

TO: Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

FR: RESIDENT - STAKEHOLDER IN OPPOSITION
Kathryn Schorr
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RE: **CEQA APPEAL TO LETTER OF DETERMINATION DATED: November 29, 2022**

CASE NO. DIR-2021-5596-TOC-HCA-1A

CEQA: ENV-2021-5597-CE; ENV-2013-622-EIR; SCH. No. 2013031038

Plan Area: Palms - Mar Vista - Del Rey

Project Site: 2456 - 2460 South Purdue Avenue

Applicant: Amir Mehdizadeh
Representative: Aaron Belliston, BMR Enterprises

Appellant: Kathryn Schorr

BACKGROUND

The above-described Letter of Determination, dated November 29, 2022 (hereinafter "LOD"), specifically found the above project is "exempt" from CEQA Guidelines¹. Stating in pertinent part:

A. CEQA FINDINGS

As the designee of the Director of Planning, I have determined, based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and that there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

As the designee of the Director of Planning, I have found, based on the independent judgement of the decision-maker, after consideration of the whole of the administrative record, that the project is within the scope of the Exposition Corridor Transit Neighborhood Plan Program EIR No. ENV-2013-622-EIR, SCH. No. 2013031038 ("Program EIR"), pursuant to CEQA Guidelines Sections 15168 and 15162; the environmental effects of the Project were covered in the Program EIR and no new environmental effects not identified in the Program EIR will occur and

¹ State of California Public Resource Code, Division 13 Environmental Quality and the State of California Environmental Quality Act and CEQA Guidelines, Section 15300.

no new mitigation is required; and the City has incorporated all feasible mitigation measures from the Program EIR on the Project. (Emphasis supplied.)

B. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.

C. The project site is located within the Palms – Mar Vista – Del Rey Community Plan area...

D. The proposed project is consistent with many General Plan goals, policies, and objectives. The Housing Element of the General Plan provides the following:

Goal 1: A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs.

Objective 1.1 Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.

Policy 1.1.4 Expand opportunities for residential development, particularly in designated Center, Transit Oriented Districts and along Mixed-Use Boulevards.

E. The proposed project is located on a site designated for Medium Residential Land Uses, which includes multiple-family residential uses, and will be served by facilities and necessary infrastructure.

F. [T]he project is consistent with the applicable Palms – Mar Vista – Del Rey Community Plan designation and policies and all applicable zoning designations and regulations.

G. The project site at 2456-2460 South Purdue Avenue is comprised of two lots, and is currently developed with two single-family dwellings and detached garages.

H. The project assumes a worst-case scenario of removing all street trees, in the event of changes to the right-of-way improvement plans after approval of the environmental clearance.

I. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

J. Mitigation Measure (Construction Noise and Vibration):

** Construction Staging Areas. The construction contractor shall locate construction staging areas away from Sensitive Land Uses.*

** Construction Noise Barriers. When construction activities are located within 500 feet of Sensitive Land Uses, noise barriers (e.g., temporary*

walls or piles of excavated material) shall be constructed between activities and Sensitive Land Uses.

K. The project site will be adequately served by all public utilities and services given that the construction of a multi-family residential building will be on a site which has been previously developed and is consistent with the General Plan.

L. CEQA Section 15300.2: Exceptions to the Use of Categorical Exemptions
There are five (5) Exceptions which must be considered in order to find a project exempt under Class 32...

1) **Cumulative Impacts.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. Staff have identified two (2) comparable projects that were granted approval for land use entitlements within a 500-foot radius of the subject site:

- Case No. DIR-2018-7647-TOC-CDO-SPR (11430 W. Exposition Blvd)
- Case No. DIR-2015-4086-DB-CDO-SPR (2425 S. Butler Avenue)

... Abutting properties to the north, south, east and west are zoned R3-1 and are developed primarily with multi-family dwellings ranging from one to five stories in height. Properties further to the south (across Pearl Street) are zoned R1-1 and developed with single-family dwellings. Therefore, in conjunction with citywide RCMs and compliance with other applicable regulations, no foreseeable cumulative impacts are expected.

2) **Significant Effect Due to Unusual Circumstances.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

...As mentioned, the project proposes a multi-family residential building in an area zoned and designated for such development. **Adjacent lots are developed with multi-family residential...** Thus, there are no unusual circumstances which may lead to a significant effect on the environment, and this exception does not apply.

ARGUMENT

1. **A recent Superior Court ruling² found that a Community Plan³ supersedes city programs which decision contravenes the Designee's determination of the CEQA exemption in the instant project .**

Specifically, in the instant project, the Palms-Mar Vista-Del Rey Community Plan contains development guidelines in recognition of appropriate CEQA criteria.

² *Fix the City, Inc. v. City of Los Angeles* (L.A. Sup. Ct. Case No. 20STCP03529, order filed May 24, 2022.)

³ The Palms-Mar Vista-Del Rey Community Plan currently in effect was adopted in 1997. A community plan update process is actively underway - [<https://planning.lacity.org/plans-policies/community-plan-area/palms-mar-vista-del-rey>]

Pursuant to applicable findings of *Fix the City, Inc. v. City of Los Angeles* as it relates to the instant Palms-Mar Vista-Del Rey Community Plan (hereinafter "the Community Plan") the court found in pertinent part:

- A. Conflicts between CEQA exemption guidelines and Community Plan requirements should be resolved in favor of a Community Plan.
- B. A Designee's decision as it relates to Developers should use caution when seeking to deploy CEQA exemptions in the face of more stringent, conflicting Community Plan guidelines which are found in the local Palms-Mar Vista-Del Rey Community Plan.
- C. The court in *Fix the City* was unpersuaded by the City's argument and agreed with the petitioner, concluding that the "plain language" of the Community Plan confirmed that its standards should prevail over conflicting City programs.

Accordingly, Appellant herein argues that the CEQA guidelines as adopted in the Palms-Mar Vista-Del Rey Community Plan are in conflict the Designee's determination herein, that the CEQA exemption should be vacated, and in any event, based on the recent court ruling, Appellant's argument herein would prevail.

2. **Decision maker's "independent judgment" herein fails to adhere to the applicable standard of review.**

The designee (Director of Planning), asserts that he made his determination "***based on the whole of the administrative record...that there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies...based on the independent judgement of the decision-maker...***" which determination fails to assert substantial evidence in support of an exception to CEQA guidelines pursuant to Section 15300.2.

According to the CEQA Guidelines, substantial evidence means which is defined in the CEQA statute to mean: "*Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.*" Cal. Code Regs. tit. 14 § 15064.

Such "**facts, reasonable assumptions predicated on facts, and expert opinion supported by facts...**" are woefully absent in the instant LOD.

3. **The Designee's explanation of the CEQA exemptions for the Project is clearly erroneous, reductive, contradictory and misstates the clear objectives of the Palm-Mar Vista-Del Rey Community plan.**

The Designee erroneously states, *"The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations."*

In fact, the following summarizes the most significant planning and land use issues and opportunities which were identified in the Palms-Mar Vista-Del Rey community:

- a) Need to maintain the low-density character of single-family neighborhoods and protection from incompatible uses.
- b) Lack of transition in scale, density, and character of multiple housing and commercial uses adjacent to single family homes.
- c) Lack of adequate parking, usable open space, and recreational areas in multiple family dwelling housing.
- d) Need to improve the visual environment of multiple family dwellings through the development of appropriate design criteria and landscaping.
- e) Need to promote rehabilitation of residential areas and improve quality of housing in the southern half of the plan area.
- f) Need to coordinate new development with the availability of public infrastructure.

Accordingly, the LOD recitation (CEQA FINDINGS) of the project is **diametrically opposed to the Palms-Mar Vista-Del Rey Community plan** given the surrounding single family residential neighborhood, is comprised of single-family dwellings, one- and two-story apartment buildings with substantial front, side and backyard setbacks and adequate parking (2 spaces per unit).

WESTSIDE COMMUNIT PLAN DRAFT CONCEPTS:

As part of the 'Planning the Westside,' a Community Plan Update effort, the Westside Planning Team held presentations focusing on draft land use concepts for four Community Plan areas including Palms-Mar Vista-Del Rey. Thereafter stakeholder meetings were held with planning staff. The Westside Planning team received over 2500 stakeholder input comments for consideration to create "Guiding Principles" to guide the formation of **land use in the affected communities**.

As a result, the Westside Community Plan Update created "Guiding Principles" to **balance preservation and accommodate growth**. Thereafter, the Westside Community Plan created the following **Guiding Principles to be incorporated into the Community Plan for the relevant neighborhoods**:

WESTSIDE COMMUNITY PLAN GUIDING PRINCIPLES:

- **Balance Growth** - Balance preservation and accommodation of growth
- **Homeowners** - Needs of existing homeowners to maintain safe, single-family neighborhood zoning, reducing density, preserving unique and diverse neighborhoods
- **Housing and Equity** - Set a foundation to eliminate exclusionary zoning practices
- **Displacement** - Against displacement of existing residents, gentrification, and support ant retention of local businesses
- **Infrastructure** - The area needs sufficient schools, water, electricity, **road quality**, traffic, parking and police and fire services
- **Public Health and Public Realm** - need for public health, green spaces, streetscape beautification, neighborhood placemaking, air circulation, and sun patterns
- **Pedestrian Oriented** - More spaces for pedestrians and bikes, less space for cars. Add improvements to walkability, bike-friendliness, traffic-calming, curb extensions and curb cuts

WESTSIDE COMMUNITY PLAN OPPORTUNITIES AND CONSIDERATIONS:

- **Emphasize affordable units** - to provide workforce housing, low-income housing, and housing for the homeless population
- **Single-family areas** - implement strict development regulations on **heights, setbacks, open space and parking requirements**
- **Protect low-income renters** - Expand rent controlled apartments, require right-of-return for demolished RSO units, require owner to pay their tenants cash compensation far above the current Ellis Act requirement
- **Increase Affordability in TOC Areas** - **set aside 60%** of the units as Restricted Affordable Units, and incorporate moderated income units into the required set aside
- **Plan for TOC Areas** - Expand inclusionary zoning, like promote by right 100% affordable projects on private and public land
- **Place Higher Density Buildings on Major Commercial Corridors** - Lincoln Blvd., Venice Blvd., Washington Blvd., Sepulveda Blvd., Palms Ave., Centinela Ave., Overland Ave.
- **Provide Transitional Zones** - or low-medium residential between low scale and larger scale development
- **Limit Size of New and Remodeled one-unit homes**
- **Increase FAR** - to allow for two-story fourplex on a standard size lot
- **Emphasize Accessory Dwelling Units (ADUs)** - and duplex-style buildings which are effective at increasing housing without drastically impacting neighborhoods
- **Focus on the Blighted Areas** - add new housing

WESTSIDE COMMUNITY PLAN ISSUES AND CONCERNS:

- **Up-zoning to Higher Densities and Height Increases of 4-5 stories is out of scale and not appropriate for the area**
- **Lots Are Too Small Street Width Too Narrow** - to support Medium Residential density and scale
- **Westside Village Has Already Been Impacted By Densification** - due to TOC and Density Bonus developments along commercial corridors
- **Multi-Family Dense Housing on Single Family Residential Properties** - increase traffic congestion, loss of property values, parking shortages, street safety concerns for children, overcrowding.
- **State Housing Laws Bypass Local Process** - without adequate considerations of local needs
- **Housing Density** won't solve the housing shortage, and the emphasis on urbanization will diminish the quality of life in the single-family neighborhoods
- **Allowing Multi-Unit Missing Middle Buildings in Single-Family Areas** - especially 3-4 stories, will cause additional **traffic congestion, parking shortages, reduce sunlight, increase crime, litter, homelessness, eliminate privacy, and reduce property values**
- **New Luxury Development** - is resulting in the **displacement** of vulnerable groups, like seniors, single parents, and the working class, due to the demolition of affordable units including Rent Stabilization Ordinance (RSO) units and moderate-income units
- **Not Enough Housing for Low Income Population** - Homeless, workforce, and prospective first-time home buyers - young middle class individuals are priced out
- **High Density Residential Land Use** - along freeway poses racial and environmental injustice
- **Identified Lots in Residential Concepts are Inadequate for Multi-Unit Buildings** - the lot sizes are too small for the streets too narrow to build
- **TOC Program Has Failed to Generate Sufficient Affordable Housing Units** - the goal of walkability and transit use has not been achieved
- **Infrastructure is Insufficient** - to support to meet the increase in housing in the Draft Concepts
- **Already Sufficient Westside Land Planned and Zoned for Denser Development** - to accommodate future populations. No further zoning changes need to be made to accommodate population growth
- **No More New Development - No More New Housing** - The Westside is already **overdeveloped, and has enough vacant rental units to meet demand, invest public dollars on existing residents and public spaces, not additional housing. Make plans for more parking, more freeways, and more roads**
- **More Housing Brings More Transient Renters** - will change the "community character" drastically and destroy the small-town feel

THE PROJECT is a six-story, 67-foot tall (22 feet above the maximum height allowance for R3 Zone District 1 designation), 27-unit residential building (with only 11% low-income housing for 55 years) with a proposed Floor Area Ratio ("FAR") of approximately 4.3:1 with approximately 46,528 square feet of floor and only 26 parking spaces, including a reduction of side yards from 9 feet to 6 feet 4 inches, and a 25 % reduction in open space.

Additionally, the LOD states there are seven (7) non-protected trees on the subject site which will be removed, and one (1) non-protected (Victorian box) street tree located in the public-right-of-way which will remain, and the project assumes a worst-case scenario of removing all street trees, in the event of changes to the right--of-way.

Thus, the Project does not conform to the Community Plan as recited above as follows:

- Height allowance belies (1) the need to maintain the low-density character of single-family neighborhoods, and (2) the Lack of transition in scale, density, and character of multiple housing and adjacent single-family homes
- A 27-unit residential building, with only 26 parking spaces is in direct opposition to providing adequate parking as the current neighborhood is so woefully lacking in adequate parking. Currently, there are absolutely no available parking spaces for current residents, trash pickup is disrupted due to lack of adequate space for depositing trash receptacles on the street.
- The reduction of side yards from 9 feet to 6 feet 4 inches, and a 25 % reduction in open space is counter to the Community Plan to provide usable open space, and adequate recreational areas. Given the purported "open space" is in fact, individualized private balconies and private patios, there is absolutely no open space recreational areas.
- The removal of seven (7) non-protected trees on the subject site, one (1) non-protected (Victorian box) street tree located in the public-right-of-way and the project assumes a worst-case scenario of removing all street trees, in the event of changes to the right--of-way, the Project fails to improve the visual environment of multiple family dwellings through the development of appropriate design criteria and landscaping.

4. **The Project will have an adverse *cumulative impact* on the community**

The adverse Cumulative impact of the Project on the community (**as recited above in the Westside Community Plan** Issues and Concerns) will impact traffic, noise, air quality, and water quality, while the purported "Mitigation Measures" relative to Construction Noise and Vibration have proven to be acutely deficient and noise abatement remains unenforced. Further, the Project site will not be adequately served by all public utilities and services as sewer and sanitation (trash) services are currently overburdened.

Air Quality: The subject Project is within 1000 feet an adjacent freeway. Based on the "Freeway Adjacent Advisory Notice" effective: September 17, 2018 - Council District: Citywide - Air pollution studies indicate a strong link between the chronic exposure of populations to vehicle exhaust and particulate matter from roads and freeways and elevated risk of adverse health impacts, particularly in sensitive populations such as young children and older adults.

Areas located within 500 feet of a freeway are known to experience the greatest concentrations of fine and ultrafine particulate matter (PM), a pollutant implicated in asthma and other health conditions. In 2003, the California Legislature enacted SB 352, which precludes the siting of public schools within 500 feet of a freeway, unless it can be shown that any significant health risk can be mitigated.

Accordingly, as part of the *Clean Up Green Up* initiative, on April 26, 2016, City Council amended Articles 5 and 9 of Chapter IX of the Los Angeles Municipal Code (L.A.M.C.) addressing sources of outside air in buildings and requiring **all new mechanically ventilated buildings located within 1,000 feet of the freeway to install air filtration media that provides a Minimum Efficiency Reporting Value (MERV) of 13 (Ordinance 184245)**. Compliance with said ventilation requirement is conspicuously absent in the LOD.

Discussion of CEQA Guidelines - Cumulative Impact and Significant Effects Due to Unusual Circumstances

When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Cal. Code Regs. tit. 14 § 15064 - (emphasis supplied.)

State CEQA Guidelines Section 15355 defines "cumulative effects" as "two or more individual effects that, when considered together, are considerable or which compound or increase other environmental impacts."

According to State CEQA Guidelines Section 15130(b):

The cumulative impacts discussion shall reflect the severity of the impacts and their likelihood of occurrence, and should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact.

- A. State CEQA Guidelines Section 15130 further states that the discussion of cumulative impacts should include:
1. Either: (A) a list of **past, present, and probable future projects** producing related cumulative impacts; or (B) a summary of projections contained in an adopted **general plan** or similar document, or in an adopted or certified environmental document, that describes or evaluates conditions contributing to a cumulative impact.
 2. A discussion of the geographic scope of the area affected.
 3. A summary of expected environmental effects to be produced by these projects.
 4. Reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.
- B. The criterion for considering whether a project is reasonably foreseeable, and probable is whether the project has been defined in adequate detail to estimate potential impacts, through the completion of either publicly available preliminary evaluations, feasibility studies, or draft environmental and engineering documents. Therefore, this cumulative impact discussion considers projects and programs identified under existing conditions (which include the current effects of past projects) and reasonably foreseeable and probable future projects.
- C. The Project site is currently overburdened due to adjacent TOC projects⁴. All three adjacent projects are within 100 feet of each other. Also, based on the Transit Oriented Communities (TOC) Guidelines, the primary objective of the TOC program is to facilitate the development of mixed-income and affordable housing in transit areas. However, **the amount of developable land subject to the TOC Program is reduced to approximately 10% of the entire City of Los Angeles.**

Thus, more than three-quarters of the impacted land is located in the lower tiers 1 and 2. Thus, due to the Tier 3 designation of the subject neighborhood, the Project will undoubtedly exact an undisputed cumulative (overburdened) impact on the subject neighborhood because of its Tier 3 designation.

Finally, according to the West Los Angeles Neighborhood Counsel Plum Committee Minutes, approximately 30 TOC Tier 3 and 4 projects are currently being considered or have been approved for development in or near the subject neighborhood which undoubtedly will adversely impact the effect of increased traffic, noise, air quality, and water quality, construction noise and vibration, as well as creating an even greater hardship for public utilities including sewer and sanitation services.

⁴ Case No. DIR-2018-7647-TOC-CDO-SPR (11430 W. Exposition Blvd), Case No. DIR-2015-4086-DB-CDO-SPR (2425 S. Butler Avenue), DIR-2018-3411-TOC (2465 Purdue Avenue) NOTE: Exposition Blvd is a 100-unit Building (tier 4) with no parking. All three

D. Significant Effects Due to Unusual Circumstances:

The subject building is 22 feet taller than the maximum height of the R3-1 zone in which it resides, resulting in a 70% increase in density as compared to similarly situated apartment buildings. It allows for .5 parking spaces per unit (regardless of occupancy) compared to 2 spaces for other apartment buildings on the street.

CONCLUSION

Much has been said about the improper origination, enactment, approval and implementation of the TOC Guidelines and their ultimate failure to resemble the policies of Measure JJJ from which the TOC Guidelines were derived.

Moreover, stakeholders have lost all confidence in the process, especially considering recent indictments and convictions of Public Officials, lobbyist and political consultants involved in this process for among other charges "Obstruction of Public Corruption⁵." Said governing officials, some of whom have pleaded guilty admitting to facilitating bribes, and scheming to falsify material facts in exchange for affecting the success of development projects, and others (previously involved in the scheme) still remain, or have recently been removed from relevant committees associated with this process. Additionally, consultants and political allies of public officials involved in approving development projects have agreed to plead guilty to federal felony bribery charges associated with projects similarly situated as the instant case.

According to the Department of Justice, the bribery scheme was triggered by an appeal preventing the project from progressing due to violations of CEQA requirements and included approvals by the PLUM Committee and the City Council. The bribery occurred after the appeal was filed and ultimately led to federal charges.

During the 2018 FBI raid, a search warrant seeking evidence related to the probe into possible bribery, kickbacks, extortion, and money laundering revealed more than a dozen names authorities were seeking information on, including:

City Officials

- Raymon Chan, former Deputy Mayor for Economic Development and former head of the L.A. Department of Building and Safety
- Councilman Jose Huizar (D-14)
- Shawn Kuk, Planning Director for Councilman Huizar

⁵ <https://www.justice.gov/usao-cdca/pr/los-angeles-city-councilman-jose-huizar-charged-34-count-indictment-alleging-wide>; <https://www.justice.gov/usao-cdca/pr/former-la-city-councilman-mitch-englander-ordered-serve-14-months-federal-prison>; <https://spectrumnews1.com/ca/la-west/politics/2020/04/20/breaking-down-federal-corruption-probe-into-la-city-hall>

- George Esparza, former aide to Huizar who now serves as Chief of Staff for Assemblywoman Wendy Carillo
- Councilman Curren Price (D-9)
- Deron Williams, Chief of Staff to Councilman Herb Wesson (D-10)
- Joel Jacinto, a former Garcetti appointee who served on the city's Board of Public Works
- Lincoln Lee, former Chief of Department of Building Safety's Code Enforcement Bureau

Developers

- Wei Huang, president of Shenzhen New World Group
- Ricky Zheng, executive at a Shenzhen New World LLC
- Fuer Yuan, founder of Shenzhen Hazens Real Estate Group Company Limited
- Mason Situ, general manager at Shenzhen Hazens
- George Chiang, a consultant for the owner of the Luxe City Center Hotel

Finally, given the entirety of the foregoing, including current case law and relevant facts of the Community Plan supporting the arguments in opposition to the CEQA Letter of Determination as cited above, Appellant-Stakeholder asks that the Class 32 CEQA exemptions of the subject project be vacated in the interest of justice.

DATED: December 12, 2022

By 
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