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December 29, 2021

VIA ONLINE SUBMISSION

Los Angeles City Planning Commission
City of Los Angeles Planning Department
Online Portal: <https://plncts.lacity.org/oas>

VIA EMAIL

Stephanie Escobar, Planning Assistant (stephanie.escobar@lacity.org)
Vince Bertoni, Director of Planning (vince.bertoni@lacity.org)

**Re: Appeal of Advisory Agency Approval of the Vesting Tentative
Tract Map for the 655 Mesquit Project, Case Number: VTT-83288;
Related Cases CPC-2020-6828-GPA-ZC-HD-SPR-MCUP / ENV-
2020-6829-EAF**

Dear Commissioners, Planning Department, Ms. Escobar, Mr. Bertoni:

On behalf of the **Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”)**, we submit this appeal of the Advisory Agency’s December 22, 2021 approval of Vesting Tentative Tract Map No. 83288 (map date-stamped September 5, 2021) (“VTTM”) for the 655 Mesquit Project, to be located at 640-657 South Mesquit Street, 1585 East Jesse Street, and 640-648 South Santa Fe Avenue, Case Number: VTT-83288; Related Cases CPC-2020-6828-GPA-ZC-HD-SPR-MCUP / ENV-2020-6829-EAF (collectively, “Project”), proposed by 655 Mesquit, LLC (“Applicant”).

The Project proposes to redevelop a surface parking lot on the existing 640 South Santa Fe Avenue site (“Project Site”) into a 14-story commercial building with approximately 188,954 square feet of floor area comprised of 184,629 square feet of office uses and approximately 4,325 square feet of ground floor commercial uses.¹ As approved by the Advisory Agency, the VTTM authorized the subdivision

¹ City of Los Angeles Department of City Planning, Mitigated Negative Declaration: 655 Mesquit Street Project Case Number: ENV-2020-6829-EAF, CPC-2020-6828-GPA-ZC-HD-SPR-MCUP L5691-005j

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of five (5) parcels into eight (8) lots, including one (1) master ground lot and seven (7) airspace lots, in the Central City North Community Plan at 640-657 South Mesquit Street, 15885 East Jesse Street, and 640-648 South Santa Fe Avenue.²

On September 22, 2021, the Advisory Agency conducted a public hearing to consider the VTTM. On September 23, 2021, the Department of City Planning issued a Mitigated Negative Declaration (“MND”) for the Project (MND No. ENV-2020-6829-MND) pursuant to the California Environmental Quality Act³ (“CEQA”).⁴ The public comment period on the MND began on September 23, 2021 and ended on October 13, 2021.⁵ CREED LA submitted written comments and expert comments on the MND on October 13, 2021 (“MND Comments”) explaining that the MND failed to comply with CEQA and land use regulations.⁶

On December 22, 2021, the Advisory agency issued a Letter of Determination (“LOD”) approving the VTTM.⁷ The LOD includes CEQA findings, Subdivision Map Act findings, and states that the Advisory Agency considered and adopted the MND.⁸ However, the Advisory Agency did not consider the public comments filed on the MND, which postdated the Advisory Agency hearing on the VTTM, and there are no responses to MND comments contained in the LOD. The City Planning Commission (“CPC”) is tentatively scheduled to consider the Project’s remaining entitlements and the MND at a January 27, 2022, hearing.

CREED LA hereby appeals all actions taken by the Advisory Agency described in the LOD. This letter supplements CREED LA’s Appeal Application, filed concurrently herewith. In accordance with City requirements, this appeal is also accompanied by an appeal filing fee, and a copy of the LOD. The appeal is based on each of the reasons set forth herein and in the attached and referenced

(September 2021) <https://planning.lacity.org/odocument/4ff91485-df08-4bc2-8f02-87f9c4255ab1/ENV-2020-6829.pdf>.

² LOD, p. 1.

³ Pub. Res. Code (“PRC”) §§ 2100 et seq.; 14 Cal. Code Regs. (“CCR”) §§ 15000 et seq.

⁴ LOD, p. 12.

⁵ https://planning.lacity.org/odocument/1449ad71-431a-42d9-a6ea-dec20e3a330f/Pub_092321.htm

(Public Notice re Intent to Adopt MND for 655 Mesquit Project).

⁶ See **Exhibit 1**, 10/13/21 CREED LA Comments on the 655 Mesquit Project; Case Number: ENV-2020-6829-EAF CPC-2020-6828-GPA-ZC-HD-SPR-MCUP.

⁷ See 12/22/21 Letter of Determination VTTM No. 83288 (“LOD”), available at <https://planning.lacity.org/pdiscaseinfo/document/MTYwMzk0/1823a02c-5d95-4003-95c4-258347c32f18/pdd>.

⁸ LOD, pp. 12-17.

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exhibits. CREED LA reserves the right to supplement this appeal and the reasons therefore at the hearing on the appeal and at any subsequent City hearings and proceedings related to the Project.⁹

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition includes the **Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California**, along with their members, their families, and other individuals who live and work in the City of Los Angeles. Individual members of CREED LA and its member organizations include John Ferruccio, Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite.

I. REASONS FOR APPEAL

CREED LA appeals all actions taken by the Advisory Agency regarding the Project as described in the LOD dated December 22, 2021. The reasons for this appeal are set forth in the attached comments and exhibits, including CREED LA's MND comment letter dated October 13, 2021, and the expert comments of air quality and hazards expert James Clark, Ph.D. Reasons for the appeal include violations of CEQA, State and local land use codes, and of the Subdivision Map Act. We incorporate by reference all comments included in Exhibit 1. A brief summary of issues is below. CREED LA respectfully requests that the CPC consider all of our comments on the Project in their entirety in responding to this appeal.

⁹ Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.
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A. An EIR is Required Because there is Substantial Evidence Supporting a Fair Argument that the Project Will Have Significant, Unmitigated Adverse Environmental Impacts

A negative declaration is improper, and an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.¹⁰ “[S]ignificant effect on the environment” is defined as “a substantial, or potentially substantial, adverse change in the environment.”¹¹ An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.”¹² Substantial evidence, for purposes of the fair argument standard, includes “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.”¹³

CREED LA’s attached MND Comments, including the comments of its experts, presented direct and substantial evidence to the City raising a fair argument that the Project will have significant impacts on air quality, GHG emissions, land use, noise, and hazardous materials that are not fully disclosed or mitigated by the MND. An EIR must be prepared to fully disclose and analyze these impacts and mitigate these significant impacts to less than significant levels.

B. The Advisory Agency’s CEQA Findings Were Premature and Unsupported

The LOD includes CEQA findings which state that the Advisory Agency considered and adopted the MND, and that the Agency found that it reflects the independent judgment of the lead agency and determined that the Project would not have a significant effect upon the environment provided the potential impacts are mitigated to a less than significant level, as described in the MND.¹⁴ The Advisory Agency’s CEQA findings and purported “adoption” of the MND were premature, because the City has not yet considered or responded to comments filed on the

¹⁰ PRC § 21151; 14 CCR § 15064(f); *Citizens for Responsible Equitable Env’tl Dev. v. City of Chula Vista* (“CREED”) (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 (“CBE v. SCAQMD”).

¹¹ PRC § 21068; 14 CCR § 15382; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1581.

¹² *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.

¹³ PRC § 21080(e)(1) (emphasis added); *CREED*, 197 Cal.App.4th at 331.

¹⁴ LOD, p. 12.

MND, failed to require an EIR for the Project, and the majority of the Project's entitlements have not yet been considered or approved by the CPC or City Council.

It is well-settled that certification or adoption of a CEQA document cannot be issued before a project has been approved.¹⁵ This is consistent with CEQA's requirement that a CEQA document consider the "whole of an action."¹⁶ This includes all phases of a project that are reasonably foreseeable.¹⁷ As the courts have held, "[t]he purpose of CEQA is to inform the public of plans, so that the public can help guide decision makers about environmental choices. It is not the purpose of CEQA to foment prophylactic litigation."¹⁸

The Advisory Agency is an interim decision maker for the Project with authority only to approve the VTTM. It is not the decision maker for the Project's other entitlements. Nor did the Advisory Agency consider the public comments submitted on the MND, or prepare responses to those comments, as required by CEQA. The Advisory Agency therefore lacked the capacity to adopt the MND for the Project as a whole. The Advisory Agency also relied on a patently inadequate CEQA document which does not adequately analyze and mitigate the Project's environmental and public health impacts, and failed to require staff to prepare an EIR. The CPC should vacate the Advisory Agency's premature and unsupported CEQA findings.

C. The Advisory Agency's Subdivision Map Act Findings Were Unsupported

As discussed in CREED LA's MND Comments, there is substantial evidence supporting a fair argument that the Project is likely to have, potentially significant impacts on air quality, GHG emissions, land use, noise, and hazardous materials that are not fully disclosed or mitigated by the MND. An EIR is required for the Project. As a result of these unmitigated impacts, the Advisory Agency lacked

¹⁵ See, e.g., *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 963; *Coalition for an Equitable Westlake/Macarthur Park v. City of Los Angeles* (2020) 47 Cal.App.5th 368, 379; *Stockton Citizens for Sensible Planning v. City of Stockton*, 48 Cal. 4th 481, 489; *Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 418-25.

¹⁶ 14 CCR § 15378; *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1297.

¹⁷ *Id.*

¹⁸ *Endangered Habitats League, Inc. v. State Water Resources Control Bd.* (1997) 63 Cal.App.4th 227, 242

substantial evidence to support the Map Act's required factual findings to approve the VTTM, which require the Advisory Agency to find that a proposed subdivision is consistent with the general plan/specific plan, and does not have any detrimental environmental or public health effects.¹⁹

The purpose of the Map Act is to regulate and control design and improvement of subdivisions with proper consideration for their relation to adjoining areas, to require subdividers to install streets and other improvements, to prevent fraud and exploitation, and to protect both the public and purchasers of subdivided lands.²⁰ Before approving a tentative map, the Map Act requires the agency's legislative body to make findings that the proposed subdivision map, together with the provisions for its design and improvement, is consistent with the general plan and any specific plan.²¹ The Map Act also requires the agency's legislative body to deny a proposed subdivision map in any of the following circumstances:

□

(a) the proposed map is ***not consistent with applicable general and specific plans*** as specified in Section 65451.

□(b) the design or improvement of the proposed subdivision is ***not consistent with applicable general and specific plans***.

(c) the site is not physically suitable for the type of development.

(d) the site is not physically suitable for the proposed density of development.

(e) the ***design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat***.

(f) the ***design of the subdivision or type of improvements is likely to cause serious public health problems***.

(g) the ***design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision***. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority

¹⁹ Gov Code §§66473.5, 66474.

²⁰ *Pratt v. Adams* (1964) 229 Cal.App.2d 602.

²¹ Gov Code § 66473.5.

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is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.²²

CREED LA and its experts provided substantial evidence demonstrating that the Project is likely to have significant, unmitigated impacts in several of these areas. The Advisory Agency failed to consider CREED LA's evidence before approving the VTTM, and failed to require an EIR for the Project which fully discloses and mitigates the Project's significant impacts. The Advisory Agency's findings that none of the conditions requiring denial of the VTTM under the Map Act existed were therefore not supported with substantial evidence.

The CPC should vacate the Advisory Agency's VTTM approval pursuant to, at a minimum, Government Code Sections 66473.5 and 66474(a), (b), and (f).

II. CONCLUSION

CREED LA respectfully requests that the CPC set a hearing on this appeal concurrently with the CPC's hearing on the remainder of the Project's entitlements. At the hearing, CREED LA respectfully requests that the CPC vacate the Advisory Agency's approval of the VTTM, CEQA findings, Map Act findings, and all other actions taken by the Advisory Agency as described in the LOD. The CPC should also direct City staff to prepare an EIR for the Project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Christina Caro', is written over a light blue circular stamp.

Christina Caro
Kelilah Federman

CMC:lj1

²² Gov. Code § 66474 (emphasis added).
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