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June 10, 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:

CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) APPEAL OF CASE NO. ENV-2019-3816-CE-1A, FOR PROPERTY LOCATED AT 11961 WEST VENICE BOULEVARD; CF 21-0170

The project involves the demolition of an existing medical office building and the construction of a new five-story, maximum 57-foot 6-inches, 30,681 square foot multi-family apartment building consisting of 38 units. One level of subterranean parking is proposed consisting of 39 parking spaces. The project will grade and export 8,008 cubic yards of earth. One non-protected tree in the adjacent public right-of-way will be removed to accommodate the proposed driveway. The project reserves five (5) units for Very Low Income occupancy for a period of 55 years.

On June 25, 2020, the Director approved DIR-2019-3815-DB for the construction of the proposed project. The Director determined, under Environmental Case No. ENV-2019-3816-CE that the project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines, Article 19 Section 15332 (Class 32), and that there is no substantial evidence demonstrating that an exception to a categorical exemption, pursuant to Section 15300.2, applies.

On July 8, July 13, and July 18, 2020, the Director’s Determination was appealed to the City Planning Commission by three separate aggrieved parties (Tupac A. Roberts, Vista Del Pacifico Properties, LLC; Mohammed Virani, Virani 1993 Family Trust & Esther Stuhl Disclaimer Trust; Harvey Lind, Sherlind Properties, LLC). On December 3, 2020, the City Planning Commission conducted a public hearing to consider the appeal and denied the appeal with a 6-0 vote. The Letter of Determination of the City Planning Commission was issued on December 8, 2020.

On December 18, 2020, a CEQA appeal was filed by an aggrieved party (Harvey Lind, Sherlind Properties, LLC; “Appellant”) to the City Council (Case No. ENV-2019-3816-CE-1A). The appeal in its entirety is located within Council File 21-0170. Below is a summary of the appeal points with a staff response to each point.

Appeal Analysis

Appeal Point 1: The Appellant claims that an exemption to CEQA does not apply to this project due to unusual circumstances (PRC. 15300.2[c]). The Appellant further claims that an environmental impact report is required.

Staff Response 1: The California Environmental Quality Act (“CEQA”) analyzes the project against its potential future impacts on the environment and public health. CEQA Guidelines Section 15300.2 includes an exception for the use of categorical exemptions “where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances”. The “unusual circumstance” exception is based on significant effects to the environment that are due to unusual circumstances. The “unusual circumstances” exception is therefore based on the physical environment at the time of the filing of the project.

The Director of Planning and the City Planning Commission (on appeal) determined that based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and that no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste sites, or historical resources applies. As such, an environmental impact report is not required.

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.) Upon careful consideration of the Appellant’s points, the Appellant has not met its burden, as there is no evidence in the record to conclude that the project meets any of the exceptions contained in Section 15300.2 of the CEQA Guidelines.

Appeal Point 2: The Appellant claims that the location of the project 130 feet from the intersection of Venice Boulevard and Inglewood Boulevard is an unusual circumstance. The Appellant contends that the project will add traffic to this intersection and lead to a health and safety hazard. Additionally, the Appellant cites the presence of a bus lane, right turn lane, bicycle lane, and two vehicles’ lanes (along Venice Boulevard) as evidence of an unusual circumstance. The appellant states that the Administrative record does not contain a traffic study.

Staff Response 2: The project will not result in any “unusual circumstance.” A determination of “unusual circumstance” must be substantiated by substantial evidence and a factual showing to the satisfaction of the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

Venice Boulevard is designated as a Boulevard II, which is typically improved with two or three lanes in each direction. Venice Boulevard is improved with three lanes in each direction, consistent with the Boulevard II standard. These street improvements are consistent with the City’s Mobility Plan 2035 and the adopted Complete Streets Design Guide. Additionally, Venice Boulevard is in the Transit Enhanced Network and the Bicycle Enhanced Network (Tier 1), which receive enhancements to improve transit line performance and bicyclist safety and comfort. These

street improvements have been envisioned by the City's policy documents and are applicable to all City streets with that designation. This combination of improvements are common throughout the City, where such thoroughfares are improved to the Boulevard II standard, and is therefore not an unusual circumstance. Further, the intersection of Venice Boulevard and Inglewood Avenue is level and is improved according to Bureau of Engineer and Department of Transportation standards, and is not an unusual circumstance.

The project's traffic impacts have been reviewed pursuant to the CEQA Guidelines in the justification for ENV-2019-3816-CE, included in the Director's Determination and the City Planning Commission's action. The project does not exceed the threshold criteria established by the Los Angeles Department of Transportation (LADOT) for preparing a traffic study, according to the LADOT VMT Calculation prepared for the project on July 15, 2020, which indicates that the project would generate a net increase of 62 daily vehicle trips, which is less than the threshold of 250 daily trips that would otherwise require a Vehicle Miles Traveled ("VMT") analysis. Therefore, the project will not have any significant impacts to traffic. The Appellant has not presented substantial evidence that the project meets any of the exceptions contained in Section 15300.2 of the CEQA Guidelines. As such, there are not unusual circumstances that indicate this project would reasonable result in a significant effect on the environment.

Appeal Point 3: The Appellant states that the project will block an existing cellular antenna and will place residential units 10 feet away from the cellular tower. The Appellant contends that this is an "exceptional circumstance" and is unsafe and unusual.

Staff Response 3: Cellular antennas are located throughout the City in various infill locations. The presence of a cellular antenna at the Subject site is therefore not an unusual circumstance.

The Appellant has identified no written public health or safety standards, policies or conditions upon which they base this appeal point. A determination of "unusual circumstance" must be substantiated by substantial evidence and a factual showing to the satisfaction of the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence. Furthermore, the project has been determined, based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to State CEQA Guidelines, Article 19, Sections 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Appeal Point 4: The Appellant claims that the will direct traffic through residential neighborhoods due to its proximity to the Venice Boulevard and Inglewood Boulevard intersection. The Appellants notes that project residents must use the right turn lane and travel through residential neighborhoods, resulting in an unusual circumstance.

Staff Response 4: As stated in Staff Response 1, the project's traffic impacts have been reviewed pursuant to the CEQA Guidelines in the justification for ENV-2019-3816-CE, included in the Director's Determination and the City Planning Commission's action. Further, the Appellant has not presented substantial evidence that the project meets any of the exceptions contained in Section 15300.2 of the CEQA Guidelines.

Appeal Point 5: The Appellant claims that there is an unusual circumstance as there is no parking or stopping point for construction trucks during site excavation. The Appellant further claims that the absence of guest or delivery parking is an unusual circumstance.

Staff Response 5: As stated in Staff Response 1, the project's traffic impacts have been reviewed pursuant to the CEQA Guidelines in the justification for ENV-2019-3816-CE, included in the Director's Determination and the City Planning Commission's action.

The Los Angeles Department of Transportation supervises the review of all temporary street, lane, and sidewalk closures. Temporary Traffic Control Plans will be based on the nature and timing of the Project's specific construction activities. Such plans are designed to provide for the safe and efficient movement of traffic through and around work zones for large projects that require the long term use of the city's right-of-way. Construction parking and stopping points will be subject to review and approval by the Department of Transportation.

Pursuant to California Public Resource Code, section 21099(b)(3), "the adequacy of parking for a project shall not support a finding of significance," for CEQA analysis and therefore the adequacy of parking for a project, in and of itself, is not an environmental impact. Furthermore, the Density Bonus/Affordable Housing Incentives Program Parking Option 1 permits reduced parking requirements dependent on the number of bedrooms of each residential unit. In addition, the Los Angeles Municipal Code (LAMC) Section 12.21 A.4 allows a 10 percent reduction of required automobile parking with bicycle parking. As proposed, the 38-unit project is providing 39 parking spaces, in compliance with the Density Bonus Parking Option 1 and LAMC Section 12.21 A.4. There are not unusual circumstances that indicate this project would reasonably result in a significant effect on the environment. Further, the Appellant has not presented substantial evidence that the project meets any of the exceptions contained in Section 15300.2 of the CEQA Guidelines.

Appeal Point 6: The Appellant states that proposed excavation and proximity to existing residential and commercial structures is a concern.

Staff Response 6: Grading and excavation, necessary for the Project, is subject to review by the Department of Building and Safety, Grading Division and are mandated to comply with their requirements. Furthermore, the Appellant has not presented substantial evidence in the administrative record that this project will cause a significant impact. Thus, there are no unusual circumstances which may lead to a significant effect on the environment.

Recommendation

Staff recommends that the PLUM Committee recommend for City Council to **deny** the appeal and **determine**, based on the whole of the administrative record, as supported by the justification prepared and found in the environmental case file, ENV-2019-3816-CE and as based on above, the project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning


Juliet Oh
Senior City Planner

VPB:JO:JT:ES