
- Highland Avenue south to Camrose to Sycamore Drive, left turn to Franklin Avenue
- Highland Avenue south to Camrose to Sycamore Drive, right turn to follow Sycamore around past the Yamashiro restaurant to Franklin Avenue

Despite these well-known routes, and despite the fact that most of the problematic intersections are identified as being at a LOS E or F, the DEIR [*DEIR, Volume 2\_E, Traffic Report, Book 2, pages 349-368*] over and over minimizes and dismisses the possibility of neighborhood traffic intrusions by cheerily stating again and again that because in most cases there are no parallel streets, neighborhood intrusions cannot occur:

*[Emphasis added in the following section:]*

***“No parallel alternative routes via local residential streets are available*** as a bypass to Lankershim Boulevard between the Muddy Waters Drive and Ventura Boulevard/Cahuenga Boulevard intersections, and around the Vineland Avenue/Camarillo Street intersection. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

***“No parallel alternative routes via local residential streets are available*** as a bypass to Cahuenga Boulevard around the Valley Spring Lane intersection. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

***“No parallel alternative routes via local residential streets are available*** as a bypass to Riverside Drive around the Camarillo Street/Tujunga Avenue intersection. Due to the physical barriers created by the SR 134 freeway to the north and the presence of other LOS E or F intersections along Moorpark Street to the south, no parallel alternative routes via local residential streets are available as a bypass to Riverside Drive around the SR 134 eastbound on-ramp, Lankershim Boulevard, and Cahuenga Boulevard intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Tujunga Avenue between Camarillo Street/Riverside Drive to the SR 170 northbound on-ramp – The sole intersection along the Tujunga Avenue corridor from Camarillo Street/Riverside Drive to the SR 170 northbound on-ramp projected to operate at LOS E or F is the intersection of Tujunga Avenue at Camarillo Street/Riverside Drive. ***No parallel alternative routes via local residential streets are available*** as a bypass to Tujunga Avenue around the Camarillo Street/Riverside Drive intersection. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Barham Boulevard, Olive Avenue to Cahuenga Boulevard – The six intersections along the Barham Boulevard corridor from Olive Avenue to Cahuenga Boulevard projected to operate at LOS E or F include:

- Barham Boulevard at Cahuenga Boulevard
- Barham Boulevard at Buddy Holly Drive/Cahuenga Boulevard
- Barham Boulevard at De Witt Drive
- Barham Boulevard at Lake Hollywood Drive
- Barham Boulevard at Coyote Canyon Road
- Barham Boulevard at Lakeside Plaza Drive/Forest Lawn Drive

***No parallel alternative routes via local residential streets are available*** as a bypass to Barham Boulevard around the above intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Forest Lawn Drive, Barham Boulevard/Lakeside Plaza Drive to the SR 134 eastbound ramps – The two intersections along the Forest Lawn Drive corridor from Barham Boulevard/Lakeside Plaza Drive to the SR 134 eastbound ramps projected to operate at LOS E or F are the intersections of Forest Lawn Drive at Barham Boulevard/Lakeside Plaza Drive and at the SR 134 eastbound ramps. ***No parallel alternative routes via local residential streets are available*** as a bypass to Forest Lawn Drive around these intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Olive Avenue, Barham Boulevard to Hollywood Way – The three intersections along the Olive Avenue corridor from Barham Boulevard to Hollywood Way projected to operate at LOS E or F include:

- Olive Avenue at Warner Brothers Studios Gate 2/Gate 3
- Olive Avenue at Pass Avenue
- Olive Avenue at Hollywood Way

***No parallel alternative routes via local residential streets are available*** as a bypass to Olive Avenue around the Pass Avenue and Warner Brothers Studios Gate 2/Gate 3 intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Due to the physical barriers created by the SR 134 freeway to the north, ***no parallel alternative routes via local residential streets are available*** as a bypass to Pass Avenue around the Alameda Avenue intersection. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Cahuenga Boulevard (East), Barham Boulevard/Buddy Holly Drive to Mulholland Drive – The sole intersection along the Cahuenga Boulevard (East) corridor from Barham Boulevard/Buddy Holly Drive to Mulholland Drive projected to operate at LOS E or F is the intersection of Cahuenga Boulevard (East) at Barham Boulevard/Buddy Holly Drive. ***No parallel alternative routes via local residential streets are available*** as a bypass to Cahuenga Boulevard (East) around the Barham Boulevard/Buddy Holly Drive intersection. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Cahuenga Boulevard (West), Lankershim Boulevard/Ventura Boulevard to Highland Avenue/Pat Moore Way – The six intersections along the Cahuenga Boulevard (West) corridor from Lankershim Boulevard/Ventura Boulevard to Highland Avenue/Pat Moore Way projected to operate at LOS E or F include:

- Cahuenga Boulevard at Lankershim Boulevard/Ventura Boulevard
- Cahuenga Boulevard at US 101 southbound ramps/Regal Place
- Cahuenga Boulevard at Universal Studios Boulevard
- Cahuenga Boulevard at US 101 southbound ramps
- Cahuenga Boulevard at Barham Boulevard
- Cahuenga Boulevard at Mulholland Drive

***No parallel alternative routes via local residential streets are available*** as a bypass to Cahuenga Boulevard (West) around the Lankershim Boulevard/Ventura Boulevard, US 101 southbound ramps/Regal Place, and Mulholland Drive intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Highland Avenue, Cahuenga Boulevard (West)/Pat Moore Way to Sunset Boulevard – The four intersections along the Highland Avenue corridor from Cahuenga Boulevard (West)/Pat Moore Way to Sunset Boulevard projected to operate at LOS E or F include:

- Highland Avenue at Franklin Avenue
- Highland Avenue at Franklin Avenue/Franklin Place
- Highland Avenue at Hollywood Boulevard
- Highland Avenue at Sunset Boulevard

***No parallel alternative routes via local residential streets are available*** as a bypass to Highland Avenue around the Franklin Avenue and Franklin Avenue/Franklin Place intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Ventura Boulevard, Lankershim Boulevard/Cahuenga Boulevard to the US 101 southbound on-ramp – The sole intersection along the Ventura Boulevard corridor from Lankershim Boulevard/Cahuenga Boulevard to the US 101 southbound on-ramp projected to operate at LOS E or F is the intersection of Ventura Boulevard at Lankershim Boulevard/Cahuenga Boulevard. ***No parallel alternative routes via local residential streets are available*** as a bypass to Ventura Boulevard around the Lankershim Boulevard/Cahuenga Boulevard intersection that would provide access to the US 101 southbound on-ramp. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“***No parallel alternative routes via local residential streets are available*** as a bypass to Ventura Boulevard around the Whitsett Avenue/Laurel Terrace Drive and Coldwater Canyon Avenue intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Campo de Cahuenga Way, Lankershim Boulevard/Universal Hollywood Drive to Riverton Avenue/Ventura Boulevard – The sole intersection along the Campo de Cahuenga Way corridor from Lankershim Boulevard/Universal Hollywood Drive to Riverton Avenue/Ventura Boulevard projected to operate at LOS E or F is the intersection of Campo de Cahuenga Way at Lankershim Boulevard/Universal Hollywood Drive. ***No parallel alternative routes via local residential streets are available*** as a bypass to Campo de Cahuenga Way around the Lankershim Boulevard/Universal Hollywood Drive intersection. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

“Universal Studios Boulevard between Universal Center Drive/Buddy Holly Drive and Cahuenga Boulevard – The two intersections along the Universal Studios Boulevard corridor from Universal Center Drive/Buddy Holly Drive to Cahuenga Boulevard projected to operate at LOS E or F are the intersections of Universal Center Drive/Universal Studios Boulevard & Buddy Holly Drive and Universal Studios Boulevard & Cahuenga Boulevard. ***No parallel alternative routes via local residential streets are available*** as a bypass to Universal Studios Boulevard around these intersections. ***No significant neighborhood intrusion impacts would therefore be anticipated in this area...***

By not acknowledging the existing pattern of neighborhood traffic intrusion, the Draft EIR is deficient in its characterization of Existing Operating Conditions. This mischaracterization is carried forward into the analysis of project impacts where the Draft EIR authors contend that the project’s traffic will not use neighborhood streets, claiming that “no parallel alternate routes exist.” The failure to adequately assess existing conditions leads the Draft EIR authors to miss the fact that the alternate routes above exist and are used today by cut-through traffic. They will also be used in the future by project-generated traffic and the Draft EIR fails to acknowledge this impact and fails to offer mitigation to reduce the neighborhood traffic impact.

The DEIR Summary on pages 75-76 states the following:

“The following mitigation measure is recommended to provide for the development of neighborhood traffic management plan(s) in the potentially impacted neighborhoods:

**Mitigation Measure B-42:** ... the Applicant or its successor shall provide funding ... in an amount up to \$500,000 for implementation of the Los Angeles Department of Transportation’s Neighborhood Traffic Management Plan process for the Project set forth in Appendix E-1 of this Draft EIR.”

We believe that this amount of money is grossly inadequate to rectify all the significant and ongoing neighborhood intrusion impacts. And this amount is set aside for only five identified streets when it is clear from the list above that there are currently many more affected streets and neighborhoods than the DEIR identifies, and it is probable that there exist now other cut-through routes that have not been cited. In fact, the full extent of these impacts may not be known until years after the full 20-year build-out.

The DEIR then goes on to state:

“Implementation of the improvements may reduce the neighborhood intrusion impacts to less than significant. However, as discussed above at this time it is not known whether a particular community will elect to implement a particular set of mitigation measures or if the agreed upon measures will reduce the impacts to less than significance. Therefore, it is conservatively concluded that mitigation of the potential neighborhood intrusion impact will not be feasible and a significant traffic intrusion impact in the identified neighborhoods would remain.”

It should be pointed out that many neighborhoods express concern about the suggested mitigations for fear that those mitigations – e.g., widening local streets into thoroughfares – will not lessen traffic but, in fact, increase it as they serve, not the community, but the Project. And this fear seems to be realistic, given the statement by the DEIR above that mitigations may prove to be infeasible and therefore the significant intrusion impact must be suffered by all the neighborhoods.

**Suggested Mitigation:**

In order to ensure that some of the residential trips remain internal to the project site, CUSG proposes that the project applicant shall restrict the occupancy of 20% of the residential dwelling units on site to employees of NBC Universal with jobs on site.

*How would restricting 20% of residential units to NBC Universal employees affect the residential trips? What would be the reduction in residential trips?*

An additional mitigation measure must be added to the Mitigation Phasing discussion (pages 687 – 689 of IV.B.1) to insure that the phasing plan is enforceable and part of the mitigation monitoring program. The measure should be MM B-45: The proposed project shall be

implemented in four phases, each of which has an assigned maximum number of net new pm peak hour vehicle trips above existing conditions. Those maximum allowable pm peak hour vehicle trips per phase must be established. The mitigation measures specified in Appendix E-2, Attachment J of the DEIR for each of the first three phases shall be implemented prior to the initiation of construction on any portion of the subsequent phase of the project. Phase 1 includes 7 transportation improvements, Phase 2 includes 10 transportation improvements, Phase 3 includes 4 transportation improvements and Phase 4 includes 2 transportation improvements. The Phase 4 improvements shall be in place prior to issuance of a certificate of occupancy for the Phase 4 development. Any changes to the mitigation phasing plan in Appendix E-2, Attachment J of the DEIR, shall be subject to review and approval of the Los Angeles City Council and Los Angeles County Board of Supervisors in open public meetings.

### **Emergency Vehicles**

The DEIR suggests that, if main streets are blocked, the drivers of emergency vehicles will know how to take alternative routes. But these routes are already being over-utilized now as alternatives to gridlocked main streets.

*How does forcing emergency vehicles to use obscure bypasses sustain or improve emergency response times? What remedy is available if safety is seriously compromised?*

### **Lack of Arterial Streets**

The argument that NBC Universal puts forward in its traffic section on neighborhood intrusion – that there are no parallel streets [*see this Comment Letter section on Neighborhood Traffic Intrusion*] – shows that the developer itself realizes that there is a complete lack of arterial streets in the vicinity in order to spread the traffic through a grid of wide thoroughfares intended to handle greater amounts of traffic. Most large developments are not located in the middle of a hillside quasi-rural area with narrow serpentine streets. Most are designed to fit a location with a wide grid of large arterial streets that can bear the overflow traffic.

That the DEIR repeatedly identifies intersections as unmitigatable and admits to neighborhood intrusions in a variety of streets all around the Project site shows that this Project's expansion is completely unsuited to its location.

### **“Unlocking Federal Funds” for 170/134 interchange**

Since the very beginning of this process, including the earliest MTA site meetings and the subsequent MTA DEIR, NBC Universal and its developers have claimed that they will be instrumental in “unlocking more than \$200 million in potential transportation funding for the Valley.”

*What does this really mean in actual dollars secured for funding?*

*How does NBC Universal and its developers propose to unlock this money, and how soon?*

Doug Failing has said that even if monies should become available, there are many more important sites that need those dollars.

*What process will the developers take part in that will assure Federal dollars for a project that Doug Failing, the previous Caltrans District 7 Director and current Executive Director of Metro’s Highway Programs, has openly stated will never be built?*

*Will this money be “unlocked” in time to build the mitigations required for each phase?*

*In our current economic time, is this a realistic statement?*

**Parking**

On page 339 of the Project Description, the description of the parking supply is completely vague and does not include a statement as to the number of parking spaces being provided on site, thereby hiding from decision makers and the public the magnitude of the massive parking supply to be provided on site. This appears to be an attempt to camouflage the large number of vehicles that will enter and exit the site daily producing vehicle trips on surrounding streets.

The parking impact analysis does not assess the adequacy of the proposed parking supply. It merely compares the proposed supply to zoning requirements, so there is no way for decision makers to assess the potential for parking spillover into adjacent neighborhoods or the effect of traffic congestion on peak days when the parking is full, if that should occur, and drivers circulate, searching for alternate parking locations.

Table 48 (page 956) presents County Parking Requirements and Table 49 [page 956] purports to present the County Specific Plan Required Parking. It lists total parking requirements only, but there is no calculation provided applying the parking ratios to square footages of development, so there is no way for decision makers or the public to assess the correctness of the stated requirement nor the adequacy of the proposed supply.

Applying County parking requirements to the total square footages in the Building Program yields the following:

Land Use	Pkg Requirement	Square Footage	Parking Required
Studio	1/500 sf	1,536,069	3,072
Studio Office	1/400 sf	1,379,871	3,450
Office	1/400 sf	958,000	2,397
Hotel	0.5/room	450,000 sf (500 rooms)	250
Total		4,323,940	9,119

The total parking supply in the County Specific Plan area is 19,598 spaces, leaving 10,479 spaces to serve the theme park, City Walk and entertainment venues. With a parking requirement of 7.9 spaces per 1,000 square feet, these parking spaces could only satisfy the parking requirement for 1.326 million square feet. Yet, with a total square footage of 6.18 Million square feet, those 10,479 spaces are providing parking for 1.856 Million square feet,

at a ratio of 5.6 spaces per thousand square feet. The proposed project therefore will not meet current County parking code requirements.

The parking analysis starts from “Existing Conditions” and applies net growth totals by land use category and adds the parking required for the growth to Existing Supply. It never provides data to demonstrate that the Existing Conditions comply with code. As noted in the comment above, it appears that it does not. The total site should be brought into conformance with the code, not just the incremental new uses.

The parking analysis assumes that a site-wide parking management plan will be in place to allow some Entertainment Area parking to be located on the Studio and Business Area portion of the site during periods of peak demand. Approval of the project should require that these two areas of the site be conditioned to remain under common ownership so that such a site-wide parking management plan remains a feasible option in perpetuity. ***A mitigation measure should be added to the Final EIR requiring this condition.***

Figure 91 illustrates that there are 51 existing parking facilities on the NBC/Universal site. No comparable figure is provided for the Evolution Plan to illustrate how much more of the site will be converted to parking. The current parking supply on-site is 16,940 spaces. While it never comes right out and divulges the total future parking supply number, a careful reading of the parking chapter of the DEIR indicates that the total supply of parking proposed on the site will be 26,449 spaces; 19,598 spaces in the County Specific Plan Area, and 6,851 in the City Specific Plan area. **This is a 56% percent increase in the on-site parking supply.** The addition of so much parking is inconsistent with the stated goals of the Project’s TDM program to encourage ridesharing and the use of alternative modes. This calls into question the reasonableness of the trip reductions assumed in the Project’s traffic analysis when so much parking is to be provided on site.

### **Forman Avenue Extension**

For Alternative #9 The Forman Avenue Extension, the DEIR Summary page 29 states:

“(b) Alternative 9: East/West Road With Forman Avenue Extension  
... As such, under Alternative 9, the East-West Road would connect Barham Boulevard and Lankershim Boulevards, as described under Alternative 8, and the Forman Avenue extension would connect the East-West Road to Riverside Drive to the north. Under this alternative, the Forman Avenue extension would provide two travel lanes in each direction.

CEQA calls for “feasible alternatives to be considered.” Alternative 9 is NOT a feasible alternative.

***Is not plotting a Secondary Highway though an historic golf course and single-family neighborhood pure folly?***

***The County Highway Plan may show a road but I would ask when was the Plan updated***

*to reflect current land uses? Such Plans need to be updated to be consistent with existing land use and existing transportation circulation patterns.*

*Why does the DEIR not show Alternative 9's extended roadway proposals for a sensible evaluation of the associated impacts?*

### **Transportation Information Requested**

At the Scoping Meeting in February of 2007, the Los Angeles Department of Transportation asked for information relating to transportation on the following:

- Financial costs,
- Funding sources
- Financing
- Sequence and scheduling considerations
- Implementation responsibilities and controls
- Monitoring of appropriate mitigation measures?

*Where in the DEIR are the responses to these requests for information?*

### **Traffic Improvements**

The Specific Plan requires a phasing plan as part of the Substantial Compliance Analysis approval for the first Project developed under the Specific Plan. The Applicant submits a Traffic Mitigation Phasing Plan (TMPP) to the Department of Transportation for approval. There is a guarantee prior to the issuance of a building permit, which can be satisfied by a letter of credit or surety bond. If the transportation improvement is infeasible, then an equivalent effective modification can be made and agreed upon.

*Why is this approach used and not the more pragmatic approach of not allowing the next phase to begin construction until the traffic improvement is completely built?*

### **TDM Program**

*What is the planned Transportation Demand Management Program (TDM) for the Project?*

*How is it phased with the development of the Project?*

*How long is it planned to be in operation?*

*Who will be involved (which employer) in managing the TDM?*

*Who is going to manage and operate the Transportation Management Association?*

*Where is the funding for the TDM coming from?*

## **Shuttle Buses**

One of the proposed traffic mitigations is the use of shuttle buses going to and from the new residential property. Your studies assume a certain % of the residents would use this service and then you extrapolate that fact to project the ultimate traffic mitigation. The car culture of Los Angeles and the fact that the Universal site is not within an urban grid make it a unique situation and your use of data from other cities in the United States is therefore not valid.

*What historical benchmarks for usage levels of shuttle services were used from the City of Los Angeles that supports the assumptions in the DEIR?*

## **UTILITIES**

### **Water**

California has labored under the burden of water shortages for years, and Los Angeles in particular requires enormous water supplies because of its semi-arid climate. Unfortunately the Urban Water Management Plan has apparently for the past few years predicted more than adequate water supplies. But in a recent article, entitled “Lowered Expectations: The 2010 Urban Water Plan – We’re Running Out of Water,” on the CityWatch website [<http://citywatchla.com>] writer David Coffin explains:

“After decades of rosy water supply projections proclaiming a practically limitless supply, the new 2010 Urban Water Management Plan (UWMP) is coming to terms with a long overdue reality. Water supply hasn’t grown as expected and isn’t expected to grow substantially in the future.

... The 2010 draft UWMP released January 13<sup>th</sup> [2011] profoundly lowers long term projections up to 13 percent for normal and single dry years and up to 18 percent for multiple dry years...

The UWMP is cited by the LADWP in their Water Supply Assessments ... and by city planners and developers when evaluating new housing projects. It’s also cited by the city’s planning department when elements of the General Plan are drawn up.”

So why have projections dropped so dramatically?

In recent years there has been a growing contradiction between ‘sufficient’ water supplies regularly cited by city planning documents for new developments, and the city’s strong arm tactics to force residents into conserving.

This disparity has been leading people to ask the obvious questions: Do we or do we not have enough water to sufficiently supply the residents of Los Angeles?...

Past UWMPs had far and away overestimated the water department’s future projections which allowed high density development to proceed unabated. .. This was particularly true between 2000 and 2008 when housing

production and new water connections to them rose sharply. The council was forced to approve an emergency water conservation ordinance...

According to previous management plans, the UWMP 'is only a guideline.' The decision to provide water connections to new projects, thus manage growth, is a political decision... Given that, you won't find any new verbiage in the 2010 plan that protects the community by linking development to water supply, real or projected...

With far lower projections in this latest plan it would not be unreasonable for residents to expect, even demand a moratorium on new developments.

Water supply has dropped to dangerously low levels with projects were approved and built within the scope of the previous UWMP projects. The margin of safety is gone.

Officials can't keep ducking from reality and ignore the region's limit to water supply and then compound the problem by repeatedly approving new developments that consume more water. It's a one-way ticket to disaster."

We agree.

We believe that the DEIR should be based on the current Urban Water Management Plan. California Government Code 66473.7 (the Assured Water Supply Law) requires that sufficient water be available for the residential portion of this Project, but there does not seem to be adequate support for the findings in this DEIR, considering the 2010 Urban Water Management Plan, and it also appears to be inadequate under California Water Code Section 10910 for water assessment under that act.

In 2001 California enacted SB610 and SB221, often called the "show me the water" laws. These laws require demonstration of adequate long-term water supplies before the approval of any large development project. The DEIR does not adequately address how Universal's residential component can or will comply those laws.

During the past 24-months the City of Los Angeles, the County of Los Angeles and the State of California have all declared water-shortage emergencies, which required the mandatory rationing of water. At this time the City of Los Angeles – which would be required to provide water to any residential development at the site – continues to impose restrictions on residential water use city-wide. Universal and the City of Los Angeles both must demonstrate that there is existing infrastructure in place to guarantee an adequate, uninterrupted and unrestricted source of water for 15 or more years from the date of project completion forward. The City of Los Angeles cannot be in compliance with SB610 and SB221 if they grant or allow for any zoning change (as proposed in the DEIR) to allow residential use of the land while they continue to ration water in Los Angeles.

In terms of fire safety, adequate water resources are mandatory in order to fight not only local fires but also fires on the Universal lot, and in recent years not only has Los Angeles' inadequate water supply become a focus of concern, but also the lack of adequate water pressure. As mentioned elsewhere in this comment letter, in reference to the Universal Studio fire in June

of 2008, *The Los Angeles Times*' article, "Water Glitches Hamper Fight Against Studio Fire" [6/2/08] identified low water pressure and "an overwhelmed sprinkler system" were major aspects of fire fighters' inability to effectively combat the fire. Supervisor Zev Yaroslavsky was quoted in the same article as saying, "...The water pressure issue is going to be a post-mortem issue of this fire."

Also referenced elsewhere in this letter, an audit released by the City Controller's office and reported online by *The Los Angeles Times* (7/15/08 "California Briefing") stated that most emergency preparedness plans across the city had not been updated in 3 years and many had not been updated since 1992.

***How can all the adjacent communities be assured that the Evolution Plan's enormously increased need for water won't leave those communities begging for water?***

***What proposals are being advanced to ensure that an adequate – even plentiful – supply of water to the Project won't in fact have an adverse effect on the adjacent communities or even on the larger region?***

State law requires that no building permit be issued for a new project until the developer can demonstrate adequate water resources for a 5-year projected time frame.

***Since the Department of Water & Power and the Mayor's office both require that the City of Los Angeles engage in water rationing, and since meteorological experts forecast that the drought in Southern California is likely to continue, how can the City justify the issuance of new building permits for such major development?***

***What specific effects will NBC Universal's project have on available regional water resources?***

### **Electricity / Natural Gas**

It is clear from the enormous scope of the Project that the demands for power will escalate rapidly as each phase of the Project is built. At times of high usage (in summer when temperatures are increased and in winter when storms occur), it is common for the communities in this region to lose power, sometimes for several days. The residential portion of the Project will by itself escalate demand dramatically. And although the final word has not been spoken yet on climate change, all qualified experts are in agreement that global warming is real and we will see increased temperatures over the next 25-30 years.

***How does the Project propose to accommodate this radically increased demand?***

***What back-up power systems could be implemented to ensure a consistent power supply even in the face of severely increased demand?***

***Has the Project made plans for global warming – and signed on to provide increased power via such green methods such as wind and solar panels?***

## Sewer/ Solid Waste

On the *Los Angeles Times*' website, an article entitled, "Trees Felled Around Protestors in Arcadia" [1/12/11] reported that, despite local protest, land in that area was being cleared of 179 coastal oaks and 70 sycamores "to make way for muck dredged from a nearby reservoir." While in this case the decimation of these old growth groves was to allow the reservoir to be an important part of the flood control system in the San Gabriel Mountain foothill communities, the act underscores the need for appropriate solid waste disposal that does not negatively impact the environment.

***What environmentally sound methods of solid waste disposal on site will be created to handle the Project's own enormous disposal needs, while not furthering burdening our current landfills?***

## VISUAL IMPACTS

The DEIR repeatedly claims for community after community that a less than significant visual character impact and a less than significant view impact would occur from this Project. These claims are based on the significant impact on visual character and views that would be imposed in conjunction with the proposed Metro Universal project. [DEIR Summary, page 111]

"The proposed Project, in conjunction with the proposed Metro Universal project, **would cause a cumulative change** in the visual character of the area due to the addition of high-rise development on both development sites as well as comprehensive signage programs." [emphasis added]

And yet even given the above admission, the DEIR's ultimate finding is:

"The potential incremental effect on visual character and views in this area **would not be cumulatively considerable**, and thus, cumulative impacts are concluded to be less than significant." [emphasis added]

We question these results, as follows:

To be considered significant, aesthetic impacts do not have to be so "dramatic" as to block a scenic view; the issue is whether a project may cause substantial degradation of existing visual character. [Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 937-938.]

"[A]ny substantial, negative effect of a project on view and other features of beauty could constitute a "significant" environmental impact under CEQA." (Quail Botanical Gardens Foundation, Inc. v. City of Encinitas (1994) 29 Cal.App.4th 1597, 1604.) According to the California Court of Appeal, lay opinions that articulate the basis of the opinion can constitute substantial evidence of a negative aesthetic impact. (Ocean View Estates Homeowners

Assoc., Inc. v. Montecito Water District (2004 ) 116 Cal.App.4th 396, 402.) Expert testimony on the matter is not required because the overall aesthetic impact of a project is a subjective matter for which personal observations are sufficient evidence of the impact. (Id.; Oro Fine Gold Mining Corp. v. County of El Dorado (1990) 225 Cal.App.3d 872, 882.)

### **Threshold of Significance for Visual Character Impacts**

The DEIR sets the threshold of significance for visual character impacts impermissibly high. The threshold of significance set by the DEIR requires impacts to both aspects to be significant before it considers the development to have significantly altered or degraded the existing visual character of the area. This threshold of significance increases the level of impact that is required before it would be considered significant above the thresholds set in the City of Los Angeles' Thresholds of Significance. The City's significance threshold states that a development would have a significant impact if it substantially alters, degrades, or eliminates the existing visual character of an area, which complies with CEQA's requirements for determining the significance of such impacts.

The DEIR finds that all 15 geographic areas the Project studied suffered less than significant visual impact. The DEIR requires significant visual effect from contrast, prominence, and coverage before it would be considered to have a significant impact. Each of these factors alone could potentially be severe enough to substantially alter or detract from the existing visual character of the surrounding area. For example, if the contrast between the proposed development and the existing surroundings is so great as to substantially detract from the existing visual character of the area, that should be enough to qualify as a significant aesthetic impact. Under the DEIR, however, this would not be enough. Instead, the detracting structure would also have to be prominent and cover much of the field of view as well. This methodology is improperly skewed to always understate impacts: the DEIR could simply pick a farther away Vantage Point to decrease the proportionate coverage of an otherwise substantially detracting prominent structure that is in stark contrast to the surrounding area.

By raising the hurdles that must be cleared before a finding of significant impact can be made, the DEIR improperly finds many significant impacts to be less than significant. However, the DEIR concludes that because the field of view is broad from individual vantage points, and the new development would only occupy a portion of the field of view, and that in some cases there already exists buildings of height that the new buildings would thus not result in a significant aesthetic impact.

The DEIR repeatedly refers to mature trees and vegetation both on their site and on surrounding properties e.g. Toluca Lake (north of Project) IV.D p. 1064 as a buffer or barrier to significantly impacting Views and or Visual Character. This is very short sighted as just a few hundred feet north of Lakeside Golf Course, at a slightly higher elevation, current views of City Walk are unobstructed and un-buffered. Hollywood Manor located immediately to the east is said to be protected by "extensive stands of mature trees and shrubbery" IV.D p.1052. But again, they are

referencing private landscaping as their buffer, and they fail to address the loss of a buffer and aesthetics as the Project will be removing large portions of their own vegetation. Parts of Hollywood Manor directly overlook the historic back lot and will be directly impacted by the removal of hundreds of protected Oaks, Walnuts and Sycamore trees and various other vegetation to make way for the proposed 2,937 residential units of varying density and heights. There in the Manor, as well as all the other vantage points, views and visual impacts in the DEIR only consider impacts on specific areas and fail to analyze the impacts on the greater communities. The DEIR only considers visual impact to views from specific areas; it fails to analyze the visual impact of the change to the entire area as a whole.

In addition, the DEIR fails to acknowledge the aesthetic impact of removing vegetation on Barham and the back lot as well as the removal of hundreds of protected walnut, oak and sycamore trees.

We find the DEIR's findings inadequate due to the incredibly narrow definition of a significant visual character impact. The DEIR improperly establishes a threshold of significance that "forecloses the consideration of any other substantial evidence showing there may be a significant effect." (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114.) We also question the limited subjectivity of the DEIR's claim as to what is considered a "Valued Visual Resource" and its repeated claim that due to distance and already existing on site development that these Resources are not significantly diminished.

#### **The DEIR Fails to Accurately Address Visual Character Impacts.**

The DEIR inaccurately measures the impacts to the field of view, or coverage, mainly due to a subjective determination that they are adding on to an already urban landscape. We question this designation since the Project is surrounded by residential neighborhoods, and because the phasing of this project has been broken down into five phases which have not yet been determined or accurately outlined, at least not in this DEIR. Importantly, due to its artificial segmentation, the DEIR does not appropriately consider or evaluate the combined future impacts from development of the West Side MTA site and the East Side considered together.

#### **The Analysis of the Visual Impacts from Signage and Artificial Lighting is Inadequate.**

The DEIR claims the impact of signage to be insignificant since it will comply with its own newly created Specific Plan. [see both Specific Plan and Billboard Blight sections] The self-serving and circular nature of this claim cannot stand as adequate analysis and mitigation of the significant impacts from the massive increase in the size, location and type of signage that would be allowed.

#### **Mitigation Measures for Impacts from Shadows Appear Inadequate**

#### **Billboard Blight / Supergraphics / Signage**

Billboard blight is an increasing menace, and across the city neighborhoods everywhere are banding together to fight its encroachment.

It seems that the increase in signage in general and billboards in particular – digital and otherwise – stems from the mistaken identification of the communities surrounding the Project site as urban rather than suburban. In an urban environment signage is to be expected and tolerated for the economic advantage it confers on local businesses and the economy in general. But in a suburban environment it is equally to be expected that the calm, quasi-rural nature of a suburb is to be valued and preserved.

Of great concern to this Board is the quantity of signs clearly intended for off-site advertising, with the obvious goal of financial gain for the Project owners. A significant portion of the signage requested in this DEIR is not intended to advertise the Project's business. This DEIR cites numerous locations where off-site advertising will be permitted, in fact encouraged as evidenced by the enormous quantity of signs grouped in specific locations. While this Board understands the importance of advertising one's business – many of us, after all, are business owners ourselves – it is egregious that so much off-site advertising should be allowed.

Recently in the Cahuenga Pass, located on a building on the south side of Cahuenga Boulevard West at the Barham intersection, a billboard advertised the television show "Gossip Girl." The billboard used the well-known texting term "OMFG" as its lead in letters large enough to be seen for miles. This billboard was in the midst of family homes and within easy walking distance of Valley View Elementary School on Woodrow Wilson Drive. The situation was exacerbated by another "Gossip Girl" billboard with the exact same text term just one block away from the first and adjacent to the Hollywood Knolls and Hollywood Manor communities. While no one wants to restrict any individual's or business' right of free speech, clearly there needs to be some restrictions on how many of these signs should be allowed to cluster in one area.

It is this Board's contention that **no signage should be allowed that advertises off-site products or services. This restriction is required to mitigate the significant adverse visual impacts that would otherwise occur.**

### **Traffic Safety re: Electronic Billboards**

Of particular concern to all these communities is the use of changing digital signs and graphics that distract drivers from their primary job, which is *driving safely*. In 2009 a study was released by the Association of State Highway and Transportation Officials entitled "Safety Impacts of the Emerging Digital Display Technology for Outdoor Advertising Signs." In the Executive Summary [pages 4-6], the following is stated:

"In July 2007, the Highways Subcommittee on Traffic Operations (SCOTE) of the Association of State Highway and Transportation Officials (AASHTO) issued a proposed policy resolution on outdoor advertising. This document recognized that inattentive driving was a major contributor to highway crashes, and that new technologies were enabling the outdoor advertising industry to display more attention-getting messages that were likely to cause drivers to be less attentive to the driving task. The document further noted that national

interest and concern about the safety implications of these advanced outdoor advertising displays had been expressed by FHWA and TRB as well as by State and local government agencies...

Several conclusions can be drawn from the extensive literature on this topic. First, there are strong theoretical underpinnings in the psychology of cognition, perception, psychophysics, and human factors, to suggest **why stimuli such as roadside digital billboards can capture and hold a person's attention, even at the expense of primary task performance...** *[emphasis added]*

...the research sponsored by the outdoor advertising industry generally concludes that there are no adverse impacts from roadside digital billboards, even when, in one case, the actual findings of such research indicate otherwise. Conversely, the conclusions reached in research sponsored by government agencies, insurance companies, and auto safety organizations, especially in those studies performed in the past decade, regularly demonstrate that the presence of roadside advertising signs such as digital billboards, contributes to driver distraction at levels that adversely affect safe driving performance...

During the course of this project, we identified several recent extensions of digital advertising technologies that may add further to the distraction potential of these displays. The growing use of LED technology for advertising in on-premise applications is of concern because such signs may be larger than traditional billboards, closer to the right-of-way and to roadway sections with high task demands, and may include animation and full motion video.”

And from Section 9 of the same document entitled “Summary and Conclusions”:

**“...we have a growing, and consistent picture of the adverse impact of irrelevant, outside-the-vehicle distracters such as DBBs [digital billboards] on driver performance.** *[Page 181][emphasis added]*

“... those [government officials] who think that their job is to do what they can to enhance safety for the traveling public based upon the best available information, now have, in our opinion, access to a strong and growing body of evidence, including evidence from industry supported research, that roadside digital advertising, attract drivers' eyes away from the road for extended, demonstrably unsafe periods of time. States and local jurisdictions faced with permit applications or challenges to denied permits need to have a sound basis for their decisions. The research underway by FHWA as this is written may begin to provide specific, directed answers to assist these officials in their work. In the interim, these governmental agencies and toll road operators, faced with the need to make such decisions now have, in our opinion, a sufficient and sound basis for doing so.”  
*[Page 182]*

Electronic signage in the Cahuenga Pass adjacent to the 101 Freeway or along heavily traveled thoroughfares such as Lankershim Boulevard is inappropriate because such signage poses a serious danger both to drivers and to pedestrians.

The section of the 101 Freeway through the Cahuenga Pass is already known as one of the most dangerous segments of the freeway system, with a much higher proportion of accidents than in other areas, due to the hilly topography that prevents drivers from seeing well into the distance to anticipate problems. Yet this is the exact location where this Project seeks to locate an electronic sign that faces the northbound freeway. This Project seeks to remove the northwest corner of the Barham-Buddy Holly Drive intersection from the Mulholland Scenic Corridor, which restricts such signage, so a non-digital billboard at that location can be “upgraded” to an electronic billboard, thus creating a dangerous distraction for motorists traveling at high speeds through a dangerous Pass.

*Since there are studies that now support the anecdotal knowledge that digital advertising is a danger to drivers and pedestrians, why is the DEIR silent about the dangers of electronic signage and its distraction for drivers?*

*What mitigation measures must be instituted to provide safety for drivers and pedestrians? Why is the DEIR not recommended such mitigations?*

### **Light Trespass in Residential Communities**

Residents in communities all across Southern California, where digital and electronic signage has been proliferating, have lodged complaints regarding excess brightness with City officials.

As an example, a digital billboard located in the Cahuenga Pass at the northeast corner of Barham Boulevard and Cahuenga Blvd East has ratcheted up its illumination to the extent that property owners in the hills report that they can no longer sleep at night because the intense glow in their bedrooms and the flickering changing images keep them awake. One resident reported that the animation figures danced across the walls of her room all night. Complaints to the advertiser went ignored until the intercession of a resident who has a personal connection to the advertiser. Finally some concession was made and the sign was dimmed during certain hours of the night.

But it continues to provide a dangerous distraction to drivers on the 101 Freeway in the Pass.

*What mitigations can be proposed that will eliminate what experts call “light trespass” into all the residential communities, particularly those like the Cahuenga Pass and the Island that will suffer the most from the onslaught of increased digital signage?*

### **Compounded Effects of Signage**

The Lankershim Edge Sign District will add the equivalent of 14,000 square feet of lighted electronic advertising plus supergraphic signage, or the equivalent of 20 full-sized billboards

plus a double-faced billboard at Cahuenga and Universal City Drive, in addition to a billboard sign conversion at the northwest corner of Barham Boulevard and Buddy Holly Drive.

Page 139 of the Project Description 2A states:

“Animated, moving, programmed, flashing, neon, LCD and similar lighting displays or installations shall be permitted.”

Not included in the above is the Universal City Town Center Sign District at Barham Boulevard and Forest Lawn Drive. This area proposes eight wall signs, each 500 square feet, for the purposes of off-site advertising.

This totals 20,000 square feet of new advertising for the proposed Project. By anyone’s standards, this constitutes an alarming increase in visual clutter, particularly in neighborhoods known for their quiet beauty and greenery.

The DEIR correctly identifies Barham Boulevard as a Major Scenic Highway II in the Sherman Oaks/Studio City/Toluca Lake/Cahuenga Pass Community Plan, but then goes on to hazard a guess that the street was chosen for its views of the Cahuenga Pass for southbound motorists and its views of the San Fernando Valley and Verdugo Mountains for northbound tourists.

It also discusses Forest Lawn Drive as follows:

“Forest Lawn Drive is designated as a Major Scenic Highway II in the City’s General Plan Transportation Element. As stated above, the Transportation Element describes the selection criteria for scenic highways as including natural scenic qualities in undeveloped or sparsely developed areas of the City, or urban area(s) of cultural, historical, or aesthetic value, which merit protection and enhancement. The Community Plan provides no indication as to why Forest Lawn Drive was designated as a scenic highway.”

The DEIR seems confounded by these designations, as though none of the writers of the DEIR have visited those streets, but to anyone who has, these designations are obvious. Those streets have beautiful views of greenery with mountains in the background. For that matter, the entire Cahuenga Pass is a Scenic Corridor and as such has protections from mural signs and billboards.

***Since the Community Plan is silent on its reasons for selecting Barham and Forest Lawn (and presumably the same questions could be addressed for the entire Cahuenga Pass), why does the DEIR decide for itself which are the valued views?***

***What signage and other visual intrusion decisions have been made predicated on this completely fabricated decision?***

In addition the City Specific Plan proposes a Sign District (Universal City Southern Entry Point Sign).

***Will this Sign District follow the signage requirements established by the Ventura Boulevard/Cahuenga Boulevard Specific Plan, or will those standards be violated?***

***If an exception to the sign district will be requested, why is that request not included in this DEIR?***

**Shade and Shadow / Light And Glare / Natural Light**

The DEIR states the following:

“These periods were selected per the City of Los Angeles CEQA Thresholds Guide (2006) and represent the portion of the day during which shading would be expected to be of concern to most people. Collectively, the seasonal shadow patterns define an annual shadow pattern that can be attributed to existing buildings and development permitted under the development Height Zones and Height Exception areas set forth by the proposed City and County Specific Plans.

Although the daily periods for each season vary, each bears an approximately equal relationship to the total period of sunlight for the respective day.

Shadows in this analysis have been diagrammed for “morning” (9:00 A.M.), “midday” (12:00 P.M. in winter and spring or 1:00 P.M. in summer and fall), and “afternoon” (3:00 P.M. in winter and spring or 5:00 P.M. in summer and fall). In addition, given the topographic variation between the Project Site and adjacent properties, topography has been taken into account in all shadow projections.”  
[DEIR, IV.E.1 Light and Glare - Natural Light, page 1158]

CUSG questions, first of all, the hours selected as being “of concern to most people.” South Weddington Park serves as an example.

***Why would the shade from the buildings not be a concern to people walking in the park at 8 AM? Why would it only begin to concern people at 9 AM?***

***Would it not be true that shade would be of greater concern between sunrise and 9 AM than it is after 9 AM because people out in the cooler temperatures at that hour would appreciate sun to warm them?***

Although the DEIR tables don’t assess this aspect, it might be imagined that homeowners on Cartwright Ave and Denny Avenue in the Island would be affected by shade if they cared to take a stroll around the garden with a cup of coffee at 7 AM or wanted to walk their dogs at 8 AM. The loss of sunlight happens prior to 9 AM.

***What about people who love to wake up to sunlight?***

***What studies – both physical and psychological – have been performed by qualified experts on the effects of the loss of sunlight on biological creatures, both human and animal?***

We would further suggest that there will be many more homeowners in Toluca Lake than are shown on your current tables who will be affected as they enjoy outdoor dining and entertaining between the hours of 5 PM and 8:08 PM.

Landscaping is another consideration. South Weddington Park, all the residences surrounding the project, and the Campo are fully landscaped and the change in the amount of sunlight the plants receive will alter their life cycles, not only the sunlight they receive between 9AM and 3 PM or 5 PM.

***Why has this not been addressed in the DEIR? Will NBC Universal re-landscape and/or re-plant areas of South Weddington Park where vegetation dies for lack of sunlight?***

Winter heating is another consideration. The heating bill at the Campo or any other structure that falls into the new patterns of shadow will increase because of shadow between 6:56 AM and 9 AM in the winter.

***Why is the DEIR silent on this issue?***

We question the validity of the hours of day that the DEIR takes into account and request that the DEIR publish tables that reflect shadows from sun-up to sundown as residents here live in a climate where the outdoors is enjoyed at all times of the year. An accurate re-count of the hours of shadow caused by the Project should be taken, and those revised numbers should be taken into consideration when a determination of “significant” or “less than significant” is made. Shadow-sensitive areas need to be re-defined.

The DEIR’s conclusion that potential impacts on South Weddington Park are less than significant is based on the fact that the park will be so shaded by the MTA project that the Universal project will not significantly change it. It is hard to question such a statement that is so laughably true.

***How would that conclusion change if the MTA project does not get built first, or at all? We pose the same question in regard to the Campo de Cahuenga.***

Regarding Lakeside Golf Course, the conclusion that since “users of this facility are highly mobile and generally do not stay in the same location for more than a limited amount of time,” thus making this golf course a non-issue, is clearly written by a non-golfer. Golfers may not stand in the same spot for a very long time, but they visit the same area over and over again, especially as this is a club where members play regularly. Additionally, landscaping is crucial in designing and maintaining a golf course. If the areas that are shaded are landscaped with turf grass and sun-loving trees, the landscaping will wither. The golf course is without doubt a shadow-sensitive area.

***Why was this issue not explored in the DEIR, and why is no mitigation suggested for this adverse effect?***

### **Proposed mitigation for Light and Glare – Natural Light:**

The DEIR proposes the following mitigations:

**“Mitigation Measures:** To reduce potential impacts to a less than significant level, the following mitigation measures are recommended:

**Mitigation Measure E.1-1:** Prior to issuance of a building permit for structures proposed to be built within 560-feet of Lankershim Boulevard and 440-feet of Universal Hollywood Drive within the 850-foot MSL Height Zone, the Applicant or its successor shall submit a site specific shadow study that illustrates that the proposed structure would not cause the Campo de Cahuenga historic site to be shaded for more than 3.0 continuous hours between 9:00 A.M. and 3:00 P.M. PST during the Spring Equinox or add shading to an area of the Campo de Cahuenga historic site already shaded continuously for 3.0 hours during the Winter Solstice.

**Mitigation Measure E.1-2:** Structures proposed to be built within the 850-foot MSL Height Zone shall conform with the height limitations and setback requirements identified in Figure 171 on page 1229 of the Draft EIR.

**Mitigation Measure E.1-3:** Structures proposed to be built within the 825-foot MSL Height Zone shall conform with the height limitations and setback requirements identified in Figure 172 on page 1230 of the Draft EIR.

**Mitigation Measure E.1-4:** Structures proposed to be built within the 855-foot MSL Height Zone shall conform with the height limitations and setback requirements identified in Figure 173 on page 1231 of the Draft EIR.” [DEIR, IV.E.1 Light and Glare - Natural Light, page 1183]

***Mitigation measures as outlined are only recommended, not required. Why are they not required?***

We question various elements of Mitigation Measure E.1-1 to 4:

***Why is the shadow study to be done prior to the issuance of a building permit and not now in this EIR process? How are we to know now that a reduction in height as outlined will be sufficient?***

***The hours of the study need to be revised to reflect sun up to sun down for all seasons.***

***Evaluation of “less than significant” needs to be reflected based on revised hours.***

### **Light From Nighttime Construction:**

**Mitigation Measure C-2** states the following:

“Project construction or grading activity shall be permitted during the following times: Monday through Friday (non-legal Holidays) between 7:00 A.M. and 7:00 P.M.; Saturdays between 8:00 A.M. and 6:00 P.M.

*Exceptions:* Notwithstanding the above permitted times, the following construction activities may occur between 7:00 P.M. and 7:00 A.M. Monday through Friday (non-legal holidays), between 6:00 P.M. and 8:00 A.M. on Saturdays, and on Sundays and legal Holidays:

As such, nighttime construction activities could affect adjacent residential and other light-sensitive uses, but would not be anticipated to affect those light-sensitive uses located farther away. Given the temporary nature and short duration of nighttime construction activities associated with Project construction activities and the requirement in the proposed Specific Plans that lighting for such activities be shielded or directed to restrict any direct illumination of property located outside the Project Site, impacts associated with nighttime construction lighting, should they occur at all, would be less than significant.”

Given the fact that construction will be permitted 24 hours a day, 7 days a week, including Saturdays and Sundays and legal holidays for 20 years, we question how the DEIR can identify such a time period as “temporary nature and short duration of nighttime construction activities.”

***How can construction lighting impacts be considered temporary and less than significant when they affect a large number of people and continue over two decades?***

The neighbors surrounding Universal have been very much affected by nighttime construction noises in the past and finally, at the persuasion of Zev Yaroslavsky, received an agreement from Universal to eliminate nighttime construction.

***Why is it necessary to start over again and have to suffer through 20 years of nighttime construction noise and night glare?***

### **Rooftop Equipment**

The rooftop equipment is to be screened from the view of the public pedestrians within 500 feet of boundaries.

***Doesn't this mean that, even though pedestrians may not see it, the residents in the City View Lofts, South Weddington Park and the Island residential area will be able to see all such equipment in the new buildings in the new business section since they will be tall?***

The new sign district in the business section proposes to have illuminated signs not facing residences when the signs are north of James Stewart Avenue. This would still leave bright signs in the business section south of this intersection with Lankershim.

*Wouldn't this area face South Weddington Park as well as the residential areas if they are angled in that direction? Therefore, wouldn't it be true that the sign district would have significant impacts on South Weddington Park as well as City View Lofts and the Island Neighborhood?*

*In changing the area along Lankershim from city to county, wouldn't this allow much taller buildings to be built there?*

*Wouldn't these taller buildings block views from the City View Lofts, Island Neighborhood and South Weddington Park?*

*In addition to shading some of those areas, wouldn't it block views of the sun, moon and stars, as well as of the mountains?*

*Is there a limit to how tall the buildings can be built once the land is put into the county rather than the city in spite of the new specific plan and their stating the height in the DEIR?*

### **Loss of Privacy**

One very important aspect of "views" that the DEIR completely ignores are the views from the new buildings into residents' back yards and windows, resulting in a loss of privacy. There are many residents of Toluca Lake and the Island, for instance, who will have hundreds of people looking down on activities in their own homes and on their own properties which should be private. The term "view" needs to be redefined to encompass views going both ways.

*What mitigation is proposed to shield these residents from view and to ensure that their privacy is respected?*

### **Lighted Signage**

Page 139 of the Project Description Section 2a in the DEIR states:

"Animated, moving, programmed, flashing, neon, LCD and similar lighting displays or installations shall be permitted."

The section goes on to list exceptions to the rules for these displays. One exception is decorative holiday lighting from September 1 through January 15. A four-and-a-half month exception can hardly be designated an exception as it extends a full one-third of a calendar year.

Businesses already are allowed to take advantage of already existing sign laws.

*Why should a business, no matter how large, get to decide on where a sign district should be located even when their neighbors object?*

While the Island Neighborhood doesn't want to see lighted signs from their homes or adjacent South Weddington Park, neither do the neighbors of the Mulholland Corridor parcel, which

Universal wants to rezone, want to see a digital sign or billboard visible to their neighborhood. Residents of all the neighborhoods should have input on aspects of the Project, such as these, that will affect their lives on an hourly basis.

A final note on visual impacts: This DEIR seems to argue, for all view neighborhoods, that because some visual clutter (referred to as “urban development”) already exists, more visual clutter is acceptable. Below is an example of this DEIR’s opinion as it relates to the Cahuenga Pass view community:

“The Cahuenga Pass West area, similar to the Cahuenga Pass East area, provides perspectives from high to low elevations... Project development and signage would result in an increase in the overall amount of urban development, as viewed from this area. However, this new development and signage consistent with the proposed Specific Plan regulations, including aesthetic improvements, would not contrast with the existing urban development visible from the Cahuenga Pass West area and would not be substantially more prominent than existing development within the available field of view... As a result, a less than significant visual character impact would occur from this geographic area.” [DEIR Summary, page 106]

This argument means, in effect, that adding to a visual field doesn’t change it markedly. For example, if residents with views already have to suffer by looking at twenty-five windmills, then they shouldn’t mind having to look at an additional twenty-five windmills. But this reasoning is, of course, faulty. Adding more visual clutter ramps up the visual density and intensity until all that is visible is the clutter and the view is irreparably lost.

## **ALTERNATIVES 1 - 9**

The proposed Project does not, we believe, meet all of the Project alternatives.

- It does not recognize relationships with neighbors.
- It does not provide affordable housing to meet regional housing needs.
- It does not fulfill land use and transportation policies because it includes changes to existing plans.
- Alternatives analysis appears to underestimate the impacts that would be reduced in the lower density alternatives.

***Would the type of housing included in the proposed Project accommodate those individuals who would be employed at minimum wage or lower income (part-time or temporary workers) in the commercial uses?***

CUSG suggests that a less impactful alternative does not need to meet all of the Project objectives to be considered feasible. We suggest a reduced footprint/reduced intensity

alternative that avoids tree removal and other negative impacts. Even the environmentally superior alternative (Alternative 4) would, in the DEIR's own words (I. Introduction/Summary, page 32):

“... Alternative 4, as is the case with the proposed Project, would result in significant impacts with regard to traffic (operation), air quality, construction noise, and solid waste disposal.”

Choosing the proposed project over other less impactful alternatives would be especially egregious where, as it does here, the proposed project itself does fully meet the project objectives.

### **Additional Information Regarding Alternative 7 is Required**

Regarding Alternative 7 in the DEIR Executive Summary page 26, which we regard as unclear and extremely confusing, we ask the following:

*Is this section stating that the two Specific Plans (City and County) are also created by the developers, serving the developers' needs and demands, and that Alternative 7, also created by the developers, is in compliance with those same Specific Plans? If so, then how can Alternative 7 be considered an honestly evaluated alternative? What is meant by “environmental equivalency”? How would this alternative actually change the proposed Project?*

We believe this DEIR fails to analyze whether Alternative 7 would meet the Project objectives.

Communities United for Smart Growth provided a viable alternative plan submitted previously to the City during the MTA DEIR process, and it hereby re-submits this document to the City for consideration as an alternative. (See attached: Metro Universal RiverWalk Vision Plan – EXHIBIT A)

*Since the City is already in possession of this plan and as it addresses both the MTA and the Universal Studios sites, why was it not considered as an alternative to be included for analysis in this document?*

*Per the above question, CUSG requests that the Metro Universal RiverWalk Vision Plan be analyzed as an alternative.*

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## **ALTERNATIVE 10**

### **Metro-Universal RiverWalk Vision Plan**

The RiverWalk Vision Plan presents what this Board believes to be the only viable alternative to the Universal Evolution Plan and to the Metro Universal Plan by incorporating and addressing elements and needs from both proposals. It presents a true 21<sup>st</sup> century, public transit-oriented and forward-thinking development plan and proposes creating a unified complex of contemporary visitor attractions, production facilities, commercial space, office space and residential while also respecting existing community needs, economic growth and vital environmental concerns. This is done by – but not limited to:

- Celebrating Los Angeles’ essential television, film and entertainment industries by providing new production and studio space while still preserving the historic Universal back lot
- Reflecting and incorporating regional efforts to protect and restore our region’s rivers, mountains and parks
- Emphasizing green building and sustainability
- Emphasizing *true* transit-oriented development – by location housing *adjacent* to public transit
- Increasing public open space

The RiverWalk Vision responds to development proposed for both the Universal Evolution Plan and the Metro Universal Plan in a comprehensive and integrated manner appropriate to the regional significance of both sites’ locations in a prominent part of the San Fernando Valley – adjacent to and at the midpoint of the 51-mile Los Angeles River and adjacent to the MTA subway at the nationally significant and historic Campo de Cahuenga,

The RiverWalk Vision also responds to the fact that the Universal City site and the Metro Universal site are adjacent to each other; that proposed improvements for and uses of both sites are mutually dependent; that NBC Universal would lease space from the MTA and that the MTA subway would serve both developments. The RiverWalk Vision Plan balances both regional goals and site-specific needs.

This Plan would greatly reduce traffic, air pollution and noise; increase walking and bicycling; reduce greenhouse gases that contribute to climate change; improve water quality; reduce aesthetic and visual impacts on surrounding residential areas; enhance the livability and workability of the Valley; and meet the legitimate economic and business goals of Universal, the City of Los Angeles and Los Angeles County.

***See Appendix A for the complete Metro Universal RiverWalk Vision Plan.***

## **Incorporation of Other Responses**

Communities United for Smart Growth joins the following organizations in their comments and objections and other matters raised in their filings to the NBC Universal Evolution Plan DEIR, and incorporates those comments and objections in this response as though set forth in full herein.

Studio City Residents Association  
Toluca Lake Homeowners Association  
Toluca Lake Chamber of Commerce  
Cahuenga Pass Property Owners Association  
Hollywood Knolls Community Club  
City of Burbank  
Friends of the Los Angeles River  
Greater Toluca Lake Neighborhood Council  
Outpost Estates Homeowners Association  
Coalition to Ban Billboard Blight  
Santa Monica Mountains Conservancy  
Hollywood Dell Civic Association  
Bureau of Engineering Office River Project

This Board thanks you for your time and attention to this response.

**Respectfully submitted by:**

**Roy P. Disney, Chairman**  
**Daniel Savage, President**  
**Richard Bogy, Vice President**  
**Deuk Perrin, Vice President**  
**Terry Davis, Secretary**  
**Krista Michaels, Treasurer**

**Communities United for Smart Growth**