

EXHIBIT C

April 29, 2019 Letter

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VIA EMAIL (cpc@lacity.org; apcwestla@lacity.org)

City Planning Commission
200 N. Spring Street, Room 272
Los Angeles, CA 90012

Re: DIR-2017-81-TOC-SPR/ENV-2017-82-CE
10400-10422 West Santa Monica Boulevard

Honorable Commissioners:

Our law firm represents Appellants Century Glen Homeowners Association, a neighborhood homeowners' association founded in the 1920's and existing for the purpose of protecting the Century City neighborhood against impacts to quality of life ("Appellants").

Appellants are opposed to the 79-foot, 120 dwelling unit development project with an FAR of 3.75:1 at 10400-10422 West Santa Monica Boulevard/1800 South Pandora Avenue ("Project"), as proposed. Particularly, the ingress/egress impacts caused by the Project providing vehicular access to all units directly from Beverly Glen Boulevard result in a development which is not compatible with existing and future development on adjacent and neighboring properties and which raise serious safety concerns for the surrounding neighbors.

For all the reasons set forth herein, this Commission should grant Appellant's appeal and require the Applicant to revise the Project in a manner which is compatible with this location (the corner of Santa Monica Boulevard and Beverly Glen, both large and busy thoroughfares traversing the Century City community).

I. The Findings for Site Plan Review are not and Cannot be made with Substantial Evidence

a. The Project is not in substantial conformance with the General Plan or the West Los Angeles Community Plan and the Planning Director Improperly Failed to Find Conformance with the West Los Angeles Transportation Improvement and Mitigation Specific Plan.

First, even though the Project site is subject to the West Los Angeles Transportation and Improvement and Mitigation Specific Plan ("Specific Plan"), the Director of Planning ("the Director") fails to review the Project under the Specific Plan and in any way find it consistent with the Specific Plan. Indeed, the Director improperly states that the Project is not subject to any specific plan.

Los Angeles Municipal Code ("LAMC") §16.05.F requires that in granting Site Plan Review, the Director find that the Project is in substantial conformance with the purposes, intent and provisions of *any applicable specific plan*. The fact that the City's Department of Transportation ("DOT") may have reviewed the Project for compliance under the Specific Plan does not excuse the Director of Planning from its duties under LAMC §16.05.F. The Director's failure to do perform its duties, as required under the plain language of the LAMC, constitutes an abuse of discretion.

Furthermore, the Project does not comply with the City's Residential Citywide Design Guidelines¹ for Multi-Family Residential Projects, which provide for the following principles, goals and objectives:

- To nurture neighborhood character.
- To encourage projects appropriate to the context of the City's climate and urban environment; facilitate safe, functional, and attractive development; and foster a sense of community and encourage pride of ownership.

¹ The City of Los Angeles's General Plan Framework Element and each of the City's 35 Community Plans promote architectural and design excellence in buildings, landscape, open space, and public space. They explicitly provide that *preservation of the City's character and scale*, including its traditional urban design form, shall be *emphasized* in consideration of future development. To this end, the Citywide Design Guidelines have been created to carry out the common design objectives that maintain neighborhood form and character while promoting design excellence and creative infill development solutions.

- To highlight the role that quality building design can play in creating visually interesting and attractive multi-family buildings by contributing to existing neighborhood character and creating a "sense of place."
- To consider neighborhood context and linkages in building and site design.
- To ensure that new buildings are compatible in scale, massing, style, and/or architectural materials with existing structures in the surrounding neighborhood.

The within Project, with a Floor Area of 3.75, *more than double* the FAR allowed on the Project site, a height of 79 feet, *22 feet more* than allowed on the Project site and reduced side yards, is not compatible in scale or massing with existing structures in the surrounding neighborhood which are nowhere near such mass or scale. Furthermore, its proposal to place all vehicular access onto heavily trafficked Beverly Glen Boulevard results in a development which does not consider neighborhood context and linkages in building and site design and which fails to facilitate a safe and functional development.

The West Los Angeles Community Plan further provides for the following goals and objectives:

- Promote neighborhood preservation in all residential neighborhoods.
- In discretionary project approval, the decision-maker should not approve densities in excess of those in adjacent or surrounding neighborhoods.
- Proposals for change to planned residential density should consider factors of neighborhood character and identity, compatibility of land uses, impacts on livability, public services and facilities, and traffic levels.

With the Project so massively out of scale with the adjacent structures and surrounding neighborhood, and significantly above the development scale otherwise allowed on the site, the Project fails to conform to these West Los Angeles Community Plan goals and objectives. Indeed, its proposed ingress/egress on the corner of Santa Monica Boulevard and Beverly Glen, both large and busy thoroughfares traversing the Century City community, is

specifically against the Plan's objective for compatibility of land uses with consideration for traffic and livability impacts.

b. The Project does not consist of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.

The Project is not compatible with the existing and future development of adjacent properties. At the scale and mass proposed, it will overshadow and overwhelm the multifamily residential uses both immediately abutting and in the surrounding neighborhood which are nowhere near its mass or scale. What's more, the Project's proposed ingress/egress located on Beverly Glen Boulevard, basically at the intersection of heavily trafficked Santa Monica Boulevard, will pose a hazardous traffic condition which is incompatible with the development surrounding it and ingress/egress to such development.

The Director's determination completely failed to evaluate the compatibility and appropriateness of the Project with regard to existing and future development on adjacent and neighboring properties, as required by this finding. The whole of the Director's finding on this issue is a description of the Project and a list of the incentives to which the Project is entitled. It does not identify with any particularity the existing or future development on adjacent and neighboring properties, nor how the Project is compatible to them. It fails to make the legally required finding and substantiate it with substantial evidence. Indeed, for the reasons discussed herein, this finding is not and cannot be made in the affirmative with substantial supporting evidence.

II. The Findings for the Requested TOC Incentives are not and Cannot be made with Substantial Evidence

a. The Incentives are not required to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.

In support of this finding, the Director finds that the record does not contain substantial evidence that would allow the Director to make a finding that the requested incentives are not necessary to provide for affordable housing costs per State Law. But the fact that such evidence was not submitted (*i.e.* the fact that

the Applicant failed to provide such evidence to the Director) does not mean that it does not exist. In other words, the fact that the Incentives are required is not supported by substantial evidence. It is possible for the Applicant to provide the affordable housing units without the Incentives and the record is devoid of any evidence to the contrary.

- b. The Incentives will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register Of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse Impact without rendering the development unaffordable to Very Low, Low and Moderate Income households.

As set forth below, the Project's reliance on a Categorical Exemption is inadequate under CEQA, constituting a specific adverse impact upon public health and safety and the physical environment. Furthermore, as admitted by the Director, there is no evidence in the record to show that the Incentives will not have such specific adverse impact.

III. The Categorical Exemption is Inadequate under the California Environmental Quality Act ("CEQA")

a. The Project does not Qualify for a Class 32 Exemption

Class 32 Exceptions may only be used where the Project is consistent with the applicable General Plan. As discussed above, the Project is not in substantial conformance with the purposes, intent and provisions of the General Plan or the West Los Angeles Community Plan. Furthermore, the Planning Director improperly failed to find conformance with the West Los Angeles Transportation Improvement and Mitigation Specific Plan. Therefore, the Director's findings that the Project is consistent with the applicable General Plan are not supported by substantial evidence.

b. Exceptions to Exemptions Apply

CEQA prohibits use of a categorical exemption when "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)). The "unusual circumstances" exception is established without evidence of an environmental effect upon a showing that the project has some feature that

distinguishes it from others in the exempt class, such as its size or location. In such a case, to render the exception applicable, the party need only show a reasonable possibility of a significant effect due to that unusual circumstance. Alternatively, the "unusual circumstances" exception is established with evidence that the project will have a significant environmental effect. *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086.

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

IV. Conclusion

For all of these reasons, we ask that the Commission grant the within appeal.

Very truly yours,

LUNA & GLUSHON
A Professional Corporation

A handwritten signature in black ink, appearing to read "Rob Glushon", written in a cursive style.

ROBERT L. GLUSHON

cc: Hagu Solomon-Cary, Planning Deputy to Councilmember Paul Koretz
Neill E. Brower
Kristina Kropp