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August 27, 2024

VIA ELECTRONIC UPLOAD

City Council of the City of Los Angeles
200 N. Spring Street
Los Angeles, CA 90012

Re: Justification for CEQA Appeal; 1114 North Heliotrope Drive; ENV-2021-1239-CE; Related Case: DIR-2021-1238-TOC-SPP-HCA-1A

Dear Members of the Los Angeles City Council:

This firm represents Linoleum City ("Appellant") with regard to the appeal of the environmental clearance document for the proposed development project located at 1114 North Heliotrope Drive. We are in receipt of the Department of City Planning's Letter of Determination dated August 13, 2024, denying Appellant's previous appeal and sustaining the Director of Planning's determination dated April 24, 2024. Appellant hereby appeals an appeal of the City's CEQA determination pursuant to Public Resources Code Section 21151(c). This letter outlines Appellant's justifications for appeal.

As explained in more detail below, the City has engaged in piecemealing, which is prohibited under the California Environmental Quality Act ("CEQA"). The developments at 1114 North Heliotrope Drive and 1115 North Berendo Street (1115 North Berendo Street and 1117 North Berendo Street) constitute a *single* "project" under CEQA and yet the City has processed them under two *separate* environmental cases numbers and clearances. But for the City's piecemealing, again, a practice expressly prohibited under CEQA, the "project" would trigger a Site Plan Review under LAMC Section 16.05. Without applying for and obtaining this entitlement, the Project is not "consistent with all applicable zoning regulations" and is therefore ineligible for the Class 32 categorical exemption. The City Council should grant the appeal.

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Picture of Projects Showing Location Side by Side

I. The Heliotrope Project is Nearly Identical to the Adjacent Development at 1115 North Berendo Street – They Should be Considered One "Project" Under CEQA

The developer in this case has proposed *nearly identical projects* adjacent to one another. Nevertheless, the Department of City Planning has repeatedly claimed that each development is a "separate project" under CEQA. This was in error. The Department ignored the following key factors.

1. Both projects are identical in renderings and abut one another;
2. Both projects have thirty units proposed for development;
3. Borth projects are five levels high;
4. Both projects are approximately 66 feet tall;
5. Both projects are approximately 15,400 square feet in size;
6. Both developments sit on approximately 6,750 square feet; and
7. Both projects are owned, operated or incorporated by the same persons

The Applicant for the project site located at 1114 North Heliotrope Drive, is Yoav Atzmon of 1114 Heliotrope Partners, LLC.

Project Site: 1114 North Heliotrope Drive

Applicant: Yoav Atzmon, 1114 Heliotrope Partners, LLC
Representative: Ben Rocca, Rocca Development, Inc.

Figure 1.1 - Applicant Identification from Letter of Determination dated August 13, 2024 for 1114 North Heliotrope Drive

Likewise, the Applicant for the project site located at 1115 North Berendo Street (1115 and 1117 North Berendo Street) is Yoav Atzmon, BRK, Inc. Both entities, 1114 Heliotrope

Partners, LLC and BRK, Inc. were incorporated and/or operated by the Atzmons per the initial filings via the California Secretary of State's website business filings.

Project Site: 1115 North Berendo Street (1115 and 1117 North Berendo Street)

Applicant: Yoav Atzmon, BRK, Inc.
Representative: Ben Rocca, Rocca Development, Inc.

Figure 1.2 - Applicant Identification from Letter of Determination dated August 13, 2024 for 1115 North Berendo Street

Ben Rocca of Rocca Development, Inc and representative of Yoav Atzmon, 1114 Heliotrope Partners, LLC, even identified the projects as "sister projects" at the last hearing in front of the Los Angeles City Planning Commission July 25, 2024.

The City has avoided environmental review and analysis through using a tactic called "piecemealing." An abundance of case law prohibits this practice, which entails separating a project into smaller parts in order to avoid environmental review that would otherwise apply to a larger development. The prohibition against piecemealing under CEQA is primarily articulated in Cal. Code Regs., tit. 14, § 15378, subd. (a), and is supported by various court rulings that emphasize the need for comprehensive environmental review to prevent cumulative environmental impacts from being overlooked. For example, "CEQA mandates 'that environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.'" *McCann v. City of San Diego* (2021) 70 Cal. App. 5th 51 (quoting *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98). Ultimately, the Project constitutes piecemealing because both developments are owned by the same entity, are almost identical in design, are located next to one another, and serve the same purpose. The City has hastily approved the Project - without conducting the required analysis or making the required findings for Site Plan Review – and has attempted to shield itself by creating an arbitrary dividing line that conveniently insulates the developer from further scrutiny.

II. The Project is Not Eligible for a Class 32 Exemption under CEQA

The Department of City Planning has avoided conducting a Site Plan Review by splitting up the Project (which cumulatively consists of 60 total units). LAMC Section 16.05 requires a Site Plan Review for net increase of 50 or more dwelling units and/or guest rooms. The City failed to consider the two buildings as one "project," allowing the developer to avoid otherwise applicable regulations. If the City had considered the two buildings as one project, a Site Plan Review would require mitigation of any significant environmental impacts and ensure development projects are appropriate to their sites, surrounding properties, and traffic needs. It would also control development projects that are likely to have a significant adverse effect on the environment. A project is not eligible for a Class 32 categorical exemption unless it is "consistent with all applicable zoning regulations." Cal. Code Regs. tit. 14 § 15332(a).

Because this project has not obtained the required site plan review, it is not consistent with all applicable zoning regulations.

There is real harm to the community by allowing the developer to skirt Site Plan Review. This is because the City would not be able to make the required findings to approve a Site Plan Review. First, the project would significantly alter the skyline and character of the neighborhood, potentially overshadowing existing businesses like Linoleum City. This could affect visibility, customer traffic, and overall viability, especially if parking exceptions apply. Second, the proposed height and massing of the development are incompatible with the surrounding neighborhood. This raises concerns about how the new construction would fit into the existing urban fabric and affect the local community's sense of place. Finally, Appellant has questions about whether the incentives granted under TOC Guidelines are actually necessary to provide the required affordable housing units, as no showing of need has been made thus far. The lack of evidence supporting this necessity adds to the concerns about the project's approval process.

III. A Shared Easement as Justification for Processing the Applications Separately Does Not Satisfy the Requirements of CEQA; The "Project Description" Prepared by the City was Flawed

At the appeal hearing on July 25, 2024 before the City Planning Commission, the Department of City Planning argued the justification for processing the applications separately was due to a shared easement between the adjacent properties that necessitated separate applications. However, this easement provides no justification for the City's failure to comply with the California Environmental Act. CEQA clearly mandates that a project must be considered *as a whole*, with *one* environmental study, to determine if the cumulative impact of a project will substantially affect the environment. The City processed *two* environmental cases numbers and prepared *two* environmental clearance documents. This was in error. Moreover, the "project description" prepared by the City was fundamentally flawed – it does not disclose both developments – only one. Again, this is a prime example of piecemealing.

IV. Cumulative Impacts Analysis Conducted by City is Faulty

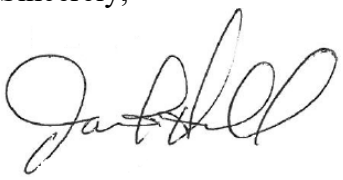
Section 21083(b)(2) of the Public Resources Code mandates that categorical exemptions do not apply if the "possible effects of a project are individually limited but cumulatively considerable." Impacts are "cumulatively considerable" if the "incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." Here there are a number of projects in very close proximity to the Project, including an ED-1 project, that have not been taken into consideration by the City. The Department's cumulative impact analysis is woefully deficient.

V. Conclusion

Therefore, we urge the City to reconsider its approach, conduct a full environmental and site plan review, and ensure that any development aligns with the area's specific plan and community needs. This comprehensive evaluation is essential to safeguarding the neighborhood's integrity and addressing the broader impacts of the proposed project.

Thank you for your consideration of this matter. I may be contacted at jamie.hall@channellawgroup.com if you have any questions, comments or concerns.

Sincerely,



Jamie T. Hall