

**DEPARTMENT OF
CITY PLANNING**

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

HELEN CAMPBELL
JENNA HORNSTOCK
HELEN LEUNG

YVETTE LOPEZ-LEDESMA
KAREN MACK
DANA M. PERLMAN
RENEE DAKE WILSON

**CITY OF LOS ANGELES
CALIFORNIA**



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER
DEPUTY DIRECTOR

November 19, 2021

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:

DECERTIFICATION OF AND RECERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT (ENV-2016-3991-EIR, SCH NO. 2017051068), SETTING ASIDE AND RE-CONSIDERATION OF THE ENTITLEMENTS FOR THE PROJECT LOCATED AT 709-765 SOUTH WALL STREET, 306-326 EAST 7th STREET, AND 750-752 SOUTH MAPLE AVENUE (SOUTHERN CALIFORNIA FLOWER MARKET PROJECT); CF 19-1048 AND CF-19-1048-S1

Project History and Background

The following Project Entitlements, related to the Southern California Flower Market Project (Project) as provided in further detail below, were previously considered and approved by the City Council on November 12, 2019:

- Certification of the Final Environmental Impact Report (2019 Final EIR), ENV-2016-3991-EIR (SCH No. 2017051068), and adoption of Mitigation Measures, Mitigation Monitoring Program, and Findings;
- A Vesting Tentative Tract Map (VTT-74568) for the merger and resubdivision of a 3.86-net-acre site into three ground lots and 13 airspace lots; and
- General Plan Amendment from “Light Manufacturing” to “Community Commercial” to allow for the mixed-uses on the project site; Vesting Zone Change from M2-2D Zone (manufacturing) to the C2-2 Zone (commercial); Site Plan Review; Conditional Use Permit for on-site sales and consumption of alcoholic beverages; and a Zone Variance related to the provision of on-site trees (collectively referred to as the “**Project Entitlements**” for CPC-2016-3990-GPA-VZC-HD-CUB-SPR, -1A).

Following a final action by the City, a lawsuit was filed on December 16, 2019, challenging the City’s certification of the 2019 Final EIR in a lawsuit entitled *AIDS Healthcare Foundation v. City of Los Angeles, et al.*, (Los Angeles Superior Court, Case No. 19STCP05445). Following a hearing on the writ petition on March 3, 2021, the Court granted the petition and found two defects

in the 2019 Final EIR's analysis, in an order that the Los Angeles Superior Court issued in April 5, 2021 (April 2021 Court Order, attached hereto as "Attachment 1"). The April 2021 Court Order directed the City to set aside the Project Entitlements and decertify the 2019 Final EIR to allow the City to cure the two deficiencies that the Court identified in the 2019 Final EIR. The April 2021 Court Order required additional clarification regarding the implementation of one noise-related mitigation measure and a more in-depth analysis of impacts, supported by substantial evidence, associated with the City's conclusion that the emission of greenhouse gasses (GHG) is consistent with the goals and policies set forth in Senate Bill 32 (SB 32); the rest of the 2019 Final EIR was found to be in compliance with CEQA. As explained below, the Partially Recirculated Draft EIR (PR-DEIR) does not show a new significant environmental impact that would result from the Project or from a new mitigation measure, or a substantial increase in the severity of an environmental impact. The April 2021 Court Order requires decertification of the entire EIR in order to incorporate the additional noise and GHG analyses into the EIR before re-certification of the document. Any construction on the Project Site has been and continues to be suspended while the City takes this action to comply with the April 2021 Court Order, so there has been no change to the environment while this item is being processed.

PROJECT HISTORY

Project Location

The Project Site is located at 709-765 S. Wall Street (with additional addresses at 306-326 E. 7th Street and 750-752 S. Maple Avenue) within the Central City Community Plan area in the City. The Project Site's main address is 755 Wall Street, and the address of the Project Site's current parking structure is 742 Maple Avenue. The Project Site is located in the Los Angeles Flower District, which generally is focused along 8th Street. Major highways serving the Project area include the Santa Monica Freeway (I-10) (one mile to the south) and the Interstate Highway 110 (one mile to the west).

The Project Site is approximately 168,577 square feet (or approximately 3.87 acres). The Project Site consists of one city block, with the exception of three interior parcels and three parcels to the south. The Project Site was zoned M2-2D (light Industrial, Height District 2 with Development Limitation) and designated Light Manufacturing in the Central City Community Plan. The Project Site is also located within the Los Angeles State Enterprise Zone and the Greater Downtown Housing Incentive Area. The Project Site is also located within a Transit Priority Area, as defined by Public Resources Code Section 21099 and City of Los Angeles ZI No. 2452.

Project Description/Summary

The Project Site is currently improved with two buildings (the north and south building). The Project will maintain and renovate the Project Site's north building, but will demolish the south building and construct a new building in its place. The Project would include a new mixed-use development consisting of wholesale trade, retail, restaurant, office, and residential uses. The Project would include 323 residential units (including 10 percent of units set aside as affordable units for moderate income families), approximately 4,385 square feet of retail space, 64,363 square feet of office space, 63,785 square feet of wholesale space and storage, 13,420 square feet of restaurant space, and 21,295 square feet of event space. The existing north building would continue to operate as the Flower Market with offices on the second floor and an event space and terrace on the fourth floor. The new south building would include the new residential uses, as well as restaurants, a public paseo, retail uses, and additional wholesale flower space.

Previous Council Action

The City's Deputy Advisory Agency (Advisory Agency) and the Department of City Planning conducted a public hearing in May 2019 to consider the EIR and the Project. In June 2019, a Letter of Determination was issued certifying the 2019 Final EIR, and approving the Vesting Tentative Tract Map and the Project Entitlements. These actions were appealed; the City Planning Commission (CPC) held a public hearing in August 2019 and denied the appeals and upheld the decision to certify the 2019 Final EIR and approve the Project. These actions were again appealed and in October 2019, the City Council's Planning and Land Use Management Committee (PLUM), conducted a public hearing on the appeals and Project Entitlements and recommended that the City Council deny the appeal, and uphold the CPC's determination. On November 12, 2019, the City Council denied the appeals and upheld the CPC's CEQA decision, approving the Project.

ACTIONS UNDERTAKEN BY THE CITY TO COMPLY WITH THE APRIL 2021 COURT ORDER

As noted above, on April 5, 2021, the Los Angeles Superior Court issued an order directing the City to set aside the Project Entitlements and decertify the EIR for the Project, including the Draft Environmental Impact Report (DEIR) and Appendices, Case No. ENV-2016-3991-EIR (SCH No. 2017051068), dated September 2018; the 2019 Final EIR and Appendices, dated April 2019; Erratum No. 1, dated July 26, 2019; Erratum No. 2, dated August 7, 2019; and Erratum No. 3, dated October 2019 (collectively, "2019 Final EIR") for the purpose of conducting additional clarification regarding the implementation of one noise-related mitigation measure (MM I-2) and a more in-depth GHG analysis for consistency with the goals and policies set forth in SB 32.

To date, the City has taken the following actions in order to comply with the April 2021 Court Order:

- The City prepared a Partially Recirculated Draft EIR (PR-DEIR) for the Project, which provides additional clarification regarding the implementation of one noise-related mitigation measure and a more in-depth analysis of impacts associated with the City's conclusion that the emission of GHGs is less than significant because the Project is consistent with the goals and policies set forth in SB 32.
- On September 16, 2021, the City issued a Notice of Completion and Availability and filed a Notice of Completion & Environmental Document Transmittal with the Office of Planning and Research, and released the PR-DEIR for a 45-day public comment period ending on November 1, 2021. As required under CEQA Guidelines Section 15088.5, the notice was also sent to anyone who commented on the original EIR, including public agencies, and any interested parties that requested notice related to the Project. Additionally, the City sent the notice to owners/occupants of all properties within a 500-foot radius of the Project Site, to the City's standard agency mailing list, and to the mailing list from the original EIR, which includes all interested parties, and persons that commented on the Notice of Preparation of the original EIR. The 45-day public comment period closed on November 1, 2021 at 4:00 p.m.
- The City received 12 written comment letters on the PR-DEIR, one commenting on the PR-DEIR, and 11 in support for the Project. A late comment letter from an individual was received on November 5, 2021, four days after the comment period closed, and was similar to other comments on the PR-DEIR in support of the Project.
- Following the public comment period, a Partially Revised Final EIR (PR-FEIR) was prepared and released to the public on November 19, 2021, and submitted to the Office

of Planning and Research. The PR-FEIR includes responses to the comments received on the PR-DEIR. Based on the comments provided, no revisions to the PR-DEIR are required.

Though no mailed notice is required for the November 30, 2021 PLUM hearing, a courtesy hearing notice was mailed on November 5, 2021 to all property owners and occupants located within a 500 foot radius of the Project Site, all parties who commented on the 2019 Final EIR, and all other parties who have either commented on the PR-DEIR or requested notification of actions related to the Project.

EXPLANATION OF RECOMMENDATIONS

As stated above, the April 2021 Court Order directs the City to set aside the Project Entitlements and decertify the 2019 Final EIR, and affords the City an opportunity to cure the two deficiencies identified by the Court in the 2019 Final EIR. The Court determined that the remaining sections of the 2019 Final EIR were in full compliance with CEQA. Therefore, the recommended actions listed below relate solely to the additional clarification regarding the implementation of one noise-related mitigation measure (MM I-2) and a more in-depth GHG analysis for consistency with the goals and policies set forth in SB 32.

Noise

As discussed in the PR-DEIR, the 2019 Final EIR identified six mitigation measures to reduce impacts attributable to the Project's construction noise and vibration measures. Those mitigation measures were incorporated into a Mitigation Monitoring Program (MMP).

The April 2021 Court Order found a deficiency in one of those construction noise and vibration mitigation measures, specifically Measure I-2, finding that the measure lacked substantial evidence to support the City's conclusion as to the effectiveness of this mitigation measure. In the 2019 Final EIR and MMP, Measure I-2 provided as follows:

“Temporary sound barriers capable of achieving a sound attenuation of at least 15 dBA shall be erected along all other Project's boundaries facing Santee Court Apartments. Temporary sound barriers capable of achieving a sound attenuation of at least 6 dBA shall be erected along all other Project construction boundaries.”

During the administrative proceedings leading up to the City Council's approval of the Project Entitlements on November 12, 2019, the City identified a type of construction noise barrier that would better ensure that construction noise is mitigated to a less-than-significant level. That noise barrier can be moved around the Project Site in connection with heavy construction equipment during operation. Such a noise barrier further reduces construction noise, particularly to noise-sensitive receptors living in apartments at upper floors. However, the April 2021 Court Order held that Measure I-2 was written in a manner that it was not clear whether movable sound barriers would be required.

Accordingly, Measure I-2 has been revised to make it clear that (1) traditional sound barrier fencing will be erected along the perimeter of the Project Site, (2) movable sound barriers will also be used, (3) sound barriers will be utilized to shield line of sight paths to surrounding sensitive receptors, and (4) preparation of an implementation and acoustical study detailing the specifications of the moveable sound barrier will be required prior to issuance of any excavation or grading permits. Specifically, Measure I-2 has been revised to read as follows:

“Sound barriers rated to achieve a sound attenuation of at least 15 dBA with a minimum height of 24 feet shall be erected along the Project Site’s boundaries that face sensitive receptors, namely the property lines that parallel Maple Avenue and E. 7th Street. Sound barriers capable of achieving a sound attenuation of at least 15 dBA and of the same minimum height of 24 feet shall also be erected along portions of the Project’s property line that parallel Wall Street and delineate the North Parking Area. Sound barriers capable of achieving a sound attenuation of at least 6 dBA with a minimum height of 10 feet shall be erected along all other Project construction boundaries or property lines. Additionally, movable sound barriers composed of materials rated to achieve a sound attenuation of at least 15 dBA with a minimum height of 24 feet shall be utilized to shield line of sight paths from operating heavy equipment to surrounding sensitive receptors. The distance between the operating heavy equipment and the moveable sound barriers shall be determined based on achieving the performance standard of an increase in ambient noise levels of not more than 5 dBA L_{eq} . The project applicant or its contractor shall submit an implementation plan and an acoustical study detailing the specifications of the moveable sound barrier and the construction process for deploying the moveable sound barriers to achieve the standard of sound attenuation of 15 dBA to the City for review and approval prior to the issuance of any grading or excavation permit.”

In developing revised Measure I-2, a supplemental construction noise analysis was prepared, which is included in the PR-DEIR as Appendix I-3 (“Supplemental Noise Analysis”), on August 16, 2021. (Attached to the PR-DEIR as Appendix I-3.) The Supplemental Noise Analysis reviews in detail the commercially available movable noise barriers and their efficacy in reducing construction noise to off-site receptors. Concluding that movable barriers are feasible, the Supplemental Noise Analysis discusses how those barriers can be used at the Project Site during construction activities and then evaluates the level of noise impacts to nearby noise-sensitive receptors when such barriers are used.

In the 2019 Final EIR (specifically Section 4.1 of the Draft EIR and Erratum No. 3), the City concluded that through imposition of Mitigation Measures I-1 and I-2, construction noise impacts to noise-sensitive receptors would be mitigated to a less-than-significant level. In preparing the Supplemental Noise Analysis, a review of the uses in the vicinity of the Project Site was undertaken. Based on that review, additional new noise-sensitive receptors were identified within the Project’s vicinity to update the existing setting to include new land uses that were constructed or converted to residential use after the Notice of Preparation was released for the Project in May 2017. This supplemental analysis confirmed that no newly identified sensitive receptor would be located closer to the Project than the studied receptors identified in the 2019 Final EIR previously certified by the City. As discussed in the PR-DEIR, none of the recently identified receptors would experience Project-related noise impacts that exceed projected impacts to the receptors identified in the 2019 Final EIR. In addition, while some of the new noise-sensitive receptors are multi-story in nature, the movable noise barriers will mitigate construction noise to a less-than-significant level. Therefore, based on the analyses and evidence provided in the PR-DEIR, including the Supplemental Noise Analysis, the Project’s construction noise impacts will be mitigated to a less-than-significant level.

Greenhouse Gases

As discussed in the PR-DEIR, the Project’s GHG emissions were calculated for construction and long-term operations. Both one-time emissions and indirect emissions are expected to occur each

year after build-out of the Project. One-time emissions from construction and vegetation removal were amortized over a 30-year period in accordance with regulatory requirements.

As noted in the PR-DEIR (see p. 4.F-38), the City does not have or use a numerical threshold for GHG or a methodology that relies on a quantitative analysis. The Project's GHG emissions are quantified, however, and provided to comply with CEQA Guidelines, section 15064.4(a) and to provide evidence that the implementation of the plans, policies and regulations adopted to reduce GHG emissions will result in actual GHG reductions. As such, the analysis in Section 4.F of the PR-DEIR and the Supplemental GHG Analysis compares the Project's GHG emissions resulting from Project commitments and regulatory changes to the emissions that would be generated by the Project in the absence of any GHG reduction measures. Specifically, the evaluation of the Project's GHG emissions includes two scenarios. One scenario is based upon a No Action Taken scenario (the "2020 NAT scenario"). The No Action Taken scenario is modeled on the "Business As Usual" (BAU) approach taken by California Air Resources Board (CARB) in its Scoping Plans adopted to implement plans and programs to reduce GHG emissions to the levels identified in AB 32 and SB 32. Both AB 32 and SB 32 call for reduction of GHG emissions relative to a baseline year (1990). Therefore, CARB, as the regulatory agency primarily responsible for implementing a statewide plan to achieve the goals in AB 32 and SB 32, had to establish a baseline for GHG emissions (referred to as business as usual in CARB's scoping plans). The Scoping Plan sets forth the BAU projection, which assumes no conservation or regulatory efforts to reduce GHG emissions beyond what was in place when the forecast was made. The 2020 NAT scenario in the revised GHG section of the Project's EIR uses the same approach. In addition, the 2020 NAT scenario conservatively does not consider site-specific conditions, Project design features, or prescribed mitigation measures.

The second scenario used in evaluating the Project's GHG related impacts (which is referred to as "Project As Proposed") assumes the Project will implement measures required by the plans, policies and regulations adopted to reduce GHG emissions. This approach is consistent with the concepts used in the Climate Change Scoping Plan previously adopted by the California Air Resources Board (CARB) (a State agency) for the implementation of a State law known as "AB 32" (another law aimed at reducing GHG emissions throughout the State). This methodology is used to analyze a development project's consistency with applicable GHG reduction plans and policies and demonstrate the efficacy of the measures contained therein. The 2020 NAT scenario does not consider site-specific conditions, Project design features, or prescribed mitigation measures.

The 2019 Final EIR summarized the Project's GHG emissions both under the 2020 NAT scenario and the "As Proposed Scenario". The calculation of those emissions was refined per the Supplemental GHG analysis in the PR-DEIR, to account for (1) the Project's "net" GHG emissions, which represent the difference between the Project's operational GHG emissions and the GHG emissions associated with existing development on the Project Site; (2) additional regulatory programs developed since the adoption of SB 32; and (3) the nature of the Project being an urban in-fill, mixed use development project with close proximity to substantial public transit. Based on these analyses, the Project's net GHG emissions will be 40 percent to 64 percent lower than under the NAT Scenario.

Based on the analyses and evidence provided in the PR-DEIR, including the Supplemental GHG Analysis, the Project is consistent with applicable State and local laws and regulations for the reduction of GHG emissions, including Executive Order B-30-15, SB 32, and the 2017 Scoping Plan, and therefore the Project's GHG impacts will be less than significant.

RECOMMENDATIONS

To comply with the April 2021 Court Order, the City Council must first de-certify the 2019 Final EIR, then set aside the underlying Project Entitlement approvals. Staff recommends that the City Council then re-certify the 2021 Final EIR, which includes the additional clarification regarding the implementation of one noise-related mitigation measure and a more in-depth analysis of impacts associated with the City's conclusion that the emission of GHGs is consistent with the goals and policies set forth in SB 32, memorialized in the PR-DEIR and PR-FEIR, if the City Council finds that the 2021 Final EIR complies with CEQA and the Court's April 2021 Court Order. The City Council must then consider a finding that the Project's Environmental Findings need not be amended, except for the amendments specific to the implementation of the one noise-related mitigation measure and the City's conclusion that the emission of GHGs is consistent with the goals and policies set forth in SB 32, and adopt these amended Findings (see Attachment 2 [Amended 2021 CEQA Findings]). As noted above, the 2021 Final EIR does not show a new significant environmental impact that would result from the Project or from a new mitigation measure, or a substantial increase in the severity of an environmental impact. Finally, the City Council must also adopt the 2021 Mitigation Monitoring Program and re-adopt the Project Entitlements, including re-adoption of the Vesting Tentative Tract Map, if it finds that the 2021 Final EIR complies with CEQA and the Court's April 2021 Court Order.

Recommended Actions:

1. Recommend that the City Council de-certify the 2019 Final EIR, and set aside the underlying Project Entitlement approvals and Vesting Tentative Tract Map, in compliance with the April 2021 Court Order, issued on April 5, 2021 by the Los Angeles Superior Court.
2. Recommend that the City Council consider the 2019 Final EIR with the addition of the Partially Recirculated Draft EIR (PR-DEIR) and Appendices, and the Partially Revised Final EIR (PR-FEIR) (referred to altogether as the "2021 Final EIR"), and take the following actions to certify the 2021 Final EIR, with the added clarification regarding the implementation of one noise-related mitigation measure and a more in-depth analysis of impacts associated with the City's conclusion of GHG emissions being consistent with the goals and policies set forth in Senate Bill 32:
 - a. FIND that the City Council has reviewed and considered the information contained in the Partially Recirculated Draft EIR Noise and GHG analyses (SCH No. 2017051068) dated September 16, 2021, and the Partially Revised Final EIR, which contains Responses To Comments (collectively the PR-FEIR), dated November 19, 2021, as well as the 2019 Final EIR and the whole of the administrative record (all collectively referred to as the 2021 Final EIR).
 - b. CERTIFY that:
 - i. The 2021 Final EIR has been completed in compliance with the California Environmental Quality Act (CEQA);
 - ii. The PR-FEIR has been completed in compliance with the April 2021 Court Order;
 - iii. The analysis in the PR-FEIR confirmed the conclusion in the 2019 Final EIR (that there were no significant impacts related to Noise or GHG emissions), which was presented to the PLUM Committee and full City Council and the body considered the information contained in the 2019

- Final EIR prior to approving the Project, and the PR-FEIR was presented to the PLUM Committee and will be presented to the full City Council as the legislative decision-making body of the Lead Agency;
- iv. The PR-FEIR and 2021 Final EIR reflect the independent judgment and analysis of the Lead Agency; and
 - v. The Responses To Comments in the PR-FEIR fully considered and responded to the comments received and include substantial evidence that none of these comments provided substantial evidence that the Project would result in changed circumstances, significant new information, considerably different mitigation measures, new or more severe significant impacts than were discussed in the 2019 Final EIR, a feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen any environmental impacts of the Project, but the Project's proponents decline to adopt, or that the PR-FEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. Accordingly, recirculation of the PR-FEIR is not required.
 - vi. Re-certify the entire 2021 Final EIR, which includes the addition of the PR-FEIR.
- c. FIND that because the PR-FEIR determined that the Southern California Flower Market Project's environmental impacts related to Noise and GHG emissions are less than significant, the 2019 Environmental Findings made pursuant to CEQA Guidelines Section 15091 need not be amended, except for amendments to the findings related to Noise and GHG emissions and adopt these amendments to the Findings, reflected in the Amended 2021 CEQA Findings.
 - d. ADOPT the Revised Mitigation Monitoring Program and 2021 CEQA Findings.
3. RECOMMEND that the City Council re-adopt all Project Entitlements, including the re-adoption of the Vesting Tentative Tract (VTT-74568) Map, including the VTT's Modified Conditions of Approval and Findings (dated Oct. 29, 2019, attached hereto as "Attachment 6"), and Amended Conditions of Approval and Findings for the other Project Entitlements (CPC-2016-3990-GPA-VZC-HD-CUB-SPR), as set forth in the Findings that PLUM amended on October 29, 2019, attached hereto as "Attachment 7".

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Kimberly Henry
City Planner

VPB:MZ:KH:ES

Enclosures

- Attachment 1: April 2021 Court Order
- Attachment 2: Amended 2021 CEQA Findings
- Attachment 3: Revised Mitigation Monitoring Program (November 2021)
- Attachment 4: Notice of Completion and Availability of the Partially Recirculated Draft Environmental Impact Report
- Attachment 5: Courtesy Hearing Notice and Notice of Completion and Availability of the Partially Revised Final Environmental Impact Report
- Attachment 6: Modified Conditions of Approval and Findings for VTT-74568, dated October 29, 2019
- Attachment 7: Amended Conditions of Approval and Findings for CPC-2016-3990-GPA-VZC-HD-CUB-SPR, dated October 29, 2019
- Link to PR-DEIR: <https://planning.lacity.org/development-services/eir/southern-california-flower-market-project-1>
- Link to PR-FEIR: <https://planning.lacity.org/development-services/eir/southern-california-flower-market-project-0>

c: Emma Howard, Planning Director, Council District 14