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January 31, 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. 7115 – 7131 North Van Nuys Boulevard;  
14525 – 14537 West Sherman Circle; CF 23-1431**

**Project Background**

The project involves the construction, use, and maintenance of a new six-story approximately 73 feet high mixed-use building with 214 dwelling units above approximately 15,804 square feet of commercial space on the ground floor. The project proposes to provide 238 vehicle parking spaces in two subterranean levels and a portion of the ground floor. The project will provide a mix of 20 studio units, 73 one-bedroom units, and 36 two-bedroom units. Of the 214 residential units, 24 units will be set aside for Extremely Low Income Households. The project will also provide a minimum of 22,383 square feet of open space, in accordance with the requirements of the LAMC. The project proposes a total of approximately 195,273 square feet of building floor area, resulting in a total floor area ratio (FAR) of approximately 4.25:1.

On May 18, 2023, the Director of Planning conditionally approve a TOC Affordable Housing Incentive Program request, pursuant to LAMC Section 12.22 A.31, and a Site Plan Review request, pursuant to LAMC Section 16.05 (Case No. DIR-2022-7247-TOC-SPR-HCA), with a Class 32 Categorical Exemption to CEQA under Case No. ENV-2022-7248-CE-CE as the environmental clearance for the project.

On June 1, 2023, an appeal was filed by Supporters Alliance For Environmental Responsibility (SAFER), for the Site Plan Review portion only of the Director of Planning's determination. The appellant claimed that the City improperly approved the Site Plan Review request for the project because the project does not qualify for a Class 32 Categorical Exemption and thus was not properly analyzed under CEQA. The appellant specifically stated that the project does not qualify for a Class 32 Categorical Exemption because the project will have significant noise and air quality

impacts. At its meeting of October 26, 2023, the City Planning Commission denied SAFER's appeal and sustained the Director of Planning's determination.

On December 4, 2023, the SAFER filed an appeal of the CEQA Categorical Exemption – Class 32 for the project (Case No. ENV-2022-7248-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. These appeal points are the same as those presented to the City Planning Commission at its meeting of October 26, 2023.

For the subject appeal, Staff have compiled the appeals points from the Appellant's Justification/Reason for Appeal and the letters drafted by Lozeau Drury LLP, dated October 19, 2023. Staff has responded to the appeal points below.

### **Staff Recommendation**

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted CEQA appeal 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 the project would result in significant air quality and noise impacts and that the project is not qualified for an exemption from CEQA. The following statements have been compiled and summarized from the submitted appeal and responded to below.

### **Appeal Summary**

On December 4, 2023, the Appellant (Supporters Alliance for Environmental Responsibility (SAFER)) filed with their Appeal Application an Appeal Justification memorandum outlining the reasons for the appeal. The Appellant refers to letters provided by their representative, Lozeau Drury LLP, dated October 19, 2023. The letters include comments from Soil/Water/Air Protection Enterprise (SWAPE), and from Wilson Ihrig. The Appellant alleges that the Project does not qualify for CEQA's Class 32 (In-Fill Development) Categorical Exemption and thus the City must prepare an initial study to determine the appropriate level of review required under CEQA. Based on the provided letters there are three specific points at issue: 1) The Project will result in Significant Air Quality Impacts; 2) The Project will result Significant Noise Impacts; and 3) The Project does not qualify for any exemptions from CEQA as mitigation measures are required to reduce the Project's possible significant impacts.

### **Appeal Point #1: The Project will result in Significant Air Quality Impacts**

The Appellant claims that the City failed to adequately analyze the Project's air quality and greenhouse impacts. The Appellant refers to SWAPE's review of the CalEEMod output files used in the Air Quality and Greenhouse Gas Study prepared by Yorke Engineering, LLC dated July 27, 2022, and alleges that several of the model inputs used to calculate the project's construction and operation emissions were unsubstantiated and inconsistent. SWAPE claims that the project is not consistent with the Association of Environmental Professionals (AEP) Guidance for greenhouse gas emission analysis and that the Air Quality and Greenhouse Gas Study fails to justify changes to the CalEEMod's input files.

Based on SWAPE's air quality and greenhouse gas analysis, utilizing updated input parameters in the CalEEMod Version 2020.4.0, the Appellant claims that the project's construction-related volatile organic compound (VOC) emissions would exceed the applicable South Coast Air Quality Management District (SCAQMD) threshold and that the project would have a significant greenhouse gas impact.

In addition, the Appellant refers to comments from Certified Industrial Hygienist, Francis Offermann, PE, CIH alleging that the project will have significant indoor air quality impacts as a result of formaldehyde emissions. The Appellant claims that Project-related formaldehyde emissions will result in increased cancer risk to residents and commercial employees.

The Appellant also alleges that the City failed to perform an adequate analysis concerning the cancer risks associated with long-term exposure to toxic air contaminants (TACs) and the impacts of motor vehicle traffic and exposure to particulate matter (PM 2.5). As a result, the Appellant contends that the project fails to address health risk impacts associated with TAC and PM 2.5 emissions.

### **Staff Response**

The Appellant falsely claims that several of the model inputs used to calculate the project's construction and operation emissions were unsubstantiated and inconsistent. The Air Quality and Greenhouse Gas Study prepared for this project utilized default parameters for CalEEMOD (Version 2022) analyses as well as data contained in the Project's architectural drawings. Any changes to the input parameters have been justified in the Air Quality and Greenhouse Gas Study. The project is not required to be consistent with the Association of Environmental Professionals (AEP) Guidance for greenhouse gas emission analysis as AEP does not promulgate or enforce standard or regulations, but instead provides guidance documents with respect to CEQA. Therefore, AEP Guidance is not warranted or required when analyzing greenhouse gas emissions and meeting the SCAQMD criterion.

SWAPE's conclusions regarding the project's VOC emissions and greenhouse gas impact are inaccurate as they used an obsolete version of CalEEMod (Version 2020.4.0) which has been superseded by CalEEMod (Version 2022). The Air Quality and Greenhouse Gas Study conducted for this project utilizes the latter and as a result provides the most current modeling for air quality analysis. In addition, SWAPE made unsubstantiated changes to the input parameters for their analysis with CalEEMod. These changes are not justified and therefore do not reflect accurate project VOC and greenhouse gas emissions.

According to California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist. (2015), CEQA does not require the evaluation of the impact of the existing environment on future project residents, unless the Project exacerbates the impact. Based on the air quality analysis conducted by Yorke Engineering, LLC for the Project's Class 32 Categorical Exemption (Air Quality, Greenhouse Gas, and Noise Study dated July 27, 2022), there is no evidence that there is an existing formaldehyde issue at the project site or that the project would exacerbate any such existing issue. As detailed in Yorke Engineering, LLC's response to this claim, formaldehyde is readily biodegradable and complete degradation of formaldehyde can be accomplished in less than 30 days and formaldehyde in the air can be degraded in less than four days. Therefore, formaldehyde residue associated with any furniture, fixtures, and floor materials transported and installed with the project will unlikely be present upon operation. In addition, 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.

Similarly, the Appellant fails to provide any substantial data or evidence supporting their allegation that the City failed to perform an adequate analysis concerning the cancer risks associated with long-term exposure to TACs and PM<sub>2.5</sub>. A construction and operational mobile source analysis using default parameters for CalEEMod was conducted for this project and is discussed in the Air Quality and Greenhouse Gas Study. CalEEMod calculates road dust, engine exhaust, and mechanical emissions from trips and Vehicle Miles Traveled (VMT) for project construction and operation. It also quantifies operational mobile source emissions for different land use types. The analyses concluded that the project will not result in substantial TAC or PM<sub>2.5</sub> emissions. The proposed project is a mixed-use residential and commercial project in which neither land uses typically generate substantial levels of operational heavy-duty diesel truck traffic. Estimated emissions of diesel particulate matter (DPM) from construction activities will be minimal and short-term. Therefore, the Project adequately analyzed the cancer risks associated with long-term exposure to TACs and the impacts of motor vehicle traffic and exposure to PM<sub>2.5</sub>.

The Class 32 Categorical Exemption finds that construction and operation impacts associated with the Project will have a less than significant impact on the air quality and the preparation of an Environmental Impact Report is not warranted.

#### **Appeal Point #2: The Project will result in Significant Noise Impacts**

The Appellant claims that the Noise Study prepared for the project by Yorke Engineering, LLC dated July 27, 2022 inadequately assesses construction- and operation-related noise impacts associated with the project, and therefore will result in significant noise impacts. The Appellant refers to a review of the Noise Study by expert acoustical consultants from Wilson Ihrig in which they claim that the use of shields as a noise reduction tactic during project construction will be ineffective at reducing noise levels on the second floor level and above. Shielding may occur for sensitive receptors at the same height as the shield, but will have no effect for “upper floor receptors”. The consultants of Wilson Ihrig also claims that the Noise Study is flawed because: 1) The Study failed to take baseline noise measures to establish existing environmental conditions; 2) The Study relies on improper comparisons between existing HVAC systems and the one proposed by the project; and 3) the Study fails to consider noise impacts related to traffic noise.

#### **Staff’s Response**

The Noise Study prepared for the project applied a conservative noise reduction value of 5 dBA in its analysis with the utilization of various noise control measures required by the City’s Noise Ordinance (LAMC Section 112.05) including the installation of shields along the perimeter of the project construction site with a height of at least 8 feet. However, as discussed in the Noise Study the application of construction noise measures may reduce noise exterior levels by up to 15 dBA. With regards to construction site shielding, the use of flexible curtains, rigid plywood fencing, or a combination of both types of fencing may reduce noise levels by up to 10 dBA. Other noise control measures including, but not limited to, the use of mufflers, shields, sound barriers on construction equipment, scheduling construction activities such that large equipment do not operate simultaneously, and the placement of construction equipment as far as practical from the nearest noise sensitive land uses, will provide further noise reduction. These noise control measures will

not only reduce exterior noise levels on the ground level, but will also affect noise levels on the second floor levels and above.

Regarding the Appellant's claim that the Noise Study fails to provide baseline noise measures to establish existing environmental conditions, baseline noise measurements are not required for screening-level analyses and Federal Highway Administration FHWA noise model estimates. Based on the traffic noise from nearby roadways and a general 40 dBA urban background noise, the estimated daytime ambient noise from known sources will be approximately 64 dBA at the nearest sensitive receptor. This approximation is appropriate for assessing the existing ambient noise conditions surrounding the site, and as concluded in the Noise Study the project will not result in a significant noise impact.

The Appellant falsely claims that the Noise Study compares the existing HVAC systems of fast-food restaurants improved on the project site with the proposed HVAC system for the project. As discussed in the Noise Study, the overall noise levels generated by the new HVAC equipment are not expected to be substantially greater than those generated by older HVAC equipment installed on existing buildings near the project site including the five-story apartment complex located at 14500 West Sherman Circle. The comparison was not made between the proposed project and the existing fast-food restaurants; the comparison was made between the proposed project and nearby residential developments. Similar to the 14500 West Sherman Circle residential development, the project's HVAC equipment will be installed on the rooftop with HVAC condenser fan noise dissipating towards the sky and away from nearby residents. In addition, mechanical noise equipment including HVAC systems are required to comply with LAMC Section 112.02 which prohibits noise from air conditioning, refrigeration, heating, pumping, and filtering equipment from exceeding the ambient noise level on the premises of other occupied properties, e.g., nearby residential buildings, by more than 5 dBA. The project will utilize modern roof-mounted mechanical equipment which is designed to meet this standard.

Lastly, the Appellant falsely claims that noise impacts related to traffic noise was not considered in the Noise Study. As discussed above, the project utilizes the FHWA noise model to determine the expected daytime ambient noise from known sources. The model is based on traffic from nearby roads and general urban background noise. During construction activities, the Project will generate noise due to operation of minimal offroad equipment, portable equipment, and vehicles at or near the project site. No significant increase in traffic is expected and no strong sources of vibrations are planned during the project construction phase. On-site parking will be provided within the project's enclosed ground-floor level and subterranean garage with ingress-egress located along North Van Nuys Boulevard and West Sherman Circle. Noise associated with automobiles entering and exiting the project site will not impose a significant noise impact as most of these activities, including tire friction due to vehicle navigation, doors slamming, car alarms, and engine acceleration, would be intermittent, instantaneous, and would occur within the enclosed garage. Therefore, the project will not result in a significant traffic noise impact.

**Appeal Point #3: The Project does not qualify for any exemptions from CEQA as mitigation measures are required to reduce the Project's possible significant impacts.**

The Appellant alleges that the project does not qualify for any exemptions from CEQA as the "technically feasible control measures" identified in the Noise Study prepared for the project by Yorke Engineering, LLC dated July 27, 2022, are mitigation measures. The Appellant states that a project that requires mitigation measures cannot be exempted from CEQA, nor can an agency

rely on mitigation measures as a basis for determining that one of the significant effects exceptions does not apply.

### **Staff's Response**

The Appellant falsely claims that the “technically feasible control measures” that will be utilized during project construction equate to mitigation measures. While the Appellant correctly states that exemptions from CEQA are prohibited where mitigation measures are required to reduce a project's possible signification impacts, the control measures identified in the Noise Study are not mitigation measures; the control measures are Best Management Practices (BMPs) approved by the City and are consistent with the City's Noise Ordinance, LAMC Section 112.05. BMPs including, but not limited to, the installation of noise barriers along the project construction site and the use of mufflers, shields, sound barriers and/or any other noise reduction devices or techniques utilized by construction equipment will help reduce construction noise impacts. With the application of these BMPs, the Noise Study concluded that project-related construction noise impacts will be less than significant.

### **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. The Appellant presents no substantial evidence demonstrating that the project would result in significant air quality and noise impacts, and that the project is unqualified for an exemption from CEQA. Therefore, it is recommended that the PLUM Committee deny the appeals and affirm that the projects are Categorically Exempt from CEQA.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning

A handwritten signature in black ink, appearing to read "David Woon", written in a cursive style.

DAVID WOON  
Planning Assistant

HB:EA:DW