

Communication from Public

Name: East Venice Neighborhood Association
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Council File No: 21-1495
Comments for Public Posting: RE: 1801-1821 S. Penmar Ave. & 1169 E. Palms Blvd - Case No. VTT-82077-SL-HCA and ENV-2020-4774-CE Updated Appeal Justification Honorable PLUM Committee Members: Please note that this justification includes new and additional information addressing the January 20, 2022 Corrected Letter of Determination issued following the continuance of this matter from the January 18 PLUM hearing. Respectfully, East Venice Neighborhood Association

BOARD MEMBERS

Lawrence Szabo
Kate Scanlon-Double
David Ewing
Paola Pini
William Wood

January 31, 2021
Los Angeles City Council

RE: 1801-1821 S. Penmar Ave. & 1169 E. Palms Blvd - Case No. VTT-82077-SL-HCA and ENV-2020-4774-CE

Updated Appeal Justification

Honorable PLUM Committee Members:

The City has a valuable interest in maintaining its ability to exercise its dedication rights throughout the City for the benefit of the public. In this case, the applicant seeks to deprive the City of that ability through improper sequencing of the permits for this project, having first applied for and receiving permits from the Department of Building and Safety (DBS) for a “remodel” of existing structures, then applying for a small lot subdivision (SLS) approval—attempting to unlawfully piecemeal CEQA and prevent the City from exercising a dedication along Penmar Avenue that would improve traffic flow and public safety.

This project is not exempt from CEQA. The CEQA categorical exemption identified by the applicant and in the January 22, 2022 Corrected Letter of Determination is for “the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration” of existing structures. CEQA Guidelines § 15301 (Class 1). The CEQA Guidelines state in relevant part that “[t]he key consideration is whether the project involves negligible or no expansion of use.” *Id.* And they make clear that additions to existing structures that “result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less,” do not involve negligible or no expansion of use. *Id.* at § 15301(e)(1).

Here, the rebuilding of the old bungalows added approximately 74%, or 2,851 square feet, to the old bungalows’ floor area(s), exceeding both the 50 percent and 2,500 square feet thresholds in the CEQA Guidelines. In addition to exceeding the CEQA Guidelines thresholds by building two-story structures where single-story bungalows existed, the applicant seeks to increase the buildings’ first-floor area footprints by adding covered porches that would intrude into the City’s dedications and add another 336 square feet. The second stories and porches together would increase the floor area(s) by approximately 82.5%, or 3,187 square feet. (These calculations are made using the square footage figures in Exhibit A of the Determination Letter, compared to the figures for the bungalows from the Los Angeles County Assessor’s website, included here as Addendum 1.)

Moreover, the applicant did not apply for the CEQA exemption until after receiving the building permits from DBS. As noted in EVNA's December 20, 2021 Appeal Justification, the City erroneously accepted and processed the developer's application to "remodel" the bungalow structures from DBS before the developer applied for the SLS. The City further erred by granting the building permits for an SLS project before granting the actual SLS. Had the City processed the applications together, as required by law, it easily could have exercised the 5-foot dedication along Penmar Avenue that the Bureau of Engineering (BOE) initially recommended for this project in its March 22, 2018 Planning Case Referral Form (Reference Number 201800111). And because DBS approved the design for the building permits before the applicant submitted the SLS application, the approved design was not checked for compliance with the Bungalow Court and Existing Structure Small Lot Design Standard, in violation of Ordinance 185462 § 27(b)(2).

All along, this project has been one to divide the property into single-family lots and sell them separately—gutting the then-existing bungalows and adding second stories and porches, changing the buildings' design and increasing the structures building areas beyond the CEQA Guidelines thresholds, as explained above. The applicant applied for DBS permits to "remodel" the bungalows on August 23, 2018, over four months after the SLS ordinance amendment for bungalow properties took effect on April 18, 2018. After receiving the DBS permits on February 2, 2020, the applicant filed their application for the SLS on July 22, 2020. Also on July 22, 2020, the applicant filed a Notice of CEQA Exemption (identifying Class 1 Category 1 as the applicable exemption), but the available record does not include the document issued by the City Planning Department stating that the Department has found the project to be exempt.

As noted, this project never involved just a remodel of existing structures, which is a ministerial action, but rather a remodel as part of a small lot subdivision, which is a discretionary approval. The applicant should have been required to submit the DBS and SLS applications together, allowing the City to exercise its dedication along Penmar Avenue (and more of its dedication along Palms Boulevard). But the approvals and permits already granted by DBS intruded into the dedications, making it seem difficult and impractical for the City to exercise its dedications—and apparently making City decisionmakers reluctant to do so.

The Bureau of Engineering Condition of Appeal number 7 included with the Corrected Letter of Determination states: "The existing structures to remain preclude [sic] the required dedication on Penmar Avenue." However, the City Planner incorrectly stated during his testimony to the WLAAPC meeting that the DBS "remodel" plans did not conflict with the dedications. The City Planner seemed uninformed about how DBS calculates a building's gross floor area. According to California Building Code Section 3207, the added porch area—a usable area under the horizontal projection of the roof—must be included when calculating a building's gross floor area. The proposed roof portion of the DBS-approved porches extends into the side- and front-yard setbacks, contrary to the City Planner's erroneous statement that the original structures' footprint remained unchanged by the DBS permit. Moreover, the raised floors of the porches approved by DBS extend beyond the roof line and into the

dedications along both Penmar Avenue and Palms Boulevard, further interfering with the City's ability to exercise the dedications.

In short, the City's sequencing of the DBS permit application and approval before the application for the SLS project improperly and unlawfully prejudiced the City's decision not to exercise its dedications on the property along both Palms and Penmar to the extent it could have, and as BOE expressed its intention to do in its March 22, 2018 Planning Case Referral Form (Reference Number 201800111).

For these reasons and those set forth in EVNA's December 20, 2021 Appeal Justification, EVNA respectfully requests that the WLAAPC's decision and the DAA Letter be overturned as erroneous and an abuse of discretion.

Respectfully,

East Venice Neighborhood Association
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