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September 19, 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 SUMMARY, 3477 North Laurelvale Drive**

**Project Background**

The project consists of the use and operation of a private swim school (Swim to Bill) at a private residence in the RE15-1-H Zone. The private swim school will operate towards the rear of the property at the home's existing swimming pool.

The school will be operated by one teacher and will serve three students per class, for a maximum total of 18 students with a maximum six sessions per day. The swim school will operate 8:00 a.m. to 12:15 p.m. during the summer months (June 1 to August 31) and 2:00 p.m. to 5:00 p.m. as an after-school program during the spring and fall months (February 1 to May 31 and September 1 to October 15). The school will not operate from October 16 to January 31.

On February 28, 2023 the City Planning Commission issued a Determination that conditionally approved the following: a Conditional Use to permit the operation of a private swim school at a private residence in the RE15-1-H Zone. On February 8, 2023, an appeal was filed by Larry Slade (representing Jed and Marisa Kubrin) for the entire decision of the City Planning Commission and Categorical Exemption (ENV-2018-2224-CE) as the environmental clearance for the project.

**Staff Recommendation**

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted appeal and sustain the CPC's determination, and to determine, based on the whole of the administrative record, that the project is exempt from CEQA pursuant to State CEQA Guidelines, Section 15301 and 15323, Article 19 (Class 1 and Class 23) and there is no substantial evidence demonstrating that an exception to the categorical exemption (ENV-2018-2224-CE) pursuant to CEQA Guidelines Section 15300.2 applies. The following statements have been compiled and summarized from the submitted appeal and responded to below.

## **APPEAL POINTS**

### **A. Appeal Points Summary**

The applicant has unlawfully run his business from his home in violation of the home occupation ordinance and ignored stop orders issued by the City. The applicant's business has never been lawfully operating. The popularity of the business has led to a loss of privacy for the appellant as there are always visitors to the site. These visitors often take up limited street parking that can inhibit ingress/egress from driveways and create a hazard for emergency vehicles/sanitation vehicles. A court ordered injunction was put in place to not allow the applicant to conduct swim lessons at the residence until the CUP process concluded. The CPC abused its discretion by determining that "Swim to Bill" is a private school rather than a home occupation. The project does not meet the LAMC definition of school. The appellant equates the swim school as being akin to piano lessons, or yoga, karate, kickboxing, basketball, gymnastics, etc. The swim school should be considered a home occupation. Home occupations require that the business must be secondary or incidental to the main use of the property (as a single-family residence). LADBS has cited the applicant for violating the home occupation ordinance (LAMC Section 12.05 A.16.)

### **Staff Response**

The application acted upon by the City Planning Commission authorized a Conditional Use to permit a private swim school in the RE Zone. The action before the Commission was not characterized as a "home occupation," and was thus reviewed as a school. The swim school known as "Swim to Bill" has operated at the site without permits since 2011 and ceased operations in or around 2018 after an Order to Comply and court injunction were imposed. The applicant requested a Conditional Use, pursuant to LAMC Section 12.24-U, 24, to permit the operation of a private swim school in the RE Zone. The project has been categorized as a Private School and is not seeking to be categorized as a home occupation. The Use List (ZA-2022-7106-ZAI) authorized by the Zoning Administrator permits "Private Schools" in the RE Zones through a Conditional Use. Other similar uses that are permitted either by-right or through a Conditional Use process in the RE Zone includes small family day care homes (up to eight children), large family day care homes (up to 14 children), and nursery schools.

The proposed school would serve a maximum of three students per class, for a total of 18 students a day with up to six sessions per day. The school would operate from 8:00 a.m. to 12:15 p.m. during the summer months (June 1 to August 31) and 2:00 p.m. to 5:00 p.m. as an after-school program during the spring and fall months (February 1 to May 31 and September 1 to October 15). The school would not operate from October 16th to January 31st. The applicant has stated that operation of his school is presently conducted off-site to comply with the Court Order and the city's Order to Comply that were previously issued. According to the applicant, conducting classes at client's swimming pools is not ideal as the instructor does not have control over water temperature and the chemical makeup of the pool water, which can lead to complications with teaching students how to properly swim.

In response to public testimony submitted into the administrative record, at the initial public hearing conducted on October 25, 2022 and at the City Planning Commission hearing on December 15, 2022, the project was conditioned to address recurring neighborhood concerns including parking impacts and their relation to public safety and street functionality, noise concerns, and privacy concerns. The grant has incorporated

conditions such as requirements for parents to park on-site, and the inclusion of a buffer time between classes thereby alleviating loss of street parking, limitations on class size and hours to address noise and privacy. These conditions are intended to help ensure that the use will not be a nuisance and will be compatible with the existing neighborhood. It is important to note that many of the issues regarding parking and traffic brought up by the appellant have been on-going in the neighborhood, even though the swim school use has not operated at the site since 2018.

## **B. Appeal Points Summary**

The Commission abused its discretion in finding that both the Class 1 and Class 23 CEQA exemptions applied. The appellant states that permitting the swim school would be a significant expansion of use, stating that the change from purely residential to commercial would cause a significant impact. The appellant also states that the Class 23 should not apply because the project site is not a place for public gatherings. The appellant also states that the past use of the site as a swim school was improper as the site was never legally permitted to be a swim school and is only permitted to be a single-family residence. The Commission also did not consider the cumulative impact of allowing anyone with a pool to conduct swim lessons. The appellant also brings up the pool rental platform Swimply, stating that impacts of commercializing other nearby pools must also be considered. Finally, the Commission failed to address potential fire hazards, noise, and traffic impacts of the proposed project.

### **Staff Response**

The Commission did not abuse its discretion in finding both the Class 1 and Class 23 Categorical Exemptions applied.

Section 15301 states the following:

*Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of use.*

Section 15323 states the following:

*Class 23 consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purposes of this section, "past history" shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. Facilities included within this exemption include but are not limited to racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools, and amusement parks.*

The project qualifies for a Class 1 Categorical Exemption. The project would result in no new construction or physical impacts or changes to the site. The project site would

maintain the appearance of a single-family dwelling as most of the school's activities take place within the backyard pool.

The project also qualifies for a Class 23 Categorical Exemption. The project involves the normal operation of a swimming pool. The swim school activities had previously occurred at the site and thus there is a reasonable expectation that swim lessons could continue to occur.

To further substantiate that the project would have no environmental impact with regards to noise, a Noise Study was conducted by Environmental Science Associates (ESA) dated May 9, 2019, that analyzed the potential noise impacts of the use and determined that impacts would be less than significant. The study determined that a typical swim class would not generate noise in excess of city standards. Based on the measured noise levels recorded, the swim class resulted in a noise increase of 2.5 dBA over measured ambient levels. According to ESA, a 3 dBA increase is barely perceptible to the human ear. The noise report also states that noise measurements were taken within the property boundary and that noise increases experienced by neighboring properties would be further attenuated by increased distance and by fences/walls that separate the properties. While the study was not conducted at the site, since the applicant could not conduct swim lessons at the subject site in 2019, the study noted the similar topography and verified through previously recorded lessons the similar nature of the analysis site and the subject site.

With regards to cumulative impacts, there are no other instant applications for swim schools within the immediate area. It is not assumed that just because a house has a pool, that it would be used as a private swim school. If any other private swim schools are to be proposed in the future, they would have to apply for the same discretionary entitlement and require the same environmental review as the instant application, thus ensuring proper review and public input. Further, the discussion regarding the pool renting platform has no bearing on the instant project, which is for a private swim school in the RE zone.

The appellant also alleges that the Commission failed to consider that the site is located in a Very High Fire Hazard Severity Zone, and states that it is an unusual circumstance. The circumstance is not unusual as there are numerous other private and public schools located within high fire hazard severity zones throughout the city. This project has been conditioned to require that all parking be conducted on-site, which will help facilitate the movement of emergency response vehicles should the need ever arise in line with red flag requirements from the Fire Department.

### **C. Appeal Points Summary**

The appellant alleges the CPC erred in permitting the school to function as a single-family residence without also changing the use classification.

#### **Staff Response**

Use classifications are made by the Department of Building and Safety. The swim school is not a use that is clearly defined in the LAMC. LAMC Section 12.21-A,2 grants the Zoning Administrator the authority to determine other uses, in addition to those specifically listed, which may be permitted in the various zones. The use list authored by the Zoning Administrator permits "Private Schools" in the RE Zones via a Conditional Use. The City has granted a similar Conditional Use request for a swim school in the R1

Zone located at 11846 West Kling Street (Case No. CPC-2012-1535-CU). The subject property also continues to be classified as a single-family residence with pool.

The applicant has followed the proper protocol in applying for a Conditional Use for the use and operation of a private swim school at a private residence in the RE15-1-H Zone. The intent of the request is to achieve code compliance to allow the swim school to operate in harmony with other surrounding uses. In approving this project, the City Planning Commission has included findings to justify the Conditional Use authorization and imposed operational conditions that seek to minimize impacts of the school's operation on surrounding neighbors. The use and operation of the private swim school will be subject to conditions regulating operating hours, parking, and student enrollment caps to minimize impacts to the surrounding neighborhood. The applicant will be held accountable for their adherence to the operating conditions or face requirements for future plan approval or use revocation.

#### **D. Appeal Points Summary**

The appellant alleges the conditions are not realistic and do not address street traffic and parking issues, would violate numerous parking regulations, and are inconsistent with the intent of the Code. The additional cars each day will create hazards for the neighborhood and the constant noise for hours each day for 9 months a year will be a nuisance for neighbors.

#### **Staff Response**

With the approval of the conditional use, the swim school would be formalized. The grant included numerous conditions that the applicant would be held accountable for remaining in compliance. If compliance is not met, the applicant can be brought back for a Plan Approval to reexamine the use and conditions or to revoke the use. The formalization of the grant and the conditions herein will formalize the use and make it more accountable to the neighborhood. With the strict limitation on hours, and adherence to the other conditions of approval, the project should have minimal impacts to the surrounding neighborhood.

The project seeks to maintain the single-family aesthetic and nature of the property and to provide an important service for the community through the provision of a private swim school to operate in an existing swimming pool at the property. Public testimony has been received that suggests that the school has contributed positively to the city at large by enshrining the skillset of swimming to hundreds of children since the school began operations. The applicant has followed the proper protocol in applying for a Conditional Use for the use and operation of a private swim school at a private residence in the RE15-1-H Zone. The City Planning Commission has imposed operating conditions on the subject use to ensure that impacts on surrounding neighbors are minimized. Conditions include limitations on hours, restrictions on class sizes, requirements to park on-site, and the ability to require a plan approval if conditions are not adhered to.

#### **E. Appeal Points Summary**

The appellant alleges the CPC ignored the neighbors who objected to the project and relied heavily on swim clients who liked their experience with the applicant. Children screaming and crying are common occurrences at the swim school when it was in operation.

**Staff Response**

The City Planning Commission did not ignore testimony received regarding the project. In response to public testimony submitted into the administrative record, at the initial public hearing conducted on October 25, 2022 and at the City Planning Commission hearing on December 15, 2022, the project was conditioned to address recurring neighborhood concerns. Concerns included parking impacts and their relation to public safety and street functionality, noise concerns, and privacy concerns.

In response to the concerns, Planning Commission conditioned the project to require that all parking be conducted on-site. This condition as intended to ensure that street parking would remain unimpacted by the operation of the school. A noise study was conducted by the applicant, and included as part of the administrative record, stating that noise impacts from the use were considered less than significant. The school was also conditioned to limited enrollment and operating hours. The school would serve a maximum of three students per class, for a total of 18 students a day with up to six sessions per day.

These conditions are intended to help ensure that the use will not be a nuisance and will be compatible with the existing neighborhood.

**CONCLUSION**

Based on the plans submitted by the applicant and considering the appellant's arguments for appeal, Staff finds that the project meets the required Findings for approval. Therefore, it is recommended that the City Council affirm that the project is categorically exempt from CEQA, deny the appeal of the City Planning Commission's Determination, and sustain the City Planning Commission's Determination approving a Conditional Use, for the proposed Swim to Bill Private Swim School.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning



CORREY KITCHENS  
City Planning Associate

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