

Sunland Tujunga Alliance, Inc.

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September 30, 2009

APPEAL OF CATEGORICAL EXEMPTION DETERMINATION

Environmental Clearance No. ENV 2009-0978-CE

Case No. DIR 2009-0977-SPP

Los Angeles City Council District 2

Commission Area: North Valley

Community Plan: Sunland-Tujunga-Lake View Terrace-Shadow Hills-East La Tuna Canyon

Neighborhood Council: Sunland-Tujunga

Legal Description: TR 3980, Lot 81, Arb 3

Last Day to Appeal: September 30, 2009

On March 31, 2009, City Planning filed a Notice of Exemption with the County Clerk for the addition to an existing auto repair facility located at 10249 Plainview Avenue in the City of Los Angeles (DIR-2009-977-SPP). In making this exemption determination, City Planning Staff relied on the following exemption classification:

Class 21. Enforcement Actions by Regulatory Agencies.

Class 21 consists of actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate or other entitlement for use which is issued, adopted or prescribed by the regulatory agency or a law, general rule, standard or objective which is administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

- 1) The direct referral of a violation of a lease, permit, license, certificate or other entitlement for use or of a general rule, standard or objective to the Attorney General, District Attorney or City Attorney, as appropriate for judicial enforcement.
- 2) The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate or other entitlement for use or enforcing the general rule, standard or objective.

The Notice of Exemption filed by the City specifically references Category 2: The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate or other entitlement for use or enforcing the general rule, standard or objective.

Basis of Appeal


The Class 21 Categorical Exemption determination for this project is being appealed for the following reasons:

- A. The Planning Staff erred in its application of CEQA in determining the exemption class for the proposed project. The Class 21 categorical exemption (Section 15321, CEQA Guidelines, noted above) is intended to exempt certain enforcement actions by local agencies, including law enforcement activities from further CEQA review. The most common use of this exemption category by local agencies would be, for example, for the revocation of a conditional use permit for an existing use. No such action is contemplated in regards to the current application.
- B. The mere adoption of an administrative decision or order, without considering the environmental consequences of the decision or order in regards to the project subject to such decision or order, dismisses the fact that there is a project that is being approved that has potentially significant environmental impacts that would normally be required to be reviewed as part of a discretionary action (such as the approval of a conditional use permit) and in the context of an Initial Study Checklist analysis.
- C. The entire proposed project should have been examined under CEQA for project specific significant and cumulative effects and impacts to the local environment. For example, there were no traffic counts or studies conducted for either the signalized intersection of Plainview Avenue and Foothill Boulevard or the 4-way stop sign intersection of Plainview Avenue and Apperson Street. The proposed project design plans indicate all public ingress and egress will be from two driveways on Plainview Avenue. The only traffic counts taken by LADOT were at the intersection of Foothill Boulevard and Apperson Street. This is an abuse of discretion because a more thorough traffic analysis should have been required.
- D. As provided in Section 15300.2 of CEQA, there are special circumstances wherein, because of the nature of the project, it cannot be categorically exempted from CEQA. This includes projects that have a potentially significant cumulative effect or any project where there is a reasonable possibility that the project will have a significant effect on the environment. The proposed project falls within both of these circumstances:

- There is a detrimental over-concentration of automotive uses in the vicinity of the proposed project including 23 automotive uses on Foothill Boulevard which are concentrated within an approximate two block area of the proposed project. The cumulative effects of these projects plus the proposed project are significant.
- The Classic Collision Center automotive repair use and addition to the existing structure located at 7602 Apperson Street are out of scale with the surrounding commercial area. The size increase of the existing building is a shocking 615% increase in square footage. There are no other commercial structures with a height of 33 feet in the surrounding area. The proposed project site is a sloping hillside causing the building to appear taller than 33 feet and tower above the surrounding uses. The proposed second story use for auto repairs and parking cars is unusual and out of character with the surrounding uses. In addition, the proposed project will likely block the view of the Verdugo Mountains ridgeline to the south, as viewed from Plainview Avenue. The ridgeline may be protected by the San Gabriel/Verdugo Mountains Scenic Preservation Specific Plan, and a Director's Determination may be required.
- No traffic analysis was conducted for two key intersections in the project vicinity: the 4-way stop at Plainview Avenue and Apperson Street and the signalized intersection of Plainview Avenue and Foothill Boulevard. These key intersections should have been studied to analyze the impacts associated with the new automotive use and to determine if the project would constitute a traffic hazard, cause significant traffic congestion, or disruption of vehicular circulation. These key intersections should have been analyzed to ensure public safety.

The proposed project fails to meet all of the Operating Conditions and Development Standards of the Automotive Use Ordinance # 178382 and, therefore, is required to obtain a conditional use permit to operate at the proposed location. In addition, there is no Categorical Exemption category that this project reasonably qualifies for, therefore, an Initial Study Checklist is required to be prepared for the project.

SUBMITTED ON BEHALF OF THE SUNLAND-TUJUNGA ALLIANCE, INC.



Abby P. Diamond, Secretary

COUNTY CLERK'S USE

CITY CLERK'S USE

CITY OF LOS ANGELES
 OFFICE OF THE CITY CLERK
 200 NORTH SPRING STREET, ROOM 360
 LOS ANGELES, CALIFORNIA 90012
CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION
 (California Environmental Quality Act Section 15062)

Filing of this form is optional. If filed, the form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152 (b), Pursuant to Public Resources Code Section 21167 (d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations being extended to 180 days.

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| LEAD CITY AGENCY City of Los Angeles Department of City Planning | COUNCIL DISTRICT 2 |
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|--|----------------------------------|
| PROJECT TITLE * DIR-2009-977-SPP | LOG REFERENCE ENV-2009-978-CF |
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| PROJECT LOCATION * 10249 North Plinyview Ave. |
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| DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT: * Addition to existing auto repair facility |
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| NAME OF PERSON OR AGENCY CARRYING OUT PROJECT, IF OTHER THAN LEAD CITY AGENCY: * Madjid Berenji |
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|--|---------------------------|---------------------------------------|------|
| CONTACT PERSON * Phillip Kaainoa | AREA CODE * 213 | TELEPHONE NUMBER * 247-2986 | EXT. |
|--|---------------------------|---------------------------------------|------|

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| EXEMPT STATUS: (Check One) | | |
| <input type="checkbox"/> MINISTERIAL | STATE CEQA GUIDELINES Sec. 15268 | CITY CEQA GUIDELINES Art. II, Sec. 2b |
| <input type="checkbox"/> DECLARED EMERGENCY | Sec. 15269 | Art. II, Sec. 2a (1) |
| <input type="checkbox"/> EMERGENCY PROJECT | Sec. 15269 (b) & (c) | Art. II, Sec. 2a (2) & (3) |
| <input checked="" type="checkbox"/> CATEGORICAL EXEMPTION | Sec. 15300 <i>et seq.</i> | Art. III, Sec. 1 |
| Class <u>21</u> Category <u>2</u> (City CEQA Guidelines) | | |
| <input type="checkbox"/> OTHER | (See Public Resources Code Sec. 21080 (b) and set forth state and City guideline provision.) | |

JUSTIFICATION FOR PROJECT EXEMPTION: The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or other entitlement for use or enforcing the general rule standard, or objective.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT ISSUED BY THE CITY PLANNING DEPARTMENT STATING THAT THE DEPARTMENT HAS FOUND THE PROJECT TO BE EXEMPT.

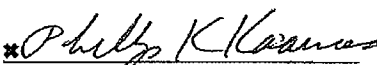
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|--|---------------------|-----------------------|
| SIGNATURE  | TITLE CPA | DATE 3/3/09 |
|--|---------------------|-----------------------|

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|----------------------|------------------------------|----------------------------|-----------------------|
| FEE: \$910 | RECEIPT NO. 280999 | REC'D. BY 280999 | DATE 3/3/09 |
|----------------------|------------------------------|----------------------------|-----------------------|

DISTRIBUTION: (1) County Clerk, (2) City Clerk, (3) Agency Record
 Rev. 11-1-03

IF FILED BY THE APPLICANT:

* **Phillip Kaainoa**
 NAME (PRINTED)


 SIGNATURE

* **Mar 31, 2009**
 DATE

DIR 2009 977

Case # DIR-2009-0977-SPP
Exhibit E Staff Initial: NJM
 Page 1 of 1 Date: 8-24-2009