

JUSTIFICATION/REASON FOR APPEAL

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To: Los Angeles City Council

From: Century Glen Homeowners' Association/Stacy Antler

Date: June 11, 2019

Pursuant to the California Public Resources Code §21151(c)¹, Century Glen HOA/Stacy Antler (“Appellant”) appeals the June 3, 2019 Letter of Determination issued by the Los Angeles City Planning Commission (“Letter of Determination” - attached hereto as Exhibit “A.”) to the City highest elected body – i.e., the Los Angeles City Council.

Among other things, the Letter of Determination upheld the January 17, 2019 Director’s Determination issued by the Director of Planning (“Director’s Decision - attached hereto as Exhibit “B”), by determining that the Proposed seven-story, 120 unit, 97,011 square-floor residential project to be located at 10400-10422 West Santa Monica Blvd. (the “Project”) “is exempt from CEQA pursuant to State CEQA Guidelines, Section 15332, Article 19 (Class 32), and there is no substantial evidencing that an exception to the categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies.” Appellant respectfully disagrees with this determination for the following reasons:

First, as Appellant set forth in its appeal documents submitted to the City Planning Commission, the Project does not qualify for a Class 32 exemption under the CEQA Guidelines, as a Class 32 exemption may only be used where a Project is consistent with the applicable General Plan of the locality. (See the April 29, 2019 Letter submitted to the City Planning Commission by the law firm of Luna & Glushon, which is attached herein as Exhibit “C” and which is incorporated by reference in its entirety.)

For multiple reasons, as described in the April 29, 2019 letter, the Project is not in substantial conformance with the purposes, intent and specific provisions of the City’s General Plan of the West Los Angeles Community Plan. Additionally, the Director’s Decision failed to find conformance with the West Los Angeles Transportation Improvement and Mitigation Specific Plan. Therefore, the Director’s Determination that the Project is consistent with the City’s General Plan (and the Letter of Determination upholding that decision) are not supported by substantial evidence.

¹ California Public Resources Code §21151(c) states that “If a nonelected decisionmaking body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency’s elected decisionmaking body, if any

Further, CEQA Guidelines prohibits the use of a categorical exemption (including an exemption based on Class 32) where “there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (CEQA Guidelines §15300,2(c). This so-called “unusual circumstances” exception is established without actual evidence of an environmental effect upon a showing based on substantial evidence that a project has some feature that distinguishes it from others in an exempt class, such as its size, location or other feature. Additionally, to render a CEQA exemption inapplicable, there needs to be only the showing of a “fair argument” that there is a “reasonable possibility” of a significant environmental effect due to the unusual circumstance. See Berkeley Hillside Preservation v. City of Berkeley, 60 Cal 4th 1086, 1114-6 (2015).

Here, the Project is not in substantial conformance with the purposes, intent and provisions of the City’s General Plan or the West Los Angeles Community Plan. Accordingly, the Project will have a significant land use/planning environmental effect and a Categorical effect is not appropriate. Similarly, the incompatible traffic condition that will be caused by the Project at the already heavily trafficked intersection of the Santa Monica and Beverly Glen Boulevards, creates a substantial increase to the hazards at that intersection and along Beverly Glen Boulevard.

Additionally, it is beyond dispute that the entirety of the Project site lies within the Santa Monica Fault earthquake fault zone, as mapped by the California Geological Survey as of July 2017.² This fact constitutes substantial evidence that the Project’s location constitutes an unusual circumstance as that term is utilized in the CEQA Guidelines and in Berkeley Hillside (an unusual circumstance may be established without evidence of an environmental effect, but showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location.) This critical fact establishing an unusual circumstance is completely omitted in the Director’s Determination and the Letter of Determination upholding that decision. In fact, the Director’s Determination erroneously states that there “are no special districts or other known circumstances that indicate a special or sensitive surrounding environment” and, accordingly, “there are no unusual circumstances which may lead to a significant effect on the environment.” Neither the Director’s Determination nor the Letter of Determination adequately evaluates this issue and, as a result, reflects an erroneous and misleading determination on this critical issue.

Second, Appellant also submitted a letter dated May 3, 2019 to the Planning Commission, which detailed its concerns that the City’s application of a Categorical Exemption (Class 32) for the Project is improper as the City fails to adequately explain why the exception set forth in CEQA Guidelines §15200.2(b) does not apply here. (Appellant’s May 3, 2019 letter is attached hereto as Exhibit “D” and is incorporated in its entirety by reference herein.)

² <https://www.latimes.com/local/california/la-me-ln-santa-monica-earthquake-fault-map-20170713-htmlstory.html>

The City's use of a CEQA categorical exemption is inappropriate because the Project's cumulative impacts must be assessed, given that it constitutes one of a succession of planned large, multi-unit housing developments in the same neighborhood over the next couple of years. (see CEQA Guidelines §15300.2(b)). Century Glen is currently aware of at least two other large multi-unit housing developments in the same neighborhood that are seeking entitlements from the City (both depicted on an accompanying map of the neighborhood):

- 10306-10330 W. Santa Monica Boulevard (DIR 20185480 – TOC): Proposed 7 story, 116-unit housing development over 100,000 sq. feet, with limited parking and more than 3x Code allowed density.
- 1814-1820 S. Fox Hills Drive: Details of this multi-unit housing project are not known at this time. The current structures are vacant, fenced and slated for demolition. The size of the parcel suggests that this project will be in the 40-60 unit range, depending on number of stories, size of units and other factors.

Both the Director's Determination and the Letter of Determination fail to adequately evaluate the cumulative environmental impacts of these multiple projects. In fact, the Director's Determination erroneously states that "there is insufficient evidence to conclude that the proposed project will be under construction at the same time as projects within the vicinity." This is patently false, as the proposed residential projects identified immediately above are both currently winding their way through the City's Planning process. Contrary to the City's statement, there is an extremely high likelihood that one or both of these residential projects will be under construction at the same time as the 10400 Santa Monica Blvd. project.

Individually and cumulatively, these three large, multi-housing projects will be built in succession and will operate in close proximity to each other over a limited period of time – totaling close to 300 new units - will foreseeably have significant environmental impacts. Such impacts include:

- Incompatibility with the West Los Angeles Community Plan due to the height, scale and massing of the proposed structures. These oversized structures will not be compatible with the existing neighborhood and will overwhelm neighboring properties;
- Increased traffic burden to both main thoroughfares (Santa Monica Blvd., Beverly Glen Blvd.) as well as to neighborhood side streets. Even under current conditions, vehicles are continually seen by Century Glen members performing illegal maneuvers to circumvent traffic restrictions in the neighborhood (e.g., running stop signs, illegal U-turns, illegal lefts, illegal merges onto Santa Monica Blvd.). As the traffic flow increases, and streets are blocked due to construction, etc., these problems will only increase;
- Increase traffic/pedestrian safety risks due to increase in traffic, and particularly due to highly questionable placement of the Project's vehicular ingress/egress directly on Beverly Glen immediately south of the busy intersection with Santa Monica Blvd.
- Increased burden on already limited opportunities for street parking, due to unrealistically

low onsite vehicular parking requirements;

- Several years of continuous construction activities in the same neighborhood – starting at or before 8am and going until 6pm, six days per week - leading to significant increases in noise, vibration, fugitive dust and other foreseeable negative effects from large-scale construction work;
- Several years of markedly increase truck traffic going to/from construction sites. Given what is already a complicated/difficult traffic environment at and around the Santa Monica/Beverly Glen intersection, the additional truck traffic combined with full or partial street closures and other dislocations will significantly exacerbate an already extremely difficult and dangerous situation;

The above list of foreseeable environmental impacts is not intended to be comprehensive, but rather is intended to illustrate that the multiple projects will foreseeably create significant environmental impact. Accordingly, there is more than a fair argument that the City's decision to exempt the Project from CEQA constitutes prejudicial abuse of discretion, as it directly violates CEQA's mandate to assess cumulative impacts of multiple, successive projects of a similar type in the same area, so as to give City decision makers and general public an opportunity to evaluate the full impacts of these projects on the environment. As a matter of law, the City must require the Project applicant, as well as the applicants of these other projects, to perform a thorough environmental review of the projects' impacts, both individually and cumulatively, prior to granting the requested entitlements allowing these projects to proceed.

Appellants reserve the right to, and in fact plan to, submit additional evidence that one or both of the exceptions to a Categorical Exemption (as set forth in CEQA Guidelines §15300.2(b) and §15300.2(c)) properly apply in this case.