

Communication from Public

Name: Dove Pressnall

Date Submitted: 12/14/2023 04:50 PM

Council File No: 23-0917

Comments for Public Posting: As a Lincoln Heights homeowner, I have watched rent controlled homes and multi family residences, which are often of historical significance, be destroyed to allow developers and corporate landlords to build new rental units that are not subject to rent control. Many of the renters in our community are seniors who have lived here for decades. Development that forces longtime residents out is just gentrification with desperate impact on the elderly, immigrants, and other marginalized groups. While I applaud this effort to protect tenants of rent controlled properties in Boyle Heights, the same protection is long overdue, and **MUST** be extended to Lincoln Heights residents.

Communication from Public

Name: Sheri Bonstelle

Date Submitted: 12/15/2023 09:05 AM

Council File No: 23-0917

Comments for Public Posting: Our firm represents Cesar Chavez 888, LLC, the Owner and Applicant of the 50 unit multifamily project with 5 units affordable to extremely low income households at 2115-2121 East Cesar Chavez Avenue and 301-309 N. Chicago Street, Los Angeles, CA, which is located adjacent to the Brooklyn Corridor Neighborhood Corridor in Boyle Heights. Please see the attached letter opposing adoption of the ICO which violates the State Housing Accountability Act (“HAA”), the State Ellis Act, Government Code 65858, and the City Charter and Los Angeles Municipal Code regarding Historic-Cultural Monument designation.

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December 14, 2023

Los Angeles City Council
Los Angeles City Hall
200 N. Spring Street, Room 340
Los Angeles, CA 90012
<https://cityclerk.lacity.org/publiccomment>

Re: Interim Control Ordinance re Brooklyn Corridor Historic District
Council File 23-0917
Hearing Date: December 15, 2023 Item 29

Dear President Krekorian and Los Angeles City Councilmembers:

Our firm represents Cesar Chavez 888, LLC, the Owner and Applicant of the 50 unit multifamily project with 5 units affordable to extremely low income households (the "Housing Project") at 2115-2121 East Cesar Chavez Avenue and 301-309 N. Chicago Street, Los Angeles, CA (the "Property"), which is located adjacent to the Brooklyn Corridor Neighborhood Corridor in Boyle Heights.

The proposed Interim Control Ordinance ("ICO") prohibits demolition of rent stabilized multi-family structures, covenanted affordable housing units, and buildings with Contributing Features in the Brooklyn Corridor Historic District during the term of the ICO, which is initially 45 days, then may be extended 10 months and 15 days, and an additional one year for a total two year term. The ICO specifically targets the Housing Project on the Property, and proposed housing development projects on the other 30 properties adjacent to the Brooklyn Corridor Neighborhood Corridor contrary to numerous State and local laws. As such, the ICO violates the State Housing Accountability Act ("HAA"), the State Ellis Act, Government Code 65858, and the City Charter and Los Angeles Municipal Code ("LAMC") regarding Historic-Cultural Monument designation.

The ICO directly violates the State Housing Accountability Act which prohibits a City from denying or imposing a condition to limit density on a housing development project unless the City makes specific findings of significant adverse impacts that cannot be mitigated. (Gov'n Code § 65589.5, "HAA"). Here, the ICO would, for a period of two years, prohibit the development of any housing development projects on the 30 properties adjacent to the Brooklyn Corridor Neighborhood Corridor identified on Map 2 of the ICO. Therefore, the ICO has the intended effect to deny these housing development projects by prohibiting the removal and replacement of the existing housing units on the properties, as required by State law.

The ICO does not apply to the Housing Project on the Property as a matter of law, because the Project was vested when the City deemed complete the building permit application and fee payment (Permit No. 21019-20000-03230); In addition, the City approved the planning entitlements for the Project in August 2023. (DIR-2021-8626-RDP-HCA) However, Councilmember Kevin de Leon submitted a letter to the East Los Angeles Area Planning Commission, dated December 1, 2023, conceding that the Housing Project complies with the zoning code, but asking the East LA APC to deny the Project on appeal, based in part on this pending, but not adopted, ICO and the not yet approved Boyle Heights Community Plan Update. Councilmember de Leon's letter is evidence that the ICO is specifically intended to stop the construction of pending housing development projects in the area.

I. Housing Accountability Act

The ICO will directly prohibit the construction of any housing development projects on the 30 properties identified in Map 2 of the ICO for a period of up to two years. The Project is a new six-story, 75-foot high mixed-use building with 50 residential units, of which five (5) units are reserved for extremely low income households, and 4,000 square feet of commercial use, and therefore meets the definition of a "housing development project" under the Housing Accountability Act, and is subject to the law's protections (Gov'n Code § 65589.5, "HAA"). A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. (Gov'n Code § 65589.5.h.2)

When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, in effect at the time that the application was deemed complete, a City can only disapprove a project or impose a condition that the project be developed at a lower density, if based on the preponderance of evidence in the record: (i) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and (ii) There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density. (Gov'n Code § 65589.5(j)(1)) . "A specific, adverse impact means a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." (Gov'n Code § 65589.5(d)(2))

In most actions, a local government is tasked with making findings or determinations based on "substantial evidence." Under the substantial evidence standard, the City is merely required to find reasonable, adequate evidence in support of their findings, even if the same or even more evidence supports a finding to the contrary. Findings or determinations based on a "preponderance of the evidence" standard require that the City weigh the evidence and conclude that the evidence

on one side outweighs, preponderates over, is more than the evidence on the other side, not necessarily in the number or quantity, but in its convincing force upon those to whom it is addressed. Evidence that is substantial, but not a preponderance of the evidence, does not meet this standard. (*People v. Miller* (1916) 171 Cal. 649, 652. *Harris v. Oaks Shopping Center* (1999) 70 Cal.App.4th 206, 209 (“‘Preponderance of the evidence’ means evidence that has more convincing force than that opposed to it.”)). The HAA provides “It is the policy of the state that this section (HAA) should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” (Gov’n Code § 65589.5 (a)(2)(L))

Therefore, the City cannot disapprove the proposed 50-unit housing development project, or impose a condition that the project be developed at a lower density, unless it concludes based on a preponderance of evidence that there is a specific adverse impact on public health and safety. There is no evidence of adverse impact in the record that rises to that conclusion. Therefore, the City cannot adopt an ICO that would essentially prohibit the construction of the housing development project, or any housing development projects on this Property or the other ICO properties. The ICO claims an adverse impact due to the loss of existing RSO units, but as in the Project, new projects require replacement of affordable on site housing. This development will have a net increase of 47 residential units, and will increase the number of affordable units and level of affordability (replacing 3 RSO units with 5 units affordable to extremely low income households). In fact, by stopping the housing development projects at a time of housing crisis, the ICO will create an adverse impact to increasing the housing supply.

II. Interim Control Ordinance

The ICO also fails to make the findings necessary to show a harm to public health and safety, because the State and local law already provides tenant protections and requires that any protected or affordable units be replaced on site. SB330 requires a Replacement Unit Determination, which identifies the number of protected residential units on site, the type of unit, and the level of affordability. All projects will also be required to comply with all of the provisions of the State Ellis Act (Gov’n Code § 12.75) and the City’s RSO (LAMC § 151.22 *et seq.*), which will require one year notice to qualified tenants, payment of relocation fees, right of first refusal to return to an affordable unit in the housing development project, and right to remain in the housing until 6 months prior to construction of the new project.

Pursuant to Government Code § 65858, a city council may adopt, by a 4/5 vote, an interim ordinance “*to protect the public safety, health, and welfare,*” and may adopt as an interim urgency measure “*prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning*

department is considering or studying or intends to study within a reasonable time.” The code further states:

“The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:

(1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.

(2) The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).

(3) There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.”

Here, the City Council cannot make the findings required by State law. The code permits an urgency ordinance to temporarily prohibit “uses” that may be in conflict in a contemplated general plan or zoning update. The City has not identified any uses that are in conflict. The ICO is prohibiting demolition of multifamily units for the construction of new, larger, more affordable multi-family housing development projects. The housing development projects are permitted by State law, the current Boyle Heights General Plan and the pending Boyle Heights General Plan Update. In addition, the City must adopt findings to protect the public safety, health, and welfare. Again, the City cannot make these findings. The City staff report claims that demolition of the existing RSO units would be adverse to the public safety, health and welfare of existing tenants. While this is true, these tenants are fully protected under State law and have the right to reside in the new housing development project. In fact, prohibiting the housing development project, even temporarily, will cause a greater adverse impact to public safety, health and welfare. Finally, the City failed to make the finding that the continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. In fact, the Director of Planning has already approved the Project and found that there was no specific, adverse impact upon the public health or safety. These findings are required for the

ICO, because it does not apply Citywide, but to 30 specific parcels, some with proposed or approved housing development projects, in the Brooklyn Avenue Neighborhood Corridor.

III. Historic Cultural Monument

The ICO also misstates that the 30 properties are within the Brooklyn Avenue Neighborhood Corridor, City Historic-Cultural Monument No. 590 (Council File 93-0907). The Office of Historic Resources (“OHR”) has clarified that the HCM designation includes only the public right of way, and does not include the properties that are adjacent to the street on either side (See Exhibit 2). Any determination of whether or not a property is historic must be reviewed by the OHR staff under the purview of the City’s Cultural Heritage Commission, based on substantial evidence in the record supporting the finding. Here, OHR has issued correspondence, dated August 18, 2023, that confirms that the Property has not been identified as a historic resource by local or state agencies; the Property has not been determined eligible for listing in the National Register of Historic Places, California Register of Historic Resources, the Los Angeles Historic-Cultural Monuments Register, or any local register, and was not found to be a potential historic resource. This determination must be made for the other properties adjacent to the Brooklyn Avenue Neighborhood Corridor prior to providing any limits based on “Contributing Features” in a historic district.

We request that the City Council not adopt the ICO, which is counter to State and local housing law, and the Mayor’s policy to support affordable housing construction. If passed, we request that the Department of Housing and Community Development find that the ICO violates the Housing Accountability Act and other State laws.

Sincerely,



SHERI L. BONSTELLE for
Jeffer Mangels Butler & Mitchell LLP

SLB

Enclosures

Exhibit 1 – Letter from Kevin de Leon to East Los Angeles Area Planning Commission, dated December 1, 2023

Exhibit 2 – City Planning Staff Report for Housing Project, dated December 13, 2023.

Exhibit 3 – Letter to East Los Angeles Area Planning Commission, dated December 10, 2023

cc: Kevin Keller, Mayor’s Office (Kevin.Keller@lacity.org)
Jenna Hornstock, Deputy Mayor of Housing (Jenna.Hornstock@lacity.org)
Adrienne Khorasanee, Deputy City Attorney (Adrienne.Khorasanee@lacity.org)

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Gerald Gubatan, CD 14 Planning Deputy (Gerald.Gubatan@lacity.org)
Councilmember Kevin de Leon (councilmember.kevindeleon@lacity.org)

EXHIBIT 1



December 1, 2023

Michael Yap, President
Eunice Song, Vice-President
Gloria Gutierrez, Commissioner
East Los Angeles Area Planning Commission
200 North Spring Street
Los Angeles, CA. 90012

Re: DIR-2021-8626-RDP-HCA-1A
2115-2121 East Cesar Chavez Avenue; 301-309 N. Chicago Street

Mr. Yap and Honorable Commissioners:

I support the appeal filed by Ms. Viva Padilla of *Re/Art Centro Literario* challenging the Director of Planning's determination that the proposed project complies with the Adelante Eastside Redevelopment Plan. The proposed development involves demolition of an existing building with occupied residential units subject to the City's Rent Stabilization Ordinance (RSO) and ground-level commercial tenants to clear the subject site to allow new construction of a six-story mixed-use building with 50 units, including 5 units reserved for Extremely Low-Income households and 45 market rate units.

Procedurally it may be argued that the zoning entitlements being sought fit within the City's regulatory scheme, including the Transit Oriented Communities (TOC) Incentive Program established in 2016 with voters' passage of Measure JJJ creating land-use incentives to build affordable housing. Although the City's Community Redevelopment Agency was dissolved in 2012, the Adelante Eastside Redevelopment Plan has not expired and the City implements the Redevelopment Plan's land-use authority.

I would assert that our City decision-makers should not operate in a vacuum or view this particular development proposal purely through a technical lens: **there** is a larger context to consider in Boyle Heights, especially as the proposed Boyle Heights Community Plan update moves forward through the City's legislative process and an Interim Control Ordinance (ICO) I am sponsoring to prohibit the demolition of occupied RSO units advances through the City Council. I urge the Commission to consider the issues noted below.

Displacement of Tenants and Legacy Businesses

The first is displacement. The current residents of this property are local tenants who have lived there for 14 years or more, including legacy businesses. In order to make way for new construction, the owner would need to evict existing tenants. Given the City's current housing affordability crisis, available units are hard to come by. Rents are at an historic high while wages remain at historic lows. Existing residents would most likely need to leave the neighborhood in order to find housing they can afford. Rental housing vacancy in Boyle Heights has consistently tracked below citywide levels and current vacancy rates are extremely low at just 1.8%.

The commercial tenants have advised that they expect to lose their businesses because there are not comparable spaces with comparable rents nearby. The bookstore at the ground floor serves a larger purpose: it provides a community literary and arts space featuring poets, writers and artists. The store had previously been evicted from a different location and had to close.

Residential tenants have shared the habitability concerns with my Council Office and these are detailed in the appeal points. Tenants have filed habitability complaints with the Los Angeles Housing Department (LAHD). While most cases were acknowledged and resolved by the owner, some violations have not been adequately addressed, thus elevating these complaints to public hearings conducted by LAHD. While most habitability cases have been resolved and closed by LAHD, LAHD has not conducted a full inspection of the property (a full inspection will not be scheduled until Spring, 2024) through LAHD's Systematic Code Enforcement Program (SCEP).

Boyle Heights rents are 30% lower than Citywide averages but are growing at a faster rate, increasing 97% since 2000 compared to 61% Citywide (Source: CoStar.com). It is widely known that Los Angeles has the highest share of renter households that are cost burdened of any major city in the country.

Utilizing a typology of displacement, defined as a decrease in the number of low-income households in an area, established by *The Urban Displacement Project*, a research initiative of the University of California, Berkeley, and the University of Toronto, data show that neighborhoods in Boyle Heights are at varying stages of gentrification including those which are at-risk due to ongoing real estate pressures from the redevelopment of downtown Los Angeles and areas to the north such as, Highland Park and Echo Park.

A Shifting Housing Market in Boyle Heights

The second factor which should be considered is the area's greater housing market. Boyle Heights has witnessed a surge in demolition permit requests. 30% of all demolitions in Council District 14 occur in Boyle Heights, and 30% of those demolition permits involve existing RSO units. Just two buildings down the street from this project at 2141 Cesar E Chavez Avenue, a new city planning entitlement application has been submitted in connection with the proposed demolition of an existing commercial building with two RSO residential units in order to build a new 10-story development. Over a half mile away at 2528 First Street, four occupied RSO units are slated for demolition to clear the site for new construction.

Over 4,300 properties in Boyle Heights and an estimated 15,000 units, over 65% of all units, are subject to the City's Rent Stabilization Ordinance (RSO). In recent years, demolition permits to remove RSO units from the rental market have been filed. Property owners have invoked the State Ellis Act to evict tenants. Despite recent changes to state law requiring housing replacement, it is unclear how many housing units are being replaced or permanently lost. One-third of all demolitions in Council District 14 take place in Boyle Heights. Of those demolitions, 35% involve demolitions of RSO units. The threat of displacement of residents is compelling.

Boyle Heights is a neighborhood with a rich cultural identity and history of activism that define the neighborhood today. With a median household income that is approximately 50% less than that of the Citywide median income, and with about 75% of units occupied by renters, Boyle Heights is home to some of the most vulnerable low-income households that are more likely to experience displacement pressures.

Boyle Heights Community Plan Update In Process

The proposed Boyle Heights Community Plan Update, initiated in 2006, recently passed the City Planning Commission and has now been transmitted to the City Council's Planning and Land Use Management (PLUM) Committee. My office has advocated for policies to address many challenges regarding displacement of local residents and disruption of legacy businesses while promoting historic-cultural preservation and economic vitality. The proposed Plan includes a new Community Benefits Program providing incentives that prioritize mixed-income and 100% affordable housing. It introduces a new income category for "Acutely Low Restricted Affordable Units" for households making 0-15 percent of the Area Median Income (AMI). The proposed Plan would allow developers to utilize the affordable housing incentive program if 10% of units are set-aside for Acutely Low-Income residents. With nearly 23% of persons in Boyle Heights estimated to have incomes below the poverty level, compared to 16% citywide, the proposed Plan would introduce policies to preserve and produce housing more accessible to households in Boyle Heights. I have advocated for inclusion of a "local preference" policy for placement of local residents in new affordable units.

Proposed Interim Control Ordinance to Prohibit Demolitions

In response to the market pressures to remove existing RSO units from the market, I introduced a Council Motion to initiate an Interim Control Ordinance with an urgency clause to



EXHIBIT 2

DEPARTMENT OF CITY PLANNING APPEAL RECOMMENDATION REPORT

East Area Planning Commission

Date: December 13, 2023
Time: After 4:30 p.m.
Place: Ramona Hall Community Center, 4580
North Figueroa Street, Los Angeles, CA
90065

Public Hearing: Required
Appeal Status: Not Further Appealable
Expiration Date: December 20, 2023
Multiple Approval: No

Case No.: DIR-2021-8626-RDP-
HCA-1A

CEQA No.: ENV-2021-8628-CE

Incidental

Cases: N/A

Related Cases: N/A

Council No.: 14 – Kevin De León

Plan Area: Boyle Heights

Specific Plan: N/A

Certified NC: Boyle Heights

GPLU: Regional Commercial
Center

Zone: C2-1-CUGU

Applicant: Will Tiao
Cesar Chavez 888,
LLC
2658 Griffith Park Blvd.
#418
Los Angeles, CA
90039

Representative: Aaron Belliston
BMR Enterprises
5250 Lankershim Blvd.
Ste 500
North Hollywood, CA
91601

PROJECT LOCATION: 2115-2125 East Cesar Chavez Avenue (301-309 North Chicago Street)

PROPOSED PROJECT: The project proposes the demolition of two existing one-story mixed-used commercial buildings and construction, use, and maintenance of a new, six-story, 75-foot 2-inch, 51,235 square-foot mixed-use building, with 50 residential units including 5 units reserved for Extremely Low-Income households, approximately 4,030 square feet of ground floor commercial space, and a Floor Area Ratio of 3.68:1, in a Commercial Area of the Adelante Eastside Redevelopment Plan Area.

APPEAL: Appeal of the August 31, 2023, Director of Planning determination to approve the construction, use, and maintenance of a new, six-story, 75-foot 2-inch, 51,235 square-foot mixed-use building, with 50 residential units including 5 units reserved for Extremely Low Income households, approximately 4,030 square feet of ground floor commercial space, and a Floor Area Ratio of 3.68:1, in a Commercial Area of the Adelante Eastside Redevelopment Plan Area. The project is utilizing TOC base incentives. The appeal was scheduled for November 8, 2023, but the hearing did not occur due to loss of quorum. The item was therefore continued from November 8, 2023 to December 13, 2023.

RECOMMENDED ACTIONS:

1. **Determine** that, based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines applies;
2. **Deny** the appeal of DIR-2021-8626-RDP-HCA and sustain the decision of the Director of Planning to APPROVE a Redevelopment Plan Project Compliance Review for the construction, use, and maintenance of a new, six-story, 75-foot 2-inch, 51,235 square-foot mixed-use building, with 50 residential units including 5 units reserved for Extremely Low-Income households, approximately 4,030 square feet of ground floor commercial space, and a Floor Area Ratio of 3.68:1, in a Commercial Area of the Adelante Eastside Redevelopment Plan Area; and
3. **Adopt** the Director of Planning's Conditions of Approval and Findings.

VINCENT P. BERTONI, AICP
Director of Planning



Jane Choi, AICP
Principal City Planner



Chi Dang
City Planner



Bryant Wu
City Planning Associate

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PROJECT ANALYSIS

Project Summary

On August 31, 2023, the Director of Planning approved a Redevelopment Plan project. The project is an urban infill residential development on a 15,000 square foot site, located at the northwest corner of East Cesar Chavez Avenue and Chicago Street. The project proposes the construction of a new, six-story mixed-use building containing 50 residential units, five (5) of which are to be reserved for Extremely-Low-Income Households, and 4,030 square feet of commercial area. The project proposes a total of 32 residential parking spaces with Vehicular access provided via two driveways located off Chicago Street. The project includes 6,500 square feet of Open Space provided at the second and roof levels.

Background

The subject property consists of two contiguous lots equating to a lot area of 15,000 square feet with approximately 100 feet of frontage along the northern side of East Cesar Chavez Avenue and 100 feet of frontage along the western side of Chicago Street. The property is zoned C2-1-CUGU and located within the Adelante Eastside Redevelopment Plan (Redevelopment Plan) area. The property is improved with two one-story mixed-use commercial buildings with three (3) RSO units on site. The applicant requests a Redevelopment Plan Project Compliance to permit the demolition of two existing one-story mixed-use commercial buildings and the construction of a new, six-story mixed-use building containing 50 residential units, five (5) of which are to be reserved for Extremely-Low-Income Households, and 4,030 square feet of commercial area on a 15,000-square foot site.

The project site is located within the Boyle Heights Community Plan area and is located within the C2-1-CUGU Zone with the land use designation of Regional Center Commercial. Height District 1 for the C2-1-CUGU Zone allows for a 3:1 Floor Area Ratio (FAR) and unlimited height. However, the Boyle Heights Community Plan states that Low Medium II land uses correspond to RD1.5 and RD2 Zones that have a 3:1 FAR and a 45-foot height limit. The project is located in a Tier 3 Transit Oriented Community and is therefore eligible for the ministerial processing of an up to 50 percent increase in Floor Area Ratio and an up to 35 percent increase in Density as base incentives. The project's proposed FAR of 3.68:1 is therefore within the maximum permitted Floor Area Ratio of 4.5:1. The "CUGU" indicates the site is zoned as Clean Up Green Up, Ordinance 184,246, LAMC Section 13.18. The purpose of the CUGU is to reduce cumulative health impacts resulting from land uses including a concentration of industrial land use, on-road vehicle travel, and heavy freight-dominated transportation corridors. The CUGU does not apply to residential land uses such as the proposed project.

Surrounding Properties

Properties to the east, west, and south, are zoned C2-1-CUGU and developed mostly with older one to two-story commercial buildings, which include a mixed-use building, beauty supply and retail shops. The property to the north is zoned RD1.5-1-CUGU and improved with a one-story duplex.



Figure 1. ZIMAS zoning map

Streets

E. Cesar E. Chavez Avenue abutting the project site to the south is designated as a Modified Avenue II, dedicated to a right-of-way width of 82.5 feet and is fully improved with a parkway, curb, sidewalk, and gutter.

Chicago Street abutting the project site to the east is designated as a Local Standard Street, dedicated to a right-of-way width of 60 feet and is fully improved with a parkway, curb, sidewalk, and gutter.

APPEAL

An appeal, filed on September 15, 2023 by Viva Padilla in conjunction with RE/Arte Centro Literario, challenges the Director of Planning's determination to approve a Redevelopment Plan Project Compliance Review for the subject project, provided under Exhibit B. The following provides a summary of the appellant's appeal points and Staff's Response to each appeal point. The full appeal application and justification documents are provided in Exhibits A1 and A2. As many of the appeal points overlap, Planning Staff has grouped related appeal points in providing the following responses below.

1) The project is not compliant with Boyle Heights Community Plan update.

Appeal points: 1, 10, 11, 18, 21, 22

1. The project lacks compliance with the Boyle Heights Neighborhood Plan (known as the Boyle Heights Community Plan update).
10. The project improperly categorizes the commercial space as a “corner market”.

- 11. The project does not provide play areas for the children of the new tenants.
- 18. The project lacks a plan for displaced residents, legacy businesses, and cultural institutions.
- 21. The project does not encourage the protection of cultural institutions.
- 22. The project fails to protect legacy businesses owned by the LGBTQIA+ community.

Staff Response:

Several of the issues pointed out under Appeal points 1, 10, 11, and 18 are extracted from the proposed Boyle Heights Community Plan Update (Plan Update), which has not yet been adopted. The project cannot be subject to a Plan Update that is not yet in effect. The references to the proposed Community Plan Update include upholding the historic value of the Brooklyn Avenue Neighborhood Corridor, protecting legacy businesses, preserving corner stores, and providing outdoor amenities. However, the proposed project meets the objectives and policies of the existing Community Plan, as well as several objectives and policies in the proposed in the Community Plan Update.

The project upholds the historic and cultural integrity by providing a façade that respects the two-story linearity, the material usage, and the visual rhythm of the surrounding structures as listed in LU 19.1 and LU19.2 of the proposed Community Plan Update. LU 19.1 is to uphold the historic and cultural integrity of the historic “Brooklyn Avenue Neighborhood Corridor” by reusing existing early 20th Century brick buildings. Although the structures are from that era, the structures have been altered such that the character of the original facades have been lost. The proposed project respects the historic and cultural integrity by providing a structure that is more in keeping with the Brooklyn Avenue Neighborhood Corridor. In addition to meeting the proposed Plan Update, the proposed project also meets Commercial Policy 8 of the existing Community Plan by orienting commercial development so as to facilitate pedestrian access by locating parking to the rear of the structure and providing entrances on the east/west commercial streets.

Regarding LU 18.7 and LU 7.2, the project is replacing a restaurant, a bookstore, a second hand store, a Metro PCS store, and a salon, the surrounding area includes several salons and restaurants in the nearby area that will maintain the cultural identity of the area. Furthermore, the current bookstore has been in place for less than 3 years. Again, the proposed project will include commercial space, which supports LU 7.2 in that small commercial spaces for neighborhood servicing uses is maintained along the Cesar E. Chavez Avenue corridor.

Appeal point 10 infers that the project was improperly categorized as a “corner market”. LU 5.3 of the Plan Update supports “the establishment of corner stores that provide fresh groceries and basic household goods within comfortable walking and rolling distance for all users of the surrounding neighborhood”. As noted above, the Plan Update has not been adopted, and therefore, is not the applicable plan. However, the proposed project is consistent with both the Plan Update and existing Community Plan. The proposed project provides a corner commercial space that will still be accessible to the surrounding neighborhood. Moreover, none of the existing businesses, which include a Metro PCS store, a secondhand retail store, a bookstore, a salon, and a restaurant, provide fresh groceries or basic household goods. Whereas, the proposed open commercial space could potentially house tenants that sell the fresh groceries and basic household goods listed under LU 5.3. Additionally, the proposed project includes a corner commercial space that meets Objective 1 of the Commercial subsection of Chapter III of the existing

Community Plan Update to provide additional opportunities for new commercial development and services.

Appeal Point 11 references LU 3.3 of the proposed Plan Update. As stated above, the Plan Update has not yet been adopted and, therefore, not applicable to the proposed project. However, the proposed project still satisfies the goals of the Plan Update along with the existing Community Plan. The project satisfies LU 3.3's objective of encouraging multifamily housing developments by providing 50 housing units along with approximately 6,500 square feet of Common Open Space at the second and roof levels. The spaces would provide more flexible outdoor space that can still be used for outdoor play areas, which is more than what the existing site currently provides. Appeal Point 18 references LU1.3 of the proposed Plan Update, however the proposed project is providing five (5) affordable units to the satisfaction of the Los Angeles Housing Department (LAHD) to replace and provide more units than the existing number of affordable units. By providing 50 new units that include five (5) affordable units to replace the three (3) existing units, the proposed project also meets the existing Community Plan, Residential Objective 1 "to conserve and improve housing for low- and moderate-income families".

Appeal points 21 and 22 indicate that the project does not protect the existing cultural institutions. These protections, although referenced in the Plan Update, are not included in the Goals and Objectives of the existing Community Plan, and cannot be applied in the review of the proposed project.

2) CEQA and Environmental Issues

Appeal points: 2, 6, 9, 12, 17

2. The project should require an Environmental Impact Report, not a Categorical Exemption.
6. CEQA is improper due to the effects on the Brooklyn Avenue Neighborhood Corridor, City of Los Angeles Historic Cultural Monument No. 590.
9. The project proposes the removal of two healthy 40-foot Indian Laurel Fig Trees.
12. The residents and neighbors will be affected by toxic plumes from soil excavation.
17. Categorical Exemption should not apply due to sewage spills.

Staff Response:

On August 31, 2023, the Department of City Planning determined the proposed project to be exempt from CEQA as the project was found to meet the findings required for a Class 32 Categorical Exemption (In-Fill Development Project) and issued a Notice of Exemption under ENV-2021-8628-CE. The project was found a) to be consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations; b) occur within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) located on a site has no value as habitat for endangered, rare or threatened species; d) would not result in any significant effects relating to traffic, noise, air quality, or water quality; and e) can be adequately served by all required utilities and public services. In addition, there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies. The appellant has not submitted any substantial evidence that the project will result in a significant environmental impact.

The project was found consistent with all applicable General Plan policies after weighing and balancing the competing policies in the General Plan, specifically, those goals, objectives, policies, and programs in the Framework Element, the 2021-2029 Housing Element and the current Boyle Heights Community Plan, as those are found at <https://planning.lacity.org/plans-policies/general-plan-overview>. The General Plan and the 2021-2029 Housing Element identify the critical need for more affordable housing to be built in the City of Los Angeles. The housing crisis affects most populations who are lower income and rent burdened particularly when the cost of transportation is factored into housing costs as a percentage of household income. There is an inadequate supply citywide of deed-restricted affordable housing in close proximity to transit, especially adequate housing for persons of Extremely Low to Low Income.

The project is consistent with the existing applicable Boyle Heights Community Plan designation and objectives, policies outlined below and implements important General Plan policies discussed in the project findings even if it does not implement other general plan policies:

Residential

- Objective 2 To provide new housing opportunities that accommodate a range of income needs, provide public amenities, and maximize the opportunities for individual choice.

- Objective 3 To improve the relationship between residential uses, the circulation system and the service system facilities (streets, schools, parks, fire, police, utilities).

- Policy 4 That Medium density housing be located near commercial corridors where access to public transportation and shopping services is convenient and where a buffer from, or a transition between, low-density housing can be achieved to the extent feasible.

The project proposes a mixed-use affordable housing development that provides 50 residential units including 5 units reserved for Extremely Low Income households, which is a net of 47 new residential dwellings on site within close proximity to public transit. This provides a greater choice in housing type, quality, and price for more segments of the population and in particular those that households occupants that qualify as Extremely Low Income which there is an inadequate amount of housing options.

Commercial

- Objective 2 To provide a range of commercial facilities at various locations to accommodate the shopping needs of residents, including persons of restricted mobility, and to provide increased employment opportunities within the Community.

- Objective 4 To improve the compatibility between commercial and residential uses.

- Policy 2 That community and neighborhood commercial centers be consolidated and deepened to stimulate existing businesses, create opportunities for new development and off-street parking,

- expand the variety of goods and services, and improve shopping convenience.
- Policy 5 That neighborhood markets and retail and service establishments oriented to the residents be retained throughout the Community, within walking distance of residents.
- Policy 7 That the City continue to encourage the use of private and public resources designed to stimulate commercial rehabilitation and new development.
- Policy 8 That new commercial development be oriented so as to facilitate pedestrian access by locating parking to the rear of structures and provide entrances oriented toward the east/west commercial streets to preserve the continuity of the streetscape and enhance the pedestrian environment.

The proposed project provides a corner commercial space that will still be accessible to the surrounding neighborhood. The project complies with the existing policies by orienting commercial development to facilitate pedestrian access by locating parking to the rear of the structure and providing entrances on the east/west commercial streets.

Public Transportation

- Objective 1 To maximize the effectiveness of public transportation to meet the travel needs of transit-dependent residents.
- Objective 2 To encourage alternate modes of travel and provide an integrated transportation system that is coordinated with land uses and which can accommodate the total travel needs of the Community.

The project site is located in a TOC Tier 3 area that is less than .5 miles from the Metro L Line Station (formerly Gold Line). The project would develop a mixed-use affordable housing development that provides 50 residential units including 5 units reserved for Extremely Low Income households, approximately 4,030 square feet of ground floor commercial space that is within close proximity to public transit.

The Project's consistency with the General Plan is supported in the project findings and the entire administrative record on the basis, among other reasons, that the project provides medium density affordable housing within proximity to transit, provides commercial space that is pedestrian oriented and within walking distance from surrounding residents.

Appeal Point 2 states that the project is improperly categorized under CEQA, and Appeal Point 12 expresses concerns regarding toxic plumes from excavated soil. The site itself is not identified in Envirostor, the State of California's database of Hazardous Waste Sites, and the Department of Toxic Substances Control (DTSC) Preliminary Investigation Area (PIA). The project has been reviewed with available government portals and websites and has been found to not be a contaminated site. The site does not have a history of prior uses that may have raised concerns about onsite contamination or hazardous waste. Additionally, the project site is located approximately 1.3 miles from the Department of Toxic Substances Control Preliminary Investigation Area clean up boundary area and approximately 2.5 miles from the Exide facility. The project would be subject to local, state,

and federal regulations and standards for seismic safety and other geologic hazards. Compliance with these regulations would ensure that significant impacts would not occur. Moreover, a Soils Engineering Investigation, dated March 2, 2021, and a Soils Report Approval Letter, issued by LADBS and dated March 26, 2021, were submitted for the case and are attached as Exhibits G1 and G2.

Appeal Point 9 references the removal of two healthy Street Trees along Cesar E. Chavez Ave. The project does not propose the removal of Street Trees along Cesar E. Chavez Ave. The removal of Street Trees would require a Street Tree Removal permit from the Board of Public Works and would require a Street Tree replacement at a 2:1 ratio as a removal permit requirement. The project is providing 11 on-site trees and maintaining 2 existing street trees along Cesar Chavez Avenue.

Appeal Point 6 indicates that the project would have adverse effects on the Brooklyn Avenue Neighborhood Corridor. The Appellant has failed to demonstrate how the project will cause a substantial adverse change in the significance of a historical resource but merely states it's in a historically sensitive area. While the site is within the Brooklyn Avenue Historic Corridor (Cesar E. Chavez Avenue, between Cummings Street and Mott Street), which is Los Angeles Historic Cultural Monument No. 590, the project site and the buildings proposed for demolition themselves have not been identified as a historic resource by local or state agencies, and the project site has not individually been determined to be eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register. The site, individually, was not found to be a potential historic resource based on the City's HistoricPlacesLA website, SurveyLA, the citywide survey of Los Angeles and the Intensive Adelante Eastside Redevelopment Area Historic Resources Survey. In addition, the Office of Historic Resources reviewed the proposed project for compatibility with the Brooklyn Avenue Historic Corridor. Per correspondence dated August 18, 2023 and provided in Exhibit G5, the Office of Historic Resources determined that the existing building is not a historic resource or contributor, and the newly proposed project would be compatible with the Brooklyn Avenue Historic Corridor. Based on this, the proposed project will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.

Appeal Point 17 quotes a sewage spill from 2016, which closed all beaches in Long Beach and Seal Beach. The project site is located several miles from the beaches that were closed temporarily several years ago. The appellant failed to provide substantive evidence to support its assertion that the project was incorrectly categorized under CEQA.

3) Neighborhood and Public Input

Appeal Points: 3, 24, 25

3. The community and Boyle Heights Neighborhood Council opposed the project and the Letter of Opposition was not included in the Letter of Determination.
24. An online petition opposing the project includes over 200 signatures.
25. The Applicant does not do business in good faith.

Staff Response:

Several Appeal Points include opinions regarding the proposed project. Appeal point 3 indicated that the Letters of Opposition were not included in the Letter of Determination.

Letters of Opposition are not included as attachments but, following standard practice, were reviewed by the Director and referenced in the Letter of Determination on page 9, along with references to the Letters of Support for the project. Copies of the Letters of Opposition and Support are included in the physical case file and provided as Exhibit F. Appeal points 24 and 25 provides additional information indicating that there is an online petition opposing the project and that the Property Owner does not do business in good faith. These comments have been taken into consideration but cannot be the sole basis to grant or deny a project under the Los Angeles Municipal Code.

4) Affordability

Appeal Points: 4, 14, 18, 19

4. The project has failed to follow proper procedures under the Ellis Act in order to withdraw the three RSO units.
14. The project does not provide enough affordable housing for the community.
18. The project does not plan for displaced residents, legacy businesses, and cultural institutions that align with the Plan Update.
19. The project does not indicate the cost of renting a commercial space in the proposed commercial ground floor space.

Staff Response:

Appeal Point 14 indicated that the project does not provide enough affordable housing for the community. On September 16, 2021, the Los Angeles Housing Department issued an SB 8 Replacement Unit Determination (RUD), which identified three (3) protected and rent stabilized units, provided in Exhibit G4. No income information was submitted by the Owner when the RUD application was submitted. Tenant letter packages were mailed to all three (3) units at the Property. No income information was provided by the occupants in the units. Pursuant to SB 330, where incomes of existing or former tenants are unknown, the required percentage of affordability is determined by the percentage of Extremely Low, Very Low, and Low Income rents in the jurisdiction as shown in the HUD Comprehensive Housing Affordability Strategy (CHAS) database. Based on the information under CHAS, LAHD's determined that a minimum of three (3) affordable units are required to be replaced with one unit restricted to Extremely Low Income Households, one unit restricted to Very Low Income Households, and one unit restricted to Low income Households. The project is proposing five (5) units for Extremely Low Income Households which exceeds the 3 replacement RSO units required.

Appeal point 4 references improper procedure under the Ellis Act to withdraw units from the market. LAMC Section 151.22 provides the Landlord with 120 days' notice, or one year if the tenants lived in the accommodations for at least one year and are more than 62 years of age or disabled, when rental units subject to the RSO are to be withdrawn from the rental market. The project does not specify a timeline and therefore does not indicate that the Landlord cannot still abide by this requirement.

Appeal point 18 again references the Boyle Heights Community Plan Update, which has not yet been adopted. Appeal Point 19 expresses concerns regarding the affordability of the Project. Providing future rent levels is not a requirement of the Los Angeles Municipal Code. However, the proposed project will add two additional affordable units to the housing stock in the area and include a total of five affordable units.

5) Traffic

Appeal Points: 5, 13

5. The project's impact on traffic should not allow the project to qualify for CE 32.
13. The tenants and surrounding residents will be impacted from the lack of parking.

Staff Response:

Appeal Points 5 and 13 express concerns regard the impact on traffic and insufficient parking in the area. The project is required to provide 25 residential parking spaces and 8 commercial parking spaces. The project proposes 32 residential parking spaces and 8 commercial parking spaces for a total of 40 vehicular parking spaces. Moreover, the site is within a Tier 3 Transit Oriented Communities (TOC) area and an AB 2097 Reduced Parking Area. Projects located in a Tier 3 TOC area require that all proposed residential units shall not exceed 0.5 spaces per unit and AB 2097 is a California law that prohibits public agencies or cities from imposing a minimum automobile parking requirement on most development projects located within a half-mile radius of a major transit stop. By providing more spaces than required, the project has satisfied the parking requirements for the site.

All concerns related to traffic have been addressed in the record. The appellant provided a map under Attachment G of Exhibit C marking several residential Local Streets behind the proposed project. The project will be required to use the streets identified in the Environmental File for Haul Route purposes, which includes larger arterial streets. None of the streets indicated in the appeals would be used for hauling. Additionally, a Traffic Study Assessment Referral Form, signed on August 3, 2022 by the Department of Transportation and provided in Exhibit G3, indicated that the proposed project falls below the threshold of requiring a traffic study under CEQA and new trips generated from the proposed project would not require Vehicle Miles Traveled Analysis.

6) Historic Character

Appeal Points: 6, 7, 16

6. The project is improperly categorized under CE32 due to the adverse effects on historical resource Brooklyn Avenue Neighborhood Corridor, City of Los Angeles Historic Cultural Monument No. 590.
7. The project's scale will disrupt the historical integrity of the neighborhood.
16. The façade is not characteristic of the Brooklyn Avenue Neighborhood Corridor.

Staff Response:

Appeal points 6, 7, and 16 relate to the project's design and integration with the historic character of the Brooklyn Avenue Neighborhood Corridor. The Appellant does not demonstrate how the project will cause a substantial adverse change in the significance of a historical resource but states it is in a historically sensitive area. Appeal point 7 references LU 18.1 to 18.3 of the proposed Plan Update, which encourages the preservation of historic resources and provides design standards that guide infill development in areas with an identified historic character to ensure that new buildings reinforce the historic scale. Although the project site is located within the Brooklyn Avenue Neighborhood Corridor, City of Los Angeles Historic Cultural Monument No. 590, the project site itself has not been identified as a historic resource by local or state agencies; the project site has not been determined to be eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-

Cultural Monuments Register, and/or any local register; and was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles. Because of the project site's location within the map area shown as Brooklyn Avenue Neighborhood Corridor, the proposed project required review by the Office of Historic Resources to ensure that the proposed project does not negatively impact the character defining features of the Brooklyn Avenue Neighborhood Corridor and the proposed development is compatible with the Brooklyn Avenue historic corridor. However, and most importantly, the project site and buildings are not listed as District Contributors in the Intensive Adelante Eastside Redevelopment Area Historic Resources Survey. Additionally, as shown in the correspondence dated August 18, 2023 (Exhibit G5), the Office of Historic Resources determined that the existing building is not a historic resource or contributor, and the proposed project is compatible with the Brooklyn Avenue Historic Corridor. Based on this, the proposed project will not result in a substantial adverse change to the significance of a historic resource. Therefore, the project does not trigger the historic resources exception under CEQA Guidelines Section 15300.2(f).

On November 9, 1993, Council File 93-0907 resolved that the City Council "designate[d] the historic Brooklyn Avenue Neighborhood Corridor (public right-of-way) as a Historical Cultural Monument with appropriate signage", which included the area along Cesar E. Chavez Avenue between Cummings Street and Mott Street. In October 2008, the Adelante Eastside Intensive Survey (Exhibit G8) was included as part of the adoption of the Adelante Eastside Redevelopment Plan. The Intensive Survey inadvertently cited that all 90 parcels were designated as part of the Brooklyn Avenue Neighborhood Corridor Historical Cultural Monument designation, as shown on page 103. This statement in the Intensive Survey is incorrect, as the City Council action through Council File 93-0907 clearly shows that only the public right-of-way was designated as part of the HCM. Only the public right-of-way was designated as the Brooklyn Avenue Neighborhood Corridor, and not the individual parcels.

Additionally, on page 104, the Intensive Survey lists the buildings located along Cesar E. Chavez Avenue that are part of the Cesar Chavez Business District and which may be eligible to be designated as a historic resource. None of the addresses listed under the "District Contributors" include the addresses of the Proposed Project.

Further consultation with the Office of Historic Resources resulted in additional confirmation (Exhibit G6) that the 2008 Community Redevelopment Agency's historic resources survey is incorrect and that the Historic Cultural Monument designation from 1994 (Exhibit G7) only includes the public right-of-way. The project will not impact a historic resource on site, as none exists, and will not harm the character defining features of the Brooklyn Avenue Neighborhood Corridor Historical Cultural Monument. There will be no impact to a historic resource.

7) Additional Comments

Appeal Points: 8, 15, 20, 23, 25

- 8. The project does not indicate proper protections against heat for the tenants.
- 15. The project fails to protect the cultural integrity for the *musicos norteros*.
- 20. The project will cause a domino effect of redevelopment.
- 23. The project unfairly commemorates the musicians with mariachi branding.
- 25. The applicant does not do business in good faith.

Staff Response:

Several Appeal Points include concerns that are speculative and the appellant did not provide evidence as to how the Project does not meet the findings for approval of the project. Appeal Point 8 references Air Conditioning units. The Department of Building and Safety will be enforcing building requirements. Issues regarding heat and glare will be addressed through compliance with the Green Building Code. Appeal Points 15 and 23 reference the protection of *musicos norteros* and improper labelling of *mariachi*. Appeal Point 20 referencing a domino effect of redevelopment is speculative and does not include evidence to support this claim. Appeal Point 25 references the character of the Landlord. These issues are not basis to grant or deny the project under the Los Angeles Municipal Code. Therefore, the Director's approval was appropriate.

Conclusion

For the reasons stated herein, and in the findings of the Director of Planning's Determination, the proposed project complies with the applicable provisions of the Adelante Eastside Redevelopment Plan and the California Environmental Quality Act (CEQA). Planning staff evaluated the proposed project and determined it meets the threshold to approve a Redevelopment Plan Project Compliance Review and that the project qualifies for a Class 32 Categorical Exemption. Based on the complete plans submitted by the applicant and considering the appellant's arguments for appeal, staff has determined that the project continues to meet the required findings.

Therefore, staff recommends that the Area Planning Commission deny the appeal, approve the proposed project, and adopt the Conditions of Approval and Findings of the Director of Planning.

G – Environmental Studies and Supporting Documents

**G6 – Office of Historic Resources Correspondence II dated November 2, 2023, and
November 3, 2023**



Bryant Wu <bryant.wu@lacity.org>

Case Number DIR-2021-8626-RDP-HCA-1A

Lambert Giessinger <lambert.giessinger@lacity.org>

Fri, Nov 3, 2023 at 3:29 PM

To: Jane Choi <jane.choi@lacity.org>, Bryant Wu <bryant.wu@lacity.org>, Chi Dang <chi.dang@lacity.org>

Cc: Ken Bernstein <ken.bernstein@lacity.org>

Resending to correct address typo.

Dear Team,

I am sending this communication to confirm that the above-referenced project does not impact any historical resources - either designated or potential. The subject property, located at [2115-2125 E. Cesar E. Chavez Avenue](#) and 301-309 N. Chicago Street is adjacent to the Brooklyn Avenue Neighborhood Corridor, Historic-Cultural Monument #590, designated in 1994. The HCM encompasses the public right-of-way along Cesar E. Chavez Avenue between Cummings Street and Mott Street and does not include the adjacent private properties. The HCM was designated in recognition of the former Brooklyn Avenue (renamed Cesar E. Chavez in 1994) and its association with the Jewish community in Boyle Heights. The project does not encroach onto the public right-of-way and, therefore, will not impact the HCM.

The subject property is also located within the Adelante Eastside Redevelopment Project Area. The former Community Redevelopment Agency commissioned an historic resources survey in 2008 to identify potential historic resources within the plan area. The survey identified a potential historic district called the Cesar Chavez Business District located between Cummings Street and Mott Street:

The Cesar Chavez Business District consists of 32 commercial buildings located along Cesar Chavez Avenue. Constructed between 1906 and 1939. The contributing commercial buildings are mostly brick with minimal decorative brickwork or glazed brick ornamentation. There are four early twentieth-century commercial buildings, four Renaissance Revival buildings, thirteen single-story 1920s brick commercial buildings, nine 2-story 1920s residential and commercial buildings, and two 1930s commercial buildings in the Cesar Chavez Avenue Business District. The existing contributing buildings were constructed to accommodate the commercial needs of the Boyle Heights neighborhood as it developed during the first half of the twentieth century.

The subject property was not identified as a contributing property to the Cesar Chavez Business District potential historic district. The architectural design of the proposed project is compatible with the brick, vernacular style of the nearby contributing properties through the use of simple materials, tripartite design, punched openings and minimal detailing. Most notably, it is compatible with the contributing building across the street at [2127-33 E. Cesar E. Chavez Avenue](#).

Please let me know if there is any additional information I can provide.

Lambert

**Lambert Giessinger**

Senior Architect

Los Angeles City Planning**Office of Historic Resources**

221 N. Figueroa Street, Suite 1350

Los Angeles, CA 90012

T: (213) 847-3648 | Planning4LA.org



Bryant Wu <bryant.wu@lacity.org>

Adelante Eastside Redevelopment Project Area Historic Resources Survey

Lambert Giessinger <lambert.giessinger@lacity.org>

Thu, Nov 2, 2023 at 4:05 PM

To: Jane Choi <jane.choi@lacity.org>, Chi Dang <chi.dang@lacity.org>, Bryant Wu <bryant.wu@lacity.org>

Cc: Ken Bernstein <ken.bernstein@lacity.org>

Dear Team,

I am sending this email to confirm that the highlighted text in the 2008 Community Redevelopment Agency's (CRA) historic resources survey for the Cesar Chavez Business District (survey pages attached), completed as part of the Adelante Eastside Redevelopment Project Area, is incorrect. When the CRA's consultant (PCR) undertook the survey, they must have assumed that the City's 1994 action to designate the public right-of-way of the former Brooklyn Avenue Corridor (Historic-Cultural Monument #590) included the adjacent properties. It does not. The HCM designation only includes the public right-of-way (See Council File 93-0907). Please let me know if there's any additional clarification I can provide.

Lambert

**Lambert Giessinger**

Senior Architect

Los Angeles City Planning**Office of Historic Resources**

221 N. Figueroa Street, Suite 1350

Los Angeles, CA 90012

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**Adelante District_DPR Forms_0.pdf**

94K

G – Environmental Studies and Supporting Documents

G7 – Excerpts from Council File 93-0907

Council File 93-0907

Weblink –

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=93-0907>

CITY OF LOS ANGELES
CALIFORNIA

NANCY RUSSELL
City Clerk

J. Michael Carey
Executive Officer

When making inquiries
relative to this matter
refer to File No.

93-0907



RICHARD J. RIORDAN
MAYOR

Office of
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - 485-5703
General Information - 485-5705

Pat Healy
Chief Legislative Assistant

CD 1, 9, 14

November 9, 1993

CORRECTED LETTER

See attached committee report

Cultural Heritage Commission (with file)
All City Departments
All Boards & Commissions
Bureau of Engineering,
Land Development & Mapping Division

RE: CHANGING THE NAMES OF BROOKLYN AVENUE, MACY STREET AND
SUNSET BOULEVARD BETWEEN INDIANA STREET AND FIGUEROA STREET
AND ESTABLISHING THE SAME AS CESAR E. CHAVEZ AVENUE, EFFECTIVE
MARCH 31, 1994

At the meeting of the Council held October 13, 1993, the following
action was taken:

Attached report adopted as amended.....	X
" motion " ()	
" resolution " ()	
Ordinance adopted.....	10-22-93
Motion adopted to approve attached report.....	
" " " " communication.....	
To the Mayor FORTHWITH.....	X
Ordinance Number.....	169111
Re-published Date.....	11-04-93
Effective date.....	03-31-94
Mayor vetoed.....	
Mayor approved.....	10-29-93
Mayor failed to act - deemed approved.....	
Findings adopted.....	
Negative Declaration adopted.....	
Categorically exempt.....	
Generally exempt.....	
EIR certified.....	
Tract map approved for filing with the County Recorder.....	
Parcel map approved for filing with the County Recorder.....	
Bond approved is No. _____ of Contract.....	
Agreement mentioned therein is/are No. _____ of contracts.....	

Nancy Russell

City Clerk
crm



TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your

PUBLIC WORKS COMMITTEE

reports as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	<u> </u>

PUBLIC WORKS COMMITTEE REPORT and ORDINANCE relative to approving the name change for Brooklyn Avenue, Macy Street and Sunset Boulevard between Indiana Street and Figueroa Street to Cesar E. Chavez Avenue as proposed by the motion (Alatorre-Hernandez-Holden) (Public Hearing Required)

Recommendations for Council action, as recommended by the City Engineer:

1. FIND that the public interest, convenience and necessity require the subject name change.
2. APPROVE the name change for Brooklyn Avenue, Macy Street and Sunset Boulevard between Indiana Street and Figueroa Street to Cesar E. Chavez Avenue.
3. PRESENT AND ADOPT ORDINANCE effectuating this name change and establishment effective ~~October 1, 1994~~ March 31, 1994.
4. RESOLVE that the City Council recognizes the historical and cultural significance of Brooklyn Avenue between Cummings Street and Mott Street; and recommends that the Cultural Heritage Commission designate the historic Brooklyn Avenue Neighborhood Corridor (public right-of-way) as a Historical Cultural Monument with appropriate signage.

SUMMARY

The City Engineer reports that on May 11, 1993, under Council File # 93-0907, the City Council adopted the motion (Alatorre-Hernandez-Holden) to initiate proceedings in accordance with Division 19 of L.A. Administrative Code to implement changing the names of Brooklyn Avenue, Macy Street and Sunset Boulevard between Indiana Street and Figueroa Street to Cesar Chavez Avenue as shown in red on the Exhibits "A" and "B" attached to the file.

The proposed name change would be in honor of Cesar E. Chavez, the deceased leader of the United Farm Workers' Union.

ADOPTED AS AMENDED by Ccl action of 10-13-93

On July 23, 1993, the City Engineer, by letter, notified the owners and occupants of the properties abutting these streets. Subsequently, twenty-eight letters in opposition were submitted. A petition, containing 1565 signatures in opposition, was submitted on August 20, 1993. Of the 1565 signatures, 222 were from owners and occupants on Brooklyn Avenue and 1343 were from other members of the community who do business and visit Brooklyn Avenue.

Those persons objecting to the change on Sunset Boulevard cite the significance of the name throughout the world, and the cost to change records for businesses. This is primarily a part of Chinatown. Those persons on Brooklyn Avenue cite economic hardships to both the businesses and private residents of Brooklyn Avenue, and that the name is synonymous with East L.A. The name will also cause confusion to out-of-town visitors.

As indicated in the motion (Alatorre-Hernandez-Holden) as supplemented by the Committee hearing on September 13, 1993:

On April 22, 1993, this country lost one of its most noted leaders in the struggle to improve working conditions for the disenfranchised and migrant farm workers in this country. Since 1952, Cesar Chavez and the organization he created, the United Farm Workers (UFW), worked unceasingly to raise the conscience of America, exposing the appalling conditions and battling racial and economic discrimination that faced farm workers. Through these efforts, campaigns were successfully waged in a non-violent manner practiced by M.K. Gandhi and Dr. Martin Luther King bringing about meaningful reform.

Although the death of Cesar Chavez is a tragic loss to the nation, his goals and aspirations should not perish. It is important to honor Cesar Chavez for these accomplishments and to show support for the continuance of his work.

Previously, the City Council renamed Santa Barbara Avenue as Martin Luther King, Jr. Boulevard to honor his legacy. As with Dr. Martin Luther King, the City should continue its commitment in recognizing such individuals by honoring Cesar E. Chavez for his dedication to human dignity.

At the hearing on September 13, 1993 there was overwhelming Community support for the name change from all levels of governments in addition to the City and County of Los Angeles as evidenced by testimony presented by elected officials from the House of Representatives, State Legislature, and Board of Education representing East Los Angeles.

It is noted that the County of Los Angeles will also be considering the extension of the renaming of Brooklyn Avenue to Cesar E. Chavez within the County territory extending from Indiana Street easterly to Monterey Park, which is also considering the name change in their jurisdiction. In this regard, Supervisor Gloria Molina was present at the hearing in a fact-finding mission for the County.

Councilman Alatorre of the 14th District and Councilman Hernandez of the 1st District, who together represent almost all of the area affected by the name change, both indicated their strong support for the ideals of the name change as indicated in their motion proposing the name change.

There was support from a broad section of Community, including representatives of such community and national organizations as NAPA, H.E.R.E. and Amnesty International and academic proformas from U.C.L.A. The United Farm Workers sent a full delegation to the hearing and fully endorsed the proposal.

Your Committee endorses the proposed name change noting that Brooklyn Avenue serves as a major thoroughfare through a community that is strongly identified with the movement to which Cesar Chavez devoted his life. It geographically connects Olvera Street, the birthplace of the Mexican-American culture in Los Angeles and East Los Angeles College, a vital institution of higher education which continues to serve the surrounding communities. The proposal will provide an appropriate recognition of the leadership provided by Cesar E. Chavez in the struggle for justice and dignity and serve as a positive role model for Latinos living in East Los Angeles.

At the Committee hearing, the City Engineer comments were reinforced by the businesses on the affected streets that there could be a substantial cost to ordering new business stationary and that customers needed to be notified of such change.

There was concern presented at the hearing that the significance of the past Jewish community heritage and the western migration into Boyle Heights & East Los Angeles from Brooklyn New York and the East Coast would be lost. This problem was particularly noted by the Jewish Historical Society of Southern California.

In addition, being cognizant of the concerns expressed and the heritage of the area, your Committee is also recommending:

- I. That the effective date of the name change be delayed until October 1, 1994 to give business owners and residents sufficient time to order business stationary or letterheads, to notify customers or friends, and for post office changes.
- II. That a resolution be adopted whereby the City Council would recognize the historical and cultural significance of Brooklyn Avenue between Cummings Street and Mott Street; and would have the Cultural Heritage Commission designate the historic Brooklyn Avenue Neighborhood corridor (public right-of-way) as a Historical Cultural Monument with appropriate signage.

III. That the middle initial "E" be added to Cesar Chavez Avenue to more precisely designate the honoree as this is not an uncommon Spanish name. It is also noted that the proposal of the County of Los Angeles would also use this initial.

Respectfully submitted,

PUBLIC WORKS COMMITTEE

Richard Alvarin
Jackie Goldberg

CBP:crm
09/27/93
CDs 1,9 and 14

reports\#930907

**ORD.
ADOPTED**

OCT 22 1993

LOS ANGELES CITY COUNCIL

TO THE MAYOR FORTHWITH - 4 -

Rept
ADOPTED
**as amended*
OCT 13 1993

LOS ANGELES CITY COUNCIL

Ord over to October 22, 1993

Sheri L. Bonstelle
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December 10, 2023

BY EMAIL

President Yap and Members of the
East Los Angeles Area Planning Commission
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012
Attn: Neverly Ann Hill, Commission Executive Assistant
apceastla@lacity.org

Re: 2115-2121 East Cesar Chavez Avenue
DIR-2021-8626-RDP-HCA-1A
Hearing Date: December 13, 2023 Item 5

Dear President Yap and Members of the East Los Angeles Area Planning Commission:

We represent Cesar Chavez 888, LLC, the Owner and Applicant of the multifamily project at 2115-2121 East Cesar Chavez Avenue and 301-309 N. Chicago Street, Los Angeles, CA (the "Property"). The Owner proposes to demolish two existing one-story mixed-use buildings, with a total of three (3) rent stabilized ("RSO") residential units and commercial space, and develop a new six-story, 75-foot high mixed-use building with 50 residential units, of which five (5) units are reserved for extremely low income households, and 4,000 square feet of commercial use. (the "Project") On August 31, 2023, the City Planning Director issued a Letter of Determination ("LOD") approving the Redevelopment Plan Project Compliance Review for the Adelante Eastside Redevelopment Plan area ("Redevelopment Plan") and a Class 32 CEQA Infill Exemption for the Project. The Project also complies with the Transit Oriented Communities Affordable Housing Incentive Program ("TOC") (LAMC § 12.22.A.31), which is a ministerial review, and not appealable. An existing commercial tenant, Re/Arte Centro Literario, appealed the City's LOD, and the City Planning Staff issued a staff report ("Staff Report") to the East Los Angeles Area Planning Commission ("East LA APC") providing substantial evidence in the record to deny the appeal, and sustain the City's LOD, including the Class 32 CEQA Exemption, for the multi-family mixed use Project.

On December 1, 2023, the Office of Councilmember Kevin de Leon submitted a letter to the East LA APC stating that the zoning entitlements for the Project comply with the City's regulatory scheme and TOC program, but asking the Commission to consider the larger context in the community, including displacement of tenants, removal of RSO units, proposed demolition moratorium, and proposed Boyle Heights Community Plan Update. While these issues are

significant to the community, the information is not entirely accurate or applicable to the Project. This Project will actually create more affordable units than the existing three RSO units, with greater affordability, and will allow the existing tenants to return and occupy the units, in compliance with State law. The Project application was filed in October 2021, and the LOD issued in August 2023; therefore, the Project application is vested as to any subsequently adopted planning ordinances, and the East LA APC may only consider whether the Planning Director erred or abused its discretion in approving the Project entitlements. The proposed Boyle Heights Community Plan Update has not yet been adopted by the City Council, and so does not apply to the Project. However, the Project does comply with the proposed conditions referenced in this letter, including providing 10% of the units affordable to extremely low income households, and allowing the existing tenants to return to the new affordable units. Again, the proposed ordinance opposing demolitions of RSO units has not been adopted by City Council, and does not apply to the Project, but would violate the State Ellis Act, which specifically allows landlords to demolish rental buildings, and the Housing Accountability Act, which prohibits downzoning and includes specific residential replacement requirements.

This Project will provide much needed residential development to address the City's housing crisis, and maintain the ground level commercial space to create an active street front and support local businesses. We request that the East LA APC deny the Appeal, and approve the Project consistent with the City Staff Report recommendation and local and State housing laws.

I. The Project complies with the residential unit replacement requirements, provides more affordable units at greater affordability than the existing three RSO units, provides a right to stay until six months before construction, and allows the existing protected residential tenants to return to the new building in compliance with State law.

On September 16, 2021, the Los Angeles Housing Department ("LAHD") issued an SB330 Replacement Unit Determination ("RUD") for the Project. (See Staff Report, Exhibit G4) It determined that the Property has three occupied units subject to the RSO, and that the TOC Project would require three (3) replacement units, including: one (1) unit affordable to extremely low income households, one (1) unit affordable to very low income households, and one (1) unit affordable to low income households. (See Staff Report, A-8) The RUD also described the State relocation fee, right to return and right to remain for protected tenants:

"Relocation, Right of Return, Right to Remain for Occupants of Protected Units"

SB330 also provides the right of first refusal for comparable units (ie same bedroom type) in the owner's proposed new housing development to occupants of Protected Units. Therefore, for occupied units, the replacement units must be of the same bedroom type of the units demolished. The comparable replacement units must be provided at a rent or sales price affordable to the same or lower income category. Occupants of Protected Units are also entitled to receive relocation to

state or local law, which ever provides greater assistance and the right to remain in their unit until six (6) months before the start of construction.”

The LOD (p.2) requires that the Owner comply with all of the requirements of the RUD, including the replacement, right to return, and right to remain for the protected tenants. Therefore, the existing residential tenants in the three RSO units will have the right to return to the new building in a comparable unit and pay a rent consistent with their household income level.

The RUD requires three (3) affordable replacement units, but the Project will provide a total of five (5) units affordable to extremely low income households, and 45 market rate units. Therefore, the Project provides a greater number of units (5 instead of 3) at a greater level of affordability (all affordable to extremely low income households) than what the RUD requires. In addition, the Project will provide a net increase of 47 residential units, which will address the City’s continued housing crisis.

The Appellant claims that the Project lacks a plan for displaced residents, and that the Owner failed to provide the required notice for eviction under the State Ellis Act. As stated above, the tenants will have the right to return under State law. The Owner will also be required to comply with all of the provisions of the State Ellis Act (Gov’n Code § 12.75) and the City’s RSO (LAMC § 151.22 *et seq.*) for notice to tenants, eviction, payment of relocation fees, and right of return, prior to demolition of the buildings on the Property. The Ellis Act/RSO notices were not required prior to filing the planning entitlements for the Project.

II. The Project is a ministerial Transit Oriented Community (TOC) project that fully complies with the discretionary Redevelopment Plan Project Compliance findings.

The Project is a ministerial TOC Tier 3 multi-family housing development project, which required discretionary Project Compliance Review for consistency with the Adelante Eastside Redevelopment Plan. Pursuant to LAMC § 11.5.14.D.5(d), the Planning Director must grant a Project Compliance if the Project: (a) Substantially complies with the relevant Redevelopment Regulations, findings, standards and provisions of the Redevelopment Plan, (b) Is subject to all of the conditions required by the relevant Redevelopment Regulations, (c) complies with CEQA, and (d) Any other findings that are required by the Redevelopment Plan. The LOD provides substantial evidence in the record that analyzes the regulations, policies, and objectives regarding residential and commercial development in the Redevelopment Plan, and determines that the Project fully complies. (LOD pp. 6-13). These findings specifically address cultural and historical character, assessment, and compatibility. The Appellant fails to provide any substantial evidence in the record that the Project does not comply with the Redevelopment Plan regulations, policies, and

objectives, and each of the Appellant's claims were refuted in detail in the City's Staff Report. Additional information to refute the Appellant's claims are set forth in this letter below.

III. The Project provides sufficient parking in compliance with TOC standards for Tier 3 qualifying projects.

The Project is a Tier 3 TOC multi-family project. For Tier 3 TOC Projects, a minimum of .5 spaces per unit is required, which would total 25 parking spaces for the residential units. As stated in the LOD's Conditions of Approval, the Project provides 32 parking spaces for the 50 residential units, and an additional 8 commercial parking in compliance with LAMC § 12.21.A.4(c) based on the commercial floor area. (LOD p. 2) Therefore, the Project provides 8 parking spaces more than required by code. In addition, AB 2097 is a State law that prohibits public agencies or cities from imposing a minimum automobile parking requirements on most development projects located within one half mile of a local transit stop. Therefore, under State law, the Project requires no parking, except as otherwise specifically required (such as for ADA).

The Appellant claims that the Project fails to provide sufficient parking, which will impact tenants and neighbors. However, the Project exceeds the parking under local code and State law, and therefore, the Project does not have a significant parking impact.

IV. The Project complies with the requirements for a Class 32 CEQA Exemption, and there are no exceptions to the exemption.

The LOD determined that the Project complied with the Class 32 CEQA exemption for in fill projects (CEQA Guidelines § 15332), because (a) it was consistent with the Regional Center Commercial General Plan designation and policies and C2-1-CUGU Zoning designation and regulations, (b) the Property was less than 5 acres, (c) the Property is not protected habitat, (d) the Project would not result in significant impacts to traffic, noise, air quality or water quality, and (e) the site can be served by utilities and public services. The Staff Report provides additional substantial evidence to support this finding (LOD p. 8, Staff Report, Exhibit C). The Transportation Assessment Form, dated August 3, 2022 by LADOT staff, concluded that a VMT traffic analysis would not be required because there was less than 250 additional trips generated by the Project. (Exhibit C, p. 2) Therefore, the Project does not have any significant traffic impacts. The City determined that the Project would be required to comply with Regulatory Compliance Measures ("RCMs"), including with the City's Noise Ordinance for construction and operational noise; therefore, the Project does not have any significant noise impacts. The Project would be subject to RCMs for pollutant discharge, dewatering and stormwater mitigations and Best Management Practices for stormwater runoff; therefore, the Project would not have a significant impact to water quality. According to SCAQMD, individual construction projects that do not exceed the SCAQMD's recommended daily thresholds for project-specific impacts would not cause a cumulatively considerable increase in emissions for this pollutants for which the Air Basin is in non-attainment. Construction related daily emissions at the Project would not exceed

SCAQMD's regional or localized significance thresholds, therefore, the Project's contribution to cumulative construction-related emissions would not be cumulatively considerable. Therefore, the Project construction would have a less than significant impact on localized air quality emissions. The LOD determined that the Project will not have a negative effect on the environment and no mitigation measures are required.

The LOD and Staff Report determined that no exceptions to the CEQA exemption apply to the Project. The Staff Report provides substantial evidence that the Project does not qualify for the exceptions for cumulative impacts, significant effect, scenic highways, hazardous waste sites, and historic resources. (Exhibit C, p. 3)

The Appellant claims that an EIR should be prepared and the Class 32 CEQA exemption does not apply, for numerous reasons. The first is that a historic Exide plant caused pollution to the neighborhood, the excavated soil will cause toxic plumes, and that there were sewage spills in 2016 that should preclude an exemption. As stated in the Staff Report, the Property is not identified in Envirostar, the State's Hazardous Waste Sites, and the DTSC Preliminary Investigation Area. The Property was reviewed with government portals and websites, and determined that it is not a contaminated site. It is located more than 1.3 miles from the DTSC Preliminary Investigation Area cleanup boundary, more than 2.5 miles from the Exide site, and several miles from the sewage spill that closed several beaches in 2016. Moreover, a Soils Report Approval Letter by LADOT, dated March 26, 2021 supports that the Property does not have hazardous materials (Exhibits G1, G2). Therefore, there is no CEQA exception for hazardous materials. The Appellant claims that the Project will cause traffic impacts, but as stated above, the Project does not even meet the minimum VMT thresholds and will not cause a significant traffic impact. The Appellant claims that the Project will remove two Laurel Figs street trees; however, this is not correct. The Project will retain the two Laurel Fig street trees and add 11 additional on-site trees. The removal of any street trees would require a Street Tree Removal Permit, replacement at 2:1, and approval by the Board of Public Works. (Staff Report, A-7)

As stated in the Staff Report, page A-4, the Appellant has not provided substantial evidence in the record that the Project will result in a significant environmental impact, or that the Project does not qualify for a Class 32 CEQA exemption.

V. The City Council has not yet adopted the Boyle Heights Community Plan Update, and therefore, it does not apply to the Project.

The Project application was submitted on October 14, 2021, and assigned a planner and deemed complete on April 25, 2022. The Planning Director issued the LOD approving the Project and CEQA exemption on August 31, 2023, and the decision was appealed by the Appellant on September 15, 2023. As of December 10, 2023, the City Council has not yet adopted the Boyle Heights Community Plan Update, and it has not become effective; therefore, the provisions of the Boyle Heights Community Plan Update do not apply to the Project. The Staff Report has identified

numerous provisions of the proposed Update, and described compliance with these provisions to show an intent to comply. However, the Project is not legally required to comply.

When considering an appeal from the decision of an initial decision-maker, the appellate body shall make its decision, based on the record, as to whether the initial decision-maker erred or abused his or her discretion. (LAMC § 12.24.I) This determination is based on laws, ordinances and policies in effect on the date that the decision was made, and not subsequently enacted laws, ordinances, and policies. Therefore, the East LA APC may not consider whether or not the Project complies with the proposed, but not yet adopted, Boyle Heights Community Plan Update.

VI. The Project does not have a significant impact on a historic cultural resource, is exempt from CEQA and there is no exception to the CEQA exemption for historic properties.

The Property is located adjacent to the Brooklyn Avenue Neighborhood Corridor, City Historic-Cultural Monument No. 590 (Council File 93-0907), which is described as within the public right of way on Cesar Chavez Avenue between Cummings Street and Mott Street. (Staff Report, A-10, Exhibits G6, G7) The HCM designation does not include the 90 properties that are adjacent to the street on either side. In fact, the Property has not been identified as a historic resource by local or state agencies; the Property has not been determined eligible for listing in the National Register of Historic Places, California Register of Historic Resources, the Los Angeles Historic-Cultural Monuments Register, or any local register, and was not found to be a potential historic resource based on the City's HistoricPlacesLA, or SurveyLA. The Project required review with the City's Office of Historic Resources ("OHR") for consistency with the adjacent HCM. As shown in correspondence with OHR, dated August 18, 2023, and others, the OHR staff determined that the existing building is not a historic resource or contributor to a district, in part because it has been significantly altered and does not retain historical integrity. (Staff Report, A-3, Exhibit C, p. 4) In addition, the OHR staff determined that the Project was compatible with the Brooklyn Avenue Neighborhood Corridor, and it respects the historic and cultural identity by providing a structure that is more in keeping with the Brooklyn Avenue Neighborhood Corridor. (Staff Report, A-3) Based on this, the Staff Report concludes that the Project will not result in a substantial adverse change to the significance of a historic resource, and the Project does not trigger the historic resources exception to a CEQA exemption under CEQA Guidelines Section 15300.2(f).

This standard of historic review was upheld in a recent Court of Appeal case. In *Historic Architecture Alliance, et al v. City of Laguna Beach, et al* (2023) 96 Cal.App.5th 186, the Court of Appeal held that if an agency finds that a project complies with the Secretary of Interior's Standards ("Secretary's Standards"), it is exempt from CEQA; conversely, if an agency finds a project noncompliant with the Secretary's Standards, the CEQA exception applies. The Court also found that the changes to the project to make it compliant with the Secretary's Standards were not mitigation measures, and therefore, did not trigger environmental review under an Environmental Impact Report. This case is important, because it reinforces that when a project does not have a

substantial adverse change to the significance of a historic resource, and therefore complies with the Secretary's Standards, the project does not trigger the exception to the exemption, and no additional environmental review of historic impacts is necessary.

Here, the Appellant claimed that the Project does not qualify for a Class 32 CEQA exemption, because it is adjacent to the Brooklyn Avenue Neighborhood Corridor, which is an HCM. However, *Historic Architecture Alliance* specifically holds that where there is substantial evidence in the record by the City that the Project complied with the Secretary's Standards and there is no substantial adverse change to the significance of a historic resource, the Court defers to the City's determination. The OHR staff specifically reviewed this issue in depth, and determined based on substantial evidence that the CEQA exception for historic resources did not apply to this Project.

VII. The State Housing Accountability Act requires the City to approve the Project unless there is a specific adverse impact to public health and safety.

The Project is a new six-story, 75-foot high mixed-use building with 50 residential units, of which five (5) units are reserved for extremely low income households, and 4,000 square feet of commercial use, and therefore meets the definition of a "housing development project" under the Housing Accountability Act (Gov'n Code § 65589.5, "HAA"). A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. (Gov'n Code § 65589.5.h.2)

When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, in effect at the time that the application was deemed complete, a City can only disapprove a project or impose a condition that the project be developed at a lower density, if based on the preponderance of evidence in the record: (i) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and (ii) There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density. (Gov'n Code § 65589.5(j)(1)) . "A specific, adverse impact means a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." (Gov'n Code § 65589.5.(d)(2))

In most actions, a local government is tasked with making findings or determinations based on "substantial evidence." Under the substantial evidence standard, the City is merely required to find reasonable, adequate evidence in support of their findings, even if the same or even more evidence supports a finding to the contrary. Findings or determinations based on a "preponderance

of the evidence” standard require that the City weigh the evidence and conclude that the evidence on one side outweighs, preponderates over, is more than the evidence on the other side, not necessarily in the number or quantity, but in its convincing force upon those to whom it is addressed. Evidence that is substantial, but not a preponderance of the evidence, does not meet this standard. (*People v. Miller* (1916) 171 Cal. 649, 652. *Harris v. Oaks Shopping Center* (1999) 70 Cal.App.4th 206, 209 (“‘Preponderance of the evidence’ means evidence that has more convincing force than that opposed to it.”). The HAA provides “It is the policy of the state that this section (HAA) should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” (Gov’n Code § 65589.5 (a)(2)(L))

Therefore, the City cannot disapprove the proposed 50-unit housing development project, or impose a condition that the project be developed at a lower density, unless it concludes based on a preponderance of evidence that there is a specific adverse impact on public health and safety. There is no evidence of adverse impact in the record that rises to that conclusion. As stated in the City LOD and the East LA APC Staff Report, based on the whole of the administrative record, the Project is exempt from CEQA pursuant to the Class 32 infill exemption (CEQA Guidelines, Section 15332), and there is not an exception to the exemption (LOD, p. 8). Therefore, under the HAA, the East LA APC may not disapprove the Project or impose any condition that would reduce the density of the Project to less than 50 units, without finding by a preponderance of evidence, that there is a specific adverse impact to public health and safety. Here, the LOD does not identify any specific, adverse impact to public health and safety, and the Appellant has not even claimed or identified any specific, adverse impact to public health and safety, in the appeal. Therefore, the East LA APC must deny the appeal based on the State Housing Accountability Act requirements.

VIII. Conclusion

The multi-family mixed-use Project will provide significant benefits to the neighborhood and greater community. It will replace the existing three (3) RSO units with five (5) units affordable to extremely low income households, and will allow the existing tenants to remain in the building until six (6) months prior to construction, to return to the new units, and to pay relocation fees in compliance with State and local law. The Project will address the City’s housing crisis by constructing 50 new residential units (47 net new units), in full compliance with the TOC program. The Project will also maintain over 4,000 square feet of ground floor commercial space to activate the pedestrian streetscape and support local businesses. The Project has numerous local supporters, including local business owners and the Boyle Heights Neighborhood Watch Program.

President Yap and Members of the East Los
Angeles Area Planning Commission
December 10, 2023
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We request that the East LA APC deny the Appeal, and approve the Project consistent with the City Staff Report recommendation and local and State housing laws.

Very truly yours,



SHERI L. BONSTELLE for
Jeffer Mangels Butler & Mitchell LLP

SLB

cc: Bryant Wu, City Planning Associate (Bryant.Wu@lacity.org)
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