

DEPARTMENT OF
CITY PLANNING
COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

HELEN CAMPBELL
JENNA HORNSTOCK
HELEN LEUNG
YVETTE LOPEZ-LEDESMA
KAREN MACK
DANA M. PERLMAN
RENEE DAKE WILSON

CITY OF LOS ANGELES CALIFORNIA



ERIC GARCETTI
MAYOR

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

VINCENT P. BERTONI, AICP
DIRECTOR

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER
DEPUTY DIRECTOR

June 2, 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:

CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) APPEAL OF CASE NO. ENV-2020-5333-CE, FOR A PROPERTY LOCATED AT 1301-1303 SOUTH ABBOT KINNEY BOULEVARD; CF 21-1478

The project involves the demolition of a one-story single-family dwelling and a one-story duplex, the construction of a new 4,990 square foot, three-story, mixed-use structure with two dwelling units, one Accessory Dwelling Unit (ADU), 1,587 square feet of retail space, and one subterranean parking level (automated parking system) with 13 parking spaces and eight (8) bicycle parking spaces in the single-permit jurisdiction of the Coastal Zone.

On March 22, 2021, the Zoning Administrator approved Case No. ZA-2015-1155-SPP-CDP-MEL-ZV for the construction of the proposed project. The Director determined, under Environmental Case No. ENV-2020-5333-CE that the project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines, Article 19 Sections 15303 (Class 3) and 15332 (Class 32), and that there is no substantial evidence demonstrating that an exception to a categorical exemption, pursuant to Section 15300.2, applies.

On April 5, 2021, the Zoning Administrator’s Determination was appealed to the Area Planning Commission by two separate aggrieved parties (Citizens Preserving Venice and Margaret Molloy). On October 20, 2021, the Area Planning Commission conducted a public hearing to consider the appeal under Case No. ZA-2015-1155-SPP-CDP-MEL-ZV-1A. The Area Planning Commission denied the appeal with a 3-2 vote. The Letter of Determination of the Area Planning Commission was issued on November 9, 2021.

On November 23, 2021, a CEQA appeal was filed by an aggrieved party (Citizens Preserving Venice) to the City Council (Case No. ENV-2020-5333-CE-1A). The appeal in its entirety is located within Council File 21-1478. Below is a summary of the appeal points with a staff response to each point.

APPEAL ANALYSIS

Appeal Point 1: *The Project Does NOT Qualify for Class 32 Categorical Exemption: Details of where the project is inconsistent with applicable zoning designation and regulations.*

Staff Response:

A Class 32 categorical exemption is the categorical exemption for in-fill development for projects meeting certain conditions. As detailed in the Zoning Administrator's Determination, the Area Planning Commission's Determination, Appeal Recommendation Report to the West Los Angeles Area Planning Commission dated October 20, 2021, and the rest of the administrative record, the City has provided substantial evidence to support its determination that the Project is exempt from CEQA pursuant to CEQA Guidelines, 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.

A project qualifies for a Class 32 (In-fill Development) Categorical Exemption if it is developed on an in-fill site and meets the following five criteria: a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations; b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) the project site has no value as habitat for endangered, rare or threatened species; d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and e) the site can be adequately served by all required utilities and public services. The project qualifies for a Class 32 Categorical Exemption (In-fill Development) as an infill project. The Appellant's arguments focus on the City's analysis of Class 32 finding (a), that "the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations." None of the Appellant's appeal points challenge the adequacy of the City's analysis of Class 32 findings (b), (c), (d) or (e).

As discussed therein, the Project substantially complies with the applicable regulations, findings, standards, and provisions including the Venice Coastal Zone Specific Plan; the California Coastal Act and the related certified Venice Land use Plan; the Mello Act and the related City of Los Angeles Interim Mello Act Compliance Administrative Procedures (IAP); and Los Angeles Municipal Code Section 12.27. Here, the Appellant has not provided any evidence to support its implied claim that the City has erred or abused its discretion by making this determination.

The Appellant contends that the proposed project is in *violation of the Venice Coastal Zone Specific Plan Ordinance No. 175,693, LAMC 11.5.7*. As detailed in the Zoning Administrator's Determination, the Area Planning Commission's Determination, Appeal Recommendation Report to the West Los Angeles Area Planning Commission dated October 20, 2021, and the rest of the administrative record, the proposed project is consistent with the General Land Use and Development Regulations (Section 9) and Land Use and Development Regulations for Subareas (Section 10.F). In addition, as discussed in Finding No. 1 of the Zoning Administrator's Determination, the Area Planning Commission Determination, in the Staff Response to Appeal Point No. 1-3 in the Appeal Recommendation Report to the West Los Angeles Area Planning Commission dated October 20, 2021, the proposed structure is consistent and visually compatible with the area and deemed not to have a significant impact on the integrity of the neighborhood. Here, the Appellant has not provided any evidence to support its implied claim that the City has erred or abused its discretion by making this determination.

Further the Appellant contends that *the Coastal Development Permit Was Approved in Error and Constituted an Abuse of Discretion*. As detailed in the Zoning Administrator's Determination, the Area Planning Commission's Determination, in the Staff Response to Appeal Point No. 1-2 in the Appeal Recommendation Report to the West Los Angeles Area Planning Commission dated October 20, 2021, and the rest of the administrative record, the proposed project is consistent with the Special Coastal Community status for Venice by directing new growth to areas that can accommodate new housing, and the proposed project will not result in adverse cumulative effect because the certified Land Use Plan anticipates and encourages the intensification of these commercially zoned lots. Here, the Appellant has not provided any evidence to support its implied claim that the City has erred or abused its discretion by making this determination.

Further the Appellant contends that the *Mello Act Compliance Review is in error*. As detailed in the Zoning Administrator's Determination, the Area Planning Commission's Determination, in the Staff Response to Appeal Point No. 1-1 in the Appeal Recommendation Report to the West Los Angeles Area Planning Commission dated October 20, 2021, and the rest of the administrative record, the project is consistent with the applicable provisions of the Mello Act and IAP. The Appellant does not provide substantial evidence to support their claim that the Area Planning Commission erred or abused its discretion and substantial evidence supports the Mello Act Compliance Review findings. Here, the Appellant has not provided any evidence to support its implied claim that the City has erred or abused its discretion by making this determination.

Lastly, the Appellant contends the *violation of LAMC Section 12.27, a Zone Variance to remove the requirement for an onsite loading zone as required by LAMC Section 12.21.C.6*. As detailed in the Zoning Administrator's Determination, the Area Planning Commission's Determination, and the rest of the administrative record, the project site has special circumstances applicable to the subject property including lot size for granting the Zone Variance. Here, the Appellant has not provided any evidence to support its implied claim that the City has erred or abused its discretion by making this determination.

Therefore, the City has provided substantial evidence to support its determination that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332 (Class 32).

Appeal Point 2: *The project qualifies for a CEQA Guidelines Section 15300.2 exception to the CE.*

Staff Response:

The Appellant contends that *the proposed project may not be eligible for a CE pursuant to CEQA Guidelines Section 15300(b) due to the potential for cumulative impacts on the designation of Venice as a Special Coastal Community and due to the impacts on existing affordable housing and displacement of existing residents*. As detailed in the Zoning Administrator's Determination, the Area Planning Commission's Determination, in the Staff Response to Appeal Point No. 1-2 in the Appeal Recommendation Report to the West Los Angeles Area Planning Commission dated October 20, 2021 and the rest of the administrative record, the project is consistent with the type of development permitted for the area zoned C2-1 and designated Community Commercial use. The proposed demolition of a one-story single-family dwelling and a one-story duplex, and the construction of a new 4,990 square foot three-story mixed-use structure will not exceed thresholds identified for impacts to the area (i.e. traffic, noise, etc.) and will not result in significant cumulative impacts. In addition, the consideration of whether a project will have significant adverse effects, either individually or cumulatively, on coastal resources is given if the proposed project is located in an area not able to accommodate it. The neighborhood and properties immediately surrounding the property are zoned C2-1-O-CA and RD1.5-1 and developed with one-story to three-story

commercial structures on Abbot Kinney Boulevard and one-story to three-story residential structures in the neighborhood across Electric Avenue. As provided in the Zoning Administrator's Determination, a review of similar projects proximate to the site showed the following projects had been approved:

- DIR-2015-2998-CDP-SPP-MEL (1519-1525 Abbot Kinney Boulevard) – A three-story, 9,672.5 square-foot, mixed-use development consisting of two artist-in-residence units, 1,899 square feet of ground-floor retail use, and a 1,124.6 square-foot ground-floor restaurant comprised of 474 square feet of Service Floor Area including grading and excavation for a subterranean parking level.
- DIR-2017-3765-CDP-SPP-MEL, ZA-2017-4360-CUB & VTT-77196 (825 Hampton Drive) – A three-story, 23,950 square-foot, mixed-use development comprised of eight Artist-in-Residence dwelling units (eight residential condominium units) and 8,508 square-feet of ground Floor commercial uses (eight commercial condominium units) consisting of 2,365 square feet of retail use, 2,590 square feet of fitness use, and a 3,553 square-foot restaurant use having 1,210 square feet of interior Service Floor area and 90 square feet of exterior Service Floor area providing 86 parking spaces within three levels of subterranean parking.
- DIR-2019-1133-TOC-CDO (1808 Lincoln Boulevard) -- A five-story, 39,245 square-foot, mixed-use structure over two levels of subterranean parking, 4,548 square feet of commercial use, and a total of 50 dwelling units, reserving 5 dwelling units (10 percent of the total units) for Extremely Low-Income Households providing 57 vehicular parking spaces and 53 bicycle parking spaces (45 long-term, 8 short-term).

As disclosed above, there is a succession of projects of the same type proximate to the site. These projects qualified for categorical exemptions from CEQA due to their location on infill sites. Additionally, there is no evidence in the file (including in any technical studies) that there is a foreseeable cumulative significant impact from these projects in an any impact category. Therefore, in conjunction with citywide RCMs and compliance with other applicable regulations, no foreseeable cumulative impacts are expected. The Appellant has not provided substantial evidence to support its implied claim that the City has erred or abused its discretion by making this determination.

The Appellant contends that *Unusual Circumstances Preclude Usage of Class 32 Exemption*. The Appellant argues that the replacement of the residential structures with a mixed-use structure is a violation of the City's Interim Administrative Procedures for Complying with the Mello Act (IAP) and thus provides the basis for determining an unusual circumstance exists. As detailed in the Zoning Administrator's Determination, the Area Planning Commission Determination, in the Staff Response to Appeal Point No. 1-2 in Appeal Recommendation Report to the West Los Angeles Area Planning Commission dated October 20, 2021, and the rest of the administrative record, the proposed project consists of work typical to mixed use development, no unusual circumstances are present or foreseeable.

The Appellant further argues that an unusual circumstance exists because the property and existing structures are located on Abbot Kinney Boulevard, in an area identified as a Historic and Cultural Landmark. Abbot Kinney Boulevard is identified in SurveyLA (2015) as "Abbot Kinney Boulevard Commercial Planning District" but is identified with a California Historic Resources Status Code of 6LQ which states provides the structure/area is "Not eligible: Area determined ineligible for district designation through SurveyLA; neighborhood or area may warrant special consideration for local planning." As such, the proposed project will not impact any historic

resources. Here, the Appellant has not provided substantial evidence to support its implied claim that the City has erred or abused its discretion by making this determination.

The City's determination that the Project falls within the Class 32 categorical exemption also includes findings that demonstrate that none of the exceptions identified in the CEQA Guidelines apply. Here, the burden shifts to the challenging party to produce substantial evidence showing that one of the exceptions applies to take the Project out of the exempt category. Again, the Appellant has not met its burden as there is no evidence in the record to conclude that any of the exceptions otherwise apply. Argument, speculation, unsubstantiated opinion, or narrative does not constitute substantial evidence.

RECOMMENDATION

Staff recommends that the PLUM Committee recommend for City Council to deny the appeal and determine, based on the whole of the administrative record, as supported by the justification found and prepared in the environmental case file, ENV-2020-5333-CE and as based on above, the project is exempt from CEQA pursuant to CEQA Guidelines, Section 15303 (Class 3), and 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.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning


Juliet Oh
Senior City Planner

VPB:JO:EG:IB