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August 12, 2024

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) APPEAL OF CASE NO. ENV-2022-2789-CE-1A; COUNCIL FILE No. 24-0794

The project includes the demolition of an existing 6,739 square feet, single-story commercial structure and surface parking lot for the construction, use, and maintenance of a 3,436 square foot, one-story, drive-through, fast-food restaurant with a 430 square-foot outdoor dining area and 38 indoor and 26 outdoor seats, and 584 square foot ancillary trash enclosure. The hours of operation are granted 10:00 a.m. to 1:00 a.m. Sunday to Thursday, and 10:00 a.m. to 1:30 a.m. on Friday and Saturday. The project provides 31 vehicular parking spaces, and the fast-food queuing lane has a capacity for 24 cars. Vehicular entries and exits of the site are limited to Rigoletto and Del Valle Streets. The fast-food queuing lane has a single right-turn-only exit on Ventura Boulevard with a no-left-turn LADOT traffic sign. No entry or exit from Fallbrook Avenue is permitted.

The entitlement includes a Conditional Use for a drive-through fast-food restaurant with the business hours exceeding 7:00 a.m. to 11:00 p.m., and a reduction of building façade transparency along street frontages, otherwise not permitted by the Commercial Corner Development standards; a Ventura/Cahuenga Boulevard Corridor Specific Plan Project Permit Compliance; a Specific Plan Adjustment to permit an 8.5-foot-wide landscape buffer in lieu of a required 10-foot landscape buffer along Rigoletto Street; a Site Plan Review for a drive-through project; and a Waiver of Street Dedication and Improvement to relieve a 5-foot public sidewalk on the east side of Rigoletto Street.

At its meeting of May 9, 2024, the South Valley Area Planning Commission denied an appeal and sustained Associate Zoning Administrator's approval of the proposed project:

1. **Determined**, based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15311, Class 11 (On-premises Signs) and Section 15332, Class 32 (In-fill Development), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the CEQA Guidelines regarding cumulative impacts, significant effects, or unusual circumstances, scenic highways, hazardous waste sites, or historical resources applies;
2. **Denied** the appeal and sustained the Zoning Administrator's Determination dated January 17, 2024;
3. **Approved**, pursuant to Section 12.24 W.17 of the Los Angeles Municipal Code (LAMC), a Conditional Use to permit a drive-through establishment in a C4 Zoned property including the associated vehicular queuing lanes to be located in the P zone, which adjoins, is across the street from, or separated only by an alley from, any portion of a lot or lots in a residential zone or use;
4. **Approved**, pursuant to LAMC Section 12.24 W.27, a Conditional Use to permit a drive-through fast-food establishment within a Commercial Corner Development with hours of operation exceeding 7:00 a.m. to 11:00 p.m., daily; to permit 20 percent of transparency fronting Ventura Boulevard, 9.5 percent of transparency fronting Rigoletto Street, and two percent of transparency fronting Del Valle Street in lieu of the required 50 percent facade transparency fronting adjacent streets pursuant to LAMC Section 12.22 A.23;
5. **Approved**, pursuant to LAMC Section 11.5.7 C, a Project Permit Compliance Review to permit the construction of a drive-through fast-food establishment that includes two wall signs, refacing of an existing Pole sign, and directional signs on a 39,876 square-foot lot in the Ventura/Cahuenga Boulevard Corridor Specific Plan area;
6. **Approved**, pursuant to LAMC Section 11.5. 7 E, a Project Permit Adjustment to permit an eight-and-a-half-foot landscape buffer in lieu of the otherwise required 10 feet by Section 7.D.1.(c) of the Ventura/Cahuenga Boulevard Corridor Specific Plan;
7. **Approved**, pursuant to LAMC Section 16.05, a Site Plan Review for the construction of a building and a change of use that requires a building permit and results in a net increase in average daily vehicle trips as determined by the Los Angeles Department of Transportation (LADOT); and,
8. **Approved**, pursuant to LAMC Section 12.37 I, a Waiver of Dedication and Improvement of five foot public sidewalk for the east side of Rigoletto Street, which adjoins the Project site, with additional terms and conditions.

Subsequently, on June 17, 2024, a CEQA appeal was filed by an aggrieved party representing West Valley Alliance for an Optimal Living to the City Council (Case Number ENV-2022-2789-CE-1A; Council File Number 24-xxxx) challenging the South Valley Area Planning Commission's determination of a Class 11 and Class 32 Categorical Exemptions as the project's environmental clearance.

APPEAL SUMMARY

The appellant contends that the City improperly approved the Conditional Use, Project Permit Compliance Review, Project Permit Adjustment, Site Plan Review, and Waiver of Dedication and Improvement and therefore the project does not qualify for a Class 11 and Class 32 Categorical Exemptions.

APPEAL ANALYSIS

The project is located at 22822 West Ventura Boulevard in the Canoga Park-Winnetka-Woodland Hills-West Hills Community Plan area. The project site is currently improved with a 6,739 square foot, one-story Bank building and associated parking lot built in 1961. The property is zoned C4-1VL and P-1VLD with a General Commercial Land Use permitting various commercial, retail, and parking uses. The project includes the demolition of an existing 6,739 square feet, single-story commercial structure and surface parking lot for the construction of a 3,426 square foot, one-story, drive-through, fast-food restaurant with 38 indoor and 26 outdoor seats, and 584 square foot ancillary trash enclosure. The entitlement includes a Conditional Use, Specific Plan Project Permit Compliance, Specific Plan Adjustment, Site Plan Review and Waiver of Dedication and Improvement.

On January 17, 2024, the Zoning Administrator issued an approval letter to the project permitting a drive-through fast-food establishment with associated drive-through vehicular queuing lanes with hours of operation exceeding 7:00 a.m. to 11:00 p.m. and less than 50 percent facade transparency fronting Ventura Boulevard and Del Valle Street, a Project Permit Compliance Review, A Project Permit Adjustment, a Site Plan, and waived a five foot dedication and improvement.

On January 31, 2024, one appeal was filed to the South Valley Area Planning Commission objecting to the City's determination. The appellant has made a long list of claims against project's environmental clearance, traffic study, operation, and entitlements. Appellant's main claims against the project are:

- 1(a). The project generates cumulative and significant impacts. 1(b). The project is located in a close proximity to freeway and bike land which is an unusual circumstance. 1(c). The project is not consistent with ALL APPLICABLE General Plan policies, thus the project does not qualify for Class 11 and Class 32 Exemptions.
- In-N-Out's customers are known for making illegal left turns into and out of the restaurants, which creates a dangerous situation.
- The Appellant's own traffic analysis shows a higher trip generation over the Ventura/Cahuenga Boulevard Corridor Specific Plan threshold, so the project does not comply to the Specific Plan.
- Lastly, the project entitlement approvals are improper due to a lack of substantial evidence.

On June 4, 2024, at the South Valley Area Planning Commission, the Commission heard and considered the appellant's justifications and voted to deny the appeal and sustained the Zoning Administrator's decision.

Subsequently, the appellant filed a CEQA appeal to the to the City Council on June 17, 2024, presenting the same issues and points in the appeal to the South Valley Area Planning Commission, to the Planning Land Use Management Committee now in this CEQA appeal. The Appellant continues to raise similar claims against project's environmental clearance, and generally argues that the project does not qualify for a Class 32 Categorical Exemption, which is reserved for In-fill developments.

In response to appellant's claim 1(a). The project is an infill project. There is no significant noise, air quality, greenhouse gas, energy, and traffic impacts were found by various environmental studies. The project design and operation comply with Federal, regional AQMD, and City of Los Angeles standards with the Best Management Practice. Further LADOT finds the project would not result in a significant transportation impact based the Vehicle Miles Travel, the VMT assessment. It is also important to note that the LADOT traffic assessment report includes CEQA Transportation threshold analysis, access and circulation analysis, existing and cumulative traffic condition analysis, residential street cut-through analysis. Zoning Administrator's grant also incorporates LADOT project recommendations. Appellant's Claim 1(b), that the project's proximity to freeway and bike lane is unusual. The response is that unusual means not common. The maps show there are hundreds of thousands of properties that abut to or are within the immediate proximity of Los Angeles regional freeway system and Los Angeles City bicycle route system. There is absolutely nothing unusual or special that the project site is located next to a freeway or a bike path. Appellant's claim 1(c) that the project is not consistent with all General Plan Policy, therefore, not qualified for CEQA Exemptions. The response is that the Class 32 Exemption states the project must be consistent with all APPLICABLE policies, and not all policies, which is the case here.

- Finding No. 3 of the grant have thoroughly and detailly elaborated how the project is consistent with all applicable General Plan goals, objectives, and policies through Framework Element, Mobility Element, Land Use Element, Conservation Element, and Plan for a Healthy Los Angeles.
- Finding No. 10 also extensively explain that project meets all five Class 32 Exemption criteria, and why none of the six exceptions of Class 11 Exemption is found.

Regarding appellant's claim no. 2 that In-N-Out's patrons are dangerous drivers. The Zoning Administrator respond that the appellant has not provided any scientific data to prove such claim. The left turn pictures that the appellant showed in his letter to the Commission is in fact legal in California. For this In-N-Out, no left turn is permitted from the drive-through exit on Ventura Boulevard for traffic safety. A condition requiring the applicant to install a No-Left-Turn LADOT sign at the existing of drive-through exit is included in the grant.

In response to the appellant claim showing bollards on Winnetka Avenue along Chick-Fil-A site, the project site is located at a superior corner location and not at a major thoroughfare street intersection such as Ventura Boulevard and Fallbrook Avenue. DOT has painted the center lane in double solid yellow lines to prohibit any left turn. Appellant's comparison of a Chick-Fil-A at Ventura and Winnetka intersection corner site to the project site is baseless.

Regarding the appellant's claim no. 3 that project generate a higher trip generation according to his forecast, thus the project does not comply to the Ventura Boulevard Corridor Specific Plan requirement, the respond is that the project's traffic analysis is based on the new 2019 LADOT

traffic assessment that uses the VMT - Vehicle Miles Travel model which includes derivative from ITE/TSF (Institute of Transportation Engineer/Thousand Square Feet) trip generation method. The City no longer utilizes ITE trip generation that the appellant used in his appeal, which renders appellant's trip generation argument moot. The Planning Department is also in the process to amend the Ventura/Cahuenga Boulevard Corridor Specific Plan to include VMT in the future Plan Text to replace trip generation when reviewing development projects. LADOT finds that the project's traffic assessment has adequately evaluated project related level of service and delays, and that the project would not result in a significant transportation impact.

Appellant's fourth claim is that there is no substantial evidence to grant project's entitlement. The simple respond is that all Findings of Conditional Use, Project Permit, Project Permit Adjustment, Site Plan Review, and Waiver of Dedication can be made in positive based on the project's design, environmental review, City Departmental review, community input, and compliance to various Municipal Codes and General, Community, Specific Plans.

In conclusion, based substantial evidence included in the Zoning Administrator's and South Valley Area Planning Commission's Determinations, and on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Article 19, Section 15311, Class 11 and Section 15332, Class 32, and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 applies.

RECOMMENDATION

Staff recommends that the PLUM Committee recommend for City Council to deny the appeal; sustain the South Valley Area Planning Commission's approval of the project; and adopt the CEQA Guidelines, Article 19, Section 15311, Class 11 and Section 15332, Class 32, Categorical Exemptions as the project's environmental clearance.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

A handwritten signature in black ink, appearing to read "Jack Chiang", with a stylized, flowing script.

Jack Chiang
Associate Zoning Administrator