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VIA EMAIL

c/o Michelle Carter, City Planning Associate
Office of Zoning Administrator
City of Los Angeles, Department of City Planning
200 N. Spring Street
City Hall, Room 763
Los Angeles, CA 90012
Email: michelle.carter@lacity.org

RE: 6315 Arizona Place/ Public Hearing of ZA-2021-3787-ZV

Dear Ms. Carter:

We represent three entities – WIT, Wil-Ray Building Fund, and Westchester 3 Acres – who collectively own ten properties in the existing office park immediately surrounding the proposed Auto Body Paint and Repair Shop project under consideration by the Zoning Administrator under case number ZA-2021-3787-ZV (the “Project”). For the reasons that follow, the application by Bret Flory of Brian Rumsey (collectively “Applicant”) for: (1) a Zone Variance; and (2) an Exemption from CEQA pursuant to CEQA Guidelines Section 15301, must be denied.

I. RELEVANT BACKGROUND

A. The Proposed Auto Body Shop Project and the Surrounding Properties

The Applicant requests approval of a change of use of an existing one-story commercial warehouse building at 6315 Arizona Place (“Property”) from a warehouse/storage facility into an “Auto Body Paint and Repair Shop.” The proposed use would feature eighteen tech stalls, two spray painting booths, and surface parking. The Applicant intends to operate the proposed use from 7:30am through 5:30pm, Monday through Friday. The proposed use would entail car deliveries by tow truck.

The Property is rectangular in shape and flat. The existing one-story commercial warehouse building it proposes to use is approximately 18,000 square feet in size. The building on the Property has been used as a warehouse/storage facility consistent with the current zoning for many years.

The Property sits within an existing creative office park bounded by Arizona Circle, Arizona Place, and Arizona Avenue. These surrounding properties contain similar, one-story buildings which are uniform in design with similar red brick buildings. The uses of other surrounding buildings within the office park include a number of television and film production facilities, telecommunications offices, creative offices,



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and classrooms. These are all noise sensitive uses that would suffer significant negative impacts from the operation of the Project.

II. THE APPLICANT'S REQUEST FOR A ZONE VARIANCE SHOULD BE DENIED

A. The Project is Inconsistent with the Current Zoning

The Property and the surrounding properties within the same office park are zoned [Q]M1-1VL. The [Q]M1-1VL zone prohibits automotive operations within 500 feet of a residential zone. The Property here is within approximately 300 feet of properties zoned R1-1. The proposed Project involves the change of use and tenant improvements of a warehouse/storage facility to an auto body paint and repair shop. Accordingly, the proposed Project violates the existing zoning requirement that prohibits automobile operations within 500 feet of a residential zone.

B. The Project Cannot Qualify for a Zone Variance

In order to attempt to excuse its failure to comply with applicable zoning requirements, the Project is seeking a Zone Variance. However, the Project cannot support required findings for a Zone Variance.

Under Los Angeles Municipal Code Section 12.27(D)(1), no zoning variance may be granted unless each of the following findings is established: "(1) that the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations; (2) that there are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity; (3) that the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question; (4) that the granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located; and (5) that the granting of the variance will not adversely affect any element of the General Plan." Furthermore, "a variance shall not be used to grant a special privilege or to permit a use substantially inconsistent with the limitations upon other properties in the same zone and vicinity." (LAMC, § 12.27(D)(1); *Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, 924.)

With respect to the first variance finding, the Applicant has put forth no evidence in its application package to demonstrate that adherence to the provisions of the zoning ordinance would result in any practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations. Since it is the Applicant's burden to establish such facts with substantial evidence, the failure to do so results in a failure to establish the first variance finding.



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With respect to the second and third variance findings, the “special circumstances applicable to the subject property” must be such that the property is distinct from neighboring properties. (*Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1183.) For example, this occurs “where the natural condition or topography of the land, such as peculiarities of the size, shape, or grade of the parcel, places the landowner at a disadvantage vis-à-vis other landowners in the area.” (*Id.*) Thus, “a zoning variance . . . must be grounded in conditions peculiar to the particular lot as distinguished from [surrounding] property.” (See *Id.*, at 1174, citing *Zakessian v. City of Sausalito* (1972) 28 Cal.App.3d 794, 799-800.)

Here, there is no peculiar condition applicable to the Property such as an unusual size, shape, or topography at all, much less such a condition that does not apply generally to other property in the same zone and vicinity. The Property and all of the neighboring properties are similarly situated, flat, rectangular parcels that currently comply with current zoning requirements. The Property and surrounding properties are in fact part of a cohesively designed office park with similar one-story commercial brick buildings. There is thus no reason the Property here could not comply with the zoning similar to all the functionally identical neighboring properties – and the Applicant made no attempt to furnish any such explanation in its application materials.

This particular Property has also been operated consistent with the applicable zoning up until the present request to deviate from those requirements. This Property has thus proven it is capable of being operated consistent with zoning requirements – and in fact the Project proposes to use the same building that has been operated as a code-consistent warehouse and storage use up until now. Accordingly, there is simply no basis for determining that a hardship or peculiar conditions exist here. As a result, the second and third variance findings cannot be established for the Project and the variance must be denied.

The fourth variance finding also cannot be made. The granting of the variance here would be “injurious to the property or improvements in the same zone or vicinity in which the property is located.” (LAMC, § 12.27(D)(2).) The surrounding uses in the office park in which the Property sits are noise sensitive television and film recording studios, offices, and classroom facilities. Such noise sensitive uses include the properties in the immediate vicinity of the Property located at 6330 Arizona Circle (film and television studios), 6320 Arizona Circle (office and classroom facilities), 6314 Arizona Place (offices and a public access television studio), 6334 Arizona Place (under construction for video production facility), 6368 Arizona Circle (film and television production studio and office), and 6374 Arizona Circle (film and television production studio and office). A loud, heavy industrial use such as an auto body shop would have a profound negative effect on these uses, directly threatening their future viability. Thus, the fourth variance finding also cannot be made by the Project.

LAMC Section 12.27(D)(1) also states that, “a variance shall not be used to grant a special privilege or to permit a use substantially inconsistent with the limitations upon other properties in the same zone and



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vicinity.” (LAMC, § 12.27(D)(1); see also *Stolman, supra*, 114 Cal.App.4th at 924.) Because the Applicant has failed to demonstrate an unnecessary hardship or peculiar conditions, and because a severe negative impact would result from locating a heavy industrial use near a variety of noise sensitive uses, a variance here would effectively grant a special privilege and permit a use substantially inconsistent with the limitations upon and actual uses employed by other properties in the same zone and vicinity. For all the foregoing reasons, the variance requested here should be denied.

III. THE APPLICANT’S REQUEST FOR A CLASS 1 CATEGORICAL EXEMPTION SHOULD BE DENIED

A. The Project Cannot Utilize the Class 1 Categorical Exemption

The Project proposes to comply with CEQA through the adoption of the Class 1 Categorical Exemption under CEQA Guidelines Section 15301. The Project does not qualify for this Exemption. As a general matter, CEQA Categorical Exemptions “are construed narrowly and will not be unreasonably expanded beyond their terms.” (See, e.g., *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1148.) The Class 1 Exemption applies by its terms to “the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing” structures “involving negligible or no expansion **of existing or former use.**” (CEQA Guidelines, § 15301 (emphasis added).)

The Project here does not propose to continue an “existing or former use,” but rather proposes a change of use to a new use never conducted at the Property before, going from a warehouse and storage use to an auto body repair shop. For this reason alone, it does not qualify for the Class 1 Exemption.

Moreover, the Project proposes a change of use that would significantly increase environmental impacts, going from a low impact storage use allowed by right under the existing zoning to an auto body repair use that includes tow truck deliveries and automotive painting stalls that is prohibited by the current zoning. A project that shifts from a less impactful use to a more impactful use does not qualify for a Class 1 Categorical Exemption. (See, e.g., *Cty. of Amador v. El Dorado Cty. Water Agency* (1999) 76 Cal.App.4th 931, 967 [Change of ownership of existing hydroelectric facility did not qualify for Class 1 exemption when change of ownership also allowed additional consumptive water use beyond what was previously contemplated at facility].)

Moreover, the Class 1 exemption applies to “existing facilities.” The Project here would construct entirely new and more environmentally impactful facilities within an existing building, including car lifts, paint booths, and other new facilities that did not previously exist onsite. Such new, environmentally impactful facilities also make the Class 1 Exemption inappropriate for the Project.



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As a further indication of the inapplicability of the Class 1 Exemption, CEQA Guidelines Section 15301 provides a list of the types of projects that demonstrate its scope. Examples of such projects include: the restoration of deteriorated structures; the addition of safety or health protection devices; and the maintenance of existing landscaping. (See CEQA Guidelines, § 15301(a)-(p).) The proposed Project is totally unlike the projects listed in the Class 1 Exemption, insofar as all of the examples contemplate the maintenance or minor expansion of existing uses and minor modifications to existing facilities. The Project is in many ways the opposite of these examples – proposing new and significantly more environmentally impactful uses than existed before. Based on the foregoing, the Class 1 Exemption is inappropriate for the Project and should not be adopted.

IV. CONCLUSION

For the reasons stated above, we respectfully request the Zoning Administrator deny the Applicant's request for: (1) a Class 1 Categorical Exemption; and (2) a Zone Variance.

We are more than happy to further discuss any of these matters with you and intend to address these issues at the upcoming hearing. Thank you.

Best regards,

A handwritten signature in blue ink, appearing to read 'AB', written over a light blue horizontal line.

Andrew Brady