FIX THE CITY

March 7, 2016

VIA EMAIL: Conni.Pallini-Tipton@lacity.org, westside2@fehrandpeers.com

LA Dept. of City Planning,

200 N. Spring Street Room 667

LA, CA 90012

RE: FINAL WLA TIMP COMMENTS ON DEIR

Please accept the following comments regarding the Westside Mobility Plan.

Summary

The prosperity of cities depends upon their livability: Good schools, safe parks, properly staffed police and fire, gridlock-free streets, clean air and sufficient water. In Los Angeles these vital public services are suffering in large part because the city has failed to invest in its crumbling infrastructure and has allowed development to outpace and exceed its capacity to provide essential services.

This project fails to reconcile key quality of life issues with actual impacts and other plans and policies of the city.

It further fails to address its own growth-inducing impacts and then fails to reconcile the growth inducing impacts against its stated objective: To reduce congestion.

"We have the worst cut-through traffic of any area of the City. It's due to the fact that development has continued without proper infrastructure."

John Fisher, LADOT - WNC meeting: July, 2008

The city cannot build its way out of its problems. It needs to invest in infrastructure first, before increasing density or implementing plans that induce increased density.

To quote page 51 of the nexus study: "The presence of essential public infrastructure and an attractive public realm increases demand and value of housing…" Diminished first-responder response times, deteriorating streets, deteriorating sidewalks, deteriorating water lines and soul-crushing traffic have all combined to decrease the attractiveness and livability in the project area.

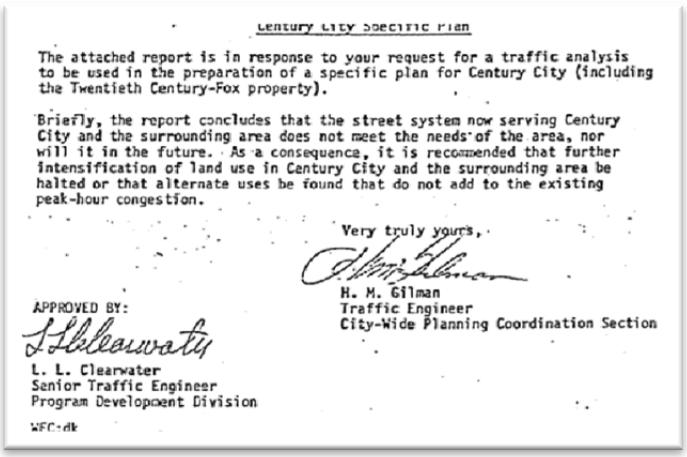
Transit-Oriented Development

TOD assumes that more people will come here no matter what and whether or not there is sufficient natural resources. TOD does not reduce trips, it increases trips as indicated by each piece of data submitted. What it does claim to do is increase trips by a lower rate than if development was focused further away from mass transit. Unfortunately, this logic is flawed as are any assumptions which flow from this conclusion. Increasing density around transit serves to create a barrier of density/congestion around mass transit which in turn serves as a mass-transit disincentive for those living further away. Combined with a marked lack of parking around mass transit, increases in mass transit use are inherently flawed.

It is important to note that the project does not claim to reduce car trips. It cleverly side-steps the issue by claiming a reduction in per-capita VMT. The EIR misleads the public and decision-makers by implying a

reduction of trips with the resulting reduction in emissions as well as other impacts. The method used to perpetrate this bait-and-switch approach is essentially that if the city can increase the denominator (population) at a faster rate than it increases the nominator (VMT), then the fraction of VMT/person will "go down" despite increased trips and increased congestion.

TOD density bonuses represent transportation-induced demand for the city's infrastructure, including but not limited to police, fire, schools, parks, libraries as well as transportation. Since several Metro and City EIRs have shown that roadway capacity is non-existent, and that ridership on mass transit has declined, the environmental impacts of added demand via TOD density bonuses are not adequately analyzed in this EIR nor can the transit/trip-reducing benefits be confirmed. The growth-inducing impacts of the TIMP must be disclosed and analyzed using assumptions consistent with recent Metro ridership findings as well as other infrastructure metrics.



Century City Specific Plan

The attached report is in response to your request for a traffic analysis to be used in the preparation of a specific plan for Century City (including the Twentieth Century-Fox property).

Briefly, the report concludes that the street system now serving Century City and the surrounding area does not meet the needs of the area, nor will it in the future. As a consequence, it is recommended that further intensification of land use in Century City and the surrounding area be halted or that alternate uses be found that do not add to the existing peak-hour congestion.

Very truly yours,

H. M. Gilman
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WEC:dk

Nothing highlight this flaw better than the December 4, 1975 traffic study shown here and produced by LADOT which discussed the capacity of the West LA street system.

Increased Density/Failure To Study Growth Inducing Impacts

As the project is actually a land use plan posing as a transportation plan, it fails to study or acknowledge growth inducing impacts of the plan including incentivizing affordable housing, TOD and multi-family dwellings. Loss of affordable housing within the City of Los Angeles will exacerbate longer commutes by automobile, the predominant transportation mode per the study.

Increased Density/Failure To Study Impacts On First Responders

The EIR fails to address the impacts of numerous sub-projects on first-responder access and response time. By way of example, the median along Pico creates a barrier for first responders and also consumes critical space in which emergency vehicles may travel. First Responder access will be substantially and materially impacted by at-grade rail crossings and, as mentioned above, by in-roadway barriers.

There is no analysis of the impacts of the TIMP projects on emergency response time for LAFD and for LAPD. Under the City CEQA Threshold Guide, such analysis is required (K-2, K-3.). Many of the intersections within the study area are at LOS E or F and therefore require an analysis of impacts on response time and staffing ratios – which fall below accepted metrics everywhere on the Westside. This analysis is also required by the CEQA checklist as well.

Flawed Assumption/Conclusion: Infrastructure Capacity For Multi-Modal Options

Multi-modal transportation requires the existence of adequate and safe transportation infrastructure, specifically roads, curbs, gutters and sidewalks. The EIR fails to acknowledge the failed state of the city's transportation infrastructure. As the infrastructure is inadequate per the city's own studies and infrastructure reports, any assumptions regarding increased multi-modal options and use that depend on the failed infrastructure is flawed.

"The 'infrastructure crisis' throughout the city is more widespread than the subject of streets, extending to sidewalks and storm water systems."
June 10, 2014

Flawed Assumption/Conclusion: Reliance On Failed Existing Infrastructure

The EIR states: "Because new development is not required to pay to improve traffic congestion caused by the existing traffic or by the cut-through traffic with destinations outside the Specific Plan area, the development impact fees represent only a fraction of the total regional improvement costs. As a result, LADOT has relied on the strategy of leveraging the collected development impact fees to secure outside transportation grants to help pay for the remaining costs, primarily by submitting grant applications in the Metro Call for Projects process." There are several flaws exposed by this section.

1. Future funding is not guaranteed and therefore cannot be relied on to mitigate impacts.
2. The city has admitted that congestion and cut-through traffic are issues though MP2035 specifically and admittedly will result in exacerbating both.
3. The statement confirms that extra-area traffic represents a substantial portion of the trips experienced by the area. There is inadequate study forming a nexus between intra-area trips v extra-area trips with regard to impacts.

Flawed Assumption/Conclusion: Increased Mass Transit Availability Equates To Increased Use

The EIR assumes that increased mass transit will yield increased ridership. The EIR fails to account for recent Metro statistics which show that ridership has decreased despite increased mass transit availability. (see http://www.latimes.com/local/california/la-me-ridership-slump-20160127-story.html)

Traffic Study Flaw: New Material Impact of the Expo At-Grade Rail Not Studied

None of the analysis included the impact on LOS, VHT, and VMT due to the Expo Line at-grade crossings. The EIR must address these impacts. As testing of the Expo line has progressed, a single gate closing has been seen to back traffic up to Pico on the north and to the 10 on the south.

Likewise, there is no analysis of the impacts of added congestion from MP 2035 on the Westside. The EIR must be revised and recirculated to address those impacts.

General Plan Framework Policy 3.3.2

The City Council approved the new General Plan in 1996 (re-adopted in 2001) including the implementation of its "crucial" new planning mandate, calling it "Policy 3.3.2." As testimony to the importance of this key feature, the City Council found that all other proposed alternatives to the adopted General Plan were infeasible because they did not contain the essential feedback mechanism – a policy that "*requires that type, amount, and location of development be correlated with the provision of adequate supporting infrastructure and services.*" Once the City adopted this feedback mechanism as a CEQA mitigation measure, it became obligated by law to use it as described[1]. In fact, the City called it "Mitigation Through Framework Policy."

> ***"The policy requires that type, amount, and location of development be correlated with the provision of adequate supporting infrastructure and services."***
>
> *– City of L.A. General Plan*

> *" ... The single biggest impediment [to maintaining infrastructure] was dedicated, continuous funding, sufficient to keep pace and address the massive backlog. The sources that we have depended on have been reduced, are restrictive, or have disappeared entirely… with infrastructure often taking a backseat"* CM Mitch Englander, LA Times "*L.A.'s 'Save Our Streets' Tax Increase Abandoned*", June 11, 2014

The purpose of the new General Plan, and in particular Policy 3.3.2, was to provide the means to meter growth based on availability of infrastructure. Actually, the City stated it best when it said the new General Plan is to be used "so that allowable increases in density … would not occur until infrastructure and its funding was available." (General Plan EIR, 1998)

Opposition brief of COLA Case#BS042964 (000206)

Fifth, even if all parts of the TIMP implementing program were dependent upon funding, and even if funding was the sole determinate of feasibility, the GPF and DEIR called for many implementing programs and mitigation measures other than those in the TIMP. A crucial aspect of the entire GPF was (1) its monitoring program which provides the methods by which substantive decisions on how and when to adjust densities based on updated information and progress reports reporting past performance and current status, and (2) its intent to modify the location and arrangement of different land uses to effectuate its various policies.

The Housing and Land Use Elements depend on Policy 3.3.2 as mitigation against development outpacing infrastructure.

Finally, dependence on future funding for a TIMP was a key issue during the litigation which followed the new General Plan/Framework. The following can be found in the city's brief during that case where it relied exclusively on Policy 3.3.2.

Opposition brief of COLA Case#BS042964 (000210)

Finally, petitioners attack as "infeasible by definition" (POB 12:1) the fifth alternative - the long range build out of the GPF use categories without the triggering mechanisms to tie infrastructure to new development. (If this was "infeasible by definition", then the inclusion of this definition in the DEIR which was circulated for four months in early 1995 should have triggered some sort of written objection during the public comment period from petitioners or others, for that matter.) This alternative was particularly helpful because it informed the City that a triggering mechanism should be included in the GPF so that allowable increases in density through community plan amendments would not occur until infrastructure and its funding was available.

The EIR fails to address consistency with Policy 3.3.2 and explicitly encourages increased density without addressing adequate infrastructure.

It also fails to address specific metrics for key mitigations, funding for key mitigations and funding for ongoing mitigations and maintenance.

[1] *(Public Resources Code §21081.6)*

MP2035

The EIR fails to explain or analyze how both the project and MP2035 can exist in the same universe. While one cites congestion as the problem, the other admits that it does not seek to address congestion. While one cites cut-through traffic as a problem, the other admits that it will create cut-through traffic. The EIR has failed to reconcile the two.

Specifically, the EIR states re congestion "The Westside of Los Angeles is a desirable place to live, work, and play, and therefore traffic congestion continues to be an issue." MP2035 admits to creating congestion and increasing cut-through traffic.

Additionally, the WLA TIMP states that street parking will not and MUST not be removed, but MP 2035 states that it might be removed on Westwood Boulevard. The TIMP and MP 2035 must be internally consistent.

Air Quality

The EIR is based on GHG models that were developed prior to Aliso Canyon. All modeling must be revised and compliance with state GHG regulations adjusted. The measurement of air quality impacts using VMT neglects to factor in the fuel used and increased emissions resulting from congested roadways. Therefore, the most accurate measurement with regard to GHG impacts would be to measure local congestion through LOS/VHT. Given the changed circumstances of Aliso Canyon, the GHG analysis must be revised and recirculated. Please see the attached comments on the CEQA Guideline change from LOS to VMT.

The greater the congestion, the more air pollution is produced by automobiles idling. Therefore, the added congestion from TOD projects and streetscape changes must be analyzed and addressed in the EIR.

Metro's EIR for the Expo Westside Segment concluded that rush hour conditions would exist throughout the day, and that there was greater increase(four-fold) in VHT than with VMT. CEQA requires the environmentally superior alternative to be used if it is feasible. Therefore, the analysis used in this EIR should measure VHT, not VMT.

Urban Decay: Loss of Street Parking

If street parking is removed, the environmental impacts of the removal on local businesses must be analyzed with regard to urban decay as well as the 30%+ added congestion of cars searching for parking and impacts on neighborhood streets.

Nexus Study Issues

The new fee structure discriminates against single family dwellings. There is no possible nexus study that could support the proposed fee structure. By way of example, ITE210 (SFD) generates 9.57 ADT while ITE820 (Retail) generates 42.94 trips/1000 sqft ADT. The proposed fee for residential is $9,944 while the proposed fee for retail is $15,000 per 1000sqft. The fee for retail uses is only 1.5 times the rate for a SFD even though the ITE rate is 4.5 times the trip generation of residential.

We also point out that the arbitrary use of the Avg. PM rate is improper as it discriminates against residential uses. Use of ADT would likely generate more appropriate fees.

The new fees will not and cannot touch existing deteriorating infrastructure upon which all new development is based. The study states:

> "Because new development is not required to pay to improve traffic congestion caused by the existing traffic or by the cut-through traffic with destinations outside the Specific Plan area, the development impact fees represent only a fraction of the total regional improvement costs. As a result, LADOT has relied on the strategy of leveraging the collected development impact fees to secure outside transportation grants to help pay for the remaining costs, primarily by submitting grant applications in the Metro Call for Projects process."

There is no certainty these remaining costs will or can be covered. As the project depends on the existing infrastructure, and the existing infrastructure has materially and substantially deteriorated, the plan cannot assume or count on benefits from that failed infrastructure. It is also likely that the fees will improperly be used to fix existing infrastructure since the "improvements" cannot be implemented without first repairing the existing infrastructure.

As a large percentage of local traffic is generated outside the area, the nexus is inaccurate as it applies full costs of the programs to local development. Non-residential uses are far more likely to have extra-area trips than residential uses.

If a development impact fee does not relate to the impact created by development or exceeds the reasonable cost of providing the public service, then the fee may be declared a special tax and must then be subject to a two-thirds voter approval.

The Supreme Court laid down a more refined test for the exaction of real property, ruling that in order for the government to require project-specific exactions, the government must demonstrate that (i) an essential nexus exists between the legitimate state interest and the exaction imposed by the city (as Nollan had held), and (ii) the nature of the exaction must be "roughly proportional" to the impact the project is creating.

Because the fee is not equally assessed across all uses, uses arbitrary and varying trip distances, and provides credits and incentives for some uses, it fails the AB1600 test.

Additional nexus issues:

1. The nexus study refers to Vehicle Trips as being automobile trips. Charging only automobile users of transportation infrastructure fails to acknowledge infrastructure consumed by other vehicles/modes.

2. The nexus study fails to take into account the nature of vehicles visiting residential v commercial/retail uses including the regular use of large delivery vehicles which disproportionately impact roadways.
3. The use of VMT fails to account for short trips taking a very long time due to congestion.
4. The use of VMT/capita is illusory as it can show artificial "improvements" if population increases faster than trips made by the new population.
5. The traditional nexus fee goal of reducing travel delay is far more consistent with the stated goal of reducing congestion.
6. The study does not account for increased delay caused by making mass transit inaccessible due to TOD.
7. The study overemphasizes bike use when it represents an exceptionally small percentage of trips and is forecast to continue to be an exceptionally small percentage of trips.
8. There is a fundamental inconsistency throughout the study as it simultaneously attempts to treat congestion as a problem while the EIR indicates congestion will get worse under the project.
9. Limiting parking is inconsistent with charging a fee that is based on an ITE trip rate and land use policy that mandates parking availability. It is also inconsistent with other statements in the EIR.
10. The study uses a self-validating Westside Travel Demand Forecasting Model that has neither been tested over time nor properly vetted by the public.
11. The growth rates are inconsistent with publically available census data.
12. The model appears to use old data including 2007 traffic counts and population values.
13. Metro's EIR for the Expo Westside Segment concluded that rush hour conditions would exist throughout the day. There is no evidence that the Westside can accommodate the increased density assumed by the study. If local roadways are LOS F/gridlock, it is illogical to assume increased traffic flow without increased capacity. It is then improper to take credit from one value which exceeds capacity to another that also exceeds capacity when neither are possible.
14. The note on page 39 of the study would appear to demonstrate the misleading nature of the study and EIR. It "clearly" states that "The same sociodemographic increases that apply to the Future Without Project conditions also apply to the Project conditions, resulting in an increase in the number of vehicle trips over Existing conditions."
15. Table 13 of the study shows increased VMT. It is only by increasing population faster than VMT that the study and EIR claim reduced VMT/capita. Given the infrastructure cannot support the increased population, this conclusion is flawed.
16. The data regarding average vehicle trip length is suspect given that it concludes that residential users are willing to travel further even though they would be travelling to and from the other uses.
17. The ability for LADOT to arbitrarily determine fees for a given project based on "appropriate data for input" to the model does not provide for a uniform and fair fee structure as required.
18. The prototypes do not include SFDs in various parts of the study area.
19. The proposed fees are far in excess of average fees presented for other cities in the study. Assumed growth rates are unlikely if development in the study area exceeds that of neighboring cities.

Comments on Table 2.1

Impact 4.1-1, 4.1-2: There is no substantial evidence that the transportation "improvements" will reduce VMT. There is a fundamental difference between creating access and actual use. As stated above, the metric of

VMT/capita is illusory as a measure of congestion if the number of people can be increased more rapidly than the VMT.

Impact 4.1-3: All air quality studies have been rendered moot by the Aliso Canyon leak. The conclusion is inconsistent with MP2035's congestion increases.

Impact 4.1-4: The conclusion is flawed as a result of the Aliso Canyon leak. The project cannot take credit for reductions achieved by other projects as this creates a false baseline.

Impact 4.2-1: The conclusions are inconsistent with those reached as part of MP2035.

Impact 4.3-1: The conclusion of reduced emissions based on VMT/capita is flawed. A finding of reduced emissions should be based on gross emissions not on a formula which would hide increased emissions so long as population rises faster than VMT. VHT would be the proper measurement for emissions as it accounts for short trips taking a very long time due to congestion. Further, The project cannot take credit for reductions achieved by other projects, including MP2035, as this creates a false baseline.

Impact 4.3-2: The nexus between availability of transportation options and use of those options is belied by recent Metro findings of reduced ridership. Further, increasingly deteriorated infrastructure creates a barrier for the public to safely explore other modes of travel.

Impact 4.4-1: There is a reasonable likelihood that the incentives offered for TOD and affordable housing, combined with the loss of exemptions for residential and favorable rates for non-residential uses and higher density uses, will result in changed future land use patterns. In fact, the EIR blatantly assumes so as it is providing incentives for certain land uses.

Impact 4.4-2: As stated above, the growth-inducing impacts of the project including but not limited to development incentives stand in direct conflict with the General Plan, General Plan Framework, Housing Element and Land Use Element. The goal of reducing congestion and cut-through traffic is in direct conflict with the Transportation Element (MP2035).

Impact 4.5-1: Numerous findings are inconsistent with those made in the adopted MP2035 EIR.

Impact 4.6-2: This finding is inconsistent with findings elsewhere in the EIR. To be clear, it states that congestion WILL increase. The EIR therefore acknowledges that it is NOT achieving its objective. Further, LADOT has stated publically numerous times that no more capacity improvements exist in the West L.A. area. The stated mitigation is inconsistent with LADOT public statements.

Impact 4.6-3: This finding is inconsistent with the objective of reducing congestion. The proposed mitigation is not specific enough to provide any certainty of mitigation, nor is funding assured or provided for such mitigations.

Impact 4.6-4: This finding is inconsistent with the objective of reducing congestion. This finding is also inconsistent with the statement above that there is no conflict with other regulations etc as listed in 4.4-2.

Impact 4.6-5: There is no substantial evidence to support this finding. This is especially true for impacts on fire stations 37, 92 and 59 due to physical changes proposed.

Impact 4.6-7: This finding fails to address the inability for deliveries to be made using the center lane of roadways such as Westwood and Pico.

Impact 4.6-8: This finding is nonsensical. Not only is there no substantial evidence to support the finding, substantial evidence exists which shows reduced transit usage. Further, there can be no statement of consistency with non-existent metrics. The finding of reduced vehicle trips (as opposed to VMT/capita) is not supported by the EIR which cites increased congestion and trips. Additionally, the EIR is misleading in claiming reduced VMT for reasons stated above.

Additional Issues

- The EIR fails to study impacts of/interactions with the Expo Corridor Transit Neighborhood Plan. There are substantial questions as to improper segmentation occurring between the two.
- There is no substantial evidence that shows that ATCS improves capacity at intersections which are impacted from both directions.
- The EIR failed to study capacity decreases on BRT arterials.
- The EIR failed to study the impact of transit on Westwood, especially in combination with MP2035.
- The EIR failed to study the impacts of the Olympic Boulevard Operations on FS59 operations.
- The Neighborhood Protection Program is inconsistent with the fact that the NPP section in LADOT has been effectively eliminated.
- The EIR should study the impacts and opportunities of autonomous vehicles.
- The Santa Monica Boulevard Transit Parkway was envisioned as a multi-modal highway yet its implementation was far different than proposed.
- Intersection improvements are already accounted for in the existing TIMP and as part of other development agreements. The current project cannot take credit for mitigations provided for by other projects.
- The CCNTMP is under constant attack, most recently by LADOT when it approved a traffic study for the City School (included by reference).
- The EIR includes MP2035 by reference (see page 26 of the fee study) despite being inconsistent with MP2035.
- The proposed streetscape plans are likely inconsistent with reducing congestion and will also likely impact first responders' ability to reach the public due to additional barriers and reduced road capacity.
- There is no study of the impact on the CCNTMP based on proposed "improvements" to Motor Avenue.
- The study fails to address the impacts of increased water use from landscaping and increased development.
- The study fails to address impacts of an increased homeless population which may be exacerbated by the project.
- The study fails to address impacts on policing which would result from the project.
- The EIR fails to address the simple fact that the city regularly raids the Special Parking Revenue Fund which should be used to pay for increasing parking options. This would in turn reduce parking-related trips. Increasing the price for parking will only serve to tax customers of local businesses where

insufficient parking has been provided. This in turn will make those businesses far less attractive to customers.

- It is unclear where MP2035 ends and the Westside Mobility Plan begins. Far from simply being a TIMP fee proposal, this project appears to revisit many of the same issues covered by MP2035 – yet comes to different conclusions.
- The streetscape plan states that "On all Westside Boulevard street segments, full-time on-street parking, without restrictions during peak commute periods should be maintained as it benefits both businesses and residents…" This is inconsistent with other parts of the plan which seek to reduce parking and/or charge ever-increasing fees for parking.
- The EIR fails to evaluate queue overflows which occur along Pico east of the 405.
- The EIR fails to account for ongoing maintenance for the improvements. Absent a commitment to maintain improvements, they will deteriorate and lose value over time.
- The demand model contains errors such as failing to identify peak period restrictions on Westwood Boulevard.
- The provided alternatives fail to encompass a reasonable range of alternatives, specifically those alternatives that focus on reduced VHT.
- The EIR failed to analyze impacts on the Century City North and South Specific Plans.

We hereby incorporate our comments provided on MP2035 into the record for the Westside Mobility Plan.

Sincerely,

Laura Lake

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FIX THE CITY

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Attachment: Fix the City Comments on CEQA Guideline (February 29, 2016).