

June 13, 2024

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BY ELECTRONIC MAIL

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Planning and Land Use Management Committee  
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Re: 8th, Grand & Hope, Council File Nos. 23-1150 and 23-1151  
Response to Comment Letter to PLUM;  
CPC-2017-505-TDR-ZV-SPPA-DD-SPR, ENV-2017-506-EIR,  
VTT-74876-CN-1A, and ZA 2021-7053-ZAI

Dear Honorable Members of the PLUM Committee:

On behalf of our client, Mitsui Fudosan America (the “**Applicant**”), which proposes to redevelop the property located at 609-625 West 8<sup>th</sup> Street and 754 South Hope Street within the Central City Community Plan area, below are responses to a letter submitted by (i) Adams Broadwell Joseph & Cardozo on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (“**CREED**”) to the Los Angeles City Council Planning and Land Use Management Committee (“**PLUM**”) on May 7, 2024.

As background, The City of Los Angeles (the “**City**”) circulated the Draft Environmental Impact Report (the “**EIR**”) for the 8th, Grand & Hope (the “**Project**”) for public review and comment from November 18, 2021 through January 5, 2022. Following public review, the City published a comprehensive Final EIR on January 19, 2023, which included responses to comments received during the Draft EIR public review period.

Prior to the Hearing Officer/ Deputy Advisory Agency (the “**DAA**”)/Zoning Administrator (the “**ZA**”) public meeting that the City held on February 15, 2023, the City received three letters in opposition to the Project that included comments on the EIR. The three opposition letters were from Adams Broadwell Joseph & Cardozo on behalf of CREED; Lozeau Drury on behalf of Supporters Alliance For Environmental Responsibility (“**SAFER**”); and Richard Becher on behalf of Digital Realty. Each of these parties also subsequently filed appeals to the DAA’s and ZA’s determinations. The City’s responses and actions based on the administrative record demonstrate that both the Draft and Final EIRs meet the requirements of the California Environmental Quality

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Act (“CEQA”); the analyses presented therein are accurate and the conclusions are based on substantial evidence; many of the issues raised in the new comment letter and appeals to the City Planning Commission’s (the “CPC”) determinations have already been addressed in the Final EIR and the Staff Reports; and the Appellants’ claims are not supported by substantial evidence.

Prior to the CPC hearing, CREED submitted a comment letter on July 11, 2023 (the “**Prior to CPC Hearing Letter**” or “**PC Letter**”). On September 26, 2023, the CPC denied the appeals to the Vesting Tentative Tract Map ( the “**VTTM**”), EIR and the ZA’s Interpretation (the “**ZAI**”), approved the CPC case, and certified the EIR. Subsequently, CREED, SAFER, and Digital Realty filed three separate appeals. The City responded to the three appeals submitted PLUM ahead of the May 7 PLUM hearing. In their Staff Report, staff recommended to deny all the appeals. We also provided responses to the several land use-related appeal points in a letter that was submitted to PLUM on May 2, 2024.

In general, the comment letter raises similar comments that have been responded to as part of the Final EIR and in Staff Reports. As demonstrated by the responses below, this comment letter lacks any substantial evidence and does not constitute new significant information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

**Comment No. 1:**

**F. The Project Does Not Provide Affordable Housing, In Conflict with Local Land Use Goals, Objectives, And Policies**

CREED LA’s appeal explains that while the Project proposes to construct 580 residential units, it fails to provide any of the residential units at a below-market rate. The Project’s lack of affordable housing conflicts with applicable local goals, objectives, and policies promoting affordable housing in the 2021-2029 Housing Element. Staff Response 1A-4 and Response to Comment No. CREED—PC Letter-5 argue that the CEQA does not require an exact match between a project and a relevant plan, and that a Project need not be in perfect conformity with every plan policy in order to be consistent with the General Plan.<sup>105</sup> The City also reasons that provision of housing, regardless of affordability, is a welcome contribution to the City’s housing stock.<sup>106</sup> The City also argues that a payment to the CD 14 Public Benefit Trust Fund for Affordable Housing addresses affordable housing concerns.

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<sup>105</sup> Staff Report, pg.7, 29.

<sup>106</sup> Staff Report, pg. 29, pg. 120.

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The City's argument that the Project is generally consistent with housing policies ignores that Project is inconsistent with the entire subset of housing policies relating to affordable housing. The Housing Element contains numerous policies not just calling for provision of housing – but provision of affordable and mixed-income housing. Such policies include Objective 2.2, Objective 2.5, Objective 1.2, Objective 3.2, and Policy 1.2.1. A project that proposes no affordable housing and makes no commitment to mixed-income housing would thus be inconsistent with these policies. The Housing Element also contains policies prioritizing affordable and mixed-income housing near high quality transit (Policy 2.5.1, Objective 3.2). This Project would occupy a location near high quality transit without providing affordable housing, which is another plain inconsistency with housing policies. The City also fails to establish the Project's consistency with Policy 3.1.9 ("Encourage 'convertible design' of above ground parking structures in transit-rich areas so they can later be converted to housing."), despite proposing above-grade parking. In sum, the fact that the Project proposes 580 residential units does not automatically make it consistent with Housing Element policies. The City must fully analyze consistency with affordable housing policies and disclose inconsistencies.

The City states that the Project will be conditioned to comply with the City's Transfer of Floor Area (TFAR) ordinance by contributing approximately \$10 million to the City's affordable housing trust fund. The Housing Element's evaluation of this program in its "Evaluation of 2013-2021 Goals, Policies, Objectives and Programs" states that "[w]hile this program brought in funding for an array of public benefits downtown, the program has not met objectives with regard to funding and the creation of new affordable housing units downtown...The program is being revised with the update to the Downtown Community Plan, with the aim to prioritize the production of onsite affordable units directly in new construction."<sup>107</sup> The Staff Report offers no evidence countering this evaluation.<sup>108</sup> Thus, simply paying the TFAR Public Benefit fee is no substitute for provision of onsite affordable units.

### **Response to Comment No. 1:**

CREED makes similar claims as in previous appeals and comment letters that have been sufficiently addressed in the Final EIR and staff responses which demonstrated that the claims do not have any merit. These similar claims relate to alleged inconsistencies with the affordable housing policies of the 2021–2029 Housing Element and that the inconsistencies need to be

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<sup>107</sup> Housing Element, Appendix 5.1 - Evaluation of Programs, row 17, available at [https://planning.lacity.gov/odocument/dd0490a7-9f71-4792-9b65-04b1526c0488/Appendix\\_5.1\\_-\\_Evaluation\\_of\\_2013-2021\\_Goals,\\_Objectives,\\_Policies\\_and\\_Programs\\_\(Adopted\).pdf](https://planning.lacity.gov/odocument/dd0490a7-9f71-4792-9b65-04b1526c0488/Appendix_5.1_-_Evaluation_of_2013-2021_Goals,_Objectives,_Policies_and_Programs_(Adopted).pdf).

<sup>108</sup> Staff Report, Eyestone Environmental, Memorandum, pg. 10 (Response to Comment No. CREED—PC Letter-5).

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disclosed. Their letter claims the Project is inconsistent because its above-ground parking garage does not have the ‘convertible design’ that would lend itself to habitable uses in the future. CREED also claims the City offers no evidence to counter the City’s reasoning in updating their Housing Element’s policies to prioritize on-site construction of affordable housing.

With regard to the claim that the Project is inconsistent with the City’s 2021-2029 Housing Element, this and similar claims, as stated above, have been addressed in previous responses, including in the response letter submitted to PLUM on May 2, 2024 and in Staff Reports. As explained in prior responses, the City’s Housing Element does not require each development to provide affordable units. Moreover, a project that does not comply with every policy, goal or objective of a land use plan does not constitute an environmental impact. It is settled case law that a conflict between a project and an applicable plan does not constitute a significant impact under CEQA unless the inconsistency will result in an adverse physical change to the environment that is a “significant environmental effect” as defined by CEQA Guidelines Section 15382. Under State Planning and Zoning law (Government Code Section 65000, et seq.), strict conformity with all aspects of a plan is not required. Generally, plans reflect a range of competing interests and agencies are given great deference to determine consistency with their own plans. As discussed in the ruling in *Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal. App. 4th 704, State law does not require an exact match between a project and a relevant plan. Rather, to be “consistent,” the project must be “compatible with the objectives, policies, general land uses, and programs specified in the applicable plan,” meaning that a project must be in “agreement or harmony” with the applicable land use plan to be consistent with that plan, but need not be in perfect conformity with every plan policy. (Id. at page 719) As demonstrated in the land use analysis in the EIR and CPC Findings, and the fact that the Project is providing much needed housing, it is clear that the Project furthers the goals and objectives of the City’s Housing Element. As such, the Project would not conflict with the relevant housing provisions of any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

Additionally, CREED’s claim that the Project is inconsistent with Policy 3.1.9, which encourages a ‘convertible design’ of its above-grade parking garage, is incorrect. The Project’s above grade parking garage has been designed to have level floor plates to be easily converted into a habitable use in the future. In fact, the parking levels all share the floor plate with residential leasing office on Level 2. Each individual floor can be converted from the top down, incrementally over time as parking demand gradually reduces. The speed ramp on the north side of the building can be removed as parking is converted. The design of the exterior envelope of the garage also includes the guardrail that matches the dwelling unit balconies so that future units in the converted garage will be provided with a continuous terrace like the other dwellings in the building. The level

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parking design has been included on Sheets A3.01 and A3.02 of the Project's Exhibit "A" that was approved along with associated entitlements by CPC.

Lastly, CREED makes the claim that the City would need to provide evidence in the Project's EIR to counter the City's reasoning for updating their Housing Element policies to prioritize on-site affordable housing, claiming that Project's contributions to the City's affordable housing fund is insufficient to supersede the "prioritizing" policy. There is no requirement that a project's EIR include reasoning for not including on-site housing to address any specific provision of the Housing Element. As explained above, the EIR and CPC Findings adequately address the issue of the Project not being in conflict with the Housing Element. The Project would support the City's objective to provide an equitable distribution of housing opportunities by type and cost by providing a mixed-use development that would include a variety of new multi-family residential units. Additionally, as recognized in the comment, the Project would be contributing a significant amount to the City's affordable housing plan. Furthermore, a clause stating that the City would "prioritize" on-site affordable housing does not create a mandatory duty require every new private property development to provide such units. Moreover, whether or not the fund has had sufficient funds to address the citywide affordable housing shortfall is irrelevant to the Project's environmental impacts as the Project did not cause the shortfall and will contribute nearly \$10 million to address the issue in the future. Nothing further is required by the Housing Element or CEQA of any individual mixed-use housing project.

In sum, most of these comments have been made before and demonstrated to not have merit in the various responses to their appeals and comments. Moreover, none of these claims constitute a CEQA impact.

**Comment No. 2:**

**III. THE PROJECT'S LOCAL LAND USE APPROVALS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE**

CREED LA's appeal explains that the City lacks substantial evidence to approve the Project's land use approvals, which include Specific Plan Project Permit Adjustments, approval of a Director's Decision to allow 79 trees to be planted on-site, Site Plan Review, and a recommendation to City Council to approve a Transfer of Floor Area Rights. Each of these approvals requires the City to make a finding that the Project would not have significant adverse effects on public health, the general welfare, or the environment. The specific findings are discussed in detail in CREED LA's appeal. Because the Staff Report has not demonstrated that the Project's significant impacts have been fully analyzed and mitigated, the Committee must find that the City Planning Commission's approval of the Project's land use approvals was contrary to law and unsupported by the record.

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**Response to Comment No. 2:**

CREED LA makes the similar claim that the City lacks substantial evidence to approve the Project's various land use approvals and references their appeal, which was addressed in our May 2<sup>nd</sup> letter and by the City's Staff Report that recommended denial of their appeal. As in previous responses to their comments and appeals, their meritless claims have been sufficiently addressed by the City in the EIR, Findings, and in the Administrative Record. The Project's EIR has fully analyzed and provided appropriate mitigations for all potential impacts as has been comprehensively detailed with substantial evidence in the Findings. This claim provides no new information or specific evidence to substantiate its previous claims.

For all these reasons, and for the those set forth in the Responses to Comments in the Final EIR, the Findings made by the City, and those contained in the Administrative Record, we respectfully submit that this comment letter is without merit provides no new evidence to require additional analysis or recirculation of the EIR. Should you need additional information or have any questions, please feel free to contact me at 213-229-9548 or at [EKhalatian@mayerbrown.com](mailto:EKhalatian@mayerbrown.com).

Sincerely,



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Partner

cc: Jason McCrea, Department of City Planning Major Projects  
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