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August 27, 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-2020-351-CE FOR PROPERTY LOCATED AT 927-933 SOUTH ARDMORE AVENUE WITHIN THE WILSHIRE COMMUNITY PLAN AREA (CF-21-0527)**

On March 31, 2021, the Director of Planning issued a Class 32 Categorical Exemption for a Transit Oriented Communities (TOC) Project (City Planning Case No. DIR-2020-350-TOC-HCA) consisting of the demolition of an existing single-family dwelling and a multi-family structure, and construction, use, and maintenance of a new seven (7)-story residential structure over one (1)-level of subterranean parking garage, located at 927-933 South Ardmore Avenue. The proposed project includes 54 units of housing, of which six (6) are designated for Extremely Low Income Households under the TOC Program, and 48 market-rate units, two (2) of which are reserved for market rate Rent Stabilization Ordinance units.

On April 30, 2021, a California Environmental Quality Act (CEQA) appeal was filed by an aggrieved party (Margarita Lopez, Coalition for an Equitable Westlake/Macarthur Park, "Appellant") to the City Council (Case Number ENV-2020-351-CE-1A, Council File Number 21-0527) for the Categorical Exemption (Case No. ENV-2020-351-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. The Appellant states that the proposed project does not qualify for a Categorical Exemption due to an exception to the exemption. The Appellant states that the Categorical Exemption does not apply to the proposed project due to cumulative impacts and significant effect and alleges that a mitigated negative declaration or environmental impact report must be conducted. The Appellant lists 45 alleged development projects that are within a one-mile radius of the project site on file with the City from 2017 to the date of the appeal filing.

A local agency's determination that the project falls within a categorical exemption includes an implied finding that none of the exceptions identified in the CEQA Guidelines apply. Instead, the burden shifts to the challenging party to produce evidence showing that one of the exceptions applies to take the project out of the exempt category. (*Berkley Hillside Preservation v. City of Berkley* (2015) 60 Cal.4th 1086; *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 no facts were submitted in the administrative record to conclude that there will be a cumulative impact of successive projects of the same type in the same place, over time that is significant. The cumulative impact exception applies when the environmental impact at issue generally affects the environment in general. Speculation that significant cumulative impacts will occur simply because other development projects may be or were previously approved in the same area is insufficient to trigger this exception. Simply listing other projects occurring in the area that might cause significant cumulative impacts is not evidence that the proposed project will have adverse impacts or that the impacts are cumulatively considerable. (*Hines v. California Coastal Comm'n* (2010) 186 Cal.App.4th 830, 857.)

As demonstrated in the Class 32 Justification for Project Exemption Case No. ENV-2020-351-CE, the proposed project meets all criteria to qualify as an infill site under the Class 32 CEQA Exemption, California Environmental Quality Act & CEQA Guidelines Section 15332. Relevant to this matter, 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." CEQA Guidelines Sections 15065(a)(3) and 15064(h) state that a "cumulatively considerable" impact means that the incremental effects of an individual project are significant when viewed in connection with the effects of other related projects.

The Appellant has submitted no evidence that there will be a cumulative adverse impact and significant effect caused by the proposed project and other projects of the same type in the same place over time that is significant. Moreover, the Appellant does not state which cumulative effects and significant effects are at issue or provide any supporting facts regarding those impacts.

As set forth in the administrative record, the proposed project and other projects in the vicinity area 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 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 Appellant lists 45 projects that are within a one-mile radius, which is equivalent to 5,280 feet. However, Appellant's one-mile radius appears arbitrary and speculative in nature. The radius to be studied depends on the impact at issue. Here, the appellant has not identified which cumulative impacts, e.g., noise, aesthetics, dust, are at issue. Additionally, "in the same place" means the area where a particular project impact will occur, not the environment in general. See *Robinson v. City and County of San Francisco* (2012) 208 Cal.App.4th 950, 958.

In conclusion, the Appellant has failed to provide substantial evidence demonstrating that the Class 32 Categorical Exemption for the Project is deficient. The CEQA Determination includes substantial evidence that the Class 32 Categorical Exemption applies to the proposed project and that no exceptions to the categorical exemption apply. Therefore, the Categorical Exemption

adequately addresses all impacts relative to the proposed project at 927-933 South Ardmore Avenue.

Staff recommends that the PLUM Committee recommend for City Council to **deny** the appeal and **determine** that based on the whole of the administrative record, as supported by the justification prepared and found in the environmental case file, ENV-2020-351-CE, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Class 32, and there is no substantial evidence demonstrating that any exceptions contained in CEQA Guidelines, Section 15300.2 applies.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning

*Deborah Kahen*

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Senior City Planner

VPB:JC:DK:GG:AM