

**PLANNING DEPARTMENT TRANSMITTAL
TO THE CITY CLERK'S OFFICE**

CITY PLANNING CASE:	ENVIRONMENTAL DOCUMENT:	COUNCIL DISTRICT:
ZA-2013-3504-ZV-PA1-1A	ENV-2018-7559-CE-1A	13 – O'Farrell
PROJECT ADDRESS:		
6415-6419 West Selma Avenue		
APPLICANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
6417 Selma Holdings, LLC <input checked="" type="checkbox"/> New/Changed	(323) 466-1400	
APPLICANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
Alfred Fraijo Jr., Sheppard Mullin Richter & Hampton, LLP.	(213) 617-5567	afraijo@sheppardmullin.com
APPELLANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
<u>Appellant No.1</u> Casey Maddren, Citizens for a Better LA	(323) 462-7804	cmaddren@gmail.com
<u>Appellant No.2</u> Romulus Zamora & UNITE HERE Local 11	(818) 635-3034	ccarnow@unitehere11.org
APPELLANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
Jordan Sisson, Law Offices of Gideon Kracov (Appellant No. 2)	(818) 324-9752	jordan@gideonlaw.net
PLANNER CONTACT INFORMATION:	TELEPHONE NUMBER:	EMAIL ADDRESS:
Oliver Netburn	(213) 978-1382	Oliver.netburn@lacity.org
ENTITLEMENTS FOR CITY COUNCIL CONSIDERATION		
ENV-2018-7559-CE-1A - Categorical Exemption		

FINAL ENTITLEMENTS NOT ADVANCING:

ZA-2013-3504-ZV-PA1-1A - Plan Approval

ITEMS APPEALED:

ENV-2018-7559-CE-1A - Categorical Exemption

ATTACHMENTS:	REVISED:	ENVIRONMENTAL CLEARANCE:	REVISED:
<input checked="" type="checkbox"/> Letter of Determination	<input type="checkbox"/>	<input checked="" type="checkbox"/> Categorical Exemption	<input type="checkbox"/>
<input checked="" type="checkbox"/> Findings of Fact	<input type="checkbox"/>	<input type="checkbox"/> Negative Declaration	<input type="checkbox"/>
<input checked="" type="checkbox"/> Staff Recommendation Report	<input type="checkbox"/>	<input type="checkbox"/> Mitigated Negative Declaration	<input type="checkbox"/>
<input checked="" type="checkbox"/> Conditions of Approval	<input type="checkbox"/>	<input type="checkbox"/> Environmental Impact Report	<input type="checkbox"/>
<input type="checkbox"/> Ordinance	<input type="checkbox"/>	<input type="checkbox"/> Mitigation Monitoring Program	<input type="checkbox"/>
<input type="checkbox"/> Zone Change Map	<input type="checkbox"/>	<input type="checkbox"/> Other	<input type="checkbox"/>
<input type="checkbox"/> GPA Resolution	<input type="checkbox"/>		
<input type="checkbox"/> Land Use Map	<input type="checkbox"/>		
<input type="checkbox"/> Exhibit A - Site Plan	<input type="checkbox"/>		
<input checked="" type="checkbox"/> Mailing List	<input type="checkbox"/>		
<input type="checkbox"/> Land Use	<input type="checkbox"/>		
<input checked="" type="checkbox"/> Other	<input type="checkbox"/>		

NOTES / INSTRUCTION(S):**FISCAL IMPACT STATEMENT:** Yes No

*If determination states administrative costs are recovered through fees, indicate "Yes".

PLANNING COMMISSION: City Planning Commission (CPC) Cultural Heritage Commission (CHC) Central Area Planning Commission East LA Area Planning Commission Harbor Area Planning Commission North Valley Area Planning Commission South LA Area Planning Commission South Valley Area Planning Commission West LA Area Planning Commission

PLANNING COMMISSION HEARING DATE:	COMMISSION VOTE:
August 24, 2021	4-0
LAST DAY TO APPEAL:	APPEALED:
CEQA: October 15, 2021	Appellant 1: October 12, 2021 Appellant 2: October 15, 2021
TRANSMITTED BY:	TRANSMITTAL DATE:
Irene Gonzalez	November 23, 2021



CENTRAL LOS ANGELES AREA PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: **SEP 30 2021**

Case No. **ZA-2013-3504-ZV-PA1-1A**

Council District: 13 – O'Farrell

CEQA: ENV-2018-7559-CE

Plan Area: Hollywood

Project Site: 6415-6419 West Selma Avenue

Applicant: 6417 Selma Holdings, LLC
Representative: Alfred Fraijo Jr.

Appellant: Casey Maddren, Citizens for a Better LA

At its meeting of **August 24, 2021**, the Central Los Angeles Area Planning Commission took the actions below in conjunction with the approval of the following project:

Plan Approval to modify conditions of approval to reflect a 14,427 square-foot increase in the total floor area (from 79,376 square feet to 93,803 square feet), including a 1,450 square-foot increase in the total commercial floor area (from 4,581 square feet to 6,031 square feet), and the removal of all on-site automobile parking spaces, in conjunction with the expansion and continued operation of an existing hotel.

1. **Determined** based on the whole of the administrative record, the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15301 Class 1 (Existing Facilities), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Denied** the appeal and **sustained** the Zoning Administrator's determination dated February 26, 2021;
3. **Dismissed**, pursuant to Section 562 of the Los Angeles City Charter and Section 12.27 U of the Los Angeles Municipal Code (LAMC):
 - a. A Plan Approval to modify the grant and Condition No. 7 by approving a total floor area of 93,803 square feet from the 79,367 square feet originally granted in lieu of the otherwise permitted 73,045 square feet in "(Q)" Condition No. 1 of Ordinance No. 180,381;
 - b. A Plan Approval to modify the grant by approving a total commercial floor area of 6,031 square feet from the 4,581 square feet originally granted in lieu of the originally approved 17,045 square feet in "(Q)" Condition No. 1 of Ordinance No. 180,381; and
 - c. A Plan Approval to modify Condition No. 7 to recognize a new total lot area of 16,173 square feet in lieu of 13,923 square feet originally cited.
4. **Approved**, pursuant to Section 562 of the Los Angeles City Charter and LAMC Section 12.27 U, a Plan Approval to modify Condition No. 7 to allow automobile parking spaces to be provided off-site by lease agreement in lieu of covenant and agreement;
5. **Adopted** the attached Conditions of Approval; and
6. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: DelGado
Second: Gold
Ayes: Chung-Kim, Lawrence
Absent: Lindgren

Vote: 4 - 0

Etta Armstrong

Etta Armstrong, Commission Executive Assistant I
Central Los Angeles Area Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: The decision of the Central Los Angeles Area Planning Commission is not further appealable and shall become final upon the mailing of this determination letter.

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable and the decision is final.**

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Conditions of Approval, Findings, Interim Appeal Procedures

c: Jonathan Hershey, Associate Zoning Administrator
Heather Bleemers, Senior City Planner
Oliver Netburn, City Planner

CONDITIONS OF APPROVAL

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. **DELETED. REFER TO CONDITION NO. 11.**
7. **MODIFIED.** Approved herein is the construction, use, and maintenance of a ten-story hotel with 79,376 square feet of floor area on a 13,923 square-foot lot, with a FAR of no more than 5.8:1 and a height of 125 feet in ten stories. There will be 182 hotel rooms, a first floor lobby, a tenth floor rooftop deck with a swimming pool, landscaping (via planters), cabanas, a roof-top covered deck, and a restaurant with indoor and outdoor seating.
 - a. A maximum of 14 parking spaces are authorized to be provided off-site by lease agreement in lieu of recorded covenant, with the remaining required parking spaces provided in compliance with the Los Angeles Municipal Code.
 - b. For a limited period of two years, beginning from the effective date of this grant, all required parking may be provided off-site via lease agreement in lieu of covenant and agreement, after which time all parking shall be provided as required in Condition No. 7a.
8. All off-site parking shall be in place including evidence of completed and signed leases prior to issuance of Certificate of Occupancy or other utilization of Zoning entitlements made herein. [As modified by May 9, 2014, Correction Letter]

9. Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
10. Within 30 days of the effective date of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

11. **NEW. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS**

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from

responsibility to reimburse the City pursuant to the requirement in paragraph (b).

- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions include actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

FINDINGS

MANDATED FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

On April 4, 2014, the Zoning Administrator approved Case No. ZA 2013-3504-ZV, granting several variances, including one to allow 14 off-site parking spaces by lease in lieu of recorded covenant.

On May 9, 2014, the Zoning Administrator issued a Correction Letter to Case No. ZA 2013-3504-ZV, correcting Condition No. 8 to require all off-site parking to be satisfied with evidence prior to issuance of a Certificate of Occupancy.

On July 10, 2014, the Department of Building and Safety issued Permit No. 13010-10000-03647 for the construction of a “10-story hotel building; parking, equipment and utility rooms, trash and recycle rooms at 1st and 2nd story levels, guest rooms from 3 to 9 story levels, with roof top stairway and elevator rooms; 10 story level core and shell. On June 30, 2020, a Temporary Certificate of Occupancy was issued.

On February 14, 2017, the Department of Building and Safety issued Supplemental Building Permit No. 13010-10007-03647 to convert parking areas at the 1st and 2nd levels to retail, fitness center, storage, utility rooms, machine rooms, employee cafeteria, treatment room, trash and recycle, and office spaces. On June 30, 2020, a Temporary Certificate of Occupancy has been issued.

On December 19, 2018, the present Plan Approval request was filed, including a request to expand on the variance authorizing 14 off-site parking spaces provided by lease, in lieu of covenant and agreement.

The applicant has made statements to indicate their intention to provide required parking via covenant and agreement at properties that are presently under development, and that use of lease-provided parking is a stop gap measure until those spaces are physically available. The applicant makes the following statement:

Pursuant to LAMC Section 12.21.A.4(g) and LAMC Section 12.26.E.5, the 65 auto parking spaces to be provided on-site will be provided within 750-feet of the Site by ministerial approval of a parking covenant by LADBS ...

However, while the Applicant intends to provide off-site parking by covenant at the specified parking facilities, these facilities are currently under construction and are unable to be encumbered by a covenant due to LADBS policy that requires a Certificate of Occupancy be issued prior to approving the parking covenants. Thus, in order to satisfy the Project's parking requirements, the Applicant is requesting to increase the number of parking spaces provided off-site by lease agreement from 14 spaces to required parking, or a total of 79 spaces off-site by lease agreement in lieu of covenant. Upon issuance of the Certificates of Occupancy for the nearby parking facilities, the Applicant will move 65 of these spaces to the two specified parking facilities, or other qualified parking facility as determined by LADBS.

The general purpose and intent of the zoning regulations is to ensure a consistent set of regulations that set expectations for how new development is to appear and be utilized. According to LAMC Section 12.02, part of the general purpose and intent of the zoning regulations is to:

... designate, regulate and restrict the location and use of buildings, structures and land, for agriculture, residence, commerce, trade, industry or other purposes; to regulate and limit the height, number of stories, and size of buildings and other structures hereafter erected or altered to regulate and determine the size of yards and other open spaces and to regulate and limit the density of population ...

Part of these regulations speak to parking regulations. Parking is generally provided on-site, but allowances exist within the Zoning Code to provide required parking off-site, via a recorded covenant and agreement that guarantees the use of those parking spaces for the life of the building.

The applicant finds themselves in a situation where the off-site parking spaces where they anticipate recording covenants and agreements to fulfill their parking requirement are not yet available. Given that the building has been issued Temporary Certificates of Occupancy, strict application of the provisions of the Zoning Ordinance would result in the shuttering of a completed and operational hotel and other on-site commercial uses. Condition No. 7 of the grant has been modified to allow a very limited period of time in which all of the project's parking requirement can be provided via lease agreement, so that the applicant is able to secure off-site parking covenants and agreements, all the while ensuring that the required off-street parking is provided.

A purpose and intent of the zoning regulations is to ensure that new development provides the necessary number of off-street parking spaces based on the intensity or density of the proposed use. It is not intended that a determination unnecessarily constrain a discretionary development more than is otherwise required of

ministerial, by-right, development. To restrict access to those regulations, without cause, would be contrary to the purpose and intent of the zoning regulations. On review of the original grant, it does not appear that there was any intent to require that parking spaces be necessarily provided on-site – only that the required number of off-street parking spaces be provided pursuant to the Zoning Code. Condition No. 7 of the grant has been clarified to allow access to existing by-right parking options.

In conjunction with the requirement of Condition No. 8, which requires that all parking be provided to the satisfaction of the Department of Building and Safety prior to the issuance of a (final) Certificate of Occupancy, the strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations without the modifications granted herein.

2. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The applicant has requested a modification of Condition No. 7 of Case No. ZA-2013-3504-ZV, to allow all required parking to be provided off-site via lease agreement in lieu of the covenant and agreement otherwise required.

The property is developed with a recently constructed 10-story, 182-room hotel and commercial building, with no on-site parking.

On April 4, 2014, the Zoning Administrator approved Case No. ZA-2013-3504-ZV, to approve a Variance from Section 12.26E.5 to allow 14 off-site parking spaces by lease in lieu of a recorded covenant, among other variances.

On May 9, 2014, the Zoning Administrator issued a Correction Letter to Case No. ZA 2013-3504-ZV, correcting Condition No. 8 to require all off-site parking to be satisfied with evidence prior to issuance of a Certificate of Occupancy.

On July 10, 2014, the Department of Building and Safety issued Permit No. 13010-10000-03647 for the construction of a “10-story hotel building; parking, equipment and utility rooms, trash and recycle rooms at 1st and 2nd story levels, guest rooms from 3 to 9 story levels, with roof top stairway and elevator rooms; 10 story level core and shell. On June 30, 2020, a Temporary Certificate of Occupancy was issued.

On February 14, 2017, the Department of Building and Safety issued Supplemental Building Permit No. 13010-10007-03647 to convert parking areas at the 1st and 2nd levels to retail, fitness center, storage, utility rooms, machine rooms, employee cafeteria, treatment room, trash and recycle, and office spaces. On June 30, 2020, a Temporary Certificate of Occupancy was issued.

On December 19, 2018, the present Plan Approval request was filed, including a request to expand on the variance authorizing 14 off-site parking spaces provided by lease, in lieu of covenant and agreement.

The applicant argues that that the grant and conditions of approval for Case No, ZA-2013-3504-ZV are overly restrictive and specific, only applicable to a project that no longer exists, and that these “specific conditions prohibit the property to make changes and alterations that would otherwise be permitted as-of-right with approval by LADBS.” As a result, the applicant believes that they are prohibited from taking advantage of the parking location alternatives offered by Los Angeles Municipal Code (LAMC) Sections 12.21A.4(g) (parking shall be provided either on the same lot as the use for which they are intended to serve or on another lot not more than 750 feet distant therefrom) and 12.26E.5 (off-site parking is required to be provided via recorded covenant and agreement).

The applicant also states:

... while the Applicant intends to provide off-site parking by covenant at the specified parking facilities, these facilities are currently under construction and are unable to be encumbered by a covenant due to LADBS policy that requires a Certificate of Occupancy be issued prior to approving the parking covenants. Thus, in order to satisfy the Project’s parking requirements, the Applicant is requesting to increase the number of parking spaces provided off-site by lease agreement from 14 spaces to required parking ... Upon issuance of the Certificates of Occupancy for the nearby parking facilities, the Applicant will move ... these spaces to the two specified parking facilities, or other qualified parking facility as determined by LADBS.

The project has been issued building permits, completed construction, and issued a Temporary Certificate of Occupancy, and now finds themselves in the situation where they cannot provide the parking spaces required by the project on-site. The applicant states that their intention is to provide the balance of their off-street parking requirement via covenant and agreement, however, the parking garages that will provide those spaces have not yet become available. The Department of Building and Safety does not allow parking spaces still under construction to fulfill the required parking spaces of an off-site project. This situation is a fairly unique and temporary one.

Many surrounding properties been granted the ability to provide parking off-site via lease agreement in lieu of covenant and agreement. These projects involved changes of use within existing buildings, where the provision of additional on-site parking would be impractical or infeasible. Allowing off-site parking via lease agreement is not an uncommon authorization within the surrounding area.

Condition No. 7 of the grant has been modified to temporarily authorize all project-required parking spaces to be provided via lease agreement, in lieu of covenant

and agreement. The time-limited grant should be of sufficient length to see the completion of the parking garage(s) and the applicant's securing of a permanent covenant and agreement for parking spaces thereon.

Condition No. 7 of the grant has been clarified to reflect the applicant's ability to conform their parking location(s) with the regulations permitted by Zoning Code.

These two modifications, in conjunction with Condition No. 8, which requires that all parking be provided to the satisfaction of the Department of Building and Safety prior to the issuance of a (final) Certificate of Occupancy, will ensure that the project maintains code-required off-street parking spaces at all times.

For the reasons stated above, there are special circumstances applicable to the subject property that do not apply generally to other property in the same zone and vicinity.

3. **Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

The applicant has requested a modification of Condition No. 7 of Case No. ZA-2013-3504-ZV to allow all required parking to be provided off-site via lease agreement in lieu of the covenant and agreement otherwise required.

The property is developed with a recently constructed 10-story, 182-room hotel and commercial building, with no on-site parking.

On April 4, 2014, the Zoning Administrator approved Case No. ZA-2013-3504-ZV, to approve a Variance from Section 12.26E.5 to allow 14 off-site parking spaces by lease in lieu of a recorded covenant, among other variances.

On May 9, 2014, the Zoning Administrator issued a Correction Letter to Case No. ZA 2013-3504-ZV, correcting Condition No. 8 to require all off-site parking to be satisfied with evidence prior to issuance of a Certificate of Occupancy.

On July 10, 2014, the Department of Building and Safety issued Permit No. 13010-10000-03647 for the construction of a "10-story hotel building; parking, equipment and utility rooms, trash and recycle rooms at 1st and 2nd story levels, guest rooms from 3 to 9 story levels, with roof top stairway and elevator rooms; 10 story level core and shell. On June 30, 2020, a Temporary Certificate of Occupancy was issued.

On February 14, 2017, the Department of Building and Safety issued Supplemental Building Permit No. 13010-10007-03647 to convert parking areas at the 1st and 2nd levels to retail, fitness center, storage, utility rooms, machine

rooms, employee cafeteria, treatment room, trash and recycle, and office spaces. On June 30, 2020, a Temporary Certificate of Occupancy was issued.

The project has been issued building permits, completed construction, and issued a Temporary Certificate of Occupancy, and now finds themselves in the situation where they cannot provide the parking spaces required by the project on-site. The applicant states that their intention is to provide the balance of their off-street parking requirement via covenant and agreement, however, the parking garages that will provide those spaces have not yet become available. The Department of Building and Safety does not allow parking spaces under construction to fulfill the required parking spaces of an off-site project. This situation is a fairly unique and temporary one.

Many surrounding properties been granted the ability to provide parking off-site via lease agreement in lieu of covenant and agreement. These projects involved changes of use within existing buildings, where the provision of additional on-site parking would be impractical or infeasible. Variances authorizing off-site parking via lease agreement is not uncommon within the surrounding area.

LAMC Section 12.21A.4(g) requires parking to be provided either on the same lot as the use for which they are intended to serve or on another lot not more than 750 feet distant therefrom. LAMC Section 12.26E.5 states that off-site parking is required to be provided via recorded covenant and agreement. Use of these development regulations are ministerial, by-right, for new development.

The applicant believes that due to the wording of Condition No. 7, they are precluded from locating their required parking off-site via covenant and agreement.

On review of the grant's determination letter, it does not appear that there was any intent to require that parking spaces be necessarily provided on-site – only that the required number of off-street parking spaces be provided pursuant to the Zoning Code. It is not intended that the determination unnecessarily constrain a discretionary development more than is otherwise required of ministerial development.

Therefore, due to the unique, though temporary, situation of having been issued a Temporary Certificate of Occupancy prior to the availability of intended off-site parking facilities to fulfill the project's off-street parking space requirement, a lack of clarity in the applicant's ability to utilize by-right off-site parking provision regulations under the terms of the original grant, and widespread authorizations to permit required parking via lease agreement, such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.

4. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The applicant has requested a modification of Condition No. 7 of Case No. ZA-2013-3504-ZV to allow all required parking to be provided off-site via lease agreement in lieu of the covenant and agreement otherwise required.

As a part of this approval, Condition No. 7 has been modified to allow the applicant a very limited period of time to provide all required parking to be provided via lease agreement in order to secure off-site parking covenants and agreements, while ensuring that the required off-street parking is provided during this time. Further, Condition No. 7 has been clarified to make clear that, excepting the 14 off-site parking spaces authorized to be provided by lease agreement, all remaining code-required parking may be provided and located pursuant to zoning code regulations and do not necessarily need to be provided on-site. Approval of the grant does not relieve the applicant of their responsibility to provide all code-required off-street parking spaces; Condition No. 8 requires that all required parking is provided prior to issuance of the (final) Certificate of Occupancy; therefore, granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

5. **The granting of the variance will not adversely affect elements of the General Plan.**

The General Plan is the City's roadmap for future growth and development. The General Plan Elements establish goals, policies, purposes, and programs 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 implemented in the form of Municipal Code requirements. The General Plan is comprised of the Framework Element, seven state-mandated elements, and four additional elements.

The Land Use Element of the City's General Plan divides the City into 35 Community Plans. The subject property is located within the Hollywood Community Plan area, where the Community Plan Area Map designates the property for Regional Center commercial land uses, with corresponding zones of C2, C4, P, PB, RAS3 and RAS4 Zones. The property is zoned (T)(Q)C4-2D; the property's zoning is consistent with the General Plan's land use designation for the site.

The Plan Text does not discuss specifically the issue of variances from "Q" Conditions or parking by lease in lieu of by covenant as the Plan is more general than the specificity of the instant request. Overall compliance with the Plan is predicated upon all projects complying with the land use designations, zoning code

regulations, Building and Safety codes, etc. Inasmuch as the granted modifications to Condition No. 7 result in the provision of all code-required off-street parking spaces, the approval does not affect any elements of the General Plan.

ADDITIONAL MANDATORY FINDINGS

6. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.

COVID-19 UPDATE

Interim Appeal Filing Procedures

Fall 2020



Consistent with Mayor Eric Garcetti's "Safer At Home" directives to help slow the spread of COVID-19, City Planning has implemented new procedures for the filing of appeals for non-applicants that eliminate or minimize in-person interaction.

OPTION 1: Online Appeal Portal

(planning.lacity.org/development-services/appeal-application-online)

Entitlement and CEQA appeals can be submitted online and payment can be made by credit card or e-check. The online appeal portal allows appellants to fill out and submit the appeal application directly to the Development Services Center (DSC). Once the appeal is accepted, the portal allows for appellants to submit a credit card payment, enabling the appeal and payment to be submitted entirely electronically. A 2.7% credit card processing service fee will be charged - there is no charge for paying online by e-check.

Appeals should be filed early to ensure DSC staff has adequate time to review and accept the documents, and to allow Appellants time to submit payment. On the final day to file an appeal, the application must be submitted and paid for by 4:30PM (PT). Should the final day fall on a weekend or legal holiday, the time for filing an appeal shall be extended to 4:30PM (PT) on the next succeeding working day. Building and Safety appeals (LAMC Section 12.26K) can only be filed using Option 2 below.

OPTION 2: Drop off at DSC

An appellant may continue to submit an appeal application and payment at any of the three Development Services Center (DSC) locations. City Planning established drop off areas at the DSCs with physical boxes where appellants can drop.

Metro DSC

(213) 482-7077
201 N. Figueroa Street
Los Angeles, CA 90012

Van Nuys DSC

(818) 374-5050
6262 Van Nuys Boulevard
Van Nuys, CA 91401

West Los Angeles DSC

(310) 231-2901
1828 Sawtelle Boulevard
West Los Angeles, CA 90025

City Planning staff will follow up with the Appellant via email and/or phone to:

- Confirm that the appeal package is complete and meets the applicable LAMC provisions
- Provide a receipt for payment