

**DEPARTMENT OF
CITY PLANNING**

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

MONIQUE LAWSHE
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

PRISCILLA CHAVEZ

MARTINA DIAZ

SARAH JOHNSON

PHYLLIS KLEIN

BRIAN ROSENSTEIN

JACOB SAIMAN

ELIZABETH ZAMORA

**CITY OF LOS ANGELES
CALIFORNIA**



KAREN BASS
MAYOR

EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525

LOS ANGELES, CA 90012-4801

(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

HAYDEE URITA-LOPEZ
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

October 22, 2025

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**APPEAL RESPONSE FOR CASE NO. CPC-2024-3202-DB-PR-VHCA FOR THE PROPERTY
LOCATED AT 8251 WEST MELROSE AVENUE (8251-8271 WEST MELROSE AVENUE; 705-
711 NORTH HARPER AVENUE); COUNCIL FILE 25-1037**

On August 6, 2025, the City Planning Commission acted on Case No. CPC-2024-3202-DB-PR-VHCA, approved the project located at 8251 West Melrose Avenue (8251-8271 West Melrose Avenue; 705-711 North Harper Avenue), and adopted Categorical Exemption No. ENV-2024-3203-CE, determining 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, Section 15332, Class 32 (In-Fill Development Project), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste sites, or historical resources applies. The project includes the demolition of four (4) existing commercial buildings, and an associated surface parking lot, and the construction, use, and maintenance of a mixed-use building consisting of 90 dwelling units, with 10 units restricted to Very Low Income Households, and 15,271 square feet of commercial uses, resulting in a total floor area of 110,300 square feet.

On August 18, 2025, the Department of City Planning received one (1) appeal of the City Planning Commission's decision to conditionally approve a Plan Review and Density Bonus/Affordable Housing Incentive Program Compliance Review with one (1) On-Menu Incentive and two (2) Off-Menu Incentives. Eva Nathanson, an abutting property owner, filed the appeal.

Pursuant to LAMC Section 13B.2.5. G.3.b. of Chapter 1A, only an applicant, abutting property owners, and abutting tenants can appeal an On-Menu Incentive; the Appellant meets this qualification. Pursuant to LAMC Section 12.22 A.25(g)(3)(i)(b) and Section 13A.2.10. E. of Chapter 1A, the decision of the City Planning Commission is final regarding the Off-Menu

Incentive. Therefore, only the Project Review entitlement and On-Menu Incentive is eligible for appeal.

In the Appeal Justification, the Appellant claims that the Project does not qualify for a categorical exemption pursuant to CEQA Guidelines Section 15332, that the entitlement findings were not supported by substantial evidence and asserts that the City must prepare either an Initial Study, Mitigated Negative Declaration (MND), or an Environmental Impact Report (EIR) before granting the project approval. The Appeal Justification did not provide any substantial evidence to support the claim that there would be unavoidable environmental impacts which would require the preparation of an Initial Study, MND, or EIR, and the Appellant did not specifically address any Plan Review findings.

A summary of the appeal points and staff's responses are provided as follows:

Appellant:

- A-1 *The City does not demonstrate consistency with all applicable General Plan policies, including the Mobility Element, Safety Element, Noise and Air Quality Elements, and Housing Element.*

The first finding for a Plan Review approval requires that the project be in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any application specific plan. Consistency with the General Plan and all applicable community and specific plans, along with an Air Quality and Noise Study, was also analyzed as part of the project's eligibility for the Class 32 Infill Exemption and was thoroughly analyzed in the Class 32 Justification. Additionally, Condition No. 28 related to noise and vibration was imposed on the project to ensure compliance with LAMC Section 112.05 and consistency with the City's Noise Element.

The Appeal Justification fails to cite any other Plan Review findings that are inadequate or lacking. Additionally, the Appellant misstates the case *United Neighborhoods v. City of Los Angeles* (2023) 93 Cal.App.5th 1074, as City is not required to reference every policy across all elements of the General Plan, only those relevant and applicable to the project. *United Neighborhoods v. City of Los Angeles* required that applicable policies be evaluated for consistency and not an exhaustive, policy-by-policy checklist of the entire General Plan. As evidenced in the August 6, 2025 determination letter, the necessary findings were made to confirm that the project meets the requirements for Plan Review and analyze consistency with the Framework Element, Community Plan, Mobility Element, Safety Element, and Housing Element. The Plan Review Findings that were made include the following: the project is in substantial conformance with the purposes, intent and provisions of the General Plan, Community Plan, and any applicable specific plan, including but not limited to the Mobility Element, Safety Element, Housing Element, and Noise Element; the arrangement of the proposed project is compatible with existing and future development on neighboring properties; and the project contains adequate recreational and service amenities to improve habitability for residents and minimize the impacts on neighboring properties. These are the applicable land use-related policies for CEQA purposes.

Construction noise and vibration are regulated by federal and state agencies as well as the City of Los Angeles. Within the City, the General Plan Noise Element includes objectives and policies to reduce or eliminate noise impacts but does not include specific thresholds for analysis. The regulatory mechanism for implementing the General Plan

Noise Element is the LAMC. The City's Noise Ordinance codified in LAMC Section 112.05 sets maximum noise levels for construction equipment. LAMC Section 41.40 regulates days and hours of construction. Vibration levels are regulated in LAMC Section 91.3307.1. Construction noise regulations are enforced by LADBS during the Plan Check process. Moreover, pursuant to Assembly Bill 1307, human noise in residential projects is not considered a CEQA impact. Finally, Appellants have offered no evidence demonstrating that the proposed project will result in noise impacts that exceed the allowable thresholds.

In addition, the City's Safety Element lays out hazard mitigation regulations, emergency response, and disaster recovery. The Safety Element establishes goals, objectives, policies and programs which are implemented through the City's codes and regulations regarding water access, streets, and grading among other standards. In addition, the implementation of the Safety Element's goals, objectives and policies is accomplished through the work programs of the various city departments.

As such, the City Planning Commission's decision to approve a Plan Review was not made in error and is supported by substantial evidence that is detailed in the required Findings outlined in the August 6, 2025, determination letter and the Class 32 Justification for a Categorical Exemption, and this appeal point is without merit.

A-2 *The record lacks substantial evidence to support the required §15332(d) finding that the project will have no significant effects relating to traffic, noise, air quality, or water quality.*

The project qualifies for a Class 32 Categorical Exemption as it is developed on an infill site and meets all five of Class 32's threshold criteria. The CEQA clearance, ENV-2024-3203-CE, determined that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines, Article 19, Section 15332 (Infill Development), and that there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies. The project qualifies for a Class 32 Categorical Exemption because of the following points: a) The site is consistent with the General Plan, the applicable Hollywood Community Plan designation and policies, and all applicable zoning designations and regulations as permitted by the Density Bonus/Affordable Housing Incentive Program. b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, as the subject site is wholly within the City of Los Angeles, on a site that is approximately 24,416.45 square feet or approximately 0.56 acres. c) The site does not contain or have value as habitat for endangered, rare, or threatened species and is not located adjacent to any habitat for endangered, rare, or threatened species. The surrounding area is developed with industrial, commercial, and residential uses. d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

Regulatory Compliance Measures: The project is subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations, and Best Management Practices for stormwater runoff.

Traffic: As confirmed by the City of Los Angeles Vehicle Miles Traveled (VMT) Calculator, the project does not exceed the threshold of 250 net daily trips and therefore is not required to perform a transportation assessment (Exhibit D) and the project would not have a significant transportation impact. Additionally, the location of a private garage entrance on a local street does not trigger a significant impact and absent of specific,

quantifiable congestion impacts, no evidence was provided showing emergency services will be delayed. Speculation stated in the appeal does not serve as substantial evidence.

Noise: As confirmed by the Noise Study prepared by Caja Environmental Services, LLC dated July 2024, the project's contribution to cumulative construction and operational noise impacts would not be substantial. The project must comply with the City of Los Angeles Noise Ordinance No. 144,331 and 161,574 and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels. The Ordinances cover both operational noise levels (i.e., post-construction) as well as any noise impact during construction. As a result of this mandatory compliance, the proposed project will not result in any significant noise impacts.

Air Quality: As confirmed by the Air Quality Report prepared by Caja Environmental Services, LLC dated July 2024, the project would produce criteria pollutant emissions that would not result in significant impacts on regional air quality, as they would not exceed the SCAQMD's threshold of significance for regional emissions. 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 those pollutants for which the Air Basin is in non-attainment. Interim thresholds were developed by DCP staff based on CalEEMod model runs relying on reasonable assumptions, consulting with AQMD staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established SCAQMD construction and operational thresholds. Construction-related daily emissions at the project site would not exceed SCAQMD's regional or localized significance thresholds. Therefore, the project's contribution to cumulative construction-related regional emissions would not be cumulatively considerable and therefore would be less than significant. Construction of the project also would have a less-than-significant impact with regard to localized emissions. Additionally, the claim that the placement of a loading dock will create "long-term diesel emissions" lacks evidence as no air quality modeling was submitted by the Appellant. The project includes limited commercial operations, and emissions are within baseline assumptions for mixed-use infill projects.

Geologic Instability from Excavation in High Groundwater Conditions: Condition No. 30 was imposed on the project to ensure compliance that prior to the issuance of any building or grading permit, the applicant shall submit a geotechnical report prepared by a registered civil engineer or certified engineering geologist to the written satisfaction of the Department of Building and Safety. The geotechnical report shall assess potential consequences of any shallow groundwater conditions and discuss mitigation measures that may include building design consideration. Building design considerations shall include, but are not limited to: dewatering, groundwater handling, hydrostatic design, selection of appropriate foundation type and depths or any combination of these measures. The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project, and as it may be subsequently amended or modified.

- A-3 *Exceptions to categorical exemptions under CEQA Guidelines §15300.2 apply due to unusual circumstances and cumulative impacts, precluding reliance on Class 32. Under Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086, if there is any substantial evidence in the record supporting a fair argument that a project may have a significant environmental effect, a categorical exemption cannot be used.*

A local agency's determination that a project falls within a categorical exemption is presumed to be valid so long as substantial evidence supports the City's determination that all of the Class 32 requirements have been met. The City has met its burden by preparing a robust and detailed Notice of Exemption and Class 32 Justification, attached as Exhibit C. Once this initial threshold analysis has been met, the burden shifts to the challenging party to produce evidence showing that one of the exceptions applies to take the project out of the exempt category (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086; *San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1022-23.) Here, the Appellant has not met their burden as no facts or evidence were submitted in the administrative record to conclude that the proposed project does not qualify for a Class 32 CEQA Exemption. Additionally, the existing conditions identified (high water table, narrow street, aging buildings) are typical urban conditions and does not constitute an unusual circumstance. Similar infill projects across the City are exempted under Class 32 and there is no evidence these site conditions create a unique risk. As detailed in the Class 32 Justification for Project Exemption Case No. ENV-2024-3203-CE (Exhibit C), the proposed project meets all criteria to qualify as an infill site under the Class 32 CEQA Exemption, California Environmental Quality Act & CEQA Guidelines Section 15332. The Appellant has not submitted substantial evidence as to why the proposed project does not qualify for a Class 32 CEQA Exemption.

Cumulative Impacts: As for concerns regarding the combined impacts of other nearby Density Bonus Projects, the Appellant has not met their burden as there is no evidence in the record to conclude that there will be an adverse cumulative impact caused by the proposed Project and other projects in the vicinity of the Project site. Speculation that significant cumulative impacts will occur simply because other projects may be approved in the same area is insufficient to trigger this exception and is not evidence that the proposed project will have adverse impacts, significant effects, or that the impacts are cumulatively considerable (*Hines v. California Coastal Commission* (2010) 186 Cal. App. 4th 830, 857). The Appellant has not submitted substantial evidence for the record to support their assertions that the cumulative impact exception applies. Speculation and a list of "past projects, current projects, and future projects" do not serve to support the Appellant's claims.

The Appellant's comments regarding cumulative impacts do not identify what impact would occur and/or why it would occur. Likewise, the Appellant has not submitted evidence into the record indicating a negative cumulative impact.

Significant Effect: In addition, there is no substantial evidence in the record that the proposed incentives will have a significant effect to geology, hydrology, traffic/emergency access, air quality, and noise. A "significant effect" is defined as a "substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, noise, etc." which are based on evidence and significance thresholds (CEQA Guidelines, Section 15382). As explained in the appeal response no. A-2, the VMT calculation, Noise Study, and Air Quality Report concluded that there would not be any significant effects from the proposed project. The claim that the proposed project poses settlement risk or groundwater hazards is speculative and lacks supporting engineering or geotechnical analysis. The City requires a geotechnical investigation, which will be reviewed and cleared by the Department of Building and Safety. Past damage on neighboring parcels is anecdotal and not evidence of future impact. The Appellant also speculates that diesel truck trips will exceed SCAQMD thresholds and construction noise will likely exceed LAMC standards,

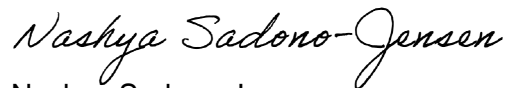
but did not submit emission modeling or threshold exceedance data as evidence to support their claims. As previously stated, the temporary construction phase is subject to standard mitigation, including idling limits, equipment standards, and dust controls, which the City has enforced on comparable projects. Consequently, there is no substantial evidence to make the finding to deny the proposed project. For the reasons explained above, the City Planning Commission's decision was appropriate, and the Class 32 Categorical Exemption adequately addresses all impacts relative to the proposed project at 8251 West Melrose Avenue. For the reasons explained above, the City Planning Commission's decision was appropriate.

Conclusion

Planning Staff recommends that the PLUM Committee and City Council deny the appeal and sustain the Determination of the City Planning Commission to 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, Section 15332, Class 32 (In-Fill Development Project); approve the Plan Review; adopt the Conditions of Approval; and adopt the Findings.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Nashya Sadono-Jensen
City Planning Associate

JC:DK:CD:NSJ