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April 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 CASE NUMBER APCSV-2019-1481-SPE-SPP-CU-ZV FOR PROPERTY
LOCATED AT 4801 – 4815 N. LAUREL CANYON BOULEVARD; 12107 – 12111 W.
RIVERSIDE DRIVE; CF 22-0599**

The Project involves the construction, use, and maintenance of a 736 square foot, self-operated car wash tunnel, to be operated from 7 a.m. to 10 p.m. daily, as an accessory use to an existing gas station with convenience store, on an approximately 19,164 square foot commercial corner site. A total of five parking spaces will be provided. The car wash tunnel is proposed at the southwest corner of the site, adjacent to a commercial use. The project includes new landscaping around the site, raising existing concrete masonry unit (CMU) walls of six feet in height (west property line) and four feet in height (north property line) by two feet each, the addition of eight new on-site trees and three new street trees, four additional parking spaces, new lighting, two new signs, a new trash enclosure area, new air/water location, the addition of two coin operation vacuum hoses with sound dampeners, and the re-facing of an existing free-standing pole sign. The project includes the demolition of a small storage building (160 square feet), the removal of nine palm trees (three mature, six small) and grading of less than 500 cubic yards.

On May 2, 2022, the South Valley Area Planning Commission approved Case No. APCSV-2019-1481-SPE-SPP-CU-ZV and determined under Environmental Case No. ENV-2019-1482-CE that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15303 (Class 3) and that there is no substantial evidence demonstrating that an exception to a categorical exemption applies, pursuant to Section 15300.2.

On May 17, 2022, an appeal was filed by one aggrieved party (Saied Pouldar, "Appellant") to the City Council (Case No. APCSV-2019-1481-SPE-SPP-CU-ZV-1A). The appeal in its entirety is located in Council File 22-0599. Below is a summary of the appeal points with a staff response to each point.

Appeal Analysis
Appeal Point 1:

"In this case, the Planning Commission defined the "project" as being limited to the actual construction of the car wash. The Planning Commission did not consider that the project included the approval of a specific plan exception, approval of a conditional use and a zoning variance. The failure to properly define the project prevented a proper analysis and violated CEQA."

Staff Response:

The appellant provides no substantial evidence to demonstrate that the South Valley Area Planning Commission did not properly consider the whole of the Project. At its March 24, 2022 meeting regarding the Project, it was placed on the agenda with the following information:

"PROJECT SITE: 4801 – 4815 North Laurel Canyon Boulevard;
12107 – 12111 West Riverside Drive

PROPOSED PROJECT:

The project is the construction, use, and maintenance of a 736 square foot, self-operated car wash tunnel, to be operated from 7 a.m. to 10 p.m. daily, as an accessory use to an existing gas station with convenience store, on an approximately 19,164 square foot commercial corner site. A total of five parking spaces will be provided. The car wash tunnel is proposed at the southwest corner of the site, adjacent to a commercial use. The project includes new landscaping around the site, raising existing concrete masonry unit (CMU) walls of six feet in height (west property line) and four feet in height (north property line) by two feet each, the addition of eight new on-site trees and three new street trees, four additional parking spaces, new lighting, two new signs, a new trash enclosure area, new air/water location, the addition of two coin operation vacuum hoses with sound dampeners, and the re-facing of an existing free-standing pole sign. The project includes the demolition of a small storage building (160 square feet), the removal of nine palm trees (three mature, six small) and grading of less than 500 cubic yards.

REQUESTED ACTIONS:

1. Pursuant to CEQA Guidelines Section 15303 and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. Pursuant to Section 11.5.7 F of the Los Angeles Municipal Code (LAMC), a Specific Plan Exception to the Valley Village Specific Plan (Ordinance No. 168,613) to allow the following:
 - a. An accessory car wash use in lieu of the C4 use limitations of Section 5.B of the Valley Village Specific Plan; and
 - b. A front yard of three percent of the total lot area in lieu of the five percent required by Section 6.E.1 of the Valley Village Specific Plan.
3. Pursuant to LAMC Section 11.5.7 C, a Project Permit Compliance review with the Valley Village Specific Plan to allow the construction, use, and maintenance of a 736-square-foot, self operated car wash tunnel;
4. Pursuant to LAMC Section 12.24 W.27, a Conditional Use to allow a Commercial Corner Development with the following deviations from the standards of 12.22 A.23:
 - a. Less than 50 percent ground floor transparent windows;
 - b. An existing free-standing pole sign;
 - c. Hours of operation for the existing convenience store from 5 a.m. to 11 p.m., Monday through Friday, and 6 a.m. to 11 p.m. Saturday and Sunday; and,
5. Pursuant to LAMC Section 12.27, a Zone Variance from "Q" Conditions of Ordinance No. 165,108 which limit uses of the subject property to those permitted in the C1.5 Zone."

As can be clearly seen, the Commission noticed to the public and subsequently considered the location, physical description, and required entitlements to allow for the Project. The Project and its entitlements are described in further detail in the Background section of the Staff Recommendation Report, as well as Staff's assertion that the Project meets the required justifications are thoroughly described in the Findings section of the same document, which were subsequently adopted by the Commission as its own Findings in its May 2, 2022 Letter of Determination. Further, the whole of the administrative record, including a Notice of Exemption, an attached description of the Categorical Exemption justifications against potential Exceptions to Categorical Exemptions, and additional technical studies, was appropriately considered by the Commission in issuing its Determination.

Appeal Point 2:

"Even if the scope of the project could be limited to the construction of the car wash, such a project would not constitute a small structure such as a garage, carport, patio, etc. The use of the exemption was therefore improper."

Staff Response:

Section 15303 of CEQA, or Class 3, consists of "construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel." Further, it includes "a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area" as well as "accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences."

As described in the Staff Response to Appeal Point 1, the City adequately and appropriately treated the physical improvements and required entitlements as a Project for purposes of CEQA. The City then determined the Project fits within the Class 3 Categorical Exemptions. The City included substantial evidence to support its determination that its review and reporting on the conditions of approval is exempt from CEQA pursuant to CEQA Guidelines, Section 15303 (Class 3). Appellant has not presented substantial evidence to support that an exception to the Class 3 Categorical Exemption applies or that the evidence the City relied upon to make its determination is not credible. As a result, the City's decision to use the Class 3 Categorical Exemption is proper.

Appeal Point 3:

"The Use of a Variance to Approve the Use That Is Not Permitted By The City's Zoning Ordinance, Is Illegal" "The Planning Commission improperly approved the expansion of a legal nonconforming use." "These findings do not support the granting of a variance or a specific plan exemption." "[T]hey were required to seek a change in the zoning ordinance and comply with all of legal requirements necessary for such a change."

Staff Response:

The appellant again provides no substantial evidence to the record that the City's Determination was improper or in error. As described in the Staff Recommendation Report, establishment of a car wash at the subject site is restricted under both the Valley Village Specific Plan and the existing [Q] conditions onsite; however, the Los Angeles Municipal Code provides a clear

entitlement path for establishing the requested car wash use on the site. As both the [Q] conditions and Specific Plan would limit the proposed use, the applicant must therefore apply for and receive both a Specific Plan Exception and Zone Variance pursuant to LAMC Section 11.5.7.F.1(e), which states in part: "if a specific plan contains a regulation that conflicts with the same type of regulation but with a different standard contained in an applicable provision of Chapter I of this Code and the specific plan does not supersede the Code by its terms, then an applicant seeking relief from those regulations must apply for and receive both an exception to the specific plan and a variance for relief from those Code provisions." It should be noted the Code is explicit that "an exception ... and a variance" are the mandated entitlements. Once the entitlement is granted, the establishment or expansion of a previously nonconforming use is legalized pursuant to the Code itself and any Conditions of Approval.

Further, pursuant to LAMC 11.5.7 G.1, a Specific Plan Exception is the proper entitlement to grant the expansion of the legal nonconforming use. An Amendment to a Specific Plan is required under the following scenario: "To permit establishment of a new principal use or a change of use that the specific plan specifically identifies as a prohibited use (Note: a specific plan exception shall be required for alteration or enlargement of an existing legal nonconforming use.)." This code section thus specifically requires a Specific Plan Exception to expand an existing non-conforming use.

In relation to the Zone Variance, the required entitlements mandate certain findings be made, and Staff made these required findings in the Staff Report and the South Valley Area Planning Commission adopted these findings in the Letter of Determination dated May 2, 2022:

"... The Zone Variance is justified as the current use as a gas station and convenience store were established prior to the [Q] conditions being imposed in 1989. Allowing for customers to receive a car wash at this location further allows the applicant to develop a use which is typically accessory to such gas station uses, which would further allow them to offer a one-stop shop for their customers and offer them desired services while reducing vehicular trips. The strict application of the [Q] creates an unnecessary hardship because it limits the improvement and expansion of an existing legal use to include a service on site which will mitigate total vehicle trips and be desirable to the public convenience....

The unique location (subject to an areawide Ordinance which prohibits redevelopment or expansion of the existing use through the imposition of [Q] Qualified conditions) and existing development of the site are special circumstances applicable to the subject property that do not apply generally to other property in the same zone and vicinity. These circumstances include the large size of the site, history of automotive uses, location on a corner, and adjacency to the nearby Freeway. In essence, the site is uniquely capable of accommodating the proposed car wash and providing needed access and parking for the proposed incidental use without impeding access to or interference with the existing refueling operation and granting the Variance acknowledges the special circumstances of the subject property that does not generally apply to other properties in the same zone in the surrounding area. ...

The granting of the requested variance is necessary for the enjoyment of a substantial property right or use available to others in the vicinity; specifically, pursuant to case number ZA-2008-2924-CUB-CU-ZV, the immediately adjacent gas station to the south was similarly granted a Zone Variance from the same Ordinance for a similar self-service car wash project. To deny such a similar request would deprive the applicant of a substantial property right available to the most equivalent nearby site and project. Therefore, granting of such variance is necessary for the preservation and enjoyment of

a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question. ...

Granting the variance will not be materially detrimental because special consideration is given to the impact on residences adjacent to the property, as well as other nearby properties through the imposition of corrective conditions to require thoughtful lighting, landscaping and noise attenuation. Therefore, granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located. ...

... The proposed project complies with the following goals, policies, and programs of the General Plan, and therefore, granting of the request would not adversely affect any element of the General Plan:

Framework Element

General Commercial Areas. Objective 3.12: Generally, maintain the uses, density, and character of existing low-intensity commercial districts whose functions serve surrounding neighborhoods...

The proposed car wash maintains and upgrades an existing low density, commercial gas station and convenience store use that serves the surrounding residential and commercial neighborhood.

Urban Form and Neighborhood Design. Policy 5.5.3: Formulate and adopt building and site design standards and guidelines to raise the quality of design Citywide.

The proposed car wash is attractively designed to upgrade and raise the quality of the existing gas station and is further conditioned to screen air conditioning and rooftop equipment from view, ensure graffiti removal, and provide landscaping and irrigation throughout the project site.

Land Use Element

The site is zoned [Q]C2-1VL and is designated for Neighborhood Office Commercial land use under the Community Plan which corresponds to the C1, C1.5, C2, C4, RAS3, RAS4, and P Zones. The proposed project is consistent with the following policies of the North Hollywood – Valley Village Community Plan, one of the 35 Community Plans which together comprise the Land Use Element:

Objective 4a: To promote economic well being and public convenience through allocating and distributing commercial lands for retail, service and office facilities, with adequate off-street parking in quantities and patterns based on accepted planning principles and standards; retaining viable commercial frontages with provision for concentrated development and redesigning underutilized strip commercial zoning to more appropriate uses; and improving the appearance of commercial buildings along the major arteries.

Other Elements

The Health and Wellness, Mobility 2035, and Air Quality Elements include policies to reduce levels of pollution or greenhouse gas emissions. The proposed project would co-locate auto-related uses through the addition of a car wash to an existing service center, helping customers to complete their auto-related needs with fewer trips. The condition requiring solar panels will support the site's other site electrical uses to help reduce the site's dependence on fossil fuels and carbon generating public utility electrical power. Taken together, these conditions show conformance with the General Plan by reducing the level of pollution or greenhouse gas emissions to the benefit of the neighborhood and City in response to General Plan Health and Wellness Element Policies 5.1 (reduce air pollution), 5.7 (reduce greenhouse gas emissions); Air Quality Element Policy 5.1.2 (shift to non-polluting sources of energy in buildings and operations); Mobility Element Policy 4.1 (expand access to transportation choices)."

Additionally, in relation the Specific Plan Exceptions, Staff made these required findings in the Staff Report and the South Valley Area Planning Commission adopted these findings in the Letter of Determination dated May 2, 2022:

"Specific Plans do not address every nuance that might occur. However, an Exception is a grant of permission to depart from the literal enforcement of the Plan and allow the property to be used in a manner otherwise not permitted provided that the spirit of the ordinance is observed without detrimental impacts to the community. The strict application of the specific plan creates an unnecessary hardship because it limits the improvement and expansion of an existing legal use to include a service on site which will mitigate total vehicle trips and be desirable to the public convenience ...

The unique location (subject to a Specific Plan which prohibits redevelopment or expansion of the legally existing, previously-established use) and existing development of the site are special circumstances applicable to the subject property that do not apply generally to other property in the same zone and vicinity. These circumstances include the large size of the site, history of automotive uses, location on a corner, and adjacency to the nearby Freeway. In essence, the site is uniquely capable of accommodating the proposed car wash and providing needed access and parking for the proposed incidental use without impeding access to or interference with the existing refueling operation. Granting the Exception acknowledges the special circumstances of the subject property that does not generally apply to other properties in the same zone in the surrounding area ...

The granting of the requested exception is necessary for the enjoyment of a substantial property right or use available to others in the vicinity; specifically, pursuant to case number ZA-2008-2924-CUB-CU-ZV, the immediately adjacent gas station to the south was granted a Zone Variance for a similar self-service car wash project. While similarly located in the Valley Village Specific, the adjacent project was approved and developed without the granting of an Exception.

Therefore, granting of the subject exception is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question ...

Granting the exception will not be materially detrimental because special consideration is

given to the impact on residences adjacent to the property, as well as other nearby properties through the imposition of corrective conditions to require thoughtful lighting, landscaping and noise attenuation ...

The proposed project complies with the following goals, policies, and programs of the Valley Village Specific Plan and the General Plan, and therefore, granting of the request would be consistent:

Valley Village Specific Plan

The proposed land use and front yard exception complies with the following Purposes of the Valley Village Specific Plan:

To assure orderly, attractive and harmonious multiple residential and commercial developments that are adjacent to the existing single-family developments within the Valley Village area of the North Hollywood Community Plan area.

To preserve the quality and existing character of the Valley Village area.

To minimize adverse environmental effects of development and promote the general welfare by regulating buildings by height, and bulk, and prohibiting commercial uses which are not compatible to their sites and surroundings, or which cause parking or traffic circulation impacts.

Framework Element

General Commercial Areas. Objective 3.12: Generally, maintain the uses, density, and character of existing low-intensity commercial districts whose functions serve surrounding neighborhoods...

The proposed car wash maintains and upgrades an existing low density, commercial gas station and convenience store use that serves the surrounding residential and commercial neighborhood.

Urban Form and Neighborhood Design. Policy 5.5.3: Formulate and adopt building and site design standards and guidelines to raise the quality of design Citywide.

The proposed car wash is attractively designed to upgrade and raise the quality of the existing gas station and is further conditioned to screen air conditioning and rooftop equipment from view, ensure graffiti removal, and provide landscaping and irrigation throughout the project site.

Land Use Element

The site is zoned [Q]C2-1VL and is designated for Neighborhood Office Commercial land use under the Community Plan which corresponds to the C1, C1.5, C2, C4, RAS3, RAS4, and P Zones. The proposed project is consistent with the following policies of the North Hollywood – Valley Village Community Plan, one of the 35 Community Plans which together comprise the Land Use Element:

Objective 4a: To promote economic well being and public convenience through allocating and distributing commercial lands for retail, service and office facilities, with adequate off-street parking in quantities and patterns based on accepted planning principles and standards; retaining viable commercial frontages with provision for concentrated development and redesigning underutilized strip commercial zoning to more appropriate uses; and improving the appearance of commercial buildings along the major arteries.

Other Elements

The Health and Wellness, Mobility 2035, and Air Quality Elements include policies to reduce levels of pollution or greenhouse gas emissions. The proposed project would co-locate auto-related uses through the addition of a car wash to an existing service center, helping customers to complete their auto-related needs with fewer trips. The condition requiring solar panels will support the site's other site electrical uses to help reduce the site's dependence on fossil fuels and carbon generating public utility electrical power. Taken together, these conditions show conformance with the General Plan by reducing the level of pollution or greenhouse gas emissions to the benefit of the neighborhood and City in response to General Plan Health and Wellness Element Policies 5.1 (reduce air pollution), 5.7 (reduce greenhouse gas emissions); Air Quality Element Policy 5.1.2 (shift to non-polluting sources of energy in buildings and operations); Mobility Element Policy 4.1 (expand access to transportation choices).

As such, the required findings have been made in the affirmative and the appellant has not demonstrated any substantial evidence that the City erred in adopting these findings.

Recommendation

Upon careful consideration of the Appellant's points, the Appellant failed to meet its burden to show the evidence the City relied upon to make its determination that the project was categorically exempt was not credible or that substantial evidence supported that an exception to the exemptions applied. The appellant further failed to show that the South Valley Area Planning Commission erred in its actions or abused its discretion. Staff recommends that the PLUM Committee **deny** the appeal and **thereby sustain** the determination of the South Valley Area Planning Commission in approving the proposed carwash and associated site improvements; and, **determine** that based on the whole of the administrative record, as supported by the justification prepared and found in the environmental case file, ENV-2019-1482-CE, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303, Class 3, and there is no substantial evidence demonstrating that any exceptions contained in CEQA Guidelines, Section 15300.2 applies; and, **adopt** the Findings of the South Valley Area Planning Commission as the Findings of Council.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Andrew Jorgensen, AICP
City Planner
VPB:BL:JP:aj