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May 29, 2019

VIA E-MAIL AND FIRST CLASS MAIL

Ms. Beatrice Pacheco
Custodian of Records
Department of City Planning
221 North Figueroa Street, Room 1450
Los Angeles, California 90012

beatrice.pacheco@lacity.org

Re: Public Records Act Request - 750-756 North Edinburgh Avenue, Los Angeles, CA 90046 (APN 5527-013-016)

Ms. Pacheco:

This letter constitutes a request pursuant to the California Public Records Act (Cal. Gov. Code §§ 6250 *et seq.*), for public records created by, retained by or in the custody of the Department of City Planning, City of Los Angeles. Pursuant to Cal. Gov. Code § 6253(c), please provide a response within ten days from receipt of this letter as to whether you are in possession of the records requested herein and providing an estimate as to (a) when copies of the records will be available and (b) the cost of reproduction. If any responsive records are in electronic format, please provide them electronically (i.e., by email). If any portion of this request is unclear, please contact me to clarify pursuant to Cal. Gov. Code § 6253.1.

For purposes of this request, the term "documents" includes all documents, electronically stored information, and tangible things, including without limitation all writings (as defined in Section 250 of the California Evidence Code) and all other means of recording information, whether written, transcribed, or in any other way produced, reproduced, or recorded, and including but not limited to computer-sorted and computer-retrievable information, and any copies and duplicates that are marked with any notation or annotation or otherwise differ in any way from the original. Each draft, annotated, or otherwise non-identical copy is a separate "document" within the meaning of the term.

For purposes of this request, the term "communications" includes any act, action, oral speech, written correspondence, contact, expression of words, thoughts, ideas, transmission or exchange of data or other information to another person,

whether orally, person-to-person, in a group, by telephone, letter, personal delivery, telex, email, facsimile, text message, instant message, recorded message or any other process - electronic or otherwise. All such communications in writing shall include, without limitation, printed, typewritten, handwritten, electronic, or other "documents."

For purposes of this request, the term "emails" and "text messages" includes any email or text messages in the City's possession, or which should have been kept in the normal course of business by the City, to or from a private device or email address, relating to City business, per *San Diegans for Open Government v. City of San Diego* (2016) 247 Cal.App.4th 1306, 1320-22 and *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 625.

For the purposes of this request, the term "Property" shall include 750-756 North Edinburgh Avenue, Los Angeles, CA 90046 (APN 5527-013-016). The term "Project" shall cover the proposed development on the Property, which includes DCP Case Nos. ENV-2016-1367-EIR and VTTM No. 74201.

For the purposes of this request, the term "Updated Findings" shall include the document that included updated California Environmental Quality Act (CEQA) findings for Alternative 2 that was presented by Department of City Planning staff at the May 28, 2019 Central Los Angeles Area Planning Commission meeting in relation to Agenda Item 8 (VTT-74201-SL-1A). A copy of the Updated Findings is attached as Exhibit A.

For the purposes of this request, the term "Alternative 2" shall mean the "Alternative 2: Full Preservation Alternative" analyzed in the Environmental Impact Report for the Edinburgh Avenue SLS Project (Environmental Case ENV-2016-1367-EIR/ State Clearinghouse No.: 2017011016).

<u>We hereby request the following public records:</u>

1. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, relating to or referencing the Updated Findings.

2. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, regarding the Alternative 2.

3. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, regarding the City's compliance with the Housing Accountability Act (Government Code Section 65589.5) as related to the Project or the Property.

4. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, to, from, or copying any employee or consultant of the City of Los Angeles Department of City Planning including, but not limited to, Ken Bernstein, Lambert Giessinger, Heather Bleemers, or Adam Villani related to the Updated Findings.

5. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, to, from, or copying any employee or consultant of the City of Los Angeles Department of City Planning including, but not limited to, Ken Bernstein, Lambert Giessinger, Heather Bleemers, or Adam Villani related to Alternative 2.

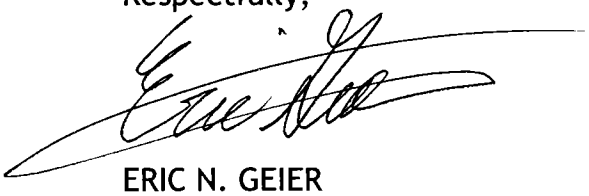
6. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, prepared by or reviewed by any employee or consultant of the City of Los Angeles Department of City Planning including, but not limited to, Ken Bernstein, Lambert Giessinger, Heather Bleemers, or Adam Villani related to the Updated Findings.

7. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, prepared by or reviewed by any employee or consultant of the City of Los Angeles Department of City Planning including, but not limited to, Ken Bernstein, Lambert Giessinger, Heather Bleemers, or Adam Villani related to Alternative 2.

8. Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, involving, to or from any member of the City of Los Angeles Department of City Planning and Adrian Fine or Linda Dishman.

Thank you for your prompt attention to this request. Please direct questions and any other communication regarding this request to me at (310) 556-7816 or egeier@glaserweil.com.

Respectfully,



ERIC N. GEIER
of GLASER WEIL FINK HOWARD AVCHEN & SHAPIRO LLP

EXHIBIT A

Item No. 08

Department of City Planning

City Hall, 200 N. Spring Street, Room 525, Los Angeles, CA 90012

May 28, 2019

TO: Central Area Planning Commission

FROM: Adam Villani, City Planner

ADDITIONAL INFORMATION FOR THE STAFF RECOMMENDATION REPORT FOR CASE NO. VTT-74201-SL-1A; 750–756 ½ North Edinburgh Avenue

The following are the Department of City Planning recommended actions for the Central Area Planning Commission to take on this case, as well as proposed revised Findings for the Zoning Administrator's determination dated April 17, 2019 for the original case, VTT-74201-SL, along with responses to the justifications presented in the attachment to the appeal of this case.

RECOMMENDATIONS:

1. **Deny** the appeal;

2. **Find** that the Central Area Planning Commission has reviewed and considered the information contained in the Environmental Impact Report prepared for this project, which includes the Draft EIR, No. ENV-2016-1367-EIR (SCH No. 2017011016), dated August 2018, and the Final EIR, dated January 4, 2019 (Edinburgh Avenue SLS EIR), as well as the whole of the administrative record, and

   CERTIFY the following:

   1) The Edinburgh Avenue SLS EIR has been completed in compliance with the California Environmental Quality Act (CEQA);
   2) The Edinburgh Avenue SLS EIR was presented to the Advisory Agency as a decision-making body of the lead agency; and
   3) The Edinburgh Avenue SLS EIR reflects the independent judgment and analysis of the lead agency.

   ADOPT the following:

   1) The related and prepared Edinburgh Avenue SLS Environmental Findings dated April 17, 2019 and amended as presented in this memo dated May 28, 2019;

DENY the following:

1) The related and prepared Edinburgh Avenue SLS Statement of Overriding Considerations and
2) The Mitigation Monitoring Program prepared for the Edinburgh Avenue SLS EIR.

3. **Sustain** *the decision of* the Advisory Agency in **denying** Vesting Tentative Tract No. VTT-74201-SL and

4. **Adopt** the Advisory Agency's Subdivision Findings, dated April 17, 2019.

AMENDMENTS TO CEQA FINDINGS:

Findings of Fact (CEQA) VI.D (Population and Housing).d.ii, first paragraph, delete the following sentence:

~~Multiple expert reports have indicated that the buildings at the Project Site may not be feasible to rehabilitate and they are not currently in a habitable condition.~~

Findings of Fact (CEQA) IX.A (Summary of Findings) is modified as follows:

Based upon the following analysis, the City finds, pursuant to CEQA Guidelines section ~~15096(g)(2), that no feasible alternative or mitigation measure within its powers will substantially lessen any significant effect of the Project, reduce the significant, unavoidable impacts Project to a level that is less than significant, or avoid any significant impact that the Project will have on the environment.~~ 15091(a)(3), the City cannot make findings that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. Additionally, pursuant to CEQA Guidelines section 15093(b), the City cannot make a Statement of Overriding Considerations to support approval of the project.

Findings of Fact (CEQA) IX.C(b)(iii, iv) (Alternative 2 – Full Preservation Alternative-Findings, Rationale for Findings) are deleted and replaced with the following:

iii. Findings: The Full Preservation Alternative would avoid the Project's significant and unavoidable impacts on historical resources with implementation of preservation recommendations, and the resource would remain a designated LAHCM. The Full Preservation Alternative would have similar less than significant construction noise and construction vibration impacts (with mitigation) as the Project since off-site excavation of expansive soils would occur near off-site residences.

The Full Preservation Alternative would have reduced impacts related to air quality, operational noise and vibration, construction and operational traffic, and energy, compared to the Project due to reduced construction activity and smaller unit size. The Full Preservation Alternative would have similar impacts as the Project related to population and housing, since the number of units would remain the same, and similar

impacts as the Project regarding design feature hazards, since less traffic would be generated but sidewalk and roadway improvements would not occur.

iv. Rationale for Findings: The Full Preservation Alternative is presumed to meet the Secretary of Interior Standards, although it would require substantial reconstruction and rehabilitation, including the lifting of the buildings, which would require a lifting and bracing plan due to the poor condition of the structures. Furthermore, new mechanical, electrical, and plumbing could cause additional damage to the buildings, and a rehabilitation plan would be required. However, the Full Preservation Alternative would avoid the deterioration that would continue to occur under Alternative 1, No Project Alternative.

Furthermore, the Full Preservation Alternative would meet three of the six Project Objectives and potentially meet one other. It would meet the Project Objectives of providing a diversity of housing choices within the neighborhood, would provide housing with high quality architecture and landscape design, and would provide high quality housing to accommodate demand within a Transit Priority Area. The project would potentially meet the objective to develop an economically viable residential project. It would not meet the objective to redevelop the Project Site with residential buildings and a site design that is consistent with the existing and proposed Hollywood Community Plan and underlying zoning designation, although it would be consistent with the Hollywood Community Plan and underlying zoning designation. It would also not meet the objective to support sustainable design through development that would optimize site energy efficiency, water conservation, and runoff water quality, since it would not be built using modern green building standards, although renovation of an existing building rather than building a new one has environmental benefits because fewer new resources are required.

Portions of Findings of Fact (CEQA) IX.E (Environmentally Superior Alternative) are modified as follows:

~~Alternative 2 would not meet current LAMC parking requirements, and therefore parking impacts would be greater compared to the Project. However, of the six Project Objectives, Alternative 2 would only partially meet three, and not meet two objectives. Alternative 2 would only partially meet the Project Objectives of providing housing with high quality architecture and landscape design, providing high quality housing to accommodate demand within a Transit Priority Area, and providing sustainable design through development. Under Alternative 2, the housing units would be rehabilitated rather than newly constructed to meet modern residential design standards, although Alternative 2 would include new landscaping and would provide housing within a Transit Priority Area. Although Alternative 2 would be subject to less intensive energy conservation and green building design standards, overall the construction and operation of this Alternative would require less energy consumption than the Project. Alternative 2 would not meet the Project Objective of redeveloping the Project Site with residential buildings and a site design that is consistent with the existing and proposed HCP and underlying zoning because no new housing would be provided. Alternative 2 would not meet the Project Objective of developing an economically viable residential Project, based on the Market Analysis (provided in Appendix H of the Draft EIR).~~

Furthermore, the Full Preservation Alternative would meet three of the six Project Objectives and potentially meet one more. It would meet the Project Objectives of providing a diversity of housing choices within the neighborhood, would provide housing with high quality architecture and landscape design, and would provide high quality housing to accommodate demand within a Transit Priority Area. It would potentially meet the objective to develop an economically viable residential project. It would not meet the objective to redevelop the Project Site with residential buildings and a site design that is consistent with the existing and proposed Hollywood Community Plan and underlying zoning designation, although it would be consistent with the Hollywood Community Plan and underlying zoning designation. It would also not meet the objective to support sustainable design through development that would optimize site energy efficiency, water conservation, and runoff water quality, since it would not be built using modern green building standards, although renovation of an existing building rather than building a new one has environmental benefits because fewer new resources are required.

Findings of Fact (CEQA) X.F (CEQA Considerations) paragraph (h) is hereby deleted and replaced with the following:

h. As the City has not approved the project, no Mitigation Monitoring Program is adopted.

APPEAL RESPONSE:

The following are responses to the justifications presented in the attachment to the appeal for this case:

1. The certification of the EIR indicates that the City of Los Angeles, acting as the Lead Agency for this project, meets the requirements of CEQA Guidelines Section 15090(a), that is, that the final EIR has been completed in compliance with CEQA, that the final EIR was presented to the decision-making body (the Advisory Agency) of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR, and that the final EIR reflects the lead agency's independent judgement and analysis. As the City was unable to make the findings necessary for a Statement of Overriding Considerations (CEQA Guidelines Section 15093), no Statement of Overriding Considerations was adopted, the project was denied, and no mitigation monitoring plan was adopted.
2. With the modifications presented to the CEQA findings on May 28, 2019 incorporated, the findings no longer indicate that there is no feasible preservation alternative, and that Alternative 2 is a potentially economically viable preservation alternative. The findings are now internally consistent with the decision to deny the project.
3. With the modifications presented to the CEQA findings on May 28, 2019 incorporated, the findings no longer indicate that there is no feasible preservation alternative, and that Alternative 2 is a potentially economically viable preservation alternative. In accordance with CEQA Guidelines Section 15092(b), a public agency shall not decide to approve a project with significant environmental impacts unless it determines that any remaining significant effects on the environment found to be unavoidable are acceptable due to overriding concerns as described in Section 15093. It is within the lead agency's discretion to determine whether the benefits of a project outweigh its significant impacts.

Additionally, while the project would create larger units than currently exist on the site, the number of dwelling units, eight (8), would be identical to the existing number of dwelling units on the site. Full preservation of the site would achieve three of the six Project Objectives outlined in the EIR, and potentially one other, and, most importantly, would avoid the significant environmental effect of the demolition of the historic resource on the site, City of Los Angeles Historic Cultural Monument (LAHCM) No. 1105.

4. It is within the City's discretion to determine what constitutes consistency with the General Plan. In the project's case, the demolition of a designated Historic Cultural Monument is clearly contrary to the Conservation Element of the General Plan, specifically its Cultural and Historical policy on page II-9 to "continue to protect historic and cultural sites and/or resources potentially affected by proposed land development, demolition or property modification activities."
   Additionally, while the project would create larger units than currently exist on the site, the number of dwelling units, eight (8), would be identical to the existing number of dwelling units on the site. Full preservation of the site would achieve three of the six Project Objectives outlined in the EIR, and potentially one other, and, most importantly, would avoid the demolition of the historic resource on the site, City of Los Angeles Historic Cultural Monument (LAHCM) No. 1105.
5. While the project would create larger units than currently exist on the site, the number of dwelling units, eight (8), would be identical to the existing number of dwelling units on the site. With the modifications presented to the CEQA findings on May 28, 2019 incorporated, the findings no longer indicate that there is no feasible preservation alternative, and that Alternative 2 is a potentially economically viable preservation alternative. Policies that encourage the creation of housing do not require that the City approve all housing development projects, especially since in this case the total number of dwelling units would not change.
6. The denial of this project does not violate the Housing Accountability Act because it has a specific, adverse impact, the demolition of Historic Cultural Monument No. 1105, which would violate the objective policy in the Conservation Element of the General Plan on page II-9 to "continue to protect historic and cultural sites and/or resources potentially affected by proposed land development, demolition or property modification activities." Furthermore, Section 65589.5(e) of the Government Code notes that the Housing Accountability Act does not relieve the City from making the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with CEQA. Since the City cannot make the findings necessary for a Statement of Overriding Considerations to approve the project, it cannot approve the project, and the Housing Accountability Act does not override this.
7. While the project would create larger units than currently exist on the site, the number of dwelling units, eight (8), would be identical to the existing number of dwelling units on the site. With the modifications presented to the CEQA findings on May 28, 2019 incorporated, the findings no longer indicate that there is no feasible preservation alternative, and that Alternative 2 is a potentially economically viable preservation alternative. The City's obligation to meet its Regional Housing Needs Allocation do not require that the City approve all housing development projects, especially since in this case the total number of dwelling units would not change, and the findings for a Statement of Overriding Considerations cannot be made.

8. With the modifications presented to the CEQA findings on May 28, 2019 incorporated, the findings no longer indicate that there is no feasible preservation alternative, and that Alternative 2 is a potentially economically viable preservation alternative. Since an economically viable alternative to the project exists, the denial does not constitute a taking of private property without just compensation.
9. All procedural requirements for the evaluation and denial of the project have been met. The City is under no obligation to approve a project presented to it for a discretionary entitlement, and all findings have been made to support the City's determination. Furthermore, the Applicant/Appellant does not state in what way they claim the Applicant's due process rights have been violated.
10. No examples are given for what constitutes a "similarly situated small lot subdivision." Indeed, every development project is unique, and in this case there is a designated Historic Cultural Monument on the site that would be demolished by the project, and an economically feasible preservation alternative. The City's decision does not constitute a violation of equal protection.

Please consider these amendments to the Findings and responses to the justifications of the appeal of this project in your consideration of the appeal, VTT-74201-SL-1A.

Thank you,

Adam Villani, City Planner
Department of City Planning, Major Projects Section