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VIA HAND DELIVERY & E-MAIL

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Hand Delivered to October 29, 2019 PLUM Meeting

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RE: Appeal of Case Nos. VTT-74568-1A and CPC-2016-3990-GPA-VZC-
HD-MCUP-SPR to the Los Angeles City Council; Related Case ENV-
2016-3991-EIR (SCH No. 2017051068)

Southern California Flower Market Project (709- 765 South Wall Street;
306- 326 East 7th Street; 750-752 South Maple Avenue)

Dear Council President Wesson, Honorable City Council Members, Ms. Wolcott, Ms. Bleemers, Mr. Villani and Ms. Nguyen,

On behalf of the AIDS Healthcare Foundation (“**Appellant**” or “**AHF**”), my Office is submitting comments in support of appeal of Los Angeles City Planning Commission’s August 8, 2019 approval of VTT-74568-1A (“**VTT case**”), CPC-2016-3990-GPA-VZC-HD-MCUP-SPR (“**CPC case**”) and ENV-2016-3991-EIR (SCH No. 2017051068) concerning the expansion and redevelopment of the existing Southern California Flower Market (“**Flower Market**” or “**Project Site**”) facility between Maple Avenue and Wall Street, south of 7th Street; and maintenance of the existing wholesale market. The existing property consists of two buildings, the North Building (206,517 square feet) and the South Building (185,111 square feet), both of

which include open rooftop parking. The North Building and its rooftop parking will be maintained and renovated, while the South Building will be demolished in order to allow for the development of a new mixed-use building with one level of subterranean parking.

The new mixed-use development will consist of wholesale trade, retail, restaurant, office, and residential uses. The new South Building would be 15 stories (comprised of a 12-story residential tower, over three stories of office, retail, restaurant, wholesale flower market, and parking) and 205 feet in height. The development program for both buildings would consist of 323 residential, of which 32 units will be set aside for Moderate Income households; 64,363 square feet of office space; 4,385 square feet of retail space; 63,785 square feet of wholesale space and storage; 13,420 square feet of food and beverage space; and 21,295 square feet of event space (of which 6,700 square feet of interior floor area of Event Space and covered exterior areas of Event Deck, in conjunction with lobbies and other miscellaneous spaces which are part of the total commercial, retail, wholesale and restaurant areas, comprise 10,226 square feet of building floor area). The Flower Market would continue to operate in the existing North Building during and after the redevelopment. (collectively “**Project**”)

AHF is a nonprofit organization based in Los Angeles providing cutting-edge medicine and advocacy to over 1,000,000 people in 41 countries. AHF is currently the largest provider of HIV/AIDS medical care in the U.S. Generating new, innovative ways of treatment, prevention and advocacy has been the hallmark of AHF's success. Since 1987, AHF has cared for thousands of people living with HIV and AIDS worldwide. AHF creates and implements new programs in communities across the U.S. and abroad, expanding delivery of healthcare and influencing policy with the aim of saving more lives. Many of AHF's clients and patients are at risk of homelessness and are in very low, low, or moderate income households that would qualify for affordable housing. Homelessness and housing instability has a significant negative impact on health, especially for those who are already chronically ill. AHF launched the Healthy Housing Foundation (“**HHF**”) to provide decent housing units at an affordable cost to low-income people, including families with children, and those previously unsheltered or homeless. AHF has purchased and rehabilitated a string of properties in the Los Angeles area since October 2017 and has renovated them for affordable housing.

AHF is aggrieved by this Project because its clients, patients and members live work and recreate in the area and would be negatively impacted by the Project's environmental impacts. .

Appellant expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Appellant incorporates by reference all comments raising issues regarding the SEIR submitted prior to certification of the SEIR for the Project. *Citizens for Clean Energy v. City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties).

I. THE PROJECT FAILS TO COMPLY WITH THE CITY'S AFFORDABLE HOUSING REQUIREMENTS

A. The Project Does Not Comply with the Los Angeles Municipal Code's Affordable Housing Requirements (Measure JJJ)

The Los Angeles Municipal Code (“**Municipal Code**” or “**LAMC**”) imposes additional affordable housing requirements on projects with ten or more residential dwelling units seeking a general plan amendment, zone change or height district change resulting in an increase in allowable residential floor area density or height or a residential use where not previously allowed. LAMC § 11.5.11.

LAMC Section 11.5.11 subd. (a)(1) of the LAMC requires that rental projects seeking a general plan amendment, zone change or height district change resulting in a residential density increase greater than 35% allocate “no less than 5% of the total units at rents affordable to Extremely Low Income Households, and either 6% of the total units at rents affordable to Very Low Income households or 15% of the total units at rents affordable to Lower Income households.”

LAMC Section 11.5.11 subd. (a)(2) of the LAMC requires that for sale projects seeking a general plan amendment, zone change or height district change to allow residential uses where residential uses were not previously allowed “provide no less than 11% of the total units at rents affordable to Very Low Income households, or 20% of the total units at rents affordable to Lower Income households, or 40% of the

total units at rents affordable to Moderate Income households” or provide “[n]o less than the affordability percentage corresponding to the level of density increase as provided in California Government Code Section 65915(f).”

Finally, if a Project has both for sale and rental units, the Municipal Code requires that the affordability requirements of LAMC section 11.5.11 subd. (a)(1 – 2) apply respectively to the rental portion of the Project and to the for sale portion of the Project.

The approved General Plan Amendment from M2-2D zone to C2-2D, coupled with the removal of the Community Plan Footnote No. 2 from the subject property to allow Height District No. 2 in lieu of the underlying Height District No. 2D, would result in the increase of the allowable FAR from 3:1 to 3.9:1 (or 656,350 sq. ft.) and a maximum height of 205 feet. August 26, 2019, Letter of Determination for CPC Case (“CPC LOD”), pdf 8, D-1. The square footage of the South Building will increase more than 3.5 fold, from the existing 185, 111 square foot to 656, 350 sq. ft. *Id.*, p. 1. The Project also proposes 323 residential dwelling units, which far exceeds the threshold number of ten units under Measure JJJ. LAMC § 11.5.11.

However, the Project’s merely allocates 32 of its 323 units, slightly less than ten-percent, towards only moderate income households. Not only does the Project fail to meet the minimum percentage requirements of affordable housing, but also fails to dedicate the required number of units to extremely low to low income residents. As a result, the Project fails to meet the requirements of Measure JJJ.

In addition, the Project does not state what portion of the Project will be sold or for rent, or otherwise require the number of affordable units required for sale or for rent units required by the Municipal Code.

B. The Project Does Not Comply with the City’s Housing Element of the General Plan.

The Housing Element of the General Plan recognizes that “[t]he downtown City blocks comprising “Skid Row” (more formally known as Central City East) is home to the largest concentration of homeless individuals in the City of Los Angeles. The relatively small area is home to 18% of the homeless population, or approximately 4,316 people on any given day.” General Plan, Housing Element, p. 1-31.

The Housing Element further recognizes that “[p]rovision of an adequate supply of both rental and ownership housing for all income levels is paramount to minimizing

housing problems such as overcrowding and overpayment that are common in the City.” *Id.* at p. 6-6. Objective 2.5 requires the City to Promote a more equitable distribution of affordable housing opportunities throughout the City. General Plan, Housing Element, p. 6-10. Policy 2.5.1 requires the City to “[t]arget housing resources, policies and incentives to include affordable housing in residential development, particularly in mixed use development Transit Oriented Districts and designated Centers. *Id.* Policy 2.5.2 similarly requires the City to “[f]oster the development of new affordable housing units citywide and within each Community Plan area.” *Id.*

Despite the clear requirements of the Housing Element to promote an adequate and equitable supply of affordable housing “for all income levels,” all of the Project’s residential units will serve market rate with only ten percent of units dedicated to Moderate Income tenants. None of the Project’s units will be dedicated to low income, let alone very or extremely low income residents, the very population that reside within the community. As a result, the CCP LOD’s conclusion that the Project provides housing at various income levels, Moderate Income and Market Rate, would be consistent with the Housing Element is unsupported by substantial evidence. CPC LOD, p. F-10.

C. The Project is Inconsistent with the Central City Community Plan.

The Central City Community Plan (“CCCP”) highlights the lack of availability of affordable housing and homelessness issues are endemic in the CCCP area. The CCCP recognizes that “[t]he majority [in the Central City area] live in the periphery, in mostly low income, over crowded neighborhoods.” CCCP, p. III-1. It contains Policy 9-1.1 that requires the preservation of existing affordable housing stock through rehabilitation and develop new affordable housing options. CCCP, p. I-15. The CCCP proposes a program to allow new housing which is affordable to neighborhood residents in the area west of San Pedro Street. *Id.* CCCP also identifies a “lack of affordable housing for workers” as one of the issues in the Community Plan area. CCCP, p. I-14. Residential Objective 1-2 requires the City “to increase the range of housing choices available to Downtown employees and residents” and Objective 1-3 requires the City “to foster residential development which can accommodate a full range of incomes.” CCCP, p. III-2.

First, the moderate income units the Project proposes to provide will not serve the neighborhood residents, many of whom are homeless. The Project Site is located

within the City’s Skid Row, where homelessness has exacerbated in the last few years.¹ According to the City of Los Angeles Housing & Community Investment Department, maximum qualifying income amount for moderate income level ranges from \$87,700 (family of one) to \$125,300 (family of four).² Thus, the Moderate Income units of the Project are designed to serve the neighborhood residents.

The CPC LOD boldly and erroneously concludes that the proposed General Plan Amendment “would allow the Proposed Project to contribute to help alleviate the City’s housing shortage by providing a mixed-income, mixed-use residential development, thus serving to address the City’s housing shortage and need for affordable housing.” CPC LOD, p. F-18 (emphasis added). As explained in the preceding paragraph, the Project’s Moderate Income units are not designed to meet the City’s need for affordable housing both near the Project area and within the City.

In conclusion, the Project violates the City’s Housing Element General Plan, Measure JJJ, and the Central City Community Plan.

II. THE CITY LACKS SUBSTANTIAL EVIDENCE TO SUPPORT THE REQUIRED FINDINGS TO APPROVE THE MASTER CONDITIONAL USE PERMIT FOR THE SALE AND DISPENSING OF ALCOHOL

The City’s Municipal Code requires a conditional use permit (“CUP”) for the sale or dispensing of alcoholic beverages, including beer and wine. LAMC §12.24(W). The City is required to deny a CUP unless 1) “the project will enhance the built environment in the surrounding neighborhood,” 2) “the project’s location, size, height, operations and other significant features...[are] compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety” and 3) “the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.” LAMC §12.24(E).

In addition, the Municipal Code requires that the City deny a CUP if the sale or dispensing of alcohol will 1) “adversely affect the welfare of the pertinent community,” 2) “result in an undue concentration of premises for the sale or

¹ http://www.ladowntownnews.com/news/homelessness-soars-by-in-county-in-city/article_9ca5546e-86f2-11e9-a950-bb67f5c69aee.html

² https://hcidla.lacity.org/system/files_force/documents/2019_income_and_rent_limits_-_lu_schedule_1_0.pdf?download=0

dispensing for consideration of alcoholic beverages,... in the area of the City involves, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control’s guidelines for undue concentration...” and 3) “will not detrimentally affect nearby residentially zoned communities in the area of the City involved.” LAMC §12.24(W)(1)(a).

First, the City failed to support their findings under LAMC §12.24(E). The CPC LOD fails to provide substantial evidence to support its findings that the Project will enhance the built environment in the surrounding neighborhood, is compatible with adjacent properties, the surrounding neighborhood or the public health and safety and substantially conform with the purpose, intent and provisions of the City’s General Plan, applicable community plans or any applicable specific plan. LAMC §12.24(E). Especially as to the last point, the Project does not substantially conform with the provisions of the City’s General Plan and the CCCP by failing to dedicate an adequate amount and type of affordable housing units as discussed in full above.

In addition, the Project will adversely affect the welfare of the pertinent community, result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages and will detrimentally affect nearby residentially zoned communities. See LAMC §12.24(W).

In particular, the City failed to support the finding that there is not an “undue concentration” of premises for the sale or dispensing of alcoholic beverages in the area under the State of California Department of Alcoholic Beverage Control Guidelines with substantial evidence, noting that there are 28 active licenses in the Project’s Census Tract. CPC LOD, p. F-28. The City admits that “[t]he number of existing on-site licenses within the census tract where the Project Site is located exceeds ABC guidelines.” As a result, the City’s own statement establishes that there is an undue concentration of premises for the sale or dispensing of alcoholic beverages in and near the Project Site.

As a result of the foregoing defects, the City prejudicially abused their discretion by making determinations and adopting findings that do not comply with the requirements of the City’s Municipal Code.

III. CONCLUSION

AHF requests that the City Council grant Coalition's appeal and deny the Project in its entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell M. Tsai", is written over a horizontal line.

Mitchell M. Tsai

Attorneys for AIDS Healthcare Foundation