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(213) 978-1300

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EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

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August 26, 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 SUMMARY AND STAFF
RESPONSE. 1447 SOUTH HI POINT STREET; CF 21-0481**

Project Background

The project involves the demolition of an existing single-family residential structure and the construction, use, and maintenance of a new, five-story, multi-family residential building over one level of subterranean parking. The project will contain 20 dwelling units, of which two units will be set aside for Extremely Low Income Households. The proposed building will encompass approximately 20,093 square feet in total building area. The project proposes to provide 24 automobile parking spaces and 22 bicycle parking spaces.

On December 30, 2020, the designee of the Director of Planning issued a Determination for Case No. DIR-2020-2067-TOC, which determined that the project is categorically exempt from CEQA and approved Base and Additional Incentives under the TOC Affordable Housing Incentive Program. As part of the approval, the project was found to be exempt from CEQA pursuant to CEQA Guidelines, Article 19, 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.

On January 13, 2021, within the required 15-day appeal period, five (5) appeals were filed by the following parties: Katelyn Foley; Annette Wong and Brandon Araujo; John Kim; Sarah Reed; and Elaine Johnson, LA GLO Inc. The City Planning Commission unanimously decided to deny the appeal and sustain the Planning Director’s Determination at its meeting on April 8, 2021.

On April 13, 2021, a CEQA appeal was filed by two parties: Annette Wong and Brandon Araujo; and Elaine Johnson, LA GLO Inc. While the underlying entitlement (Transit Oriented Communities) cannot be further appealed, the appellants are challenging the Project’s Class 32 Categorical Exemption status to the City Council, as filed under Council File No. 21-0481.

Staff Recommendation

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted CEQA appeal and sustain the City Planning Commission's determination, based on the whole of the administrative record, that the project is exempt from CEQA pursuant to State CEQA Guidelines, Article 19, Section 15332 (Class 32), and that there is no substantial evidence demonstrating that an exception to the categorical exemption (ENV-2020-2068-CE) pursuant to CEQA Guidelines Section 15300.2 applies.

Appeal Summary

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

1. Appeal Point:

The proposed project is not consistent with the applicable general plan designation, general plan policies or zoning designation because the City erroneously determined that the site qualified as a TOC Tier 3 Affordable Housing Incentive Area. Therefore, the proposed project does not comply with CEQA Guidelines Section 15332(a) and an Environmental Impact Report or Mitigated Negative Declaration must be prepared for the project."

Staff Response:

As stated in the Project's Class 32 Categorical Exemption justification, the proposed project is consistent with its applicable general plan designation, applicable policies, and applicable zoning designations. The subject property is located within the Wilshire Community Plan Area, which designates the subject property with a land use designation of Medium Residential, corresponding to the R3 Zone. The subject property is zoned [Q]R3-1-O and is thus consistent with the existing land use designation. The Project's Tier 3 TOC eligibility was discussed during the first-level appeal before the City Planning Commission and is outside the scope of this current CEQA appeal. Therefore, the Project meets the criteria for a Class 32 Categorical Exemption and there is no evidence submitted to the record to otherwise require an Environmental Impact Report or Mitigated Negative Declaration.

2. Appeal Point:

The proposed project lacks consistency with the site's zoning, specifically the design standards of the Qualified "Q" Condition.

Staff Response:

While the appeal point does not directly relate to the Project's CEQA exemption, staff has prepared a response for the record. The Qualified "Q" Condition pertinent to the project site was established in 1992 under Ordinance No. 168,193 which states: "For any building façade greater than forty (40) feet in length, articulation shall be required for every thirty (30) feet. Minimum depth of modulation of the façade shall be five (5) feet."

The proposed project is in compliance with this design condition, as well as all other conditions required by the Qualified "Q" Condition, through the use of façade breaks, balconies, and exposed corridors. While the width of the proposed building is less than 40 feet, the length of the proposed structure is approximately 155 feet which would require at least five (5) points

at which the façade modulates to a depth of at least five (5) feet. As shown in the floor plans and elevations, the project meets this requirement with the use of façade breaks that are approximately 5 feet 2 inches in depth and exposed balconies, patios, and corridors that are approximately 7 feet in depth. Furthermore, through the requirements of Senate Bill 330 (SB 330), the applicant was required to complete the Preliminary Zoning Assessment process with the Department of Building and Safety. This assessment was completed by Kevin Morales on December 18, 2020 confirming compliance with applicable zoning and overlay regulations. Therefore, the project properly meets any applicable design guidelines including the Qualified “Q” Condition zoned on the project site.

3. Appeal Point:

The proposed project lacks consistency with the General Plan and Wilshire Community Plan.

Staff Response:

While the appeal point does not directly relate to the Project’s CEQA exemption, staff has prepared a response for the record. The project site is zoned [Q]R3-1-O and is located in the Wilshire Community Plan area. The project substantially conforms to the policies of the General Plan and Community Plan and complies with all requirements of the underlying zone. The project is located in a substantially developed area improved with a combination of single-family residential, multi-family residential, and commercial uses in the surrounding area. Immediately abutting land uses are zoned [Q]R3-1-O and include three- to four-story multi-family residential buildings and single-family structures. Pico Boulevard, a major commercial corridor, is approximately one block north of the subject property and zoned C4-1-O.

The proposed project also meets the intent of the following Goals, Objectives, and Policies of the Wilshire Community Plan:

Goal 1:	Provide a safe, secure, and high quality residential environment for all economic, age, and ethnic segments of the Wilshire Community.
Policy 1-1.3:	Provide for adequate multi-family residential development.
Objective 1-2:	Reduce vehicular trips and congestion by developing new housing in close proximity to regional and community commercial centers, subway stations and existing bus route stops.
Policy 1-2.1:	Encourage higher density residential uses near major public transportation centers.
Objective 1-4:	Provide affordable housing and increased accessibility to more population segments, especially students, the handicapped and senior citizens.
Policy 1.4-1:	Promote greater individual choice in type, quality, price and location of housing.

The project will result in a net increase of 19 units at the site, locating new, higher density residential near transit lines and neighborhood services. The resulting development will thus be located in a manner that has the potential to reduce vehicular trips thereby implementing the City’s goals in reducing greenhouse gas emissions. The project will also provide a mix of

market rate and affordable units, thereby promoting the provision of adequate housing for all persons relative to income, including students, senior citizens, and persons with disabilities as all new development would require compliance with the Americans with Disabilities Act. The project meets all applicable design guidelines and standards, and is a multi-family development with an appropriate, context-sensitive scale.

The proposed project was properly granted an increase in height and reduction in both side yard setbacks through utilization of TOC Tier 3 Additional Incentives. The project is located within 1,500 feet of a Major Transit Stop and provides at least 10 percent of the total number of dwelling units for Extremely Low Income households, thus qualifying the project to utilize various Additional Incentives. In this case, the Applicant elected to do the following: increase the building height by 22 feet in lieu of the maximum 35 feet otherwise permitted; reduce the required width of two (2) side yard setbacks by 30 percent to provide a minimum setback of 5 feet 8 inches in lieu of the minimum 8 feet otherwise required; and reduce the amount of required open space by a maximum of 25 percent. Additionally, there is a 15-foot step-back requirement and a 15-foot building line, established under Ordinance 125,356, which are being adhered to in compliance with the underlying zoning and requirements of the TOC Guidelines. These provisions result in reduction of building massing and building coverage on the project site.

As such, the proposed project is consistent with the applicable General Plan policies, Community Plan policies, and zoning regulations within the City of Los Angeles.

4. Appeal Point:

The proposed project is not eligible for a Class 32 Categorical Exemption because it relies on mitigation measures for impacts related to noise, air quality, and water quality.

Staff Response:

As detailed in the Project's Class 32 Categorical Exemption justification, a Noise Technical Report and Air Quality Technical Report (prepared by ZMassociates Environmental Corporation on March of 2020) were submitted to the file demonstrating that approval of the project would not result in any significant effects relating to noise and air quality. While these studies do cite the use of Best Management Practices (BMP) and Regulatory Compliance Measures (RCM) in their assessment, the appellant has conflated these with Mitigation Measures which are project-specific measures and programs imposed to address potentially significant impacts. Here, the Appellant has not met its burden, as there is no evidence in the record to conclude that there will be significant environmental impacts caused by the proposed project that requires mitigation measures.

Regarding water quality, there are various RCMs in place across various State and City agencies to reasonably indicate that a 20-unit multi-family apartment development would not cause significant wastewater or sewage impacts. As described in the Project's Class 32 Categorical Exemption narrative, all wastewater from the project would be treated according to requirements of the National Pollutant Discharge Elimination System (NPDES) permit authorized by the Los Angeles Regional Water Quality Control Board (LARWQCB). Additionally, prior to any construction activities, the Project Applicant would be required to coordinate with the City of Los Angeles Bureau of Sanitation (BOS) to determine the exact wastewater conveyance requirements of the proposed project, and any upgrades to the wastewater lines in the vicinity of the project site that are needed to adequately serve the proposed project would be undertaken as part of the project. While the Appellant has cited

statistics from the LADWP's 2017-2018 Water Infrastructure Plan to infer that mainline failures are likely to occur, the Project Applicant has already initiated their Sewage Facilities Assessment as part of their regular plan check process which ensures that there is adequate infrastructure to serve project demand.

In sum, there is no substantial evidence provided demonstrating that the Project entails any significant impacts or mitigation measures related noise, air quality, or water quality which would disqualify the Project from a Class 32 Categorical Exemption.

5. Appeal Point:

The proposed project has potential for significant effects due to unusual circumstances, including the Project's potential traffic issues, the Project's location in a Methane Zone, and the fact that the TOC program was adopted via ballot measure which did not include environmental impact analysis.

Staff Response:

As detailed in the Project's Class 32 Categorical Exemption justification, significant impacts related to traffic are not expected to occur based upon the creation of 19 net new units. Per the Los Angeles Department of Transportation (LADOT) determination dated March 4, 2020 and attached to the subject case file, the proposed project is not required to conduct a vehicle miles traveled (VMT) analysis as the project is beneath LADOT thresholds of significance. As a result, the project does not need to be referred further to LADOT. Regarding the Project's location in a Methane Zone, the Appellant alleges that the Project will require a methane mitigation system because of potential health impacts for future residents. While the City reserves the authority to require such analyses, Division 71 of the Los Angeles Building Code contains a comprehensive list of RCMs intended to regulate methane seepage for projects Citywide. Additionally, the Applicant is in the process of obtaining clearance from the Department of Building and Safety during the regular plan check process which will ensure that conformance to the City's general methane regulations is met. The City allows for developments of this kind in Methane Zones with the proper regulations and, as such, there is no unusual circumstance surrounding the project site's location.

Regarding the Appellant's claim that all TOC projects violate CEQA because the adopted ballot measure did not require environmental impact analysis, case law has demonstrated that if the voters qualify a measure for the ballot and that measure is placed before the voters for approval, then that measure is not subject to CEQA. In *Tuolumne Jobs and Small Business Alliance v. Superior Court*, the Court stated that, "CEQA review is not required before direct adoption of an initiative, just as it is not required before voters adopt an initiative at an election."

As such, there is no substantial evidence provided in the record to demonstrate that an exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2(b) applies.

Conclusion

Based on the information in the record and after consideration of the appellant's arguments for appeal, Staff finds that the Project meets the criteria for a Class 32 Categorical Exemption and that none of the exceptions to a categorical exemption applies. Therefore, it is recommended that the PLUM Committee deny the appeal and affirm that the Project is categorically exempt from CEQA.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

A handwritten signature in black ink, appearing to read "Esther Ahn". The signature is fluid and cursive, with the first name "Esther" and last name "Ahn" clearly distinguishable.

ESTHER AHN
City Planner

HB:EA:bk