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January 22, 2024

The Honorable City Council
City of Los Angeles
City Hall, Room 395
Los Angeles, California 90012

Dear Honorable Members:

SUPPLEMENTAL INFORMATION TO THE JANUARY 11, 2024 CITY PLANNING APPEAL RECOMMENDATION REPORT FOR THE PROPERTY LOCATED AT 10898, 10898 ½ AND 10900 W. OLINDA STREET FOR CASE NO. CPC-2023-4205-DB-PHP-VHCA/ENV-2023-5356-EAF, PREVIOUSLY CASE NO. ADM-2023-4205-DB-ED1-VHCA; CF 23-1387

On January 11, 2024, the Department of City Planning (DCP) transmitted its appeal recommendation report in response to an appeal filed by Mr. Jeff Zbikowski. In addition to the department's recommendation, the following information is being transmitted for your consideration to be included as "Exhibit L- Letter of Non-Compliance, dated November 22, 2023" to the recommendation report.

On November 22, 2023, the DCP issued a timely Letter of Non-Compliance pursuant to Government Code Section 65589.5(j)(2)(a) which reiterated that the project is not eligible for Executive Directive 1 (ED1) processing, and that it must be processed as a City Planning Commission (CPC) case through the procedures at LAMC 12.22.A.25. The Letter of Non-Compliance also detailed the zoning code provisions for which the project needs relief from, as well as the continued request for California Quality Environmental Quality Act (CEQA) documents and the payment of the filing fees for CPC-2023-4205-DB-PHP-VHCA and ENV-2023-5356-EAF.

California Government Code Section 65943 of the Permit Streamlining Act states that after City Planning has received a Development Project Application, it has 30 days to determine in writing if the application is incomplete. If an application is incomplete, upon resubmittal of the missing materials, DCP has another 30 days to determine whether the supplemented application is still incomplete. An applicant may appeal the second determination that the application is incomplete under Government Code Section 65943 (c). The instant appeal was authorized and accepted by City Planning pursuant to Government Code Section 65943 (c) of the Permit Streamlining Act:

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both...

The “public agency” has been determined to be the City of Los Angeles (Gov. Code Sec. 65932) and the “governing body of the agency” has been determined to be the Los Angeles City Council.

The DCP is processing this appeal on a voluntary basis even though it is the City’s position that an appeal under Government Code Section 65943(c) is incorrect because CPC-2023-4205-DB-PHP-VHCA has been deemed complete on October 27, 2023 by operation of State Law, and the appellant has been notified in a timely manner pursuant to Government Code Section 65589.5(j)(2)(a) that the ED1 process is the incorrect procedure.

Government Code Section 65589.5(j)(2)(a) states the following:

(A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

On July 6, 2023 the applicant was informed that ED1 was the incorrect process. This information was communicated in subsequent communication dated August 4, 2023, and most recently in the Letter of Non-Compliance issued November 22, 2023. Therefore, in accordance with State Law the Department of City Planning explained that ADM-2023-4205-DB-ED1-VHCA is not in conformance with current filing procedures of the ED1 program and must be processed as a CPC entitlement.

On October 27, 2023, CPC-2023-4205-DB-PHP-VHCA was deemed complete, by operation of law, in accordance with the Permit Streamlining Act, therefore, the issue of incompleteness is a moot question. It is now up to the applicant to pay the outstanding fees in order to allow for their CPC entitlement application to move forward through the City Planning Commission and the off-menu state Density Bonus entitlement process.

City Planning re-affirms its recommendation for denial of the appeal based on the rationale and appeal responses as stated in the January 11, 2024 appeal recommendation report, along with the mootness reason stated above. This report does not make a recommendation regarding the merits of any of the referenced Development Project Applications (i.e., the ADM Application and CPC Application); the merits of the Project are not before Council; and no decision-maker has approved, conditioned, or disapproved the referenced applications either.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Blake Lamb

Blake Lamb
Principal City Planner
VPB:BL:CR:JP:dqn