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January 10, 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 FOR CASE NO. CPC-2023-582-CU-DB-HCA-PHP FOR PROPERTY LOCATED AT 3676 1-2, 3704 1-2 SOUTH KELTON AVENUE AND 10845 WEST REGENT STREET WITHIN THE PALMS – MAR VISTA- DEL REY COMMUNITY PLAN AREA (CF 23-1086)**

The project involves the demolition of two existing duplexes (total of four dwelling units) for the construction, use and maintenance of a new Density Bonus project with 43 dwelling units, and 11 of the total units reserved for Very Low Income households. The proposed building is 62 feet in height and has 39,011 square feet of floor area. A total of 2,950 square feet of open space is proposed. The building will observe a 15-foot front yard, a 15-foot rear yard, and side yards of seven feet and two inches. A total of 33 vehicle parking spaces are proposed.

At its meeting on **July 27, 2023**, the Los Angeles City Planning Commission (CPC).

1. **Determined**, that based on the whole of the administrative record, the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332, Class 32, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Approved**, pursuant to Section 12.24 U.26 of the Los Angeles Municipal Code (LAMC), a Conditional Use Permit to allow a Density Bonus for a housing development project in which the density increase is greater than otherwise permitted by LAMC Section 12.22 A.25;
3. **Approved**, pursuant to LAMC Section 12.22 A.25(g), a Density Bonus Compliance Review to permit a housing development project consisting of 43 dwelling units, of which 11 will be set aside for Very Low Income households and with the following On-Off Menu Incentives and Waivers of Development Standards:
  - a. An On-Menu Incentive to permit a 23 percent increase in allowable floor area to allow 39,011 square feet of Floor Area Ratio (FAR 3.7:1) in lieu of the 31,590 square feet (FAR 3:1) permitted pursuant to LAMC Section 12.21.1 A.1;

- b. An On-Menu Incentive to permit averaging of density over the Project site located on three continuous parcels zoned RD2-1 and R3-1;
- c. An Off-Menu Incentive to permit 17-foot increase in height to a maximum of 62 feet with no step-back after 45 feet of height in lieu of the maximum 45 feet allowed in the RD2-1 and R3-1 zones pursuant to LAMC Section 12.21.1;
- d. A Waiver of Development Standards to permit a 10 percent decrease in required northerly side yard setback to allow a seven-foot two-inch side yard in lieu of the eight feet required by the RD2 Zone pursuant to LAMC Section 12.09.1 B.2(a); and
- e. A Waiver of Development Standards to permit a 10 percent decrease in required southerly side yard setback to allow a seven-foot two-inch side yard in lieu of the eight feet required by the R3 Zone pursuant to LAMC Section 12.10 C.3.

The City Planning Commission approved the project on September 5, 2023. Subsequently, on September 18, 2023, six appellants including Albert Kim, Manzar Foroohar, Jean Hutchinson, Kelly Elizabeth Lally, David Lefebvre, and Caitlin McClure appealed the City Planning Commission's approval of the project's Conditional Use permit entitlement and on-menu density bonus incentives as well as its Categorical Exemption Class 32 and CEQA clearance to the City Council, as filed under Council File No. 23-1086.

### **Staff Recommendation**

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted appeal and sustain the City Planning Commission's determination, based on the whole of the administrative record, including Categorical Exemption Class 32 No. ENV-2023-583-CE, that the project is compliant with CEQA pursuant to State CEQA Guidelines Section 15332, and that there is no substantial evidence demonstrating that the project will have a significant effect on the environment.

### **Appeal Summary**

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

#### **1. Appeal Point:**

There are sewage backup issues in the block of Kelton Avenue.

#### **Staff Response:**

The existing sewage system's malfunctions are not an impact of the proposed project. As part of its compliance with the conditions of development imposed upon the project by various agencies, including the City of Los Angeles Department of Public Works, a department within the Bureau of Engineering (BOE), the project will be required to obtain permits to connect to the City's sewer system. According to BOE, in order to connect a property to the sewer system, any required easement and sewer capacity must be ready for the project. In addition, adequate fees must be included in the Sewer Facilities Charge (SFC), which must be paid prior to a permit being issued. According to the BOE website the Sewer Facilities Charge is collected to pay for sewer infrastructure improvements. The SFC is based upon the volume of flow and the strength (or quality) of sewage discharged into the City's sewer system. The

SFC is due when construction and use triggers a net increase in flow and or sewage strength. The SFC is tied to individual parcels of land and is based on improvements to each parcel. SFC fees are calculated based on the proposed new building use and area. Therefore, the proposed project will likely entail upgrades to the existing sewer system in order to accommodate the net addition of new units and floor area to the project parcels.

**2. Appeal Point:**

The block suffers from frequent flooding when it rains due to inadequate stormwater drainage.

**Staff Response:**

The condition of the existing storm drain system is not an impact of the proposed project. As part of its compliance with the conditions of development imposed upon the project by various agencies, including LA Sanitation and Environment (LASAN), the project will be required to submit design plans to LA Department of Building and Safety (LADBS) for review and approval prior to issuance of building/grading permits. LADBS determines if the project requires stormwater mitigation measures and refers applicable projects to Water and Power Department for review and approval. LADBS issues the applicant a "Clearance Worksheet" that identifies all of the outstanding approvals from City agencies. A building/grading permit will be issued once all corrections have been completed and clearances are obtained, including for stormwater requirements." As part of this permitting process, the project will have to show compliance with LASAN's requirements for Low Impact Development (LID). LID is a stormwater management strategy that seeks to mitigate the impacts of increases in runoff and stormwater pollution as close to its source as possible. LID comprises a set of site design approaches and Best Management Practices (BMPs) that promote the use of natural systems for infiltration, evapotranspiration, and use of stormwater. These LID practices can effectively remove nutrients, bacteria, and metals from stormwater while reducing the volume and intensity of stormwater flows. Through the use of various infiltration techniques, LID is geared towards minimizing surface area that produces large amounts of runoff and does not allow water to infiltrate into the ground. Where infiltration is infeasible, the use of bioretention, rain gardens, vegetated rooftops, and rain barrels that will store, evaporate, detain, and/or treat runoff can be used. The project integrates several BMPs including Low Impact Development planters and permeable pavement and walkway materials. In total, the project integrates 723 square feet of LID landscape materials which infiltrate via a drywell with a capacity of 437 cubic feet of water. Therefore, the proposed project will not adversely affect the stormwater drainage system in the surrounding area.

**3. Appeal Point:**

Removal of 20 plus mature trees will exacerbate the heat island effect for existing residents.

**Staff Response:**

According to the Non-Protected Tree Report prepared by tree expert Lisa Smith of The Tree Resource, June 20, 2023, there are currently 19 Non-Protected Significant Trees on the property. According to the Arborists' Report (included as Attachment B), "there are NO trees or shrubs on this property that would be considered protected within the City of Los Angeles Native Tree Protection Ordinance." The Arborist also inspected neighboring properties to confirm that there are no protected tree species that are adjacent to the construction zone or in areas of impact. All 19 trees will be removed and replaced as part of the project. Two street trees in front of the project site will also need to be removed to accommodate the street

widening required by BOE. In compliance with Development Condition A.9. a. "Street trees shall be provided to the satisfaction of the Urban Forestry Division." Additionally, according to Development Condition A.9.b. "A permit is required for the removal of any street tree and shall be replaced 2:1 as approved by the Board of Public Works and Urban Forestry Division." Furthermore, removal of street trees requires approval from the Board of Public Works. The project is adding a total of 43 trees where 21 currently exist. Therefore, the project will be in compliance with all City requirements as they pertain to onsite and off-site tree provision and will result in a net increase in onsite and on-street trees. An updated landscape plan (dated 10/26/23) is included as Attachment C.

**4. Appeal Point:**

Kelton Avenue and Regent Street adjacent to the proposed project are some of the narrowest residential streets and lack sidewalks. The current situation already endangers pedestrians and bikers. Adding 43 units will increase vehicular traffic and further endanger current residents' health, safety, and environment.

**Staff Response:**

The City Planning Commission determined that there was no substantial evidence of any insufficiencies in the CEQA Class 32 Exemption and that all of the project's potential environmental impacts have been appropriately analyzed, with the conclusion that the project will not have any significant impacts. The project's traffic impacts were determined to be less-than-significant based on modeling performed by the LA Department of Transportation with their Vehicle Miles Traveled spreadsheet which is contained within the Class 32 analysis. Furthermore, the implementation of dense housing near areas with quality transportation, schools, and employment and recreational resources is correlated with lower vehicle ownership rates which reduces the green gas emissions. Additionally, the project design incorporates several features, including reduced on-site parking supply, unbundled parking, and ample bike parking 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.

**5. Appeal Point:**

Retail capacity on the first level of the building is not compatible within the neighborhood.

**Staff Response:**

The proposed project is a residential building comprised of 43 dwelling units and 33 subterranean and at-grade automobile parking spaces. No commercial uses are planned as part of this project.

**6. Appeal Point:**

The large size of the building will exacerbate already existing adverse safety and health issues in the neighborhood. Appealing On and Off-menu Incentives and Waivers of Development Standards.

**Staff Response:**

Contrary to the Appellant's allegation, the CPC's decision to approve the deviations in height, floor area ratio (FAR), and side yards are not subjective and are consistent with City and State

Density Bonus requirements. Pursuant to LAMC Section 12.22 A.25, the Applicant is permitted to request on-/off-menu incentives and Waivers of Development Standards for a deviation in height, floor area ratio (FAR), and side yards requirements if a proportion of the dwelling units proposed by the Project is set aside for affordable housing and if the decision maker finds that the incentives and waivers are necessary to provide for the affordable housing costs and will not have an adverse impact on public health, safety, the physical environment or on a historic resource. The Project will set aside 11 dwelling units, or 78 percent of the base dwelling units permitted in the RD2-1 and R3-1 Zone, for Very Low Income Households consistent with the State Density Bonus Law and at its meeting of July 27, 2023 the CPC found that the incentives and waivers are necessary to provide for the affordable housing costs and will not have an adverse impact on public health, safety, the physical environment or on a historic resource. As detailed in the Findings section of the Determination Letter.

Therefore, the Project is consistent with City and State Density Bonus Law as approved by the CPC and the approved deviations in height, floor area ratio (FAR), and side yards do not contribute to “extreme massing” as alleged by the Appellant. In addition, the decision of the Los Angeles City Planning Commission related to the Off-Menu Density Bonus Incentive and Waivers of Development Standards are not appealable.

## **7. Appeal Point:**

The project does not conform with the purpose, intent, and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

### **Staff Response:**

The project site is located within the Palms-Mar Vista-Del Rey Community Plan, which is one of 35 Community Plans which together form the land use element of the General Plan. The Community Plan designates the site for Low Medium Residential land uses (corresponding to the R2, RD3, RD4, RZ3, RZ4, RU, RW1 Zones) and Medium Residential land uses (corresponding to the R3 Zone). The project site is zoned RD2-1 and R3-1 and is thus consistent with the existing land use designations. The subject property is located within the boundaries of the West LA TIMP Specific Plan and will be evaluated by LADOT for transportation impact fee assessment prior to receiving building permit clearances. The site is not subject to any other specific plan or community design overlay.

The Housing Element is the City’s blueprint for meeting housing and growth challenges. It identifies the City’s housing conditions and needs, reiterates goals, objectives, and policies that are the foundation of the City’s housing and growth strategy, and provides the array of programs the City has committed to implement to create sustainable, mixed income neighborhoods across the City.

The project provides 43 total units, including 11 units affordable for Very Low Income Households or individuals. In doing so, the project promotes the objectives of the Housing Element by adding to the City’s housing stock and contributing to the need for mixed-income housing. The project site is currently developed with two duplex buildings. The project will expand affordable rental housing while utilizing the property to its full potential, resulting in a net gain of 39 units to the City’s housing stock. It is within close proximity to various major employment (including Sony Pictures Studios in Culver City) and retail centers (along Venice Boulevard and Downtown Culver City), along with several major transportation lines, thereby connecting residents to jobs, amenities, services, and transit.

**Conclusion**

Based on the information in the record and after consideration of the appellants' arguments for appeal, Staff concurs the decision by the City Planning Commission which found that the Project complied with all requirements under the LAMC and CEQA and that there is no substantial evidence that the project would result in a significant effect on the environment. Therefore, it is recommended that the PLUM Committee deny the appeal and reaffirm that the Project is compliant with all requirements under the LAMC and CEQA.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning

A handwritten signature in black ink, appearing to read 'Daphne' or similar, followed by a horizontal flourish.

SOPHIA KIM  
City Planner