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SECONDARY SUBMISSIONS



Planning CPC <cpc@lacity.org>

Item #6a (Dec. 15): Opposition to 5355–5365 S. Crenshaw (CPC-2022-2792-CU-DB-DRB-SPP-WDI-HCA)

Jay Ross <ross_jay@hotmail.com>

Mon, Dec 12, 2022 at 8:17 AM

To: "Kyle.Winston@LACity.org" <Kyle.Winston@lacity.org>, Planning CPC <cpc@lacity.org>

To the City,

A project like this that provides the minimum amount of affordable housing (10%) should not get 4 waivers of development incentives piled on. All them push the extra tall building closer to the neighbors by reducing setbacks and transitional height. The whole point of transitional height is to protect the neighbors, but you're throwing that out the window.

Also, the shortened setbacks will prevent any trees from being planted along the sides (and the back, which is filled with stormwater planters that prevent trees from growing -- there is very little soil, it's mostly inert aggregate that filters the stormwater).

Only projects that provide 100% affordable housing should get this many incentives.

Require the developer to add 6 more affordable units, so the percentage is at least 20%.

This is a giveaway with barely anything in return.

Jay Ross
Los Angeles, CA



Planning CPC <cpc@lacity.org>

CPC-2018-2223-CU 3477 N. Laurelvale Drive

Larry Slade <larry@sladelaw.com>
To: Planning CPC <cpc@lacity.org>
Cc: Jed <jed@walkingmaninc.com>

Thu, Dec 8, 2022 at 2:48 PM

Dear Ms. Lamas,

The Commission just adjourned without calling our matter (#9). I understood that the Commission continued the hearing until 12/15/22. I am writing to request that the matter be continued from that date to sometime in February. First, I cannot attend on 12/15 as I am in court all day that day. Second, the applicant never brought this CUP application to the Studio City Neighborhood Council for review and I know that they would like to review the application and weigh in on its passage.

Please advise if this is possible. The CUP application was filed in 2018 and sat dormant for 4.5 years only to be rushed now. Please LMK. Thank you for your assistance.

Larry Slade

SladeLaw

Attorneys & Counselors at Law

14146 Killion Street, Suite 100

Sherman Oaks, CA 91401

818 997 8585 **T**

818 475 5323 **F**

www.sladelaw.com

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December 12, 2022

VIA EMAIL: cpc@lacity.org

Los Angeles Department of City Planning
Commission Office
P.O. Box 6069
Sherman Oaks, CA 91413

**Re: CPC-2018-2223-CU
 3477 N. Laurelvale Drive**

To Members of the City Planning Commission:

I write in further opposition to the application by William Marsh for a conditional use permit to allow him to operate a home-based commercial operation, giving swim lessons to small children. In brief, the request reflects an attempt by one property owner to subject his neighbors to a host of impacts to the peaceable enjoyment of their homes that could easily be avoided by locating the use in a commercial setting, but which he refuses to do because it would be less profitable. With a CUP, the applicant will save costs and make more money. His neighbors will be the ones paying the price.

The Staff Recommendation Report issued November 29, 2022, is defective in a number of areas that I addressed in my letter of December 5, 2022. I am writing separately to focus on three major areas of concern:

- (1) the Report improperly construes the CEQA Class 1 exemption, fails to provide “substantial evidence” supporting the exemption decision, and fails to consider the “cumulative impact” exception;
- (2) the parking “conditions” are so vague as to be almost non-existent and run afoul of numerous parking regulations concerning number of spaces, on-site required parking, tandem spaces and residential requirements, so that accepting them would require the Commission to ignore the policy behind those very parking regulations; and
- (3) It is improper to use the Herrick swim CUP as a template here given the significant differences between the two projects.

1. NEITHER CEQA CLASS 1 NOR CLASS 23 APPLIES HERE

The Staff recommended finding that both Class 1 and Class 23 exemptions would apply. The Staff is misguided in its overall approach to this analysis, most significantly because it considered the applicant’s past unlawful use of his home for his non-complying swim lessons as an “existing use.” Putting aside for the moment the impropriety of granting an exemption on a history of unlawful

Attorneys & Counselors at Law

14146 Killion Street, Suite 100 / Sherman Oaks, CA 91401
(818) 997-8585 Office / (818) 475-5323 Fax / www.larryslade.com

SladeLaw

use, the correct question is whether the use and facilities will change from their existing and intended *residential* use, not whether the applicant currently uses his property (in violation of the home occupation ordinance) for swim lessons.

a. The Recommendation is not based on substantial evidence

The Class 1 exemption for “existing facilities” applies to “the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of the existing or former use.” 14 Cal. Code Regs. §15301. “[E]xemptions are construed narrowly and will not be unreasonably expanded beyond their terms.” *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 966. They should be interpreted “to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Save Our Carmel River v. Monterey Peninsula Water Mgmt. Dist.* (2006) 141 Cal. App. 4th 677, 697. The Commission must provide “substantial evidence” to support any decision to apply an exemption. “[E]vidence 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.” 14 Cal. Code Regs. §15384(a).

A recent case analyzing Class 1 is instructive. In *Saint Ignatius Neighborhood Ass’n v. City and County of San Francisco*, No. A164629 Cal. App. Ct., Div. 4, dated Nov. 18, 2022, the court held that adding lights to allow a school to use their stadium more at night would “significantly expand” use of the stadium. In that case, the school had been using the field for about 50 nights per year with temporary lights; the installation of permanent lights would increase usage to about 150 nights per year. The court held this was a “significant expansion of the facility’s existing use.”

Here, the proposed expansion of use is from a purely residential home to a commercial operation with at least 18 customers a day, nearly year-round, in a residential zone – a significant change, even more significant than 100 more nights of a lit stadium where the stadium is already being used for the very same purpose.

The Staff fails to offer substantial evidence for the recommendation that Class 1 exemption would apply. Instead, the Report relies on the unlawful past use of the property and the glowing reports from customers about Marsh’s business. Those “social and economic impacts” that have no bearing on the environment, however, do not constitute substantial evidence.

b. The Recommendation fails to consider the negative cumulative impact of granting the application, which would be significant

Nor does the Staff Report consider the cumulative impact of applying this exemption here. In deciding whether to exempt a project under Class 1, the “cumulative impact of successive projects of the same type in the same place, over time is significant.” 14 Cal. Code Regs. §15300.2(b). The cumulative impact of allowing anyone with a pool to run daily swim lessons in their backyard

for 18 kids, nine months a year, is huge. Laurelvale alone has at least 10 pools: if every neighbor with a pool decided to teach swim lessons with the same conditions suggested here, that would be at least 180 additional cars per day on this tiny cul de sac street, not to mention the neighborhood noise from the extra screaming children.

As Mashael Majid, Planning Director for Nithya Raman's Council District #4 office pointed out in her December 8, 2022 letter to you, this impact must also be considered in light of the fact that "companies like Swimply are increasing operations in Los Angeles." With every backyard pool now available for rent, the impact of expanding the applicant's existing residential use to a commercial operation is significant. I therefore respectfully submit that the Staff Report is incorrect and that there is not substantial evidence to support a Class 1 exemption.¹

2. THE PROPOSED PARKING "CONDITIONS" WOULD VIOLATE CURRENT PARKING REGULATIONS

Next, the so-called parking "conditions" do nothing to address the street parking problem and would violate numerous parking regulations and would be inconsistent with the intent and purpose of the Code, particularly given the impact on the neighbors.

The Staff recommendations regarding parking require a bit of "one from column a" thinking: treat it like a residence when it suits a certain purpose, like a school or a business for others. The problem with this approach is that the parking then violates *all* of the rules, which simply cannot be the intent of the Commission.

A single-family dwelling must have two covered spaces available at all times for residents (which means the spaces cannot be blocked). LAMC §12.21A.4(a). Residential parking may be tandem in the driveway. LAMC §12.21A.5(h).

For a commercial enterprise, visitors' cars cannot displace the use of required parking spaces. For tandem commercial parking, an attendant must be present. LAMC §12.21A.5(h).

If the swim lessons are classified as a "school," students may not be required to park on the street. Schools are required to provide on-site parking based on the number of students or square feet of instructional space. *See* LAMC §12.21A.4.

Where the property uses are combined on a lot, "the number of automobile parking spaces required shall be the sum of the requirements of the various uses." LAMC §12.21A.4(j)(1). A space provided for one use cannot also "be considered as providing any of the required space[s] for another building or space." *Id.* at (n). In other words, spaces cannot be double counted.

The Staff changed its recommendation from "encouraging" customers to park in the driveway to recommending that clients be "required" to use the four driveway spaces – two tandem spots –

¹ For all the reasons already set forth in previous letters, I continue to oppose the Class 23 exemption as well.

“where possible,” but offer no enforcement mechanisms. Requiring those driveway spots does not solve the problem, as it means:

- The required residential spaces would not be available at all times
- Visitors’ cars could displace the use of required parking spaces
- If clients used the tandem spaces, an attendant would be required
- At least three non-tandem spaces (2 for residents and at least 1 for a swim customer) would be required, which the driveway does not accommodate
- It would be impossible to accommodate the 2 required resident and 3 “student” parking spaces for each lesson on-site if the commercial operation were classified instead as a school
- The spaces would be double counted, two for residence and four for swim customer
- Because there is no way to enforce it, no swim customers would actually be required to park on site, so all 18 cars per day could park in the street
- The rule fails to account for clients who arrive early or leave late.

As the Commission well knows, one reason for the home occupation limitation on the volume of people visiting the home business each hour is to avoid this kind of issue. The City has recognized that a situation with extra parked cars on residential streets is to be avoided where possible. The recommended “conditions” here do nothing to meet satisfy this policy.

To approve this set of parking “conditions,” the Commission would be required to ignore a whole host of parking regulations just to allow one man to conduct his business at home. This is plainly inconsistent with the purpose and intent of the Code.

3. THE HERRICK SWIM SCHOOL IS NOT A VALID TEMPLATE TO FOLLOW

There are thousands of pools in Los Angeles. There are at least hundreds of places to learn to swim, from community centers to private swim operations to backyard swim lessons. Yet only one of these pools has ever received permission for an expanded backyard swim “school,” the Herrick operation. That enterprise is so unique that it should not be considered a template for all other swim instructors and certainly should not be a rubber stamp in this case.

Herrick included:

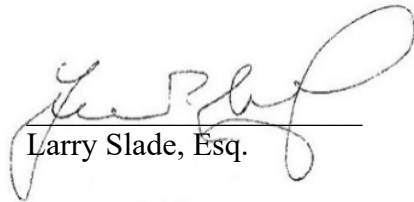
- On-site parking in two locations
- Enclosed pool areas to lessen noise
- A larger street
- Support from the neighborhood council
- Lawful compliance with conditions over the years

If Herrick is used as a blueprint, every person with a backyard pool who wants to make some extra cash can just argue they are just like Herrick. I urge the Commission to pay careful attention to the

differences between the Herrick situation and the project the applicant proposes here; Marsh offers none of the positive equities Herrick has in terms of noise, parking, traffic. Most importantly, there is stiff neighborhood opposition here and I respectfully submit the Commission should credit that.

I appreciate your time and consideration.

Very truly yours,



Larry Slade, Esq.

Cc: Andrea Conant andrea.conant@lacity.org
Mike Feuer mike.feuer@lacity.org
Correy Kitchens correy.kitchens@lacity.org
Blake Lamb blake.lamb@lacity.org
Mashael Majid mashael.majid@lacity.org
Jojo Pewsawang jojo.pewsawang@lacity.org
Jorge Plascencia jorge.plascencia@lacity.org
Donna Wong donna.wong@lacity.org

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

amarshall@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201
FAX: (916) 444-6209

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO

December 13, 2022

VIA EMAIL

Commission President Millman and Commission Members
City Planning Commission
Email: cpc@lacity.org

Yi Lu, City Planner
Email: yi.lu@lacity.org

Re: Agenda Item 7 – Appeal of 216 S. Spring Street Project, Case No. DIR-2020-7846-DB-SPR-HCA, CEQA No. ENV-2020-7847-CE

Dear Commission President Millman, Commission Members, and Ms. Lu:

On October 5, 2022, Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) appealed the Director’s approval of the 216 S. Spring Street Project (Case No. DIR-2020-7846-DB-SPR-HCA, ENV-2020-7847-CE) (“Project”), including approval of Site Plan Review and Density Bonus pursuant to LAMC Sections 12.22 and 16.05, adoption of Findings and Conditions of Approval, and determination that the Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to a Class 32 categorical exemption.¹ Our appeal explains that the Director abused its discretion and failed to proceed in the manner required by law by approving the Project in reliance on a categorical exemption and without substantial evidence to support the approval findings. CREED LA’s experts also provide substantial evidence demonstrating that the Project has significant air quality and noise impacts which render the Class 32 exemption facially inapplicable.²

On December 7, 2022, the Department Of City Planning released its Appeal Recommendation Report (“Staff Report”), which contains responses to our comments from Planning Department staff and 216 Spring St., LLC’s (“Applicant’s”) consultant, Parker Environmental Consultants. This letter addresses the responses

¹ CEQA Guidelines, Section 15332.

² CEQA Guidelines, Section 15332(d) (Class 32 exemption inapplicable if project results in any significant effects relating to traffic, noise, air quality, or water quality).

to our comments contained in the Staff Report. Our air quality and hazards expert James Clark, Ph.D and noise expert Jack Meighan also provided responses to the Staff Report's contentions. In sum, these comments show that the Staff Report does not provide substantial evidence to justify reliance on a categorical exemption and make the approval findings.

I. The City Lacks Substantial Evidence to Conclude that the Project's Health Risk Impacts from Air Emissions are Less Than Significant

In our initial comments, we commented that the City failed to analyze the Project's health risk impacts from exposure to Diesel Particulate Matter ("DPM"), a Toxic Air Contaminant ("TAC"). In response, the Staff Report states that "[t]here is no law or regulatory guidance that requires the preparation of a Health Risk Assessment for the proposed project."³ The Staff Report's discussion ignores that while courts have not specifically required an HRA to be prepared, courts have explained that CEQA requires disclosure, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.⁴ Here, the NOE failed to include any analysis of DPM and its anticipated health risk impacts, let alone an HRA.

The Staff Report claims that OEHHHA's Risk Assessment Guidelines are inapplicable to the Project because they "are not meant to be used for a health risk evaluation of typical non-stationary source land use projects such as residential and commercial development projects."⁵ But Section 8.2.10, "Cancer Risk Evaluation of Short Term Projects," explicitly provides guidance for "short-term projects such as construction," recommending HRAs for projects lasting longer than two months.⁶

In Response to Comment 1.6, the Staff Report states that DPM emissions would be less than significant because the Project's emissions of PM 10 and PM 2.5 would not exceed Localized Significance Thresholds ("LSTs").⁷ The Staff Report's reasoning is that DPM is a "subset of both PM10 and PM2.5."⁸ This analysis is

³ Staff Report, pg. 6, 1637 (Response to Comment 1.5).

⁴ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 518–522.

⁵ Staff Report, pg. 1638.

⁶ Office of Environmental Health Hazard Assessment (OEHHHA), Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, February 2015 (OEHHHA 2015), Section 8.2.10: Cancer Risk Evaluation of Short Term Projects, pp. 8-17/18; <https://oehha.ca.gov/air/crn/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0>.

⁷ Staff Report, pg. 1643.

⁸ Staff Report, pg. 1643.

incorrect, as the Staff Report itself states that “TACs are also not classified as ‘criteria’ air pollutants,” and “there is no threshold determination for a majority of these pollutants.”⁹ In summary, our appeal letter and analysis in the Staff Report show the City cannot rely on LSTs to analyze health impacts from DPM.

In Response to Comment 1.6, the Staff Report also claims that because “TACs are also not classified as ‘criteria’ air pollutants,” and “there is no threshold determination for a majority of these pollutants,” the Categorical Exemption is not required to analyze TAC impacts.¹⁰ This conclusion ignores the mandates of CEQA to analyze health impacts.¹¹

II. A CEQA Exemption is Inapplicable Because The Project Has Potentially Significant Health Risk Impacts

As explained in our initial comments and herein, the City failed to analyze health risk impacts from TACs like DPM, thus failing to support its significance conclusion with substantial evidence. In contrast, Dr. Clark calculated the cancer risk using OEHHA’s HARP 2 Standalone Risk software, providing substantial evidence that the Project’s construction-related health risk would be 814 in 1,000,000 for children and is 17.5 in 1,000,000 for adults. This exceeds SCAQMD’s 10 in 1,000,000 threshold, resulting in a significant impact.

The Staff Report incorrectly claims that Dr. Clark’s analysis should be discounted because OEHHA’s Risk Assessment Guidelines are inapplicable to the Project.¹² As explained earlier, the 2015 Guidelines recommend health risk analyses for construction projects. Moreover, Dr. Clark’s comments (attached) explain that the City’s own guidance recommends following a qualitative analysis of TAC impacts with HARP modeling. The Staff Report also incorrectly states that Dr. Clark did not provide any appendix or worksheet calculations.¹³ This is factually incorrect, as CREED LA submitted these documents to the City with our appeal via email on October 5, 2022.¹⁴

⁹ Staff Report, pg. 1643.

¹⁰ Staff Report, pg. 1643.

¹¹ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 518–522; 14 CCR § 15065(a)(4); PRC § 21083(b)(3), (d).

¹² Staff Report, pg. 1644-45.

¹³ Staff Report, pg. 1645.

¹⁴ Email from Alisha Pember (apember@adamsbroadwell.com) to apccentral@lacity.org; vince.bertoni@lacity.org; Yi.Lu@lacity.org, re: Appeal of 216 S. Spring Street Project, Case No. DIR-2020-7846-DB-SPR-HCA, CEQA No. ENV-2020-7847-CE (October 5, 2022).
L6268-005acp

Because CREED LA provides substantial evidence of a significant DPM health risk impact, and the City fails to provide its own quantitative analysis for health risk from DPM emissions, the City lacks the support necessary to rely on a categorical exemption.¹⁵

III. A CEQA Exemption is Inapplicable Because the City Improperly Relies on Noise Mitigation Measures

The Staff Report reiterates the incorrect claim that the Project's construction noise mitigation measures are not mitigation measures because they are "of standard language imposed by the City of Los Angeles."¹⁶ As already explained in our appeal, the Project's noise mitigation measures are not standard provisions that are uniformly applied to any construction project. For instance, the City's Noise Ordinance does not require every construction project to use a sound barrier at least 8 feet tall that achieves a minimum 15 dBA – this measure was designed to reduce the Project's 90 dBA construction noise impact¹⁷ to below the 75 dBA construction noise threshold.¹⁸ Since the City relies on noise-reducing measures not of standard language or general applicability, they must be considered mitigation measures. Thus, the Class 32 Exemption is facially inapplicable, and the City may not rely on any CEQA exemption for the Project because CEQA prohibits mitigated exemptions.¹⁹

IV. Conclusion

For the reasons stated herein and in our appeal, CREED LA respectfully requests that the Area Planning Commission uphold this appeal, vacate the Director's approval of the Project, and direct staff to prepare an EIR for the Project.

Sincerely,



Aidan P. Marshall

¹⁵ *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1191, quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 205–206 (exemption improper where there is any reasonable possibility that a project or activity may have a significant effect on the environment).

¹⁶ Staff Report, pg. 1649-52 (Response to 1.10, 1.11).

¹⁷ Categorical Exemption, pg. 59, Table 9.

¹⁸ See LAMC Section 112.05.

¹⁹ *SPAWN v. County of Marin* (2004) 125 Cal.App.4th 1098, 1198-1201.



WI #22-005.23

October 12th, 2022

Aidan P. Marshall
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660

SUBJECT: 216 South Spring Project Categorical Exemption, Comments on the Noise Analysis

Per your request, I have reviewed the Responses provided by Parker Environmental to our prior comments on the 216 South Spring Project Categorical Exemption (CatEx) in Los Angeles, California. The proposed Project involves demolition of one existing commercial building and the construction, use and maintenance of a 17-story mixed-use building. The following are the responses provided (bold), and our follow-up comments afterwards in plain text. Due to space limitations, the entire response was not included.

1.12 – Sound energy reaches the receiver only by bending (diffracting) over of the top of the barrier. This diffraction over the barrier reduces the sound level that reaches a sensitive receptor. Therefore, with the presence of the barrier, noise at the ground level would be absorbed by the ground and then diffused with height.

Their response misses the technical questions raised by our comments. If the construction is happening in the middle of the construction area, the barrier at the edge of the construction zone does not break line of site for the receiver locations roughly >20 feet high and provides no benefit. The diffracting effect mentioned above is not applicable, since 3rd floor receivers will have a complete view into the construction zone that is not blocked by the 8-foot barrier.

1.13 – Since the Proposed Project would provide a mix of multi-family residential and commercial land uses in an area with residential and commercial land uses, it is anticipated that the Proposed Project would not result in excessively loud nighttime noise

This response is premised on an assumption of future tenant occupancy. Every building is different, and has different outdoor uses, and different mechanical equipment. To address potentially significant impacts, it would be necessary to make a commitment (mitigation) to provide feasible mitigation such as sound enclosures around HVAC units to meet noise codes. The possibility of limiting nighttime noise either through Conditions or tenant selection or providing noise reduction mitigation measures are not provided in the project documents and thus these types of noise sources could result in a potentially significant impact.

The commenter also assumes the Proposed Project would host social events on the rooftop area, which is a hypothetical claim. Occupancy and use of these rooftop areas would be consistent with other residential uses in the Project Site vicinity. The Proposed Project would be subject to LAMC Section 116.01 (Loud, Unnecessary and Unusual Noise), which prohibits all future users of the Proposed Project to willfully make or continue, or cause to

be made or continued, any loud, unnecessary, and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area

To qualify for a Categorical Exemption, the project must show that no potentially significant impacts would occur. The “hypothetical claim” that rooftop social events is a reasonable expectation, and it is the responsibility of the project to a) state that such activities would be prohibited or b) provide analysis. It is hypothetical to say that these spaces would not hold gathering for residents and that these gatherings would be incapable of creating noise impacts without any documentation directly from the project. It is also dubious to cite noise code that residents are required to follow on their own; the residents of the Project would only be present because the Project creates the opportunity for the residents to live there in that space. If the project is built in such a way where any outdoor gathering would exceed the noise code, it is not sufficient to blame future residents after the Project proponents have completed the project.

1.14 - The Categorical Exemption utilizes the approach provided in the Federal Transit Administration’s Transit Noise and Vibration Impact Assessment Manual (September 2018). Section 7 of this manual provides guidance on quantitatively estimating construction noise from typical construction equipment for a general assessment. The manual states “only determine Leq equip for the two noisiest pieces of equipment expected to be used in each phase of construction. Then, sum the levels for each phase of construction using decibel addition. Additionally, this approach also states that the distance value (D) assumes all equipment operates at the center of the project

For the purposes of a Categorical Exemption, it is necessary to identify whether there would be any potentially significant impacts. Thus, a more conservative method would identify the loudest instances of equipment used in the location that is closest to a sensitive receiver and combine those with additional noise sources within the nearby area. Such calculations will produce a higher noise level estimate and would be more appropriate for analysis for a categorical exemption, which implies there is no mitigation that would be needed. Without doing a detailed analysis, it is possible that substantial work could be required near the property line

1.15 - As stated on page 63 of the Categorical Exemption, the design and placement of HVAC units and exhaust fans would be required to comply with the regulations under Section 112.02 of the LAMC, which prohibits noise from air conditioning, refrigeration, heating, pumping, and filtering equipment from exceeding the ambient noise level on the premises of other occupied properties by more than five decibels. It is anticipated that the Proposed Project will be subject to conditions of approval to ensure that the project operator complies with the prescriptive and performance-based requirements of the LAMC.

While citing code correctly, this is a circular statement, stating that since the regulations would need to be met in the future, and no study or guidance is needed right now. It is not good practice to rely on the city to impose Conditions. The analysis should state what assumptions form the basis of the noise analysis and highlight those items to be included in the Conditions. The response gives no indication or commitment that a future noise study would be done during future HVAC procurement and installation.

1.16 - As shown, a pile driver was not listed as anticipated construction equipment due to the fact that high noise and vibration impacts are associated with pile driving.

Pile driving is common in construction of buildings of this height. Therefore, it must be made clear that should pile driving be considered in the future, additional analysis and CEQA clearance will be required.

1.17 -The project design features described on page 57 of the Categorical Exemption are not considered mitigation measures as they will be voluntarily incorporated and enforced during construction as conditions of approval

Response 1.12 above covers the sound barrier analysis for top floor receivers. These blankets are required to mitigate the construction noise; without them, the analysis in the CatEx currently shows significant impacts at receptors 1 and 4. Therefore, these project design features are mitigation.

1.18 - As the claims and assertions presented by the commenter are erroneous and supported by speculative, misleading, and unsubstantiated assumptions, a significant noise impact would not occur, and mitigation measures are not required.

See the other responses 1.12 through 1.17 and 1.21 through 1.22 for comments on technical errors

1.19 – Because the Proposed Project would consist of multi-family residential and neighborhood-serving commercial land uses that are anticipated to operate during the daytime hours, there is no evidence to suggest that the Proposed Project would result in excessively loud operational noise levels.

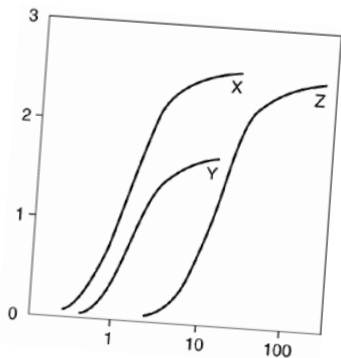
HVAC systems and other operational equipment will operate at night and thus an analysis of sleep disturbance is warranted. Response 1.15 comments on HVAC noise

1.21 - the noise levels from rooftop activities would be approximately 78.5 dBA L_{eq} within the 17th level roof deck. When factoring in the distance to nearby sensitive receptors, the noise levels would be 54.1 dBA L_{eq} at a reference distance of 50 feet. The 17th level roof deck would be surrounded with glass railing and planters that would help to further attenuate noise in the surrounding area. Furthermore, this noise level estimate is conservative because this roof level is well above the surrounding sensitive receptor locations, and there is acoustic shielding provided by the edge of the roof. Based on the ambient noise level (L_{eq} 61.3 dB) recorded at the nearest sensitive receptor, Higgins Building Apartments (Attachment 3, Figure 1), the Proposed Project would not increase ambient noise levels by more than 5 dBA from the open space operating at full capacity

The response fails to account for nighttime noise. The ambient noise level would almost certainly be much quieter than the daytime 61.3 dBA in the early nighttime, when a party on the roof deck could easily take place. As such, the analysis lacks data to draw appropriate conclusions and it is not possible to conclude whether project nighttime noise levels would be over an ambient level.

1.22 - Because the Proposed Project would consist of multi-family residential and neighborhood-serving commercial land uses that are anticipated to operate during the daytime hours, there is no evidence to suggest that the Proposed Project would result in excessively loud operational noise levels that would cause sleep disturbance impacts. As further stated in Response to Comment 1.15 and Response to Comment 1.21, above, the Proposed Project would not result in a significant impact from the operation of mechanical HVAC equipment and outdoor open space, respectively

As stated in responses 1.13 and 1.21, noise impacts at night are possible, and as such sleep disturbance criteria should be studied.



December 12, 2022

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 940804

Attn: Mr. Aidan Marshall

Clark & Associates

Environmental Consulting, Inc.

OFFICE

12405 Venice Blvd
Suite 331
Los Angeles, CA 90066

PHONE

310-907-6165

FAX

310-398-7626

EMAIL

jclark.assoc@gmail.com

Subject: Comments On Department Of City Planning Appeal Recommendation Report Case No. DIR-2020-7846-DB-SPR-HCA-1a, CEQA No. ENV-2020-7847-CE, Project Located At 216 South Spring Street

Dear Mr. Marshall,

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the 2022 City of Los Angeles (the City) Appeal Recommendation Report of the above referenced project. This letter addresses Responses provided by staff and Parker Environmental to our prior comments on the 216 South Spring Project Categorical Exemption.

The failure of the City to analyze the health risks associated with the development of the Project and specifically the toxic air pollutants, known to be carcinogenic to the State of California, from stationary emissions associated with the Project require the City to withdraw the Notice of Exemption (NOE) and have the Proponent prepare an environmental impact report (EIR).

The City's responses to comments raised by my October 8, 2020 letter (Comments 1.4 to 1.8) ignore the substantial guidance from the City itself regarding toxic air contaminants. According to the City of Los Angeles's Air Quality And Health Effects guidance,¹ exposure to DPM may be a health hazard, particularly to *children* (emphasis added) whose lungs are still developing and the elderly who may have other serious health problems. This statement from the City's guidance clearly indicates that the City is aware that age of exposure to DPM has a significant impact on the potential health outcomes.

The guidance goes on to state that "potential TAC (toxic air contaminant) impacts are evaluated by conducting a qualitative analysis consistent with CARB and SCAQMD guidance, and may be followed by a

¹ City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 10

more detailed analysis utilizing CARB's Hotspots Analysis and Reporting Program (HARP) model where the project results in a substantial source of TACs or if a project would site sensitive land uses in proximity to TAC sources.”² The guidance does not put limitations on the types of projects to be evaluated or the duration of the potential exposure.

According to CARB, “HARP can be used by the air pollution control and air quality management districts (districts), facility operators and other organizations or individuals to promote statewide consistency, efficiency and cost-effective development of facility emission inventories and conducting health risk assessments. HARP can also be used for conducting health risk assessments used in other programs (e.g., facility permitting, *CEQA reviews*).”^{3,4}

The City's statement in the guidance clearly indicates that the use of the HARP model (without restrictions) and its algorithms which incorporate the use of age sensitivity factors (ASFs) for carcinogens, to derive project specific health risks is appropriate. The guidance goes on to states that the HARP model has become an accepted industry standard in evaluating health impacts from TACs and providing reliable and meaningful analysis.⁵

Regarding the City's responses related to the use of the back-up generator and the analysis not representing any-real life scenario, I would point the City Staff to the original comments which detailed how Public Safety Power Shutoff (PSPS) events continue to impact Los Angeles. PSPS events occur with increasing frequency, and result in many hours of back-up generator operation. Power outages occur throughout Los Angeles on a daily basis. According to the Los Angeles Department of Water And Power (LA-DWP), as of noon of the day of this letter 3 separate outages were occurring in Downtown Los Angeles. The outages were assumed to last an average of 8-10 hours.

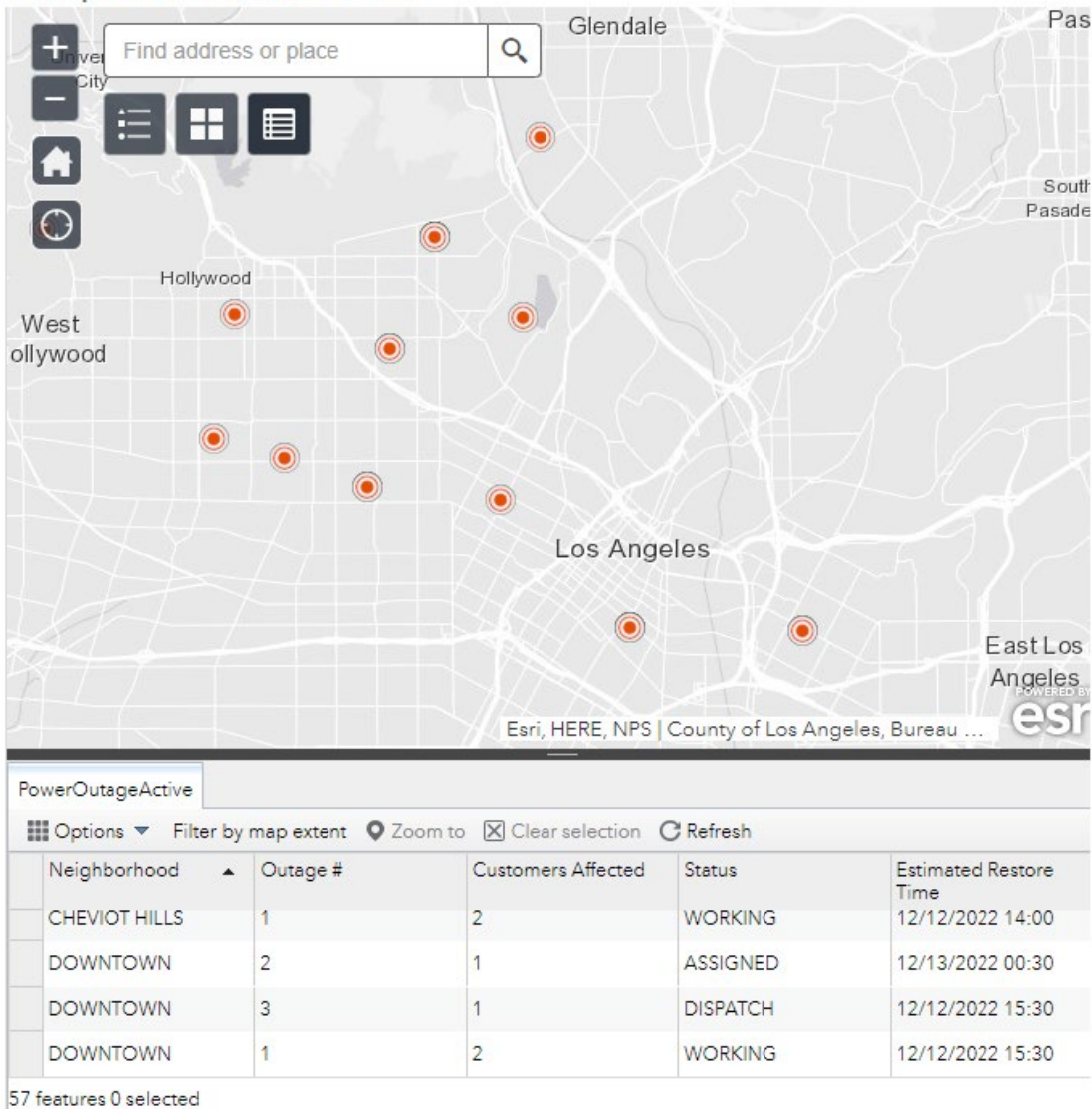
² City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 10

³ CARB. 2022. Hot Spots Analysis & Reporting Program: About. <https://ww2.arb.ca.gov/our-work/programs/hot-spots-analysis-reporting-program/about>

⁴ CARB and CAPCOA. 2015. Risk Management Guidance For Stationary Sources of Air Toxics. Pg 40. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/rma/rmgssat.pdf?_ga=2.71249616.1384737318.1660245722-1818700787.1659738080

⁵ City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 36

Last Updated on: 12/12/2022 12:15 PM



Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant unmitigated impacts if the Appeal Report is approved. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of a revised environmental impact report.

Sincerely,



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
brian@lozeaudrury.com

VIA EMAIL

December 7, 2022

Los Angeles City Planning Commission
Samantha Millman, President
Caroline Choe, Vice President
Helen Campbell, Commissioner
Jenna Hornstock, Commissioner
Helen Leung, Commissioner
Yvette López-Ledesma, Commissioner
Karen Mack, Commissioner
Dana Perlman, Commissioner
Renee Dake Wilson, Commissioner
Cecilia Lamas, Commission Executive Assistant
200 North Spring St.
Los Angeles, CA 90012
cpc@lacity.org

Nuri Cho, City Planner
200 N. Spring Street, Room 620
Los Angeles, CA 90012
nuri.cho@lacity.org

**Re: SAFER Appeal – CEQA Infill Exemption
216 Spring Street Project
Case No: DIR-2020-7846-DB-SPR-HCA; ENV-2020-7847-CE
City Planning Commission AGENDA ITEM 7 (December 15, 2022)**

Honorable City Planning Commissioners:

This correspondence is submitted on behalf of Supporters Alliance for Environmental Responsibility and its members living in and near the City of Los Angeles (“SAFER”) regarding SAFER’s appeal of the Planning Director’s September 22, 2022 decision regarding the site plan review and categorical exemption from the California Environmental Quality Act (“CEQA”) for the 216 Spring Street mixed-use project (Case No.: DIR-2020-7846-DB-SPR-HCA; ENV-2020-7847-CE) (“Project”) to be heard as Agenda Item 7 at the City Planning Commission’s December 15, 2022 meeting.

SAFER is respectfully requesting that the Commission grant SAFER’s appeal because the Project does not qualify for an exemption from CEQA. Specifically, an exemption from CEQA for the Project is improper because the Project (1) includes mitigation measures for the Project’s noise impacts and (2) would result in significant impacts to air quality.

SAFER’s review of the Project has been assisted by indoor air quality expert Francis

Offermann, PE, CIH and air quality experts Matt Hagemann, P.G., C.Hg., and Paul E. Rosenfeld, Ph.D., of Soil/Water/Air Protection Enterprise (“SWAPE”). Mr. Offermann’s comment and CV are attached as Exhibit A. SWAPE’s comment and the CVs of Dr. Rosenfeld and Mr. Hagemann are attached as Exhibit B.

LEGAL STANDARD

CEQA mandates that “the long-term protection of the environment . . . shall be the guiding criterion in public decisions” throughout California. (PRC § 21001(d).) A “project” is “the whole of an action” directly undertaken, supported, or authorized by a public agency “which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (PRC § 21065; 14 CCR § 15378(a).) CEQA requires environmental factors to be considered at the “earliest possible stage . . . before [the project] gains irreversible momentum,” (*id.* at 277), “at a point in the planning process where genuine flexibility remains.” (*Sundstrom v. Mendocino County* (1988) 202 Cal.App.3d 296, 307.)

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. (14 CCR § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86.) First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further evaluation is required under CEQA. (14 CCR § 15002(k)(1).) Second, if the project is not exempt and there is a possibility the project will have a significant effect on the environment, an initial threshold study is required. (14 CCR § 15002(k)(2).) Third, either a mitigated negative declaration is required if the initial study shows that there is no substantial evidence that the project may have a significant effect (*id.*) or an environmental impact report is required if the initial study shows that the project may have a significant effect (14 CCR § 15002(k)(3). Because staff has recommended that the Commission find the Project to be exempt from CEQA, we are at the first step in the process.

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. (14 CCR §§ 15300, 15354.) “Exemptions to CEQA are narrowly construed and “[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.) Here, staff has recommended that the Project is categorically exempt from the requirements of CEQA pursuant to CEQA’s Infill Exemption (14 CCR § 15332.)

Under CEQA’s Infill Exemption, a project is exempt from the requirements of CEQA if the project meets the following five conditions:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with 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.
- (e) The site can be adequately served by all required utilities and public services.

(14 CCR § 15332.) Importantly, mitigated categorical exemptions are not allowed. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102 (*SPAWN*); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200 (*Azusa*).) An agency may not rely on mitigation measures as a basis for concluding that a project is categorically exempt, or as a basis for determining that one of the significant effects exceptions does not apply.

DISCUSSION

I. The Project Cannot Be Exempt from CEQA Because the Project Relies on Mitigation Measures to Reduce Noise Impacts to Less than Significant.

A project cannot qualify for CEQA's Infill Exemption if the project results in significant impacts to noise. (14 CCR 15332(d).) However, the City cannot rely on mitigation measures as a basis as a basis for determining that the significant noise impact exception does not apply. (See *SPAWN*, *supra*, 125 Cal.App.4th at 1102; *Azusa*, *supra*, 52 Cal.App.4th at 1200.) If mitigation measures are needed to avoid potentially significant impacts, then the Project is not exempt from CEQA and, at a minimum, the City must prepare a mitigated negative declaration. (*Azusa*, *supra*, 52 Cal.App.4th at 1200.) As the court of appeal has explained, "Only those projects having no significant effect on the environment are categorically exempt from CEQA review. . . . If a project may have a significant effect on the environment, **CEQA review must occur, and only then are mitigation measures relevant.**" (*SPAWN*, *supra*, 125 Cal.App.4th at 1107 [citing *Azusa*, *supra*, 52 Cal.App.4th at 1199-2000] [emphasis added].)

Here, the Categorical Exemption that certain Project Design Features (PDFs) ensure that the Project's noise impacts are less than significant, including:

- The project contractor will erect a temporary noise-attenuating sound barrier along the perimeter of the Project Site. The sound wall will be a minimum of 8 feet in height to block the line-of-sight of construction equipment and off-site receptors at the ground level. The sound barrier shall include sound absorbing material capable of achieving a minimum of 15-dBA reduction in sound level.
- During any jackhammering and structural framing, the project contractor

shall utilize temporary portable acoustic barriers, partitions, or acoustic blankets to effectively block the line-of-sight between noise producing equipment and the adjacent residential land uses for purposes of ensuring noise levels at the adjacent residential land uses does not exceed 75 dBA Leq over the ambient noise levels.

(Categorical Exemption, pp. 57-58.) However, even though they are labeled as PDFs, the measures above are actually mitigation measures that preclude exempting the Project from CEQA.

A mitigation measure “involves ‘feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant impacts on the environment’”(Save the Plastic Bag Coalition v. City and County of San Francisco (2014) 222 Cal.App.4th 863, 882 [citing 14 CCR § 15041(a)].) Features adopted to address preexisting environmental issues may be properly labeled as PDFs; however, features are properly labeled as mitigation measures where they “propose[] subsequent actions by the project's proponent to mitigate or offset the alleged adverse environmental impacts.” (*Id.* at 882-83.)

The measures listed above requiring (1) a temporary noise-attenuating sound barrier capable of achieving a minimum of 15-dBA reduction and (2) temporary portable barriers/partitions/blankets to ensure noise levels do not exceed 75 dbA over ambient have not been adopted to deal with a preexisting environmental issue, but rather adopted specifically to address the noise impacts caused directly by construction of the Project. (See *Save the Plastic Bag, supra*, 222 Cal.App.4th at 882 [citing *SPAWN, supra*, 125 Cal.App.4th at 1104, 1108 and *Azusa, supra*, 52 Cal.App.4th at 1187-88, 1199-1200].) As such, those measures are mitigation measures, not PDFs, and the Project does not qualify for any exemption from CEQA. Instead, the City must at least prepare a mitigated declaration for the Project. (*Azusa, supra*, 52 Cal.App.4th at 1200.)

II. The Project Does Not Qualify for CEQA’s Infill Exemption Because the Project Will Result in Significant Indoor Air Quality Impacts from Emissions of Formaldehyde.

The City’s Categorical Exemption analysis fails to address the significant health risks posed by the Project from emissions of formaldehyde. Certified Industrial Hygienist, Francis Offermann, PE, CIH, has conducted a review of the Project, the exemption, and relevant documents regarding the Project’s indoor air emissions. Mr. Offermann is one of the world’s leading experts on indoor air quality, in particular emissions of formaldehyde, and has published extensively on the topic. As discussed below and set forth in Mr. Offermann’s comment, the Project’s emissions of formaldehyde to air will result in significant cancer risks to future residents of the Project’s residential component and to future employees of the Project’s commercial component. Mr. Offermann’s expert opinion and calculation is substantial evidence that the Project may have significant health risk impacts as a result of these indoor air pollution emissions, which were not discussed, disclosed, or analyzed in the City’s Categorical Exemption analysis. Due to this significant air quality impact, the Project does not qualify for the Infill

Exemption. (14 CCR § 15332(d).) Mr. Offermann's comment is attached as Exhibit A.

Formaldehyde is a known human carcinogen and listed by the State as a TAC. The South Coast Air Quality Management District ("SCAQMD") has established a significance threshold of health risks for carcinogenic TACs of 10 in a million and a cumulative health risk threshold of 100 in a million.

Mr. Offermann explains that many composite wood products typically used in home and apartment building construction contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particle board. These materials are commonly used in residential, office, and retail building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. A, pp. 2-3.)

Mr. Offermann found that future residents of the Project's residential units will be exposed to a cancer risk from formaldehyde of approximately 120 per million, ***even assuming that*** all materials are compliant with the California Air Resources Board's formaldehyde airborne toxics control measure. (Ex. A, pp. 3-4.) This is more than 12 times SCAQMD's CEQA significance threshold of 10 per million. (*Id.* at p. 4.)

Mr. Offermann found that future employees of the Project's commercial spaces will be exposed to a cancer risk from formaldehyde of approximately 17.7 per million, ***even assuming that*** all materials are compliant with the California Air Resources Board's formaldehyde airborne toxics control measure. (Ex. A, p. 5.) This exceeds SCAQMD's CEQA significance threshold of 10 per million. (*Id.*)

Mr. Offermann concludes that these significant environmental impacts should be analyzed in an EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (Ex. A, pp. 5, 10-12.) He prescribes a methodology for estimating the Project's formaldehyde emissions in order to do a more project-specific health risk assessment. (*Id.* at pp. 5-10.) Mr. Offermann also suggests several feasible mitigation measures, such as requiring the use of no-added-formaldehyde composite wood products, which are readily available. (*Id.* at pp. 12-13.) Mr. Offermann also suggests requiring air ventilation systems which would reduce formaldehyde levels. (*Id.*)

When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes substantial evidence that the project will have a significant adverse environmental impact. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project's air quality impacts. (See, e.g. *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 [County applies Air District's "published CEQA quantitative criteria" and "threshold level of cumulative significance"]; see also *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 ["A 'threshold of significance' for a given environmental effect is

simply that level at which the lead agency finds the effects of the project to be significant”].) The California Supreme Court made clear the substantial importance that an air district significance threshold plays in providing substantial evidence of a significant adverse impact. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327 [estimated emissions in excess of air district’s significance thresholds “constitute substantial evidence supporting a fair argument for a significant adverse impact”].) Since expert evidence demonstrates that the Project will exceed the SCAQMD’s CEQA significance threshold, there is substantial evidence that an “unstudied, **potentially significant environmental effect[]**” exists. (See *Friends of Coll. of San Mateo Gardens v. San Mateo Cty. Cmty. Coll. Dist.* (2016) 1 Cal.5th 937, 958 [emphasis added].)

The failure of the City to address the Project’s formaldehyde emissions is contrary to the California Supreme Court’s decision in *California Building Industry Ass’n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 (CBIA). In that case, the Supreme Court expressly holds that potential adverse impacts to future users and residents from pollution generated by a proposed project **must be addressed** under CEQA. At issue in CBIA was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment’s effects on a project. (CBIA, 62 Cal.4th at 800-01.) However, to the extent a project may exacerbate existing environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. (*Id.* at 801.) In so holding, the Court expressly held that CEQA’s statutory language required lead agencies to disclose and analyze “impacts on **a project’s users or residents** that arise **from the project’s effects** on the environment.” (*Id.* at 800 [emphasis added].)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. People will be residing in and using the Project once it is built and begins emitting formaldehyde. Once built, the Project will begin to emit formaldehyde at levels that pose significant direct and cumulative health risks. The Supreme Court in CBIA expressly finds that this type of air emission and health impact by the project on the environment and a “project’s users and residents” must be addressed in the CEQA process. The existing TAC sources near the Project site would have to be considered in evaluating the cumulative effect on future residents of both the Project’s TAC emissions as well as those existing off-site emissions.

The Supreme Court’s reasoning is well-grounded in CEQA’s statutory language. CEQA expressly includes a project’s effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects *on human beings*, either directly or indirectly.’” (CBIA, 62 Cal.4th at 800 [emphasis in original].) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.*) It goes without saying

that the thousands of future residents at the Project are human beings and the health and safety of those residents must be subjected to CEQA's safeguards.

The City has a duty to investigate issues relating to a project's potential environmental impacts. (See *County Sanitation Dist. No. 2 v. County of Kern*, (2005) 127 Cal.App.4th 1544, 1597–98. [“[U]nder CEQA, the lead agency bears a burden to investigate potential environmental impacts.”].) The proposed mixed-use building will have significant impacts on air quality and health risks by emitting cancer-causing levels of formaldehyde that will expose future residents and employees to cancer risks potentially in excess of SCAQMD's threshold of significance for cancer health risks of 10 in a million. As such, the Project does not qualify for the Infill Exemption and must undergo CEQA review prior to approval.

III. The Project's Air Quality Analysis Is Not Supported by Substantial Evidence.

SWAPE found that the Project's air quality analysis underestimated the Project's emissions and therefore cannot be relied upon to determine the significance of the Project's impacts. (Ex. B, pp. 2-3.) The air quality analysis relies on emissions calculated from the California Emissions Estimator Model Version CalEEMod.2020.4.0 (“CalEEMod”). (*Id.* at p. 2.) This model, which is used to calculate a project's construction and operational emissions, relies on recommended default values based on site specific information related to a number of factors (*Id.*) CEQA requires that any changes to the default values must be justified by substantial evidence. (*Id.*)

SWAPE reviewed the Project's CalEEMod output files and found that the values input into the model were inconsistent with information provided in the Project documentations, resulting in an underestimation of the Project's emissions. (Ex. A, p. 2.) Specifically, SWAPE found that the following values used in the Project's air quality analysis were either inconsistent with available information about the Project or otherwise unjustified:

- Unsubstantiated Reductions to Off-Road Construction Equipment Types and Unit Amounts. (Ex. B, pp. 3-4.)
- Incorrect Application of VOC Mitigation Measure (Ex. B, p. 4.)

As a result of these errors, the air quality analysis underestimates the Project's construction and operational emissions and cannot be relied upon to determine the significance of the Project's air quality impacts.

CONCLUSION

Due to the mitigation measures for the Project's noise impacts the Project's significant indoor air quality impacts, the Project does not qualify for CEQA's Infill Exemption. SAFER is not opposed to the Project *per se* but believes that the Project must undergo environmental review pursuant to CEQA prior to approval. Therefore, SAFER respectfully requests that the Commission grant SAFER's appeal to ensure that an environmental impact report or negative

declaration is prepared for the Project.

Sincerely,



Brian B. Flynn
Lozeau Drury LLP

**ALLAN M. HARRIS, ESQ.
CHERYL YOUNGER
108 WEST 2nd STREET
#1002
LOS ANGELES, CA 90012
212-966-4035**

DEPARTMENT OF CITY PLANNING

**Nuri Cho
City Planner
200 N. Spring St., room 620
Los Angeles, CA 90012**

**RE: CASE NO. ENV-2020-7486-DB-HCA-1A
212-220-SOUTH SPRING STREET
PUBLIC COMMENTS**

December 9, 2022

Dear Ms. Cho:

We are residents of the Higgins Building which is across the alley at Harlem Place east from the Applicant on a diagonal at 108 West 2nd Street in Los Angeles. This is a condominium building consisting of 135 residential units and 7 commercial units. We are a historic monument of the City of Los Angeles and have filed with the United States Department of Interior to be enrolled on the National Register of Historic Places. I am also Chair of the Higgins Loft Neighborhood Impact Committee, a standing committee of the Higgins Loft HOA.

Presented are our comments on the project as noted in the following discussion:

POINT ONE:

DID RESIDENTS OF THE HIGGINS BUILDING RECEIVE PUBLIC NOTIFICATION OF THE HEARING THAT LED TO THE DIRECTOR'S DETERMINATION OF SEPTEMBER 21, 2022?

In the normal course of events, I as chair of the Higgins Loft Neighborhood Impact Committee would notify its Board of Directors of all zoning and planning applications that would affect the building. I did not receive any notification of the application and hearing that would have led to the Director's determination. If I had received notification in the normal course, I would have reviewed the application and filed a written response. I would have also most likely appeared in person at the hearing.

An out of scale building of 17 stories as the proposed application would have

engendered huge opposition from our residents and I would have known about it. While it is difficult to prove a negative, I do not believe the residents of the Higgins Building received proper public notice to residents within 500 feet of the premises which are the subject of this application.

I assume there is some affidavit of services within the department that would provide the answer to this question.

If the service of the notice of the original application was defective then in fairness, the original application and appeal should be dismissed subject to another application with proper notice being filed.

Would you kindly review this matter and advise.

POINT TWO:

THE APPLICATION SHOULD BE DENIED AS THE PROPOSED BUILDING IS OUT OF SCALE WITH THE SURROUNDING COMMUNITY.

The Higgins Building next door has stood since 1910 at 10 stories. The proposed modern building will sit narrowly on its lot like an odd knife blade at 17 stories dwarfing the Higgins Building and all other surrounding buildings.

The building directly to the North on Spring Street is two stories, Joe Auto Park to the South is five stories. If construction is permitted this will create an ugly snaggle tooth effect.

The immediate area is defined by several iconic buildings, both old and new, including the Bradbury Building to the south, the Los Angeles Times buildings and City Hall to the north, the new 11-story U.S. federal courthouse on Broadway between 1st and 2nd Streets, the 10-story Los Angeles Police Department (LAPD) Headquarters, and the 15-story Caltrans buildings to the north and east, respectively. Residential uses in the Project vicinity include the 50-unit Douglas Building Lofts at 257 South Spring Street, the 135-unit Higgins Building Lofts at 108 West 2nd Street, and the seven-story, 40-unit Pan American Lofts at 253 South Broadway.

Again, It should be noted that the Higgins Building is a 10 story building.

It is clear from a review of the surrounding area that the 17 story is out of scale with the surrounding area and will substantially degrade its existing visual character and quality of its site.

There is no building in the near vicinity which mirrors its size and design. On adjacent 2nd and Third street and Main and Spring, the buildings are all smaller in size to the Higgins Building, and certainly not as tall as 17 stories.

Accordingly, the proposed building is bad urban planning and aesthetically unsound and should not be permitted.

POINT THREE:

THE PROPOSED BUILDING DOES NOT PROVIDE SUFFICIENT PARKING.

The developer proposes to build 120 units with only 69 parking spaces.

The immediate area already has a serious parking problem.

Residents of the three largest residential condominiums in the area, the Higgins Building, the Douglas Lofts and the Pan American Lofts, have no parking attached to their buildings. Many of them park at the nearby Los Angeles Times Spring Street Garage between Spring and Broadway.

The construction of the Metro Station at Second street, between Spring and Broadway will result in the loss of 876 parking spaces.

The L. A. Times Garage is currently used by the public; and, as noted supra, the residents of at least three residential condominiums in the area, the Higgins Building, the Douglas Lofts and the Pan American Lofts

Requiring new construction in Los Angeles to provide adequate parking to meet the requirements of the new building and surrounding community, and seeking compliance with full parking requirements, in view of the circumstance of further loss of necessary parking, where there will be the loss of 876 parking spaces caused by the Metro Station, is mandated by the spirit and intent of the Los Angeles Zoning Ordinance.

Competing with the local residents for parking are demands for space by citizens frequenting nearby State and Federal Courts, County Administration Buildings, City Hall, The Los Angeles Police Administration Building, Grand Central Market, Grand Park, and numerous restaurants, bars and small businesses in the area.

And, further compounding an already serious parking problem, is the fact the new building will be built near the new Metro Station at 2nd street for the Regional Connector, a facility where transportation planners will presumably extol the virtues of parking your car and taking the Subway.

Under the unique circumstances of this Project, it is submitted that this parking diminution is illegal and cannot be permitted as detrimental to the public interest.

POINT FOUR:

THE CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIRES AN
ENVIRONMENTAL IMPACT STATEMENT.

The new building will be built very close to the nearby Higgins Building. We are concerned that the proposed structure at 17 stories, very close to a 10 story building will cast a shadow on our building and affect our light and air. One need only look at the schematic attached to the hearing notice to see the potential problem.

An environmental impact statement would determine if this is an issue and protect our building.

Also, the Higgins Building is a California Mills Act Building and has just spent over \$5,000,000 to paint, upgrade, repair and illuminate its building. Building a taller building so close to it would obscure the public view of an historic building and be detrimental to the public interest.

Accordingly, a CEQA Environmental impact statement is a requisite.

Respectfully submitted,

Allan Harris

Cheryl Younger

DAY OF HEARING SUBMISSIONS



12/14/2022

Los Angeles Planning Commission
201 N Figueroa St
Los Angeles, CA 90012

cpc@lacity.org
Via Email

Re: 5355-5365 South Crenshaw Boulevard / 3409-3415 West 54th Street
5006-006-007

Dear Los Angeles Planning Commission,

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Accountability Act (HAA). As you know, the Planning Commission has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the HAA. Should the City fail to follow the law, YIMBY Law will not hesitate to file suit to ensure that the law is enforced.

The project will replace a one-story commercial building with a mixed-use, six-story, building comprised of 48 dwelling units, 6 of which will be affordable at the Very Low Income Level.

California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety.

The above captioned proposal is zoning compliant and general plan compliant, therefore, your local agency must approve the application, or else make findings to the effect that the proposed project would have an adverse impact on public health and safety, as described above. Should the City fail to comply with the law, YIMBY Law will not hesitate to take legal action to ensure that the law is enforced.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

A handwritten signature in black ink, reading "Sonja Trauss". The script is elegant and cursive, with the first name "Sonja" and last name "Trauss" clearly distinguishable.

Sonja Trauss

Executive Director

YIMBY Law

YIMBY Law, 57 Post Street, Suite 908, San Francisco, CA 94104

December 13, 2022
2125 Bonsallo Ave.
Los Angeles, CA 90007

City Planning Commission
Los Angeles, CA

To Whom It May Concern,

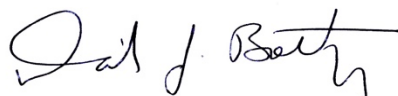
I have resided at my home, 2125 Bonsallo Ave., for 42 years, and through this time have enjoyed tremendously its historic character and the sensible development that has occurred here during these years. However, from time to time construction development has been proposed with completely inappropriate design features for this neighborhood.

My letter here is sent to you to strongly object to just such a case. This is the currently proposed development that constitutes case file ZA-2121-6672-DB-CU-CCMP-HCA-1A, ENV-2021-6673-CE proposed to occur at 2323 Scarff Street, Los Angeles, CA 90007. This proposed building could add as much as 90 new residents to an already crowded neighborhood. It does not provide enough parking for these new residents, who will be forced to use street parking which is already highly inadequate. Because the proposed parking will be at grade, and not be underground, it will also make for an unusually large structure for this neighborhood.

This is a historic neighborhood with many constraints which must also be met with new construction, but the proposed development: FAILS to comply with the University Park Preservation Plan; FAILS to comply with the Secretary of the Interiors Standards and Guidelines; FAILS to meet the "Prevailing front setback" of historic Scarff streetscape; FAILS to meet the "Prevailing height" of historic Scarff streetscape; FAILS to meet the "Prevailing lot coverage" of historic Scarff streetscape; FAILS to meet the "Prevailing FAR" of historic Scarff streetscape; and FAILS to meet the "Prevailing pattern of development" of historic Scarff streetscape.

I am not opposed to healthy development for this area. But, this development cannot be approved until plans to meet the above objections are produced.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "David J. Bottjer".

David J. Bottjer



Planning CPC <cpc@lacity.org>

ZA-2021-6672-DB-CU-CCMP-HCA ENV Case No. ENV-2021-6671-6673

Jean Frost <indiejean@att.net>

Wed, Dec 14, 2022 at 11:58 PM

To: Cecilia Lamas <cecilia.lamas@lacity.org>, Planning CPC <cpc@lacity.org>

The appellants in the above referenced case have no objection to a continuance.



ZA-2021-6672-DB-CU-CCMP, DENSITY BONUS, CONDITIONAL
USE, CERTIFICATE OF COMPATIBILITY

December 14, 2022

Honorable Commissioners

On behalf of WAHA, ADHOC and Gary Kousnetz, I am submitting a “day of submission” because this appeal is so terribly important to the life of a neighborhood. And we ask for your vote in support of the appeal. **Your vote.** “A vote is a prayer for the world we desire.”¹ And which decades of planning decisions and strategies supported by the community has envisioned. With enormous respect for the writer, a ZA we have worked with for a long time, this ZA decision is staggeringly wrong.

Facts do matter. Decisions should be fact based which this decision by the ZA is not. It is so replete with inaccuracies that any resulting decision is questionable at best. There are no 50-foot buildings on Scarff Street. This project does involve a site which is designated on the National Register even though vacant. There are no four-story buildings on Scarff Street and Adams Boulevard. The record shows the CHC designee found that the project complied with the **Garvanza** Preservation Plan, not the University Park Preservation Plan.

The project does **not** comply with the University Park Preservation Plan as four notable current and previous HPOZ Board architects have clearly defined; as the University Park HPOZ Board determined by unanimous vote on November 16, 2021. In addition, all previous Board chairs and numerous Vice Chairs have come to the same conclusion.

Since this project does not comply with the University Park Preservation Plan it is not categorically exempt. There **IS** substantial evidence in the record on both counts. And the definition of substantial evidence is:

Substantial evidence, which is defined in the CEQA statute to mean “facts, reasonable assumptions predicated on facts, and expert opinion supported by facts” (14 CCR Section 15064.7(b)).

- **“Substantial evidence” as used in these (CEQA) guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.**

The record clearly shows substantial evidence in the record. The Los Angeles Conservancy, West Adams Heritage Association, Ward Economic Development Corporation, the Empowerment Congress North Area Neighborhood Development Council (NANDC), NUPCA, ADHOC, UPAC, Preservation Consultant Laura Meyers, City Living Realty, Jim and Janice Robinson (Robinson Residences), (WAHA President) John Arnold (KFA), John Kaliski, Tom Michali, Steven Fader, Gary and Karen Kousnetz, Amy Minter, Roland Souza and numerous others have all provided factual comment that the project will have serious impacts

The barometer for complying with the Preservation Plan is based on **prevailing** which is clearly defined in the Preservation Plan, not on averages. The Preservation Plan adopted in 2005 after a year of public hearings is prescriptive. The HPOZ is a specific plan, just as the Westwood specific plan or the North University Park specific plan is prescriptive, and the requirements are defined and objective. It is a regulatory tool for making decisions and the applicant does not have the right to pick and choose what

¹ Senator Rafael Warnock

elements of the infill guidelines he wishes to comply with. "Substantial" compliance is not compliance no matter how wished for by the applicant. The intent of the Preservation Plan is not to "mold" a project but to provide regulatory framework which ensures tenants, property owners, developers, and all stakeholders know what is expected of projects within the zone.

There are some clearly stated facts in the ZA response to the appellant. We agree with the response when the City concludes that 46 feet IS the prevailing setback for the west side of Scarff Street. We also agree with two previous Director decisions in 2005 and 2008 that determined the prevailing setback for 2317 and 2323 Scarff Street was 46 feet. And that the prevailing height is 30 feet.

This project defies 30 years of planning for this neighborhood beginning with the CRA in 1979. The CRA adopted Urban Design Guidelines in 1991 to address this very same type of incompatible development. It established the concept of **prevailing** as the barometer which informed the University Park preservation plan in its drafting. It defies the intent of the General Plan Amendment for the Figueroa corridor which increased the development potential for Figueroa to pull overscale development away from the interior historic neighborhoods. It also goes against the recently adopted South Community Plan which in downzoned the HPOZ area to RD2 in the hopes of guiding development towards greater compatibility.

It is unfortunate that after only 2 meetings the developer said to the HPOZ Board he had done enough and would do no more. The developer refused to continue to work with the Board to achieve a compliant design. He stated he had been to eleven meetings and was finished. (Only 2 had been with the HPOZ). The developer feels entitled, not realizing that SB1818 gives special consideration to impacts to National/California Register properties, a carve out achieved by the legislative advocacy of the California Preservation Foundation.

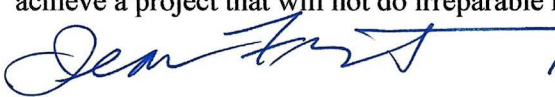
Other developers did not feel so "entitled." The developer at 2317 Arran Torkian developed a very successful project next door to this site. And Thomas Safran developed 29 units of affordable housing at 2003 Oak. Both successful developers placed parking underground. Both developers were willing to work with the HPOZ Board through many meetings.

This project could either place the parking underground or could eliminate most of the 18 spaces and the lounge and have a 3-story building. The developer could comply with the 46-foot setback. The developer could look at a more reasonable configuration of unit bedrooms rather than 5-4 bedroom and 5-4 bedrooms. All these options make possible a 10-unit building that fits within a reasonable envelope.

There has been little time to discuss the nuances of prairie design because the larger issues have been so consuming. No architects not funded by the developer have concurred that this development reflects the Prairie style. Refinements of design have been placed on the back burner because the entire basic elements of infill (massing, scale, setback, lot coverage, historic pattern of development) do not comply. There has been limited discussion of safety issues placing 90 students circling for project parking via an unimproved Victorian alley and its blind turns.

The cumulative impacts of these multi-bedroom student housing projects have a significant impact on how family rental housing is displaced and how this neighborhood is developed. That is why the NSO was adopted.

We ask the CPC to sustain the appeal, and deny the CE, the density bonus, the conditional use, and the certificate of compatibility for the reasons in the appeal, the appellant secondary submission and the complete record of the facts of this case. This will return the project to the HPOZ board and the CHC and achieve a project that will not do irreparable harm.

 in die jean@att.net



Tanisha B. Thomas, President
Leah Griffith, Vice President
Cecilia Schumake, Secretary
Rita Bertrand, Treasurer

Post Office Box 180254
Los Angeles, CA 90018

SENT VIA ELECTRONIC MAIL

December 14, 2022

Re: Case No: ZA-2121-6672-DB-CU-CCMP-HCA-IA
ENV-2021-6673-CE

Dear City Planning Commission:

We represent the West Adams Neighborhood Association (WANA), a 501c3 organization located in the Charles Victor Hall Tract. We are writing this letter in opposition of the proposed building plan at 2323 Scarff Street Los Angeles, CA 90007 which is in the University Park HPOZ.

The proposed building plan is also located in the St. James Park National Register District. This neighborhood is rich with historic architecture representing Prairie Style, Classical Revival, Craftsman, and Queen Anne homes. The proposed architectural style **FAILS** to represent a modified Prairie Style or any other architectural style present in the district. It is an infill project that **FAILS** to comply with the local University Park preservation standards or the Secretary of Interior Standards and Guidelines.

The project, proposed to be a 5-unit, 45-bedroom development that will house 90 students with 18 parking spaces exceeds the prevailing height of the historic Scarff streetscape and breaks the established rule of front setback distance, further diminishing the continuity of the streetscape. Even more troubling, the lot coverage, which exceeds the prevailing standards set by the other properties that contribute to the historic Scarff streetscape, puts other wood frame historic properties in danger in case of fire or natural disaster due to proximity. History has proven this point when a 2005 residential fire jumped from one property to the next. Furthermore, Scarff Street is one of the narrowest streets in the area, and yet it already accommodates traffic entering the Mount Saint Mary's University Doheny Campus and the LAUSD Local District Central facility. Added traffic and parking congestion on Scarff Street can only bring hazards to those that drive the street and live in the area.

This development project, for multiple reasons, will create severe and irreparable negative impacts to a local and National Register designated district, and should not be CEQA exempt under any circumstances. We are concerned residents, business owners, and stakeholders that are opposed to developers scouting our neighborhoods with student housing being their focus. We support projects that preserve and protect the historical integrity of our neighborhoods while providing affordable housing to all.

I can be reached via email and at (213) 308-2852 for additional questions and discussion. Thank you for taking the time to read our concerns.

Respectfully yours,

Tanisha B. Thomas
President
West Adams Neighborhood Association



December 14, 2022

VIA EMAIL

City Planning Commission
City of Los Angeles
200 N Spring St
Los Angeles, CA 90012
Email: cpc@lacity.org

RE: Residences at 1537, 1539, 1541, 1543 Cambria St.
DIR-2021-643-TOC-HCA-1A, ENV-2021-644-CE

To the City Planning Commission:

Californians for Homeownership is a 501(c)(3) organization devoted to using legal tools to address California's housing crisis. We are writing to support the City's efforts to address the housing crisis by facilitating housing development within its borders—an effort that its approval of the Residences at 1537, 1539, 1541, 1543 Cambria St, a 43-unit residential project, will advance.

California has experienced a significant housing access and affordability crisis for several decades. In recent years, this crisis has reached historic proportions. As a result of the crisis, younger Californians do not have access to homeownership and housing security opportunities afforded to previous generations. Many middle- and lower-income families devote more than half of their take-home pay to rent, leaving little money to pay for transportation, food, healthcare, and other necessities. Unable to set aside money for savings, these families are denied the opportunity to become homeowners and are at grave risk of losing their housing in case of a medical issue, car trouble, or other personal emergencies. Indeed, housing insecurity in California has led to a mounting homelessness crisis. Furthermore, the crisis has disproportionately affected historically disadvantaged communities, including individuals with physical and developmental disabilities and communities of color. The COVID-19 crisis has only reinforced the need for high-quality, stable housing available to California families at all income levels.

At the core of California's housing crisis is its failure to build enough new housing to meet the needs of its growing population. The Legislative Analyst's Office estimates that from 1980 to 2010, the state should have been building approximately 210,000 units yearly in major metropolitan areas to meet housing demand. Instead, it built approximately 120,000 units per year. Today, California ranks 49th out of the 50 states in existing housing units per capita. The legislature has recognized that the housing crisis is an emergency that requires proactive solutions: "The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling



December 14, 2022

Page 2

economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives." Gov. Code § 65589.5(a)(2)(A).

Our organization's sole purpose is to participate in litigation to support the critical public interest in developing new housing. This project would provide 43 vitally needed housing units in the City, including five units set aside for very low-income families. Approval of the project is well-supported by the record, and the project's environmental review has met California Environmental Quality Act's (CEQA) requirements. If the City faces a lawsuit challenging the project's approval, we may seek to intervene in the litigation to support the City's critical efforts to address the region's housing crisis. Further, we may seek reimbursement for our attorneys' fees from the plaintiff in such a lawsuit.

Indeed, we have reviewed the small number of comments the Planning Commission received in opposition to the project, and they lack legal merit. No one can claim to be surprised by the development of the project site as higher-density housing. Over the last five decades, California's legislature has increasingly sought to address the reluctance of local governments to approve needed housing through the Regional Housing Needs Allocation ("RHNA") and Housing Element law. The RHNA and Housing Element laws require cities to assess and modify land use policies to ensure cities can accommodate necessary additional housing. State housing law mandates that cities plan for new residential developments to fulfill RHNA obligations. In addition, the HAA ensures that cities live up to those land use rules in the years that follow. This project is part of the City's efforts to fulfill its state housing obligations to plan and build new, needed housing. Our organization submits this letter to support that effort.

The applicant has gone above and beyond in addressing concerns over noise and health concerns. Moreover, the concerns over impacts to noise are quintessential "NIMBY" complaints by occupants of developed properties, who would rather see adjacent property remain undeveloped; it is precisely this sort of "NIMBYism" that has precipitated the state's affordable housing crisis. In any event, vague noise and health concerns do not qualify as significant environmental impacts under CEQA, nor do they render approval of the project impermissible under any state or local policy.

Fundamentally, the comments from neighbors reflect a desire for the area to remain dedicated to low-density housing. Unfortunately, that is precisely the problem. California's cities have separated centers of low- and higher-density housing for too long. The result has been economic and environmental harm. The City is leading the way toward a solution to the region's housing crisis by supporting the development of this project. The City has our support.

Sincerely,



Matthew Gelfand



December 14, 2022

VIA EMAIL

City Planning Commission
City of Los Angeles
200 N Spring St
Los Angeles, CA 90012
Email: cpc@lacity.org

RE: Residences at 212-220 South Spring St (Parcel No. 5149-007-005)

To the City Planning Commission:

Californians for Homeownership is a 501(c)(3) organization devoted to using legal tools to address California's housing crisis. We are writing to support the City's efforts to address the housing crisis by facilitating housing development within its borders—an effort that its approval of the Residences at 212-220 South Spring St, a 120-unit residential project, will advance.

California has experienced a significant housing access and affordability crisis for several decades. In recent years, this crisis has reached historic proportions. As a result of the crisis, younger Californians do not have access to homeownership and housing security opportunities afforded to previous generations. Many middle- and lower-income families devote more than half of their take-home pay to rent, leaving little money to pay for transportation, food, healthcare, and other necessities. Unable to set aside money for savings, these families are denied the opportunity to become homeowners and are at grave risk of losing their housing in case of a medical issue, car trouble, or other personal emergencies. Indeed, housing insecurity in California has led to a mounting homelessness crisis. Furthermore, the crisis has disproportionately affected historically disadvantaged communities, including individuals with physical and developmental disabilities and communities of color. The COVID-19 crisis has only reinforced the need for high-quality, stable housing available to California families at all income levels.

At the core of California's housing crisis is its failure to build enough new housing to meet the needs of its growing population. The Legislative Analyst's Office estimates that from 1980 to 2010, the state should have been building approximately 210,000 units yearly in major metropolitan areas to meet housing demand. Instead, it built approximately 120,000 units per year. Today, California ranks 49th out of the 50 states in existing housing units per capita. The legislature has recognized that the housing crisis is an emergency that requires proactive solutions: "The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives." Gov. Code § 65589.5(a)(2)(A).



Our organization's sole purpose is to participate in litigation to support the critical public interest in developing new housing. This project would provide 120 vitally needed housing units in the City, including 14 units set aside for very low-income families. Approval of the project is well-supported by the record, and the project's environmental review has met California Environmental Quality Act's (CEQA) requirements. If the City faces a lawsuit challenging the project's approval, we may seek to intervene in the litigation to support the City's critical efforts to address the region's housing crisis. Further, we may seek reimbursement for our attorneys' fees from the plaintiff in such a lawsuit.

Indeed, we have reviewed the small number of comments the Planning Commission received in opposition to the project, and they lack legal merit. No one can claim to be surprised by the development of the project site as mixed-use housing. Over the last five decades, California's legislature has increasingly sought to address the reluctance of local governments to approve needed housing through the Regional Housing Needs Allocation ("RHNA") and Housing Element law. The RHNA and Housing Element laws require cities to assess and modify land use policies to ensure cities can accommodate necessary additional housing. State housing law mandates that cities plan for new residential developments to fulfill RHNA obligations. In addition, the HAA ensures that cities live up to those land use rules in the years that follow. This project is part of the City's efforts to fulfill its state housing obligations to plan and build new, needed housing. Our organization submits this letter to support that effort.

The applicant has gone above and beyond in addressing concerns over air quality, health risks, and noise. Moreover, the concerns over impacts to noise and air quality are quintessential "NIMBY" complaints by occupants of developed properties, who would rather see adjacent property remain undeveloped; it is precisely this sort of "NIMBYism" that has precipitated the state's affordable housing crisis. In any event, the project's impacts on noise, air quality, and health risks do not qualify as significant, thus the CEQA Class 32 exception is appropriate. The City's approval of the project is permissible under state and local policy.

Fundamentally, the comments reflect a desire for the area to remain dedicated to [type of current use commercial uses. Unfortunately, that is precisely the problem. California's cities have separated centers of commerce from homes for too long. The result has been economic and environmental harm. The City is leading the way toward a solution to the region's housing crisis by supporting the development of this project. The City has our support.

Sincerely,



Matthew Gelfand



Planning CPC <cpc@lacity.org>

Fwd: Case # DIR-2020-7846-DB-SPR-HCA-1A OBJECTION from Neighbor

Kyley Sanford <kyleysanford@gmail.com>

Wed, Dec 14, 2022 at 10:44 AM

To: cpc@lacity.org

Cc: Nuri Cho <nuri.cho@lacity.org>

Commission Office please distribute this email to the decision makers. This instruction comes from Nuri Cho

Peace, Joy, LOVE
Bryan Kyley Sanford

Begin forwarded message:

From: Kyley Sanford <kyleysanford@gmail.com>

Date: December 13, 2022 at 22:15:24 PST

To: nuri.cho@lacity.org

Subject: Case # DIR-2020-7846-DB-SPR-HCA-1A OBJECTION from Neighbor

Dear Nuri Cho,

As the City Planner I want to Object to the proposed project @ [212-220 South Spring Street](#). I live directly across the alley and having a gigantic 17-story building a few feet away should NOT happen. The new, large high rises are on the south side of DTLA and Bunker Hill. I live in the Historic Higgins Building in the Civic Area of DTLA where City Hall should be the ONLY tall building in the surrounding blocks. Allowing this monstrosity to obstruct the views of City Hall should NOT be allowed.

This project should NOT allow a 35% increase in the Floor Area Ratio (FAR) to a maximum of 8.1:1 in lieu of the permitted 6:1. This Civic Area of DTLA should NOT become any more residential than it already is. This is a place where the people have Grand Park and the green space of the LAPD across the street to enjoy without being overcrowded. This area does NOT want or need an additional 120 dwellings to take the space of an In-Fill Development. We like the In-Fill just the way it is, a single story building supporting local business so the prominent City Hall will be viewed from around DTLA.

This project should NOT be exempt from the California Environmental Quality Act (CEQA). I'll show you substantial evidence that an exception to a categorical exemption does apply. This class of exemption is NOT intended for projects that would result in any significant traffic (across the street from a new Metro stop, a block away from City Hall where all marching demonstrations take route), noise (across the alley from my residence), air quality (17-story building next to my 10-story building), or water quality impacts (rain in the alley can flood). This project WILL cause a substantial adverse change in the significance of a historical resource; not just by dwarfing the Historic Higgins Building but also taking away from City Hall 1-block away.

As an owner in the Higgins Building and a Proud Angeleno, please do NOT allow this project to move forward. DTLA has plenty of housing and we want to keep the Civic Area and Grand Park a pleasant place for the people to enjoy, not to overcrowd it. What does the project plan to do with the historic street light in front of [212-220 South Spring Street](#)? The answer to that question will prove the integrity of such a project to protect what is left of DTLA from our rich history.

Thanks you for your time,
Bryan Kyley Sanford
[108 W. 2nd St #911](#)
[LA, CA 90012](#)
310.709.6213

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The soul is that which beholds
Beauty

12/15/22, 8:05 AM

City of Los Angeles Mail - Fwd: Case # DIR-2020-7846-DB-SPR-HCA-1A OBJECTION from Neighbor

even when the mind denies it

Grateful

Blessing

Accepting

LOVING

Joyful :-)'



December 15, 2022

[vial email: nuri.cho@lacity.org, cpc@lacity.org]

**City of Los Angeles
Planning Commission**

Attn: Cecilia Lamas, Commission Executive Assistant
200 North Spring Street, Room 272
Los Angeles, CA 90012-4801

Ms. Nuri Cho, City Planner
Department of City Planning
200 North Spring Street, Room 763
Los Angeles, CA 90012

**Re: RESPONSES TO SECONDARY SUBMITTAL COMMENT LETTERS FOR THE 216
SPRING STREET PROJECT [DIR-2020-7846-DB-SPR-HCA; ENV-2020-7847-CE]**

Dear Honorable Members of the CPC and Ms. Cho,

On November 21, 2022 Parker Environmental Consultants submitted a detailed response letter addressing the Appellants' comments letters previously submitted by Adams Broadwell Joseph & Cardozo, representing "CREED LA", dated December 14, 2022; and Lozeau Drury, LLP, representing "SAFER", dated December 7, 2022. Our responses are contained in the agenda packet for the CPC Hearing dated today, December 15, 2022. Both Appellants have submitted additional comment letters contained in the CPC's Secondary Submittal file that rebut our prior responses and provide additional comments challenging the Categorical Exemption. After reviewing these supplemental letters, we stand by our initial responses to the appeals as no new information has been provided that would change the determination that the Project meets the criteria to be exempt from CEQA as a Class 32 infill development project. The following brief responses address the issues reiterated or rebutted by the Appellants in the Secondary Submittal.

SAFER

SAFER continues to assert that the Project cannot be exempt from CEQA because the Project relies on mitigation measures to reduce noise impacts to less than significant levels. As discussed in the CE analysis, the Project proposes project-specific design features (PDFs) to address construction noise impacts in compliance with the City's Noise Ordinance and the Los Angeles Municipal Code (LAMC). As stated in the CE Analysis, the City's Noise Ordinance and LAMC provide performance based regulatory requirements for construction Project's citywide. These performance requirements apply whether the Project is discretionary or ministerial. SAFER's argument that the construction PDFs are proposed to reduce an impact and thus should be classified as mitigation measures is incorrect and fails to acknowledge that the PDF's are merely specifying how the Project will comply with the LAMC and Noise Ordinance. As these regulations are mandatory and fully enforceable by the lead agency, the Project's noise impacts would be less than significant as a matter of complying with code (before mitigation).

With respect to SAFER's claim that the CE fails to address the significant health risks posed by formaldehyde emissions, the Appellant's supplemental response letter does not present any new information that was not already addressed in our prior response comments dated November 21, 2022. CEQA does not mandate a human health risk assessment be conducted for common building construction materials that are already regulated by CARB as products manufactured for

sale in the State of California. Mr. Offerman's claim that common building products that meet the regulatory emission standards at the factory suddenly exceed emission standards and become hazardous once used in the building process is not supported by any substantial evidence. These building products begin emitting VOCs at the place and time they are manufactured and thus are a pre-existing condition. The concentration of such products in a closed environment over the 70-year life cycle simply cannot be analyzed with any degree of certainty as many other consumer products containing formaldehyde (such as carpet, furniture, and clothing) are continuously introduced to indoor living spaces throughout a lifetime.

With respect to SAFER's claim that the Project's Air Quality analysis is not supported by substantial evidence, the CE Analysis is supported by a project-specific air quality emissions analysis using the California Emissions Estimator Model (CalEEMod) as recommended by CARB. While SAFER challenges the accuracy of the construction fleet and VOC mitigation measures input, they do not provide any substantial evidence to back up these claims.

CREED LA

CREED LA's supplemental comments reiterate their prior claims that the Project is subject to a health risk assessment under OEHHA's Risk Assessment Guidelines. As we previously explained in our prior response letter (See Response to Comment 1.5), OEHHA's Risk Assessment Guidelines apply to projects that are subject to permitting requirements for emitting toxic air emissions. The Guidelines suggestion that construction impacts *may* be evaluated applies to the construction of a facility that is subject to the Air Toxics "Hot Spots" Information and Assessment Act. OEHHA has not provided any guidance or CEQA significance thresholds applicable to construction activities or the operation of non-stationary source projects in the guidance manuals.

CREED LA's supplemental comments regarding the proposed noise PDFs being mitigation measures mirrors the same argument presented by SAFER (see above). The City's Noise Ordinance requires all construction activity implement measures as applicable to achieve a 75 dBA noise level at 50 feet from the Project Site. The specificity of the Project's construction noise PDFs are a project requirement and will be enforced as a condition of approval. Thus, the Project's construction noise would be less than significant as a matter of regulatory compliance and not mitigation.

With respect to CREED LA's attachment from Wilson Ihrig addressing noise impacts, please see our prior responses dated November 21, 2022. While Wilson Ihrig does not agree with the methodology and analysis presented in the CE's noise analysis, the analysis presented in the CE is consistent with the City's methodology, significance thresholds, and analytical approach in addressing construction noise. The City's determination that the Project is exempt from CEQA as an infill development is thus supported by substantial evidence in the record.

Conclusion

Should you have any questions regarding any of the responses please contact me at (661) 257-2282 or by email at shane@parkerenvironmental.com.

Sincerely,



Shane E. Parker, Principal



Planning CPC <cpc@lacity.org>

Case number DIR-2020-7846-DB-SPR-HCA-1A

Victor Tagle <notovictor@gmail.com>

Thu, Dec 15, 2022 at 8:33 AM

To: cpc@lacity.org

Hello,

My name is Victor Tagle. I am an owner and resident in the Higgins Building.

I am writing to you in regards to the project at 212-220 Spring St of plans to demolish the pre existing structure and construction of a 17 story building.

I strongly object to this building being built for the following reasons:

- The building is too tall and out of scale for the neighborhood.
- A California Environmental Quality Act (CEQA) environmental impact study is required because the building will degrade the light and air of the Higgins Building.
- The construction of the building is too close to the Higgins Building making it very dangerous and very susceptible to accidents and damage to a recently restored historical building.
- This will affect all Higgins residents' quality of life because it will block access to parking and entry into the building.

Please consider these reasons for not going forward with the project.

Thank you,

Victor Tagle



12/14/2022

Los Angeles Planning Commission
201 N Figueroa
Los Angeles, CA 90012

cpc@lacity.org
Via Email

Re: 212-220 South Spring Street
5149-007-005

Dear Los Angeles Planning Commission,

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Accountability Act (HAA). As you know, the Planning Commission has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the HAA. Should the City fail to follow the law, YIMBY Law will not hesitate to file suit to ensure that the law is enforced.

The project proposes to replace an existing one-story commercial building with a 17-story mixed-use building, with 120 units of housing, of which 14 will be affordable at the Very Low Income level.

California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety.

The above captioned proposal is zoning compliant and general plan compliant, therefore, your local agency must approve the application, or else make findings to the effect that the proposed project would have an adverse impact on public health and safety, as described above. Should the City fail to comply with the law, YIMBY Law will not hesitate to take legal action to ensure that the law is enforced.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

A handwritten signature in black ink, reading "Sonja Trauss". The script is elegant and cursive, with the first letter 'S' being particularly large and stylized.

Sonja Trauss

Executive Director

YIMBY Law

YIMBY Law, 57 Post Street, Suite 908, San Francisco, CA 94104

Clara M. Solis
521 North Avenue 67
Los Angeles CA 90042
claramsolis@earthlink.net

December 14, 2022

City Planning Commission

Item 11. DIR-2018-4190-TOC-SPR-1A * CEQA: ENV-2018-4189-CE – **SUPPORT APPEAL**

Dear City Planning Commissioners:

I support the appeal. This project does not meet the requirements for a CEQA exemption. There are exceptions.

Project Removes Rent Stabilized Units so Extremely Low Income Units are reduced by two

The project removes two rent stabilized units at 3800 N. Pasadena Avenue. There is no evidence that Housing Crisis Act Replacement Review was conducted. (Built 1907). Or if a replacement review was conducted then it was inadequate as it allows the owner to **reduce one extremely low income unit with one Very Low Income Unit**. If the developer was only providing Very Low Income Units, they would be required under the TOC guidelines to provide 14 percent or 14 units. Since one extremely low income unit is being eliminated and replaced with a very low income unit, the community is losing out.

The requirement was 10 percent for extremely low income units or .1 per unit. And .14 for very low income units. Since they are removing two units of RSO housing and providing only 9 percent extremely low income units, they are cheating the community. They should be required to provide three extra units of very low income housing. Two for the lost units and two extra for the change from an extremely low income unit to a very low income unit.

90 units at extremely low level = $90 \times .1 = 9$ extremely low income units

10 units at very low level = $10 \times .14 = 1.4$ round up to two = 2 Very Low Income Units

2 replacement units for the lost RSO units for a total of:

9 Extremely Low-Income Units

And 4 Very Low-Income Units

I am also concerned that if the developer sells the non-low income units, how will they maintain the low income units for 55 years. The city created the generous requirements so that the non-low income units help offset the low income unit cost. If the developer sells and leaves, how will the units be maintained and provided for?

Will Impact Historic Resources.

The project will impact Historic Resources: The project is adjacent to an HPOZ zone and 3830 N Pasadena Avenue is listed as a Historic Resource. Additionally, the view of Historic Resources and hillsides in this community will be impacted. The construction, vibration and noise impacts on these Historic resources have not been studied to mitigated. The probable original owner of 3800 Pasadena Avenue was Ethelda A Drake a teacher at Los Angeles schools. Mrs. Drake was quoted in a 1985 Caltech article as being critical of IQ tests and their cultural bias. She may have also wrote the Old Adobe. (unverified)

Protected Tree Removed

A California Sycamore was removed between 2019 and 2022. The California Sycamore (*Plantanus Racemosa*) Where is the tree permit. See photos below.

Possible Toxic Substances on Site

Recycling Centers often accept a variety of toxic substances. I have personally visited a number of these centers while brown-truthing and have observed leakage from recycled items which have included batteries, car parts, appliances and other items which may have toxic substances. I have observed fires and smoke at this type of facility. Has any testing been conducted of the soil for toxic substances.

Unusual Circumstances

This appears to be a co-living or dorm building. There are bathrooms in almost every bedroom and the co-living areas do not appear to support families. The project has not been evaluated as a co-living or dorm project. The city should evaluate this to see if there will be excessive strain to utilities and infrastructure in this old part of Los Angeles. Additionally, how will short term tenants and owners impact the community. Will it be destabilizing?



2022

Sycamore is gone.

2018 Sycamore is present



Thank you,

Clara Solis



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
Amalia@lozeaudrury.com

Via Email

December 14, 2022

Los Angeles City Planning Commission
Samantha Millman, President
Caroline Choe, Vice President
Helen Campbell, Commissioner
Helen Leung, Commissioner
Yvette Lopez-Ledesma, Commissioner
Karen Mack, Commissioner
Dana Perlman, Commissioner
Renee Dake Wilson, Commissioner
Cecilia Lamas, Commission Executive Assistant
200 North Spring Street
Los Angeles, CA 90012
cpc@lacity.org

Michelle Carter, City Planner
200 North Spring Street
Los Angeles, CA 90012
Michelle.carter@lacity.org

**Re: Comment on Proposed CEQA Infill Exemption for Mixed-Use Project at
3800 North Pasadena Avenue (2-page version)
December 15, 2022 City Planning Commission Hearing, Agenda Item 11**

Dear President Millman, Vice President Choe, Honorable Members of the Planning Commission, and Ms. Carter:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the proposed Class 32 In-fill Development Categorical Exemption (“Exemption” or “Class 32 Exemption”) for a seven-story mixed use building with 100 dwelling units and 14,734 square feet of ground floor commercial space with 13 commercial condominium units, proposed in the City of Los Angeles (“Project”).

SAFER objects to the City of Los Angeles’ (“City”) decision to exempt the Project from review under the California Environmental Quality Act (“CEQA”) pursuant to Section 15332 of the CEQA Guidelines. As demonstrated below, the Exemption is inapplicable because the Project will have significant traffic impacts, precluding use of the Class 32 Exemption.

An agency may not rely on a categorical exemption if to do so would require the imposition of mitigation measures to reduce potentially significant effects. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108 (“*SPAWN*”); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1198-1201.) If mitigation measures are necessary, then at a minimum, the agency must prepare a mitigated negative declaration to analyze the impacts, and to determine whether the mitigation measures are adequate to reduce the impacts to below significance. (*Id.*)

The City has improperly used a mitigation measure to render the Project's traffic impacts less than significant, therefore it cannot claim the Class 32 Exemption for the Project. The Categorical Exemption document ("CE") prepared for the Project contains an e-mail describing the Vehicle Miles Traveled (VMT) analysis prepared for the Project. The e-mail states: "To mitigate the significant VMT impact the project will incorporate unbundled parking as a TDM [transportation demand management] strategy . . . This will fully mitigate the project's significant impact." (CE; E-mail from Wes Pringle to Oliver Netburn re: "VTT74933 FIGUEROA AND PASADENA"; August 22, 2022; pdf p.112.) Additionally, the memorandum provided to the City by transportation planning and engineering firm "Transpogroup" contains a section entitled "Mitigation Measures" and states that "[a]dditional TDM measures are needed to mitigate the Project VMT impact . . . [a]ttachment A shows the Project VMT impact would be less than significant with the proposed TDM mitigation strategy." (CE; Memorandum from Transpogroup to City re: "Belvedere (3832-3836 N Figueroa Street) TIS Addendum (VTT 74933)"; August 18, 2022; pdf p.116.)

The CE admits a significant traffic impact above the Department of Transportation significance threshold. Therefore, it imposes a requirement for unbundled residential parking with a monthly fee of at least \$150 for all residential parking. As such, the City's decision to exempt the Project from CEQA was improper because the City evaluated the Project "as mitigated" rather than evaluating whether the Project could result in a significant impact *without* the mitigation proposed for VMT impacts. (See *SPAWN*, 125 Cal.App.4th at 1103-04, 1107-09.) Indeed, as determined by City staff, the failure to include additional TDM measures would result in a significant VMT impact.

Since the City had determined that the Project, if left unmitigated, could result in a significant impact, the Project cannot be subject to a categorical exemption from CEQA review. An MND or an EIR is required, which would allow the public to assess the adequacy of the proposed mitigation measures, would require a public and transparent environmental review process and would involve formal public notice to the public and other agencies.

The City cannot rely on a Class 32 exemption because the Project does not meet the terms of the exemption. Accordingly, the City must prepare an initial study to determine the appropriate level of environmental review to undertake pursuant to CEQA. Thank you for considering these comments.

Sincerely,

A handwritten signature in dark ink, reading "Amalia Bowley Fuentes". The signature is fluid and cursive, with the first name "Amalia" being the most prominent part.

Amalia Bowley Fuentes
Lozeau | Drury LLP



12/15/2022

Los Angeles Planning Commission
201 N Figueroa St.
Los Angeles, CA 90012

cpc@lacity.org
Via Email

Re: 3836 North Figueroa Street; 3800-3830 North Pasadena Avenue; 3832-3836 North
Figueroa Street; 110 East Avenue 39
5451-005-001

Dear Los Angeles Planning Commission,

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The project consists of a seven-story mixed-use building with 100 units, ten of which will be affordable at the Extremely Low Income level.

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Sonja Trauss

Executive Director

YIMBY Law

YIMBY Law, 57 Post Street, Suite 908, San Francisco, CA 94104



December 14, 2022

Dear Honorable Commissioners,

It has come to my attention that appeals for the following cases filed within Council District 1 have been scheduled for the December 15, 2022 City Planning Commission (CPC) hearing:

- ZA-2021-6672-DB-CU-CMMP-1A
- DIR-2021-643-TOC-1A
- DIR-2018-4190-TOC-SPR-1A

I am requesting these items be continued until February 2023 or later to give my staff and I the opportunity to review the cases and engage with Community stakeholders prior to the appeals being heard by the CPC. Should you have any questions, please reach out to my Deputy Chief of Staff, Helene Rotolo, at helene.rotolo@lacity.org

Thank you in advance for your consideration.

Sincerely,

Eunisses Hernandez
Councilmember, Los Angeles City Council District 1