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February 5, 2025

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 FOR ENV-2023-4546-CE-1A; 638 South Berendo Street; CF 24-1603

Project Background

The approved project involves the demolition of the existing surface parking lot and the construction, use, and maintenance of a new eight-story residential building with 163 dwelling units. Of the 163 units proposed, 18 units will be set aside for Extremely Low Income Households. All the dwelling units will be studio units. The Roseberry Building, located on the southern portion of the Project site, will remain on-site. Minor alterations to the northern façade will be completed and shall not alter or remove any of the building's character defining features. The proposed residential building will encompass 86,700 square feet of floor area and will rise to a maximum height of 99 feet and 9 inches. With the addition of the floor area of the Roseberry Building, which encompasses approximately 33,057 square feet, the Project will result in a total floor area of 119,757 square feet and a Floor Area Ratio (FAR) of 3.39:1. The Project will provide 39 residential parking spaces located between on the ground floor and one (1) subterranean level. The Project will also provide a total of 118 bicycle parking spaces (107 long-term spaces and 11 short-term spaces) within an enclosed bicycle storage room and on the public right-of-way facing South Berendo Street.

On August 16, 2024, the Director of Planning conditionally approved Case No. DIR-2023-4545-TOC-SPR-VHCA pursuant to LAMC Sections 12.22 A.31 and 16.05 with a Class 32 Categorical Exemption to CEQA under Case No. ENV-2023-4546-CE as the environmental clearance for the project. At the conclusion of the project's appeal period, an appeal of the Site Plan Review was filed by Supporters Alliance for Environmental Responsibility (SAFER). Subsequently, the appeal was scheduled to be heard by the Los Angeles City Planning Commission (CPC) on November 14, 2024.

At its meeting of November 14, 2024, the CPC voted 6-0 to deny the appeal and sustain the Director of Planning's determination dated August 16, 2024. The City Planning Commission Determination Letter was issued on December 11, 2024.

On December 13, 2024, SAFER filed a CEQA appeal of the project's environmental clearance under Case No. ENV-2023-4546-CE, using the same appeal points that the City Planning Commission found to have no merit. For the subject appeal, Staff has compiled the appeal points from the Appellant's Justification for Appeals. Staff has responded to the appeal points below.

Appeal Summary

Following the City Planning Commission's determination denying SAFER's appeal of the Project's Site Plan Review request, SAFER filed a second appeal of the Project's Class 32 Categorical Exemption from CEQA. The Appellant contends that 1) CEQA's Infill Exemption does not apply on its face to the Project and thus a full CEQA analysis is required; 2) The Project does not qualify for CEQA's Infill Exemption due to the Unusual Circumstances Exception, and; 3) The Project does not qualify for CEQA's Infill Exemption due to the Historical Resources Exception.

Appeal Point #1: CEQA's Infill Exemption does not apply on its face to the Project and thus a full CEQA analysis is required.

The Appellant claims that the Exemption does not apply on its face because:

- a. The Project will have significant adverse effects related to air quality health risks, specifically due to diesel particulate matter emissions.
- b. The Project will pose significant health risks from indoor air quality impacts associated with formaldehyde emissions.
- c. The Project will have significant adverse impacts on noise levels on noise-sensitive receptors along the western side of the western adjacent buildings.

Staff Response

- a) An Air Quality Analysis was prepared for this Project, dated March 2024 and included as Exhibit D, utilized data from an Air Quality Technical Modeling study which analyzed emissions of air pollutants that will be generated by the construction and operation of the proposed Project, including toxic air contaminants (TACs) such as diesel particulate matter (DPM). The Analysis identified DPM as the primary TAC generated by construction activities and notes that the construction emission modeling conducted for this Project conservatively assumes that all equipment present on the Project site would be operating simultaneously throughout most of the day, while in all likelihood this would rarely, if ever, be the case. Therefore, the magnitude of daily diesel PM emissions, would not be sufficient to result in substantial pollutant concentrations at off-site locations nearby. The Analysis concludes that construction activities would not produce chronic, long-term exposure to DPM given the Project's approximately 27-month construction timeline and the temporary and periodic use diesel equipment. With regards to long-term Project operations, the Analysis concludes that the Project does not include typical sources of acutely and chronically hazardous TACs such as industrial manufacturing processes and automotive repair facilities therefore the Project would not create substantial concentrations of TACs

or DPM.

The Project is not obligated to conduct a health risk assessment (HRA) under the guidance of SCAQMD and the Office of Environmental Health Hazard Assessment (OEHHA) to evaluate health risks associated with DPM emissions generated during project construction. SCAQMD requires operational HRAs for activities that may generate high levels of DPM including truck idling and movement (e.g. truck stops, warehouse/distribution centers, transit centers), ship hoteling at ports, and train idling. The Project does not propose or anticipate any of these activities during project operations. Based on the guidance of the OEHHA a construction HRA is not required as the anticipated construction time for the Project (approximately 27 months) represents a relatively small portion of a 30-year exposure duration recommended for a construction HRA. Therefore, the Project is not required to conduct a HRA and Project will not have significant adverse effects related to air quality health risks associated with diesel particulate matter.

- b) The Appellant provides no evidence that there is an existing formaldehyde issue at the Project site or that the Project would exacerbate any such existing issue. No real data is submitted with the Appellant's comments that connect the Project to any indoor air quality impacts. The Project will be consistent with federal and state regulations which limit formaldehyde emissions from building materials and therefore residents and employees will not be exposed to lethal levels of formaldehyde emissions or significant cancer risks. The Appellant provides inaccurate statements and speculations in surmising the Project's future indoor formaldehyde concentrations and the alleged risk the Project may pose to Project users. Therefore, the Appellant's claim is false and the Project will not pose significant health risks associated with formaldehyde emissions.
- c) The Noise Analysis prepared for the Project by DKA Planning, dated June 2023 and attached as Exhibit D, conservatively assumes simultaneous use of multiple pieces of construction equipment when modeling the projected noise levels at five (5) sensitive receptors. While the west side of the eastern adjacent buildings was not identified as a sensitive receptor in the Noise Analysis, actual noise levels will be less than what the Appellant claims since the use of construction equipment will be temporary and periodic during the Project's estimated 27-month construction timeline. In addition, the Project will be required to comply with the City's noise regulations which dictate the permitted hours for construction activities and require the use of best practices techniques such as temporary sound barriers, the use of quieter and/or smaller equipment, staging and warming up equipment as far from sensitive receptors as possible, proper maintenance of equipment, and limitations on the simultaneous operation of equipment. Therefore, the Appellant's claim that the noise levels at the specified location will exceed the 5 dBA threshold is incorrect and the Project will not result in a significant noise impact.

In August 2024, the City updated the construction noise and vibration thresholds used by the Department of City Planning in assessing environmental impacts of projects in accordance with CEQA (Construction Noise and Vibration, Updates to Thresholds and Methodology, August 2024). The Update acknowledges that the previous construction noise thresholds, including the 5 dBA threshold over existing ambient conditions, have proven to be overly sensitive and has resulted in impact conclusions that are not supported with substantial evidence. With regard to Daytime Construction Noise Thresholds, the Update dictates that there is no longer a numerical threshold above ambient noise levels

for construction activities that occur between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 6:00 p.m. on Saturdays. The Noise Analysis prepared for this Project does not account for the recent updates to construction noise thresholds, however based on these new thresholds the Noise Analysis provides a more conservative assessment of the Project's construction activities impacts. Therefore, the Appellant's claim that a sensitive receptor not analyzed by the Noise Analysis will exceed 5 dBA is not valid in accordance with the City's new construction noise thresholds.

Douglas Kim (DKA Planning) and Kerrie Nicholson (CAJA Environmental Services) submitted memorandums dated November 11, 2024 and November 13, 2024, respectively, addressing SAFER's comments with regards to the Appellant's appeal points outlined in a), b), and c). The memorandums conclude that the Appellant's claims are false and ignores the extensive analyses that that were prepared for the Project (see Exhibit D – Environmental Documents). The Project will not result in significant air quality health risks, indoor air quality impacts, and noise impacts.

Appeal Point #2: The Project does not qualify for CEQA's Infill Exemption due to the Unusual Circumstances Exception

The Appellant argues that since the Project will have severe adverse impacts on air quality, indoor air quality, and noise, this constitutes as an unusual circumstance.

Staff's Response

As discussed in Staff's Response to Appeal Point No. 1, the Project will not result in significant impacts and health risks related to air quality, indoor air quality, and noise. Therefore, the Appellant's claim that the Unusual Circumstances Exception to the Class 32 Categorical Exemption applies is incorrect.

Appeal Point #3: The Project does not qualify for CEQA's Infill Exemption due to the Historical Resources Exception.

The Appellant argues that there is a fair argument that the Project will have substantial adverse effects on a historical resource, specifically the Roseberry Building.

Staff's Response

A Historic Resources Impacts Assessment Report was prepared by Historic Resources Group on July 2022 to identify any historical resources on or in the vicinity of the Project site as defined by CEQA and to identify potential impacts to historical resources caused by the proposed Project. The Report and an Addendum to the Report, dated May 2023, attached as Exhibit D, identified the Roseberry Building, located on the Project site, as a historical resource. While the Project proposes minor alterations to the northern (rear) façade of the building, which include the removal of an exterior metal staircase and blocking the windows from the interior, it was determined that the Project will not materially impair the significance of the Roseberry Building such that it can no longer convey its historic significance. The Report determined that the exterior staircase is not a character-defining feature as it is of comparatively recent construction. The infill of the windows on the north façade will occur on the interior, and the existing windows will remain in place so that the north façade retains its historic appearance when viewed from the exterior. The building's architectural significance would still be conveyed on the Berendo St. and Wilshire Blvd. fronting

façades. In addition, the Report and Addendum found that the Project will not materially impair other historical resources in the vicinity. Both documents concluded that the Project will not result in a substantial adverse change on any historical resource on or in the vicinity of the Project site, and therefore the Project would not have a significant effect on the environment and the Historical Resources Exception to the Class 32 Categorical Exception does not apply. In 2022, the Office of Historic Resources submitted an e-mail correspondence stating that they accept the conclusion of the Historic Resources Impacts Assessment Report.

The Principal Architect for the Historic Resources Group has also submitted a memorandum, dated November 12, 2024, which addresses SAFER's comments regarding the Project's impact on the Roseberry Building. The memo concludes that the Appellant's claims are incorrect and carry no merit, and that the minor alterations proposed by the Project would not result in a substantial adverse change in the building's significance.

Staff Recommendation and Conclusion

Based on the information in the record and after consideration of the appellant's arguments for appeal, Staff determines that the project qualifies for a Class 32 Categorical Exemption. Therefore, Planning Staff recommends that the PLUM Committee recommend for Council Action to deny the CEQA appeal of ENV-2023-4546-CE and sustain the City Planning Commission's determination, based on the whole of the administrative record, that the project is exempt from CEQA pursuant to State CEQA Guidelines, Section 15332, Article 19 (Class 32), and that there is no substantial evidence demonstrating that an exception to a categorical exemption applies for an exemption from CEQA.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



DAVID WOON
Planning Assistant

HB:EA:DW