

APPEAL APPLICATION

1. APPELLANT BODY/CASE INFORMATION

Type of Appeal:

☐ Appeal by Applicant/Owner

☒ Appeal by a person, other than the Applicant/Owner, claiming to be aggrieved

☐ Appeal from a determination made by the Department of Building and Safety

Telephone: (310) 471-8485 E-mail: john@johngivenlaw.com

4. JUSTIFICATION/REASON FOR APPEAL

Is the entire decision, or only parts of it being appealed?

☒ Entire

☐ Part

Are specific conditions of approval being appealed?

☐ Yes

☒ No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

5. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: _____

Date: 9-7-17

6. FILING REQUIREMENTS/ADDITIONAL INFORMATION

- Eight (8) sets of the following documents are required for each appeal filed (1 original and 7 duplicates):
 - Appeal Application (form CP-7769)
 - Justification/Reason for Appeal
 - Copies of Original Determination Letter
- A Filing Fee must be paid at the time of filing the appeal per LAMC Section 19.01 B.
 - Original applicants must provide a copy of the original application receipt(s) (required to calculate their 85% appeal filing fee).
- All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of the receipt.
- Appellants filing an appeal from a determination made by the Department of Building and Safety per LAMC 12.26 K are considered Original Applicants and must provide noticing per LAMC 12.26 K.7, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt.
- A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.
- Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (ZA, APC, CPC, etc.) makes a determination for a project that is not further appealable. [CA Public Resources Code ' 21151 (c)].

This Section for City Planning Staff Use Only		
Base Fee: <u>89.00</u>	Reviewed & Accepted by (DSC Planner): <u>JOHN DACEY</u>	Date: <u>9/7/17</u>
Receipt No: <u>39774</u>	Deemed Complete by (Project Planner):	Date:
<input checked="" type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

September 7, 2017

APPEAL TO THE LOS ANGELES CITY CITY COUNCIL
Justification/Reasons for Appealing

Case Nos. VTT-74112-1A (VTT-74112)
ENV-2013-2994-MND

Related Case: CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR
Originally: CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-SPR

Project Location: 1525 East Industrial

Determination: CPC Denial of Appeal of Vesting Tentative Tract Map VTT-74112
Adoption of Mitigated Negative Declaration ENV-2013-2994-MND

Arts District Community Council Los Angeles (“ADCCLA”) and ADCCLA Founding Board Member Yuval Bar-Zemer (collectively “Appellants”) hereby appeal the City Planning Commission’s denial of their appeal of the Deputy Advisory Agency’s January 5, 2017 decision to approve Camden USA’s Vesting Tentative Tract Map for the proposed project located at 1525 East Industrial Street, Los Angeles (“Project”). An explanation as to how the Planning Commission erred and/or abused its discretion follows.

I. Appellants are Aggrieved by the Decision.

ADCCLA is a non-profit advocacy organization comprised of Arts District community stakeholders, including artists, residents, property owners, and businesses. The ADCCLA seeks to preserve, protect, and enhance Los Angeles’ Arts District. Mr. Bar-Zemer is a founding member of ADCCLA, and is also a property owner and long-time community leader in the Arts District. The Proposed Project is adjacent to the Arts District and, if approved, would have a major impact on ADCCLA members, Mr. Bar-Zemer, and other Arts District stakeholders.

As explained in greater detail below, approval of the vesting tentative tract map (“VTT”) for the Proposed Project violates the Subdivision Map Act (“SMA”). In addition, adoption of the Mitigated Negative Declaration (“MND”) for the Proposed Project violates CEQA in that a fair argument exists that the project may have potentially significant environmental impacts and therefore an environmental impact report (“EIR”) is required. The Deputy Advisory Agency (“DAA”) failed to proceed in a manner required by law in approving the original VTT application. The City Planning Commission considered a modified version of the Project that

utilized a different set of entitlements than had been considered by the DAA and thus also failed to proceed in a manner required by law.

Appellants respectfully request that the Council rectify the numerous errors made by the DAA and compounded by the Planning Commission and grant this final administrative appeal to set aside the City's approval of the vesting tentative tract map and adoption of the MND.

II. Background and Procedural History.

As the Planning case number's year designation shows, the Project was originally presented to the City in 2013.¹ The 2013 case became part of another project in 2014, when it was presented along with a companion project as part of a proposed policy initiative tailor-made for the Arts District. The proposed Arts District Live/Work Interim Zone and companion projects collectively utilized a separate MND that was never adopted.² The policy initiative was intended as a stop-gap measure to allow limited development of live/work type projects in a slightly expanded Arts District study area including the two companion projects while the City formulated more permanent regulations for development of ground up live/work projects in the Arts District area.

The interim live/work zone was ultimately withdrawn from consideration and the two companion projects did not move forward independently at the time. In place of the interim live/work initiative the City eventually adopted a citywide Hybrid Industrial Zone ordinance in February 2016. The Hybrid Industrial Zone ordinance permitted ground-up construction of live/work projects in community plan areas allowing a Hybrid Industrial land use designation. Indeed, that was its purpose. (Los Angeles Municipal Code ["LAMC"] § 12.04.06.A(3).) Community members, including Appellants, objected to the adoption of the HI Zone because, among other reasons, it is not properly tailored to the Arts District and the City adopted it without engaging in an review of its potentially significant environmental impacts.³

On July 21, 2016, the City published a recirculation notice for the original MND for the 1525 Industrial Street Project. Appellants raised numerous objections in written and oral testimony. The DAA nonetheless approved the VTT on January 5, 2017. Appellants timely filed a written appeal of the VTT approval to the City Planning Commission on January 17, 2017.

¹ See Department of City Planning Recommendation Report to City Planning Commission, Case No. CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR (published Aug. 2, 2017) (hereinafter "Staff Report"), p. F-32.

² See Department of City Planning, "Arts District Draft Live/Work Interim Zone Quick Guide" (Oct. 30, 2014), Open House/Public Hearing Draft, available online at: <http://planning.lacity.org/Ordinances/DraftArtsDistrictLive-WorkOrd.pdf>; see also ENV-2014-4000-MND, the environmental clearance (never adopted) for the policy initiative and two companion projects.

³ In May 2017, Los Angeles Superior Court Judge Strobel ordered that the HI Zone approval be set aside. (*Bar-Zemer, et al. v. City of Los Angeles*, BS161448.) The appeal of the case remains pending.

Under Los Angeles Municipal Code section 17.54, an appeal of a vesting tentative tract map must ordinarily be heard within 30 days after expiration of the appeal period. That appeal period may be extended at the mutual consent of the applicant and either the Advisory Agency or the Appeal Board. The appeal of the VTT here was delayed for almost six months. During that long delay, the Applicant refashioned its entitlements for the Project.⁴ The differently entitled project included three changes.

First, the Applicant dropped its request for a Zoning Administrator Adjustment intended to allow reduced side-yard setback, and in its place requested an Off-Menu Waiver of Development Standards Incentive through the City's density bonus ordinance to achieve the same purpose.⁵ The Applicant's representative stated the reason for this change was Appellants' argument regarding the recently decided Los Angeles Superior Court case *Kottler v. City of Los Angeles* (BS154184), now on appeal, which invalidated the City's ZAA process.⁶ Appellants had cited the *Kottler* case to the DAA and in their appeal of the DAA's approval of the VTT.

Second, the Project entitlement revision included changing the General Plan Land Use Designation from Heavy Industrial to Regional Commercial, rather than to Community Commercial as originally requested. (Staff Report, p. P-1.) No explanation has been provided to members of the public for this change.⁷

Finally, the revised Project entitlements included an On-Menu Density Bonus Incentive to allow a 7% reduction in open space rather than the originally requested Director's Decision to allow the same open space reduction. Again, no specific reason was provided to justify the change to members of the public.

City Planner Michael Sin held a public hearing and acted as hearing officer in order to receive public testimony on the planning case related to the VTT on July 7, 2017. Following that hearing, on August 2, 2017, the City released its Appeal Recommendation Report recommending denial of the VTT appeal, as well as its Staff Report for the related planning case. Appellants provided letters in rebuttal to both reports on August 7, 2017.

⁴ See Department of City Planning letter to Applicant Camden USA (July 25, 2017) (Staff Report, Exhibit C (pp. 106-07)).

⁵ *Ibid.*; see also, Department of City Planning Appeal Recommendation Report to City Planning Commission, Case No. VTT-74112-1A (published Aug. 2, 2017) (hereinafter "Appeal Report"), p. 4.

⁶ As described in Appellants' DAA appeal of VTT-74112: "In *Kottler*, the Court found that granting a variance via the City's Zoning Administrator adjustment process (see LAMC section 12.28) violates Charter section 562, because the enumerated Charter findings for variances are not required for adjustments."

⁷ Appellants' note that Los Angeles Municipal Code section 12.22.A.18(a) permits R5 *uses* on a C2 zoned lot when the land use designation is Regional Commercial, but allowance of R5 *uses* does not change the applicable *density*. As the original DAA approval correctly noted, lots zoned C2 are subject to R4 density limitations for their residential uses. (Deputy Advisory Agency Approval of VTT-74112 (January 5, 2017), p. 22; see LAMC §§ 12.14.C.3, 12.11.C.4; see also City of Los Angeles Generalized Summary of Zoning Regulations, pp. 2-3, available online at: https://planning.lacity.org/zone_code/Appendices/sum_of_zone.pdf [attached as Exhibit 1]).

On August 10, 2017, the City Planning Commission held a hearing to consider both the Appeal of the VTT and the separately agendized related project entitlements. The Commission denied Appellants' VTT appeal of the Deputy Advisory Agency's vesting tentative map approval by a vote of 9-0, and recommended the related entitlements be approved by a vote of 5-4. The CPC issued separate letters of determination on August 28, 2017 for its denial of the VTT Appeal and its approval of the related entitlements.

III. The Project as Entitled Violates the Subdivision Map Act and the City Planning Commission's Action to Sustain the Decision of the Deputy Advisory Agency and Deny the Appeal Constitutes a Prejudicial Abuse of Discretion.

Appellants hereby adopt and incorporate by reference all of their prior submissions and testimony regarding the Project during the vesting tentative tract map process, land use entitlement process, and environmental review process, as well as all objections previously raised by any other persons. In addition, Appellants expressly reserve all objections with respect to being provided an opportunity to review and respond to any additional evidence or argument submitted during the continuing land use entitlement process for the Project, whether provided by the Applicant, the City, or other interested parties.

A. The Subdivision Map Act requires consistency with all applicable land use standards.

The approval of subdivisions is "governed by the provisions of this chapter and by the additional provisions of local ordinances dealing with subdivisions." (Gov. Code, § 66474.60.) Thus, neither the Deputy Advisory Agency ("DAA") nor the City Planning Commission ("CPC") may approve a vesting tentative tract map unless the approval process is consistent with both the procedures outlined by the Subdivision Map Act *and also* "the additional provision of local ordinances dealing with subdivisions." (*Ibid.*) The Los Angeles Municipal Code provides specific parameters for the advisory agency's authority to review and approve vesting tentative tract maps. (*See* LAMC, § 17.03(A).) For example, the Municipal Code provides that the advisory agency has "authority to reduce the width of required passageways" and "to grant deviations... from the applicable area, yard, and height requirements." (*Ibid.*) The LAMC does *not* provide authority to approve a tentative map for a project that does not comply with the existing General Plan or other zoning requirements.

Generally, the ordinances, policies, and standards in effect at the time the local agency deemed the application to be complete are those used to determine consistency. (Govt. Code § 66474.2(a).) Nonetheless, an agency may permit a concurrent entitlement application to seek a zone change or land use designation change. (*See, e.g.,* LAMC § 17.05.C.) Here, the applicant sought, and the DAA approved, a tentative map with the land use designation Community Commercial and underlying zoning of C2-2D-RIO. (VTT-74112 Determination (January 5, 2017), p. 20). In approving the map, the DAA made conflicting findings. It found both that the

proposed map *is* consistent with, and that the proposed map *will be* consistent with, the City's general plan, conditioned upon later approval of a general plan amendment to Community Commercial and zone change to C2-2D-RIO. (*Ibid.*)

B. The City Planning Commission improperly sustained approval of a different tentative map than was approved by the Advisory Agency.

More than six months after the DAA had already approved the tentative map, the City Planning Department mailed a brief *Errata* to the Project's environmental review that the Applicant had requested to change the land use designation from Community Commercial to Regional Commercial, among other changes. (Staff Report, Exhibit C, *supra* note 4; *see* discussion, *supra*, p. 3.) Only two weeks later, the City Planning Commission denied Appellants' appeal and sustained the DAA's action granting approval of the tentative map. The DAA-approved tentative map included a land use designation of Community Commercial. The tentative map allegedly sustained by the CPC included a land use designation of Regional Commercial. (*See* VTT-74112-1A Determination, pp. F-2-F-3.)⁸ This modification to change the land use designation of the tentative map after it had already been approved by the Advisory Agency violates the Subdivision Map Act.

Government Code section 66474.2(b) allows an agency to initiate proceedings to modify applicable ordinances, policies, or standards *before* a tentative tract map application is deemed complete, and apply those modified ordinances, policies, or standards to a deemed completed application so long as the ordinances, policies, or standards are later enacted or instituted as a result of the proceedings initiated. In proposing changes to otherwise applicable ordinances, policies, or standards, the local agency must provide appropriate notice to the public of its intention before a tentative map application is considered by the agency. (Govt. Code § 66474.2(b)(2).) Government Code section 66474.2(c) likewise allows an applicant to request changes to existing ordinances, policies, or standards at the time it brings its tentative map application. The Applicant here did so, notifying the public of its intention to seek a general plan amendment to change the land use designation to Community Commercial. The DAA approved a tentative map with this designation on January 5, 2017.

The Map Act requirements are entirely consistent with the City's Charter and Multiple Approvals ordinance, as discussed in Appellants' rebuttal submission to the Appeal Recommendation Report. The City's Vesting Tentative Tract Map ordinance states that "[i]f it is known at the time of filing that an additional approval (such as a variance or coastal development permit) is necessary, the application for such additional approval *shall* be filed *prior to or*

⁸ Note, however, an inadvertent inconsistency in the first required Map Act finding: "Related Case No. CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR includes a general plan amendment to change the land use designation from Heavy Industrial to Regional Commercial . . . The requested *Community Commercial* land use correlated C2 Zone would allow the proposed residential and commercial development on the property." (VTT-74112-1A Determination, p. F-2 (emphasis added).)

simultaneously with the vesting tentative map.” (LAMC § 17.15.B(1) (emphasis added).) In addition, and consistent with both City Charter Section 564 and LAMC Section 17.15, the City’s “multiple approvals” ordinance requires that “[a]pplicants *shall* file applications at the same time for *all* approvals *reasonably related and necessary to complete the project.*” (LAMC § 12.36.B (emphasis added).) The City’s Multiple Approvals ordinance applies to a project having as one of its entitlements a vesting tentative tract map. (LAMC § 12.36.C(5).)⁹

The Subdivision Map Act does not contemplate a change to an applicable ordinance, policy, or standard requested by the applicant *after* the tentative map has already been approved. Nor does it permit a local agency to initiate proceedings to change an applicable ordinance, policy, or standard for a particular project *after* approval of the tentative map for the project. It cannot do so without violating the due process requirements specifically spelled out in the subdivision map act in connection with the Map Act’s consistency determination requirements. (Govt. Code § 66474.2.) A post-approval modification violates not only the specific letter of the Map Act, but also its intent, since a primary goal of the Map Act and local subdivision ordinances is to encourage orderly community development and ensure proper consideration of a subdivision’s relation to adjoining areas. (*See Pratt v. Adams* (1964) 229 Cal App. 2d 602, 605-06.) The Map Act also ensures consistency with applicable standards for development type, density, and the environment. (Govt. Code § 66474.) Post-approval modifications also implicate due process concerns, as members of the public are forced to deal with an uncertain and shifting project during the administrative approval and administrative appeal process.

Appellants have repeatedly objected that the Project for which the requested VTT approval is sought is inconsistent with the Central City North Community Plan, part of the General Plan’s Land Use Element, and also applicable zoning requirements of the M3-1-RIO zone. (Industrial Streets Loft Project Initial Study/Draft Mitigated Negative Declaration (July 18, 2016) [“Initial Study/MND”], pp. 1, IV-60-62.) The proposed Project is within the “South Industrial” subarea, which is “dominated by industrial uses” and designated Heavy Manufacturing. (Central City North Community Plan, I-2-3; Initial Study/MND, pp. 1, IV-61.) Neither the M3-1-RIO zone nor the Heavy Industrial land use designation in the General Plan allow for residential uses. The proposed Project seeks to construct 344 residential live/work spaces. (*Id.* at pp. 1, IV-61.)

As both the DAA’s and the CPC’s findings admit, the Proposed Project does *not* comply with *existing* General Plan and zoning requirements. (*See, e.g., VTT Determination*, p. 20-21 [finding that only with adoption of the related entitlements, including changing the land use designation to Community Commercial, the zone to C2, and the height district to 2D, the proposed map would be consistent].) It is only because the applicant concurrently requested a general plan amendment, height district change, and zone change, among other entitlements, that

⁹ These points were raised both in writing and in testimony by Appellants, but were not addressed by the City in its appeal determination.

the City could arguably claim the tentative map might later be consistent with applicable land use regulations at some future point. Appellants' previous objection letters noted their serious doubts about these claims of consistency.

Rather than squarely addressing Appellants' contentions about the DAA's actions, the City permitted the Applicant to refashion its Project entitlements before the CPC considered, and ultimately denied, their appeal. In addition to the troubling due process implications of allowing such a bait-and-switch after a tentative map approval had already been granted, this procedural error is a clear violation of both the City's municipal codes and the Subdivision Map Act.

C. Neither the requested general plan amendment nor the requested zone change are available entitlements for the Project.

As discussed at length in Appellants' appeal of the DAA action, the proposed general plan amendment and zone change are not available entitlements for the Project.

A Charter City must comply with all provisions of its City Charter. The Charter serves as the City's Constitution. "[T]he charter represents the supreme law of the City, subject only to conflicting provisions in the federal and state constitutions and to preemptive state law." (*San Diego City Firefighters, Local 145, AFL-CIO v. Board of Admin. of San Diego City Employees' Retirement System* (2012) 206 Cal.App.4th 594, 608 ["*San Diego*"] (internal quotation marks omitted).) A "charter city may not act in conflict with its charter . . . any act that is violative of or not in compliance with the charter is void." (*Ibid.*, citing *Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 171.)

Section 555(a) provides that the General Plan may only be amended "in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has *significant social, economic, or physical identity*." (City Charter, § 555(a).) This charter provision provides for consistent, comprehensive land use planning for the City. The Applicant has not requested that the City's General Plan be amended in its entirety or by subject elements, such as housing, transportation, etc. (See 1525 Industrial Street Camden Industrial Lofts Project Requested Entitlements Actions (May 6, 2016) ["Requested Entitlements Actions"], pp. 1-3.) Nor has the Applicant requested that the General Plan be amended for a specific geographic area that has significant social, economic, or physical identity. (*Ibid.*) 1525 Industrial Street cannot be said to possess its own significant social, economic, or physical identity – it is merely comprised of two parcels within a broader neighborhood sharing geographic, social, economic, and physical qualities. (See December 14, 2016 Hearing Notice, p. 1; Initial Study/MND, pp. II-1-10.) A general plan amendment applied only to the Project site would therefore violate City Charter Section 555, since it would amend the General Plan specifically to benefit a single development site for a lone developer, unless the City makes a valid finding that the site has significant social, economic, or physical identity. The finding here is insufficient to meet that demanding standard.

Similarly, the Applicant's request for a zone change is unlawful because zone changes must be consistent with *existing* General Plan requirements. Though a landowner may apply for a zone change under the Charter, the zone change must be consistent with the *current* General Plan. (City Charter, § 558.) The Charter states "an ordinance, order or resolution [to change any zones or regarding zoning regulations] may be proposed . . . by application of the owner of the affected property if authorized by ordinance." (*Id.* [§§ 558(a)(1)(2), 558(b)(1)].) If a landowner requests a zone change, the Planning Commission is required to ensure that the action is consistent with *existing* requirements imposed by the General Plan. (See *id.* [§ 558(b)(2)].) It must make a "recommendation regarding the relation of the proposed ordinance, order or resolution to the General Plan." (*Ibid.*) A landowner may not request amendments to the General Plan in order to mold the General Plan to a requested zone change. (*Compare* City Charter § 558 with City Charter § 555; *see also* LAMC, § 12.32.)

The Appeal Recommendation Report dispatches Appellants' contentions about these issues in just one conclusory sentence, asserting "[t]he requested General Plan Amendment and Vesting Zone and Height District Change are in fact available entitlements because all of the required City Charter findings can be made in the affirmative." (Appeal Report, p. 4 [citation to findings omitted].) This minimal "analysis" entirely ignores the crux of Appellants' arguments, and assumes that the Project's proposed Charter findings are sufficient. As Appellants' entitlement rebuttal letter notes, and as discussed below, this is not the case.

When the City makes findings to support an action, it is not sufficient that the finding merely restates the necessary conclusion. To satisfy Code of Civil Procedure 1094.5, the finding must "bridge the analytic gap between the raw evidence and ultimate decision or order." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) With respect to the required general plan amendment findings, neither the Applicant nor the City provided substantial evidence of the "significant social, economic, or physical identity" necessary to permit a general plan amendment finding to be made for the Project.

The first general plan finding describes a change to the proposed general plan land use designation to Regional Commercial as "necessary." (Staff Report, p. F-1.) As discussed above, Regional Commercial is not even the same land use designation as initiated by the Applicant when the Project was re-submitted and the MND re-circulated in 2016. Moreover, the Project's previous history as part of the interim live/work initiative proves that the claim of necessity of the particular land use designation is inaccurate. More accurately, the change is one that the Applicant desires that will allow this particular Project to proceed, but not one that is necessary to accommodate job-producing uses or housing. The remainder of the finding merely repeats features of the Project and the current setting that are liberally sprinkled throughout the Project documents to make it appear that the finding has greater substance.¹⁰

¹⁰ With no sense of irony, the finding alludes to the out of date community plan in which the Project is located, which has itself been undergoing an update process since 2014. Community members have

The third general plan finding, required pursuant to City Charter section 555, is simply not responsive to the finding requirement. (Staff Report, pp. F-6–F-7.) Approval of the requested general plan amendment here would not amend the general plan in its entirety, by subject elements or parts of subject elements, or by a geographic area with significant social, economic or physical identity. (See City Charter § 555.) Indeed, as in the first finding discussed above, the finding largely repeats project design features and attributes that the Applicant and City hope will help the Project become a productive part of the larger area around it. But the immediate areas around the Project site are not C2-zoned properties designated Regional Commercial, they are predominantly M3 properties designated Heavy Industrial, the same as the Project site is currently zoned and designated. Indeed, as Appellants noted and Planning staff admitted at the CPC appeal hearing on August 10, the City identifies some of those very M3/Heavy Industrial properties as model nearby developments with which the Project seeks and claims to be consistent. (See Staff Report, p. F-2.)¹¹ If the intention of the requested general plan amendment is land use designation consistency between the Project and the numerous exemplar buildings cited by the City in its findings, it makes no sense that the Project would require a land use designation change to a land use designation *different* than those buildings. The reality is the complete opposite of the finding: the Project is *not* consistent with those exemplar buildings, as the application for an entirely different land use designation shows.

The City's Charter 555 finding fails to even discuss whether the Project site has significant social, economic or physical identity. It states only that "[t]he *surrounding neighborhood* has a significant economic identity from the industrial uses that have historically populated the area." (Staff Report, pp. F-6–F-7 [emphasis added].) The required finding is thus inadequate. In fact, it illustrates the precise opposite of what is required. The Project site may be located *within* a geographic area with significant social, economic or physical identity, but does not itself have a separate social, economic or physical identity apart from the neighborhood.

D. The Subdivision Map Act findings are inaccurate and do not support the City Planning Commission's action to sustain the Advisory Agency decision.

The Appeal Recommendation Report notes Appellants' criticism that "the Subdivision Map Act findings are inaccurate and do not support approval of the VTT," yet the report fails to perform any analysis of the finding in response to Appellants' arguments. (Appeal Report, p. 4.) As discussed above, the greatest inaccuracy found within the CPC's action allegedly sustaining the DAA action is that the DAA did not approve a land use designation change to Regional Commercial, it approved a change to Community Commercial. (Compare VTT-74112

repeatedly urged that the Project should wait until after the community plan update process has been completed so nonconforming projects such as this one do not distort the community planning process.

¹¹ These include: Toy Story Lofts at 1855 Industrial St., Biscuit Company Lofts at 1850 Industrial St., 2121 Lofts at 2135 7th St., and AMP Lofts at 2057 7th St.

Determination, pp. 20-22 [showing a designation change to Community Commercial], *with* VTT-74112-1A Determination, pp. F-2–F-4 [showing a change to Regional Commercial].)

As discussed above in Part III.C, the general plan amendment and zone change are not available for the project, so the conclusion of Subdivision Map Act findings “a” and “b” are necessarily incorrect. (VTT-74112-1A Determination, p. F-2.)

In addition, the CPC action inexplicably changes required Subdivision Map Act finding “d” to assert that the C2 zone may be developed at R5 density of 200 square feet of lot area per dwelling unit. (VTT-74112-1A Determination, p. F-4.) First, this is simply wrong. The City’s municipal code clearly states that R4 lot area requirements (which include dwelling unit density) apply to the C2 zone. (LAMC § 12.14.C.3.) The R4 zone dwelling unit density is 400 square feet of lot area per dwelling unit. (LAMC § 12.11.C.4.)¹²

Second, finding “d” is also inconsistent with a condition of approval from the same CPC action. The Department of Building and Safety, Zoning Division condition 7.f states “[t]he submitted map does not comply with the maximum density (400 s.f. of lot area/dwelling unit) requirement for the proposed C2 Zone.” (VTT-74112-1A Determination, p. C-2.) The condition states that the map must be corrected. (*Ibid.*) Given the obvious conflict between the two findings within the CPC’s determination, the Subdivision Map Act finding “d” is clearly inadequate and in error.

Another Building and Safety, Zoning Division condition notes that a previous parcel map exemption case applies to the Project site, and that the Applicant must “[s]how compliance with all the conditions/requirements of the case as applicable.” (VTT-74112-1A Determination, Condition 7.c, p. C-2.) The condition requires that the Applicant provide a copy of case PMEX-4036, implying that the City did not know what conditions may have been imposed by the case at the time the Deputy Advisory Agency acted, or at the time the CPC sustained the DAA’s action. The lack of information suggests potential conflicts with numerous of the Subdivision Map Act findings, and could provide an additional basis to conclude that the Project is not consistent with all applicable land use standards, as required by the Subdivision Map Act. (Govt. Code § 66474.2; *see also* discussion, *supra*, pp. 4-5.) As discussed above, the City had an affirmative duty to ensure that all applicable standards were met before it approved the tentative map.

E. The VTT approval requires an Environmental Impact Report due to the “fair argument” of potentially significant environmental impacts.

The VTT Approval used as its environmental document a Mitigated Negative Declaration, or MND, adopted by the Advisory Agency when it approved the VTT in its determination of January 5, 2017. (ENV-2013-2994-MND; *see also* VTT Determination, p. 1.) As discussed in the VTT Appeal, CEQA “requires the preparation of an EIR whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant

¹² *See also* Exh. 1, p. 2, *supra* note 7.

environmental impact.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, supplemented (1975) 13 Cal.3d 486; CEQA Guidelines § 15064.) The “fair argument” standard sets “a low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review.” (*Sierra Club v. County of Sonoma* (1992) 6 Cal. App. 4th 1307, 1316–17.)

As discussed in the original Appeal to the CPC, the MND is inadequate in failing to properly analyze the land use impacts of the Project. The Project entitlements are inconsistent with the General Plan and General Plan Framework, and the Project would introduce a “spot zone” within the Central City North Community Plan area. The Appeal Report’s conclusory analysis of this issue mischaracterizes Appellants’ arguments as ignoring the project entitlement requests. It also claims, without citation, that the City’s CEQA Thresholds Guide “expressly recognizes that City approval of a General Plan amendment or zone change will ensure that a project will not result in a significant impact with respect to land use consistency.” (Appeal Report, p. 4.) Appellants find no such express statement in the City’s Thresholds Guide.

The Appeal Report likewise evades Appellants’ argument that approval of the Project would result in “spot zone” by using its own definition for the term “spot zone,” in conflict with the definition found in the City’s CEQA Thresholds Guide. “With respect to spot zoning, the term refers to situations where a city or county singles out a particular parcel for more restrictive zoning than other properties in the vicinity (for example, an island of single family zoning in a sea of commercial zones).” (Appeal Report, p. 5.) But compare the Appeal Recommendation Report’s proffered definition with the City’s actual definition:

“A ‘spot’ zone occurs when the zoning or land use designation for only a portion of a block changes, or a single zone or land use designation becomes surrounded by more or less intensive land uses.”

(LA CEQA Thresholds Guide, p. H.2-2 (emphasis added); *see also Foothill Communities Coalition v. County of Orange* (2014) 222 Cal.App.4th 1302, 1312, 1314, [review denied (Apr. 30, 2014)].)

If a project may result in a spot zone, the City’s Thresholds Guide calls for further study during the project’s environmental review. (LA CEQA Thresholds Guide, p. H.2-2.) Here, the Project MND and later submitted SCEA failed to address the possibility of a spot zone, and so failed to engage in any further review of the potentially significant impacts. Potentially significant impacts that the City failed to consider include cumulative impacts from similarly entitled projects currently in the development pipeline, planning and land use impacts associated with development of a patchwork quilt of residential development in an otherwise industrially zoned area (in direct conflict with the City’s General Plan Framework and good zoning practice), and the possibility that displacement of currently zoned uses to other parts of the City or region

will occur, where such displacement is likely to have significant secondary effects.¹³ The original Appeal provides additional details regarding the Project's direct conflict with the City's General Plan Framework and industrial land use policy. (See Appeal Justification, pp. 4-6.)

Introduction of a spot zone during the Central City North Community Plan update process is particularly troublesome in that it undermines the integrity of what should be an open and transparent process to update the community plan area in which the Project is located.¹⁴

As discussed in the original Appeal to the CPC, the City's failure to identify, let alone analyze, potentially significant land use impacts significantly diminishes the burden on Appellants to meet the "fair argument" standard. (*See Sundstrom v. County of Medocino* (1988) 202 Cal. App. 3d 296, 311 ["If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record."].)

IV. In Approving the Vesting Tentative Tract Map, the Deputy Advisory Agency Improperly Dismissed Public Comments in Violation of Due Process Requirements.

Basic due process rights in the administrative land use process minimally include reasonable notice and an opportunity to be heard. (*Mohilef v. Janovici* (1996) 51 Cal.App.4th 267.) Holding a properly noticed public hearing is, by itself, insufficient to satisfy due process requirements. The opportunity to be heard must be meaningful, and requires that "whenever due process requires a hearing, the adjudicator must be impartial." (*Today's Fresh Start, Inc. v. Los Angeles County Office of Education* (2013) 57 Cal.4th 197, 212 (quoting *Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1025)(internal quotation marks omitted).)

At the tentative tract map hearing, a DAA panel member commented that because there is a separate and later legislative process in place to consider land use issues, the Subdivision Map Act approval hearing is merely for technical map considerations. The panelist suggested that some objections could be deferred to the City Planning Commission to be heard for the first time on appeal, when the CPC would separately consider approvals for the related entitlement applications. This is clearly in error, and strongly suggests panel members did not provide members of the public who were opposed to the Project an impartial hearing and failed to meaningfully consider their objections to the tentative map.

Appellants renew their objection to the panel member's comments on due process grounds. In order to approve a tentative map, the DAA must consider whether the related entitlements are, in fact, appropriate, permissible, and consistent with the requirements of the Subdivision Map Act. It was improper for the DAA to approve a tentative map while deferring consideration of some of the issues properly before the panel, because that precluded the DAA from making the required Subdivision Map Act findings. The DAA's delegation of authority

¹³ These are precisely the types of impacts Appellants and others raised with respect to the HI Zone ordinance. *See* note 3, *supra*.

¹⁴ *See* City of Los Angeles, *DTLA 2040*, available online at: <http://www.dtl2040.org>.

through its conditional approval is also unfair to community members, because it requires them to initiate an appeal in order to have all of their objections to the tentative map heard.

The arrangement also creates a situation where the appellate body, here the CPC, is likely to issue a decision on appeal that is merely a post-hoc rationalization for an action already taken by the Deputy Advisory Agency. California courts generally disfavor such an approach. (*See, e.g., Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 130.)

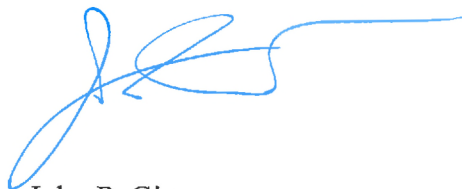
V. Conclusion

Based on all of the above, including the entire record of the VTT approval, appeal, related entitlement application, and environmental review, the Deputy Advisory Agency abused its discretion in approving the vesting tentative tract map and adopting the mitigated negative declaration, because the Project and tentative map are not consistent with or violate the City Charter, General Plan, Los Angeles Municipal Code, Subdivision Map Act, and CEQA. Likewise, the City Planning Commission abused its discretion in sustaining the action of the Deputy Advisory Agency and denying the appeal.

Appellants respectfully request that the City Council overturn the action of both the DAA and the CPC, and grant the appeal.

Thank you for your consideration.

Sincerely,



John P. Given
Attorney for Appellants

Cc (by email only): clients



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: **AUG 28 2017**

Case No.: VTT-74112-1A

Council District: 14 – Huizar

CEQA: ENV-2013-2994-MND

Plan Area: Central City North

Related Case: CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR

Project Site: 1525 East Industrial Street;
1549 East Industrial Street;
656-660 South Alameda Street

Applicant: Ben Brosseau, Camden USA, Inc.
Representative: Matt Dzurec, Armbruster Goldsmith & Delvac LLP

At its meeting on **August 10, 2017**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following project:

A Vesting Tentative Tract for the merger of two lots and resubdivision into one master ground lot and 13 airspace lots for a maximum 344 live-work units and 29,544 square feet of commercial space.

1. **Found**, pursuant to CEQA Guidelines Section 15074(b), after consideration of the whole of the administrative record, including the Mitigated Negative Declaration, No. ENV-2013-2994-MND ("Mitigated Negative Declaration"), as circulated on July 21, 2016 and Errata, and all comments received, with the imposition of mitigation measures, there is no substantial evidence that the project will have a significant effect on the environment; **found** the Mitigated Negative Declaration reflects the independent judgment and analysis of the City; **found** the mitigation measures have been made enforceable conditions on the project; and **adopted** the Mitigated Negative Declaration and the Mitigation Monitoring Program prepared for the Mitigated Negative Declaration;
2. **Denied** the appeal and **sustained** the decision of the Advisory Agency, pursuant to Section 17.03 of the Los Angeles Municipal Code (LAMC), to approve the Vesting Tentative Tract Map; and
4. **Adopted** the attached Conditions of Approval as modified by the Commission; and
5. **Adopted** the attached Findings

The vote proceeded as follows:

Moved: Ambroz
Second: Dake Wilson
Ayes Choe, Katz, Mack, Millman, Mitchell, Padilla-Campos, Perlman

Vote: 9 - 0



James K. Williams, Commission Executive Assistant II
Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: The decision of the Los Angeles City Planning Commission is further appealable to the Los Angeles City Council within 10 days after the mailing date of this determination letter. Any appeal not filed within the 10-day period shall not be considered by the Council. All appeals shall be filed on forms provided at the Planning Department's Development Service Centers located at: 201 North Figueroa Street, Fourth Floor, Los Angeles; 6262 Van Nuys Boulevard, Suite 251, Van Nuys; or 1828 Sawtelle Boulevard, West Los Angeles.

FINAL APPEAL DATE: **SEP 07 2017**

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Conditions of Approval, Findings

cc: Blake Lamb, Senior City Planner
Jennifer Caira, City Planner
Michael Sin, City Planning Associate

BUREAU OF ENGINEERING - SPECIFIC CONDITIONS

1. That a one-foot to 3-foot variable width strip of land be dedicated along Industrial Street adjoining the tract to complete a 33-foot wide half right-of-way in accordance with Collector Street Standards of LA Mobility Plan and additional 15-foot by 15-foot property line cut corner be dedicated at the intersection with Alameda Street. That the above cut corner dedication shall be limited to a height of 20 feet measured from the finished sidewalk surface.
2. That a 10-foot wide strip of land be dedicated along Alameda Street adjoining the tract to complete a 50-foot wide half right-of-way in accordance with Avenue I of LA Mobility Plan.
3. That a 3-foot wide strip of land be dedicated along Mill Street adjoining the tract to complete a 33-foot wide half right-of-way in accordance with Collector Street Standards of LA Mobility Plan.
4. That the subdivider make a request to the Central District Office of the Bureau of Engineering to determine the capacity of existing sewers in this area.
5. That a set of drawings for airspace lots be submitted to the City Engineer showing the following:
 - a. Plan view at different elevations.
 - b. Isometric views.
 - c. Elevation views.
 - d. Section cuts at all locations where air space lot boundaries change.
6. That the owners of the property record an agreement satisfactory to the City Engineer stating that they will grant the necessary private easements for ingress and egress purposes to serve proposed airspace lots to use upon the sale of the respective lots and they will maintain the private easements free and clear of obstructions and in safe conditions for use at all times.

DEPARTMENT OF BUILDING AND SAFETY, ZONING DIVISION

7. That prior to recordation of the final map, the Department of Building and Safety, Zoning Division shall certify that no Building or Zoning Code violations exist on the subject site. In addition, the following items shall be satisfied:
 - a. Obtain permits for the demolition or removal of all existing structures on the site. Accessory structures and uses are not permitted to remain on lots without a main structure or use. Provide copies of the demolition permits and signed inspection cards to show completion of the demolition work.
 - b. Provide a copy of CPC case CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR. Show compliance with all the conditions/requirements of the CPC case as applicable.

- c. Provide a copy of the case PMEX-4036. Show compliance with all the conditions/requirements of the case as applicable.
- d. Zone Change must be recorded prior to obtaining Zoning clearance.
- e. Show all street dedication(s) as required by Bureau of Engineering and provide net lot area after all dedication. "Area" requirements shall be re-checked as per net lot area after street/alley dedication. Front, side and rear yard requirements shall be required to comply with current code as measured from new property lines after dedication(s).
- f. The submitted map does not comply with the maximum density (400 s.f. of lot area/dwelling unit) requirement for the proposed C2 Zone. Revise the map to show compliance with the above requirement based on the lot area after required street dedication is taken or obtain approval from the Department of City Planning.
- g. Provide and record a Covenant and Agreement (affidavit) regarding Maintenance of Building on Air Space Lots. Provide Metes and Bounds to establish and identify the boundaries of the parcel with the correct legal description.

Notes:

This property is located in River Improvement Overlay District, ZI-2358.

This property is located in Transit Priority Area in the City of Los Angeles, ZI-2452.

This property is located in a Methane Buffer Zone.

The proposed building plans have not been checked for and shall comply with Building and Zoning Code requirements. With the exception of revised health or safety standards, the subdivider shall have a vested right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect at the time the subdivision application was deemed complete. Plan check will be required before any construction, occupancy or change of use.

If the proposed development does not comply with the current Zoning Code, all zoning violations shall be indicated on the Map.

An appointment is required for the issuance of a clearance letter from the Department of Building and Safety. The applicant is asked to contact John Francia at (213) 482-0010 to schedule an appointment.

DEPARTMENT OF TRANSPORTATION

8. That the project be subject to any recommendations from the Department of Transportation.

FIRE DEPARTMENT

9. That prior to the recordation of the final map, a suitable arrangement shall be made satisfactory to the Fire Department, binding the subdivider and all successors to the following:
- a. Submittal of plot plans for Fire Department review and approval prior to recordation of Tract Map Action.
 - b. Access for Fire Department apparatus and personnel to and into all structures shall be required.
 - c. The entrance to a Residence lobby must be within 50 feet of the desired street address curb face.
 - d. Where above ground floors are used for residential purposes, the access requirement shall be interpreted as being the horizontal travel distance from the street, driveway, alley, or designated fire lane to the main entrance of individual units.
 - e. The entrance or exit of all ground dwelling units shall not be more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
 - f. No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
 - g. Fire lane width shall not be less than 20 feet. When a fire lane must accommodate the operation of Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions shall not be less than 28 feet in width.
 - h. The width of private roadways for general access use and fire lanes shall not be less than 20 feet, and the fire lane must be clear to the sky.
 - i. Fire lanes, where required and dead ending streets shall terminate in a cul-de-sac or other approved turning area. No dead ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.
 - j. Building designs for multi-storied residential buildings shall incorporate at least one access stairwell off the main lobby of the building; But, in no case greater than 150ft horizontal travel distance from the edge of the public

street, private street or Fire Lane. This stairwell shall extend unto the roof.

- k. Entrance to the main lobby shall be located off the address side of the building.
- l. Any required Fire Annunciator panel or Fire Control Room shall be located within 50ft visual line of site of the main entrance stairwell or to the satisfaction of the Fire Department.
- m. Where rescue window access is required, provide conditions and improvements necessary to meet accessibility standards as determined by the Los Angeles Fire Department.
- n. Policy Exception – L.A.M.C. 57.09.03.B Exception:
 - (1) When this exception is applied to a fully fire sprinklered residential building equipped with a wet standpipe outlet inside an exit stairway with at least a 2 hour rating the distance from the wet standpipe outlet in the stairway to the entry door of any dwelling unit or guest room shall not exceed 150 feet of horizontal travel AND the distance from the edge of the roadway of an improved street or approved fire lane to the door into the same exit stairway directly from outside the building shall not exceed 150 feet of horizontal travel.
 - (2) It is the intent of this policy that in no case will the maximum travel distance exceed 150 feet inside the structure and 150 feet outside the structure. The term "horizontal travel" refers to the actual path of travel to be taken by a person responding to an emergency in the building.
 - (3) This policy does not apply to single-family dwellings or to non-residential buildings.
- o. The Fire Department may require additional roof access via parapet access roof ladders where buildings exceed 28 feet in height, and when overhead wires or other obstructions block aerial ladder access.
- p. Adequate public and private fire hydrants shall be required.
- q. Each standpipe in a new high-rise building shall be provided with two remotely located FDC's for each zone in compliance with NFPA 14-2013, Section 7.12.2.
- r. Recently, the Los Angeles Fire Department (LAFD) modified Fire Prevention Bureau (FPB) Requirement 10. Helicopter landing pads are still required on all High-Rise buildings in the City. However, FPB's Requirement 10 has been revised to provide two new alternatives to a full FAA-approved helicopter landing pad.

s. SECTION 510 - EMERGENCY RESPONDER RADIO COVERAGE

5101.1 Emergency responder radio coverage in new buildings. All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.

- t. All parking restrictions for fire lanes shall be posted and/or painted prior to any Temporary Certificate of Occupancy being issued.
- u. Plans showing areas to be posted and/or painted, "FIRE LANE NO PARKING" shall be submitted and approved by the Fire Department prior to building permit application sign-off.
- v. Electric Gates approved by the Fire Department shall be tested by the Fire Department prior to Building and Safety granting a Certificate of Occupancy.
- w. Site plans shall include all overhead utility lines adjacent to the site.
- x. Any roof elevation changes in excess of 3 feet may require the installation of ships ladders.

The applicant is further advised that all subsequent contact regarding these conditions must be with the Hydrant and Access Unit. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished BY APPOINTMENT ONLY, in order to assure that you receive service with a minimum amount of waiting please call (213) 482-6509. You should advise any consultant representing you of this requirement as well.

LOS ANGELES UNIFIED SCHOOL DISTRICT (LAUSD)

10. That prior to the issuance of any demolition or grading permit or any other permit allowing site preparation and/or construction activities on the site, satisfactory arrangements shall be made with the Los Angeles Unified School District. The project site is located on the pedestrian and bus routes for students attending Metropolitan High School. Therefore, the applicant shall make timely contact for coordination to safeguard pedestrians/ motorists with the LAUSD Transportation Branch, phone no. 213-580-2950, and the principals or designees of Metropolitan High School. (This condition may be cleared by a written communication from the LAUSD Transportation Branch attesting to the required coordination and/or the principals of the above referenced schools and to the satisfaction of the Advisory Agency).

DEPARTMENT OF WATER AND POWER

11. Satisfactory arrangements shall be made with the Los Angeles Department of

Water and Power (LADWP) for compliance with LADWP's Water System Rules and requirements. Upon compliance with these conditions and requirements, LADWP's Water Services Organization will forward the necessary clearances to the Bureau of Engineering. (This condition shall be deemed cleared at the time the City Engineer clears Condition No. S-1.(c).)

BUREAU OF STREET LIGHTING – SPECIFIC CONDITIONS

12. Street Lighting clearance for this Street Light Maintenance Assessment District condition is conducted at 1149 S. Broadway Suite 200. Street Lighting improvement condition clearance will be conducted at the Bureau of Engineering District office, see condition S-3. (c).

Prior to the recordation of the final map or issuance of the Certificate of Occupancy (C of O), street lighting improvement plans shall be submitted for review and the owner shall provide a good faith effort via a ballot process for the formation or annexation of the property within the boundary of the development into a Street Lighting Maintenance Assessment District.

BUREAU OF SANITATION

13. Satisfactory arrangements shall be made with the Bureau of Sanitation, Wastewater Collection Systems Division for compliance with its sewer system review and requirements. Upon compliance with its conditions and requirements, the Bureau of Sanitation, Wastewater Collection Systems Division will forward the necessary clearances to the Bureau of Engineering. (This condition shall be deemed cleared at the time the City Engineer clears Condition No. S-1. (d).)

DEPARTMENT OF CITY PLANNING – SITE SPECIFIC CONDITIONS

14. Prior to the recordation of the final map, the subdivider shall prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770) in a manner satisfactory to the Planning Department, binding the subdivider and all successors to the following:

- a. Limit the proposed development to a maximum of 344 live-work units and 29,544 square feet of commercial floor area.
- b. Residential parking shall be provided per LAMC Section 12.22-A.25(d). Commercial parking shall be provided per LAMC Section 12.21-A.4(x)(3).

In addition, prior to issuance of a building permit, a parking plan showing off-street parking spaces, as required by the Advisory Agency, be submitted for review and approval by the Department of City Planning (201 N. Figueroa Street, 4th Floor).

- c. **Note to City Zoning Engineer and Plan Check.** The Advisory Agency has approved the following variations from the Los Angeles Municipal Code:

as it applies to this subdivision and the proposed development on the site.

Not Applicable

- d. The applicant shall install an air filtration system(s) to reduce the effects of diminished air quality on occupants of the project.
- e. That a solar access report shall be submitted to the satisfaction of the Advisory Agency prior to obtaining a grading permit.
- f. That the subdivider consider the use of natural gas and/or solar energy and consult with the Department of Water and Power and Southern California Gas Company regarding feasible energy conservation measures.
- g. Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material.
- h. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City

- pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Action includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

15. That prior to the issuance of the building permit or the recordation of the final map, a copy of Case No. CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR shall be submitted to the satisfaction of the Advisory Agency. In the event that Case No. CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR is not approved, the subdivider shall submit a tract modification.

DEPARTMENT OF CITY PLANNING - ENVIRONMENTAL MITIGATION MEASURES

16. That prior to recordation of the final map the subdivider shall prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770 and Exhibit CP-6770. in a manner satisfactory to the Planning Department requiring the subdivider to identify (a) mitigation monitor(s) who shall provide periodic status reports on the implementation of mitigation items required by Mitigation Condition

Nos. 17 and 18 of the Tract's approval satisfactory to the Advisory Agency. The mitigation monitor(s) shall be identified as to their areas of responsibility, and phase of intervention (pre-construction, construction, postconstruction/maintenance) to ensure continued implementation of the above mentioned mitigation items.

17. Prior to the recordation of the final map, the subdivider will prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770) in a manner satisfactory to the Planning Department, binding the subdivider and all successors to the following:

MM-1. The applicant shall comply with the following recommendations as specified in the Phase I Environmental Site Assessment (ESA) in the design and construction of the Industrial Street Lofts Project to the satisfaction of the Department of Building and Safety:

- a. Based on the results of the ESA no further inquiry and/or investigation of the subject property is considered practical at this time, and thus none are recommended. However, the Applicant should be aware that isolated pockets of impacted subsurface soil may be encountered during construction and, if encountered, are likely to affect the construction schedule for the planned development. In addition, the unknown underground feature, encountered by BAS, will require further assessment and removal. Should this feature be confirmed to be an underground storage tank, a specialized contractor shall be retained to handle the decommissioning and removal of the tank and associated impacted soil, if any, to the satisfaction of the Los Angeles Fire Department.
- b. In the event that the current owners leave the facility "as is" (i.e., all existing equipment, chemicals, debris, waste, etc., will remain at the site and thereby become the property of Camden upon taking possession of the property), the applicant shall retain the services of a qualified demolition contractor, experienced in handling items, which may contain regulated substances and thus require proper draining/containerization and subsequent disposal/recycling.
- c. Should existing engineered fill under Freezer #5 be re-used at the site (based on geotechnical recommendations), the fill soil shall be tested in order to assess whether it meets the residential land use criteria.

MM-2. An air filtration system shall be installed and maintained with filters meeting or exceeding the ASHRAE Standard 52.2 Minimum Efficiency Reporting Value (MERV) of 11, to the satisfaction of the Department of Building and Safety.

- MM-3. Wall and floor-ceiling assemblies separating commercial tenant spaces, live/work units, and public places, shall have a Sound Transmission Coefficient (STC) value of at least 50, as determined in accordance with ASTM E90 and ASTM E413.
- MM-4. Concrete, not metal, shall be used for construction of parking ramps.
- MM-5. The interior ramps shall be textured to prevent tire squeal at turning areas.
- MM-6. The following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features:
- a. Fire lanes, where required, shall be a minimum of 20 feet in width;
 - b. All structures must be within 300 feet of an approved fire hydrant; and
 - c. Entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.
- MM-7. Prior to plan check review, the Project Applicant shall consult with the Los Angeles Fire Department regarding the installation of public and/or private fire hydrants, sprinklers, access, and/or other fire protection features within the Project. All required fire protection features shall be installed to the satisfaction of the Los Angeles Fire Department.
- MM-8. The plans shall incorporate the design guidelines relative to security, semi-public and private spaces, which may include but not be limited to access control to building, secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Please refer to "Design Out Crime Guidelines: Crime Prevention Through Environmental Design", published by the Los Angeles Police Department. Contact the Community Relations Division, located at 100 W. 1st Street, #250, Los Angeles, CA 90012; (213) 486-6000. These measures shall be approved by the Police Department prior to the issuance of building permits.

- MM-9. In addition to the requirements of the Landscape Ordinance, the landscape plan shall incorporate the following:
- a. Weather-based irrigation controller with rain shutoff.
 - b. Matched precipitation (flow) rates for sprinkler heads.
 - c. Drip/microspray/subsurface irrigation where appropriate.
 - d. Minimum irrigation system distribution uniformity of 75 percent.
 - e. Proper hydro-zoning, turf minimization and use of native/drought tolerant plant materials.
 - f. Use of landscape contouring to minimize precipitation runoff.
- MM-10. A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for existing and expanded irrigated landscape areas totaling 5,000 square feet and greater.
- MM-11. Install high-efficiency toilets (maximum 1.28 gpf), including dual-flush water closets, and high-efficiency urinals (maximum 0.5 gpf), including no-flush or waterless urinals, in all restrooms as appropriate.
- MM-12. Install restroom faucets with a maximum flow rate of 1.5 gallons per minute.
- MM-13. A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for all landscape irrigation uses.
- MM-14. Single-pass cooling equipment shall be strictly prohibited from use. Prohibition of such equipment shall be indicated on the building plans and incorporated into tenant lease agreements. (Single-pass cooling refers to the use of potable water to extract heat from process equipment, e.g. vacuum pump, ice machines, by passing the water through equipment and discharging the heated water to the sanitary wastewater system.)
- MM-15. All commercial restroom faucets shall be of a self-closing design.
- MM-16. Install no more than one showerhead per shower stall, having a flow rate no greater than 2.0 gallons per minute.
- MM-17. Install and utilize only high-efficiency clothes washers (water factor of 6.0 or less) in the project, if proposed to be provided in either individual units and/or in a common laundry room(s). If such appliance is to be furnished by a tenant, this requirement shall be

incorporated into the lease agreement, and the Applicant shall be responsible for ensuring compliance.

MM-18. Install and utilize only high-efficiency Energy Star-rated dishwashers in the project, if proposed to be provided. If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the Applicant shall be responsible for ensuring compliance.

MM-19. The power contractor shall use either plug-in electric or solar powered on-site generators to the extent feasible.

18. **Construction Mitigation Conditions -** Prior to the issuance of a grading or building permit, or the recordation of the final map, the subdivider shall prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770) in a manner satisfactory to the Planning Department, binding the subdivider and all successors to the following:

CM-1. That a sign be required on site clearly stating a contact/complaint telephone number that provides contact to a live voice, not a recording or voice mail, during all hours of construction, the construction site address, and the tract map number. YOU ARE REQUIRED TO POST THE SIGN 7 DAYS BEFORE CONSTRUCTION IS TO BEGIN.

- a. Locate the sign in a conspicuous place on the subject site or structure if developed) so that it can be easily read by the public. The sign must be sturdily attached to a wooden post if it will be free-standing.
- b. Regardless of who posts the site, it is always the responsibility of the applicant to assure that the notice is firmly attached, legible, and remains in that condition throughout the entire construction period.
- c. If the case involves more than one street frontage, post a sign on each street frontage involved. If a site exceeds five (5) acres in size, a separate notice of posting will be required for each five (5) acres, or portion thereof. Each sign must be posted in a prominent location.

CM-2. A construction contingency plan for dealing with both anticipated and potential occurrences of environmentally sensitive situations during site redevelopment shall be established and adhered to during construction.

CM-3. Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday and national holidays.

- CM-4. Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
- CM-5. All powered construction equipment shall be equipped with exhaust mufflers or other suitable noise reduction devices.
- CM-6. Noise and groundborne vibration construction activities whose specific location on the site may be flexible (e.g., operation of compressors and generators, cement mixing, general truck idling) shall be conducted as far as possible from the nearest noise- and vibration-sensitive land uses, and natural and/or manmade barriers (e.g., intervening construction trailers) shall be used to screen propagation of noise from such activities towards these land uses to the maximum extent possible.
- CM-7. Barriers such as, but not limited to, plywood structures or flexible sound control curtains extending eight feet in height shall be erected around the perimeter of the construction site to minimize the amount of noise during construction on the nearby noise-sensitive uses.
- CM-8. Fences shall be constructed around the site to minimize trespassing, vandalism, short-cut attractions and attractive nuisances.
- CM-9. A Construction work site traffic control plan shall be submitted to DOT for review and approval in accordance with the LAMC prior to the start of any construction work. The plans shall show the location of any roadway or sidewalk closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. All construction related traffic shall be restricted to off-peak hours.
- CM-10. All delivery truck loading and unloading shall take place on site.
- CM-11. The Applicant shall plan construction and construction staging as to maintain pedestrian access on adjacent sidewalks throughout all construction phases. This requires the applicant to maintain adequate and safe pedestrian protection, including physical

separation (including utilization of barriers such as K-Rails or scaffolding, etc) from work space and vehicular traffic and overhead protection, due to sidewalk closure or blockage, at all times.

CM-12. Temporary pedestrian facilities shall be adjacent to the project site and provide safe, accessible routes that replicate as nearly as practical the most desirable characteristics of the existing facility.

CM-13. Covered walkways shall be provided where pedestrians are exposed to potential injury from falling objects.

CM-14. Applicant shall keep sidewalk open during construction until only when it is absolutely required to close or block sidewalk for construction staging. Sidewalk shall be reopened as soon as reasonably feasible taking construction and construction staging into account.

DEPARTMENT OF CITY PLANNING - STANDARD JOINT LIVING AND WORK CONDITIONS

LW-1. Prior to the recordation of the final map, the subdivider shall pay or guarantee the payment of a park and recreation fee based on the latest fee rate schedule applicable. The amount of said fee to be established by the Advisory Agency in accordance with Section 17.12 of the LAMC and to be paid and deposited in the trust accounts of the Park and Recreation Fund.

LW-2. That a landscape plan, prepared by a licensed landscape architect, be submitted to and approved by the Advisory Agency in accordance with CP-6730 prior to obtaining any permit. The landscape plan shall identify tree replacement on a 1:1 basis by a minimum of 24-inch box trees for the unavoidable loss of desirable trees on the site. Failure to comply with this condition as written shall require the filing of a modification to this tract map in order to clear the condition.

In the event the subdivider decides not to request a permit before the recordation of the final map, the following statement shall appear on the plan and be recorded as a covenant and agreement satisfactory to the Advisory Agency guaranteeing that:

- a. The planting and irrigation system shall be completed by the developer/builder prior to the close of escrow of 50 percent of the units of the project or phase.
- b. Sixty days after landscape and irrigation installation, the landscape professional shall submit to the homeowners/property owners association a Certificate of Substantial Completion (Sec. 12.40 G LAMC.)
- c. The developer/builder shall maintain the landscaping and irrigation for 60 days after completion of the landscape and irrigation installation.

- d. The developer/builder shall guarantee all trees and irrigation for a period of six months and all other plants for a period of 60 days after landscape and irrigation installation.

LW-3. In order to expedite the development, the applicant may apply for a building permit for a joint living and work building. However, prior to issuance of a building permit for joint living and work units, the registered civil engineer, architect or licensed land surveyor shall certify in a letter to the Advisory Agency that all applicable tract conditions affecting the physical design of the building and/or site, have been included into the building plans. Such letter is sufficient to clear this condition. In addition, all of the applicable tract conditions shall be stated in full on the building plans and a copy of the plans shall be reviewed and approved by the Advisory Agency prior to submittal to the Department of Building and Safety for a building permit.

OR

If a building permit for joint living and work units will not be requested, the project civil engineer, architect or licensed land surveyor must certify in a letter to the Advisory Agency that the applicant will not request a permit for a joint living and work building and intends to acquire a building permit for a joint living and work condominium building. Such letter is sufficient to clear this condition.

LW-4. That approval of this tract constitutes approval of model home uses, including a sales office and off-street parking. Where the existing zoning is (T) or (Q) for multiple residential use, no construction or use shall be permitted until the final map has recorded or the proper zone has been effectuated. If models are constructed under this tract approval, the following conditions shall apply:

1. Prior to recordation of the final map, the subdivider shall submit a plot plan for approval by the Division of Land Section of the Department of City Planning showing the location of the model dwellings, sales office and off-street parking. The sales office must be within one of the model buildings.
2. All other conditions applying to Model Dwellings under Section 12.22-A, 10 and 11 and Section 17.05-O of the Los Angeles Municipal Code (LAMC) shall be fully complied with satisfactory to the Department of Building and Safety.

BUREAU OF ENGINEERING - STANDARD CONDITIONS

- S-1. (a) That the sewerage facilities charge be deposited prior to recordation of the final map over all of the tract in conformance with Section 64.11.2 of the Los Angeles Municipal Code (LAMC).
- (b) That survey boundary monuments be established in the field in a manner satisfactory to the City Engineer and located within the California Coordinate System prior to recordation of the final map. Any alternative

measure approved by the City Engineer would require prior submission of complete field notes in support of the boundary survey.

- (c) That satisfactory arrangements be made with both the Water System and the Power System of the Department of Water and Power with respect to water mains, fire hydrants, service connections and public utility easements.
- (d) That any necessary sewer, street, drainage and street lighting easements be dedicated. In the event it is necessary to obtain off-site easements by separate instruments, records of the Bureau of Right-of-Way and Land shall verify that such easements have been obtained. The above requirements do not apply to easements of off-site sewers to be provided by the City.
- (e) That drainage matters be taken care of satisfactory to the City Engineer.
- (f) That satisfactory street, sewer and drainage plans and profiles as required, together with a lot grading plan of the tract and any necessary topography of adjoining areas be submitted to the City Engineer.
- (g) That any required slope easements be dedicated by the final map.
- (h) That each lot in the tract comply with the width and area requirements of the Zoning Ordinance.
- (i) That 1-foot future streets and/or alleys be shown along the outside of incomplete public dedications and across the termini of all dedications abutting unsubdivided property. The 1-foot dedications on the map shall include a restriction against their use of access purposes until such time as they are accepted for public use.
- (j) That any 1-foot future street and/or alley adjoining the tract be dedicated for public use by the tract, or that a suitable resolution of acceptance be transmitted to the City Council with the final map.
- (k) That no public street grade exceeds 15%.
- (l) That any necessary additional street dedications be provided to comply with the Americans with Disabilities Act (ADA) of 1990.

S-2. That the following provisions be accomplished in conformity with the improvements constructed herein:

- (a) Survey monuments shall be placed and permanently referenced to the satisfaction of the City Engineer. A set of approved field notes shall be furnished, or such work shall be suitably guaranteed, except where the setting of boundary monuments requires that other procedures be followed.

- (b) Make satisfactory arrangements with the Department of Traffic with respect to street name, warning, regulatory and guide signs.
 - (c) All grading done on private property outside the tract boundaries in connection with public improvements shall be performed within dedicated slope easements or by grants of satisfactory rights of entry by the affected property owners.
 - (d) All improvements within public streets, private streets, alleys and easements shall be constructed under permit in conformity with plans and specifications approved by the Bureau of Engineering.
 - (e) Any required bonded sewer fees shall be paid prior to recordation of the final map.
- S-3. That the following improvements be either constructed prior to recordation of the final map or that the construction be suitably guaranteed:
- (a) Construct on-site sewers to serve the tract as determined by the City Engineer.
 - (b) Construct any necessary drainage facilities.
 - (c) Install street lighting facilities to serve the tract as required by the Bureau of Street Lighting.
 - a. Construct one new street light on Alameda Street.
 - b. Construct five new street lights on Industrial Street.
 - c. Construct one new street light on Mill Street.
- Notes:
- The quantity of street lights identified may be modified slightly during the plan check process based on illumination calculations and equipment selection.
- Conditions set: 1) in compliance with a Specific Plan, 2) by LADOT, or 3) by other legal instrument excluding the Bureau of Engineering condition S-3 (i), requiring an improvement that will change the geometrics of the public roadway or driveway apron may require additional or the reconstruction of street lighting improvements as part of that condition.
- (d) Plant street trees and remove any existing trees within dedicated streets or proposed dedicated streets as required by the Street Tree Division of the Bureau of Street Maintenance. All street tree plantings shall be brought up to current standards. When the City has previously been paid for tree

planting, the subdivider or contractor shall notify the Urban Forestry Division ((213) 847-3077) upon completion of construction to expedite tree planting.

- (e) Repair or replace any off-grade or broken curb, gutter and sidewalk satisfactory to the City Engineer.
- (f) Construct access ramps for the handicapped as required by the City Engineer.
- (g) Close any unused driveways satisfactory to the City Engineer.
- (h) Construct any necessary additional street improvements to comply with the Americans with Disabilities Act (ADA) of 1990.
- (i) That the following improvements be either constructed prior to recordation of the final map or that the construction be suitably guaranteed:
 - a. Improve Alameda being dedicated and adjoining the subdivision by the construction of the following:
 - (1) A concrete curb, a concrete gutter, and a 15-foot full-width concrete sidewalk with tree wells.
 - (2) Suitable surfacing to join the existing pavement and to complete 35-foot half roadway.
 - (3) The necessary transitions to join the existing improvement.
 - (4) Relocation of the existing catch basin along Alameda Street satisfactory to the City Engineer.
 - b. Improve Industrial Street and Mills Street being dedicated and adjoining the tract by the construction of additional concrete sidewalks within the newly dedicated areas to complete full-width concrete sidewalks with tree wells including any necessary removal and reconstruction of the existing improvements satisfactory to the City Engineer.

NOTES:

The Advisory Agency approval is the maximum number of units permitted under the tract action. However the existing or proposed zoning may not permit this number of units. This vesting map does not constitute approval of any variations from the Los Angeles Municipal Code (LAMC), unless approved specifically for this project under separate conditions.

Any removal of the existing street trees shall require Board of Public Works approval.

Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power, Power System, to pay for removal, relocation, replacement or adjustment of power facilities due to this development. The subdivider must make arrangements for the underground installation of all new utility lines in conformance with Section 17.05-N of the LAMC.

The final map must be recorded within 36 months of this approval, unless a time extension is granted before the end of such period.

The Advisory Agency hereby finds that this tract conforms to the California Water Code, as required by the Subdivision Map Act.

The subdivider should consult the Department of Water and Power to obtain energy saving design features which can be incorporated into the final building plans for the subject development. As part of the Total Energy Management Program of the Department of Water and Power, this no-cost consultation service will be provided to the subdivider upon his request.

FINDINGS OF FACT (CEQA)

The project was issued Mitigated Negative Declaration ENV-2013-2994-MND on July 21, 2016. Potential negative impacts could occur from the project's implementation due to:

- Hazardous Materials Site
- Land Use / Planning
- Increased Noise Levels (Demolition, Grading, and Construction Activities)
- Increased Noise Levels (Mixed-Use Development)
- Increased Noise Levels (Parking Structure Ramps)
- Public Services (Fire Protection)
- Public Services (Police – Demolition / Construction Sites)
- Public Services (Police)
- Transportation / Traffic
- Utilities (Local Water Supplies – Landscaping)
- Utilities (Local Water Supplies – All New Construction)
- Utilities (Local Water Supplies – New Commercial or Industrial)
- Utilities (Local Water Supplies – New Residential)

The Deputy Advisory Agency, certifies that Mitigated Negative Declaration No. ENV-2013-2994-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 Nos. 17 and 18** 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.

In accordance with Section 21081.6 of the Public Resources Code (AB3180), the Deputy Advisory Agency has assured that the above identified mitigation measures will be implemented by requiring reporting and monitoring as specified in Condition No. 16.

Furthermore, the Advisory Agency hereby finds that modification(s) to and/or correction(s) of specific mitigation measures have been required in order to assure appropriate and adequate mitigation of potential environmental impacts of the proposed use of this subdivision.

FINDINGS OF FACT (SUBDIVISION MAP ACT)

In connection with the approval of Vesting Tentative Tract No. 74112, the Advisory Agency of the City of Los Angeles, pursuant to Sections 66473.1, 66474.60, .61 and .63 of the State of California Government Code (the Subdivision Map Act), makes the prescribed findings as follows:

- (a) **THE PROPOSED MAP IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.**

The adopted Central City North Plan designates the subject property for heavy manufacturing land use with the corresponding zone of M3. The property contains approximately 2.59 net acres (112,842 net square feet) after required dedication and is presently zoned M3-1-RIO. The proposed 14-lot airspace subdivision is allowable under the current adopted zone and the land use designation. The project site is within the River Improvement Overlay (RIO) District.

Related Case No. CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR includes a general plan amendment to change the land use designation from Heavy Industrial to Regional Commercial, a vesting zone change / height district change from M3-1-RIO (Heavy Manufacturing) to C2-2D-RIO (Commercial). The requested Community Commercial land use correlated C2 Zone would allow the proposed residential and commercial development on the property. The tract map approval is conditioned on the approval of the General Plan Amendment and Zone Change / Height District Change (Condition No. 15).

Residential parking will be provided as required by the LAMC. The project will provide 397 resident parking spaces and 80 guest parking spaces for the 344 live-work apartment units.

The project site is located within the Los Angeles State Enterprise zone. Per LAMC 12.21-A.4(x)(3), areas within any Enterprise Zone only need to provide two parking spaces for every 1,000 square feet of commercial space. Based on this requirement, the 29,544 square foot site is required to provide 59 commercial parking spaces.

The project will include 391 on-site bicycle parking spaces, meeting requirements of the Bicycle Ordinance (Ordinance No. 182,386). The live-work units require 379 bicycle parking spaces, including 35 short-term and 344 long-term spaces. The commercial area requires 12 bicycle parking spaces, including 5 short-term and 7 long-term spaces.

Therefore, the proposed map will be consistent with the applicable General Plan upon approval of the General Plan Amendment and the Zone Change.

- (b) THE DESIGN OR IMPROVEMENT OF THE PROPOSED SUBDIVISION IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.

The Bureau of Engineering has reviewed the proposed subdivision and found the subdivision layout generally satisfactory and that there are existing sewers in the streets adjoining the subdivision. As a condition of approval, the subdivider is required to make dedications and improvements on Industrial Street, Alameda Street and Mill Street in order to meet current street standards. The Bureau of Street Lighting has also reviewed the proposed subdivision and has conditioned the subdivision approval to construct new street lights on Industrial Street, Alameda Street and Mill Street in order to meet current street lighting standards. This tract will connect to the public sewer system and will not result in violation of the California Water Code. The Bureau of Sanitation reviewed the sewer/storm drain lines serving the proposed subdivision and found no potential problems to their structures or potential maintenance problems.

Therefore, as conditioned, the proposed tract map is consistent with the intent and purpose of the applicable General and Specific Plans.

- (c) THE SITE IS PHYSICALLY SUITABLE FOR THE TYPE OF DEVELOPMENT.

The site is level and is not located in a slope stability study area, high erosion hazard area, or a fault-rupture study zone. The Department of Building and Safety, Grading Division, has tentatively approved the tract map without conditions.

The site is not subject to the Flood Hazard Specific Plan (Ordinance No. 172081, effective July 3, 1998) for floodways, floodplains, mud prone areas, coastal high-hazard and flood-related erosion hazard areas. This plan qualifies property owners for greater coverage limits and generally lower flood insurance premium rates.

A tree letter dated February 12, 2016, certified that there are no protected trees on the project site.

The project engineer has certified that the subject site is not located in a flood hazard, a hillside, or a mud-prone area. However, the project is located in a Methane Buffer Zone. Prior to the issuance of a building permit, a qualified engineer will be required to investigate and design a methane mitigation system in compliance with the Department of Building and Safety Methane Mitigation Standards for the appropriate Site Design Level, which will prevent or retard potential methane gas seepage into the building.

- (d) THE SITE IS PHYSICALLY SUITABLE FOR THE PROPOSED DENSITY OF DEVELOPMENT.

The approximately 2.59 acre site is currently zoned M3-1-RIO. The proposed map includes an accompanying request for a general plan amendment to change the Central City North land use designation from Heavy Manufacturing to Regional Commercial, a vesting zone change / height district change from M3-1-RIO (Heavy

Manufacturing) to C2-2D-RIO (Commercial), On- and Off-Menu Density Bonus Incentives for reduced open space and reduced side yard setbacks respectively, a master conditional use permit for the sale of alcohol for on-site restaurant consumption, and an approval of Site Plan Review findings (Case No. CPC-2013-2993-GPA-VZC-HD-DB-MCUP-SPR). The current plan designation of Heavy Manufacturing and the M3-1-RIO Zone would not allow residential and commercial uses on the site. The land use designation change and zone change would allow the C2 Zone to be developed at the R5 density which is 200 square feet of lot area per dwelling unit. The proposed 344 dwelling units is consistent with R5 density.

The Height District Change from Height District No. 1 to Height District No. 2D would allow an increase in the Floor Area Ratio (FAR) from 1.5:1 to 6:1. Although Height District No. 2 allows an FAR of 6:1, the D limitation reduces the maximum FAR to 3:1. The project will be built at or less than 2.98:1 FAR. This would allow for a mix of commercial and residential uses as permitted by LAMC Section 12.22 A.18(a).

The project site is currently served by two MTA Rapid Bus Lines, including lines 720 and 760, and five MTA Local Bus Lines, including lines 18, 28, 53, 60 and 62. These lines provide connections to the downtown subway stations, which include Pershing Square and 7th Street/Metro Center. Additionally, the Greyhound Bus Terminal is located one block south of the project site on 7th Street, which provides inter-city bus services to various locations outside of the Los Angeles area.

The project is also served by the Metro Gold Line rail system located at the Little Tokyo/Arts District station near 1st Street and Alameda Street. The Metro Gold Line offers service to East Los Angeles to the east and Pasadena to the northeast. The Metro Gold Line connects to Union Station, providing access to Metrolink, the Metro Silver Bus Line, and Metro Rail Red and Purple Lines.

- (e) THE DESIGN OF THE SUBDIVISION OR THE PROPOSED IMPROVEMENTS ARE NOT LIKELY TO CAUSE SUBSTANTIAL ENVIRONMENTAL DAMAGE OR SUBSTANTIALLY AND AVOIDABLY INJURE FISH OR WILDLIFE OR THEIR HABITAT.

The Deputy Advisory Agency certified that Mitigated Negative Declaration No. ENV-2013-2994-MND reflects the independent judgment of the lead agency and determined that this project would not have a significant effect upon the environment provided that the potential impacts identified above are mitigated to a less than significant level through implementation of **Conditions Nos. 17 and 18** of the Tract's approval.

The Initial Study, prepared for the project by Parker Environmental Consultants (published on July 21, 2016), identifies potential adverse impact on fish or wildlife resources as far as earth, air, and plant life are concerned. However, measures are required as part of this approval, which will mitigate the above mentioned impacts to a less than significant level. Furthermore, the project site, as well as the surrounding area is presently developed with structures and does not provide a

natural habitat for either fish or wildlife.

Any demolition, grading, and construction will be conducted per the requirements of the Los Angeles Municipal Code and associated permits needed to perform such work. These permits also restrict work hours to mitigate noise pollution.

- (f) THE DESIGN OF THE SUBDIVISION OR TYPE OF IMPROVEMENTS IS NOT LIKELY TO CAUSE SERIOUS PUBLIC HEALTH PROBLEMS.

There appears to be no potential public health problems caused by the design or improvement of the proposed subdivision. The development is required to be connected to the City's sanitary sewer system, where the sewage will be directed to the LA Hyperion Treatment Plant, which has been upgraded to meet Statewide ocean discharge standards. The Bureau of Engineering has reported that the proposed subdivision does not violate the existing California Water Code because the subdivision will be connected to the public sewer system and will have only a minor incremental impact on the quality of the effluent from the Hyperion Treatment Plant.

- (g) THE DESIGN OF THE SUBDIVISION OR THE TYPE OF IMPROVEMENTS WILL NOT CONFLICT WITH EASEMENTS, ACQUIRED BY THE PUBLIC AT LARGE, FOR ACCESS THROUGH OR USE OF PROPERTY WITHIN THE PROPOSED SUBDIVISION.

There are no recorded instruments identifying easements encumbering the project site for the purpose of providing public access. The project site contains legally recorded lots identified by the Assessor Parcel Record. The site is surrounded by private and public properties that adjoin improved public streets and sidewalks designed and improved for the specific purpose of providing public access throughout the area. The project site does not adjoin or provide access to a public resource, natural habitat, Public Park or any officially recognized public recreation area. Therefore, the design of the subdivision and the proposed improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

- (h) THE DESIGN OF THE PROPOSED SUBDIVISION SHALL PROVIDE, TO THE EXTENT FEASIBLE, FOR FUTURE PASSIVE OR NATURAL HEATING OR COOLING OPPORTUNITIES IN THE SUBDIVISION. (REF. SECTION 66473.1)

In assessing the feasibility of passive or natural heating or cooling opportunities in the proposed subdivision design, the applicant has prepared and submitted materials which consider the local climate, contours, configuration of the parcel(s) to be subdivided and other design and improvement requirements.

Providing for passive or natural heating or cooling opportunities will not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in effect at the time the tentative map was filed.

The lot layout of the subdivision has taken into consideration the maximizing of the north/south orientation.

The topography of the site has been considered in the maximization of passive or natural heating and cooling opportunities.

In addition, prior to obtaining a building permit, the subdivider shall consider building construction techniques, such as overhanging eaves, location of windows, insulation, exhaust fans; planting of trees for shade purposes and the height of the buildings on the site in relation to adjacent development.

These findings shall apply to both the tentative and final maps for Tract No. 74112.

January 17, 2017

APPEAL TO THE LOS ANGELES CITY PLANNING COMMISSION
Justification/Reasons for Appealing

Case Nos. VTT-74112; ENV-2013-2994-MND
Related Case: CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-SPR
Project Location: 1525 East Industrial
Determination: Approval of Vesting Tentative Tract Map VTT-74112
Mitigated Negative Declaration ENV-2013-2994-MND

Arts District Community Council Los Angeles ("ADCCLA") and ADCCLA Founding Board Member Yuval Bar-Zemer (collectively "Appellants") hereby appeal the Deputy Advisory Agency's ("DAA") January 5, 2017 Decision (the "Decision") approving Camden USA's ("Applicant" or "landowner" or "developer") Vesting Tentative Tract Map ("VTT" or "VTT Map") for the proposed project located at 1525 East Industrial Street, Los Angeles ("Proposed Project"). An explanation as to how the Deputy Advisory Agency erred and/or abused its discretion follows.

I. Appellants are Aggrieved by the Decision.

ADCCLA is a non-profit advocacy organization comprised of Arts District community stakeholders, including artists, residents, property owners, and businesses. The ADCCLA seeks to preserve, protect, and enhance Los Angeles' Arts District. Mr. Bar-Zemer is a founding member of ADCCLA, and is also a property owner and long-time community leader in the Arts District. The Proposed Project is adjacent to the Arts District and, if approved, would have a major impact on ADCCLA members, Mr. Bar-Zemer, and Arts District stakeholders.

As explained below, approval of the vesting tentative tract map ("VTT") for the Proposed Project violates the Subdivision Map Act ("SMA") and the Los Angeles City Charter. In addition, adoption of the Mitigated Negative Declaration ("MND") for the Proposed Project violates CEQA in that a fair argument exists that the project may have potentially significant environmental impacts and therefore an environmental impact report ("EIR") is required, rather than an MND. The DAA's

approval of the VTT application despite these significant shortcomings means the decisionmaker has failed to proceed in a manner required by law. The approval must be overturned.

II. The Deputy Advisory Agency's Determination Must Be Overturned Because the Deputy Advisory Agency Does Not Have the Authority to Approve a Vesting Tentative Tract Map That Fails to Comply with Applicable Land Use Standards.

The approval of subdivisions is “governed by the provisions of this chapter and by the additional provisions of local ordinances dealing with subdivisions.” (Gov. Code, § 66474.60.) Thus, the Deputy Advisory Agency may only approve a VTT providing the approval process is consistent with the procedures outlined by the Subdivision Map Act *and also* “the additional provision of local ordinances dealing with subdivisions.” (*Ibid.*) The Los Angeles Municipal Code (“LAMC” or “Municipal Code”) provides specific parameters for the advisory agency’s authority to review and approve vesting tentative tract maps. (See LAMC, § 17.03(A).) For example, the Municipal Code provides that the advisory agency has “authority to reduce the width of required passageways” and “to grant deviations... from the applicable area, yard, and height requirements.” (*Ibid.*) The LAMC does not, however, provide authority to approve a tentative map for a project that does not comply with the existing General Plan or other zoning requirements. (See LAMC, § 17.03(A); see generally LAMC, § 17.00 *et seq.*)

As discussed in more detail below, the Proposed Project related to the VTT application in this case is inconsistent with both the Central City North Community Plan, part of the General Plan’s Land Use Element, and also applicable zoning requirements of the M3-1-RIO zone. (Industrial Streets Loft Project Initial Study/Draft Mitigated Negative Declaration (July 18, 2016) [“Initial Study/MND”], pp. 1, IV-60-62.) The Proposed Project falls within the “South Industrial” subarea, which is “dominated by industrial uses” and designated Heavy Manufacturing. (Central City North Community Plan, I-2-3; Initial Study/MND, pp. 1, IV-61.) Neither the M3-1-RIO zone nor the Heavy Industrial land use designation in the General Plan allow for residential uses. Nonetheless, the Proposed Project seeks to construct 344 residential spaces. (*Id.* at pp. 1, IV-61.)

The Proposed Project does not comply with existing General Plan and zoning requirements, and the Deputy Advisory Agency is not vested with authority to approve projects that do not comply with controlling land use law. Thus, the Deputy Advisory Agency did not have authority to approve the VTT, and the DAA’s approval therefore constitutes an abuse of discretion.

III. The Deputy Advisory Agency's VTT Approval Violates the Subdivision Map Act.

The Subdivision Map Act governs the approval of subdivisions and tentative maps. (Gov. Code, § 66474.60.) An Agency may approve a Vesting Tentative Tract map only if the Proposed Project complies with both the SMA and local ordinances governing subdivisions. (See *ibid.*; see also Section I, above.) Approval of a VTT map that does not comply with the SMA is prohibited by law and an abuse of discretion.

A. Approval of a VTT for a project that converts parcels to a zoning designation and use that are inconsistent with the General Plan violates the fundamental purpose of the Subdivision Map Act.

The SMA was enacted “[t]o encourage orderly community development by providing for the regulation of the design and improvement of the subdivision, with... proper consideration of its relation to adjoining areas.” (61 Ops. Cal. Atty. Gen. 299, 301 (1978); 77 Ops. Cal. Atty. Gen. 185 (1994).) The approved VTT undermines consistent community development. The Proposed Project is inconsistent with current zoning regulations and the General Plan – regulations designed to ensure consistent development and land use. (See discussion, Sections III.B, IV.) Approval of the Proposed Project even though it fails to conform to the existing General Plan and zoning regulations demonstrates that the DAA’s VTT determination did not properly consider the Project’s relation to adjoining parcels and surrounding area of the Project site. (See Initial Study/MND at II-4 [surrounding parcels primarily zoned M3-1-RIO].) Approval of the Project undermines the purpose of the SMA and therefore constitutes an abuse of discretion.

B. Approval of the proposed VTT violates the SMA because the VTT is inconsistent with the General Plan.

Section 66474.61 of the SMA requires denial of a tentative map that is inconsistent with the applicable general plan:

In cities having a population of more than 2,800,000, the advisory agency... *shall deny* approval of a tentative map . . . if it makes *any* of the following findings: (a) That the proposed map is not consistent with applicable general and specific plans [or] (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans . . .”

(Gov. Code, § 66474.61 (emphasis added).) “[A]pproval of subdivisions which are inconsistent with a locality’s general plan subverts the integrity . . . of the local planning process.” (*Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 936 (internal quotation marks omitted).) Here, neither the proposed map nor the Proposed Project is consistent with the applicable general plan.

The Proposed Project is within the jurisdiction of the Central City North Community Plan. (Initial Study/MND, p. 1.) It falls within the “South Industrial” subarea, which is “dominated by industrial uses” and is designated Heavy Manufacturing. (Central City North Community Plan, I-2-3; Initial Study/MND, p. 1, IV-58.) The MND notes that the M3-1 zone “in general does not currently allow for residential land uses.” (Initial Study/MND at IV-61; see Central City North Community Plan.) In fact, the M3-1 zone does not allow residential uses, in general or otherwise. (See Initial Study/MND, p. IV-58 [“residential uses are not permitted in industrial zones”].) In order to construct new residential units, including live/work units, an applicant with an M3-1 zoned property must obtain a zone change. The Project proposes live/work units, restaurants, and office space that are incompatible with the existing General Plan (and zoning) designations. (Initial Study/MND at IV-61.) Here, because of the inconsistency with the General Plan and zoning, the applicant seeks a zone change and also an amendment to the General Plan.

The requested General Plan Amendment (“GPA”) would re-designate the site’s land use from Heavy Manufacturing to Community Commercial. (Case Number ENV-2013-2994-MND, CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MSC-SPR, VTTM NO. 74112 Hearing Notice (Sept. 16, 2016) [“September 16, 2016 Hearing Notice”]; see also Initial Study/MND, p. 1.) The application for a GPA serves as an admission that the Proposed Project is inconsistent with the existing General Plan designation—if the Project were consistent with the General Plan, no such amendment would be necessary. (See MND at IV-61: “Upon approval of the General Plan amendment and zone change . . . the Project would be consistent with the zoning and Community Plan’s land use designation and the zoning.”) The Central City North Community Plan identifies “the intrusion of commercial and residential uses into previously industrial areas” as one of the three primary issues facing industrially zoned land. (Central City North Community Plan, p. I-7.) Approval of this VTT and Project would perpetuate the intrusion of commercial and residential uses into industrial land. (See Initial Study/MND, p. IV-58.) Thus, approval of the VTT is contrary to the Central City North Community Plan.

The VTT is also inconsistent with the General Plan Framework Element, which states that City policy is to “[r]etain the current manufacturing and industrial land use designations . . . to provide adequate quantities of land for emerging industrial sectors.” (Los Angeles General Plan

Framework Policy 7.2.8.)¹ City policy also seeks to “[l]imit the redesignation of existing industrial land to other land uses.” (*Id.* Policy 7.2.9.) These policies support the City’s objective to “actively ensure that the City has sufficient quantities of land suitable to accommodate... industrial firms.” (Los Angeles Department of City Planning and Community Redevelopment Agency, *Los Angeles’ Industrial Land: Sustaining a Dynamic City Economy* (Dec. 2007) [“*LA Industrial Land*”], p. 3 (excerpt attached as Exhibit 1/Tab 4);² see General Plan Framework section 7.2 *et seq.*) The General Plan Framework only permits conversion of industrial land to non-industrial uses “[w]here it can be demonstrated that the reduction of industrial lands will not adversely impact the City’s ability to accommodate sufficient industrial uses to provide jobs for the City’s residents or incur adverse fiscal impacts.” (General Plan Framework Policy 13.4.6.) The City’s overarching goal is to limit conversion of existing industrial land to other land uses to avoid creating “a fragmented pattern of development [that] reduces the integrity and viability of existing industrial areas.” (*Ibid.*) This is an important policy goal because only 8 percent of Los Angeles’ land is designated for industrial uses, a quarter of which has already been converted to non-industrial purposes. (*LA Industrial Land*, p. 10).

If approved, the Proposed Project would undermine City policies to retain industrially zoned land. It would convert industrial land to commercial zoning in direct conflict with Policy 7.2.9’s mandate to “[l]imit the redesignation of existing industrial land to other land uses.” The Proposed Project fails to “[r]etain the current manufacturing and industrial land use designations,” as required by Policy 7.2.8. There is no record evidence showing that the resulting reduction of industrial land due to approval of the VTT and planned development would not adversely impact the City’s ability to accommodate sufficient industrial uses to provide employment for the City’s residents or result in negative financial impacts.

Moreover, subdivision of the project site into one master/ground lot and thirteen airspace lots is likely to contribute to the permanent conversion of the land to non-industrial use. (Case Number ENV-2013-2994-MND, CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-SPR, VTTM

¹ Chapter 7 of the Los Angeles General Plan Framework is available online at: <http://cityplanning.lacity.org/cwd/framwkw/chapters/07/07.htm> [as of Jan. 16, 2017]. See also Chapter 4 of the Framework (“It is the intent of the General Plan Framework Element to preserve industrial lands for the retention and expansion of existing and attraction of new industrial uses that provide job opportunities for the City’s residents.”), available at: <http://cityplanning.lacity.org/cwd/framwkw/chapters/03/03209.htm>.

² Available at: http://planning.lacity.org/Code_Studies/LanduseProj/Industrial_Files/Attachment%20B.pdf [as of Jan. 16, 2017].

NO. 74112 Hearing Notice (Dec. 14, 2016) ["December 14, 2016 Hearing Notice"], p. 1; Initial Study/MND, p. II-1.) Individuals or entities may obtain separate ownership interests in each of these lots. If this ownership fragmentation occurs it will be virtually impossible to re-consolidate the lots to allow for future industrial uses. The Project would create 344 individual live/work units. (See City of Los Angeles Subdivider's Statement for Case Number ENV-2013-2994-MND, CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-SPR, VTTM NO. 74112 ["Subdivider's Statement"], p. 1.) The record does not disclose whether these live/work units might subsequently be sold to individual owners. (See generally Subdivider's Statement; December 14, 2016 Hearing Notice; Initial Study/MND.) If individual owners purchase these units, such fractionalized ownership would be a major impediment to industrial reversion. If the Planning Commission upholds the DAA's approval, the Project would irreparably alter the industrial nature of these lots, and therefore undermine the General Plan Framework's Policies of preserving industrial land.

IV. Several Requested Project Entitlements Are Impermissible or Unlawful.

A. A General Plan Amendment is not an available entitlement for the Project under Los Angeles City Charter Section 555.

The Proposed Project does not conform to the current General Plan. (Compare Initial Study/MND, p. IV-61 with Central City North Community Plan; see also Section III.B, above.) Rather than proposing a project that conforms to the existing General Plan, the Applicant has requested a General Plan Amendment to change the project site's land use designation. (September 16, 2016 Hearing Notice; see Initial Study/MND.) A GPA is not an available entitlement for the Project, however, as approval of a GPA in this case would violate the Los Angeles City Charter.

A Charter City must comply with all provisions of its City Charter. The Charter serves as the City's Constitution. "[T]he charter represents the supreme law of the City, subject only to conflicting provisions in the federal and state constitutions and to preemptive state law." (*San Diego City Firefighters, Local 145, AFL-CIO v. Board of Admin. of San Diego City Employees' Retirement System* (2012) 206 Cal.App.4th 594, 608 ["*San Diego*"] (internal quotation marks omitted).) A "charter city may not act in conflict with its charter . . . any act that is violative of or not in compliance with the charter is void." (*Ibid.*, citing *Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 171.)

Section 555(a) provides that the General Plan may only be amended "in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area

involved has *significant social, economic, or physical identity*.” (City Charter, § 555(a).) This charter provision provides consistent, comprehensive land use planning for the City. The Applicant has not requested that the General Plan be amended in its entirety or by subject elements, such as housing, transportation, etc. (See 1525 Industrial Street Camden Industrial Lofts Project Requested Entitlements Actions (May 6, 2016) [“Requested Entitlements Actions”], pp. 1-3.) Nor has the Applicant requested that the General Plan be amended for a specific geographic area that has significant social, economic, or physical identity. (*Ibid.*) 1525 Industrial Street cannot be said to possess its own significant social, economic, or physical identity – it is merely comprised of two parcels within a broader neighborhood sharing geographic, social, economic, and physical qualities. (See December 14, 2016 Hearing Notice, p. 1; Initial Study/MND, pp. II-1-10.) A GPA that applied only to the Project site would therefore violate City Charter Section 555, since it would amend the General Plan specifically to benefit a single development site for a lone developer. Los Angeles City Charter section 555(a) thus prohibits the City from approving the GPA to benefit this single project.

Approval of the GPA would also violate City Charter section 555(b) (“Section 555(b)”) and Los Angeles Municipal Code section 11.5.6. Under Section 555(b), only “[t]he Council, the City Planning Commission or the Director of Planning may propose amendments to the General Plan.” LAMC section 11.5.6 states “an amendment to the General Plan may be initiated by the Council, the City Planning Commission or the Director of Planning.” Initiation of a General Plan amendment by anyone other than the “Council, the City Planning Commission or the Director of Planning,” including a landowner, violates the Charter, and is therefore void. (See City Charter § 555(b); *San Diego City Firefighters*, *supra*, 206 Cal.App.4th at 608.) Under Section 555(b) and LAMC section 11.5.6, a landowner may not request any amendment to the General Plan. It cannot be disputed that the developer, and not the Council, Planning Commission, or Director of Planning, initiated the instant GPA request. (See Master Land Use Planning Application [“MLUPA”] for the project, p.2, signed April 29, 2016; revised MLUPA, p.2, May 6, 2016.; see also Request for Initiation of an Amendment to the City’s General Plan, May 6, 2016.)

The City may not approve the Applicant’s request for a GPA to benefit the Proposed Project. Such an action would violate the City Charter and would be void under California law. (See *San Diego City Firefighters*, 206 Cal.App.4th at 608.)

B. The requested Zone Change is not an available entitlement for the Project because it conflicts with the current General Plan.

The Applicant's request for a zone change is likewise unlawful because zone changes must be consistent with *existing* General Plan requirements. Though a landowner may apply for a zone change under the Charter, the zone change must be consistent with the current General Plan. (City Charter, § 558.) The Charter states "an ordinance, order or resolution [to change any zones or regarding zoning regulations] may be proposed . . . by application of the owner of the affected property if authorized by ordinance." (*Id.* §§ 558(a)(1)(2), 558(b)(1)). If a landowner requests a zone change, the Planning Commission is required to ensure that the action is consistent with *existing* requirements imposed by the General Plan. (See *id.* § 558(b)(2)). It must make a "recommendation regarding the relation of the proposed ordinance, order or resolution to the General Plan." (*Ibid.*) A landowner may not request amendments to the General Plan in order to mold the General Plan to a requested zone change. (Compare City Charter § 558 with City Charter § 555; see LAMC, § 12.32.)

C. The requested Zoning Administrator's Adjustment is not an available entitlement for the Project because it violates City Charter Section 562.

An additional entitlement sought by the project that is not available is a Zoning Administrator's ("ZA") Adjustment to permit a variable width (0 to 3.5 feet) side yard setback in lieu of the ordinarily permitted 10 feet. This entitlement is unavailable because the municipal code's grant of authority providing for such an adjustment, found in Municipal Code Section 12.28, is invalid. (See *Kottler v. City of Los Angeles*, Los Angeles Superior Court case no. BS 154184 [appeal pending], attached as Exhibit 2/Tab 5.) In *Kottler*, the Court found that granting a variance via the City's Zoning Administrator adjustment process (see LAMC section 12.28) violates Charter section 562, because the enumerated Charter findings for variances are not required for adjustments. Here, as in the *Kottler* case, the City has not provided the requisite variance findings to allow a departure from the otherwise applicable code provision.

The Central City North Community Plan identifies consistent setbacks as desired, but similarly provides no authority for reduced setbacks. Nor does its Design Guidelines recommend them. (See Central City North Community Plan, § V.) "Zoning, specific plans and other discretionary approvals . . . are implementing tools of the general plan." (Los Angeles General Plan Framework Chapter 1.)³ Approval of the Project as currently designed and as proposed to be entitled would violate Charter section 562, and thus also the Subdivision Map Act, which requires

³ Available at: <http://planning.lacity.org/cwd/framwk/chapters/01/01.htm> [as of Jan. 16, 2017].

that proposed developments for which map approval is sought conform to the City's General Plan. (See Gov. Code § 66474.61(b) [requiring the "design or improvement of the proposed subdivision [be] consistent with applicable general and specific plans"], see discussion, Part II, above.)

V. The Subdivision Map Act Findings are Inaccurate and Do Not Support Approval of the Vesting Tentative Tract Map.

The Subdivision Map Act requires denial of a tentative tract map if any one of a number of findings is made. Stated another way, "a local agency may approve a tentative map only if none of the findings can be made." (California Land Use Practice (Cal CEB 2016), § 9.76-77.) So-called *Topanga* findings, in other words, findings that bridge the analytic gap between the raw evidence and the local agency's decision, are required to support approval or denial. (See Govt. Code, §§ 66473.5, 66474; *Woodland Hills Residents Assn., Inc. v. City Council* (1975) 44 Cal.App.3d 825, 837-38 (citing *Topanga Assn. For A Scenic Community v. County of Los Angeles*, 11 Cal.3d 506).) The DAA's Decision approving the VTT includes findings that are inaccurate or otherwise do not support approval of the VTT. (Decision, pp. 20-24.)

The DAA finds the proposed map is consistent with applicable general and specific plans. (Decision, SMA Finding of Fact "a", p. 20.) As discussed at length above in Sections III.B, and as acknowledged by the approval (see Decision, p. 21), the VTT and Proposed Project are not consistent with the existing General Plan. The Decision and finding admit that only upon approval of the General Plan and zone change will the proposed map be consistent with the General Plan and zoning ordinance. As discussed in Sections IV.A and IV.B of this appeal, neither the proposed GPA nor the zone change are permissible entitlements for the Proposed Project, and thus the claim of consistency with the applicable General and Specific Plan is incorrect. The VTT and Proposed Project are inconsistent with the General Plan, and the City may not alter the General Plan in order to make it conform to the project.

Similarly, finding "b" relates to the design or improvement of the proposed subdivision, and requires consistency with the applicable general and specific plans. (Decision, p. 21). The DAA states that "as conditioned, the proposed tract map is consistent with the intent and purpose of the applicable General and Specific Plans." (*Ibid.*) As above, this is inaccurate, as the finding presumes the availability of both the GPA and Zone Change, and in addition, that the requested Zoning Administrator Adjustment to reduce project setbacks is permissible. As discussed

above in Sections IV.A, IV.B, and IV.C, none of these entitlements are permissible for the Proposed Project, and thus finding “b” is likewise incorrect and does not support approval of the VTT.

Finding “d”, relating to the suitable density of development for the Proposed Project, also assumes, incorrectly, that the GPA and Zone Change are permissible and that therefore the project site is physically suitable. (Decision, p. 22.)

The above mandatory Subdivision Map Act findings are based on inaccurate facts and do not support approval of the VTT. Approval of the VTT thus constitutes an abuse of discretion.

VI. The California Environmental Quality Act Requires That the City Complete an Environmental Impact Report for the VTT and Proposed Project.

CEQA “requires the preparation of an EIR whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, supplemented (1975) 13 Cal.3d 486; Cal. Code Regs., tit. 14, [“CEQA Guidelines”] § 15064; see Pub. Resources Code, § 21002.1.) The “fair argument” standard sets “a low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review.” (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1316–17.)

The Proposed Project would result in significant impacts because it is incompatible and inconsistent with existing land use requirements. The Los Angeles CEQA Thresholds Guide (“CEQA Thresholds Guide”) states that a Project may have a potentially significant impact if the Project “is inconsistent with the General Plan or adopted...goals and policies contained in other applicable plans.” (See CEQA Thresholds Guide, H.1-2 (excerpt attached as Exhibit 3/Tab 6); see CEQA Guidelines, § 15064.7.) Furthermore, an important factor in determining whether a project has a significant impact is whether the project impacts land use in a particular area or disrupts existing land uses. (*Id.* at H.2-3.) As discussed above, the Proposed Project is inconsistent with both the Central City North Community Plan – a subset of the General Plan – and the General Plan Framework. (See Initial Study/MND, pp. 1, IV-61; General Plan Framework Policies 7.2.8, 7.2.9; Section III.B, above.) In addition, approval of the Project would disrupt industrial land designations. (See *ibid.*; Subdivider’s Study, p. 1.) The land is currently zoned M3-1-RIO, which provides for industrial uses, but prohibits residential use. (Initial Study/MND, p. IV-62.) The Project is incompatible with this designation, as it seeks to develop 344 residential live/work units. (*Ibid.*)

Further, due to the proposed fragmentation of ownership of the Property into thirteen airspace lots, the Property will likely never revert to large-scale industrial use, and approval of the Project would result in indefinite disruption of industrial land. (See Subdivider's Study, p. 1; Section III.B.) For these reasons, the Project would undermine the City's policy of preserving industrial land. (See *LA Industrial Land*, Section III.B.) Under the CEQA Thresholds Guide, therefore, the Project will have potentially significant impacts, which exceeds the "fair argument" standard and requires preparation of an EIR. The City thus may not approve the Project with only a Mitigated Negative Declaration.

While the MND notes General Plan and zoning inconsistencies, it seeks to resolve those inconsistencies through a General Plan Amendment and zone change. With approval of those entitlements, the MND asserts, "the Proposed Project would conform to the zoning and Central City North Community Plan." (See Initial Study/MND, pp. 1, IV-60.) Without these entitlements the land use impacts would necessarily be significant and unavoidable. (MND at IV-59, IV-61.) The crux of the CEQA problem is that a General Plan Amendment is not an available entitlement for the Proposed Project, and thus there is no mitigation available to address the "adverse environmental effects of the Project, which the General Plan and zoning ordinance are designed to avoid or mitigate." (*Ibid.*; see Section IV.A.) If the City does not grant the General Plan Amendment, the adverse land use impact exceeds the "fair argument" standard, requiring an EIR. But if the City grants the GPA, it necessarily violates the City Charter to do so and thus abuses its discretion.

Finally, the Initial Study and MND entirely fail to analyze the project for its creation of a "spot" zone. As defined by the City, "[a] 'spot' zone occurs when the zoning or land use designation for only a portion of a block changes, or a single zone or land use designation becomes surrounded by more or less intensive land uses." (CEQA Thresholds Guide, H.2-2 [Exh. 3/Tab 6].) This is consonant with California law: "A spot zone results when a small parcel of land is subject to . . . less restrictive zoning than surrounding properties." (*Footbill Communities Coalition v. County of Orange* (2014) 222 Cal.App.4th 1302, 1312, 1314, review denied (Apr. 30, 2014) (emphasis added).) If approved, the Proposed Project would create a small island of C2 zoning in a sea of M3 zoning. (MND IV-59–IV-62; see also VTT 74112, attached as Exhibit 4/Tab 7.) The City's CEQA Threshold Guide requires that where a spot zone would result, the environmental review for the project requires further study. (Thresholds Guide, H.2-2.) The significance threshold is "made on a

case-by-case basis” and considers the “extent of the area that would be impacted, the nature and degree of impacts, and the type of land uses within that area” and the “number, degree, and type of secondary impacts to surrounding land uses that could result from implementation of the project.” (*Id.* at H.2-3.) The City’s General Plan Amendment process, which violates the City Charter by allowing an applicant to initiate a GPA (see discussion, *supra*, Section IV.A), also acknowledges that a GPA request may introduce a spot zone. (Request for Initiation of an Amendment to the City’s General Plan, May 6, 2016.)

Here, the MND fails even to identify that the project would create a spot zone, and thus entirely fails to consider the potentially significant land use and other adverse environmental impacts due to creation of the spot zone. The City’s failure to thoroughly analyze potentially significant impacts does not shield it from “its own failure to gather relevant data If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record.” (*Sundstrom v. County of Medocino*, 202 Cal. App. 3d 296, 311 (1988). Furthermore, introduction of a spot zone at present is particularly offensive and undermines the ongoing community plan update process for the Central City North Community Plan. (See City of Los Angeles, *DTLA 2040*, available online at: <http://www.dtl2040.org>.)

VII. In Approving the VTT, the City Violated Aggrieved Parties’ Due Process Rights and Did Not Appropriately Consider Public Comments.

Appellants object to public hearing comments made both by the Applicant and by a member of the DAA panel suggesting that DAA review during the VTT approval process is merely technical and consideration of the numerous objections to the VTT application raised by members of the public should be deferred to the City Planning Commission to be heard on appeal when it considers the related development application. These comments, especially those made by a member of the DAA panel, implicate serious due process concerns.

Basic due process rights in the administrative land use process minimally include reasonable notice and an opportunity to be heard. (*Mobile v. Janovici* (1996) 51 Cal.App.4th 267.) Holding a properly noticed public hearing is, by itself, insufficient to satisfy due process requirements. The opportunity to be heard must be meaningful, and requires that “whenever due process requires a hearing, the adjudicator must be impartial.” (*Today’s Fresh Start, Inc. v. Los Angeles County Office of Education* (2013) 57 Cal.4th 197, 212 (quoting *Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017,

1025)(internal quotation marks omitted).) The DAA panel member's comment that because there is a separate and later legislative process in place to consider land use issues that the Subdivision Map Act approval hearing is merely for technical map considerations is in error, and indicates that the panel members did not provide an impartial hearing.

The issues raised at the public hearing and discussed above were properly before the DAA. The DAA was required to give their expert consideration of the technical Subdivision Map Act ramifications of all arguments raised at the DAA hearing. Particularly where the DAA Decision does not mention stakeholder objections, there is no way for the public to know whether their concerns were even considered, or if the DAA simply deferred these issues to be considered for the first time on appeal. Either way, this evinces a lack of impartiality on the part of the DAA. A hearing before a panel that was not impartial in the approval process was fundamentally unfair and denied Appellants of their due process rights.

Moreover, while the VTT approval may not commit the City to a particular course of action with respect to the related land use applications, if the DAA did not properly consider community member objections about the validity of the VTT apart from the development application, the appellate body will likely issue a decision on appeal that is merely a post-hoc rationalization for an action already taken. (See *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 130.) This is especially the case where, as here, the land use impacts of the VTT application were not adequately analyzed in the project MND. (See Section VI, *supra*).

VIII. Conclusion

For all the reasons discussed above, ADCCLA and Mr. Bar-Zemer urge the Planning Commission to overturn the Deputy Advisory Agency's approval of the Vesting Tentative Tract Map for the Proposed Project, order the City to complete an Environmental Impact Report, and deny all other requested approvals for the Proposed Project.

DEPARTMENT OF
CITY PLANNING

CITY PLANNING COMMISSION

DAVID H. J. AMBROZ
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SAMANTHA MILLMAN

VERONICA PADILLA-CAMPOS

DANA M. PERLMAN

ROCKY WILES
COMMISSION OFFICE MANAGER
(213) 978-1300

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801

VINCENT P. BERTONE, AICP
DIRECTOR
(213) 978-1271

KEVIN J. KELLER, AICP
DEPUTY DIRECTOR
(213) 978-1272

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
(213) 978-1274

JAN ZATORSKI
DEPUTY DIRECTOR
(213) 978-1273

<http://planning.lacity.org>

Decision Date: January 05, 2017

Last Day to Appeal: January 17, 2017

Ben Brosseau (O)
Camden USA, Inc.
15303 Ventura Blvd, Suite 605
Sherman Oaks, CA 91403

Dale Goldsmith (R)
Armbruster, Goldsmith & Delvac
12100 Wilshire Blvd, Suite 1600
Los Angeles, CA 90025

RE: Vesting Tentative Tract No. VTT-74112
Related Case: CPC-2013-2993-GPA-VZC-HD-
MCUP-ZAA-MSC-SPR
1525 East Industrial Street
Central City North Planning Area
Zone: M3-1-RIO
District Map: 124 5A 215
Council District: 14
CEQA No.: ENV-2013-2994-MND
Legal Description: Lot FR G, Industrial Tract

In accordance with provisions of Section 17.03 of the Los Angeles Municipal Code (LAMC), the Advisory Agency adopted (Mitigated) Negative Declaration ENV-2013-2994-MND as the environmental clearance, adopted the Mitigation Monitoring Program, and approved Vesting Tentative Tract No. 74112 composed of 14 lots (one master ground lot and 13 airspace lots), located at 1525 East Industrial Street for a maximum **344 live-work units and 29,544 square feet of commercial space**, as shown on map stamp-dated May 6, 2016 in the Central City North Community Plan. (Verification should be obtained from the Department of Building and Safety which will legally interpret the Zoning Code as it applies to this particular property.) The Advisory Agency's approval is subject to the following conditions:

NOTE on clearing conditions: When two or more agencies must clear a condition, subdivider should follow the sequence indicated in the condition. For the benefit of the applicant, subdivider shall maintain record of all conditions cleared, including all material supporting clearances and be prepared to present copies of the clearances to each reviewing agency as may be required by its staff at the time of its review.

BUREAU OF ENGINEERING - SPECIFIC CONDITIONS

1. That a one-foot to 3-foot variable width strip of land be dedicated along Industrial Street adjoining the tract to complete a 33-foot wide half right-of-way in accordance with Collector Street Standards of LA Mobility Plan and additional 15-foot by 15-foot property line cut corner be dedicated at the intersection with Alameda Street. That the above cut corner dedication shall be limited to a height of 20 feet measured from the finished sidewalk surface.
2. That a 10-foot wide strip of land be dedicated along Alameda Street adjoining the tract to complete a 50-foot wide half right-of-way in accordance with Avenue I of LA Mobility Plan.
3. That a 3-foot wide strip of land be dedicated along Mill Street adjoining the tract to complete a 33-foot wide half right-of-way in accordance with Collector Street Standards of LA Mobility Plan.
4. That the subdivider make a request to the Central District Office of the Bureau of Engineering to determine the capacity of existing sewers in this area.
5. That a set of drawings for airspace lots be submitted to the City Engineer showing the following:
 - a. Plan view at different elevations.
 - b. Isometric views.
 - c. Elevation views.
 - d. Section cuts at all locations where air space lot boundaries change.
6. That the owners of the property record an agreement satisfactory to the City Engineer stating that they will grant the necessary private easements for ingress and egress purposes to serve proposed airspace lots to use upon the sale of the respective lots and they will maintain the private easements free and clear of obstructions and in safe conditions for use at all times.

DEPARTMENT OF BUILDING AND SAFETY, ZONING DIVISION

7. That prior to recordation of the final map, the Department of Building and Safety, Zoning Division shall certify that no Building or Zoning Code violations exist on the subject site. In addition, the following items shall be satisfied:
 - a. Obtain permits for the demolition or removal of all existing structures on the site. Accessory structures and uses are not permitted to remain on lots without a main structure or use. Provide copies of the demolition permits and signed inspection cards to show completion of the demolition work.
 - b. Provide a copy of CPC case CPC-2013-2993-GPA-ZC-HD-MCUP-ZAA-SPR. Show compliance with all the conditions/requirements of the CPC case as applicable.

- c. Provide a copy of the case PMEX-4036. Show compliance with all the conditions/requirements of the case as applicable.
- d. Zone Change must be recorded prior to obtaining Zoning clearance.
- e. Show all street dedication(s) as required by Bureau of Engineering and provide net lot area after all dedication. "Area" requirements shall be re-checked as per net lot area after street/alley dedication. Front, side and rear yard requirements shall be required to comply with current code as measured from new property lines after dedication(s).
- f. The submitted map does not comply with the maximum density (400 s.f. of lot area/dwelling unit) requirement for the proposed C2 Zone. Revise the map to show compliance with the above requirement based on the lot area after required street dedication is taken or obtain approval from the Department of City Planning.
- g. Provide and record a Covenant and Agreement (affidavit) regarding Maintenance of Building on Air Space Lots. Provide Metes and Bounds to establish and identify the boundaries of the parcel with the correct legal description.

Notes:

This property is located in River Improvement Overlay District, ZI-2358.

This property is located in Transit Priority Area in the City of Los Angeles, ZI-2452.

This property is located in a Methane Buffer Zone.

The proposed building plans have not been checked for and shall comply with Building and Zoning Code requirements. With the exception of revised health or safety standards, the subdivider shall have a vested right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect at the time the subdivision application was deemed complete. Plan check will be required before any construction, occupancy or change of use.

If the proposed development does not comply with the current Zoning Code, all zoning violations shall be indicated on the Map.

An appointment is required for the issuance of a clearance letter from the Department of Building and Safety. The applicant is asked to contact John Francia at (213) 482-0010 to schedule an appointment.

DEPARTMENT OF TRANSPORTATION

- 8. That the project be subject to any recommendations from the Department of Transportation.

FIRE DEPARTMENT

9. That prior to the recordation of the final map, a suitable arrangement shall be made satisfactory to the Fire Department, binding the subdivider and all successors to the following:
- a. Submittal of plot plans for Fire Department review and approval prior to recordation of Tract Map Action.
 - b. Access for Fire Department apparatus and personnel to and into all structures shall be required.
 - c. The entrance to a Residence lobby must be within 50 feet of the desired street address curb face.
 - d. Where above ground floors are used for residential purposes, the access requirement shall be interpreted as being the horizontal travel distance from the street, driveway, alley, or designated fire lane to the main entrance of individual units.
 - e. The entrance or exit of all ground dwelling units shall not be more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
 - f. No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
 - g. Fire lane width shall not be less than 20 feet. When a fire lane must accommodate the operation of Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions shall not be less than 28 feet in width.
 - h. The width of private roadways for general access use and fire lanes shall not be less than 20 feet, and the fire lane must be clear to the sky.
 - i. Fire lanes, where required and dead ending streets shall terminate in a cul-de-sac or other approved turning area. No dead ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.
 - j. Building designs for multi-storied residential buildings shall incorporate at least one access stairwell off the main lobby of the building; But, in no case greater than 150ft horizontal travel distance from the edge of the public street, private street or Fire Lane. This stairwell shall extend unto the roof.
 - k. Entrance to the main lobby shall be located off the address side of the building.
 - l. Any required Fire Annunciator panel or Fire Control Room shall be located

within 50ft visual line of site of the main entrance stairwell or to the satisfaction of the Fire Department.

- m. Where rescue window access is required, provide conditions and improvements necessary to meet accessibility standards as determined by the Los Angeles Fire Department.

- n. Policy Exception – L.A.M.C. 57.09.03.B Exception:

(1) When this exception is applied to a fully fire sprinklered residential building equipped with a wet standpipe outlet inside an exit stairway with at least a 2 hour rating the distance from the wet standpipe outlet in the stairway to the entry door of any dwelling unit or guest room shall not exceed 150 feet of horizontal travel AND the distance from the edge of the roadway of an improved street or approved fire lane to the door into the same exit stairway directly from outside the building shall not exceed 150 feet of horizontal travel.

(2) It is the intent of this policy that in no case will the maximum travel distance exceed 150 feet inside the structure and 150 feet outside the structure. The term "horizontal travel" refers to the actual path of travel to be taken by a person responding to an emergency in the building.

(3) This policy does not apply to single-family dwellings or to non-residential buildings.

- o. The Fire Department may require additional roof access via parapet access roof ladders where buildings exceed 28 feet in height, and when overhead wires or other obstructions block aerial ladder access.
- p. Adequate public and private fire hydrants shall be required.
- q. Each standpipe in a new high-rise building shall be provided with two remotely located FDC's for each zone in compliance with NFPA 14-2013, Section 7.12.2.
- r. Recently, the Los Angeles Fire Department (LAFD) modified Fire Prevention Bureau (FPB) Requirement 10. Helicopter landing pads are still required on all High-Rise buildings in the City. However, FPB's Requirement 10 has been revised to provide two new alternatives to a full FAA-approved helicopter landing pad.
- s. **SECTION 510 - EMERGENCY RESPONDER RADIO COVERAGE**

5101.1 Emergency responder radio coverage in new buildings. All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the

building. This section shall not require improvement of the existing public safety communication systems.

- t. All parking restrictions for fire lanes shall be posted and/or painted prior to any Temporary Certificate of Occupancy being issued.
- u. Plans showing areas to be posted and/or painted, "FIRE LANE NO PARKING" shall be submitted and approved by the Fire Department prior to building permit application sign-off.
- v. Electric Gates approved by the Fire Department shall be tested by the Fire Department prior to Building and Safety granting a Certificate of Occupancy.
- w. Site plans shall include all overhead utility lines adjacent to the site.
- x. Any roof elevation changes in excess of 3 feet may require the installation of ships ladders.

The applicant is further advised that all subsequent contact regarding these conditions must be with the Hydrant and Access Unit. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished BY APPOINTMENT ONLY, in order to assure that you receive service with a minimum amount of waiting please call (213) 482-6509. You should advise any consultant representing you of this requirement as well.

LOS ANGELES UNIFIED SCHOOL DISTRICT (LAUSD)

10. That prior to the issuance of any demolition or grading permit or any other permit allowing site preparation and/or construction activities on the site, satisfactory arrangements shall be made with the Los Angeles Unified School District. The project site is located on the pedestrian and bus routes for students attending Metropolitan High School. Therefore, the applicant shall make timely contact for coordination to safeguard pedestrians/ motorists with the LAUSD Transportation Branch, phone no. 213-580-2950, and the principals or designees of Metropolitan High School. (This condition may be cleared by a written communication from the LAUSD Transportation Branch attesting to the required coordination and/or the principals of the above referenced schools and to the satisfaction of the Advisory Agency).

DEPARTMENT OF WATER AND POWER

11. Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power (LADWP) for compliance with LADWP's Water System Rules and requirements. Upon compliance with these conditions and requirements, LADWP's Water Services Organization will forward the necessary clearances to the Bureau of Engineering. (This condition shall be deemed cleared at the time the City Engineer clears Condition No. S-1.(c).)

BUREAU OF STREET LIGHTING – SPECIFIC CONDITIONS

12. Street Lighting clearance for this Street Light Maintenance Assessment District condition is conducted at 1149 S. Broadway Suite 200. Street Lighting Improvement condition clearance will be conducted at the Bureau of Engineering District office, see condition S-3. (c).

Prior to the recordation of the final map or issuance of the Certificate of Occupancy (C of O), street lighting improvement plans shall be submitted for review and the owner shall provide a good faith effort via a ballot process for the formation or annexation of the property within the boundary of the development into a Street Lighting Maintenance Assessment District.

BUREAU OF SANITATION

13. Satisfactory arrangements shall be made with the Bureau of Sanitation, Wastewater Collection Systems Division for compliance with its sewer system review and requirements. Upon compliance with its conditions and requirements, the Bureau of Sanitation, Wastewater Collection Systems Division will forward the necessary clearances to the Bureau of Engineering. (This condition shall be deemed cleared at the time the City Engineer clears Condition No. S-1. (d).)

DEPARTMENT OF CITY PLANNING – SITE SPECIFIC CONDITIONS

14. Prior to the recordation of the final map, the subdivider shall prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770) in a manner satisfactory to the Planning Department, binding the subdivider and all successors to the following:

- a. Limit the proposed development to a maximum of 344 live-work units and 29,544 square feet of commercial floor area.
- b. Residential parking shall be provided per LAMC Section 12.22-A.25(d). Commercial parking shall be provided per LAMC Section 12.21-A.4(x)(3).

In addition, prior to issuance of a building permit, a parking plan showing off-street parking spaces, as required by the Advisory Agency, be submitted for review and approval by the Department of City Planning (201 N. Figueroa Street, 4th Floor).

- c. **Note to City Zoning Engineer and Plan Check.** The Advisory Agency has approved the following variations from the Los Angeles Municipal Code as it applies to this subdivision and the proposed development on the site.

Not Applicable

- d. The applicant shall install an air filtration system(s) to reduce the effects of diminished air quality on occupants of the project.

- e. That a solar access report shall be submitted to the satisfaction of the Advisory Agency prior to obtaining a grading permit.
- f. That the subdivider consider the use of natural gas and/or solar energy and consult with the Department of Water and Power and Southern California Gas Company regarding feasible energy conservation measures.
- g. Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material.
- h. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- (i) Defend, Indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a

reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Action includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

15. That prior to the issuance of the building permit or the recordation of the final map, a copy of Case No. CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-SPR shall be submitted to the satisfaction of the Advisory Agency. In the event that Case No. CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-SPR is not approved, the subdivider shall submit a tract modification.

DEPARTMENT OF CITY PLANNING - ENVIRONMENTAL MITIGATION MEASURES

16. That prior to recordation of the final map the subdivider shall prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770 and Exhibit CP-6770. in a manner satisfactory to the Planning Department requiring the subdivider to identify (a) mitigation monitor(s) who shall provide periodic status reports on the implementation of mitigation items required by Mitigation **Condition Nos. 17 and 18** of the Tract's approval satisfactory to the Advisory Agency. The mitigation monitor(s) shall be identified as to their areas of responsibility, and phase of intervention (pre-construction, construction, postconstruction/maintenance) to ensure continued implementation of the above mentioned mitigation items.
17. Prior to the recordation of the final map, the subdivider will prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770) in a

manner satisfactory to the Planning Department, binding the subdivider and all successors to the following:

- MM-1. The applicant shall comply with the following recommendations as specified in the Phase I Environmental Site Assessment (ESA) in the design and construction of the Industrial Street Lofts Project to the satisfaction of the Department of Building and Safety:
- a. Based on the results of the ESA no further inquiry and/or investigation of the subject property is considered practical at this time, and thus none are recommended. However, the Applicant should be aware that isolated pockets of impacted subsurface soil may be encountered during construction and, if encountered, are likely to affect the construction schedule for the planned development. In addition, the unknown underground feature, encountered by BAS, will require further assessment and removal. Should this feature be confirmed to be an underground storage tank, a specialized contractor shall be retained to handle the decommissioning and removal of the tank and associated impacted soil, if any, to the satisfaction of the Los Angeles Fire Department.
 - b. In the event that the current owners leave the facility "as is" (i.e., all existing equipment, chemicals, debris, waste, etc., will remain at the site and thereby become the property of Camden upon taking possession of the property), the applicant shall retain the services of a qualified demolition contractor, experienced in handling items, which may contain regulated substances and thus require proper draining/containerization and subsequent disposal/recycling.
 - c. Should existing engineered fill under Freezer #5 be re-used at the site (based on geotechnical recommendations), the fill soil shall be tested in order to assess whether it meets the residential land use criteria.
- MM-2. An air filtration system shall be installed and maintained with filters meeting or exceeding the ASHRAE Standard 52.2 Minimum Efficiency Reporting Value (MERV) of 11, to the satisfaction of the Department of Building and Safety.
- MM-3. Wall and floor-ceiling assemblies separating commercial tenant spaces, live/work units, and public places, shall have a Sound Transmission Coefficient (STC) value of at least 50, as determined in accordance with ASTM E90 and ASTM E413.
- MM-4. Concrete, not metal, shall be used for construction of parking ramps.
- MM-5. The interior ramps shall be textured to prevent tire squeal at turning areas.

- MM-6. The following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features:
- a. Fire lanes, where required, shall be a minimum of 20 feet in width;
 - b. All structures must be within 300 feet of an approved fire hydrant; and
 - c. Entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.
- MM-7. Prior to plan check review, the Project Applicant shall consult with the Los Angeles Fire Department regarding the installation of public and/or private fire hydrants, sprinklers, access, and/or other fire protection features within the Project. All required fire protection features shall be installed to the satisfaction of the Los Angeles Fire Department.
- MM-8. The plans shall incorporate the design guidelines relative to security, semi-public and private spaces, which may include but not be limited to access control to building, secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Please refer to "Design Out Crime Guidelines: Crime Prevention Through Environmental Design", published by the Los Angeles Police Department. Contact the Community Relations Division, located at 100 W. 1st Street, #250, Los Angeles, CA 90012; (213) 486-6000. These measures shall be approved by the Police Department prior to the issuance of building permits.
- MM-9. In addition to the requirements of the Landscape Ordinance, the landscape plan shall incorporate the following:
- a. Weather-based irrigation controller with rain shutoff.
 - b. Matched precipitation (flow) rates for sprinkler heads.
 - c. Drip/microspray/subsurface irrigation where appropriate.

- d. Minimum irrigation system distribution uniformity of 75 percent.
 - e. Proper hydro-zoning, turf minimization and use of native/drought tolerant plant materials.
 - f. Use of landscape contouring to minimize precipitation runoff.
- MM-10. A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for existing and expanded irrigated landscape areas totaling 5,000 square feet and greater.
- MM-11. Install high-efficiency toilets (maximum 1.28 gpf), including dual-flush water closets, and high-efficiency urinals (maximum 0.5 gpf), including no-flush or waterless urinals, in all restrooms as appropriate.
- MM-12. Install restroom faucets with a maximum flow rate of 1.5 gallons per minute.
- MM-13. A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for all landscape irrigation uses.
- MM-14. Single-pass cooling equipment shall be strictly prohibited from use. Prohibition of such equipment shall be indicated on the building plans and incorporated into tenant lease agreements. (Single-pass cooling refers to the use of potable water to extract heat from process equipment, e.g. vacuum pump, ice machines, by passing the water through equipment and discharging the heated water to the sanitary wastewater system.)
- MM-15. All commercial restroom faucets shall be of a self-closing design.
- MM-16. Install no more than one showerhead per shower stall, having a flow rate no greater than 2.0 gallons per minute.
- MM-17. Install and utilize only high-efficiency clothes washers (water factor of 6.0 or less) in the project, if proposed to be provided in either individual units and/or in a common laundry room(s). If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the Applicant shall be responsible for ensuring compliance.
- MM-18. Install and utilize only high-efficiency Energy Star-rated dishwashers in the project, if proposed to be provided. If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the Applicant shall be responsible for ensuring compliance.

18. **Construction Mitigation Conditions - Prior to the issuance of a grading or building permit, or the recordation of the final map,** the subdivider shall prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770) in a manner satisfactory to the Planning Department, binding the subdivider and all successors to the following:

- CM-1. That a sign be required on site clearly stating a contact/complaint telephone number that provides contact to a live voice, not a recording or voice mail, during all hours of construction, the construction site address, and the tract map number. **YOU ARE REQUIRED TO POST THE SIGN 7 DAYS BEFORE CONSTRUCTION IS TO BEGIN.**
- a. Locate the sign in a conspicuous place on the subject site or structure (if developed) so that it can be easily read by the public. The sign must be sturdily attached to a wooden post if it will be free-standing.
 - b. Regardless of who posts the site, it is always the responsibility of the applicant to assure that the notice is firmly attached, legible, and remains in that condition throughout the entire construction period.
 - c. If the case involves more than one street frontage, post a sign on each street frontage involved. If a site exceeds five (5) acres in size, a separate notice of posting will be required for each five (5) acres, or portion thereof. Each sign must be posted in a prominent location.
- CM-2. A construction contingency plan for dealing with both anticipated and potential occurrences of environmentally sensitive situations during site redevelopment shall be established and adhered to during construction.
- CM-3. Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday and national holidays.
- CM-4. Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
- CM-5. All powered construction equipment shall be equipped with exhaust mufflers or other suitable noise reduction devices.
- CM-6. Noise and groundborne vibration construction activities whose specific location on the site may be flexible (e.g., operation of compressors and generators, cement mixing, general truck idling) shall be conducted as far as possible from the nearest noise- and vibration-sensitive land uses, and natural and/or manmade barriers

(e.g., intervening construction trailers) shall be used to screen propagation of noise from such activities towards these land uses to the maximum extent possible.

- CM-7. Barriers such as, but not limited to, plywood structures or flexible sound control curtains extending eight feet in height shall be erected around the perimeter of the construction site to minimize the amount of noise during construction on the nearby noise-sensitive uses.
- CM-8. Fences shall be constructed around the site to minimize trespassing, vandalism, short-cut attractions and attractive nuisances.
- CM-9. A Construction work site traffic control plan shall be submitted to DOT for review and approval in accordance with the LAMC prior to the start of any construction work. The plans shall show the location of any roadway or sidewalk closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. All construction related traffic shall be restricted to off-peak hours.
- CM-10. All delivery truck loading and unloading shall take place on site.
- CM-11. The Applicant shall plan construction and construction staging as to maintain pedestrian access on adjacent sidewalks throughout all construction phases. This requires the applicant to maintain adequate and safe pedestrian protection, including physical separation (including utilization of barriers such as K-Rails or scaffolding, etc) from work space and vehicular traffic and overhead protection, due to sidewalk closure or blockage, at all times.
- CM-12. Temporary pedestrian facilities shall be adjacent to the project site and provide safe, accessible routes that replicate as nearly as practical the most desirable characteristics of the existing facility.
- CM-13. Covered walkways shall be provided where pedestrians are exposed to potential injury from falling objects.
- CM-14. Applicant shall keep sidewalk open during construction until only when it is absolutely required to close or block sidewalk for construction staging. Sidewalk shall be reopened as soon as reasonably feasible taking construction and construction staging into account.

DEPARTMENT OF CITY PLANNING - STANDARD JOINT LIVING AND WORK CONDITIONS

- LW-1. Prior to the recordation of the final map, the subdivider shall pay or guarantee the payment of a park and recreation fee based on the latest fee rate schedule applicable. The amount of said fee to be established by the Advisory Agency in

accordance with Section 17.12 of the LAMC and to be paid and deposited in the trust accounts of the Park and Recreation Fund.

- LW-2. That a landscape plan, prepared by a licensed landscape architect, be submitted to and approved by the Advisory Agency in accordance with CP-6730 prior to obtaining any permit. The landscape plan shall identify tree replacement on a 1:1 basis by a minimum of 24-inch box trees for the unavoidable loss of desirable trees on the site. Failure to comply with this condition as written shall require the filing of a modification to this tract map in order to clear the condition.

In the event the subdivider decides not to request a permit before the recordation of the final map, the following statement shall appear on the plan and be recorded as a covenant and agreement satisfactory to the Advisory Agency guaranteeing that:

- a. The planting and irrigation system shall be completed by the developer/builder prior to the close of escrow of 50 percent of the units of the project or phase.
- b. Sixty days after landscape and irrigation installation, the landscape professional shall submit to the homeowners/property owners association a Certificate of Substantial Completion (Sec. 12.40 G LAMC.)
- c. The developer/builder shall maintain the landscaping and irrigation for 60 days after completion of the landscape and irrigation installation.
- d. The developer/builder shall guarantee all trees and irrigation for a period of six months and all other plants for a period of 60 days after landscape and irrigation installation.

- LW-3. In order to expedite the development, the applicant may apply for a building permit for a joint living and work building. However, prior to issuance of a building permit for joint living and work units, the registered civil engineer, architect or licensed land surveyor shall certify in a letter to the Advisory Agency that all applicable tract conditions affecting the physical design of the building and/or site, have been included into the building plans. Such letter is sufficient to clear this condition. In addition, all of the applicable tract conditions shall be stated in full on the building plans and a copy of the plans shall be reviewed and approved by the Advisory Agency prior to submittal to the Department of Building and Safety for a building permit.

OR

If a building permit for joint living and work units will not be requested, the project civil engineer, architect or licensed land surveyor must certify in a letter to the Advisory Agency that the applicant will not request a permit for a joint living and work building and intends to acquire a building permit for a joint living and work condominium building. Such letter is sufficient to clear this condition.

LW-4. That approval of this tract constitutes approval of model home uses, including a sales office and off-street parking. Where the existing zoning is (T) or (Q) for multiple residential use, no construction or use shall be permitted until the final map has recorded or the proper zone has been effectuated. If models are constructed under this tract approval, the following conditions shall apply:

1. Prior to recordation of the final map, the subdivider shall submit a plot plan for approval by the Division of Land Section of the Department of City Planning showing the location of the model dwellings, sales office and off-street parking. The sales office must be within one of the model buildings.
2. All other conditions applying to Model Dwellings under Section 12.22-A, 10 and 11 and Section 17.05-O of the Los Angeles Municipal Code (LAMC) shall be fully complied with satisfactory to the Department of Building and Safety.

BUREAU OF ENGINEERING - STANDARD CONDITIONS

- S-1. (a) That the sewerage facilities charge be deposited prior to recordation of the final map over all of the tract in conformance with Section 64.11.2 of the Los Angeles Municipal Code (LAMC).
- (b) That survey boundary monuments be established in the field in a manner satisfactory to the City Engineer and located within the California Coordinate System prior to recordation of the final map. Any alternative measure approved by the City Engineer would require prior submission of complete field notes in support of the boundary survey.
- (c) That satisfactory arrangements be made with both the Water System and the Power System of the Department of Water and Power with respect to water mains, fire hydrants, service connections and public utility easements.
- (d) That any necessary sewer, street, drainage and street lighting easements be dedicated. In the event it is necessary to obtain off-site easements by separate instruments, records of the Bureau of Right-of-Way and Land shall verify that such easements have been obtained. The above requirements do not apply to easements of off-site sewers to be provided by the City.
- (e) That drainage matters be taken care of satisfactory to the City Engineer.
- (f) That satisfactory street, sewer and drainage plans and profiles as required, together with a lot grading plan of the tract and any necessary topography of adjoining areas be submitted to the City Engineer.
- (g) That any required slope easements be dedicated by the final map.
- (h) That each lot in the tract comply with the width and area requirements of the Zoning Ordinance.

- (i) That 1-foot future streets and/or alleys be shown along the outside of incomplete public dedications and across the termini of all dedications abutting unsubdivided property. The 1-foot dedications on the map shall include a restriction against their use of access purposes until such time as they are accepted for public use.
 - (j) That any 1-foot future street and/or alley adjoining the tract be dedicated for public use by the tract, or that a suitable resolution of acceptance be transmitted to the City Council with the final map.
 - (k) That no public street grade exceeds 15%.
 - (l) That any necessary additional street dedications be provided to comply with the Americans with Disabilities Act (ADA) of 1990.
- S-2. That the following provisions be accomplished in conformity with the improvements constructed herein:
- (a) Survey monuments shall be placed and permanently referenced to the satisfaction of the City Engineer. A set of approved field notes shall be furnished, or such work shall be suitably guaranteed, except where the setting of boundary monuments requires that other procedures be followed.
 - (b) Make satisfactory arrangements with the Department of Traffic with respect to street name, warning, regulatory and guide signs.
 - (c) All grading done on private property outside the tract boundaries in connection with public improvements shall be performed within dedicated slope easements or by grants of satisfactory rights of entry by the affected property owners.
 - (d) All improvements within public streets, private streets, alleys and easements shall be constructed under permit in conformity with plans and specifications approved by the Bureau of Engineering.
 - (e) Any required bonded sewer fees shall be paid prior to recordation of the final map.
- S-3. That the following improvements be either constructed prior to recordation of the final map or that the construction be suitably guaranteed:
- (a) Construct on-site sewers to serve the tract as determined by the City Engineer.
 - (b) Construct any necessary drainage facilities.
 - (c) Install street lighting facilities to serve the tract as required by the Bureau of Street Lighting.
 - a. Construct one new street light on Alameda Street.

- b. Construct five new street lights on Industrial Street.
- c. Construct one new street light on Mill Street.

Notes:

The quantity of street lights identified may be modified slightly during the plan check process based on illumination calculations and equipment selection.

Conditions set: 1) in compliance with a Specific Plan, 2) by LADOT, or 3) by other legal instrument excluding the Bureau of Engineering condition S-3 (i), requiring an improvement that will change the geometrics of the public roadway or driveway apron may require additional or the reconstruction of street lighting improvements as part of that condition.

- (d) Plant street trees and remove any existing trees within dedicated streets or proposed dedicated streets as required by the Street Tree Division of the Bureau of Street Maintenance. All street tree plantings shall be brought up to current standards. When the City has previously been paid for tree planting, the subdivider or contractor shall notify the Urban Forestry Division ((213) 847-3077) upon completion of construction to expedite tree planting.
- (e) Repair or replace any off-grade or broken curb, gutter and sidewalk satisfactory to the City Engineer.
- (f) Construct access ramps for the handicapped as required by the City Engineer.
- (g) Close any unused driveways satisfactory to the City Engineer.
- (h) Construct any necessary additional street improvements to comply with the Americans with Disabilities Act (ADA) of 1990.
- (i) That the following improvements be either constructed prior to recordation of the final map or that the construction be suitably guaranteed:
 - a. Improve Alameda being dedicated and adjoining the subdivision by the construction of the following:
 - (1) A concrete curb, a concrete gutter, and a 15-foot full-width concrete sidewalk with tree wells.
 - (2) Suitable surfacing to join the existing pavement and to complete 35-foot half roadway.
 - (3) The necessary transitions to join the existing improvement.

- (4) Relocation of the existing catch basin along Alameda Street satisfactory to the City Engineer.
- b. Improve Industrial Street and Mills Street being dedicated and adjoining the tract by the construction of additional concrete sidewalks within the newly dedicated areas to complete full-width concrete sidewalks with tree wells including any necessary removal and reconstruction of the existing improvements satisfactory to the City Engineer.

NOTES:

The Advisory Agency approval is the maximum number of units permitted under the tract action. However the existing or proposed zoning may not permit this number of units. This vesting map does not constitute approval of any variations from the Los Angeles Municipal Code (LAMC), unless approved specifically for this project under separate conditions.

Any removal of the existing street trees shall require Board of Public Works approval.

Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power, Power System, to pay for removal, relocation, replacement or adjustment of power facilities due to this development. The subdivider must make arrangements for the underground installation of all new utility lines in conformance with Section 17.05-N of the LAMC.

The final map must be recorded within 36 months of this approval, unless a time extension is granted before the end of such period.

The Advisory Agency hereby finds that this tract conforms to the California Water Code, as required by the Subdivision Map Act.

The subdivider should consult the Department of Water and Power to obtain energy saving design features which can be incorporated into the final building plans for the subject development. As part of the Total Energy Management Program of the Department of Water and Power, this no-cost consultation service will be provided to the subdivider upon his request.

FINDINGS OF FACT (CEQA)

The project was issued Mitigated Negative Declaration ENV-2013-2994-MND on July 18, 2016. Potential negative impacts could occur from the project's implementation due to:

- Hazardous Materials Site
- Land Use / Planning
- Increased Noise Levels (Demolition, Grading, and Construction Activities)
- Increased Noise Levels (Mixed-Use Development)
- Increased Noise Levels (Parking Structure Ramps)
- Public Services (Fire Protection)
- Public Services (Police – Demolition / Construction Sites)

Public Services (Police)
Transportation / Traffic
Utilities (Local Water Supplies – Landscaping)
Utilities (Local Water Supplies – All New Construction)
Utilities (Local Water Supplies – New Commercial or Industrial)
Utilities (Local Water Supplies – New Residential)

The Deputy Advisory Agency, certifies that Mitigated Negative Declaration No. ENV-2013-2994-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 Nos. 17 and 18** 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.

In accordance with Section 21081.6 of the Public Resources Code (AB3180), the Deputy Advisory Agency has assured that the above identified mitigation measures will be implemented by requiring reporting and monitoring as specified in Condition No. 16.

Furthermore, the Advisory Agency hereby finds that modification(s) to and/or correction(s) of specific mitigation measures have been required in order to assure appropriate and adequate mitigation of potential environmental impacts of the proposed use of this subdivision.

FINDINGS OF FACT (SUBDIVISION MAP ACT)

In connection with the approval of Vesting Tentative Tract No. 74112, the Advisory Agency of the City of Los Angeles, pursuant to Sections 66473.1, 66474.60, .61 and .63 of the State of California Government Code (the Subdivision Map Act), makes the prescribed findings as follows:

(a) THE PROPOSED MAP IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.

The adopted Central City North Plan designates the subject property for heavy manufacturing land use with the corresponding zone of M3. The property contains approximately 2.59 net acres (112,842 net square feet) after required dedication and is presently zoned M3-1-RIO. The proposed 14-lot airspace subdivision is allowable under the current adopted zone and the land use designation. The project site is within the River Improvement Overlay (RIO) District.

Related Case No. CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-C-SPR includes a general plan amendment to change the land use designation from Heavy Industrial to Community Commercial, a vesting zone change / height district change from M3-1-RIO (Heavy Manufacturing) to C2-2D-RIO (Commercial). The requested Community Commercial land use correlated C2 Zone would allow the proposed residential and commercial development on the property. The tract map approval is conditioned on the approval of the General Plan Amendment and Zone

Change / Height District Change (Condition No. 15). The project also proposes a ministerial density bonus to increase their base density from 282 units to 344 units.

Residential parking will be provided per the ministerial density bonus parking requirements stated in LAMC Section 12.22-A.25(d). The project will provide 397 resident parking spaces and 80 guest parking spaces for the 344 live-work apartment units.

The project site is located within the Los Angeles State Enterprise zone. Per LAMC 12.21-A.4(x)(3), areas within any Enterprise Zone only need to provide two parking spaces for every 1,000 square feet of commercial space. Based on this requirement, the 29,544 square foot site is required to provide 59 commercial parking spaces.

The project will include 394 on-site bicycle parking spaces, meeting requirements of the Bicycle Ordinance (Ordinance No. 182,386). The live-work units require 379 bicycle parking spaces, including 35 short-term and 344 long-term spaces. The commercial area requires 14 bicycle parking spaces, including 6 short-term and 8 long-term spaces.

Therefore, the proposed map will be consistent with the applicable General Plan upon approval of the General Plan Amendment and the Zone Change.

(b) **THE DESIGN OR IMPROVEMENT OF THE PROPOSED SUBDIVISION IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.**

The Bureau of Engineering has reviewed the proposed subdivision and found the subdivision layout generally satisfactory and that there are existing sewers in the streets adjoining the subdivision. As a condition of approval, the subdivider is required to make dedications and improvements on Industrial Street, Alameda Street and Mill Street in order to meet current street standards. The Bureau of Street Lighting has also reviewed the proposed subdivision and has conditioned the subdivision approval to construct new street lights on Industrial Street, Alameda Street and Mill Street in order to meet current street lighting standards. This tract will connect to the public sewer system and will not result in violation of the California Water Code. The Bureau of Sanitation reviewed the sewer/storm drain lines serving the proposed subdivision and found no potential problems to their structures or potential maintenance problems.

Therefore, as conditioned, the proposed tract map is consistent with the intent and purpose of the applicable General and Specific Plans.

(c) **THE SITE IS PHYSICALLY SUITABLE FOR THE TYPE OF DEVELOPMENT.**

The site is level and is not located in a slope stability study area, high erosion hazard area, or a fault-rupture study zone. The Department of Building and Safety, Grading Division, has tentatively approved the tract map without conditions.

The site is not subject to the Specific Plan for the Management of Flood Hazards (floodways, floodplains, mud prone areas, coastal high-hazard and flood-related erosion hazard areas).

A tree letter dated February 12, 2016, certified that there are no protected trees on the project site.

The project engineer has certified that the subject site is not located in a flood hazard, a hillside, or a mud-prone area. However, the project is located in a Methane Buffer Zone. Prior to the issuance of a building permit, a qualified engineer will be required to investigate and design a methane mitigation system in compliance with the Department of Building and Safety Methane Mitigation Standards for the appropriate Site Design Level, which will prevent or retard potential methane gas seepage into the building.

(d) **THE SITE IS PHYSICALLY SUITABLE FOR THE PROPOSED DENSITY OF DEVELOPMENT.**

The approximately 2.59 acre site is currently zoned M3-1-RIO. The proposed map includes an accompanying request for a general plan amendment to change the Central City North land use designation from Heavy Industrial to Community Commercial, a vesting zone change / height district change from M3-1-RIO (Heavy Manufacturing) to C2-2D-RIO (Commercial), a zoning administrator adjustment for reduced setbacks, a master conditional use permit for the sale of alcohol for on-site restaurant consumption, a director's decision for reduced residential open space, and an approval of Site Plan Review findings (Case No. CPC-2013-2993-GPA-VZC-HD-MCUP-ZAA-MS-SPR). The current plan designation of Heavy Industrial and the M3-1-RIO Zone would not allow residential and commercial uses on the site. The land use designation change and zone change would allow the C2 Zone to be developed at the R4 density (LAMC 12.14 C.4) which is 400 square feet of lot area per dwelling unit. This would allow a base density of 282 live-work apartment units. A ministerial 22.5 percent density bonus would increase the maximum density from 282 to 344 units by providing 6 percent of the base density, 17 units, as Very Low Income units.

The Height District Change from Height District No. 1 to Height District No. 2D would allow an increase in the Floor Area Ratio (FAR) from 1.5:1 to 6:1. Although Height District No. 2 allows an FAR of 6:1, the D limitation reduces the maximum FAR to 3:1. The project will be built at or less than 2.98:1 FAR. This would allow for a mix of commercial and residential uses as permitted by LAMC Section 12.22 A.18(a).

The project site is currently served by two MTA Rapid Bus Lines, including lines 720 and 760, and five MTA Local Bus Lines, including lines 18, 28, 53, 60 and 62. These lines provide connections to the downtown subway stations, which include Pershing Square and 7th Street/Metro Center. Additionally, the Greyhound Bus Terminal is located one block south of the project site on 7th Street, which provides inter-city bus services to various locations outside of the Los Angeles area.

The project is also served by the Metro Gold Line rail system located at the Little Tokyo/Arts District station near 1st Street and Alameda Street. The Metro Gold Line offers service to East Los Angeles to the east and Pasadena to the northeast. The Metro Gold Line connects to Union Station, providing access to Metrolink, the Metro Silver Bus Line, and Metro Rail Red and Purple Lines.

- (e) THE DESIGN OF THE SUBDIVISION OR THE PROPOSED IMPROVEMENTS ARE NOT LIKELY TO CAUSE SUBSTANTIAL ENVIRONMENTAL DAMAGE OR SUBSTANTIALLY AND AVOIDABLY INJURE FISH OR WILDLIFE OR THEIR HABITAT.

The Deputy Advisory Agency' certified that Mitigated Negative Declaration No. ENV-2013-2994-MND reflects the independent judgement of the lead agency and determined that this project would not have a significant effect upon the environment provided that the potential impacts identified above are mitigated to a less than significant level through implementation of **Conditions Nos. 17 and 18** of the Tract's approval.

The Initial Study, prepared for the project by Parker Environmental Consultants (published on July 18, 2016), identifies potential adverse impact on fish or wildlife resources as far as earth, air, and plant life are concerned. However, measures are required as part of this approval, which will mitigate the above mentioned impacts to a less than significant level. Furthermore, the project site, as well as the surrounding area is presently developed with structures and does not provide a natural habitat for either fish or wildlife.

Any demolition, grading, and construction will be conducted per the requirements of the Los Angeles Municipal Code and associated permits needed to perform such work. These permits also restrict work hours to mitigate noise pollution.

- (f) THE DESIGN OF THE SUBDIVISION OR TYPE OF IMPROVEMENTS IS NOT LIKELY TO CAUSE SERIOUS PUBLIC HEALTH PROBLEMS.

There appears to be no potential public health problems caused by the design or improvement of the proposed subdivision. The development is required to be connected to the City's sanitary sewer system, where the sewage will be directed to the LA Hyperion Treatment Plant, which has been upgraded to meet Statewide ocean discharge standards. The Bureau of Engineering has reported that the proposed subdivision does not violate the existing California Water Code because the subdivision will be connected to the public sewer system and will have only a minor incremental impact on the quality of the effluent from the Hyperion Treatment Plant.

- (g) THE DESIGN OF THE SUBDIVISION OR THE TYPE OF IMPROVEMENTS WILL NOT CONFLICT WITH EASEMENTS, ACQUIRED BY THE PUBLIC AT LARGE, FOR ACCESS THROUGH OR USE OF PROPERTY WITHIN THE PROPOSED SUBDIVISION.

There are no recorded instruments identifying easements encumbering the project site for the purpose of providing public access. The project site contains legally

recorded lots identified by the Assessor Parcel Record. The site is surrounded by private and public properties that adjoin improved public streets and sidewalks designed and improved for the specific purpose of providing public access throughout the area. The project site does not adjoin or provide access to a public resource, natural habitat, Public Park or any officially recognized public recreation area. Therefore, the design of the subdivision and the proposed improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

- (h) THE DESIGN OF THE PROPOSED SUBDIVISION SHALL PROVIDE, TO THE EXTENT FEASIBLE, FOR FUTURE PASSIVE OR NATURAL HEATING OR COOLING OPPORTUNITIES IN THE SUBDIVISION. (REF. SECTION 66473.1)

In assessing the feasibility of passive or natural heating or cooling opportunities in the proposed subdivision design, the applicant has prepared and submitted materials which consider the local climate, contours, configuration of the parcel(s) to be subdivided and other design and improvement requirements.

Providing for passive or natural heating or cooling opportunities will not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in effect at the time the tentative map was filed.

The lot layout of the subdivision has taken into consideration the maximizing of the north/south orientation.

The topography of the site has been considered in the maximization of passive or natural heating and cooling opportunities.

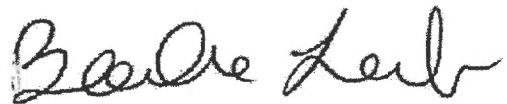
In addition, prior to obtaining a building permit, the subdivider shall consider building construction techniques, such as overhanging eaves, location of windows, insulation, exhaust fans; planting of trees for shade purposes and the height of the buildings on the site in relation to adjacent development.

These findings shall apply to both the tentative and final maps for Tract No. 74112.

VINCENT P. BERTONI, AICP
Advisory Agency



KEVIN S. GOLDEN
Deputy Advisory Agency



BLAKE E. LAMB
Senior City Planner

VPB:KSG:BEL:AEB

Note: If you wish to file an appeal, it must be filed within 10 calendar days from the decision date as noted in this letter. For an appeal to be valid to the City Planning Commission or Area Planning Commission, it must be accepted as complete by

the City Planning Department and appeal fees paid, prior to expiration of the above 10-day time limit. Such appeal must be submitted on Master Appeal Form No. CP-7769 at the Department's Public Offices, located at:

Figueroa Plaza
201 North Figueroa Street
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

Forms are also available on-line at <http://cityplanning.lacity.org>

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

(11-16-16)
Commercial Condos