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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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December 2, 2022

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 FOR A PROPOSED PROJECT AT 1911-1931 WEST SUNSET BOULEVARD & 1910-2018 WEST RESERVOIR STREET; CASE NO. CPC-2020-3140-CU-DB-MCUP-SPR-1A; CF 22-0297-S1

At its meeting of July 28, 2022, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following Project:

Demolition of the existing structures and the construction, use and maintenance of a new, six-story, 166-unit, mixed-use development with 13,000 square feet of commercial space and 24 units reserved for Very Low-Income Households.

1. Found that the City Council determined at its June 28, 2022 hearing that based on the whole of the administrative record, the Project is statutorily exempt from CEQA as a Sustainable Communities Project Exemption ("SCPE") pursuant to PRC 21155.1;
2. Approve a Conditional Use to allow an increase in density greater than the maximum permitted under LAMC Section 12.22 A.25, to a total of a 51% increase in the base density of 110 units to a density of 166 units;
3. Approve a Density Bonus to allow the following three (3) Off-Menu Incentives:
 - a. to permit a Floor Area Ratio of 3.75:1 in lieu of the otherwise permitted 1.5:1 FAR;
 - b. to permit residential parking at a ratio of 0.5 spaces per dwelling unit; and
 - c. to allow an additional 22 feet in height in lieu of the otherwise permitted 45 feet;
4. Approve a Density Bonus to allow the following four (4) Waivers or Modifications of Development Standards:
 - a. to utilize any or all RAS3 yard requirements to provide 5-foot setbacks within the two side yards in lieu of the otherwise required 11-foot setbacks pursuant to LAMC Section 12.11.C.2;

- b. to allow a reduction in the required open space by 25%;
 - c. to allow six (6) stories, in lieu of the three-story limitation in the 1VL Height District; and
 - d. to allow an additional 20 feet above the maximum height of 67 feet for elevator structure;
- 5. Approve a Main Conditional Use Permit for the sale or dispensing of alcoholic beverages for on- and off-site consumption only within up to five (5) premises;
 - 6. Approve a Site Plan Review for a development project that creates 166 dwelling units;
 - 7. Find that the City Council determined at its June 28, 2022 hearing that based on the whole of the administrative record, the Project is statutorily exempt from CEQA as a Sustainable Communities Project ("SCP") pursuant to PRC 21155.1;
 - 8. Adopt the attached Conditions of Approval; and
 - 9. Adopt the attached Findings.

On October 19, 2022, The Silver Lake Heritage Trust, filed an appeal of the CPC's approval of the requested entitlements. Below is the Department of Planning's response to the appeal.

A. The CPC erred by illegally issuing an exemption from CEQA.

Pursuant to Senate Bill (SB) 375 and Public Resources Code (PRC) Section 21155.1, a project that qualifies as a Transit Priority Project and is declared by a legislative body to be a Sustainable Communities Project is statutorily exempt from the California Environmental Quality Act (CEQA). These SB 375 clearances are intended to meet the goals of the Sustainable Communities Strategy to encourage higher density, infill development located near transit.

In order to qualify as a Transit Priority Project, the project must be consistent with general land use policies of an adopted Sustainable Communities Strategy per PRC Section 21155(a) and meet the criteria in PRC Section 21155(b) related to minimum density, residential uses, and distance from a major transit stop or high-quality transit corridor. In order to qualify as a Sustainable Communities Project, the project must meet all environmental criteria in PRC Section 21155.1(a), all land use criteria in PRC Section 21155.1(b), and one public benefit criteria in PRC Section 21155.1(c). A public hearing must be held by City Council prior to declaring a project to be a Sustainable Communities Project and the City Council is required to find the necessary criteria are met in Subsections (a), (b) and (c) of PRC Section 21155.1. Unlike other CEQA clearances, the SCP Exemption must be approved by the City Council, even if the initial decisionmaker or appellate body is a lower decision-making body or officer.

The issues raised by the appellant in this appeal were considered by the City Council, nevertheless, at its June 28, 2022 hearing, the City Council determined that the project is exempt from CEQA pursuant to PRC 21155.1 as a Transit Priority Project and Sustainable Communities Project.

Therefore, the project's exemption from CEQA was determined by the City Council, not the CPC, and the City Council's determination is final and no further appealable and not before the PLUM Committee.

B. The CPC erred by illegally approving a Conditional Use to allow a 51% increase in density in contradiction to the city's general plan.

The city's general plan provides guidance regarding policy issues for the entire City of Los Angeles. In an effort to achieve those policies, the city may adopt certain land use regulations. In this case, the city has established a Conditional Use process (LAMC Section 12.24-U,26 - Density Bonus for a Housing Development Project in Which the Density Increase Is Greater than the Maximum Permitted in Section 12.22 A.25) through which applicants may seek additional density above the city's Density Bonus ordinance (LAMC Section 12.22-A,25 - Affordable Housing Incentives - Density Bonus).

Here, the applicant requested as part of their entitlements the approval of the Conditional Use to allow a density increase above the 35% density bonus otherwise permitted under LAMC Section 12.22-A,25. On July 28, 2022, the CPC considered the request and was able to make the eight (8) required findings in the affirmative to approve the requested 51% density bonus. Of particular note, based on the city's established policy, the proposed would be required to set aside 18% of the base density for Very Low Income Households (or 20 dwelling units), however, as proposed and approved by the CPC, the project will set aside approximate 21% of the base density for Very Low Income Households (or 24 dwelling units).

Here, the CPC's approval of the Conditional Use to allow a 51% increase in density is consistent with the city's general plan and land use policies.

C. The CPC illegally issued a Conditional Use Permit for up to five premises for a singular proposal.

The city has established a Conditional Use process (Main Conditional Use) which allows applicants to request for multiple venues within one (1) development to be authorized to sell and serve alcohol. The applicant has requested for the approval of five (5) venues within the development to be authorized to sell and serve alcohol. While the plans approved by the CPC indicate only four (4) venues, the approval by the CPC provided the development the flexibility to modify the plans in a manner that would create five (5) venues, but would still be in substantial conformance with the approved plans. Additionally, as part of the approval, each venue will be required to file a Main Plan Approval in order to utilize the authorization granted under the Main Conditional Use to sell and serve alcohol.

Therefore, the CPC did not err or abuse its discretion in approving the Main Conditional Use to allow five (5) venues within the development to be authorized to sell and serve alcohol.

D. The CPC illegally approved the Site Plan Review.

In the CPC's consideration and approval of the proposed project and the Site Plan Review, the CPC was able to make the required findings found in LAMC Section 16.05-F. The appellant has provided no justification or evidence to support the claim that the CPC illegally approved the Site Plan Review.

Therefore, the CPC did not err or abuse its discretion in approving the Site Plan Review.

E. ALL of the adopted Modified Conditions of Approval are null and void due to the erroneous and illegal approval by the CPC.

The appellant has provided no justification or evidence to support the claim that the CPC's adopted modified conditions of approval were erroneous or illegal. The conditions added by the CPC were discussed at the CPC hearing during their deliberation, in a public forum, and were included in their motion to approve the proposed project.

Therefore, the modified conditions of approval were not erroneously or illegally approved by the CPC.

F. The CPC illegally adopted #19 of the attached Findings, since the signage referenced in "19. a." refers to salvage items that are directly connected to causes of action which are currently in litigation in Los Angeles Superior Court, and which rely on a third-party historic analysis allegedly prepared by GPA Consulting.

At the July 28, 2022 CPC hearing, a representative of Council District 13 spoke in support of the project and recommended that two (2) conditions be included in CPC's action to approve the project. Those conditions, #19 and #20, relate to the existing restaurant on site and efforts to preserve certain physical elements of the restaurant, as well as to provide an opportunity for the existing restaurant to re-establish itself within the new development once complete. These conditions did not change the scope of the project, nor do they conflict with the City Council's determination that the project is exempt from CEQA as a Sustainable Communities Project pursuant to Public Resources Code (PRC) Section 21155.1. Based on the whole of the record today, substantial evidence supports that the project is a sustainable communities project pursuant to PRC 21155.1 and meets all of the criteria in 21155.1(b) and (c).

Specifically, as it relates to the existing development's status as a historic resource, on January 26, 2022, the City Council designated Taix Restaurant as an Historic-Cultural Monument and as part of that designation identified three (3) features that should be preserved in order to convey the significance of the restaurant and justify its designation as an Historic-Cultural Monument. These three (3) features include the red and white east-facing Taix billboard sign along Reservoir Street, the vertical red and white 'Cocktails' sign along Sunset Boulevard, and the restaurant's original cherry wood bar top.

The SCPE that was before the City Council on June 28, 2022 included analysis from an expert who has qualifications meeting the Secretary of Interior Standards for historical resources who found that upon the implementation of certain performance standards relating to the Council's HCM designation of the existing restaurant, the proposed project would result in a less than significant impact to the historic resource. It is standard practice for the city to comment on expert reports before they are finally accepted by. But ultimately it is the expert who has to sign off on the final report based on their professional opinion in consideration of the underlying facts and did so in this case. As such, the City is entitled to rely on the report. The HRA provides substantial evidence that the project will not impact historical resources based on the preservation of the character defining features.

Therefore, the City Council's reliance on a qualified expert's analysis was proper and consistent with PRC Section 21155.1; and the conditions imposed by the CPC did not

change the project that was considered by the City Council, and they do not conflict with the SCPE's performance standards.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

A handwritten signature in blue ink, appearing to read 'Oliver Netburn', is positioned above the printed name and title.

Oliver Netburn
City Planner