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VIA EMAIL

Planning and Land Use Management Committee
Los Angeles City Council
200 N. Spring Street
Los Angeles, CA, 90012

Re: Denial of Appeal - Case Nos. CEQA No. ENV-2021-9707-CE; DIR-2021-9706-TOC-HCA Council File No 22-0485

Dear Honorable Chair Harris-Dawson:

We are writing on behalf of our client, Berendo Los Angeles Apartments, LLC (“Berendo”), who proposes to develop 77 multifamily residential units, including eight units affordable to Extremely Low-Income Households, 39 parking spaces, 65 bicycle spaces and 6,055 square feet (“sf”) of open space (“Project”) at 950-960 1/2 South Berendo Street (“Site”) in the City of Los Angeles (“City”). The Director of the Department of City Planning (“DCP”) approved the Project on March 24, 2022. No appeals were filed challenging the Transit Oriented Communities (“TOC”) Additional Incentives, however, the Class 32 Categorical Exemption (“Class 32 CE”) was appealed to the City Council pursuant to LAMC Section 11.5.13 and California Public Resources Code Section (“PRC”) 21151(c) by the Coalition for an Equitable Westlake/Macarthur Park (“Coalition”) on April 21, 2022 (“Appeal”).

As detailed herein, the Appeal is entirely speculative, based on flawed assumptions and unsupported by either facts or evidence. In the March 24, 2022 letter of determination (“LOD”) approving the Project, the Director substantiated all required findings, including that the Project qualifies for a Class 32 CE under the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*) (“CEQA”) and is not subject to any of the exceptions to the use of Categorical Exemptions. (14 Cal. Code Regs. §§ 15332, 15300.2.) The Appeal presents no evidence of any unusual circumstances or environmental impacts resulting from the Project, including cumulative impacts. Accordingly, we respectfully request that the Planning and Land Use Management Committee deny the Appeal.

I. The Project’s Class 32 CE Findings Are Supported By Substantial Evidence.

The Appeal states that the City must demonstrate that the Project will not result in any significant impacts related to traffic, air quality, noise, or water quality, but does not specify any potential impact or any special/unique circumstances that could contribute to a potential impact. The Appeal merely states that the declining public transit ridership due to the Covid-19 pandemic should be taken into account without identifying any error or resulting impact. The Appeal also provides a list of

allegedly related projects in the Site's vicinity that should be taken into account under the Project's cumulative analysis, but does not expand or provide any actual evidence regarding how the listed projects might, in conjunction with the proposed Project, result in any cumulative impacts.

The Project LOD and Class 32 CE justification document dated March 23, 2023 ("Class 32 CE Justification") contain extensive findings the Project meets all criteria for the Class 32 CE under CEQA Guidelines Section 15332 without triggering any of the exceptions under CEQA Guidelines Section 15300.2. The Project's Class 32 CE Justification incorporates technical studies prepared by qualified and credible experts demonstrating that the Project will have no significant impacts on traffic, noise, air quality, or water quality, nor will it result in any cumulative impacts. The following additional information is submitted for the record to further address the Appeal and provide specific responses to each issue raised.

A. The Project Will Not Result In Significant Impacts Related To Traffic, Air Quality, Noise, Or Water Quality.

The Appeal relies on speculative, unsubstantiated, and generalized assumptions, and provides no evidence whatsoever that the Project would result in any significant impacts related to traffic, noise, air quality, or water quality. To the contrary, the record supports the Project's eligibility for a Class 32 CE.

Overland Traffic Consultants, Inc ("Overland") prepared a Transportation Assessment ("TA") for the Project, dated December 2021. The City Department of Transportation ("LADOT") concurred in a letter dated January 5, 2022 that the Project will not have a significant transportation impact. Although the Appeal does not specifically identify any project-level traffic impacts, Overland prepared a letter dated June 28, 2022 to address the Appeal ("Overland Supplemental Response"). (See **Attachment A**, Overland Supplemental Response.) The Overland Supplemental Response further confirms and supports the TA conclusions that the Project: (i) does not conflict with City plans, programs, ordinances or policies as it relates to vehicular, transit, bicycle and pedestrian facilities; (ii) has a less than significant VMT impact and is deemed to be consistent with the Southern California Association of Government ("SCAG") Regional Transportation Plan/ Sustainable Communities Strategy ("RTP/SCS"); and (iii) does not create any hazards due to geometric design features or incompatible uses.

The Appeal does not present any evidence of any project-level transportation impact, except to suggest pre-Covid-19 pandemic public transit ridership levels should not be relied upon for any impact conclusion. The Project site is located within 1/2 mile of the intersection of Metro Rapid Bus Lines 728 and 754, which qualifies as a Major Transit Stop. As demonstrated in the findings in the LOD and the Class 32 CE Justification, the Project is located in a transit-rich environment served by multiple high frequency bus lines and high-quality transit corridors, and within a Transit Priority Area. The Project is an approximately 750 feet from the intersection of Olympic Boulevard and Vermont Avenue where several bus lines stop, including Metro lines 204 (runs north/south from Silverlake to South Los Angeles), 28 (runs east/west from Downtown Los Angeles to Century City), and Rapid 754 (runs north/south from Silver Lake to South Los Angeles), as well as LADOT Dash bus line Wilshire Center/Koreatown (runs in loop around Koreatown and Wilshire Center). Additionally, the Project is located close to the Metro Wilshire/Vermont station with access to the Red Line (runs northeast/southeast from Downtown Los Angeles to North Hollywood) and the Purple Line (runs east/west from Downtown Los Angeles to

Koreatown), providing robust public transportation options around the Site with access to throughout greater Los Angeles. The proposed Project places market rate and affordable units in close proximity to multiple transit options thereby reducing vehicle miles traveled (VMT) and promoting various key mobility and land use planning goals. Thus, the Project will not result in any significant impacts to transportation and traffic.

Douglas Kim & Associates, LLC (“DKA”) also prepared an air quality and noise analysis for the Project in November 2021. Again, although the Appeal does not specifically identify any project-level noise or air quality impacts, DKA prepared a memorandum dated June 12, 2022 to address the Appeal (“DKA Supplemental Response”). (See **Attachment B**, DKA Supplemental Response.) The findings in the Class 32 CE Justification and the original DKA analyses demonstrate, and the DKA Supplemental Response further confirms, that with compliance with existing City regulations (i.e., LAMC Sections , 41.40, 112.02 and 112.05) construction and operational noise impacts would be less than significant. Furthermore, after compliance with regulatory requirements and adherence to industry best practices, project-related daily emissions would not exceed any regional significance thresholds for criteria pollutants, localized air quality impacts from Project activities on the offsite sensitive receptors would be less than significant, and the Project will not result in any odor related impacts. Therefore, the Project will not result in any significant impacts to noise and air quality.

Finally, with regards to water quality, as stated in the Class 32 CE Justification, the development of the Project is not adjacent to any water sources and will comply with the City’s stormwater management provision under LAMC Section 64.70. Thus, the record demonstrates the Project would not result in any significant water quality impacts.

B. The Project Will Not Result in Any Cumulative Impacts.

The Appeal identifies 17 projects that are supposedly within “0.06 miles”¹ of the Site and alleges that these projects would contribute to the Project’s cumulative impacts without providing any specific information or evidence regarding such impacts. First, these projects are not all related projects that must be considered in the Project’s cumulative analyses. The Class 32 CE Justification relied on City guidance to define the radius considered for each impact area, which resulted in the identification of 14 related projects, only one of which is located within 1,000 feet of the Project Site (966 South Dewey Avenue). Overland and DKA have both reviewed and addressed the list in the Overland Supplemental Response and the DKA Supplemental Response and found no potentially significant cumulative impacts resulting from the Project (even assuming all 17 identified developments are considered related projects). (See **Attachments A** and **B**.)

The Appeal lists related projects ranging from 0.3 miles (1,584 feet) to 0.6 miles (3,168 feet) away from the Site. Regarding the potential for noise impacts, the DKA Supplemental Response notes that:

“These locations are too distant to substantially impact the cumulative construction noise from multiple projects, as noise attenuates with distance, with a reduction of about 6 dB per doubling

¹ We believe the Appeal includes a typographical error as the letter states the 17 projects are within 0.06 miles of the Project, but the table provided in the letter identifies distances between 0.3 and 0.6 miles from the Project site. We therefore assume the Appeal intended to state within 0.6 miles of the Project site, not 0.06 miles.

of distance... [and] construction noise from all of the 17 project locations would be further attenuated with the presence of intervening structures.”

Further, because the 17 identified projects are all 0.3 miles and more from the Project site, cumulative traffic from these potential developments would be distributed onto local roads, collectors, and arterials ensuring that traffic volumes on any roadways would not produce a doubling of traffic volumes needed to elevate traffic noise by 3 dBA, let alone the 5 dBA threshold of significance for cumulative traffic noise impacts. Therefore, the Project does not have any cumulative impacts related to either construction or traffic related noise.

With regard to cumulative air quality impacts, the DKA Supplemental Response emphasizes that the South Coast Air Quality Management District (“SCAQMD”) 2003 White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution stated that “projects that do not exceed the project-specific thresholds are not considered to be cumulatively significant.” Accordingly, the Class 32 CE Justification properly focuses on the Project’s regional and localized air quality impacts that also demonstrate the Project would not result in cumulatively considerable air quality impacts. Including additional projects to the list of related projects does not change that conclusion, and the Appeal does not provide any evidence to the contrary. Therefore, the Project does not have any cumulative impacts related to air quality.

For traffic, LADOT evaluated and confirmed the cumulative analysis through a cumulative consistency check for each of the traffic-related thresholds. (See pages 10, 13 and 14 of the TA.) Further, none of the identified related projects have access points proposed along the same block as the Project (i.e., South Berendo Street between San Marino Street and Olympic Boulevard). Again, the Appeal provides no evidence to the contrary. Therefore, the Project does not result in any transportation related cumulative impacts.

II. Conclusion

The Appeal is based on unsubstantiated claims grounded in mere speculation – with no evidence to suggest any deficiency in the CE Justification. Thus, based on the findings in the LOD and the Class 32 CE Justification, including the technical reports incorporated therein, in addition to the analyses and conclusions in the Overland Supplemental Response and the DKA Supplemental Response, the record clearly demonstrates substantial evidence in support of the Class 32 CE findings. Because the Appeal provides no evidence of any unusual circumstance or particular impact, project-level or cumulative, we respectfully request that the Planning and Land Use Management Committee deny the Appeal on its merits.

Sincerely,

Dave Rand

Dave Rand
Partner
of RAND PASTER & NELSON, LLP

Attachments

cc: Sara Houghton, 360 Consulting
Renata Ooms, Department of City Planning
Jaime Espinoza, Department of City Planning