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November 1, 2023

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

APPEAL OF CASE NO. APCW-2022-1156-SPE-HCA, FOR PROPERTY LOCATED AT 11835 WEST TENNESSEE PLACE; CF 23-0954

On August 17, 2023, the West Los Angeles Area Planning Commission ("APC") approved a Specific Plan Exception to allow reduced front yards of 5 feet in lieu of the 15 feet otherwise required by the Exposition Corridor Transit Neighborhood Plan ("Expo TNP") Section 4.3.1.A.2, for the construction of four (4) new three-story single-family dwellings with a height of 45 feet and two (2) parking spaces as part of a previously approved small lot subdivision. The APC determined that based on the whole of the administrative record, the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32).

On August 29, 2023, an appeal of the entire APC decision was filed by an aggrieved party (Rudy Hartanto). Below is a summary of the appeal points with a staff response to each point.

Appeal Point No. 1: *The purpose of the TNP Section 4.3.1.A.2 setback requirement is to ensure that the project is compatible with neighboring properties. There are no comparable setbacks currently enjoyed by the properties in the same area and zone. Surrounding properties are zoned R3(EC) and developed with single-family dwellings. The breath and scope of the project is out of proportion to the nature and character of this neighborhood. The project is incompatible to the general purpose and intent of the zoning regulation, failing to conserve the stability of this single-family neighborhood.*

The applicant is seeking a Specific Plan Exception from Section 4.3.1.A.2 of the Exposition Corridor Transit Neighborhood Plan ("Expo TNP") to allow reduced front yards of 5 feet in lieu of the 15 feet otherwise required. Specifically, Expo TNP Section 4.3.1.A.2 requires that properties within R3(EC) zones comply with the setback requirement of the R3 zone as set forth in LAMC Section 12.10.C.1. LAMC Section 12.10.C.1 requires a front yard of not less than 15 feet for the R3 zone. However, the applicant proposes to observe 5-foot front yards along Tennessee Avenue and Tennessee Place through a Specific Plan Exception.

The subject site is a level, triangular-shaped site comprised of two (2) parcels, consisting of 7,461 square feet of lot area. The site is located in the West Los Angeles Community Plan, at the intersection of Tennessee Place, Granville Avenue, and Tennessee Avenue, with approximately 190 feet of frontage on the north side of Tennessee Place, and approximately 200 feet of frontage on the south side of Tennessee Avenue. Due to the triangular shape of the site, the lot depth varies from approximately 10 feet at the easterly curved corner radius to approximately 68 feet along the westerly lot line.

The triangular shape of the subject site is formed by the convergence of Tennessee Avenue and Tennessee Place at the Granville Avenue intersection; Tennessee Avenue then continues east of Granville Avenue. The surrounding neighborhood is therefore developed with lots that are more rectangular in shape; there are no other triangular-shaped properties in the R3(EC) zone in the immediate vicinity. Moreover, the configuration of the site along Tennessee Avenue and Tennessee Place results in a through-lot with two front yard setbacks; there are no other through-lots in the immediate vicinity. Therefore, the shape and configuration of the subject site is an exceptional circumstance and condition that does not apply generally to other properties in the area.

Surrounding properties are zoned R3(EC) and developed with single-family dwellings. Abutting properties to the west are improved with one-story single-family dwellings with front yards along Westgate Avenue to the east; therefore Tennessee Avenue and Tennessee Place are side yards, which are required to be 5 feet based on LAMC Section 12.10.C.2. Therefore, allowing reduced front yard setbacks of 5 feet for the subject site along Tennessee Avenue and Tennessee Place will allow a consistent street frontage, and will not be detrimental to the adjacent properties.

The site is located within the West Los Angeles Community Plan area, with a land use designation of Medium Residential, which corresponds to the R3 Zone. The site is zoned R3(EC) which is consistent with the land use designation. The site is located within the Exposition Corridor Transit Neighborhood Plan Specific Plan ("Expo TNP") Subarea 12, which contains additional development standards and environmental standards subject to review through Administrative Clearance, which is currently pending. The small lot subdivision is permitted at this location on the subject site as an allowable use in the R3 zone in accordance with Expo TNP Section 2.2.1. The R3(EC) Zone restricts density to a minimum lot area per dwelling unit of 1,200 square feet. The Expo TNP allows a building height of 45 feet and Floor Area Ratio ("FAR") of 3:1 on the subject site. The project is proposing a small lot subdivision resulting in 4 small lot homes with a maximum building height of 45 feet and FAR of 2.42:1, consistent with the Expo TNP zoning and development standards.

Therefore, the project is compatible with neighboring properties that are similarly zone R3(EC) and is consistent with the general purpose and intent of the zoning regulation. The appellant has not presented substantial evidence that the City has erred or abused it in its discretion in approving the project, therefore the appeal shall be denied.

Appeal Point No. 2: *The property is not currently vacant. It has an unoccupied single-family home situated on the property because the seller moved out when sold. The new owner could live at the location if they wished. The property was leased to tenants and is merely by choice of the applicant to be unoccupied. The property is not necessarily "underutilized". A single family home has great value. The net increase of 3 dwelling units in proximity to public transit cannot be the sole consideration of the project's approval.*

The site is developed with a single family dwelling that is currently vacant. The current vacancy status of the single-family dwelling has been confirmed by the Los Angeles Housing Department

(LAHD) who has determined, per the Housing Crisis Act of 2019 (SB 8) Determination, dated December 8, 2022, that the Property has been owner occupied, vacant, then rented to households above Low Income levels. Therefore, the proposed housing development does not require the demolition of any prohibited types of housing. Further, the provisions of SB 8 do not apply to owner occupied properties, vacant properties, or properties rented to households above Low Income levels, therefore no SB 8 replacement affordable units are required. Lastly, the subdivider has not provided a list of tenants as the site is developed with a single family dwelling that is currently vacant.

Furthermore, surrounding properties are zoned R3(EC) and developed with single-family dwellings. The R3(EC) Zone restricts density to a minimum lot area per dwelling unit of 1,200 square feet; therefore the site would be permitted a maximum of six (6) dwelling units. The Expo TNP allows a building height of 45 feet and Floor Area Ratio ("FAR") of 3:1 on the subject site. The proposed project will have a height of 3 stories and 45 feet with a FAR of approximately 2.42:1 which is consistent with the zoning. As demonstrated in the case file and under Appeal Point No. 3, the project is consistent with the General Plan, the applicable West Los Angeles Community Plan designation and policies, and all applicable zoning designations and regulations.

The project will redevelop an underutilized site with a small lot subdivision with four (4) small lot homes, resulting in a net increase of three (3) dwelling units to the West Los Angeles community and that are in close proximity to public transit along the Expo "E" Line and local amenities. The appellant has not presented substantial evidence that the City has erred or abused it in its discretion in approving the project, therefore the appeal shall be denied.

Appeal Point No. 3: *The project might be consistent with the General Plan, but is not aligned with the intent of the West Los Angeles Community Plan and purposes of the Expo TNP. The project will not reduce vehicular trips and congestion by developing new housing in proximity to adequate services and facilities near transit station; the net result is increased vehicular trips and congestion. The project will not create opportunities for affordable housing nor increase its accessibility to more segments of the population, as they will sell for at least \$1.5 million - \$2.5 million per unit or more.*

The project is consistent with the West Los Angeles Community Plan, Housing Element, Mobility Plan, and Expo TNP, which have policies promoting development near public transit and increasing access to housing.

The project is the construction of a small lot subdivision that provides housing opportunities on a site that is developed with a single-family dwelling that is currently vacant. The project will result in the net increase of three (3) dwelling units to the City's housing stock and conforms with the applicable provisions of the Housing Element. The applicant is seeking a Specific Plan Exception from Section 4.3.1.A.2 of the Exposition Corridor Transit Neighborhood Plan ("Expo TNP") to allow reduced front yards of 5 feet in lieu of the 15 feet otherwise required. As provided under Finding No. 1, the strict application of 15-foot front yard regulations would reduce the buildable area by one-half, thereby limiting the development potential of the site. The applicant has requested deviations from the front yard regulations in order to allow the creation of new dwelling units, and will result in the net increase of three (3) dwelling units that are in close proximity to public transit along the Expo "E" Line and local amenities, thereby encouraging multi-modal transportation and decreasing vehicle miles traveled in the neighborhood.

The subject site is located within one-half mile (2,640 feet) of the Bundy Station of the Los Angeles County Metropolitan Transportation Authority ("Metro") Exposition ("E") Line, which constitutes a

Major Transit Stop. There are also several bus stops in the area serving the Santa Monica Big Blue Bus 5, 7, R7, and 15 bus lines.

The Project does not exceed the threshold criteria established by LADOT for preparing a traffic study. The Department of Transportation (LADOT) Referral Form dated December 29, 2022 and the Vehicle Miles Traveled (VMT) calculator indicated that the number of daily vehicle trips will be 31 which is under the threshold of 250 or more daily vehicles trips to require VMT analysis. As such, the project does not exceed the threshold criteria established by LADOT for preparing a traffic study and will not have any significant impacts related to traffic.

Therefore, the project is consistent with the land use policies promoting development near public transit and increasing access to housing. The appellant has not presented substantial evidence that the City has erred or abused it in its discretion in approving the project, therefore the appeal shall be denied.

Appeal Point No. 4: The Findings and applicant indicate the project will maintain 9 non-protected trees along the right-of-way, however it is not listed under Conditions of Approval C-1, and contradicts the worst-case scenario removal of all street trees.

The subject site is currently developed with a one-story single-family dwelling with existing structures, driveway, fencing, and nine (9) non-protected street trees encroaching along the public right of way. The project's environmental analysis assumes a worst-case scenario of removing all nine (9) street trees, in the event of changes to the right-of-way improvement plans after approval of the environmental clearance. However, this environmental analysis does not authorize the removal of any street trees without prior approval of Urban Forestry, in compliance with LAMC Sections 62.169 and 62.170 and their applicable findings.

Prior to any work on the adjacent public right-of-way, the applicant will be required to obtain approved plans from the Department of Public Works. As there currently is no approved right-of-way improvement plan and for purposes of conservative analysis under CEQA, Planning has analyzed the worst-case potential for removal of all street trees. Note that street trees and protected trees shall not be removed without prior approval of the Board of Public Works/Urban Forestry (BPW) under LAMC Sections 62.161 - 62.171. At the time of preparation of this environmental document, no approvals have been given for any tree removals on-site or in the right-of-way by BPW. The City has required a Tree Report to identify all protected trees/shrubs on the project site and all street trees in the adjacent public right-of-way. There are no protected trees on the subject site or public right-of-way, according to the Tree Inventory Report prepared by The Urban Lumberjack, LLC dated January 19, 2023. The Tree Inventory Report identified nine (9) non-protected trees along the public right-of-way (olive, Indian laurel fig, redwood, primrose, orange, avocado, ornamental pear); there are no (0) protected or non-protected trees on the subject site.

On May 12, 2023, the Advisory Agency approved Related Case No. AA-2022-1157-PMLA-SL-HCA for a maximum four (4) small lots, pursuant to the LAMC Section 12.22 C,27, as shown on map stamp-dated October 27, 2022, contingent upon the approval of the Specific Plan Exception. No appeals were filed.

The Advisory Agency Determination Letter ("AA Determination") included Condition No. S-3(i) from the Bureau of Engineering as follows:

- (i) *That the following improvements are either constructed prior to recordation of the*

final map or that the construction is suitably guaranteed:

- (1) *Improve Tennessee Place adjoining the subdivision by the removal of the curb and construction of a new integral curb and gutter at existing curb alignment; a new 5-foot wide concrete sidewalk adjacent to the property line, **the sidewalk can be 3-foot wide and meandering to preserve the street trees (provide sidewalk easement if necessary)**, and landscaping of the border areas; including any necessary removal and reconstruction of existing improvements.*
- (2) *Improve Tennessee Avenue adjoining the subdivision by the removal of the curb and construction of a new integral curb and gutter at existing curb alignment, a new 5-foot wide concrete sidewalk adjacent to the property line, **the sidewalk can be 3-foot wide and meandering to preserve the street trees (provide sidewalk easement if necessary)**, and landscaping of the border areas; including any necessary removal and reconstruction of existing improvements.*
- (3) *Construct the necessary on-site mainline and house connection sewers satisfactory to the City Engineer. (emphasis added)*

The AA Determination also included Condition No. 15 from Urban Forestry as follows:

15. ***Project shall preserve all healthy mature street trees wherever possible. All feasible alternatives in project design should be considered and implemented to retain healthy mature street trees. A permit is required for the removal of any street tree and shall be replaced 2:1 as approved by the Board of Public Works and Urban Forestry Division. (emphasis added)***

Therefore, the project is conditioned to preserve the street trees wherever possible to the satisfaction of Urban Forestry, and may be achieved by providing a 3-foot wide and meandering sidewalk or sidewalk easement if necessary, subject to the approval of the Bureau of Engineering.

Lastly, the AA Determination also included Condition No. 19 from the Department of City Planning as follows:

19. That prior to the issuance of the building permit or the recordation of the final map, a copy of the Case No. APCW-2022-1156-SPE-HCA shall be submitted to the satisfaction of the Advisory Agency. In the event that Case No. APCW-2022-1156-SPE-HCA is not approved, the subdivider shall submit a tract modification.

Therefore, the project is subject to Conditions of Approval from both the subject case and Related Case No. AA-2022-1157-PMLA-SL-HCA. The appellant has not presented substantial evidence that the City has erred or abused it in its discretion in approving the project, therefore the appeal shall be denied.

Appeal Point No. 5: *Adherence to the strict application of the regulation may result in practical difficulties or unnecessary hardship, however shall not be considered where any such circumstance was created by self-imposed hardship. Exceptional circumstances including development designs and/or plans do not apply to the subject property which are created by a self-imposed hardship. The applicant acquired the subject property with knowledge of the frontage*

shortfall, and knew or should have known the need for an exception. Substantial credible evidence supports a decision that the applicant has filed to shoulder his burden of proof as to set aside the strict application of the regulations in failing to establish the requisite findings due to the existing of a self-imposed hardship, and therefore an exception is not in accordance with the LAMC. The APC does not have the authority for granting the requested exception as it is a self-imposed hardship. The property will not be unusable without approval of the reduced front yard setback. It requires a scaled down version. The 15 foot front yard regulation is a strict application

Expo TNP Section 1.3.3.F provides that exceptions from Specific Plan regulations shall be made according to the procedures under LAMC Section 11.5.7.F as a Specific Plan Exception. As provided under LAMC Section 11.5.7.F, the "Area Planning Commission shall have initial decision-making authority for granting exceptions from specific plan regulations". Therefore, the Specific Plan Exception is the appropriate entitlement path for the request, and the Area Planning Commission has the authority as the decision-maker on the Specific Plan Exception.

Furthermore, pursuant to LAMC Section 11.5.7.F, the APC may permit an exception from a specific plan if it makes all of the following findings:

- (a) That the strict application of the regulations of the specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan;*
- (b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area;*
- (c) That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;*
- (d) That the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property; and*
- (e) That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.*

The APC has made all the requisite findings in the affirmative in the Determination Letter dated August 17, 2023. The strict application of 15-foot front yard regulations would reduce the buildable area by one-half, thereby limiting the development potential of the site, and would therefore result in practical difficulties. The shape and configuration of the subject site is an exceptional circumstance and condition that does not apply generally to other properties in the area. The Specific Plan Exception is needed to allow comparable buildable areas as a property right that is provided for other properties. Granting reduced front yard setbacks for the Proposed Project would not impact the public welfare given that the Exception will allow for greater consistency with other residential properties in the area. As provided under Appeal Point No. 3, the project is consistent with the West Los Angeles Community Plan, Housing Element, Mobility Plan, and Expo TNP, which have policies promoting development near public transit and increasing access to housing.

The appellant has not presented substantial evidence of a self-imposed hardship, that the City has erred or abused it in its discretion in approving the project, or that the exception fails to comply with the requirements of LAMC Section 11.5.7. Therefore, the appeal shall be denied.

Conclusion

Therefore, upon careful consideration of the appellant's points, the appellant has not presented substantial evidence that the City has erred or abused it in its discretion in approving the project, or that the proposed exception to a specific plan fails to comply with the requirements of LAMC Section 11.5.7. The appellant has raised no new information to dispute the Findings of the APC's actions on this matter.

Planning Staff recommends the PLUM Committee deny the appeal, and sustain the APC's action in approving Case No. APCW-2022-1156-SPE-HCA.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Michelle Singh

MICHELLE SINGH
Senior City Planner

VPB:TLI:MS:CC