

APPEAL OF VESTING TENTATIVE TRACT MAP NO. 82152 (ALTERNATIVE 8)

AMDA College of the Performing Arts (“AMDA”) appeals the City of Los Angeles (“the City”) Advisory Agency’s approval of Vesting Tentative Tract Map No. 82152 (Alternative 8) (the “Tract Map”) for the Hollywood Center Project (the “Project”). The Findings of Fact required pursuant to the Subdivision Map Act (i.e., Govt. Code § 66474.61) cannot be supported by substantial evidence and therefore, approval of the Tract Map is legally defective. AMDA is also concurrently submitting an appeal of the Advisory Agency’s environmental determinations relating to the Project’s Environmental Impact Report (the “EIR”).

I. BACKGROUND ON AMDA COLLEGE OF THE PERFORMING ARTS.

AMDA is one of the country’s preeminent non-profit colleges for the performing arts, with its two campuses in New York City and Hollywood recognized internationally for launching some of the most successful careers in theater, film, and television. Fully accredited by the National Association of Schools of Theater (“NAST”)¹, AMDA’s Hollywood campus enrolls approximately 900 students from throughout the world and offers four Bachelor of Fine Arts programs, one Bachelor of Arts program, and three Associates of Occupational Studies programs. In addition, AMDA offers a High School Summer Conservatory Program, which includes five residential performing arts programs for students in grades 8 through 12. Since 2003, AMDA’s Hollywood campus has been a thriving community of young artists engaged daily in everything from general education courses typical of more traditional 4-year colleges, to musical theater, dance studios, and voice recitals.

AMDA’s campus is comprised of several buildings in the immediate vicinity of the Project. The AMDA Tower Building, AMDA’s main building, is located across Yucca Street from the Project and houses administrative offices, classrooms, studio spaces, a costume shop, a stage combat armory, a computer lab, the AMDA Café, and a black box theatre. AMDA’s Vine Street Building, located at 1777 Vine Street shares a property line with the Project site, and is a five-story facility with 23 classrooms, 11 private voice studios, acting rehearsal rooms, a student lounge, the film production office, the scene shop, and other ancillary AMDA uses. It is AMDA’s primary classroom building. An outdoor performance space, a campus piazza, a performing arts library, and film, television and editing facilities are also located on campus. Given that Yucca Street bisects the AMDA campus, AMDA students and faculty constitute a significant portion of the pedestrians crossing Yucca Street at Vine Street, and also use the surrounding sidewalks to travel the neighborhood, including to the nearest Metro station. AMDA operates 12 months out of the year, not only during the traditional academic school year. During the summer there are approximately 700 students on campus.

¹ NAST has been designated by the United States Department of Education as the agency responsible for the accreditation throughout the United States of freestanding institutions and units offering theatre and theatre-related programs (both degree-and non-degree-granting). NAST cooperates with the six regional associations in the process of accreditation and, in the field of teacher education, with the National Council for Accreditation of Teacher Education. NAST consults with the American Alliance for Theatre and Education, the Association for Theatre in Higher Education, and similar organizations in the development of NAST standards and guidelines for accreditation.

VTT-82152-1A-MANATT-JUST-.pdf

II. THE CITY CONTINUES TO DISREGARD THE PROJECT'S IMPACTS ON AMDA.

The Project would be constructed directly adjacent to AMDA's approximately 2-acre campus in the heart of Hollywood. Incredulously, the Project's Final EIR ("FEIR") asserts that the Project "would not adversely impact AMDA's Tower Building Campus" and alleges that AMDA has not explained "how the Project's intermittent construction activities would disrupt AMDA's ability to continue providing theater, dance, film and art classes."² (FEIR, p. 2-815.) These statements are false: AMDA has reiterated, time and time again, in both relation to the Hollywood Center Project and its predecessor, the Millennium Hollywood Project, that month after month and year after year of construction noise and vibration will significantly disrupt AMDA in a myriad of ways:

- It will make it impossible for AMDA to hold music, voice and acting lessons in its campus rehearsal rooms, dance studios, private voice rooms, musical studio spaces, classrooms, and film production rooms;
- It will limit the ability of AMDA students to carry out performances at the campus' indoor theaters and outdoor performance space;
- It will grossly affect AMDA students living within the campus residential buildings; and
- It will likely cause irreparable structural damage to AMDA buildings.

In certifying the Project's EIR, adopting the Project's Environmental Findings, Statement of Overriding Considerations, and Mitigation Monitoring Program, and approving Vesting Tentative Tract Map No. 82152, the City continues to ignore these impacts on AMDA. By wholly disregarding these impacts, the City has taken legally indefensible actions relating to the Project that must be overturned.

III. THE CITY MUST DENY THE TRACT MAP UNDER GOVERNMENT CODE SECTION 66474.61.

A. The Project Is Likely To Cause Substantial Environmental Damage, Unacknowledged and Undisclosed by the City.

Under Government Code section 66474.61(e), *a tentative tract map must be denied where the design of a proposed Project is likely to cause substantial environmental damage.* The City's September 14, 2020, Letter of Determination for the Hollywood Center Project Vesting Tentative Tract No. 82152 ("LOD") includes the unsupported finding that "the design of

² The Final EIR seems to rely on the fact that the Project will not physically encroach onto AMDA's campus in support of its baseless conclusion that no impacts will occur. But AMDA has never alleged that the Project will physically encroach and that any impacts will occur due to encroachment. Further, it is not AMDA's burden to "explain" how the Project will affect its operations. It is the City's burden to prove there will be no noise or other environmental impacts on the surrounding environment. As detailed in AMDA's comment letter on the DEIR, there are fundamental flaws in the EIR's noise analysis—including, but not limited to, the mis-categorization of AMDA buildings as commercial when they are in fact residential, and the mis-categorization of buildings for purposes of analyzing vibration impacts.

VTT-82152-1A-MANATT-JUST-.pdf

the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.” (LOD, p. 151.) Support cited in the LOD’s finding is scant. The finding states only that the “subdivision design and improvements are consistent with the existing urban development of the area” and “there are no native or protected trees located within the Project Site or on the street sidewalk parkway.” There is no discussion whatsoever of the Project’s noise impacts, including those on the adjacent AMDA campus.

As detailed in AMDA’s June 1, 2020 letter, there are several omissions in the Draft EIR (“DEIR”) noise analysis that result in an undercounting and underreporting of the Project’s noise impacts on AMDA:

- The DEIR fails to identify the AMDA dormitories located at the corner of Yucca Street and Ivar Avenue as a residential noise-sensitive receptor. The FEIR attempts to remedy the fact that these on-campus residences were overlooked by stating that the DEIR already identified significant and unavoidable noise impacts in this general area and therefore, no change to that determination has occurred. ***This is not the same as disclosing that AMDA’s student housing units will experience significant and unavoidable impacts and it certainly does not alleviate the City’s duty to identify mitigation measures to reduce this impact on AMDA student housing.*** Such measures could include, but certainly are not limited to, relocating the residences to another location for the duration of construction on the West Site, construction of additional temporary or permanent sound barriers, and additional noise monitoring and/or notification. These measures were provided to the City for consideration, and no response was provided in the FEIR. As such, the Project would result in substantial environmental damage undisclosed and unmitigated by the City, and under Government Code section 66474.61(e), the Tract Map must be denied.
- The DEIR fails to correctly categorize both the AMDA Vine Building and the AMDA Tower Building as unreinforced, non-ductile, concrete buildings. By doing so, the DEIR failed to apply the correct threshold of significance for building damage, and greatly minimized the level of significance of construction vibration impacts and the likelihood that AMDA’s buildings will be severely damaged by the Project. The FEIR attempts to remedy this factual and analytical error by stating that “this change does not affect the calculations provided in the vibration analysis for the DEIR and would result in the same vibration level disclosed in the DEIR and the same impact determination as provided in the DEIR.” ***But this is not so. The fact is that the DEIR discloses only that AMDA Vine Building vibration will occur at less than seven times the acceptable level, when in actuality, the AMDA Vine Building will experience vibration levels more than eleven times the acceptable level—this is a substantially more severe impact.*** Where new information is added that shows a substantially more severe impact than was disclosed in a circulated DEIR, recirculation is required. The City failed to do so, and instead continues to downplay

the substantial environmental damage that will be caused by this Project. Again, under Government Code section 66474.61(e), the Tract Map must be denied.

- The DEIR fails to identify or describe the location of onsite construction staging, vehicle waiting, and equipment warm up areas. The location of these areas will substantially change the amount of impact felt on the AMDA campus. The past iteration of this Project, the Millennium Hollywood Project, proposed construction staging and waiting directly adjacent to both AMDA buildings. Given that the Hollywood Center Project is completely silent on its plans for construction staging, there is no reason to think that the same will not occur. The FEIR attempts to address this issue with the extraordinarily vague statement that “all construction staging activities would be located within the West and/or East sites.” Yet, no actual location is provided, and no analysis of the potential for construction staging to result in substantial environmental damage has been done. As such, under Government Code section 66474.61(e), the Tract Map must be denied.
- The DEIR just wholly fails to disclose the actual, maximum noise levels that will be experienced at the AMDA campus. It does this applying a methodology that only considers average construction noise levels. Notably, the DEIR finds that *even just the average noise levels* to be experienced at AMDA are 100 L_{eq} , which is louder than a gas lawn mower operating three feet away, louder than the inside of a New York subway train, and nearly as loud as a low jet flyover. If this is the *average*, we can only imagine what the *maximum* noise levels will be—and again, we must imagine, because the City has failed to disclose this to the public. This constitutes substantial environmental damage and under Government Code section 66474.61(e), the Tract Map must be denied.

B. The Project Is Likely To Cause Serious Public Health Problems.

Under Government Code section 66474.61(f), *a tentative tract map must be denied where the project is likely to cause serious public health problems*. The LOD purports to find that the Tract Map design is not likely to cause serious public health problems, but then ignores any evidence relating to the Project’s noise and pedestrian safety impacts.

Research shows that loud sound can cause a significant impact on human health. As detailed above, there are several omissions in the EIR’s noise analysis that result in an undercounting and underreporting of the Project’s noise impacts on AMDA students, faculty, on-campus residents, and campus visitors. In addition, AMDA students and faculty constitute a significant portion of the pedestrians crossing Yucca Street at Vine Street, and also use the surrounding sidewalks to travel the neighborhood, including to the nearest Metro station. Thus, AMDA raised several concerns relating to pedestrian safety in its June 1, 2020 comment letter. Yet the FEIR did not adequately analyze or disclose (or mitigate) pedestrian hazards caused by the Project’s construction. Instead, it impermissibly punts such an analysis to the future, long after the EIR is certified and the Project approved. (See FEIR, p. 2-733 [“Regarding concerns

VTT-82152-1A-MANATT-JUST-.pdf

about how pedestrian hazards in the area would be addressed under the different construction scenarios, these details would be appropriately covered once the specifics of construction activities are developed...”].) Because the Project will result in health impacts related to, at the very least, noise and pedestrian hazards, under Government Code section 66474.61(f), the Tract Map must be denied.

IV. CONCLUSION.

Upon appeal, application of Government Code section 66474.61 mandates that the Tract Map be denied, on grounds the proposed Project will result in significant environmental impacts, is inconsistent with the General Plan and Hollywood Redevelopment Plan, and is likely to result in serious public health problems, including those relating to adverse noise impacts. In addition, AMDA incorporates by reference its prior comments submitted to the City in its June 1, 2020 comment letter, which further support AMDA’s position that the Tract Map must be denied.



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- Area Planning Commission City Planning Commission City Council Director of Planning
- Zoning Administrator

Regarding Case Number: VTT-82152

Project Address: 1720-1770 N. Vine St.; 1746-1764 N. Ivar Ave.; 1733-1741 N. Argyle Ave.; 6236, 6270, and 6334 W. Yucca St.

Final Date to Appeal: 09/23/2020

2. APPELLANT

Appellant Identity:
(check all that apply)

- Representative Property Owner
- Applicant Operator of the Use/Site

Person, other than the Applicant, Owner or Operator claiming to be aggrieved
AMDA College of the Performing Arts

Person affected by the determination made by the **Department of Building and Safety**

- Representative Owner Aggrieved Party
- Applicant Operator

3. APPELLANT INFORMATION

Appellant's Name: _____

Company/Organization: AMDA College of the Performing Arts

Mailing Address: 6305 West Yucca Street

City: Los Angeles State: CA Zip: 90028

Telephone: (800) 367-7908 E-mail: dsilverman@amda.edu

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

Self Other: _____

b. Is the appeal being filed to support the original applicant's position? Yes No

4. REPRESENTATIVE/AGENT INFORMATIONRepresentative/Agent name (if applicable): Jennifer Lynch, Esq.Company: Manatt, Phelps & Phillips, LLPMailing Address: 695 Town Center Drive, 14th FloorCity: Costa Mesa State: CA Zip: 92626Telephone: (714) 371-2516 E-mail: JLynch@manatt.com**5. JUSTIFICATION/REASON FOR APPEAL**a. Is the entire decision, or only parts of it being appealed? Entire Partb. Are specific conditions of approval being appealed? Yes No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal How you are aggrieved by the decision
 Specifically the points at issue Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: /s/ Jennifer Lynch, Esq. Date: September 22, 2020**GENERAL APPEAL FILING REQUIREMENTS****B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES****1. Appeal Documents**a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Appeal Application (form CP-7769)
 Justification/Reason for Appeal
 Copies of Original Determination Letter

b. Electronic Copy

- Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

- Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
 Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. Notice Requirement

- Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
 Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITIES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.
- Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- 1.** Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- 2.** Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

- Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

- Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

Please note that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)