



# DEPARTMENT OF CITY PLANNING

## APPEAL RECOMMENDATION REPORT

### City Planning Commission

**Date:** Thursday, June 8, 2023  
**Time:** After 8:30 A.M.\*  
**Place:** Los Angeles City Hall  
Council Chambers, Room 340  
200 North Spring Street  
Los Angeles, CA 90012

*And via Teleconference. Information will be provided no later than 72 hours before the meeting on the meeting agenda published at <https://planning.lacity.org/about/commissionsboards-hearings> and/or by contacting [cpc@lacity.org](mailto:cpc@lacity.org)*

**Public Hearing:** June 8, 2023  
**Appeal Status:** Not further appealable  
**Expiration Date:** June 8, 2023  
**Multiple Approval:** Yes

**Case No.:** DIR-2021-7344-SPR-TOC-HCA-1A  
**CEQA No.:** ENV-2020-5078-CE  
**Incidental Cases:** N/A  
**Related Cases:** N/A  
**Council No.:** 1 – Hernandez  
**Plan Area:** Westlake  
**Specific Plan:** None  
**Certified NC:** Westlake North  
**GPLU:** Community Commercial  
**Zone:** C2-1  
**Applicant:** Benbaroukh, LLC  
**Representative:** Ugonna Mbelu, Icon & Ikon, Inc.  
**Appellant 1:** Enrique Velasquez, Coalition for an Equitable Westlake MacArthur Park  
**Appellant 2:** Carlos Rene Marroquin Cabrera  
**Appellant 3:** Laura Guido  
**Appellant 4:** Vilma Yaneth Cabrera Lopez and Santos Oxlaj Hernandez  
**Appellant 5:** Supporters Alliance for Environmental Responsibility (SAFER)  
**Appellant 5's Representative:** Richard Drury, Lozeau Drury LLP

### PROJECT

**LOCATION:** 550 South Union Avenue; 1701, 1709, 1715, 1717, and 1717 ½ West 6<sup>th</sup> Street

### PROPOSED PROJECT:

The construction, use, and maintenance of a seven-story, mixed-use building containing approximately 105,622 square-feet of floor area, comprised of 17,224 square-feet of commercial floor area and 88,398 square-feet of residential floor area, on a 29,058 square-foot site, resulting in a Floor Area Ratio ("FAR") of 3.63:1. The project will include 100 dwelling units, 10 of which will be reserved for Extremely Low Income Households. The building will rise to a maximum height of approximately 92 feet. 72 vehicle parking spaces, 125 long-term bicycle parking spaces, and 32 short-term bicycle parking spaces will be provided within the subterranean parking garage, the ground floor, and the second floor. The project includes 16,478 square-feet of open space, consisting of a 2,066 square-foot gym on the second floor, a 4,466 square-foot courtyard and a 977 square-foot community hall on the third floor, a 7,219 square-foot roof deck, and 1,750 square-feet of private open space. Additionally, the project requires the export of 21,400 cubic yards of earth and the removal of one (1) non-protected tree on-site with a trunk diameter greater or equal to eight (8) inches.

**APPEAL:** Five (5) appeals of the Director of Planning’s determination conditionally approving a Transit Oriented Communities Affordable Housing Incentive Program project and Site Plan Review for a project that results in the construction of 50 or more dwelling units, pursuant to Los Angeles Municipal Code (“LAMC”) Sections 12.22 A.31, 12.22 A.25(g) and 16.05.

**RECOMMENDED ACTIONS:**

1. **Determine** 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 there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines applies;
2. **Deny** the appeals **and sustain** the Director of Planning’s Determination for the construction, use, and maintenance of a seven-story, mixed-use building which will 17,224 square-feet of commercial floor area and 100 dwelling units, 10 of which will be reserved for Extremely Low Income Households; and
3. **Adopt** the Revised Conditions of Approval and Findings.

VINCENT P. BERTONI, AICP  
Director of Planning



Jane J. Choi, AICP, Principal City Planner



Vanessa Soto, AICP, Senior City Planner



Yi Lu, AICP, City Planner



Erick Morales, Planning Assistant  
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**ADVICE TO PUBLIC:** \*The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *City Planning Commission Secretariat, 200 North Spring Street, Room 272, Los Angeles, CA 90012* (Phone No.213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commissions meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1299.

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## **Exhibits:**

- Exhibit A: Project Plans (DIR-2021-7344-SPR-TOC-HCA)
- Exhibit B: Letter of Determination (DIR-2021-7344-SPR-TOC-HCA)
- Exhibit C: Class 32 Categorical Exemption (ENV-2020-5078-CE)
- Exhibit D: Appeal No. 1 (Coalition for an Equitable Westlake MacArthur Park)
- Exhibit E: Appeal No. 2 (Carlos Rene Marroquin Cabrera)
- Exhibit F: Appeal No. 3 (Laura Guido)
- Exhibit G: Appeal No. 4 (Vilma Yaneth Cabrera Lopez and Santos Oxlaj Hernandez)
- Exhibit H: Appeal No. 5 (Supporters Alliance for Environmental Responsibility)
- Exhibit I: Revised Conditions for DIR-2021-7344-SPR-TOC-HCA
- Exhibit J: Revised Findings for DIR-2021-7344-SPR-TOC-HCA

## **PROJECT ANALYSIS**

### **PROJECT SUMMARY**

The proposed project site is comprised of four (4) contiguous lots with an area of approximately 29,058 square-feet as well as approximately 140 feet of frontage along the western side of Union Avenue and approximately 210 feet of frontage along the northern side of 6<sup>th</sup> Street. The site is presently improved with a surface parking lot, a dollar store, and a swap-meet style mall. The project site is zoned C2-1 and is designated for Community Commercial land uses in the Westlake Community Plan. The proposed project site qualifies as a Tier 3 Transit Oriented Communities housing project based on being located within one half mile from the Metro Westlake / MacArthur Park Station, which is served by the Metro B (Red) and D (Purple) Lines. The proposed project site is also located within a Transit Priority Area, a State Enterprise Zone, the Westlake Recovery Redevelopment Project Area, an Urban Agriculture Incentive Zone, and a BOE Special Grading Area. On January 6, 2021, Planning staff completed an administrative review of the proposed project with the Westlake Recovery Redevelopment Plan and determined the project conforms to the Redevelopment Plan.

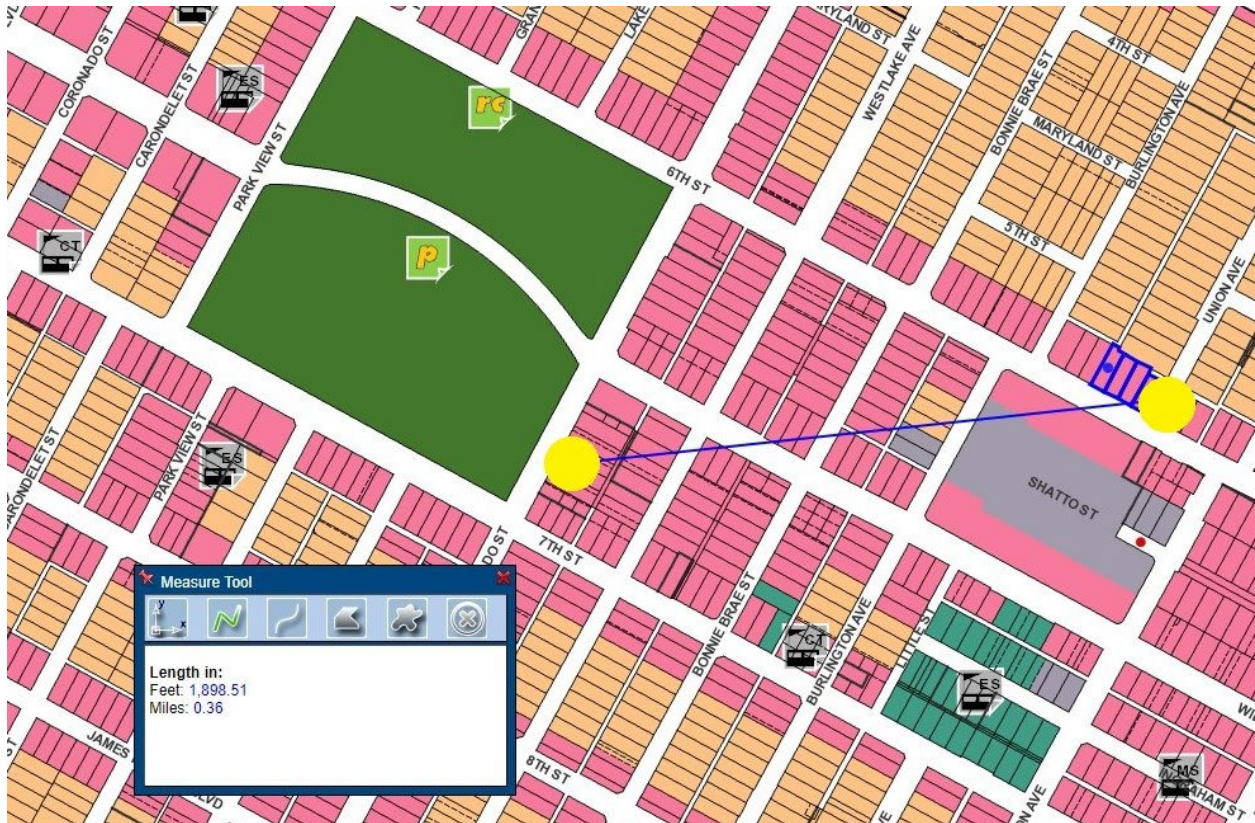
The proposed project is for demolition of two existing single-story commercial buildings and a surface-level parking lot and the construction, use, and maintenance of a seven-story, mixed-use building that will be comprised of approximately 17,224 square-feet in commercial floor area and 88,398 square-feet in residential floor area for an approximate total of 105,622 square-feet of floor area for a proposed floor area ratio ("FAR") of 3.63:1. The project will include 100 dwelling units, of which 10 units, or 10 percent of the total units, will be reserved for Extremely Low Income Households. The project will provide a total of 72 vehicle parking spaces (50 residential and 22 commercial), 125 long-term bicycle parking spaces (115 residential and 10 commercial), and 32 short-term bicycle parking spaces (8 residential and 24 commercial) within the subterranean parking garage, the ground floor, and the second floor. The project will also include 16,478 square-feet of open space, consisting of a 2,066 square-foot gym on the second floor, a 4,466 square-foot courtyard and a 977 square-foot community hall on the third floor, a 7,219 square-foot roof deck, and 1,750 square-feet of private open space. Additionally, the project requires the export of 21,400 cubic yards of earth and the removal of one (1) non-protected tree on-site with a trunk diameter greater or equal to eight (8) inches.

### **TRANSIT ORIENTED COMMUNITIES**

Measure JJJ was adopted by the Los Angeles City Council and established the Transit Oriented Communities (TOC) Affordable Housing Incentive Program. The measure required that the Department adopt a set of TOC Guidelines, which establishes incentives for residential and mixed-use projects located within one-half mile of a major transit stop, as defined under existing State law. The TOC Affordable Housing Incentive Program Guidelines (TOC Guidelines), released on September 22, 2017, and amended on February 26, 2018, established a tier-based system with varying development bonuses and incentives based on a project's distance from different types of transit. The largest bonuses are reserved for those areas in the closest proximity to significant rail stops or the intersection of major bus rapid transit lines. Required affordability levels are increased incrementally in each higher tier. The incentives provided in the TOC Guidelines describe the range of bonuses from particular zoning standards that applicants may select.

The project site is located within 2,640 feet from the Metro Westlake/MacArthur Park Station which is served by the Metro Purple (D) and Red (B) Lines and is a major transit stop. The project site is therefore located in Tier 3 of the Transit Oriented Communities ("TOC") Affordable Housing

Incentive Program and is eligible for Tier 3 incentives. The project is eligible to receive Base Incentives along with one (1) Additional Incentive, as requested, because the project will reserve at 10 units, or 14 percent of the base 73 units, for Extremely Low Income Households. Per Section IV of the TOC Guidelines, an eligible TOC project needs only to reserve four (4) percent of the base units, in this case three (3) units, for Extremely Low Income Households for one (1) Additional Incentive. As such, the project fulfills the Tier 3 TOC eligibility requirements for on-site restricted affordable units.



*Distance between the Metro Westlake/MacArthur Park Station and the project site as measured using the Zone Information and Map Access System (ZIMAS) (May 11, 2023)*

Pursuant to the TOC Affordable Housing Incentives Program, the project was determined to be eligible for the following three (3) Base Incentives which are granted by-right for eligible TOC projects, and one (1) Additional Incentive to construct the proposed project:

#### **Base Incentives.**

- a. **Density.** Increase the maximum number of dwelling units by up to 37 percent to allow a maximum residential density of 100 units in lieu of 73 base units otherwise allowed;
- b. **Floor Area Ratio ("FAR").** Increase in the FAR to 3.63:1 in lieu of the 1.5:1 FAR otherwise allowed in the C2-1 Zone; and
- c. **Parking.** Provide automobile parking at a ratio of 0.5 spaces per residential unit and a 30-percent reduction in non-residential parking in a mixed-use project to allow a minimum of 50 residential parking spaces and 22 commercial parking spaces, as allowed for an eligible Tier 3 TOC project.

#### **Additional Incentive.**

- d. **Yards/Setbacks.** Utilization of RAS3 yards/setbacks as allowed for an applicable TOC project in a commercial zone
- i. **Residential Northerly Side Yard Setback.** Provide a minimum side yard setback of five feet
  - ii. **Residential Southerly Side Yard Setback.** Provide a minimum side yard setback of five feet.
  - iii. **Residential Westerly Rear Yard Setback.** Provide a minimum rear yard setback of five feet.

The Director of Planning's Determination issued on December 23, 2022 mentioned residential setbacks for the project that are incorrect. The Director's Determination mistakenly refers to the commercial side-yard setbacks as the residential side-yard setbacks and to the proposed front- and rear-yard setbacks as the minimum front- and rear-yard setbacks. To rectify the error, Planning staff has prepared Revised Conditions of Approval and Findings to correct the residential setbacks granted to the project (see Exhibits I and J). The correct residential setbacks are also provided above. The corrections do not modify the project or grant the project any additional incentive beyond what was originally requested for approval. The project must provide at least five-foot residential side-yard setbacks along its northern and southern sides instead of the one foot and three-inch side-yard setbacks mentioned in the Director's Determination. The project must also provide at least a five-foot westerly rear yard setback instead of the five foot and three-inch rear yard mentioned in the Director's Determination. Finally, as the project site is located in the C2-1 Zone, it does not have to provide any front yard setback along the easterly side of the property.

#### **SURROUNDING PROPERTIES :**

The project site is located in an urbanized neighborhood in the Westlake Community Plan. Land uses close to the project site consist of both residential and commercial uses. Lots to the north are zoned R4-1 and developed with one- and two-story multi-family residences. Lots to the south are zoned C2-2, R4P-2, R5P-2, and C4-2 and are developed with a shopping center. Lots to the east are zoned C2-4 and are developed with a single-story commercial building. Lots to the west are zoned C2-1 and are developed with a five-story office building and a fast-food restaurant.

#### **STREETS AND CIRCULATION**

Union Avenue, adjoining the project site to the east, is a designated Collector Street, dedicated to a right-of-way width of 66 feet and a roadway width of 40 feet, and improved with asphalt roadway, concrete curb, gutter, and sidewalk. A dedication of 3 feet is required and provided.

6<sup>th</sup> Street, adjoining the project site to the south, is a designated Avenue II, dedicated to a right-of-way width of 86 feet and a roadway width of 56 feet, and improved with an asphalt roadway, concrete curb, and sidewalk. A dedication of 1 foot and 9 inches is required and provided.

Public Alley, adjoining the property to the north, is dedicated to a right-of-way width of 20 feet.

### **APPEAL ANALYSIS**

On December 23, 2022, the Director of Planning approved a Transit Oriented Communities ("TOC") Affordable Housing Incentive Program and Site Plan Review project involving the

construction, use, and maintenance of a 100-unit residential apartment building, of which 10 dwelling units will be reserved for Extremely Low Income Households for a period of 55 years with Tier 3 Incentives. On January 9, 2023, the Department of City Planning received five (5) appeals of the project from (1) Enrique Velasquez on behalf of the Coalition for an Equitable Westlake MacArthur Park, (2) Carlos Rene Marroquin Cabrera, the manager of the Tropical Plaza Mall, (3) Laura Guido, a tenant of the Tropical Plaza Mall, (4) Vilma Yaneth Cabrera Lopez and Santos Oxlaj Hernandez, tenants of the neighboring property to the north, and (5) the Supporters Alliance for Environmental Responsibility (“SAFER”). Given that the Coalition for an Equitable Westlake MacArthur Park and SAFER are not tenants or abutting neighbors of the project site, both organizations are limited to appealing only the Site Plan Review entitlement. All appeals are provided in their entirety as Exhibits D, E, F, G, and H for reference.

The following section provides a summary of the appellants’ points and responses from Planning staff to each point. Given that the appellants’ reasons for challenging the Director’s Determination largely overlap, Planning staff has consolidated the appeals into three (3) separate points.

**Appeal Point 1:** *The project is not in substantial conformance with the Framework Element of the General Plan, the Community Plan, or the Wilshire/Koreatown Recovery Redevelopment Plan.*

**Staff Response:**

The first appeal, submitted by Enrique Velasquez on behalf of the Coalition for an Equitable Westlake MacArthur Park, claims that the project fails to conform to the Framework Element of the General Plan, the Wilshire Community Plan, and the Wilshire/Koreatown Redevelopment Plan. The project is not located in either the Wilshire Community Plan or the Wilshire/Koreatown Redevelopment Plan, but it is actually located in the Westlake Community Plan and the Westlake Recovery Redevelopment Project Area.

General Plan Framework

Appellant 1 first claims that the project does not substantially conform to the goals of the Framework Element of the General Plan. The General Plan serves as a comprehensive policy document that guides the City’s future land use decisions. Appellant 1 states that the project particularly violates the following goals by supposedly neglecting to address the needs of the existing community:

*Goal 3A: A physically balanced distribution of land uses that contributes towards and facilitates the City’s long-term fiscal and economic viability, revitalization of economically depressed areas, conservation of existing residential neighborhoods, equitable distribution of public resources, conservation of natural resources, provision of adequate infrastructure and public services, reduction of traffic congestion and improvement of air quality, enhancement of recreation and open space opportunities, assurance of environmental justice and a healthful living environment, and achievement of the vision for a more liveable [sic] city.*

*Goal 3C: Multi-family neighborhoods that enhance the quality of life for the City’s existing and future residents.*

Contrary to Appellant 1’s claim, the proposed project instead serves to fulfill these goals in the Framework Element. The proposed project is a mixed-use building which will include 17,224 square-feet of commercial floor area (13,046 of which will be designated for retail and office uses) and 100 dwelling units, 10 of which will be reserved for Extremely Low Income Households. Presently, the project site is developed with a surface parking lot, dollar store, and swap-meet

style mall. According to ZIMAS, the two existing commercial buildings on the project site currently total 15,450 square-feet. Therefore, the proposed project replaces the existing amount of commercial space, which will create opportunities for economic growth and opportunity in the community.

Appellant 1 also claims that the proposed project will result in “indirect displacement of low-income residents caused by the influx of market-rate units,” but does not provide any explanation as to how this project will exactly contribute to such an outcome. Instead, the proposed project creates housing opportunities for 10 households that cannot afford market-rate rents on a site where there is currently no housing. Additionally, these units will be within one-half mile of the Metro Westlake / MacArthur Park Station, which is consistent with the Framework’s strategy of encouraging and accommodating growth near transit.

### Westlake Community Plan

In 1997, the City Council adopted the Westlake Community Plan. The Community Plan serves to enhance the existing neighborhoods while also providing housing opportunities, preserving community identity, encouraging development around transit, generating economic opportunity, and improving commercial areas and the built environment. The Land Use Designations and corresponding zones in the Westlake Community Plan are implemented through the zoning regulations in the Los Angeles Municipal Code (“LAMC”), including applicable ordinances that are codified in the LAMC.

Per the Community Plan, the project site is zoned C2-1 and designated for Community Commercial land uses. The project site is presently developed with a surface parking lot, a dollar store, and a swap-meet style mall known as the Tropical Plaza Mall. The applicant has proposed the demolition of the existing structures and the construction of a seven-story, mixed-use building that will include 100 dwelling units, 10 of which will be restricted for Extremely Low Income Households, and 17,224 square-feet of commercial floor area (13,046 of which will be designated for retail and office uses). As proposed, the project is consistent with the following residential land use objectives of the Westlake Community Plan:

*Objective 1: To designate a supply of residential land adequate to provide housing of the types, sizes, and densities required to satisfy the varying needs and desires of all segments of the community’s population.*

*Objective 2: To conserve and improve existing viable housing for persons desiring to live in Westlake, especially low and moderate income families.*

*Objective 3: To sequence housing development so as to provide a workable, efficient, and adequate balance between land use, circulation, and service system facilities at all times.*

The project also proposes to create 17,224 square-feet of commercial floor area, 13,046 of which will be designated for retail and office uses at street-level. This is in line with the commercial land use objectives of the Community Plan, which encourage new commercial developments, especially with access to public transportation. The proximity of the Metro Westlake / MacArthur Park Station helps to meet these objectives.

### Westlake Recovery Redevelopment Plan

The project site is located within the Westlake Recovery Redevelopment Plan (“WRR Plan”), which was adopted by the City Council on May 12, 1999, and will expire on May 12, 2030. On January 6, 2021, Planning staff completed an administrative review of the proposed project and determined that it conforms to the WRR Plan.



According to the administrative review, the project is consistent with Sections 502, 503.1, and 503.2 of the WRR Plan. The project proposes the construction of a seven-story, mixed-use building that will including ground floor commercial space and 100 dwelling units, 10 of which will be reserved for Extremely Low Income Households. The development of residential uses as proposed by the project is allowed in commercial areas such as the subject site, which is designated for Community Commercial land uses. Furthermore, the project is consistent with the following land use objectives of the WRR Plan:

*Commercial No. 1: To promote the economic well being of Westlake through the encouragement of the revitalization of viable commercial areas.*

*Safety No. 4: To enhance the safety of residents, business owners, employees and visitors, and their property.*

*Housing No. 8: To make provisions for housing as is required to satisfy the needs and desires of the various age, income, and disabled groups of the community, maximizing the opportunity for individual choice.*

*Housing No. 10: To provide housing choices and to increase the supply and improve the quality of housing for all income and age groups, especially affordable housing including housing for very low-, low-, and moderate-income large families and individuals. To eliminate overcrowding in individual units, and to provide home ownership opportunities, and other housing choices which meet the needs of the community.*

*Housing No. 12: To assure fair distribution of housing throughout the community, avoiding concentrations by status or income.*

*General No. 26: To enhance and promote the Westlake community as a place to live, shop and work, and to create a safe 24-hour viable community.*

The project will provide opportunities for people who can afford market-rate rents, as well as those who can not, to live in Westlake while also providing commercial space for businesses that seek to serve the community.

The project as proposed is clearly consistent with the goals and intentions of the General Plan, the Westlake Community Plan, and the Westlake Recovery Redevelopment Plan. Therefore, the Director's approval was appropriate.

**Appeal Point 2:** *The Director of Planning's approval of a Site Plan Review was inappropriate because the project does not qualify for a Class 32 Categorical Exemption. The project will result in environmental contamination, including noise and pollution.*

Appellants 1, 3, 4, and 5 all raise concerns over either the Site Plan Review entitlement, the Class 32 Categorical Exemption, or the potential for environmental contamination.

**Staff Response:**

On December 23, 2022, the Director of Planning issued a Class 32 Categorical Exemption ("Class 32 CE") for the subject case (Environmental Case No. ENV-2020-5078-CE), which found that the subject project is exempt from the California Environmental Quality Act. ("CEQA") According to the State CEQA Guidelines, Section 15332, Class 32 (Infill Development Project), a Class 32 CE may be used for infill development projects within an urbanized area provided that the project meets the following criteria:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations;
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- (c) The project site has no value as habitat for endangered, rare or threatened species;
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- (e) The site can be adequately served by all required utilities and public services.

Additionally, the State CEQA Guidelines provide that a Class 32 CE may not be used if any of the following five (5) exceptions apply: (a) cumulative impact; (b) significant effect; (c) scenic highways; (d) hazardous waste sites; and (e) historical resources.

A local agency's determination that a project falls within a Categorical Exemption includes an implied finding that none of the exceptions identified in the State CEQA Guidelines apply. Therefore, 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.)

Appellant 1 submitted a list of "past projects, current projects, and future projects spanning back to January 1, 2017" that are within a 0.6-mile radius from the project site and argues that the subject project, along with those projects identified in Appellant 1's list, will result in a cumulative impact on the environment. No reasoning is provided by Appellant 1 for the size of the radius, which appears to be arbitrary. Appellant 3 only claims that they "do not agreeing [sic] with the site plan" and provides no reasoning for that statement. Appellant 4 speculates that the project will result in environmental contamination, specifically concerning noise, and argues that it will affect the families who live in the area; however, they do not provide any evidence to support their claim. Finally, Appellant 5 claims that the Class 32 CE was granted in error because the project is not exempt from CEQA and that the City must instead produce a Mitigated Negative Declaration (MND) or Environmental Impact Report (EIR) to show that the project abides by CEQA. However, Appellant 5 fails to identify specifically why the project would not qualify for a Class 32 CE and does not provide any evidence to support their claims.

No appellant meets their burden as there is no evidence in the record to conclude that the project will result in an adverse environmental impact. Regarding Appeal 1 specifically, speculation that significant cumulative impacts will occur simply because other projects may be approved in the same area is insufficient to trigger the cumulative impacts exception and is not evidence that the proposed project will have adverse impacts, significant effects, or that the impacts are cumulatively considerable (*Hines v. California Coastal Comm'n* (2010) 186 Cal. App. 4th 830, 857). Furthermore, no appellant has submitted any substantial evidence for the record to support their assertions that the project is not exempt under CEQA. Speculation does not serve to support any of the appellants' claims.

As demonstrated in the Class 32 Justification for Project Exemption Case No. ENV-2020-5078-CE (Exhibit C), the proposed project meets all the criteria to qualify as an infill site under the Class 32 Categorical Exemption pursuant to State CEQA Guidelines, Section 15332, Class 32. When it comes to cumulative impacts, State 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." State CEQA Guidelines, Sections 15065(a)(3) and 15064(h) state that a "cumulatively considerable" impact means that the incremental effects of an individual project are significant when viewed in connection with the effects of other related projects. However, no appellant has submitted evidence to show that there

will be an adverse cumulative impact by the proposed project and any other projects of the same type in the same place over time that will be significant.

As set forth in the administrative record, 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.

Regarding Appeal 4, the appellant is a tenant in the apartment building abutting the project site to the north and speculates that the environmental impact will be severe enough to require relocation. Therefore, Appellant 4 requests that the applicant provide compensation for their relocation. The applicant is required to abide by RCMs to minimize the environmental impacts that during the construction process and during its regular operations.

In conclusion, none of the appellants have provided substantial evidence to demonstrate that the Class 32 CE for the project is deficient. The CEQA Determination includes substantial evidence that the Class 32 CE applies to the proposed project and that no exceptions to the Categorical Exemption apply. Therefore, the Director of Planning's approval was appropriate and the Class 32 CE adequately addresses all impacts relative to the proposed project.

**Appeal Point 3:** *The project will gentrify the community, so the existing community must be protected from harm before the project can be appropriately approved.*

**Staff Response:**

Appellants 2 and 3 are employees or tenants of the Tropical Plaza Mall, which is slated for demolition to accommodate the proposed project. Their appeals express concern due to their economic dependence on the mall and the difficulty of restarting their businesses somewhere else due to gentrification and rising rents. The appellants claim that they need "reassurance"—possibly in the form of financial compensation—to protect them from potential future hardships.

The concerns raised by Appellants 2 and 3 are not a basis under which to grant to deny incentives pursuant to the Los Angeles Municipal Code or the TOC Guidelines.

## **CONCLUSION AND STAFF RECOMMENDATION**

For the reasons stated herein, and as provided in the findings in the Director's Determination, the proposed project fully complies with the applicable provisions of the Transit Oriented Communities Affordable Housing Incentive Program, Site Plan Review, the Los Angeles Municipal Code and the California Environmental Quality Act. Planning staff evaluated the proposed project and determined it meets the Transit Oriented Communities Program requirements. Based on the complete plans submitted by the applicant and considering the appellants arguments for appeal, staff finds that the project meets the required findings. Furthermore, the appeals of the Director's Determination cannot be substantiated and therefore should be denied.

Staff recommends that the City Planning Commission deny the appeals and sustain the decision of the Director of Planning in approving the proposed project.