

September 16, 2022

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

Appeal of: **Case Nos.: APCC-2019-4338-SPE-CU-CUB-SPP. ENV-2019-4339-MND.**
Council File 22-0023.
Project Addresses: 1524-1530 N. Western Ave., 5446 Harold Way

The City Council is scheduled to vote on consent today on our appeal of the Central Area Planning Commission's October 26, 2021 approval of a 60-foot-tall hotel on a 14,478 sq. ft. combined lot at the southeast intersection of Western Avenue and Harold Way in East Hollywood. The site is located in Subarea C of the Vermont/Western Transit Oriented District Specific Plan, also known the Station Neighborhood Area Plan (or "SNAP"). The site is immediately adjacent to Subarea A, designated in the Specific Plan as "Neighborhood Conservation," and its residentially zoned parcels.

I. Incorporation by reference of all project objections

La Mirada adopts all project objections filed to all versions of the Project from its inception.

II. No substantial evidence has been presented to support the applicant's entitlement requests

At the September 6, 2022 hearing of our appeal by the City's Planning and Land Use Management Committee (PLUM), neither the applicant or the city presented any substantial evidence to counter our appeal, or to support the discretionary entitlements granted to the applicant.

The applicant received numerous discretionary entitlements in order to allow him to almost double the size of his existing 54-room Super 8 Motel, which was constructed in 1995 before the passage of the Specific Plan. The proposed project would add 36 guest rooms within the expanded project on floors three and four, and 10 "residential apartment units" on floor two. The underlying zoning of the project site however does not allow the proposed development. The entitlements include:

1. A Conditional Use Permit to allow a hotel use otherwise prohibited from being within 500 feet of a Residential Zone;
2. A Specific Plan Exception from SNAP Section 9.A.1 to allow commercial uses above the ground floor;
3. A Specific Plan Exception from SNAP Section 9.C.1 to allow the project to be 60 feet in height, in lieu of the SNAP transitional height restrictions that would otherwise limit the height to 25 feet.
4. An increase in the allowed Floor Area Ratio, from 1.5:1 to 1.8:1;
5. Approval of the project's project permit compliance review;
6. Approval of the project's Mitigated Negative Declaration (MND).

Yet at the PLUM Committee hearing, the applicant offered no evidence whatsoever to support a claim a hardship to justify the grant of the entitlements, instead touting the supposed benefits of the project. As explained by the Court in Orinda Association v. Board of Supervisors of Contra Costa:

“[D]ata focusing on the qualities of the property and Project for which the variance is sought, the desirability of the proposed development, the attractiveness of its design, the benefits to the community, or the economic difficulties of developing the property in conformance with the zoning regulations, lack legal significance and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district.” Orinda Association v. Board of Supervisors of Contra Costa (1986) 182 Cal.App.3d 1145, 1166.

III. The Applicant has provided no financial evidence that the property isn’t viable without the exceptions.

No evidence has been submitted into the record showing that the project will suffer a dire financial hardship if the exceptions are not granted. The fact that the owner may be able to make more money with an exception is not an unnecessary hardship. The question is whether, without the variance, he would face a dire financial hardship. 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:

“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.”

Given the applicant’s lack of sufficient evidence of unnecessary hardship, the city has abused its discretion in its grant of the exceptions. Because failure to prove any of the matters required by the ordinance must result in a denial of the exception application, the requests should have been denied.

IV. The City’s PLUM Committee hearing was a sham.

At one hour and 55 minutes into the September 6, 2022 PLUM Committee hearing, in regards to another appeal of a project also proposed within council district 13 (agenda item number 9 for a proposed development at 3209 Sunset Blvd.), following public comment the committee chair asked for an “update” by the representative of the council office. The representative, Craig Bullock, responded as always that the appeal should be denied. The committee chair then stated: “*All right, Mr. Mejja, we have instructions to deny this appeal, or these appeals.*” The committee then proceeded to a unanimous vote to do just that.

I have been attending Los Angeles city council and committee hearings since 1997. I have heard hundreds of appeals while waiting for my items to be called. Without exception, I have never seen any members of the PLUM Committee (or any other council committee) vote against the wishes of a colleague. I have also never seen a PLUM Committee member read any of the written objections presented to him or her, or offer any more than perfunctory comments regarding an appeal.

There is no due diligence by the council members in reviewing appeals, nor is there any effort to pretend otherwise. Under City Charter Section 242(b), the committees of the City have a duty to become “fully informed” in order to offer recommendations to the city council. The PLUM Committee makes no attempt at doing so, and is a fraud. As an appellant, our community has been denied a fair hearing by the city and our fundamental right to due process. Instead, the city has clearly abused its discretion by merely following its “instructions” from the council member.

Sec. 242. Conduct of Business.



The Council shall be the sole judge of the election and qualification of its members. Meetings and records of the proceedings of the Council and of the committees of the Council shall be open to the public, except that closed sessions may be held as permitted by law. The Council shall have the exclusive power to organize its business, prescribe the rules of its proceedings and preserve order at its meetings, subject to the following:

(a) The Council shall hold regular meetings at least three days each week. Meetings may be held in City Hall or elsewhere in the City. By resolution, the Council may establish periods during which the Council or its committees will be in recess. The Council and its committees may also each hold special meetings with proper notice.

(b) The Council, by ordinance or resolution, shall establish a sufficient number of committees to enable it to carry out its duties. The duty of the Council and its committees is to become fully informed of the business of the City so as to oversee all the functions of the City government, and to report to the Council any information or recommendations necessary to enable the Council to properly legislate. Committees shall have the power of investigation, but shall have no administrative control over the various functions of the City government. The administration of the City government shall be vested in the officials designated in the Charter to perform those functions. The President of the Council shall appoint the members and the chair of the committees and each Council member shall be appointed to at least one committee.

City Council Committees As required by the City Charter and established by Resolution, the Council is organized into committees to **facilitate adequate consideration of matters subject to its attention**. All members are appointed by the President of the City Council.

Thank you for your courtesy and attention to this matter.

A handwritten signature in dark ink, appearing to be "H. Ham", written in a cursive style.