October 21 2019

Via US Mail and Email
Los Angeles City Council
Office of the City Clerk
City Hall, Room 395
Los Angeles, CA 90012
cityclerk@lacity.org

RE: Appeal of Los Angeles Dodgers Centerfield Improvement Project, Case No. CPC-1999-0157-PAD-PAS; Council File No. 19-1096

Honorable Chair Harris-Dawson and Councilmembers,

Neighbors of Chavez Ravine has filed an appeal to the proposed 2020 Centerfield Plaza Improvement Project at Dodger Stadium ("Project") because the Project was unlawfully approved without input from the community, a public hearing, or any environmental review. Owing to the potential individual and cumulative environmental impacts resulting from the Project, as well as the longstanding history of lack of environmental review of expansion and development at Dodger Stadium, Neighbors of Chavez Ravine respectfully request City Council grant the appeal.

Members Neighbors of Chavez Ravine ("Neighbors") live, work, and recreate in the area immediately surrounding Dodger Stadium. While Neighbors are not opposed in theory to upgrades to Dodger Stadium for things such as ADA accessible restrooms and seating, Neighbors insist that impacts resulting from the operation of the stadium and new development thereto cannot continue to be approved under the guise of limited "enhancements" and environmental review essentially being kicked down the road at the expense of the community and the quality of life of its members. This is about more than a baseball game which can host 56,000 people; since its approval in 1960 Dodger Stadium has significantly expanded its use by hosting events year-round, which produce traffic, noise, lighting, refuse, etc. impacts on the surrounding residential neighborhoods. The City is required to analyze environmental impacts and potential mitigation measures of the Project, particularly in light of the advent of modern traffic apps and technologies vastly changing the operational landscape of the stadium, before allowing expansion of the facilities.

The project does not qualify for an exemption pursuant to the CEQA Guidelines.

The evidence in the record does not support a finding that the Project is exempt from CEQA pursuant to a categorical exemption. Only in limited circumstances, may an agency project approval be exempt from CEQA review for falling within one of 33 classes of exemptions enumerated under the CEQA Guidelines. CEQA Guideline §15061(b)(2), §§15300-15333. "A categorical exemption is based on a finding by the Resources Agency that a class or category of projects does not have a significant effect on the environment." Davidon Homes v. City of San Jose (1997) 54 Cal.App.4th 106, 115.
Categorical exemptions are intended to apply to agency project approvals that clearly fall within a predefined, specific type of activity that has been carefully analyzed and categorically found to not have an individual or cumulative significant effect on the environment. Pub. Res. C. §21084(a); Guideline §15061(b)(3) ("Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA") (Emphasis added.)

Categorical exemptions are not absolute. If there is any "reasonable possibility" that a project or activity may have a significant effect on the environment, an exemption is improper. Guideline §15300.2(c); Wildlife Alive v. Chickerine (1976) 18 Cal.3d 190, 205-06 ("Wildlife Alive"). A project that might otherwise be categorically exempt must nevertheless be thoroughly reviewed if one of the following three exceptions apply:

- There is a reasonable possibility of a significant effect on the environment due to unusual circumstances (Guideline §15300.2(c));
- Significant cumulative impacts from projects of the same type will result (Guideline §15300.2(b));
- In some cases, the project will have impacts on a uniquely sensitive environment.

Here the City improperly claims the following exemptions:

**Class 1 Exemption**

The Project does not fall within the scope of CEQA Guideline §15301, the existing facilities exemption, because the Project goes beyond maintaining or a minor alteration to the stadium. As described in detail in the appeal, the Project proposes new construction and alterations to the Stadium's layout and facilities which have the reasonable possibility of having significant impacts on the environment. According to Planning Staff's estimation, 14,125 square feet in new covered area, for a net total of 12,655 square feet, will be created as a result of the Project. On its face, this is more than the 10,000 square feet exemption allowed under CEQA Guideline §15301.

The conclusion that the Project is not exempt from CEQA is further buttressed by the observation in Azusa Land Reclamation Co v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165, 1195 that "[t]he rationale for the existing facilities exemption is that the environmental effects of the operation of such facilities must already have been considered." As detailed in the appeal, there is no evidence in the record to suggest the City has ever adequately considered the environmental impacts or mitigation measures to ameliorate the negative impacts of the operation of Dodger Stadium under CEQA. In fact, previous project approvals at the stadium have gone largely overlooked in terms of environmental review, as here, because the applicant frames the Projects as minor 'upgrades' or 'renovations' and relies on the 1960 CUP. As such, the pre-existing operation exemption should not be applied here because the environmental impacts of "the existing facility" were never evaluated or considered.

**Class 3 Exemption:**

The Project does not fall within the scope of a Class 3 categorical exemption of construction and location of limited numbers of new, small facilities or structures. The exemption again has a
maximum limitation of 10,000 square feet in project floor area, which Planning Staff acknowledges the Project exceeds. See Exhibit 1 Attached to City Planning’s Reply to Appeal:

**EXHIBIT 1: SUMMARY OF NEW FLOOR AREA**
**DODGERS STADIUM CENTERFIELD PROJECT**

<table>
<thead>
<tr>
<th>Level/Use</th>
<th>New Covered Area (SF)</th>
<th>To Be Removed (SF)</th>
<th>Net New Covered Area (SF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plaza</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail</td>
<td>1,450</td>
<td>-320</td>
<td>1,130</td>
</tr>
<tr>
<td>Food Concessions</td>
<td>6,150</td>
<td>-1,150</td>
<td>5,000</td>
</tr>
<tr>
<td>Restrooms</td>
<td>750</td>
<td>0</td>
<td>750</td>
</tr>
<tr>
<td>Subtotal</td>
<td>8,350</td>
<td>-1,470</td>
<td>6,880</td>
</tr>
<tr>
<td>Pavilion Level 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remodel only/no.</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>new area</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Pavilion Level 2 (Mezzanine)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Covered walkways</td>
<td>3,400</td>
<td>0</td>
<td>3,400</td>
</tr>
<tr>
<td>Restrooms</td>
<td>2,000</td>
<td>0</td>
<td>2,000</td>
</tr>
<tr>
<td>Subtotal</td>
<td>5,400</td>
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<td>5,400</td>
</tr>
<tr>
<td>Centerfield Deck</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concession/covered</td>
<td>375</td>
<td>0</td>
<td>375</td>
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<td></td>
<td>bar</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>375</td>
<td>0</td>
<td>375</td>
</tr>
<tr>
<td>PROJECT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Walkways/Restrooms</td>
<td>6,150</td>
<td>0</td>
<td>6,150</td>
</tr>
<tr>
<td>Subtotal</td>
<td>6,150</td>
<td>0</td>
<td>6,150</td>
</tr>
<tr>
<td>Retail/Concessions</td>
<td>7,975</td>
<td>-1,470</td>
<td>6,505</td>
</tr>
<tr>
<td>Subtotal</td>
<td>7,975</td>
<td>-1,470</td>
<td>6,505</td>
</tr>
<tr>
<td>TOTAL *</td>
<td>14,125</td>
<td>-1,470</td>
<td>12,655</td>
</tr>
</tbody>
</table>

* An unoccupied shade structure is proposed in the Plaza with 2,900 square feet of covered area. No use is proposed in this area; therefore it is not considered an accessory or expansion area.

**Class 5 Exemption:**

The Project does not fall within the scope of CEQA Guideline §15305 which consists of:

minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
(b) Issuance of minor encroachment permits;
(c) Reversion to acreage in accordance with the Subdivision Map Act.

It is perplexing as to why Planning asserts the Project qualifies for this exemption, particularly in light of the lack of facts substantiating the assertion. The gravamen of the Class 5 exemption is an alteration to a land use, the focus of comparison is appropriately on other minor land use alterations in general. Citizens for Envtl. Resp. v. State ex rel. 14th Dist. Ag. Assn. (2014) 224 Cal.App.4th 1542, review granted and opinion superseded sub nom. Citizens for Envtl. Resp. v. 14th Dist. Agric. Assn., 328 P.3d 68 (Cal. 2014). No part of the Project contains a lot line adjustment, issuance of minor encroachment permit, or reversion to acreage in accordance with the Subdivision Map Act. As such, the applicability of this exemption is easily disposed with.

Class 11 Exemption:

The Project does not fall within the scope of CEQA Guideline §15311 for construction or replacement of minor structures accessory to existing commercial, industrial, or institutional facilities. By Definition Class 11 exemptions are limited to:

construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

(a) On-premise signs;
(b) Small parking lots;
(c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

CEQA Guideline § 15311.

The only applicable aspect of §15311 is (a) on-premise signs. However, because the Project proposes much more, in addition to new signage, a Class 11 Exemption is inapplicable and Planning has failed to meet its burden that this exemption applies.

Class 23 Exemption:

Planning has Further failed to meet its burden of showing the Project falls within CEQA Guideline §15323, a CEQA exemption for normal operations of public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. The Class 23 exemption involves the various activities that are “normal operations” of a public gathering facility, and the focus of comparison should, therefore, be on those activities that make up the facilitys normal operations. ‘Significant effect on the environment’ means a substantial, or potentially substantial, adverse change in the environment. “Change” refers to conditions existing or events occurring after 1970 when CEQA was enacted. Lewis v. Seventeenth Dist. Agric. Assn. (1985) 165 Cal.App.3d 823, 829.

In Lewis the Court concluded construction at the racetrack since 1965 created a significant, adverse change in the environment such as to place the racing activity within the exception to the categorical exemption found in the Class 23 exemption. Lewis at pp. 828–831. Similarly, here, major construction has occurred at the stadium since approval of the CUP in 1960, the passage of CEQA in 1970, and the numerous subsequent Plan Approvals. The operations of Dodger Stadium
unusual circumstance, a similar argument can be made here. Lewis, supra, 165 Cal.App.3d at p. 829. The zoning of Dodger Stadium paired with its unique characteristics as a major 56,000 seat stadium creates an unusual circumstance, the environmental impacts of which cannot be summarily exempted and must be specifically considered.

Another special circumstance that makes this Project "unusual" is the fact that the City never undertook an environmental review of the underlying Conditional Use Permit because approval predates CEQA. Furthermore, each subsequent Plan Approval has foregone meaningful environmental review. As such, the City has never considered the environmental impacts of the operation of Dodger Stadium pursuant to CEQA. Owing to its decision not to prepare meaningful review for the stadium, the City has never formally shown that any rules and regulation it adopted in subsequent project approvals can be feasibly implemented, or that their implementation would adequately protect the environment.

Cumulative Impacts
The Project has failed to adequately analyze the cumulative impacts of repeated projects in the vicinity of Dodger Stadium. The Project's capacity to compound traffic, noise, light, etc., problems clearly distinguishes it from other projects that are typically exempt under §15301. As such, Planning's conclusion that the Project will not have cumulative impacts must be rejected.

Pursuant to CEQA Guideline §15300.2(b) categorical exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. ‘The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.’ (CEQA Guidelines, §15355, subd. (b).) ‘Cumulative impact analysis “asseses cumulative damage as a whole greater than the sum of its parts.”’ (Association of Irritated Residents v. County of Madera (2003) 107 Cal.App.4th 1383, 1403). Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1214.

Proper cumulative impact analysis is vital "because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.” Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 114 fn.s. omitted.

CEQA Guideline §15300.2(b) applies here because the evidence shows that successive improvements and modifications over time at Dodgers Stadium have continued to result in environmental impacts to the neighborhood including noise, excessive light and glare, and traffic. As the City admits, “since the initial approval, there have been several actions to permit various modifications and improvements” since the Project’s original approval in 1960. The changes include additional of illuminated signs, installation of new and more powerful audio equipment
and lighting (in 2005) and changes to the parking and traffic that have resulted in additional traffic impacts on the neighborhood. These changes over time have resulted in a cumulatively significant impacts on traffic, lighting and noise. The City, therefore, was required to undertake an analysis of the potential for the current project.

The Staff Report does not deny that past “enhancements” have added new impacts or increased the severity of impacts (such as noise, traffic and lighting), but attempts to defend the City’s failure to conduct any analysis of cumulative impacts by insisting that past projects were “reviewed independently and are separated by many years.” This explanation is not persuasive and irrelevant under CEQA because the issue is not whether past projects had been reviewed, or that they were separated by many years. The critical issue is whether the impacts that resulted from the implementation of these past projects (i.e. enhancements) in addition to those from the currently proposed project, are cumulatively significant. Finally, it should also be noted that none of the past projects were reviewed pursuant to an EIR or even a Negative Declaration, so the City cannot claim that any of the past projects underwent ANY review.

Similarly, Staff’s argument that the impacts associated with past “enhancement” projects must be somehow considered part of the existing environmental baseline must be rejected. CEQA Guideline § 15355(b) specifically provides that a cumulative impact analysis must consider the impact of a project in the context of the impacts from closely related past, present and future projects. As such, the City is required to consider the impacts of the present project in light of its own approval of past closely-related projects. The City’s piecemeal approach and practice of approving overall major project revisions in relatively small increments was specifically condemned in Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App.4th 713, 740: “The purpose of this requirement [analysis of cumulative impacts] is obvious: consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA’s mandate to review the actual effect of the projects upon the environment.”

The requirement that the lead agency analyze the cumulative impacts of a project was specifically intended to avoid a situation —such as the one here— where piece-meal approval of several projects with related or similar impacts could result in significant environmental harm. See, San Joaquin Raptor/Wildlife, supra, 27 Cal.App.4th at p. 740. The City concedes that in the past decade, it has approved a number of projects (i.e. “enhancements”) that affect noise, lighting and traffic and circulation, and has never considered the cumulative impacts of these “enhancements.” The current Project, therefore, presents the textbook definition of a case where consideration of the cumulative impacts is imperative.

The City seems confused about the very concept of cumulative impacts when it argues that as compared to the operation of the Dodgers Stadium, the proposed enhancements are “minor” and that “there is no reason to assume that the Centerfield enhancements will significantly alter traffic, access, or circulation to and from the stadium.” Under CEQA cumulative impacts may result from individually minor, but collectively significant projects taking place over time. CEQA Guideline § 15355(b). Therefore, whether the impact from this Project is in itself significant is not dispositive;
the question is whether this Project’s impacts in addition to those associated with past approvals is potentially significant.

The cumulative impacts analysis of the Project is vital to understanding its environmental impacts. However, the Staff Report fails to identify and evaluate past, present, and reasonably foreseeable future projects within the Project vicinity in its cumulative impact analysis, as required by CEQA. This approach improperly piecemeals environmental review of the compounding cumulative Stadium impacts. On its face, it is not credible to suggest that the Project would not generate additional cumulative impacts on the surrounding communities.

Accordingly, the Project fails to qualify for an exemption under CEQA Guideline §15301 because the evidence in the record shows it is capable of causing significant adverse cumulative impacts which the City failed to adequately analyze.

3. **The Project is a phased development program.**

Both the Dodgers and Planning Staff question Appellant’s assertion that the reference to a “phased enhancement program” in the Project application is evidence supporting a conclusion that this Project is only a piece of the Dodger’s multiphase project for additional so-called “enhancement” projects. Staff and the Dodgers contend the reference to “phased enhancement program” is meant to describe the Project itself as a phased project (i.e. the separate elements of the Project would not necessarily be constructed concurrently, but instead could be phased over time if necessary.) See, Dodgers Letter, at p. 13. This interpretation of the phrase “phased enhancement program” is untenable and must be rejected. First, the term “program” strongly suggests that the term phased is not mean to refer to this individual Project, and to a “program” consisting of multiple individual projects. Second, the Dodgers own description of the Project explains that “the Project upgrades are proposed to be constructed during a period of approximately five to six months during the baseball off-season in 2019-2020, with the goal of having all improvements ready for us on Opening Day March 26, 2020...” Dodgers Letter at p. 2. Accordingly, the reference to a phased program cannot possibly refer to this particular Project because the stated intent of the Dodgers is to complete in five to six months.

4. **Planning failed to provide sufficient information and analysis to substantiate its findings.**

The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, and must be supported by substantial evidence. CEQA Guideline §15064. In determining whether an effect will be adverse, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. CEQA Guideline §15064(c).

As Neighbors detailed in the appeal, insufficient information was provided to the public by Planning to support its determination that the Project will not have a significant impact on the surrounding neighborhoods. This position is bolstered by the fact that it was not until after Neighbors filed its appeal asserting insufficient information to support Planning’s findings that Planning published a subsequent traffic and light/signage study to support its position to the public. This appears to be little more than post hoc rationalization to support its initial claims and the
public was never afforded the opportunity to adequately respond. Accordingly, without public circulation of pertinent Project information and analysis, it was an abuse of discretion to approve the Project.

5. **Waiving a public hearing on the Project was improper.**

To justify improperly preventing public participation in Project approval, Planning relies on LAMC Section 12.24-M which does not require a hearing for all determinations in a Plan Approval case. This approach was unsuitable in this circumstance because it is not credible on its face that the Project would not be controversial, a circumstance in which the LAMC indicates a public hearing may be appropriate. As discussed in detail in the appeal, members of the community have persistently informed the City of negative environmental impacts resulting from the operation of events at Dodger Stadium in writing and through public hearing testimony. It logically follows that expansion of Project facilities, including added employees, signage, lighting, sound system, construction, etc. would be of significant interest to the surrounding residential community. This position is buttressed by the fact Planning Staff sent the Echo Park Neighborhood Council (“EPNC”) a copy of the Project application. If there was no possibility of the Project being controversial or of public interest, Planning has failed to provide reasoning as to why it would be prudent to engage the EPNC. Importantly, notifying a geographically limited council such as the EPNC serves in relation to the Stadium’s location and Council Districts in which its operations have resulting impacts, or how it reached out to inform the public of the proposed Project.

6. **The City’s belated introduction of traffic, lighting, and sound reports is unfair and inappropriate, and ultimately irrelevant.**

Without any prior notice to Appellant, the Staff Report for the first time reveals that the City belatedly conducted traffic, sound, and lighting analysis for this Project. The Staff Report cites these studies to support its argument that the Project would not result in a significant cumulative impact. Appellant emphatically objects to the City’s introduction of this evidence only days before the hearing on this appeal. Appellant has had no meaningful opportunity to review these reports with qualified experts and to comment on their validity.

The fact that the City felt compelled to commission these reports to support a conclusion that the Project’s impacts are not significant supports Appellant’s contention that the Project should not be approved in the context of an exemption. Where there is any doubt as to whether the Project’s impacts may be significant, the lead agency must ordinarily at least prepare an Initial Study and Negative Declaration, if not an Environmental Impact Report.

In any event, the conclusions of these reports do not defeat Appellant’s argument that the Project is not exempt from CEQA because according to the staff report, the reports purportedly demonstrate that the project “will not create any significant traffic impacts” and the outward-facing digital signs “would not be significantly greater than ambient levels.” Staff Report page 7. These conclusions, if accurate, merely support a conclusion that the Project would not cause a significant direct impact. These conclusions do not address the significant of the Project’s cumulative impacts, which
Appellant contends are significant in light of the Project's contribution to the adverse traffic, noise and lighting conditions created as a result of the number of similar Projects approved by the City at Dodgers Stadium.

**Conclusion**

Substantial evidence supports a fair argument that the Project may cause significant individual and cumulative adverse environmental impacts. Without affording the public sufficient information regarding the proposed Project and adequate opportunity to respond in a public forum, the City curtails the substantial environmental protections the law grants the community. Accordingly, Neighbors of the Chavez Ravine respectfully request the City grant its appeal.

\[Signature\]

Babak Naficy