

Justification to Appeal

DIR-2024-7352-BSA

Los Angeles Department of Building and Safety Permit App. Nos. 23020-10000-02232; 24026-10000-00086

Appellant: Concerned Residents of Green Meadows West – Harbor City, residents who reside in the immediate vicinity and neighborhood of the proposed Recreation Vehicle (RV) park at 23416 S. President Ave., Los Angeles California 90710 (the “Project”), and therefore most impacted by it.

The Los Angeles Director of Planning (“Director”) erred and abused its discretion in finding that the Los Angeles Department of Building and Safety did not err based upon the following:

1. The proposed use of land requires a discretionary Conditional Use Permit under State Law and the Los Angeles Municipal Code.

- a. Special Occupancy Parks Act

The state of California Special Occupancy Parks Act is enacted in California *Health & Safety Code* §§18860-18875. By definition, it applies to recreational vehicle parks. *Health & Safety Code* §18862.43 (“[s]pecial occupancy park” means a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp).

The Special Occupancy Parks Act was enacted based upon the express finding of the state Legislature “for consistent and uniform statewide regulations for special occupancy parks to assure their health, safety, and general welfare, and a decent living environment.” *Health & Safety Code* §18863. It applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered. *Health & Safety Code* §18865(a).

Health & Safety Code §18865.1 specifically requires conditional use permit for a special occupancy park, including a public hearing by the governing body:

“Any person may file an application **with the governing body of any city, city and county, or county** for a conditional use permit for a special occupancy park. The governing body, or the planning commission if designated by the governing body, shall hold a public hearing on any such application. Notice of the time and place of the hearing, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given at least two weeks before the hearing and shall be published at least once in a newspaper of general circulation, published and circulated in the city, city and county, or county, as the case may be. When any hearing is held on an application for a conditional use permit for a special occupancy park, a staff report with recommendations and the basis for such recommendations shall be

included in the record of the hearing. The decision of the governing body shall be final and the reasons for the decision shall be included in the record.”

LADBS’s issuance of a building permit without a conditional use permit and public hearing by the governing body, as required by the Special Occupancy Parks Act, which supersedes any ordinance enacted by the City, constitutes error and abuse.

The Director’s determination that the *Health & Safety Code* regulations regulating special occupancy park are only applicable if the city has assumed enforcement responsibilities is incorrect. The City may assume enforcement responsibilities, *for purposes of enforcement*, but that has nothing to do with the requirement to file an application **with *the governing body of any city, city and county, or county*** for a conditional use permit for a special occupancy park. *Health & Safety Code* §18865.1.

b. Los Angeles Municipal Code §12.03

Los Angeles Municipal Code (“LAMC”) §12.03 defines a recreational vehicle park as “[a]ny lot or portion of a lot permitted by conditional use to provide rental or lease sites for individual recreational vehicles which are occupied for temporary purposes.”

In this case, the applicant has failed to obtain a conditional use permit, therefore the recreational vehicle park is not authorized.

LADBS’s issuance of a building permit without a conditional use permit, as required by the LAMC, constitutes error and abuse.

The Director’s determination that the LAMC was updated with respect to the enumerated conditional uses in LAMC §12.24 misses the mark. LAMC §12.03 continues to define a recreational vehicle park as “[a]ny lot or portion of a lot permitted by conditional use.” Had the City Council wanted to, it could have updated this Code requirement, but it has not. The issuance of a building permit without a conditional use permit, as required by the LAMC, constitutes error and abuse.

c. Los Angeles Municipal Code §14.00.A.7

Los Angeles Municipal Code §14.00.A provides that uses which do not meet the performance standards set forth therein require a conditional use permit. In this case, the performance standards set forth in LAMC §14.00 have not been met:

The applicant has failed to obtain a conditional use permit, therefore the recreational vehicle park is not authorized. LADBS’s issuance of a building permit without a conditional use permit, as required by the Los Angeles Municipal Code, constitutes error and abuse. The Director’s determination that the performance standards are met is incorrect:

Performance Standard #3: There is a solid decorative masonry or wrought iron wall/fence at least eight feet in height, or the maximum height permitted by the zone, whichever is less.

Evidence will be presented that the project does not provide the required wall/fence.

Performance Standard #4: The front yard setback is at least as deep as the setback required by the zone.

Evidence will be presented that the project does not provide the required front yard setback.

Performance Standard #5: The property is improved with a ten-foot landscaped buffer along the periphery of the property, which is maintained and is equipped with an automatic irrigation system.

Evidence will be presented that the project does not provide the required landscaped buffer.

Performance Standard #6: Parking areas are landscaped pursuant to the requirements of Section 12.21 A.6.

Evidence will be presented that the project does not provide the required landscaping.

Performance Standard #8: All graffiti on the site is removed or painted over in the same color as the surface to which it is applied within 24 hours of its occurrence.

Evidence will be presented that the project does not comply with the requirement to remove or paint over graffiti within 24 hours of its occurrence.

Performance Standard #9: The use meets the parking requirements of Section 12.21.A.

LADBS and the Director of Planning have determined that this Performance Standard need not be adhered to because Section 12.21.A “does not provide specific guidance on parking requirements for recreational vehicle parks.” LADBS and the Director of Planning rely on an LADBS bulletin for the proposition that RV parks are “exempt” from parking requirements under Title 25.

First, this is factually incorrect. The LADBS bulletin relied upon by LADBS and Planning references Mobile Home Parks, not RV parks – the two are not synonymous. Mobile homes are regulated by the Mobilehome Residency Law (“MRL”) (Cal. *Civ. Code* §798 *et. seq.*). A “Mobilehome” is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the *Vehicle Code*. Mobilehome includes a (1) manufactured home, as defined in Section 18007 of the *Health and Safety Code*, and a (2) mobilehome, as defined in Section 18008 of the *Health and Safety Code*. It does not include a recreational vehicle, trailer, or commercial

coach. RV's are governed by California's Recreational Vehicle Occupancy Law (RVPOL), (Cal. Civ. Code § 799.20 *et. seq.*).

Furthermore, this logic is circular. The applicant cannot "meet the parking requirements of Section 12.21.A" without meeting the parking requirements of Section 12.21.A. The lack of explicit parking ratios for RV parks does not relieve the project of its obligation to comply with the intent and framework of LAMC §12.21 A. What is otherwise the purpose of Performance Standard 9? Performance Standard 9 was imposed specifically on RV parks. The City cannot read a Code section in a manner that eliminates a stated requirement.

The concept of "exemption" is also not factually, or legally, correct. Whether or not Title 25 has parking regulations does not supersede the City's Code requirement that the use meet the parking requirements of Section 12.21.A. *Hoffman v. Smithwoods RV Park, LLC*, (2009) 179 Cal. App. 4th 390. There is no legal justification for failing to enforce Performance Standard 9. Failure to comply with a performance standard triggers a CUP.

Finally, evidence will be presented that the ADA required parking spaces have been replaced with utility equipment.

2. The use of land is not a public benefit

Los Angeles Municipal Code §14.00 authorizes certain public benefit uses. However, the proposed use is admittedly a "for profit" use and not a public benefit use. Therefore, it is not authorized under Los Angeles Municipal Code §14.00.

LADBS's issuance of a building permit for a use for profit under Los Angeles Municipal Code §14.00 constitutes error and abuse.

The Director's determination provides no adequate rationale. Again, the City cannot read a Code section in a manner that eliminates a stated requirement – in this case, a public benefit requirement.