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November 22, 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:

APPEAL SUMMARY AND STAFF RESPONSE; 1185, 1187, 1193, 1195, 1197, 1201, 1205, 1207, 1211, 1215, 1221, 1225, 1229, 1233, 1239, 1243, 1245, 1247 W. SUNSET BOULEVARD and 917 N. EVERETT STREET; CPC-2023-5528-DB-SPR-MCUP-HCA; CF 24-1054.

Project Background

The project involves the construction of a mixed-use residential and commercial development with 327 residential units that include 41 Very Low Income affordable units and approximately 9,462 square feet of ground-floor commercial space for a total floor area of 321,300 square feet, resulting in a Floor Area Ratio (FAR) of 3:1. The Project would consist of two buildings as follows:

- 1) Building A, located along Sunset Boulevard, would be seven stories with have a maximum building height of 91 feet as measured from grade and 85 feet as measured from Plumb Height;
- 2) Building B, located at the corner of Sunset Boulevard and Everett Street, would be seven stories with have a maximum height of 86 feet as measured from grade and 81.5 feet as measured from Plumb Height. The Project would provide 263 on-site parking spaces at one subterranean, one partially subterranean, and one at-ground/ and above-grade levels to be shared amongst all of the uses on the project site. Vehicular access to the structured parking would be provided via two stop-controlled driveways and one signalized driveway.

At its meeting on July 11, 2024, the City Planning Commission approved the requested Density Bonus, Site Plan Review, and Main Conditional Use Permit, under Case No. CPC-2023-5528-DB-SPR-MCUP-HCA, to develop the project. The City Planning Commission also adopted the associated Sustainable Communities Environmental Assessment, under Case No. ENV-2023-5529-SCEA, and Mitigation Monitoring Program. The Determination was issued on August 15, 2024, which established an appeal period until August 30, 2024.

On August 30, 2024, within the required 15-day appeal period, an appeal was filed by Supporters Alliance for Environmental Responsibility ("SAFER") for the entirety of the City Planning Commission determination, as filed under Council File No. 24-1054.

Staff Recommendation

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted appeal and sustain the City Planning Commission's determination. Based on the whole of the administrative record, there is substantial evidence to make all required findings related to the requested Density Bonus, Site Plan Review, and Main Conditional Use Permit and find that the project has been adequately assessed under ENV-2023-5529-SCEA. The following statements have been compiled and summarized from the submitted appeal and responded to below.

Appeal Summary

The following appeal statements have been compiled and summarized from the submitted appeal and responded to below.

1. Appeal Point:

The project is not eligible to utilize a SCEA because its utilization of State density bonus law and associated incentives and waivers render it inconsistent with the City's General Plan.

Staff Response:

General Plan consistency is not the proper criterion for determining a project's eligibility to utilize a SCEA. Rather, the Project must be consistent with the Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS") prepared by the Southern California Association of Governments ("SCAG"). As set forth by the SCEA and supported by substantial evidence, the project is fully consistent with the general use designation, density, building intensity, and applicable policies of the RTP/SCS. Moreover, although not required as a criterion for utilization of a SCEA, the project is also consistent with the applicable General Plan regulations for the Site, as utilization of State density bonus law does not result in any inconsistency with applicable General Plan or zoning regulations pursuant to Government Code Sections 65915(f)(5) and 65915(j)(1). Therefore, this claim by the Appellant has no merit.

2. Appeal Point:

The project is inconsistent with SCAG's RTP/SCS because it does not implement each goal, objective, policy, and mitigation measure discussed in the RTP/SCS. The SCEA's environmental analysis is required to "tier" off of the Program EIR prepared for the RTP/SCS pursuant to CEQA Guidelines Section 15152.

Staff Response:

There is nothing stated in the SCEA statute or applicable case law which requires the project to implement every single policy and/or mitigation measure discussed by the RTP/SCS. As a general precept of CEQA, mitigation is only required for potentially significant environmental effects. As such, for the SCEA, the City properly assessed each environmental impact topic to determine if the project had the potential to result in a significant environmental effect. The City then assessed each potentially applicable mitigation measure and identified appropriate mitigation when required by CEQA (i.e., when the potential existed for a significant effect to occur). Contrary to the Appellant's claim, implementation of an RTP/SCS mitigation measure is not necessary if there is no potential for an environmental effect to occur. The Appellant incorrectly claims that the project can only achieve consistency with the RTP/SCS if it directly

implements each policy and strategy discussed in the plan, regardless of whether SCAG recommends implementing the strategy at a community or regional level. The Appellant's interpretation of RTP/SCS consistency is not supported by the SCEA statute, the RTP/SCS itself, or current case law, which instead requires the project to achieve general agreement or harmony with a plan's objectives and policies, such that the project does not preclude attainment of the plan's primary goals. As demonstrated by the SCEA, the project is substantially consistent with and would not conflict with the goals, objectives, and policies of the RTP/SCS, and therefore meets the consistency standard required by the SCEA statute.

Furthermore, the tiering provisions of CEQA Guidelines Section 15152 are not applicable to the preparation of a SCEA, which is governed by Public Resources Code Sections 21155 and 21155.2, an entirely different protocol for streamlined environmental review under CEQA. As demonstrated by the whole of the administrative record, the SCEA properly analyzed the project's potential environmental effects pursuant to these applicable provisions of the Public Resources Code. Therefore, these claims by the Appellant also have no merit.

3. Appeal Point:

The project will result in impacts to biological resources that are not properly analyzed in the SCEA.

Staff Response:

As supported by the supplemental technical report prepared by South Environmental, dated June 4, 2024, and included in the case file, the SCEA properly concluded that the project site does not contain occupied habitat, potentially suitable habitat, or designated critical habitat, nor does such habitat exist in the vicinity of the site, and therefore, the project would not adversely affect wildlife connectivity. Furthermore, this technical report specifically rebuts the Appellant's claim that multiple special status species were observed or would be observed at the site, by describing the flawed methodology the Appellant utilized to identify the "predicted" number of special status species that may exist by relying on biological observations conducted over 300 miles away from the urbanized location of the site in an area of annual grasslands. In addition, South Environmental's responses demonstrate that, contrary to Appellant's claims, the project and its surrounding landscaping would not pose a substantial risk of bird strikes. Accordingly, the SCEA properly analyzed potential impacts to biological resources, and additional mitigation measures are not warranted.

4. Appeal Point:

The project is likely to have significant air quality impacts.

Staff Response:

The SCEA provides substantial evidence that the project would result in less than significant air quality impacts. In addition, as demonstrated by the supplemental technical report and construction period health risk assessment prepared by Air Quality Dynamics, dated May 20, 2024, and included as part of the case file, no potential health-related air quality impacts would occur in connection with the construction or operation of the project, including any impacts due to potential diesel particulate matter emissions. While the Appellant had submitted comments into the record previously in April and July of 2024, the subject Appeal provides no new arguments and simply states: "For the specific reasons set forth in the attached comment letters dated April 15, 2024 and July 8, 2024, the SCEA fails as an informational document

and fails to impose all feasible mitigation measures to reduce the Project's impacts." On July 11, 2024, after consideration of all of the evidence in the record, including both letters from the Appellant as well as both letters from the Applicant responding to the Appellant's objections (all letters are included in the case file), the CPC granted approval of the project and its SCEA. The Appellant's objections regarding the project and the SCEA are not supported by substantial evidence and do not demonstrate any deficiency in the SCEA's environmental review of the Project. Accordingly, the Appellant has not met their burden of proof and their claim lacks merit.

Conclusion

Based on the information in the record and after consideration of the appellant's arguments for appeal, Staff concurs with the determination by the City Planning Commission which found that the project complied with all requirements under the Los Angeles Municipal Code and CEQA and that there is no substantial evidence that the project would result in a significant effect on the environment. Therefore, it is recommended that the PLUM Committee deny the appeal and affirm that the project is compliant with the Los Angeles Municipal Code and CEQA.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Esther Ahn
City Planner

VPB:HB:EA