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June 10, 2021

Honorable Council Members
Planning and Land Use Management Committee
City of Los Angeles
City Hall, Room 350
Los Angeles, CA 90012

APPEALS OF THE OLYMPIC TOWER PROJECT; CF 20-0813-S1

At its meeting on October 10, 2019, the City Planning Commission considered the Olympic Tower project, denied the appeal of the Vesting Tentative Tract Map VTT-73966-CN-1A, and approved the Master Conditional Use Permit, Conditional Use, Director's Decisions and Site Plan Review for Case No. CPC-2015-4557-MCUP-CUX-TDR-SPR-DD. On April 23, 2020, the City Planning Commission recommended approval of the transfer of 455,161 square feet of floor area as part of the Transfer of Floor Area Rights (TFAR) request for the project. The approvals are in conjunction with the demolition of the existing improvements and the construction of a 57-story high-rise consisting of 65,074 square feet of retail/commercial uses, 33,498 square feet of office, 10,081 square feet of hotel ballroom and conference areas for the proposed 373 hotel rooms, and 8,448 square feet of residential amenities and a 9,556 square-foot penthouse amenity area for the proposed 374 residential condominiums.

A determination letter with the City Planning Commission's certification of the Environmental Impact Report (EIR) and actions on the tract map was mailed on October 21, 2019 and subsequently appealed. Second-level appeals of the Vesting Tentative Tract Map were deemed denied and the tract map was approved on October 25, 2019 since the full Council did not consider the item within the required time limit and lost jurisdiction of the matter (Council File 20-0813). As such the Olympic Tower EIR was certified on November 25, 2019. The City's certification of the EIR and approval of the Vesting Tract Map were not the subject of a legal challenge. Therefore, the EIR is presumed to comply with CEQA.

A determination letter with the City Planning Commission's actions relative to CPC-2015-4557-MCUP-CUX-TDR-SPR-DD was mailed on May 26, 2020. Appeals of the City Planning Commission's action were filed in a timely manner by: 1) Alfred Fraijo, Jr. Esq. (LA Fig Property Owner, LLC); and, 2) Charles Carnow (Unite Here Local 11).

As discussed below, upon careful consideration of the appellants' points relative to CPC-2015-4557-MCUP-CUX-TDR-SPR-DD, planning staff has determined that the appellants have failed to establish, or present new substantial evidence, that the City erred or abused its discretion to find that the project was assessed in the previously certified EIR and to approve the associated

entitlements. Based on the discussion and analysis below, including the attached supplemental responses dated September 23, 2019, October 10, 2019, and February 26, 2021, planning staff therefore respectfully recommends that the appeals of CPC-2015-4557-MCUP-CUX-TDR-SPR-DD be denied.

Furthermore, responses are also provided below to those appeal points.

1. LA Fig Property Owner, LLC., Appeal

LA Fig Appellant Comment 1

The Project's height, massing, and density are not considerate of historic resources in the Project vicinity and not compatible with the area. The development will be constructed with no setback, Hotel Figueroa will be completely blocked on the southern frontage and will lose access to air and sunlight.

Staff Response 1

The Appellant asserts that the EIR fails to adequately analyze aesthetic and historic impacts of the proposed project. The project's footprint, height, and characteristics have not changed since the certification of the EIR on November 25, 2019 and was not subject to a legal challenge. Therefore, its analysis of aesthetic impacts is deemed to comply with CEQA.

Regarding the Project's aesthetic compatibility with surrounding uses, in accordance with Senate Bill 743 (SB 743) and Public Resources Code Section 21099(d), the Project is a transit priority project located within a transit priority area and as such, Project impacts related to aesthetics (including shade/shadow) are not considered significant impacts on the environment (See Draft EIR, Section IV.B (Aesthetics)). The Project Site, surrounding properties, and the greater Project Site area are zoned C4-4D (Commercial Zone, Height District 4), which allows for development of a mix of land uses, with no height restrictions. The Project is consistent with this existing zoning. Regarding the contention that the Appellant "will lose air and sunlight," the EIR adequately analyzes potential impacts, such as shade/shadow on neighboring properties, but the Appellant does not have any legal rights in air and sunlight affected by the Project. (*Pacifica Homeowners' Assn. v. Wesley Palms Retirement Community* (1986) 178 Cal.App.3d 1147, 1152.) Additionally, the building design recognizes its adjacency to the Hotel Figueroa by architecturally detaching the Project at a height above the Hotel Figueroa's roof level. For these and other reasons discussed in the EIR, Project's aesthetics impacts as they relate to the Hotel Figueroa would be less than significant.

In regards to the project having no setback along the southern edge of the Hotel Figueroa, the project's zero-yard setback is in accordance with setbacks allowed per the existing zoning as well as the historic development pattern in downtown Los Angeles. Furthermore, the new building is horizontally organized into two masses with different heights: a wide base thirteen stories in height, and a narrower tower that extends to 58 stories in height. The thirteen-story base is comparable to the building height of other historical resources in the study area, and equal in height to the adjacent Figueroa Hotel. The 58-story portion of the new building is placed towards the Olympic Boulevard frontage, creating as much separation as possible between this taller portion and the adjacent Hotel Figueroa historical resource (Refer to Figure IV.D-8 of Section IVD of the Draft EIR). The new building also responds to the scale and proportions of the Hotel Figueroa in the articulation of its facades. As illustrated on Figure IV.D-9 of Section IV.D of the Draft EIR, changes in the vertical plane and exterior materials of the facades are used to create a visual datum between the Hotel Figueroa and the new building. In conclusion, the Project would not result in an impact to the Hotel Figueroa's historic status because the new building does not physically alter the historical resource on the adjacent parcel. The new building is differentiated from the old by its contemporary design and materials; however, it is compatible in massing and

scale with the adjacent historical resources to the extent appropriate for this area of Downtown Los Angeles.

Further, the Project would not physically alter any of historic resources in the Project Site area, including the Hotel Figueroa, Variety Arts Center Building, and Petroleum Building (Draft EIR, Section IV.D (Cultural Resources); Olympic Tower L.A. Historic Resources Report (refer to Appendix D of the Draft EIR)). In addition, the Project would not affect the integrity of these resources such that they would not continue to convey their historical significance and/or not remain eligible for listing in the national, state, or local registers of historical resources.

Further, neither the Draft EIR nor the technical report relied on SB 743 for potential impacts on historic or cultural resources. Instead, those documents extensively analyzed the potential impacts the Project may have on historic and cultural impacts. The Hotel Figueroa was specifically included in this analysis. (Draft EIR at p. IV.D-21.) The Hotel Figueroa is identified as a historical resource in the vicinity of the Project Site. Yet, Figueroa Street is now characterized by high-rise buildings from the 1960s to the 2010s, although a few medium-rise historic buildings from the 1920s remain along this corridor. As a result, building heights in the area range from the one-story Original Pantry Cafe to the 73-story Wilshire Grand. Development of the Olympic Tower project would not preclude the Hotel Figueroa from continuing to convey its significance in the context of social clubs for its association with the YWCA. Thus, the impact on the Hotel Figueroa as a historical resource would be less than significant. Moreover, according to the Draft EIR, the Project would have less than significant impacts on historic and cultural resources in the vicinity, and the Project “would not affect the physical integrity or historic significance of” the Hotel Figueroa. (Draft EIR at p. IV.D-44–49.) As such, the Project would have less than significant impacts on historic and cultural resources including the Hotel Figueroa.

LA Fig Appellant Comment 2

The EIR fails to adequately analyze the Project’s construction noise impacts. The EIR’s analysis is flawed because it fails to evaluate sensitive receptors; it relies on erroneous construction equipment assumptions; it fails to correctly model all phases of construction; and it incorrectly applies the City’s CEQA thresholds.

Second, the EIR’s proposed mitigation measures for construction noise are inadequate. The mitigations are limited to equipment mufflers and temporary sound barriers, which are unlikely to reduce the impacts to less-than-significant levels. Further highlighting this problem, the EIR fails to include sufficient quantitative analysis demonstrating how it would be possible for these mitigations to reduce impacts to an acceptable level.

Third, the EIR completely fails to disclose, analyze, and mitigate the Project’s traffic noise impacts.

Fourth, the EIR fails to adequately analyze and mitigate operational noise impacts, including amplified music and noise from outdoor areas, which will interfere with Hotel Figueroa’s operations.

Staff Response 2

The EIR’s analysis is deemed to comply with CEQA as it was not challenged after the EIR was certified on November 25, 2019, and the tract map was approved.

Construction Noise Impacts

The Appellant asserts that the Project inadequately analyzed potential significant noise impacts. Based on the City’s significance thresholds used for assessing the Project’s construction related noise impacts, the Project’s construction phase would occur longer than 10 days in a 3-month period, and the appropriate significance threshold used was an increase of 5 dBA over existing ambient noise levels at the location of a sensitive receptor (Draft EIR, pp. IV.I-11 and IV.I-12, Section IV.I (Noise)). Further, the analysis of the Project’s construction-related noise impacts complies with applicable federal, state, and City guidance for assessing such impacts and is adequate, including in the identification of sensitive receptors, construction equipment

assumptions, and construction phasing. (Id., pp. IV.I-13, IV.I-15–IV.I-19, IV.I-25–IV.I-26.) Therefore, project impacts related to construction noise at the Project site would be less than significant.

Sensitive Receptor Status

Regarding the Hotel Figueroa as a noise sensitive receptor, the comment asserts at page 6 that the Hotel Figueroa “should be considered a sensitive receptor due the presence of sleeping guests immediately adjacent to the construction site.” But in the case of the Hotel Figueroa, this hotel use would not be considered a sensitive receptor according to the City’s the construction noise thresholds, and the construction noise levels experienced by temporary hotel guests would not constitute a significant impact to the environment for the following key reasons: (1) hotel guests would not be exposed to hazardous noise levels; (2) the Project’s noisiest construction activities would be limited to daytime hours between 7:00 AM to approximately 3:00-5:00 PM (Monday – Friday) and 8:00 AM 3:00-5:00 PM on Saturdays and thus, would not compromise healthy nighttime sleeping conditions; and (3) “transient lodgings” that may be considered sensitive to construction noise include uses that are oriented to long-term guests (e.g., Extended Stay America, etc.) or to displaced peoples (i.e., long-term shelters or camps). These types of uses are not characteristic of the Hotel Figueroa.

Mitigation Measure Effectiveness

Regarding mitigation measures for construction-related noise impacts in the Draft EIR, use of equipment mufflers and temporary noise barriers as mitigation measures represent industry standard “best practices” for the control of construction-related noise levels. The effectiveness of the mitigation measures at reducing the Project’s construction-related noise impacts is shown on Table IV.I-13 on page IV.I-26 of the Draft EIR, with supporting quantitative data included in Appendix G of the Draft EIR. Further, regarding operational noise impacts, the Appellant is referred to pages IV.I-14 through IV.I-18 in Section IV.I (Noise) of the Draft EIR that include an analysis of the Project’s operational noise impacts, including noise from outdoor areas. As discussed therein, the Project’s operational noise levels would not exceed the City’s significance thresholds, and impacts would be less than significant. Furthermore, the Project’s operational noise would not interfere with the Hotel Figueroa’s operations, including the Project’s outdoor areas as shown on Figure III-38 on page III-39 in Section III (Project Description) of the Draft EIR.

Traffic Noise Impacts

The EIR also disclosed and analyzed the Project’s traffic noise impacts. As stated in the EIR, off-site construction-related noise impacts and grading activities would necessitate up to approximately 175 haul trips per workday to export excavated soils from the Project site to a regional landfill. While this vehicle activity would marginally increase ambient noise levels along the haul route, it would not be expected to significantly increase ambient noise levels by 5 dBA or greater at any noise sensitive land use. According to the L.A. CEQA Thresholds Guide, a 3 dBA increase in roadway noise levels requires an approximate doubling of roadway traffic volume, assuming that travel speeds and fleet mix remain constant. Though the addition of haul trucks would alter the fleet mix of the Project haul route, their addition to local roadways would not nearly double those roads’ traffic volumes, let alone increase their traffic to levels capable of producing 5 dBA ambient noise increases. As a result, off-site construction noise impacts related to haul trips would be less than significant and no mitigation measures are required.

In regards to off-site operational noise sources, the majority of the Project’s operational noise impacts would be from off-site mobile sources associated with the Project’s net new daily trips. On a typical weekday, the Project would generate an estimated 336 net new AM peak-hour trips and 374 net new PM peak-hour trips. The noise impact of these vehicle trips was modeled using the FHWA Traffic Noise Model 2.5 (TNM 2.5). This noise prediction software uses traffic volumes, vehicle mix, average speeds, roadway geometry, and other inputs to calculate average noise levels along inputted roadway segments. For this analysis, an existing year (2015) no project

traffic scenario was compared to an existing year with project traffic scenario. Tables IV.I-6 and IV.I-7 of the Draft EIR show the Project's projected contributions to ambient noise level increases along modeled roadway segments. As shown, Project-related traffic would, individually, have a negligible impact on roadside ambient noise levels in the Project's vicinity. Therefore, Project impacts related to off-site noise sources would be less than significant.

Regarding the appellant's claim that long-term noise coming from traffic traveling to and from the Project site was not analyzed, the project's contribution to long-term noise was analyzed as shown on Tables IV.I-9 and IV.I-10 of the Draft EIR. As shown, with or without the addition of Project traffic, future roadside ambient noise levels would not increase by 3 dBA to or within their respective "Normally Unacceptable" or "Clearly Unacceptable" noise categories, or by 5 dBA or greater overall. Therefore, Project's cumulative operational noise impact would be less than significant and no mitigation measures are required.

Outdoor Operational Noise

Regarding noise impacts from outdoor operational noise, refer to pages IV.I-14 through IV.I-18 in Section IV.I (Noise) of the Draft EIR that include an analysis of the Project's operational noise impacts, including noise from outdoor areas. As discussed there, the Project's operational noise levels would not exceed the City's significance thresholds, and impacts would be less than significant.

Furthermore, the Project's outdoor areas are shown on Figure III-38 on page III-39 in Section III (Project Description) of the Draft EIR. As shown, the outdoor areas are located on Levels 13 and 32 through 57. The outdoor area closest to the Hotel Figueroa is on the north side of the proposed building on Level 13, which is at a height of 260 feet above ground level and is the approximate height of the top of the Hotel Figueroa. This outdoor area is for passive recreational activities (e.g., talking, sitting, walking, etc.) and has no plans to include any amplified music or sound. Because the outdoor area on the north side of Level 13 is at the same height as the top of the Hotel Figueroa (refer to Figure III-34 on page III-35), it is very likely that sound generated from this outdoor area would not be audible to any of the users of the Hotel Figueroa. The other open space included on Level 13 would be located toward the interior of the building and along the south side of the proposed building, which fronts Olympic Boulevard, and would not be audible to any off-site receptors. All other outdoor areas on the north side of the proposed building are located on levels that are approximately 234 to 502 feet above the Hotel Figueroa (i.e., Levels 32 through 57). Again, outdoor areas on these levels would be for passive recreation and have no plans to include amplified music or sound. Given the distance of these levels from the Hotel Figueroa, sound generated on these levels would not be audible to users of the Hotel Figueroa. For these reasons, the Project's operational noise would not interfere with the Hotel Figueroa's operations or the operations of any other receptor near the Project Site.

In addition, any ambient music for the Project's outdoor community, residential, hotel, or commercial areas would be required to comply with LAMC Sec. 112.01, subdivision (b), which regulates amplified noises within residential zones, or within 500 feet thereof. Compliance would prevent amplified music from being audible to the human ear at a distance "in excess of 150 feet from the property line of the noise source."

LA Fig Appellant Comment 3

The EIR also fails to adequately analyze and mitigate the Project's vibration impacts and potential structural damage to the Hotel Figueroa.

Mitigation Measure I-3 is inadequate, which prohibits vibration sources within 10 feet of the Hotel Figueroa from operating simultaneously. However, the EIR does not explain how this limitation will be enforced or how it will avoid the potential for vibration damage.

Mitigation I-5 is problematic. The mitigation measure violates CEQA in two key respects. First, it does not include adequate performance standards for the structural monitoring plan, which are necessary to ensure that vibration impacts will not occur. Second, the measure is unenforceable by the City because it cannot be implemented without Hotel Figueroa's consent and cooperation, which has not been asked for or given.

Staff Response 3

The Appellant asserts that the Project will have significant vibration impacts on the Hotel Figueroa despite mitigation. Regarding Mitigation Measure I-3, the Appellant is referred to page V-9 in Section V (Mitigation Monitoring Program) of the Final EIR that indicates the mitigation measure will be enforced by the Department of City Planning and will be monitored by the Department of Building and Safety via periodic field inspections, requiring field inspection sign off. Mitigation Measure I-3 limits the number of pieces of vibration-producing construction equipment that are in simultaneous use to within 10 feet of the property line shared by the Project Site and the Hotel Figueroa. For these reasons, the estimated construction-related vibration levels at the shared property line identified in the Draft EIR are conservative, and Mitigation Measure I-3 (in concert with Mitigation Measure I-4 [i.e., no pile driving]) would ensure that the Project's construction-related vibration impact would be less than significant. Regarding Mitigation Measure I-5, the performance standard for Mitigation Measure I-5 is stated within the language of the mitigation measure – 0.25 PPV inches/second – and that performance standard can be measured without accessing the Hotel Figueroa property (as discussed above). In that way, this mitigation measure does not require the “consent and cooperation” with Hotel Figueroa and as such, is enforceable without the consent and cooperation of Hotel Figueroa. Furthermore, pursuant to the City's Addendum dated May 2021, Mitigation Measure MM-I-5 was modified to reflect the City's preferred formatting to ensure consistency with similar, current mitigation measures included in EIRs for other current projects for which potentially significant impacts related to construction vibration have been identified. Within those modified measures, the vibration monitoring system shall be programmed for two preset velocity levels: 1) a warning level of 0.24 PPV, and 2) a regulatory level of 0.25 PPV. The system shall also provide real-time alert when the vibration levels exceed the two preset levels. In the event the warning level (0.24 PPV) is triggered, the contractor shall identify the source of vibration generation and provide feasible steps to reduce the vibration level, including, but not limited to halting/staggering concurrent activities and utilizing lower vibratory techniques. Given these stringent levels of monitoring, adequate performance standards for the structural monitoring plan are available to ensure that vibration impacts will not occur. Please see Addendum attachment to this letter.

LA Fig Appellant Comment 4

Finally, the EIR admits that the Project will have significant historic impacts due the area's “high sensitivity for containing historic archaeological resources.” It imposes a mitigation measure for this impact, but like many other mitigations in the EIR, it is also ineffective. It merely requires the Project sponsor to study and monitor for these resources during construction. It fails to address what should happen if these resources are actually discovered, and it fails to impose adequate protections or treatments for any discovered resources.

Staff Response 4

The Appellant asserts the Project's measures to mitigate impacts to the inadvertent discovery of archaeological resources are ineffective because they only require the Project Applicant to study and monitor resources during construction. However, MM D-2 requires the Project Applicant to prepare a Monitoring and Mitigation Plan, which will address treatment of such resources if discovered. In addition, the City's environmental condition of approval No. 5 as required in the CPC's Letter of Determination dated May 26, 2020, mandates any resources discovered must be treated in accordance with State requirements. Substantial evidence supports the finding that potential impacts to archeological resources will be less than significant.

Furthermore, MM-D-4 (related to archaeological resources) was modified as part of the Addendum dated May 2021 to clarify the procedures and implementation of the mitigation measure, to reflect the City's current standard language for archeological mitigations, and to ensure consistency with similar mitigation measures included in EIRs for other current projects. Modifications to Mitigation Measure D-2 provides for additional details regarding the contents of an archeological monitoring program and clarifies that it shall be prepared and conducted in accordance with the regulations of the California Public Resources Code. Modifications to Mitigation Measure D-4 clarify that the Monitoring Plan shall also document non-unique archeological finds and notes the timing for when a Monitoring report is provided to the City. Therefore, the project does impose adequate protections or treatments for any inadvertent discovered resources.

LA Fig Appellant Comment 5

The EIR fails to adequately analyze and mitigate the Project's significant impacts related to air quality and greenhouse gas ("GHG") emissions.

Staff Response 5

Regarding the analysis and mitigation of the Project's air quality and greenhouse gas (GHG) emissions impacts, the Appellant is referred to Responses to Comments CREED LA 2/SWAPE AQ-A through AQ-I in the Final EIR that include discussions of the adequate analysis and mitigation of the Project's air quality and GHG emissions analyses in the Draft EIR. It also includes a discussion of the Project's localized pollutant emissions impacts during the Project's construction phase, which explains that with implementation of Mitigation Measure C-1, the Project's localized construction emissions would not exceed SCAQMD's significance thresholds, and construction-related localized air quality impacts (including those to sensitive receptors) would be less than significant.

Specifically in regards to the project's GHG analysis, as discussed in the Final EIR, the analysis of GHG emissions in the Draft EIR meets the requirements of Section 15064.4(c) of the CEQA Guidelines by demonstrating the Project's compliance "with regulations or requirements adopted to implement a Statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions."¹ Specifically, the analysis focuses on consistency with the AB 32 Scoping Plan and SCAG's 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (2016-2040 RTP/SCS), both appropriate plans that demonstrate a reduction and/or mitigation of GHG emissions and were adopted through a public review process. Specifically, the GHG emissions analysis in the Draft EIR shows the Project's consistency with strategies from the AB 32 Scoping Plan that address a number of source categories, some of which are applicable to local development projects. In addition, the Draft EIR shows the Project's consistency with actions and strategies from the regional GHG emissions reduction plan (the 2016-2040 RTP/SCS).

The Draft EIR provides further evidence of the Project's consistency with the call for Statewide GHG emissions reductions beyond the requirements of CEQA Guidelines Section 15064.4(c) by assessing the Project's consistency with applicable local GHG emissions policies. This includes disclosing the Project's consistency with the City of Los Angeles' ClimateLA Plan, Green Building Ordinance, Mobility 2035 Plan, and Green LA Plan. The assessment also provides additional evidence of the Project's consistency with Statewide policies that govern GHG emissions reductions. This includes a comparison with Executive Order B-30-15 that focuses on a 2030

¹ *To qualify, such a plan or program must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. Examples of such programs include a "water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plans [and] plans or regulations for the reduction of greenhouse gas emissions."*

horizon and Executive Order S-3-05. It should be noted that comparisons to these local plans and Statewide mandates are not used as the basis for any significance finding but rather provide additional evidence and context for the Draft EIR's finding that the Project is consistent with the AB 32 Scoping Plan and the 2016-2040 RTP/SCS, as well as the City's applicable policies for GHG reduction.

Additionally, as stated in Response to Comment CREED LA 2/SWAPE AQ-I, as there is no adopted numeric GHG threshold from CARB, SCAQMD, the City, or any other relevant agency, the analysis of GHG emissions in the Draft EIR meets the requirements of Section 15064.4(c) of the CEQA Guidelines by demonstrating the Project's compliance "with regulations or requirements adopted to implement a Statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions." This is the threshold of significance used by the City of Los Angeles as the Lead Agency. No other significance thresholds are routinely used by the City for determining the significance of the GHG emissions impacts. The South Coast Air Quality Management District's (SCAQMD) interim GHG emissions significance threshold referenced by the Appellant has never been adopted and is not used as a significance threshold by the City. As stated in the Draft EIR, the Project would not conflict with the plans identified above, and impacts related to GHG emissions would be less than significant. For these reasons, the City Council did not err or abuse its discretion in accepting the conclusions of the EIR for the Project. All of the comments on the Draft EIR (including those referenced by the Appellant) have been addressed in the Final EIR. Moreover, a health risk assessment for the Project's construction activities is not warranted or necessary.

For the measures to mitigate the Project's potential air quality impacts, the Appellant asserts mitigation measures MM C-1 and MM C-2, which require all off-road construction equipment greater than 50 hp to meet U.S. EPA Final Tier 4 emission standards and the use of use of 2010 or newer diesel haul trucks, are unenforceable and ineffective. However, the Appellant provides no substantial evidence to support such a claim, providing no evidence that Final Tier 4 engines or 2010 model year or newer diesel haul trucks cannot be deployed during construction. Tier 4 engines have been phased in nationwide since 2008 for all engine types. While some manufacturers were given limited flexibility to phase in compliant engines under the Transition Program for Equipment Manufacturers ("TPEM"), this provided up to seven years of additional time to offer such equipment. For engines less than 56 horsepower (hp), this TPEM period ended at the end of 2014. Engines between 56 and 130 hp had until the end of 2018, while larger engines of 130 hp or more ended at the end of 2017. As a result, Tier 4 equipment is commercially available from all manufactures, especially for common types of equipment to be used during construction of the Project. MM C-1 confirms any emissions control devices shall achieve appropriate performance standards. Mitigation Measures C-1 and C-2 are therefore technically feasible and enforceable. The Project is required to implement effective construction-related air quality mitigation measures, such as the use of Final Tier 4 construction equipment, which is feasible and effective at reducing air quality impacts to a less than significant level.

LA Fig Appellant Comment 6

The Project site was historically operated as a gas station with underground fuel storage tanks, and it has resulting soil contamination. Project construction will disturb the contaminated soil and lead to potential health and water quality impacts on neighboring residents and workers, including at the Hotel Figueroa. The EIR fails to adequately disclose, analyze, and mitigate these impacts.

Staff Response 6

The Appellant raises brief comments about the historical presence of underground storage tanks (USTs) at the Project Site, which was addressed in Response to Comment DTSC-2 in the Final EIR that addressed the same issue. Additionally, the Appellant is referred to Mitigation Measure G-1 (implementation of a soils management plan) as revised in the Final EIR (refer to page IV-13 in Section IV [Revisions, Clarifications, and Corrections to the Draft EIR] of the Final EIR that describes the requirements to ensure that the Project would not result in any significant impacts

related to the potential to encounter soil contamination at the Project Site. Further, the Appellant fails to substantiate how the EIR fails to adequately disclose, analyze and mitigate any potential soil contamination.

LA Fig Appellant Comment 7

The Project is inconsistent with the City's mandatory land use policies related to affordable housing, density, and land use compatibility. Contrary to Planning staff's position, these policies are designed to mitigate environmental impacts, and therefore the Project's inconsistency with them is a CEQA issue, as well as a planning and zoning issue.

Staff Response 7

The Appellant raises brief comments concerning potential impacts related to land use and population and housing. Regarding land use, the Appellant is referred to Response to Comment 2 in the letter from CAJA Environmental Services, dated September 23, 2019, which explains how the Project is consistent with all applicable land use policies associated with development of the Project Site (Attachment to this Report). Regarding population and housing, Section IV.J (Population and Housing) of the Draft EIR that discusses that the number of residents, housing units, and employees associated with the Project would fall within regional growth projections for the Project Site area, and impacts related to unplanned population growth would be less than significant.

LA Fig Appellant Comment 8

The EIR discloses that the Project will cause significant and unavoidable traffic impacts during both construction and operation. These impacts are unacceptable and must be further mitigated to avoid disruption to the L.A. Live/Staples Center Sports and Entertainment District, and the EIR relies on incorrect trip generation, baseline, and cumulative development assumptions.

Staff Response 8

The Appellant claims there will be potential impacts related to transportation. As a point of clarification, while the Appellant is correct that significant and unavoidable traffic impacts have been disclosed in the Draft EIR related to the Project, no Project-specific significant and unavoidable construction traffic impacts were identified in the Draft EIR. As noted in the Draft EIR, the Project's forecast peak-hour construction traffic generation would be much less than the Project's peak-hour operational traffic generation and would not be expected to result in any significant study intersection level of service (LOS) impacts. However, given the Project's forecast peak-hour construction traffic generation in combination with the peak-hour construction traffic associated with the related projects plus the potential roadway capacity effects through the Project Site area, it is possible that this cumulative condition could result in significant LOS impacts at study intersections. Thus, it was conservatively concluded in the Draft EIR that cumulative construction traffic impacts would be potentially significant and unavoidable.

As explained in the City of Los Angeles' Department of Transportation (LADOT) Interdepartmental Correspondence letter dated June 17, 2017, transportation-related mitigation measures are required to be implemented by the Project Applicant, which includes Transportation Systems Management (TSM) Improvements and a Transportation Demand Management Program. Under these measures, the Project Applicant is required to provide pedestrian improvements and enhancements such as leading pedestrian intervals and continental crosswalks along 10 intersections at a total cost of \$152,500 that will help avoid disruptions to the L.A. Live/Staples Center Entertainment District. These potential impacts and mitigation measures were properly analyzed. The Appellant also contends that the Project would be required to improve the I-110 Freeway off-ramp. The Appellant is also referred to Response to Comment Caltrans-3 in the Final EIR for a full discussion of the analysis of State highway facilities in the Draft EIR traffic analysis. Based on the review conducted as part of the traffic analysis prepared for the Draft EIR, the amount of Project traffic expected to occur on the freeway system would not meet any of the

referenced criteria or result in significant impacts, and therefore does not necessitate improvements to any freeway off-ramp.

Regarding the contention that for operational and construction traffic impacts, the EIR "imposes only token mitigation measures," the Appellant is referred to the Mitigation Monitoring Program (MMP) located at Section V of the Final EIR. (See Final EIR at pp. V-11-V-14 ["Transportation/Traffic" MMP].) The mitigation contained in the MMP is sufficient to address the operational and construction traffic impacts identified in the EIR. The mitigation measures include a list of strategies to be required by the enforcing agencies, as required by CEQA. Indeed, "[d]eferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan." (Defend the Bay v. City of Irvine (2004) 119 Cal.App.4th 1261, 1275.) Under these mitigation measures, the Project Applicant is not allowed to proceed until the appropriate plan has been prepared by the Project Applicant and approved by the enforcing agency.

LA Fig Appellant Comment 9

CEQA requires the EIR to analyze a reasonable range of alternatives that would reduce the Project's significant environmental impacts. The Project's EIR considers only three alternatives: (1) the no project alternative; (2) no transfer of FAR and no hotel; and (3) no office and reduced retail. This range of alternatives is inadequate. At a minimum, the EIR should analyze an alternative with reduced height and density and an alternative design, with adequate protective setbacks, which would avoid or reduce the significant aesthetic, cultural, noise and vibration impacts on the Hotel Figueroa.

Staff Response 9

Regarding analysis of alternatives, an EIR is required only to analyze a reasonable range of alternatives that would feasibly attain most of the basic objectives and avoid or substantially lessen the project's significant environmental impacts. (Pub. Resources Code, § 21002; Cal. Code of Regs., tit. 14 ["CEQA Guidelines"], § 15126.6, subd. (a).) Pursuant to this framework, the Draft EIR properly analyzed alternatives that could substantially reduce or avoid significant impacts of the Project, while still meeting the basic project objectives. For example, given the existing conditions of the Project Site and the potential to encounter unknown archaeological (cultural) resources, any development of the Project Site that includes ground-disturbing activities (which would likely be any development of the site) would result in the same impact related to archaeological resources as the Project, requiring the same mitigation identified in the Draft EIR for the Project that would reduce the impact to less than significant. Thus, an alternative to address this impact is not warranted. In addition, the Alternatives should address significant environmental impacts, of which the appellant did not identify any that were significant or mitigated to a level of insignificance. Therefore, the Draft EIR reasonably considered a range of alternatives as required under CEQA. Furthermore, the Appellant does not provide any evidence to support that a reduced height and density and design alternative would reduce noise and vibration impacts of the project. As the project does not create aesthetic or cultural impacts, no further alternatives are needed to address these impact areas. Further, Alternative B (No Transfer of Floor Area Ratio (TFAR) and No Hotel) and Alternative C (No Office and Reduced Retail) both have reduced project square footage and height.

2. Unite Here Local 11 Appeal

Unite Here Local 11 Appellant Comment 1

The EIR fails to adequately analyze and implement all feasible mitigation measures to reduce the Project's environmental impacts, particularly as they relate to air quality, greenhouse gas ("GHG") emissions, land use consistency, and transportation impacts. The Entitlements are not by right, and the required land use findings for the Entitlements—such as the Project "will enhance the built environment" (LAMC § 12.24.E.1), "will not adversely affect" surrounding neighborhood or

public health (id., subd. E.2), “will not adversely affect the welfare of the pertinent community” (id., subds. W.1.a.1)—cannot be made without an adequate CEQA review. Thus, the findings made for the Entitlements relying on faulty CEQA are not supported by substantial evidence.

Staff Response 1

The Appellant claims that the EIR fails to adequately analyze and implement all feasible mitigations measures to reduce the project’s environmental impacts as they relate to air quality, greenhouse gas emissions, land use consistency and transportation impacts, but fails to substantiate those claims with any substantial evidence or explain how the analysis or mitigation measures are deficient. The Appellant raised these issues in their appeal of VTT-73966-1A, which were addressed in Planning Staff’s Appeal Report dated October 10, 2019 and is attached to this report.

Unite Here Local 11 Appellant Comment 2

The specific points at issue were fully outlined in the comment letters attached to Appellant’s VTT-73966 and CEQA appeals, and the appeal incorporates by reference all previous comments submitted by any commenting party or agency, including written comments from Appellant dated October 7, 2019 and environmental expert Greg Gilbert dated October 8, 2019.

Staff Response 2

The Appellant provides no specific appeal points but references previously submitted appeal letters and comment letters to the file. The Appellant is directed to Planning Staff’s Appeal Report dated October 10, 2019 which is attached as an Attachment to this report and fully addresses the previously submitted October 7, 2019 and October 8, 2019 letters.

3. Conclusion

Denial of Appeals

As discussed above, upon careful consideration of the appellants’ points, the appellants have failed to adequately disclose how the City erred or abused its agency discretion. In addition, no new substantial evidence was presented that demonstrates that the City erred in its actions relative to the EIR and the associated entitlements. The appellants have raised no new information to dispute the Findings of the EIR or the CPC’s actions on this matter. Therefore Planning recommends denial of the appeals.

Consideration of Addendum and Modified Mitigation Monitoring Program and CEQA Findings

In addition, an Addendum (dated May 2021) has been prepared to the Certified EIR (dated November 25, 2019) pursuant to Section 15164 of the State CEQA Guidelines for the Olympic Tower Project. The May 2021 Addendum analyzes revisions to certain Mitigation Measures and demonstrates that all of the environmental impacts associated with the proposed revisions would be within the envelope of impacts already evaluated in the Certified EIR.

Specifically, the Addendum merely clarified the procedures and implementation of certain mitigation measures to reflect the City’s current standard language for mitigation, and to ensure consistency with similar mitigation measures included in EIRs for other projects. The following mitigation measures were modified: Mitigation Measure MM-C-1 (related to air quality), Mitigation Measures MM-D-2 and MM-D-4 (related to archaeological resources) and Mitigation Measure MM-I-5 (related to construction vibration).

Therefore, Planning also recommends that the City Council consider and adopt the Addendum to the previously certified EIR, the revised Mitigation Monitoring Program, and the related modified California Environmental Quality Act (CEQA) findings pursuant to CEQA Guidelines, Sections 15162 and 15164, as attached.

Addition of Director's Decision Condition

Finally, Planning Staff recommends adding the following standard condition for the Director's Decision for reduction of on-site trees as follows:

1. **Trees.** There shall be a minimum of 63 24-inch box trees planted on-site in compliance with Section 12.21 G.2(a)(3) of the Los Angeles Municipal Code (LAMC). Final landscape plans shall show the location, height, and caliper of all trees. All required landscaped areas shall be equipped with an automatic irrigation system and be properly drained. The remaining 31 trees that cannot be accommodated on-site shall be provided through the payment of the In-Lieu Fee – Development Tree Planting Requirement, as specified in Article 2, Chapter VI, Section 62.177(b)(1) of the LAMC for each tree to be planted off-site. The priority for the location of off-site plantings shall be within the Central City Community Plan Area, subject to the acceptance of a donor site. A receipt showing proof of payment shall be provided to the Department of City Planning at the time of Building Permit Clearance. In the event that the number of dwelling units should be reduced, then no modification of this determination shall be necessary, and the number of trees shall be recalculated based upon the LAMC Section 12.21 G requirement of one tree per four dwelling units.

Respectfully,



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Attachments:

Planning Staff's Tract Map Appeal Report (October 10, 2019)
Letter from CAJA Environmental Services (September 23, 2019)
Letter from Alston & Bird (February 26, 2021)
Addendum (May 2021)
Revised Mitigation Monitoring Program (May 2021)
Revised CEQA Findings (May 2021)