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VIA PERSONAL DELIVERY

City of Los Angeles
Office of the City Clerk
200N. Spring Street
3rd Floor, Room 395
Los Angeles, CA 90012

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**Re: Appeal of Haul Route Permit and CEQA Environmental Determination for 666
& 672 Walther Way (Board File Number 220042; ENV-2022-267-CE)**

Dear Honorable City Council Members:

This firm represents Friends of Walther Way ("Appellant"). On or about November 15, 2022 the Board of Building and Safety Commissioners ("Board" or "BBSC") approved the haul route permit for 666 and 672 Walther Way. The Board also determined that the project was exempt from the California Environmental Quality Act ("CEQA"). Pursuant to Los Angeles Municipal Code Section 91.7006.7.5 and Public Resources Code Section 21151(c), Friends of Walther Way appeals both the grant of the aforementioned haul route permit and the determination that the project was exempt from CEQA.

The notice required by law was not provided for the haul route hearing pursuant to Los Angeles Municipal Code ("LAMC") Section 91.7006.7.5(b). Additionally, the Board erred in granting the haul route permits because the proposed grading activity will endanger the public health, safety and welfare and denial was therefore mandated pursuant to LAMC Section 91.7006.7.5. The Board also incorrectly determined that the project was exempt from CEQA.

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I. The Project

According to the Justification for Exemption prepared by the City, the Project is described as follows:

Project Description

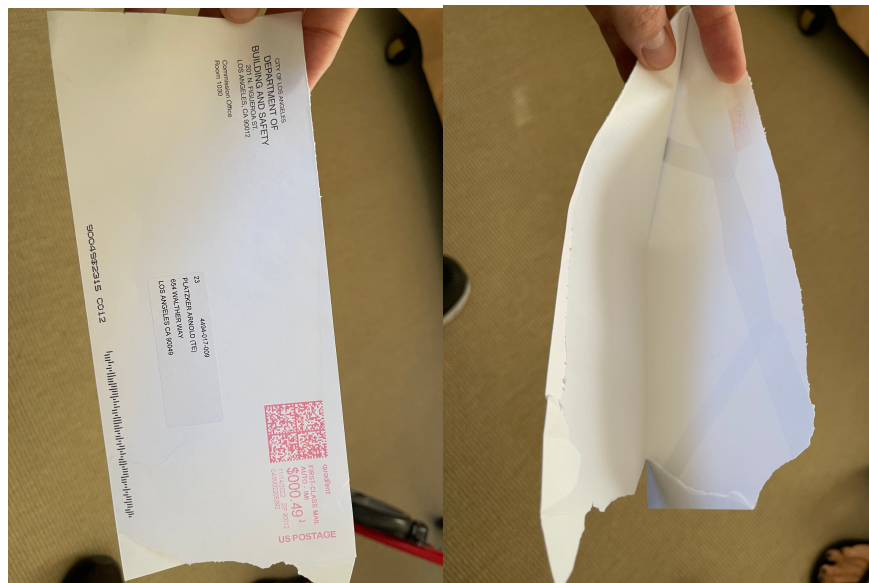
The proposed project is for the demolition of the existing single-family dwelling, attached garage, and swimming pool and the construction of a new two-story 4,690 square-foot single-family dwelling, five-car garage, 5,770 square foot basement, and a swimming pool/spa. The project includes the excavation of approximately 2,550 cubic yards of cut and fill and the export of approximately 2,800 cubic yards of soil. As the construction of a new single-family dwelling with a swimming pool on an infill lot, this Project qualifies for categorical exemptions, pursuant to CEQA Guidelines Section 15301 (Class 1), 15303 (Class 3), and Section 15332 (Class 32).

II. **Failure to Notify Affected Property Owners in Violation of Los Angeles Municipal Code Section 91.7006.7.5(b)**

The City failed to provide the notice required by law. LAMC Section 91.7006.7.5(b) states as follows:

“The Department shall give notice of the time, place and purpose of the hearing as follows: . . . by mailing a written notice at least ten days prior to the date of the hearing to the owner or owners of the property involved, and to the owners of all properties within 300 feet (91 440 mm) of the exterior boundaries of the site for which the grading permit has been requested using, for the purpose of notification, the last known name and address of owners as are shown on the records of the City Engineer or the records of the County Assessor; and (Amended by Ord. No. 181,595, Eff. 4/10/11.)”

The City mailed envelopes to owners within 300 feet of the project site. However, the envelopes were empty. The notice of the public hearing was NOT in the envelope. A picture of one of the envelopes that was delivered without the notice of public hearing is shown below:



As a result, the Board failed to proceed in the manner required by law when they proceeded with the public hearing on November 15, 2022 despite the fact that the required public notices had not been mailed to all owners within 300 feet of the project site. While a few members of the public became aware of the public hearing as a result of the physical notice posted on site, most members of the public had no knowledge of the hearing.

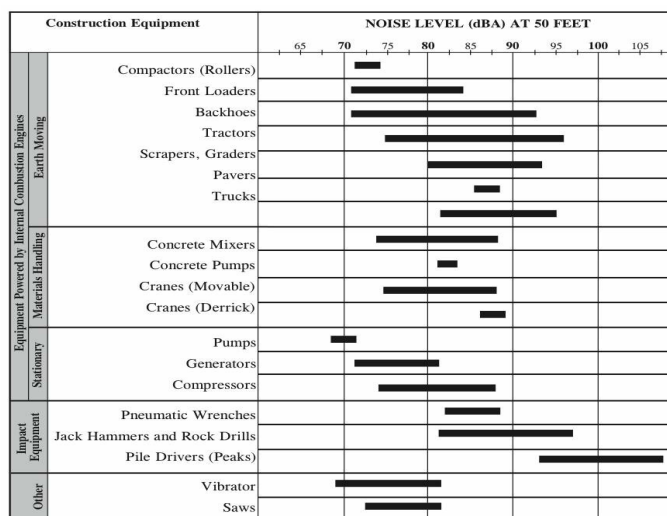
III. The Project Will Have a Significant Effect on the Environment

The City has asserted in the Notice of Exemption (“NOE”) that the project qualifies for a Class 1, Class 3 and Class 32 exemption. However, none of these categorical exemptions are applicable because the Project will have a significant effect on the environment. CEQA Guidelines Section 15300.2(c) states that a “categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” As pointed out by the California Supreme Court in *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105:

“[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 construction activities will exceed the decibel limits established in the City’s Noise Ordinance. No amount of “best management practices” can prevent this.

The project site characteristics, the resulting construction method requirements, and the City’s inadequate noise protections have the potential to result in noise levels in excess of standards established in the City’s General Plan and Municipal Code.. The anticipating construction activity (notably the grading to create a massive 5,770 square foot basement) in close proximity to residences will result in unmitigated construction noise impacts. Typical noise levels for construction equipment are provided in the following table.



Source: EPA PB 206717, Environmental Protection Agency, Dec. 31, 1971, "Noise from Construction Equipment & Operations".

Section 112.05 – Maximum Noise Level of Powered Equipment or Powered Hand Tools (Amended by Ord. No. 161,574) of the City’s Municipal Code specifies:

Between the hours of 7:00 a.m. and 10:00 p.m., in any residential zone of the City or within 500 feet thereof, no person shall operate or cause to be operated any powered equipment or powered hand tool that produces a maximum noise level exceeding the following noise limits at a distance of 50 feet therefrom:

(a) 75dB(A) for construction, industrial, and agricultural machinery including crawler-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, wagons, pavement breakers, compressors and pneumatic or other powered equipment;

(b) 75dB(A) for powered equipment of 20 HP or less intended for infrequent use in residential areas, including chain saws, log chippers and powered hand tools;

(c) 65dB(A) for powered equipment intended for repetitive use in residential areas, including lawn mowers, backpack blowers, small lawn and garden tools and riding tractors;

The noise limits for particular equipment listed above in (a), (b) and (c) shall be deemed to be superseded and replaced by noise limits for such equipment from and after their establishment by final regulations adopted by the Federal Environmental Protection Agency and published in the Federal Register.

Said noise limitations shall not apply where compliance therewith is technically infeasible. The burden of proving that compliance is technically infeasible shall be upon the person or persons charged with a violation of this section. Technical infeasibility shall mean that said noise limitations cannot be complied with despite the use of mufflers, shields, sound barriers and/or other noise reduction device or techniques during the operation of the equipment. (Emphasis added).

Given both the nature of project construction, and the typical nature of the construction equipment to be used on the project site, noise levels will exceed the standards provided for in the Municipal Code. Given the language “unless technically infeasible,” in the municipal code, any requirement to comply with this municipal code section is useless in ensuring that construction noise impacts will be reduced to a level which is less than significant.

Additionally, the Project will result in excessive dust and the release of air particulates and therefore will have a significant effect on air quality.

IV. The Project Will Endanger the Public Health, Safety and Welfare of the Community

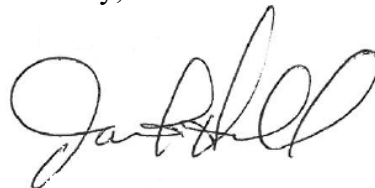
The Board of Building and Safety Commissioners erred when they concluded the grading and export of approximately 2,800 cubic yards of soil would not endanger the public health, safety and welfare pursuant to LAMC 91.7006.7.5. BBSC failed to appreciate that Walther Way is located in a Very High Fire Hazard Severity Zone and is a cul-de-sac. The haul trucks and other construction vehicles necessary to facilitate the grading will impede ingress and egress for both emergency responders and the public in the event of an emergency (including extreme fire events). The conditions of approval for the Project do not adequately mitigate the impacts of the

Project. Further, as noted above, the Project will have a significant impact on air quality and noise.

I. Conclusion

Appellant respectfully request that the City Council grant the appeal. The City has failed to proceed in the manner required by law as required by LAMC Section 91.7006.7.5(b) because the required notices were NOT sent to owners within 300 feet of the Project site. Moreover, the Project will endanger the public health, safety and welfare pursuant to LAMC 91.7006.7.5. Finally, the Project is not exempt from CEQA. Please note that Appellant reserve the right to supplement the justifications for appeal presented.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie T. Hall", with a stylized, cursive script.

Jamie T. Hall