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November 8, 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 APPEAL OF CLASS 32 CATEGORICAL EXEMPTION ENV-2020-5511-CE FOR PROPERTY LOCATED AT 2401-2417 WEST 8<sup>TH</sup> STREET AND 729-751 SOUTH PARK VIEW STREET WITHIN THE WESTLAKE COMMUNITY PLAN AREA (CF-21-1273)**

The project involves the construction, use, and maintenance of a new seven-story mixed-use development, 92 feet 6 inches in height, containing a total of 264 dwelling units, with 27 proposed dwelling units reserved for Extremely Low Income Households. The proposed development will contain approximately 266,438 square feet of floor area, including 9,724 square feet of ground floor commercial space. The Project provides a total of 21,137 square feet of open space comprised of public courtyards, a fitness center/sport lounge, patios, terraces, and private balconies. The project contains one subterranean parking level, and ground level parking that will provide a total of 230 vehicular parking stalls: 217 residential parking stalls, and 13 commercial parking stalls. In addition, the Project will provide a total of 172 bicycle parking stalls: 160 residential parking stalls and 12 commercial parking stalls. On June 10, 2021, the Director of Planning issued a Class 32 Categorical Exemption for the Transit Oriented Communities (TOC) project (Case No. DIR-2020-5510-TOC-SPR-HCA). On June 24, 2021, within the required 15-day appeal period, an appeal was filed by Coalition for an Equitable Westlake/MacArthur Park. The appeal justification included grievances against the land use decision as well as the Class 32 infill development Categorical Exemption issued for the proposed project, under Environmental Case No. ENV-2020- 5511-CE. At its meeting of September 14, 2021, the Central Los Angeles Area Planning Commission denied the appeal and sustained the Director's Determination. On October 12, 2021, a California Environmental Quality Act (CEQA) appeal was filed for the Categorical Exemption (Case No. ENV-2020-5511-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 Guideline, 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 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 13 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 March 30, 2021, (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 2401-2417 West 8<sup>th</sup> Street and 729-751

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South Park View Street. Staff recommends that the Planning and Land Use Management Committee deny the appeal and sustain the Central Los Angeles Area Planning Commission's decision.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning



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Planning Assistant