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April 15, 2021

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 CLASS 32 CATEGORICAL EXEMPTION ENV-2020-3496-CE FOR PROPERTY LOCATED AT 3001-3009 BEVERLY BOULEVARD WITHIN THE WESTLAKE COMMUNITY PLAN AREA (CF-20-1622)

On October 8, 2020, the Director of Planning issued a Class 32 Categorical Exemption for a Transit Oriented Communities (TOC) Project (City Planning Case No. DIR-2020-3496-TOC) consisting of the demolition of an existing commercial structure, and construction, use, and maintenance of a new six (6)-story apartment building over two (2) floors of parking, located at 3001-3009 Beverly Boulevard. The proposed project includes 46 units of housing, of which one (1) is a manager unit and four (4) are designated for Extremely Low Income Households under the TOC Program. On November 6, 2020, a California Environmental Quality Act (CEQA) appeal was filed for the Categorical Exemption (Case no. ENV-2020-3497-CE), for consideration by the Planning and Land Use Management (PLUM) Committee.

The appeal challenges the Director of Planning's determination that the project is exempt from CEQA pursuant to CEQA Guidelines Article 19, Section 15332, Class 32 and none of the exceptions to a Categorical Exemption applies to the project. The CEQA Guidelines provide that a Class 32 may not be used if any of five (5) exceptions apply: (a) cumulative impacts; (b) significant effect; (c) scenic highways; (d) hazardous waste sites; and (e) historical resources. Specifically, the Appellant states that the Project does not qualify for an exemption due to the cumulative impact and unusual circumstances of other approved housing projects in the vicinity of the project. The significant effect exception states that an exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The appeal also challenges the project's eligibility to request Additional Incentives under the TOC Program.

The Appellant contends that the Cumulative Impact and Significant Effect exceptions under CEQA Guidelines Article 19 Section 15300.2 apply to the proposed project due to the "numerous other approved housing projects in the vicinity of the Project" and an "unusual [...] influx of projects approved and proposed for the area in such a short time span". CEQA Guidelines Section

15300.2(b) states that a categorical exemption is inapplicable “when the cumulative impact of successive projects of the same type in the same place, over time is significant” and CEQA Guidelines Section 15300.2(c) states a categorical exemption is inapplicable “when there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances”. An agency’s determination that a project falls within a categorical exemption includes an implied finding that none of the exceptions identified in the CEQA Guidelines apply. Instead, the burden of proof shifts to the challenging party to produce evidence showing that one of the exceptions applies to take the project out of the exempt category. (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1022-23.)

Here, the Appellant has not met its burden as there is no evidence in the record to conclude that there will be a cumulative adverse impact caused by the proposed project and other projects in this area nor that there are unusual circumstances that would cause adverse significant effect. Speculation that significant cumulative impacts will occur or that unusual circumstances are in place simply because other projects may be approved in the same area is insufficient to trigger this exception and is not evidence that the proposed project will have adverse impacts, significant effect or that the impacts are cumulatively considerable (*Hines v. California Coastal Comm’n* (2010) 186 Cal.App.4th 830, 857). The Appellant has not submitted for the record any substantial evidence to the contrary to validate their assertions that the Cumulative Impact or Significant Effect Exceptions apply. Other than a vague claim that “numerous other approved housing projects in the vicinity of the Project contribute towards significant air quality, traffic and noise impacts”, the Appellant does not state which cumulative effects or unusual circumstances are actually at issue.

As demonstrated in the Justification for the Class 32 Categorical Exemption dated June 15, 2020 (Attachment) the proposed project and other projects in the vicinity are subject to Regulatory Compliance Measures (RCMs) related to air quality, noise, hazardous materials, geology and transportation. Numerous RCMs in the City’s Municipal Code and State law provide requirements for construction activities and ensure impacts from construction related air quality, noise, traffic and parking are less than significant. For example, the South Coast Air Quality Management District (SCAQMD) has District Rules related to dust control during construction, type, and emission of construction vehicles, architectural coating and air pollution. All projects are subject to the City’s Noise Ordinance No 144,331, which regulates construction equipment and maximum noise levels during construction and operation.

Additionally, the appeal points state that the project was granted “unauthorize[d] additional incentives” under the TOC Program. Because the applicant is not an owner or tenant of a property abutting, across the street or alley from, or having a common corner with the subject property, the appellant is not eligible to appeal the TOC Project pursuant to Los Angeles Municipal Code Sections 12.22 A.31€ and 12.22 A.25(g)(2)(i).f. Nonetheless, as a Tier 1 TOC Project, the project is entitled to two Base Incentives and two Additional Incentives. Therefore, the project has not been granted unauthorized Additional Incentives.

The Class 32 Categorical Exemption (CE) and associated justifications analysis address all environmental impacts related to traffic, noise, air quality or water quality and cumulative impacts. Additionally, the project will be required to comply with all state, regional, and local laws as part of regulatory compliance. No other changes are being made. Therefore, the CE adequately address all impacts relative to the proposed project at 3001-3009 Beverly Boulevard.

Sincerely,

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