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June 14, 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:

STAFF RECOMMENDATION REGARDING APPEALS OF CLASS 32 CATEGORICAL EXEMPTION (ENV-2021-644-CE-1A) FOR PROPERTY LOCATED AT 1537, 1539, 1541, 1543 WEST CAMBRIA STREET WITHIN THE WESTLAKE COMMUNITY PLAN AREA (CF 23-0469)

On September 20, 2022, the Director of Planning issued a Class 32 Categorical Exemption (CE) for a Transit Oriented Communities (TOC) Project (Case No. DIR-2021-643-TOC-HCA) consisting of the demolition of an existing six-unit, multi-family residence for the construction, use, and maintenance of a new six-story, 43-unit residential apartment building built over one (1) subterranean level of parking containing 22 vehicle parking spaces located at 1537, 1539, 1541, 1543 West Cambria Street. Under the TOC Program, five (5) of the 43 dwelling units will be designated for Extremely Low Income Households.

On September 29, 2022, the Department of City Planning received two (2) appeals of the Director of Planning's Determination to approve Case No. DIR-2021-643-TOC-HCA. On April 4, 2023, the CPC, following consideration of the materials and oral testimony, denied the appeals and sustained the Director of Planning's Determination dated September 20, 2022 under Case No. DIR-2021-643-TOC-HCA.

Subsequently, on April 17, 2023, the Coalition for an Equitable Westlake and MacArthur Park filed a California Environmental Quality Act (CEQA) appeal to the Los Angeles City Council for the Categorical Exemption issued under Case No. ENV-2021-644-CE. A summary of the appeal points and Planning Staff's responses are provided as follows:

- 1. The Project, along with the other projects occurring within the vicinity, will result in a cumulative impact on the environment. Additionally, the City must demonstrate that the Project will not cause any significant environmental impacts. Therefore, the Project does not qualify for a Class 32 Categorical Exemption.*

On September 20, 2022, the Director of Planning issued a Class 32 Categorical Exemption for City Planning Case No. DIR-2021-643-TOC-HCA, which is for the demolition of an existing six-unit, multi-family residence for the construction, use, and maintenance of a new six-story, 43-unit residential apartment building built over one (1) subterranean level of parking.

According to CEQA Guidelines Section 15332, a Class 32 Categorical Exemption may be used for infill development projects within an urbanized area provided that the project meets the following criteria:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations;
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- (c) The project site has no value as habitat for endangered, rare or threatened species;
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- (e) The site can be adequately served by all required utilities and public services.

The State CEQA Guidelines provide that a Class 32 Categorical Exemption may not be used if any of five (5) exceptions apply: (a) cumulative impacts; (b) significant effect; (c) scenic highways; (d) hazardous waste sites; and (e) historical resources. The proposed Project meets the aforementioned criteria for an in-fill project and no evidence of any exception would apply, therefore a Class 32 Categorical Exemption was issued.

The appellant claims that the Project, in conjunction with 18 other projects within the vicinity of the Project, will result in a cumulative impact that will impact the environment, namely by increasing density, and pedestrian and vehicular traffic. The appellant does not provide any evidence to support their claims, stating that the City is responsible for providing substantial evidence to show that the Project will not cause any significant environmental impacts. Due to this supposed deficiency of the City's Class 32 Categorical Exemption for the Project and the potential for cumulative impacts, the appellant claims that the Project does not qualify for the Class 32 Categorical Exemption.

While CEQA Guidelines Section 15300.2(b) states that a categorical exemption is inapplicable "when the cumulative impact of successive projects of the same type in the same place, over time is significant," 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. The burden of proof therefore shifts to the challenging party to produce evidence showing that one of the exceptions applies to take the project out of the exempt category.

The appellant has not met their burden as there is no evidence in the record to conclude that there will be an adverse cumulative impact caused by the proposed Project and other projects in the vicinity of the Project site. Speculation that significant cumulative impacts will occur simply because other projects may be approved in the same area is insufficient to trigger this exception and is not evidence that the proposed project will have adverse impacts, significant effects, or that the impacts are cumulatively considerable (*Hines v. California Coastal Comm'n* (2010) 186 Cal. App. 4th 830, 857). The appellant has not submitted any substantial evidence for the record to support their assertions that the cumulative impact exception applies. Speculation and a list of "past projects, current projects, and future projects" do not serve to support the appellant's claims.

The Justification, prepared for the subject Project (Case No. ENV-2021-644-CE), shows that the proposed Project is subject to Regulatory Compliance Measures (RCMs) related to air quality, noise, hazardous materials, geology, and transportation. Numerous RCMs in the City's Municipal Code and State law provide requirements for construction activities and ensure impacts from construction related air quality, noise, and traffic are less than significant.

For example, the South Coast Air Quality Management District (SCAQMD) has District Rules related to dust control during construction, type, and emission of construction vehicles, architectural coating, and air pollution. All projects are subject to the City's Noise Ordinance No. 144,331, which regulates construction equipment and maximum noise levels during construction and operation.

Therefore, the Class 32 Categorical Exemption issued by the Director of Planning on July 20, 2022 adequately addresses the impacts of the proposed Project.

2. *The Project does not provide affordable housing to the neighborhood and will displace the residents of the existing building, thereby accelerating gentrification of the area.*

The issue raised by the appellant is not a matter considered under the California Environmental Quality Act. However, as the subject site is located in a Tier 3 TOC area, the Project is required to reserve at least 10 percent, or five (5) of the 43 proposed units, for Extremely Low Income Households.

The Project provides the appropriate number of affordable units: five (5) Extremely Low Income units as required under the TOC Program and the LAHD RUD along with 43 market rate units. While the appellant asserts that the Project will not provide an appropriate number of affordable units, the appellant does not provide any evidence beyond speculation and opinion to justify their argument. Furthermore, concerns over the specific amount of affordable housing and whether it is an adequate amount are not a basis under which to grant or deny a Class 32 Categorical Exemption. Therefore, the Categorical Exemption issued by the Director of Planning on July 20, 2022 was appropriate.

Conclusion

Planning Staff recommends that the PLUM Committee and City Council deny the appeal and sustain the Determination of the City Planning Commission to determine that based on the whole of the administrative record as supported by the justification prepared and as found in the environmental case file, the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, Class 32 (Infill Development Project), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste sites, or historical resources applies.

Sincerely,
VINCENT P. BERTONI, AICP
Director of Planning



Vanessa Soto, AICP
Senior City Planner

VPB:JC:VS:YL:MP