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May 15, 2019

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 RESPONSE; Council file Nos. 18-0717

On April 16, 2018, the Director of Planning determined that the project is Categorically Exempt from the environmental review pursuant State CEQA Guidelines, Article 19, Class 15301 (demolition and removal of up to six dwelling units in urbanized areas) and City of Los Angeles CEQA Guidelines, Article III, Section 1, Class 11, Category 2 (parking lots under 110 spaces) and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies and approved Case No. DIR-2017-5247-SPP for the demolition of two (2) existing duplexes; and a change of use from residential to an ancillary surface parking lot for use by the Hollywood Presbyterian Medical Center (HPMC), located within Subarea C (Community Center) of the Vermont/Western Station Neighborhood Area Plan (SNAP) Specific Plan.

On May 1, 2018, the Department of City Planning received a joint appeal of the Director of Planning's decision to conditionally approve a Project Permit Compliance Review under Case No. DIR-2017-5247-SPP by George Abrahams of Save Hollywood and Alex Kondracke of the Concerned Citizens of Los Feliz. The appeal pertained to the claim that the site contained a historic resource.

The Department of City Planning responded to this assertion in an Appeal Report dated July 10, 2018 (Appeal Report). The Appeal Report and all associated documents were presented to the Central Area Planning Commission (APC) at its meeting of July 10, 2018. On July 10, 2018, the APC following its consideration of the materials and oral testimony, denied the Appeal, sustained the actions of the Director of Planning in approving a Project Permit Compliance Review and determined that based on the whole of the administrative record, the project is exempt from CEQA pursuant State CEQA Guidelines, Article 19, Class 15301 (demolition and removal of up to six dwelling units in urbanized areas) and City of Los Angeles CEQA Guidelines, Article III, Section 1, Class 11, Category 2 (parking lots under 110 spaces) and there is no substantial evidence demonstrating that an exception to a Categorical Exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

On July 26, 2018, Doug Haines of the La Mirada Avenue Neighborhood Association of Hollywood, Charles Fisher, and Alex Kondracke of the Concerned Citizens of Los Feliz filed a joint CEQA appeal for Case No. ENV-2017-5248-CE. The appeal again mainly rely on the same arguments and information as presented in the Appellant's previous letters to the City. The City has already adequately provided detailed and full responses to each of the appeal points, supported by substantial evidence in the record, and the APC Appeal Report dated July 10, 2018.

Nonetheless, the following represents a summary and response to the CEQA appeal points identified in the appeal filed on May 1, 2018, and responded to by Planning Staff in the APC Appeal Report dated July 10, 2018.

CEQA Appeal Points

The City has imposed an improper standard of review for what constitutes "substantial evidence"

The appellant contends that neither the City nor the applicant conducted any analysis to support a conclusion that the site does not contain a historic resource. Moreover, the appellant claims they have provided evidence to refute the City's application of the Categorical Exemption.

According to California Court of Appeal, Fifth Appellate District - Valley Advocates v. County of Fresno (2008) 160 Cal. App. 4th 1039, 1072–1074, the court found that the fair argument standard did not apply to the question of whether the buildings were historic resources for purposes of CEQA and is inconsistent with the concept of a lead agency's discretion to determine that a property is a historical resource.

Furthermore, the project opponent has the burden of producing substantial evidence showing a reasonable possibility of adverse environmental impact sufficient to remove the project from the categorically exempt class. (See *Davidon Homes v. City of San Jose* [(1997)] 54 Cal.App.4th [106,] 115 [62 Cal. Rptr. 2d 612]; see also Guidelines, § 15300.2, subd. (c).) (*Magan v. County of Kings* (2002) 105 Cal.App.4th 468, 476 [129 Cal. Rptr. 2d 344].)..."

The appellants claim that the testimony given by Charles J. Fisher constitutes as substantial evidence, however Charles J. Fisher did not meet the Secretary of the Interior's Professional Qualification Standards for Historic Preservation (48 CFR 44716) that a person must meet when completing historic resources surveys and impacts assessments. As such, the fair argument standard does not govern determinations whether the "discretionary" historical resources exception applies to a categorical exemption. Therefore, the lead agency determined that the two (2) Craftsman duplexes were not a historical resource and the proposed project would not have a substantial adverse impact. No mitigations are needed for the proposed project and pursuant to State CEQA Guidelines, Article 19, Class 15301 (demolition and removal of up to six dwelling units in urbanized areas) and City of Los Angeles CEQA Guidelines, Article III, Section 1, Class 11, Category 2 (parking lots under 110 spaces), the proposed project is categorically exempt.

The project site contains a Historic Resource.

The appellant contends that the two (2) existing Craftsman duplexes are considered historic and the Categorical Exemption was granted without proper analysis. The appellant suggests that the duplexes embody the distinctive characteristics of style, type, period, or method of construction and retains enough of its historic character and appearance to be recognized as a historic resource. The duplexes were built in 1910 and 1916, with square footages of 1,298 and 1,564 square feet, respectively.

The project site is not identified as historic or listed on the National Register, California Register, City of Los Angeles Historic-Cultural Monuments, or HPOZ. The subject site is not designated under any local, state, or federal program, was not identified in SurveyLA or any other survey, and is not a historical resource as defined by CEQA. The appellant has not provided any substantial evidence such as field surveys and research conducted by a qualified professional cultural resource consultant to determine whether the duplexes are indeed historic. The duplexes do not have known associations with an architect, master builder or person or event important in history such that the buildings may be of exceptional importance. Therefore, the lead agency determined that the duplexes were not a historical resource and the proposed project would not have a substantial adverse impact. No mitigations are needed for the proposed project and pursuant to State CEQA Guidelines, Article 19, Class 15301 (demolition and removal of up to six dwelling units in urbanized areas) and City of Los Angeles CEQA Guidelines, Article III, Section 1, Class 11, Category 2 (parking lots under 110 spaces), the proposed project is categorically exempt.

Conclusion

The appeal and referenced comment letters address specific concerns and focus on the adequacy of the categorical exemption. Upon careful consideration of the Appellant's points, no new substantial evidence was presented that City has erred in its actions relative to the categorical exemption. Therefore, the CEQA appeal should be denied and the actions of the Central Area Planning Commission should be sustained.

Sincerely,

VINCENT P. BERTONI, AICP

Director of Planning



Jason Hernández

City Planning Associate

VPB:CTL:JH

c: Craig Bullock, Planning Director, Council District 13

