



DEPARTMENT OF CITY PLANNING

APPEAL RECOMMENDATION REPORT

Central Area Planning Commission

Date: September 14, 2021
Time: After 4:30 P.M.
Place: In conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID-19, the APC meeting will be conducted entirely telephonically by Zoom [<https://zoom.us/>].

The meeting's telephone number and access code access number will be provided no later than 72 hours before the meeting on the meeting agenda published at <https://planning.lacity.org/about/commissions-boards-hearings> and/or by contacting apccentral@lacity.org.

Public Hearing: Required
Appeal Status: Not further appealable
Expiration Date: September 7, 2021
Multiple Approval: Yes

PROJECT LOCATION: 2401-2417 West 8th Street and 729-751 South Park View Street

PROPOSED PROJECT: The proposed project involves the construction, use, and maintenance of a new seven-story mixed-use development, 92 feet 6 inches in height, containing a total of 264 dwelling units, with 27 proposed dwelling units reserved for Extremely Low Income Households. The proposed development will contain approximately 266,438 square feet of floor area, including 9,724 square feet of ground floor commercial space. The project provides a total of 22,137 square feet of open space comprised of public courtyards, a fitness center/sport lounge, patios, terraces, and private balconies. The project contains one subterranean parking level, and ground level parking that will provide a total of 230 vehicular parking stalls: 217 residential parking stalls; and 13 commercial parking stalls. In addition, the project will provide a total of 172 bicycle parking stalls.

APPEAL: An appeal of the June 10, 2021, Planning Director's Determination which:

1. Determined based on the whole of the administrative record, that 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

Case No.: DIR-2020-5510-TOC-SPR-HCA-1A
CEQA No.: ENV-2020-5511-CE
Related Case: N/A
Council No.: 1 – Cedillo
Plan Area: Westlake
Plan Overlays: None
Certified NC: MacArthur Park
Land Use Designation: Highway Oriented Commercial & Community Commercial
Zones: C2-1 & C2-2

Applicant: John Safi, Pacific Parkview LP
Representative: Daniel Ahadian, nur – Development I Consulting

Appellants: Enrique Velasquez,
Coalition for an Equitable
Westlake/MacArthur Park

that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;

2. Approved with Conditions, pursuant to Los Angeles Municipal Code (LAMC) Section 12.22-A,31, a 70 percent increase in density, consistent with the provisions of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program along with the following three (3) incentives for a qualifying Tier 3 project totaling 264 dwelling units, reserving 27 units for Extremely Low Income (ELI) Household occupancy for a period of 55 years:
 - a. Yard/Setback. Utilization of the rear yard setback requirements of the RAS3 Zone for a project in a commercial zone; and
 - b. Open Space. A maximum reduction of 25 percent in the required amount of open space; and
 - c. Averaging of Floor Area Ratio (FAR). The averaging of FAR across the entire project site;
3. Approved with Conditions, pursuant to LAMC Section 16.05, a Site Plan Review for a project that results in 50 or more dwelling units; and
4. Adopted the Conditions of Approval and Findings.

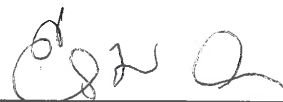
RECOMMENDED ACTIONS:

1. **Deny** the appeal;
2. **Determine** based on the whole of the administrative record, that 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 an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
3. **Sustain** the Planning Director's Determination to conditionally approve a Site Plan Review for the construction, use, and maintenance of a seven-story mixed-use development that will include a total of 264 dwelling units (including 27 affordable units) and 9,724 square feet of commercial space in the C2-1 and C2-2 zones; and
4. **Adopt** the Planning Director's Conditions of Approval and Findings.

VINCENT P. BERTONI, AICP
Director of Planning



Heather Bleemers
Senior City Planner



Esther Ahn
City Planner



Trevor Martin
Planning Assistant

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, Room 532, City Hall, 200 North Spring Street, Los Angeles, CA 90012* (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1299.

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Vicinity Map
Radius Map
Site & Aerial Photos

Exhibit B – Appeal Documents

Enrique Velasquez, Coalition for an Equitable Westlake MacArthur Park

Exhibit C – Director’s Determination, DIR-2020-5510-TOC-SPR-HCA

Exhibit D – Approved Project Plans

Exhibit E – Environmental Documents

Notice of Exemption & Categorical Exemption Justification for Environmental
Case No. ENV-2020-5511-CE
Tree Report Letter, May 20, 2020
Transportation Assessment, August 2020
LADOT Approval Letter, August 31, 2020
Noise Technical Modeling, August 2020
Air Quality Technical Modeling, August 2020
Geotechnical Investigation Report, April 14, 2020
Phase I Environmental Site Assessment, July 15, 2020

PROJECT ANALYSIS

PROJECT BACKGROUND

As shown in *Figure 1* below, the project site is a sloping, rectangular-shaped parcel of land comprised of eight (8) contiguous lots, totaling approximately 58,535 square feet (approximately 1.34 acres) in size and is currently vacant. The subject property is zoned C2-1 and C2-2: the northernmost lot zoned C2-2; and the remaining seven (7) lots zoned C2-1. The project site is located within the Westlake Community Plan Area which designates the subject property for Community Commercial land uses, corresponding to the C4, C2, C1, CR, RAS3, RAS4, P, and PB zones, and Highway Oriented Commercial land uses, corresponding to the C2, C1, CR, RAS3, RAS4, and P zones. The project site is located within the Westlake Recovery Redevelopment Project Area (ZI-2488), a Transit Priority Area in the City of Los Angeles (ZI-2452), a Los Angeles State Enterprise Zone (ZI-2374), a Tier 3 Transit Oriented Communities area, and an Urban Agriculture Incentive Zone. The property is not located within the boundaries of or subject to any specific plan, community design overlay, or interim control ordinance.

While the project site is currently vacant, the subject property had previously been developed with a two-story, medical office building and surface parking lot, as well as a single-story church building with associated surface parking. The Housing and Community Investment Department (HCID) SB 330 Determination Letter dated April 1, 2020, determined that since April 7, 2006, the subject property had been and continues to be used commercially. As such, the proposed housing development does not require the demolition of any prohibited types of housing. Further, the provisions of SB 330 do not apply to commercial properties, therefore no SB 330 replacement affordable units are required.

Surrounding Properties

Properties surrounding the project site are zoned C2-1, C2-2, R4-1, and R4-2, having commercial, residential, and uses. Adjoining the project site to the north is a C2-2 zoned lot improved with a single-story multi-tenant commercial building with adjoining surface parking lots to the west, and to the east. Abutting the project site to the east, across Park View Street, is a public elementary school (MacArthur Park Visual and Performing Arts Elementary). Abutting the project site to the south, at the southeast corner of the intersection of 8th Street and Park View Street, is a C2-1 and R4-1 zoned parcel of land developed with a two-story nursing home. Abutting the project site to the southwest, across 8th Street, is a two-story mini-shopping center with a surface parking lot. Abutting the project site to the west, are properties zoned C2-1, R4-1, and R4-2, improved with apartment buildings ranging from one to five stories as well as a surface parking lot.

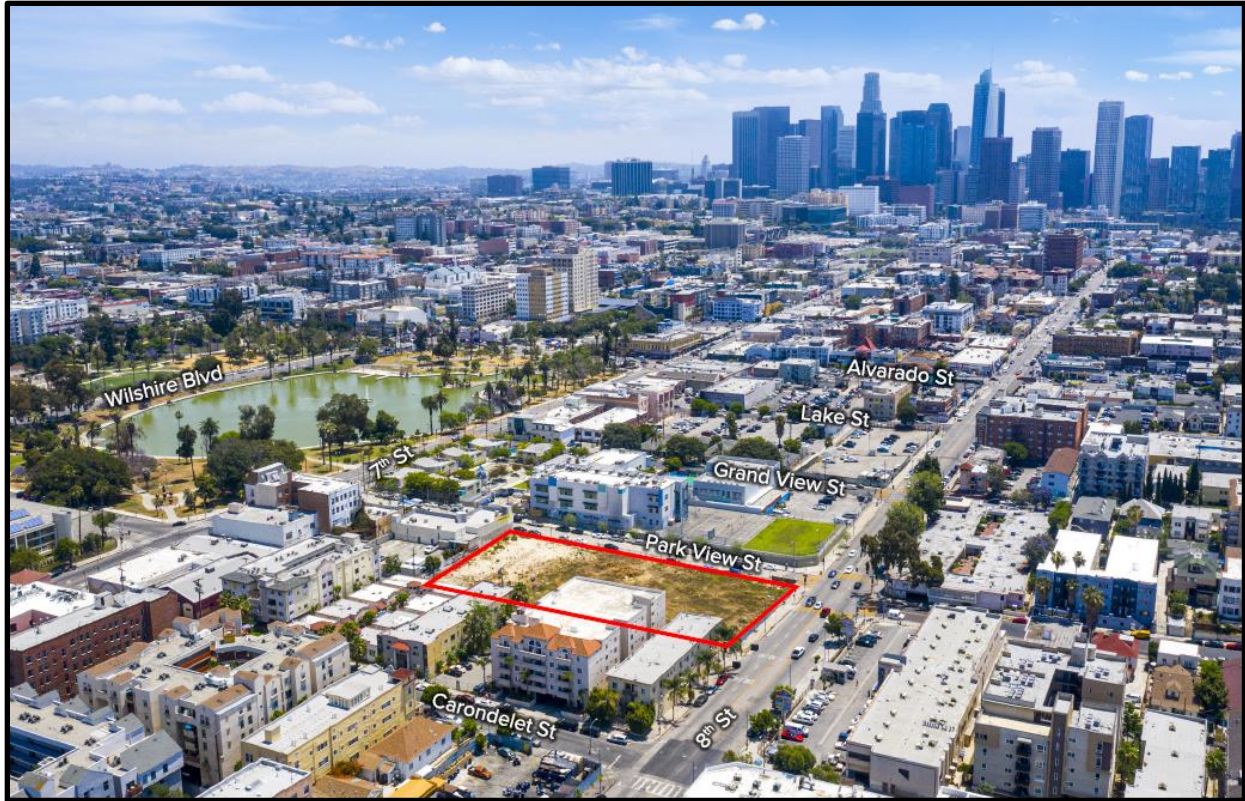


Figure 1. Aerial View of Project Site (outlined in red) and Surrounding Properties

PROJECT SUMMARY

The proposed project involves the construction, use, and maintenance of a new seven-story mixed-use development, that will be 92 feet 6 inches in height, containing a total of 264 dwelling units, with 27 proposed dwelling units reserved for Extremely Low Income Households as shown in *Figure 2* below. The proposed development will contain approximately 266,438 square feet of floor area, including 9,724 square feet of ground floor commercial space. The project provides a total of 22,137 square feet of open space comprised of public courtyards, a fitness center/sport lounge, patios, terraces, and private balconies. The project contains one subterranean parking level, and ground level parking that will provide a total of 230 vehicular parking stalls, including 217 residential parking stalls, and 13 commercial parking stalls. In addition, the project will provide a total of 172 bicycle parking stalls. Ingress and egress for the development's commercial parking will be provided via one common access driveway located at the west corner of the project site along 8th Street. Vehicular ingress and egress for the development's residential parking is provided via two common access driveways located at the southeast perimeter of the project site along Park View Street. The project will maintain a (0) zero-foot front yard, and (0) zero-foot side yards as permitted by the underlying C2-1 and C2-2 zones for Mixed Use Projects pursuant to LAMC Section 13.09-B.3 and LAMC Section 12.22-A.18(c). The project will maintain a (5) five-foot setback for the rear yard, in accordance with the RAS3 Zone.



Figure 2. Project Rendering at 2401-2417 West 8th Street and 729-751 South Park View Street

APPEAL ANALYSIS

APPEAL SUMMARY

On June 10, 2021, the Director of Planning issued a Determination to conditionally approve Base and Additional Incentives for increased density and Floor Area Ratio and reduced parking, open space, and setbacks through the TOC Affordable Housing Incentive Program and Site Plan Review for the proposed project.

The Director of Planning's decision determined, based on the whole of the administrative record, that 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 exception contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, hazardous waste sites, or historical resources applies.

On June 24, 2021, within the required 15-day appeal period, an appeal was filed by Enrique Velasquez, on behalf of Coalition for an Equitable Westlake/MacArthur Park. The appeal justification includes grievances against the land use decision as well as the Class 32 infill development Categorical Exemption issued for the proposed project, under Environmental Case No. ENV-2020-5511-CE.

Pursuant to LAMC Section 12.22-A.25(g)(2)(i)(f) and the appeal processes for TOC entitlements, only an applicant, abutting property owners, and abutting tenants can appeal the TOC determination. The Appellant here does not meet this criterion, and as such, the appeal that is currently before the Commission relates only to the Site Plan Review land use entitlement for this project.

In his Appeal Justification letter, the Appellant has addressed Los Angeles City Council as the appellate body for the appeal. Los Angeles City Council is the appellate body for appeals to the project's CEQA determination, the Appellant however, may not appeal the CEQA determination until the project's Site Plan Review entitlement has first been appealed. Therefore, the scope of the pending appeal does not include the CEQA-related appeal points, which will be subject to a further appeal after the Site Plan Review appeal has been decided. However, to address the appellant's concerns and for purposes of providing a complete record, this Staff Report addresses these points below.

APPEAL POINTS AND STAFF RESPONSE

The following statements have been compiled and summarized from the submitted appeal and responded to below. The appeal in its entirety has been attached herein for reference, as Exhibit B.

APPEAL POINT 1:

"Los Angeles Municipal Code Section 16.05(A) states that the purpose of a site plan review is promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, or on surrounding properties by reason of inadequate site planning or improvements."

STAFF RESPONSE 1:

The appellant challenges the Director of Planning's determination conditionally approving the Site Plan Review entitlement in conjunction with the proposed project but fails to cite any specific issues that relate to the Site Plan Review component of the land use determination. The appeal, rather, focuses on the Director of Planning's determination that the project is exempt from CEQA pursuant to CEQA Guideline, Section 15332 (Class 32, Infill Development) and that none of the exceptions to a categorical exemption apply to the project. As evidenced in the June 10, 2021, determination letter, the necessary findings were made to confirm that the project meets the requirements for Site Plan Review. The Site Plan Review Findings that were made include the following: the project is in substantial conformance with the purposes, intent and provisions of the Westlake Community Plan and does not conflict with any applicable regulations or standards; the arrangement of the proposed development is consistent and compatible with existing and future development in neighboring properties; and the project contains adequate recreational amenities and is within close proximity to transit services which will contribute to the habitability of the residents and minimize the impacts on neighboring properties.

APPEAL POINT 2:

"The Project does not qualify for an exemption due to the cumulative effects of surrounding past, current and future projects. Because the cumulative effect of the succession of known projects of

the same type and in the same place as the subject property, the Project fails to qualify for the Class 32 exemption. As such the environmental findings upon which the Site Plan Review approval is based on are flawed.”

STAFF RESPONSE 2:

The CEQA Guidelines provide that a Class 32 CE may not be used if any of five (5) exceptions apply: (a) cumulative impacts; (b) significant effect; (c) scenic highways; (d) hazardous waste sites; and (e) historical resources. Specifically, the Appellant contends that the cumulative impact exception does not apply to the proposed project due to the number of “past projects, current projects and future projects spanning back to January 1, 2018 that contribute towards the cumulative impacts of the Project that must be considered.” The appellant lists 13 projects alleged to be within a 1-mile radius of the Project site. CEQA Guidelines Section 15300.2(b) states that a categorical exemption is inapplicable “when the cumulative impact of successive projects of the same type in the same place, over time is significant.” An agency’s determination that a project falls within a categorical exemption includes an implied finding that none of the exceptions identified in the CEQA Guidelines apply. Instead, the burden of proof shifts to the challenging party to produce evidence showing that one of the exceptions applies to take the project out of the exempt category. (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1022-23.)

Here, the Appellant has not met its burden, as there is no evidence in the record to conclude that there will be a cumulative adverse impact caused by the proposed project and other projects in this area. A list of past, current, or future projects, even if found to be accurate, by itself does not represent substantial evidence of any type of cumulative impact. 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 or that the impacts are cumulatively considerable (*Hines v. California Coastal Comm’n* (2010) 186 Cal.App.4th 830, 857). The Appellant also fails to provide any evidence as to why a 1-mile radius constitutes the “same place”. The Appellant has not submitted any substantial evidence that validates its assertions that the cumulative impact exception applies. Other than a vague claim that the area is in a “high pedestrian and car traffic area”, the Appellant does not state which cumulative effects are actually at issue. For example, automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, cannot constitute a significant environmental impact for purposes of CEQA. (Public Resources Code § 21099.)

As demonstrated in the Justification for the Class 32 Categorical Exemption dated March 30, 2021, (Exhibit E) the proposed project and other projects in the vicinity are subject to Regulatory Compliance Measures (RCMs) related to air quality, noise, hazardous materials, geology, and transportation. Numerous RCMs in the City’s Municipal Code and State law provide requirements for construction activities and ensure impacts from construction related air quality, noise, traffic, and parking are less than significant. For example, the South Coast Air Quality Management District (SCAQMD) has District Rules related to dust control during construction, type and emission of construction vehicles, architectural coating, and air pollution. All projects are subject to the City’s Noise Ordinance No. 144,331, which regulates construction equipment and maximum noise levels during construction and operation.

The Class 32 Categorical Exemption (CE) and associated justification analysis address all environmental impacts related to traffic, noise, air quality or water quality and cumulative impacts. Additionally, the project will be required to comply with all state, regional, and local laws as part of regulatory compliance. No other changes are being made. Therefore, the CE adequately addresses all impacts relative to the proposed project at 2401-2417 West 8th Street and 729-751 South Park View Street.

APPEAL POINT 3:

“...any environmental impacts based on pre-Covid levels of public transit ridership that [sic] do not take into account declining public ridership, which is expected to further decline after Covid.”

STAFF RESPONSE 3:

First, Planning staff is unclear as to what exactly the above statement is referring to. Staff assumes that the applicant is referring to traffic related to the operation of the proposed project. Second, this statement is pure speculation, not grounded in any facts and does not constitute substantial evidence. With that assumption, the appellant has failed to meet its burden of proof in making the assumption that the project's environmental review and clearance is unsatisfactory due to a decline in public ridership as a result of the Covid-19 Pandemic. The project has met all requirements regarding its traffic assessment and on August 31, 2020, LADOT concluded that the project is not expected to result in any significant impact relating to traffic.

On July 30, 2019, pursuant to SB 743 and the recent changes to Section 15064.3 of the State's CEQA Guidelines, the City of Los Angeles adopted vehicle miles traveled (VMT) as a criteria in determining transportation impacts under CEQA. The new Los Angeles Department of Transportation (LADOT), Transportation Assessment Guidelines (TAG) provide instructions on preparing transportation assessments for land use proposals and defines the significant impact thresholds. LADOT has established that any project resulting in a net increase of 250 or more daily vehicle trips requires a VMT analysis.

A Traffic Assessment Report dated August 2020 was prepared by Gibson Transportation Consulting, Inc. in order to determine whether or not the proposed project would result in any significant effects relating to traffic. The Traffic Study found that the project would generate a net increase of 967 daily vehicle trips and a net increase of 5,879 daily vehicle miles traveled (VMT), thus requiring the proposed project to conduct a vehicle mile traveled (VMT) analysis. Subsequently, LADOT completed its Transportation Impact Assessment and in a letter dated August 31, 2020, concluded that implementation of the proposed project would not result in a significant Household or Work VMT impact. Therefore, the project is not expected to result in any significant impact relating to traffic, and the Appellant has not provided any substantial evidence to show that a traffic impact will occur as a result of the proposed project.

CONCLUSION AND STAFF RECOMMENDATION

The appeal of the Site Plan Review does not demonstrate that the Director of Planning erred or abused their discretion. The findings made to approve the Site Plan Review, and to determine that the project is categorically exempt have been done in full conformance with the applicable provisions of the Los Angeles Municipal Code and California Environmental Quality Act. The development is consistent with the underlying zones and TOC Guidelines, and the building has been designed and conditioned to be sensitive to and compatible with surrounding uses. The project site is located in an area transitioning to higher density development. Concentrating much-needed mixed-income housing along a commercial corridor, while improving an underutilized site, is in line with the City's overarching goals, policies, and objectives for new development.

Therefore, it is recommended that the Central Area Planning Commission affirm that the project is categorically exempt from environmental review, deny the appeal, sustain the Director's Determination approving the Site Plan Review, and adopt the Director's Conditions of Approval and Findings.