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November 29, 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:

**APPEAL SUMMARY AND STAFF RESPONSE. 4260 North Arch Drive and 11201 West
Ventura Boulevard; CF 23-1084**

Project Background

The project involves the construction, use, and maintenance of a new multifamily residential building with 129 dwelling units, including 17 set aside for Very Low Income Households. The proposed building will have approximately 117,000 square feet of floor area and will reach a maximum height of 75 feet with stepbacks at the upper floors at the rear of the building. The proposed project will provide 145 parking spaces, 43 of which will be compact spaces. Parking is provided within a partially subterranean garage accessible through a driveway along Arch Drive. The project will provide a mix of 20 studio units, 73 one-bedroom units, and 36 two-bedroom units. A total of 13,800 square feet of open space will be provided, including an interior courtyard with a pool deck, private balconies, and indoor community amenity areas (recreation room, fitness room, co-working spaces). The proposed project will provide a publicly accessible path between Arch Drive and the Los Angeles River path.

On September 5, 2023, the City Planning Commission (CPC) approved a Density Bonus, pursuant to LAMC Section 12.22 A.25(g), for the construction of the proposed project with two (2) On-Menu Incentives, two (2) Off-Menu Incentives, and two (2) Waiver of Development Standards. The CPC also approved a Project Permit Compliance Review for a project within the Ventura/Cahuenga Boulevard Corridor Specific Plan, a Site Plan Review for a project with 50 or more dwelling units, and a Waiver of Dedication and Improvements to the Public Right of Way along Arch Drive and Ventura Boulevard.

On September 12, 2023, Barry Johnson of the Studio City Residents Association filed a partial appeal of Case No. CPC-2021-10345-DB-SPP-SPR-WDI-HCA. The submitted Justification / Reason of Appeal addressed Condition No. 10 regarding "Massing", specifically with regards to

the proposed height and lot coverage of the Project.

On September 14, 2023, the Supporters Alliance for Environmental Responsibility (SAFER) filed an appeal of the Site Plan Review (Case No. CPC-2021-10345-DB-SPP-SPR-WDI-HCA) and CEQA Categorical Exemption – Class 32 for the project (Case No. ENV-2021-10346-CE). Included with the Appeal Application is the Appellant's Justification/Reason for Appeal which refers to appeal points drafted by their representative, Lozeau Drury LLP. On November 14, 2023, SAFER provided an additional letter drafted by Lozeau Drury LLP, dated July 24, 2023, with additional appeal points. The latter was previously submitted by SAFER prior to the July 27, 2023 City Planning Commission meeting alleging that the Project will have significant air quality and noise impacts. The Applicant's Representative (Jonathan Riker, Venable LLP) responded to the allegations in a letter dated July 27, 2023 explaining that SAFER's claims are false. These letters were made available for review to the CPC and at the July 27, 2023 meeting CPC determined that there was no substantial evidence of any insufficiencies in the CEQA Categorical Exemption – Class 32 and that all of the project's potential environmental impacts have been appropriately analyzed. As with the July 24, 2023 letter, the comments addressed in SAFER's appeal application are related to the CEQA Categorical Exemption – Class 32.

For the subject appeal, Staff have compiled the appeals points provided by Barry Johnson and SAFER. Staff has responded to the appeal points below.

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, approving a Density Bonus with On- and Off-Menu Incentives and Waivers of Development Standards, a Project Permit Compliance Review for a project within the Ventura/Cahuenga Boulevard Corridor Specific Plan, a Site Plan Review, and a Waiver of Dedication and Improvements (The Off-Menu Incentives are not appealable, and the Waivers of Development Standards and the Waiver of Dedication and Improvements are only appealable by the Applicant).

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

Appeal Summary

On September 12, 2023, the Barry Johnson of the Studio City Residents Association filed with their Appeal Application an Appeal Justification/Reason for Appeal outlining the reasons for their appeal. The Studio City Residents Association opposes Condition No. 10 of the Conditions of Approval under "Site Plan Review Conditions" regarding the massing of the Project. Condition No. 10 reads, "**Massing.** Building massing shall include variations as shown in Exhibit A". The Studio City Residents Association believes there is no legal requirement for granting 30 additional feet of height for a total 75 feet and for the deviation from transitional height requirement. The Studio City Residents Association believes the increase in height and deviation from transitional height requirements as approved by the CPC through a Density Bonus Off-Menu Incentive contributes to the extreme massing of the Project. In addition, the Studio City Residents Association also believes that the increase in lot coverage to 72 percent with the approval of a Density Bonus On-Menu Incentive also contributes to the Project's extreme massing.

On September 14, 2023, the Supporters Alliance for Environmental Responsibility (SAFER) filed

with their Appeal Application an Appeal Justification/Reason for Appeal outlining the reasons for their appeal. The letter includes expert comments from Certified Industrial Hygienist, Francis Offermann, PE, CIH, environmental engineers Patrick Sutton and Yilin Tian of Baseline Environmental Consulting, and expert wildlife biologist Dr. Shawn Smallwood and his associate Ms. Noriko Smallwood. SAFER also refers to an additional letter draft by Lozeau Drury LLP and dated July 24, 2023. Based on their comments and letters, SAFER alleges that the City incorrectly applied CEQA's Class 32 (In-Fill Development) Categorical Exemption and therefore the CPC's approval of the Project's entitlement requests are also invalid. Staff's response to SAFER's comments with regards to the Project's CEQA clearance are addressed in this Appeal Response letter and in the Appeal Summary and Staff Response dated November 29, 2023 under Council File No. 23-1084-S1. The four specific points at issue are: 1) The Project will have Significant Indoor Air Quality Impacts; 2) The Project will have Significant Noise Impacts; 3) The Project will have Significant Biological Impacts; and 4) The City fails to provide substantial evidence that the Project is consistent with the City's Green New Deal.

Barry Johnson, Studio City Residents Association

Appeal Point #1: There is no legal requirement for the approved deviations in height, transitional height, and lot coverage. Approval of these deviations contribute to extreme massing.

The Studio City Residents Association alleges that there is no legal requirement for granting the increases in height and lot coverage, and deviation from the transitional height requirement that were approved by CPC through Density Bonus On- and Off-Menu Incentives and as conditioned in Condition No. 10 in the Conditions of Approval. The Appellant states that the CPC's approval of these deviations is purely subjective.

The Appellant states that the Ventura-Cahuenga Corridor Specific Plan limits the total building height to 45 feet and that the State Density Bonus Law allows for only an 11-foot increase in height. The Appellant argues that the approved 30-foot increase that will permit a total building height of 75 feet is not five stories, as detailed in the Findings, and is six or seven stories. The Studio City Residents Association also claims that the approved increase in lot coverage to 72 percent in lieu of 60 percent pursuant to the Ventura-Cahuenga Corridor Specific Plan is not mandated by the City or State. The Appellant provides a similar argument for the approved deviation from the transitional height requirement which prohibits portions of buildings in the C Zone from exceeding certain height limits with relation to their distance from the RW1 or more restrictive zone. The Project site is located adjacent to the Los Angeles River which is located in the OS-1XL-RIO Zone, and therefore would be subject to transitional height limitations. The Appellant believes that these three components contribute to extreme massing of the Project.

Staff Response

Contrary to the Appellant's allegation, the CPC's decision to approve the deviations in height, transitional height, and lot coverage are not subjective and are consistent with City and State Density Bonus requirements. Pursuant to LAMC Section 12.22 A.25, the Applicant is permitted to request on-/off-menu incentives and Waivers of Development Standards for a deviation in height, transitional height, and lot coverage requirements if a proportion of the dwelling units proposed by the Project is set aside for affordable housing and if the decision maker finds that the incentives and waivers are necessary to provide for the affordable housing costs and will not

have an adverse impact on public health, safety, the physical environment or on a historic resource. The Project will set aside 17 dwelling units, or 15 percent of the base dwelling units permitted in the C2-1VL-RIO Zone, for Very Low Income Households consistent with the State Density Bonus Law and at its meeting of July 27, 2023 the CPC found that the incentives and waivers are necessary to provide for the affordable housing costs and will not have an adverse impact on public health, safety, the physical environment or on a historic resource. As detailed in the Findings section of the Determination Letter, the On- and Off-Menu Incentives permitting a 30-foot increase in building height, a 72 percent lot coverage, and deviation from the transitional height requirement allows for the construction of two additional floor levels and an expanded building envelope to offset the cost for providing affordable housing units.

The Appellant erroneously argues that the development of the Project resulting in a maximum building height of 75 feet will not be five stories tall but instead will be six or seven stories tall. As depicted in the Exhibit A, the Project consists of a maximum of five residential stories. Given the sloping nature of the site, the maximum building height includes a portion of the basement level utilized for parking as well as the staircases on the rooftop.

The CPC approved the Project's request to allow the building height to exceed transitional height limitations and required that the building height limit be stepped-back at a 45 degree angle as measured from a horizontal plane originating 25 feet above grade at the property line of the adjoining lot in the OS Zone. As shown in the Exhibit A, the building rear steps back from the Los Angeles River and is enhanced with articulation to help break up building mass and height.

Therefore, the Project is consistent with City and State Density Bonus Law as approved by the CPC and the approved deviations in height, transitional height, and lot coverage do not contribute to "extreme massing" as alleged by the Appellant.

Supporters Alliance for Environmental Responsibility (SAFER)

Appeal Point #2: The City incorrectly applied CEQA's Class 32 (In-Fill Development) Categorical Exemption and therefore the CPC's approval of the Project's entitlement requests is invalid. The Project does not qualify for a Class 32 Categorical Exemption because, 1) The Project will have Significant Indoor Air Quality Impacts; 2) The Project will have Significant Noise Impacts; 3) The Project will have Significant Biological Impacts; and 4) The City fails to provide substantial evidence that the Project is consistent with the City's Green New Deal.

The Appellant cites from the comments produced by Certified Industrial Hygienist, Francis Offermann, PE, CIH, environmental engineers Patrick Sutton and Yilin Tian of Baseline Environmental Consulting, and expert wildlife biologist Dr. Shawn Smallwood and his associate Ms. Noriko Smallwood, in their allegation that the development of the Project will result in significant air, noise, and biological impacts. The Appellant claims that the health risks associated with formaldehyde and diesel particulate matter (DPM) emissions released during Project construction and operation were not appropriately assessed. The Appellant claims that the Project will result in significant noise impacts during the construction phase of the Project and that additional noise reduction measures should be provided. The Appellant also claims that the

Project fails to consider the biological significance associated with the Project site's location along the Los Angeles River. In addition, the Appellant argues that the City incorrectly concluded that the California Green Building Standards Code of 2019 are consistent with the LA Green New Deal Sustainability City pLAN because the Project is not subject to the Code's voluntary standards, which is independent of the mandatory standards found in the code.

Staff Response

The appeal points addressed in SAFER's Appeal Justification memorandum and subsequent letters are related to the CPC's determination that the Project is exempt from CEQA pursuant to a Categorical Exemption – Class 32 and that there is no substantial evidence demonstrating that an exception to a categorical exemption applies. Their appeal points do not directly address the appealable entitlements approved by the CPC.

Nevertheless, the Appellant provides no substantial evidence that the Project will result in significant air, noise, and biological impacts. While the Appellant refers to comments and data from Mr. Offermann, Baseline Environmental Consulting, Dr. Shawn Smallwood, and Ms. Smallwood as evidence supporting their allegations, these comments and data were not filed with the Appellant's appeal application. Planning Staff confirmed with the Appellant that this information was not available for review at the time this letter was drafted. Therefore, the Appellant's claims are unsubstantiated.

Contrary to the Appellant's claim that City incorrectly concluded that the Project is not subject to the California Green Building Standards Code's voluntary standards, these standards are in fact mandatory according to the 2019 edition of the Code and the Project will be required to show compliance. Therefore, the Appellant falsely claims that the Project will not be consistent with the mandatory standards established by the California Green Building Standards Code of 2019 and the Green New Deal Sustainable City pLAN.

As demonstrated in the technical reports prepared for the Project (see Appendices) and the Justification for Project Exemption Case No. ENV-2021-10346-CE, the CEQA Categorical Exemption – Class 32 appropriately analyzes air quality, noise, and biological impacts, and the Project is consistent with the City's Green New Deal.

Conclusion

Based on the information in the record and after consideration of the appellants' arguments for appeal, Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted appeals and sustain the City Planning Commission's determination approving a Density Bonus with On- and Off-Menu Incentives and Waivers of Development Standards, a Project Permit Compliance Review for a project within the Ventura/Cahuenga Boulevard Corridor Specific Plan, a Site Plan Review, and a Waiver of Dedication and Improvements.

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Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

A handwritten signature in black ink that reads "David Woon". The signature is written in a cursive, flowing style.

DAVID WOON
Planning Assistant

HB:SK:DW