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April 4, 2022

Via Email

Hon. Chair Marqueece Harris-Dawson
Members of the Planning and Land Use Management (PLUM) Committee
200 N. Spring Street, Rm. 272
Los Angeles, CA 90012
Attn: Leyla Campos, Legis. Asst. (clerk.plumcommittee@lacity.org)

Re: Proposed "Reconsideration" of August 17, 2021 Granting of Appeal of Redevelopment Plan Consistency Determination; **CF 19-1603-S1**; APPEAL ENV-2018-2454-CE-1A; Related Case DIR-2020-4338-RDP, ZA-2018-2453-CU-DB-SPR 806 W. Adams Boulevard and 2810 S. Severance; CEQA Appeal under LAMC Section 197.01

Dear Committee Members:

We write on behalf of the West Adams Heritage Association ("WAHA") and the Adams Severance Coalition ("ASC") ***objecting to the proposed reconsideration of a determination made by this Committee nearly eight months ago*** and in support of the PLUM Committee's recommendation to grant WAHA's and ASC's appeal regarding the above referenced Project. Enclosed please find supplemental comments submitted by WAHA that was prepared in consultation with our firm. In summary, issues for raised by the proposed reconsideration and appeal include:

- The Rules for Conduct of the City Council do not provide any allowance for reconsideration of a determination made by the PLUM Committee. (See Rules 58-74.) Moreover, while Rule 51 does allow for the City Council to reconsider a matter, it may only do so at the next regular hearing. The PLUM Committee made its determination to recommend granting the appeal on August 17, 2021. There has been numerous PLUM Committee meeting since that time. Thus, reconsideration is not allowed and even if it were, it is far too late to do so.

- In a March 31, 2022 submission, the Project applicant attempts to mislead the PLUM Committee by relying on a version of the Housing Accountability Act that did not go into effect until nearly two years after their application was deemed

complete. The deadlines included in the updated statute did not go into effect until January 1, 2020 and do not apply to an application deemed complete in April 2018.

- A final determination in the *WAHA v. City of Los Angeles* litigation has not yet been reached because this matter is on appeal. Moreover, in the trial court litigation, the City relied on the post-approval Redevelopment Plan Consistency determination to ensure that the Project is consistent with the Hoover/Exposition/University Park Redevelopment Plan.

- As the PLUM Committee determined on August 17, 2021, the approval of Redevelopment Plan Consistency cannot rely on a Class 32 categorical exemption, which requires consistency with applicable land use plans, because the Project is inconsistent with the Hoover/Exposition/University Park Redevelopment Plan.

I will be available to address questions you may have at the April 5, 2022 PLUM Committee meeting. Thank you for your time and consideration in this matter.

Sincerely,

Amy Minteer

Enclosures

WAHA
West Adams Heritage Association

Supplemental Submittal By Appellant: ENV-2018-2454-CE-1A; CF 19-1603-SI (Case no. DIR-2020-4338-RDP-1A) April 4, 2022

Honorable Members of the Planning and Land Use Committee of Council:

Facts do matter. It is at the heart of CEQA that facts guide decision making. The PLUM action taken on August 17, 2021, was fact based, as was the August 12 Planning Department Memorandum making specific findings in support of the appeal. There is no reason to change the PLUM position and no reason to reconsider this valid, transparent and community affirming decision.

The reconsideration is not an appropriate action.

"At a regular meeting held on August 17, 2021, the PLUM Committee considered a report from the SLAAPC and a CEQA appeal filed for the property located at 806 West Adams Boulevard. DCP staff provided an overview of the matter. After an opportunity for public comment, and presentations from the Applicant's Representative and Appellant, the Committee recommended to grant the appeal and thereby overturn the determination of the SLAAPC in approving a Categorical Exemption as the environmental clearance for the Redevelopment Plan Project Compliance for the project. **This matter is now submitted to the Council for consideration.** This matter is now submitted to the Council for consideration."

We see no basis for reconsideration by PLUM. There is no new information to alter what was a carefully considered decision to support the appeal by the West Adams Heritage Association and the Adams Severance Coalition. Instead, what has been offered by the applicant and his representatives continues the succession of half-truths that confuse and alter the facts. When confronted with a decision that the developer finds unacceptable, his representatives consistently alter reality.

In a March 31, 2022, a recent submittal by the developer representative, he applies law **that does not apply to this development.** The applicant once again inaccurately claims that Redevelopment Plan Project Compliance is a ministerial approval. This is clearly incorrect, as the City has already determined. A determination of consistency with the Redevelopment Plan requires some subjective determinations by the City, as well as some objective determinations such as the Redevelopment Plan's base density, thus it is a discretionary approval. (CEQA Guidelines, § 15268, subd. (d) ["Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA."].)

The applicant attempts to mislead the City by relying on an inapplicable section of the Housing Accountability Act in support of this claim. The applicant cites to the version of Government Code section 65589.5(j)(2)(B) that is currently in effect, when the applicable statutory provision is the version that was in effect in 2018 when the applicant's application was deemed complete. That version, (see WAHA's submittal of the applicable statutory provisions submitted on April 3) states:

"(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density."

The applicant representative misleads the City by relying on an inapplicable version of the Housing Accountability Act that did not go into effect until January 2020, nearly two years after their application was deemed complete. The version in effect when this project's application was deemed complete does not set a time limit for the City's determination of compliance.

Further Planning in its August 12, 2021 letter was very specific as to not rely on any earlier planning department analysis:

"As discussed below, upon careful consideration of the appellants' points and in review of the entire record, Planning staff has determined that the Project does not qualify for use of the Class 32 Categorical Exemption for the Redevelopment Plan Project Compliance Review. The appeal in

its entirety is located within Council File No.19-1603-S1. Below is a summary of the findings demonstrating that the project is not categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines, section 15332 (Class 32). To the extent any of the analysis in this report appears to conflict with the analysis contained in the Staff Appeal Report dated July 28, 2021, or any other appeal reports contained in the Council File, the analysis in ***this report shall supersede any conflicting analysis in the previous appeal reports*****."**

The misrepresentations of the developer and his representatives have been systemic and enduring. In the presentation the developer made to the Neighborhood Council on January 3, 2019, he asserted that it was a By-Right project and informed those in attendance that categorical exemptions were difficult to overturn.

The applicant also misrepresented or misunderstood the significance of both the Redevelopment Plan and the South Community Plan:

Following its final approval, the Planning Department determined the Project was required to apply for one additional entitlement, a Redevelopment Plan Project Compliance approval, which was required by an ordinance adopted by the City in November 2019 – after the final CPC hearing on the Project's entitlements.[1] Not true. The applicant has been advised of this clearance on numerous occasions. And that there are stated conditions: Redevelopment Plan compliance.

In fact, the requirement for Redevelopment Compliance was noted at the City Planning Commission hearing and was also noted numerous times in public testimony. The Redevelopment Plan compliance had been ignored by the applicant until he belatedly filed for Redevelopment Plan compliance approval in 2021. The required compliance process had no public hearings, a fact which was strongly objected to by stakeholders when the City issued its RDP compliance letter and CE on January 28, 2021. The developers' representation that all of a sudden the City imposed a new entitlement requirement is simply misleading and contrary to the facts.

The developer stated that "the CEQA analysis for our project was previously upheld by the PLUM committee and full City Council in January 2020 on an appeal raising the same arguments as the current appeal. The City is also currently defending this same CEQA analysis in litigation

[1] DLA Piper Andrew Brady letter of June 11, 2021, to SAPC

that followed from that prior approval, and nothing about the project has changed since that time."[2]

Again, an inaccurate and misleading reference ignoring that the fact that current case before you considers the Redevelopment Plan compliance which the "project" case did not. The developer ignores that the Redevelopment Plan compliance had been delayed by his own actions when as the applicant he filed for Redevelopment Plan compliance approval in 2021.

The earlier case – the "project case"- which the developer wishes to bring you back to as "final" did not consider conformance to the Redevelopment Plan which triggers as an overlay that supersedes the LAMC, new requirements not considered in the earlier "project case" and CEQA review.

And the earlier case continues to be on appeal in the courts. The trial court decision which the applicant's representative has submitted to you is **not final but on appeal.** But the trial judge nevertheless understood that while:

The City persuasively argues that conditioning its approval on the CRA/LA approval assures consistency with the Redevelopment Plan because if Real Parties were somehow unable to obtain the CRA/LA approval, the City would not issue a building permit to Real Parties.

The trial court recognized that conditioned approval is not final approval.

Which brings us to the appeal by the West Adams Heritage Association and the Adams Severance Coalition. The appeal is supported by substantial evidence in the record.

We ask you to sustain the appeal before you as PLUM did on August 17, 2021. What happens on this unique 2.8-acre site will affect how University Park is developed for years to come and whether the housing created now and, in the future, will meet the stated objectives of the Redevelopment Plan:

"To make provisions for housing as is required to satisfy the needs and desires of the various age, income, and ethnic groups of the community, maximizing the opportunity for individual choice. To alleviate overcrowded, substandard housing conditions and to

[2] August 17, 2021 Letter to PLUM, from applicant Robert Champion, CEO Champion Real Estate

promote the development of a sufficient number of affordable housing units for low and moderate-income households.

To promote compatible development, with consideration to scale, height, material, architectural quality, and site orientation."

This project fails on every point. As a result, it has environmental impacts and is not CEQA exempt. The purpose of this appeal is to obtain environmental review of a project that can and ought to be mitigated through the environmental process.

There is every reason in the world to sustain our appeal based on the facts. There **is** substantial evidence in the record. How this 2.8 acres site should meet Redevelopment Plan goals that bring social justice to this deemed "blighted" Plan area.

The record shows that substantive arguments have been made by WAHA, the Adams Severance Coalition and numerous other commenters: NANDC (neighborhood council), USC, WARD Economic Development, ACCE, NUPCA, City Living Realty, MSMU, UPAC, SEIU Local 721, the University Park HPOZ, UNIDAD and scores of individual experts and stakeholders that have given factual, eyewitness testimony.

From the beginning of the approval process, we and others have argued that the Redevelopment Plan is an overlay that takes precedence over other City rules (as the Redevelopment Plan clearly states.) Overlays are powerful tools adopted because there are special circumstances that warrant them. (The Hoover - Exposition/University Redevelopment Plan was adopted in 1966 and expires in 2029).

This project does not meet the requirements of the Redevelopment Plan and therefore is not CEQA exempt. The suggestion made on March 31 by the developers representative that Charter provision 245 should have been applied is yet another misleading attempt by the applicant create false procedural barriers to avoid the evaluation under CEQA. This appeal is a CEQA appeal, completely appropriate and justified; absent CEQA approval no RDP project approval is sustained, as the applicant ought to realize.

WAHA and the Adams Severance coalition files this appeal not to prevent development but to seek a higher level of compliance with the Redevelopment Plan and environmental and societal health; WAHA has offered solutions to mitigate the impacts but were rejected. We would like to see housing that meets the needs of all sections of the community, that does not create a podium based, barracks-like seven buildings zin the heart of a historic and diverse community. Ideally, we would like to see a 1/3 affordable housing, 1/3 family housing and 1/3 student housing; a pedestrian friendly design that does not wall itself off from what is a vibrant and diverse community; undergrounding of parking to reduce the mass of the buildings. This is a brief wish list of what might serve as mitigations which a process of environmental review might consider.

We do not understand how the applicant is unwilling to commence environmental review and yet underwrites legal and consultant costs that exceed what an MND would have cost. We ask PLUM to sustain its earlier 4-1 decision. The record shows that this is an exception to an exemption under CEQA. The Project's potential impacts to historic resources, the cumulative impacts of this type of student housing development in the University Park neighborhood and the unusual circumstances of this Project's failure to comply with the Redevelopment Plan, Community Plan and Municipal Code requirements need to be evaluated in the context of the Redevelopment Plan which sets specific standards for development and density bonuses, over and above what is required by the LAMC.

Sincerely,

Jean Frost
For the West Adams Heritage Association and
The Adams Severance Coalition
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