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October 28, 2019

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**SUPPLEMENTAL APPEAL RESPONSE FOR THE FLOWER MARKET PROJECT APPEAL;
CF 19-1048-S1**

The following is a Supplemental Appeal Response to append the Appeal Response Letter to PLUM, prepared by Los Angeles City Planning, dated October 24, 2018 (Appeal Response Letter). In addition to the appeal of Case No VTT-74568-1A, filed by the Coalition for Responsible Equitable Economic Development (CREED LA), represented by Camille Stough of Adams Broadwell Joseph & Cardozo, and dated September 5, 2019, an appeal of Case No. CPC-2016-3990-GPA-VZC-HD-MCUP-SPR was also filed by the same Appellant, dated September 16, 2019. Below is a summary of the Appellant's appeal points and staff's responses.

Appeal Statement 1

The City's findings that the Project is consistent with the General Plan are not supported by substantial evidence.

Staff Response 1

The City made the required findings to demonstrate that the Proposed Project is consistent with the goals, objectives and policies of the General Plan, including the Framework Element, Housing Element, Mobility Plan, Health and Wellness Element, and the Central City Community Plan, as can be found on pages F-1 through F-16 of the Letter of Determination (LOD) for Case No. CPC-2016-3990-GPA-VZC-HD-MCUP-SPR, dated August 26, 2019. It should be noted that the Appellant continues to state in the following appeal points that the Project is "required" to comply with a specific goal, objective or policy; and it's lack of compliance constitutes an inconsistency with the Plan. However, under State Planning and Zoning Law (Government Code Section 65000, et seq.), strict conformity with all aspects of a plan is not required in order to be deemed consistent with the plan as a whole. Therefore, the Project's consistency with the General Plan is adequately supported by the Findings provided, as referenced above.

Appeal Statement 1-a

The Project is not consistent with the environmental provisions of the General Plan, specifically pertaining to air quality and public health, construction noise, and displacement.

Staff Response 1-a

As detailed in the Appeal Response Letter, the Project EIR adequately analyzed the Project's air quality and noise impacts, and determined that impacts would be less than significant or less than significant with mitigation. Further, as cited in the Staff Recommendation Report (Project Phasing, Page A-4; General Plan/Charter Findings, Pages F-18 and F-19) and the Letter of Determination (LOD) dated August 26, 2019 (pages F-18 and F-19), no displacement would occur as there are no existing residential units on site, and all existing flower market vendors would be able to continue operations during and after construction of the Project. Therefore, the Project does not conflict with the environmental provisions of the General Plan.

Appeal Statement 1-b

The Project is not consistent with the housing provisions of the General Plan and the Community Plan's residential objectives as it does not provide an adequate supply of housing types, or attract new and economically and ethnically diverse households.

Staff Response 1-b

As detailed in the General Plan/Charter Findings (Pages F-8 through F-10, F-13 and F-14), the Project is consistent with the Housing Element of the General Plan, as well as the Community Plan's residential objectives, as it will provide needed housing for a mix of income levels, on a Project Site that is that is served by two major transportation corridors that provide substantial public transit opportunities and facilities, within a major commercial and employment center. Furthermore, while the Project entitlements do not require the provision of affordable housing, the Applicant has volunteered to provide 32 below market-rate units. By providing residential units where residential uses were previously prohibited, the Project would be contributing to the needed supply of housing. Last, the Appellant has not submitted any evidence to demonstrate that this Project would not attract economically and ethnically diverse households. Therefore, the Project is consistent with the Housing Element and Community Plan.

Appeal Statement 1-c

The Project is not consistent with the Community Plan's specific and mandatory policies regarding police protection because the Project does not implement Design Out Crime Guidelines. The EIR does not mention how the expansion of commercial uses would change the need for police protection.

Staff Response 1-c

While the Design Out Crime Guidelines are not explicitly mentioned as part of the Project operations, the Project does include several security features such as lighting, active pedestrian activity, and eyes on the street to ensure safety on and around the Project Site. Specifically, the redevelopment of the Site will further activate the street with new ground floor dining and commercial uses, with residential units oriented outward, thereby providing a 24-hour presence and more eyes on the street to create a safer environment. Movable kiosks, new street trees, and a public paseo that will be open from 6:00 am to 10:00 pm, seven (7) days a week, accessible from Maple Avenue, will help activate the sidewalk during the day and evening hours. The Project locates residential density and new commercial uses near several transit options that afford easy access to employment centers, entertainment, and services; promotes pedestrian activity in the general area; and provides a community gathering point with new recreational and open space amenities available to residents and the surrounding community. The Project will create a pedestrian-friendly environment by maintaining a strong street wall with storefronts, a flower-themed mural along Maple Avenue, and a public paseo that will connect Maple Avenue and Wall Street through a creative open space for pedestrians.

The EIR analyzed additional residential population utilizing the officer to resident ratio, the statistic used by Los Angeles Police Department. In addition, it should be noted that, consistent

with *City of Hayward v. Trustees of California State University* (2015) 242 Cal.App.4th 833, significant impacts under CEQA consist of adverse changes in any of the physical conditions within the area of a project, and potential impacts on public safety services are not an environmental impact that CEQA requires a project to mitigate. (Cal. Const., art. XIII, § 35, subd. (a)(2) Thus, the need for additional police protection services is not an environmental impact that CEQA requires a project to mitigate, as it is the responsibility of the City to ensure public safety. As such, the analysis provided in the EIR correctly concludes that Project impacts to police protection services would be less than significant. In addition, the Project will create a safe and convenient street environment for customers, residents, and employees in the area, thereby not conflicting with the Community Plan's policies regarding police protection.

Appeal Statement 1-d

The Project is not consistent with the Community Plan's specific and mandatory policies regarding parking design standards because the Project provides more than the minimum required parking.

Staff Response 1-d

The Appellant states that the Downtown Design Guide "requires" that a project "not provide more than the minimum required parking"; however, this quoted text is not included in the Downtown Design Guide. Furthermore, the Downtown Design Guide, by name, is inherently a guiding document, and not a requirement. Regardless, the Community Plan does emphasize the need for parking in industrial areas, where parking is currently insufficient (Industrial Issues, Page I-15; Industrial, Page III-7). In response to public concern that the Project would not provide enough parking given the current demand of the Flower Market and nearby businesses, a Parking Demand Study and Shared Parking Analysis was prepared by Fehr and Peers to determine the parking demand generated by the existing Flower Market operations and to estimate the parking need for the Project. The Appellant asserts that the City does not provide support for why it is "requiring" more parking than necessary. However, as is evident from Condition of Approval 29.a Vehicle Parking, the City requires that a *minimum* number of residential and commercial automobile parking space shall be provided pursuant to LAMC Section 12.21 A.4 (a), (i) and (p). Any excess parking would be volunteered by the Applicant. As such, the Appellant's claim is unsubstantiated and the Project is consistent with the Community Plan's policies regarding parking.

Appeal Statement 2

The City lacks substantial evidence to support the required findings for the Vesting Zone Change and Height District Change, as the City has not provided adequate analysis or mitigation for the Project's environmental impacts that affect the public convenience and welfare.

Staff Response 2

The Appellant asserts that the City did not provide adequate analysis or mitigation as to the Project's environmental impacts; and that the Project would result in displacement of existing homeless and low-income residents. As stated in Staff Response 1 and in the Appeal Response Letter, the Project EIR adequately analyzed the Project's air quality and noise impacts, and determined that impacts would be less than significant or less than significant with mitigation. Concerns about the indirect impacts to the homeless and low-income residents and families should not be dismissed or diminished; however, consideration of these impacts has been balanced with a consideration of the Project's potential to provide 32 units of long-term affordable housing to benefit City residents. The provision of new housing and more affordable housing units within the Project is supported and specifically incentivized by various City plans, policies, and regulations, and the Project would help deliver the amount and type of housing desired by the City to support citywide housing goals and affordable housing needs. Therefore,

the City sufficiently made the required findings to approve the Zone Change and Height District Change.

Appeal Statement 3

The City fails to support the findings required by LAMC Sections 12.24 E.2 and 12.2[4] W.1(a)(1) with substantial evidence, which states that the Project's location, size, height operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

Staff Response 3

The Appellant again cites the invalidity of the EIR in order to substantiate this claim, stating that there is substantial evidence in the record to demonstrate that the Project will result in significant, unmitigated impacts and will therefore adversely affect the public health and welfare of the community. Specifically, the Appellant asserts that City did not adequately analyze, disclose, or mitigate the environmental impacts on air quality, noise and public health from construction and operational activities, specifically regarding air quality and health risk impacts, cancer risk impacts, construction noise impacts on sensitive receptors and geology and soils impacts. These claims have been properly responded to in the Appeal Response Letter under Staff Responses 1-1b and 1-1c (geology and soils); 1-2a through 1-2c (air quality, health and cancer risk impacts); and 1-3 (construction noise on sensitive receptors). Therefore, the City sufficiently made the required findings to approve the Master Conditional Use Permit.

CONCLUSION

Upon careful consideration of this appeal, staff finds that the Appellant has failed to adequately disclose how the City erred or abused its agency discretion. In addition, no new substantial evidence was presented that the City has erred in its actions relative to the EIR and the associated entitlements; nor was any new information to dispute the Findings of the EIR or the CPC's actions on this matter.

Consistent with the recommendation provided in the Appeal Response Letter, staff recommends that the appeals be denied in part, in order to deny the appeals of the decisions of the City Planning Commission to sustain the Advisory Agency's approval of Case No. VTT-74568, and approve Case No. CPC-2016-3990-GPA-VZC-HD-MCUP-SPR; and granted in part, in order to include Erratum No. 3, dated October 18, 2019, and the modified Mitigation Monitoring Program (October 2019) as part of the certification of the Southern California Flower Market EIR, and to make the corrections outlined in the Technical Modifications, dated October 24, 2019, to revise the Exhibit A and Findings for Case No. VTT-74568, Conditions of Approval for Case No. CPC-2016-3990-GPA-VZC-HD-MCUP-SPR, and the Project Description for both cases.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Mindy Nguyen
City Planner

VPB:LW:MN