Communication from Public

Name:	Doug Haines
Date Submitted:	05/02/2023 11:26 AM
Council File No:	21-1502
Comments for Public Posting:	Please upload the attached letter to council file 21-1502 on behalf of appellant La Mirada Ave. Neighborhood Association. Please note that exhibits to this letter were previously sent to the council file and could not be submitted with the letter due to the file size restriction imposed by the clerk's website.

May 1, 2023

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City of Los Angeles, Planning and Land Use Management Committee
c/o office of the City Clerk
200 N. Spring St., Rm. 365
Los Angeles, CA 90012

Regarding: Council File: 21-1502
Case numbers: APCC-2020-1764-SPE-SPP-SPR-1A; ENV-2015-310-MND-REC1
Addresses: 1318 N. Lyman Pl., 4470-4494 De Longpre Ave., 1321-1323 N. Virgil Ave.

This letter addresses comments made by Meridian Consultants regarding an appeal by the La Mirada Ave. Neighborhood Association of entitlements granted to Hollywood Presbyterian Medical Center under the above noted case numbers.

The law applied to variances equally applies to exceptions, and the City's Findings failed to comply with the requirements of Los Angeles Municipal Code (LAMC) Section 11.5.7(F)2 regarding Specific Plan Exceptions.

The granting of a variance is a quasi-judicial act reviewable under Code of Civil Procedure Section 1094.5. "A quasi-judicial action is the determination of specific rights under existing law with regard to a specific fact situation." Mountain Defense League v. Board of Supervisors (1977) 65 Cal.App.3d 723, 729. An "exception" is simply a variance to a Specific Plan. Compare findings required for exceptions under LAMC Section 11.5.7(F)(2), quoted below, to findings required for variances under LAMC Section 12.27(D). The law applied to variances thus equally applies to exceptions. See, e.g., Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles (2008) 161 Cal.App.4th 1168, 1183. See also the final judgment in La Mirada Ave. Neighborhood Assn. of Hollywood v. City of Los Angeles (BS140889), which also involved exceptions to the Vermont/Western Transit Oriented District Specific Plan (submitted to the council file separately due to the file size restriction imposed by the Office of the City Clerk).

A Specific Plan exception is allowed ***only*** if ***all*** five of the following findings are made:

(a) "That strict application of the regulations of the specific plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan;
(b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area;
(c) That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of specidial circumstances and practical difficulties or unnecessary hardships is denied to the property in question;
(d) That the granting of an exception will not be materially detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property;

(e) That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan." LAMC Section 11.5.7(F)(2).

LAMC Section 11.5.7(F)(!) further defines this rigid standard: "An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships." Case authority is the same. The Supreme Court has held 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.

Here, neither the applicant nor the City has remotely approached the required separate showings on each of the requested exceptions. Case law and the LAMC act as a limitation upon the power to grant exceptions absent proper findings. See, e.g., Moss v. Board of Zoning Adjustment (1968) 262 Cal.App.2d 1, 3 (a determination of the existence of all of the facts essential to making the necessary findings must precede any grant of a variance).

The City's omission of the findings necessary for the Project's multiple exceptions to the Vermont/Western Transit Oriented District Specific Plan (often referred to as the Station Neighborhood Area Plan, or SNAP) is particularly egregious in light of Appellant and others repeatedly objecting to the omissions during the October 26, 2021 Central Area Planning Commission hearing. Furthermore, the applicant's representative mischaracterizes both the rigorous findings necessary for an exception to a specific plan and the purpose of a specific plan. As noted by former Los Angeles Zoning Administrator Jon Perica in a 2/20/2012 letter that was submitted in the Hollywood Target store case (in which multiple exceptions were illegally granted by the City) [submitted as a separate document to the council file]:

> "Asking for an exception to a long established City Planning requirement constitutes a major deviation from what the community, council office, neighborhood councils and Planning Department have spent years to formulate and enact. The City's various Specific Plans are especially sensitive to such deviations since they go beyond the underlying zoning to establish additional restrictive regulations that enhance and preserve the unique characteristics of a distinct community. The purpose of a Specific Plan is primarily one of correcting past planning mistakes and strictly controlling future development, to improve the quality of that development, and to enhance the quality of life of local residents and businesses. To deviate from the city Planning community standards requires a **very** compelling justification to override the Zone Code.
>
> "The fact that SNAP's Development Standards and Design Guidelines have so many details is therefore a reflection of the vigorous and exacting standards that Specific Plans are held to. To reach consensus on those Standards, all of the major stakeholders in the community meet and confer through a series of public hearings over a period of many years. The resulting ordinance is a carefully crafted roadmap specifically designed to improve the community by requiring that future construction both enhance the visual environment while also being compatible with the appearance and scale of the surrounding neighborhoods. To deviate from the Standards would therefore negate that harmonious effort, causing adverse impacts and incompatible design features that would result in a negative impact on the entire community. Any deviation therefore must be taken very seriously, and the City must rigorously enforce the five required findings made for each requested exception in order to justify a grant for approval." (Emphasis in original).

Counsel for the applicant attempts to confuse case law cited by Appellant by pointing out irrelevant factors with no bearing on the matter, including dismissing citations to Stolman v. City of Los Angeles (2003) 114 Cal.App.4th 916. In Stolman, the Court of Appeal held that substantial evidence did not support the critical required finding that strict application of the zoning ordinance would result in practical difficulties or that the property owner would "face dire financial hardship" without the variance. Id. at 926. Applicant's counsel contends that Stolman is inapposite to the present matter while ignoring that Stolman provides the critical standard that substantial evidence must exist to support each of the mandated findings.

Substantial evidence is necessary because exceptions are essentially administrative re-zonings, circumventing the legislative process. As stated in Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) Cal.3rd 506,

> "A zoning scheme, after all, is similar in some respects to a contract; each party forgoes 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 bheing that such mutual restriction can enhance total community welfare. [Citations omitted]. If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests."

Exceptions constitute a substantial interference with allowed land use. "If …preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests. Abdication by the judiciary of its responsibility to examine variance board decision-making when called upon to do so could very well lead to such subversion." Stolman, supra.

The failure of the City and applicant to provide the required substantial evidence to support each of the required five findings is fatal. Unsupported assertions by the applicant and its land use consultant do not constitute evidence. See e.g., Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184. 1199; Do It Urself Moving & Storage v. Brown, Leifer, Slatkin & Berns (1992) 7 Cal.App.4th 27, 35 ("well-settled rule that '"[a] point which is merely suggested by [a party's] counsel, with no supporting argument or authority, is deemed to be without foundation and requires no discussion."')

In the present matter, the findings granting relief from the 192-stall parking requirement and a Pedestrian Throughway show no evidence of hardship or precedent to grant such requests. Neither the City nor the applicant offer evidence of any practical difficulties inconsistent with the general purpose and intent of the Plan; there are no exceptional circumstances or conditions applicable to the subject property; and there is no evidence submitted into the record showing that the exception is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone and vicinity. Instead the City states without evidence that the existing parking structure, which serves the entire Presbyterian Hospital campus, "is more than enough to satisfy any future patient needs," and that the "City does not want an excess in vehicle parking…"

The City further claims that increasing the number of parking stalls to satisfy the 96,000 sq. ft. office addition would exceed the maximum campus parking allowance per the SNAP. The City and applicant make this claim based upon the prior campus size as approved under case number DIR-2016-3207-SPP-SPR. This is an absurd argument. The applicant now seeks to increase the campus size yet claims that the

parking is limited by SNAP based upon a prior approval of a smaller campus. There is no merit to this claim.

As noted in the Director's October 26, 2021 report to the Central Area Planning Commission, the actual reason for waiving the 192-stall parking requirement is that the applicant would have to provide the parking.

Issues

Parking

The addition of 95,995 square feet of floor area to the existing site would result in the requirement to add 192 new vehicle spaces on-site. However, there are already 562 parking spaces available within the existing parking structure to accommodate the addition of medical office space. The addition of 192 new vehicle spaces would require the applicant team to add additional floors on top of the existing five floors above grade and two floors below grade of parking. As such, the

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project team has requested a Specific Plan Exception (SPE) to require zero new parking spaces and maintain the existing 562 parking spaces.

Pedestrian Throughway

An Environmental Impact Report is required.

CREED LA has submitted substantial evidence into the record showing that the proposed project would result in significant environmental impacts that cannot be mitigated. La Mirada adopts all such arguments as its own.

For the above stated reasons, the La Mirada Ave. Neighborhood Association asks that its appeal of case numbers APCC-2020-1764-SPE-SPP-SPR-1A and ENV-2015-310-MND-REC1 be upheld.

Thank you,

Doug Haines

Attachments submitted into the record as exhibits to this letter include the 2/20/2012 Jon Perica letter; the final judgment in La Mirada Ave. Neighborhood Assn. of Hollywood v. City of Los Angeles (BS140889), Director's Report for Case Number APCC-2020-1764; Determination Letters for Case Numbers DIR-2016-3207-SPP-SPR; DIR-2017-5247-SPP; DIR-2015-1350-SPP=SPPA-1A; LAMC Section 11.5.7(F).