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October 15, 2021

Harbor Area Planning Commission
City of Los Angeles
200 North Spring Street, Room 272
Los Angeles, CA 90012

Re: October 19, 2021 Commission Agenda, Item 6; 625 South Beacon Street ("625 Beacon");
DIR-2020-2595-SPR-HCA-1A, ENV-2009-1558-EIR-ADD1

Honorable Commissioners,

We are writing on behalf of our client, HPG Beacon, LLC (HPG), to respectfully request that you deny the appeal filed by SAFER as recommended by your Planning Department staff.

SAFER is not an organization that represents the interests of the San Pedro community or its residents. Indeed, SAFER is located at 4399 Santa Anita Avenue in El Monte – far, far from 625 Beacon. SAFER is well known for filing CEQA objections throughout the region in order to further the private economic interest its unnamed constituents; a tactic that is widely recognized as “CEQA Abuse” and as significantly contributing to California’s housing crisis.

HPG seeks to develop 625 Beacon with a 281 unit mixed-use project (the “Project”) that is completely consistent with San Pedro’s recently updated Community Plan, the Community Plan Implementation Overlay (CPIO), and the Master EIR that was certified by the City when it approved the Community Plan in 2017 (the “Master EIR”). Therefore, contrary to SAFER’s claims, HPG’s Project is wholly within the scope of the Master EIR.

The City prepared and certified the Master EIR for the Community Plan at great time, expense and effort in order to streamline the process of approving projects – especially housing projects – that are consistent with the Community Plan and the CPIO – so that the San Pedro community’s vision could be implemented and so that its needs could be met. Projects that are consistent with the Community Plan, the CPIO and the Master EIR are considered “by-right,” and are entitled to expedited processing. In particular, the City prepared and certified the Master EIR so that future case-by-case project-specific EIR’s for consistent projects would not be needed.

In this case, the Addendum prepared by the City demonstrates that the Project is consistent with the Community Plan, the CPIO and the Master EIR. SAFER, which seeks to

delay the Project for transparent reasons, seeks to thwart the City's policies and goals in adopting the updated Community Plan, CPIO and Master EIR, and its arguments that a Supplemental EIR is necessary are wrong and should be rejected.

A. The Use of an Addendum to Comply with CEQA is Proper and Mandated

Section 15164 of the CEQA Guidelines provides that a lead agency "shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 for the preparation of a subsequent EIR have occurred."

Section 15162 in turn provides in pertinent part that:

"(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.”

Thus, there are three – and only three – conditions that require the preparation of a subsequent EIR when an EIR has been certified. If none of those conditions is satisfied, CEQA states that “no subsequent EIR shall be prepared.” As discussed below, none of those three conditions are met.

1. There are No Changed Circumstances and No Changed Project Justifying A Supplemental EIR

SAFER makes no argument that the project of the Community Plan (development in compliance with the Community Plan and CPIO) has substantially changed or that there are substantially changed circumstances pertaining to the project. Thus, SAFER makes no argument whatsoever that a Supplemental EIR is required pursuant to either CEQA Guidelines Section 15162(a)(1) or 15162(a)(2).

2. A Supplemental EIR is Not Necessary to Address Formaldehyde

SAFER claims that a Supplemental EIR is necessary because the City’s Master EIR did discuss the potential effects of indoor formaldehyde emissions upon the Project’s residents. However, SAFER makes no showing that this subject constitutes “new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete.” Indeed, in his August 29, 2021 letter, Mr. Offermann (SAFER’s purported formaldehyde expert) cites 2009, 2011, 2015, and 2017 studies (including his own 2009 study) about indoor formaldehyde health risks. Obviously therefore, such risks were well known many years prior to the time the previous EIR was certified in 2017. Because the subject of formaldehyde emissions could have been brought to the city’s attention at the time the Master EIR was prepared, CEQA Guidelines Section 15162(a)(3) prohibits it from being used as the basis for compelling the preparation justify a Supplemental EIR. See, e.g. *Citizens for a Megaplex-Free Alameda v. City of Alameda*, 149 Cal.App.4th 91, 114 (2007)(claim for subsequent EIR rejected because project opponent failed to show that purportedly “new information” could not have been brought to City’s attention with the exercise of reasonable diligence when the prior environmental document was certified).

In addition to the fact that formaldehyde emission risks are not a new subject since the City’s certification the Master EIR, the Commission should be aware that formaldehyde emissions are already closely regulated by extensive laws and regulations, including (i) Title 24 (addressing mechanical ventilation, indoor air quality, and air filtration requirements, and the requirement that insulating materials comply with the California Quality Standards for Insulating Materials; (ii) the California Green Building Standards Code (which includes measures

addressing chemical emissions from composite wood products (including Section 4.504.5 which establishes limits for formaldehyde in particle board), carpets, resilient flooring materials, paints, adhesives, sealants, and insulation); and (iii) the California Air Resources Board's Composite Wood Board regulations, which stringently regulate permissible formaldehyde emissions from composite wood products (such as hardwood plywood, particleboard, and medium density fiberboard) sold in California.

3. A Supplemental EIR is Not Necessary to Study Construction Emissions

SAFER argues that a Supplemental EIR is required to address construction emissions has no merit. The City's Master EIR thoroughly addressed the subject, acknowledging that due to construction activities:

"Implementation of the proposed plan could violate air quality standards or contribute substantially to an existing or projected air quality violation. Implementation of mitigation measures MM4.2-1 through MM4.2-4 would reduce this impact, but not to less than significant during construction. Therefore, this impact is significant and unavoidable." (Master EIR at p. 4.2-28)

While the City has already recognized the acceptability of construction emissions that violate air quality standards due to the construction of projects that implement the Community Plan, further study was conducted in the Addendum (Appendix B-1) which indicates that the Project's construction emissions will not exceed SCAQMD's regional thresholds or localized standards VOC, NO_x, CO, SO_x, PM₁₀ and PM_{2.5}. Therefore, the Project's construction emissions be below the level already deemed acceptable by the City when it certified the Master EIR. The Project will nevertheless comply with Mitigation Measures MM4.2-1 through MM4.2-4, the Project's forecast emissions will, and a Supplemental EIR is not necessary to further study construction emissions.

4. A Supplemental EIR is not Necessary to Address Soil Contamination

The City's Master EIR addressed the possibility that construction activity may encounter existing soil contamination and states that compliance with existing regulations and standard City mitigation measures would ensure proper remediation and disposal:

"[A]ny new development occurring on these documented hazardous materials sites would have to be preceded by remediation and cleanup under the supervision of the DTSC before construction activities could begin, if such actions have not already occurred. Compliance with existing regulations and implementation of standard City mitigation measures would reduce any impact and ensure that construction workers and the general public would not be exposed to any unusual or excessive risks related to hazardous materials during construction activities. As such, impacts associated with the

exposure of construction workers and the public to hazardous materials during construction activities are less than significant.” (Master EIR at 4.7-24)

The Phase II Environmental Assessment (contained in Appendix G-2 of the Addendum) for the Project provided an assessment of soil contamination at the Project site and concludes that none of the soil samples collected at the site exceed state or federal hazardous waste thresholds. Thus, while there is a less than significant impact from potential soil contamination in the event that contaminated soils are encountered, the Project will comply with existing remediation and disposal regulations as contemplated by the Master EIR. Accordingly, a Supplemental EIR is not necessary to further study soil contamination.

5. A Supplemental EIR is not Necessary to Address Construction Noise

SAFER’s final argument that a Supplemental EIR is necessary to address construction noise similarly lacks any merit because the subject of construction noise was thoroughly addressed in the City’s Master EIR. The City’s Master EIR explained that construction noise is regulated by LAMC Sections 41.40 and Section 112.05. The Master EIR acknowledged that notwithstanding such regulations significant unavoidable construction noise impacts would occur as projects were constructed to implement the Community Plan. The City accordingly adopted Mitigation Measure 4.10-1 to further reduce construction noise at sensitive receptors, and adopted a Statement of Overriding Considerations to acknowledge that unavoidable construction noise impacts would occur.

A Project-specific analysis of noise impacts is provided in Appendix H of the Addendum. It documents that, when considering ambient noise levels, construction noise would not exceed the City’s 5 dBA impact threshold. Therefore, while the Project will comply with Mitigation Measure 4.10-1 of the Master EIR, Project-specific noise impacts from would be less than significant. Accordingly, a Supplemental EIR is not necessary to further study construction noise impacts.

Conclusion

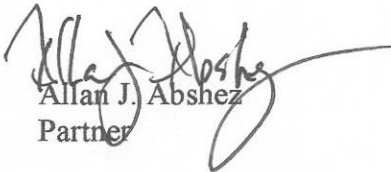
As discussed earlier, CEQA mandates the use of an Addendum where an EIR has previously been certified unless there is substantial evidence that the conditions of CEQA Guidelines Section 15162 are met. Here, HPG seeks to develop a mixed-use project that is completely consistent with the recently adopted Community Plan, the CPIO and the Master EIR that was certified by the City when it approved the Community Plan and CPIO in 2017.



The Project will comply with all applicable measures from the Master EIR. The Addendum documents that the Project air quality and noise impacts raised by SAFER are less than the unavoidable impacts acknowledged by the City in the Master EIR and that were the subject of Overriding Considerations. As discussed in the Master EIR, remediation of soil contamination, if encountered, is governed by compliance with existing laws and regulation. The formaldehyde and soil contamination issues raised by SAFER are not new and are already addressed by extensive, stringent regulation federal, state and local regulations.

For all of these reasons, a Supplemental EIR is not necessary and SAFER's appeal should be rejected.

Sincerely,



Allan J. Abshez
Partner

cc: Ryan Guthrie
Jeanalee Obergfell
Connie Chauv