



T 710.836.4200
F 510.836.4205

1439 Harrison Street, Suite 150
Oakland, CA 94612

www.lozeaudrury.com
Attorney-Advertising.com

April 6, 2023

Via Email

Roxana Bonderson, *Chair*
John M. Baucke, *Vice Chair*
Donald DeLuccio, Commissioner
Lucille Boss, Commissioner
Sheila Lodge, Commissioner
Devon Wardlow, Commissioner
Lesley Wiscomb, Commissioner
PCSecretary@SantaBarbaraCA.gov

Re: Comment on Categorical Exemption for the Garden Street Hotel Project (PLN2019-00052) April 6, 2023 City Planning Commission Agenda New Items: B

Dear Chair Bonderson, Vice Chair Baucke, and Honorable Members of the Planning Commission:

I am writing on behalf of **Supporters Alliance for Environmental Responsibility ("SAFER")**, regarding the California Environmental Quality Act ("CEQA") Class 32 (In-fill Development) Categorical Exemption prepared for the proposed Garden Street Hotel Project (PLN2019-00052), including all actions related or referring to the construction of a 174,812-square-foot hotel containing 250 rooms, located at 101 Garden Street (APN's: 017-630-008; 009; -018; -021; -024; and -027) in the City of Santa Barbara ("Project"), which is scheduled to be heard by the City Planning Commission on April 6, 2023.

After reviewing the Categorical Exemption ("CE" or "Exemption"), we conclude that the Exemption fails as an informational document, and that there is a fair argument that the Project may have adverse environmental impacts due to unusual circumstances. Therefore, we request that the City of Santa Barbara ("City") prepare a CEQA document for the Project pursuant to the CEQA, Public Resources Code ("PRC") section 21000, et seq.

The City has stated that it intends to issue a notice of exemption alleging that the Project is exempt from CEQA review as an "in-fill" project (Class 32). There are several exceptions to the categorical exemptions. 14 CCR § 15300.2. At least two exceptions are relevant here.

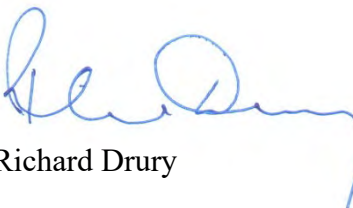
The Class 32 In-Fill exemption can only be applied when "[t]he project site has no value as habitat for endangered, rare or threatened species" or where "[a]pproval of the project would

not result in any significant effects relating to traffic, noise, air quality, or water quality.” 14 Cal. Admin. Code §§ 15332(c), (d). There appears to be no substantial evidence in the record to find that the project site has no value as habitat for endangered, rare or threatened species. There also appears to be no substantial evidence in the record to support a finding that the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. Therefore, the City may not make the findings necessary to support the CEQA Infill Exemption.

Also, a project may not be exempted from CEQA if there is a “fair argument” that the project may have significant environmental impacts due to “unusual circumstances.” 14 CCR §15300.2(c). The Supreme Court has held that since the agency may only exempt activities that do not have a significant effect on the environment, a fair argument that a project will have significant effects precludes an exemption. *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 204. There appears to be no evidence in the record to support a finding that there are not unusual circumstances. The fact that the Project is located in the Coastal Zone is an unusual circumstance.

For the foregoing reasons, we request that the Planning Commission reject the CEQA Infill Exemption and require the preparation of an Initial Study and CEQA document to analyze the Project’s environmental impacts and to propose feasible mitigation measures. Thank you for considering our comments.

Sincerely,



Richard Drury