



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: May 23, 2018

TO: Planning Commissioners

FROM: Paul Godwin, Development Project Manager, Development Services Department

SUBJECT: Hillcrest 111 NDP – Project No. 522075 – Correspondence from Applicant and Appellant

Please find attached additional correspondence from the appellant and applicant regarding this project appeal scheduled for Planning Commission on May 31, 2018.

The attached letter dated January 25, 2018, is from Everett DeLano, representing the project appellant, Uptown United. Staff's response to this letter is contained on Pages 26-41 of the Final Mitigated Negative Declaration (MND) dated February 20, 2018, which can be viewed at <https://www.sandiego.gov/sites/default/files/dsderp-mnd-pts522075.pdf>. An appeal of the MND filed by Uptown United was previously considered and denied by the City Council on April 23, 2018.

The attached letter dated May 23, 2018, is from Heather Riley, representing the project applicant, Greystar GP II, LLC, in response to correspondence from the appellant to the City Council, dated April 20, 2018.

Also attached is correspondence from the appellant received May 22, 2018 (dated April 22, 2018), addressed to the Planning Commission.

Thank you.

Attachments: 1. Letter from appellant dated January 25, 2018
2. Letter from appellant dated April 20, 2018
3. Letter from appellant received May 22, 2018 (dated April 22, 2018)
4. Letter from applicant dated May 23, 2018



DELANO & DELANO

January 25, 2018

VIA E-MAIL

Anna L. McPherson
City of San Diego
Development Services Center
1222 First Ave., MS 501
San Diego, CA 92101

Re: Hillcrest 111 Project (No. 522075) and Mitigated Negative Declaration

Dear City of San Diego:

This letter is submitted on behalf of Uptown United in connection with the proposed Hillcrest 111 Project ("Project") and Mitigated Negative Declaration ("MND").

The California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 *et seq.*, requires the preparation of an Environmental Impact Report ("EIR") whenever substantial evidence in the record supports a "fair argument" that significant environmental impacts may occur. Pub. Res. Code § 21080(d); *No Oil, Inc. v. City of Los Angeles* (1975) 13 Cal.3d 68. If there is "substantial evidence that the project might have [a significant impact on the environment], but the agency failed to secure preparation of the required EIR, the agency's action is to be set aside because the agency abused its discretion by failing to proceed in a 'manner required by law.'" *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002. Here, the City should prepare an EIR before proceeding; the Project is likely to lead to several significant impacts.

The Project will lead to significant impacts to community character, land use, and aesthetics.

- The Project proposes to develop at greater intensity than currently allowed for height, rear yard setback, rear upper floor setback, side yard setback, and street wall setback. Each of these will create inconsistencies with the existing neighborhood. Collectively, along with the many other aspects of the Project, it creates a substantial inconsistency with the existing neighborhood and community. "[A]esthetic issues 'are properly studied in an EIR to assess the impacts of a project.'" *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 937 (quoting *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 492).

EVERETT L. DELANO III
Admitted in California and Colorado

M. DARE DELANO
Admitted in California and New York

104 W. Grand Avenue, Suite C
Escondido, CA 92025

(760) 741-1200 :: Office
(760) 741-1212 :: Fax

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- The MND claims there is no “single architectural theme” (MND at 26), but this is an incomplete characterization of the neighborhood.
- The Project is inconsistent with several Community Plan policies and objectives, including:
 - Residential Element Objectives (p. 37), including:
 - “Preserve and enhance the special character of specific, well-defined, low-density neighborhoods from encroachment by incompatible, higher density residential or commercial development”;
 - “Locate medium and high density residential development in selected areas with adequate design controls provided to ensure compability with existing lower density development”;
 - “Ensure adequate transition and buffering between potentially incompatible uses”;
 - Urban Design Element Objectives (p. 75), including:
 - “Preserve the diverse and unique character of each neighborhood in the Uptown community”;
 - Urban Design Guidelines (p. 76), including:
 - “Incorporate appropriate site planning, landscaping and architectural design to preserve the function and architectural character of the existing single-family neighborhoods”;
 - “New construction ... should be compatible with the existing architectural detail and overall appearance of the quality development in the surrounding neighborhood”;
 - “Articulate the design of buildings so they relate to the form and scale of surrounding structures through the use of compatible setbacks, building coverage and floor area ratios”;
 - “New construction ... should be compatible with the color, texture, architectural detail and overall appearance of the historically significant and/or higher quality buildings in the surrounding neighborhood”;
 - Site Planning and Architecture Policy #3, which calls for wall texture variations, façade off-sets, upper floor setbacks, and the utilization of varied roof forms (p. 78);
 - Site Planning and Architecture Policy #7, which calls for design to “relate to the form and scale of surrounding structures through the use of compatible setbacks, building coverage and floor area ratios” (p. 78);
 - Streetscape Design and Landscaping Policy #6, which calls for increased sidewalk widths and other features to enrich “the pedestrian quality of all areas” (p. 80);
 - Pedestrian Circulation Policy #2, which specifically calls for sidewalks between 10 and 14 feet in width (p. 82);

- Pedestrian Circulation Policy #4, which calls for “open space in the form of widened sidewalks and usable plazas visible from adjacent streets” (p. 82);
- Pedestrian Circulation Policy #5, which calls for a variety of features to create “visual interest ... at the street level,” including street level arcades, recessed storefronts, elevation changes, and landscape features (p. 82); and
- Hillcrest Policy #2, which calls for “a stepback of the streetwall to reflect the historical scale of development” (p. 93).
- The Project does not meet the requirements for a Neighborhood Development Permit, since it is inconsistent with the Community Plan and detrimental to public health, safety and welfare. Municipal Code § 126.0404(a) & 126.0504(a).

The Project will lead to significant growth-inducing and cumulative impacts.

- Allowing the Project to develop at the proposed density will have a growth-inducing impact, as it will lead to other locations in the vicinity seeking such changes.
- The changes associated with the Project will lead to cumulative impacts, including inducing changes to other sites in the area, thereby resulting in significant cumulative effects. *See City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1452 (“even projects anticipated beyond the near future should be analyzed for their cumulative effect”).

The Project will lead to significant impacts to light and shadows.

- The MND dismisses potential shading impacts without analysis of the effects of a seven-story building in an area dominated by low-rise structures and homes. MND at 29. Indeed, an analysis by a local architect demonstrates such impacts.

The Project will lead to significant impacts to traffic.

- The MND fails to consider the significant impacts associated with construction traffic.
- The MND acknowledges failing roadways and intersections. Indeed, where on-the-ground conditions are severe, the “relevant question” is whether the project’s additional impacts will be significant “in light of the serious nature” of the existing problems. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.

The Project will lead to significant impacts to air quality.

- The MND claims the Project is consistent “with the growth anticipated by local plans.” MND at 31. Yet the MND elsewhere acknowledges that the Project is being processed pursuant to the 1988 Community Plan. *Id.* at 20.
- The MND attempts to separate air emissions into construction and operational phases. MND at 32 – 34. However, it fails to account for the fact that such phases can overlap, thereby increasing the amounts of emissions at any given time.

The Project will lead to significant impacts to soils and geology.

- The MND acknowledges “undocumented fill” on the site, but fails to provide adequate explanation for the observed groundwater on-site. MND at 41 – 42.

The Project will lead to significant impacts to greenhouse gas emissions.

- The goal of the City’s Climate Action Plan (“CAP”) – to “Promote effective land use to reduce vehicle miles traveled” – is implemented by Action 3.6, which includes the following: “Achieve better walkability and transit-supportive densities by locating a majority of all new residential development within Transit Priority Areas,” CAP at 39. This mandate includes achieving “better walkability and transit-supportive densities by locating a majority of all new residential development within Transit Priority Areas.” *Id.* The Project fails to address these requirements.
- The MND averages construction emissions over the life of the Project. Such emissions should be calculated as they will actually occur, not averaged over a longer period of time. *See Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1049.
- On April 29, 2015, Governor Brown issued Executive Order B-30-15, which establishes a “new interim statewide greenhouse gas emission reduction target to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030” The MND does not address compliance with Executive Order B-30-15.

The Project will lead to significant impacts to noise.

- The MND dismisses substantial construction noise impacts because they will be temporary. MND at 54. But the temporary nature of a noise impact does not make it insignificant. *See Berkeley Keep Jets Over the Bay Comm. v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1380 – 81.
- The Project’s noise mitigation is vague and insufficient. *See Citizens for Responsible and Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341 (“there is no evidence of any measures to be taken that would ensure that the noise standards would be effectively monitored and vigorously enforced”).

City of San Diego
January 25, 2018
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The Project will lead to significant impacts to public services.

- The General Plan requires several citywide services, including parks and recreation, open space, and trails. For example, the City's Recreation Element specifically requires the "[p]rovision of parklands that keep pace with population growth through timely acquisition and development." General Plan at RE-6. The Project will add substantial additional residents to the City, yet the MND fails to address these needs.

The Project will lead to significant impacts to water supply.

- The MND fails to identify how the Project will affect water supplies over a long period of time. "[A]n adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years." *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 430 – 32.

For the foregoing reasons, Uptown United urges the City to reject the Project and MND as proposed. Feel free to contact me if you have questions or would like to discuss these concerns.

Sincerely,



Everett DeLano

City of San Diego
January 22, 2019
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The Project will lead to significant impacts on public resources.

The Co-mingled Water System is a critical infrastructure project that will provide a significant benefit to the community. The Project will lead to significant impacts on public resources. The Project will lead to significant impacts on public resources. The Project will lead to significant impacts on public resources.

The Project will lead to significant impacts on water supply.

The Project will lead to significant impacts on water supply. The Project will lead to significant impacts on water supply. The Project will lead to significant impacts on water supply. The Project will lead to significant impacts on water supply.

For the foregoing reasons, I hereby certify that the Project will lead to significant impacts on public resources. The Project will lead to significant impacts on public resources. The Project will lead to significant impacts on public resources.


[Signature]



DELANO & DELANO

April 20, 2018

VIA E-MAIL

City Council
c/o City Clerk
City of San Diego
202 C St., Second Floor
San Diego, CA 92101

Re: Appeal of Environmental Determination of Hillcrest 111 Project (No. 522075):
Mitigated Negative Declaration

Dear Honorable Members of the City Council:

This letter is submitted on behalf of Uptown United in connection with its appeal of the proposed Hillcrest 111 Project ("Project") and Mitigated Negative Declaration ("MND").

I. The City Should Reject the MND

A memo from staff claims: "The appeal issues do not present substantial evidence to support a fair argument that the project may have a significant effect on the environment." But CEQA specifically requires "governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment." Pub. Res. Code § 21001(g). And as my January 25, 2018 letter explained (copy enclosed), CEQA requires the preparation of an Environmental Impact Report ("EIR") whenever substantial evidence in the record supports a "fair argument" that significant environmental impacts may occur. Pub. Res. Code § 21080(d); *No Oil, Inc. v. City of Los Angeles* (1975) 13 Cal.3d 68.

As currently presented, the Project is likely to lead to several significant impacts. These include significant impacts to community character, land use, aesthetics, traffic impacts, air quality impacts, impacts to soils and geology, greenhouse gas impacts, noise impacts, impacts to public services, impacts to water supply, impacts to light and shadows, and growth-inducing and cumulative impacts.

But the applicant could avoid these significant impacts by amending its project. Uptown United intends to present one such alternative at the April 23rd hearing. Unless

EVERETT L. DELANO III
Admitted in California and Colorado

M. DARE DELANO
Admitted in California and New York

104 W. Grand Avenue, Suite C
Escondido, CA 92025

(760) 741-1200 :: Office
(760) 741-1212 :: Fax

the Project applicant agrees to amend the Project to eliminate its impacts, the City should prepare an EIR before proceeding.¹

II. The City Should Not Separate the Project from its Environmental Review

The staff report warns: "The only issue before the City Council at this time is the appeal of the environmental determination, not the NDP project application." Fundamentally, the City is improperly separating consideration of the Project from consideration of its environmental impacts. The California Environmental Quality Act ("CEQA") specifically requires: "Local agencies integrate the requirements of [CEQA] with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively." Pub. Res. Code § 21003(a) (emphases added).

CEQA is also premised on "a belief that citizens can make important contributions to environmental protection and ... notions of democratic decision-making ..." *Concerned Citizens of Costa Mesa, Inc. v. 32nd Agricultural Assoc.* (1986) 42 Cal.3d 929, 936. By separating consideration of the Project from consideration of its environmental impacts, the City is discouraging public participation and discussion of the Project in concert with its impacts and potential alternatives to address such impacts.

III. Conclusion

Accordingly, the City Council should grant the appeal. Thank you for your consideration of these concerns.

Sincerely,



Everett DeLano

Enc.

cc: Paul Godwin
Anna McPherson

¹ Indeed, a fundamental purpose of an EIR is to consider alternatives that can avoid such impacts. "The core of an EIR is the mitigation and alternatives section.... 'The purpose of an [EIR] is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.'" *Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal.3d 553, 564 – 65 (quoting Pub. Res. Code § 21002.1(a)).

UPTOWN UNITED
3636 4th Avenue, Suite 310
San Diego, CA 92103
UptownUnited3@gmail.com
619-889-5626

April 22, 2018

Planning Commission
City of San Diego
1222 First Ave., 5th Floor

**Project: Hillcrest 111. Planning Commission hearing, May 31, 2018
Appeal of the Project Approval**

To the Planning Commission:

These comments relate to the Hillcrest 111 mixed-use project, proposed for Robinson Avenue and 7th Avenue in Hillcrest.

Summary

We believe that this project does not comply with the applicable Community Plan or zoning. It would be detrimental to the public health, safety and welfare. It does not meet the requirements of the Neighborhood Development Permit.

The project should be disapproved, with the understanding that design changes could lead to a compliant project.

Grounds for Appeal

These are described in the Attachment to Appeal, and in the documents referenced in that attachment. Most relevant is the letter from DeLano & DeLano dated Jan. 25, 2018. That letter lists 15 provisions in the Uptown Community Plan which apply to this project.

Pedestrian circulation. Aesthetics, Community Character & Shadowing.

Among the most serious impacts are those related to pedestrian circulation and aesthetic factors, including compatibility with community character and shadowing. The impacts extend to residents of other communities also, as this project will affect all San Diegans who use the adjacent street system.

Illustrations (attached)

1. **The Tunnel.** Shows excessive height and bulk of the project on the side of narrow Robinson Ave. The building height should relate to the street width. (Proposed building height = 84 ft. Street width = 40 ft.)
2. **The Sun Blocker.** Shows the view of the proposed project from the neighbors' yards on 7th Avenue.
3. **An Alternative.** Depicts the proposed bulky, sun-blocking design, compared with a stepped-down design which would provide a transition from new to old.

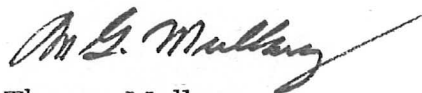
Action Requested

This project, if allowed to proceed with the current inadequate design, would result in significant, long-lasting harmful consequences to the community, and to the City of San Diego.

With some design changes, the project could be made consistent with the Community Plan and zoning. It could provide adequate sidewalks and setbacks, be compatible with the neighborhood, provide a transition to nearby lower-scale residential areas, and reduce shadowing. It would then be a welcome asset to the neighborhood, instead of an unwelcome intruder.

We request that the Planning Commission uphold the applicable city policies and ordinances, by taking the following action:

1. Find that the project is not consistent with the Uptown Community Plan and applicable zoning, and does not meet the requirements for a Neighborhood Development Permit.
2. To affirm the appeal.



Thomas Mullaney
Executive Director
Uptown United

HILLCREST III (PROPOSED)

ATTACHMENT 3

1. The Tunnel.

Shows excessive height and bulk of the project on the side of narrow Robinson Ave.
The building height should relate to the street width.

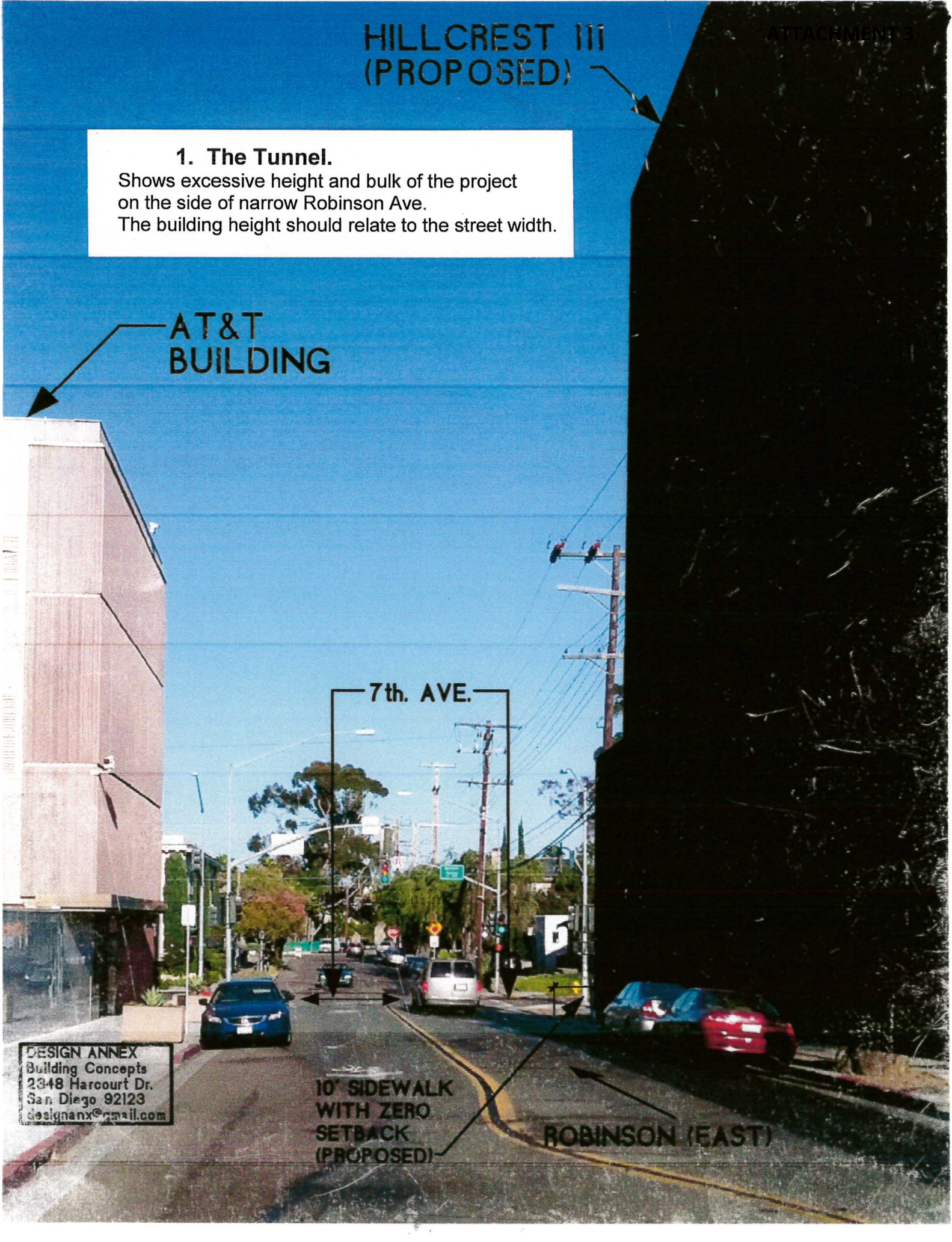
AT&T
BUILDING

7th. AVE.

DESIGN ANNEX
Building Concepts
2348 Harcourt Dr.
San Diego 92123
designanx@gmail.com

10' SIDEWALK
WITH ZERO
SETBACK
(PROPOSED)

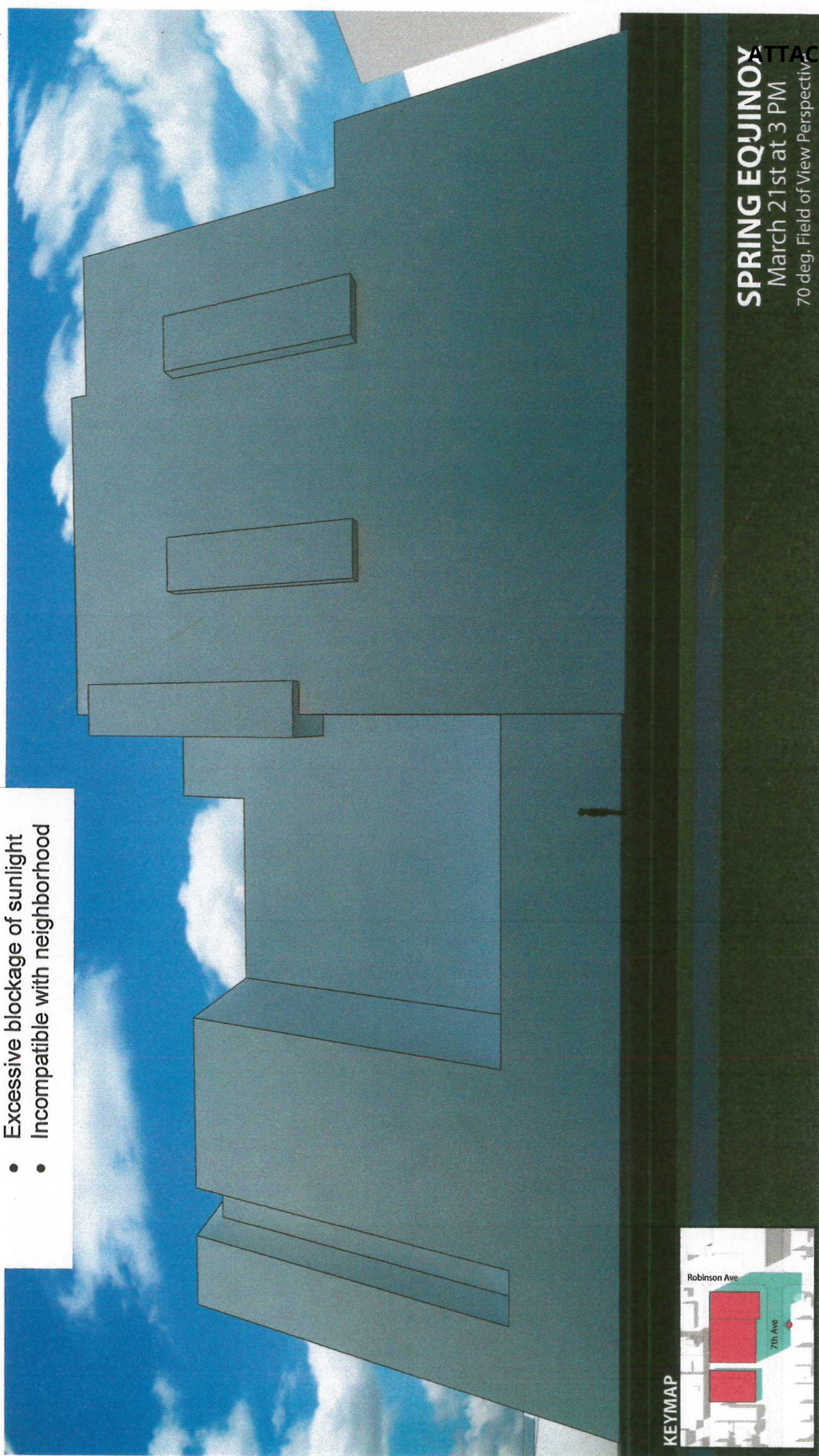
ROBINSON (EAST)



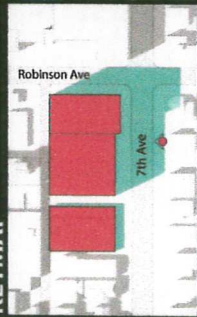
2. The Sun Blocker.

Shows the view of the proposed project from the neighbors' yards on 7th Avenue.

- Too bulky
- Excessive blockage of sunlight
- Incompatible with neighborhood



KEYMAP

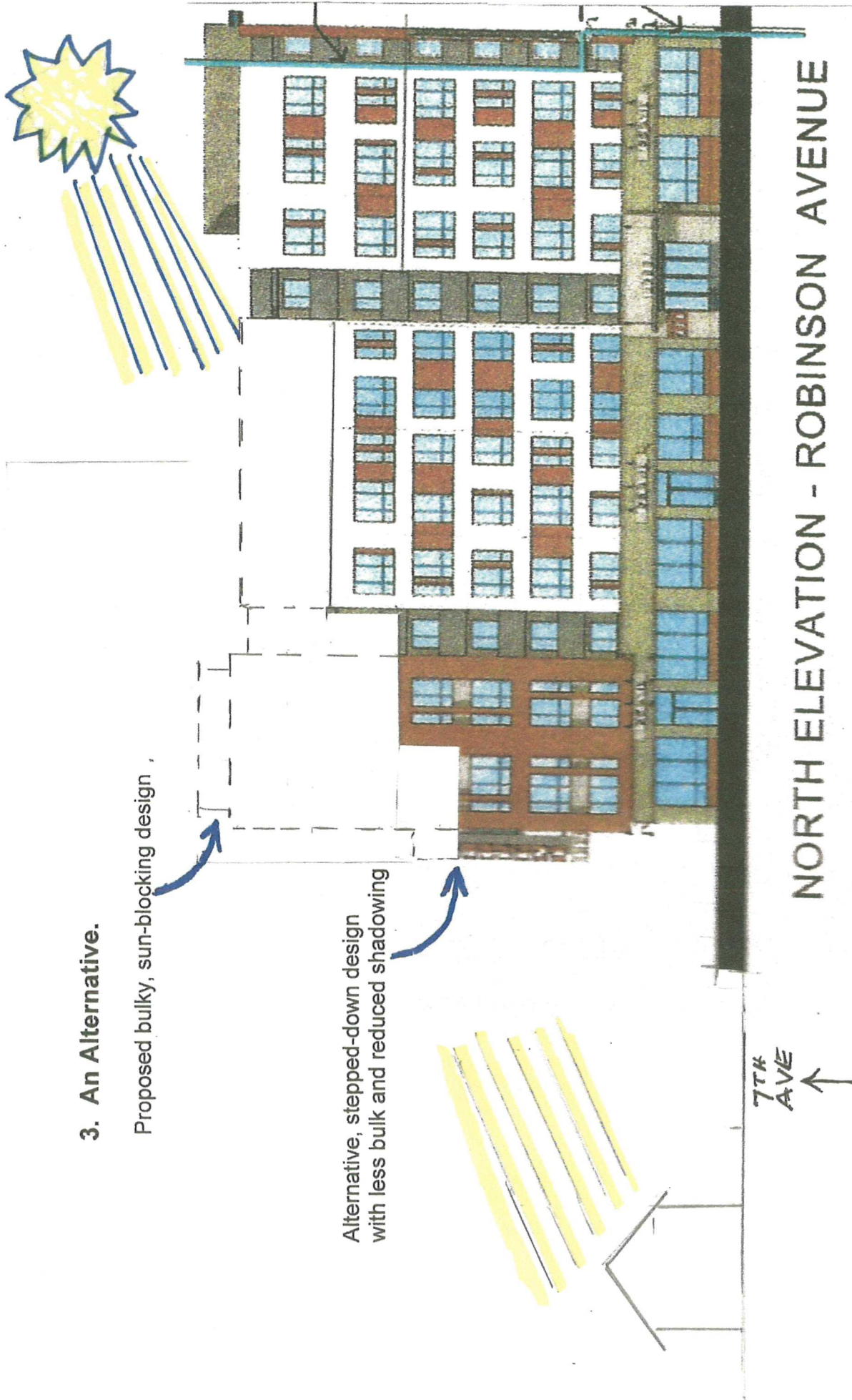


SPRING EQUINOX

March 21st at 3 PM

70 deg. Field of View Perspective

ATTACHMENT 3



3. An Alternative.

Proposed bulky, sun-blocking design

Alternative, stepped-down design
with less bulk and reduced shadowing

NORTH ELEVATION - ROBINSON AVENUE

7TH
AVE

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
One America Plaza
600 West Broadway, 27th Floor | San Diego, CA 92101-0903
Telephone: 619.233.1155 | Facsimile: 619.233.1158
www.allenmatkins.com

Heather S. Riley
E-mail: hriley@allenmatkins.com
Direct Dial: 619.235.1564 File Number: 377335-00003/SD870894.01

Via Email/U.S. Mail

May 23, 2018

Honorable Chairperson Stephen Haase and
Members of the Planning Commission
City of San Diego
1222 First Avenue, 5th Floor
San Diego, California 92101

**Re: May 31, 2018 Planning Commission Hearing
(Hillcrest 111 Project Appeal)**

Honorable Chairperson Haase and Members of the Planning Commission:

This letter is submitted on behalf of our client, Greystar GP II, LLC, the applicant of the 111 Hillcrest project ("Project"), in response to the objections raised in the April 20, 2018 letter ("April Letter") from Uptown United ("Appellant").

As explained below, Appellant's claims are incorrect. We therefore respectfully request that the Planning Commission reject the pending Project appeal and uphold the staff decision to approve the requested Neighborhood Development Permit ("NDP").

I. THE CITY COUNCIL PROPERLY REJECTED APPELLANT'S ENVIRONMENTAL CLAIM

One business day before the City Council's April 23, 2018 hearing on the environmental appeal, Appellant submitted its April Letter, which was no more than an "exclamation point" on the issues previously raised in the two identical March 20, 2018 appeals, in Appellant's March 31, [2018] letter ("March Letter"), and in Appellant's January 25, 2018 comments on the Project's mitigated negative declaration ("MND").

As explained in the April 12, 2018 memo prepared by City staff ("Staff Memo") in response to the duplicate appeals, every one of the potential impacts noted in the April Letter, including community character, land use, aesthetics, traffic, air quality, soils and geology, greenhouse gas ("GHG") emissions, noise, public services, water supply, light and shadows, growth-inducing and cumulative, was addressed at length in the MND and, in many cases, specifically addressed in the responses to Appellant's comment letter on the MND. (Memo, p. 2; MND pp. 21-56; MND,

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Honorable Chairperson Stephen Haase and Members of the Planning Commission
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Response to Letters of Comment, pp. 26-39.) In addition, staff provided supplemental responses to Appellant's Additional Grounds for Appeal, addressing the allegations of potential land use, public services, GHG, air quality, aesthetics and traffic impacts in their memo to the City Council. (Staff Memo, pp. 3-9.)

Appellant's April Letter did not add any specifics to the erroneous claim that an environmental impact report ("EIR") was required for the Project. Instead, the April Letter alluded to an "alternative" that supposedly would "avoid these significant impacts by amending [the] project" and that would be presented *for the first time* at the April 23rd hearing. By making such an ambiguous statement one business day before the environmental appeal was scheduled to be heard, Appellant was playing fast and loose with the California Environmental Quality Act ("CEQA"). The decisionmaker properly rejected Appellant's inappropriate strategy when the City Council denied the environmental appeal.

In fact, contrary to the misimpression Appellant sought to create in its April Letter, and setting aside the suspect nature of a last minute suggested modification that would *substantially* alter the very nature of the Project, the law is crystal clear – a MND does not need to consider alternatives to a project that will *not* result in significant and unmitigated impacts. (14 Cal. Code Regs. §§ 15070, 15071.) Here, the MND properly analyzed the Project's potential impacts, determined that the Project could result in potential impacts to paleontological resources, noise and traffic, and recommended appropriate mitigation measures to reduce those impacts below a level of significance. Staff adopted the proposed measures when the NDP was initially approved. Nothing more was or is required by CEQA.

Appellant may prefer a different version of the Project, but that preference is as irrelevant to the Planning Commission's decision on the Project appeal as it was to the City Council's decision on the environmental appeal. (*See, e.g., Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1270-1271; *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002; *Preserve Poway v. City of Poway* (2016) 245 Cal.App.4th 560, 603.)

II. THE PROJECT IS ENTITLED TO INCENTIVES UNDER THE STATE DENSITY BONUS LAW

In its March Letter, Appellant argued that "a project that results in a significant impact to health, safety or the environment should not receive an incentive under the law." Appellant claimed that because the Project "may result in several significant impacts," incentives were not appropriate here. To support that statement, Appellant included a laundry list of purported impacts. Each of the conclusory items listed in that letter were responded to in detail in the MND's responses to comments ("RTC").

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

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For instance, soils and geology impacts were addressed in RTC D-23 and transportation impacts were tackled in RTC D-17 – D-19, C-1 – C-4, F-1, G-2, G-11 and H-2. Intersection visibility was addressed in RTC C-5, C-8 and H-2; visual impacts were addressed in RTC A-2, B-1 – B-12, E-2, E-4, G-3 and I-5; community character impacts were addressed in RTC D-2 – D-14. Light and shading impacts were addressed in RTC D-16 and B-1 – B-11. Air quality and air circulation impacts were addressed in RTC D-21, D-22, D-24 – D-26 and H-3. Noise impacts were addressed in RTC D-27 and D-28; and water quality impacts were addressed in RTC D-29, D-30 and F-3.

Similarly, each of the Uptown Community Plan policies cited in the March Letter was specifically responded to in RTC D-7 – D-13, and the assertion that the Project does not meet the requirements for a NDP was addressed in RTC D-14. Appellant's recycled MND comments were properly rejected by the City Council in the context of the environmental appeal, and the Planning Commission should do the same thing in its consideration of the Project appeal.

III. THE CITY'S APPEAL PROCESS IS NOT UP FOR DEBATE IN THE CONTEXT OF THIS PROJECT

Appellant's final objection to the Project is an attack on the City's appellate process. Appellant claims that "by separating consideration of the Project from consideration of the environmental impacts, the City is discouraging public participation and discussion of the Project in concert with its impacts and potential alternatives to address such impacts." The City is doing no such thing.

The environmental appeal was properly noticed and anyone with an interest in the proceedings had an opportunity to register their position on the adequacy of the MND by submitting written and/or oral comments to the City Council. Appellant elected to do both, as did a number of other individuals. Likewise, the upcoming Planning Commission hearing on the Project appeal also was properly noticed and any interested persons now have the same opportunity to submit written and/or oral comments for the decisionmaker's consideration. The City has complied with every applicable provision of law to ensure maximum public participation in the appellate process.

As a result, nothing more can or should be required of the City, particularly, where Appellant chose to file both a Project appeal *and* an environmental appeal of a Process Two application. Appellant knowingly made the decision to separate the consideration of the Project from the MND, pursuant to the terms of the San Diego Municipal Code ("SDMC"). (SDMC §§ 112.0504, 112.0520.) In fact, the SDMC's appellate process, which sends environmental appeals directly to the City Council, regardless of the underlying decision process, is based on the provisions of CEQA, which mandate that:

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

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When a non-elected official or decisionmaking body of a local lead agency adopts a negative declaration or mitigated negative declaration, that adoption may be appealed to the agency's elected decisionmaking body, if one exists. For example, adoption of a negative declaration for a project by a city's planning commission may be appealed to the city council. A local lead agency may establish procedures governing such appeals. (14 Cal. Code Regs. § 15074(f).)

That is exactly what happened here when the City Council – the lead agency's elected decisionmaking body – considered and rejected the environmental appeal last month pursuant to the procedure laid out in detail in the SDMC. Appellant may dislike the appeal process, but an overarching disagreement with a practice that is based on the directives of CEQA is no reason to grant the pending Project appeal.

In sum, Appellant has failed to: (1) show that staff relied on inaccurate statements or evidence; (2) offer new evidence that was not available at the time the Project was approved; (3) demonstrate that the approval findings are unsupported by evidence in the record; or (4) establish that the Project is in conflict with a land use plan, City Council policy or the SDMC. (SDMC § 1120504(a)(3).) As such, we respectfully request that the appeal be denied and the decision to approve the NDP be upheld.

Our development team will be present on May 31, 2018 to answer any outstanding questions you may have on the Project. We thank you in advance for your consideration.

Very truly yours,



Heather S. Riley

HSR

cc: Elizabeth Maland, City Clerk
Corinne Neuffer, Deputy City Attorney
Paul Godwin, Development Project Manager
Carmina Trajano, Planning Commission Secretary