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September 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:

**SUPPLEMENTAL REPORT REGARDING CLASS 1, CLASS 3, & CLASS 32 CATEGORICAL EXEMPTION FOR THE PROPERTY LOCATED AT 1461 NORTH AMALFI DRIVE (CASE NO. ENV-2021-8272-CE); CF 23-0920**

At its meeting on August 22, 2023, the Board of Building and Safety Commissioners approved a haul route application (Board File No. 220008) to export 3,045 cubic yards of earth from the above-referenced property, subject to the conditions specified in the Board of Building and Safety Commissioners' report dated August 16, 2023 and found that the project was categorically exempt from the California Environmental Quality Act (CEQA). Subsequent to the Board of Building and Safety Commissioners action, an appeal of the decision to the City Council was filed.

In the Appellant's Justification dated August 30, 2023, the Appellant alleges that the project does not qualify for the Section 15301 (Class 1 – Existing Facilities), Section 15303 (Class 3 – New Construction or Conversion of Small Structures), or Section 15332 (Class 32 – Infill Development Projects) Categorical Exemptions (CE) since it does not fit the types of developments described under those exemptions. The Appellant also claims that the project will result in traffic, noise, and air quality impacts and that the location and historical resources exceptions as identified in CEQA Guidelines Section 15300.2 apply.

Once the City has made its determination that a categorical exemption applies, the burden is on the challenging party to produce evidence showing that one of the exceptions applies to disqualify the project for a categorical exemption. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105; *San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1022-23.)

**Scope of Proposed Project**

The Appellant argues that the project is part of a larger development that was not considered as part of the haul route application. As referenced in the City's Justification for Project Exemption ("CEQA Justification"), the proposed project is for the demolition of an existing single-family dwelling, an attached garage, and a swimming pool and the construction of a new two-story, 8,137

square-foot single-family dwelling, a 2,726 square-foot basement, an attached three-car garage, a swimming pool and spa, and retaining walls and include 3,121 cubic yards of grading, in conjunction with an application for a haul route of the export of approximately 3,046 cubic yards of soil. The building permits for the deck (Permit Application No. 23020-20000-00644) and basketball court (Permit Application No. 23020-20000-00642) were withdrawn. As such, the entirety of the project was considered as part of the CEQA review.

### **Section 15301, Class 1 CE – Existing Facilities**

The Appellant asserts that the proposed project does not qualify for a categorical exemption, pursuant to CEQA Guidelines Sections 15301 (Class 1), Section 15303 (Class 3), and 15332 (Class 32), because the proposed scope of work exceeds that permitted for each Section. Pursuant to the Section 15301 of the CEQA Guidelines, a Class 1 CE covers the demolition and removal of individual small structures, including up to three single-family residences and any accessory structures. The proposed project, which involves the demolition of the existing single-family residence, attached garage, and swimming pool, and therefore qualifies for this exemption.

### **Section 15303, Class 3 CE – New Construction or the Conversion of Small Structures**

Pursuant to the Section 15303 of the CEQA Guidelines, a Class 3 CE covers the construction of up to three-single-family residences. The proposed project involves the construction of one single-family residence and qualifies for this exemption. The Appellant further argues a revised soils report was not prepared or approved for Permit No. 23010-20000-01331. The Department of Building and Safety (LADBS) Grading Division issued a Geology and Soils Report Approval Letter for the subject property, on January 6, 2021, under Log No. 115558. The Grading Division reviewed an updated soils report and issued a new Geology and Soils Report Approval Letter on July 7, 2023, under Log No. 126690, stating that the updated soils report was acceptable. The proposed development is required to comply with the requirements outlined by the Grading Division, as required in the Geology and Soils Report Approval Letter dated July 7, 2023 or any subsequently amended or modified Approval Letter.

### **Section 15332, Class 32 CE – Infill Development**

Pursuant to the Section 15332 of the CEQA Guidelines, a Class 32 CE covers projects characterized as in-fill development that meet the five conditions listed therein. The Appellant specifically argues that the proposed project does not meet two of the conditions, stating that it is not consistent with the applicable general plan designation and zoning designation and that it will result in impacts to traffic, noise, and air quality. As mentioned in the City's CEQA Justification, the proposed project is located on a residential lot zoned RE11-1 and RE15-1-H with a General Plan Land Use Designation of Very Low II Residential and the proposed single-family dwelling, accessory structures, and required excavation and grading is in conformance with the applicable Brentwood-Pacific Palisades Community Plan designation and policies and all applicable zoning designations and regulations.

The Appellant does not provide any direct evidence, data, or other substantial evidence that the proposed project will exceed the allowable thresholds as it pertains to traffic, noise, and air quality impacts. Argument, speculation, unsubstantiated opinion, or narrative does not constitute substantial evidence, as provided in CEQA Guidelines Section 15384, which defines substantial evidence as follows:

- (a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to

support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

The Appellant claims that the proposed project will result in traffic impacts. The proposed project will be governed by an approved haul route under LAMC requirements, which will regulate the route hauling trucks will travel and the times at which they may leave the property, thereby further reducing any potential travel impacts to less than significant. The Appellant claims that the proposed project will result in air quality impacts. As discussed in the City's CEQA Justification, interim thresholds were developed by Department of City Planning staff based on CalEEMod model runs relying on reasonable assumptions, consulting with AQMD staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established SCAQMD construction and operational thresholds. Therefore, the project would not have significant impacts to air quality. The Appellant also argues that the proposed project will result in noise impacts. The proposed project will be subject to the City's Noise Ordinance, which will reduce any potential impacts to less than significant as well. The Appellant has not submitted any evidence to support any of its allegations.

### **Location and Historical Resources Exceptions**

The Location exception applies when a project that is ordinarily insignificant in its impact on the environment potentially causes significant impacts in a particularly sensitive environment. Although the proposed project is in a Hillside Area, Very High Fire Hazard Severity Zone, Special Grading Area, and Santa Monica Fault Zone, these zone classifications do not identify any environmental resource of hazardous or critical concern, precisely mapped, and officially adopted pursuant to federal, state or local agencies. Instead, these zones are focused on building construction and the minimization of future damage to properties. In addition, there are specific Regulatory Compliance Measures in the City that regulate development in these types of locations.

The Historical Resource exception applies when a project causes a substantial adverse change in the significance of a historical resource. As stated in the Justification for Project Exemption for Case No. ENV-2021-8272, a Historic Resource Assessment (HRA) dated May 2023, prepared by Mead & Hunt, concluded that the existing structures were significantly altered outside the period of cultural significance and are not eligible resources for listing in the National Register of Historic Places, the California Register of Historical Resources, or as a Los Angeles Historic-Cultural Monument. The Office of Historical Resources reviewed the report and recommended adoption of the HRA findings. Therefore, the proposed project will not result in a substantial adverse change to the significance of a historical resources and thus, the historical resources exception to a CE does not apply.

The Appellant has not met its burden as there is no substantial evidence in the whole of the administrative record which supports their assertions that the project does not qualify for a Class 1, Class 3, or Class 32 CEs due to significant effect on the environment based on arguments and

speculation that the Location and Historical Resources exceptions set forth in CEQA Guidelines Section 15300.2 apply.

### **Conclusion**

Staff recommends that the Planning and Land Use Management Committee recommend for City Council to deny the appeal and determine that based on the whole of the administrative record, including but not limited to the CEQA Justification prepared and found in the environmental case file, Case No. ENV-2021-8272-CE, and the Letter of Determination by the Board of Building and Safety Commissioners dated August 16, 2023, the project is categorically exempt under CEQA pursuant to Section 15301 (Class 1), Section 15303 (Class 3) and Section 15332 (Class 32) of the CEQA Guidelines), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning



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Theodore L. Irving, AICP  
Principal City Planner

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