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Department of City Planning
200 North Spring Street
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APPEAL CONTINUATION

Case No. VTT-83081-SL-HCA-IA

CEQA: ENV-2020-3308-CE

Project Site: 1840-1848 W. Adams Boulevard

CEQA Appeal under LAMC Section 197.01

Dear Members of the Los Angeles City Council and Planning and Land Use Management Committee:

On behalf of the West Adams Neighborhood Association, Greater Page Temple Church of God in Christ and numerous other stakeholders who are aggrieved parties, we do object to and appeal the South Los Angeles Area Planning Commission denial of the appeal and approval Letter of Determination mailing date August 26, 2022, in violation of CEQA.

1. The City and SAPC erred in their determination, based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15332, Class 32. There is substantial evidence demonstrating that an **exception** to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.
2. The City cannot rely on a Categorical Exemption when mitigation measures are required. The South Area Planning Commission conditioned the tract map approval with the mitigation that the developed small lots be for sale, which is an unlawful attempt to mitigate a project in violation of CEQA.
3. Decisions must be fact-based. The statement that "there is no substantial evidence in the record demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines Article 19, 15399.2 applies" contradicts what the administrative record and the testimony at the VTT and SAPC hearings clearly establish.

The **exception** pursuant to CEQA Guidelines 15332 does not apply because **the project falls within the exception** under Section 15300.2.

When one examines the whole of the administrative record it is clear, given *all* the record, a categorical exemption is not the appropriate level of environmental review for a project that is discretionary, is in a historically sensitive environmental located on a scenic highway, and fails to meet objectives of the community plan and the subdivision map act. The project will have a demonstrable significant effect on the environment and does not qualify under Article III, Class 32 exemption.

Substantial Evidence Standard

The record shows that substantive fact-based arguments have been made by an entire phalanx of stakeholders which include city officials and experts, including WANA, NANDC, WAHA, the ACCE, the Greater Page Temple, NUPCA, two former presidents of the neighborhood council, and scores of individual stakeholders that have given factual eyewitness testimony. The City continues to bury its head in the sand and approve what flies in the face of the facts. So often in their rebuttal to the appeal to the SAPC, staff answered questions not asked in the appeal and set arbitrary and capricious standards that do not reflect the thresholds for a CE under CEQA.

Substantial evidence, which is defined in the CEQA statute to mean “facts, reasonable assumptions predicated on facts, and expert opinion supported by facts” (14 CCR Section 15064.7(b)).¹

(a) “Substantial evidence” as used in these (CEQA) guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.²

In the record of this project there is more than what is required to constitute substantial evidence in the record and yet the City continues to look the other way and not look at the facts.

This project **IS an exception to the exemptions**. There ARE unusual circumstances. The site is within *the* historic Charles Victor Hall Tract which is within a character residential Community Plan Implementation Overlay. It is on Adams Boulevard, a City scenic highway. It abuts the historic Greater Page Temple. The circulation and parking issues are exacerbated by the main access being via a 20-foot alley. There are impacts to the surrounding properties and streetscapes.

The Class 32 “Infill” Categorical Exemption (CEQA Guideline Section 15332), hereafter referred to as the Class 32 Exemption, exempts infill development within urbanized areas **if it meets certain criteria. The class consists of environmentally benign infill projects that are consistent with the General Plan and Zoning requirements.** This class is not intended for projects that would result in any significant traffic, noise, air quality, or water quality impacts.

¹ *Thresholds of Significance Topic Paper, Emily Bacchini, Sacramento Municipal Utility District, March 23, 2016*

² *14 CCR § 15384, § 15384. Substantial Evidence.*

A categorical exemption should not be issued when there are sensitive issues and the project fails to comply with the goals of the small lot subdivision, the relevant CPIOs, and the south community stated objectives. To permit a CE in this case would cause irreparable and irreversible harm to the environment.

There are impacts to the surrounding properties and streetscapes and the developer's elevations clearly show this. Yet in its determination letter the City continually opines "there is no substantive evidence."

"15300.2 Classes 3, 4, 5, 6, and 11 are qualified by consideration of **where the project is to be located** – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant."³

The errors proliferate as the City continually asserts in complete denial of the record that there is no substantive evidence in the record. This is simply not true. There **IS** substantial evidence in the record.

City officials and experts, including WANA, NANDC, WAHA, the ACCE, the Greater Page Temple, NUPCA, two former presidents of the neighborhood council, and scores of *individuals, experts* in planning, neighborhood *organizers, stakeholders* have given factual, eyewitness testimony.

The proposed project *and its* 96 bedrooms will have a specific adverse impact on public health and safety and the physical environment which includes the Charles Victor Hall Tract and the historic Greater Page Temple. One needs to understand the context of the neighborhood and how the development of these 2 lots will impact the character defining features of the entire historic neighborhood. What is proposed is defective and creates serious negative impacts by its harmful massing, scale, traffic, circulation, minimal setbacks, and lack of green space. The health and safety impacts of the number of students in 96 bedrooms on 2 subdivided lots will create hazardous conditions of air, traffic and circulation.

This Is Not Aimed at Creating Opportunities for Home Buyers

The fantasy promulgated by the developer that this is a subdivision that creates affordable home buying opportunities is not *supported by* the facts in the record. And the applicant had already opined at the tract map hearing that he was creating co-living spaces. The entire purpose of this subdivision is contrary to the goals of the Small Lot Subdivision Ordinance.

The record shows that what the built form encourages is housing for student and/or single professionals that will be incompatible with its surroundings and disrupt the quality of life for the residents.

Regarding a **similar** student housing project on Adams Boulevard:

"...the Project is likely to accommodate upwards of 800 students. The Project includes 259 on-site parking spaces. **We believe the majority of students living in this project would own cars, based on our experience with students living in off-campus student housing. The cars not parked on-site would need to park in the adjacent neighborhood, materially impacting an already-congested street parking scenario.**"⁴

³ 2019 California Environmental Quality Act (CEQA) Statute and Guidelines

⁴ Letter from Brian League, USC Executive Director, Planning and Land Use, January 10, 2019, to Henry Chu

This analysis also applies to 1840-1848 W Adams. This is an off-campus student housing project that does not meet the goals of the Subdivision Map Act pursuant to state law:

Each subdivision approved must contain a finding that it conforms to both the General, Community, and Specific Plans. It must conform to land use, zoning, circulation, drainage, housing and every other element of the General Plan and/or Specific Plan(s). In addition, any Specific Plans such as the Warner Ranch, Mulholland Scenic Parkway, etc., must be considered and the terms or conditions of subdivision approval must reflect the spirit and intent of the Specific Plans.

The Advisory Agency must make a finding that the proposed subdivision is consistent with applicable general or specific plans. This means that provisions in the district plans, and all other elements of the General Plan must be satisfied. He or she must also find that the tentative map satisfies the seven (7) findings in Section 66474.61 of the California Government Code (Subdivision Map Act). In addition, the provisions in the specific plan, i.e., zoning codes and ordinances, and other, special specific plans adopted by ordinance such as Warner Ranch, Mulholland Scenic Parkway, etc., must also be satisfied.

The Advisory Agency must certify the environmental assessment **before** acting on a tentative tract map. The environmental assessment can range from a general exemption to a full Environmental Impact Report.

Unique circumstances

2.16 Scenic Highways: Ensure that future modifications to any scenic highway do not impact the unique identity or characteristic of that scenic highway. Scenic Highways include many of the City's iconic streets. Preservation and enhancement of these streets and their scenic resources need to be preserved per the Scenic Highways Guidelines in Appendix B of this Plan.⁵

While the record clearly demonstrates impacts, as pointed out by the California Supreme Court in the Berkeley Hillside Preservation case, a party invoking the exception may establish unusual circumstance even without evidence of an environmental effect, by showing that the project has some feature that distinguishes from others in the exempt class such as its size or location. In such a case to render the exception applicable the party need only show a reasonable possibility of a significant effect due to that unusual circumstance.⁶ (Los Angeles Scenic Highways Map below)

⁵ *Mobility Plan 2035, An Element of the General Plan, adopted by City Council 9/7/2016*

⁶ *Berkeley Hillside Pres., supra 60 Cal 4th at p.1105. The California Supreme Court, in Berkeley Hillside Preservation.*



Yet the staff determination evaluates whether a **state** scenic highway is affected. In its clever misuse of a CEQA regulation, they assert a claim we never made yet omit evaluation of impacts on the officially designated City Scenic Highway.

Clearly the case has been made that this is an exception to the exemption and the CE should be rescinded and environmental review commence. The case is replete with facts showing unusual circumstances and illustrating damaging effects; to understand the impacts of ten buildings with 96 bedrooms in this fragile site requires environmental review. There has been none.

The City Cannot Rely on a Categorical Exemption When Mitigation Measures Are Required.

Categorical exemptions cannot be relied upon for projects such as this one where mitigation measures are required.⁷

Here, the South Area Planning Commission acknowledged that the project appeared to be student housing and added a mitigation to the

determination letter's findings that these 10 buildings will be for sale. It underscores that the Commission members had serious concerns about this development and made an effort to mitigate its impact. The entire coy presentation by the applicant that this is giving an opportunity for home ownership simply does not comport to market reality. First time home buyers and families do not look for 9 or 10 bedrooms unless they are running a hotel, bed and breakfast, or student housing. The SAPC relied upon these revisions in determining the Project and CEQA approval.

By definition, a project does not qualify for a categorical exemption unless the agency has determined environmental impacts cannot occur and mitigation measures are unnecessary. Here, the South Area Planning Commission imposed conditions of approval to mitigate the Project's impacts. For this reason, the City cannot rely on a Class 32, or any other, categorical exemption to CEQA review. Environmental review

⁷ *Salmon Protection and Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1191, 1201 [agency may not "evade these standards by evaluating proposed mitigation measures in connection with the significant effect exception to a categorical exemption"]

is required to assess the adequacy of the conditions to mitigate the Project's impacts to a less than significant level.

The Project Would Result in Cumulatively Considerable Impacts

A categorical exemption is "inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." (CEQA Guidelines § 15300.2(b).) The City adopted the NSO for this area to address the negative impacts multi-habitable room projects cause, including traffic impacts due to lack of parking, incompatible character of multi-habitable room projects, impacts to the quality of life for existing residents from noise and traffic. Thus, the NSO acknowledges an existing cumulative impact caused by the type of student housing provided by the Project.

The documented loss of family housing, cumulative demolitions, and the replacement of family housing with student housing monetized by selling beds, has impacts that need to be assessed.

While the CPIO skirts the NSO provisions, it demonstrates again that unusual circumstances apply to this project. The City's response to the Appeal that there is no other subdivision with 500 yards ignores the cumulative effect of student housing, monetizing beds, whether it is a subdivision project or not.

The City's Rebuttals of the Appeal

In an examination of the City's Appeal Points Screen presentations, we *witnessed staff* not answering the questions raised but rather arbitrarily and capriciously sidestepping the appellant arguments distorting the facts and the arguments proffered by the appellant.

For example, Staff Presentation, Appeal Point 3:

Appeal:

The South Community Plan recognizes that this area includes neighborhoods that are unique and historically significant character and this includes provisions specifically to address compatibility of new development with the e existing neighborhood character."

Staff Response:

The project site is not designated as a historic resource by local or state agencies and has not been determined to be eligible for listing on the National Register of Historic Places, the California Register of Historic Resources and the Los Angeles Historic Cultural Monument Register and/or any local register.

The appellant did not argue that it was on any of the listing's staff but rather that the South Los Angeles Plan includes provisions specifically to address compatibility of new development with the existing neighborhood character. The secondary impacts to historic resources adjacent to the site, the Greater Page Temple and the Charles Victor Hall Tract, are never addressed. Staff misrepresented the appellant argument and dismissed it with facts that do not apply.

Again, in slide no.13, the staff explained that the site was not in the Residential CPIO which the appellant never argued. *However*, it is in the Neighborhood Serving Commercial CPIO, and this development is hardly in conformance to the Neighborhood Serving Commercial CPIO goals and intent.

Conclusion: This Is an Exception to an Exemption

The case that this is an Exception pursuant to CEQA Guidelines, Section 15300.2 has been made and this appeal is supported by the facts. We ask that City Council rescind the CE and direct Planning to commence environmental review.

We are concerned residents, business owners, and stakeholders who want to ensure our neighborhood remains an affordable, safe, and family friendly environment for everyone while preserving its historical integrity. I am available by phone and/or a meeting (virtual or in person) if needed to further discuss this matter. I can be reached at Tanishat@wana-la.org or (213) 308-2852. Thank you for taking the time to review our appeal.

Respectfully yours,



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