

Communication from Public

Name: James M. Lloyd
Date Submitted: 04/21/2025 03:55 PM
Council File No: 25-0292
Comments for Public Posting: See attached public comment.



Apr 21, 2025

**City of Los Angeles
City Council
200 North Spring Street
Los Angeles, CA 90012**

**Re: Proposed Housing Development Project at 1459 South Hi Point Street;
DIR-2023-4996-TOC-HCA-1A**

By email: submitted electronically via Council file system

Cc: Heather Bleemers, Senior City Planner, heather.bleemers@lacity.org; City Clerk's Office, clerk.cps@lacity.org; City Attorney's Office, cityatty.help@lacity.org

Dear Los Angeles City Council,

The California Housing Defense Fund ("CalHDF") submits this letter to remind the Council of its obligation to abide by all relevant state laws when evaluating the proposed 19-unit housing development project at 1459 South Hi Point St, which includes 2 units for extremely low-income households. These laws include the Housing Accountability Act ("HAA") and California Environmental Quality Act ("CEQA") Guidelines.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subds. (d), (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would reduce the project's density or render the project infeasible unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA's ambit, and it complies with local zoning code and the City's general plan. The City must therefore approve the project unless it makes written findings regarding health and safety as mentioned above – which it cannot do since the preponderance of the evidence in the record does not support such findings. (*Id.* at subd. (j).)

Additionally, the project is exempt from state environmental review under the Class 32 CEQA categorical exemption (In-Fill Development Projects) pursuant to section 15332 of the CEQA Guidelines, as the project is consistent with the applicable general plan designation

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and all applicable general plan policies as well as the applicable zoning designation and regulations; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. And recent caselaw from the California Court of Appeal affirms that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)

Given that the project approval has been appealed on the basis of the environmental review, the City should be aware that AB 1633 amended the HAA so that its definition of a project disapproval now includes a failure to make a determination as to whether a project is eligible for a CEQA exemption. (Gov. Code, § 65589.5, subd. (h)(6)(I).) In other words, if the Council remands this to the City Planning Commission for further study, or otherwise fails to grant the Class 32 CEQA exemption, this action may constitute a disapproval of the project pursuant to the HAA.

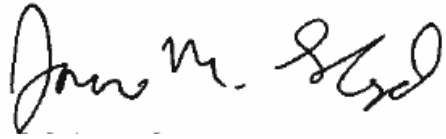
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: by providing affordable housing, it will mitigate the state's homelessness crisis; it will bring new customers to local businesses; it will grow the City's tax base; and it will reduce displacement of existing residents by reducing competition for existing housing. It will also help cut down on transportation-related greenhouse gas emissions by providing housing in denser, more urban areas, as opposed to farther-flung regions in the state (and out of state). While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the City to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read "James M. Lloyd". The signature is written in a cursive, flowing style.

James M. Lloyd
CalHDF Director of Planning and Investigations

Communication from Public

Name: Channel Law Group, LLP - Appellant Representative
Date Submitted: 04/21/2025 08:29 PM
Council File No: 25-0292
Comments for Public Posting: The enclosed letter has also been submitted via email on this date to the following email addresses: Clerk.CPS@lacity.org; petty.santos@lacity.org; candy.rosales@lacity.org; heather.bleemers@lacity.org

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*ALSO Admitted in Texas

April 21, 2025

VIA E-MAIL and
ELECTRONIC UPLOAD

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**Re: Response to Staff Report for CEQA Appeal of Case Nos. DIR-2023-4996-TOC-HCA; ENV-2023-4997-CE; 1459 S. Hi Point Street;
Council File No. 25-0292**

Honorable City Councilmembers:

This firm represents Appellant Elaine Johnson (“Appellant”) with regard to the project located at 1459 S. Hi Point Street for a five-story residential development with one level of subterranean parking, 19 dwelling units, 24 parking spaces and 22 bicycle parking spaces (“Project”). Ms. Johnson appealed the determination that the Project is exempt from the California Environmental Quality Act (“CEQA”) on February 6, 2025.

The purpose of this letter is to respond to the April 15, 2025 Department of City Planning Staff Report. The Project violates Ordinance No. 168,193 (a zoning ordinance) and is, therefore, necessarily ineligible for the Class 32 categorical exemption (which requires a project to be “consistent with all applicable zoning regulations.”). Appellant directs City Council, again, to Appellant’s expert report confirming the Project is **not** compliant with applicable Q Conditions as Exhibit A of Appellant’s Justification Appeal dated February 6, 2025. As detailed herein, an Environmental Impact Report (EIR) or Mitigated Negative Declaration (MND) must be prepared for the Project, in conformance with the requirements of the CEQA.

I. SUBSTANTIAL EVIDENCE OF COMPLIANCE WITH Q CONDITIONS IS MANDATORY NOT DISCRETIONARY

The Staff Report seeks to conditionally qualify the Project's compliance with the Urban Forestry Street Tree Requirements and Ordinance 168,193 ("Q Conditions") to a time **after** project approval. *See* page 5 of Staff Report Response. As a result, City Staff concludes the Project will be consistent with the landscape requirements of the Project and the Q Conditions. (*Id.*) However, a conditional qualification is not allowable for a Class 32 exemption. A project either meets the requirements for the exemption *at the time of approval* or it is ineligible.

Categorical exemptions are strictly construed, in order to afford the fullest possible environmental protection. *See Save Our Schools v. Barstow Unified School Dist. Bd. of Education* (2015) 240 Cal. App. 4th 128, 140. A project **must** be consistent with the applicable general plan designation and all applicable plan policies including applicable zoning designation and regulations. *See* Cal. Code Regs. Tit. 14, § 15332. The preamble to Cal. Code Regs. Tit. 14, § 15332 states "Class 32 consists of projects characterized as in-fill development **meeting** the conditions described in this section" (*Id.*). Categorical exemptions do not include projects that **may** be consistent with the respective plan policies, zoning and regulations but projects that **are** consistent with existing plan policies, zoning and regulations. Courts have routinely emphasized that a Class 32 exemption cannot be granted unless the project is determined to be consistent with applicable zoning and redevelopment plans **at the time of approval** (*see United Neighborhoods for Los Angeles v. City of Los Angeles* (2023) 93 Cal. App. 5th 1074, 1088. In determining whether substantial evidence supports an agency's exemption determination, the Courts look **only to the evidence in the administrative record at the time the agency made the exemption determination.** *See Save Our Schools*, 240 Cal. App. 4th 128, 141; *see also Save Our Carmel River v. Monterey Peninsula Water Management Dist.* (2006) 141 Cal. App. 4th 677,694 stating "evidence bearing on the question of whether a project qualifies for an exemption::: is determined by **whether or not the record** contains substantial evidence to support the agency's decision;" *see also Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 573, stating "**the court may consider only the administrative record** in determining whether a quasi-legislative decision was supported by substantial evidence within the meaning of Public Resources Code section 21168.5."

Here, there is nothing in the record which demonstrates that the Project complies with all applicable zoning regulations. In fact, the City has not even tried to rebut Appellant's expert report, which clearly demonstrates that the Project does not comply with the Q Conditions. CEQA simply does not allow the City to kick the can to another date (i.e. after project approval) to determine whether the Project is exempt.

II. CONCLUSION.

As stated, the Project violates LAMC § 12.21-A.31(b) and is necessarily ineligible for the Class 32 categorical exemption (which requires a project to be "consistent with all applicable zoning regulations"). As detailed herein, an EIR or MND must be prepared for the Project in conformance with the requirements of the CEQA.

City Council
April 21, 2025

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,

A handwritten signature in black ink, appearing to read "Jamie T. Hall". The signature is fluid and cursive, with the first name "Jamie" being more prominent than the last name "Hall".

Jamie T. Hall, Esq.

Cc: Heather Bleemers, City Planner (heather.bleemers@lacity.org)