

ATTACHMENT E
HEARING OFFICER ADDENDUM

**ZHO Addendum for
Affordable Housing Concession Permit #11869**

January 22, 2019

On November 9, 2018, I approved AHCP #11869 (253 So. Los Robles Avenue).

I have reviewed the appeal filed by the Madison Heights Neighborhood Association, and I hereby offer the following comments:

- Historical Resources: As noted in the staff report, the “City’s Design and Historic Preservation Section Division determined that “[t]here are no known or identified historic resources on the subject site.” The information presented at the hearing, and in the appeal, does not provide credible evidence to contradict staff’s determination. Further, it is highly unlikely that the demolition of the subject building—north of Del Mar Boulevard, and in close proximity to Cordova Street—will somehow “adversely impact” the nature of a “historic” neighborhood, yet to be designated with landmark status, and generally consisting of some historic homes located a few to several blocks southerly of the subject property.
- Cumulative Impact: The appeal re-states an argument presented at the hearing that the “cumulative impacts” preclude decision-makers from relying on the ‘in-fill’ exemption (Class 32) found in CEQA Guidelines Section 15332. A cursory review of Section 15332 clearly shows that the project meets all five criteria, and staff has provided substantial evidence (traffic impact analysis, noise and vibration analysis, air quality and green house emissions analysis), all of which addressed cumulative impacts, to support this conclusion. While the appeal cites language about the Class 32 exemption being exclusively restricted to “environmentally benign in-fill projects which are consistent with local general plan and zoning requirements,” the citation isn’t clear; I am reasonably familiar with the Class 32 in-fill exemptions, and I’ve never heard such language previously; and I was unable to locate any such language in the CEQA Guidelines.
- Significant Effect: The only evidence provided to support this portion of the appeal is the historical resources argument (see above), and an assertion about land being “quickly subdivided” to somehow circumvent property CDEQA review. Neither assertion presents substantial evidence to contradict the existing public record in support of the Class 32 exemption.
- General Plan Inconsistency: The appeal indicates that the project as approved is in violation of several provisions of the City’s General Plan. These declaratory assertions, however, are not accompanied by any valid evidence or justification—they are merely unsubstantiated assertions.

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- Significant Errors and Omissions, Failures to Consider Evidence, Decision Not Supported by Substantial Evidence, and Decision is Arbitrary and Capricious. These sections of the appeal are declaratory assertions with no supporting evidence or justification, and as such should be rejected out of hand.

Prior to the public hearing, I reviewed substantial correspondence provided by interested stakeholders. Further, there was a lengthy public hearing, at which time several members of the public presented arguments similar to what is found in the appeal. While the appellant has incorporated most of what was presented before and during the hearing, the appeal presents no solid, credible, and compelling evidence to justify overturning my original determination, the analysis presented by staff in its report and recommendation, nor to contradict the substantial evidence in the public record (particularly the technical reports in support of the CEQA determination).

For these reasons, the appeal should be denied and the original grant should be sustained.