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*Via Email*

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Councilmember John A. Mirisch  
Councilmember Lili Bosse  
Councilmember Sharona R. Nazarian  
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**Re: Appeal of Planning Commission Approval for 55 N. La Cienega Boulevard Project (Development Plan Review and Density Bonus Permit No. PL2100326)**

Dear Mayor Gold and Honorable Members of the City Council:

This comment is submitted on behalf of **Supporters Alliance for Environmental Responsibility ("SAFER")**, regarding the 55 North La Cienega Boulevard Project (Development Plan Review and Density Bonus Permit No. PL2100326), which proposes the construction of a five-story mixed-use development with 105 residential dwelling units, ground floor commercial uses, and rooftop restrooms, located at 55 North La Cienega Boulevard in the City of Beverly Hills ("Project"). The City of Beverly Hills ("City") must fully comply with the California Environmental Quality Act ("CEQA") prior to any approvals in furtherance of the Project. SAFER hereby appeals the Planning Commission's approval of the Project which was issued on June 22, 2023, and asks you to overturn the Approvals issued pending further CEQA review.

As discussed below, exempting the Project from CEQA based on the Class 32 Exemption violates CEQA because the terms of the Class 32 exemption do not apply. Since the Project is not exempt from CEQA, an initial study must be prepared to determine the appropriate level of CEQA review required.

#### **DISCUSSION**

##### **A. The City Incorrectly Applied CEQA's Class 32 In-Fill Development Categorical Exemption to the Project and Thus a Full CEQA Analysis Is Required.**

The proposed Project does not qualify for a Class 32 In-fill Development Categorical Exemption under CEQA because of the Project's potentially significant environmental

impacts. The City must prepare an Initial Study to determine the appropriate level of CEQA review.

The Class 32 exemption provides:

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value, as habitat for endangered, rare or threatened species.
- (d) *Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.***
- (e) The site can be adequately served by all required utilities and public services.

14 CCR § 15332 [emph. added].

One of the key limitations of the Exemption is that it does not apply if the project will have any significant effects relating to traffic, noise, air quality, or water quality. 14 CCR § 15332(d). Here, the Exemption cannot apply because the Project will have a significant impact on air quality.

### **1. Indoor Air Quality**

Certified Industrial Hygienist, Francis “Bud” Offermann, PE, CIH, has reviewed the proposed exemption and all relevant documents regarding the Project’s indoor air emissions. Based on this review, Mr. Offermann concludes that the Project will likely expose future residents living at the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic. Mr. Offermann’s CV and expert comments are attached as Exhibit A.

Formaldehyde is a known human carcinogen and is listed by the State of California as a Toxic Air Contaminant (“TAC”). The South Coast Air Quality Management District (“SCAQMD”), the agency responsible for regulating air quality within the South Coast Air Basin—which includes the City of Beverly Hills—has established a cancer risk significance threshold from human exposure to carcinogenic TACs of 10 per million. (Ex. A., p. 2.)

Mr. Offermann explains that many composite wood products routinely used in indoor building materials and furnishings commonly found in offices, residences, and hotels contain formaldehyde-based glues which off-gas formaldehyde over long periods of time. He states that “[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.” (*Id.*, pp. 2-3.)

Mr. Offermann concludes that future residents of the proposed Project will be exposed to a cancer risk from formaldehyde of approximately 120 per million, *even assuming* that all furnishing materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. (*Id.*, p. 4.) This risk level is **12 times greater** than the SCAQMD’s CEQA significance threshold for airborne cancer risk of 10 per million.

The California Supreme Court has emphasized the importance of air district significance thresholds in providing substantial evidence of a significant adverse environmental impact under CEQA. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327 [“As the [South Coast Air Quality Management] District’s established significance threshold for NOx is 55 pounds per day, these estimates [of NOx emissions of 201 to 456 pounds per day] constitute substantial evidence supporting a fair argument for a significant adverse impact.”].) Since expert evidence demonstrates that the Project will exceed the SCAQMD’s CEQA significance threshold, there is substantial evidence that an “unstudied, potentially significant environmental effect[.]” exists. (See, *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.)

Mr. Offermann concludes that these significant impacts should be further mitigated to reduce the significant health risks that will result from indoor formaldehyde emissions. (*Id.*, pp. 12-14.) Mr. Offermann proposes various feasible mitigation measures to reduce these impacts, including by imposing a requirement that the Project applicant install high-capacity air filters throughout the building and commit to using only composite wood materials that are made with CARB approved no-added formaldehyde (NAF) resins, or ultra-low emitting formaldehyde (ULEF) resins, for all of the buildings’ interior spaces.

Mr. Offermann’s observations constitute substantial evidence that the Project will produce potentially significant air quality and health impacts which the exemption has failed to address. Therefore, the City must prepare an initial study to further evaluate and mitigate these impacts to the Project’s future residents.

## CONCLUSION

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The City cannot rely on a Class 32 exemption because the Project does not meet the terms of the exemption. Accordingly, the City must prepare an initial study to determine the appropriate level of environmental review to undertake pursuant to CEQA. Thank you for considering these comments.

Sincerely,



Rebecca Davis  
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