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(213) 978-1300

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200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

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April 1, 2021

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:

SUPPLEMENTAL REPORT REGARDING CLASS 32 CATEGORICAL EXEMPTION ENV-2017-5093-CE FOR PROPERTY LOCATED AT 418-430 N. ALVARADO STREET WITHIN THE SILVER LAKE-ECHO PARK-ELYSIAN VALLEY COMMUNITY PLAN AREA (CF-20-1623)

On June 15, 2020, the Director of Planning issued a Class 32 Categorical Exemption for an off-menu Density Bonus and Site Plan Review project (City Planning Case No. CPC-2017-5092-DB-SPR) consisting of the demolition of an existing vacant private school, one single-family dwelling and a duplex, and the construction, use, and maintenance of a new five (5)-story apartment building over two (2) levels of parking, one of which is subterranean. The proposed project includes 73 units of housing, of which six (6) are designated for Very-Low Income Households as defined by the State Density Bonus Law. On November 12, 2020, a California Environmental Quality Act (CEQA) appeal was filed for the Categorical Exemption (Case no. ENV-2017-5093-CE), for consideration by the Planning and Land Use Management (PLUM) Committee.

The appeal challenges the Director of Planning's determination that the project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332 (Class 32, Infill Development) and that none of the exceptions to a categorical exemption apply to the project. The CEQA Guidelines provide that a Class 32 CE may not be used if any of five (5) exceptions apply: (a) cumulative impacts; (b) significant effect; (c) scenic highways; (d) hazardous waste sites; and (e) historical resources. Specifically, the Appellant states that the Project does not qualify for an exemption due to the cumulative effects of surrounding past, current and future projects. The Appellant also challenges the Site Plan Review Findings on the basis that the environmental findings are faulty since the Project does not qualify for an exemption.

The Appellant contends that the cumulative impact exception does not apply to the proposed project due to the number of "past projects, current projects and future projects spanning back to January 1, 2018 that contribute towards the cumulative impacts of the Project that must be considered." The appellant lists 32 projects alleged to be within a 1-mile radius of the Project site.

CEQA Guidelines Section 15300.2(b) states that a categorical exemption is inapplicable “when the cumulative impact of successive projects of the same type in the same place, over time is significant.” An agency’s determination that a project falls within a categorical exemption includes an implied finding that none of the exceptions identified in the CEQA Guidelines apply. Instead, the burden of proof shifts to the challenging party to produce evidence showing that one of the exceptions applies to take the project out of the exempt category. (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1022-23.)

Here, the Appellant has not met its burden as there is no evidence in the record to conclude that there will be a cumulative adverse impact caused by the proposed project and other projects in this area. A list of past, current or future projects, even if found to be accurate, by itself does not represent substantial evidence of any type of cumulative impact. Speculation that significant cumulative impacts will occur simply because other projects may be approved in the same area is insufficient to trigger this exception and is not evidence that the proposed project will have adverse impacts or that the impacts are cumulatively considerable (*Hines v. California Coastal Comm’n* (2010) 186 Cal.App.4th 830, 857). The Appellant also fails to provide any evidence as to why a 1-mile radius constitutes the “same place”. The Appellant has not submitted any substantial evidence that validates its assertions that the cumulative impact exception applies. Other than a vague claim that the area is in a “high pedestrian and car traffic area”, the Appellant does not state which cumulative effects are actually at issue. For example, automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, cannot constitute a significant environmental impact for purposes of CEQA. (Public Resources Code § 21099.)

As demonstrated in the Justification for the Class 32 Categorical Exemption dated June 15, 2020, (Attachment) the proposed project and other projects in the vicinity are subject to Regulatory Compliance Measures (RCMs) related to air quality, noise, hazardous materials, geology and transportation. Numerous RCMs in the City’s Municipal Code and State law provide requirements for construction activities and ensure impacts from construction related air quality, noise, traffic, and parking are less than significant. For example, the South Coast Air Quality Management District (SCAQMD) has District Rules related to dust control during construction, type and emission of construction vehicles, architectural coating, and air pollution. All projects are subject to the City’s Noise Ordinance No. 144,331, which regulates construction equipment and maximum noise levels during construction and operation.

The Class 32 Categorical Exemption (CE) and associated justification analysis address all environmental impacts related to traffic, noise, air quality or water quality and cumulative impacts. Additionally, the project will be required to comply with all state, regional, and local laws as part of regulatory compliance. No other changes are being made. Therefore, the CE adequately addresses all impacts relative to the proposed project at 418 – 430 N. Alvarado Street.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Debbie Lawrence

Debbie Lawrence, AICP
Senior City Planner

VPB:JC:DL