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July 27, 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 SUMMARY AND STAFF RESPONSE. 9055-9351 NORTH TUJUNGA AVENUE; CF 10-0468-S1

Project Background

The project involves the waiver of improvements associated with Peoria Street and Tujunga Avenue which will no longer be relevant once those portions of the street are vacated. Currently, these portions of the streets have already been dedicated, but are not being used for traffic or circulation; rather, the subject streets have been the site of illegal dumping activity and semi-truck idling. Modification of the original conditions of approval to waive improvements for this street section would allow the Applicant to proceed with all previously approved conditions and receive a final Certificate of Occupancy to complete the project as intended. There are no other changes to the previously approved project.

On August 12, 2020, the Designee of the Director of Planning, on behalf of the City Planning Commission, issued a Plan Approval which modified certain conditions related to improvements along portions of Peoria Street and Tujunga Avenue.

On August 20, 2020, a first-level appeal was filed by Ernest R. Lenthall as an abutting property owner to the project site. The City Planning Commission unanimously decided to deny the appeal and sustain the Planning Director's Determination at its meeting on February 25, 2021. The City Planning Commission's determination letter was issued on March 16, 2021. During the appeal period, a second-level appeal was filed by Ernest R. Lenthall. The decision was appealed in whole, citing error and abuse of discretion by the Director of Planning and the City Planning Commission.

Staff Recommendation

Staff recommends that the PLUM Committee recommend for Council Action to deny the submitted second level appeal and sustain the City Planning Commission's approval of the Plan Approval

determination made by the Designee of the Director of Planning. Staff also recommends that the PLUM Committee find that the project was adequately addressed in accordance with the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301, Class 1 (Existing Facilities), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines apply.

Appeal Summary

The following appeal statements have been compiled and summarized from the submitted appeal and responded to below.

1. Appeal Point:

The Director's decision was based on the belief that Peoria Street and Tujunga Avenue will be temporarily and permanently closed, which was not yet decided at that time.

Staff Response:

In addition to submitted evidence from the offices of Council District 6 and the Bureau of Engineering confirming the temporary street closure process, there was no evidence submitted to the record stating that the improvements would be needed. The subject streets have already been dedicated and can continue to be used even if the improvements are waived. Per Los Angeles Municipal Code (LAMC) Section 12.37, the Director of Planning has the authority to waive, reduce, or modify required dedications or improvements. The Director of Planning could not process this project as a standard Waiver of Dedication and Improvements (WDI), however, because the requirement was recorded as a Condition of Approval in the original entitlement approved under CPC-2007-3888-CU-ZV-SPR. All evidence submitted to the record indicated that the fulfillment of improvements along these streets was not necessary and would not contribute to any mobility goals as the site was being used for heavy trucks and illegal trash dumping, rather than circulation or pedestrian activity.

2. Appeal Point:

The subject streets are used by nearby businesses and are necessary for queuing of vehicles, including 18-wheelers and passenger vehicles, in a safe manner.

Staff Response:

The Applicant's request is to waive public improvements, not to close the streets permanently. Upon the waiver of street improvements, as originally approved by the Director of Planning, these businesses could continue utilizing the streets for traffic, idling, or queuing. Any concerns related to the closure of the street will be handled in an entirely separately process through the Bureau of Engineering's street vacation process. Thus, these concerns are not applicable to the decision by the Director of Planning.

3. Appeal Point:

Through the approval of this waiver of improvement, the Department of City Planning has predetermined the outcome of a future study related to the permanent street vacation.

Staff Response:

As mentioned in the initial appeal report, the standard process for street vacations by the Bureau of Engineering includes a separate environmental determination, public hearing, and investigations from other City agencies as was not a part of the Director's Decision given that this process is handled by the Bureau of Engineering. The Bureau of Engineering describes the process as follows:

"As the public street system belongs to the general public, there are many agencies (City of Los Angeles and other public utilities) who may be utilizing or have an interest in the public right-of-way proposed to be vacated. City agencies such as the Bureau of Engineering, Planning Department, Department of Transportation, Fire Department, Department of Water and Power and others, along with affected public utility companies such as the Gas Company and Pacific Bell, will be sent referrals for their comments and recommendations on the proposed vacation. Upon receipt of their responses, a report will be prepared by the Bureau of Engineering and submitted to the City Council through the Public Works Committee for their consideration."

With regard to permanent street vacations, a number of City agencies are consulted and referred to throughout the process to ensure a complete and thorough investigation. The decision to waive improvement conditions along one side of Tujunga Avenue and Peoria Street does not predetermine the result of this study. The Applicant has already dedicated their required portions of these streets and is the only operator maintaining the public right-of-way in good condition. The waiver of improvements would only remove the Applicant's requirement to rebuild and construct new sidewalks, curbs, and gutters as well as portions of the asphalt roadway. The approval of this request would not preclude the public use of these streets and would not determine the outcome of any separate investigation led by the Bureau of Engineering.

4. Appeal Point:

The City did not make the proper findings to waive the initial public hearing as required by Section 12.27-C of the LAMC.

Staff Response:

Section 12.27-C of the LAMC pertains to projects utilizing a Variance under the authority of the Chief Zoning Administrator or, in his or her absences, an Associate Zoning Administrator. The project is a Plan Approval and, thus, this appeal point does not apply. Furthermore, the Conditions of Approval as adopted by the City Council in the original entitlement states (under Condition No. A.17.f.):

"The Plan Approval shall be determined by the Director of Planning, or the City Planning Commission on appeal. **Should** the Director require a public hearing, public notice shall be made to owners and occupants of property within a radius of 500 feet."

Section 16.05 of the LAMC pertains to the Site Plan Review process under the authority of the Director of Planning. While the project is not the same as a Site Plan Review process, the authority granted to the Director of Planning aligns with the original condition referenced above. Section 16.05-G.3(b) states: "If the Director finds that the matter may have a significant effect on neighboring properties, the Director shall set the matter for public hearing." There is no requirement for a written finding to be made, and sufficient evidence was submitted to the record indicating that the waiver of improvements along parts of Tujunga Avenue and Peoria Street would not have a significant effect on neighboring properties. Furthermore, hearing

notices were mailed to the 500-foot radius two times and the matter was heard by the City Planning Commission at its public meeting on February 25, 2021. Over this entire period, there were no correspondences received from the general public and no stakeholders in opposition to the project aside from the appellant, which indicates that the decision to waive the initial public hearing was not done in an erroneous or improper way.

Conclusion

Based on the information in the record and after consideration of the appellant's arguments for appeal, Staff finds that the project meets the required Findings for approval. Therefore, it is recommended that the City Council deny the appeal and sustain the City Planning Commission's approval of the Plan Approval determination made by the Designee of the Director of Planning.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



HEATHER BLEEMERS
Senior City Planner

HB:EA:bk