

Date: September 19, 2021

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To: Los Angeles Planning & Use Management Commission
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Re: PLUM Case No. 21-0646 – Written Statement in Support of Appeal
Case No. CPC-2020-595-DB-CU-1A – 1432-1434 South Beverly Drive

Dear Commissioners:

My name is Alison. I reside in the 2-story, 5-unit rent-controlled apartment building located at 1436-1440½ South Beverly Drive. My apartment is immediately adjacent to the gorgeous 2-story Spanish-style duplex located at 1432-1434 South Beverly Drive, the site of the proposed project in this case.

In December 2018, an oil and gas mogul bought the townhome property at 1432-1434 South Beverly Drive and temporarily rented one of the units to a family friend or acquaintance. The second unit was kept vacant. In late 2019, the owner reportedly submitted an application under the Transit Oriented Communities (TOC) guidelines for permission to demolish the duplex, to dig up the beautiful mature trees and flora surrounding the building, and to replace the it with a massive 6-story, 67-foot tall, 15-unit luxury apartment building with split-level penthouse lofts covering the fifth and sixth floors of the building and a rooftop deck. That application apparently was rejected or withdrawn because the property is not located within one-half mile of a Major Transit Stop, as required under LAMC §12.22.A.31(A).

In January 2020, the owner submitted an application for a conditional use permit (CUP) to proceed with the same project under LAMC § 2024-U,26. See DCP Application, Item 3. A CUP was requested for the 15-unit project because the requested density bonus (57.3%) could not be approved under the “Affordable Housing Incentives - Density Bonus” regulations contained in LAMC § 12.22-A,25. To obtain a lawful density bonus under LAMC § 12.22-A,25 for the proposed 15-unit building, the applicant was required to reserve three Very Low Income (VLI) units for the project, and in this case the applicant was willing to set aside only two VLI units. In addition, the applicant requested a multitude of “incentives” and/or “waivers” affecting Floor Area Ratio, height, setbacks, open space and parking.

CPC considered the applicant's proposal for a 15-unit project during the course of three public meetings. These meetings occurred on 01/28/2021, 02/25/2021 and 05/13/2021. During the 01/28/2021 meeting, several Commissioners, and many community stakeholders living adjacent to or near the proposed project, including me and others living in or adjacent to my building, expressed concerns about the proposed height of the project, the inadequate setbacks, the lack of tenant and guest parking, the modification of open space requirements, the dismal aesthetics of the project (especially the south-facing façade, which is a windowless red wall, with railing that looks like the inside of a prison), the specific adverse impacts of the project on the physical environment (particularly the proposed destruction of more than one dozen mature trees and extensive flora, and the unnecessary disruption of established local wildlife, including birds and squirrels) and the general adverse impacts on the Pico-Robertson-Beverlywood neighborhood south of Alcott Drive. After the completion of public commentary, the Commission voted to continue the meeting to allow the applicant an opportunity to modify his plans to address these concerns.

Despite the Commission's invitation, the applicant made only superficial modifications affecting the "perceived" height of the proposed project. The actual height of the project was not reduced at all, and the applicant continued to demand approval for 15 units with only two units being set aside for VLI housing rather than the required 3 VLI units.

During the 02/25/2021 CPC meeting, Commissioner Perlman took note of the applicant's inaction and failure to materially address any of the concerns stated during the prior meeting. Commissioner Perlman then made clear that the proposed project was being considered only for approval as a CUP project because the proposed density bonus was "excessive" under LAMC § 12.22-A.25. Specifically, he stated, "On the density bonus, I won't even go into that, but I'm going to go into the CUP." He also stated that "the issues with height and the lack of guest parking ... are not compatible with the area, they will adversely impact the area, and for those reasons I cannot support this project." Thereafter, Commissioner Perlman moved to "deny staff's recommendations" for approval of the CUP and the DCP staff's recommended "findings" because the project would "not enhance the built environment or provide a function of services essential [or] beneficial to the community" and because the project would "adversely effect or further degrade adjacent properties in the surrounding neighborhood." Commissioner Perlman's motion was unanimously approved, and DCP staff was tasked with preparing the letter of determination (LOD) for the case.

The Commission's initial LOD was issued 04/13/2021. Consistent with the Commission's action during the 02/28/2021 meeting, the request for a CUP was "[d]isapproved and denied" on the ground that the proposed density increase "is greater than the maximum permitted by LAMC [§] 12.22-A.25." See LOD, ¶12. Inexplicably, though, the LOD stated that the Commission had approved the project exactly as proposed, without reducing the excessive Density Bonus or increasing the number of required VLI units, and granting every one of the requested "incentives" and "waivers," none of which were substantively considered, much less approved.

On 04/27/2021, CPC issued a “Corrected” LOD for the project. The “Corrected” LOD appears intended to correct its initial approval of an excessive and unlawful density bonus under LAMC § 12.22-A.25. Although the applicant requested permission to build a 15-unit apartment building with two units set aside for VLI housing, the “Corrected” LOD stated that CPC had considered and approved construction of a 13-unit apartment building, with “two units – 11 percent of the base density set aside for Very Low Income Households.” See “Corrected” LOD, ¶13. It should be noted that no plans for a 13-unit project were ever submitted for the Commission’s consideration and that community stakeholders were never given an opportunity to review and comment upon any such project or plans; nor is it apparent that the applicant at any time requested approval for a 13-unit building. If, however, the applicant wants to construct a 13-unit apartment building on the project site, then notice should be given to community stakeholders, as required by law, the Neighborhood Council should hold a hearing and be given an opportunity to weigh in on the revised proposal, and the Commission may consider the revised proposal and the objections of impacted community stakeholders during a public hearing, as required by law.

On 05/11/2021, I filed a timely appeal from the “Corrected” LOD, for myself and on behalf of all of the other residents of 1436-1440½ South Beverly Drive. My Appeal Application is contained in the City Clerk’s file for PLUM Case No. 21-0646.

Two days later, on 05/13/2021, the Commission took further action on the proposed project. Without notice to me or any other interested stakeholder, Commissioner Perlman moved to “clarify” that his 02/25/2021 motion in this case “was to deny the staff’s recommendation on the CUP, but to grant the remainder of the staff’s recommendations.” The motion for “clarification” was seconded and approved. Thereafter, CPC issued its “2nd Corrected” LOD on 05/13/2021.

Predictably, nothing was “clarified” by the “2nd Corrected” LOD. The staff’s recommendations to the Commission on 02/25/2021 involved a 15-unit building with two units reserved for VLI housing, not a 13-unit building with 11% of the base density set aside for VLI households. Yet, as prepared by DCP staff and signed by CPC staff, the “2nd Corrected” LOD states that the Commission “approved” “a Density Bonus for ... a total of 13 units (with two units – 11 percent of the base density set aside for Very Low Income Households) in lieu of the base density of nine units.” See “2nd Corrected” LOD, ¶13. Likewise, the “2nd Corrected” LOD states that the Commission considered and “approved” every one of the “incentives” and/or “waivers” requested by the applicant despite that none of them was actually considered or approved during the 02/25/2021 meeting.

Although the 05/13/2021 “2nd Corrected” LOD was issued after my appeal application was filed on 05/11/2021, I was assured during a teleconference with DCP and CPC staff on 06/01/2021, and in emails with DCP and CPC staff after 06/01/2021, that my 05/11/2021 Appeal Application was sufficient to appeal from the 05/13/2021 “2nd Corrected” LOD. However, to address the issues raised by CPC’s “clarification” of

its earlier LODs, I am submitting this written statement to “clarify” and “summarize” the principal grounds for my appeal in this case. I also intend to appear telephonically for the 09/21/2021 meeting and will appreciate the opportunity to briefly address the members of the Planning & Land Use Commission (PLUM) in support of my appeal. In addition, I encourage every member of PLUM to review the photos that I have submitted showing the current use of the subject property and the proposed use. Moreover, if any Commissioner wants to review the audio recordings of the CPC meetings in this case, they are available as follows:

01/28/2021 > <https://planning.lacity.org/StaffRpt/Audios/CPC/2021/01-28-2021/5%205a%20CPC-2020-0595.mp3>

02/25/2021 > <https://planning.lacity.org/StaffRpt/Audios/CPC/2021/02-25-2021/6%20CPC-2020-0595.mp3>

With respect to CPC’s “approval” of certain “incentives” and/or “waivers” for the applicant’s proposed project, my principal objections are stated below. Note that nothing herein is intended to waive or withdraw any other objection made to the “2nd Corrected” LOD in this case, by me or any other person.

DENSITY BONUS

LAMC §12.22-A,25 "establish[es] procedures for implementing State Density Bonus requirements," as stated in Government Code §§65915-65918, to "increas[e] the production of affordable housing, consistent with City policies." LAMC §12.22-A,25(a)(1). If the requisite number of Required Restricted Affordable Units are not reserved, the project cannot be approved. Under the applicant’s original plans for constructing a 15-unit apartment building, a minimum set aside of three (3) VLI housing units would be required under LACM §12.22-A,25. The error in DCP’s initial calculations apparently arose from DCP’s failure to apply LAMC §12.22-A,25(c)(7), which states that "[i]n calculating Density Bonus and Restricted Affordable units, any number resulting in a fraction shall be rounded up to the next whole number." See LAMC §12.22-A,25(c)(7). Rather than round up the fractional amount of VLI units, DCP appears to have rounded down the required number of VLI units.

Although no plans for a 13-unit project are contained in the file for this case, the “2nd Corrected” LOD “approves” a 13-unit apartment building with 11% of the base density reserved for VLI housing. The reduction in total units from 15 units to 13 units was presumably intended to ensure an adequate set aside of VLI units for the proposed project. For a 13-unit project, only two VLI units are required under the Density Bonus rules. That said, to the extent that CPC intended to approve a 15-unit project with only two units reserved for VLI housing, any approval of the project would be unlawful and void.

NUMBER OF INCENTIVES

LAMC §12.22-A,25(e)(1) governs the number of incentives that may be granted in the case of a Density Bonus project. Specifically, the section states that the "Number of Incentives" that may be awarded is determined by the "Required Percentage* of Units Restricted for Very Low Income Households" and the corresponding number of incentives specified in the table contained in that section. To obtain two incentives, the required percentage of VLI units must be at least 10%; to obtain three incentives, the required percentage of VLI units must be at least 15%. Id., Table.

Under the "2nd Corrected LOD, only 11% of the base density is required to be reserved for VLI housing units; thus, only two incentives may allowed for the proposed project, not three. See LAMC §12.22-A,25(e)(1), Table. Because CPC "approved" three incentives for the project, the "2nd Corrected" LOD is unlawful and void.

INCREASED HEIGHT "INCENTIVE"

CPC had no authority to grant the applicant's request for a height increase totaling 22 feet. LAMC §12.22-A,25(f) lists the "Menu of Incentives," i.e., "On-Menu" Incentives, that may be granted to Density Bonus projects under LAMC §12.22-A,25. With respect to height incentives, the maximum height increase that may be approved is specified in LAMC §12.22-A,25(e)(5)(i). Under subdivision (e)(5)(i), an applicant may be entitled to "[a] percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Housing Development Project is eligible[;] [provided that,] [i]n any zone in which the height or number of stories is limited, this height increase shall permit a maximum of eleven additional feet or one additional story, whichever is lower, to provide the Restricted Affordable Units." LAMC §12.22-A,25(f)(5)(i).

Under ¶13(b) of the "2nd Corrected" LOD, CPC "approved" the applicant's request for a 22-foot increase in height, which is double the maximum 11-foot height increase allowed under subdivision (f)(5)(i). Because CPC "approved" a 22-foot height increase that exceeds the maximum allowed under LAMC §12.22-A,25, the "2nd Corrected" LOD is unlawful and void.

REDUCED SETBACK "INCENTIVE"

CPC had no authority to grant the applicant's request for a 30% setback reduction. Under LAMC §12.22-A,25(f)(1), a qualifying applicant may be entitled to a setback reduction equal to "up to 20% decrease in the required width or depth of any individual yard or setback ... 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."

Under ¶13(b) of the “2nd Corrected” LOD, CPC “approved” the applicant’s request for a 30% reduction in setbacks, which is substantially greater than the maximum 20% reduction allowed under subdivision (f)(1). Because CPC “approved” a setback reduction that exceeds the maximum amount allowed under subdivision (f)(1) and because CPC made no finding that the landscape points are sufficient for the project to qualify for a setback reduction, and the “2nd Corrected LOD” is unlawful and must be vacated.

ON-MENU “INCENTIVES” VS. OFF-MENU “WAIVERS”

With respect to the height limitations and setback restrictions contained in LAMC §12.22-A,25(f), CPC had no authority under LAMC §12.22-A,25(g) to approve the applicant's request for “waivers” of the express restrictions contained in LAMC §12.22-A,25(f). LAMC §12.22-A,25(f) lists all of the "On-Menu" Incentives that may be granted to projects in a Density Bonus case. Under appropriate circumstances, an "Off-Menu" “waiver” may be allowed for "any development standard(s) that is not included on the Menu of Incentives in [LAMC §12.22-A,25(f)] ... and that [is] not subject to other discretionary applications." Id. §12.22-A,25(g)(3)(C)(i). Because setback requirements and height restrictions are "development standards" (see Gov. Code §65915(o)(1)), and these development standards are included in the Menu of Incentives contained in LAMC §12.22-A,25(f), the restrictions on setback reductions and height increases contained in LAMC §12.22-A,25(f) may not be "waived" under LAMC §12.22-A,25(g). To the extent that the “2nd Amended” LOD purportedly “waives” the height and setback restrictions stated in LAMC §12.22-A,25(f), the “waivers” are unlawful and void.

The height restrictions in LAMC §12.22-A,25(f)(5)(i) also could not be "waived" under LAMC §12.22-A,25(g) because the height limitation stated in subdivision (f)(5)(i) does not "have the effect of physically precluding the construction of a development ... at the densities or with the concessions or incentives permitted under [Gov. Code §65915]" and LAMC §12.22-A,25. See Gov. Code §65915(e)(1). Here, the applicant requested a 22-foot height increase to enable construction of high-end, multi-level penthouse lofts on the fifth and sixth floors of the building, as well as a rooftop deck. The elimination of these luxury amenities would not "physically preclude" construction of the proposed project. Likewise, with respect to the setback limitations, no waiver could be permitted in this case because the excessive setback reductions will have "Specific Adverse Impact[s] upon ... the physical environment," as defined in LAMC §12.22-A,25(b), and as stated by many neighborhood residents and several of the Commissioners during the 1/28/2021 and 2/25/2021 meetings. See, e.g., 02/25/2021 Audio of CPC Mtg., in which Commissioner Perlman states that “the project would “not enhance the built environment or provide a function of services essential [or] beneficial to the community” and that the project would “adversely effect or further degrade adjacent properties in the surrounding neighborhood.”

ADB





1432-1434 South Beverly Drive



Image capture: Mar 2019 © 2021 Google

Los Angeles, California

Google

Street View



Google Maps



Image capture: Mar 2019 © 2021 Google

1432 - 1434 SOUTH BEVERLY DRIVE

1436 - 1440-1/2 SOUTH BEVERLY DRIVE

<https://www.google.com/maps/place/1436+S+Beverly+Dr,+Los+Angeles,+CA+90035/@34.0539721,-118.3953401,3a,35.8y,63.63h,93.31t/data=!3m7!1e1!3m5!1sFwG9xfjJeBW8Yzsej2mGoA...>



1432 S. BEVERLY DRIVE



ZONING DATA

SOURCES:	LAMC 12.10 "R3 MULTIPLE DWELLING ZONE" ZONING ORD 166676 LAMC 12.24-U, 26
ZONING DESIGNATION:	[Q] R3-1VL-O
LOT AREA:	7,065 SF (PER SURVEY)
BUILDABLE AREA:	45'-0" X 100'-0" = 4,500 SF
ALLOWABLE RESIDENTIAL DENSITY BY RIGHT: C.U.P. (LAMC 12.24-U, 26)	4,500 / 800 = 6 UNITS x 1.56 = 15 UNITS
ON SITE RESTRICTED AFFORDABLE UNITS: C.U.P. (LAMC 12.24-U, 26)	56% - 35% = 21% 21% / 2.5% = 8.4% 8.4% + 11% = 19.4% ~ 20% VLI
11% VLI FOR 35% DENSITY BONUS & 1% VLI FOR EACH ADDITIONAL 2.5%	9 UNITS X 20% = 2 UNITS
MAX ALLOWABLE FAR BY RIGHT: ON-MENU DENSITY BONUS:	3 : 1 35% = 4.05 : 1
ALLOWABLE FLOOR AREA: PROPOSED FLOOR AREA:	4,500 X 4.05 = 18,225 SF 16,665 SF
MAX ALLOWABLE HEIGHT: OFF-MENU DENSITY BONUS:	45'-0" + 22'-0" = 67'-0"
SETBACKS:	
FRONT SETBACK:	15'-0"
SIDEYARD SETBACKS: OFF-MENU DENSITY BONUS:	5'-0" + 4'-0" = 9'-0" MIN. 9'-0" - 30% REDUCTION = 6'-4"
(TOP FLOOR ADDITIONAL 15' SETBACK)	
REAR YARD SETBACK:	15'-0"

DRAWING TITLE: TITLE SHEET

PROJECT: BEVERLY DRIVE

SCALE:

DATE: 09/23/20

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MATERIAL LEGEND

- | | |
|----------|---|
| A | - EXTERIOR CEMENT PLASTER
- SMOOTH/FINE TROWELED
FINISH W/INTEGRATED COLOR
- WHITE |
| B | - EXTERIOR CEMENT PLASTER
- SMOOTH/FINE TROWELED
FINISH W/INTEGRATED COLOR
- RED |
| C | - METAL RAILING
- POWDER COATED FINISH
- RED TO MATCH PLASTER |
| D | - EXTERIOR BOARD FORM
CONCRETE
- ANTI GRAFFITI FINISH |
| E | - METAL BRAKE PANEL
SPANDREL
- BLACK TO MATCH CURTAIN
WALL SYSTEM |
| F | - METAL GUTTER
- WHITE |
| G | - EXTERIOR WALL MOUNTED LIGHT
- BLACK |
| H | - EXHAUST CAP
- STAINLESS STEEL |
| I | - METAL RAILING
- POWDER COATED
- BLACK TO MATCH CURTAIN
WALL SYSTEM & BRAKE PANEL |
| J | - METAL GRATING SYSTEM
- SUBJECT TO CHANGE ON LA DBS
APPROVAL |

DRAWING TITLE: ALCOTT ELEVATION

PROJECT: BEVERLY DRIVE

SCALE:

DATE: 09/23/20


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MATERIAL LEGEND

- A** - EXTERIOR CEMENT PLASTER
- SMOOTH/FINE TROWELED
FINISH W/INTEGRATED COLOR
- WHITE
- B** - EXTERIOR CEMENT PLASTER
- SMOOTH/FINE TROWELED
FINISH W/INTEGRATED COLOR
- RED
- C** - METAL RAILING
- POWDER COATED FINISH
- RED TO MATCH PLASTER
- D** - EXTERIOR BOARD FORM
CONCRETE
- ANTI GRAFFITI FINISH
- E** - METAL BRAKE PANEL
SPANDREL
- BLACK TO MATCH CURTAIN
WALL SYSTEM
- F** - METAL GUTTER
- WHITE
- G** - EXTERIOR WALL MOUNTED LIGHT
- BLACK
- H** - EXHAUST CAP
- STAINLESS STEEL
- I** - METAL RAILING
- POWDER COATED
- BLACK TO MATCH CURTAIN
WALL SYSTEM & BRAKE PANEL
- J** - METAL GRATING SYSTEM
- SUBJECT TO CHANGE ON LA DBS
APPROVAL

DRAWING TITLE: SIDE ELEVATION

PROJECT: BEVERLY DRIVE

SCALE:

DATE: 09/23/20

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