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August 1, 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:

SUPPLEMENTAL REPORT REGARDING CEQA APPEAL OF CASE NO. ENV-2022-6190-CE FOR PROPERTY LOCATED AT 3601-3615 NORTH MISSION ROAD; 2010-2036 NORTH LINCOLN PARK AVENUE WITHIN THE NORTHEAST LOS ANGELES COMMUNITY PLAN AREA (CF 23-0796-S1)

Project Background

On June 20, 2023 the City Planning Commission approved a Class 32 Categorical Exemption (City Planning Case No. ENV-2022-6190-CE) for a project (City Planning Case No. CPC-2022-6189-CU-DB-ZAA-SPR-HCA) for a Conditional Use Permit, pursuant to Section 12.24 U.26 of the Los Angeles Municipal Code (LAMC), to allow a Density Bonus for housing development project in which the density increase is greater than the 35 percent permitted in LAMC Section 12.22 A.25; 2) approving Incentives and Waivers, pursuant to LAMC Section 12.22 A.25: a) an On-menu Incentive to permit a 22 percent increase in the allowable Floor Area Ratio (FAR) to allow a FAR of 3.67:1 in lieu of the 3.0:1 FAR permitted in the R3-1 Zone pursuant to LAMC Section 12.21.1 A.1; b) An On-Menu Incentive to permit the area of land required to be dedicated for street or alley purposes to be included as lot area for the purposes of calculating the maximum density permitted by the R3 Zone; c) an Off-Menu Incentive to permit decrease in residential automobile parking to allow the provision of 103 parking spaces, with 18 in tandem, in lieu of the 216 parking spaces required pursuant to LAMC Section 12.21 A.4; d) a Waiver of Development Standard to permit a 50 percent decrease in required east side yard setbacks to allow a five-foot side yard setback in lieu of the 10 feet required by the R3-1 Zone pursuant to LAMC Section 12.10 C.2; e) a Waiver of Development Standard to permit a 50 percent decrease in required west side yard setbacks to allow a five-foot side yard setback in lieu of the 10 feet required by the R3-1 Zone pursuant to LAMC Section 12.10 C.2; f) a Waiver of Development Standard to permit a 41-foot increase in building height to allow up to 86 feet in lieu of the maximum 45 feet allowed in the R3-1 Zone pursuant to LAMC Section 12.21.1; g) a Waiver of Development Standard to permit a 20 percent reduction in required open space to allow the provision of 15,480 square feet in lieu of the 19,350 square feet required pursuant to LAMC 12.21 G.2; h) a Waiver of Development Standard to permit 10 compact parking stalls and 93 standard stalls in lieu of the one standard parking stall per dwelling unit minimum required pursuant to LAMC Section 12.21 A.5(c); 3) approving a Zoning Administrator's Adjustment,

pursuant to LAMC Section 12.28, to allow a fence of up to 12 feet in height, in lieu of 3.5 feet in height, and raised grade to encroach into the front yard setback for the R3-1 Zone; and 4) approving a Site Plan Review, pursuant to LAMC Section 16.05, for a development project which creates, or results in an increase of more than 50 dwelling units; for the construction, use and maintenance of a new seven-story residential development with 184 residential units, including 47 Very Low Income units, above two levels of automobile parking under the Density Bonus program; for the properties located at 3601 - 3615 North Mission Road and 2010 - 2036 North Lincoln Park Avenue, subject to Conditions of Approval.

On July 5, 2023, two appeals were filed for consideration by the Planning and Land Use Management (PLUM) Committee: One by the Supporters Alliance for Environmental Responsibility (SAFER) (Representative: Richard Drury), and another by the Lincoln Heights Preservation Coalition.

The appeal by SAFER challenges the City Planning Commission's entire determination except for the off-menu density bonus incentives. The appeal by the Lincoln Heights Preservation Coalition challenges the City Planning Commission's entire determination. It should be noted that while the Conditional Use, Zoning Administrator's Adjustment and Site Plan Review are appealable, the Density Bonus Off-Menu Incentives and Waivers are not appealable. Therefore, if this appeal is sustained, it could be built but redesigned, and only the additional units above the 35% Density Bonus threshold approved by the City Planning Commission under the Conditional Use would be removed. Hypothetically, a 35% Density Bonus would require an 11% of base density set a side of Very Low Income Units and would yield a project that allows the following: $64(\text{base density units}) \times 35\% = 22.4(23 \text{ rounded up})$ units. $23 + 64 = 87$ units. Thus, sustaining the appeal would allow a project consisting of up to 87 units.

Staff Recommendation

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted appeals, sustain the City Planning Commission's determination, and determine based on the whole of the administrative record, that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, Article 19 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies, with staff's proposed amendments.

Appeal Summary

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

APPEAL POINT 1:

The project was wrongfully approved by the CPC due to the chair of PLUM not recusing themselves based on conflict of interest as they were found guilty of embezzlement and perjury. The conflict of interest lies in the developer working to cater USC as seen <https://therealdeal.com/la/2022/08/30/seven-story-apartment-planned-for-lincoln-heights/>.

STAFF RESPONSE:

This is a procedural issue unrelated to environmental impacts considered under CEQA. Furthermore, this project was considered by the City Planning Commission, not the Planning

and Land Use Management (PLUM) Committee of the Los Angeles City Council. Additionally, the embezzlement and perjury charges were assigned to Curren D. Price, Jr., the Councilmember overseeing the 9th Council District who has not been involved with PLUM Committee of the City Council or the City Planning Commission.

Moreover, the proposed mixed-income housing development at 3601 North Mission Road is not affiliated with nor funded by any affiliates of the University of Southern California, therefore no conflict of interest exists with any member of the City Planning Commission which unanimously voted to approve the project.

APPEAL POINT 2:

Additionally, this project requires CEQA and an EIR due to evidence suggesting the adjacent property was remedied due to toxic soil. There is evidence of our community being environmentally disenfranchised (Ave 34 case #) - no project should be granted a CEQA exemption.

Soil contamination occurred at 2037 North Lincoln Park Boulevard from a transformer factory dating back to the 1920s. This property is directly across the street from 3601 Mission Road. While remediation occurred for THPs in 2001 for the North Lincoln Park Boulevard site, none has occurred at the Mission Road site. According to a preliminary analysis there is a high probability for lead and PCB contamination beyond the remediation site. This project requires an EIR and possible soil remediation.

STAFF RESPONSE:

Regarding any CEQA environmental impact concerns, based on the screenshot of the 3801 Mission Road DTSC case, soil contamination has been remediated at sites around the subject site (3601 N Mission Road). Per review of DTSC EnviroStore and State Water Resources Control Board GeoTracker, there is no indication of an open inspection for 3601 North Mission Road. The appeal states "According to an preliminary analysis there is a high probability for lead and PCB contamination beyond the remediation site," but does not include any of the resources or studies considered to be industry standard for evaluating potential soil contamination. A letter prepared by Earth Science, LLC dated November 6, 2023 concludes that no concerns pertaining to potential soil or groundwater contamination exist at the Project site.

APPEAL POINT 3:

The project's traffic safety impacts, prevent reliance on a Class 32 exemption.

STAFF RESPONSE:

As documented in the CE and attached Transportation Assessment Letter, the project is designed to fall below the transportation thresholds set in the CEQA Guidelines, and therefore meets the requirements for a Class 32 Categorical Exemption. Additionally, the project design incorporates several features, including reduced on-site parking supply, unbundled parking, ample bike parking, and Transportation Demand Management (TDM) strategies to reduce the vehicle miles traveled (VMT) and average daily trips (ADT). Minimizing traffic impacts reduces the potential safety concerns associated with traffic on and around the site.

According to the City of Los Angeles Department of Transportation (LADOT) approved "Transportation Assessment for the Proposed Residential Project Located at 3601 North

Mission Street,” <sic> the project evaluated the number of project trips expected to be added to nearby freeway off-ramps serving the project site. It was determined that project traffic at any freeway off-ramp **will not exceed 25 peak hour trips**. Therefore, a freeway ramp analysis is not required. Additionally, in consistency with the State law (SB 743) and CEQA Guidelines (Section 15064.3 of the State’s CEQA Guidelines) the City of Los Angeles uses VMT as criteria in determining transportation impacts under CEQA. The LADOT TAG provide instructions on preparing transportation assessments for land use proposals and defines the significant impact thresholds. The LADOT VMT Calculator tool measures project impact in terms of Household VMT per Capita, and Work VMT per Employee. LADOT identified distinct thresholds for significant VMT impacts for each of the seven APC areas in the city. For the Central APC area, in which the project is located, the threshold of 6.0 VMT Household VMT per Capita has been established for Household VMT (this project does not have a Work VMT).

The project proposes to incorporate the following TDM strategies as part of the project features:

- Reduced parking supply: Proposed 105 Vs. 192 per LAMC (a reduction of 87)
- Unbundled parking costs
- Bicycle Parking: Proposed 126 per LAMC

With the application of these TDM measures, the proposed project is projected to have a Household VMT impact of 5.6. Therefore, it is concluded that the implementation of the project would result in no significant VMT impact. A report prepared by KOA Corporation and approved by the Los Angeles Department of Transportation detailing the TDM strategies and less-than-significant traffic impacts of the project is included in the environmental case file.

APPEAL POINT 4:

The project’s failure to include sufficient parking exacerbates traffic safety impacts.

STAFF RESPONSE:

The CE clearly delineates how the project meets the City of LA’s parking requirements on page 8: Based on the regulations contained in LAMC 12.21 A.4., the project is required to provide 248 automobile parking spaces. LAMC Section 12.21 A.4. also allows residential projects that contain at least the minimum number of restricted affordable units to receive a density bonus under Section 12.22 A.25 to replace up to 30 percent of the required automobile parking with bicycle parking at a ratio of one standard or compact automobile parking space for every four bicycle parking spaces provided. The project plans to provide 129 bicycle parking spaces including 117 long-term spaces and 12 short-term spaces. Therefore, the project is permitted to replace 32 required automobile parking spaces with bicycle parking spaces resulting in an automobile parking requirement of 216 spaces.

Through an Off-menu Incentive requested as part of its Density Bonus entitlement, the project is providing 103 parking spaces to be dedicated to the project’s residential uses (as well as an additional 43 parking spaces to be dedicated to the medical facility next door, which is to remain). The project’s 103 residential automobile parking spaces will be offered to residents using an “unbundled parking model.” Unbundled parking separates housing and parking costs. Unbundling allows residents to choose the number of parking spaces they use and pay for accordingly. Additionally, if residents decide to forego, give up, or reduce their personal vehicle ownership, they can also save money by giving up their parking space.

APPEAL POINT 5:

The project lacks compliance with the Northeast LA Plan: <https://planning.lacity.org/plans-policies/community-plan-area/north-los-angeles>: “Policy 1-3.2: Consider factors, such as neighborhood character and aesthetics, identity; compatibility of land uses; impacts on livability, services, public facilities, and traffic levels, when changes in residential densities are proposed.”

STAFF RESPONSE:

The project is consistent with General Plan and zoning guidelines for the site set forth by the City of LA, which meets the requirements for CEQA. City zoning and general guidelines consider the character and future needs of communities in Los Angeles. Additionally, as discussed in appeal point (3), the project falls below the threshold for significant transportation impacts and would incorporate several transportation design features to encourage tenants to utilize alternative modes of transportation.

Furthermore, the project complies with the following goals, objectives, and policies contained in the Northeast LA Community Plan, as delineated in the project’s Letter of Determination issued by the Los Angeles City Planning Commission on June 20, 2023:

- Goal 1: A safe, secure, and attractive residential environment for all economic, age and ethnic segments of the community.
- Objective 1-2: To allocate land for new housing to accommodate a growth of population that is consistent with and promotes the health, safety, welfare, convenience, and pleasant environment of those who live and work in the community based on adequate infrastructure and government services, especially schools.
- Policy 1-2.2: Locate higher residential densities near commercial and institutional centers, light rail transit stations, and major bus routes to encourage pedestrian activity and use of public transportation, providing that infrastructure, public service facilities, utilities, and topography will fully accommodate this development.
- Objective 1-3: To preserve and enhance the residential character and scale of existing single-and multi-family neighborhoods.
- Policy 1-3.1: Protect the quality and scale of the residential environment through attention to the appearance of new construction including site planning and compatible building design.
- Policy 1-3.2: Consider factors, such as neighborhood character and aesthetics, identity; compatibility of land uses; impacts on livability, services, public facilities, and traffic levels, when changes in residential densities are proposed.

APPEAL POINT 6:

Reliance on the Class 32 Categorical Exemption is improper due to the project’s adverse impacts on historical resources such as: Lincoln Park, Plaza de la Raza, and Wall las Memorias.

STAFF RESPONSE:

As referenced in the Class 32 Categorical Exemption narrative, the project site was not identified on Historic Places LA, the Los Angeles Historic Resources Inventory, or in the City's Zone Information and Map Access System (ZIMAS) as a Los Angeles Historical Cultural Monument, Los Angeles Historic Preservation Overlay Zone, National Register of Historic Places, Potential Historic Multi-Family Resident, Existing or Potential Residential Historic District or National Historic Landmark. Based on Historic Places LA, the ZIMAS database and site plans, the project would not cause a substantial adverse change in the significance of a historical resource.

APPEAL POINT 7:

The community and the Certified Neighborhood Council opposed this project, letter dated September 1 20222, and this letter was not included in the Letter of Recommendation or Letter of Determination.

STAFF RESPONSE:

This is a procedural issue unrelated to environmental impacts considered under CEQA. All letters expressing support or opposition to the project can be found with the supplemental documents to the agenda from the May 25 City Planning Commission, available here: <https://planning.lacity.org/dcpapi/meetings/document/addtdoc/65385>

APPEAL POINT 8:

This project is massively out of scale compared to anything built in the suburbs of the first pueblo of Los Angeles - and will disrupt the integrity of a historical community.

STAFF RESPONSE:

The project is consistent with General Plan and zoning guidelines for the site set forth by the City of LA, which meets the requirements for CEQA. City zoning and general guidelines consider the character and future needs of communities in Los Angeles.

APPEAL POINT 9:

The high density of this project fails to provide evidence of sufficient water source for 184 units, over 50% density bonus.

STAFF RESPONSE:

Pages 21 to 23 of the CE memo provide detailed analysis of the project sites ability to serve 184 units with required utilities and public services and meet the requirements under CEQA. As delineated in the CE memo, LADWP can currently deliver 160 billion US gallons (606 million cubic meters) of water. The project would be served by existing sewer line infrastructure including vertical laterals which connect to existing sewer main lines located 26 feet away from the project site on Lincoln Park Avenue (Pipe ID 49515022), maintained by the City Department of Public Works.

Furthermore, the project's Letter of Determination issued by the Los Angeles City Planning Commission on June 20, 2023 requires the project to consult with the Department of Water and Power prior to the issuance of any permits in connection with project plans. Specifically, Development Condition B.25 states, "Satisfactory arrangements shall be made with the Los

Angeles Department of Water and Power (LADWP) for compliance with LADWP's Rules Governing Water and Electric Service." Through this consultation, the Department of Water and Power will assure that, prior to the issuance of building permits, the project is able to access or makes the necessary upgrades to access sufficient water and power supply. Therefore, the project will provide sufficient water for its proposed residential uses.

APPEAL POINT 10:

The project will remove 5 protected sycamore trees, that are alive and healthy. Please refer to document.

The project will remove 5 healthy and protected western sycamore trees or *Platanus racemosa* (LATPO), developer claims trees were planted recently. In a brief survey within 1,320-foot buffer used to denote the access and walk ability of a project, there are 36 western sycamores including the onsite count. Evidence of a mature grove is in the grouping of trees across the street at Lincoln Park. The on-site sycamores appear to be similar in age. In an EIR of Hazard Park development from (2005) reveals the area was marshland extending past Ramona Gardens and possibly as far as the site. The edges of a marshland are the optimal habitat for Western Sycamores. This habitat represents the last of an ancient marshland beneath our feet and pavement. This property is the actual site of the famous Lincoln Heights Alligator Farm, which emphasizes the watershed condition and habitat for the sycamore.

The developer proposes the destruction of 50,000 sq ft of existing green space, which is part of a larger habitat for migrating birds. Developer wants to reduce green space to 3,700 sq ft. severely curtail the migratory bird habitat and population. This development should be stopped to preserve the habitat concerns.

STAFF RESPONSE:

The project would be constructed on an existing paved surface parking lot and would not require the removal of any area considered green space or open space within City of LA's general plan or zoning guidelines. Additionally, a protected tree report was prepared by UPLA Studio, which determined that there are no trees on site that are protected by the Los Angeles Tree Protection Ordinance that would be impacted by construction. UPLA Studio is a Landscape Architecture firm (Architect License Number 6086) whose Tree Expert, Stephanie Reed, is a Certified Arborist through the International Society of Arboriculture (Certification Number WE-11453A). Their report is included as an attachment to the CE.

The definition of Protected Tree in Section 17.02 of the Los Angeles Municipal Code reads "The definition shall not include any tree or shrub grown or held for sale by a licensed nursery, or trees planted or grown as part of a tree planting program." According to the Protected Tree Report dated September 13, 2022, the Tree Expert observed five (5) Western Sycamore (*Platanus racemosa*) trees during a field visit on June 30, 2022. However, based on research conducted by the property owner and Tree Expert, the 5 Sycamore trees are grown from nursery stock and, therefore, are not protected by the Los Angeles Tree Protection Ordinance. Previous development plans and historic photos of the site show evidence that the Sycamore trees are not naturally occurring. A copy of the Protected Tree Report, including photographic evidence that the Western Sycamores were planted as part of a nursery program, is attached.

What's more, the Urban Forestry Division of the Bureau of Street Services of the City of Los Angeles has confirmed that, based on the evidence provided within the Protected Tree Report prepared by UPLA Studio, the Western Sycamore trees existing on the site do not qualify as

protected trees based on the definition above. The confirmation email stating that no approval is needed by the Urban Forestry Division or the Board of Public Works for removal of the trees is attached.

Additionally, the project is proposing the addition of four Western Sycamore trees as part of the project landscape design.

Finally, the site does not have reported occurrences of special-status species in the California Natural Diversity Database (CNDDDB) maintained by the California Department of Fish and Wildlife (CDFW). The project site does not include riparian areas or other sensitive plant communities. According to the United States Fish and Wildlife Service Information for Planning and Consultation Tool, the project site does not contain critical habitats for any endangered, rare, or threatened species, as confirmed by the South Environmental Biologist's Statement of Biological Resources Letter dated December 29, 2023.

APPEAL POINT 11:

This Project will disrupt the eco system that habits this plot of land, with 42 trees including protected sycamores.

STAFF RESPONSE:

The project would be constructed on a disturbed site that currently consists of a paved surface parking lot. As discussed in appeal point (10), a protected tree report was prepared by UPLA Studio, which determined that the five trees that would be removed on site are not protected by the Los Angeles Tree Protection Ordinance. This report is included as an attachment to the CE. Additionally, the landscape plan for the project proposes retention of all eleven (11) of the existing parkway trees, as well as the addition of 24 Olive trees (*Olea europea*), 7 Catalina Cherry trees (*Prunus ilicifolia*), 13 Japanese maple trees (*Arctostaphylos*), and 4 Western sycamore trees (*Platanus racemosa*) resulting in a total of 59 trees where, currently, 54 trees exist. A copy of the landscape plan and Tree Inventory are attached.

APPEAL POINT 12:

The CPC hearing allotted 60 seconds per public comment, violating Brown Act Law

STAFF RESPONSE:

This is a procedural issue unrelated to potential significant environmental impacts under CEQA.

APPEAL POINT 13:

The surrounding residents, including tenants of Amistad Apartments, will be affected by the toxic plume that will come from excavating toxic soil that has not been mediated.

STAFF RESPONSE:

As discussed under appeal point (2), no evidence points to any open cleanup sites or investigations into the 3601 Mission Road site for contaminated soils. Furthermore, the project will be subject to several Regulatory Compliance Measures listed below (RC-AQ-1 through RC-AQ-6) which regulate air quality-related impacts for projects citywide. As a result of this mandatory compliance, the proposed Project will not result in any significant air quality impacts.

Therefore, tenants of the Amistad Apartments would not be subject to hazardous fumes during excavation and grading.

- Regulatory Compliance Measure RC-AQ-1 (Demolition, Grading and Construction Activities): Compliance with provisions of the SCAQMD District Rule 403. The project shall comply with all applicable standards of the Southern California Air Quality Management District, including the following provisions of District Rule 403:
 - All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
 - The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind. All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
 - All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
 - All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
 - General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
 - Trucks having no current hauling activity shall not idle but be turned off.
- Regulatory Compliance Measure RC-AQ-2: In accordance with Sections 2485 in Title 13 of the California Code of Regulations, the idling of all diesel-fueled commercial vehicles (weighing over 10,000 pounds) during construction shall be limited to five minutes at any location.
- Regulatory Compliance Measure RC-AQ-3: In accordance with Section 93115 in Title 17 of the California Code of Regulations, operation of any stationary, diesel-fueled, compression-ignition engines shall meet specified fuel and fuel additive requirements and emission standards.
- Regulatory Compliance Measure RC-AQ-4: The Project shall comply with South Coast Air Quality Management District Rule 1113 limiting the volatile organic compound content of architectural coatings.
- Regulatory Compliance Measure RC-AQ-5: The Project shall install odor-reducing equipment in accordance with South Coast Air Quality Management District Rule 1138.
- Regulatory Compliance Measure RC-AQ-6: New on-site facility nitrogen oxide emissions shall be minimized through the use of emission control measures (e.g., use of best available control technology for new combustion sources such as boilers

and water heaters) as required by South Coast Air Quality Management District Regulation XIII, New Source Review.

APPEAL POINT 14:

The surrounding residents, including the tenants of Amistad apartments will be affected by the parking impact due to the developer failing to provide parking for 184 units.

STAFF RESPONSE:

As discussed under appeal point (4), the project will provide 103 automobile parking spaces dedicated to its residential uses. This is consistent with its Off-menu Density Bonus Incentive requesting a reduction in the number of required parking spaces.

Furthermore, an impact to parking supply within an urbanized area with access to multiple transportation options does not constitute an unusual circumstance under CEQA and, therefore, would not constitute sufficient overwhelming evidence to preclude the use of a Categorical Exemption. The Census Tract (Tract 1991.20) in which the project is located is designated as a "Very Low VMT Area" under AB 2334 (Wicks). A "very low vehicle travel area" is defined in 65915(o)(4) to mean an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita. Attached to the case file is a Parcel Profile report accesses from ZIMAS, the City of Los Angeles' Zone Information and Map Access System, that shows the area around the project site's designation as a Very Low VMT Area.

Additionally, the project site is located in an area designated by the Southern California Association of Governments as High Quality Transit Areas (HQTA). An HQTA is defined as a site within one half-mile of a well-serviced transit stop or a transit corridor with 15-minute or less service frequency during peak commute hours. Attached to the case file is a map obtained from SCAG's ArcGIS data map showing the project site's designation as an HQTA. The project site is identified by a red star on the map.

Finally, the project proposes an "unbundled parking" model for distributing its automobile parking supply. "Unbundled parking" is the practice of selling or leasing parking spaces separate from the lease of the residential property.

APPEAL POINT 15:

The Amistad Apartments are 100% affordable housing, a remarkable example of development that caters to, and is developed for the community, wherein 67% are renters live below Federal poverty line.

STAFF RESPONSE:

The project would provide a 73% set aside of base units as affordable units for Very Low Income households, which would increase the number of affordable units available to the surrounding community without displacing any current residents. The Density Bonus program is designed to address the housing needs of residents at various income levels by incentivizing market rate and affordable housing developments. The proposal to provide 47 of 184 units to Very Low Income Households represents the highest percent of an affordable set-aside of any privately-funded mixed-income housing project in the Northeast Community Plan Area.

APPEAL POINT 16:

Historically, the median income for Lincoln Heights has been under 30k annually as seen in 2008 <https://maps.latimes.com/neighborhoods/neighborhood/lincoln-heights/index.html>. The median income now is 75k <https://www.point2homes.com/US/Neighborhood/CA/Los-Angeles/Lincoln-Heights-Demographics.html>: clear evidence that the working class community is being displaced from our homes. This project will contribute to further displacement as it will continue to change the character, demographics, real estate values and therefore erasure of our marginalized, working class, immigrant communities and will contribute to the homelessness crisis.

STAFF RESPONSE:

As discussed under appeal point (15), 73% of base units are set aside for Very Low Income households. Since the project would replace an existing parking lot, no residents would be displaced by the project.

Mixed-income housing development is a vitally important part of a regional approach to addressing the current, well-documented housing crisis faced by the City of Los Angeles and the Southern California region. Developing an existing parking lot into a mixed-income apartment community with 47 units set aside for Very Low Income households is a rare opportunity to create new housing units that cater to existing residents while protecting naturally occurring affordable housing from encroachment by new residents in a neighborhood of increasing demand and economic investment.

Mixed-income housing development, like the proposed project, offers a multitude of virtues that contribute to the well-being of communities and individuals. This approach to urban planning and housing design has gained recognition for its ability to foster inclusivity, promote economic diversity, and create healthier, more vibrant neighborhoods. Some of the key virtues of mixed-income housing development include:

- **Socioeconomic and Racial Diversity:** One of the most significant virtues of mixed-income housing is its ability to foster neighborhoods of people from diverse socioeconomic backgrounds and racial identities. This helps assure that everyone in Los Angeles has access to the resources necessary to thrive, regardless of their financial status.
- **Reduced Stigma:** Mixed-income developments help reduce the stigma often associated with very low-income housing while giving economically marginalized residents equal access to high quality housing and amenities. The proposed development includes units affordable to Very Low Income households distributed amongst market rate units at comparable sizes and with identical private and common amenities. When affordable units are integrated seamlessly with market-rate ones, residents do not feel singled out or stigmatized, promoting a more inclusive and accepting environment.
- **Economic Mobility:** Mixed-income communities offer low-income residents the opportunity to live in neighborhoods with improved amenities, schools, and resources. This can have a positive impact on the long-term economic mobility of individuals and families, as access to higher-quality services can improve their long-term outcomes.

- **Improved Educational Outcomes:** Living in a neighborhood with better schools can have a direct impact on the educational outcomes of children. Mixed-income housing ensures that children from very low-income families have access to higher-quality educational institutions, which can help break the cycle of poverty.
- **Economic Resilience:** Mixed-income neighborhoods tend to be more economically resilient. When a community's income base is diverse, it is less susceptible to economic downturns, as various income levels can provide stability during challenging times.
- **Enhanced Neighborhood Aesthetics:** Mixed-income developments often incorporate better design and aesthetics, and include mechanisms to induce economically sustainable maintenance, improving the overall look and feel of a neighborhood. This can lead to increased property values and investment in the community.
- **Promotion of Inclusivity and Equality:** Mixed-income housing reflects a commitment to inclusive and equitable planning and development. It signifies a belief in the value of equitable opportunities and access to resources for all residents, regardless of their income.
- **Sustainability and Efficiency:** Mixed-income developments can promote sustainable living practices and reduce urban sprawl. By concentrating housing, services, and amenities in one area, they can reduce the need for long commutes and promote more sustainable transportation options.

In conclusion, mixed-income housing developments like the proposed project - especially because it does not displace existing residential units - is the best way to protect economically vulnerable communities from displacement; it creates communities that are more equitable, diverse, and resilient. Developments like the proposed offer a path to break the cycle of poverty, improve social cohesion, and create vibrant, inclusive neighborhoods where people from all walks of life can thrive together.

APPEAL POINT 17:

The City of Los Angeles is currently facing over 30 thousand cases of eviction; the City of Los Angeles is currently under a State of Emergency as set by Mayor Karen Bass, due to the unprecedented homeless crises. We are seeing a mass eviction crisis where nearly all tenants facing eviction are low income working class individuals. Luxury units and development do not cater to those tenants facing eviction and will not help mitigate the houseless crisis and therefore this 65% luxury development does not meet the criteria set forth by Mayor Karen Bass to help solve the homeless crisis. Approximately 11% of the homeless population (LAHSA) was created by the housing inequities of displacement. A 5% rent increase translates to 2000 more people falling into homelessness (Zillow).

STAFF RESPONSE:

As discussed under appeal points (15) and (16), the project would provide a 73% set aside of base units for affordable units for Very Low Income households, which would increase the number of affordable units available to the surrounding community without displacing any current residents. Furthermore, based on the most recent Regional Housing Needs Assessment, the City of Los Angeles needs 456,643 new housing units by the year 2029 to meet its housing needs. Of the 456,643 new housing units needed, 115,978 are needed at the

Very Low Income level, 68,743 are needed at the Low Income level, 74,091 are needed at the Moderate Income level, and 196,831 are needed at the Above Moderate Income level. By providing 47 units to Very Low Income households and 137 units to households paying market-rate rents, the proposed project will help alleviate housing pressures across multiple income levels which, in turn, alleviates pressures on the lowest-income households by preserving naturally occurring affordable housing resources.

APPEAL POINT 18:

Air quality and health risk impacts: The appellant claims that the Categorical Exemption prepared for the project failed to prepare a quantified health risk assessment ("HRA") and failed to mention or evaluate the Project's construction-related or operational toxic air contaminant ("TAC") emissions.

STAFF RESPONSE:

The Appellant Letter claims the City was required to prepare a Health Risk Assessment (HRA) for the Project due to alleged diesel emissions (DPM). This claim fails for several reasons. First, the Appellant Letter again ignores the extensive analysis of the Project's construction and operational DPM emissions (a subset of PM2.5 emissions, which are analyzed in the CalEEMOD analysis) in the CE, which determines that human health impacts from potential emissions of DPM are less than significant based on substantial evidence. Therefore, it is false that the CE fails to mention or evaluate construction-related or operational TAC emissions.

Next, the claim that the project requires the preparation of an HRA is false. Per the OEHHA's delegation of authority to local air quality management districts in Section 1.3 of the Air Toxics Hot Spots Program Guidance Manual from 2015 (referred to by the appellant as "Risk Assessment Guidelines Guidance Manual For Preparation Of Health Risk Assessments"), the Department of City Planning relies on methodologies established by the regional expert air quality agency, the South Coast Air Quality Management District (SCAQMD) for preparation of CEQA air quality analyses (OEHHA, 2015). SCAQMD published the CEQA Air Quality Handbook in November 1993 to assist lead agencies, as well as consultants, project proponents, and other interested parties, in evaluating potential air quality impacts of projects proposed in the region. The SCAQMD CEQA Handbook does not recommend analysis of toxic air contaminants (TACs) from short-term construction activities.

SCAQMD recommends that health risk assessments (HRAs) be conducted for substantial individual sources of DPM (e.g. truck stops and warehouse distribution facilities, ship hoteling at ports, and train idling) and has provided guidance for analyzing mobile source diesel emissions. Based on this guidance, the Project would not include these types of land uses and is not considered to be a substantial source of DPM warranting a refined HRA (SCAQMD, 2002).

The Appellant Letter also misrepresents the Office of Environmental Health Hazards Assessment (OEHHA) requirements under AB 2588, the Air Toxic Hot Spots Program. AB 2588 only applies to "facilities" as defined in Health and Safety Code Section 44322(a), which the state has determined applies to industrial facilities requiring operational air permits that use, manufacture, formulate, or release certain listed hazardous substances. Covered facilities do not include residential or mixed-use residential developments, which are not regulated under the Toxic Hot Spots Program.

The OEHHA Guidelines assess cancer risks over 30-year exposures. They do not mandate analysis for "short-term" projects even under the Toxic Hot Spots Program, and thus the

OEHHA Guidelines do not apply here, where Project DPM emissions affecting the area surrounding the Project Site would occur during a few months of construction activities as part of the Project. Rather, the information regarding “short term” cancer exposures is provided to assist local air districts when they make permitting decisions for projects requiring AQMD permits related to shorter-term exposures, noting also that “there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime.”

SCAQMD only requires quantitative HRAs to be prepared for substantial mobile sources of DPM emissions, including truck stops and warehouse distribution facilities, ship hotelling at ports, and train idling, as stated above. SCAQMD’s AB 2588 Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics Hot Spots Information and Assessment Act only applies to permitted industrial facilities and does not address so called “short term” projects. SCAQMD Rule 1402, which implements the Toxic Hot Spots Program in the region, only applies to facilities with one or more AQMD permits to operate, which the Project is not required to obtain, and also does not require analysis of short-term TAC or DPM emissions. Thus, the comment’s assertion that a quantitative HRA is required for the Project is incorrect, as no agency has recognized infill mixed-use residential development as a significant source of toxic air emissions requiring quantitative HRAs. As Project construction activities would vary throughout the site and would be short-term during only one brief portion of onsite construction activities, stationary source rules would not be appropriate for assessing impacts associated with DPM and an HRA is not required.

APPEAL POINT 19:

Indoor Air Quality: The appellant references a determination on the project made by Certified Industrial Hygienist, Francis Offermann, stating that the project will expose residents to significant impacts related to indoor air quality, particularly from “emissions of the cancer-causing chemical formaldehyde.” The appellant adds that many composite wood products used in building materials and furnishings commonly found in urban development contain formaldehyde-based glues which off-gas formaldehyde over time – a carcinogen. The appellant states that future residents will be exposed to a cancer risk from formaldehyde of approximately 120 per million, assuming all materials are compliant with the California Air Resources Board (CARB) formaldehyde airborne toxics control measure, which exceeds the South Coast Air Quality Management District (SCAQMD) CEQA significant threshold for airborne cancer risk of 10 per million.

STAFF RESPONSE:

Previously, SAFER raised this appeal point citing the same formaldehyde study in their unsuccessful appeal of the Class 32 Categorical Exemption prepared for the 975 Manhattan Project earlier in 2023 (CAJA Environmental Services LLC, 2023). The following responses were prepared to respond to the 975 Manhattan Project appeal, and also apply to this project:

The arguments in the Appeal relating only to alleged air quality impacts from formaldehyde gas are substantively meritless for the following reasons:

- The Appeal ignores the substantial evidence in record supporting the conclusion that the Project would result in less than significant operational air quality impacts. The CE analyzes the Project’s potential to cause significant operational air quality impacts from area, energy and mobile sources, concluding such impacts would be less than significant based on modeling of potential Project impacts using the state’s CalEEMod computer model. As ruled in the 2004 California Court Case *Defend the*

Bay v. City of Irvine, an opponent challenging a City's factual determinations in support of a statutory exemption "must lay out the evidence favorable to the other side and show why it is lacking. Failure to do so is fatal." Here, the Appeal makes no attempt to discuss the substantial evidence in support of the CE, much less lay that evidence out and show why its lacking. For this reason alone, the Appeal fails to meet its burden to show any error in the CEQA analysis performed for the Project supporting the adoption of the CE.

- The analysis of alleged formaldehyde impacts from the Project relies on speculation and a generic, non-project specific analysis regarding alleged furniture and materials that would be utilized by the Project. In particular, the Appeal speculates without evidence that the Project would utilize unspecified "composite wood products" indoors. The Appeal's arguments with respect to alleged formaldehyde impacts are invalid for this reason, alone, because speculation is not substantial evidence under CEQA.
- Moreover, the Appeal's purported indoor air quality analysis here is not a CEQA analysis, but instead relies on an invented "threshold" not adopted by the City or South Coast Air Quality Management District (SCAQMD) to assess alleged impacts on indoor air quality. However, the operational air quality technical analysis performed for the Project in the CE is fully compliant with CEQA in its focus on regional and localized impacts from emissions of criteria pollutants and other relevant air quality concerns. In light of CEQA's general focus on projects' potential impacts on the human environment in general and not future project users (see the 2015 California Court Case California Building Industry Association v. Bay Area Air Quality Management District) the State's CEQA Guidelines focus CEQA-compliant air quality impacts analyses on the impacts a project would have on outdoor air quality, directing air quality analyses to address whether a project would conflict with or obstruct implementation of the applicable air quality plan, contribute to an existing regional or local air quality violation, or result in a cumulatively considerable increase in a criteria pollutant for which the region is in non-attainment, among other similar relevant factors. Indoor air quality is not regulated by the applicable air quality plan, the SCAQMD's 2016 Air Quality Management Plan (AQMP), and indoor air quality analysis is not required by CEQA Guidelines, Appendix G.
- Indoor air quality in California is not regulated by the state through CEQA, but through the state's implementation of the California Green Building Standards Code (CALGreen Code). The CALGreen Code is applicable to new commercial and industrial buildings and is designed to promote "environmentally responsible, cost-effective, healthier places to live and work." "CALGreen includes both required measures and voluntary measures, a number of which help assure healthful indoor air quality, such as those addressing chemical emissions from composite wood products, carpets, resilient flooring materials, paints, adhesives, sealants, and insulation, and also ventilation." More specifically, Section 4.5, Environmental Quality, of the CALGreen Code provides mandatory residential measures to reduce the quantity of air contaminants that are odorous, irritating and/or harmful to the comfort and wellbeing of a building's installers, occupants and neighbors. It includes VOC limits for paints, coatings, adhesives, adhesive bonding primers, sealants, sealant primers, and caulk. Section 4.504.3, Carpet Systems, of the CALGreen Code establishes product requirements to meet one of the following:
 - Carpet and Rug Institute's Green Label Plus Program;

- California Department of Public Health, “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers,” Version 1.1;
- NSF/ANSI 140 at the Gold Level;
- Scientific Certifications Systems Indoor Advantage Gold.

Furthermore, Section 4.504.5, Composite Wood Products, of the CALGreen Code establishes limits for formaldehyde as specified in ARBS’s Air Toxics Control Measure for Composite Wood (e.g., particle board). These measures have been established through the CALGreen Code and are designed to reduce the quantity of air contaminants to safe and acceptable levels.

- Another measure the state has taken to address the issue of formaldehyde in particular is CARB’s ATCM (Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products). The purpose of this measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California. The composite wood products covered by this regulation are hardwood plywood, particleboard, and medium density fiberboard.” The measure applies to manufacturers, distributors, importers, fabricators (that use such materials to make other goods), retailers, and third party certifiers who manufacture, offer for sale or supply these goods in California. The control measure assures that all building materials and furnishings manufactured, distributed, imported and used in new construction in California meet concentrations determined by the state to assure healthful indoor air quality. According to CARB, from a public health standpoint, the Composite Wood Products Regulation’s emission standards are set at levels intended to protect public health. The CWP Regulation, adopted in 2007, established two phases of emissions standards: an initial Phase 1, and later, a more stringent Phase 2 that requires all finished goods, such as flooring, destined for sale or use in California to be made using complying composite wood products. As of January 2014, only Phase 2 products are legal for sale in California. Thus, all new wood products installed in the Project would comply with the more stringent Phase 2 requirements. Accordingly, the state of California has addressed the issue of indoor air quality related to formaldehyde through regulation – the issue is not addressed by the state through CEQA.

APPEAL POINT 20:

The appellant claims that the City has failed to present sufficient evidence showing that the Project will not have significant noise impacts, precluding reliance on the Class 32 Exemption. The appellant claims that the Exemption’s noise analysis does not include references to support the assumed reductions in noise levels that can be achieved by using barriers and mufflers during construction.

STAFF RESPONSE:

The project will be subject to Regulatory Compliance Measure RC-NO-1 (Demolition, Grading, and Construction Activities), which states that the project shall comply with the City of Los Angeles Noise Ordinance and any subsequent ordinances, which prohibit the emission or

creation of noise beyond certain levels at adjacent uses unless technically infeasible. Included in the environmental case file are specification sheets representative of the types of mufflers and barriers necessary to comply with the regulatory compliance measure listed above.

APPEAL POINT 21:

Density bonuses, incentives, waivers of development standards not supported by the California Government Code or Los Angeles Municipal Code.

STAFF RESPONSE:

This issue is unrelated to potential significant environmental impacts under CEQA.

APPEAL POINT 22:

An exception to CE applies due to unusual circumstances: building is taller than other buildings in area, in a liquefaction zone, and will have outdoor balconies that can generate additional air and noise pollution.

STAFF RESPONSE:

The project has a Geotechnical Investigation Report written by Geocon West, Inc. on June 23, 2022 and approved by the City of Los Angeles Department of Building and Safety as documents in a Geology and Soils Report Approval Letter issued on July 28, 2022. Appellants do not provide substantial evidence to support that project geotechnical reports are inadequate or that the conclusions are flawed. Both the Geotechnical Investigation Report written by Geocon West, Inc. and the Geology and Soils Report Approval Letter issued by the City's Department of Building and Safety are attached.

The City of Los Angeles regulates noise through its noise ordinance contained in LAMC 111.03 which states that, in residential zones like the one characterizing the project site, daytime noise levels (7:00 a.m. to 10:00 p.m.) and nighttime noise levels (10:00 p.m. to 7:00 am) shall not impact the ambient noise levels of the surrounding properties by an increase of more than five (5) dB(A). LAMC 111.04 further states "the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this chapter, which operation or maintenance causes discomfort or annoyance to reasonable persons or which endangers the comfort, repose, health, or peace of residents in the area, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court order of competent jurisdiction."

Operational noise from residential outdoor balconies would be typical of residential development and subject to City of Los Angeles Noise Ordinance.

Appellants have failed to provide substantial evidence that any unusual circumstances apply.

APPEAL POINT 23:

The City's Categorical Exemption is not supported by substantial evidence. No surveys for wildlife were completed in support of the Categorical Exemption.

STAFF RESPONSE:

As detailed in the South Environmental, Biologists Statement of Biological Resources, dated December 29, 2023, a South Environmental Biologist conducted a site visit in October 2023 and found that the project site lacks native habitat, no water resources were found on the project site, and the site lacks all necessary habitat characteristics to support special-status species.

CONCLUSION

Based on the information in the record, and considering the Appellants' arguments for appeal, Staff finds that the project meets the requirements for a Class 32 Categorical Exemption. It is recommended that the City Council affirm that the project is categorically exempt from CEQA, deny the appeals of the City Planning Commission's Determination, and sustain the City Planning Commission's Determination approving the Conditional Use, Density Bonus, Zoning Administrator's Adjustment and Site Plan Review for the case for the proposed apartment building.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Trevor Martin

Trevor Martin
City Planner