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: APCC-2020-1764-SPE-SPP-SPR

Project Address: 1318 N. Lyman Pl., 4470-4494 De Longpre Ave., 1321-1323 N. Virgil Ave.

Final Date to Appeal: 12/08/2021

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.

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., 3rd Floor

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: _____ Date: 12-07-2021

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.

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: $89.00	Reviewed & Accepted by (DSC Planner): Pablo Estrada	Date: 12/8/21
Receipt No: 2021342003-19	Deemed Complete by (Project Planner):	Date:
☐ Determination authority notified	☐ Original receipt and BTC receipt (if original applicant)	

December 6, 2021

Doug Haines
La Mirada Ave. Neighborhood Assn.
P.O. Box 93596
Los Angeles, CA 90093

Los Angeles City Council
200 N. Spring St.
Los Angeles, CA 90012

Appeal of: **Case No.: APCC-2020-1764-SPE-SPP-SPR**
Project Addresses: 1318 N. Lyman Pl.; 4470-4494 De Longpre Ave.; 1321-1323 N. Virgil Ave.

This is an appeal of the Central Area Planning Commission's October 26, 2021 approval to allow the addition of three floors of office space on top of a recently completed, 43-foot tall, 562-stall parking structure. The parking garage was previously approved in 2015 under Case Number DIR-2015-309-SPPA-SPP. The proposed new use would add 95,995 sq. ft. and 56 feet to the height of the new parking garage, for a total height of 96 feet, four inches.

The site is part of the 6-acre Hollywood Presbyterian Hospital campus, which lies in Subarea C of the Vermont/Western Transit Oriented District Specific Plan (also known as the Station Neighborhood Area Plan, or SNAP). The project received the following entitlements: 1) a Specific Plan Exception to allow zero additional parking stalls in lieu of the 192 parking stalls otherwise required; 2) an Exception waiving the requirement for a Pedestrian Throughway; 3) a Project Permit Compliance Review; 4) a Site Plan Review; and 5) an Addendum to the original project's 2015 Mitigated Negative Declaration (MND).

As noted, in 2015 the applicant received approval to construct a 654-stall parking structure on the site (subsequently reduced to 562 stalls). In 2016, the applicant further received approval under Case Number DIR-2016-3207-SPP-SPR to develop an 85-foot-tall, 5-story, 134,750 sq. ft. hospital addition, for a total development of the hospital campus of 784,356 sq. ft. The applicant then requested and received approval in 2018 under Case Number DIR-2017-5247-SPP for the demolition of two 100-year-old duplexes and a change of use from residential to ancillary parking in order to develop a 20-stall surface parking lot.

All of these cases involved separate Mitigated Negative Declarations (MND) for environmental review, resulting in improper piecemeal development of the Hollywood Presbyterian Hospital campus, in violation of the California Environmental Quality Act (CEQA) requirement that analysis be of the "whole of the action." The applicant now seeks to further evade CEQA for the proposed office development by utilizing an addendum to the 2015 MND for the parking garage. Furthermore, the city has improperly granted the applicant two exceptions to the requirements of the specific plan that fail to meet the necessary findings of hardship, in addition to inadequate findings for site plan review and project permit compliance review. The approvals must therefore be reversed, and proper environmental review be conducted within an environmental impact report (EIR).

1. THE CITY'S FINDINGS DO NOT JUSTIFY AN EXCEPTION ALLOWING ZERO PARKING STALLS IN LIEU OF THE 192 PARKING STALLS REQUIRED

The Hollywood Presbyterian Hospital site contains a total of 784,356 sq. ft. of medical buildings. The total number of parking stalls currently serving the hospital campus is 1,346 spaces in two parking structures and a surface parking lot. Under SNAP, the hospital is required to retain the existing parking for the existing buildings. With the addition of the proposed 95,995 sq. ft. of office space, 192 more parking stalls are required.

The applicant received a Specific Plan Exception to provide zero additional parking stalls in lieu of the requirement that the 95,995 sq. ft. office space addition provide two parking stalls per 1,000 sq. ft., of commercial space, or 192 parking stalls total. Yet the five findings required for the exception provide no evidence of hardship or precedent to grant such a request.

First, it is not proper for the applicant to seek an "exception" to evade an office parking requirement, especially when a portion of the property is in the R4 residential Zone and the office tower abuts residential structures to the south. The purpose of an exception, which is the same as a variance, is to remedy a disparity, not to circumvent established and universal parking regulations. As explained in Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal. 3d 506, 509.

> "In the absence of an affirmative showing that a particular parcel in a certain zone differed substantially and in relevant aspects from other parcels therein, a variance granted with respect to that parcel amounted to the kind of 'special privilege' explicitly prohibited by Government Code § 65906, establishing criteria for granting variances."

Second, the purpose of a variance is to make the property in question equal to the surrounding properties and not to grant special privileges or permit a use that is inconsistent with other nearby properties. California statutory law and the Los Angeles City Charter also require that an exception from a zoning ordinance must show that the applicant would suffer practical difficulties and unnecessary hardships in the absence of the variance, that these hardships result from special circumstances relating to the property that are not shared by other properties in the area, and that the exception is necessary to bring the applicant into parity with other property owners in the same zone and vicinity.

As explained by the California Supreme Court with reference to the standards for granting variances under Government Code Section 65906: "That section permits variances '*only* when, because of *special* circumstances applicable to the property, . . . the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.'" Topanga, *supra* at 520 (italics in original), quoting Gov. Code § 65906.

Crucially, the City's approvals disregard the core values underpinning our zoning system. As the California Supreme Court held in Topanga, a zoning scheme is a contract in which "each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare." (Id. at 517).

These principles led the Supreme Court to hold that "self-imposed burdens cannot legally justify the granting of a variance." Broadway, Laguna, Vallejo Assn. v. Board of Permit Appeals of City and County of San Francisco (1967) 66 Cal.2d at 774, 778.

As stated in McQuillin: The Law of Municipal Corporations, a leading treatise cited for a related point by the Supreme Court in Broadway, Laguna, *supra*, 66 Cal.2d at 775:

> "**In order for a landowner to be entitled to a hardship variance, the hardship must originate from circumstances beyond the control of the landowner** and be of a type that does not generally affect other properties in the district. **If the landowner can control the circumstances causing the hardship, then the granting of a variance is improper**. No undue hardship is shown where the landowner could accomplish the same objective without a variance **by changing his or her plans so that they conform to the existing zoning requirements**.
>
> "The concept might be better understood, however, by examining what 'practical difficulty' or 'unnecessary hardship' is not. It is not mere hardship, inconvenience, interference with convenience or economic advantage, disappointment in learning that land is not available for business uses, financial or pecuniary hardship or disadvantage, loss of prospective profits, prevention of an increase of profits, or prohibition of the most profitable use of property." (8 McQuillin Mun.Corp. § 25:179.37, 3rd ed. 2010). (Emphasis added).

FINDINGS

There are five findings required for an exception and in order to grant the variance, all five findings must be made. If even a single finding cannot be made, the exception must be denied.

Required Finding Number 1

The first finding requires that the strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Plan.

The first finding relates to practical difficulties or unnecessary hardships if the variance is not granted. The fact that the owner may be able to make more money with a variance is not an unnecessary hardship. The question is whether, without the variance, he cannot make a reasonable return on the property. In considering – and overturning – another variance granted by the City in Stolman v. City of Los Angeles (2003) 114 Cal.App.4th 916, 926, the Court held that:

> "If the property can be put to effective use, consistent with its existing zoning without the deviation sought, it is not significant that the variance sought would make the applicant's property more valuable, or that it would enable him to recover a greater income…Abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record."

No such substantial evidence has been provided by the applicant or is documented within the first finding. Nor is the City to guess about the missing evidence. The burden is on the applicant to submit sufficient materials to support his application – and to have submitted it prior to or at the public hearing. Instead, the city has accepted at face value claims by the applicant that the existing number of parking stalls is "*more than enough to satisfy any future patient needs*," and that visitors to the medical offices will use public transit.

No evidence is presented to support such claims, which ring especially hollow when considering that people seeking medical attention suffer physical infirmities that limit their transportation options.

The first finding further offers confusing and nonsensical commentary that adding the required parking spaces would surpass the maximum allowed parking stalls permitted under SNAP. Yet the applicant seeks to increase the site's floor area by 95,995 sq. ft., meaning that the maximum allowed parking also increases. Furthermore, the applicant has treated the parking structure as an "off-site" development in order to evade proper environmental analysis of the hospital complex as a whole.

Nothing in the finding provides evidence of a practical difficulty or hardship that isn't self-imposed. Therefore, the first finding cannot be made and the exception must be denied.

Required Finding Number 2

The second finding requires that there are exceptional circumstances or conditions that are applicable to the subject property or to the intended use or development of the subject property that do not generally apply to other properties within the specific plan area.

The "special circumstances" finding required for an exception involves distinguishing the property from other properties in the same zone and vicinity. Per California case law, special circumstances are typically limited to unusual physical characteristics of the property, such as its size, shape, topography, location, or surroundings that restrict its development.

No distinction is made in this finding to differentiate between the subject property and surrounding properties. Here the subject property is a level, roughly rectangular, corner property facing De Longpre Avenue. Nothing distinguishes the parcels' size, shape, topography, location or surroundings from other property in the same zone and vicinity.

The Determination Letter fails to even reference the property in this finding, instead repeating the same commentary from the first finding that the existing parking is "*more than enough to satisfy any future patient needs*," and that adding the required parking somehow surpasses the maximum parking permitted under SNAP.

There are no special circumstances that justify this finding, as nothing distinguishes the subject lot generally from other parcels in the same zone and vicinity. The second finding therefore cannot be made and the exception must be denied.

Required Finding Number 3

Required finding number 3 relates to whether the exception is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other properties in the same zone and vicinity, but which, because of special circumstances and practical hardships, is denied the property in question.

This required finding ties findings numbered 1 and 2 together: Are the special circumstances found in finding number 2 the cause of the hardship found in finding number 1? Is the variance necessary to bring the property owner into parity with other properties in the same zone and vicinity?

Conversely, California Government Code §65906 specifies that the exception cannot grant a special privilege:

> "Any variance granted shall be subject to such conditions as will assume that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated."

The commission failed to properly address this finding. The finding states that "*the community has voiced their concerns regarding vehicle congestion and additional parking spaces would increase vehicle trips from and to the existing facilities*," without referencing when the "community" voiced such concerns (certainly not during the public hearing or in written testimony) and how providing parking for physically infirm patients seeking medical therapy during the weekday would unduly increase vehicle trips that would impact surrounding residents and businesses.

The finding further states that the exception to completely waive the 192-stall parking requirement "is a right possessed by other Subarea C projects within the SNAP," and that "the exception is necessary for the preservation and enjoyment of a substantial property right" without referencing what other property owners possess such a right.

No other property owner has received the right to develop a 100,000 sq. ft. office project with zero parking. The third finding cannot be made, and the exception therefore must be denied.

Required Finding Number 4

This finding requires a showing that granting the exception will not be materially detrimental to the public welfare and injurious to the property or improvements adjacent to or in the vicinity of the subject property.

Again, the commission fails to properly address the finding, instead reiterating the same commentary from findings 1 to 3, and adding that the "*country has been facing a crisis with the pandemic that has caused a shortage in hospital space*." This statement has no relevance to the proposed use, which will be office space, not hospital beds, surgical rooms or intensive care units. As stated at page F-6, "*the project does not propose patient beds as part of the project*."

Failing to provide adequate parking for commercial office space means that patients and workers will park in the adjacent residential neighborhoods, creating impacts that will be materially detrimental to the public welfare and injurious to the property or improvements adjacent to or in the vicinity of the proposed development. The finding therefore cannot be made and the exception must be denied.

Required Finding Number 5

There are eleven elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these elements are in the form of Code requirements of the Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The Hollywood Community Plan designates part of the subject property for Multiple Dwelling land use with the corresponding zone of R4.

The General Plan specifically does not allow or encourage commercial or retail uses in a residential zone. The granting of the variance to allow a commercial office use in the R4 Zone is therefore inconsistent with the intent of the Hollywood Community Plan, and as such would adversely affect the Land Use Element of the General Plan.

Thus, required finding number 5 simply cannot be made and the exception must be denied.

2. AN ENVIRONMENTAL IMPACT REPORT IS REQUIRED

A. The project description does not reflect the property's history of piecemeal development and environmental review.

As noted, in 2015 the applicant received approval under Case Number DIR-2015-309-SPPA-SPP of a 654-stall parking structure (subsequently reduced to 562 stalls). In 2016, the applicant received approval under Case Number DIR-2016-3207-SPP-SPR to develop an 85-foot-tall, 5-story, 134,750 sq. ft. hospital addition for a total site development of 784,356 sq. In 2018 the applicant received approval under Case Number DIR-2017-5247-SPP for the demolition of two 100-year-old duplexes and a change of use from residential to a surface parking lot. All of these cases involved separate Mitigated Negative Declarations for environmental review. Now the applicant seeks to further develop the new parking structure by adding a three level, 95,995 sq. ft. office complex that would raise the building's height from 43 feet to 96 feet, 4 inches, plus roof attachments.

Yet under CEQA, the City was required to consider all components of the applicant's development of the hospital campus as one project, and to not allow such development to be piecemealed.

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.

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.

Development of the 6-acre Hollywood Presbyterian Hospital site is one project under CEQA. Under CEQA a "project" "means the whole of an action." Guidelines § 15378. 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 refused to acknowledge the new office building, the parking garage and the expansion of the hospital 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.

The office building and parking garage projects are two pieces of one overall development by one entity, combined with the applicant's significant expansion of the medical facilities. CEQA requires that the City consider the three projects as one to properly review the "whole of an action."

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 development of the entire site. The City cannot claim that expansion of a parking garage into an office building, plus the significant expansion of medical facilities, are unrelated projects when undertaken by the same applicant.

B. An Addendum to the six-year-old MND is improper.

The Project approvals and entitlements are all illegal based upon the attempted use of an addendum to a six-year-old MND. An addendum is improper and an EIR is required where, as here, there are more than simply "minor technical changes or additions which do not raise important new issues about the significant effects on the environment. Ventura Foothill Neighbors v. County of Ventura (2015) 232 Cal.App.4th 429, at 426.

The Ventura Foothill case explains that a "subsequent or supplement EIR is required" when: "(1) substantial changes are proposed in the project, requiring 'major revisions' in the EIR; (2) substantial changes arise in the circumstances of the project's undertaking, requiring major revisions in the EIR; or (3) new information appears that was not known or available at the time of EIR was certified."

It should be noted that the Court in Ventura Foothill reviewed a project whose height had changed and increased from 75 to 90 feet, a tiny fraction of the height and mass increase proposed here. The applicant's project proposed in 2015, for which the city approved an MND, was for a 43-foot-tall parking garage. The applicant's revised project would increase the height by 56 feet, or an increase of 130 percent above what was previously approved in the original project, and introduce a new office use.

In Ventura Foothill Neighbors v. County of Ventura, the Court affirmed the trial court finding that "the 20 percent increase in the building's height, from a maximum of 75 feet to 90 feet, was a 'material discrepancy' and 'a violation of CEQA.' Major revisions [of the EIR] are required since the entire building height/view-shed analysis in the 1993 EIR was gauged and analyzed for a [75-foot-high] building."

Substantial changes in the project and the surrounding environment with its changed baseline conditions trigger preparation of an EIR. These substantial changes relate, *inter alia*, to land use and compatibility impacts, and traffic and parking impacts. As noted in objections entered into the record by counsel for CREED LA, the Project, which is much larger than the project approved in 2015, will generate significantly more traffic and noise, and implicates significant land use impacts related to the existing limitations on the property.

In American Canyon Community United for Responsible Growth v. City of American Canyon (2006) 145 Cal.App.4th 1062, 1066, the City of American Canyon sought to approve the expansion of a proposed retail development that would increase the square footage of the project by 6.5% through the use of an addendum to a MND. The Court explained that an increase in the size of a development project is a substantial change triggering environmental review. Id. at 1077. As that Court noted, "the most significant change in the Project was the increase in the square footage," and the City's determination that the change in size did not have a significant environmental effect requiring supplemental environmental review was an abuse of discretion. Id. at 1075-1078.

An addendum is improper and violates CEQA. A significant change in the project has occurred, requiring proper environmental review.

C. Legal basis for an EIR.

The major premise behind the establishment of the California Environmental Quality Act of 1970 was to require public agencies to give serious and proper consideration to activities which affect the quality of our environment, to find feasible alternatives in order to prevent damage to the environment, and to provide needed information to the public. Public Resources Code § 21061.

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This is reflected in what is known as the "fair argument" standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. Laurel Heights Improvement Association v. Regents of the University of California (1993) 6 Cal.4th 1112, 1123; No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 75.

Under CEQA and CEQA Guidelines, if a project may cause a significant effect on the environment, the lead agency must prepare an EIR. Pub. Res. Code §§ 21100, 21151. A project "may" have a significant effect on the environment if there is a "reasonable probability" that it will result in a significant impact. No Oil, Inc. v. City of Los Angeles, *supra*, 13 Cal.3d at 83. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines § 15063(b)(1).

This standard sets a "low threshold" for requiring preparation of an EIR. Citizen Action To Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754. If substantial evidence supports a "fair argument" that a project may have a significant environmental effect, the lead agency must prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effect. No Oil, Inc. v. City of Los Angeles, *supra*; Brentwood Association for no Drilling, Inc. v. City of Los Angeles (1982) 134 Cal.App.3d 491.

The CEQA Guidelines at 14 Cal. Code Regs. § 15384(a) define "substantial evidence" 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..." Under Pub. Res. Code §§ 21080(e), 21082.2(c), and CEQA Guidelines §§ 15064(f)(5) nd 15384, facts, reasonable assumptions predicated on facts, and expert opinions supported by facts can constitute substantial evidence.

"Under the fair argument approach, *any* substantial evidence supporting a fair argument that a project may have a significant environment effect would trigger the preparation of an EIR." Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App4th 98, 113 (italics in original).

Communities for a Better Environment is also significant because it clarifies that agency "thresholds of significance" are not necessarily the threshold that may be used in determining the existence of a "significant" impact. A significant impact may occur even if the particular impact does not trigger or exceed an agency's arbitrarily set threshold of significance. Id. at 114.

An agency must prepare an EIR whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact. If there is substantial evidence both for and against preparing an EIR, the agency must prepare the EIR.

> "The EIR has been aptly described as the heart of CEQA. Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR protects not only the environment but also informed self-government. [T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA. The error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process." Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4th 342, 355-356 (italics in original).

III. THE APPLICANT HAS NOT SATISFIED THE RIGOROUS FINDINGS REQUIRED FOR APPROVAL OF THE SITE PLAN REVIEW AND PROJECT PERMIT COMPLIANCE REVIEW.

The Project does NOT consist of an arrangement of buildings that is or will be compatible with existing and future development on neighboring properties. The proposed 96-foot-tall structure is significantly taller than other development in the area and will tower over residential housing to the south.

The Project does NOT incorporate feasible mitigation measures to lessen its significant impacts. Instead, the applicant has evaded proper environmental analysis and mitigation.

The Project is NOT consistent with the Hollywood Community Plan or the Specific Plan, in that it under-parked, and establishes precedents.

IV. THE APPLICANT HAS BEEN IN VIOLATION FOR THREE YEARS OF ITS CONDITIONS OF APPROVAL FOR DEVELOPMENT OF 1279 N. LYMAN PL.

In 2018, Hollywood Presbyterian Hospital received approval under Case Number DIR-2017-5247-SPP to demolish two duplexes (circa 1910 and 1916) at 1269-1279 N. Lyman Place, in order to construct a 20-stall paved surface parking lot. The city's approval was conditioned to require: 1) buried utility lines; 2) wrought iron perimeter fencing; 3) 22 shade trees within the parking lot and additional shrubs and shade trees on the public right of way; 4) a decorative buffer wall between adjacent residential buildings; and 5) no on-site structures.

The Director's approval was appealed to the Central Area Planning Commission, which denied the appeal at its July 10, 2018 meeting. The century-old duplexes were quickly demolished, but instead of abiding by its conditions of approval, Hollywood Presbyterian Hospital has for 3 years illegally used the dirt lot for modular office buildings, which are surrounded by a chain link fence topped by barbed wire.

Photo above: Illegal modular office buildings operated by Hollywood Presbyterian.

This eyesore was issued an Order to Comply in 2019 by LADBS. Hollywood Presbyterian has ignored this order, and the City has done nothing to enforce it. Note the Order to Comply below:

LA DBS DEPARTMENT OF BUILDING AND SAFETY ◄ Back to LADBS All Services

1275 N LYMAN PL

Date Received: 7/26/2019
Description: BUILDING OR PROPERTY CONVERTED TO ANOTHER USE
Inspector: PATRICK QUALEY
Phone: (213)252-3035
Status: UNDER INVESTIGATION

Order Information

Order Number	Order Type	Effective Date	Issued By	Phone
0	ORDER TO COMPLY	9/3/2019	PATRICK QUALEY	(213)252-3035

Code Violation Information

Violation	Date in Compliance
Change of occupancy without obtaining the required permits and approvals.	

Hollywood Presbyterian was required to record a covenant to comply with the terms of the 2018 approval. They are in clear violation of the law, and therefore must not receive any further approvals until there is proof of compliance.

V. CONCLUSION

The Project's addendum characterizes many environmental effects that will be caused by the Project as "insignificant," "less than significant impact," or "no impact," such that few or no serious mitigation measures are allegedly necessary. Many such determinations are unsupported by facts, or premised on inadequate facts, or utterly lacking of any true analysis of the facts, or consisting of a superficial "analysis" which for the most part simply assumes its conclusion.

The Project as proposed would create a myriad of significant adverse environmental impacts upon this community. It is respectfully submitted that in its current form, the Project's approvals must be overturned.

Thank you for your courtesy and attention to this matter.

Applicant Copy
Office: Van Nuys
Application Invoice No: 76872

6800176872

City of Los Angeles
Department of City Planning

Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.

City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

If you have questions about this invoice, please contact the planner assigned to this case. To identify the assigned planner, please visit https://planning.lacity.org/pdiscaseinfo/ and enter the Case Number.

Receipt Number:2021342003-19, Amount:$109.47, Paid Date:12/08/2021

Applicant: LA MIRADA AVE NEIGHBORHOOD ASSN. - HAINES, DOUG (C:310-2817625)
Representative:
Project Address: 1321 N VIRGIL AVE, 90027

NOTES:

APCC-2020-1764-SPE-SPP-SPR-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	$89.00	100%	$89.00
		Case Total	$89.00

Item	Charged Fee
*Fees Subject to Surcharges	$89.00
Fees Not Subject to Surcharges	$0.00
Plan & Land Use Fees Total	$89.00
Expediting Fee	$0.00
Development Services Center Surcharge (3%)	$2.67
City Planning Systems Development Surcharge (6%)	$5.34
Operating Surcharge (7%)	$6.23
General Plan Maintenance Surcharge (7%)	$6.23
Grand Total	$109.47
Total Invoice	$109.47
Total Overpayment Amount	$0.00
Total Paid(this amount must equal the sum of all checks)	$109.47

Council District: 13
Plan Area: Hollywood
Processed by ESTRADA, PABLO on 12/08/2021

Signature: _____

Building & Safety Copy
Office: Van Nuys
Application Invoice No: 76872

6800176872

City of Los Angeles
Department of City Planning

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