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February 22, 2024

VIA EMAIL

President Maleena Lawrence and Honorable
Members of the Central Area Planning Commission
City of Los Angeles
200 N. Spring Street, Room 272
Los Angeles, CA 90012

Re: 949 S. Hope Street Project, Case No. ZA-2017-4610-CU-MCUP-SPR-1A

Dear President Lawrence and Honorable Commission Members:

This firm represents Forest City Southpark Two, LLC ("Applicant"), which has proposed the development of a new mixed-use residential and commercial building containing 236 dwelling units and 6,688 square feet of ground-level commercial uses in a new 26-story tower ("Project") located at 949 S. Hope Street, 615 W. Olympic Boulevard, 950 S Flower Street, and 600 W. 9th Street ("Site") in downtown Los Angeles. The Site is currently improved with a three-story office building, which would be demolished to allow for construction of the Project.

On November 7, 2018, the Zoning Administrator issued a determination letter for the Project, approving a conditional use permit ("CUP") to allow the Project to be considered a Transient Occupancy Residential Structure ("TORS") offering tenancies of less than 30 days, a 20 percent parking reduction in connection with the TORS CUP approval, a separate CUP to allow alcohol service at up to three establishments to be provided within the Project, and Site Plan Review. The Zoning Administrator also found that the Project was categorically exempt from the provisions of the California Environmental Quality Act ("CEQA") as an urban infill development project.

On November 21, 2018, the Zoning Administrator's determination was appealed by the homeowners association ("HOA" or "Appellant") of the nearby Skyline condominium building ("Skyline Building"), which abuts the Site immediately to the north. The Central Area Planning Commission ("APC") is the appellate body for the appeal ("Appeal").

As the APC knows, the Applicant and Appellant have engaged in a prolonged series of discussions regarding the HOA's concerns regarding the Project. To allow for these discussions to continue, the APC has graciously consented to a significant number of time extensions requested by the Applicant and Appellant, including the most recent time extension granted by the APC at its December 12, 2023 meeting. As disclosed by the Applicant and the Appellant to the APC at that meeting, these time extensions have provided sufficient time for the Applicant and Appellant to reach an agreement in principle that would address all concerns between the parties, and the HOA has commenced the process

of collecting the votes of its members to ratify the agreement. However, at the December 12, 2023 meeting, members of the APC indicated their lack of interest in granting any further time extensions, and their desire to consider the Appeal at its February 27, 2024 meeting.

Accordingly, with the assumption that the Appeal will be heard at the APC's February 27, 2024 meeting, this letter is being submitted to both provide the APC with a summary of relevant background information regarding the Site and the proposed Project, a summary of the HOA's objections contained in the Appeal, and responses to each of the Appeal's claims. As a general point, the primary claims made in the Appeal pertain to private contractual disputes between the Applicant and the Appellant, which are not relevant to the APC's consideration of the Appeal. Nevertheless, the following discussion is provided for purposes of completeness of the record.

Background of Site Development

The Site was originally developed as part of a two-phase unified development by the Applicant in the early 1980s. Two legal ground lots make up the unified site – Lot 1 to the north, containing the existing Skyline condominium building, and Lot 2 to the south, containing the existing Met Apartments building. The two lots cover nearly the entire block bounded by 9th Street on the north, Hope Street on the east, Olympic Boulevard on the south, and Flower Street on west, with the exception of the Standard Oil building located at the northwest corner of Hope Street and Olympic Boulevard. A single large subterranean garage serves both Lot 1 and Lot 2 and the existing Skyline and Met Apartments buildings.

Phase 1 of the unified development included the construction of the Skyline condominium building on Lot 1, along with the northern half of the subterranean garage, and was completed in 1981. Phase 2 included the development of the Met Apartments building and the southern half of the subterranean garage on Lot 2, as well as an existing three-story office building straddling Lot 1 and Lot 2, which is located within an airspace condominium area created through the recordation of a tract map and associated covenants, conditions, and restrictions ("CC&Rs") that apply to both Lots 1 and 2.

In 1986, prior to the construction of Phase 2, the Applicant and the HOA agreed that the Phase 2 improvements (the Met Apartments, southern half of the subterranean garage, and three-story office building) should be separately owned from the Skyline condominium building, and the parties amended the Site's original CC&Rs to separate ownership of Phase 1 (which would belong to Skyline) and Phase 2 (which would belong to the Applicant). As a result, the Applicant owns Lot 2 (containing the Met Apartments building and the southern half of the subterranean garage) and the condominium airspace lot that encompasses the three-story office building straddling Lots 1 and 2. The amended CC&Rs also make clear that the Applicant holds the right to redevelop Lot 2 and construct future improvements within this condominium airspace lot that straddles Lots 1 and 2. In accordance with these rights, the Applicant proposes to construct the Project within Lot 2 as well as the condominium airspace straddling Lots 1 and 2.

A graphic depicting the configuration of the Site, the respective ownership interests, and the proposed location of the Project, is attached as Exhibit 1.

Summary of Appeal Points and Applicant Responses

Appeal Point 1: Applicant required HOA's permission to seek Project's entitlements

Applicant Response: As described in the above summary as well as the title and deed documents provided to the City in connection with the Applicant's entitlement application for the Project, the Applicant owns the entirety of Lot 2 as well as those portions of Lot 1 where a portion of the Project's podium structure would be constructed, replacing the existing three-story office building owned by the Applicant. Notwithstanding, to the extent there is a dispute between the parties regarding the rights and obligations established by various agreements pertaining to the Site, including but not limited to the Site's CC&Rs, these are private contractual issues that involve the Applicant and the HOA and do not involve the City; therefore, these issues are not relevant to the APC's consideration of the Project and/or the Appeal.

Appeal Point 2: Applicant improperly transferred floor area rights from Lot 1 for the Project

Applicant Response: The Applicant did not request any transfer of floor area rights, nor is any such transfer required by the Project. The Project plans reviewed and approved by the City demonstrate that the Site's floor area ratio ("FAR"), following construction of the Project, will not exceed the allowable 6:1 FAR for the Site. To the extent the Appeal claims the Applicant does not possess contractual rights to the development rights associated the Site due to provisions of the CC&Rs or other title documents, that claim would involve a private contractual arrangement between the Applicant and the HOA, and such disputes between private parties are not relevant to the APC's consideration of the Project and/or the Appeal.

Appeal Point 3: The Project's 20 Percent Parking Reduction Requires a Variance

Response: The authority for the City to grant the Project's requested parking reduction exists under Los Angeles Municipal Code ("LAMC") Section 12.24 S, as it existed at the time the Project's entitlement applications were deemed complete,¹ which states "[a]s part of any conditional use approval, the initial decision-maker or the appellate body may approve changes to the parking requirements not to exceed 20% of the requirements otherwise required by the Code." As part of the Project's CUP approval to allow a TORS use, the Zoning Administrator granted such a parking reduction. Thus, the City had the authority to grant, and did properly grant, a 20 percent parking reduction from the applicable code requirements in accordance with its authority under LAMC Section 12.24 S. No variance was required relative to this approval. Moreover, under current State law as amended by Assembly Bill 2097, due to the Project Site's proximity to high-quality transit service, no minimum parking requirements would apply to the Project, rendering this Appeal objection moot.

¹ On January 22, 2024, the City's Processes and Procedures Ordinance became effective, which revised many of the LAMC's administrative provisions under Chapter 1 of the LAMC, including limiting previously available parking reductions under LAMC Section 12.24 S in connection with any CUP request. However, by the terms of the Processes and Procedures Ordinance itself (LAMC Section 13A.2.1.A.3), projects for which complete applications were filed and fees paid prior to January 22, 2024 shall not be subject to the new Processes and Procedures Ordinance, and shall instead remain subject to the formerly applicable provisions of Chapter 1 of the LAMC.

Appeal Point 4: The City's Approval of the Categorical Exemption for the Project was Improper

Response: The appeal claims that the Project does not qualify for a Class 32 categorical exemption ("Categorical Exemption") under State CEQA Guidelines Section 15332 for the following reasons: 1) the Project requires mitigation measures, 2) utilization of a Categorical Exemption is not consistent with the City's review of similar projects in the area, and 3) utilization of a Categorical Exemption deprives the public of a chance to review and comment upon potential impacts. These claims are not supported by substantial evidence, as described below.

Regarding the first claim, the Project incorporates various project design features, one addressing safety, screening and noise reduction, and the other requiring the use of construction equipment meeting specified emissions standards, as the Zoning Administrator's determination letter describes. These project design features are specific design and/or operational characteristics or components that are incorporated into and made a part of the Project. Therefore, these project design features are not mitigation measures intended to reduce or avoid potential impacts, and their incorporation into the Project does not prevent the City from adopting the Categorical Exemption for the Project.

Regarding the second claim, the appeal states that the City's utilization of a Categorical Exemption for the Project was inconsistent with its review of several other nearby development projects, which prepared mitigated negative declarations. This claim provides no substantial evidence of any deficiency in the Project's Categorical Exemption, which properly concluded, based on extensive analysis, that the Project would have no potentially significant environmental impacts. In contrast, for the nearby projects cited by the Appeal, which do not share any common ownership or purpose as the Project and which are located on unique, distinct development sites, the City determined that mitigation measures were to be implemented to address potential project- or site-specific environmental impacts. Since the City has concluded that the Project would not create any significant impacts and does not require mitigation, the City properly determined that a Categorical Exemption would be utilized.

Regarding the third claim, the appeal asserts that adoption of the Categorical Exemption would deprive the public of the opportunity afforded by CEQA to comment on the Project's potential impacts. Although CEQA does not contain any required procedures for making an exemption determination, the City's administrative process provides for public hearings and public review of a project's application materials and environmental review documents, which in turn provides the ability for interested persons to comment on the Project and the Project's environmental assessments – as the Appeal itself demonstrates. The public has not been deprived of any right under CEQA or any other law to review and comment on the Project.

In conclusion, to the extent the Appeal claims that the City's review and approval of the Project was inconsistent with the requirements of the LAMC, CEQA, or any other applicable law or regulation, such claims have not been shown to have merit. Furthermore, to the extent the Appeal claims that private contractual or transactional agreements between the Applicant and HOA pose obstacles to the construction and operation of the Project, such claims are not subject to the purview of the APC, and instead must be resolved through discussion and engagement between the parties. The Applicant has worked closely with the HOA for several years to seek this resolution, and we remain optimistic that the parties will reach final agreement regarding the Project. However, for purposes of the APC's

President Lawrence and Honorable Central APC Members

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consideration of the Project, we respectfully request that the Appeal be denied and the Zoning Administrator's approval be upheld.

Thank you very much for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd Nelson", with a long horizontal flourish extending to the right.

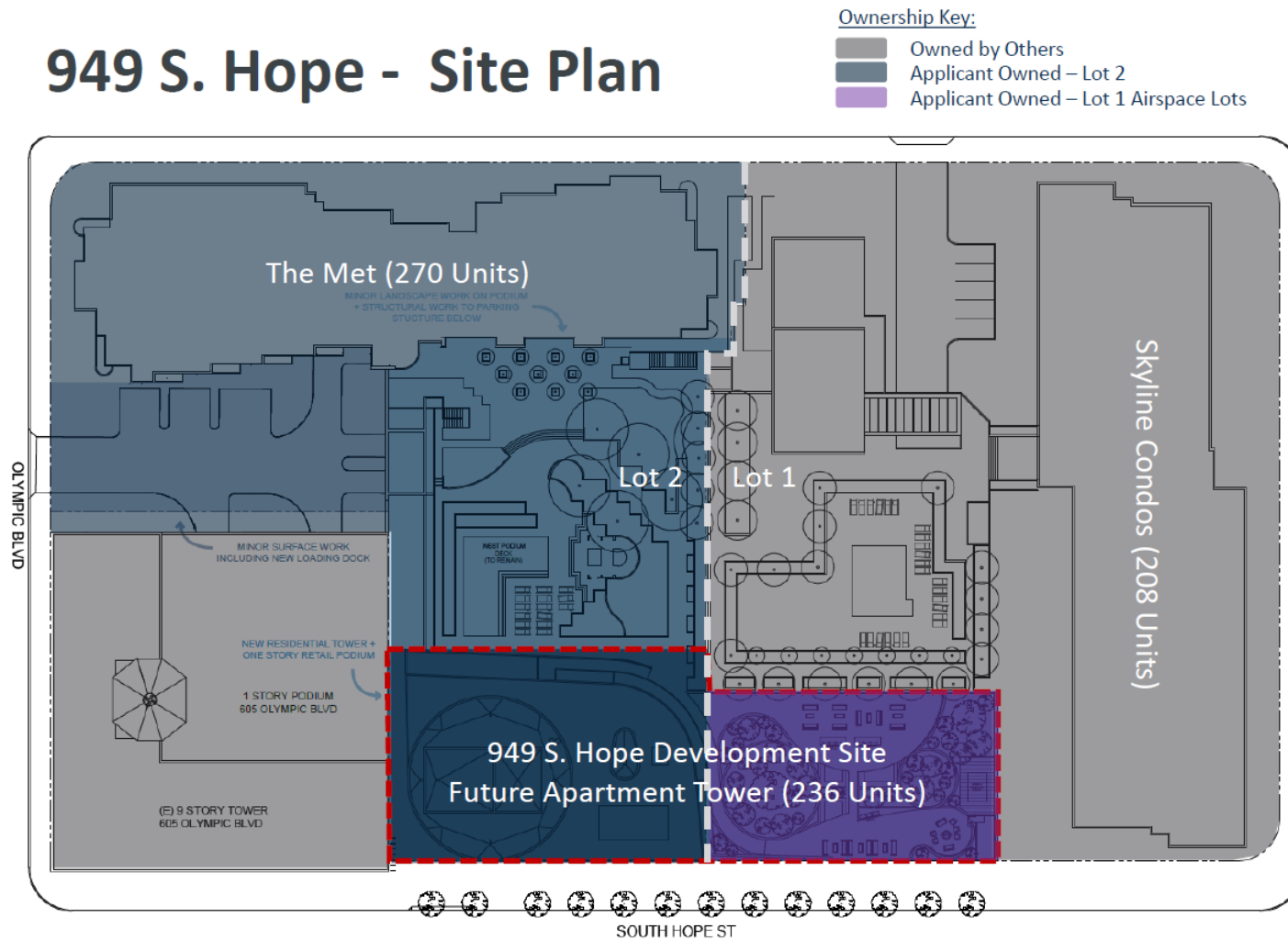
Todd Nelson
Partner
of RAND PASTER & NELSON, LLP

cc: Henry Chu, Department of City Planning

Attachment: Exhibit 1: Site Plan and Ownerships

EXHIBIT 1: SITE PLAN AND OWNERSHIPS

949 S. Hope - Site Plan



DAY OF HEARING SUBMISSIONS