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January 14, 2022

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:

APPEAL OF ENVIRONMENTAL CASE NO. ENV-2020-2165-CE, 825-837 SOUTH HOLT AVENUE; SUPPLEMENTAL COMMENTS; CF 21-0593-S1

In a letter dated December 2, 2021, the Department of City Planning responded to the appeal filed by Daniel Sidis and his representative, Joshua C. Greer, Berger Greer, LLP.

On December 7, 2021, a new representative for the appellant, Jamie T. Hall, Channel Law Group, LLP, submitted additional arguments challenging the validity of the Class 32 Categorical Exemption adopted in conjunction with Case No. ZA-2020-2164-ELD-SPR-1A. As a result, City Planning staff requested that the Planning and Land Use Committee continue the December 7, 2021, hearing to a later date in order to evaluate and respond to those comments.

SUPPLEMENTAL COMMENT SUMMARY

1. **Air Quality. The project's air quality analysis is flawed and the appellant's air quality analysis demonstrates a potentially significant air quality impact and potentially significant health risk impact associated with the project; therefore the project is ineligible to use of the Class 32 CEQA Categorical Exemption.**

- The appellant argues that the project relied upon an incorrect and unsubstantiated air quality model; that the project's air quality assessment fails to adequately evaluate the project's health risk impacts; that the appellant's air quality expert has submitted an analysis indicating a potentially significant air quality impact; and that the appellant's expert indicates that the project will result in a potentially significant health risk assessment. If the project results in a significant effect on air quality, it is ineligible for the Class 32 Categorical Exemption.

On review of the appellant's expert's argument, it became apparent that there was a fundamental misunderstanding on the part of the appellant's expert on how the applicant's air quality modelling was conducted, leading to their conclusions. To their

credit, one of the issues identified did reveal an error in one of the numerical descriptions of the size of the project. On correction of this error and re-analysis, the project still resulted in less than significant impacts.

A more thorough response to this issue is detailed in the applicant's technical response to this comment.

2. **Noise. The project improperly relied upon a mitigation measure to reduce noise impacts as part of their analysis in order to reach the conclusion that the project would result in a less than significant impact; therefore, the project is ineligible to use the Class 32 CEQA Categorical Exemption.**

- The appellant argues that the noise analysis conducted for the construction phase of the project relied upon the use of a construction noise barrier to reduce the construction-related noise impacts on surrounding residential uses. In a later revision of the noise analysis, mention of the construction noise barrier was removed, but the analysis continued to claim credit for its use. Not only is the noise analysis flawed, but use of a mitigation measure to reduce a significant noise impact to a less than significant level makes the project ineligible for a Class 32 CEQA Categorical Exemption.

In a memo dated October 23, 2020, and contained within the administrative record, the applicant indicated that the use of a temporary sound barrier during construction was found to be a requirement for the proposed project, as regulated by the city's Chapter XI Noise Regulations (more specifically, Los Angeles Municipal Code Section 112.05). As such, explicit mention of the use of the device as a *mitigation measure* was removed from a subsequent analysis, but credit for its use within the air quality model was maintained.

A more thorough response to this issue is detailed in the applicant's technical response to this comment.

3. **Cumulative Impact. There is another Eldercare Facility proposed approximately 250 feet away from the project; the city has failed to analyze the cumulative impacts of these two projects.**

- Pursuant to CEQA Section 15300.2(b), the appellant alleges that the Categorical Exemption is invalid because there are cumulative impacts resulting from this project and those associated with another Eldercare Facility approved at 842-847 South Sherbourne Drive (Case No. ZA-2019-7715-ELD).

Analysis submitted by the applicant, dated April 2020 and contained within the administrative record, reviewed and considered the potential for cumulative impacts and concluded that the project resulted in less than significant impacts.

Both the instant project and the project located at 842-847 Sherbourne Drive adopted CEQA Section 15332, Class 32 (In-Fill Development Projects), categorical exemptions for their environmental clearance.

Though the appellant alleges cumulative impacts associated with the development of the two Eldercare facilities, no specific environmental impact is articulated as a result of the alleged cumulative effects of the two projects.

A more thorough response to this issue is detailed in the applicant's technical response to this comment.

Recommendation

The Department of City Planning recommends that the appeal be denied, and that based on the whole of the administrative record, find that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, Class 32 (In-Fill Development Projects), and that there is no substantial evidence demonstrative that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, hazardous waste sites, or historical resources applies.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Jonathan A. Hershey, AICP
Associate Zoning Administrator

VPB:JAH