

**NORTH UNIVERSITY PARK COMMUNITY ASSOCIATION/ADAMS SEVERANCE COALITION -
MASTER APPEAL FORM CONTINUATION: ENV. 2018. 2454. CE
ZA-2018-2453-CU-DB-SPR, 806 West Adams Boulevard (758-832) and 2810 S. Severance
CEQA Appeal under LAMC Section 197.01**

The exemption pursuant to CEQA Guidelines 15332 does not apply because the project falls within the exception under Section 15300.2. The City Planning Commission abused its discretion when it found this project to be exempt under CEQA and ignored all of the administrative record which provided substantial evidence demonstrating that an exception to a CE pursuant to Section 15300.2 applies.

According to the CEQA Guidelines, substantial evidence means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."

Substantial evidence, which is defined in the CEQA statute to mean "facts, reasonable assumptions predicated on facts, and expert opinion supported by facts" (14 CCR § 15064.7(b)).¹

What is particularly disturbing is the statement made by the AZA Henry Chu and also in writing that "*there is no substantial evidence that an exception pursuant to CEA Guidelines applies.*" This statement is not fact based and ignores the extensive information provided by City entities, expert consultants, and the fact based testimony of stakeholders. It also ignores the site plan review compatibility analysis AZA Chu provided in his own May 17, 2019 decision regarding site plan review that found the development incompatible.

The CPC in its decision ignored factual information and expert analysis provided by:

City of Los Angeles:

The University Park HPOZ

The Empowerment Congress North Area Neighborhood Development Council (NANDC)

Expert testimony:

Brian League, University of Southern California, Executive Director of Planning and Land Use.

Laura Meyers, preservation consultant and member of the Expo University Park Citizens Advisory Committee to CRA.

James Childs, preservation consultant, ADHOC President, Member of the North University Park Community Association.

¹ Thresholds of Significance Topic Paper, Emily Bacchini, Sacramento Municipal Utility District, Emily.bacchini@SMUD.org Craig Stevens, Stevens Consulting, craig@cdstevens.com, March 23, 2016

Art Curtis (then) Chair, North University Park Design Review Board.
Roland Souza, President, West Adams Heritage Association.
David Raposa, realty expert, City Living Realty.
Jim Robinson, Janice Robinson, Robinson Residences, experts in student housing.

Other Stakeholders:

Neil Teixeira, District 9 Resident and Concerned Parent, USC UPC Child Care Center.
Adams Severance Coalition (ASC)
University Park Action Committee (UPAC)
Debra Martin, Mt. St. Mary's University
Sara Velas, Velaslavasay Panorama
Jacquelyn Dupont-Walker, Ward Economic Development
Gary and Karen Kousnetz, area residents and numerous others.

Given all of the record, "A categorical exemption is not the appropriate level of environmental review for a project that is highly discretionary, is in a historically sensitive environmental, located on a scenic highway, and fails to meet objectives of the community plan and redevelopment plan.

The project will have a demonstrable significant effect on the environment and does not qualify under Article III, Class 32 exemption.

The Class 32 "Infill" Categorical Exemption (CEQA Guideline Section 15332), hereafter referred to as the Class 32 Exemption, exempts infill development within urbanized areas if it meets certain criteria. The class consists of environmentally benign infill projects that are consistent with the General Plan and Zoning requirements. This class is not intended for projects that would result in any significant traffic, noise, air quality, or water quality impacts.

A CE should not be issued when there are unusual circumstances creating the reasonable possibility of significant effects; The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within an officially designated scenic highway;

A categorical exemption should not be issued when there are sensitive issues and the project fails to comply with the redevelopment plan and the south community stated objectives. To permit a CE in this case would cause irreparable and irreversible harm to the environment."²

The CPC ignored all of the information provided by the persons, organizations and others and arbitrarily embraced the reports provided by the developer's consultants. They gave deference to the developer's hired consultants "reports" and displayed a prejudice in favor of the

² Letter from Roland Souza, President, West Adams Heritage Association, December 19, 2019, (WAHA) to ZAA Henry Chu

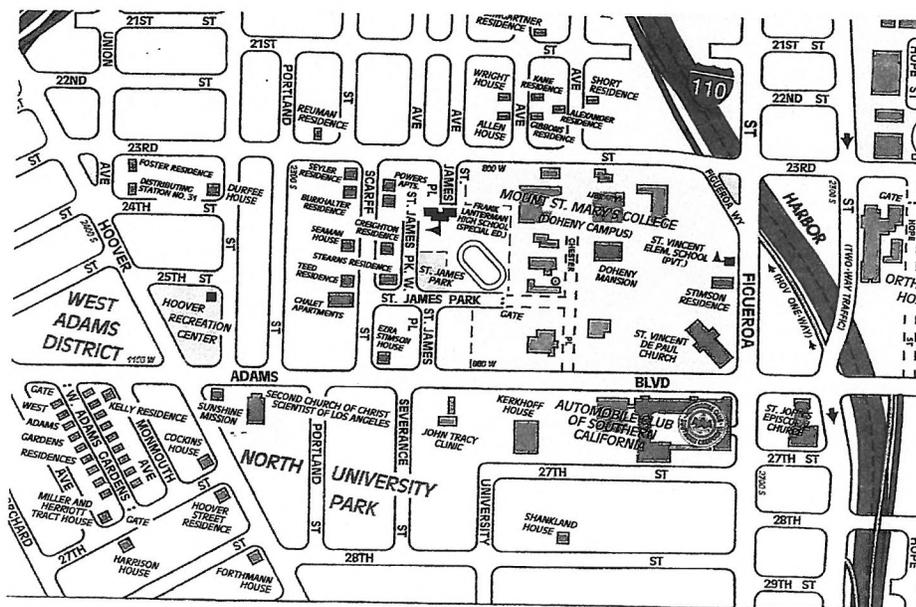
developer consultants who were paid to further the developer's point of view. The CPC in their comments skewed the playing field. The CPC disregarded the expert opinion of project opponents because, as the chair so stated, it was not in the form of a consultant's report. This dismissal of the project's opponent's experts can be shown by the audio record, which we herein include by reference.

This action flies in the face of CEQA's intent: "CEQA is not a magic bullet that stops all harmful projects, but it does guarantee public participation and a legal process....CEQA can be utilized as it was intended: to encourage public input on projects that affect those who live in the communities."³

When there is a disagreement among experts, CEQA favors the more cautious path. The CEQA standard related to experts disagreeing does not allow planning staff or the CPC to pick and choose which experts with which to agree. The categorical exemption is simply not allowed to be used as an environmental clearance in such a situation, and a higher level clearance (ND, MND or EIR) shall be required.

The CPC relied on looking solely at primary impacts to this site itself and not on the secondary impacts to the surrounding historic community. They framed the decision making in terms of a parking lot vs. housing, and did not address the clearly demonstrated secondary impacts to the surrounding neighborhood.

The project and its density incentive WILL HAVE a specific adverse impact on public health and safety and the physical environment or on any real property that is listed in the California register of Historic Resources. One needs to understand the context of the neighborhood which was provided to the ZA and which this Automobile Club map illustrates:



³ Clover Valley Foundation

“What is not revealed on the map however are the various underlying historic districts including Overlay Zones, of both local & federal Historic Districts Immediately to the north, just across Adams Blvd., from the proposed project is the UNIVERSITY PARK HISTORIC PRESERVATION OVERLAY ZONE established in 2000. Within the UNIVERSITY PARK H.P.O.Z. and directly across Adams are two National Register Historic Districts: the ST. JAMES PARK NATIONAL REGISTER HISTORIC DISTRICT (1991) and the CHESTER PLACE NATIONAL REGISTER HISTORIC DISTRICT (eligible 1986).

Less than two blocks to the west and just across Hoover Street is the NORTH UNIVERSITY PARK SPECIFIC PLAN (1981) which, coincidentally, also has two National Register Historic Districts. The most eastern one, the NORTH UNIVERSITY PARK NATIONAL REGISTER HISTORIC DISTRICT (2005) occupies the south-side of West Adams Blvd. from Hoover St. to Magnolia and south from Adams Blvd. to 28th Street along the west-side of Hoover St.

To the south and at the rear of the subject property is the USC FRATERNITY/SORORITY ROW DISTRICT (eligible). As part of their administrative authority the LA/CRA was required to complete Historic-Cultural Resource Assessment Surveys to determine the condition of those resources and their potential for certification as a historic-cultural resource either individually or collectively. Such a survey was completed by LA/CRA for their Hoover Project Area known now as the University Park-Exposition Park Project Area in 2006.”⁴

What is clear from the extensive information is that this mini-campus of six dormitory buildings and a four story recreation building are in the heart of an historic area and to which this development will be totally incompatible.

Another overlay that has been largely ignored is that of the Exposition/University Park Redevelopment Project Area and its requirements and goals. As a land use overlay, it is very much still in place and it governs development within the adopted boundaries of the Project Area – which definitely includes the Subject property. The Project is inconsistent with the Redevelopment Plan. The project conflicts with the acknowledged goals of both the South Community Plan and the Redevelopment Plan, therefore significantly impacting the development of the University Park area, leading to cumulative impacts and displacement of residents and deterring community conservation. We also note (see page 6) numerous procedural errors relevant to discretionary actions under the Redevelopment Plan.

At public meetings the developer has insisted that this is a “By Right” project, an assertion which is simply misleading. If that were the case, we would not be participating in hearings before the CPC. Nor reviewing compliance with the CRA Exposition/University Park Redevelopment Plan which is an operative land use overlay which sets standards over and above the RD1.5 zoning. “Whenever the Redevelopment Regulations conflict with provisions

⁴ Letter from Jim Childs, ADHOC, January 4, 2019 to Henry Chu

contained in Chapter 1 of this Code or any other relevant City ordinances, the Redevelopment Regulations shall supersede those provisions.”⁵

Of particular interest in the conditions set for approval of any density bonus within the CRA Exposition/University Park Project Area which is elaborated upon by Laura Meyers’ NUPCA comment letter:

“The Redevelopment Plan does allow density bonuses [Sec. 1334], and is not specific as to the percentage. However, the Plan is quite specific as to the circumstances and mandatory requirements under which such density bonuses are to be approved.

The Agency approval of such development shall:

- 1). Contribute to the revitalization goals of the Plan.*
- 2). Contribute to a desirable residential environment, neighborhood stability, and not adversely impact the neighboring environment.*
- 3). Provide units with adequate living area and avoid excessively dense development.*
- 4). Provide adequate parking.*

Findings need to be made that support each of these requirements, noting that these findings would be “and” not “or” for each of the above-listed requirements.”⁶

This project will have 495 bedrooms with at least that number of beds (quite possibly, if as built it is like most other student housing projects, twice that number of beds; “beds” is shorthand for “occupants”). And yet it will only have 259 parking spaces.

It would be difficult at best to make a positive finding that 259 parking spaces is adequate for somewhere between 495 and 990 occupants; the Agency would require that the bed count, not just the bedroom count, be revealed in a complete application. The sheer number of proposed bedrooms does not lead to a positive finding that this project provides units with “adequate living area.” It does appear to be an “excessively dense development.”

NUPCA is also not sure a decision-maker could make a finding that this project will contribute to a desirable residential environment or neighborhood stability. How could it? 500-plus students moving in and out annually? The CPC refused to accept that this is a student housing project even though expert testimony (including that of the University itself) in the record clearly showed that it is.

There is also a discrepancy in how the Redevelopment Plan calculates allowable density. The City allows 82 units but the density under the Plan is 24 units per gross acre: approximately 67.

By now it should be clear to an unbiased reviewer that there are unique circumstances that would trigger an initial study and checklist and then some level of environmental review. The

⁵ The City’s CRA Takeover Ordinance, CF 13-1482-S3

⁶ NUPCA Letter, December 19, 2018 to ZA

AZA's change of heart (from his May 17 decision to his October 10 hearing statements) that by creating a less modern design and hiding the steel podium, it made the project compatible (a "band aid" mitigation to be sure) shows this project is not CEQA exempt. CEQA does not allow a CE to be used when mitigations are included in the basis for a CE, as is the case here. If it has to be mitigated, there are impacts.

Significantly, in evaluating whether a categorical exemption may apply, a public agency may not rely on mitigation measures as a basis for concluding that a project is categorically exempt, or as a basis for determining that one of the significant effects exceptions does not apply.⁷ If a project requires mitigation measures it cannot be approved via categorical exemption. AZA Chu found in his May 17, 2019 decision "The project's scale and massing though not deviating from the Code, the rooftop amenity would overwhelm those multi-family structures immediately abutting the subject property on Severance Street, as shown on the Overall Elevations."⁸ Then magically by applying a cosmetic design change and small tweaks of a mitigation, at the October 10 CPC hearing Chu reversed his own credible analysis.

While the record clearly demonstrates impacts, as pointed out by the California Supreme Court in the Berkeley Hillside Preservation case, a party invoking the exception may establish an unusual circumstance even without evidence of an environmental effect, by showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location. In such a case, to render the exception applicable, the party need only show a reasonable possibility of a significant effect due to that unusual circumstance.⁹ The uniqueness of this location and the size of this development site of 2.6 acres clearly demonstrates unique circumstances and a categorical exemption cannot be used.

We also note that there appear to be procedural flaws with the manner in which this case is processed relevant to the Exposition/University Park Redevelopment Plan.

Staff indicates that: "a Condition of Approval that requires the applicant to obtain approval from the CRA/LA or the Department of City Planning, as the successor to the Community Redevelopment Agency, prior to the issuance of any building permits. As the project site is located within the Exposition/University Park Redevelopment Project Area and subject to all of the requirements of the plans, this condition ensures that the project will be reviewed to determine its compliance with the applicable Redevelopment Plan. Effective November 11, 2019, pursuant to Ordinance 186,325, the Department of City Planning will assume the land use authority for these Redevelopment Plans and will review projects in the remaining Redevelopment Project Areas and ensure the ongoing implementation of the Unexpired Redevelopment Plans."

⁷ Salmon Prot. & Watershed Network v. Cnty. of Marin (2004) 125 Cal.App.4th 1098.

⁸ AZA Henry Chu, decision letter of May 17, 2019 denying site plan review.

⁹ Berkeley Hillside Pres., supra, 60 Cal.4th at p. 1105. The California Supreme Court, in Berkeley Hillside Preservation

But this Condition is insufficient to assure that a categorical exemption from CEQA is the appropriate environmental clearance. In fact, it is not a simple "approval" that is required but rather an entire public process (hearing) that leads to another DIR Director's Determination that would need an environmental clearance and this also becomes a case that is appealable.

According to the ordinance transferring authority to the Planning Department as of November 11, 2019, a "Redevelopment Plan Project Adjustment" shall mean the same as a "minor variation" or "variation" as these terms are used in each Redevelopment Plan and is a decision by the Director that a Redevelopment Plan Project substantially complies with the relevant Redevelopment Regulations except for a minor deviation therefrom, either as submitted or with conditions imposed to achieve substantial compliance with the applicable Redevelopment Regulations. A "Redevelopment Plan Project Compliance" shall mean a decision by the Director that a Redevelopment Plan Project complies with the applicable Redevelopment Regulations, either as submitted or with conditions imposed to achieve compliance with the Redevelopment Regulations."

We would argue that the latter (a Project Compliance review) is in order, since the applicable Redevelopment Plan requires Findings and a Variation Determination for Density Bonuses. But in any case, either of these two paths require a public process, a public hearing and an appealable Director's Determination, and CEQA does apply.

We ask that the City Council set aside the categorical exemption issued for this project which is not the appropriate level of environmental review. The developer's analysis fails in a very basic understanding that it is building within an historic area and seeks preferential bonuses that, at their core, cannot comply with the purpose and intent of the applicable plans and zoning. Whatever is built here needs to reinforce and conserve rather than ignore the community character. A project such as this, based on the whole of the record, is not CEQA exempt.

Respectfully,

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