

Communication from Public

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Comments for Public Posting: See attached.

January 13, 2023

VIA EMAIL & ONLINE WEB PORTAL

Planning And Land Use Management Committee, City of Los Angeles
c/o Candy Rosales (clerk.plumcommittee@lacity.org)
Albizaal De Valle, Council District 8 (albizaal.delvalle@lacity.org)

**RE: 1840 W. ADAMS BLVD. CEQA APPEAL (COUNCIL FILE NOS. 22-1055 & -S1);
DCP CASE NOS. VTT-83081-SL-HCA-2A, ENV-2020-3308-CE;**

Dear Chair Harris-Dawson and Honorable Councilmembers:

This office represents USC Forward, appellant and petitioner in the above-referenced City appeal involving the proposed four-story, 30,218 square foot structure which includes 96 bedrooms each with a dedicated bathroom (i.e., 96 total bathrooms) (“**Project**”), which the applicant Tripalink (“**Applicant**”) claims to be just ten single-family dwelling units. This letter is in response to Applicant counsel’s email dated December 2, 2022 demanding the City of Los Angeles (“**City**”) rescind the appeal period applicable California Environmental Quality Act (“**CEQA**”) appeal (“**Appeal**”),¹ which is now before the Planning and Land Use Management (“**PLUM**”) Committee.

First, the Applicant’s procedural arguments are nothing more than a distraction from the substantive merits of the case. On October 11, 2022, the PLUM Committee heard and unanimously agreed to deny the Project the requested ten small-lot subdivisions (“**VTT**”) and Class 32/Class 15 Categorical Exemption (“**CatEx**”) (collectively “**Project Approvals**”). In its drafted CEQA findings, the PLUM Committee found that the Project was not properly studied and analyzed as a student housing dormitory with over 90 units.² So too, it found the Project inconsistent with numerous City applicable land use plans and zoning regulations. PLUM recommended granting the appeal, drafted detailed findings in the Council record denying the Project, and instructed the Project to submit an accurate project description for the department of planning’s proper future evaluation.³ Applicant ignores all of this and attempts to take advantage of the COVID State of Emergency and the racism uproar that canceled City Council meetings to get an out-of-scale dormitory Project approved as single-family housing in violation of the City’s zoning rules—usurping genuine single-family housing opportunities amidst an affordable housing crisis in South Los Angeles. PLUM strongly rejected this Project three months ago, all procedural loopholes are closed, and PLUM should do the same thing again. There is no prejudice or harm to the Applicant’s reasonable expectations since the Project was already rejected by PLUM.

Second, procedural arguments that the Project should be deemed approved ignore the fact that planning timelines have been tolled due to the State and City remaining in a COVID State of Emergency. The Mayor’s Emergency Order of January 28, 2022 has “toll[ed] all Zoning Code provisions regarding the Time to Act on filed application.”⁴ This tolling was confirmed by Deputy

¹ https://clkrep.lacity.org/onlinedocs/2022/22-1055_misc_12-02-2022.pdf.

² https://clkrep.lacity.org/onlinedocs/2022/22-1055_misc_10-12-22.pdf.

³ *Ibid.*

⁴ See Public Order Under City of Los Angeles Emergency Authority (1/28/20), <https://mayor.lacity.gov/sites/g/files/wph1781/files/page/file/20220127%20Tolling%20of%20Deadlines%20Prescribed%20in%20the%20Municipal%20Code.pdf>; see also Governor

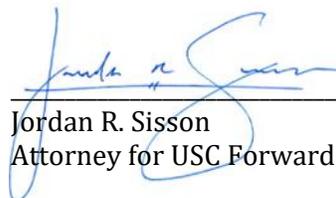
City Attorney Ernesto Vasquez, who served as counsel to the Central Los Angeles and South Los Angeles Area Planning Commissions.⁵

Third, any failure by the City to timely act on the Project's VTT because of the canceled Council meetings cannot be deemed approved via Gov. Code § 66452.5(c)(2)⁶ because deemed approval only applies to a project "insofar as it complies with applicable requirements of . . . any local ordinance" (id., subd. (c)(1)). This Project does not. Here, the PLUM Committee recommended disapproval of the Project because it found it inconsistent with applicable land use plans, inconsistent with zoning regulations, and contained an inaccurate project description. Deficiencies of this sort, alone, would prevent the application of the "deemed approval" language of the statute. (See e.g., *Pongputmong v. City of Santa Monica* (1993) 15 Cal.App.4th 99, 104-105 [applications failing to comply with local law cannot be considered deemed approved]; *Lenney v. Board of Supervisors* (1974) 41 Cal.App.3d 902, 906 [deemed approved not applicable where the "advisory agency did not recommend approval or conditional approval but, rather, disapproval of the tentative map."].) The PLUM Committee's finding of fact clearly shows the City was misled that the Project was merely ten single-family dwelling units rather than a 96-room dormitory development.

Fourth, the City Attorney is correct that USC Forward and the other appellant West Adams Neighborhood Association were entitled to reasonable notice of appeal rights and the ability to file this appeal under CEQA. Subdivision map approvals are quasi-adjudicatory and subject to notice and hearing requirements. (See *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612 [government decisions that are adjudicative in nature are subject to procedural due process principles]; see also *Save Lafayette Trees v. East Bay Regional Park Dist.* (2021) 66 Cal.App.5th 21, 52-53 [noting caselaw of quasi-adjudicatory land use decision affording petitioners notice and opportunity to be heard].) In *Horn*, the Court held the agency failed to give proper notice when it only provided notice by posting within central public buildings and directly mailing to persons who had specifically requested notice. (*Horn*, supra, at 617.)

In sum, the PLUM Committee's finding of fact clearly shows the City was misled that the Project was merely ten single-family dwelling units rather than the 96-room dormitory development. In unambiguous terms, the PLUM Committee rejected the Project Approvals and instructed the Applicant to resubmit accurate project application materials if it wished. PLUM strongly rejected this Project three months ago, all procedural loopholes are closed, and *USC Forward respectfully requests that the PLUM Committee again grant the CEQA Appeal.*⁷

Sincerely, LAW OFFICE OF GIDEON KRACOV


Jordan R. Sisson
Attorney for USC Forward

Newsom to End the COVID-19 State of Emergency (10/17/22) ("... COVID-19 State of Emergency will end on February 28, 2023..."), <https://www.gov.ca.gov/2022/10/17/governor-newsom-to-end-the-covid-19-state-of-emergency/#:~:text=SACRAMENTO%20%E2%80%93%20Today%2C%20Governor%20Gavin%20Newsom,used%20to%20combat%20COVID%2D19>.

⁵ Central LA APC hearing Audio (6/28/22) mm:ss 5:50-7:00 (Deputy City Attorney comment on time to act being tolled), https://planning.lacity.org/plndoc/Audio/Central_LA/2022/06-28-2022/6_ZA_2019_5239.mp3; see also South LA APC hearing Minutes (7/19/22) p. 1 (listing Mr. Velazquez present during the previous Project appeal hearing), <https://planning.lacity.org/dcpapi/meetings/document/73527>.

⁶ Applicant Letter (7/14/22) PDF p. 22 (Applicant arguing as much), <https://planning.lacity.org/dcpapi/meetings/document/addtldoc/63499>.

⁷ These comments incorporate all arguments contained in Council File No. 22-1055 and 22-1055-S1.