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February 7, 2019

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

APPEAL RESPONSE; Council file Nos. 18-1235; 18-1235-S1

On June 29, 2018, the Advisory Agency adopted Mitigated Negative Declaration (ENV-2016-3751-MND) and approved Vesting Tentative Tract Map No. 74521 in connection with the proposed Schrader Hotel Mixed-Use Project, for a mixed-use hotel development containing 191 guestrooms and 5,557 square feet of ground floor restaurant, coffee bar and rooftop lounge space, and 100 parking spaces within three levels of subterranean parking; exterior rehabilitation of an existing, two-story 12-unit apartment building; and demolition and replacement of an existing detached garage building into a hotel accessory building for mechanical equipment. The proposed project includes a total of 84,325 square feet, inclusive of the existing 8,156 square-foot apartment building, for a total floor area ratio (FAR) of 3.17:1.

On August 13, 2018, the entirety of the Advisory Agency action was appealed by four (4) aggrieved parties, including the current appellant to City Council, the Coalition for Responsible Equitable Economic Development (CREED). On October 19, 2018, The Sunset Landmark Investments, LLC, represented by Daniel R. Wright of The Silverstein Law Firm, formally withdrew their appeal. The remaining appeals pertained primarily to the Tract Map's inconsistency with the Hollywood Community Plan and the State Subdivision Map Act, the adequacy of the MND, including project impacts related to land use, traffic, noise, air quality, greenhouse gas emissions, and public health; project entitlements and objectives; and piecemealing of a larger development project.

The Department of City Planning responded to the Tract Appeal in an Appeal Report dated September 13, 2018 (Appeal Report). The Appellants submitted four (4) additional letters to the file in response to the Appeal Report. These four (4) additional letters contain arguments that are largely repetitive of claims raised in the Tract Appeal submitted on August 13, 2018. The Appeal Report and all associated documents were set to be presented to the City Planning Commission (CPC) at its meeting of September 13, 2018. At the September 13, 2018 CPC hearing, the applicant requested to continue the project to a date certain, in order to modify the design of the detached accessory structure being reviewed under the related CPC Case No. CPC-2016-3750-VZC-HD-MCUP-ZAA-SPR.

On November 8, 2018, the City Planning Commission (CPC), following its consideration of the materials and oral testimony, denied the Tract Appeal, sustained the actions of the Advisory Agency in adopting the MND, Errata dated August 20, 2018, August 28, 2018, and October 18, 2018 and approving Vesting Tentative Tract Map No. 74521; and approved the related case for the project, Case No. CPC-2016-3750-VZC-HD-MCUP-ZAA-SPR, the environmental clearance, and recommended that the City Council approve the Vesting Zone Change and Height District Change, including the T and Q Conditions; and approved a Master Conditional Use for alcohol sales, Zoning Administrator's Adjustment, and Site Plan Review.

On December 21, 2018, the Coalition for Responsible Equitable Economic Development (CREED) filed appeals on both cases related to the project (VTT-74521-1A and CPC-2016-3750-VZC-HD-MCUP-ZAA-SPR). The appeals again mainly rely on the same arguments and information as presented in the Appellant's previous letters to the City. The City has already adequately provided detailed and full responses to each of the appeal points, supported by substantial evidence in the record, in the MND, circulated for public review on May 3, 2018 through June 7, 2018; and the Appeal and CPC Staff Recommendation Reports, both dated November 8, 2018. The Appellant has failed to present any new information or substantial evidence to dispute the City's MND and Findings for Approval.

Nonetheless, the following represents a summary and response to the appeal points identified in the appeals filed on December 17, 2018 (CEQA Appeal) and December 21, 2018 (CPC Appeal):

CEQA Appeal Points

The MND fails to properly evaluate and mitigate potentially significant impacts on public health with regards to Toxic Air Contaminants (TAC)

The Appellant contends the MND fails to evaluate and mitigate potentially significant impacts on public health with regards to TAC emissions. However, the project MND does discuss the correlation of TAC emissions and human health impacts. The project MND acknowledges health risks based on the concentration of the substance and duration of exposure, but concludes the project would result in a less than significant impact related to construction TACs. The proposed project would be required to comply with the CARB Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than five minutes at a location. There is no evidence to suggest that the project would generate diesel fuel emissions that are excessive or above acceptable levels that already occur within the environment. As such, the project is not considered to be a substantial source of diesel particulate matter warranting a Health Risk Assessment (HRA) because daily truck trips to the project site in connection with the proposed hotel and residential uses would not generate substantial sources of diesel particulate matter. Additionally, the proposed hotel and residential uses are not subject to the Air Toxics Hot Spots Information and Assessment Act (Health and Safety Code Section 44360 et. seq.), and as such, a detailed HRA is not required.

In response to the MND's claim that air quality impacts would be less-than-significant, Adams Broadwell Joseph & Cardozo, on behalf of CREED LA, had Soil Water Air Protection Enterprise (SWAPE) prepare a supplemental HRA which was attached to their September 10, 2018 letter in order to evaluate potential health risks to school children in the vicinity. However, the SWAPE analysis assumes children attending Selma Avenue Elementary are on the school property for 10 hours each day, but are on school property approximately 7 hours after assuming students remain on site for an additional 30 minutes before and after school for pick up and drop off activities. Thus the daily exposure rate used by SWAPE is significantly overstated and not based on actual exposure times. Additionally, the SWAPE analysis assumes that children would be exposed to outdoor ambient air quality throughout the entire

day. The analysis does not take into consideration that the children would be indoors for a majority of the time they are on campus, where the ambient outdoor air would be filtered through the school's HVAC system, which are fitted with MERV rated filters. Furthermore, the cancer potency factor used by SWAPE was based on 1.1(mg/kg-day)⁻¹ and an averaging time of 25,550 days (70 years). This factor assumes a constant exposure to Diesel Particulate Matter (DPM) over a 70-year lifetime and does not account for dose or exposure duration. The construction activities of the project would occur for approximately 8 hours a day and 5 days a week. Thus, it is inaccurate to assume that nearby persons would be exposed to any emissions during the evening hours or on weekends. Persons would only be exposed to emissions at times when the emissions are being generated and when the individuals are within a proximate range of exposure to the emissions. Factors such as leaving one's residence to go to work or school are not considered within SWAPE's analysis. Thus, the HRA is not based on accurate information or analytical assumptions and therefore does not raise a fair argument that a significant impact would occur. Therefore, the proposed project would result in a less than significant impact related to construction TACs.

Note that this argument was also made in the Adams Broadwell Joseph & Cardozo, on behalf of CREED LA, Comment Letters on the Tract Appeal; and previously addressed in the MND and the Tract Appeal Report and CPC Staff Recommendation Report.

The City violated CEQA by improperly compressing the analysis of impacts and mitigation measures and relying on design features for mitigation without disclosing the project's impacts and the design features and mitigation measures will not mitigate the impact below the threshold of significance with regards to noise.

The appellant submitted a letter by Menlo Scientific Acoustics, Inc. dated August 10, 2018, which claims that the Project Design Features (PDFs) are mitigation measures that will fail to mitigate the noise impact of live entertainment and that the reporting system will not prevent the noise from exceeding the allowed threshold.

The digital audio processor is not a mitigation measure and is not relied upon as mitigation. Furthermore, the project is conditioned to comply with PDF-2 as identified on page 9 of the Letter of Determination for VTT No. 74521 dated August 3, 2018. PDF-2, along with other project design features, will further ensure noise impacts are not significant by requiring installation and control of a digital audio processor that automatically adjusts output volume in response to changing ambient noise levels. Moreover, PDF-4 includes specific measures that would be implemented in the event external audio equipment produces noise levels that exceed the identified threshold levels. Last, the City does not need to provide an analysis of the project's noise impacts before and after implementation because it is a Project Design Feature, not a mitigation measure.

The appellant claims that the glass barrier under PDF-3 will not mitigate potentially significant noise impacts of live music. However, as designed, the glass partition will ensure that low frequency noise is fully attenuated by closing all walls and windows when live entertainment is occurring and confining live entertainment to an enclosed room which would further ensure noise impacts are reduced to less than significant levels. Furthermore, any complaint from the neighborhood would require the closure of all doors and windows for the remainder of the day. In conjunction with PDF-3, the project's potential nuisance noise impacts would be less than significant.

The appellant also contests that the complaint system will not mitigate potentially significant noise impacts. The complaint response procedures outlined in PDF-4(g) are recommended in conjunction with other Project Design Features (PDF-1 through PDF-4) that are aimed at controlling the operational sound levels to be consistent with LAMC regulations. The Project

Design Features are incorporated into the City's August 3, 2018 Letter of Determination for VTT No. 74521 as operating conditions and are thus fully enforceable. Additionally, to ensure compliance with PDF-4(g), Mitigation Measure N-7 requires the applicant to provide the adjacent residential buildings to the north, south, and west with a building manager contact and phone number to report any loud, unnecessary, and unusual noise, which disturbs the peace and quiet of the adjacent uses. Proof of compliance shall be submitted to the Development Services Center at the time of Condition Clearance. Non-compliance with these operating conditions could result in enforcement actions by the City and could include termination of the conditional use permit. The annual monitoring frequency would include a review of the case file and any complaints logged within the system.

Note that this argument was also made in the Adams Broadwell Joseph & Cardozo, on behalf of CREED LA, Comment Letters on the Tract Appeal; and previously addressed in the MND and the Tract Appeal Report.

The City cannot make the required CEQA findings because it failed to properly analyze and mitigate the project's impacts.

The proposed project and potential impacts were analyzed in accordance with the City's Environmental Quality Act Guidelines and the City's L.A. CEQA Thresholds Guide. These two documents establish standards and thresholds of significant impact, and provide the data for determining whether or not the impacts of a proposed project reach or exceed thresholds. The MND requires analysis of a project's potential impacts on the existing environment, which is provided in the published MND. According to § 21080.1 of the CEQA Guidelines, an Environmental Impact Report is only required for potentially significant unmitigated impacts. The project's land use, traffic, noise, and greenhouse gas emissions have been addressed in Sections X. Land Use and Planning, XVI. Transportation and Traffic, XII. Noise, and VII. Greenhouse Gas Emissions of the published MND. The MND found that impacts related to traffic and noise would either be less-than-significant or less-than-significant with mitigation. All mitigation measures are imposed as conditions of approval in the VTT and CPC determination letters.

Nevertheless, as concluded in the published MND, 158 related projects were identified within the project vicinity, which included the two referenced hotels in the appeal. The proposed project's incremental contribution to cumulative impacts related to air quality, biological, greenhouse gases, hazards and hazardous materials, land use/planning, noise, and transportation/traffic would be less than significant. As such, the project's contribution to cumulative impacts would be less than significant.

In addition, the Transportation Study prepared by Gibson Transportation Consulting, Inc., dated June 2017, included a cumulative traffic analysis pursuant to the City of Los Angeles Department of Transportation's (LADOT) Transportation Impact Study Guidelines from December 2016. Estimates of future traffic conditions both with and without the proposed project, representing cumulative conditions, were established to evaluate the potential impacts of the proposed project. The traffic study also produced a construction impact analysis as it relates to the temporary impacts that may result from the construction activities of the proposed project, which may include safety, operational, or capacity impacts, and was performed in accordance with the L.A. CEQA Thresholds Guide: (City of Los Angeles, 2006). The traffic study also concluded that the proposed project's traffic impacts would be less than significant with mitigation measures. Mitigation Measures T-1 through T-4 specifically address temporary and short term construction-related traffic impacts. Lastly, in response to the transportation Study, LADOT determined that the "results of the Transportation Impact Study, which accounted for other known development projects in evaluating potential cumulative impacts and adequately evaluated the project's traffic impacts on the surrounding community."

As noted in Section XII. Noise, the proposed project would implement mitigation measures that would effectively reduce the project's construction noise impacts to less than significant levels. While the construction period is anticipated to occur for a period of 18.5 months, the demolition and excavation periods, which would generate the highest noise levels, are anticipated to occur over a 5 month period. Table III-14, Estimated Exterior Construction Noise at Nearest Sensitive Receptors, in the MND indicates that the construction noise levels would be less than significant noise impacts after mitigation. In addition, the proposed project will implement Mitigation Measure N-4, which requires that the project contractor erect a temporary noise-attenuating sound barrier along the perimeter of the project site to further reduce the construction noise level. Furthermore, with respect to cumulative noise impacts from proposed hotels in the area, each of the existing and proposed hotel projects are and would be subject to the noise provisions in the LAMC, which limit on-site stationary noise sources from exceeding the 5-dBA CNEL increase at the property line. Therefore, by complying with the LAMC, cumulative on-site operational noise impacts would be reduced to less than significant.

As noted in Section III. Air Quality, the proposed project would comply with SCAQMD District Rule 403, that requires dust control and reduction measures to be implemented during construction activities. Rule 403 also requires that all clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust. Trucks having no current hauling activity shall not idle but be turned off. In accordance with Sections 2485 in Title 13 of the California Code of Regulations, the idling of all diesel fueled commercial vehicles (weighing over 10,000 pounds) during construction shall be limited to five minutes at any location. As noted in the MND, the proposed project's construction related air quality emissions were found to be below the SCAQMD's thresholds of significance for regional and localized air quality emissions. Therefore, because the construction-related and operational daily emissions associated with the project would not exceed the SCAQMD's recommended thresholds, these emissions associated with the project would not be cumulatively considerable. Thus, cumulative air quality impacts would be less than significant. Also, as the project is consistent with SCAG's growth projections, it would not have a cumulatively considerable contribution to an impact regarding a potential conflict with or obstruction of the implementation of the applicable air quality plan. Accordingly, cumulative impacts related to conformance with the 2016 AQMP would be less than significant.

As noted in Section VII. Greenhouse Gas Emissions, an analysis was conducted to determine whether the project's impact would be cumulatively considerable using a plan-based approach to examine the project's contributing effect on global warming. As concluded in the MND, the project's generation of Greenhouse Gas (GHG) emissions would represent a 36% reduction in GHG emissions with GHG reduction measures in place. Furthermore, the project would be consistent with all applicable local ordinances, regulations, and policies that have been adopted in furtherance of the state's and City's goals of reducing GHG emissions. Thus, the project would not make a cumulatively considerable contribution to GHG emissions and impacts would be less than significant.

Moreover, development of the related projects would be compatible with the zoning and land use designations of each related project site and its existing surrounding uses. Therefore, the project's land use impacts would not be cumulatively considerable because the project would not conflict with applicable local or regional plans.

CPC Case Appeal Points

The City cannot make the required findings for the Master Conditional Use to allow for the sale and dispensing of alcohol on the Site.

The appellant contends that the City Planning Commission failed to explain how the sale of alcohol in the proposed hotel would be essential or beneficial to the community when there are numerous hotels already selling alcohol and the alcohol licenses in the area already exceed the ABC threshold.

As demonstrated in the CPC determination letter dated December 5, 2018, the City fully addressed the necessary findings to approve this entitlement request. The site is located one block south of Hollywood Boulevard and one block north of Sunset Boulevard. The project site is located within a dense, urban environment, one block south of the Hollywood Boulevard Entertainment District. The surrounding areas are developed with residential uses, hotels, restaurants, and various retail and commercial uses. The proposed restaurant would provide a service amenity in an area which is not only a vibrant international destination, but also developed with a number of businesses and residences. The proposed ground floor restaurant, bar/lounge and outdoor dining area are anticipated to operate as a bona-fide restaurant with the proposed sale of alcoholic beverages anticipated to be incidental to food service. The proposed hotel will serve to provide temporary residency for tourist and business travelers within close proximity to commercial and employment centers, as well as regional servicing public transit. The request to sell alcoholic beverages within controlled-access liquor cabinets is intended to serve as an amenity for hotel guests, accessory to the operations of the hotel. The ground floor restaurant, bar/lounge and outdoor dining area, third-floor outdoor terrace, rooftop restaurant and bar/lounge, an outdoor rooftop patio would serve hotel guests, as well as the general public. As such, the sale and dispensing of alcoholic beverages is anticipated to be an incidental amenity for patrons of the operations of the proposed restaurant and bar/lounge, which would provide an additional amenity for those who are employed or visiting the Hollywood area.

Furthermore, although the existing on-site licenses within the census tract where the subject site is located exceeds ABC guidelines, concentration can be undue when the addition of a license will negatively impact a neighborhood. Concentration is not undue when the approval of a license does not negatively impact an area, but rather such a license benefits the public welfare and convenience. As conditioned, allowing the sale of a full line of alcoholic beverages in conjunction with the proposed restaurant and the hotel for on-site consumption is not undue or anticipated to create a law enforcement issue. Consequently this approval will not result in an undue concentration of premises selling and dispensing of a full-line of alcoholic beverages.

The project has been conditioned to prevent negative impacts and integrate the use into the community as well as protect community members from adverse potential impacts. In addition, the subject grant has been conditioned to allow the Zoning Administrator to require a Plan Approval application to evaluate the operations of the project if documentation is submitted showing that the project is not in compliance with the approved conditions. A record of poor compliance and/or nuisance complaints would allow the City the discretion to not grant a conditional use and thus avoid the need to proceed with prolonged nuisance abatement proceedings. As such, the proposed hotel and restaurant, bar and related uses in conjunction with the sale and dispensing of a full-line of alcoholic beverages will be compatible with the surrounding development and will not adversely affect the welfare of the surrounding community.

The City cannot make the required findings for the Zoning Administrator's Adjustment to the required setbacks.

The appellant claims that due to the impacts on noise, Findings 12.28 C.4(b) and C.4(c) cannot be made because the project will exacerbate noise impacts and does not conform with the noise element of the General Plan, thus having an adversely effect on the adjacent properties.

As demonstrated in the CPC determination letter dated December 5, 2018, the City fully addressed the necessary findings to approve this entitlement request. The adjacent property to the north, where the existing apartment building would be observing a 7-foot rear yard setback, is developed with a two-story multi-family residential building, located at 1618 Schrader Boulevard. The adjacent property to the east, where the proposed replacement of the detached garage building would be observing a 1-foot side yard setback, is developed with the United States Post Office – Hollywood Station's surface parking lot. As mentioned, the apartment building has existed in its current location since 1930. It is presumed that the existing condition has not been affecting or degrading the public health, welfare or safety of the surrounding neighborhood, as neighboring tenants have been active in their participation in the public process, and no complaints or concerns were expressed regarding this request. While the detached accessory structure will be demolished and reconstructed, it is located adjacent to a surface parking lot of an existing historic resource, which is unlikely to ever be redeveloped and potentially suffer from future impacts of the proposed location of the building. Lastly, the change of use of the detached accessory structure from parking to the storage of mechanical equipment in the proposed location is not anticipated to create any discernible impacts on the neighboring properties. Therefore, it can be found that the size, height, and operations of the proposed project will be compatible with and would not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

Furthermore, as it pertains to Finding 12.28 C.4(c), the project site is located within the Hollywood Community Plan, with a land use designation of Regional Center Commercial. The applicant has requested a Vesting Zone Change and Height District Change from C4-2D to (T)(Q)C2-4D. The project proposes to construct a new 11-story mixed-use hotel with three levels of subterranean parking, maintain the existing apartment building, and demolish and replace the existing detached accessory building. The mixed-use hotel would include a new ground floor restaurant, coffee bar, rooftop bar/lounge/dining area and a 191 guest rooms. With the approval and adoption of the requested Vesting Zone Change and Height District Change, the project would be in substantial conformance with the purpose, intent and provisions of the General Plan and the Hollywood Community Plan.

The City cannot make the required findings for the Site Plan Review.

The appellant contends the project is not in substantial conformance with the purposes, intent and provisions of the General Plan and community plan because it does not conform with the noise element of the General Plan.

As reiterated above, the proposed project would implement mitigation measures that would effectively reduce the project's construction noise impacts to less than significant levels. While the construction period is anticipated to occur for a period of 18.5 months, the demolition and excavation periods, which would generate the highest noise levels, are anticipated to occur over a five (5) month period. Table III-14, Estimated Exterior Construction Noise at Nearest Sensitive Receptors in the MND indicates that the construction noise levels would be less than significant noise impacts after mitigation. In addition, the proposed project will implement Mitigation Measure N-4, which requires that the project contractor erect a temporary noise-

attenuating sound barrier along the perimeter of the project site to further reduce the construction noise level. Furthermore, with respect to cumulative noise impacts from proposed hotels in the area, each of the existing and proposed hotel projects are and would be subject to the noise provisions in the LAMC, which limit on-site stationary noise sources from exceeding the 5-dBA CNEL increase at the property line. Therefore, by complying with the LAMC, cumulative on-site operational noise impacts would be reduced to less than significant.

Supplemental Information

Responses to the CEQA and CPC appeal have also been provided by the Applicant in a document dated February 7, 2018 and February 7, 2018, and is available for reference in Council Files 18-1235; 18-1235-S1.

Conclusion

The appeal and referenced comment letters address specific concerns and focus on the adequacy of the MND, including comments regarding the entitlement conditions or findings. Upon careful consideration of the Appellant's points, the Appellant has failed to adequately disclose how the City erred or abused its discretion. In addition, no new substantial evidence was presented that City has erred in its actions relative to the MND and the associated entitlements. Therefore, the CEQA and CPC appeals should be denied and the actions of the City Planning Commission should be sustained.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Jason Hernández
City Planning Associate

VPB:CTL:JH

c: Craig Bullock, Planning Director, Council District 13