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October 2, 2018

Honorable Council Members
Planning and Land Use Management Committee
City of Los Angeles
City Hall, Room 350
Los Angeles, CA 90012

Item No. 8 – 18-0716 (VTT-74529-1A)
520, 524, 528, and 532 S. Mateo Street, and 1310 E. 4th Place, Los Angeles
90013

Appellants: Stephen and Carol Ann Warren
Laborer's International Union of North America, Local 300

Item No. 9 – 18-0716-S1 (CPC-2016-3853-GPA-VZC-HD-ZAD-SPR)
520, 524, 528, and 532 S. Mateo Street, and 1310 E. 4th Place, Los Angeles
90013

Appellants: Southwest Regional Council of Carpenters
Stephen and Carol Ann Warren
Laborer's International Union of North America, Local 300

1. The Warrens' Appeals

1.1. The Project is consistent with applicable land use plans and guidelines

The Appellant asserts that some of the Project's findings cannot be made with substantial evidence because, they argue, the Project is inconsistent with applicable land use plans and guidelines. First, they contend that the Project is inconsistent with some of the City's Residential Citywide Design Guidelines. Yet they ignore the City's extensive consistency analysis in Section 4.H, Land Use Planning, and Section 6, Alternatives, of the Draft EIR. As demonstrated in Table 4.H.11, the Project and Alternative 4 are consistent with all the applicable Citywide Design Guidelines, except for one guideline suggesting gathering spaces be located at ground level. Consistent with the Arts District, the Project has instead prioritized locating commercial land uses on the ground level to maximize street accessibility and community compatibility. Therefore, substantial evidence in the record supports the finding that impacts with respect to the Citywide Design Guidelines would be less than significant.

The Appellant next asserts that the Project is incompatible with the surrounding community, primarily focusing on the Project's height and architectural design. Yet they overlook the analysis in Section 4.B, Aesthetics, Section 4.H, Land Use and Planning, and Section 6, Alternatives, of the Draft EIR, which demonstrates that the Project and Alternative 4 would be compatible with the surrounding area, and that any impacts related to aesthetics would be less than significant. With respect to the Project's height, the Appellants fail to acknowledge that the existing zoning *has no existing height limit* for the Project site, that the requested rezoning designation (C2) *also*

has no existing height limit, and that the Project's zoning "D" limitation would limit the Project to a height of 370 feet. Thus, the tower height is consistent with the development standards set forth in the City's code, which are established to ensure development is consistent with surrounding communities. Further, as explained in the EIR, the tower will not create any significant aesthetic impacts on the surrounding community associated with visual character, views and viewsheds, shade/shadow, nighttime light, or daytime glare.

The EIR also demonstrates that the Project and Alternative 4 would include architectural details that provide façade relief and areas of landscaping, outdoor plaza space, and other amenities providing visual breaks in the view from Mateo Street and Santa Fe Avenue. The Project would be replacing the existing warehouse building, which is of a monolithic concrete block design and appearance, particularly along the Mateo Street and Santa Fe Avenue frontages, with a well-designed development providing an articulated building façade and rich texture through a mix of architectural materials. The benefits of proceeding with a taller tower include decreased pedestrian-level massing, further enhancing the use of pedestrian paseos and retail components along the ground floor frontage, which, consistent with the Arts District and surrounding community, will be focused on commercial uses, and will be largely consistent with the pedestrian related policies included as part of the City's Walkability Checklist. The Appellant fails to recognize that the Project would also be consistent with all applicable design policies of the Central City North Community Plan, which addresses their asserted architectural, materials, landscaping, and other design concerns. Therefore, the City properly determined that Project would be compatible with the surrounding community, and substantial evidence supports that determination.

It should also be noted that the Project qualifies as a Transit Priority Project under SB 743, which amended CEQA to provide that aesthetic impacts of such projects "shall not be considered significant impacts on the environment." Accordingly, the aesthetic impacts associated with the Project are not considered significant under CEQA.

The Appellant next contends that the Project is inconsistent with the Central City North Community Plan. The Appellant ignores the EIR's extensive consistency analysis, the City's proposed consistency findings, and the applicable legal standard that governs consistency determinations. As further explained therein, the EIR demonstrates that the Project and Alternative 4 are consistent with most of the applicable policies in the Central City North Community Plan, but acknowledges inconsistency or partially consistency with four of the 30 applicable policies, primarily due to the significant and unavoidable traffic impact. But because the Project would be substantially consistent with all of the remaining applicable policies, substantial evidence supports the finding that impacts related to land use consistency would be less than significant. The City's findings confirm the Project's consistency with the Community Plan, highlighting the Project's consistency with key objectives and policies related to promoting dense development near public transit opportunities, and that the addition of new live/work, office, commercial, and restaurant uses would complement the Arts District neighborhood. Therefore, based on substantial evidence in the administrative record supporting the City's consistency determination, and the great deference owed to the City as it balances the competing interests in its General Plan, the Appellant cannot show that "no reasonable person" could reach a conclusion that the Project and its entitlements are consistent with the City's General Plan and the Central City North Community Plan (See *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 677.)

1.2. The City complied with all of CEQA's requirements

A full EIR was prepared by the City to analyze the Project's potential environmental impacts. Notably, the Appellant did not submit a comment letter on the Draft EIR. Nonetheless, the Appellant vaguely asserts that the EIR is "inadequate" and contend that the EIR "fails an informational document." But contrary to the Appellant's conclusory allegations, the EIR complied with CEQA's requirements.

First, the Appellant's allege that the EIR fails to provide substantial evidence to support the land use consistency conclusions. However, the EIR provides extensive analysis of the Projects'

consistency with applicable land use plans, including numerous tables documenting how the Project is consistent with the pertinent policies and objectives (see Section 4.H., Land Use and Planning). That analysis provides substantial evidence to support the less than significant impact determination. Additionally, as discussed above, the Project is consistent with the City's plan and zoning and there is no basis, and they have not provided any, to support that any alleged inconsistency is with a land use policy, including one that would result in an environmental impact.

Second, the Appellants argue the EIR fails to adequately mitigate soil contamination or account for the Los Angeles River. But as explained in our office's June 12 letter, the EIR appropriately determined that, after implementation of mitigation impacts, with respect to soil contamination would be less than significant. Substantial evidence in the record supporting that conclusion includes Section 4.F, Hazards and Hazardous Materials, of the Draft EIR, supported by the Phase I and Limited Phase II Site Assessments provided as Appendices I-1 and I-2 to the Draft EIR, and as further explained in Response to Comment Nos. B6-7 and B7-1 in the Final EIR. The Appellant's assumption that soil will reach the Los Angeles River is factually incorrect. As demonstrated in Section 4.G, Hydrology and Water Quality, runoff from the Project Site *does not* directly discharge into the Los Angeles River.

Third, the Appellant vaguely states that the EIR does not provide sufficient information with regard to "geology/soils" and "hazards/hazardous conditions." In fact, the former is extensively analyzed in, Section 4.D, Geology and Soils, and Appendix H, Geotechnical Investigation, of the Draft EIR, which provide substantial evidence in support of the conclusions reached therein. With respect to the latter, substantial evidence in support of the CEQA determinations can be found in the record as noted in the preceding paragraph.

Fourth, the Appellant contends that the EIR did not account for methane-related issues and should have prepared a health risk assessment. But Section 4.F, Hazards and Hazardous Materials, of the Draft EIR explains that existing regulations set forth in the Los Angeles Municipal Code, also known as the Los Angeles Methane Seepage Regulations, provide an existing regulatory system that addresses methane issues. The EIR also explains that worker exposure to methane is regulated by OSHA and Cal-OSHA. With respect to a health risk assessment, as more fully explained in Section 4.C, Air Quality, and the technical response submitted by the City's Air Quality consultant, no health risk assessment was needed for the Project because it is not the type that would emit substantial diesel PM, per applicable South Coast Air Quality Management District guidance. Thus, substantial evidence supports the EIR's conclusions.

Fifth, the Appellant alleges that the EIR fails to analyze the existing environment and zoning. Yet the EIR provides a section dedicated to describing the existing environment, which includes discussion of the existing zoning (see Section 3, Environmental Setting). That discussion is supplemented by the Land Use section cited above, which together provide extensive analysis of the existing zoning and the requested rezoning.

Sixth, the Appellant asserts that the EIR requires adoption of mitigation measures from future studies, asserting this constitutes deferred mitigation. But the Appellant fails to identify any specific mitigation, as there will be no improperly deferred mitigation.

Seventh, the Appellant contends that EIR did not analyze the effect of "narrow streets" or alleged "lack of infrastructure." Yet the EIR's Traffic Impact Study, attached as Appendix L-1 to the Draft EIR, considered the number of lanes available on each street through every study intersection. Thus the width of the streets, the current traffic control devices, and the existing and future traffic levels were all considered in the analysis. The existing infrastructure in relation to the Project was analyzed extensively in the EIR, which provides substantial evidence in support of the determinations made therein.

Eighth, the Appellant argues that EIR did not substantiate its findings with "current data," and they specifically reference traffic. But as explained in Response to Comment No. B4-23 of the Final EIR, and by the Project's traffic expert in its supplemental letter, the traffic baseline was reasonably and accurately determined given demolition of the 6th Street Viaduct and the resulting

closure of 6th Street between Mateo Street and US 101, and is supported by the Los Angeles Department of Transportation. Therefore, substantial evidence supports the methodology used to determine traffic impacts.

Ninth, the Appellant states the EIR's construction impact analysis improperly assumes "that construction will not occur at all allowable times pursuant to the Los Angeles Municipal Code." As explained in Response to Comment No. B4-8 in the Final EIR, the applicant reasonably assumed Project construction would occur over a normal 8-hour day (plus lunch and breaks), and would occur during the allowable construction windows permitted by the LAMC. As further explained in that Response to Comment, the hours worked per day, or the number of days worked per week, do not affect the results and conclusions of the EIR's noise or air quality analysis. Substantial evidence supports all determinations with respect to construction impacts.

Tenth, the Appellant argues that the EIR fails to outline and describe site sampling measures to determine the proximity of fault lines. The EIR, however, explains that the Project site is not included within an Alquist-Priolo Special Study Zone or Fault Rupture Study Area (see Section 4.D., Geology and Soils). In fact, the nearest fault, the Puente Hills Blind Thrust Fault, is approximately 1.7 miles away. As a result, no site sampling measures to determine the proximity of fault lines was necessary.

Eleventh, the Appellant argues that Alternative 4's analysis was insufficiently analyzed. But as extensively analyzed in Section 6, Alternatives, of the Draft EIR, and explained in Response to Comment No. A3-1 of the Final EIR, Alternative 4 would not cause any significant environmental impacts that would not be caused by the Project, and would not significantly worsen the one significant and unavoidable traffic impact identified in the EIR. The City's CEQA findings extensively document the substantial evidence in support of all conclusions. The Appellants do not identify any specific issues with the analysis or the findings.

Finally, the Appellant's argue that the EIR "relies on general thresholds and ignores possible and existing environmental impacts," but fail to identify any such thresholds or impacts. To the contrary, the EIR thoroughly evaluated all impacts consistent with CEQA and City policy. Their appeal presents no substantial evidence and should be denied.

2. The Carpenters' Appeal

The Southwest Carpenters raise three issues in their appeal: (1) the Alternatives, (2) the Greenhouse Gases, and (3) Hazardous Materials.

With respect to the Alternatives analysis, the Appellant asserts that the EIR fails to identify alternatives that substantially lessen the Project's significant environmental effects. However, as explained in Section 6, Alternatives, of the Draft EIR, five different alternatives were analyzed, including a reduced commercial density alternative that reduced the Project's one significant and unavoidable traffic intersection impact below significance (Alternative 3). As the City's CEQA findings provide, however, Alternative 3 would not meet the Project Objectives to the same degree as either the Project or Alternative 4 because it would develop less commercial space, reducing the multiple environmental benefits that arise from mixed-use development in an urban location. Thus, the EIR's Alternatives section did analyze an alternative that substantially lessened the Project's only significant and unavoidable environmental impact, and the Appellant has failed to demonstrate the selection of alternatives was "manifestly unreasonable." (*Residents Ad Hoc Stadium Comm. v. Bd. of Trustees* (1979) 89 Cal.App.3d 274, 287.)

2.1 The EIR's greenhouse gas analysis complies with CEQA and is supported by substantial evidence

The Appellant first asserts that the EIR's analysis of greenhouse gas ("GHG") emissions is inadequate. But as described in Section 4.E, Greenhouse Gas Emissions, and Section 6, Alternatives, of the Draft EIR, the Project's and Alternative 4's GHG emissions were correctly determined to have less than significant impacts given the consistency with state, regional, and local GHG reduction goals and objectives. In the absence of adopted quantitative standards or

significance thresholds, that consistency is an appropriate basis for the City to make a less than significant conclusion.

CEQA Guidelines section 15064.4 authorizes a lead agency to quantify a project's GHG emissions or rely on qualitative analysis. Although GHG emissions can be quantified, no applicable agency including CARB, SCAQMD, or the City of Los Angeles has adopted a quantitative significance threshold for GHG emissions that would be applicable to the Project. In the absence of any adopted, numeric threshold, the City evaluated the Project's GHG emissions consistent with Guidelines section 15064.4, subdivision (b)(2), by considering whether the Project complied with applicable regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction of mitigation of greenhouse gas emissions. This approach is supported further by Guidelines section 15064, subdivision (h)(3), which provides that the Project's incremental contribution to a cumulative impact can be found not cumulatively considerable if it will comply with an approved plan or mitigation program that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area of the project. Thus, the City can make a finding of less than significant impacts from GHG emissions if the Project complies with applicable programs and/or other regulatory schemes designed to reduce GHG emissions, and has adopted that threshold for Project's GHG analysis, consistent with recent California Supreme Court decisions (as explained *infra*).

The EIR followed the appropriate methodology and analyzed the Project's consistency with several applicable regulatory plans and policies to reduce GHG emissions, including the City of Los Angeles Green Building Ordinance, AB 32 Scoping Plan, SCAG's Regional Transportation Plan/Sustainable Communities Strategy, and the City of Los Angeles ClimateLA implementation plan. The Project would comply with the City of Los Angeles' Green Building Ordinance standards that would reduce emissions beyond a NAT scenario, and are consistent with the AB 32 Scoping Plan's recommendation for communities to adopt building codes that go beyond the State's codes. Under the City's Los Angeles Green Building Code, the Project must incorporate several measures and design elements that reduce the carbon footprint of the development, including design, construction, maintenance, and operation that is equivalent to the Leadership in Energy & Environmental Design (LEED) certified level. Projects that are LEED certified generally exceed Title 24 (2016) standards by at least 10 percent.

The RTP/SCS is the most directly applicable adopted regional regulatory plan to reduce GHG, and is designed to reduce regional GHG emissions from the land use and transportation sectors and meet SB 375's requirements and other state long-term climate goals. The Project and Alternative 4 are the type of land use developments encouraged by the RTP/SCS as they promote public transit and multi-modal transportation through mixed land uses and proximity to quality public transit options. As explained in Section 4.E, Greenhouse Gas Emissions, and Section 6, Alternatives, of the Draft EIR, the Project and Alternative 4 would be consistent with the applicable plans analyzed. That consistency analysis provides substantial evidence supporting the conclusion that the Project and Alternative 4 will have less than significant GHG impacts.

The Appellant takes issue with the EIR's analysis of a No Action Taken ("NAT") scenario, but misconstrue applicable law and the EIR's analysis. First, our Supreme Court's opinion in *Center for Biological Diversity v. California Dep't of Fish & Wildlife* (2015) 62 Cal.4th 204 does not prohibit the EIR's methodology, but suggests as a "pathway to compliance" a similar analysis of compliance with regulatory programs designed to reduce GHG emissions. The Court recognized that if a project complied with applicable regulations, a lead agency could appropriately rely on them as showing compliance with standards adopted to achieve statewide goals. That approach is also consistent with Guidelines section 15064, as noted above.

As one way to demonstrate compliance with the AB 32 Scoping Plan, the EIR quantified the Project's and Alternative 4's GHG emissions and compared it with a NAT scenario. The comparison was used to analyze consistency with applicable GHG reduction plans and policies and demonstrate the efficacy of the measures contained therein, but was not utilized as a threshold of significance, as the Appellant implies. Contrary to the Appellant's contention, the

reductions from NAT are not the result of “mitigation”; no mitigation is required because no significant GHG impacts were identified. The EIR explains how the NAT scenario was calculated, through the design, sustainability, site, land use characteristics, and project design features, in conjunction with compliance with regulatory requirements. For example, compliance with City of LA Green Building Ordinance standards includes use of low-emitting paints and other materials, efficient heating and cooling, tankless water heaters, efficient water fixtures, and weather controlled landscaping irrigation. Thus, analyzing the NAT scenario further demonstrated consistency with applicable plans and provides substantial evidence in support of the less than significant determination.

The Appellants finally argue that the EIR’s cumulative analysis is “incomplete.” Yet a GHG impact analysis is inherently a cumulative analysis, and, as explained in the EIR, the City determined that consistent with Guidelines section 15064, subdivision (h)(3), the Project’s contribution to cumulative GHG emissions and global climate change would be less than significant if the Project is consistent with the applicable regulatory plans and policies. Since the EIR found the Project and Alternative 4 were consistent with those applicable plans, including the City’s plans, it appropriately determined cumulative impacts would be less than significant. The Appellant provides no evidentiary support for their argument that “thousands” of projects somehow call into question the EIR’s well-supported consistency analysis.

1.3. The existing soil conditions were adequately described and the related mitigation is not improperly deferred

The Appellant contends that the EIR did not adequately describe existing conditions with respect to soil contamination, and that mitigation was improperly deferred. But they are wrong on both points. First, the Appellant overlooks the EIR’s analysis in Section 4.F, Hazards and Hazardous Materials, of the Draft EIR, supported by the Phase I and Limited Phase II Site Assessments provided as Appendices I-1 and I-2 to the Draft EIR. As explained in Response to Comment Nos. B6-7 and B7-1 in the Final EIR, based on the Phase II Environmental Site Assessment of the Project site, soil contaminant levels are below applicable state and federal limits across the majority of the site, with only one sample taken showing elevated levels of lead and arsenic above applicable regulatory limits. Based upon the available data, the soil contaminants on-site appear to be limited to a specific area of the property and do not appear to constitute a threat. However, erring on the conservative side, as set forth in Mitigation Measure HAZ-MM-1, a complete Phase II assessment will be required following demolition of the existing structure in order to fully characterize soil quality and the extent of soil contamination. The EIR’s analysis is reasonable and appropriate.

As part of that required mitigation, if contaminated materials are found to exist, a detailed Soil Management Plan must be developed for review and approval by the City. This Plan will specify procedures for segregating contaminated materials, ensuring that impacts from contaminated materials do not occur, and removing the contaminated materials from the site to proper disposal or remediation facilities. Mitigation Measure HAZ-MM-1 is being required as a cautionary step to ensure that the soil is cleaned prior to construction of the Proposed Project. Thus, with implementation of Mitigation Measure HAZ-MM-1, substantial evidence in the record shows that impacts of the Project with respect to potential contamination beneath the site would be reduced to a less than significant level.

The appeal must be denied.

3. LIUNA’s Appeal

LIUNA does not raise any new issues in their appeal, but refer to prior letters submitted on June 13, 2018 and January 26, 2018, which were addressed by the Department’s Appeal Report dated June 14, 2018. For the reasons explained therein, the appeal must be denied.

4. Conclusion

Based on the foregoing, the appeals have no merit.

Respectfully,

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