

Communication from Public

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Council File No: 23-0673-S1

Comments for Public Posting: 1. The specific point at issue is: The APC abused its discretion by their approval of the 5 ft. set-back exception in lieu of the required 15 ft. front yard setback wherein the law specifically states that the APC does not have authority to act if the issue is caused by a self-imposed hardship which this is. The owner/developer knew of the limitations caused by the setback limitations at time of purchase. Consider the following statute: LAMC11.5.7 F(1)(a). Exceptions from Specific Plans - Area Planning Commission With Appeals to the City Council. 1. Authority of the Area Planning Commission. The Area Planning Commission shall have initial decision-making authority for granting exceptions from specific plan regulations. In accordance with Subsection D of Section 12.24, the Area Planning Commission shall hold a hearing at which evidence is taken. (a) In granting an exception from a specific plan, the Area Planning Commission shall impose conditions to remedy any resulting disparity of privilege and that are necessary to protect the public health, safety, welfare and assure compliance with the objectives of the general plan and the purpose and intent of the specific plan. An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships. 2. LAMC11.5.7 F(2). Exceptions from Specific Plans - Area Planning Commission with Appeals to the City Council. 2. Findings. The Area Planning Commission may permit an exception from a specific plan if it makes all the findings paragraphs (a)-(e): There cannot be findings as to all 5 elements, due to a self-imposed hardship by the owner/developer. For example, paragraph (a) cannot be found to be true: "(a) That the strict application of the regulations of the specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan." There are no unnecessary hardships, this is all caused by a self-imposed hardship. 3. The Council may reverse or modify, in whole or in part, any decision of the Area Planning Commission only by a two-thirds vote of the whole Council. The decision must contain a finding of fact showing why the proposed exception to a specific plan complies or fails to comply with the requirements of this section. The finding of fact is that there was a self-imposed hardship at the out-set that cannot

be denied and therefore the specific plan exception request fails to comply with the requirements of this section. The law requires this conclusion. NO ONE IS ABOVE THE LAW! 4. City's General Plan, to assure lots of acceptable design and of a size compatible with the size of existing lots in the immediate neighborhood. This proposed project fails to address these goals and is in direct violation of the language and spirit of the law. LAMC SEC. 17.50. PARCEL MAPS – GENERAL PROVISIONS 6. Additionally, at the APC hearing on this matter, held on July 19, 2023, the owner/developer guaranteed and promised that no trees, including a redwood tree, situated on the right-of-way surrounding the subject property would be removed. The letter of determination indicates: "The Project may involve the removal of up to nine non-protected trees along the public right-of-way." The assertions made at the hearing must be binding and made a condition of approval. Why did the APC ignore this assertion? The owner/developer cannot deny this representation and must be held accountable. Thank you. Arna Zlotnik, a neighbor who lives directly across the street from the project area.

LAMC11.5.7 F. Exceptions from Specific Plans - Area Planning Commission With Appeals to the City Council.

1. Authority of the Area Planning Commission. The Area Planning Commission shall have initial decision-making authority for granting exceptions from specific plan regulations. In accordance with Subsection D of Section 12.24, the Area Planning Commission shall hold a hearing at which evidence is taken.

(a) In granting an exception from a specific plan, the Area Planning Commission shall impose conditions to remedy any resulting disparity of privilege and that are necessary to protect the public health, safety, welfare and assure compliance with the objectives of the general plan and the purpose and intent of the specific plan. An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships.

(b) If an application for an exception would potentially impact a specific plan policy or a regulation affecting the entire specific plan area or any of its subareas, the Director shall advise the applicant, prior to the application being deemed complete, to request the City to initiate a specific plan amendment pursuant to Subsection G in lieu of processing the application for an exception.

(c) Exception for Relief from a Specific Plan Regulation and the Same Type of Regulation With the Same Standard in Chapter I of this Code. (Added by Ord. No. 173,492, Eff. 10/10/00.) If a specific plan contains a regulation that is the same type of regulation with the same standard as one contained in an applicable provision of Chapter I of this Code, an applicant seeking relief from those regulations need only apply for and receive an exception to the specific plan. In this situation, the specific plan regulation is considered to supersede the Code provision and thus a variance is not required.

(d) Exception for Relief from Specific Plan Regulation and the Same Type of Regulation With a Different Standard in Chapter I of this Code Where Specific Plan Supersedes the Code. (Added by Ord. No. 173,492, Eff. 10/10/00.) If a specific plan contains a regulation that conflicts with the same type of regulation but with a different standard contained in an applicable provision of Chapter I of this Code and the specific plan supersedes the Code by its terms, then an applicant seeking relief from that specific plan regulation need only apply for and receive an exception to the specific plan. In this situation, a variance is not also required.

(e) Exception for Relief from Specific Plan Regulation and the Same Type of Regulation With a Different Standard in Chapter I of this Code Where Specific Plan Does Not Supersede the Code. (Added by Ord. No. 173,492, Eff. 10/10/00.) If a specific plan contains a regulation that conflicts with the same type of regulation but with a different standard contained in an applicable provision of Chapter I of this Code and the specific plan does not supersede the Code by its terms, then an applicant seeking relief from those regulations must apply for and receive both an exception to the specific plan and a variance for relief from those Code provisions.

(f) Exception for Wireless Telecommunications Facilities. Notwithstanding the provisions of

the first unnumbered paragraph of this subdivision, the installation of wireless antennas and associated equipment cabinets on the rooftops of buildings in the C and M Zones when established in conformance with the standards contained in Section 12.21 A.21. do not need a specific plan exception, except that rooftop antennas located within a scenic parkway specific plan, scenic corridor specific plan, or a roadway designated as a scenic highway within a specific plan area shall be subject to a specific plan exception. Any application involving the use, height, installation or maintenance of wireless telecommunication facilities that do not comply with the provisions of Section 12.21 A.21. and which are located within specific plan areas shall be filed pursuant to Section 12.24 W.49. of this Code and considered by the Zoning Administrator as the initial decision-maker, except that applications located within a scenic parkway specific plan, scenic corridor specific plan, or a roadway designated as a scenic highway within a specific plan area shall be subject to a specific plan exception. (Amended by Ord. No. 177,120, Eff. 12/26/05.)

(g) Eldercare Facilities. An applicant who files an application involving Eldercare Facilities seeking relief from specific plan regulations need not apply for a specific plan exception pursuant to Subsection F. of this section but need only apply for and receive an approval pursuant to Section 14.3.1 of this Code. (Added by Ord. No. 178,063, Eff. 12/30/06.)

2. Findings. The Area Planning Commission may permit an exception from a specific plan if it makes all the following findings:

(a) That the strict application of the regulations of the specific plan to the subject property 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 special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;

(d) That the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property; and

(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.

3. Decision by Area Planning Commission.

(a) The Area Planning Commission shall render a decision on an application for an exception from a specific plan within 75 days after filing unless the applicant and Area Planning Commission consent in writing to a longer period.

(b) Decisions by the Area Planning Commission shall be supported by written findings of fact based on evidence in the record. Upon making a decision upon an application for an exception from a specific plan, the Area Planning Commission shall place a copy of its written findings, where required, and decision on file in the City Planning Department and provide a copy to: the Department of Building and Safety; the Councilmember(s) having jurisdiction over the specific plan area in which the property is located; and the Department of Transportation, where appropriate. Copies of the decision shall also be provided by First Class Mail to: the applicant; the Department of Neighborhood Empowerment; the chairperson of any design review or plan review board having jurisdiction over the specific plan area in which the property is located; and interested parties who have filed written requests with the City Planning Department.

4. Effective Date of Decision. The Area Planning Commission's decision shall become final after an elapsed period of 15 calendar days from the date of mailing of the written decision, unless an appeal is filed on the decision within that period pursuant to this subsection.

5. (Deleted by Ord. No. 182,106, Eff. 5/20/12.)

6. Failure to Act - Transfer of Jurisdiction from the Area Planning Commission. If the Area Planning Commission fails to act on an application for an exception from a specific plan within the time limit specified in this subsection, the applicant may file a request for a transfer of jurisdiction to the City Council for a decision upon the original application, in which case, the Area Planning Commission shall lose jurisdiction. A request for transfer of jurisdiction may be filed in any public office of the Department of City Planning.

The Council may approve the application subject to making the findings contained in Subdivision 2. of this subsection, and may impose upon the approval conditions it deems necessary in accordance with those findings. The action of the Council shall be adopted by a majority vote of the whole Council within 45 days of the date the City Clerk receives the request for the transfer.

7. Appeal of Area Planning Commission Decision. An applicant or any other person aggrieved by a decision of the Area Planning Commission may appeal the decision to the City Council. The appeal shall be filed within 15 days of the date of mailing of the decision on forms provided by the Planning Department. The appeal shall set forth specifically the points at issue, the reasons for the appeal, and the basis upon which the appellant claims there was an error or abuse of discretion by the Area Planning Commission. Any appeal not filed within the 15-day period shall not be considered by the City Council. The filing of an appeal stays proceedings in the matter until the City Council has made a decision. Once an appeal is filed, the Area Planning Commission shall transmit the appeal and the file to the City Council, together with any report responding to the allegations made in the appeal.

The Council may reverse or modify, in whole or in part, any decision of the Area Planning Commission only by a two-thirds vote of the whole Council. The decision must contain a finding of fact showing why the proposed exception to a specific plan complies or fails to comply with

the requirements of this section. Any vote of the Council in which less than two-thirds of the whole Council vote to reverse or modify the decision of the Area Planning Commission shall be deemed to be an action denying the appeal. The failure of the Council to vote upon an appeal within 90 days after the expiration of the appeal period, or within any additional period agreed upon by the applicant and the Council, shall also be deemed a denial of the appeal.

8. Hearing by Council. (Amended by Ord. No. 173,992, Eff. 7/6/01.) Before acting on any appeal, or on any matter transferred to it because of a failure to act, the City Council or its Committee shall set the matter for hearing, giving the same notice as provided in Subdivision 1. of this subsection.