

**ATTACHMENT G  
EXCERPT FROM FEBRUARY 6, 2019 BOZA STAFF REPORT  
(RESPONSE TO APPEAL)**

## EXCERPT FROM FEBRUARY 6, 2019 BOARD OF ZONING APPEALS STAFF REPORT (RESPONSE TO APPEAL)

A response to each of the appellant's concerns is provided in the section below.

### Responses to the Appeal:

#### *Incorrect CEQA determination*

In the appeal application, the appellant states that City staff erred in determining that the project is categorically exempt from CEQA based on claims that: (a) the existing building on site is a historical resource; and (b) the cumulative impacts of the project and surrounding projects are significant in nature. As stated by staff during the Hearing Officer meeting, the City's Design and Historic Preservation staff evaluated the subject site and existing building upon initial receipt of the application and determined that the building is not an eligible historic resource. Furthermore, the Class 32 Exemption Report prepared by ESA, also concluded that the building is not eligible on the National, State, or local levels. To further substantiate this determination, and in response to the appeal, the applicant hired consultant Sapphos Environmental to study the eligibility of the building as a historic resource. The Sapphos report (available as part of the project file for public review) also concluded that the building is not eligible as a historic resource on the national, state or local levels. This report was reviewed by the City's Design and Historic Preservation staff, who concurred with the findings of the report.

The appellant also claims that because the project is located near the historic Madison Heights neighborhood and on the same block as other historic buildings, the project will cause substantial adverse changes to these resources. Per CEQA, a substantial adverse change to an off-site existing resource could occur only when the change in setting is so substantial that the historical resource no longer conveys its significance. The subject property is situated on the west side of Los Robles, with only one other property on each side, within the length of the block. The existing, non-historic building to the north of the subject site is nine stories high; making it three stories taller than the proposed project. Directly adjacent, and to the south of the site, a new four-story multi-family project is under construction. While no historic resources exist on the west side of the block, the appellant correctly states that the project is located near the historic Madison Heights neighborhood and other historic buildings across Los Robles Avenue. This is reflective of the fact that Pasadena is an urbanized area where historic resources regularly intermingle with non-historic resources. Given the diversity of structures in the neighborhood, in terms of age, size, height, use and architectural style, the proposed project would have a marginal effect, if any, on the setting in which the off-site historical resources are located. Therefore, the project would not affect the integrity of the historic resources or districts, and would not, in any way, affect the ability of the resources to convey their significance. This, in conjunction with the fact that the building on the subject site is not an eligible historic resource, supports the application of the Class 32 Categorical Exemption.

The appellant also claims that the CEQA exemption is not applicable due to the cumulative impacts associated with the subject project and the projects directly to the north and south of the site. There are two approved projects adjacent to the project site to the north and south pending construction. The 245 South Los Robles Avenue project (conversion of an existing building) would be a 131-unit mixed-use building to the north of the proposed project and the 399 East Del Mar Boulevard project would be a 55-unit multi-family residential building to the south of the proposed project. The technical analyses prepared in support of the Class 32 Categorical Exemption considered cumulative impacts associated with all three projects, as discussed in the 'Analysis'

section below. The technical studies determined that the cumulative impacts were of a level that was less than significant and did not require mitigation.

The appellant also claims that the project involves unusual circumstances that will cause a significant environmental impact; with the unusual circumstances being that there 'is a historical resource on the site that is slated for demolition'; there are historical resources across the street; and the historic Madison Heights neighborhood is nearby. As discussed above, City staff has determined that the building on the subject site is not an eligible historic resource. Furthermore, the presence of historic buildings is not an unusual circumstance in the City of Pasadena. Within the City's boundaries, there are: 27 landmark districts; 20 historic districts (listed in National Register of Historic Places); 152 landmarks; 21 historic monuments; 132 individual properties listed in the National Register; and 45 Greene & Greene properties. The City regularly, as a normal course of practice, processes applications for new development in the vicinity of historic resources and districts.

The appellant also claims that the previous subdivision of the lot disqualifies it for a Class 32 Exemption. It is unclear why a subdivision would have any bearing on whether or not the project qualifies for this exemption. This would only be a factor if the lot, prior to subdivision, was greater than five acres (as Class 32 can only be applied to sites less than five acres). Given that the original site was less than five acres, this is not an argument that can be substantiated. Furthermore, the prior subdivision of land has no bearing on staff's determinations regarding consistency with the City's General Plan, conformance with zoning regulations and designations; nor does it impact the analysis of environmental effects.

*The required findings cannot be made*

In the appeal application, the appellant states that the second and third findings required for an Affordable Housing Concession Permit cannot be made, but the appellant does not state why the findings cannot be made. In the following 'Analysis' section, staff identifies the three required findings for an Affordable Housing Concession Permit and provides a detailed analysis of why each of the findings can be made for the subject project.

*Project is inconsistent with the City's General Plan*

In the appeal application, the appellant references the General Plan EIR and states that, based on the General Plan EIR, the project should require a noise study and that the proposed project and adjacent projects would have significant, adverse traffic and noise impacts. In response to the first point, the project was subjected to a noise study, the results of which confirmed that there would be no significant, adverse impact, as discussed in the 'Analysis' section below.

In response to the second point, the 68.9 dBA value, discussed in the project's noise study as the current traffic-related ambient noise level, was based on peak hour traffic and measured at a distance of 25 feet from the centerline of the street. Conversely, the 61.7 dBA CNEL identified in the General Plan EIR as the projected build-out level traffic-related ambient noise was based on 24-hour composite and measured at a distance of 100 feet from the centerline of the street. The two numbers cannot be directly compared, as the controls were different. The traffic noise level, when including the estimated traffic from the two related projects at 245 South Los Robles Avenue and 399 East Del Mar Boulevard is estimated to be 62.0 dBA CNEL at a distance of 100 feet at Los Robles and Del Mar, compared to the 61.9 dBA CNEL at 100 feet for the project alone. This result agrees with the Noise report, which stated that traffic noise increases from the project and the related projects would be less than 1 dBA. The anticipated noise levels in the General Plan EIR were the results of the City's best possible analysis at the programmatic level for build out of the General Plan; they do not represent, nor were they ever intended to be a maximum noise

level allowed. The 2030 noise level identified in the General Plan EIR reflects a slight reduction in Average Daily Trips that the City's Department of Transportation anticipates will occur by 2030. Even with the project and the cumulative projects currently entitled and proposed, the noise level is only 0.3 dBA CNEL higher than that predicted in the General Plan EIR, which is well below the humanly perceptible change in noise (1 dBA in laboratory conditions).

In the appeal application, the appellant claims that the project is inconsistent with a number of Land Use Element Goals and Policies including land use compatibility, contextual relationships, etc.). Included in the 'General Plan Consistency' section below is an analysis of the project's consistency with Land Use Element goals and policies. Furthermore, staff has determined that the proposed project is compatible with the neighborhood, as it is designated for multi-family development, and the project meets all required zoning regulations, with the exception of the concessions requested as part of the density bonus. Additionally, the project does maintain a contextual relationship, as it proposes a six-story building in between a four-story building and a nine-story building; building heights transition from low to high as viewed south to north from the Madison Heights neighborhood toward the Central District.

In the appeal application, the appellant claims that the project is inconsistent with a number of Noise Element objectives and policies. The objectives and policies cited by the appellant are intended to guide the City's policy decisions, and are not intended to be applied on a project-by-project basis. The City continues to build policies that are intended to reduce traffic, and accordingly, traffic-generated noise. Furthermore, the proposed land use is in compliance with the site's zoning and General Plan designations.

#### *Significant errors and omissions in the record*

In the appeal application, the appellant states that the decision of the Hearing Officer is invalid due to significant errors and omissions in the record and application of improper administrative procedures. It is unclear to what the appellant is referring to regarding errors and omissions. The Hearing Officer was provided with a detailed staff report, in addition to multiple technical studies prepared by the City's consultants for his review prior to the hearing date. Furthermore, public noticing for the project was provided pursuant to the requirements in the Municipal Code.

#### *Hearing Officer failed to consider evidence*

In the appeal application, the appellant states that the Hearing Officer failed to consider substantial evidence; but it is unclear to what substantial evidence this is in reference to. As mentioned above, the Hearing Officer was provided with a detailed staff report, in addition to multiple technical studies prepared by the City's consultants for his review prior to the hearing date. Furthermore, the Hearing Officer reviewed all correspondence received at or prior to the hearing before arriving at his decision.

#### *Lack of substantial evidence*

In the appeal application, the appellant states that the Hearing Officer's decision is not supported by substantial evidence. The Hearing Officer's decision was based on the staff report, associated technical studies, the staff presentation at the hearing, a review of received correspondence and public testimony.

#### *Hearing Officer's decision is arbitrary and capricious*

In the appeal application, the appellant states that the Hearing Officer's decision was arbitrary and capricious. As mentioned above, the Hearing Officer was provided with a detailed staff report, in addition to multiple technical studies prepared by the City's consultants for his review prior to the hearing date. Staff also delivered an oral presentation regarding the project at the hearing.

Furthermore, the Hearing Officer reviewed all correspondence received at or prior to the hearing before arriving at his decision.