

September 11, 2018

VIA EMAIL AND U.S. MAIL

Ms. Zina H. Cheng
Deputy City Clerk, Planning and Land Use Management Committee
Room 395
City Hall of the City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012
clerk.plumcommittee@lacity.org

**Re: Council File No. 18-0716
CPC-2016-3853-GPA-VZC-HD-ZAC-SPR (ENV-2016-1795-EIR)
VTT-74529-1A**

Dear Ms. Cheng:

This law firm represents the Southwest Regional Council of Carpenters (Southwest Carpenters) and submits these comments in advance of the September 18, 2018 Planning and Land Use Management Committee hearing of this item.

On August 1, 2018, the City of Los Angeles (City) rejected as untimely the Southwest Carpenters' appeal of VTT-74529-1A application associated with 520, 524, 528, 532 Mateo Street; 1310 East 4th Place (520 Mateo project). However, the City Code and Charter specifically provides a 20-day appeal period for all the applications relating to a project requiring multiple approvals, such as the 520 Mateo project approved on July 18, 2018 by the Planning Commission. Thus, the City's rejection of the appeal was improper.

On Friday July 27, 2018, the Southwest Carpenters attempted to file a timely appeal of CPC-2016-3853-GPA-VZC-HD-ZAC-SPR, ENV-2016-1795-EIR, and VTT-74529-1A at the City's Development Service Center Division at N. Figueroa Street. Southwest Carpenters was not able to file the appeal because there was no wet signature on the original appeal form.

On Tuesday July 31, 2018, the Southwest Carpenters again attempted to file a timely appeal of CPC-2016-3853-GPA-VZC-HD-ZAC-SPR, ENV-2016-1795-EIR, and VTT-74529-1A. The appeal was again rejected because according to the staff person at the counter the appeal of VTT-74529-1A was required to be filed separately from the appeal of the other project approvals.

On Wednesday, August 1, 2018, the Southwest Carpenters separated the appeals as requested by the City and again attempted to file timely appeals of CPC-2016-3853-GPA-VZC-HD-ZAC-SPR, ENV-2016-1795-EIR, and VTT-74529-1A. However, while the City accepted the appeal of CPC-2016-3853-GPA-VZC-HD-ZAC-SPR and ENV-2016-1795-EIR, Southwest Carpenters was informed that the appeal period for VTT-74529-1A application had run. Thus, the appeal of VTT-74529-1A was not accepted. The City maintained the position that VTT-74529-1A has a ten (10) day appeal period while CPC-2016-3853-GPA-VZC-HD-ZAC-SPR has a twenty-day (20) appeal period. These applications all concern the same development project. The rejection of the appeal of the VTT-74529-1A was erroneous for the reasons set forth below. Specifically, the City Charter and the City Code state that VTT-74529-1A may be appealed within 20 days.

Section 12.36 of the City Code implements City Charter Section 564 (Project Requiring Multiple Approvals): “Notwithstanding any provision of this Code to the contrary, the following shall apply for a project requiring multiple approvals.” (City Code Section 12.36(C).)

If a project requires any approval or recommendation separately decided by an Area Planning Commission, the Zoning Administrator, and/or the Director, as the initial decision-maker, and also requires any approval or recommendation by the City Planning Commission as the initial decision-maker, then the City Planning Commission shall have initial decision-making authority for all of the approvals and/or recommendations.

City Code Section 12.36(C)(1). Here, the 520 Mateo project requires (1) approval of the vesting tentative map by the Planning Director pursuant to Article 7 of the City Code and (2) a recommendation by the City Planning Commission regarding the General Plan amendment pursuant to Section 551(b) of the City Charter. The City had no authority to bifurcate and require appeal of VTT-74529-1A to the Planning Commission because City Code Section 12.36(C)(1) requires the City Planning Commission to be the initial decision-making authority for all the approvals and recommendations for the 520 Mateo project, not the Planning Director. This was the City’s first error.

The City also violated its own code by imposing a separate appeal deadline for VTT-74529-1A. Again, Section 12.36(C) of the City Code expressly states: “Notwithstanding any provision of this Code to the contrary, the following shall apply for projects requiring multiple approvals.” Section 12.36(C)(1)(a) prescribes: “[I]f any Legislative Approval is included [in the application] **then the procedures for consideration and appeal of all the applications** shall be those set forth in Section 12.32 B. through D. of this Code.” Section 12.36(A) of the City Code defines a Legislative Approval as “[a]ny approval that requires an action by the City Council,” such as a General Plan amendment. (See City Code Section 11.5.6, City Charter Section

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555(b.) Section 12.32D of the City Code specifically provides: “An appeal shall be filed within 20 days of the date of the mailing of the Planning Commission’s decision...”

As explained above, the 520 Mateo project requires multiple approvals including Legislative Approval for the General Plan Amendment. The City Code expressly provides a twenty (20) day appeal period for the whole of the 520 Mateo project. Pursuant to the letter of determination, the Planning Commission’s decision was issued on July 18, 2018. While the City accepted the appeals of CPC-2016-3853-GPA-VZC-HD-ZAC-SPR and ENV-2016-1795-EIR, it must also accept the appeal of VTT-74529-1A through today, August 7, 2018. The City’s current position that the appeal period for VTT-74529-1A is limited to ten (10) days has no merit and is in direct conflict with Section 12.36 of the City Code. Southwest Carpenters recognizes that the City Council is considering the appeal of VTT-74529-1A by virtue of other parties appealing the City Planning Commission’s determination of VTT-74529-1A. However, failure to accept the Southwest Carpenters’ appeal of VTT-74529-1A nonetheless violates the procedural due process of the Southwest Carpenters and the provisions of the City Charter and City Code.

In addition to these procedural infirmities, the substantive issues regarding the inadequacies of this project which have been previously raised in front of the Planning Commission are attached herein.

Thank you for your attention.

Very truly yours,
WITTMER PARKIN LLP



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cc (via email):
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