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(213) 978-1300

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200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

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July 28, 2021

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-2020-1521-SPE-CDP-CUB-ZV AND ENV-2020-1522-CE, FOR PROPERTY LOCATED AT 205, 207, 209 AND 213 OCEAN FRONT WALK; CF 21-0331

The project involves the expansion of an existing 3,288 square-foot restaurant to include the addition of a 918 square-foot storage area, and a two-story 1,792 square-foot addition comprised of 930 square feet of new Service Floor area, an outdoor recreation area, bar, office, and storage area. The project will maintain 16 parking spaces for the existing restaurant and will provide 3 new parking spaces and 40 bicycle parking spaces onsite for the proposed addition.

On February 3, 2021, the West Los Angeles Area Planning Commission approved Case No. APCW-2020-1521-SPE-CDP-CUB-ZV, and determined, under Environmental Case No. ENV-2020-1522-CE that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Sections 15301 (Class 1) and 15303 (Class 3) and that there is no substantial evidence demonstrating that an exception to a categorical exemption, pursuant to Section 15300.2.

On March 19, 2021, an appeal was filed by one aggrieved party (Margaret Molloy "Appellant") to the City Council (Case No. APCW-2020-1521-SPE-CDP-CUB-ZV-1A). The appeal in its entirety is located within Council File 21-0331. Below is a summary of the appeal points with a staff response to each point.

Appeal Analysis

Appeal Point No. 1. *Lot Consolidation is Prohibited by Venice Specific Plan. [The project] seeks to join 4 lots at 205, 207, 209, and 213 Ocean Front Walk.*

Staff Response:

The project does not propose any new lot consolidation. The parcels located at 205, 207 and 209 Ocean Front are developed with the existing structure that consolidated the three lots when it was built in 1946, which pre-dates the adoption of the Venice Coastal Zone Specific Plan.

Section 5 of the Specific Plan provides the following definition:

Lot Consolidation. Lot consolidation occurs when: (1) one or more structures are built over a lot line that divided two existing lots; or (2) a lot line is abandoned, a lot line is adjusted, lots are merged, or other action is taken by the City, for the purpose of allowing a structure to be built extending over what were previously two or more separate lots.

Section 9.A.1.e(2) states:

Two lots may be consolidated, provided the Venice Coastal Development Project conforms with development standards in Section 9 A 2 below; or three lots may be consolidated, provided the Venice Coastal Development Project conforms with development standards in Section 9 A 2 below and parking is subterranean with the roof at natural grade.

The expansion into the parcel located at 213 Ocean Front Walk will not connect to the existing structure and will not extend over the separate lots. As such, the proposed new development does not meet the Specific Plan's definition of Lot Consolidation. The Appellant further argues the project is required to provide subterranean parking. The subterranean parking requirement pertains to on-site parking. While the project proposes to add three parking spaces on the existing surface parking lot to the rear (abutting Speedway), requiring any of the parking to be provided on a subterranean level would conflict with the California Coastal Commission's prohibition of subterranean levels along Ocean Front Walk.

Appeal Point No. 2. *The "Waterfront Cafe" is a restaurant seeking to expand to a full line of alcohol with an ABC Type 47 - General Eating Place license. A Type 47 License "General Eating Place" requires a food order for alcohol service and that food sales exceed alcohol sales. The "Waterfront Cafe" has no food service requirement. Permitting conditions must be enforceable.*

Staff Response:

The property's Certificates of Occupancy from 1946 to 1988 designate the existing structure as a restaurant use. Because the Waterfront Café is designated as a restaurant, food service is required and the café has functioned continually providing food service. The enforcement of any license issued by the State of California, including the ABC Type 47 licence, falls under the jurisdiction of the State of California, and as such, would be enforced by the state.

Appeal Point No. 3. *A 558-square-foot standing only "recreation area" with a ABC Type 47 - General Eating Place license [featuring] standing only is not consistent with a restaurant and cannot be approved. It would set a precedent for what is approved under a "restaurant" permit.*

Staff Response:

The Appellant does not provide substantial evidence to support their claim that the City Planning Commission erred or abused its discretion and substantial evidence supports that the use of the area designated as a recreation area is not consistent with a restaurant. The recreation area is included in the service floor area of the restaurant as required by the Venice Coastal Zone Specific Plan. In addition the ABC Type 47 license is issued by the State of California, and therefore does not fall under the jurisdiction of the Department of City Planning.

Appeal Point No. 4. *Cumulative Impact... This area of Venice is characterized as a high crime area. The residential community is suffering under the burden of over-saturated with alcohol licenses.*

Staff Response:

The Appellant does not provide substantial evidence to support their claim. A new Conditional Use Beverage (CUB) is required because of the increase in service floor area. The project will continue to operate an existing restaurant use in an area with similar restaurant uses that serve alcoholic beverages. Approval of the applicant's CUB request incorporated in this proposed project does not increase the number of alcohol licenses in the Venice Specific Plan area. On June 9, 1981 a Zoning Administrator's Interpretation (ZAI-1981-68-B) was issued establishing the deemed to be approved status of the conditional use allowing for the consumption of alcoholic beverages on site. The project does not propose alcohol service where no prior alcohol service existed. As such, the project will not have a cumulative impact on the surrounding area.

Appeal Point No. 5. *There can be no hardship claim for a hardship exemption for the Specific Plan parking requirements or comparisons to existing grandfathered rights.*

Stefan Bachofner founded the Waterfront Cafe and operated at 205 1/2, 207 and 209 Ocean Front Walk for 25yrs [providing] required parking. This was tandem parking in the rear of the properties at 205 1/2, 207 and 209 Ocean Front Walk and parking at 213 Ocean Front Walk. 213 Ocean Front Walk is characterized in APCW-2020-1521-SPE-SPP CDP-CUB-ZV as an existing vacant lot. That is not true.

The current Applicant has already illegally expanded his service floor area including incorporating 205 Ocean Front Walk, formally an independent Bike & Surfboard Rental business and into 213 Ocean Front Walk. The current applicant removed existing parking provided by Mr. Bachofner, expanded into the existing parking area illegally to extend his service floor area and now seeks a hardship exemption from parking requirements. It would set a precedent. This cannot be allowed.

Comments by Mr. Bachofner regarding his parking requirements are incorporated into the Letter of Determination for ZA-2011-2694-CDP-CUB, the Venice Alehouse at 2 Rose, on July 7, 2014:

Stefan Bachofner, owner Waterfront Cafe:

- I was not allowed to have live entertainment when I was approved in 1988*
- My beer garden took years to get approval because parking was a huge problem*
- I'm not opposed but I want equal treatment*
- This was an illegal expansion of the conditional use permit*

Staff Response:

The Appellant does not provide substantial evidence to support their claim. As discussed in the Background Section of the Determination Letter, on June 9, 1981 a Zoning Administrator's Interpretation (ZAI-1981-68-B) was issued establishing the deemed to be approved status of the conditional use allowing for the consumption of alcoholic beverages on site. The deemed to be approved status extended to the outdoor dining areas located at 205 and 207 Ocean Front Walk. No evidence was presented showing that service floor area or addition parking for the Waterfront Café is currently being provided at 213 Ocean Front Walk. A review of the Department of Building and Safety permit history established that the existing restaurant is required to provide sixteen parking spaces. Those existing sixteen spaces will be maintained.

Stefan Bachofner, former owner of the Waterfront Café made comments during a public hearing (for an unrelated project) indicating that he in fact did receive approval for his beer garden. His comment also affirmed City Planning's assertion that providing all of the required parking on-site is physically impossible. As required in Condition of Approval No. 9 of the APC's Determination, the project will maintain 16 existing parking spaces and provide three (3) new parking spaces on-site. Condition No. 9.c. further requires that the applicant provide 16 parking spaces off-site, secured with a lease in lieu of a covenant, maintained for the life of the project. Furthermore, the necessary findings were made to approve a Specific Plan Exception and are provided in Finding Nos. 1 through 5 of the APC's determination.

Appeal Point No. 6. *The DCP Letter of Determination for APCW-2020-1521-SPE-SPP-CDP-CUB-ZV refers multiple times to nearby City of Los Angeles Public Parking at Rose Avenue Parking Lot at 300 Ocean Front Walk. The certified Venice Land Use Plan prohibits commercial businesses from using public parking lots to provide their required parking because it is a denial of coastal access to residents and visitors to Venice Beach.*

Staff Response:

The Appellant does not provide substantial evidence to support their claim. The Issues section of the Staff Report to the APC states:

"As noted above, the subject site abuts a County owned and operated surface parking lot; however, those parking spaces are intended for use by beach goers and the general public and cannot be used to satisfy the parking requirements for the proposed project."

Along with other surrounding neighborhood uses the location of the County operated parking lot is mentioned in the findings, however it is not stated that the County operated parking lot is used to satisfy the parking requirement. If the parking requirement was inappropriately met using the County Lot spaces there would be no need to request a Specific Plan Exception. As stated in the APC's determination, the APC made the necessary findings to approve a reduction in parking for the expansion of the proposed restaurant. The APC further required the provision of 16 additional parking spaces off-site to supplement the on-site parking and valet operation.

Appeal Point No. 7. *Los Angeles County Assessors Records show No APNs for 205, 207, and 209 Ocean Front Walk Regarding the addresses for APCW-2020-1521-SPE-SPP-CDP-CUB-ZV, on March 12, 2021 Applicant Jake Matthews wrote: "The address of the Israel Levin Center is 201-203 OFW, the existing restaurant is 205-209 OFW, the vacant lot is 213 OFW, and the Bowlology lot is 215 OFW. You can find this information on <http://zimas.lacity.org/> . Eventually this will be cleaned up on LADBS and ABC's records down the road." Zimas shows an APN of 4286030002 for 205, 207 and 209 Ocean Front Walk. Zimas shows an APN of 4286030001 for 201-203 Ocean Front Walk and 4286030003 for 213 Ocean Front Walk.*

On the County Assessor Records, 4286030001 is registered for 201 Ocean Front Walk; 4286030002 for 201 1/2 Ocean Front Walk; and 4286030003 for 213 Ocean Front Walk. This is inexcusable. No CDP and CUB can be approved.

Staff Response:

The Appellant does not provide substantial evidence to support their claim that a Coastal Development Permit (CDP) and a Conditional Use Beverage (CUB) requests cannot be approved. How the County of Los Angeles determines and assigns Assessor's Parcel Numbers (APNs) has no relationship to entitlement requests filed with the City of Los Angeles. As provided in the APC's determination and the City Planning Application, the proposed project is limited to 205, 207, 209, and 213 Ocean Front Walk.

Recommendation

Upon careful consideration of the Appellant's points, the Appellant has failed to meet its burden as there is no evidence in the record to conclude that the City erred or abused its discretion. No new substantial evidence was presented showing that the West Los Angeles Area Planning Commission has erred in its actions relative to the Determination and Categorical Exemption. Argument, speculation, unsubstantiated opinion, or narrative does not constitute substantial evidence. Therefore, based on the above, in consideration of the appeal for the project located at 205, 207, 209 and 213 Ocean Front Walk, the Department of City Planning recommends that the PLUM Committee recommend for City Council to deny the appeal and determine, based on the whole of the administrative record, the project is exempt from CEQA pursuant to CEQA Guidelines, Sections 15301 (Class 1) and 15303 (Class 3) and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning


Juliet Oh
Senior City Planner

VPB:FR:JO:EG:bk