



Daniel Luna <daniel.luna@lacity.org>

Public Comments Not Uploaded Council file 23-0796 - SUPPLEMENT APPEAL

1 message

Lincoln Heights Preservation Coalition <lincolnheightspsc@gmail.com>

Mon, Oct 2, 2023 at 10:22 PM

Reply-To: clerk.plumcommittee@lacity.org

To: clerk.plumcommittee@lacity.org, councilmember.harris-dawson@lacity.org, councilmember.Lee@lacity.org, councilmember.yaroslavsky@lacity.org, cd10@lacity.org, councilmemberkevin.deleon@lacity.org, councilmember.padilla@lacity.org

Cc: Lincoln Heights Preservation Coalition <lincolnheightspsc@gmail.com>

Dear City Clerk and Planning Committee,

Attached you will find the supplement to our appeal. Additionally, we have noticed that our appeal, specifically the 87 pages of the Justifications for Appeal have not been included onto the council file, while the other appellant's appeal has been included.

We find this to be a serious grievance, as the public has been denied access to our appeal, as well as the Committee Members. We understand that it may be a simple clerical error, however this is the second time this has happened with our appeal. Nevertheless, we respectfully ask for a continuance for our item, to give the committee members and the public time to review our appeal.

Thank you for your consideration,
LHPC

**23.0796_Appeal Supplementation.pdf**
6421K

Supplemental to the Appeal - Lincoln Heights Preservation Coalition

Case Number: CPC-2022-6189-CU-DB-ZAA-SPR-HCA
Council File - 23-0796

We would like to supplement our appeal with the following documents and exhibits. We would also like the record to show, that as of October 2, 2023 9:42 PM, our Appeal Justifications at 87 pages, has not been added onto the Council File 23-0796. This means, the public has not had access to our appeal, and it also means that the PLUM committee has not yet reviewed our appeal. This is an incredible disservice to our community, due diligence, and to the democratic process our communities have a right to.

EXHIBIT A

The Ecological Impacts of Lincoln Park.












Lincoln Park is a historical site as of 1888, as listed under the Los Angeles Historical Resource Inventory, as alluded in our appeal (page 60). The flora and fauna in Lincoln Park is unique, at is a migratory hub for birds from all around the world. In addition to this, the wildlife that is found here, is also unique to the area. A 7 story, glass building will create an overcast, and will also be a detriment to the birds, as this will be a direct obstruction to the migration route as it will be the tallest building in the area, adjacent to the park. We make the case that a thorough Environmental Impact Report must be conducted, due to the close proximity of such a diverse and complex ecosystem. We were able to survey some of the species in Lincoln Park, while utilizing scientific methods, as well as official instruments borrowed from the Natural History Museum. Here are our findings:

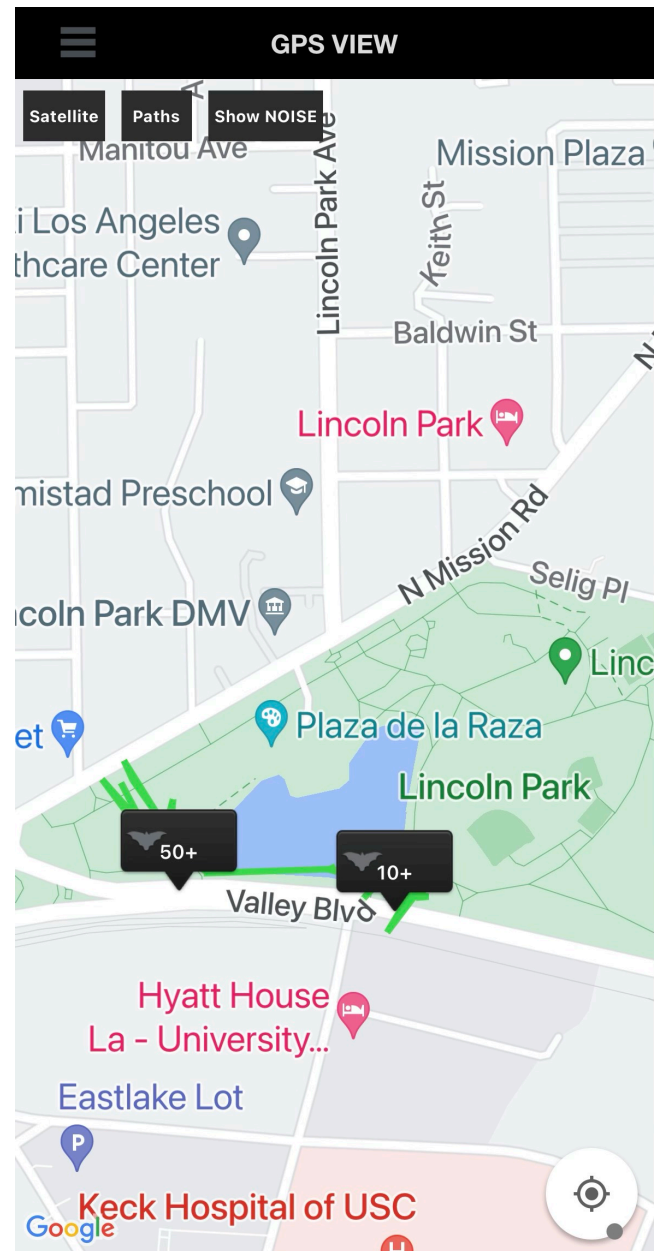
BATS

Using an Echo Meter, we were able to detect a series of bat species, and some of those species are endangered. Lincoln Park has a massive lake, with several species of fish, turtles, birds, and bats. The lake is breed many mosquitos, making it the perfect spot for Bats to live in, migrate to, and feast. We detected several species of bats using an Echo Meter, which measures the frequency and records their calls, and identifies the species according to the frequency of the audio waves, as each species has a unique print. The official report is still pending. Nevertheless, these findings prove that there are endangered species that habit the park, at less than 500 feet from the project site. It is severe negligence to discount such findings, and to deny a full environmental impact report. The species surveyed are:

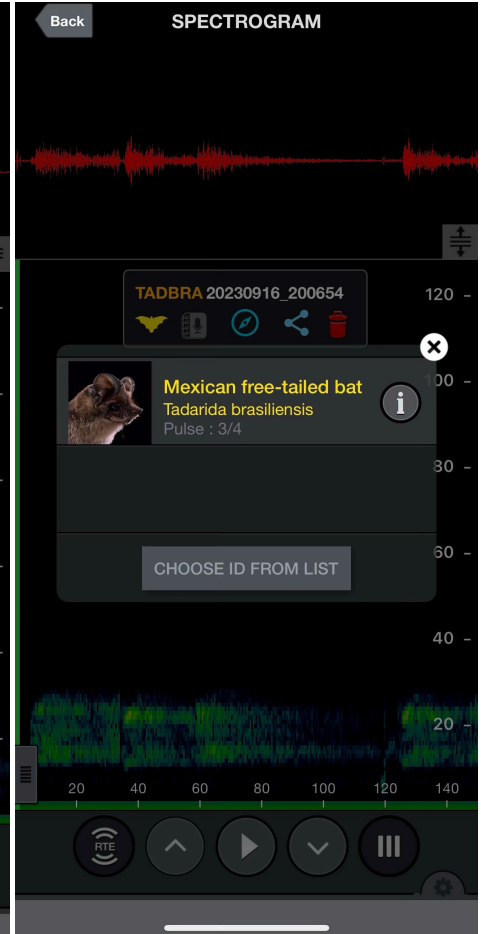
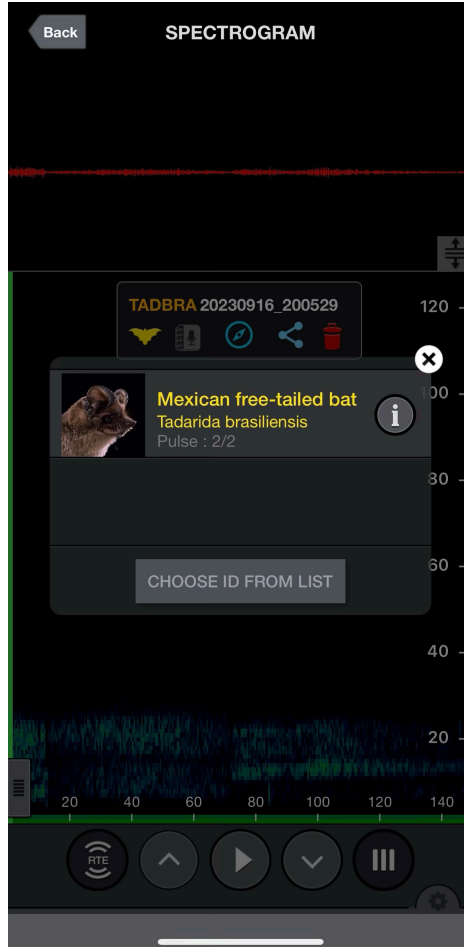
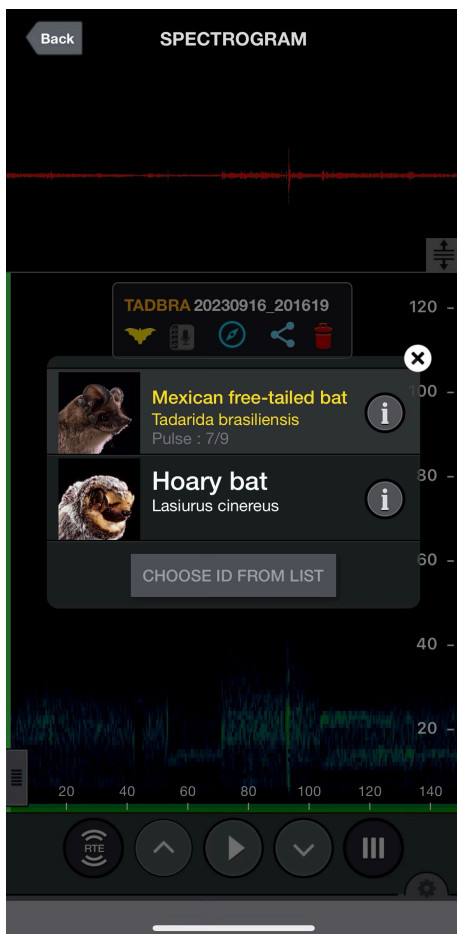
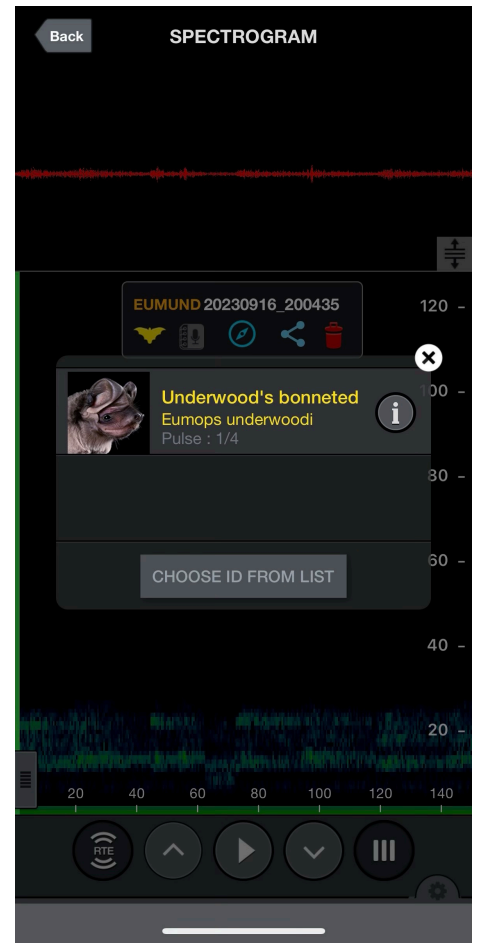
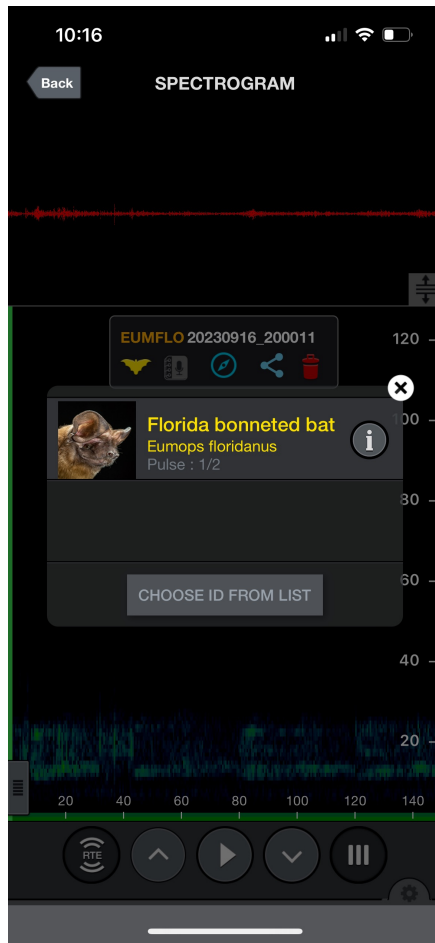
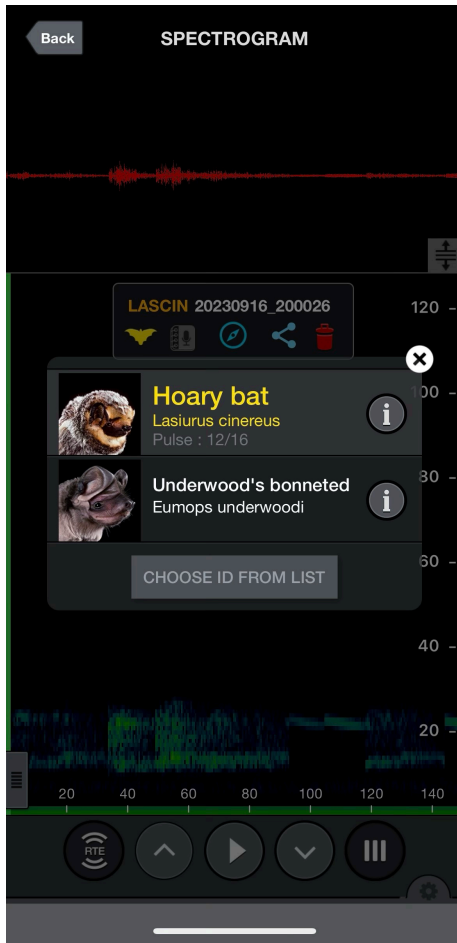
THE HOARY BAT (LASIURUS CINEREUS),
UNDERWOOD'S BONNETED (EUMPOS UNDERWOODI),
FLORIDA BONNETED BAT (EUMOPS FLORIDANUS)
POCKETED FREE TAIL (NYCTINOMOPS FEMOROSCACCUS)
MEXICAN FREE TAILED BAT (TADARIDA BRASILLENSIS)
BIG FREE TAILED BAT (NYCTINOMPS MACROTIS)

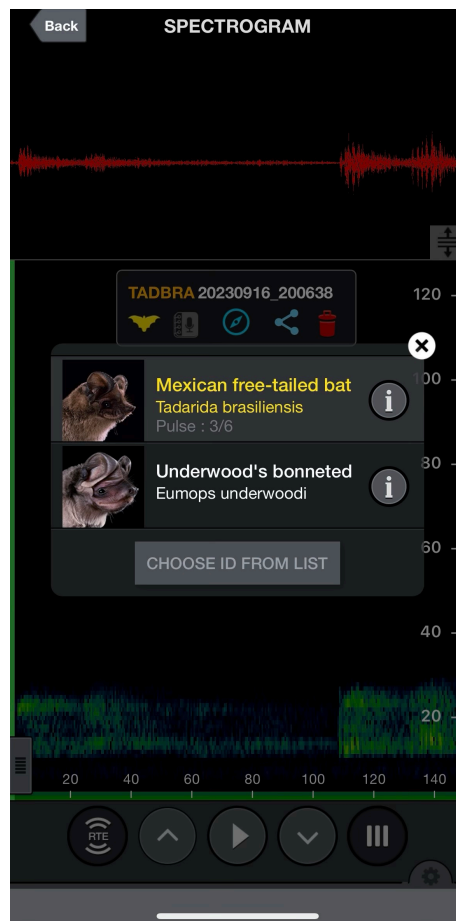
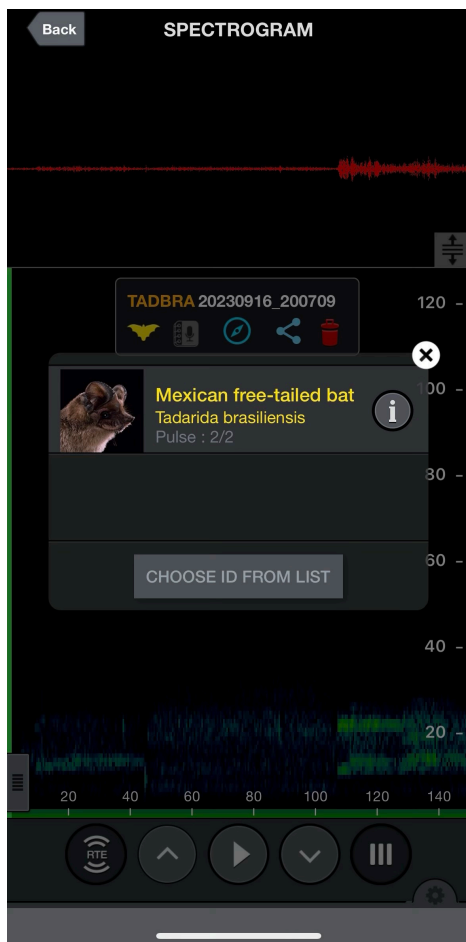
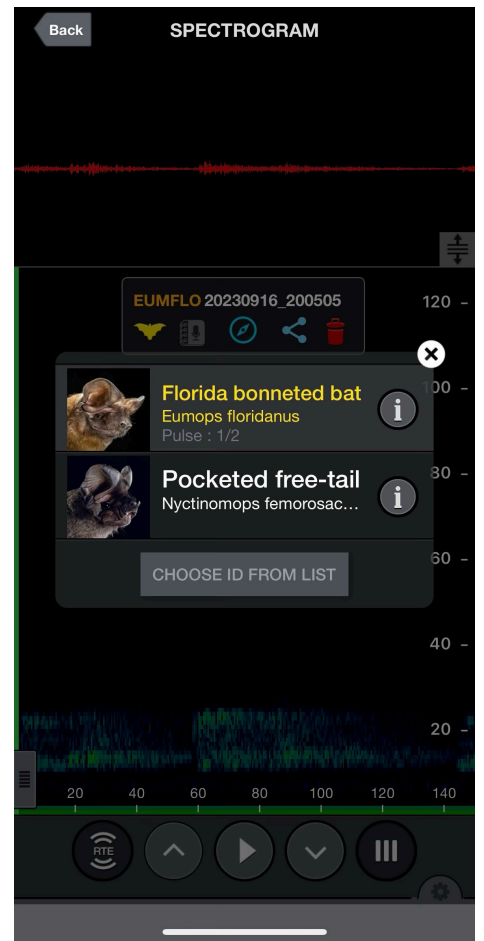
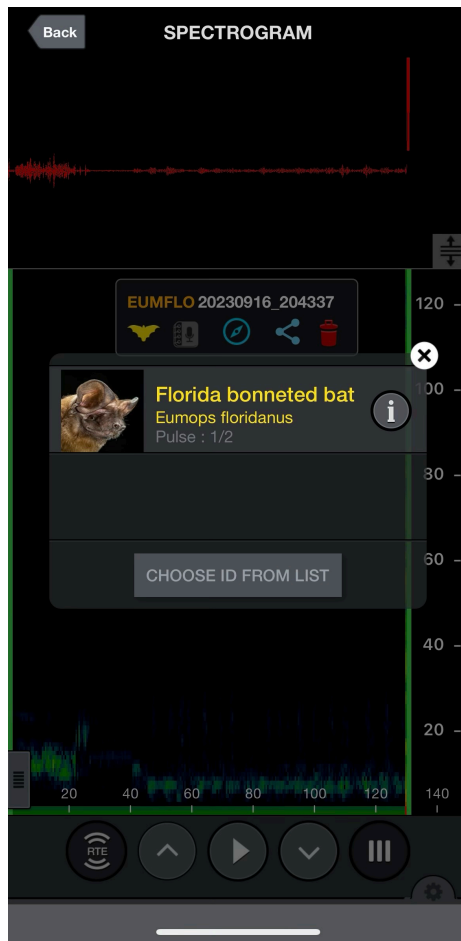
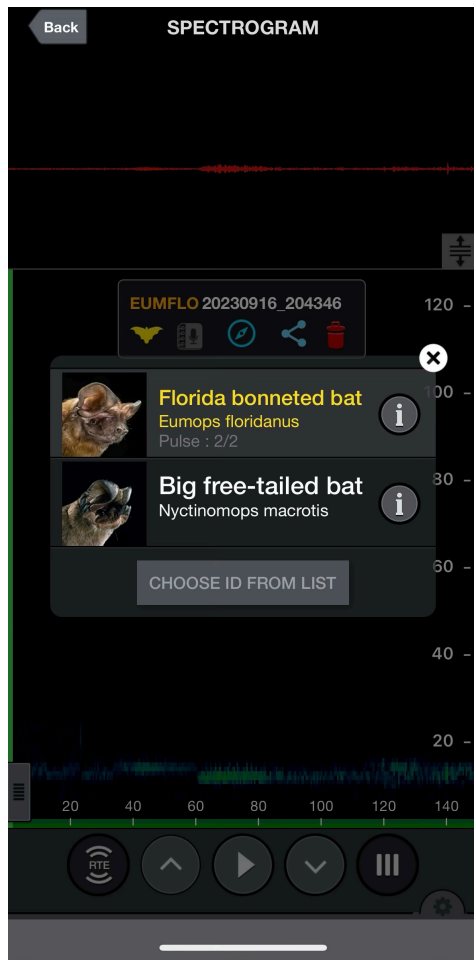
The species that are most notable here are: The Hoary Bat and the Florida Bonneted Bat, as these are endangered and federally protected species. The Hoary Bat has also been well documented by CA Fish and Wildlife in our adjacent community of El Sereno (as alluded in our appeal) and has been one of the main points of determent from development where they were found nesting. Now, we have evidence that the Hoary Bat also lives in Lincoln Park. What's more, this survey was not a thorough survey of the entire proximity of Lincoln Park, and we can suspect that there are more bats living all around the park and its vicinity.

RECORDINGS			Edit
Search...			
Sort by Species ▲		Sort by Time ▼	
EUMFLO_20230916_200011		14 s	>
September 16, 2023 at 8:00 PM			
EUMFLO_20230916_200505		14 s	>
September 16, 2023 at 8:05 PM			
EUMFLO_20230916_204337		4 s	>
September 16, 2023 at 8:43 PM			
EUMFLO_20230916_204346		7 s	>
September 16, 2023 at 8:43 PM			
EUMUND_20230916_200435		14 s	>
September 16, 2023 at 8:04 PM			
LASCIN_20230916_200026		14 s	>
September 16, 2023 at 8:00 PM			
TADBRA_20230916_200529		14 s	>
September 16, 2023 at 8:05 PM			
TADBRA_20230916_200638		14 s	>
September 16, 2023 at 8:06 PM			
TADBRA_20230916_200654		14 s	>
September 16, 2023 at 8:07 PM			
TADBRA_20230916_200709		14 s	>
September 16, 2023 at 8:07 PM			
TADBRA_20230916_201619		11 s	>
September 16, 2023 at 8:16 PM			
NoID_20230916_193934			
TOTAL FILES		86 (340.6 MB)	Summary



Over 60 bats detected on the South Side of Lincoln Park. We are in the process of surveying and documenting the north side of Lincoln Park.





1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: Western mockingjay

3. What did it look like? Colors? Size? Was it flying? Eating? Walking? In a tree?

flying + on a tree

4. How many were there?

2+

5. Were you able to get a picture? YES ☒ NO

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: _____

3. What did it look like? Colors? Size? Was it flying? Eating? Walking? In a tree?

4. How many were there?

5. Were you able to get a picture? YES ☐ NO ☐

NOTES: _____

SA

Lincoln Park Wildlife Survey 3501 Valley Blvd 90031

Write down all the insects, birds, and animals that you see on our survey in Lincoln Park! Be as descriptive as you can, and if you are able to, take a picture! Please email your pictures with today's date to: LincolnHeightsPC@gmail.com and include the letter and # on the corner of this page for identification purposes.

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: Red tail hawk

3. What did it look like? Colors? Size? Was it flying? Eating? Walking? In a tree?

flying and in a tree
1 flying 2 in a tree

4. How many were there?

3 or 4

5. Were you able to get a picture? YES ☒ NO

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: Black Phoebe

3. What did it look like? Colors? Size? Was it flying? Eating? Walking?

on dry brush

4. How many were there?

1

5. Were you able to get a picture? YES ☒ NO

Lincoln Park Wildlife Survey 3501 Valley Blvd 90031

1A

Write down all the insects, birds, and animals that you see on our survey in Lincoln Park! Be as descriptive as you can, and if you are able to, take a picture! Please email your pictures with today's date to: LincolnHeightsPC@gmail.com and include the letter and # on the corner of this page for identification purposes.

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: King, golden finch, mockingbird, morning dove

3. What did it look like? Colors? Size? Was it flying? Eating? Walking? In a tree?

4. How many were there?

5. Were you able to get a picture? YES NO

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: _____

3. What did it look like? Colors? Size? Was it flying? Eating? Walking?

4. How many were there?

5. Were you able to get a picture? YES NO

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: Nuthatch Woodpecker

3. What did it look like? Colors? Size? Was it flying? Eating? Walking? In a tree?

3 of them - by the pool

- Western Mockingbird

4. How many were there?

5. Were you able to get a picture?

YES

NO

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: _____

3. What did it look like? Colors? Size? Was it flying? Eating? Walking? In a tree?

4. How many were there?

5. Were you able to get a picture?

YES

NO

NOTES:

Lincoln Park Wildlife Survey 3501 Valley Blvd 90031

Write down all the insects, birds, and animals that you see on our survey in Lincoln Park! Be as descriptive as you can, and if you are able to, take a picture! Please email your pictures with today's date to: LincolnHeightsPC@gmail.com and include the letter and # on the corner of this page for identification purposes.

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: Snow Egret

3. What did it look like? Colors? Size? Was it flying? Eating? Walking? In a tree?

White - on the island

4. How many were there?

15

5. Were you able to get a picture? ☒ YES ☐ NO

1. What did you see?

Bird	Bug	Bat	Other
------	-----	-----	-------

2. Were you able to identify the species? Name: Grackles

3. What did it look like? Colors? Size? Was it flying? Eating? Walking?

5 male, female

4. How many were there?

5 male, female

5. Were you able to get a picture? ☒ YES ☐ NO

Red Tail Hawk - 3 woodpeckers

Dear Committee Members:

We write on behalf of the Lincoln Heights Preservation Coalition opposing the reliance on a categorical exemption for a housing development at 3601 N Mission Rd. (etc.) (Council File 23-0796). The housing units would be developed in a 184 unit, 85 foot, 7 story building across from the Historic Lincoln Park, one of the first parks in the City of Los Angeles which is surrounded by historic resources. Of the 184 units 47 will be very low income, 137 units will be market rate. It should be noted that the very low income units would not be affordable to current Lincoln Heights residents, the majority of whom have incomes below the extremely low income levels, so the very low income units would not be affordable to most existing Lincoln Heights residents. (30 percent of Lincoln Heights residents live below the poverty line, which for a family of four is \$30,000, the average median household income is \$39,205, so, half are below that. Very Low Income for 1 person is \$44,150. Lincoln Heights households have an average of 3.5 people per household – Very Low income for a family of 3 is \$56,750) . Additionally, only 102 parking spaces would be provided, despite the Project supporting 184 to 368 tenants.

The Project relies upon improper off-menu incentives and waivers. This is because the City's Municipal Code only allows off-menu incentives and waivers for those development standards not included in the menu of incentives contained in LAMC 12.22.A.25(f). Under LAMC 12.22.A.25(g)(3), which allows for off-menu incentives and waivers for qualified projects "for which the applicant request a waiver or modification of any development standard(s) **that is not included on the Menu of Incentives.**" Here, the majority of the requested off-menu incentives and waivers of standards are development standards that **are included on the Menu of Incentives.** Instead of seeking incentives and waivers not otherwise addressed by LACM 12.22.A.25(f), the applicant seeks incentives and waivers that greatly exceed the limits set for development standard incentives.

- LAMC 12.22.A.25(f)(4) provides for an on-menu incentive to increase FAR, but that incentive is "not to exceed 35%," which would allow for a 1.35:1 FAR on the Project site. In an attempt to improperly skirt the established limits for FAR incentives, the Project instead seeks what it calls an "off-menu" incentive of 2.86:1 FAR, more than double of that allowed by LACM 12.22.A.25.

Contrary to claims made by the Project proponent, the Project requires discretionary approval of site plan review, a conditional use permit and density bonus incentives from the City, necessitating compliance with the California Environmental Quality Act (“CEQA”). This discretionary review provides the City the ability to impose conditions of approval to reduce the impacts associated with the Project. For example, even if the City is required to approve the number of units requested by the Project applicant, the City is not required to approve a project so large. The City has the discretion to approve conditions.

The City has based its approval of this Project upon a Class 32 categorical exemption to environmental review under CEQA. This categorical exemption is inapplicable because the Project is inconsistent with City plan and zoning policies, goals, and regulations, would result in traffic impacts due to a severe parking shortage and would have adverse noise impacts on the surrounding residential and to a historic park and Latino AIDS Memorial due to rooftop open space. The use of a categorical exemption is also unavailable because the Project may have aesthetic and cultural resource impacts on the historic Lincoln Park and historic resources on this Lincoln Heights neighborhood, at a Project and cumulative level, and due to the need for conditions of approval to mitigate potential impacts. Further, the Project is inconsistent with the General Plan and the Northeast Los Angeles Community Plan. requirements for density, compatibility, and adequate amounts of affordable housing.

For all of these reasons, we urge the City to grant our appeal, require environmental review to determine the extent of the Project’s impacts, and require Project revisions and mitigation measures to address those impacts.

A. The City Cannot Rely on a Class 32 Exception.

The City improperly relies on a Class 32 exemption to CEQA review. To rely on a Class 32 exemption, it is the City’s burden to demonstrate, based on substantial evidence, that the Project is “consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations,” and that approval of the Project “would not result in any significant effects relating to traffic, noise, air quality, or water quality.” (CEQA Guidelines § 15332.) The City has not met this burden.

Moreover, the City does not have discretion to interpret the requirements included in CEQA’s Class 32 exemption. The interpretation of the language of the guidelines implementing CEQA or the scope of a particular CEQA exemption presents “a question of law, subject to de novo review” by a court. (*Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1252; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192.) “[A categorical] exemption can be relied on only if a factual evaluation of the agency’s proposed activity reveals that it applies.” (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th

372, 386.) “[T]he agency invoking the [categorical] exemption has the burden of demonstrating” that substantial evidence supports its factual finding that the project fell within the exemption. (*Ibid.*)

1. The Project is Not Consistent With General Plan Policies and Zoning Regulations.

The Project site is located within the Northeast Los Angeles Community Plan area and thus the Redevelopment Plan regulations are the de facto zoning regulations and land use designation for the site. The Project is inconsistent with a number of the Redevelopment Plan regulations, making it ineligible for reliance on a Class 32 exemption

The Project is also inconsistent with policies and goals set forth in the Northeast Los Angeles Community Plan.

The Project does not preserve and enhance the residential character and scale of existing single- and multi-family neighborhoods as required by NELA CP Objective 1-3.

NELA CP Policy 1-3.2, Consider the neighborhood character and aesthetics, identity, compatibility of land uses, impacts on livability, services, public facilities, and traffic levels, when changes in residential densities are proposed. (NELA CP p. III-6.)

“Promote land use policies that enhance accessibility for fire fighting equipment and are compatible with effective levels of service.” (NELA CP p. III-21.)

NELA CP Goal 14, “A COMMUNITY WHICH PRESERVES AND RESTORES THE MONUMENTS, CULTURAL RESOURCES, NEIGHBORHOODS AND LANDMARKS WHICH HAVE HISTORICAL AND/OR CULTURAL SIGNIFICANCE.” (NELA CP p. III-31.)

The Project is inconsistent with NELA CP Objective 14-1, “To ensure that the Plan Area's significant cultural and historical resources are protected, preserved and/or enhanced.”

The Project is incompatible with the historic character of the surrounding neighborhood, in particular North Mission Road. The Project is not architecturally compatible with the historic neighborhood, making it inconsistent with Community Plan objective 14-1. The noisy balconies overlooking the Latino AIDS memorial, a place meant to remember loved ones is incompatible and frankly an affront to the community.

The project is not compatible with historic Lincoln Park a historic resource: Los Angeles Historic-Cultural Monument #153 site of former carousel, California register, Lincoln Park Boathouse, Plaza de La Raza, Lincoln Park eligible for National Registry, Las Memorias at Lincoln Park, Latino AIDS Memorial, Lincoln Park Motel, and other Historic Resources adjacent.

Section 15300.2 of the CEQA guidelines states the following in section (A) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. (B) (E)Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5of the Government Code. 1. Under the DTSC list, the property behind the proposed site on 3801 Mission road - has contaminated water sources.

Significant Effect. 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 project will increase air pollution, heat island impacts from removal of trees and increased hardscape will increase ozone. This was not included in the Air Quality analysis. Additionally not included was the impacts from circling cars unable to find parking.

Cumulative impact. 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. See Attachment B.

The developer failed to disclose to the public and the city when they stated in error in Application H. Hazardous Materials and Substances that there were PCB contamination (Section 65962.5of the Government Code

For all of these reasons, the Project cannot rely on a Class 32 categorical exemption.

2. The Project May Result In Traffic and Noise Impacts.

The Project may also result in adverse traffic and noise impacts that prevent reliance on a Class 32 exemption.

C. Exceptions to Categorical Exemption Require Environmental Review.

Categorical exemptions from CEQA are subject to exceptions. Even if a project fits within a specified class of categorical exemption, the exemption is inapplicable if any of the exceptions to categorical exemptions apply. (CEQA Guidelines § 15300.2.) If an exception to a categorical exemption applies, CEQA review in the form of an MND or EIR must be conducted.

3. The Project May Adversely Impact Historic Resources.

“A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.” (CEQA Guidelines §

15300.2(f).) Under this exception, a categorical exemption cannot be relied upon if there is a fair argument supported by substantial evidence that the project may have a significant adverse impact on an historic resource.

Conclusion

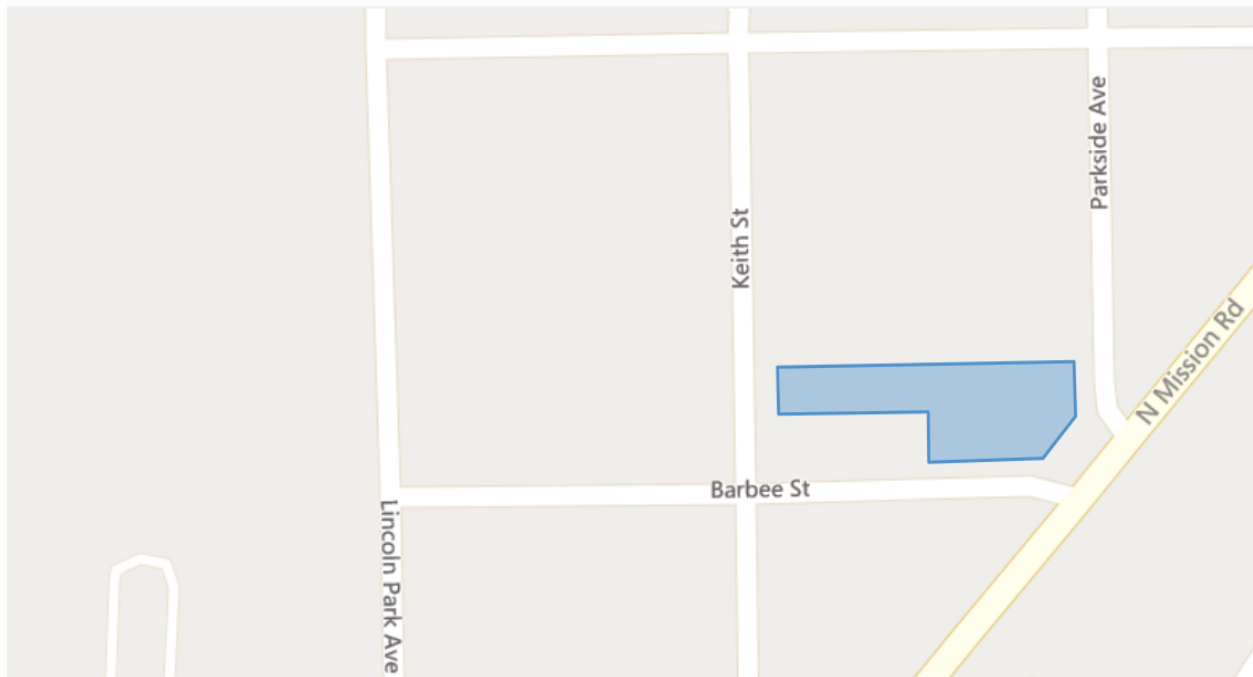
For all of the reasons set forth herein, in our appeal and in additional comments that will be submitted and presented at the PLUM hearing, we urge the Committee to recommend the granting of the appeal pending the completion of environmental review for this Project.

Attachment A

Lincoln Park was established in 1881. One of the City's first parks it was first named East Los Angeles Park. It's gateway shown below was completed in 1933 with municipal bonds to help employ residents during the Great Depression.

<https://www.laconservancy.org/learn/historic-places/lincoln-park-gateway/>





From: <http://www.historicplacesla.org/reports/7df75ee6-4feb-45ee-ab3b-416ac6724b1a>

Summary of Significance

"The Lincoln Park Motel is significant as a rare remaining example of a 1920s-1930s motor court in Los Angeles. Originally the Luna Park Auto Court, the property was constructed by owner-operator Nick Ragenovich on the original Highway 99 route along Mission Road. Initial construction of the individual units, duplexes, and office/owner residence took place between 1929 and 1931, and the rear multi-unit building was added in 1936. The motor court was located across from Selig Zoo (later known as Luna Park Zoo and Zoopark), a major tourist attraction that operated between 1915 and 1940. In addition to the zoo, other tourist attractions along this stretch of Mission Road included an ostrich farm, an alligator farm, the Tango roller coaster, and a carousel. The auto court was presumably constructed to serve tourists visiting these attractions as well as motorists passing through along Highway 99, which ran on Mission Road toward Daly Street and Avenue 26 until completion of newer freeways in the late 1950s-early 1960s. The period of significance for the Lincoln Park Motel is 1929-1936, reflecting the dates of its development. Due to multiple alterations, the property may not retain sufficient integrity for National Register or California Register eligibility. However, due to the rarity of the property type (it is one of very few remaining examples of an auto court from this period in Los Angeles) it appears to meet local eligibility criteria."

General Description

"The Lincoln Park Motel is a motor court located at 2101 Parkside Avenue (or 3735 Mission Road) in the Lincoln Heights neighborhood of northeast Los Angeles. The motel comprises three long parcels at the intersections of Parkside Avenue, Mission Road, Barbee Street, and Keith Street. It is accessed off of Parkside Avenue through an arched entry with neon signage that reads ""LINCOLN PARK MOTEL."" The property is not fully visible from the public right-of-way, but appears to contain 15 buildings, the bulk of which face a central paved parking lot and are surrounded by a stucco wall with clay tile coping. Eleven of these buildings are small individual units, two are duplexes, and one is a two-story office building/residence. These units are connected by covered parking spaces. The last building is a one-story, multi-unit building at the rear of the property, accessed via an extension of the central parking lot. The individual units are vernacular in style; they retain front-gabled roofs and wood clapboard siding. The duplexes also have gabled roofs but are clad in stucco. The multi-unit building, office building, arched front entry, and exterior wall are Spanish Colonial Revival style with clay tile pent roofs and stucco cladding. Alterations include infilled windows, altered window openings, replacement windows and doors, and new signage."