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November 7, 2023

VIA EMAIL

Chair Harris-Dawson and Honorable Members of the
Planning and Land Use Management Committee
Los Angeles City Council
200 N. Spring Street, Room 395
Los Angeles, CA 90012

clerk.plumcommittee@lacity.org

Re: Sustainable Communities Project Exemption for the 1200-1218 N. Vine Street Mixed-Use Project (Case Nos. CPC-2022-7047-CU-DB-SPR-HCA and ENV-2023-4989-SCPE, and Council File Nos. 23-0673 and 23-0673-S1)

Dear Chair Harris-Dawson and Honorable Committee Members:

This firm represents Vine Street Los Angeles Apartments, LLC (“Applicant”) in connection with the proposed development of a new seven-story mixed-use housing development project containing 134 market-rate units and 17 restricted affordable units (“Project”). At today’s meeting of the Planning and Land Use Management (“PLUM”) Committee, under Agenda Item No. 11 and Council File No. 23-0673, you will consider an appeal of the Project’s previously prepared Class 32 exemption from the California Environmental Quality Act (“CEQA”), filed by the Supporters Alliance for Environmental Responsibility (“SAFER”). As demonstrated by the extensive documentation contained in the administrative record, SAFER’s appeal consists of previously submitted comments objecting to the Project’s Class 32 exemption, all of which have been fully responded to by the City and the Project’s expert CEQA consultants and shown to have no merit. Accordingly, the appeal filed by SAFER fails to provide any substantial evidence of any deficiency in the Project’s Class 32 exemption.

Separately at today’s meeting, under Agenda Item No. 12 and Council File No. 23-0673-S1, you will consider the adoption of a Sustainable Communities Project Exemption (“SCPE”) that has been prepared for the Project. As demonstrated by the SCPE and its associated technical appendices, the Project fully complies with all requirements established by Public Resources Code Section 21155.1 to be eligible for this statutory exemption from CEQA. On November 1, 2023, the law firm of Lozeau Drury, on behalf of SAFER, submitted a letter to the PLUM Committee claiming that the Project does not meet the criteria for a SCPE (“SAFER Letter”). However, as described below, the SAFER Letter fails to provide any substantial evidence of any deficiency in the SCPE.

The first objection made by the SAFER Letter is regarding the SCPE’s adoption of noise mitigation measures contained in the Program Environmental Impact Report (“PEIR”) prepared for the

Southern California Association of Governments (“SCAG”) 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (“RTP/SCS”). Specifically, the SAFER Letter correctly notes that the SCPE adopts SCAG mitigation measure PMM NOI-1 to address the Project’s potential to result in elevated construction noise levels, but then claims that because SCAG mitigation measure PMM NOI-2 was not adopted, the SCPE is flawed due to a failure to adopt all applicable SCAG mitigation measures. This is not correct, for the reasons described below.

As explained in Appendix K of the SCPE, the measures contained in PMM NOI-1 are intended to directly address a project’s potential to result in elevated construction noise levels, and for this reason, each and every measure under PMM NOI-1 (including, for example, requirements to comply with local construction hour regulations, utilization of mufflers and other noise suppression devices for construction equipment, and locating noise sources away from sensitive receptors) has been adopted for the Project. The measures under PMM NOI-2 are primarily intended to address a project’s potential to result in ground-borne vibration effects, including such effects that could damage adjacent structures; however, as described in Appendix K of the SCPE, the Project’s construction activities will be required to be conducted in compliance with existing City regulations designed to protect adjacent properties from potential damage during construction activities (including Los Angeles Municipal Code Section 91.3307.1), and this required regulatory compliance is equal to or more effective than the vibration-related measures contained in PMM NOI-2. PMM NOI-2 also contains several measures addressing construction noise reductions; however, each of these measures under PMM NOI-2 are duplicative of measures that exist under PMM NOI-1 and that have already been incorporated into the Project (including the same measures regarding mufflers, construction hour restrictions, and locating noise sources away from sensitive receptors). Accordingly, contrary to the SAFER Letter’s claim, the SCPE has already properly incorporated all relevant noise-reduction measures under the SCAG PEIR into the Project, and as explained in Appendix K of the SCPE, implementation of PMM NOI-2 is not necessary.

The second objection made by the SAFER Letter reiterates prior comments submitted to the City regarding alleged indoor air quality impacts resulting from formaldehyde emissions associated with composite wood products. However, as the administrative record reflects, these prior comments have been responded to by the Applicant’s expert air quality consultant, and shown to have no merit. Specifically, SAFER’s comments make unsubstantiated assumptions regarding the type and kind of composite wood products that the Project may utilize in its construction and further assume that any wood products to be utilized in Project construction would not comply with all applicable stringent formaldehyde restrictions imposed by the State of California. Moreover, SAFER’s comments dramatically overestimate the amount of potential exposure to formaldehyde that could occur. For example, SAFER’s comments claim that Project occupants and workers would inhale 20 cubic meters of air per day; however, according to the American Lung Association, the average person inhales approximately 2,000 gallons of air per day, or roughly 7.57 cubic meters per day.¹ Furthermore, SAFER’s comments assume that a consistent exposure to formaldehyde would occur over 45 years for the workers in the Project’s commercial spaces; however, this claim ignores the fact that emissions from any formaldehyde-containing materials (to the extent they would be utilized) would decrease over time, as well as the fact that the median number of years that wage and salary workers remain with an employer is 4.1 years,

¹ American Lung Association, *How Your Lungs Get the Job Done*, website: <https://www.lung.org/blog/how-your-lungs-work>

not 45 years.² These unsupported claims fail to provide substantial evidence of any deficiency in the Project's analysis of potential air quality impacts, or any deficiency in the Project's SCPE.

The SAFER Letter's third claim is that the SCPE fails to analyze potential health risks from diesel exhaust through preparation of a health risk assessment ("HRA"). As an initial matter, there is no statutory requirement under Public Resources Code Section 21155.1 to conduct such an analysis. Moreover, the SAFER Letter fails to provide any substantial evidence that such an analysis would be required under any other relevant guidance. Contrary to the claim made by the SAFER Letter, there is no relevant guidance from the State's Office of Environmental Health Hazard Assessment ("OEHHA") suggesting that such an analysis is to be performed for short-term construction projects. Specifically, the 2015 OEHHA Guidance Manual cited by the SAFER Letter was prepared to assist local air districts in the formulation of their own rules regarding the preparation of HRAs, specifically "for use in the Air Toxics Hot Spots Program or for the permitting of existing, new, or modified stationary sources." The OEHHA guidance document goes on to note that "The Hot Spots Act requires that each local Air Pollution Control District or Air Quality Management District (hereinafter referred to as District) determine which facilities will prepare an HRA," and that "Districts are to determine which facilities will prepare an HRA based on a prioritization process outlined in the law." Yet, the SCAQMD has not published any requirements, recommendations, or guidance endorsing the 2015 OEHHA Guidance Manual's use for CEQA analysis. Instead, consistent with SCAQMD and City of Los Angeles guidance, analysis of potential health effects of diesel exhaust is recommended in connection with substantial sources of diesel particular emissions (e.g., truck stops and warehouse distribution facilities). Under this applicable guidance, as a mixed-use residential project, the Project is not anticipated to result in significant diesel exhaust emissions.

For the above reasons, the SAFER Letter's objections fail to demonstrate any deficiency in the Project's existing approvals or the SCPE that has been prepared; we respectfully request that the PLUM Committee vote to recommend denial of SAFER's appeal and recommend approval of the SCPE.

Sincerely,



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Partner
of RAND PASTER & NELSON, LLP

cc: Stephanie Escobar, Department of City Planning

² United States Bureau of Labor Statistics, News Release, *Employee Tenure in 2020*, released September 22, 2020.