Community Development Commission

October 3, 2006

TO: Each Supervisor

FROM: Carlos Jackson, Executive Director

RE: RESOLUTION ADOPTING WRITTEN FINDINGS IN RESPONSE TO WRITTEN COMMENTS RECEIVED ON THE WHITESIDE REDEVELOPMENT PLAN ADOPTION

On September 26, 2006, your Board and the Community Development Commission (Commission) held a joint public hearing on the proposed adoption of the Redevelopment Plan for the Whiteside Redevelopment Project (Redevelopment Plan).

Mr. Corin L. Kahn, Attorney-at-Law (Commenter), on behalf of certain property owners within the Whiteside Redevelopment Project Area identified as Mutual Flavors, Fred G. Farago Revocable Living Trust, MS Investment Properties, LLC and The Wallasch Family Trust submitted a letter of comment (Letter) generally supporting the Redevelopment Plan but requesting that further research and consideration be given to certain matters raised in the Letter prior to approval of the Redevelopment Plan.

Community Redevelopment Law, Health and Safety Code Section 33000 et seq., Section 33364 requires that if written objections are delivered or presented, the legislative body may adopt the Redevelopment Plan only after consideration of the objections, and adoption of written findings in response thereto. Although the Letter presented by the Commenter does not explicitly state an objection to the Redevelopment Plan adoption, the Commission has treated the Letter as an objection and has prepared written responses (Responses) to the comments in the Letter.

A Resolution (attached) has been prepared for your Board adopting the written findings as set forth in the Responses to the Letter. Approving this Resolution will allow the adoption of the Redevelopment Plan to proceed. The Letter and Responses are included as Exhibits, A and B respectively, to the Resolution.

Attachment

c: Each Deputy

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES ADOPTING WRITTEN FINDINGS IN RESPONSE TO WRITTEN COMMENTS RECEIVED ON THE WHITESIDE REDEVELOPMENT PLAN ADOPTION

WHEREAS, by Ordinance No. 82-0139, the Board of Supervisors of the County of Los Angeles ("Board of Supervisors") formed the Community Development Commission of the County of Los Angeles ("Commission") to formulate redevelopment projects within the unincorporated portions of the County of Los Angeles pursuant to the Community Redevelopment Law (Health and Safety Code Section 33000, *et seq.*; the "CRL"); and

WHEREAS, the Commission has prepared and desires to have the Board of Supervisors adopt a Redevelopment Plan ("Plan") to include a portion of area located within the unincorporated boundaries of the County of Los Angeles, known as the Whiteside area ("Project Area"); and

WHEREAS, on September 26, 2006, the Board of Supervisors and the Commission held a joint public hearing to consider adoption of the proposed Plan; and

WHEREAS, the Board of Supervisors has provided an opportunity for all persons to be heard and has considered all written comments received and all evidence and testimony presented for or against any and all aspects of the proposed Plan; and

WHEREAS, Sections 33363 and 33364 of the CRL provide that, before adopting the proposed Plan, the Board of Supervisors shall make written findings in response to each written objection received before or at the noticed public hearing from an affected property owner or taxing entity; and

WHEREAS, the Board of Supervisors received written comments on the proposed Plan from affected property owners before the joint public hearing on adoption of the proposed Plan, which are attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the Board of Supervisors desires to adopt written findings in response to the written comments received before the joint public hearing prior to acting on adoption of the proposed Plan; and

WHEREAS, the Board of Supervisors has considered the written comments received before the joint public hearing.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are true and correct.

Section 2. The Board of Supervisors hereby adopts the "Written Findings in Response to Written Comments Received on the Whiteside Redevelopment Plan Adoption," as set forth in Exhibit B, attached hereto and incorporated herein by reference, as the Board's written findings in response to written comments in accordance with Sections 33363 and 33364 of the CRL.

The foregoing Resolution was, on the ____ day of October, 2006, adopted by the Board of Supervisors of the County of Los Angeles, and ex-officio the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board so acts.

SACHI A. HAMAI, Executive Officer
of the Board of Supervisors of the
County of Los Angeles

By_____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
COUNTY COUNSEL

By Eric Young
Deputy

EXHIBIT A

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OUR FILE NUMBER:

September 26, 2006

Honorable Community Development Commission
County of Los Angeles
2 Coral Circle
Monterey Park, CA 91755

RE: ***WHITESIDE REDEVELOPMENT PROJECT; COMMENTS ON PROJECT AND UNDER CEQA [PUBLIC RESOURCES CODE SECTION 21000 et. seq.]***

Dear Honorable Commissioners:

INTRODUCTION

This office represents owners ("Owners")[1] of businesses and/or real property within the proposed redevelopment area. Owners have been recently informed of the proposal to create an approximately 750-acre redevelopment area (the "Project") under *Heath & Safety Code* Sections 33000 *et. seq.*, which is intended to be operationally joined together with a larger existing redevelopment area that currently is under the jurisdiction of the Community Redevelopment Agency of the City of Los Angeles, known as the Adelante Eastside Redevelopment Project Area (the "Project").

[1] We have been authorized by the various owners of real or personal property within the area listed below, to submit this general letter of comment on their behalf.
1. Mutual Flavors
1547 Knowles Ave.
Los Angeles, CA 90063
2. Fred G. Farago Revocable Living Trust
1547 Knowles Ave.
Los Angeles, CA 90063
3. MS Investment Properties, LLC
1527 Knowles Ave
Los Angeles, CA 90063
4. The Wallasch Family Trust
1565 Knowles Ave.
Los Angeles, CA 90063

INTRODUCTION

This comment letter is based on review of the Report to the Board of Supervisors For the Redevelopment Plan For the Whiteside Redevelopment Project; Rules Governing Participation By Property Owners and The Extension of Reasonable Business Occupants In the Whiteside Redevelopment Project Area; the Whiteside Redevelopment Plan Final Environmental Impact Report (EIR"); and several appendices related to these documents (collectively referred to herein as the "Documents").

COMMENT 1

SUMMARY

Based upon the review of the Documents, the Owners generally support the Project and they thank the Community Development Commission ("Commission") for providing the opportunity to raise some concerns that are not generally or specifically addressed in any of the Documents described above. We request that further research and consideration be given to these matters prior to approval of the proposed Project.

COMMENT 2

In particular, we are concerned that the analysis and proposed mitigation measures of the EIR regarding hazardous waste materials are too limited in scope and therefore the full range of potential impacts were not considered and some mitigation holes were left open by the EIR. We also observe that given the nature of the well-documented concentration of potential hazardous waste materials within the Project Area, the Commission has unnecessarily limited itself to reliance only on the discretionary permit process to address this existing condition. Instead, we recommend that the Commission expand the specific goals of the Project to include active participation by the Commission to inventory, remediate and/or eliminate identifiable hazardous waste materials from the Project Area without waiting for owner-initiated development. This would substantially further the Commission's goal of stimulating private participation within the Project Area while at the same time limiting the potential for an accidental and unwanted spill or release event, which would have a very deleterious impact on the goals of stimulating new development within the Project Area.

COMMENT 3

It has been represented to us that there will be no need for the Commission to utilize the power of eminent domain, proposed to be limited to nonresidential development. In light of the limited use in which the power could be used under the current proposal, and the unpopularity of the grant of such power, we respectfully request that the Commission expressly delete the proposal to grant that power from every part of its approval. We think the above-described proactive remediation and removal of hazardous waste materials independent of the development process is a better and more efficient use of public financing than the exercise of the power of eminent domain.

COMMENT 4

We also recommend that a full consideration be given to the current level of public resources devoted to hazardous waste spill containment and clean up to ensure adequate service for the Project Area in light of the Commission's commitment to stimulate change. This issue was not addressed at all in the EIR because it was not identified as having any potential significant impact. But where the Commission is seeking to accelerate the development activity in an area known to involve a concentration of hazardous waste materials, there should be a commensurate increase in

investment in the public services necessary to ensure against unintended consequences such as an inadequate response to an accidental spill or other inadvertent release of hazardous waste materials.

ENVIRONMENTAL SETTING

COMMENT 5

The EIR states the plan area "consists of a mix of older industrial and residential structures." However, most of the area consists of industrial land uses. The mix of these old industrial uses is comprised of manufacturing and heavy industry, with pockets of light industrial use, commercial retail and office uses and residential development. A survey established that the industrial buildings are mostly classified as Class C, defined as older buildings that do not contain many of the contemporary amenities associated with newer industrial buildings. A figure demonstrates that large areas within the Project Area, perhaps as much as approximately 50% of the area, is improved with buildings built prior to 1949[2] and nearly all other buildings throughout the Project Area predate 1969.

COMMENT 6

The EIR also identifies by a data base search reported in the Area Wide Environmental Assessment City Terrace Study Area: Final Report prepared by Converse Consultants in 2000 a significant inventory of likely hazardous waste sites. Based on the large number of these known sites identified as having a moderate to high likeliness of contamination[3], and a generalized list of the forms in which potential contamination may be concentrated[4], a series of generalized significant impacts and proposed mitigation measures were developed.

COMMENT 7

Also as part of the preparation of the Documents, a survey of the parcels and building within the Project Area was conducted. A field-survey checklist included site investigation and confirmed improper open storage of materials, including storage of chemicals; electric transformers which might contain PCBs; agricultural pesticides, and other chemical users; standing water or insufficient drainage; among other potential environmental hazards. Unfortunately, the specific surveys themselves were not provided within the Documents that were publicly available for review and comment on the EIR. This deficiency in the public information should be corrected prior to the approval of the Project so that both the public and the Commission can properly assess the full potential for adverse environmental impacts.

COMMENT 8

However, based on this survey, the EIR concludes and highlights the fact that "there is a high likelihood that asbestos-containing material are present in many off the buildings within the plan area." From this it is inferred that there is a high likelihood that demolition or rehabilitation of building with friable asbestos would have the potential to allow the release of this material into the air constituting a threat to construction workers and other employees in the area.[5]

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[2] Figure 6
[3] FEIR at page 4.2-2
[4] FEIR at page 4.2-3
[5] FEIR at page 4.2-12

COMMENT 9

Some of the land uses in the Project Area, including Owners' real properties, are food-processing plants and distribution. We are particularly concerned that prior to approval of the Project, every consideration must be given to the potential of the Project to adversely impact the health and safety of the Owners' staff, and their product, and that every measure be taken to avoid an increase in the cost in their manufacturing processes that might otherwise be required to protect against any escaped hazardous waste materials.

COMMENT 10

POTENTIAL ENVIRONMENTAL IMPACTS

The EIR identifies three forms of potential significant environmental impacts regarding the potential for hazardous waste materials resulting from: routine transport, use or disposal of hazardous waste materials; reasonably foreseeable upset and accident conditions involving the release of hazardous waste materials into the environment; or development that could be located on a site adversely affected by a release of hazardous waste materials or other disturbance of hazardous waste materials, including asbestos or lead-based paint. From these three generalized potential hazardous waste materials impacts, the EIR boils down the information into 4 proposed mitigation measures and the EIR concludes these will reduce the impacts from the Project as a whole to a level of insignificance.[6]

COMMENT 11

The scope of the first proposed mitigation measure, **HAZ-1**, is targeted at only new construction. The proposed mitigation measure requires a sequence of Phase I, Phase II, and if necessary, site remediation prior to the issuance of any building or grading permit. This condition does not go far enough to completely address the potential foreseeable environmental impacts pertaining to known or the likely presence of hazardous materials within the Project Area that are likely to become an issue during the redevelopment process.

The defect in **HAZ-1** is that at a minimum it should also apply to any demolition activity, which does not require a building or grading permit and instead involves a separate permit in the development process. The demolition process could clearly disrupt contaminated soil as foundations, tanks, or other subterranean structures are removed. In some instances there has been years of spillage or careless discarding of what is now regulated hazardous waste materials. Any site alteration where hazardous waste materials were used and discarded, produced as a by-product, or stored has the potential to send hazardous waste materials into the air, water, or ground which has the potential to adversely impact others within the Project Area.

COMMENT 12

Moreover, the simple movement of contaminated materials unrelated to any development activity, including old fixtures such as electric transformers that have the potential to leak PCBs, or barrels of waste or otherwise discarded or neglected chemicals also has the potential to create a hazardous spill, or even to a lesser degree, a simple release into the air as these items are moved around a site, off site, or transported through the Project Area.

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[6] FEIR at pages 4.2-10 – 4.2-15

COMMENT 13

Likewise, the site development process would not address the potential that currently there may be an underground migration of hazardous wastes or the build up of contamination within aspects of the infrastructure within the Project Area, including but not limited to in the sewers or streets, or other public facilities. Once in the ground, hazardous waste materials do not respect property boundaries and therefore cleanly operated properties could potentially be contaminated without the owners' knowledge. We wish to highlight the fact **HAZ-1** is the only mitigation measure directed at the potential impacts resulting from a release of any hazardous waste materials other than asbestos and lead-based paint. Neither **HAZ-1** alone or in combination with HAZ-2, fully covers the range of potential significant environmental impacts.

COMMENT 14

HAZ-2 pertains only to "[d]emolition or rehabilitation activity involving buildings with friable asbestos containing materials" and those with lead-based paints [7] and thus on its face, it is limited to only those demolitions in which either one of these two potential environmental hazards are present, and mitigation is only directed at these two impacts. The inclusion of **HAZ-2** therefore, does not fill the hole left in the narrowed scope of coverage addressed by **HAZ-1**. Also, the mitigations for these potentially significant impacts on the environment rely on existing regulations and regulatory agencies. So, under strict compliance with the only mitigation measures identified in the EIR, the demolition process would not require mitigation of the potential release during demolition of gaseous forms of other hazardous wastes that might have build up over the years of now forbidden manufacturing processes.

COMMENT 15

HAZ-3 is directed only at new development and the potential for an accident involving one of the targeted new industries contemplated to occupy the redeveloped Project Area. **HAZ-4** is targeted only at the potential development of residential uses and the future supporting systems in the Project Area such as rail lines and other transport of hazardous materials. These four proposed mitigations of impacts were the only ones identified in the EIR. As generally described above, not every reasonably foreseeable adverse hazardous waste scenario has been thoroughly identified, discussed and mitigated to the required level of insignificance.

COMMENT 16

In addition to a deficiency in the mitigation measures, the EIR failed to identify the full range of those potentially harmed by hazardous wastes. The EIR has identified three potential receptors of the impacts of the inadvertent release of hazardous wastes within the Project Area: construction workers, other employees in the area, and sensitive receptors in the residential area, defined as children and old people "who are at the greatest risk from air pollutants.[8] We would like to note the absence of any specific consideration of the several food processing plants in the EIR, including the current use of Owners' real property within the Project Area. We do not know and therefore cannot comment on whether there would have been additional and/or different impacts and mitigations identified had this fact not been omitted from the EIR.

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[7] FEIR at pages 4.1-12
[8] FEIR at pages 4.1-5

COMMENT 17

Another problem with the approach taken in the EIR is the apparently self-imposed and therefore artificial limitation of requiring mitigation only at the time a property owner intends to take action regarding its property. Under the proposed mitigation scheme, it is in connection with the commencement by a private property owner of the development process and Commission's exercise of discretion that would provide the Commission with its opportunity to intervene for the purpose of mitigating potential environmental impacts. However, because the development of the Project in this case contemplates public participation, public-private partnerships, and the potential to utilize publicly supported financing or other economic incentives, we believe there is an opportunity to take a proactive approach. To address the adverse conditions involving hazardous waste materials identified above that have on-going potential to significantly impact the environment before the opportunity for discretionary review by the Commission, we would recommend that as a part of the redevelopment process, through the Rules Governing Participation the Commission provide financial resources to encourage site remediation or other less intrusive site clean up activities independent of the development process.

COMMENT 18

In other words, rather than spend public money by exercising the power of eminent domain, the Commission through incentive programs and other forms of public-private cooperation, should seek out and prioritize the properties that have surface or on-site storage of hazardous waste materials, investigate the threat of underground migration of hazardous substances, and identify any impacts on the public infrastructure within the Project Area. Based on this specific information, some of which the Commission may already possess from its undisclosed surveys, it should devote all of the available resources necessary to remediate these conditions. This would significantly reduce the risk of inadvertent release of hazardous waste materials into the Project Area, provide a powerful stimulus to private investment within the Project Area, and would provide a better, cheaper and less controversial tool to achieve the stated goals of the redevelopment project than would an exercise of the power of eminent domain.

COMMENT 19

Another area of potential environmental impact not properly assessed in the EIR is the potential for significant impacts on Public Services, in particular, impact on the Los Angeles County and City of Los Angeles Fire Departments. The preliminary Environmental Assessment erroneously determined there was no potential for significant environmental impact on any public services. Therefore, Section 4.0 of the EIR, entitled Environmental Impact Analysis, does not address whether there is the potential for increased demand on the Los Angeles Fire Department's Health Hazardous Materials Division's Emergency Operations Section ("EOS")[9] or the equivalent provided by the City of Los Angeles. The facts contained in the EIR suggest that during the redevelopment period, there will be an increase in the risk of an accident involving hazardous waste materials. Therefore, the impact on this public service has the potential to be significant.

Useful information that should have been included in this EIR are the facts regarding the relative proximity of appropriate public services responsible for the containment and clean up of

[9] According to the County's website, there are only three teams of "highly trained, state certified Hazardous Materials Specialists. From this, it is reasonable to infer, that one of these units is not reasonably proximal to the proposed Project Area.

COMMENT 19

hazardous waste accidents and spills. It is conceivable that there is insufficient resource for this kind of activity presently committed to the fire stations currently serving the Project Area. Without any information on this subject in the EIR, it is impossible to judge the potential severity of this impact. However, suffice it to say that the commitment by the Commission to develop the Project Area will accelerate the disturbance of well-documented and long-standing problems. An obvious unintended consequence of the Commission's intention to accelerate development in an area known to have a high concentration of hazardous materials, is the enhanced likelihood of an accidental hazardous waste event and therefore the potential to impact the public services intended to limit its effect. Once identified, any deficiency in the appropriate level of service, including appropriate technology and trained personnel, could be adequately addressed by the Commission with a transfer of existing services closer to the Project Area or enlargement of the coverage of those stations assigned to provide this service.

CONCLUSION

COMMENT 20

The Owners strongly disagree with that portion the proposal to provide any power of eminent domain. As it has expressly been excluded for redevelopment of the residential uses, it should be dropped out of the Project altogether. By deleting it from this important aspect of the Project Area, there is an acknowledgement of the unpopularity of the power. Owners respectfully suggest that the Commission forgo the power all together.

COMMENT 21

Instead, the Owners respectfully suggest that all tax-increment financing, bonds, or other means of public financing should be directed proactively towards remediation or other clean-up type activities without waiting for an property owner to initiate the development process. This form of stimulation and participation will directly benefit not only any particular piece of property, but also the whole of the Project Area that could ironically be damaged by the very objective of this Project, i.e., the acceleration of redevelopment in the Project Area.

Respectfully submitted by,

CORIN L. KAHN

EXHIBIT B

WRITTEN FINDINGS IN RESPONSE TO WRITTEN COMMENTS RECEIVED ON THE WHITESIDE REDEVELOPMENT PLAN ADOPTION

Summary of Response to Comments

Mr. Corin L. Kahn, Attorney at Law (Commenter), on behalf of certain property owners within the proposed Whiteside Redevelopment Project Area (Project Area) identified as Mutual Flavors, Fred G. Farago Revocable Living Trust, MS Investment Properties, LLC and The Wallasch Family Trust (Owners), submitted a letter of comment dated September 26, 2006 (Letter) generally supporting the proposed Redevelopment Plan for the Whiteside Community Redevelopment Project (Redevelopment Plan) but requested that further research and consideration be given to certain matters raised in the Letter prior to approval of the Redevelopment Plan.

The matters presented in the Letter by the Commenter for your Board's consideration were: 1) the deletion of the authority for eminent domain for all properties; and 2) the use of all tax-increment financing, bonds, or other means of public financing for proactive remediation of hazardous waste contamination or other clean-up types of activities without waiting for property owner initiated development process.

One, the authority to acquire property through eminent domain is only proposed to be used as a tool of last resort, which is evidenced by the fact that the Community Development Commission (Commission) has not exercised eminent domain in any of its redevelopment project areas in over 20 years. If there were a proposed development project that would be of substantial benefit to the elimination of blight within the proposed Project Area that required the assembly of land, the Commission might consider acquisition through the use of eminent domain as a tool of last resort. Consideration of eminent domain would only occur after substantial failed negotiations with the property owner regarding voluntary participation in the proposed project and/or a negotiated sale of the property at fair market value with all the entitled relocation benefits.

Two, the Commenter suggests that the Commission should take a proactive role in identifying hazardous waste contamination sites and in facilitating clean-up efforts. It was suggested that the Commission use all available funds for hazardous waste clean-up. In the Report to the Board of Supervisors the Commission identified environmental contamination remediation as one of a proposed number of program activities. The description of the "Brownfields"

program states that the Commission intends to utilize the provisions of the California Polanco Act and Federal Brownfields legislation to work with private developers and land owners to identify, investigate, remediate, and possibly acquire environmentally contaminated properties without incurring liability under State and local laws. However, the Commission did identify other redevelopment activities in addition to hazardous waste contamination remediation such as business recruitment, business expansion and rehabilitation, and infrastructure improvements. The Commission's intent is to implement a well-balanced redevelopment program to revitalize the whole of the Project Area. The Commission will allocate money to specific activities depending on immediate needs or private sector interests as part of the preparation of the continuing cycles of the five year Implementation Plan and through the Board's annual budgeting process.

Detailed Response to Comments

The following contains the written findings as set forth in the detailed responses to the Letter submitted by Commenter. The responses are organized under the headings provided in the Letter and the individual paragraphs have been numbered to correspond to the paragraphs in the Letter. The issues raised in each paragraph are summarized and restated followed by a response. A copy of the Letter is attached with the paragraphs numbered to reference the "Comment Number" of the response.

As a clarification, in the introduction to Letter the Commenter refers to the creation of a 750 –acre redevelopment area or the "Project". This is actually a reference to the area proposed to be jointly governed by the Community Redevelopment Agency of the City of Los Angeles and the Commission. The area that would have shared jurisdiction includes a 750 acre portion of the 2,164 acre Adelante Eastside Redevelopment Project and all of the proposed 171 acre Whiteside Redevelopment Project Area.

Comment No. 1 - The Owners are generally in support of the Project but request further research and consideration be given to the matters set forth in the Letter prior to the approval of the proposed Project Area.

Response to Comment No. 1 – The following detailed responses represent the Commission's research and consideration of the Commenter's suggestions and concerns.

Comment No. 2 – The Commenter recommends that the Commission expand the goals of the Project to remediate or eliminate hazardous conditions within the Project Area.

Response to Comment No. 2 – As noted on page 2-10 of the Final Environmental Impact Report (FEIR) project description, one of the Project objectives is "[t]he protection and promotion of sound development and redevelopment of blighted areas and the general welfare of citizens of the County by remedying such injurious conditions through the employment of appropriate means." Remediation of existing soil and/or groundwater contamination issues would be part of implementing this objective.

With respect to the FEIR, it is not the FEIR's purpose to create objectives for the Project. Rather, the purpose is to assess the environmental effects of the Project that is proposed. Section 4.2 of the FEIR identifies potential hazards that are present within the Project Area and provides for programmatic mitigation to remediate hazards on a case-by-case basis. The recommended approach would mitigate the potential hazard impacts of future development (including public improvements implemented by the County), but would not preclude the Commission from undertaking remediation of the Project as suggested by the Commenter.

Comment No. 3 – The Commenter respectfully requests that the Commission delete eminent domain authority from the proposed Redevelopment Plan and states that a more efficient use of public funds would be on the proactive remediation and removal of hazardous waste materials.

Response to Comment No. 3 - The Commission believes that having eminent domain authority, except over properties on which persons reside, is potentially an important redevelopment tool. Although the Commission has not exercised eminent domain authority in over 20 years a situation could present itself in which acquisition of a certain property would be essential in the implementation of a needed project to eliminate blighting conditions and facilitate redevelopment of the Project Area. Eminent domain would only be considered as a last resort when voluntary negotiations with the property owner have failed. Furthermore, eminent domain could only be pursued if the Commission is prepared to pay the property owner fair value and relocation costs. The Commission intends to work with property owners on hazardous waste remediation as well as other redevelopment activities. However, the Commission does not intend to impose hazardous waste investigations and require site clean up when the property

owner's action do not trigger an environmental assessment. Random mandatory environmental remediation actions could result in undo financial hardship on the property owners. The Commission's goal is to work with property owners on the improvement of the Project Area but not to impose unnecessary and costly requirements.

Comment No. 4 – The Commenter suggests that the FEIR should consider public services devoted to hazardous waste spill containment to ensure that adequate services are available to address accidental spills or releases of hazardous materials.

Response to Comment No. 4 – As the Commenter notes, the Initial Study did not identify any significant impacts to emergency (fire) services. Los Angeles County Fire Department Station 1, located at 1108 North Eastern Avenue, would provide emergency response service in the event of a hazardous materials spill. No service deficiencies have been identified for that station and response times to all portions of the Project Area from Station 1 are adequate.

Future construction activity in areas where hazardous materials are or may be present would need to proceed in accordance with the mitigation program outlined in Section 4.2 of the FEIR, which includes preparation of Phase I and, if necessary, Phase II environmental site assessments, followed by remediation as appropriate under the oversight of one or more regulatory agencies (possibly including the County Health Department, the County Department of Public Works, the Regional Water Quality Control Board, and/or the Department of Toxic Substances Control Board). Implementation of this mitigation program under regulatory oversight would minimize the potential for any accidental release of hazardous materials during site remediation and/or grading.

In the long term, it is anticipated that remediation of existing contamination issues on Project Area properties and replacement of aging industrial facilities with new development would reduce the potential for accidental releases. This would be a beneficial effect of Project implementation.

ENVIRONMENTAL SETTING

Comment No. 5 – Comment 5 is a statement of the use mix and building age and obsolescence conditions as presented in the Report to the Board of Supervisors.

Response to Comment No. 5 – Comment No. 5 provides background on existing conditions and does not require a response.

Comment No. 6 – The Commenter notes that the FEIR identifies likely hazardous waste sites and provides generalized mitigation measures for Project impacts relating to hazardous materials.

Response to Comment No. 6 – This is correct. As noted in Section 1.0 of the FEIR, the document is a "Program EIR." Program EIRs are typically more conceptual than a Project EIR. As provided in Section 15168 of the State CEQA Guidelines, Program EIRs may be prepared on a series of actions that may be characterized as one large project. The level of detail contained in the FEIR is commensurate with the level of detail contained in the proposed Redevelopment Plan, which does not identify specific public improvements or private redevelopment projects, but instead provides a conceptual framework for the overall redevelopment of the Project Area. Section 4.2 of the FEIR provides programmatic mitigation that outlines a program for addressing potential impacts relating to hazardous materials as necessary on a case-by-case basis, including the types of activities to be undertaken, standards that would need to be met and which agencies would provide oversight of any remedial actions.

Comment No. 7- The Commenter notes that a field survey was conducted that identified potential environmental hazards. However, the field survey was not provided within the documents that were available for review and comment on the FEIR. This deficiency in the public information should be corrected prior to the approval of the Project so that both the public and the Commission can properly assess the full potential for adverse environmental impacts.

Response to Comment No. 7 - The field survey referenced in this paragraph was a windshield field survey conducted by Consilium Associates in March and April of 2004 which identified only those physical blighting conditions within the Project Area related to CRL Section 33031(a) which primarily consisted of identifying structural deficiencies and related site conditions such as open storage, abandoned vehicles and litter/debris. This field survey does not specifically identify potential hazardous waste sites. Therefore, regarding properties that were identified as containing open storage, the field survey did not identify the type of materials being stored on these properties such as chemicals, electronic transformers (PCBs), and agricultural pesticides but only that the property contained open storage of materials.

Comment No. 8 – The Commenter notes that the FEIR concludes that there is a high likelihood that existing buildings in the Project Area include asbestos containing materials that could be released during building demolition or rehabilitation.

Response to Comment No. 8 – This is correct. However, as noted in FEIR Section 4.2 (under Impact HAZ-2), SCAQMD Rule 1403 specifies work practice requirements to limit asbestos emissions from building demolition and renovation activities. Specific requirements include asbestos surveying, notification, asbestos removal procedures and time schedules, handling, and clean-up procedures, and storage, disposal, and landfilling requirements for asbestos-containing waste materials. Implementation of these standard requirements on all demolition and rehabilitation activity would prevent accidental releases of asbestos into the environment, thus reducing potential impacts relating to asbestos to a less than significant level.

Comment No. 9 – The Commenter states concerns about possible impacts to food processing and distribution plants due to accidental hazardous material releases.

Response to Comment No. 9 – This concern is noted. However, as discussed in FEIR Section 4.2 and in previous responses, mitigation programs have been identified and there is no evidence to suggest that implementation of the recommended mitigation programs, in combination with existing federal, state, and local requirements, would not effectively mitigate potential risks associated with hazardous material releases. In the long term, it is anticipated that redevelopment of the Project Area would eliminate many of the hazards that are currently present throughout the Project Area, thus improving overall health and safety conditions.

POTENTIAL ENVIRONMENTAL IMPACTS

Comment No. 10 – The Commenter notes that the FEIR identifies three forms of potential impacts relating to hazardous materials and proposed four mitigation measures that are anticipated to reduce impacts relating to hazardous materials to a less than significant level.

Response to Comment No. 10 – This is correct. The Commenter's specific concerns about the FEIR findings are addressed in the Responses to Comments Nos. 11-21 below.

Comment No. 11 – The Commenter states an opinion that the mitigation for Impact HAZ-1 does not go far enough insofar as it only requires the proposed testing and remediation program prior to issuance of building and grading permits. The Commenter states that the same requirements should be imposed prior to issuance of demolition permits.

Response to Comment No. 11 – The Commenter is correct that demolition activities could potentially disturb contaminated soil as well as asbestos-containing materials and lead-based paint. However, conduct of environmental site assessments, asbestos surveys, and lead-based paint surveys are part of standard Commission CEQA and NEPA environmental review procedures for all individual development projects. Such reviews and, if necessary, remediation activities would be conducted prior to issuance of any grading, demolition, or building permits for future development projects within the Project Area. Consequently, future redevelopment activities would not result in uncontrolled releases of hazardous materials.

Comment No. 12 – The Commenter states an opinion that the movement of contaminated materials would have the potential to result in accidental hazardous material spills or releases.

Response to Comment No. 12 – It is true that accidental releases of hazardous materials can occur during transport. However, such occurrences would not be a result of the Project. Rather, transport of hazardous materials routinely occurs in the area as a result of ongoing heavy industrial activity. Project implementation would be expected to reduce overall hazardous material transport in the area through replacement of heavy industrial uses with new light industrial, biotechnology, and commercial development. Moreover, it should be noted that hazardous material transport is governed by a myriad of federal, state, and local regulations. For example, the federal Hazardous Materials Transportation Act of 1975 (HMTA), provides specific regulatory requirements that apply to "...any person who transports, or causes to be transported or shipped, a hazardous material; or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person for use in the transportation in commerce of certain hazardous materials." HMTA regulations require transporters to obtain an EPA identification number for the waste, comply with a manifest system, and deal with hazardous waste discharges. They also include provisions for labeling, marking, placarding, proper container use, and discharge reporting.

Comment No. 13 – The Commenter suggests that the remediation program outlined in the FEIR would not address the potential underground migration of hazardous wastes or buildup of hazardous wastes within aspects of area infrastructure.

Response to Comment No. 13 – This is incorrect. The ASTM standards for Phase I environmental site assessments (ESAs) outlined in the revised Measure HAZ-1 (see response to Comment No. 11) require both a database search to identify properties in the area that may have adversely affected the Project site as well as site survey of both the Project site itself and adjacent properties. As such, a Phase I ESA and any follow-up soil testing would be expected to identify underground contaminants, including contaminants that may have migrated from other nearby properties.

Comment No. 14 – The Commenter notes that Impact HAZ-2 only pertains to asbestos-containing materials and lead-based paint and states an opinion that Impact HAZ-2, in combination with Impact HAZ-1, fails to mitigate potential impacts relating to demolition.

Response to Comment No. 14 – It is true that Impact HAZ-2 pertains to asbestos-containing materials and lead-based paint. HAZ-1 addresses potential soil and groundwater contamination. Contrary to what the Commenter suggests, Mitigation Measure HAZ-2 is not a standard regulatory requirement since, although OSHA regulations protect workers from lead-based paint, there are currently no regulations requiring lead-based paint testing and removal prior to demolition of buildings. Also, please see the Response to Comment No. 11, which revises Measure HAZ-1 to require implementation of the requirements of that measure prior to issuance of demolition permits.

Comment No. 15 – The Commenter notes that Impacts HAZ-3 and HAZ-4 are directed at the potential impact of new development in the area, including the possible exposure of new residents to hazardous conditions, and suggests that not every foreseeable hazardous waste scenario has been identified.

Response to Comment No. 15 – The Commenter's description of the issue addressed in Impacts HAZ-3 and HAZ-4 is correct. Both impacts were determined to be less than significant, though a mitigation measure specifying the preparation of a health risk analysis for any proposed residential development within the Project Area is recommended in the FEIR. The

Commenter's opinion regarding additional hazardous waste scenarios is noted. Specific concerns are addressed in Responses to Comments Nos. 11-14.

Comment No. 16 – The Commenter suggests existing food processing facilities in the Project Area should be considered "sensitive receptors" that could be harmed by redevelopment activities.

Response to Comment No. 16 – Food processing facilities are industrial uses that typically would not be considered "sensitive" with respect to hazardous materials releases. Regardless, Project implementation is not expected to result in the release of hazardous materials into the atmosphere. Remediation of existing soil and groundwater contamination and removal of asbestos and lead-based paint would be conducted in accordance with existing regulatory requirements under the supervision of appropriate regulatory agencies. Remediation activities would not have the potential to result in large-scale accidental spills or releases that would harm the environment or adversely affect health and safety conditions. As previously discussed, implementation of the Project would be expected to eliminate existing hazards in the long term, thus improving health and safety conditions within the Project Area.

Comment No. 17 – The Commenter reiterates an opinion that the Project should take a proactive approach to addressing contamination issues rather than addressing contamination on a case-by-case basis as individual properties redevelop.

Response to Comment No. 17 – Please see the Response to Comment No. 2.

Comment No. 18 – The Commenter states an opinion that, rather than spending money on exercising the power of eminent domain, the Commission should proactively investigate the threat of underground migration of hazardous substances, and identify any impacts on the public infrastructure within the Project Area. The Commenter suggests that the Commission should devote all of the available resources necessary to remediate these conditions.

Response to Comment No. 18 – As stated in the Response to Comment No. 3, the Commission would only use eminent domain as a tool of last resort. The Commission has identified hazardous waste contamination remediation as a redevelopment activity. However, the Commission has identified a range of programs needed to address the different blighting conditions impacting the Project Area. To achieve blight elimination and revitalization of the Project Area

it will be necessary to fund multiple programs and not exclusively dedicate all resources to hazardous waste remediation. Also, please see the Response to Comment No. 2.

Comment No. 19 – The Commenter states an opinion that the Environmental Assessment erroneously concludes that the Project would not have significant impacts to the County and City Fire Departments, suggesting that additional information about emergency response services should be provided and that the Project could increase the risk of an accidental involving hazardous materials.

Response to Comment No. 19 – This opinion is noted. However, the County Fire Department has not indicated any concerns about providing emergency response within the Project Area and the Commenter has not provided any evidence to support the contention that Project implementation would increase the risk of an accident involving hazardous materials. As noted in the Environmental Assessment included in Appendix B of the FEIR, the County Fire Department Station 1 is located at 1108 North Eastern Avenue. The Los Angeles County and Los Angeles City Fire Departments, in addition to many other first responders, currently undergo hazardous materials training through the nonprofit Industrial Emergency Council at a business site within the Project Area.

Contrary to what the Commenter suggests, it is anticipated that remediation of existing contamination within the Project Area and replacement of aging industrial facilities with new light industrial, biotechnology, and commercial development that fully complies with current building standards would reduce the potential for health and safety hazards associated with hazardous materials. Thus, demands on the Fire Department are expected to decline rather than increase.

CONCLUSION

Comment No. 20 – The Owners respectfully suggest that the Commission forgo the power of eminent domain all together.

Response to Comment No. 20 – The Commission respects the Owners concern regarding the use of eminent domain authority. However, the Commission believes that eminent domain authority, except on properties on which persons reside, may be necessary as a last resort to implement a project that would eliminate blight and have a benefit to the Project Area. The Commission has not identified any properties for acquisition and has not used

eminent domain in over 20 years in any of its redevelopment project areas. Although the use of eminent domain is not anticipated the Commission believes that this authority could be necessary in the redevelopment of the Project Area and respectfully disagrees with the Owners suggestion that all eminent domain authority be waived.

Comment No. 21 – The Owners respectfully suggest that all tax-increment financing, bonds, or other public financing should be directed proactively towards the remediation or other clean-up type activities without waiting for a property owner to initiate the development process.

Response to Comment No. 21 – The Commission agrees that public financing should be made available for the remediation or other hazardous waste clean-up activities. However, the Commission respectfully disagrees that all resources should be applied to this one redevelopment activity at the expense of the redevelopment of the whole of the Project Area. Furthermore, it is the intent of the Commission to work with property owners in the investigation and clean up of hazardous wastes. A proactive approach to hazardous waste remediation that would not otherwise be triggered by development activity or some other County or State mandated environmental investigation could have a negative impact by disrupting viable businesses and adding to the cost of doing business in an area that is already struggling. The Commission's goal is to improve the area by working with businesses and property owners.