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August 24, 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-2019-2894-CE-1A FOR PROPERTY LOCATED AT 831-835 ½ SOUTH WESTLAKE AVENUE WITHIN THE WESTLAKE COMMUNITY PLAN AREA (CF-21-0834)**

On February 19, 2020, the Director of Planning issued a Class 32 Categorical Exemption (Class 32 CE) for a Transit Oriented Communities (TOC) Project (City Planning Case No. DIR-2019-2893-TOC) consisting of the demolition of an existing 17-unit apartment building, and the construction, use, and maintenance of a new seven (7)-story apartment building located at 831-835 ½ South Westlake Avenue. The proposed project includes 79 units, of which six (6) units will be designated for Extremely Low Income Households and six (6) units will be designated for Very Low Income Households under the TOC Program. On March 10, 2020, a California Environmental Quality Act (CEQA) appeal was filed for the Categorical Exemption (Case No. ENV-2019-2894-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 CE 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 of this project and other housing projects proposed in the vicinity of the Project.

The Appellant contends that the cumulative impact exception under CEQA Guidelines Article 19 Section 15300.2 applies, citing a list of 35 "past projects, current projects and future projects that contribute towards the cumulative impacts [...] that must be considered".

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". 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 identified 1 mile radius. Speculation that significant cumulative impacts will occur 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 support their assertions that the cumulative impact exception applies. Other than speculation and an unsubstantiated list of "past projects, current projects, and future projects", the Appellant fails to support its allegations. The appeal also does not state which cumulative effects are at issue.

As demonstrated in the Justification for the Class 32 CE prepared for the Letter of Determination dated February 19, 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.

The Class 32 CE and its written narrative, and the whole of the administrative record, provide substantial evidence that the approval of the proposed infill project will not result in any significant effects relating to traffic, noise, air quality or water quality and none of the exceptions are triggered. As stated above, the project will be required to comply with all state, regional, and local laws under existing RCMs. No other changes are required for this infill project. Therefore, for the reasons stated above, the proposed project at 831-835 ½ South Westlake Avenue properly qualifies for a Class 32 CE.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning

*Debbie Lawrence*  
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Senior City Planner

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