

ORIGINAL



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- ☐ Area Planning Commission ☐ City Planning Commission ☒ City Council ☐ Director of Planning
☐ Zoning Administrator

Regarding Case Number: ENV-2019-5389-CE

Project Address: 5806-5812 Lexington Ave.

Final Date to Appeal: 10/07/2020

CERA Appeal

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ Representative ☐ Property Owner
☐ Applicant ☐ Operator of the Use/Site

☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: Doug Haines

Company/Organization: _____

Mailing Address: P.O. Box 93596

City: Los Angeles

State: CA

Zip: 90093

Telephone: (310) 281-7625

E-mail: _____

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

☐ Self

☒ Other:

La Mirada Ave. Neighborhood Assn. & Concerned Neighbors of Lexington Ave.

b. Is the appeal being filed to support the original applicant's position?

☐ Yes

☒ No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): Robert Silverstein

Company: The Silverstein Law Firm

Mailing Address: 215 N. Marengo Ave.

City: Pasadena State: CA Zip: 91101

Telephone: (626) 449-4200 E-mail: _____

5. JUSTIFICATION/REASON FOR APPEAL

a. Is the entire decision, or only parts of it being appealed? ☐ Entire ☒ Part

b. Are specific conditions of approval being appealed? ☐ Yes ☒ No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- ☐ The reason for the appeal ☐ How you are aggrieved by the decision
☐ Specifically the points at issue ☐ Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: [Signature] Date: 10-2-20

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates)
Each case being appealed is required to provide three (3) sets of the listed documents.

- ☒ Appeal Application (form CP-7769)
☒ Justification/Reason for Appeal
☒ Copies of Original Determination Letter

b. ~~Electronic Copy~~

- ☒ Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

- ☐ Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
☒ Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. Notice Requirement

- ☐ Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
☐ Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.



City of Los Angeles Department of City Planning

10/2/2020

PARCEL PROFILE REPORT

PROPERTY ADDRESSES

5817 W LEXINGTON AVE
5819 W LEXINGTON AVE

ZIP CODES

90038

RECENT ACTIVITY

PAR-2018-5252-TOC

CASE NUMBERS

CPC-2018-6005-CA
CPC-2016-1450-CPU
CPC-2013-3169
CPC-2003-2115-CRA
CPC-2002-1128-CA
CPC-1999-324-ICO
CPC-1999-2293-ICO
CPC-1986-835-GPC
ORD-175038
ORD-173562
ORD-165663-SA380
DIR-2019-5388-DB
DIR-2018-6392-TOC
ENV-2019-5389-EAF
ENV-2019-4121-ND
ENV-2018-6393-EAF
ENV-2018-6006-CE
ENV-2016-1451-EIR
ENV-2013-3170-CE
ENV-2002-1131-ND
ENV-2002-1130-ND

Address/Legal Information

PIN Number	144B189 287
Lot/Parcel Area (Calculated)	7,500.0 (sq ft)
Thomas Brothers Grid	PAGE 593 - GRID G5
Assessor Parcel No. (APN)	5534019030
Tract	MANSFIELD'S LINCOLN TRACT
Map Reference	M B 9-4
Block	None
Lot	105
Arb (Lot Cut Reference)	None
Map Sheet	144B189

Jurisdictional Information

Community Plan Area	Hollywood
Area Planning Commission	Central
Neighborhood Council	Hollywood Studio District
Council District	CD 13 - Mitch O'Farrell
Census Tract #	1909.02
LADBS District Office	Los Angeles Metro

Planning and Zoning Information

Special Notes	None
Zoning	R3-1
Zoning Information (ZI)	ZI-2452 Transit Priority Area in the City of Los Angeles ZI-2488 Redevelopment Project Area: Hollywood ZI-2277 Redevelopment Project Area: Hollywood (Billboard) ZI-2374 State Enterprise Zone: Los Angeles
General Plan Land Use	Medium Residential
General Plan Note(s)	Yes
Hillside Area (Zoning Code)	No
Specific Plan Area	None
Subarea	None
Special Land Use / Zoning	None
Historic Preservation Review	No
Historic Preservation Overlay Zone	None
Other Historic Designations	None
Other Historic Survey Information	None
Mills Act Contract	None
CDO: Community Design Overlay	None
CPIO: Community Plan Imp. Overlay	None
Subarea	None
CUGU: Clean Up-Green Up	None
HCR: Hillside Construction Regulation	No
NSO: Neighborhood Stabilization Overlay	No
POD: Pedestrian Oriented Districts	None
RFA: Residential Floor Area District	None
RIO: River Implementation Overlay	No
SN: Sign District	No
Streetscape	No

This report is subject to the terms and conditions as set forth on the website. For more details, please refer to the terms and conditions at zimas.lacity.org
(*) - APN Area is provided "as is" from the Los Angeles County's Public Works, Flood Control, Benefit Assessment.

Number of Units	1
Number of Bedrooms	2
Number of Bathrooms	2
Building 5	No data for building 5
Rent Stabilization Ordinance (RSO)	No [APN: 5534019030]

Additional Information

Airport Hazard	None
Coastal Zone	None
Farmland	Area Not Mapped
Urban Agriculture Incentive Zone	YES
Very High Fire Hazard Severity Zone	No
Fire District No. 1	No
Flood Zone	Outside Flood Zone
Watercourse	No
Hazardous Waste / Border Zone Properties	No
Methane Hazard Site	None
High Wind Velocity Areas	No
Special Grading Area (BOE Basic Grid Map A-13372)	No
Wells	None

Seismic Hazards

Active Fault Near-Source Zone

Nearest Fault (Distance in km)	1.85876184
Nearest Fault (Name)	Hollywood Fault
Region	Transverse Ranges and Los Angeles Basin
Fault Type	B
Slip Rate (mm/year)	1.00000000
Slip Geometry	Left Lateral - Reverse - Oblique
Slip Type	Poorly Constrained
Down Dip Width (km)	14.00000000
Rupture Top	0.00000000
Rupture Bottom	13.00000000
Dip Angle (degrees)	70.00000000
Maximum Magnitude	6.40000000
Alquist-Priolo Fault Zone	No
Landslide	No
Liquefaction	No
Preliminary Fault Rupture Study Area	No
Tsunami Inundation Zone	No

Economic Development Areas

Business Improvement District	None
Hubzone	Qualified
Opportunity Zone	Yes
Promise Zone	Los Angeles
State Enterprise Zone	LOS ANGELES STATE ENTERPRISE ZONE

Housing

Direct all Inquiries to	Housing+Community Investment Department
Telephone	(866) 557-7368
Website	http://hcidla.lacity.org
Rent Stabilization Ordinance (RSO)	No [APN: 5534019030]
Ellis Act Property	Yes
Date Filed on	9/6/2017
Address	5819 W LEXINGTON AVE
APN	5534019011

Public Safety

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SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.
- ☐ Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- ☐ Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- ☐ 1. Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- ☐ Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- ☐ 2. Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- ☐ Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- ☐ Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

- ☐ Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

- ☐ Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- ☐ Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

***Please note** that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.*

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

September 30, 2020

La Mirada Ave. Neighborhood Association
P.O. Box 93596
Los Angeles, CA 90093

Concerned Neighbors of Lexington Ave.
c/o Frankie Holt and Michael Higgins
5822 Lexington Ave.
Los Angeles, CA 90038

Brian and Kimberly Reilly
5802 Lexington Ave.
Los Angeles, CA 90038

Jesus Rojas
5816 Lexington Ave.
Los Angeles, CA 90038

Jacob Ross
1173 N. Van Ness Ave.
Los Angeles, CA 90038

Perdro Guevara, SPC Holdings, LLC
P.O. Box 4814
Los Angeles, CA 90607

Los Angeles City Council
c/o Los Angeles City Clerk
Los Angeles City Hall
200 N. Spring Street, Room 360
Los Angeles, CA 90012

Re: JOINT CEQA APPEAL OF CASE No.: ENV-2019-5389-CE; 5806-5812 Lexington Ave.

Public Resources Code Section 21151(c) of the California Environmental Quality Act (“CEQA”) permits an aggrieved party to appeal the approval of a Categorical Exemption (“CE”) by a non-elected, decision-making body to that agency’s elected, decision-making body.

In this case, the City Planning Commission (a non-elected, decision-making body) on August 17, 2020 denied our community-based joint appeal and sustained the Director of Planning’s approval of a density bonus application for a proposed co-living, boarding house style development at 5806-5812 Lexington Ave., called “Lexington 2.” As part of its approval, the Commission issued a September 22, 2020 determination letter re-stating that the project is exempt from CEQA, and that there is no substantial evidence demonstrating that any exceptions regarding significant effects or unusual circumstances applies.

The Commission’s determination is wrong. The courts have mandated that categorical exemptions be construed strictly, shall not be unreasonably expanded beyond their terms, and may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. McQueen v. Mid-Peninsula Regional Open Space (1988) 202 Cal.App.3d 1136.

As noted by public speakers during the Commission’s hearing, and in written objections entered into the record, the use of a categorical exemption is improper.

The Project’s Categorical Exemption fails to acknowledge the impacts resulting from the proposed development. Per CEQA Guidelines Section 15300.2, a Class 32 exemption must be consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulation. Yet the project is at odds with the General Plan, the Hollywood Community Plan, the Hollywood Redevelopment Plan, and AB 283.

Furthermore, CEQA Guidelines Section 15300.2 requires environmental review if cumulative impacts are significant. Under CEQA, when an agency is making an exemption determination it may not ignore evidence of an unusual circumstance creating a reasonable possibility of a significant environmental impact. Likewise, an agency may not avoid assessing environmental impacts by failing to gather relevant data. The City argues that environmental review is unnecessary because there were no findings of environmental impacts.

Yet the courts have warned against such a “mechanical application” in situations where agencies have failed to gather the data necessary for an informed decision. Because CEQA places the burden of environmental investigation on government rather than the public, an agency should not be allowed to hide behind its own failure to gather relevant data.

In the case of 5806 Lexington Ave., the unusual circumstances surrounding this project make a categorical exemption inapplicable. Specifically, the project is not, as approved, a 17-unit apartment building. It is instead a 94-unit co-living development that is illegal under the density restrictions of the underlying zoning. The city has improperly reviewed the project as 17 units, and therefore claims that the development and a similar project proposed by the same owner directly across the street fail to meet the threshold necessary for environmental review. This “mechanical application” conflicts with CEQA.

I. PROJECT BACKGROUND

The Lexington 2 project is a 5-level, 56-foot-tall apartment complex on two contiguous parcels totaling 15,000 sq. ft. The site’s underlying R3-1 Zone allows 19 units with a 45-foot height restriction. The project is also located in the Hollywood Redevelopment Plan area, which designates the site as allowing 40 units per acre, or 17 units total. As a TOC project, the applicant received city approval for a 17-unit apartment building comprised of 2 three-bedroom units, 1 four-bedroom unit, and 14 six-bedroom units.

Yet the 17 “units” are actually 94 furnished single units that will be individually leased out by the owner, with 62 full bathrooms and common living space. Two “units” are dedicated as affordable in exchange for incentives of 11 feet of additional height, a reduction in Code required parking (from 94 dedicated stalls to 25 unbundled stalls, a third of which are tandem stalls), a 30% reduction in the required 15-foot rear yard, and a 20% reduction in the required open space.

Lexington 2 replicates the applicants other project directly across the street: a “21-unit” apartment building with 94 bedrooms and 67 full bathrooms that received entitlements to be 5 stories and 56 feet tall. That project is also a co-living arrangement, with 3 studio units, 2 two-bedroom units, 1 four bedroom unit, and 14 six-bedroom units (with two units having a large, walk-in closet and extra bathroom, therefore being a 7th unit.)

Los Angeles Municipal Code (LAMC) Section 12.21.A.1(b) states: “Whenever a layout within any dwelling unit or guest room is designed with multiple hallway entrances, **multiple toilet and bath facilities** or bar sink installations, so that it can be easily divided into **or used for separate apartments or guestrooms**, the lot area requirements and the automobile parking requirements shall be based upon the highest number of dwelling units or guest rooms obtainable from any such arrangement.”

SEC. 12.21 -- GENERAL PROVISIONS.

A. Use.

1. Conformance and Permits Required.

(a) **Permits and Licenses.** No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved, or maintained, nor shall any building, structure or land be used or designed to be used for any use other than is permitted in the zone in which such building, structure or land is located and then only after applying for and securing all permits and licenses required by all laws and ordinances. (*Amended by Ord. No. 131,319, Eff. 1/16/66.*)

(b) **Flexible Units.** Whenever a layout within any dwelling unit or guest room is designed with multiple hallway entrances, multiple toilet and bath facilities or bar sink installations, so that it can be easily divided into or used for separate apartments or guest rooms, the lot area requirements and the automobile parking requirements shall be based upon the highest possible number of dwelling units or guest rooms obtainable from any such arrangement. (*Amended by Ord. No. 149,118, Eff. 2/6/77.*)

Per the LAMC, the lot area and parking requirements must be based upon the highest possible number of rooms obtainable. Per CEQA, environmental analysis must be based upon the true scope of the project. In this case, like Lexington 1, the applicant's plans for Lexington 2 show 94-studio units/guestrooms disguised as 17 units. The applicant is gaming the system to evade the density limitations of both the underlying zone and the Redevelopment Plan Area, and to avoid Site Plan Review and CEQA analysis. The project as submitted is therefore illegal.

There is no dispute that the applicant, Mr. Daniel Pourbaba of the co-living company Proper Development, will be leasing the bedrooms as individual studio units. Note in **Exhibit 1** the LA Times article "New York Co-Living Company Plans \$100 million Expansion with Los Angeles Apartment Developer" (3/8/2019), which identifies Mr. Pourbaba as the founder of Proper Development, and states that his company "will build seven co-living apartment buildings over the next two or three years" that the co-living leasing company Common will operate, with a combined total of 600 beds (or an average of 86 bedrooms per building). The article further acknowledges: "Residents in a co-living complex typically have their own bedroom and bathroom but share kitchens, living rooms and other common areas." The article references a completed project in Hollywood called "Common Melrose" that leases individual bedroom/bathroom units for \$1,550/month, including "*utilities, WiFi and housekeeping services to keep the common areas clean.*"

Note at **Exhibit 2** the on-line advertisement for "Common Melrose," a two-story "duplex" with 12 bedrooms and 9 bathrooms in the R2-1XL Zone at 6501-6507 Melrose Ave.: "*Access to first-rate amenities and services mean you save every month over a traditional **studio apartment.***" Tenants are offered leases only for "*a private bedroom,*" not apartment units. The ad further states: "*Your laundry, utilities, household essentials, professional cleansings, and WiFi are covered under one all-inclusive rate.*"



Above: Google Earth photo of “Common Melrose,” a 12-unit/9-bathroom co-living development in the R2-1XL Zone constructed by Daniel Pourbaba of Proper Development. The city approved the project as a “duplex.”

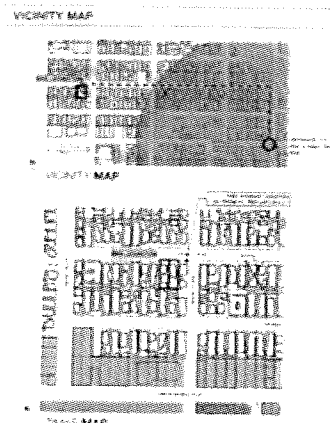
The Lexington 2 project is a co-living development. It is not 17 units but 94 units. Like the “Common Melrose” development, both the Lexington project and Lexington 2 will lease each bedroom individually as studio apartments. The application is a conceit to conceal the true impacts of the projects.

In its Staff Recommendation Report for the Commission’s August hearing, planning department staff claimed that both the 5817 Lexington project and “Lexington 2” were considered as one. Yet the city reviewed both projects with the false unit count stated by the applicant. The two Lexington projects combined have 188 bedrooms with 129 full bathrooms, and just 54 parking stalls. The underlying zoning only permits a combined 38 units for the two sites. Under LAMC Section 12.21.A.1(b), if multiple toilet and bath facilities within a unit can be utilized as guest rooms, the unit count and parking requirement is supposed to be determined based on the highest possible number of units from this arrangement. CEQA analysis therefore must also view the two projects as 188 units.

LEXINGTON 2



Project applicant’s rendering of Lexington 2.



The city has allowed both developments to proceed without meaningful environmental analysis of the project in its entirety. Environmental analysis under CEQA must include all project components comprising the “whole of the action,” so that “*environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences.*” Burbank-Glendale Pasadena Airport Authority v. Hensler (1991) 233 Cal.App.3d 577, 592. The applicant has piecemealed his projects and provided a false unit count in order to evade acknowledgement of their significant effects, as well as the cumulative effects of numerous other similar projects in the vicinity.

Failure to effectively consider the environmental impacts associated with the “whole” project constitutes a piecemeal approach to cumulative impact analysis. Such segmentation is expressly forbidden under CEQA.

CEQA’s “*requirements cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.*” Plan for Arcadia, Inc. v. City Council of Arcadia (1974) 42 Cal.App.3d 712, 726.

“Such conduct amounts to ‘piecemealing,’ a practice CEQA forbids.” Lincoln Place Tenants Ass’n v. City of Los Angeles (2007) 155 Cal.App.4th 425, 450; see also Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora (2007) 155 Cal.App.4th 1214, 1231 [The Court invalidating an MND because of a City’s failure to consider a retail development and adjacent road project as one single project for the purposes of CEQA.

“City violated CEQA by treating them as separate projects subject to separate environmental reviews.”]; Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal.App.4th 1170, 1200 [The city’s failure to consider the whole of the project compelled the Court to overturn the city’s adoption of a negative declaration.]

Here, the city has failed to consider the true unit count of the two co-living buildings as one project, the “whole of an action.” As noted in CEQA Guidelines Section 15165:

Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project as described in Section 15168. Where an individual project is a necessary precedent for action on a larger project, or commits the Lead Agency to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project. Where one project is one of several similar projects of a public agency, but is not deemed a part of a larger undertaking or a larger project, the agency may prepare one EIR for all projects, or one for each project, but shall in either case comment upon the cumulative effect.

Lexington 1 and Lexington 2 are two pieces of one overall development by one entity. CEQA requires that the city consider the two pieces as one to properly review the “whole of an action.” Yet the city has failed to proceed in a manner prescribed by law and consequently must initiate proper re-review of the environmental impacts associated with not only these developments, but also the cumulative effect of similar projects in the entire vicinity. Note below a list of 40 similar proposed/approved TOC/density bonus discretionary projects within the vicinity of the subject site:

Address of proposed TOC/DB projects		Existing	Proposed	Increase	Case No.
1	5817-5823 Lexington Ave.	4 units	21 units	17 units	DIR-2019-5388-DB
2	5806-5812 Lexington Ave.	2 units	17 units	15 units	DIR-2019-7067-TOC
3	1310-1316 N. Gordon St.	None	60 units	60 units	DIR-2019-7670-DB
4	1333-1343 N. Tamarind Ave.	3 units	45 units	45 units	DIR-2019-3141-DB
5	1222 N. Beachwood Dr.	3 units	11 units	8 units	DIR-2019-4192-DB
6	1130-1132 N. Beachwood Dr.	2 units	15 units	13 units	DIR 2018-723-TOC
7	1151-1153 N. Gordon St.	2 units	14 units	12 units	PAR-2018-5490-TOC
8	5530 Virginia Ave.	None	64 units	64 units	PAR-2018-4912-TOC
9	5533 Virginia Ave.	2 units	23 units	21 units	DIR 2017-4807-TOC
10	5537-5547 Santa Monica Blvd.	None	60 units	60 units	PAR-2018-4907-TOC
11	5412 Santa Monica Blvd.	None	60 units	60 units	DIR-2018-5887-TOC
12	5627 Fernwood Ave.	None	60 units	60 units	DIR 2017-4872-TOC
13	5456 Barton Ave.	1 unit	7 units	6 units	PAR-2018-4295-TOC
14	5460 Fountain Ave.	None	49 units	49 units	ADM-2018-3871-TOC
15	5509-5529 Sunset Blvd.	None	412 units	412 units	CPC-2019-4639-CU-DB-SPE
16	5717 Carlton Way	4 units	39 units	35 units	DIR-2017-2680-TOC-SPP
17	1341 - 1349 N. Hobart Blvd.	9 units	29 units	20 units	DIR-2019-790-TOC
18	908 N. Ardmore Ave.	6 units	33 units	27 units	DIR 2018-3931-TOC
19	926-932 N. Kingsley Dr.	5 units	37 units	32 units	DIR-2019-2038-TOC
20	4904-4920 Santa Monica Blvd.	None	62 units	62 units	DIR-2020-667-TOC
21	1301 N. Alexandria Ave.	3 units	16 units	13 units	DIR-2019-5422-TOC
22	1220 N. Vermont Ave.	None	29 units	29 units	DIR-2019-1254-TOC
23	1225 N. Vermont Ave.	None	58 units	58 units	DIR-2019-909-TOC-SPP
24	4626-4644 Santa Monica Blvd.	None	177 units	177 units	DIR-2019-337-SPP-SPPA-TOC-SPR
25	4100 Melrose Ave.	None	33 units	33 units	DIR 2018-7575-TOC
26	627 N. Juanita Ave.	1 unit	17 units	16 units	DIR 2018-1421-TOC-SPP
27	636-642 N. Juanita Ave.	2 units	33 units	31 units	DIR-2019-970-SPP-TOC
28	516 N. Virgil Ave.	1 unit	16 units	15 units	DIR-2019-4185-SPP-TOC
29	611-615 N. Virgil Ave.	None	30 units	30 units	DIR-2019-7613-TOC
30	700-710 N. Virgil Ave.	None	37 units	37 units	DIR-2020-783-TOC
31	4575 Santa Monica Blvd.	None	14 units	14 units	DIR-2018-347-TOC-SPP-SPPA
32	4537-4545 Santa Monica Blvd.	None	23 units	23 units	DIR-2019-2431-TOC
33	4704-4722 Santa Monica Blvd.	4 units	197 units	194 units	DIR-2019-5645-TOC
34	4629-4651 Maubert Ave.	14 units	153 units	139 units	DIR-2019-3760-SPP-TOC
35	1121 N. Gower St.	None	169 units	169 units	CPC-2020-3253-DB-SPR-HCA
36	5430 Virginia Ave.	5 units	65 units	60 units	DIR-2020-4087-RDP-HCA
37	4750 Santa Monica Blvd.	1 unit	85 units	84 units	DIR-2020-4249-TOC-SPP-VHCA
38	1227 N. Berendo St.	1 unit	17 units	16 units	DIR-2020-2780-TOC-SPR-HCA
39	5600 Hollywood Blvd.	14 units	200 units	186 units	CPC-2020-4296-CU-DB-SPP-RDP-SPR-VHCA-PHP
40	1111 N. Madison Ave.	None	41 units	41 units	APCC-2020-3957-SPE-SPP-TOC-PHP
Totals		<u>Existing</u> 89 units	<u>Proposed</u> 2,528 units	<u>Increase</u> 2,439 units	39 of the 40 projects claim to be categorically exempt from CEQA

II. THE CITY IS IGNORING THE PROJECT'S CUMULATIVE IMPACTS

A CEQA categorical exemption is inapplicable when the cumulative impact of successive projects of the same type over time is significant. The cumulative impact of the proposed Lexington projects in conjunction with other developments in the vicinity has not been analyzed. In our appeal to the Commission, we cited 35 TOC/density bonus projects that have been proposed or approved in just the last two years in the East Hollywood area. Since that hearing, we have become aware of numerous other TOC/density bonus applications, including a 169-unit project a few blocks to the west, and a 200-unit project to the north.



Above: Map of proposed TOC/density bonus projects within vicinity of the 5800 block of Lexington Ave.

In addition to the 40 TOC/density bonus projects proposed within the vicinity of the subject site, there are 9 subdivisions recently approved or seeking approval within three blocks of 5817 Lexington Ave., and 204 ministerial apartment units currently under construction. Four of the nine subdivisions were processed as categorically exempt from CEQA.

Addresses of subdivision projects		Existing	Proposed	Increase	Case No.
1	1146 N. Beachwood Dr.	2 units	12 units	10 units	VTT-72899-SL
2	1238 N. Gordon St	2 units	10 units	8 units	VTT-72931-SL
3	1255 N. Beachwood Dr.	4 units	6 units	2 units	VTT-80291-SL
4	1243 N. Gower St.	1 unit	5 units	4 units	VTT-78230
5	1301 N. Tamarind Ave	2 units	6 units	4 units	VTT-74907-SL
6	1248-1254 N. Lodi Pl.	2 units	10 units	8 units	VTT-82120-SL
7	1120 N. Van Ness	4 units	6 units	2 units	VTT-82435-SL
8	1303 N. Bronson Ave.	1 unit	4 units	3 units	AA-2020-500-PMLA-SL
9	1245 N. Beachwood Dr.	4 units	6 units	2 units	VTT-82481-SL

Addresses of apartment projects		Existing	Approved	Increase	Building(s) demolished
10	1307 N. Bronson Ave	1 unit	21 units	20 units	Single-family home
11	1317 N. Tamarind Ave./1308 N. Gordon St	7 units	21 units	14 units	Single-family home, 6-unit RSO apartment
12	1300-1310 N. Tamarind Ave	10 units	32 units	22 units	2 duplexes and a 6-unit RSO apt.
13	1432 N. Tamarind Ave	2 units	21 units	19 units	Duplex under RSO
14	1439 N. Tamarind Ave	2 units	21 units	19 units	Duplex under RSO
15	1446 N. Tamarind Ave.	1 unit	44 units	43 units	Single-family home
16	1338 N. Gordon St.	5 units	44 units	39 units	Single-family home, 4-unit RSO
Total subdivisions/apartments		50 units	259 units	209 units	All claim to be CEQA exempt

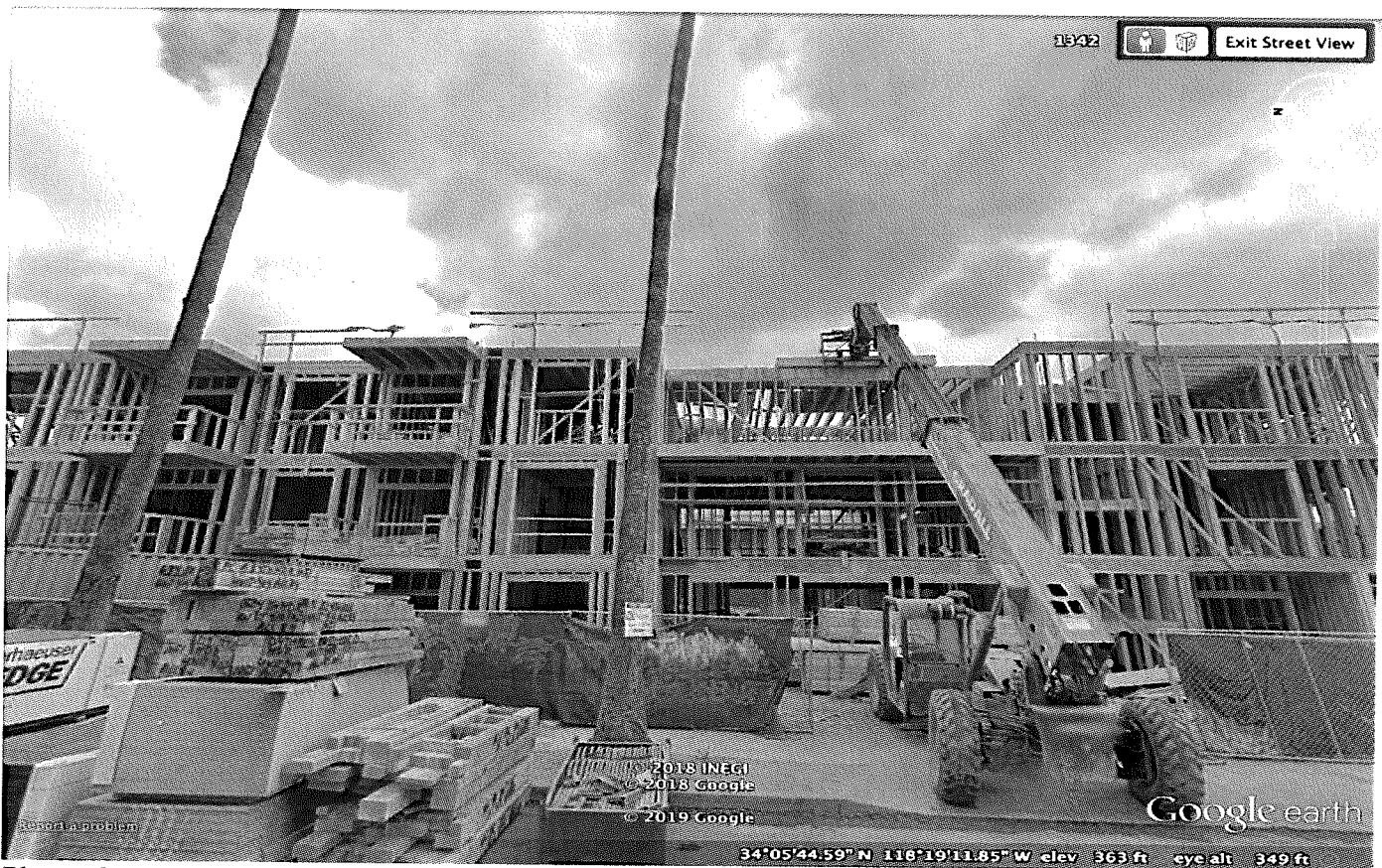


Photo above: 44-unit apartment building under construction at 1338 N. Gordon St.

In a February 23, 2018 letter to the Community Redevelopment Agency objecting to the proposed demolition of a 1916 duplex at 1130 N. Beachwood Dr., the preservation organization Hollywood Heritage addressed the enormous destruction occurring near the project site and the cumulative impacts associated with it (see **Exhibit 3**):

“The cumulative loss of resources such as 1130-1132 Beachwood Dr. is quickly erasing the remaining built environment of early Hollywood. This is nowhere more true than the portion of Hollywood bounded on the south by Santa Monica Blvd., on the east by Bronson Ave., on the north by Fountain Ave., and on the west by Gower St., for which Hollywood heritage has received numerous demolition notifications over the past several years. “

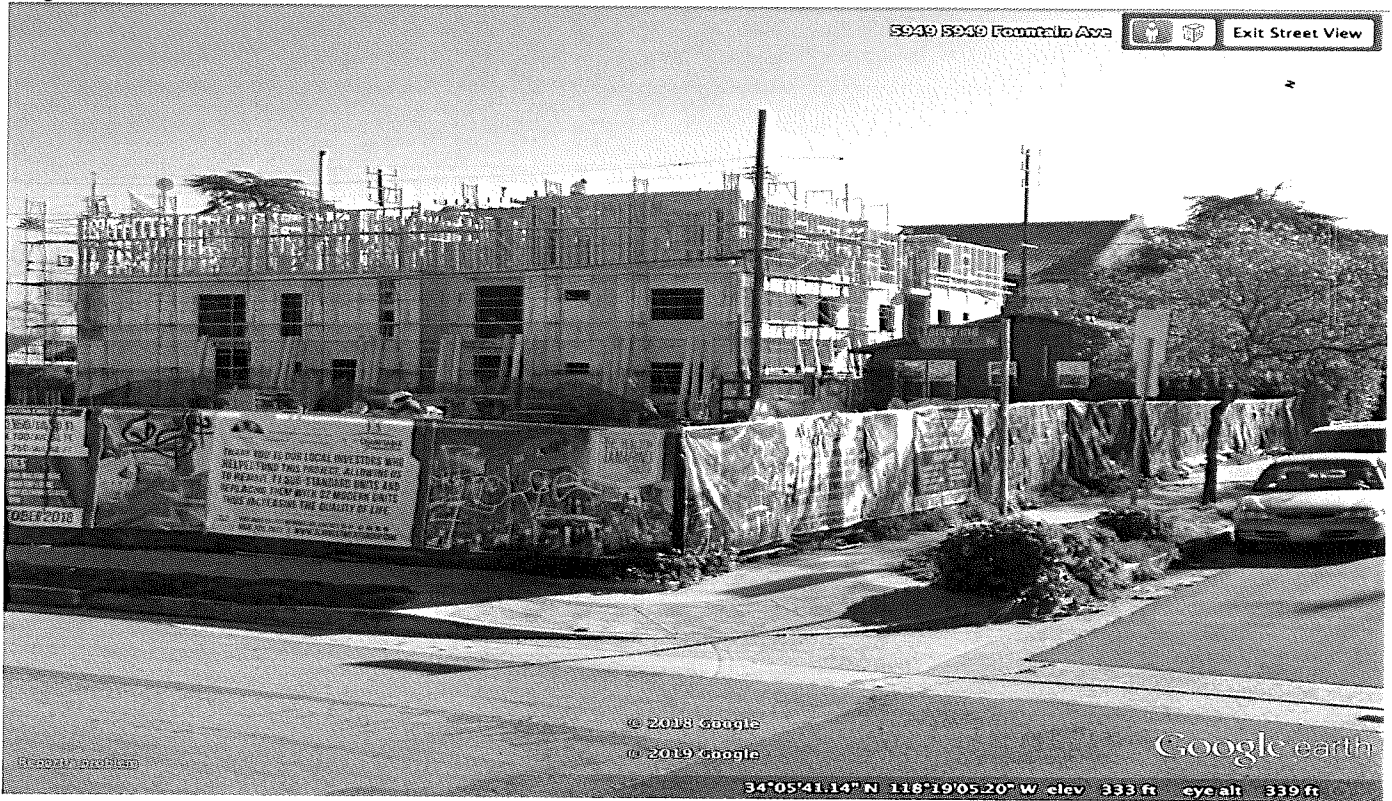


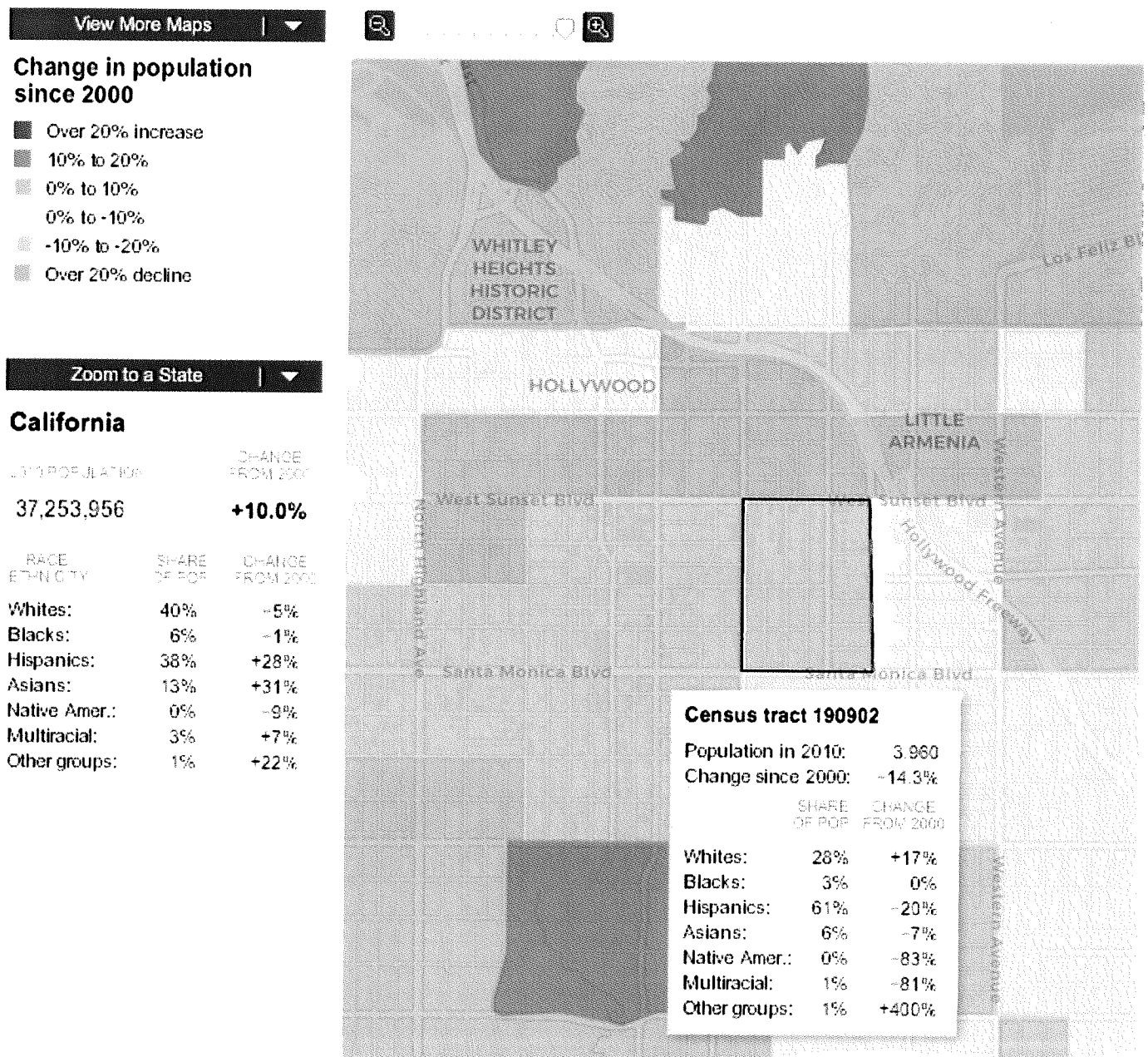
Photo above: 32-unit apartment building under construction at 1310 N. Tamarind Ave.



Aerial photo of demolition/construction sites in the 1300 and 1400 blocks of Gordon Street/Tamarind Ave.

With each additional project there is increased pressure on adjacent property owners to sell their land for another grossly out-of-scale development, spurring a domino effect that is literally wiping out the historic significance of this community, and with it the minority population that for decades has occupied it.

The project is in Census Tract 1909.02. Note below 2010 and 2017 data for Census Tract 1909.02 showing its declining minority population and increasing White population: 2010 figures show a 17% increase in the White population with a 20% decrease in the Hispanic population. In contrast, during the same period California overall experienced a 5% decline in the White population and a 28% increase in the Hispanic population. It should be further noted that 92% of the population in Census Tract 1909.02 are renters.



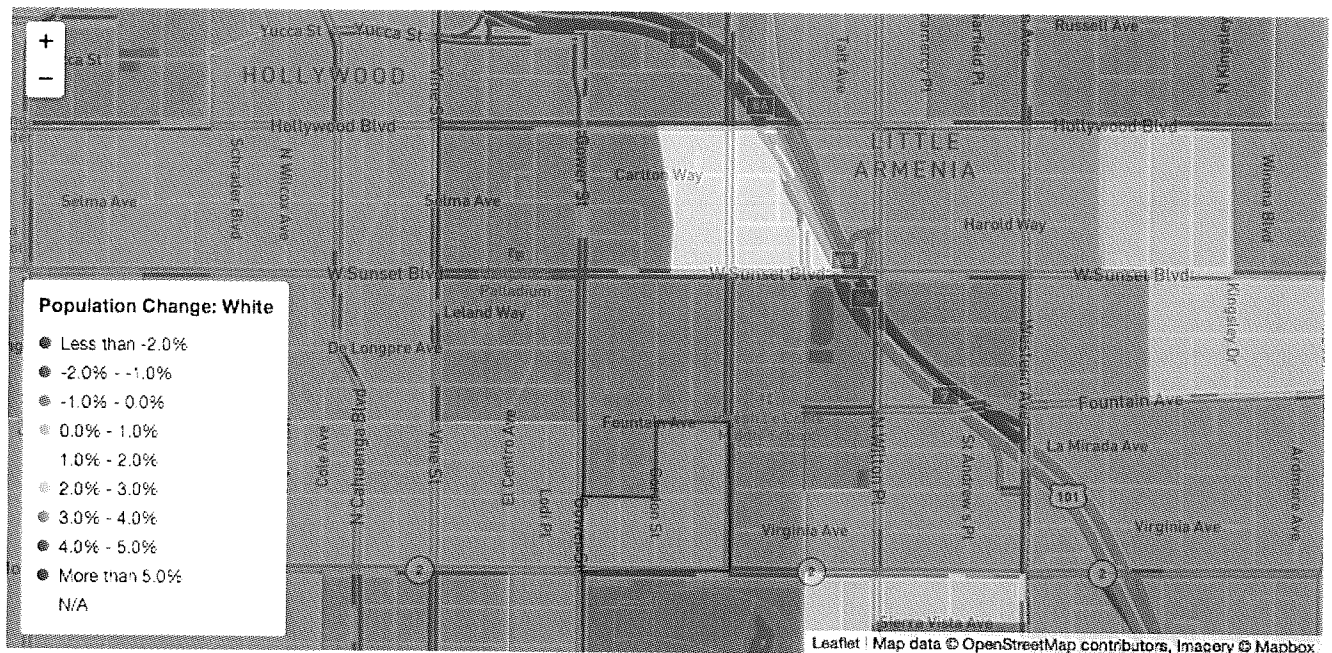
This gentrification trend has only accelerated since 2010. Note 2017 map below showing that the most developed areas of East Hollywood have the greatest increases in the White population:

2017 American Community Survey 5-Year Estimates

Block Group 2, Census Tract 1909.02, Los Angeles County, California: Population Change: White

Other Areas in Block Group 2, Census Tract 1909.02, Los Angeles County, California

U.S. Population Change: White: 2.2% (2017)



As applied to a categorical exemption, CEQA Guidelines Section 15300.2(b) provides an exemption cannot be utilized “when the cumulative impact of successive projects of the same type in the same place over time is significant.”

Under CEQA, when an agency is making an exemption determination it may not ignore evidence of an unusual circumstance creating a reasonable possibility of a significant environmental impact. Committee to Save the Hollywoodland Specific Plan v City of Los Angeles (2008) 161 Cal.App.4th 1168, 1187 (city approval set aside because city failed to consider proffered evidence regarding historic wall).

Likewise, an agency may not avoid assessing environmental impacts by failing to gather relevant data. The city’s determination letter contains **no** findings whatsoever to justify the categorical exemption. Instead, the city simply states that the Commission “*determined that based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines,...and there is no substantial evidence demonstrating that any exceptions*” apply.

First, there was no justification “prepared and found in the environmental case file,” other than a “finding” stating: *“The project should not result in significant effects related to traffic, noise, air quality or water quality.”*

Second, substantial evidence is defined in Section 15384 of the CEQA Guidelines as *“enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record.”*

The city has failed in its responsibility to examine the “whole record,” first by allowing the developer to piecemeal his project, and second by refusing to review the cumulative impacts of successive projects over time. In particular, the city has failed to review impacts to population displacement, traffic circulation, public resources, and other environmental factors affected by allowing density increases inconsistent with the applicable general plan policies as well as with applicable zoning designation and regulations. As noted, the project’s unit density far exceeds the permissible zoning designation under both the Hollywood Community Plan and the Hollywood Redevelopment Plan.

Planning staff’s response to this information is to shrug it off. The Recommendation Report stated that some of the identified projects have been proposed but not yet approved, some have been approved but not begun construction, and some are under construction but not yet completed. How this “analysis” is relevant in assessing the list of related projects is a mystery. The Report further states: *“Consistent with LADOT’s policy, projects adding 34 units do not require a traffic study. No traffic study and further analysis of traffic impacts would be required and therefore would not have a significant impact.”* Yet appellants have identified 2,269 similar units, not 34, and have also shown that the Lexington project is 188 combined units, not 34.

CEQA requires that an environmental document include a description of the project’s environmental setting or “baseline.” CEQA Guidelines § 15063(d)(2). The CEQA “baseline” is the set of environmental conditions against which to compare a project’s anticipated impacts. CBE v. SCAQMD, 48 Cal.4th at 321. CEQA Guidelines section 15125(a) states, in pertinent part, that a lead agency’s environmental review under CEQA:

...must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.

See Save Our Peninsula Committee v. County of Monterey (2001) 87 Cal.App.4th 99, 124–25 (“Save Our Peninsula”).) As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground,’” and not against hypothetical permitted levels. *Id.* at 121–23.

The Court in Stanislaus Audubon Society v. County of Stanislaus (1995) 33 Cal.App.4th 144, 151 also stressed that a lead agency should not give an “unreasonable definition” to the term substantial evidence, “equating it with overwhelming or overpowering evidence. CEQA does not impose such a monumental burden.”

“The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” Communities for a Better Env’t v. Cal. Res. Agency (2002) 103 Cal.App.4th 98, 109 (CBE v. CRA).

III. CONCLUSION

For the above reasons, we request that the City Council overturn the Commission’s unwarranted approval of Case No. ENV-2019-5389-CE.

S. Harris
on behalf of all parties

EXHIBIT 1



ADVERTISEMENT

BUSINESS

New York co-living company plans \$100 million expansion with Los Angeles apartment developer



Rendering of a planned co-housing project in Mar Vista to be built by Proper Development and operated by Common. (Proper Development)

By ROGER VINCENT
STAFF WRITER

MARCH 8, 2019 | 5 AM



Co-living is one the newest trends in urban housing, and it has prompted a New York operator to join with a Los Angeles developer to create \$100 million worth of

shared, furnished apartments to help meet a projected deep demand in Southern California.

Residents in a co-living complex typically have their own bedroom and bathroom but share kitchens, living rooms and other common areas with fellow tenants. It's a small but growing segment of the apartment market, mostly serving young professionals who can't afford the rent in hip, desirable neighborhoods.

New York-based co-living operator Common and its Los Angeles partner Proper Development tested the waters in Los Angeles with a 24-unit complex on Melrose Avenue completed in November that got 9,000 applications from would-be tenants, Common founder Brad Hargreaves said.

"We see huge demand in Los Angeles," Hargreaves said, for shared furnished apartments that rent for \$1,300 to \$1,800 per month.

ADVERTISEMENT

At Common Melrose in Hollywood, monthly rent of \$1,550 includes utilities, wi-fi and housekeeping services to keep the common areas clean.

When the costs of such services are included in price comparisons, units at Common properties can be rented for 20% less than competing new studio-style units nearby, according to Hargreaves.

Proper Development will build seven co-living apartment buildings over the next two or three years that Common will operate with a combined total of 600 beds, he said. The beds are full or queen, he added. "No bunk beds here. Everyone gets their own room."

The companies are planning projects in Mar Vista, Echo Park, Koreatown,

Larchmont and Playa Vista, he said.

ADVERTISEMENT

“The urgency to develop market rate housing at accessible price points is tremendous,” said Daniel Pourbaba, founder of Proper Development.

The units are meant to serve people who are making about \$40,000 to \$80,000 per year. The median age of Common tenants is 29, Hargreaves said, “which is a little bit older than most people expect.”

That’s because demand extends beyond millennials early in their careers, he said. Tenants include empty-nesters in their 60s.

Formal co-living complexes — in some ways a new take on old-fashioned boarding houses — are still a novelty in Southern California but stand to emerge as a new property category, like assisting living complexes designed to serve the growing numbers of wealthy seniors.

ADVERTISEMENT

A portfolio of buildings in an established property class can get funded by banks, purchased by pension funds and even securitized in real estate investment trusts.

Justin Mateen, co-founder of dating app Tinder, has invested more than \$25 million in Proper Development’s co-living projects over the last few years through his Beverly Hills real estate company JAM Capital Real Estate and plans to double that investment figure this year.

“Multifamily development has been slow to adapt to the needs of modern renters, but now that lenders are increasingly recognizing co-living as an attractive asset

class we are seeing an influx of institutional capital entering the market looking to co-invest with us,” Mateen said.

Co-living competitors in the Los Angeles area include Starcity, which operates a recently opened complex near Marina del Rey built by California Landmark Group, and co-living company Node, which operates newly renovated bungalow court apartments in Echo Park.

ADVERTISEMENT

Starcity is based in San Francisco. Node is headquartered in London and has properties in multiple countries.

“Common is making a major commitment to Los Angeles,” Hargreaves said, “which is on track be our second biggest market after New York.”

BUSINESS



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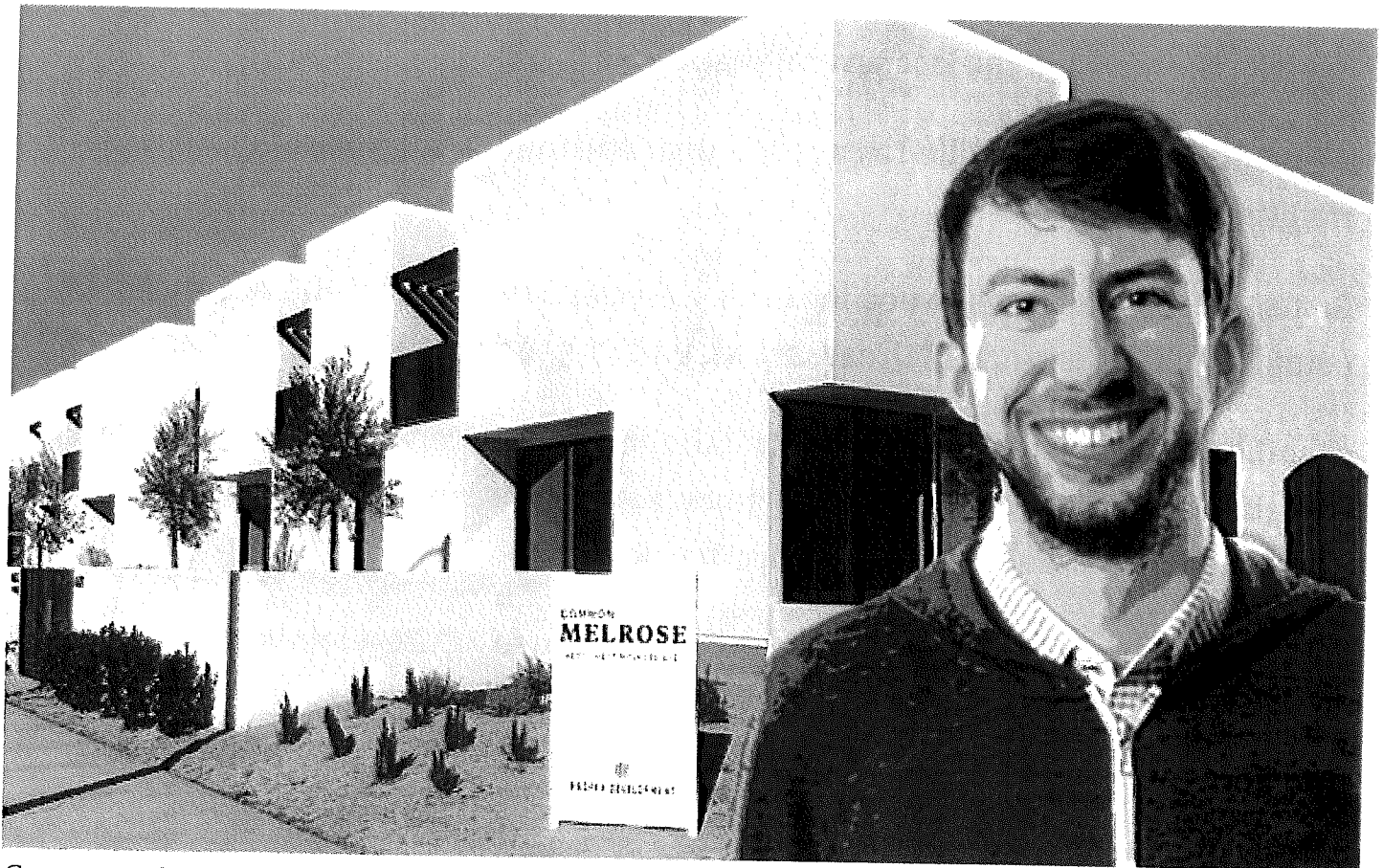
TRENDING: [Coronavirus](#) [Compass](#) [WeWork](#)

Common ground: Proper Development teams with NY co-living firm on LA expansion

Common co-living will open 7 apartment buildings in the city in \$100M rollout

TRD LOS ANGELES
Staff

Mar. 08, 2019 09:00 AM



Common CEO Brad Harareaves and Proper Development—built Common Melrose in

4 Get unlimited access

Co-living company Common and Los Angeles developer Proper Development are planning a \$100 million expansion in L.A.

Proper Development will build seven apartment buildings with 600 beds over the next two or three years in L.A., and Common will operate and manage them, according to the Los Angeles Times.

Common already operates two co-living buildings in the city — in Echo Park and Hollywood. Its units come fully furnished and include utilities as part of the monthly rent. Tenants share some spaces like kitchens, and there is also regular housekeeping services.

The co-living model has its detractors, but investors have poured money into the space. Through last August, Common had collected about \$60 million since its founding in 2015. New York-based Ollie has raised \$15 million to fuel its own Los Angeles expansion, while British-based Collective had raised \$400 million. *The Real Deal* talked to Hargreaves and other figures in co-living last year about how the model has evolved in the last several years.

The co-living model is billed as a convenient and more affordable alternative to traditional renting.

Rents at Common's Hollywood location, a Proper Development-built 24-unit complex called Common Melrose, are around \$1,550 per person.

Common founder Brad Hargreaves said the company received 9,000 applications for Common Melrose, according to the Times. Rates were around 20 percent cheaper than competing studio-style units nearby, he said.

Proper Development is led by Daniel Pourbaba, son of 4D Development & Investments CEO David Pourbaba. The firm's latest project to get moving is a 21-unit development in Hollywood. [LAT] — Dennis Lynch

The Real Deal is he

"A landlord waiving rent and not getting anything in return is just not a reality," experts

TRENDING: [Coronavirus](#) [Compass](#) [WeWork](#)

Here are the under 50-unit resi projects proposed in LA last week

Hollywood, Westchester were the only two hoods with new projects

THE REAL DEAL
LOS ANGELES REAL ESTATE NEWS

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8733 Reading Avenue streetview

UPDATED, 12:28 p.m., Nov, 28: West L.A. was the site for both of the new mid-size residential projects that developers filed last week.

Under the plans, Westchester and Hollywood would each get a mixed-income project that would use transit-oriented incentives to add a small stock of affordable units to a pricier part of the city.

In either neighborhood, new finishes starting at \$2,000 for a one-bedroom

Sam Zell Well Positioned As Coronavirus Weakens Real Estate - The Real Deal

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But the similarities end there. Westchester is in the midst of transition, and the 34-unit project is a new kind on the block.

4 Get unlimited access

investment sales surge. In August, an investor paid more than \$345,000 per unit for an apartment house on North Highland Avenue built in 1984, while Goldrich Kest dropped \$52 million for a 76-unit mixed-user nearby.

8733 Reading Avenue | Westchester | 34 Units

WNMS Communities is doubling down on Westchester with this project.

WNMS bought the site in June 2017 for \$1.1 million and will build up to 70 percent more units than normally allowed because the site is in a “tier-3” zone—the second-highest in the transit-oriented communities program. A triplex occupies the site right now, and most of the homes on the street are single-family residences or low-density apartments.

The local developer, which is headed by Scott Walter, filed plans for another 30-unit multifamily at 8911 South Ramsgate Avenue in August.

5823 W. Lexington Avenue | Hollywood | 21 Units

JAM Capital Real Estate, a local developer controlled by Justin Mateen, is partnering with Proper Development and investor Ari Miller to build this five-story building on Lexington Avenue between Van Ness and Bronson.

The joint-venture bought the development site last December for \$3.6 million, with JAM taking the largest share of 49 percent, while Miller and Proper Development

split the remaining 51 percent.

Proper Development is led by Daniel Pourbaba, the son of David Pourbaba, who is the CEO of 4D Development & Investments.

Correction: In a previous version of this story, the lead developer on the 5823 W. Lexington Avenue project was incorrectly identified.

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EXHIBIT 2

Starting
at
\$1,440

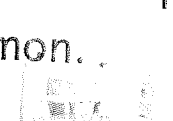
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Your own private bedroom in a friendly home. Expect fully furnished, designed spaces at Common.



City living made better

What to expect from coliving at Common



Here's how you save

Living in Common means comfort, convenience, and value. Access to first-rate amenities and services mean you save every month over a traditional studio apartment.



Craigslist Room

Traditional
Studio

Rent:

\$1,440

\$1,300

\$2,100

Utilities:

Included

\$40

\$110

Utilities:	Included	\$00	\$110
Washer/Dryer:	Included	\$50	\$50
Cleaning:	Included	\$120	\$240
Supplies:	Included	\$40	\$40
Wifi:	Included	\$40	\$70
Total Cost:	\$1,440	\$1,610	\$2,610

Experience Common Melrose

Melrose Suite 4 Flr 1 Melrose Suite 4 Flr 2
Melrose Rooftop

Floor 1



POWERED BY
Explore 3D Space

A sense of community in Melrose

From spontaneous get-togethers with your suitemates to curated events, Common makes it easy to build friendships and discover the best the city has to offer.



The most convenient way to live

Your laundry, utilities, household essentials, professional cleanings, and WiFi are covered under one all-inclusive rate. Say goodbye to last minute runs to the store, fighting with your roommates about who cleaned last, and hours spent at the laundromat.

A private bedroom

Furnished spaces

Free WiFi

Community events

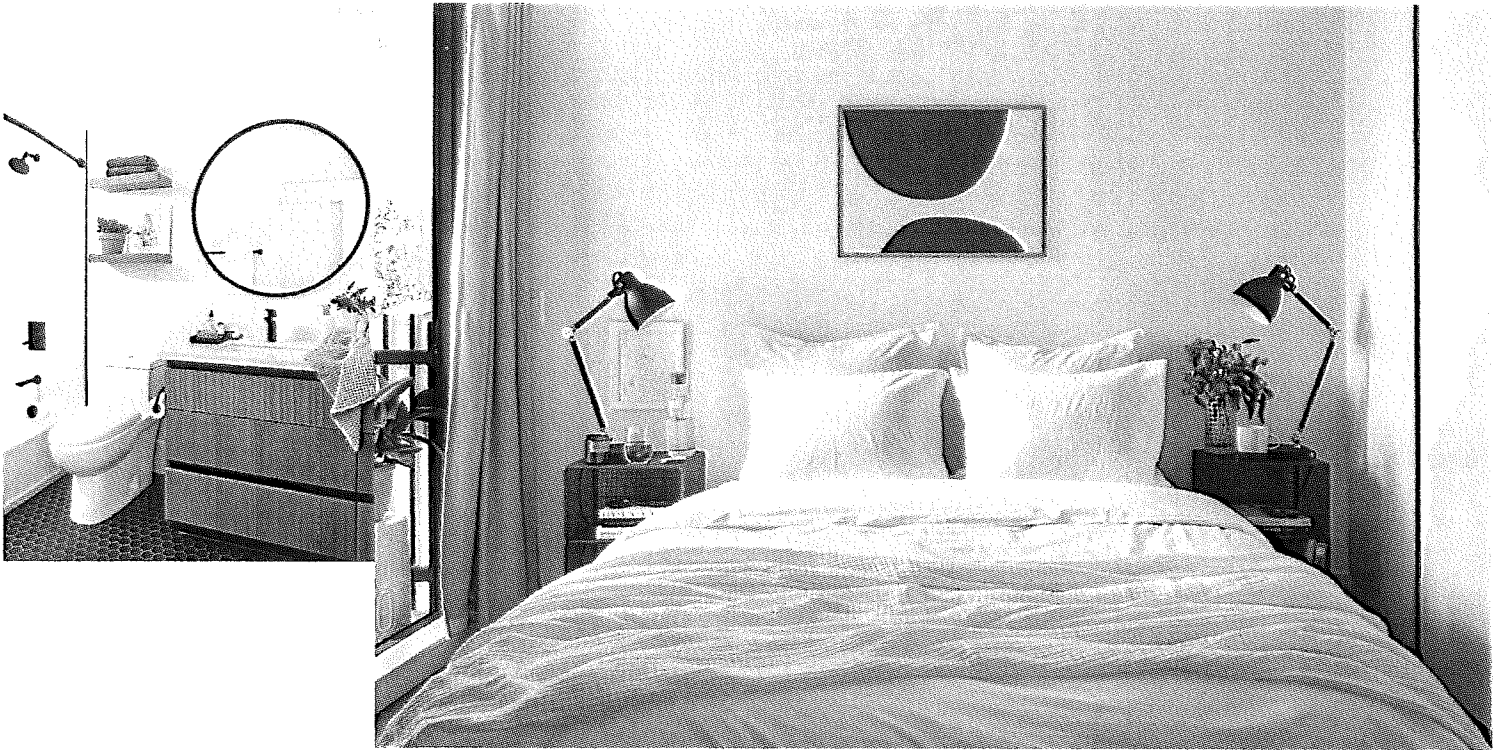
Free laundry

Professional cleaning

Utilities included

Flexible leases

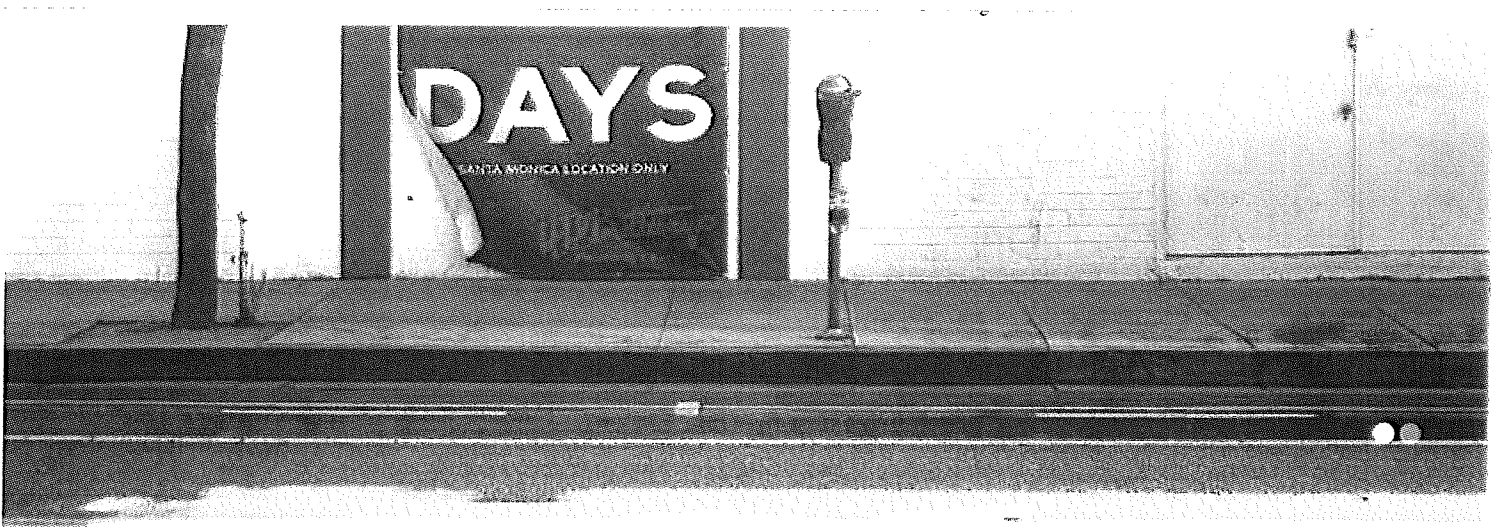




Charming Melrose

Experience all the best Los Angeles has to offer by living in one of the city's most stylish neighborhoods.





Easily connected

Melrose's central location allows it to be easily accessible via car, walking, and public transportation. With several bus stops right outside your doorstep, you can get to The Grove, Miracle Mile of museums, and Larchmont Village in just 20 minutes.

Koreatown is also just a half hour ride on the bus, so make sure to get your share of delicious Korean BBQ on the weekends.

Everything chic and cultured

Filled with a wide range of iconic landmarks and trendy restaurants, Melrose never gets old. Not only will you lose track of time at Windsor Square looking at the beautiful and historic

mansions, but you can also spend a whole day shopping at Larchmont Village.

Common Melrose is also a short stroll away from Osteria Mozza if you want to enjoy Italian fine dining, or from the acclaimed Pink's Hot Dogs, if you want a creatively topped dog.

EXHIBIT 3



HOLLYWOOD HERITAGE, INC.

P.O. Box 2586

Hollywood, CA 90078

(323) 874-4005 • FAX (323) 465-5993

February 23, 2018

Dennis Hance
CRA/LA
448 S Hill Street, Suite 1200
Los Angeles, CA 90013

Dear Mr. Hance:

The Board of Directors of Hollywood Heritage, its Preservation Issues Committee, and its members thank you for the opportunity to review and comment on the proposed demolition of **1130-32 Beachwood Dr.**

Per its primary record, the structure at **1130-32 Beachwood Dr** was constructed in 1916; it is thereby a member of the building cohort (1900-1920) about whose survival Hollywood Heritage has repeatedly expressed concerns. As a 1-story Craftsman residence, it is an increasingly rare reference to the historic context of pre-1920 Hollywood. The primary record for this property notes that it retains high integrity due to its "setting, location, materials, workmanship, association, design, [and] feeling". Despite these listed observations, the Chattel Survey has assigned a "6Z" designation.

Section B 10 of Hollywood Heritage's Settlement Agreement with CRA/LA specifically addresses properties such as **1130-32 Beachwood Dr.** Although Chattel assigned a status code of 6Z, the whole point of Hollywood Heritage reviewing these proposed demolitions is that the Chattel Survey didn't even exist at the time of the Settlement Agreement; and even as of now the Survey is not vetted. In addition, any building over 50 years old falls under our Settlement Agreement.

Due to its vintage, character-defining features that are representative of a scarce architectural type, and high level of integrity, Hollywood Heritage strongly opposes the proposed demolition of **1130-32 Beachwood Dr.** As a result, we formally request a 180-day stay on the demolition of this structure.

The cumulative loss of resources such as **1130-32 Beachwood Dr** is quickly erasing the remaining built environment of early Hollywood. This is nowhere more true than the portion of Hollywood bounded on the south by Santa Monica Blvd, on the east by Bronson Ave, on the north by Fountain Ave, and on the west by Gower St, for which Hollywood Heritage has received numerous demolition notifications over the past several years. Therefore, it is critical that the owner of this property consider alternative development approaches that preserve the current structure.

DETERMINATION LETTER



LOS ANGELES CITY PLANNING COMMISSION
200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: SEP 22 2020

Case No. DIR-2019-7067-TOC-1A
CEQA: ENV-2019-5389-CE
Plan Area: Hollywood

Council District: 13 – O' Farrell

Project Site: 5806 – 5812 West Lexington Avenue

Applicant: Mr. Daniel Pourbaba, 5806 Lexington, LLC
Representative: Erika Diaz, Woods, Diaz Group, LLC

Appellant: Brian and Kimberly Reilly, Jesus Rojas, Pedro Guevara, SPC Holdings, LLC, Michael Higgins, Jacob Ross, and La Mirada Avenue Neighborhood Association

At its meeting of **September 17, 2020**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following project:

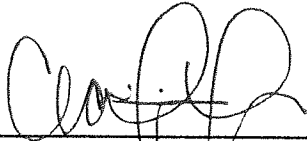
Demolition of the two existing single-family structures with associated accessory structures and the construction, use and maintenance of a five-story, 56-foot tall, 17 unit multi-family dwelling. The building will be constructed with four residential levels over one at-grade parking level. The Project will provide a total of 25 automobile parking spaces, and two short-term and 17 long-term bicycle parking spaces. Vehicular access to the site is provided via one two-way driveway that is accessible from Lexington Avenue. Pedestrian access is also located along Lexington Avenue.

1. **Determined** that based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, Class 32, and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the CEQA Guidelines regarding location, cumulative impacts, significant effects based on unusual circumstances, scenic highways, hazardous waste sites, or historical resources apply;
2. **Denied** the appeal and **sustained**, Planning Director's Determination dated July 23, 2020;
3. **Approved**, pursuant to Section 12.22 A.31 of the Los Angeles Municipal Code, a Transit Oriented Communities (TOC) Affordable Housing Incentive Program for a Tier 2 project with a total of 17 dwelling units, including two units reserved for Extremely Low Income (ELI) Household occupancy for a period of 55 years, along with the following three Additional Incentives:
 - a. Yard/Setback. To permit a 30 percent decrease in the required rear yard;
 - b. Open Space. To permit a 20 percent reduction in the required open space; and
 - c. Height. To permit one additional story up to 11 additional feet; and
4. **Adopted** the attached Conditions of Approval; and
5. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: Perlman
Second: Khorsand
Ayes: Ambroz, Choe, Mack, Millman, Mitchell
Absent: Leung, Padilla-Campos

Vote: 7 – 0



Cecilia Lamas, Commission Executive Assistant
Los Angeles City Planning Commission

Effective Date/Appeals: The decision of the Los Angeles City Planning Commission is final and effective upon the mailing of this determination letter and not further appealable.

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final. The applicant is advised that any work undertaken while the CEQA clearance is on appeal is at his/her/its own risk and if the appeal is granted, it may result in (1) voiding and rescission of the CEQA clearance, the Determination, and any permits issued in reliance on the Determination and (2) the use by the City of any and all remedies to return the subject property to the condition it was in prior to issuance of the Determination.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachment: Conditions of Approval, Findings, Interim Appeal Filing Procedures (CEQA)

c: Nicholas Hendricks, Senior City Planner
Oliver Netburn, City Planner
Alexander Truong, City Planning Associate

CONDITIONS OF APPROVAL

Pursuant to LAMC Section 12.22-A,31, the following conditions are hereby imposed upon the use of the subject property:

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the applicant, stamped "Exhibit A," and attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning, Expedited Processing Section, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code or the project conditions.
2. **Base Incentives.**
 - a. **Residential Density.** The project shall be limited to a maximum density of 17 residential units, including On-site Restricted Affordable Units.
 - b. **Floor Area Ratio (FAR).** The project is permitted a maximum FAR of 2.82 to 1.
 - c. **Parking.**
 - i. **Automobile Parking.** The project shall provide a minimum of one (1) automobile parking space per unit.
 - ii. **Bicycle Parking.** Bicycle parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the bicycle parking requirements has been requested or granted herein.
 - iii. **Adjustment of Parking.** In the event that the number of Restricted Affordable Units should increase or the composition of such units should change (i.e. the number of bedrooms, or the number of units made available to Senior Citizens and/or Disabled Persons), and no other Condition of Approval or incentive is affected, then no modification of this determination shall be necessary, and the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth pursuant to LAMC Section 12.22-A,25.
 - iv. **Unbundling.** Required parking may be sold or rented separately from the units, with the exception of all Restricted Affordable Units which shall include any required parking in the base rent or sales price, as verified by HCIDLA.
3. **Additional Incentives.**
 - a. **Yard/Setback.** The project shall be permitted a 30% decrease in the required rear setback.
 - b. **Open Space.** The project shall be permitted a 20% reduction in the required open space provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

- c. **Height.** The project shall be permitted one (1) additional story up to 11 additional feet.
- 4. **On-site Restricted Affordable Units.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of HCIDLA to make 11% of the base number of units, or 9% of the total number of units, whichever is greater, for Extremely Low Income Households, as defined by HCIDLA, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. In the event, the applicant reduces the proposed density of the project, the number of required reserved On-site Restricted Units may be adjusted, consistent with LAMC Section 12.22-A,31, to the satisfaction of HCIDLA. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant shall provide a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by HCIDLA.
- 5. **Changes in On-site Restricted Units.** Deviations that increase the number of On-site Restricted Units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22-A,31.
- 6. **Landscaping.**
 - a. All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning.
 - b. All planters containing trees shall have a minimum depth of 48 inches (48"), including those located on the rooftop area or above a parking garage.
- 7. **Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view. The transformer, if located in the front yard, shall be screened with landscaping.
- 8. **Maintenance.** The subject property (including all trash storage areas, associated parking facilities, sidewalks, yard areas, parkways, and exterior walls along the property lines) shall be maintained in an attractive condition and shall be kept free of trash and debris.
- 9. **Design Conformance.**
 - a. Architectural treatments on all elevations shall be adhered to including the use of projected metal windows, metal, and wood screens. The courtyard open space planter areas shall incorporate bench seating and landscaping that provides for shade.
 - b. Access to the mail room shall not interfere with the driveway.
- 10. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way, nor from above.

11. **Electric Vehicle Parking.** All electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC.
12. **Solar Panels.** Solar panels shall be installed on the project's rooftop space to be connected to the building's electrical system. A minimum 15% of the roof area shall be reserved for the installation of a solar photovoltaic system, to be installed prior to the issuance of a certificate of occupancy, in substantial conformance with the plans stamped "Exhibit A".

Administrative Conditions

13. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building & Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building & Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building & Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the Final Plans, supplied by the applicant, shall be retained in the subject case file.
14. **Covenant.** Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file.
15. **Notations on Plans.** Plans submitted to the Department of Building & Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
16. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
17. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
18. **Department of Building & Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building & Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building & Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
19. **Department of Water and Power.** Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power (LADWP) for compliance with LADWP's Rules

Governing Water and Electric Service. Any corrections and/or modifications to plans made subsequent to this determination in order to accommodate changes to the project due to the under-grounding of utility lines, that are outside of substantial compliance or that affect any part of the exterior design or appearance of the project as approved by the Director, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.

20. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
21. **Expedited Processing Section Fee.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
22. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out, in whole or in part, of the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the

defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the applicant otherwise created by this condition.

FINDINGS

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM /AFFORDABLE HOUSING INCENTIVES COMPLIANCE FINDINGS

Pursuant to LAMC Section 12.22-A,31(e), the Director of Planning shall review a Transit Oriented Communities Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22-A,25(g).

1. The incentives are not required to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.

The California Health & Safety Code Sections 50052.5 and 50053 define formulas for calculating affordable housing costs for very low, low, and moderate income households. Section 50052.5 addresses owner-occupied housing and Section 50053 addresses rental households. Affordable housing costs are a calculation of residential rent or ownership pricing not to exceed 25 percent gross income based on area median income thresholds dependent on affordability levels. There were no substantial evidence that would allow the Director to make a finding that the requested incentives are not necessary to provide for affordable housing costs per State Law.

The list of base incentives in the Transit Oriented Communities Guidelines were pre-evaluated at the time the Transit Oriented Communities Affordable Housing Incentive Program Ordinance was adopted to include various types of relief that minimize restrictions on the size of the project. The base incentives are required to provide for affordable housing costs because the incentives by their nature may result in increasing the scale of the project. The additional incentives requested for a decrease in the required setback, reduction in open space and increase in height would result in building design or construction efficiencies that provide for affordable housing costs. As a result of the prescribed incentives, it is likely that the Director will always conclude that the incentives are required for such projects to provide for affordable housing units as identified by the TOC Guidelines.

Setbacks. The requested reduction in yards/setbacks is expressed in the Menu of Incentives in the Transit Oriented Communities Guidelines. Eligible Housing Developments located in Tier 2 may utilize a 30% reduction in the required width or depth of one (1) individual yard or setback. In this case, the project would be required to provide a rear yard conforming to the requirements of the R3-1 Zone, which is 15 feet. The project, as proposed, will provide a 10-foot 6-inch rear yard.

Open Space. The reduction in open space is expressed in the Menu of Incentives in the Transit Oriented Communities Guidelines. This incentive will result in a building design that provides for affordable housing costs and supports the applicant's decision to set aside two (2) dwelling units for Extremely Low Income Households.

Height. Eligible Housing Developments in Tier 2 may be permitted a height increase of one (1) additional story up to 11 additional feet. As proposed, the project will utilize an 11-foot increase in height in lieu of the LAMC maximum of 45 feet. This will result in a 56-foot building.

2. The Incentive will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there are no feasible method to satisfactorily mitigate or avoid the specific adverse Impact without rendering the development unaffordable to Very Low, Low and Moderate Income households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

There has been no evidence provided that indicated that the proposed incentives will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources. A "specific adverse impact" is defined as, "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22-A,25(b)).

The project does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. The proposed project and potential impacts were analyzed in accordance with the California Environmental Quality Act (CEQA) Guidelines and the City's L.A. CEQA Thresholds Guide and the project was determined to be exempt from CEQA pursuant to Article 19, Class 32 of the CEQA Guidelines.

Therefore, there is no substantial evidence that the proposed project will have a specific adverse impact on the physical environment, on public health and safety, or on property listed in the California Register of Historic Resources.

3. **The incentives/waivers are contrary to state or federal law.**

There is no substantial evidence in the record that the proposed incentives/waivers are contrary to state or federal law.

ADDITIONAL MANDATORY FINDINGS

4. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is not located in a Flood Zone.

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