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August 11, 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:

CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) APPEAL OF CASE NO. ENV-2020-2123-CE-1A, FOR PROPERTY LOCATED AT 1122 W. 30TH STREET; CF 21-0370

The Project includes the construction of a three-story building with two residential units and attached Accessory Dwelling Unit (“ADU”) behind an existing historic single-family dwelling in the North University Park Specific Plan area. The new residential building will be approximately 3,037 square feet and have a maximum building height of 36 feet. The project includes one level of parking consisting of six tandem garage parking spaces with access off the rear alley. The 2,902 square foot single-family dwelling, built in 1902, which will remain in its existing location on the site and will undergo exterior rehabilitation as part of the Project.

On January 7, 2021, the Director of Planning approved Case No. DIR-2020-2122-COA-DRB-SPP for the construction of the Project. The Director determined, under Environmental Case No. ENV-2020-2123-CE that the Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines, Section 15303 (Class 3), Section 15331 (Class 31) and Section 15332 (Class 32), and that there is no substantial evidence demonstrating that an exception to a categorical exemption, pursuant to Section 1500.2, applies.

On January 20, 2021, the Director’s Determination was appealed to the South Los Angeles Area Planning Commission (SLAAPC) by an aggrieved party (James Childs, North University Park Community Association). On March 2, 2021, the South Los Angeles Area Planning Commission conducted a public hearing to consider the appeal under Case No. DIR-2020-2122-COA-DRB-SPP-1A. The SLAAPC denied the appeal with a 4-1 vote, sustaining the Director’s Determination. The Letter of Determination of the SLAAPC was issued on March 17, 2021.

On March 22, 2021, a CEQA appeal was filed by an aggrieved party (James Childs, North University Park Community Association) to the City Council (Case No. ENV-2020-2123-CE-1A). The appeal in its entirety is located within Council File No. 21-0370. This appeal pertains only to the Project’s environmental clearance, as the underlying entitlement (Certificate of Appropriateness and Project Permit Compliance) cannot be further appealed pursuant to Los Angeles Municipal Code (“LAMC”) Sec. 12.20.3.N.

Below is a summary of the appeal points with a staff response to each point. Direct quotes from the appeal are noted in italics. The appeal in its entirety is included in the Council file.

Appeal Point No. 1: The Project does not qualify for a Categorical Exemption.

*I. "The proposed project is not consistent with the Secretary of the Interior's Standards for Rehabilitation and therefore does not qualify for a CE. While it meets **some** of the Standards, it fails to meet ALL the Standards, removing it from the findings made in C. 12.20.3.K.4 (a) of the COA decision adopted by SAPC."*

*II. "Standard #9, New additions, exterior alterations, or related new construction will not destroy historic materials, features, and **spatial relationships that characterize the property.**"*

III. "Nothing in the decision evaluates the setting and spatial relationships in which the historic building is set which contributes to and is part of its character defining features."

IV. "The setting in which the historic building exists is a critical part of its character defining features in this instance, the new construction overwhelms the historic structure resulting in severe and irreparable harm to the historic building."

*V. "As explained in section 8.9 of the University Park Preservation Plan, which is based on and **interprets** the Standards, which guides development north of the project site: "In planning a new addition to an historic house, it is necessary to plan carefully so that you can avoid significantly altering the house's historic character. The impact of an addition on the original building can be significantly diminished by keeping the location and volume of the addition **subordinate to the main structure.** An addition should never overpower the original building through height or size"*

VI. "While a portion of the project may qualify under Class 31, the whole of the project does not fall under this Class of exemption."

Staff Response: The Appellant argues that the subject Project does not qualify for the use of Categorical Exemptions under Class 3, Class 31, and Class 32 because the Project does not adhere to the Secretary of the Interior's Standards for Rehabilitation. The entire Project was analyzed for the purposes of CEQA and was found by the Director and SLAAPC to be eligible for, and conforming with, three classes of Categorical Exemptions (herein, CEs). As outlined in the Justification for Project Exemption, the Project conforms with all of the requirements for a Class 3, Class 31, and Class 32 CE and does not trigger an exception to the use of CEs. The Project was also found to conform with all of the *Standards* as outlined in both the Letter of Determination issued by the Director and the Findings adopted by the SLAAPC.

First, it should be noted that in the Appellant's justification they reference the University Park Preservation Plan guidelines. However, the subject Project is located within the North University Park Specific Plan (herein, Specific Plan), and is subject only to the guidelines included in the Specific Plan as well as the relevant sections of the Los Angeles Municipal Code (herein, LAMC). While the Specific Plan area functions as a historic district, it is not subject to a Historic Preservation Overlay Zone (herein, HPOZ) Preservation Plan, or any guidelines contained within them as the Appellant suggests. The University Park HPOZ is a different geographic area, and utilizes a completely separate set of guidelines for project review.

However, the Project is subject to the Secretary of the Interior's Standards for Rehabilitation (herein "*Standards*"). In particular, the Appellant asserts that the subject Project does not conform with Standard #9. The text of Standard #9 of the *Standards* reads as follows:

"New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment."

The intention of Standard #9 is to ensure that new construction of any kind protects the integrity of existing historic structures through retention of historic materials, differentiation between new and old construction, and overall compatibility of new construction to the historic structure. The Appellant focuses their argument of incompatibility on the fact that the proposed Project will be slightly taller than the adjacent Contributing structure on the site. In doing so, the Appellant misinterprets the broader intent of the North University Park Specific Plan and Standard #9, which is not to prohibit larger development projects, but rather create reasonable expectations for how a development may fit in within the surrounding context.

The Specific Plan guidelines rely upon the *Standards* to evaluate projects, which are written to allow for interpretation of how a project may be compatible within its surrounding context. The Specific Plan regulations do not restrict infill projects to a certain height or number of stories, and are not intended to be a prescriptive process. As evidenced in the Letter of Determination and Findings adopted by the SLAAPC, the Project: does not destroy or materially alter any historic materials or physical characteristics that characterize the property, is located at the rear of the lot behind the Contributing structure to maintain the spatial relationships of the site, and retains the Contributor as the primary structure to preserve the historic spatial hierarchy in relationship to 30th Street.

Additionally, the Appellant claims that there was no evaluation of setting and spatial relationships at the project site, and that the Project will result in irreparable harm to the historic building. As mentioned above, the Project was exhaustively analyzed according to the *Standards* and Specific Plan guidelines in the Letter of Determination, and again at greater length in the SLAAPC Staff Recommendation Report. In this extensive analysis, Planning Staff found that there were no significant effects on the site's character defining features, and that severe or irreparable harm would not occur as a result of the construction of the proposed duplex. The Appellant's assertion that the project was not subject to a thorough evaluation is untrue, and ignores the administrative record in support of the Director's and SLAAPC's determinations.

Despite the Appellant's argument that a project must conform to all of the *Standards*, there is no requirement in the CEQA Guidelines that requires a project to conform with *all* of the *Standards*, but rather CEQA requires analysis on whether a project would adversely impact historical resources. As outlined in the Justification for Project Exemption, the Project does not adversely impact the historic resource on the subject property or the historic district as a whole.

The Appellant also asserts that while a portion of the Project's scope may qualify for a Class 31 exemption, the whole Project does not fall under this class of exemption. The appellant's argument that a Class 31 Categorical Exemption may not cover the entire Project does not indicate that the whole project was not analyzed – the entire Project was analyzed for the

purposes of CEQA and was found to be eligible for, and conforming with, three classes of Categorical Exemptions including Class 31.

Lastly, the appellant argues that a Class 32 Categorical Exemption does not apply because the Project does not meet the exemption criteria, alleging that the Project is inconsistent with applicable general plan policies and zoning designation and regulations, specifically, the North University Park Specific Plan and the *Standards*. The Appellant also claims that a Categorical Exemption is not the appropriate level of environmental review for when there are sensitive issues present. A project qualifies for this CE if it is an infill development meeting the required criteria pursuant to CEQA Guidelines Section 15332 and there is no substantial evidence that an exception to a Categorical Exemption pursuant to CEQA Guidelines, Section 15300.2 applies. The Justification for Project Exemption and SLAAPC found that the Project is categorically exempt under Class 32 because it is characterized as in-fill development meeting the required criteria, and found that the Project does not meet any of the exceptions to the exemptions, as detailed in the response to Appeal Point No. 2.

Appeal Point No. 2: The Project triggers exceptions to the use of Categorical Exemptions.

VII. "The project fails to qualify under Class 32 Infill as it qualifies for an exception to the exemption pursuant to Section 15300.2."

VIII. "A CE should not be issued when there are unusual circumstances creating the reasonable possibility of significant effects; The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a n officially designated scenic highway."

IX. "That there are both unusual circumstances and sensitive issues present in this project is clear; (...) The Specific Plan was created because of the unusual circumstances and sensitive issues in the area, which the SAPC determination so completely ignores."

X. "This decision is contrary to the expressed principles of the South Community Plan which requires:

LU2.1 Quality Design. Seek a high degree of architectural compatibility and landscaping for new infill development, as well as for additions to existing structures, in order to protect the character and scale of existing single family residential neighborhoods.

LU4-1 Architectural Compatibility. Seek a high degree of architectural compatibility and landscaping for new infill development to protect the historical and architectural character and scale of existing residential neighborhoods, including front yard and fence location, design, and materials."

XI. "A third unusual circumstance is the requirements of the Neighborhood Stabilization Ordinance which was adopted due to the over intensification of use for student housing of both new and existing housing stock"

Staff Response: The Appellant contends that a Class 32 Categorical Exemption does not apply to the Project because exceptions to the use of a categorical exemption apply, specifically that the Project will have significant effect on the environment from unusual circumstances and sensitive issues, including impacts to historic resources. The Appellant cites inconsistency with the objectives of the South Los Angeles Community Plan, claiming that the Project would cause irreparable and irreversible harm to historic resources. The

Appellant also asserts that the North University Park-Exposition Park-West Adams Neighborhood Stabilization Overlay District (herein, NSO) constitutes an unusual circumstance, exempting the Project from the use of a CE.

There are six exceptions to the use of a Categorical Exemption under Class 3, 31, and 32 that must be considered under CEQA Guidelines Section 15300.2: (a) Location; (b) Cumulative Impacts; (c) Significant Effect; (d) Scenic Highways; (e) Hazardous Waste Sites; and (f) Historical Resources. The Director and the SLAAPC evaluated all of the potential exceptions to the use of the Categorical Exemptions for the proposed Project and determined that none of the exceptions apply. These exceptions, and the Appellant's claims against them, have been extensively evaluated in the Justification for Project Exemption, Letter of Determination Findings and the Findings adopted by South Los Angeles Area Planning Commission; however, Staff's responses are further clarified below.

- (a) Location – Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located — a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, and officially adopted pursuant to law by federal, state, or local agencies.

The Project is not located on or near an environmental resource that is precisely mapped and officially adopted pursuant to federal, state, or local law. Although the Project is located within the North University Park Specific Plan area, the subject site does not contain habitats or sensitive environmental resources, and there is no substantial evidence that the Project may impact an environmental resource of hazardous or critical concern.

- (b) Cumulative Impacts – All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

There is not a succession of known projects of the same type and in the same place as the subject Project. The Project is subject to citywide Regulatory Compliance Measures, which regulate impacts related to air quality, noise, and geology to a less than significant level. No foreseeable cumulative impacts are expected, and this exception does not apply.

- (c) Significant Effect – A categorical exemption shall not be used for any activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The Project will also not result in a significant effect on the environment due to unusual circumstances, including scenic or historical resources. The Project proposes to construct a duplex with an attached Accessory Dwelling Unit in an area zoned and designated for such development. The project site is located on a parcel with the Low Medium II Residential land use designation of the South Los Angeles Community Plan, with the RD1.5-1-O zoning. The Low Medium II Residential land use designation has corresponding zones of RD1.5, RD2, and RZ2.5. Therefore, the proposed Project is consistent with the zoning and the Community Commercial land use designation, and does not constitute an unusual circumstance.

As previously discussed under Appeal Point 1, the Letter of Determination and SLAAPC Staff Recommendation Report found that the Project complied with the requirements of the North University Park Specific Plan guidelines, all applicable zoning regulations of the South Los

Angeles Community Plan, and all applicable criteria for the Categorical Exemptions applied to the Project. Furthermore, the Appellant has failed to provide any substantial evidence to support their claim that the requirements of the Specific Plan, Community Plan, and NSO are indeed unusual circumstances per CEQA Guidelines. All parcels within the City are located in a Community Plan, contain zoning regulations, and many parcels are also subject to additional overlays or specific plans. This type of targeted zoning regulation is not unusual, and is quite common throughout Los Angeles. The two dwelling units created in the Project have fewer than five habitable rooms, therefore not qualifying as a Project per the NSO's definition. The ADU unit included in the subject Project is exempt from NSO review per CA Govt. Code 65852.2(e)(1)(D) and applicable parts of LAMC 12.22 A.33 (c)-(d), (g). Contrary to the Appellant's assertions, the interior renovation of the Contributing single-family structure on the site is not a part of the scope of the Project, and therefore would not justify NSO review or trigger an exemption from the use of CE. Thus, there are no unusual circumstances which may lead to a significant effect on the environment, and this exception does not apply.

- (d) Scenic Highway – A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.

30th Street is not a state scenic highway, nor a city-designated scenic highway. Therefore, it cannot trigger this exception. The only State Scenic Highway within the City of Los Angeles is the Topanga Canyon State Scenic Highway, State Route 27, which travels through a portion of Topanga State Park. State Route 27 is located approximately 17 miles northwest of the subject site. Therefore, the subject site will not create any impacts within a designated state scenic highway, and this exception does not apply.

- (e) Hazardous Waste Site – A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

According to Envirostor, the State of California's database of Hazardous Waste Sites, neither the subject site, nor any site in the vicinity, is identified as a hazardous waste site. Therefore, this exception does not apply.

- (f) Historical Resources – A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

While the Project site is located in the North University Park Specific Plan area and is considered a Contributor to the historic district, and adjacent to historic resources, the Project will not cause an adverse change in the significance of a historical resource. The Project was reviewed for compliance with the guidelines of the Specific Plan as well as the *Standards* and found to be in compliance with all applicable guidelines and *Standards*, as detailed in the legally mandated findings provided in the Letter of Determination and expanded upon in the SLAAPC Findings. Based on the substantial evidence at hand, the Director, as well as the SLAAPC, concluded that the Project will not result in a substantial adverse change to the district as a historic resource or to the existing Contributing single-family dwelling on site.

As outlined above and in the Justification for Project Exemption, there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies. A project opponent challenging a Categorical Exemption has the burden of producing evidence supporting a claim that an exception applies, and no

such burden has been met. Despite their claims, the Appellant has not prepared an additional assessment or provided substantial evidence that the Project will result in impacts to a historic resource.

Appeal Point No. 3: The Project requires mitigation to reduce the impact on the environment.

XI. "The City Cannot Rely upon a Categorical Exemption When Mitigation is required."

Staff Response: The Project has no significant impacts, meets the criteria for use of a Class 3, Class 31, and Class 32 exemptions, and is not subject to any exceptions to the use of a categorical exemption under CEQA Guidelines Section 15300.2; therefore, there are no Project impacts to be mitigated.

Staff's responses to the Appellant's claims that are not related to environmental review, including issues related to the Design Review Board's failure to establish quorum and ability to make public comment are extensively addressed in the SLAAPC Staff Recommendation Report.

CONCLUSION

Planning Staff recommends that the City Council deny the appeal and determine, based on the whole of the administrative record, that the proposed project is exempt from CEQA pursuant to CEQA Guidelines, Section 15303 (Class 3), Section 15331 (Class 31) and 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.

Sincerely,

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Director of Planning



Ken Bernstein, AICP
Principal City Planner

VPB:KB:SR:DM