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January 12, 2023

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 OF ENVIRONMENTAL CASE NO. ENV-2019-7193-CE, 2345-2421 SOUTH SANTA FE AVENUE; CF 22-0652

At its meeting of April 12, 2022, the Central Los Angeles Area Planning Commission determined that based on the whole of the administrative record, that the Project is exempt from California Quality Act (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; denied an appeal and approved, pursuant to Section 12.24 X.13 of the Los Angeles Municipal Code, the conversion of, and 3,672-square-foot addition to, an existing 20,200-square-foot warehouse building for 18 Joint Living and Work Quarters for artists and artisans, with 24 new parking spaces, within the M3-1-RIO Zone, upon 15 conditions of approval. The Commission's determination letter was issued on May 5, 2022. The Commission's determination to deny the appeal and approve the conversion of the warehouse into Joint Living and Work Quarters was not further appealable.

Subsequently, on May 19, 2022, an appeal of Case No. ENV-2019-7193-CE, the adopted environmental review, was filed by Silvia Tidwell, representing the Santa Fe Art Colony Tenants Association (SFACTA). Separately, on May 20, 2022, a second appeal of the environmental review was filed by Jamie T. Hall, Channel Law Group LLP, representing Concerned Citizens for Santa Fe Art Colony.

Both appeals challenge the appropriateness of the California Government Code Section 15332 In-Fill Development ("Class 32") Categorical Exemption as the environmental clearance for the project.

Staff has reviewed the response to appeals submitted by the project applicant, dated October 21, 2022, and November 29. 2022, and concurs with their conclusions.

APPEAL SUMMARIES

SFACTA Appeal

Appeal Point 1.1: The Appellant claims the Class 32 Categorical Exemption (CE) is inappropriate because there is evidence of hazardous waste on the property. The Appellant states: "*[t]he Applicant has failed to conduct thorough environmental analysis of the Project Site, or to address known carcinogens in the vicinity of the existing residences. The Applicant has acknowledged that TCE and PCE have been detected on the Project Site. These contamination issues are directly adjacent to the proposed Project and located within the Project Site. Although they have not yet been addressed by a State Agency, the Applicant's continued failure to address this contamination on the property may prompt intervention in the future. The testing that has been completed on the site exceed residential and commercial screening levels established by the State of California.*"

Response to Appeal Point 1.1: The Appellant essentially claims the hazardous waste exception to the use of a CE applies. California Code of Regulations Section 15300.2, the hazardous waste exception, states: "A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code."

California Government Code Section 65962.5 states (in relevant part):

> (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:
>
> > (1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.
> >
> > (2) All land designated as hazardous waste property or border zone property pursuant to former Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.
> >
> > (3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.
> >
> > (4) All sites listed pursuant to Section 25356 of the Health and Safety Code.

The list compiled by the Department of Toxic Substances Control (DTSC), also known as the "Cortese List," is accessible on DTSC's public website. The subject property is not found on this list. Therefore, this hazardous waste exception to the use of the Categorical Exemption does not apply.

"[The appellant] also makes reference to two environmental screening reports in support of her position. She references a 2017 Phase II Report prepared by EFI Global and a 2021 Phase II Report conducted by Fulcrum. However, reliance on these two reports is misleading. Neither of these reports addresses Applicant's remediation efforts and the effectiveness of the remediation system in protecting residents from potential vapor intrusion from soil gas into indoor air ... the 2017 EFI Global report was conducted before Applicant even purchased the property, and, more importantly, this report was conducted

before the Applicant conducted any remediation efforts. The 2021 Fulcrum report relates to property adjacent to the Applicant's property, and the sections provided by [the Appellant] simply summarize the 2017 Phase II report." (Page 3, Applicant Supplemental Response to Appeal from Sylvia Tidwell, November 29, 2022)

"Applicant installed a sub-slab depressurization system under the Project Site that has operated continuously from April 2019 to the present. The purpose of this system is to create a vacuum that will intercept VOC vapors that might be migrating upwards through the soil so they do not enter the building. This system has undergone periodic testing to confirm it is performing as intended. The results of these assessments were published in a July 21, 2022 Sub-Slab Depressurization System Performance Report by AEI Consultants, which has been provided to the Regional Water Quality Control Board.

"The results of vacuum measurements in 2020 and 2022 showed that the system was creating a vacuum within US EPA's recommended range to mitigate potential vapor intrusion. Moreover, based on the results of indoor air testing of vacant units in July 2022, AEI Consultant confirmed that the system was protecting residents from vapor intrusion from the subsurface into indoor air. Importantly, specifically with respect to the warehouse building, indoor air samples were consistently below the commercial and residential environmental screening levels " (Page 4, Applicant Appeal Response, October 21, 2022)

Appeal Point 1.2: The Appellant claims that a CE is inappropriate because "*there are substantial concerns arising from the Project Site's location adjacent to a concrete processing facility, and the impacts that concrete dust will have on current and future residents.*"

Response to Appeal Point 2: Appellant's claim does not identify any of the exceptions for use of a Categorical Exemption listed in California Code of Regulations, Section 15300.2 or identify which eligibility criteria for the use of Class 32 CE listed in Section 15332 is at issue. Furthermore, this expressed concern about an existing environmental condition having potential impacts on the future occupants of a proposed project falls outside the scope of a CEQA impact analysis. According to the California Supreme Court, "In light of CEQA's text, statutory structure, and purpose, we conclude that agencies generally subject to CEQA are not required to analyze the impact of existing environmental conditions on a project's future users or residents ... (*California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, Case No. S213478).

For informational purposes, the applicant provided an Air Quality Assessment, prepared by Urban Crossroads and dated July 16, 2020, which evaluated "the potential impacts associated with exposure to [diesel particulate matter] emitted from the adjacent Security Paving concrete recycling facility (trucks and equipment operating on-site). Other abutting and adjacent industrial buildings have also been addressed." This report concluded "For chronic noncarcinogenic effects, the hazard index identified for each toxicological endpoint totaled less than the threshold of 1.0 for all exposure scenarios. For acute exposures, the hazard indices for the identified averaging times did not exceed the threshold of 1.0" and "[f]or carcinogenic exposures resulting from exposure to toxics from the freeway, the summation of risk for the maximum exposed residential receptor totaled 3.58 in one million and will not exceed the SCAQMD significance threshold of 10 in one million."

Appeal Point 1.3: The Appellate claims the CE is inappropriate because the project will irreversibly damage a designated Cultural Historic resource. The Appellant states: "*[t]he existing warehouse*

is the last industrial facility remaining on the project site. The Project involves drastic interior and exterior redevelopment, including 18 separate exterior entrances, creation of an interior mezzanine level, window replacement, service door updates, ramp removals, and creation of a concrete deck. The Zoning Administrator acknowledges that most, but crucially, not all of the existing window openings, loading dock openings, canopies and stepped parapets at the roofline would be preserved. However, the Project as described is a complete overhaul of the interior and exterior of the Project Site, through which character-defining elements that contribute to the historical value and cultural charm of the building will be lost."

Response to Appeal Point 1.3: The Appellant essentially claims the historical resources exception to the use of a CE applies. California Code of Regulations Section 15300.2 (f), the historical resources exception, states: "[a] categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource."

The subject property and buildings are collectively designated as City of Los Angeles Historic-Cultural Monument No. 1205, "C.B. Van Vorst Co. Manufacturing Plant/Santa Fe Art Colony".

The applicant submitted a historical impact analysis, prepared by Paul Travis, AICP, Historic Resources Group, dated December 15, 2020, to the Department of City Planning's Office of Historic Resources for review. The analysis concluded that the "proposed rehabilitation will meet the [Secretary of the Interior] Standards, and the historic significance of the C.B. Van Vorst Co. Manufacturing Plant/Santa Fe Art Colony will be maintained ..."

The Office of Historic Resources accepted the historical impact analysis and concurred with the conclusions. The appellant has not submitted any additional information to challenge this impact analysis and the City's concurrence with its conclusion. Therefore, the project results in no substantial adverse change in the significance of a historical resource, pursuant to Section 15300.2 (f).

Appeal Point 1.4: The Appellant claims the Class 32 CE is inappropriate because it is not consistent with policies regarding the provision of affordable housing. The Appellant states: "*[g]iven the dire need for affordable units in Los Angeles, it is irresponsible and inconsistent with state and local housing directives to allow private developments to gentrify existing affordable enclaves without providing additional affordable units.*"

Response to Appeal Point 1.4: Appellant essentially makes a policy argument. To the extent Appellant argues that a Class 32 CE is inappropriate because it is inconsistent with applicable general plan policies as well as zoning designations, this argument is not supported under state or municipal law. There is no City policy, regulation, or affordability covenant on this Project site that requires the inclusion of or maintenance of any affordable housing in conjunction with Case No. ZA-2019-7192-ZAD-1A. This Project meets all the requirements for the use of a CE as further detailed in the Justification for Project Exemption (Case No. ENV-2019-7193-CE).

As detailed in the May 5, 2022 Letter of Determination by the Central Area Planning Commission that denied an appeal of the Zoning Administrator's approval of the requested addition and conversion of the warehouse to Joint Living and Work Quarter (JLWQ) units use, the Commission adopted findings that explained how the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable

community plan, and any specific plan. Except for the authorization to allow rehabilitation and conversion of the existing warehouse as set forth in the project description, the project seeks no relief from any requirement or limitation of the Zoning Code, nor utilizes any density incentive that requires the provision of affordable units in conjunction with the project. Therefore, the project meets the consistency requirement of Section 15332 (a).

Concerned Citizens for Santa Fe Art Colony Appeal

Appeal Point 2.1: The Appellant claims the Class 32 CE is inappropriate because it does not comply with the requirement for consistency with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. Specifically, "*because the Project fails to ensure compliance with prior approvals requiring an affordable set-aside … including the obligation to monitor and enforce affordability conditions.*"

Response to Appeal Point 2.1: Similar to Appeal Point 1.4, the Appellant argues that a Class 32 CE is inappropriate because it is inconsistent with applicable general plan policies as well as zoning designations, but this argument is not supported under state or municipal law. There is no City policy, regulations or affordability covenant on this Project site that requires the inclusion of or maintenance of any affordable housing.

According to an email from the CRA/LA, dated December 15, 2022, "the project received CRA/LA assistance for the development or rehabilitation of 44 units. As a condition of the loan agreement, a Covenant was recorded against the property which required the owner to restrict 39 affordable housing units for low-income households in accordance with terms established by the U.S. Department of Housing and Urban Development (HUD)."

This statement from CRA/LA summarizes the extent of the property's obligation to provide affordable units. These units were covenanted in conjunction with the first 52 JLWQ units approved in 1986, under Case No. ZA 86-0404(CUZ). Subsequently approved units are not subject to this covenant.

- Case No. ZA 86-0404(CUZ) which authorized the conversion of three industrial warehouse buildings into 52 JLWQ units and one industrial building into a 99-seat theater and day-use space includes no condition that required a set aside of affordable dwellings or affordability covenants.

- Case No. ZA 2011-2074(ZAD) which authorized the continued use and maintenance of four existing, un-permitted artist-in-residence units and one managerial unit (office) within an existing warehouse, included a condition which required the applicant to obtain clearance from the Community Redevelopment Agency (CRA)and the Housing Department to ensure that any affordability requirements associated with the prior project approval was adhered to and extended to the additional units, if appropriate. This condition did not itself require the provision of affordable units, but rather required the applicant to adhere to any affordability requirements separately imposed by the CRA or Housing Department.

- Case No. ZA 86-0404(CUZ)(PA1) authorized in 2014 the legalization of a 15th artist-in-residence unit in a building previously only authorized for 14 units. Condition No. 13 required the same clearance from the Housing Department and the CRA found in the prior authorization, Case No. ZA 2011-2074(ZAD), to ensure that any prior affordability requirement was adhered to and extended to the additional unit, if appropriate. In communications from the applicant's

representative at the time, the following statement was excerpted: "[The applicants] have indicated to me that the low- moderate income housing requirement was an agreement they had with the CRA and not Los Angeles Housing Department; and as such this agreement has been recorded against their property and they are fully compliant with their conditions."

The Appellant's interpretation of any obligation to monitor and enforce affordability conditions is incorrect and not supported by substantial evidence. None of the Zoning Administrator's prior determinations required the project to provide affordable units; the relevant conditions referred the matter of affordability to the CRA and Housing Department to ensure that any agreements between those agencies and the project applicant regarding affordable units were enforced and extended to the subsequently approved units, if appropriate. The property is no longer located within a Redevelopment Plan area. The Appellant has not produced any documentation to show any obligation for the new JLWQ units to be set aside as affordable units under any prior agreements that would apply to the units approved under Case No. ZA-2019-7192-ZAD-1A. Therefore, the provision of affordable units in association with the proposed project is not required in order to make a finding of consistency with general plan policies, applicable zoning designation, or regulation, and the project meets the consistency requirement of Section 15332 (a).

Appeal Point 2.2: The Appellant claims the Class 32 CE is inappropriate because it does not comply with the requirement for consistency with applicable zoning regulations. Specifically, the Applicant states: "*[the Project] fails to provide parking in compliance with the required Letters of Determination. The instant approval, ZA-2019-7192-ZAD-1A, included Condition of Approval 9 which provides: "A minimum of 18 automobile parking spaces shall be provided for the 18 Joint Living and Work Quarters being proposed." However, Condition of Approval 7 to Case No. ZA-2011-2074-ZAD – still in full force for the Project – require a minimum of 75 parking spaces for only 57 JLWQs. Because the Project requires 18 parking spaces in addition to the 75 spaces already required by the Conditions of Approval, the Project in fact requires 93 parking spaces.*"

Response to Appeal Point 2.2: In contrast to Appellant's claims, no variance or reduction in the number of parking spaces required by these prior approvals has been requested or authorized. It is the responsibility of the applicant to fully comply with these parking obligations in order to utilize the latest authorization. Prior to the issuance of any building permit, the applicant will need to demonstrate that all of the required parking can be provided in accordance with the conditions of the grants and LAMC.

On review of the prior authorizations, the provision to maintain 75 parking spaces are found to not be specifically related to the parking requirement of the originally approved JLWQ units, but were intended to preserve the number of parking spaces that existed for the benefit of the authorized JLWQ units, a proposed theater (never utilized), and the remaining industrial use(s) on the property at the time.

Subsequently issued Certificates of Occupancy for approved JLWQ units on the property have required one parking space per JLWQ unit. A total of 57 JLWQ units have been previously approved on the property, leaving a net total of 18 parking spaces from original 75 spaces on-site.

The applicant is required to provide a minimum of 18 automobile parking spaces pursuant to the latest authorization, Case No. ZA-2019-7192-ZAD-1A. These parking spaces can be accommodated among the remaining existing spaces. No other uses remain on the

property that require additional parking. Therefore, the project is consistent with applicable zoning regulations and the project meets the consistency requirement of Section 15332 (a).

Appeal Point 2.3: The Appellant claims the CE is inappropriate because "*the Project and successive related projects would result in cumulative impacts ... Properly defined, the Project would result in addition of 75 JLWQs to the Project site with substantial traffic, air quality and land use compatibility impacts.*"

Response to Appeal Point 2.3: A CE may not be utilized if any one of a number of exceptions are triggered, including the cumulative impact exception set forth in CEQA Regulation, Section 15300.2 (b) which states: "All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." The Appellant has submitted no evidence to conclude that there will be a cumulative adverse impact caused by the proposed project and other projects of the same type in the same place over time that is significant in the area of the Project. Moreover, the Appellant does not provide any supporting facts regarding any alleged cumulative impacts.

Authorization for the conversion of the original industrial warehouse buildings for JLWQ units was first granted in 1986 under Case No. ZA 86-0404(CUZ), allowing 52 units. A Negative Declaration was adopted as the environmental review for this action.

In 2011, Case No. ZA 2011-2074(ZAD) authorized an increase in the number of JLWQ units to a total of 56 and one managerial unit (office), along with the adoption of a CE as the environmental review. In a June 8, 2012, Modification Letter to the grant approved under Case No. ZA 2011-2074(ZAD), the Zoning Administrator noted that the applicant requested that the total number of authorized JLWQ units be increased by one to a total of 57. However, the Zoning Administrator determined that this request could not be granted through the letter.

In 2014, Case No. ZA 86-0404(CUZ)(PA1) authorized an increase in the number of JLWQ units to a total of 57, and also adopted a CE.

None of these prior actions were appealed or otherwise challenged.

In the latest 2022 authorization, Case No. ZA-2019-7192-ZAD-1A authorized an additional 18 JLWQ units to be maintained on the property. A CE was adopted as the environmental review for the project.

Though the appellant alleges that there are cumulative impacts associated with the intensification and conversion of the property over 34 years, no specific environmental impact, other than the generalized statement, "the Project would result in addition of 75 JLWQs to the Project site with substantial traffic, air quality and land use compatibility impacts," is articulated. The burden is on the appellant to provide more than a speculative statement to support an argument that the project would result in a significant impact. Further, the instant authorization approved 18 JLWQ units, not 75. As such, no further response to this appeal point can be made. Therefore, the project does not result in a cumulative impact, pursuant to Section 15300.2 (b).

Appeal Point 2.4: The Appellant alleges that the project has been "piecemealed" over four separate discretionary actions and their associated environmental reviews: "*the Project*

improperly piecemealed conversion of the warehouse into four separate discretionary approvals with the effect of circumventing environmental review by qualifying each portion for an exemption."

Response to Appeal Point 2.4: CEQA "forbids 'piecemeal' review of the significant environmental impacts of a project ... Agencies cannot allow "environmental considerations [to] become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d. 263, 283-284). Environmental review must include an analysis of the environmental effects of future developments that are reasonably foreseeable to occur as a result of the initial approval and that and will likely change the scope or nature of the initial approval or its environmental effects.

Here, the City did not improperly split a project into separate segments to avoid consideration of the cumulative impacts of the project because the City had no reasonable knowledge of future proposed changes being considered by the Applicant(s).

In 1986, Case No. ZA 86-0404(CUZ) adopted a Negative Declaration in association with the authorization to convert existing warehouse buildings into 52 JLWQ units and a 99-seat theater. Application materials accompanying this original request described the project as comprising two phases: Phase 1 involving the conversion of 2401 Santa Fe Avenue (30 artist-in-residence units), 2415 Santa Fe Avenue (14 artist-in-residence units), and 2349 Santa Fe Avenue (99-seat theater and day-use space); and Phase 2 involving the conversion of 2421 Santa Fe Avenue (8 artist-in-residence units).

On May 2, 1988, Certificate of Occupancy No. LA66737/87 was issued for a change of use from warehouse to 30 artist-in-residence units, at 2401 South Santa Fe Avenue.

On May 2, 1988, Certificate of Occupancy No. LA66737/87 was issued for a change of occupancy from warehouse to 15 artist-in-residence units, at 2415 South Santa Fe Avenue.

On March 9, 1990, Certificate of Occupancy No. 89HO-00724 was issued for a change of use from a manufacturing building to 8 artist-in-residence units, at 2421 South Santa Fe Avenue.

In 2011, Case No. ZA 2011-2074(ZAD) adopted a Class 1 (Existing Facilities) Categorical Exemption in association with the authorization to legalize four additional, existing, JLWQ units and one managerial unit (office) at 2349 Santa Fe Avenue.

In 2014, Case No. ZA 86-0404(CUZ)(PA1) adopted a Class 1 (Existing Facilities) Categorical Exemption in association with the authorization to legalize one additional, existing, JLWQ unit at 2415 Santa Fe Avenue. It is noted that Certificate of Occupancy No. 1987LA66737, previously issued in 1988, recognized this unit.

On September 9, 2015, Certificate of Occupancy Nos. 12016-10000-04857 and 13016-10000-18272 were issued for a change of use from manufacturing building to 4 artist-in-residence units and one managerial storage unit, at 2349 South Santa Fe Avenue.

None of the prior discretionary actions or their accompanying environmental review documents were appealed.

In the present case, Case No. ZA-2019-7192-ZAD-1A adopted ENV-2019-7193-CE, a Class 32 (In-Fill Development) Categorical Exemption in association with the authorization to convert an existing free-standing warehouse building into 18 JLWQ units at 2345 South Santa Fe Avenue.

It should be noted that in 1986, when the project was first proposed, the Class 32 Categorical Exemption did not exist and none of the other Categorical Exemptions could be appropriately applied to the project; therefore, an Initial Study was conducted, and a Negative Declaration was prepared and adopted. Subsequent discretionary actions involving the legalization of additional existing units within the existing buildings were considered under their adopted Categorical Exemptions.

Finally, the property ownership has changed through the years: first, by Susan Zeidler in 1986, then by Santa Fe Art Colony LP in 2011, and presently by Art Colony LLC. It would be speculative to consider that the three property owners, across 35 years, conspired to divide up the conversion of the property for the purposes of minimizing a cumulative environmental impact.

As evidenced by the time spans involved, environmental review documents, discretionary action dates, addresses, subsequent issuances of Certificates of Occupancy, and changing ownerships, there is nothing in the record to reasonably suggest that the project has been divided into two or more pieces for the purposes of evading CEQA review. The first discretionary action took place in 1986, involved 52 JLWQ units, and that project was completed with the issuance of Certificates of Occupancy between 1988-1990. The last two actions, to legalize a total of 5 additional existing units, took place in 2011 and 2014, and were completed with the issuance of a Certificate of Occupancy in 2015. The current action was filed in 2019 and initially approved in 2022.

Appeal Point 2.5: Appellant claims that the CE is inappropriate because the project will result in significant effects due to unusual circumstances: "*Due to its location in a high-intensity industrial zone, the Project site is surrounded by incompatible industrial uses including warehouses and even a concrete recycling plant immediately west of the Project site ... The Project therefore results in substantial land use inconsistencies due to the unusual circumstance of approving dwelling units in an M3 Zone.*"

Response to Appeal Point 2.5: A CE may not be utilized if any one of a number of exceptions are triggered, including the unusual circumstances exception set forth in CEQA Regulation 15300.2 (c) which states: "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."

Here, the Appellant has not articulated any unusual circumstances associated with the proposed conversion of the existing warehouse into JLWQ units that would result in a significant effect on the environment. Since 2000, 32 separate cases have authorized a total of 1,786 JLWQ units for use within the M3 Zone within the North Central City Community Plan area. As required by LAMC Sec. 12.24 X.13(b), the project authorization requires that occupants possess a business license tax registration certificate to engage in business as artists or artisans; and that appropriate signage is posted on the exterior of

the building to indicate that the building is used for residential purposes. In addition, conditions have been adopted to prohibit kiln or welding apparatus; and that storage of materials or supplies connected with the artist or artisans profession shall consist of stacks not over 500 cubic feet per unit, and since these materials or supplies may be combustible, that they be located away from the kitchen facilities and cloistered as much as possible to preclude the capability of fire. JLWQ residential uses have been permitted and maintained upon the subject property for 34 years and intensifying the residential use of the property in the context of the existing surrounding industrial uses cannot be reasonably viewed as having a significant effect on the environment.

In addition, similar to Response to Appeal Point 1.2, the expressed concern regarding the effects of the use and development of the surrounding area having potential impacts on the future occupants of a proposed project falls beyond the scope of impact analysis. According to the California Supreme Court, "In light of CEQA's text, statutory structure, and purpose, we conclude that agencies generally subject to CEQA are not required to analyze the impact of existing environmental conditions on a project's future users or residents ... (*California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, Case No. S213478).

Therefore, the project does not result in a significant effect on the environment due to unusual circumstances, pursuant to Section 15300.2 (c).

RECOMMENDATION

Based upon an analysis of the appeal points expressed by the Appellants, staff recommends that the appeal of ENV-2019-7193-CE be denied.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Jonathan A. Hershey, AICP
Associate Zoning Administrator

VPB:JAH