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August 15, 2023

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:

1848 SOUTH GRAMERCY PLACE; CF 23-0497, ENV-2020-2116-CE-1A

On February 23, 2023 pursuant to Section 12.22.A.25 of the Los Angeles Municipal Code, the Los Angeles City Planning Commission (CPC) voted to approve a State Density Bonus, with Off-Menu Incentives and Waivers of Development Standards. The project is for the Construction, use, and maintenance of an eight-story, 89 -foot tall mixed-use building comprised of 33 residential dwelling units (Three units are restricted to Very Low Income households), and approximately 466 square feet of commercial space. This Project will provide two levels of parking at-grade and at the second floor, comprising a total of 20 parking spaces. The Project also provides 32 long-term and five short-term bicycle parking spaces. The project will be 37,025 square feet in floor area with a Floor Area Ratio ("FAR") of 6.04:1.

As stated in its April 4, 2023 Letter of Determination, CPC also determined that, based on the whole of the administrative record, the project is exempt from CEQA pursuant to State CEQA Guidelines, Article 19, Section 15332, Class 32 (Infill Development), and that there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

On April 19, 2023, a CEQA appeal was filed by Jean Frost and Laura Meyers on behalf of the West Adams Heritage Association. Documents supporting the appeals were submitted to the Council file on April 21 and May 10, 2023.

Having carefully considered each of Appellants' points, planning staff has determined that Appellants have not demonstrated that the substantial evidence relied upon to find the project is exempt from CEQA pursuant CEQA Guidelines, Section 15332 was not credible, or provided substantial evidence demonstrating that any of the exceptions to a categorical exemption set forth in CEQA Guidelines, Section 15300.2 applies. The appeal in its entirety is located within Council File No. 23-0497. Below is a summary of the appeal points with a staff response to each point.

APPEAL ANALYSIS

The main points raised for the first appeal were related to the following: 1-4) Environmental Effects related to CEQA Exemption; 5) General Plan Compliance:

1) Exception for a Class 32 Categorical Exemption

Appeal Points 1-4 (Exemption and Environmental Review):

“Based on the whole of the administrative record, it is clear the CPC erred in finding that the Project is exempt from the California Environmental Quality Act (CEQA); the ZA cites CEQA Guidelines Section 15061, pursuant to CEQA Guidelines, Article 19, Section 15332, Class 32. The CPC failed to recognize that there is substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.”

- *“The Project Falls within an Exception to an Exemption because the project will have significant effects.”*
- *“The project poses health and safety issues, as the elimination of safe passageways and improper vehicle emissions venting will create hazardous conditions.”*
- *“Decisions must be fact-based; instead, the CPC Determination was based on a degree of misinformation regarding new State laws, which do NOT remove CEQA from consideration... [and] the proposed project is ineligible for the long list of requested incentives... and many of the ten so-called ‘waivers’ requested.”*
- *“Cumulative Impacts of multiple demolitions in a neighborhood that is protected by CPIO overlay zones... Moreover, a new evaluation of whether or not [the existing residence on the site] is eligible as a Contributor to a local district is required.”*

Staff Response 1:

The Appellants have not demonstrated that the project is not exempt from CEQA pursuant to a Class 32 Categorical Exemption. A review of the project to determine the applicability of the Class 32 CEQA Exemption resulted in a determination that the project would not result in any significant effects relating to traffic, noise, air quality or water quality. The project is beneath the threshold criteria established by the Los Angeles Department of Transportation (LADOT) for preparing a traffic study, as verified by a referral form signed by LADOT staff on March 14, 2022. Therefore, the project will not have any significant impacts to traffic. The project will not result in significant impacts related to air quality because it falls below interim air threshold established by Department of City Planning (DCP) staff. Interim thresholds were developed by DCP staff based on CalEEMod model runs relying on reasonable assumptions, consulting with Air Quality Management District (AQMD) staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established Southern California Air Quality Management District (SCAQMD) construction and operational thresholds. The Appellant has not provided any substantial evidence as to how the venting at the first and second floor along the project’s northern elevation will create hazardous conditions.

Staff Response 2:

The Appellants have provided no evidence to support their claim that the Project poses health and safety issues. Per LAMC § 12.21 C.2(b), “there shall be a passageway of at least 10 feet in width extending from a street to one entrance of each dwelling unit or guest room in every residential building... [and] The passageway shall be increased by two feet in width for each story over two contained in any building located between the public street and the building which the passageway serves.” As the proposed project is an eight-story building, the resultant passageway leading to the residential lobby would be 22 feet wide. The applicant has requested a Waiver of Development Standard to permit a 86% reduction, with the resultant passageway being 3 feet. Staff review found that there was no evidence in the record that the proposed waivers are contrary to state or federal law, or that safe passageways are being eliminated. Furthermore, the standard being waived is a design standard generally intended for aesthetic purposes. The Waiver does not implicate health and safety. A three foot passageway complies with State health and safety requirements in the State, and local building codes.

Furthermore, a project that provides 13 percent of base units for Very Low Income Households qualifies for two (2) Incentives, and may request other “waiver[s] or reduction[s] of development standards that will have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]” (Government Code Section 65915(e)(1)). Without the requested Waivers, Staff found that the existing development standards would preclude development of the proposed density bonus units.

Staff Response 3:

The appellants have failed to support their claim that the neighborhood immediately surrounding the project site is being affected by multiple demolitions related to similar projects. The Property is located within the C1.5-1VL-CPIO Zone and in Subarea A (“Neighborhood-Serving Corridor”) of the CPIO. The Community Plan designates the Project site for Neighborhood Commercial land uses. As such, the cumulative impacts of the project and successive projects of the same type in the same place have been evaluated and accommodated in the zoning designation.

Staff Response 4:

CEQA Guidelines, Section 15300.2(b) provides that a project is not exempt where the cumulative impact of successive projects of the same type in the same place over time is significant. Staff review for Exceptions to the use of Categorical Exemptions found that there have been two similar projects approved within a 500-foot radius of the subject site within the last 10 years. The first case, located across the street from the subject site at 2339 W. Washington Boulevard, was a 100% affordable TOC project consisting of a 25% increase in density for a total of 64 dwelling units (DIR-2017-5395-SPR-TOC). The second case, located at 1808 S St. Andrews Place, is also a 100% affordable TOC project consisting of a 70 percent increase in the maximum density to permit a total of 20 dwelling units (DIR-2021-3086-TOC-HCA-PSH). As such, the subject site is the only site that will be developed into a multi-family residential building through the application of State Density Bonus incentives in the surrounding area. Therefore, there is not a succession of known projects of the same type and scale as the proposed Project. The Appellant has not provided a list of similar projects in the vicinity nor described what potential impact they may have to the environment with supporting evidence. The project will also be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations; and Best Management Practices for stormwater runoff.

Additionally Appellant has provided no substantial evidence to support their claim that the property “may” be a contributor to a historic district. Neither the project site itself nor any of the existing

structures on the project site have been identified as a historic resource by local or state agencies. On May 5, 2018, an application was filed (per case CHC-2018-3217-HCM) to declare the property an Historic- Cultural Monument. City Planning Staff recommended that the Cultural Heritage Commission not declare the property an Historic-Cultural Monument per Los Angeles Administrative Code, Chapter 9, Division 22, Article 1, Section 22.171.7. At a hearing on July 15, 2018, the Commission determined the project site is not eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register. Further, the project site was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles.

2) Project Compliance with the General Plan

Appeal Point 5:

The Categorical Exemption is invalid because the Project is inconsistent with applicable zoning rules, Community and General Plan.

- *“The project is not compliant with local zoning nor the City's General Plan; importantly, it makes no effort to demonstrate conformance with the requirements of either the CPIO overlay nor the redevelopment plan, as is required.”*

Staff Response 5:

The appellant argues that the project is inconsistent with the following plans, policies or ordinances: the City's General Plan, local zoning, the CPIO, and the Mid-City Corridors Redevelopment Plan. But, those plans, plan policies, zoning provisions that will have the effect of physically precluding construction of a density bonus qualifying housing development are not *applicable* to the project. The first criteria of the Class 32 exemption is that the project must be “consistent with the *applicable* general plan designation and all *applicable* general plan policies as well as with the *applicable* zoning designation and regulations.” State Density Bonus law restricts the City from imposing development standards in a way to reduce the density. Appellant argues that because the project is not compliant with local zoning or the General Plan and does not conform to the requirements of the CPIO overlay, it is in conflict or inconsistent with the policy. However, the only way to resolve the conflict is to remove the density or density bonus incentives or concessions and, in so doing, the number of units or reduce the size of the building. Therefore, the City is barred from applying those policies to the project, and as such, they are not *applicable* to the project (See *Wollmer v. City of Berkeley*).

The Appellants cannot demonstrate that the Project is not consistent with the *applicable* local zoning nor the City's General Plan. The proposed Project supports the goals, objectives and policy of the Land Use Element of the General Plan by providing affordable housing within a neighborhood-serving commercial district proximate to a variety of neighborhood-serving commercial uses, including being located proximate to public transit on an underutilized site, zoned C1.5-1VL-CPIO, and designated for community commercial purposes. The Project will activate street presence, and provide a mixed-income housing project, which will in turn support surrounding commercial and residential uses. The Project will help reduce reliance on the demand for automobile vehicles and will reduce the number of trips to and from the site due to its location in proximity to neighborhood-serving amenities, employment opportunities and public transit options. This conforms to the goals of the Mid-City Corridors Redevelopment Plan, verified by administrative review, per referral form dated July 7, 2020.

All applicable zoning and CPIO development standards not met by the project are being addressed via Incentives and Waivers of Development Standards per the state density bonus program, AB1763 (LAMC 12.22 A.25) with the required findings (see Staff Response 2). Furthermore, the appellant claims that instead of Incentives and Waivers through the Density Bonus Program the Applicant should have requested a zone change or variance. There is nothing in the code or state density program that precludes an applicant from requesting incentives and waivers as long as the necessary findings are made.

Regarding the Incentives per the State Density Bonus law, they were vetted by Planning Staff to ensure the incentive is required to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units and that the incentives will not have a specific adverse impact upon public health and safety as defined in paragraph 2 of subdivision d of Section 65589.5. These findings are provided in the staff report herein.

Regarding the Waivers of Development Standards per the State Density Bonus law, an applicant may submit to the city a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development at the density or incentives permitted under state density bonus law. The State Density Bonus law does not provide a limit as to the amount of waivers an applicant may request. The findings established in the staff report herein find that without the waivers the project will be physically precluded from the construction of the development project at the density and with the incentives proposed and permitted under state law, and therefore, denying these waivers and incentives is prohibited

Because the Project is a density bonus qualifying development any policy or standard that has the effect of physically precluding the construction of this Project is *not applicable* and, therefore, the Project is consistent with the City's General Plan, local zoning, the CPIO, and the Mid-City Corridors Redevelopment Plan.

CONCLUSION

For the reasons stated herein, and per the findings of the South Los Angeles Area Planning Commission's Determination, the proposed project complies with the applicable provisions of the South Los Angeles Community Plan and CPIO, the Mid-City Recovery Redevelopment Project Area, and the California Environmental Quality Act (CEQA). Planning staff evaluated the proposed project and determined it meets the findings to approve a State Density Bonus with Off-Menu Incentives and Waivers of Development Standards, and that the project qualifies for a Class 32 Categorical Exemption. Based on the complete plans submitted by the applicant and considering the appellant's arguments for appeal, staff has determined that the project meets the required findings.

Therefore, staff recommends that the Planning and Land Use Committee take the following actions:

DETERMINE that based on the whole of the administrative record, the project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;

DENY the appeal, filed by Jean Frost and Laura Meyers on behalf of the West Adams Heritage Association, and SUSTAIN the decision of the Los Angeles City Planning Commission's decision to

approve a Density Bonus Compliance Review for a project totaling 33 dwelling units, including 3 dwelling units for Very Low Income Household occupancy for a period of 55 years, in the C1.5-1VL-CPIO zone;

ADOPT the attached Findings, and

ADOPT the attached Conditions of Approval.

Respectfully,

VINCENT P. BERTONI, AICP
Director of Planning



Sergio Ibarra
City Planner

VPB:TI:MS:SI:RF