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June 14, 2023

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:

2201-2231 SOUTH WESTERN AVENUE; CF 23-0557, CPC-2021-8442-CU-DB-SPR-HCA-1A, ENV-2021-8443-EAF, ENV-2008-1781-EIR

On April 25, 2023 pursuant to Section 16.05 of the Los Angeles Municipal Code, the City Planning Commission issued a determination approving the demolition of vacant land and an existing surface parking lot with 61 parking spaces for the adjacent residential building, and the development of a nine-story, 89-foot and 11-inches tall mixed-use residential building composed of 364 dwelling units (including 38 Very Low Income units) and a 65,719 square foot two-story commercial space fronting Western Avenue. The Project will be approximately 325,302 square feet in floor area with a Floor Area Ratio of 3.41:1 on a site totaling 2.29 acres. The Project will provide 308 residential parking spaces (including 61 replacement parking spaces for 2231 South Western Avenue) and 205 commercial parking spaces in one subterranean level and four above-grade parking levels. The Project will provide 202 long-term bicycle parking spaces and 52 short-term bicycle parking spaces. The Project also includes a total of 33,768 square feet of open space, including 8,502 square feet of landscaped area. The Project will also involve the grading of approximately 35,055 cubic yards of soil; for the properties located at 2201 – 2231 South Western Avenue and 2003 – 2029 24th Street, subject to Modified Conditions of Approval.

On May 9, 2023, a CEQA appeal was filed by Amalia Bowley Fuentes (Lozeau Drury LLP) on behalf of the Supporters Alliance for Environmental Responsibility ("SAFER"). Documents supporting the appeals were submitted to the Council file on June 12, 2023.

As discussed below, upon careful consideration of the appellants' points, planning staff has determined that the appellants have failed to establish, or present new substantial evidence, that the project is not: within the scope of the South Los Angeles Community Plan Program EIR No. ENV-2008-1781-EIR, SCH No. 200810109, pursuant to CEQA Guidelines Sections 15168 and 15162; the environmental effects of the Project were covered in the Program EIR and no new environmental effects not identified in the Program EIR will occur and no new mitigation is required; and the City has incorporated all feasible mitigation measures from the Program EIR on the Project. The appeal in its entirety is located within Council File No. 23-0557. Below is a summary of the appeal points with a staff response to each point.

APPEAL ANALYSIS

The main points raised for the appeal were related to the following:

1) Rely on South Los Angeles Community Plan 2017 Program EIR

Appeal Point 1 (An EIR is Required Because the City's Analysis of Hazards and Hazardous Materials is Inadequate;

The City concluded that “no substantial changes in the environment on or in the vicinity of the Property related to hazards or hazardous materials have occurred since certification of the Community Plan EIR that would require revision to the Community Plan EIR.” However, the City failed to provide substantial evidence in support of this conclusion. A decision to not prepare an environmental document for the Project is only permissible if the City finds, based on substantial evidence, that none of the conditions of CEQA Guidelines section 15162 have occurred. (14 CCR 15168(c)(2).)

Staff Response 1:

The Appellants have failed to support their claim that the project would result in any significant effects relating to Hazards and Hazardous Materials. The land uses on the Project site have remained unchanged since certification of the Community Plan EIR. This was described in the introduction to the technical memorandum. As such, there has been no substantial adverse change in the conditions of the site relative to hazards or hazardous materials.

Furthermore, the Community Plan EIR referred to federal, state, and local regulations that would reduce to less than significant the consequences of the routine use of or accidental release of hazardous materials. Specifically, the EIR states that “Hazardous materials would be used and stored in accordance with applicable regulations and such uses would be required to comply with federal and state laws to eliminate or reduce the consequences of hazardous materials accidents;” “Compliance with existing regulations would reduce any impact and ensure that construction workers and the general public would not be exposed to any unusual or excessive risks related to the release of hazardous materials into the environment during construction activities on these sites with known, documented contamination;” and “Because appropriate site investigation and remediation activities prior to development is required by law, and because all contaminated sites are required to be remediated prior to development, this impact would be less than significant.” The framework of federal, state, and local regulations is still in place, so there is no change in the evidence to support this conclusion.

The Community Plan EIR states that “While all demolition and construction within the CPAs would be required to comply with all local, state, and federal regulations, further mitigation may be required to reduce risks associated with the potential for unknown toxic substances existing on sites previously used for industrial uses that used hazardous materials” and therefore included a mitigation measure that require projects within a CPIO Subarea and currently or historically zoned as industrial shall prepare the equivalent of an Environmental Site Assessment (ESA). An ESA was prepared for the Project which found that there was no substantial adverse condition on or in the vicinity of the Property related to hazards or hazardous materials. All of the above was documented by City in the CEQA Technical Memorandum regarding the Project. As such, the City relied upon substantial evidence to support the conclusion that, relative to hazards or hazardous materials, no

substantial changes in the environment on or in the vicinity of the Property related have occurred that would require revision to the Community Plan EIR.

Appeal Point 2 (An EIR is required because the Project will have significant Air Quality, Health Risk, and Greenhouse Gas Emission Impacts):

- The Appellant's consultant's Soil Water Air Protection Enterprise (SWAPE) found that the Project would still result in significant impacts to air quality and greenhouse gases ("GHGs"). SWAPE reviewed the Project's CalEEMod output files and found that several model inputs were inconsistent with information disclosed elsewhere in the Technical Memo for the Project.
- SWAPE also prepared a screening-level health risk assessment ("HRA") to evaluate potential impacts of diesel particulate matter ("DPM") emissions during the construction and operation of the Project. (Ex. A, pp. 13-17.) SWAPE used AERSCREEN, a screening-level air quality dispersion model. (Id. at 13.) SWAPE used a sensitive receptor distance of 75 meters and analyzed impacts to individuals at different stages of life based on guidance from the California Office of Environmental Health Hazard Assessment ("OEHHA") and SDAPCD guidance. (Id. At 17.)
- SWAPE found that the GHG impacts of the Project were not adequately analyzed. (Ex. A, pp. 18-19.) Specifically, SWAPE found that the City's analysis of GHG impacts and the City's subsequent less-than-significant conclusion as to GHG impacts.

Staff Response 2:

In regards to the Project's CalEEMod output files, adjustment to the inputs in CalEEMod are a standard practice when project specific information is available. The model includes default values based on construction surveys conducted by SCAQMD. These give approximations of generic construction activity. However, it is recommended by SCAQMD that if the information is available, that defaults may be replaced by project specific inputs.⁵ This was done for the Project. The adjustment to the inputs in the model were made to be consistent with the information provided regarding the project and used elsewhere in the analysis. In addition, default values in CalEEMod do not always account for regulatory compliance with applicable SCAQMD rules.

In regards to SWAPE's screening-level health risk assessment ("HRA") to evaluate potential impacts of diesel particulate matter ("DPM") emissions during the construction and operation of the Project, the guidance from the California Office of Environmental Health Hazard Assessment ("OEHHA") that the Appellant's consultant used to prepare a screening-level health risk assessment ("HRA") is not applicable to the Project. The OEHHA Guidance Manual is intended to implement the Air Toxics Hot Spots Information and Assessment Act (AB 2588) and establishes protocols for analysis but does not establish when a project must prepare a cancer risk assessment. The OEHHA Guidance Manual states on page 1-3 that "The Hot Spots Act requires that each local Air Pollution Control District or Air Quality Management District (hereinafter referred to as District) determine which facilities will prepare an HRA." California Health and Safety Code Section 44320 states that AB 2588 applies to "Any facility which manufactures, formulates, uses, or releases" toxic air contaminants, carcinogens, total organic gases, particulates, or oxides of nitrogen or sulfur and "any facility which is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by a district." The Project does not qualify as a "facility" subject to AB 2588 as the uses proposed and would not manufacture, formulate, use, or release the substances identified by Health and Safety Code Section 44320. Furthermore, the local district (SCAQMD) has not issued guidance

or regulation for an HRA of the type of construction proposed by the Project. As such, the OEHHA Guidance Manual is not applicable to determining the impacts of the Project.

The City follows South Coast Air Quality Management District (SCAQMD) guidance for air quality analysis and relies on SCAQMD thresholds. The SCAQMD CEQA guidelines for evaluating construction impacts do not require the preparation of an HRA to evaluate construction impacts. For construction, SCAQMD provides daily mass emissions thresholds and localized significance thresholds. As shown in the technical memorandum prepared for the project, the project would not exceed applicable SCAQMD thresholds.⁶ Therefore, the City determined the Project would have a less than significant impact based on the methodologies recommended by SCAQMD for the project type.

SCAQMD has not determined that an HRA is required for commercial and residential land uses of the type proposed by the Project. Furthermore, SCAQMD has not developed any recommendations on use of the OEHHA Guidance Manual for CEQA analyses of potential construction impacts nor has the City adopted the Guidance Manual or incorporated it into the City's CEQA thresholds or methodologies. Based on the above, the Appellant's comment is not relevant to the CEQA evaluation of the Project.

In regards to SWAPE's claim that GHG impacts of the Project were inadequately analyzed, SWAPE bases this allegation on the CalEEMod output discussed previously. As noted in the responses above, the model inputs were appropriately established. Furthermore, the City's methodology to determine the significance of GHG impacts is not based on the quantitative output of CalEEMod but rather on consistency of a project with the policies and programs of the State, City and region to address GHG emissions. The Technical Memorandum discusses how the project is consistent; the comment letter did not challenge this conclusion.

In conclusion, the allegations made by SAFER are not supported by the analysis prepared for the City nor is it demonstrated by the claims made in the comment letter. The 2017 EIR concluded that there could be significant impacts to air quality and GHGs due to "the absence of specific project details to assess". Specific Project details were identified and assessed resulting in the conclusion that those impacts would in fact be less than significant with respect to the Project.

CONCLUSION

For the reasons stated herein, and by reference the Applicant's analysis and conclusions found in the letter dated June 12, 2023 and per the findings of the City Planning Commission's Determination, the proposed project complies with the applicable provisions of the California Environmental Quality Act (CEQA) and Site Plan Review. Planning staff evaluated the proposed project and determined it meets the findings to approve a Site Plan Review and that no further EIR would be required as the Project meets the criteria expressed in Public Resource Code 21155.4 and CEQA Guidelines Section 15168(c). Based on the complete plans submitted by the applicant and considering the appellant's arguments for appeal, staff has determined that the project meets the required findings.

Therefore, staff recommends that the Planning and Land Use Committee take the following actions:

FIND, based on the independent judgment of the decision-maker, after consideration of the whole

of the administrative record, that the project is within the scope of the South Los Angeles Community Plan Program EIR No. ENV-2008-1781-EIR, SCH No. 200810109, pursuant to CEQA Guidelines Sections 15168 and 15162; the environmental effects of the Project were covered in the Program EIR and no new environmental effects not identified in the Program EIR will occur and no new mitigation is required; and the City has incorporated all feasible mitigation measures from the Program EIR on the Project;

APPROVE, pursuant to LAMC Section 16.05, a Site Plan Review for a development project resulting in an increase in 50 or more dwelling units.

DENY the appeal, filed by Amalia Bowley Fuentes on behalf of the Supporters Alliance for Environmental Responsibility, and SUSTAIN the decision of the City Planning Commission's decision to approve a Site Plan Review for a development project resulting in an increase in 50 or more dwelling units in the C2-1-O-CPIO zone;

ADOPT the attached Findings, and

ADOPT the attached Conditions of Approval.

Respectfully,

VINCENT P. BERTONI, AICP
Director of Planning

A handwritten signature in black ink, appearing to read 'S. Ibarra', with a horizontal line extending to the right.

Sergio Ibarra
City Planner

VPB:TI:MS:SI: