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VIA E-MAIL

Steven Vasquez, President
Members of the South Los Angeles
Area Planning Commission
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Re: 1929 Figueroa Boulevard
Porsche Dealership
DIR-2022-5446-SPR
ENV-2022-5447-CE
Hearing Date: June 20, 2023

President Vasquez and Members of the Area Planning Commission:

We represent Litera Real Estate, Inc., the applicant for the above-referenced Project approved by the Director of Planning. The appeal before you represents nothing more than a perceived competitor's attempt to gain leverage over a neighbor. The Director approved a new Porsche car dealership, which would be constructed according to current codes and regulations (the "Project"), on a site already developed with an old dealership. The Property is located in a commercial and industrial area known for similar and more intensive development, and adjacent to State Route 110 ("SR-110"). In approving the Project, the Director appropriately considered the evidence in the record regarding the Project and the applicability of any categorical exemptions from CEQA. The appeal provides no evidence—let alone substantial evidence—that a categorical exemption for infill development does not apply to the Project, or that the Director erred or abused his discretion: it simply has no merit, and this Commission should reject it in its entirety.

1. Substantial Evidence Supports the Director's Determination.

(a) The Project is and Will be Consistent with the CPIO.

The Southeast Los Angeles Community Plan Implementation Overlay (the "CPIO") provides for administrative clearances for changes of use and changes of land to ensure consistency with the applicable development standards.¹ In this case, the Project is located in the TOD Regional Subarea H of the Southeast Community Plan.² As described in the Determination, the applicable regulations include a maximum height of 80 feet or 12 stories, and a floor

¹ ZI-2483; Ord. 185,925; Determination, p. 5 of 16. The Project is also located in a Transit Priority Area.

² Determination, p. 5 of 16.

area ratio of 3:1.³ Other regulations pertain to building disposition, frontage, lot coverage, glazing, and articulation, with other provisions for freeway-adjacent projects.⁴

The appeal claims that the Director's Determination did not determine Project consistency with the CPIO, and instead defers that determination to a condition of approval. This claim is demonstrably false: in fact, the Determination provides a discussion of each of the applicable site development regulations.⁵ For each applicable regulation, the Determination compared the corresponding Project characteristic and concluded the Project either met or exceeded the regulation.⁶ Further, the Determination listed applicable plans and policies of the Community Plan, and provided a discussion of the consistency of the Project with each of them.⁷

The appeal points to Condition 10 of the Determination as support for the claim that the Determination defers analysis of CPIO consistency. But this is misleading: Condition 10 only addresses the plans ultimately submitted for plan check, and requires the City to determine those plans comply with the applicable provisions of the CPIO prior to issuing the building permit.⁸ Thus, the condition merely recognizes that the Determination approved a schematic plan, and that engineering considerations and plan check comments can result in changes to any project. Further, any changes ultimately must substantially conform to the approved schematic (which the Determination found consistent with the CPIO), and any changes must undergo prior review by staff and include a written justification.⁹

2. The Project is Categorically Exempt from CEQA.

The appeal wrongly claims the Determination relies on “vague” measures to conclude the Project would not result in significant impacts and would remain categorically exempt. In fact, the Determination contains specific findings regarding the applicability of a categorical exemption, as well as how compliance with existing regulations and policies would avoid potentially significant impacts.¹⁰ Further, other compliance measures also would apply, and would ensure potential impacts remain less than significant.

(a) The Determination Properly Concluded the Project Would Not Result in Air Quality Impacts.

Contrary to the claim in the appeal, the City concluded the Project would not result in air quality impacts as a result of quantitative analysis. As stated in the Determination, air quality impacts were evaluated via the California Emissions Estimator Model

³ *Id.*

⁴ Community Plan, §§ III.3.A–D; *see* Determination, pp. 8–9 of 16.

⁵ Determination, pp. 8–9 of 16.

⁶ *Id.*

⁷ Determination, p. 10.

⁸ Determination, Condition 10, p. 2 of 16 (“Prior to the issuance of a building permit . . .”).

⁹ Determination, Condition 1, p. 2 of 16 (“No change to the plans will be made without prior review . . . and written approval by the Director of Planning.”)

¹⁰ Determination, pp. 13–15.

(“CalEEMod”), the industry standard air emissions modelling program, as well as consultation with South Coast Air Quality Management District (“SCAQMD”) staff, and comparisons of those thresholds to estimated emissions of the Project.¹¹ Based on this analysis, the Determination properly concluded no significant impact would occur.¹²

Further, the Project would be required to comply with SCAQMD Rule 403, as incorporated in to the Project via Regulatory Compliance Measure RC-AQ-1.¹³ SCAQMD Rule 403 prohibits visible dust emissions from a project site, and includes specific measures, including at least twice-a-day watering, idling restrictions, and other dust control measures.¹⁴

(b) The Determination Properly Concluded the Project Would Not Result in Significant Noise Impacts.

Here again, the appeal claims the Determination relied on “vague” measures regarding noise. That is wrong: among other requirements, the Determination relied on Regulatory Compliance Measure RC-NO-1, which requires compliance with the City’s Noise Ordinance during construction activities.¹⁵ Moreover, as described above and in the Determination, the Property and its surroundings are not sensitive uses; rather, they include a mix of commercial and industrial uses including, most particularly, auto dealerships, located almost immediately adjacent to SR-110.¹⁶ Within this context, and the on basis of the applicable requirements, the Determination’s conclusion that the Project would not result in significant adverse impacts with respect to noise was supported by substantial evidence.

(c) The Determination Properly Concluded the Project Would Not Result in Significant Water Quality Impacts.

As with other analyses, the Determination relied on a series of known and quantifiable regulatory requirements to conclude the Project would not result in a significant impact.¹⁷ Among other things, the Determination cited requirements pertaining to pollutant discharge, stormwater, and best management practices for stormwater (“BMPs”). These requirements include, for example, the City’s Low Impact Development (“LID”) Ordinance,¹⁸ as well as the requirement for a stormwater pollution prevention plan (“SWPPP”).

Among other things, the LID Ordinance requires stormwater mitigation for all development and redevelopment projects that—like the Project—create, add, or replace 500 square feet or

¹¹ Determination, pp. 13–14.

¹² *Id.*, p. 14.

¹³ *Id.*, p. 13.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*, pp. 5, 10 (“Known colloquially as ‘Auto Row,’ the site is on two major commercial thoroughfares surrounded by car dealerships.”)

¹⁷ *Id.*

¹⁸ Ord. No. 181,899; implemented through the City’s LID Handbook.

more of impervious area. Applicable provisions include, for example, sections 3.1 and 3.2.2 of the City's LID Handbook, would require the Project design to reduce and retain initial stormwater flows and incorporate beneficial uses of the captured stormwater. Among other things, the City's LID regulations require retention of the greater of a 0.75-inch, 24-hour rain event, or the 85th percentile 24-hour runoff event. Any Project that affects 50 percent or more of the impervious surfaces of a site must ensure the entire site complies. Collectively, these requirements will ensure greater retention and treatment of stormwater than occurs currently, or a net improvement in stormwater quality. On the basis of these and other, similar requirements, the Determination properly concluded, based on substantial evidence, that the Project would not result in significant adverse impacts to water quality.

3. The Commission Should Uphold the Director's Determination.

For all of the reasons stated above, the appeal is meritless, and provides no basis to overturn the Determination. The Determination included detailed findings supported by substantial evidence, and the Commission should uphold it.

Sincerely,



BENJAMIN M. REZNIK of
Jeffer Mangels Butler & Mitchell LLP

BMR:neb
Attachment

Exhibit A

SEC. 41.40. NOISE DUE TO CONSTRUCTION, EXCAVATION WORK – WHEN PROHIBITED.

(a) No person shall, between the hours of 9:00 P.M. and 7:00 A.M. of the following day, perform any construction or repair work of any kind upon, or any excavating for, any building or structure, where any of the foregoing entails the use of any power driven drill, riveting machine excavator or any other machine, tool, device or equipment which makes loud noises to the disturbance of persons occupying sleeping quarters in any dwelling hotel or apartment or other place of residence. In addition, the operation, repair or servicing of construction equipment and the job-site delivering of construction materials in such areas shall be prohibited during the hours herein specified. Any person who knowingly and wilfully violates the foregoing provision shall be deemed guilty of a misdemeanor punishable as elsewhere provided in this Code. **(Amended by Ord. No. 158,587, Eff. 1/29/84.)**

(b) The provisions of Subsection (a) shall not apply to any person who performs the construction, repair or excavation work involved pursuant to the express written permission of the Board of Police Commissioners through its Executive Director. The Executive Director, on behalf of the Board, may grant this permission, upon application in writing, where the work proposed to be done is in the public interest, or where hardship or injustice, or unreasonable delay would result from its interruption during the hours mentioned above, or where the building or structure involved is devoted or intended to be devoted to a use immediately related to public defense. The provisions of this section shall not in any event apply to construction, repair or excavation work done within any district zoned for manufacturing or industrial uses under the provisions of Chapter I of this Code, nor to emergency work necessitated by any flood, fire or other catastrophe. **(Amended by Ord. No. 178,160, Eff. 2/12/07.)**

(c) **(Amended by Ord. No. 166,170, Eff. 9/29/90.)** No person, other than an individual homeowner engaged in the repair or construction of his single-family dwelling shall perform any construction or repair work of any kind upon, or any earth grading for, any building or structure located on land developed with residential buildings under the provisions of Chapter I of this Code, or perform such work within 500 feet of land so occupied, before 8:00 a.m. or after 6:00 p.m. on any Saturday or national holiday nor at any time on any Sunday. In addition, the operation, repair or servicing of construction equipment and the job-site delivering of construction materials in such areas shall be prohibited on Saturdays and on Sundays during the hours herein specified. The provisions of this subsection shall not apply to persons engaged in the emergency repair of:

1. Any building or structure.
2. Earth supporting or endangering any building or structure.
3. Any public utility.
4. Any public way or adjacent earth.

(d) The provisions of Subsection (c) shall not apply to construction work done on the Metro Rail Project and the tunnel-station portions of the Los Angeles-Long Beach Rail Project between Sixth to Twelfth Streets, provided however that this construction work shall not include the utilization of soldier pile drilling, vibrating hammer driving, blasting, or any construction activities that will exceed the ambient noise levels as provided in the action of the Police Commission, pursuant to Subsection (b) above, granting a variance for this work. In addition, this construction work will be subject to all the conditions of the conditional variance granted by the Board through its Executive Director. This section shall have no force or effect upon completion of the construction work described here. **(Amended by Ord. No. 178,160, Eff. 2/12/07.)**

(e) The provisions of this section shall not apply to construction work done by CALTRANS to repair the collapsed sections of the Santa Monica Freeway within a one mile radius of the intersection of Interstate 10 and Fairfax Avenue. This section shall have no force and effect upon completion of the construction work herein described. **(Added by Ord. No. 169,669, Eff. 5/13/94.)**

(f) The provisions of this section shall not apply to construction work done by the County of Los Angeles in connection with Phases 2 and 3 of Unit 5 of the Hollyhills Storm Drain Project, including the installation of temporary bridges and any other structures necessary to regulate or direct traffic because of the storm drain construction. Unit 5 construction is within the area bounded by Beverly Boulevard, 3rd Street, La Cienega Boulevard and San Vicente Boulevard. Phases 2 and 3 involve several underground concrete structures to be built in and around the intersection of La Cienega and San Vicente Boulevards. This section shall have no force and effect upon completion of the construction work herein specified. **(Added by Ord. No. 172, 091, Eff. 7/3/98.)**

(g) The provisions of Subsection (c) shall not apply to construction work undertaken from March 31, 2000 to August 20, 2000 that must be done prior to the Democratic National Convention, provided however that such construction work will be subject to all conditions established by the Los Angeles Police Department Noise Enforcement Team, in 1) the downtown area bounded by Union Street on the west, Washington on the south, San Pedro on the east, and 101 Freeway on the North, including but not limited to work undertaken in compliance with construction permits issued by the Bureau of Engineering, water line improvements/installation, sewer construction, fiber optic installation, and street paving or is associated with the Convention such as installation and removal of security barriers and fencing and 2) the Windward Plaza area of Venice Beach, between 18th Place and Horizon Avenue from the western border of Ocean Front Walk to the beach, for the Venice Beach Ocean Front Walk Refurbishment Project under the direction of the City of Los Angeles Department of Recreation and Parks Department. This section shall have no force and effect after August 20, 2000. **(Added by Ord. No. 173,154, Eff. 4/30/00.)**

(h) The provisions of Subsection (c) shall not apply to the construction work done by the City of Los Angeles in connection with the portion of the Stone-Hollywood Trunk Line from Stone Canyon Reservoir service area to the Hollywood Reservoir service area as part of the Hollywood Water Quality Improvement Project undertaken on Pico Boulevard, including all structures and operations necessary for construction and/or to regulate or direct traffic due to construction activities. This section shall have no force and effect upon completion of the construction work herein specified. **(Added by Ord. No. 173,746, Eff. 1/23/01.)**

[(i) None.]

(j) As determined by the Executive Director of the Board, the provisions of Subsection (c) shall not apply to major public works construction by the City of Los Angeles and its proprietary Departments, including all structures and operations necessary to regulate or direct traffic due to construction activities. The Board, through its Executive Director, pursuant to Subsection (b) will grant a variance for this work and construction activities will be subject to all conditions of the variance as granted. Concurrent with the request for a variance, the City Department that will conduct the construction work will notify each affected Council district office and established Neighborhood Council of projects where proposed Sunday and/or Holiday work will occur. **(Amended by Ord. No. 178,160, Eff. 2/12/07.)**

(k) **Noise Variance Application Fee.** Any application to the Board for a noise variance under Subsection (b) shall be accompanied by a payment of an application fee of \$433.00. **(Amended by Ord. No. 187,783, Eff. 4/17/23.)**

SEC. 112.05. MAXIMUM NOISE LEVEL OF POWERED EQUIPMENT OR POWERED HAND TOOLS.**(Amended by Ord. No. 161,574, Eff. 9/8/86.)**

Between the hours of 7:00 a.m. and 10:00 p.m., in any residential zone of the City or within 500 feet thereof, no person shall operate or cause to be operated any powered equipment or powered hand tool that produces a maximum noise level exceeding the following noise limits at a distance of 50 feet therefrom:

(a) 75dB(A) for construction, industrial, and agricultural machinery including crawler-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, wagons, pavement breakers, compressors and pneumatic or other powered equipment;

(b) 75dB(A) for powered equipment of 20 HP or less intended for infrequent use in residential areas, including chain saws, log chippers and powered hand tools;

(c) 65dB(A) for powered equipment intended for repetitive use in residential areas, including lawn mowers, backpack blowers, small lawn and garden tools and riding tractors;

The noise limits for particular equipment listed above in (a), (b) and (c) shall be deemed to be superseded and replaced by noise limits for such equipment from and after their establishment by final regulations adopted by the Federal Environmental Protection Agency and published in the Federal Register.

Said noise limitations shall not apply where compliance therewith is technically infeasible. The burden of proving that compliance is technically infeasible shall be upon the person or persons charged with a violation of this section. Technical infeasibility shall mean that said noise limitations cannot be complied with despite the use of mufflers, shields, sound barriers and/or other noise reduction device or techniques during the operation of the equipment.