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A. The City does not appear to know what application codes or laws apply to this project, and until this is clearly determined, this project should not be approved.

1. The DIR has been issued multiple times, ultimately resulting in a Director's Approval under a different baseline than the project was previously approved under. The concern here is that the project has not been properly reviewed with cumulative impacts under the proper procedures and guidelines, and should therefore be sent back and done correctly:

a. When reviewing the **first** DIR issued for the project, the posted deadline for the public to respond had already passed.

b. When Planning was notified about the error, they reissued the **second** DIR for this project—however, only the cover sheet was reissued with the extended deadline notification, without the supporting information explaining the project. Many community members called in and commented that they had thrown the original package away, believing that they no longer had a right to comment on the project, and community leaders called Planning to notify them of this consequence.

c. When Planning intended to issue the **third** DIR for this project, community members went down to Planning, raising concerns about the many errors that were located within the apartment project's documents. These errors were factual and many, and included project square footage, number of incentives, invalid and inaccurate mailing lists, etc. The community at that time pointed out that under the City's Density Bonus Implementation Ordinance, the building and yards required greater setbacks than were delineated within the approved project. (The first and second DIR, as issued at that point, had been given the Director's Approval based upon the City's Density Bonus Implementation Ordinance No. 179,681.)

d. Because the community went to the Planning Department seeking clarification on errors it found within the 2nd version of the DIR, Planning had time to review the building and yard setback that was apparently missed, and the Planning Department did not then reissue the 3rd version of the DIR. Instead, they changed the government code upon which the new DIR was approved, declaring that the project did NOT need to adhere to the Implementation Ordinance, and reissued a **fourth** DIR. With this new DIR, the City would no

longer require the project to follow the City's Density Bonus Implementing Ordinance No. 179,681, rather only Government Code §65915, because, it was stated, of the project's filing date of 3-25-08. We point out that the filing date had been the same on the last 3 filings, but was not an issue until this fourth DIR.

e. The City's Density Bonus Implementing Ordinance No. 179,681 adopted noticing procedures that had a far narrower notification range than those which exist for other discretionary developments. However, under this 4th notification the City's Density Bonus Implementing Ordinance No. 179,681 no longer applied. Therefore **under pre-implementation protocol,** there was improper notice, and this matter needs to be sent back with proper notice to be reheard.

2. The City has stated that this project cannot be approved under the City's Density Bonus Implementing Ordinance No. 179,681, because while it was approved it was not effective law yet, and therefore the project should be approved solely under Government Code §65915. Government Code §65915 clearly states in Section 65915 (a), last sentence, that **"All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented."**

a. According to the Director's Determination, the project **must** be approved under the Government Code §65915, yet the City can't have it both ways—IF this project is to be approved only under Government Code §65915 without acknowledging the city's Density Bonus Implementing Ordinance No. 179,681, THEN the City was required by Government Code §65915 to have an adopted Ordinance in place that would detail how the Government Code would be implemented. Since the Ordinance had not yet been adopted, this matter needs to be sent back to be reviewed under whatever Interim Ordinance would have existed at the time.

3. Since the City states that this project must be approved under Government Code §65915 that was in effect as of the filing date of 3-25-08, but not under Ordinance No. 179,681, because it was approved but not law yet, then the project's application must **also** be subject to the provisions of **any interim provision** applied by the City during the time the Implementation Ordinance was being debated.

Therefore, it is important to establish whether there were any interim approval protocols or procedures in place that the City utilized prior to the recordation of the City's Density Bonus Implementing Ordinance No. 179,681.

a. If such document(s) existed prior to this project's filing date, then the City apparently failed to disclose it during the Louise St. case. When the Implementation Ordinance was passed, interim project approval protocols were never made part of the public record, the lack of which is what the Judge's decision was based on in the Louise Apt. lawsuit.

b. We have obtained documents from Planning that clearly defines a series of procedures that were **in place as of August 7, 2007**. We were only given this protocol when we insisted that we be given the prevailing documents that would govern the findings in this case, since the City had changed the standard by which we would evaluate and understand this project. We obtained these documents in **May, 2009**, after this last DIR was issued.

(i) Memo on City Planning Letterhead, dated August 7, 2007, Subject: Interim Processing Procedures for Affordable Set-Aside Cases (SB1818) aka Density Bonus. Note that this memo states "draft SB 1818 implementing ordinance is not yet approved, and therefore should not be officially referenced, but can be used as guidance." **(ATTACHMENT A)**

(ii) Attachment B, SB1818 original form - Government Code Sec 56915-65918, as of June 2007 **(ATTACHMENT B)**

(iii) Attachments A,B email from community member, Jennifer Reed, establishing that these protocol documents were given to her by Sevana Mailian, who stated in this conversation that the project prevailed under these governing documents, and that Sevana would not use any other guidelines than these. **(ATTACHMENT C)**

Therefore, since procedures DID exist within the Planning Department during the interim period between the passage of Government Code §65915, and the City's Density Bonus Implementing Ordinance No. 179,681, this developer's project cannot be approved subject **solely** to Government Code §65915. The controlling document applicable to this project is the implementing protocol and processing procedures found within this Planning memo dated August 7, 2007, and this project must be returned for review under this prevailing protocol.

4. Since the City states that this project must be approved under the Government Code §65915 that was in effect as of the filing date of 3-25-08, but not under Ordinance

No. 179,681, because it was approved but not law yet, with the presumption that the procedures in the Government Code §65915 must prevail, **the developer was required to, and has not**, demonstrated the need for the concessions and incentives, in whole or in part, and to the extent needed; what the economics of the project really are (economic pro-forma showing property purchase price, cost of construction, and profit); why the incentives requested are needed; and whether there are alternative concessions or incentives which would make the project viable.

a. It is not clear whether all 146 units requested are necessary (whether the number of units is correct, or not, will be pointed out later in this document). Could the developer have made a fair profit with less? What is the dollar value of the income needed to subsidize the concession sought? Analysis of these types of questions needs to be undertaken. According to the documentation on file, this analysis was not done, and this constitutes an abuse of discretion by the Planning Department.

b. Planning's procedures in the August 7, 2007 memo state that it is the developer's burden to (i) provide proof that the concessions are needed and (ii) provide proof that the project will not adversely impact the public health, safety, or environment. Planning should have required this information, pursuant to its own procedures noted in the August 7, 2007 memo, and did not. Because Planning failed to follow its own protocol, and because the developer did not follow the law of Government Code §65915 in demonstrating his financial need for requesting the incentives, this project's request for incentives must be **denied**.

NOTE: ***The state's repeal in Government Code §65915 of the developer's duty to demonstrate the economic feasibility of the project as dependent upon getting the concessions was enacted on October, 2008, effective January 1, 2009 and is not applicable to this project, as the project was filed prior to this change.***

5. Since the City states that this project must be approved under the Government Code §65915 that was in effect as of the filing date of 3-25-08, but not under Ordinance No. 179,681, because it was approved but not law yet, if in fact there were interim provisions then in effect, the City should have, but did not have, the protocol to properly evaluate whether the project as built would constitute a threat to the public health or safety of the community, or the environment under specific, adverse

quantifiable criteria; and whether the incentives or concessions sought are needed to make the project financially feasible or whether there were other alternatives to the requested incentives. Since the City did not have the criteria in place as the Government Code §65915 required, this project must be returned so the City can develop that criteria, and then assess the project under that protocol.

6. We would argue that the applicant did not file a completed application on 3-25-08, as the Density Bonus Application Worksheet was not filed until January 15, **2009**, and Rev.1 to the Master Land Use Application was not filed until March 3, **2009**, both of which are AFTER the City's Density Bonus Implementing Ordinance No. 179,681 became effective. Therefore the application was incompletely filed before the City's ordinance became final, and the new justification that the Implementing Ordinance does not apply here should be considered invalid.

7. As evidenced throughout elements 1 through 6 in this section, Planning is cherry-picking which set of codes or procedures to follow (issuing once under the City's Density Bonus Implementing Ordinance No. 179,681 and then again under Government Code §65915). **This cannot be construed as good policy or in any way other than an overtly biased decision**, seemingly based upon the desire of the City to approve this project no matter what, rather than by the appropriate code of law. These activities compromise the objectivity and purpose of the Department, and seem to show a bias that compromises good planning. This particular set of actions, where the Planning Department rewrites the provisions for which the applicant should have filed his project under, is perceived as unethical.

8. The actions in this case have impacted the public's right to due process, because the Department has made numerous procedural changes, erroneous notification and presented conflicting facts, which cumulatively made it difficult for the public to educate themselves about the impacts of this project. Because of these actions, the community perceives this developer as having received special treatment by the City. This is the same developer, who during a 2007 condo application for the same property parcels, the city attempted to contact, but mistakenly left the message on an appellant's voicemail. The voicemail stated that the City was going to take care of the applicant and not to worry about the project going forward, that the appeal would be denied. That certainly did not have the appearance of propriety at that time, either.

B. The City has not accurately determined the property zoning or use designation. The property known as 11933 & 11945 Magnolia is overzoned and should have been downzoned as part of the AB 283 Zoning/Community Plan Consistency Program.

1. The property's zoning at R-3/R-4 is overzoned and its current zoning is inconsistent with the AB 283 mandate of State law and the City's AB 283 Implementation Criteria dated November, 1985 (both of which are still the law).

(ATTACHMENTS D and E)

In the 1980s, as part of the AB-283 Citywide General Plan and Zoning Consistency Program, widespread zone and plan changes were implemented to bring zoning into consistency with the General Plan, including the North Hollywood Community Plan which includes the Valley Village area and the now adopted Specific Plan.

Contrary to the mandate of AB 283 and the Zoning Consistency Program, consistency was achieved by **increasing** the land use designations within certain areas of Valley Village to Medium Density and leaving the zoning the same. Instead of increasing the land use designation to match the zoning, the zoning needed to be **LOWERED** to match the land use designation. **Also, there was not a sub-area set out for these properties** – a mistake which does not validate the status quo.

Zoning errors were created because they were made directly contrary to prior Council zoning action on the North Hollywood Community Plan, the dictates of AB 283, and the Zoning Consistency Program. **As such, the errors need to be corrected.**

(SEE ATTACHMENT F for Zoning Error discussion)

It is inconsistent planning to require the developer of 11911 Magnolia to downzone that property when applying for land use entitlement, and yet not 11933 Magnolia, given the 'as-built' situation as it existed and still exists today. The zoning envelope is too big for the neighborhood and it is inconsistent with the community plan's 'character and scale' value. Since this is one of three R4 properties in all of Valley Village, and since it was previously noted by the planners that all property in this area would be downzoned to match the community plan, it is clearly an error.

The fact that zoning changes were made pursuant to a court-ordered and court-supervised protocol does not render 'legal' or 'lawful' what is otherwise a misapplication of the Zoning Consistency Program.

AB 283 remains the law of the state. It was not repealed or exempted from State SB 1818 densification legislation. AB 283 Ordinance 165108 adopted in September, 1989, must be enforced like any other law, which means correcting errors, so that the development of the lots is consistent with the surrounding community and the Valley Village Specific Plan and the intent of the AB 283 consistency program.

2. Yale Partners letter dated October 16th, 2008, requesting reconsideration of ENV-2006-5007-MND-REC1, VTT 67012. Numbered pg 2 of 5 (page 4 of packet), states: "Existing General Plan designation is Medium Residential AND VERY LOW RESIDENTIAL." Even the applicant was aware that this was property was to be very low residential! Note that the Land Use Zoning on the applicant's documentation is lower than what Zoning Use implies with (R3) and (R4), in which the implication is that R3 and R4 are Medium HIGH density as listed as the plan land use on this current DIR.

3. Before the Density Bonus calculation can be determined for this project, the property's zoning needs to be downzoned to the correct zoning. All square footage and density bonus numbers considered under the R3/R4 zoning are therefore incorrect.

a. Architectural Plans as submitted by Alan Boivin Architects dated March 11, 2009, show an incorrect lot area, incorrect buildable area, incorrect allowable number of units, incorrect allowable number of bonus units, and therefore must be resubmitted.

This is important since we've learned that Building and Safety and the Planning Department have no mechanism to communicate such changes, and that Building & Safety works off of the Architectural Plans that are submitted, amongst other documents.

b. <u>If the downzoning had occurred as was required in the 1990s, then the sample calculations to determine the density bonus calculation would be:</u>

59,450 project sq footage divided by 1500 sq footage of lot area per dwelling unit (per RD1.5 zoning allowable density) would yield approximately 40 units. <u>59450 ÷1500 = 39.63 or approx 40 units</u>

59,450 project sq footage divided by 800 sq footage of lot area per dwelling unit (per R3 zoning allowable density) would yield approximately 75 units. <u>59450 ÷800 = 74.31 or approx 75 units</u>

c. Therefore **the correct Density Bonus Calculation** should be made from **40** units, NOT **109** as computed by the developer**.** Even if you determine that zoning could be approved at the higher zoning of RD3, the total of units that the Density Bonus Calculation should have been made from would be **75,** NOT **109**. If you accepted what he submitted on the Condo application, it would be **145** units based on the by-right of **107!**

4. Changing the designation from Low Density to Medium on the General Plan was not consistent with the City's own AB 283 Implementation Criteria because less than 50% of the properties in the area were built-out to that level of density.

(ATTACHMENT G)

5. Instead of increasing the land use designation on the General Plan, the Zoning should have been lowered to RD 1.5 to be consistent with the Low Density Land Use Designation, which was required of the property immediately east of this project site (Magnolia Tree Villas) back in 1981, as mandated by the City at that time.

6. When land use entitlements were sought in 1982 for the 11911 Magnolia project, there are notes in the City's files that indicate the developer at the time was upset that he was required to downzone, but the City overrode his objections and required the downzoning at that time, following the State's AB 283 law. To require that one developer adhere to the law, and then allow the implementation of the law to change for another developer would on its face seem to be completely arbitrary, and should allow room for questioning in a court of law.

(ATTACHMENT H)

7. AB 283 is a process and protocol that was in place at the time the 11933 Magnolia Master Land Use application was applied for and must be applied BEFORE any density bonus calculation is taken into account, whether under Government Code §65915 or the City's Density Bonus Implementing Ordinance No. 179,681.

8. The application of the Planning Department's own AB 283 Consistency program would yield a result which would require the property's downzoning:

a. AB 283 General Plan/Zoning Consistency Project, 1.2.1: "If 75%or more of the parcels in a subarea are developed at the level of the existing community plan designation, the plan designation should generally be retained, and a zone consistent with this designation should be recommended."

9. The fact that the City has failed to properly implement its own Consistency Program, and its failure to do this should not prejudice the community.

(ATTACHMENT I)

10. The City has already performed an upzone in the City, outside of the auspices of AB283 and SB1818. The City changed the habitable number of rooms criteria in 2002 which was previously used to determine the number of dwellings per net area permitted in the zones adopted under community plans. That criteria was replaced with the use of 400 sq. ft for R4 and 800 sq. ft. for R3 to determine the number of units permitted by R3 and R4 zoning.

a. The new criteria insures that zoning density is always at the highest range of the dwellings per net acre ranges of the community plans which discourages singles and one bedroom developments and encourages condo developments of 2 and 3 bedrooms, solely to maximize developer profits, with significant loss of affordable housing to the community.

C. If Government Code §65915 is the prevailing baseline for this application, then the application must also be subject to the provisions of any interim provision which the City might have applied during the time the Ordinance was being debated, IN LIEU OF the City's Density Bonus Implementing Ordinance No. 179,681.

1. As discussed previously, we have obtained documents from Planning that clearly defines a series of procedures that were **in place as of August 7, 2007**.

2. Therefore, since procedures DID exist within the Planning Department during the interim period between the passage of Government Code §65915, and the City's Density Bonus Implementing Ordinance No. 179,681, this developer's project cannot be approved subject **solely** to Government Code §65915. The controlling document applicable to this project is the implementing protocol and processing procedures found within this Planning memo dated August 7, 2007, and this project must be returned for review under this prevailing protocol.

D. Since the new DIR has the project application being approved by Government Code §65915 (circumventing the City's Density Bonus Implementing Ordinance No. 179,681), then by language of the prevailing Government Code of that time, the applicant has the burden of showing clearly that the incentives or concessions are needed for the project to be financially feasible, which both the applicant has failed to do, AND the City has failed to require.

1. According to the interim processing procedures that we understand the City had on file at least as of August 7, 2007, the applicant must submit data and figures showing why the economics of his project dictate the concession requested. Without the submission of that information, the City has no knowledge of whether or not another concession work equally as well, bearing in mind that this decision IS discretionary on the part of the City.

2. By failing to require the submissions of these financial facts, the City is not following its own procedures that were established at the time.

3. This project destroys more affordable housing than it creates and is therefore inconsistent with the goals of good community planning. We also argue that Government Code §65915 clearly mandates that allowed incentives are to be granted that contribute significantly to the creation of low-income housing. The proposed creation of 11 VLI units does NOT adequately replace the destruction of the existing affordable 51 units, and therefore does not comply with the intent of the state's mandate to create ADDITIONAL affordable housing.

4. The precedent has been set: the project located at 11945 Magnolia, immediately to the west of this project, was able to successfully build a 4-story building without violating the Valley Village Specific Plan height limitation of 36 feet. Therefore, an automatic approval by the City of 13.7 additional feet should NOT be granted to this applicant as there is a precedent immediately adjacent to the property that establishes economic feasibility without requiring the height variance.

5. As per the tract map that was previously approved, 78 units fit in this project space. The applicant needs to demonstrate why the units on the project can't be made smaller, still fit within building footprint and be affordable. There needs to be an analysis of whether any other concession would yield a project which pencils out and still resides within the 36' zoning envelope set out in the specific plan.

The assumption is that it is economic to do so for condos, as the applicant previously submitted a 78-unit condo plan for this property that was approved by the City. So what makes it economically unfeasible to build the condos at this juncture? If the apartment project is all that the developer can get a new loan on now, then why can't some of the units be smaller, with more units built within a smaller building envelope? Could the developer ask for rental subsidies; property tax relief; non-design concessions which would benefit the project financially?

Why didn't the Planning Department attempt to negotiate this concession with the developer, instead of giving away the right of the community who live and otherwise abide by the Valley Village Specific Plan in order to maintain it's character by requiring a height cap? The applicant's request for an incentive is NOT a ministerial act that the Planning Department must acquiesce to, as noted in the City's own protocol dated August 2007.

E. If the City decides to continue with this application, and verifies that this project should be processed solely under Government Code §65915, then the project cannot be approved as submitted because of the following findings. <u>It would appear that at least 5 incentives have been granted.</u> This details of each item listed will be developed further in Section Q, but are briefly mentioned here:

1. The applicant has assumed, and the Director's Determination has granted him, more unrequested incentives than Government Code §65915 allows:

a. The Director's Determination has FAR incorrectly granted as approved for 4:1. Note that applicant in an email from Nalani Wong to Sevana Mailian, dated 11/3/2008, stated that the requested FAR will be 2.71, and they do NOT want the additional incentive, therefore, if you accept the applicant's math, his FAR should not be approved at 4:1. <u>This constitutes an incentive if approved</u>.

(ATTACHMENT J)

b. We contend that even with the applicant's calculations, he actually DID utilize a Floor Area Ratio incentive, as he has more units than he is entitled to figured into his calculations

c. He has apparently requested the "expedited" incentive, since all actions are noted with an EXPEDITE stamp on them

d. A lot tie joining the 4 land parcels together has not been filed. Therefore it could be construed that he has asked for setbacks on the rear yard, since the architectural renderings of the building replacing that which is currently occupying the 11933 parcel is shown at 7 feet from the abutting owner, instead of the required 16 feet.

e. If the architectural plans are accurate, then a front yard setback reduction incentive was approved as well. At one point, the Planning Desk assisted the community with figuring the setback, and we received confirmation on 5/5/2009 from other Planning staff that the setback that would be required for the whole building would be per SB 1818 rules, which would be 16 feet PLUS 12 feet for the height, making it 28 feet on the front (and noticeably, 18 feet on the sides, which would assist the adjacent homeowners.) While the City and the applicant have decided to try to push this project through without adhering to the current City Implementation Ordinance, either an incentive is noted, or this setback should still apply.

f. There appears there may be an Open Space reduction incentive being incurred. The reason NO ONE can state about the open space is because the PLANS in the file are a mish mash of SUMMARY SHEET that shows a listing of the prior apartment styles but the inner pages of 1st floor and 2,3,4th floor show plans with adjusted floor plans and renumbered styles. The reason this is important is because <u>OPEN SPACE is calculated including COMMON AREA PRIVATE SPACE and PRIVATE OPEN SPACE.</u>

The private open space are balconies that fit the code that meet more than one requirement – they have to be at least 50 sq ft and no horizontal dimension less than six feet when measured perpendicular from any point on each of the boundaries of the open space area. Each balcony has to meet that test, if they do – the developer is credited with 50 sq ft (no more) if it doesn't he gets NO credit.

With the redesign it is questionable whether 78 units as shown on the SUMMARY meet those requirements (and the reference to the78 units might just be from the old CONDO plans, not updated it for the apartments).

Additionally there is a portion of the SIDE YARD that is incorrectly being added to the Open Space figure (an area they can't use for Open Space, it's just a few feet of it in that fake rear yard turned into side yard).

Also, the GYM is misreported as being 615 sq ft where it is claiming sq footage for the OFFICE and the BATHROOMS which they're not allowed to use.

g. Density Bonus Application Worksheet Attached To 3-03-09 Revision **Seeking Relief From (Per SB 1818) Sec. 16.05. Site Plan Review.**

h. The averaging of the R-3 and R-4 over the entire property should also be considered an incentive.

2. Even if you wanted to set aside the fact that the property is overzoned, and accept the square footage of this project as submitted by the applicant at 59,450 sq ft, the math does not pencil out to the number of density bonus units that the applicant states they have a by-right to. **The actual number of by-right units is 102**. 102 multiplied by 35% bonus is 35.7 (or 36 units, totaling 138).

So, the total number of allowable units, including the 35% density bonus, is 138 units of which 11 would be designated VLI to meet the 11% low-income bonus.

Even if you used the numbers that the applicant supplied on the CONDO application, he states there that BY-RIGHT, he is entitled to **107 units**. If you calculate how many units he is allowed after that entitlement, IT IS ONLY **145**. HE DOES NOT QUALIFY FOR 146 UNITS.

NOTE: ***If the argument is proffered that the street dedication area must be included as part of the density bonus count, this must be found to be an invalid argument, since the street dedication was irrevocably dedicated, and accepted by a City Council action in January, 2008, prior to this current application. This means the property dedicated to the City was no longer owned by the applicant, and can't be counted as part of the square footage in figuring the density bonus.***

3. The following are specific responses to both versions of the DIR:

a. Mitigations as stated in the DIR do not mitigate impacts this building will have to the character of neighborhood, and that it will detract from the aesthetic quality of the area, especially along such a narrow street. This was a garden-style apartment building prior to this development proposal, and allowed all neighbors to feel the park-like presence that was incorporated into the project. Now, abutting owners will feel claustrophobic with such a huge building pushing up against all of the property lines. Perhaps increasing the setbacks to 10 feet on the sideyards would help with issues of privacy to the next

door east/west neighbors, and perhaps increasing the setback of the smallest irregular piece in the rear yard to something more like 12 feet would minimize the feeling of encroachment.

Allowing the rear setback on the 11933 property to be only 7 feet is truly an onerous burden on the buildings to the north of the project. Because of the irregular shape between the two properties that have not yet been lot-tied, the applicant has made the assumption that he can be allowed a setback from the property with the largest property line, which means the adjacent, western property will be extremely close to the buildings behind it.

We'd also like to point out that nearly every developer wants to push the building height envelope which continues to whittle away our unique neighborhood character, and then sets the precedent for the next project. To try to push THAT envelope.

b. Graffiti needs to be mitigated better—as per the conditions granted previously on the condo project, graffiti should be continuously removed during project buildout phase.

c. No true buffer has been provided in landscape provisions, except for vines on 6-foot wall which will not reduce noise, nor will it increase the aesthetic qualities to any great degree for neighboring properties.

d. No mitigation measure has been provided to minimize indoor, ambient or patio lighting emanating from the new structure onto existing structures, especially now that it would be a minimum of 1 floor, and 2 floors if this project is approved as is, taller than adjacent buildings. Recommended changes to landscaping should include a line of trees at least 36 feet in height from grade-level along the eastern, northern, and western perimeters, forming a continuous buffer. Suggestion would be Cypress trees, appropriately spaced to form the continuous buffer for visual, light and noise impacts.

e. Short-term air quality/erosion/grading—see page 2 of the attached Geotechnologies file, where Geology report states that the groundwater level is on the order of 10 feet below grade, which may create a liquefaction and seismic factor that has not been compensated for in this finding. According to the current

Architectural Plans, the parking lot will now be developed 25 feet below grade. **(ATTACHMENT K)**

f. The building is being spot-zoned to **triple** the existing density. It is double the height of the adjacent property on one side and one and one half times the height on the other side. The project spans two properties and three driveways. Landscaping alone will not mitigate the impacts to the community. If this building is approved the building exterior must have visual breaks and setbacks to minimize the mass of the building frontage and the height must also be reduced at the streetscape to promote a "pedestrian friendly" environment.

g. The proximity of the project to adjacent properties will cause irreparable harm to the already existing properties due to subjacent slippage hazards and may cause greater liquefaction and soil strength loss to these properties as well.

h. Subsidence issues are also of great concern. Building crack problems of adjacent properties due to project construction must be addressed prior to approving the MND and DIR.

Therefore the current plan has implications to the stability of the building, and the possible ability for liquefaction to occur during seismic activity. All surrounding buildings to this project request a financial bond posted that will guarantee that appropriate shoring and protection will be provided, and should any failure to existing properties occur, both the developer and the City will be held liable for approval of this project without sufficient protections to the existing neighbors, the City's disclaimer of non-responsibility notwithstanding.

Additionally, the Soils report indicates it is ONLY valid for the design it was drafted for (7-foot parking lot, 78 unit condo project), and Geotechnologies specifically state that it is NOT valid for any other project. However, it has been introduced by the applicant as if it was current for this project, which it is not.

Lastly, the applicant stated at a hearing for his condo application that he could only build the parking structure a half-floor below grade, because his soils report clearly stated that there was a danger for him to build it lower:

(see ENV-2006-5007-MND-REC1) "Applicant asked for a 3.5 height exception to go beyond the Valley Village Specific Plan because it alleged a ground water table at 10

feet precludes building the project to comply with the 36 foot specific plan height limit. Excavating 3.5 feet more below grade would allow the project to be built without a height exception but applicant alleged such an excavation would impact on the water table."

If that finding was valid then, it must also be valid now. While we all know there is a water shortage, certainly the water table could not have dropped that significantly in the ensuing 18 months since that project was last heard!

NOTE: ***Since the developer now claims that there is no water table problem, if the Condo Application is reinstated as the prevailing project, then we respectfully request that the City evaluate the developer's motives as to alleging a water table impact for one project, yet not another, and correspondingly require the developer to drop the parking garage below ground (as he is willing to do with the apartment application) and deny the height variance that was granted with THAT project.***

i. Explosion/Release (Asbestos Containing Materials) "prior to the issuance of a demolition permit, the applicant shall provide a letter to the DBS from a qualified asbestos abatement consultant that no ACM are present in the building." A demolition permit has already been issued and there is no letter in f the file from a qualified asbestos abatement consultant.

j. The local community is routinely subject to problems with storm drainage runoff and flooding, due to substandard infrastructure. There are no storm drains on Magnolia in this stretch. Sewage infrastructure is also routinely substandard, as nearby residents have experienced numerous sewage backups in the local area, as well as no flood control.

k. Increased Noise Levels—ivy vining on the 6 ft side wall is insufficient to buffer adjacent buildings, suggest cypress trees (as delineated in landscaping response).

Construction hours were also a condition previously granted by the applicant and the City Council during the condo appeal hearing and should be reinstated.

Additionally, we would ask that the installation of the dual-paned windows required for this site are verified as installed. While they were specified as mitigation measures for the 11911 Magnolia project years ago, the windows as

installed were not dual-pane, but the City never held the developer responsible for their installation. The noise heard from Magnolia through the south-facing windows of that project is truly unbearable during many times of the day.

l. Relocation. Final Relocation fees were not paid to remaining residents as authorized by City Council during the September 2007 condo appeal hearing. The conditions were in fact missing from the online files until late last week, where it was resolved thanks to the diligent monitoring and communication to City staff from a community member. These relocation fees need to be reapplied to this project, as well, as they were requested and approved by City Council during the final condo project hearing.

m. Public Services (Fire)—the reduction of 3 driveways to one-underground parking driveway will reduce the fire department's capacity for emergency responses. Does the depth of the driveway opening accommodate a fire truck going underground, or will an necessary emergency response require blockage of Magnolia? **There does not appear to be a dedicated fire lane of 20 foot width in the plan, and it is not clear that the emergency response vehicles can travel underground, therefore these services must be provided from the street.** This requires that the furthest doorway of the project truly be verified as to being no further than 150 feet from Magnolia.

n. Public Services (Police) A police officer who lives within the community has written a personal letter detailing the potential problems with this project. He notes that many of the security measures at the project next door have been breached by the local students—smoking in the attic space, etc., which poses a serious risk to both the residents and the students. He also states that the more people that are added to a community without a corresponding increase in police force, the more likely it is that crime will increase. It would be advantageous to the community overall to require a security guard at all times for this project.

o. Public Services Schools. Throwing more money at the school does not accommodate more children, it just provides for more overcrowding at an already crowded school. It is insufficient to state that money will mitigate the impacts to the school, and this should be studied by the Environmental Division at LAUSD.

There were a number of conditions placed on the condo project that was to take place at this location, approved by both the applicant and City Council, and we ask that all conditions be reinstated on this apartment project, excepting those conditions that overlapped with the project west of this project, also known as the Ben/Magnolia project. These conditions included compliance about haul routes and construction parking, notification of specific community members in addition to the school agent, compliance with specifically stated construction hours so as not to impact student pedestrian traffic during times of school access and egress, and payment of monies owed to previous tenants.

(ATTACHMENT L)

p. Since no construction parking is allowed on streets adjacent to school, this is noted to include Radford, north of Magnolia, as this is immediately adjacent to the school at the north end of Radford, and many of the students use Radford to park on.

There should be specific consequences that the community can invoke if the applicant's construction staff violate this condition. A violation would pose significant risk to the minors. This was also a condition previously set.

q. Public Services (street improvements not required by DOT). Environmental impacts may result in deterioration of street quality—Mitigation measures do not suffice for replacing the asphalt as it deteriorates due to the minimum additional 266 cars it will be putting on the street (not accounting for any car that must park on the street because the project will not provide enough parking).

r. There will be more discussion on Traffic in Section R. However, to briefly note now, there is also the safety consideration with left hand turns into the project from Magnolia, particularly given the fact that three driveways are going to be replaced by one, tripling the previous load (from 3 driveways to 1), and tripling yet again the number of vehicles traversing the driveway (from 51 units to 146 units).

The DIR 19(c), Site Access and Internal Circulation restriction to property 11945 Magnolia , does not make sense as a finding to this project. Is the street address incorrect in the condition, and should it be 11933? If so, how does DOT

suggest that the project enter the project site? If it is incorrect (applying to the project next door), then it only cements additional proof that this DIR contains multiple errors in it.

s. Utilities – The Mayor recently instituted a 10% water rationing plan, and the State has also mandated all Californians to reduce their water usage. DWP declares that we are in Phase III of a water conservation plan, and that because we are in a drought, there will be water restrictions on the construction industry. This information supercedes the Environmental Mitigation Compliance Condition requiring the developer to wet the project to control dust caused by wind. This will cause the project to be in direct violation of CEQA, since they cannot protect sensitive receptors in the area from tremendous impacts to Air Quality (students at North Hollywood High School, both at school and as pedestrians, as well as the seniors who live next door at 11911 Magnolia).

Additionally, since both City and State have declared a water emergency, this should require a moratorium on building and should PRECLUDE BOTH entities from requiring additional dwellings, at least until the water shortage is over, and the water rationing is lifted.

THE ATTACHMENTS SUPPORTING THIS DOCUMENTATION WERE SUPPLIED WITH THE MND, SEE APPENDIX.

t. Utilities (Solid Waste) –- Los Angeles has been running out of landfill capacity for years, requiring the closure of Lopez Canyon Landfill, ongoing suits with Sunshine, and missed proposals for trucking the refuse out to the desert. Any addition to solid waste can not be mitigated to insignificance, and must be incorporated into a rational growth plan for waste disposal.

Additionally, this project previously had 3 driveways that allowed refuse pickup to be performed at the back of the project. It is not clear now how that is expected to occur—is the driveway tall enough to allow trash trucks to drive into the underground parking? Or will the trucks be required to park along the center of Magnolia, aggravating the already poor circulation of this substandard secondary highway?

u. If rooftop recreation is permitted, it would increase the open space allocation, and should not be permitted at this location, because neither has the

incentive been granted, nor should it be permitted due to the reduced nature of the rear setback.

v. The building's height is incorrectly stated throughout the project. Additionally, the City erroneously finds within this DIR that the already granted height variance of 48'6" does NOT need to include roof-top mechanicals and stair/elevator shafts. This MUST be included within the variance, because:

> SEC. 12.03. DEFINITIONS**: HEIGHT OF BUILDING OR STRUCTURE.** Is the vertical distance above grade measured to the highest point of the roof, structure, or the parapet wall, whichever is highest. Retaining walls shall not be used for the purpose of raising the effective elevation of the finished grade for purposes of measuring the height of a building or structure. … **(Added by Ord. No. 160,657, Eff. 2/17/86, Oper. 6/17/86.)**

w. Since this was not superceded by the Government Code, the Valley Village Specific Plan specifies that for every tree removed due to construction of the Project, a replacement tree shall be planted on a 1:1 basis. Replacement trees shall be at least a 24-inch box size, not less than eight feet in height, with a trunk diameter of not less than two inches, and a minimum branch spread of five feet. All trees shall be in healthy growing condition.

F. If the City decides to continue with this application and verifies that this project should be processed under the Density Bonus Implementing Ordinance No. 179,681, then the project cannot be approved as submitted. In addition to all findings previously made, add the following findings unique to the Implementing Ordinance:

1. The proposed project height is incorrect. According to the City's Density Bonus Implementing Ordinance, 179681, Section 25 (f) (5) (i): "In any zone in which the height or number of stories is limited, this height increase **shall permit a maximum of 11 additional feet or one additional story**, whichever is lower…"

The project has requested a variance totaling 12.6 feet (or 12.7, or 12.5, depending on the document you look at) above the Valley Village Specific Plan of 36 feet. The applicant's architectural plans indicate that each story is 10 feet.

Therefore, one floor equals 10 feet, and this plan should not be allowed to exceed 46 feet. If the maximum of 11 additional feet is allowed, the project should not be allowed to exceed 47 feet.

No additional variance in height should be allowed on top of this increase. This Height discrepancy affects BOTH the MND and the DIR (opening paragraph, 2nd approval paragraph/ subparagraph, Density Bonus Compliance Condtion #3, #10,)

2. Additionally, for **each** foot approved in the increase in height, then an **additional** foot was required to be added to the setbacks.

3. The 33 parking spaces that exceed the number required may not be sold or rented or it is to be considered another bonus. This project is only allowed 2 incentives under Density Bonus Implementing Ordinance No. 179,681, this must be watched.

4. The city has violated Government Code §65915 (d)(1) as the city is mandated to make the finding that the concession and incentives are required to provide for affordable housing costs. THIS REBUTS Action required by Director in DIR(g)(2)(c)(i).

5. If the City is going to use the SB 1818 Implementation Ordinance, no specific procedures or protocol are in place and this denies the people the ability to gain the benefit of that which is mandated under the law. In the absence of the protocol, the implementation ordinance should not be used and the project should be sent back for evaluation with the specific protocol contemplated.

G. CUMULATIVE IMPACT. The cumulative impact of the projects planned or executed is too severe on the infrastructure in order to justify adding an additional project.

1. This relates the need to properly zone property and cure the problem not previously attended to in the AB 283 Consistency Analysis.

a. There is a need to pursue an ICO for this geographical rectangular area because there are over 550 proposed condos on multiple sites within about a 6-block long by 2-block width area, with street flow limited because of the Orange Line blocking through streets. All of these projects are now subject to switch to SB1818 projects with the consequential greater environmental impact and assessment required. Pushing high density just because this rectangle residential area is within 1500 ft. of the Laurel Canyon Orange Line station doesn't make for a smart growth one size fits all transit station scenario.

b. All the deferred infrastructure projects in Valley Village need to be examined for their impact on future development. For example, the poor condition of the street asphalt pavement on Radford, between Magnolia and Riverside. The street, like the streets of all of the single family area nearby, was never improved with sidewalks and parkways and a street light network. It hasn't been repaved at least since 1968 or maybe never since originally laid out in the 20s.

c. This project on Magnolia will add more diversion of through-traffic along Radford, a collector street. All these impacts need to be identified and assessed. More traffic will destroy more of the street pavement never intended for such heavy traffic flow.

2. The project will have an adverse impact on health and safety because of the poor infrastructure (lack of storm drain) and because of left-hand turn problem (three driveways being replaced by one – and there are more cars and more people occupying the site than before and it was overwhelming before. No effort to evaluate this was undertaken. Included in this concern are (a) Traffic; (b) Land Condition and water table consideration; (c) the impact of construction to 11911 Magnolia and Weddington properties, and the possibility to undermine our real property;

3. According to the North Hollywood/Valley Village Community Plan, when a preponderance of the parcels within a small area are developed at a density higher than that depicted on the Plan, "infill" at a comparable density may be appropriate on the remaining parcels within the area. However, since the majority of the properties in the surrounding subareas are either RD1.5 or Low/Medium Residential, there is NOT a preponderance of Medium/High Residential. Therefore, it is incorrect to call it infill, and it is incorrect to find RD4 or High Residential Density accurate zoning.

4. In the 1970s during an update of the Community Plan, the finalized NHVVL Community Plan stated that Magnolia, as a secondary highway, was required to be improved prior to allowing any higher density to occur. The City has failed to meet its own findings.

5. There is only 1 park in Valley Village. The developers that are ripping out the garden-style apartments to add additional human density to the area are removing open space from the community. Even if the entire public did not have the right to use it, the residents did. Now the residents must go to a different community for public

park recreation, or congregate at the sole Valley Village park that is adjacent to the freeway.

To make matters worse, since this developer is now submitting plans for apartments, he is not required to even make the nominal donation to the poorly-utilized Quimby fee fund. It is our understanding that Councilwoman Hahn is asking what it would take to charge Quimby fees on apartment projects, and that answer is supposed to be heard on Wednesday, June 3rd. We would ask that the developer either donate land in Valley Village as part of a park donation, or that he be assessed Quimby fees on this project.

H. According to the LA Planning and Zoning Municipal Code, Chapter I, Article 2, Section 12.22 Exceptions, 25. (f) (8) (iii) "No further lot line adjustment or any other action that may cause the Housing Development Project site to be subdivided subsequent to this grant shall be permitted."

1. This provision requires that the applicant formally abandon the previously approved VTT-67012 application that the applicant has subsequently attempted to modify as part of this project's density bonus change. **(ATTACHMENT M)**

2. The submission of this Apartment Project should require the de facto abandonment of Tract Map. To state it another way, until the developer formally abandons the tract map approval, he should not be able to submit an SB 1818 project application because it fosters speculation on the backs of the community.

I. According to Ellis Act. Section 151.28 B the new building project does not meet the 20% threshold of affordable housing to qualify for an RSO exemption to the Ellis Act, since the applicant has only provided for 11% VLI; the project does not provide 51 rent-stabilized units (which this project intends to replace); therefore it should be stipulated at this time that all units must be rent-controlled moving forward.

1. The developer is acting solely as a speculator in this application at this time, since the property has been reported to be in escrow by both the applicant, Gary Schaffel, and by the broker representing his property. Therefore, within this application, there needs to be submitted the proposed rentals for the units and where the rental units are going to be located within the project as this should be part of the initial approval process, not deferred to later consideration because of the lack of enforcement.

2. It is suggested that tenants in the building be made third-party beneficiaries of Schaffel's deal with the Housing Department so they have independent standing to sue to enforce the same if Housing fails to do so; as well as to be able to join collectively and have legal standing to enforce their rights under land use affordability covenants and should have the right to avoid eviction if conditions are violated. All such disputes are to be mediated as a condition precedent to eviction for failure to pay rent.

3. Conditions must state that all units in the building are subject to the RSO because the developer has not met the 20% threshold of affordable units under LAMC 151.28.

4. Need to provide for some kind of mediation protocol as a condition precedent to eviction where rents are to be raised. How affordability is to be maintained; how vacancies for low income units to be filled; income verification requirements; maintenance of records; and remedies to tenants for non-compliance.

5. TOPA should be considered should the project property sell again.

J. According to a detailed Planning Department email memo from Lynn Harper to Gary Schaffel, dated 2/24/2009, DOT staff was required to issue a correction letter fixing "a few typos" in a previously issued letter. Only one of the corrections was delineated by Ms. Harper, and that was that the necessary half roadway for Magnolia at Colfax is to be 30 feet, not 25 feet, as was specified in some previous communication between the two parties.

1. This communication did not delineate all of the corrections, and since this correction is missing, we must assume more than one is, or all of them are, missing. Please specify what these corrections were supposed to be, and reissue the documentation that correctly reflects the adjusted conditions to the roadway and other items.

2. Why does the intersection at Magnolia/Colfax not need to have the same standards of a secondary highway apply to it, as is required in front of the project area? According to DOT's findings within this DIR, the secondary highway requirements are supposed to be 40 feet, and yet the sum total of the roadway in this intersection is designated to be acceptable at 30 feet—did Magnolia suddenly become something other than a secondary highway here?

K. Laura Chick issued a report called The Final Report LA City Planning 03/23/09 that solidifies the public's understanding that many of the City's Departments work in isolation, and is especially aggravated between the departments of Planning and Building & Safety where frequently there is no coordination of facts and findings, and verification that conditions were followed. Rather, it is left up to the developer to voluntarily comply.

1. Since the developer has set a precedent of non-compliance, as related to non-payment of final relocation monies owed to certain tenants at the conclusion of the condo application, we would suggest that the following standards be set, until such time as the finalize compliance procedures:

a. All plans must be updated by Planning before Building& Safety receives incorrect information.

2. If Building & Safety needs to make changes to the plans, then we would ask that all changes are clearly followed up with Planning to ensure that all density bonus incentives are still being properly allocated. **(ATTACHMENT N)**

L. A Shade/Shadow Study was performed by Solargy, Inc. referenced in DIR-2008-1178-DB-SPP (pg 20). The written study provided by the developer is less than ½ page and consists mainly of diagrams for a 39.5 feet high building and a 45.5 feet high building. The study does not address the relevant issues – the impact of the proposed 48 foot 7" high (or higher) building that will negatively impact the neighboring properties to the north and render useless the common areas, patios, balconies, pools of the northern buildings.

NOTE: ***This study was also not found as part of the Valley file, and the community spent quite a lot of time tracking it (and other materials) down. Based on the difficulties that this community had in locating relevant material, we respectfully request that the City review its procedures for warehousing project materials in one location, and preferably if the project is in the Valley, that all materials could be found in the Valley instead of being split between the Valley and Downtown! This seems to be another tactic of obfuscation that blocks the public from participating in their own local community.***

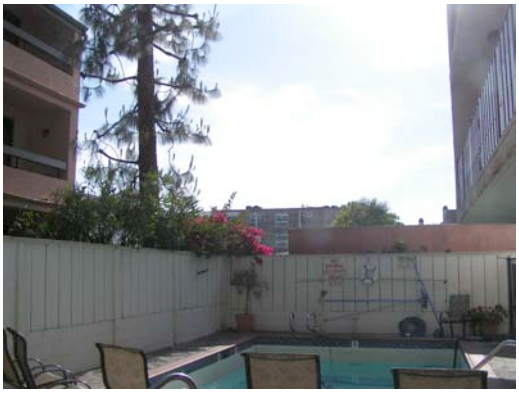
1. The report asserts: "The proposed project does not shade the *roofs* of any multi-unit buildings to the north at any time during year. The **roofs** are not the sole issue. Additionally, these CEQA thresholds have changed since the report was written and therefore is not only non-responsive, it is also not accurate and must be redone.

a. *The CEQA guidelines do not just regulate shading to roofs.* The CEQA guidelines also include "areas that are shade/shadow sensitive including routinely useable outdoor spaces associated with residential, recreational… These uses are considered sensitive because sunlight is important to function, physical comfort, or commerce." **This includes the patios, balconies, pools, and recreational common outdoor space for the buildings to the north, northeast, northwest and those on the east and west of the project.** At 45.5 feet high, the project does impact these areas of the surrounding buildings significantly, and cannot be mitigated to insignificant because of the closeness of the project to surrounding buildings and the miniscule set backs being put forth.

b. In addition, if roofs of surrounding buildings are also impacted for at least two hours each day, perhaps a more recent interpretation of this impact (not only pursuant to CEQA findings, but also recent analysis) conducted in conjunction with the preparation of the Century City West Specific Plan, needs reevaluation of the exact consequences of doubling the height of building over nearby buildings.

2. As Measure B recently pointed out, Solar energy is going to be a dominant need in the future of electrical planning in LA. With this proposed project towering 2 stories over most of the adjacent projects, there is an unascertained impact to their future supply of solar energy, and could be considered the taking of another's right to the sun. This can not be determined without a thorough study of all sides of this building during all times of the year.

3. See next page for pictures of affected area:




Showing area that would be blocked by new building


Showing area of significant blockage that would be blocked by new building


Showing current shade, how the bldg will place pool in shade 100% of the time now

M. High-efficiency clothes washers are to be installed in the project, and this paragraph contains a statement that the City of Los Angeles will be offering rebates to offset portions of the installation costs.

1. The rebate program has very specific guidelines about the number of rebates the City will offer per month. We have checked the availability of said rebates offered by the City, and for the past 3 months all rebates were taken before the end of the second day of offering.

2. The provision to offer a rebate exclusively for this project should be removed, or it should be labeled as a special incentive, with an explanation to all taxpayers as to why this developer received this special incentive.

N. The Planner references, as part of her decision to approve this project, an approved MND that was created for a much smaller condominium project, dated November 14, 2007, file number ENV-2008-1179-MND and does not apply to this application.

1. This Mitigated Negative Dec. was pulled for a completely different project, and should not be the foundation for approval of this much larger apartment project.

O. There has been a building permit previously issued that expires in June 2009. It has been noted by Planning that this permit is not to be renewed again, as it has previously been renewed. These plans were filed for checking on 1/8/07 under plan check number 07010-20000-00043 BO&VN00225.

1. Which project does this apply for: the condo or the apartment?

2. Does the City plan on renewing this building permit again?

3. If the building permit was renewed again, then the building would comply with 2008 LABC for this project, and not the 2002 LABC. One of the conditions for approval on this request for modification of building ordinances (98.0403 L.A.M.C.) is that: **No additional extension will be granted.**

P. As conditioned in the condo application, the people in the community should be given standing to sue for enforcement of the conditions as a public nuisance and win attorney's fees. As it was an accepted condition in the tract map, so should it be a condition to this project.

Q. Traffic Issues

NOTE: ***Applications for many projects in the Magnolia corridor are in various stages of development. The community requested a cumulative traffic study for the area, as individual studies did not address the cumulative impacts of development in a small geographic section of a substandard secondary highway, yet in return the community received only a very limited traffic study. We have reported the following traffic concerns to DOT and the Planning Department in response to the applicant's Traffic Study by Hirsch Green for the first time at a meeting with Wendy Greuel, Dale Thrush and representatives from the Planning Department and DOT on November 19th, 2008. These concerns were again sent to them by email. However, these issues remain inadequately addressed by omission or commission. Some of the answers sent by DOT appear to defy logic and common sense. Following the summary of the issues is a map and the supporting documents. All of these issues affect the health, safety, and lack of infrastructure to support this development.***

1. Magnolia Boulevard is a substandard street and will remain so even after the projects are built. Providing a right turn only lane at the corner of Ben/Magnolia and Colfax/ Magnolia will not change that fact.

2. "Traffic report does not address site access scenarios, adequacy of parking supplies, or internal circulation." *These are critical factors*. Project triples the density of units and only has one ingress/egress. Original site is developed with three access driveways for 1/3 the number of units. The original driveways were open air and ran the length of the property. Therefore, garbage pick up, deliveries, and emergency vehicles were able to be onsite and not in the middle of Magnolia Boulevard (a substandard secondary highway).

3. DOT stated making a left hand turn into the project from the middle of the street is *not* more dangerous than making a right turn into the project from the flow of traffic! In fact, UPS requires all of its drivers to AVOID left-hand turns, because it is both dangerous, and takes longer. Even DMV seems to be aware that left-hand turns are more dangerous than DOT makes them out to be.

4. <u>The standard used to calculate peak hour trips generated in the report is a national standard from 2003 and bears no relation to Los Angeles traffic.</u> Wendy Greuel admitted to residents at our meeting that she asked for this to be changed and it is not addressed in the traffic report. Simply stated they do not accurately measure peak trips

generated, project volume to capacity ratios, or the impact to intersections from the projects.

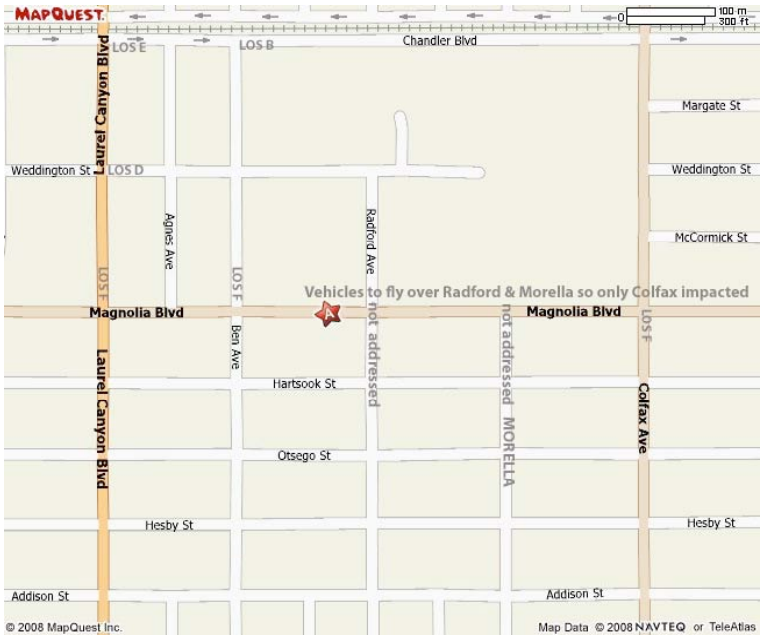
5. Traffic counts were generated when the properties were already empty and therefore, calculations must be based on full number of units not just additional units. Traffic counts should have been based on 119 condominiums + 146 apartments (not 56 apartments). This would have added more than 500 trips daily using DOT's standard. *"The project trip distribution was changed slightly to reflect a greater utilization of local streets during the peak hour periods."* ***Streets will be so impossible to traverse that DOT is relying on cut through traffic to make them passable. At the same time reporting that the closest local intersections will not be impacted and therefore, need not be included in the Traffic Study (Magnolia/Radford and Magnolia/Morella).***

6. The closest intersections to the project are NOT addressed, and it is important to do so because they are land locked and they cannot be mitigated to be insignificant. **DOT would have the Planning Commission believe that the Colfax and Magnolia intersection is so impacted by this project alone that is requiring the applicant to pay for street improvements on that intersection. However, it is stating that the two intersections in between the project and Colfax/Magnolia are not impacted at all!** Are the vehicles going to fly over those two intersections to get to Colfax/Magnolia? If the report addressed these two intersections at Radford/Magnolia and Morella/Magnolia a full EIR would be required according to statute because no mitigations are possible. Instead, they are omitted from the report.

7. Trip calculations were reduced for Red Line and Orange Line use 10 % although there is no empirical data to support this reduction and Red Line users will still need to use local intersections to access Red Line.

8. Sheer scale of development compromises safety of greater community and is not addressed in MND. The ability of subject property residents and neighbors to escape disaster is not addressed. Disasters do not conform to specious peak trip calculations.

9. Six intersections were rated (see attached map). Three of the six intersections are rated at LOS F and one is rated at LOS E even with the specious, unreliable reduced standards of peak traffic calculations and with the DOT's mitigations. This is not insignificant. A full EIR should be required and the MND should be denied according to statute and therefore, this DIR cannot be approved in the present form.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LOS F
Vehicles to fly over Radford & Morella so only Colfax impacted
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Magnolia Blvd
Ben Ave
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Hartsook St
Laurel Canyon Blvd
Colfax Ave
Otsego St
MORELLA
Hesby St
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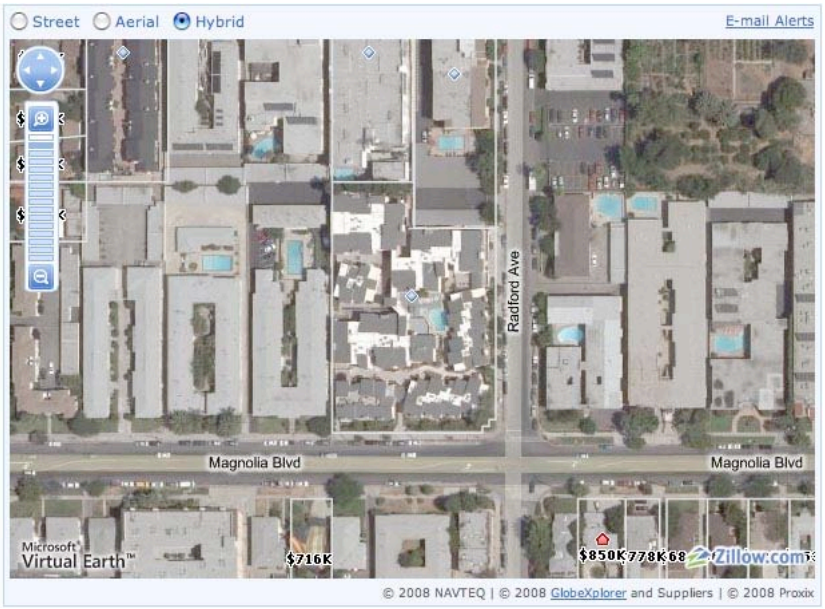
R. <u>Additional</u> and <u>Cumulative</u> Errors and Omissions; Further Explanations of Errors noted earlier in packet

1) **INFILL: Misleading "Yale letter" describes the project as being "infill"**

   YALE PARTNER's LETTER to Expedited Subdivision Unit, Room 721, Maya Zaitzevsky and signed by Dan Zacharias dated 10-16-2008 described his project as INFILL which was INCORRECT and fraudulent. We are an RD1.5 property. He described us as R-3/R-4.

   NOHO COMMUNITY PLAN COMMENTS: When a <u>preponderance</u> of the parcels within a small area are developed at a density higher than that depicted on the Plan, "infill" at a comparable density may be appropriate on the remaining parcels within the area. The majority of the properties in the surrounding subareas are either RD1.5 or Low/Medium Residential, there is NOT a preponderance of Medium/High Residential.



2) **DIFFERING AREAS for <u>same property</u> being considered:**
   3-3-09 REVISION 1 of MASTER LAND USE APPLICATION REVISIONS of DENSITY BONUS APPLICATION WORKSHEET dated 1-15-09 says:
   Lot Dimensions: Approx: 200' x 300'
   Lot Area (sq ft): Approx 59,450
   based on **APN 2348009026** which is the 11933 parcel only.
   It is THE ONLY APN listed on the application: No lot tie as of this application of 3-3-09

3) **LEGAL DESCRIPTION CHANGES**
3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application
SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) states:
Legal Description:
Lot 1 and the South 25 feet of Lot 6, Tract No. 9571, M.B.186-8/9
Lot 7 and the East 3 feet of the South 25 Feet of Lot 3, Tract No 10891, M.B.191-17
in the City and County of LA, State of CA

5-18-09 DIRECTORS DETERMINATION DIR-2008-1178-DB-SPP
Legal Description: Says Tract 10891, Lot 4
The Director's determination does not appear to state all lots involved on this project (and which tract)

4) **GOVERNING DOCUMENTS UNDER WHICH DECISION IS BEING BASED**

4-25-09 DIRECTORS DETERMINATION DIR-2008-1178-DB-SPP ***Note:*** *states* Pursuant to the State Density Bonus Program and Los Angeles City Implementing Ordinance No. 179,681 and the Valley Village Specific Plan, ordinance No 168,613 as the designee of the Director of Planning, **I hereby**:
Conditionally Approve

OR

5-18-09 DIRECTORS DETERMINATION DIR-2008-1178-DB-SPP the COVER PAGE reads "REVISED APPEAL DATE/ CORRECTED APPLICABLE STATUTE" states: ***Note****: This project is not subject to Density bonus Ordinance No. 1789,681 due to filing on March 25, 2008, before the ordinance effective date of April 15, 2008, Section 7, "Statement of Intent" of the ordinance, reads:*

> *"It is the intent of the City Council that the provisions of this ordinance shall apply to applications filed on or after the effective date of this ordinance, except that for sale Housing Development Projects with tract or parcel maps that have not been recorded as the effective date of this ordinance are subject to the provisions of this ordinance regardless of language in tract or parcel map conditions or previously recorded covenants".*

5) **DIFFERING AND CONFLICTING ALLOWABLE "BY RIGHT" DENSITY CALCULATIONS for the same property**
VTT 67012 for CONDOMINIUM PURPOSES:
Density Calc: (net after dedication 61,575 sq ft
R3 = 36,575 sq ft/800 = 45 units
R4= 25,000 sq ft/400 = 62 units
Total units permitted = **107**

YALE PARTNER's LETTER to Expedited Subdivision Unit, Room 721, Maya Zaitzevsky and signed by Dan Zacharias dated 10-16-2008 states if would be for Vesting Tentative Tract Map 67012 (CONDO) to permit the construction, use and Maintenance of 146 residential CONDOMINIUMS with FOUR stories with a minimum of 263 parking spaces on a 62,575 sq foot site – CONSISTS of **108** by-right units

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form that his project is for 146 units. 109 units "by right"
(Says the density bonus would allow for 148 units but they're only building 146)
12-03-08 Alan Boivin Architect letter to Sevana Mailian (he dated it Nov 24,2008) stamped as rec'd by 12-03-08 says the property "is zoned for **109** units".

3-3-09 REVISION 1 of MASTER LAND USE APPLICATION REVISIONS of DENSITY BONUS APPLICATION WORKSHEET dated 1-15-09 says: 109 units "by right" See attached calculation due to R-3 and R-4
(there is no attached calculation due to R-3 and R-4)

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application
SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) states:
Set Aside 11% (12 Units) VLI DB = 1.35% 110.8 = 149.58 units (underlying **wrong** allowable density "by right" units)

6) MULTIPLE INCENTIVES ASKED FOR:

NALANI WONG memo of 11/3/2008 said they would no longer require the incentive for FAR , yet the Director approved a FAR of 4:1, which is an incentive

DENSITY BONUS APPLICATION WORKSHEET ATTACHED TO 3-03-09 REVISION Incentives requested: **HEIGHT (only) 35% of 36 ft or 48 .6 feet or 48 feet 7 inches**

DENSITY BONUS APPLICATION WORKSHEET ATTACHED TO 3-03-09 REVISION **Parking per SB1818**

DENSITY BONUS APPLICATION WORKSHEET ATTACHED TO 3-03-09 REVISION **SEEKING RELIEF FROM (PER SB1818) SEC. 16.05. SITE PLAN REVIEW.**
(Renumbered and amended by Ord. No. 166,127, Eff. 9/23/90, Oper. 10/13/90.)

Purpose. The purposes of site plan review are to promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of

projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, or on surrounding properties by reason of inadequate site planning or improvements.

7) DIFFERING <u>NUMBER OF DENSITY BONUS UNITS</u> REQUESTED for the <u>same property; all are incorrect anyway</u>

APPLICANT'S APPLICATION 3-25-08 for 146 unit Apartment DIR-2008-1178-DB-SPR asks for 146 UNIT APARTMENT Building including **37** density bonus units
Reference: Early Notification System Chart

YALE PARTNER's LETTER to Expedited Subdivision Unit, Room 721, Maya Zaitzevsky and signed by Dan Zacharias dated 10-16-2008 states if would be for Vesting Tentative Tract Map 67012 (CONDO) to permit the construction, use and Maintenance of 146 residential CONDOMINIUMS with FOUR stories with a minimum of 263 parking spaces on a 62,575 sq foot site –
CONSISTS of **108** by-right units; plus **38** density bonus units

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form that his project is for 146 units allowing for 39 density bonus units for a total of 148 total units but we're only building 146

3-3-09 REVISION 1 of MASTER LAND USE APPLICATION REVISIONS of DENSITY BONUS APPLICATION WORKSHEET dated 1-15-09 says: by inference 146 residential units which includes 134 market rate and 12 VLI units (37 DB units) 146-109= 37 DB units

8) HEIGHT OF BUILDING

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form Height of building is 48.5'

11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS says building is 48.5'

12-03-08 Alan Boivin Architect letter to Sevana Mailian (he dated it Nov 24,2008) stamped as rec'd by 12-03-08 HEIGHT is stated at a total of 48.5'

3-3-09 REVISION 1 of MASTER LAND USE APPLICATION REVISIONS of DENSITY BONUS APPLICATION WORKSHEET dated 1-15-09 says: 48' 7" in lieu of 36 feet of VV SP

DENSITY BONUS APPLICATION WORKSHEET ATTACHED TO 3-03-09 REVISION: Incentives requested: HEIGHT (only) 35% of 36 ft or 48 .6 feet or 48 feet 7 inches

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) states: Height: 48 feet 6 inches (36' x 1.35 = 48.6')

5-18-09 DIRECTORS DETERMINATION DIR-2008-1178-DB-SPP
Height: building is limited to an increase in height of **12 feet, 7 inches above the 36 ft height limit** for a total height of up to **48 ft 7 in.**
Please note from the code:
SEC. 12.03. DEFINITIONS

HEIGHT OF BUILDING OR STRUCTURE. Is the vertical distance above grade measured to the highest point of the roof, structure, or the parapet wall, whichever is highest. Retaining walls shall not be used for the purpose of raising the effective elevation of the finished grade for purposes of measuring the height of a building or structure. Section 12.21.2 of this Code. **(Added by Ord. No. 160,657, Eff. 2/17/86, Oper. 6/17/86.)**
Later in the DIR it allows this height increase to the "top of the parapet wall".

9) **TOTAL SQUARE FEET**
11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS says Total Sq ft. of 244,010 sq ft.

10) **RESIDENTIAL SQUARE FEET IS DIFFERENT**
11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form Total Floor Area for Residential sq feet is 154,908 sq ft
11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS says
Total Floor Area for Residential sq feet is 154,908 sq ft

11-04-08 e-mail to Sevana from Nalani Wong says BUILDING SQUARE FOOTAGE is 143,578 sq ft. divided by building envelope (bldg footprint after setbacks) of 53,084 sq ft)

ARCHITECTURAL PLANS Pg A2.0 REV 1 Set dated 3/10/09 states: ACTUAL RESIDENTIAL FLOOR AREA = 143,578 sq ft

4-22-09 ENV-2008-1179-MND Environmental Report for **DIR-2008-1178-SPP-SPR-DB**
States it is for a 154,908 sq ft residential apartment project

11) **FAR (FLOOR AREA RATIO)**
11-04-08 e-mail to Sevana from Nalani Wong says BUILDING SQUARE FOOTAGE is 143,578 sq ft. divided by building envelope (bldg footprint after setbacks) of 53,084 sq ft and therefore FAR is being dropped as a request

12-03-08 Alan Boivin Architect letter to Sevana Mailian (he dated it Nov 24,2008)stamped as rec'd by 12-03-08 **He states:** No increase in FAR is being requested

3-3-09 REVISION 1 of MASTER LAND USE APPLICATION REVISIONS of DENSITY BONUS APPLICATION WORKSHEET dated 1-15-09 says: Total Project Size: Approx: 143,578

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) states:
Total Project Size: 143,578
1st floor: 35,437 sq ft
2nd floor 36,047 sq ft
3rd floor 36,047 sq ft
4th floor 36,047 sq ft

4-22-09 ENV-2008-1179-MND Environmental Report for **DIR-2008-1178-SPP-SPR-DB** States: FLOOR AREA RATIO OF 4:1 IN LIEU OF 3:1

12) PARKING SPACES

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form Parking Spaces are 277
11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS that Parking Spaces are 277 and says Parking required is **233** (per LAMC 12.21A4) based on 146 units are **ALL LESS THAN 3 HABITABLE ROOMS**

3-3-09 REVISION 1 of MASTER LAND USE APPLICATION REVISIONS of DENSITY BONUS APPLICATION WORKSHEET dated 1-15-09 says Parking Spaces are 266
Directions say "on attached sheet, provide a justification for the(se) incentive(s), addressing the need for the incentive(s) in order to support the requisite affordable units in the proposed project.
There is no attachment and no justification

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) States:
PARKING
140 standard direct
118 compact *tandem*
2 compact direct
6 H/C (?)
(266 spaces total)

Directions say "on attached sheet, provide a justification for the(se) incentive(s), addressing the need for the incentive(s) in order to support the requisite affordable units in the proposed project. There was no attached sheet providing this justification and therefore it is not an incentive he can take. **Therefore regular parking requirements should prevail (SEE RELATED TO PARKING SPACES below):**

13) **RELATING TO PARKING SPACES: Note, there is a discrepancy about whether BEDROOMS or HABITABLE ROOMS is the criteria for determing this**

11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS that of the 134 Standard Units that all 134 of them are LESS THAN 3 HABITABLE ROOMS and also that the 12 Affordable Units are LESS THAN 3 HABITABLE ROOMS (per LAMC 12.03) The portion where it says within 1500 feet of a Major Transit Station or Major Bus Route -- was not marked.

3-3-09 REVISION 1 of MASTER LAND USE APPLICATION REVISIONS of DENSITY BONUS APPLICATION WORKSHEET dated 1-15-09 says:

Total Units in Project				146 units
		#spaces /unit	#parking spaces in project	
1-bedroom units	59	1	59	
2-bedroom units	87	2	174	
3-bedroom units		2		
4-bedroom units		2 ½		
Additional parking spaces (optional)			33	266 spaces

Directions say "on attached sheet, provide a justification for the(se) incentive(s), addressing the need for the incentive(s) in order to support the requisite affordable units in the proposed project.

There is no attachment and no justification

Sec 12.21 A 4 of code For Dwelling Units. (Amended by Ord. No. 176,354, Eff. 1/31/05.) The ratio of parking spaces required for all other dwelling units shall be at least one parking space for each dwelling unit of less than **three habitable rooms**, one and one-half parking spaces for each dwelling unit of three habitable rooms, and two parking spaces for each dwelling unit of more than three habitable rooms.

Valley Village Specific Plan requires additional GUEST PARKING for a ANY RESIDENTIAL Multiple-family project (APARTMENTS) at a minimum of **one-quarter space per dwelling unit** in EXCESS of that required by the code

(see chart below)

Sec 12.21 A 4 of code	HABITABLE ROOMS CHART
# of habitable rooms	# of Parking spaces required
Less than 3 habitable rms	1
3 habitable ms	1 and ½
More than 3 habitable rooms	2

THEREFORE INSTEAD OF "PROVIDING 33 EXTRA SPACES" (PER THE CHART ABOVE)– <u>WITH NO JUSTIFICATION PROFFERED</u>, THEN THE INCENTIVE SHOULD NOT BE GRANTED TO THE DEVELOPER -- THEREFORE HE NEEDS TO PROVIDE 299 PARKING SPACES IN TOTAL

LISTS of the UNITS on the SUMMARY PAGE of the ARCHITECTURAL PLANS

UNIT	Type Desc.	Numbers	%	Size	Habitable Rooms For **figuring PARKING**	Multiplier per code	Stalls req'd
A1/A2/A4	1 BR	56	40 %	730sqft	3	x 1 1/2	84
A3	1 BR	3		830sqft	3	X 1 1/2	4.5
B1/B5	2 BR	20	41 %	1077 sqft	4	X 2	40
B2	2 BR	20		1075 sq ft	4	X 2	40
B3	2 BR	4		938 sq ft	4	X 2	8
B4	2 BR	12		1049 sq ft	4	X 2	24
B6	2 BR	4		1070 sq ft	4	X 2	8
C1	2 BR	8	17 %	1014 sq ft	4	X 2	16
C2	2 BR	12		1028 sq ft	4	X 2	24
C3	2 BR	4		1023 sq ft	4	X 2	8
D	2 BR	3	2%	1192 sq ft	4	X 2	6
SUB Tot	1 BR	59				X 1 ½	88.5
SUB Tot	2 BR	87				X 2	174
TOTAL		146					262.5
ALSO:					146 x 1/4		36.50
Valley Village requires a guest parking at a ratio of at least one quarter space per dwelling unit in excess of that required by the Code.							**299** parking spaces are required for this project under 65915

GYM SIZE
11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS says Gym is 591 sq ft
3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application **SUMMARY PAGE o**f PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) states: **Gym size is 618 sq ft**

Per the layout on ARCHITECTURAL PLAN page A5.2 LOOKING AT THE PLANS -- NOT TRUE - GYM at 1st floor is NOT 618 sq ft. **The included areas of an OFFICE & RESTROOMS DONOT MEET THE DEFINITION of OPEN SPACE –**
The gym is 19 feet, 8 ½ inches X25 feet or 494 sq ft.

14) GARAGE IS DIFFERENT
11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form total floor area for the garage is 79,951 sq ft
11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS says garage is 79,931 sq ft

15) BUILDING ENVELOPE IS DIFFERENT

11-04-08 e-mail to Sevana from Nalani Wong says BUILDING SQUARE FOOTAGE is 143,578 sq ft. divided by building envelope (**bldg footprint after setbacks**) of 53,084 sq ft note how this compares to: **5-18-09 DIRECTORS DETERMINATION DIR-2008-1178-DB-SPP says lot size** of 54,450 sq ft

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application **Summary Page o**f Project info, Sheet Index of all ARCHITECTURAL PLANS, etc.) states:
Buildable Area = 54,643 sq ft max
Allowable Area = 163,929 sq ft

16) TOTAL OPEN SPACE PROVIDED

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form is 14,936 sq ft. of 14,600 sq ft required

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application
SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) states:
OPEN SPACE
Open Space Req'd – 146 units @100 sq ft @=14,600sqft
NOT TRUE UNDER 65915 Code would prevail.
Open Space Provided –
Central Open Court……. 8,438 sqft
Landscaped Rear Yard ……1,873 sqft
Private Balconies 78 units x 50 sqft @ = 3,900 sqft

SUMMARY DOES NOT PROPERLY LIST THE UNITS, either mislabeled, and in the chart does not disclose some units square footage like A4 720 sq ft, and A4alt of 679 sq ft One can no longer believe these figures based on new layout styles on subsequent architectural drawing pages that don't match the summary, calling into question the actual private open space and some common open space that is tallied up.
Total ……. 14,829 sqft

ARCHITECTURAL PLANSPg A1.5 says
OPEN SPACE REQ'D: 146 Units x100 sf each) …. = 14, 600 sq ft

PRIVATE BALCONIES (78 x 50 sq ft each) =3,900 sq ft
GYM @ 1st FLOOR ……. = 618 sq ft
REAR YARD……50% min landscaped....=1,873 sq ft
COURT YARD……..=8,438 sq ft
TOTAL 14,829 sq ft

Therefore in his beneficence he seems to be giving **229** sq ft more than req'd

NOT TRUE - GYM at 1st floor is NOT 618 sq ft. **The included areas of an OFFICE & RESTROOMS DONOT MEET THE DEFINITION of OPEN SPACE -**Per the layout on ARCHITECTURAL PLAN page A5.2 The gym is 19 feet, 8 ½ inches X25 feet or 494 sq ft.

17) COMMON OPEN SPACE

11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS says Common Open Space Is 9,171 sq ft (Courtyard + Gym) (Courtyard is 8,581) (Gym is 591)

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) states: Gym……..618 sqft **Gym is reported as being 615 has wrong square footage , it is including an "office" and bathrooms. – not part of the definition of OPEN SPACE**

18) PRIVATE OPEN SPACE

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form is 3,800 sq ft

3-10-09 ARCHITECTURAL PLANS A1.0 REVISED SET dated 3/10/09 says it was rec'd 3/11/09 (Submitted as part of the application SUMMARY PAGE of PROJECT INFO, SHEET INDEX OF ALL ARCHITECTURAL PLANS,ETC.) **IN <u>OPEN SPACE PROVIDED</u> SUMMARY AREA it states <u>these units</u> are included in the open space calculations (the private portion of OPEN SPACE).**

# of units	Layout Style
24	A1
4	A4
16	B1
3	A3
4	B5 (incorrectly labeled – should be B2
4	B3
4	B5
4	B6
12	C1
3	D

As you can see in this next chart, only some of the units were able to be credited with private open space to meet the strict definition of it. Here's a chart that illustrates that.

The left hand column shows whether the unit gets "credit" for the open space requirement.

PRIVATE OPEN SPACE CALCULATIONS

UNIT	Type Description	Numbers	%	Size	Private Open Space (balconies) **figuring OPEN SPACE**	Multiplier per code	OS allowed on private space in conformance to OPEN SPACE CODE
A1/	1 BR		40%	A1: 730sqft	A1: 55 sq ft		50 sq ft
A2				A2: 730 sqft	A2 27.8sq ft TOO SMALL		NO CREDIT
A4alt				A4alt: **679sqft**	A4alt: 55 sq ft		50 sq ft
A4				A4: **720sqft**	A4: 55 sq ft		50 sq ft
A3	1 BR	3		830sqft	53.6 sq ft		50 sq ft
B1/B5	2 BR	20		1077 sqft	60.8 sq ft Non-conforming		50 sq ft
B2	2 BR	20	41%	1075 sq ft	Too small at 34.3 sq ft		NO CREDIT
B3	2 BR	4		938 sq ft	60.8 sq ft		50 sq ft
B4	2 BR	12		1049 sq ft	Too small at 34.3 sq ft		NO CREDIT
B5	2BR				60.8 sq ft		50 sq ft
B6	2 BR	4		1070 sq ft	60.8 sq ft		50 sq ft
C1	2 BR	8	17%	1014 sq ft	56 sq ft		50 sq ft
C2	2 BR	12		1028 sq ft	56 sq ft Non-conforming		50 sq ft
C3	2 BR	4		1023 sq ft	Too small at 29.75 sq ft		NO CREDIT
D	2 BR	3	2%	1192 sq ft	55 sq ft Non-conforming		50 sq ft
Total Private Open Space:							

BUT one can no longer rely on the private open space number cited or even figure it because the above layouts of the units have changed massively (as shown in the difference between the summary chart and the backup architectural re-drawings – layout styles are re-named to reflect these changes **(See the difference between the charts below).** Balconies may have been reduced substantially to accommodate and no longer may meet the threshold of *a minimum of 50 sq ft of where no horizontal dimension is less than six feet when measured perpendicular from any point on each of the boundaries of the open space area*

THE ARCHITECTURAL A1.0 SUMMARY CHART DESCRIBING THE LAYOUTS OF THE UNITS BY LAYOUT STYLE (aka A1 or B2), THEIR SQUARE FOOTAGE and how MANY of each of these layouts as shown in the chart below:

UNIT	Type Description	Numbers	%	Size	Habitable Rooms only for calculating open space	Stalls req'd
A1/A2/A4	1 BR	56	40%	730sqft	2	84
A3	1 BR	3		830sqft	2	43
B1/B5	2 BR	20	41%	1077 sqft	3	40
B2	2 BR	20		1075 sq ft	3	40
B3	2 BR	4		938 sq ft	3	8
B4	2 BR	12		1049 sq ft	3	24
B6	2 BR	4		1070 sq ft	3	8
C1	2 BR	8	17%	1014 sq ft	3	16
C2	2 BR	12		1028 sq ft	3	24
C3	2 BR	4		1023 sq ft	3	8
D	2 BR	3	2%	1192 sq ft	3	6
SUB Tot	1 BR	59				
SUB Tot	2 BR	87				
TOTAL		146				262.5

(SEE DIFFERING CHART BELOW)

QUITE DIFFERENT IS IN WHAT IS **ACTUALLY** IN THE BACKUP PAGES OF THE ARCHITECTURAL PLANS WHICH HAVE UNDERGONE MASSIVE UNIT STYLE CHANGES and the NUMBERS OF THOSE UNITS.
PLANS A3.2 (1ST FLOOR)
PLANS A3.3 (2ND ,3RD & 4TH FLOORS)

UNIT STYLE	Type Description	Numbers		Total # of Units	Habitable Rooms	Stalls req'd
A1		4+12=16		16		
A1rev		2+6=8		8		
A2		7+21=28		28		
A3		0+3=3		3		
A4		0+3=3		3		
A4alt		1+0=1		1		
B1		4+12=16		16		
B2		5+15=19		20		
B3		1+3=4		4		
B4		3+9=12		12		
B5		1+3=4		4		
B6		1+3=4		4		
C1		1+3=4		4		
C1rev		1+3=4		4		
C2		1+3=4		4		
C2rev		2+6=8		8		
C3		1+3=4		4		
D		0+3=3		3		
SUB Tot						
SUB Tot						
TOTAL				146		

19. LANDSCAPED AREA (TOTAL)

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form the total landscaped area of 14,936 sq ft

11-03-2008 SITE PLAN REVIEW SUPPLEMENTAL APPLICATION FOR APARTMENTS says Landscaped Open Space is 1,964 (Rear Yard)

EVEN THESE CAN NOT BE RELIED UPON AS THE NUMBERS ARE A MOVING TARGET AS TO HOW BIG A LOT, HOW BIG A BUILDING, AND THEY ARE IMPORTANT. BUT THE SETBACKS ARE IN FLUX AS WELL.

20. LANDSCAPED AREA (OF OPEN SPACE REQUIREMENT)

11-03-2008 Letter to Sevana Mailian from Gary Schaffel Letter states in narrative form the Landscaped Area Provided is 7,482 sq ft. (which reflects more than the required 50% of the total landscaped area of 14,936)

21. SETBACKS

ARCHITECTURAL PLANS Pg A2.0 Shows a 7' setback on the 11933 parcel (There is no lot tie at present and it will impact negatively the neighbors to the north – the lot tie would make it a SIDE YARD)
Shows a 16' Rear Setback on half of the property.

22. ENVIRONMENTAL EVALUATION GUIDELINES NOT FOLLOWED:

4-22-09 ENV-2008-1179-MND Environmental Report for **DIR-2008-1178-SPP-SPR-DB**

pg 11 of 29 Item 2. States: **All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.**

PRIVACY INVASION not considered or mitigated by proper setbacks, large enough (trees) landscaping to protect from privacy, light from UNITS at night , loss of sun

NOISE from TRASH COLLECTION is not considered, nor has the TRASH COLLECTION impact on traffic, with no driveways in the complex. It'll be right on MAGNOLIA BLVD. They'll need "stinger service" -- and 146 units will need at least THREE 3-yard bins or THREE 4-yard bins SIX days a week pickup right on Magnolia Blvd. the "stinger" (basically a forklift) backs up into it, lifts each one up, takes it up to the street from the subterranean garage, deposits it on the street, then the big trash hauler picks it up and dumps it, -- then the stinger returns the bins down to the garage.

A FAULTY SHADE SHADOW study performed - did not include NORTHERN properties LOSS OF ENJOYMENT of THEIR COMMON AREA pools. **A SHADE/SHADOW ANALYSIS is requested for 11936 and 11910 Weddington Ave. These properties will lose the enjoyment of their common areas if this project is allowed to be built.**

Pg 15 of 29, IV.e Potentially significant unless mitigation incorporated . ON-SITE TREES WILL BE REMOVED AS PART OF THIS PROPOSED DEVELOPMENT and **there is no mitigation incorporated in the Conditions**

Pg 4 of 29 Conditions ,VII b5. Explosion /Release (Asbestos Containing Materials) "prior to the issuance of a demolition permit, the applicant shall provide a letter to the DBS from a qualified asbestos abatement consultant that no ACM are present in the building." A demolition permit has already been issued and there is no letter in the file from a qualified asbestos abatement consultant.

Leaves out IX d of the CEQA Guidelines: CREATE OTHER LAND USE IMPACTS? The project destroys the neighborhood character of Valley Village and its immediate neighborhood by its towering and inappropriate size and scope.

Pg 17 of 29 XIII. Public Services

d. Parks. The Planner REDUCED the score of this impact as **Less than Significant,** in direct conflict with the previous Planner's assessment in ENV-2006-5007-MND-REC1 issued 4/18/2007 that it was **Potentially Significant unless Mitigation Incorporated** for this SAME PROPERTY that was being planned for 78 condo units and that used to serve 51 units with 2 pools and 2 pool deck areas, an inner courtyard, 3 driveways. NOW the Planner says that **146 UNITS** with less parking will have less of an impact with 1 pool, 1 little gym, a cement inner courtyard and a shaded "landscaped area" in the building surrounded area at the north boundary.

23) MISLEADING OR OBFUSCATING and HALF-TRUTH STATEMENTS MADE BY THE DEVELOPER

A. 3-25-08 Environmental Assessment Form: signed by Gary Schaffel
Says the PROJECT ADDRESS is 11933 Magnolia Blvd, Valley Village, CA 91607
Says the CROSS STREETS: are "Between Laurel Canyon and Whitsett Street and 2 blocks north of the Ventura Freeway". This is incorrect, and must be a project description for some other project.

If only streets with signals count, then the project is between Colfax and Laurel Canyon, and is 2 blocks west of the 170 AS WELL AS 10 blocks north of the Ventura Freeway.

B. ARCHITECTURAL PLANS Pg A1.6 uses an out of date geology report as part of this exhibit which clearly states in the actual report that if the project were re-designed it would not be applicable.

This is a new 146 apt unit complex over a 2-level garage – much deeper than the previous VTT-60712 project that it was prepared for (that was a half subterranean garage – one level). Developer used this old report on the VTT Tract Approval to claim that the water table was 10 feet below the surface **and therefore he needed a height exception for the 78-unit condo project because he couldn't go lower – what appears now to be a fraudulent claim.**

C. ***4-25-09 DIRECTORS DETERMINATION DIR-2008-1178-DB-SPP The proposed project height allowed is up to 48 feet, 7 inches, over one and a half levels of subterranean parking in order to ensure compliance with applicable requirements of the State Government Code section 65915 (State Density Bonus Program), and the promotion of development compatible with existing and future development of neighboring properties.

1. **Site Development:** says it will be developed as shown on the submitted plans, including a color elevation, sheets A1.0 thru A7.0, LP-1 and L-1, received on March 10, 2009 and attached to the case file. The submitted plans are erroneous, full of mistakes and not to be relied on.
2. Erroneous Density bonus allows for an additional 38 units
3. **Setback**: Setbacks shall be per LAMC code (they are NOT to code, they are a projection of what the developer would like SHOULD he get a lot tie which he does not have. The sideyard, and therefore 7' setback on the northern piece of 11933 parcel currently is NOT to code.
4. **Automobile Parking** : The State Density Bonus Program and the current LAMC require one parking space per restricted affordable unit. **Planner left out the requirement for the NON-AFFORDABLE UNITS.**
5. **Dedication and Improvements – why aren't the ALREADY DETERMINED dedications and improvements by DOT (incorporated into this DIR** the necessary half road way for Magnolia at Colfax is 30 feet, not 25 feet as specified in the 1/12/09 memo"
6. **Actual requested height is different throughout documents, AND planner erroneously grants height increase for roof-top mechanicals ON TOP OF the 35% increase. Approve the following incentive** of a project that reserves 11 percent of its units for Very Low Income occupants: **Up to a 12 foot, 7 inch deviation in the height limit, for a total of 48 feet, 7 inches in lieu of the 36 feet permitted**
   And later in the FINDINGS: The total maximum project height, **excluding roof-top mechanicals and stair/elevator shafts, is 48' 7",** which is a 35 percent increase allowed in lieu of the 36 feet height limit in the Valley Village Specific Plan.
   SEC. 12.03. DEFINITIONS
   HEIGHT OF BUILDING OR STRUCTURE. Is the vertical distance above grade measured to the highest point of the roof, structure, or the parapet wall, whichever is highest. Retaining walls shall not be used for the purpose of raising the effective elevation of the finished grade for purposes of measuring the height of a building or structure.

The highest point of this structure is, by definition, the HIGHEST POINT – not beyond the highest point.

24) MITIGATION CONDITIONS The director is approving INCORRECT and OLD conditions which she hasn't even looked at:

a. **Physical Mitigation** measures has the incorrect information of what is required at the intersection of Colfax Ave and Magnolia Blvd by widening **5 feet to provide a half roadway width of at least 25 feet …..** (Lynn Harper's memo said this was a typo and it would be reissued as "at least 30" feet but it was not incorporated into this DIR)

b. **Site Access and Internal Circulation:** OLD STUFF – This is not the subject property. "No access to the 11945-11959 Magnolia Project shall be allowed from Magnolia Boulevard, unless exception is given by DOT or BOE. (this doesn't even apply to this project and is "a lift" from previous documents)

c. **VALLEY VILLAGE SPECIFIC PLAN APPROVAL FINDINGS** :

1. Pg.21, f. Landscape

Says "to assure that the proposed condominium project is compatible with ... "

2. OPEN SPACE

Page 4 of the DIR , **Section 6.B. Open Space**

The Developer has not requested an incentive for OPEN SPACE and is not following the GOVT CODE requirements providing the required OPEN SPACE per Dwelling Unit **with the habitable room part of the equation** Per Govt Code 65915.

Total Open Space Required for this Project **16,775 sq ft required**

UNITS AS LISTED ON THE SUMMARY ARCHITECTURE PLANS CHART LISTS the UNITS

UNIT	Type Description	Numbers	%	Size	Habitable Rooms **figuring OpenSpace**	Multiplier per code	OS sq ft required
A1/A2/A4	1 BR	56	40%	730sqft	2	X100sf	5600
A3	1 BR	3		830sqft	2	X 100sf	300
B1/B5	2 BR	20	41%	1077 sqft	3	X **125sf**	2500
B2	2 BR	20		1075 sq ft	3	X 125sf	2500
B3	2 BR	4		938 sq ft	3	X 125sf	500
B4	2 BR	12		1049 sq ft	3	X 125sf	1500
B6	2 BR	4		1070 sq ft	3	X 125sf	500
C1	2 BR	8	17%	1014 sq ft	3	X 125sf	1000
C2	2 BR	12		1028 sq ft	3	X 125sf	1500
C3	2 BR	4		1023 sq ft	3	X 125sf	500
D	2 BR	3	2%	1192 sq ft	3	X 125sf	375
Total Open Space Required for this Project **16,775 sq ft required**							

25. ENVIRONMENTAL MITIGATIONS COMPLIANCE CONDITIONS

A. Erosion Control/Grading/Short-Term Construction Impacts Air Quality

a. all unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction …wetting could reduce fugitive dust by as much as 50 %

b. The owner or contractor shall keep the construction area sufficiently damp to control dust...caused by wind.

WE ARE IN PHASE III of a Water conservation plan per the DWP.
Because we are in a drought, there are already water restrictions on everyone. If there are drought restrictions placed on the contractors, that restict or reduce the amount of water that is used to mitigate their construction, this will cause unreasonable hardship to the sensitive receptors comprised of the elderly neighbors, the young who live in our complex, the school kids.

B. Noise
Construction noise of the project 2 doors down was UNBEARABLE for those units that were on our western edge. They were subjected to incessant pounding and shaking in their units. And this, from a project site that was 200 feet away. This project will be within 7 feet of us. NOISE mitigations must be restricted much further and many more steps taken to alleviate the mayhem that occurs daily on a construction site.

C. General Construction
Many of these conditions were hard fought and won on the 78-CONDO project **(see mitigations in place on simultaneous Tentative Tract Map Conditions -- Council File 07-3505) These must be incorporated.**

26) REPORT OF IRREGULARITIES in BUILDING & SAFETY NOT CORRECTLY IDENTIFYING COMMUNITY AREA PROJECT APPLICATION WAS FILED IN

Planning (and/or the developer) filed the original case stating the properties were in a different community. The original documents claimed the properties were in Valley Circle, **rather than Valley Village.**

COUNCIL FILE No. 07-3505 "NOT SCANNED PROPERLY" – various elements blanked out or not included

PARCEL PROFILE REPORT FOR 11927 on ZIMAS (AFTER 5' STREET DEDICATION) – Doesn't show a lot tie between 11927 and 11933 and ASSESSOR INFORMATION is missing and has been for quite a while.

LOT TIE MAP & ABUTTING OWNER LABELS are sitting in the file, but the lot tie hasn't occurred yet. Dated 5/11/09 in planning file to go out to the 108 abutting owners with a warning notification from the preparer that "*this map must be filed within (90) days from the date on the map" Reference: 5/28/09 2:43p Sevana Mailian, The Planner phone call to Jennifer Reed -" there is no application for a Lot Tie in the file, I checked and there is nothing filed in B& S or at the Planning Counter for a lot tie by the Applicant. It is not in his Master Land Use application. The*

labels and map with the lot tie illustration (with a reminder that the notification must be sent out within 90 days of ordering the labels) are merely for the planning department file. The Planner then said " Before a permit can be issued the lot tie must occur -- the application for a LOT TIE takes about 2 to 3 days -- to be completed at the time of getting a permit". When asked WHO ordered the labels?, she could not say. Most irregular and improper for the PLANNING DEPT to be ordering the DEVELOPER's LABELS without his having applied for and paid a fee for that service.

FAULTY NOTIFICATIONS OF DIR-2008-1178-DB-SPP & CEQA: **ENV-2008-1179-MND**

"CHANGING HORSES" WITH THE GOVERNING LAWS of the PROPOSED PROJECT following the 5-5-09 visit by Jennifer Reed to the community planning counter and consultation with Dan O'Donnel to point out how the 11933 project needed to be redesigned and the whole building set back further to comply with the LA Enabling Ordinance 179,681

28) LACKING ECONOMIC FEASIBILITY:

12-03-08 Alan Boivin Architect letter to Sevana Mailian (he dated it Nov 24,2008) stamped as rec'd by 12-03-08 says **in a short narrative letter describing "need" for height with no economic data to back up the need. This does not meet the test of 65915. He states:** No increase in FAR is being requested, yet HEIGHT is stated at a total of 48.5' (aka 48 feet 6 inches)

29) LACKING CORRECT PROCEDURE and therefore should not be approved:

The applicant failed to file for a ZA determination (an appealable determination) to JOIN the density of the two zones on the site into one and to waive the required setbacks at the middle of the combined sites.

Reference: 5/28/09 2:43p Sevana Mailian, The Planner phone call to Jennifer Reed –" there is no application for a Lot Tie in the file, I checked and there is nothing filed in B& S or at the Planning Counter for a lot tie by the Applicant. It is not in his Master Land Use application. The labels and map with the lot tie illustration (with a reminder that the notification must be sent out within 90 days of ordering the labels) are merely for the planning department file."

30) The City Council electronic files that should accurately reflect the conditions previously set with the CONDO Tract Map yet are incomplete after 4 attempts by the community to rectify them.

Index of Attachments