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December 14, 2017

The Honorable City Council
City of Los Angeles
City Hall, Room 395
Los Angeles, California 90012

Dear Honorable Members:

**APPEAL OF VESTING TENTATIVE TRACT NO. 73891 / 11460-11488 WEST GATEWAY
BOULEVARD / 2426 SOUTH COLBY AVENUE / 2425 SOUTH BUTLER AVENUE; CF 17-0932**

Enclosed herein are revised California Environmental Quality Act (CEQA) findings for Vesting Tentative Tract Map No. 73891 which were considered by the Planning and Land Use Management Committee on November 26, 2017 and recommended for adoption by the City Council.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning


Henry Chu
Deputy Advisory Agency

HC:ON

FINDINGS OF FACT (CEQA)

The Department of City Planning issued Mitigated Negative Declaration No. ENV-2015-4087-MND on March 30, 2017. The Department found that potential negative impact could occur from the project's implementation due to the removal of protected trees and pedestrian safety.

The Deputy Advisory Agency certifies that Mitigated Negative Declaration No. ENV-2015-4087-MND reflects the independent judgment of the lead agency and determined that this project would not have a significant effect upon the environment provided the potential impacts identified above are mitigated to a less than significant level through implementation of Condition No. 29 of the Tract's approval. Other identified potential impacts not mitigated by these conditions are mandatorily subject to existing City ordinances, (Sewer Ordinance, Grading Ordinance, Flood Plain Management Specific Plan, Xeriscape Ordinance, Stormwater Ordinance, etc.) which are specifically intended to mitigate such potential impacts on all projects.

The project site, as well as the surrounding area are presently developed with structures and do not provide a natural habitat for either fish or wildlife.

Subsequent to adoption of Mitigated Negative Declaration No. ENV-2015-4087-MND comments were submitted to the record and an appeal was filed with regard to the Air Quality and proposed alley merger. Pursuant to CEQA Guidelines, Sections 15162 and 15164, neither the comments submitted to the record nor the appeal filed present new information which would warrant a subsequent EIR, negative declaration, or addendum to the adopted MND.

Based on CEQA Guidelines Sections 15162 and 15164, a new environmental review is required when:

1. Substantial changes are proposed in the project which will require major revisions of the Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions of the Negative Declaration due to involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects; or
3. New information of substantial importance which was not known could not have been known with the exercise of reasonable diligence at the time the previous Negative Declaration was adopted, shows the following:
 - a. The project will have one or more significant effects not discussed in the previous Negative Declaration;
 - b. Significant effects previously examined will be substantially more severe than previously shown in the previous Negative Declaration;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponent decline to adopt the mitigation measure or alternative.

With regard to the first two criteria, neither the comments submitted to the record nor the appeal filed contend that any changes to the project are proposed or that substantial changes with respect to the circumstances under which the project is being undertaken have occurred. Therefore, pursuant to CEQA Guidelines Section 15162, under the first two criteria, no subsequent EIR, negative declaration, or addendum to the adopted MND is required.

Air Quality

With regard to the third criterion, the comments submitted to the record and the appeal filed contend that the health risk assessment (HRA) conducted as part of the environmental analysis does not utilize the proper methodology for conducting such analysis. Specifically, that the operational analysis does not implement the South Coast Air Quality Management District's (SCAQMD) guidelines for operational mobile sources HRAs. SCAQMD guidelines identify facilities such as truck stops, warehouse and distribution centers, or transit centers, ship hoteling at ports, and train idling for operational mobile sources HRAs, not 100% residential projects. Therefore, no further analysis is required in order to implement SCAQMD's guidelines for operational mobile sources HRAs. In addition, SCAQMD submitted a comment letter regarding the proposed project on April 12, 2017 and did not request that an HRA be prepared for the project.

Furthermore, to address the project's potential construction and operational impacts to nearby sensitive receptors a refined HRA was prepared for the project (Air Quality Dynamics, 11460-11488 West Gateway Boulevard Project – Health Risk Assessment, September 10, 2017)(Refined HRA). The Refined HRA utilizes all relevant and appropriate assessment and dispersion modeling methodologies presented by the U.S. Environmental Protection Agency, California Environmental Protection Agency, and SCAQMD and notably does not rely on the Office of Environmental Health Hazard Assessment's (OEHHA) March 2015 Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (Guidance Manual). The Guidance Manual is used in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.), and is intended to apply to certain stationary sources, such as power plants or industrial uses that emit toxic air contaminants. Moreover, SCAQMD has not developed any recommendations on the Guidance Manual's use for CEQA analyses for potential construction impacts, nor has the City adopted the Guidance Manual or incorporated it into the City's adopted CEQA thresholds or methodologies. Therefore, as it relates to the proposed project and the analysis of its short-term construction impacts, it is not appropriate to use OEHHA's Guidance Manual to assess the project's short-term construction impacts.

As detailed in the Refined HRA, the project's construction-period emissions were quantified, dispersion of these emissions and exposure frequencies in relation to the occupants of nearby sensitive receptors was modeled, and resulting carcinogenic risk estimates were calculated. As explained in the Refined HRA, operational TAC emissions were not analyzed, because the project's residential-only uses would not be associated with diesel-powered equipment emissions.

As concluded in the Refined HRA, the cancer risk estimate at each of the nearby sensitive receptors, including all schools and residential uses, did not exceed the SCAQMD significance threshold of 10 in one million. The Refined HRA also assessed the potential non-carcinogenic health effects of the project, and concluded that no adverse effects would result.

Accordingly, pursuant to the analysis provided in the Refined HRA, the MND accurately concluded that the Project's potential air quality impacts pertaining to TACs would be less than significant, and no further assessment is required.

Alley Merger

The requested tract map will permit the vacation and merger of an alley that currently bisects the project site, as specifically authorized by Section 66499.20.2 of the Subdivision Map Act. The proposed alley merger has been fully assessed in the MND as well as the project's conditions of approval. Specifically, when reviewing the current condition and use of the public alley, as well as the surrounding street network, the City determined that the alley did not serve a public use and that the requested vacation and merger of the alley would be reasonable. Notwithstanding, the project has been conditioned to obtain additional review under Condition No. 1 which requires that "the Department of Transportation (DOT) issue a letter to the City Engineer stating that the proposed alley merger area is not necessary for present and future public use." Accordingly, and as described in more detail below, the proposed alley merger will not conflict with current or future public needs.

As it relates to the current use of the public alley, the alley is primarily dirt and grass and in some locations used as an extension to various private rear yards. The alley is also currently gated and locked where it abuts the project site and at its southern terminus with Pearl Street, 770 feet to the south. While it is understood that some members of the neighborhood have keys to the locks and therefore have access to the alley, the alley is unimproved and not used for public circulation purposes. As evidence of this lack of public use, Overland Traffic Consultants conducted 24-hour pedestrian and vehicular counts at the southerly and northerly gates to the alley on Sunday, July 16, 2017 and Tuesday, July 18, 2017, in order to identify representative weekday and weekend use of the alley. No vehicle or pedestrian traffic was counted at the northern and southern alley entrance/exit on Sunday, July 16th. On Tuesday, July 18th, one pedestrian was counted entering and leaving the alley during the 8:45 p.m. to 9:00 p.m. time period at the northern alley entrance/exit, and one vehicle was counted entering the alley around 7:45 p.m. and leaving at 8:45 p.m. at the southern alley entrance/exit. This extremely minimal activity does not demonstrate regular public use of the alley. Therefore, removing the alley from public use would not impair circulation or access across the alley area by the public.

As it relates to the future use of the public alley, the project has been conditioned to construct a Fire Department turnaround entirely on the project site, which will allow the City to maintain fire safety standards following the effectuation of the alley merger. In addition, as the alley currently runs parallel to and then terminates at Butler Avenue at the project site, any potentially displaced traffic as a result of the alley merger could be easily accommodated by Butler Avenue, which would provide the same circulation pattern.

Therefore, the proposed alley merger has been fully reviewed and approved by the City, and would not conflict with the public's current or future use of the alley. No significant impacts would occur in connection with the alley merger, and no further environmental analysis is required.

Lastly, no substantial evidence was presented that the project's impacts, including those relating to air quality or the proposed alley merger, would become significant, or would be substantially more severe than originally identified. No mitigation measures were found to be infeasible and no new potential environmental impacts have been identified that would require new mitigation measures. The two mitigation measures pertaining to the removal and replacement of protected trees and construction-period pedestrian protections were identified and required as project conditions of approval and no new or different potential environmental impacts have been identified

Therefore, in accordance with Section 21081.6 of the Public Resources Code (AB 3180), the Deputy Advisory Agency has assured that the above identified mitigation measures will be implemented by adopting the attached Mitigation Monitoring Program of ENV-2015-4087-MND.