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August 10, 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 SUMMARY AND STAFF RESPONSE. 9450 North Shirley Avenue; CF 22-0816

Project Background

The project involves the demolition and clearing of the existing single-story commercial building and surface parking lots to the west of the Northridge Fashion Center driveway and the construction of a five-story, 350-unit multifamily residential building located on the northern portion of the subject property and a new six-level, 466-stall above-grade automobile parking garage located on the southern portion of the subject property. The existing Northridge Fashion Center driveway and the surface parking lots to the east of the Northridge Fashion Center driveway will remain. The unit mix for the residential building will consist of 92 studio units, 176 one-bedroom units, and 82 two-bedroom units. The project will contain 309,169 square feet of total floor area with a corresponding Floor Area Ratio of 1.5:1. A total of 224 short and long-term bicycle parking spaces will be provided. Vehicular ingress and egress to the new parking garage will be provided by a relocated two-way driveway on Shirley Avenue. The project will provide 37,300 square of open space which will encompass three courtyards, a roof deck, private balconies and patios, a fitness center, lounge, and club room.

On February 9, 2022, the Director of Planning approved a Site Plan Review for the construction of the proposed project, pursuant to LAMC Section 16.05 (Case No. DIR-2021-7970-SPR-VHCA). Subsequently, an appeal was filed by the Appellants, Andrew Krowne and Jennifer Krowne.

On June 2, 2022, the North Valley Area Planning Commission voted 4-0-1 to deny the appeal and sustain the Director of Planning's decision for the Site Plan Review (Case No. DIR-2021-7970-SPR-VHCA-1A).

On June 23, 2022, the Supporters Alliance for Environmental Responsibility (SAFER) filed an appeal of the CEQA categorical exemption (Class 32) for the project (Case No. ENV-2020-2021-7971-CE). Staff has responded to the appeal points below.

Staff Recommendation

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted CEQA appeal and sustain the North Valley Area Planning Commission's determination, based on the whole of the administrative record, that the project is exempt from CEQA pursuant to State CEQA Guidelines, Section 15332, Article 19 (Class 32), and that there is no substantial evidence demonstrating that the project would result in significant air quality impacts and that the "Unusual Circumstances" exception to the categorical exemption (ENV-2021-7971-CE) pursuant to CEQA Guidelines Section 15300.2 applies. The following statements have been compiled and summarized from the submitted appeal and responded to below.

Appeal Summary

On June 23, 2022, the Appellant (Supporters Alliance for Environmental Responsibility (SAFER)) filed with their Appeal Application an Appeal Justification memorandum outlining the reasons for the appeal. The Appellant refers to an attached comment letter provided by their Representative, Lozeau Drury LLP, dated May 5, 2022. The letter includes expert comments from Certified Industrial Hygienist, Francis Offermann, PE, CIH, and from the environmental consulting firm Soil/Water/Air Protection Enterprise (SWAPE). The Appellant alleges that the City incorrectly applied CEQA's Class 32 (In-Fill Development) Categorical Exemption to the project and thus a full CEQA analysis is required. Based on the provided comment letter there are two specific points at issue: 1) The Class 32 Exemption does not apply on its face as the project would result in significant effects relating to Air Quality; and 2) the "Unusual Circumstances Exception" applies.

Appeal Point #1: The Class 32 Exemption does not apply on its face, as the project would result in significant effects relating to Air Quality

a. The project will have significant Air Quality Impacts.

The Appellant refers to comments from Certified Industrial Hygienist, Francis Offermann, PE, CIH alleging that the project will have significant air quality impacts as a result of formaldehyde emissions, outdoor air ventilation impacts, and an inadequate analysis of PM2.5 concentrations. Mr. Offermann refers to multiple studies and claims that the construction and operation of the project will result in significant cancer risks to future Project residents and employees due to significant concentrations of formaldehyde. Mr. Offermann also contends that the project will require a mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors due to the project site's adjacency to moderate to high traffic that would result in high outdoor noise levels. Mr. Offermann claims that the noise levels measured in the Class 32 Categorical Exemption are lower than pre-pandemic conditions and likely underestimate the existing noise environment. The Appellant also refers to Mr. Offermann's comments regarding the impact of PM2.5 concentrations. Mr. Offermann claims that the Class 32 Categorical Exemption lacks an analysis of indoor and outdoor PM2.5 concentrations and that this analysis is required based on the nearby motor vehicle traffic associated with the project.

In addition, the Appellant refers to comments and analysis provided by Soil/Water/Air Protection Enterprise (SWAPE) alleging that the air quality analysis conducted for the project's Class 32 Categorical Exemption relies on inappropriate usage and inaccurate calculations from the California Emissions Estimator, or CalEEMod. SWAPE contends that changes made to the CalEEMod's default values such as the proposed number of surface parking spaces, individual

construction phase lengths, and acres of grading were unsubstantiated. As such, SWAPE prepared its own CalEEMod analysis for the project and found that the project will result in a significant impact to air quality.

SWAPE also contends that the Class 32 Categorical Exemption failed to evaluate construction and operation-related toxic air contaminants (TACs), including diesel particulate matter (DPM), and conduct a health risk analysis (HRA). SWAPE prepared its own preliminary HRA and determined that the project will result in significant health risk impacts.

Staff Response

According to California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist. (2015), CEQA does not require the evaluation of the impact of the existing environment on future project residents, unless the Project exacerbates the impact. Based on the air quality analysis conducted for the project's Class 32 Categorical Exemption, there is no evidence that there is an existing formaldehyde issue at the project site or that the project would exacerbate any such existing issue. Mr. Offermann's evaluation of formaldehyde impacts, provides no credible evidence that the project will use construction materials that will result in a significant concentration of formaldehyde. The evaluation makes assumptions and speculations about the construction and operation of the project, and inaccurately applies the findings of the 2009 California New Home Study (CNHS) and the Healthy Efficient New Gas Home (HENGH) study to the project. Therefore, Mr. Offermann's evaluation provides no substantial evidence that explains how the project's formaldehyde emissions will result in significant cancer risks to residents and employees.

Mr. Offermann does not establish any CEQA relevance regarding his comments on outdoor air ventilation impact and outdoor noise levels. Mr. Offermann provides no evidence that the noise measurements taken for the Class 32 Categorical Exemption underestimate the existing noise environment and that the project's adjacency to nearby traffic will result in significant health risks. As demonstrated in the noise analysis, the construction and operation of the project will result in a less than significant noise impact. The project will be consistent with the California Building Standards Code, the California Green Building Standards Code, and the Los Angeles Municipal Code. The project will also include mechanical ventilation for all dwelling units and other habitable spaces as required by the City's Building Code requirements.

As mentioned above, CEQA does not require the evaluation of the impact of the existing environment on future project residents unless the Project exacerbates the impact. The air quality analysis conducted for the project's Class 32 Categorical Exemption determined that neither the project's construction nor operation activities will result in PM_{2.5} emissions in excess of SCAQMD's regional or localized thresholds. Since the project will not exceed significance thresholds for PM_{2.5} emissions, further analysis of indoor and outdoor PM_{2.5} emissions is not required.

SWAPE alleges that the air quality analysis conducted for the Class 32 Categorical Exemption is inaccurate as it identifies three factors in the CalEEMod calculations that were modified and unsubstantiated. The CalEEMod allows users to calculate estimated construction and operational emissions based on project-specific details. The air quality analysis conducted for the Class 32 Categorical Exemption replaced default values in the CalEEMod with project-specific values and reasonable assumptions pertaining to the construction and operation of the project. The CalEEMod model and calculations conducted for this project can be found in Appendix D: Air

Quality Modeling Results of the Class 32 Categorical Exemption.

Regarding SWAPE's claim that the project failed to model the proposed number of parking spaces in the CalEEMod, SWAPE's claim is incorrect and a misunderstanding of the project description. The project's CalEEMod calculations accurately accounts for the proposed 466 garage parking spaces, the development of project's new building, and the preparation of the existing parking area to accommodate a portion of the project's parking spaces. The model does not include the 38 parking spaces that are missing in the analysis since these 38 spaces currently exist at the Northridge Fashion Center surface parking lot.

With regards to SWAPE's claim that the project relied on unsubstantiated changes to individual construction phase lengths (demolition, grading, building construction, architectural coating, and paving phases), the project's CalEEMod calculations replaced default values with project-specific values that are aligned with the refinement of the project's construction details, scheduling, phasing, and estimates based on project team members' prior experience with similar projects. The CalEEMod User Guide allows users to override default values if more detailed phase information is known. Therefore, the project's CalEEMod calculations provides a more accurate air quality analysis.

Regarding SWAPE's claim that the project relied on an unsubstantiated reduction to acres of to the Grading Value of the CalEEMod, the project's CalEEMod calculations are based on refinements made to construction details and grading estimates similarly discussed in the paragraph above. The project does not propose any subterranean basement levels that would require substantial excavation and portions of the project site will not be graded at all. Therefore, the default value for grading was reduced to provide a more accurate analysis of the project's air quality impact.

SWAPE's preparation of its own CalEEMod model for the project are based on the alleged claims detailed above regarding surface parking, construction phase lengths, and the Grading Value of the CalEEMod, as well as speculation and assumptions about the construction and operation of the project. As discussed above, these claims are inaccurate and the air quality analysis for the Class 32 Categorical Exemption was appropriately conducted. In addition, SWAPE's CalEEMod analysis erroneously claims that construction-related VOC and NO_x emissions will exceed SCAQMD's significance thresholds and would result in a significant air quality impact. The analysis conducted for the Class 32 Categorical Exemption reported otherwise; construction-related VOC and NO_x emissions did not exceed SCAQMD's significance thresholds. Therefore, the calculations and findings for SWAPE's CalEEMod analysis are erroneous and are not supported by substantial evidence.

The project's Class 32 Categorical Exception properly assessed potential air quality impacts, including toxic air contaminants (TACs) and diesel particulate matter (DPM) pursuant to SCAQMD guidance. The project's air quality analysis concluded that the project's emissions will not exceed any regional or localized SCAQMD thresholds and therefore will not result in health impacts associated with VOC, NO_x, CO, SO_x, and particulate matter, which are inclusive of fugitive dust and exhaust diesel particulate matter. Furthermore, the project does not propose a land use that is associated with substantial TAC emissions such as warehouse distribution or large gas dispensing facility. Additionally, the project is not obligated to conduct a health risk analysis (HRA) under the guidance of SCAQMD. Therefore, project-related emissions of diesel particulate matter were appropriately assessed in the Class 32 Categorical Exemption and will not result in

significant impacts to air quality.

SWAPE's preliminary HRA to assess construction and operation health risk impacts relies on conservative assumptions that overestimate construction emissions and misrepresents the use of age sensitivity factors in its analysis. Therefore, SWAPE's preliminary HRA does not provide substantial evidence which supports its claim that the project would result in significant cancer risks to the surrounding community.

As demonstrated in the Justification for the Class 32 Categorical Exemption and the attached analyses published on January 4, 2022, the Class 32 Categorical Exemption substantially finds that construction and operation impacts associated with the project will have a less than significant impact on the air quality and the preparation of mitigations measures, an Initial Study, Mitigated Negative Declaration, or Environmental Impact Report are not warranted.

b. The project will have a significant health risk impact from Indoor Air Quality Impacts.

Similar to Appeal Point #1, the Appellant refers to comments from Certified Industrial Hygienist, Francis Offermann, PE, CIH claiming that the project will result in result in a significant health risk impact due to significant emissions of formaldehyde, outdoor air ventilation impacts, and an inadequate analysis of PM2.5 concentrations. Particularly regarding indoor air quality impacts, Mr. Offerman claims that indoor formaldehyde concentrations from the construction and operation of the project will result in significant cancer risks to residents and employees. Mr. Offermann also claims that the project will result in a significant health risk impact from outdoor air ventilation based on the project site's adjacency to moderate to high traffic from nearby streets and the project's underestimation of noise measurements. Lastly, Mr. Offerman claims that the project's Class 32 Categorical Exemption neglected the analysis of indoor and outdoor PM 2.5 concentrations as part of its air quality analysis.

Staff Response

Regarding indoor formaldehyde emissions and impacts, Mr. Offermann provides inaccurate statements and speculations in surmising the project's future indoor formaldehyde concentrations and the alleged risk the project may pose to project users. Mr Offermann mischaracterizes the details several studies and makes assumptions about the exposure of formaldehyde to future residents. Based on the air quality analysis conducted for the Class 32 Categorical Exemption, no evidence was found that the project site contained an existing formaldehyde issue or that the project would exacerbate any such existing issue. Therefore, the Appellant provides no substantial evidence that supports Mr. Offermann's claim that the project's indoor formaldehyde concentrations will result in significant cancer risks to residents and employees.

As detailed in Staff Response #1, Mr. Offermann also provides no substantial evidence that suggests that the noise measurements taken for the Class 32 Categorical Exemption underestimate the existing noise environment and that the project's adjacency to nearby traffic will result in significant health risks. The project will be consistent with local and state building standards, and will provide mechanical air ventilation for all dwelling units and habitable spaces with the development of the 350-unit multifamily residential building and parking garage.

An analysis of indoor and outdoor PM2.5 concentrations was not conducted as the Class 32

Categorical Exemption and air quality analysis found that neither the project's construction nor operation activities will result in PM_{2.5} emissions in excess of SCAQMD's regional or localized thresholds. As such, the project will not result in significant health risk impact. The Class 32 Categorical Exemption concluded that the project's PM_{2.5} emissions will not result in a significant air quality impact, therefore further analysis is not required.

The Class 32 Categorical Exemption and air quality analysis substantially finds that the construction and operation of the project will have a less than significant impact on health risk impacts from indoor air quality impacts.

c. The project will have a significant health impact as a result of diesel particulate emissions into the air.

The Appellant refers comments and analysis conducted by SWAPE and contends that the project's Class 32 Categorical Exemption failed to evaluate construction and operation-related toxic air contaminants (TACs), including diesel particulate matter (DPM), and conduct a health risk analysis (HRA).

Staff Response

As demonstrated in Staff's Response to Appeal Point #1, the project's Class 32 Categorical Exemption properly assessed potential air quality impacts, including TACs and DPM pursuant to SCAQMD guidance. The project's air quality analysis concluded that the project's emissions will not exceed any regional or localized SCAQMD thresholds and therefore will not result in health impacts associated with VOC, NOX, CO, SOX, and particulate matter, which are inclusive of fugitive dust and exhaust diesel particulate matter. Furthermore, the project does not propose a land use that is associated with substantial TAC emissions such as warehouse distribution or large gas dispensing facility. The project proposes the development of a 350-unit multifamily and a six-level parking garage. In addition, the project is not obligated to conduct a health risk analysis (HRA) under the guidance of SCAQMD. Therefore, project-related emissions of diesel particulate matter were appropriately assessed in the Class 32 Categorical Exemption and will not result in significant health impacts.

Appeal Point #2: The "Unusual Circumstances" exception applies.

The Appellant cites from Berkeley Hillside Preservation v. City of Berkeley (2015) that the "Unusual Circumstances" exception for categorical exemptions is invoked if "a party may establish an unusual circumstance with evidence that the project will have a significant environmental effect. That evidence, if convincing, necessarily also establishes a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." The Appellant provides comments from Francis Offermann, PE, CIH and SWAPE alleging that the analysis conducted for the Class 32 Categorical Exemption by CAJA Environmental Services, was inaccurate and that the project will result in significant air quality impacts.

Staff's Response

As detailed in Staff's Responses to allegations that the project will have significant air quality impacts and health impacts associated with indoor air quality and diesel particulate emissions, the Appellant has not provided substantial evidence that the project will result in significant air

quality impacts. An agency's determination that a project falls within a categorical exemption includes an implied finding that none of the exceptions identified in the CEQA Guidelines apply. Instead, the burden of proof 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.). The Appellant relies on speculation and assumptions regarding the project's construction and operation and provides no credible evidence that concludes that the air quality analysis conducted for the Class 32 Categorical Exemption is inaccurate. As demonstrated in the Justification for the Class 32 Categorical Exemption and the attached analyses published on January 4, 2022, 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. Therefore, the "Unusual Circumstances" exception to the Class 32 Categorical Exemption does not apply.

Conclusion

Based on the information in the record and after consideration of the appellant's arguments for appeal, Staff determines that the project qualifies for a Class 32 Categorical Exemption. The Appellants presents no substantial evidence demonstrating that the project would result in significant air quality impacts and that the "Unusual Circumstances" exception to the categorical exemption (ENV-2021-7971-CE) applies. Therefore, it is recommended that the PLUM Committee deny the appeals and affirm that the projects are Categorical Exempt from CEQA.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



DAVID WOON
Planning Assistant

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