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If you have any questions, please contact the Commission Office at (213) 978-1300.

SECONDARY SUBMISSIONS

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Ref: 74999-1

August 31, 2020

VIA E-MAIL (APCWESTLA@LACITY.ORG)

Michael Newhouse, President

And Members of the West Los Angeles Area Planning Commission
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012
Attention: James K. Williams, Commission Executive Assistant II

Re: Agenda Item 4 – Request for Reconsideration

Project Address: 426-428 East Grand Boulevard

Case No.: DIR-2018-1485-CDP-MEL-1A

Hearing Date: September 2, 2020.

Dear President Newhouse and Members of the WLAAPC:

Our office represents the owner of 426-428 East Grand Boulevard, Venice, and applicant for the above referenced case. We submit this letter in support of applicant's request to the West Los Angeles Area Planning Commission (the "Commission") to reconsider its August 19, 2020 vote to grant the above-referenced appeal. Granting the appeal reversed the Director's approval of a single-family home and attached accessory dwelling unit ("ADU"; collectively, the "Project"), both of which complied with all applicable objective, quantifiable, and written development standards, and underwent a multi-year entitlement review before being approved by the Director. We believe reconsideration is both appropriate, and necessary, due to the fact that the Commission raised several new issues after the close of public comment that were not subject to written or oral testimony, and which applicant was not provided an opportunity to address. Consequently, in voting on the appeal, the Commission relied upon erroneous information regarding the Project and the legal standards. Had the Commission afforded applicant an opportunity to respond, we believe the Commission would have decided the appeal differently. We briefly address and summarize some of these issues in the following:

1. The Commission has the discretion to limit the ADU exclusively to long-term rental use. During the Commission's deliberations, Commissioner Rozman asked staff if the Project's attached ADU could be utilized for home-sharing and/or short-term rentals. Commissioner Margulies raised a similar concern. In response, staff and the City Attorney stated that they were not aware of any restrictions against using the ADU for short-term rentals, and that

they were not aware of any means of restricting the ADU to require it be used for long-term rental purposes only. This is incorrect. The Commission should have been advised that state law expressly provides the Commission with the authority to require the ADU "be used for rentals of terms longer than 30 days." (See Government Code Sec. 65852.2(a)(6).) As applicant intends to use the ADU exclusively for long-term rentals uses, he would have agreed to such a condition had the Commission requested it.

2. **The Commission cannot rely on SurveyLA in considering the Project's compatibility with any adjacent "historic" districts.** During the Commission's deliberations, Commissioner Margulies raised questions regarding to the Project's consistency with nearby historic districts established under SurveyLA, as well questions concerning the Project's compliance with Zoning Information memorandum ("ZI") 2453. Staff and the City Attorney failed to inform the Commission that the Los Angeles Superior Court issued an order on July 28, 2020, requiring the City to rescind ZI 2453 and to stop applying SurveyLA in the matter demanded by the appellants. Attached as **Exhibit A** is a copy of the Court's order. The Commission should have been made aware of this Court order during the proceedings.

3. **An ADU is still counted towards a lot's density, and therefore is not a "lesser" form of density as suggested during deliberations.** During Commission deliberations, Commissioners opined that an attached ADU does not count towards a lot's density and therefore results in a different character and design than a duplex. This is incorrect. In fact, but for State law, a single-family home with an ADU meets the Municipal Code's definition of a "two-family dwelling," which is defined as a "dwelling containing two dwelling units." Moreover, if the applicant sought to add an additional unit, both state and local law would treat the building as a duplex. (See LAMC 12.22-A.33(h)(2).) Accordingly, the mere fact that ADUs are permitted as additional units within single-family zones and qualifies for distinct permitting procedures, does not mean that a home and an ADU is "less than" a duplex. This is a mischaracterization of the law, and the Commission should have been advised of this during their deliberations.

4. **The Commission's failure to act on the Mello Act determination constituted a deemed denial of the appeal.** The Commission was also given inaccurate advice with respect to its requirement to act on the appeal of applicant's Mello Act determination. The Director's Mello determination constituted a separate and distinct determination, subject to an independent appeal under state law. Accordingly, the Commission *did* have a requirement to act on this appeal, and in failing to take an action, the appeal was deemed denied pursuant to LAMC 12.26-K(8).

5. **The Commission failed to make the findings required by the Housing Accountability Act ("HAA").** In upholding the appeal, the Commission acted to deny our client's Project, which meets the definition of a housing development project under the HAA. In taking this action, the City Attorney failed to advise the Commission that it may not deny a housing development project under the HAA without identifying (1) a specific adverse impact upon the public health or safety, and, (2) finding that there is no feasible method to satisfactorily mitigate or avoid that impact. (Cal. Gov. Code § 65589.5.) Such findings must be made in writing supported by a preponderance of the evidence. In failing to make such findings, the Commission's actions violated state law.

August 31, 2020
Page 3

Thank you for your consideration. We look forward to addressing the Commission at the September 2, 2020 hearing.

Sincerely,

A handwritten signature in dark ink, appearing to read 'BMR' followed by a stylized flourish.

BENJAMIN M. REZNIK and
DANIEL F. FREEDMAN, of
Jeffer Mangels Butler & Mitchell LLP

BMR:dff

cc: Laurette Healey and Marcia Davalos, City Land Use Inc.

Exhibit A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 85

19STCP00586

BARRY CASSILLY, et al. vs CITY OF LOS ANGELES

July 28, 2020

1:30 PM

Judge: Honorable James C. Chalfant

Judicial Assistant: J. De Luna

Courtroom Assistant: C. Del Rio

CSR: D. Van Dyke, CSR # 10795

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Lisa A. Weinberg By: Alicia B. Bartley (Video)

For Respondent(s): Oscar Medellin (Telephonic); Kathryn Phelan (Telephonic)

NATURE OF PROCEEDINGS: Hearing on Petition for Writ of Mandate

The court's tentative ruling is published to all parties via posting on the court's website and previously provided to counsel via email.

The matter is called for hearing.

After argument of counsel, the court rules in accordance with its Tentative which is adopted and filed as the final ruling of the court, as orally modified.

Petitioners Barry Cassilly ("Cassilly"), Linden Living Project, LLC, and Venice Homeowners Alliance petition for a writ of traditional mandamus directing Respondent City of Los Angeles to (1) rescind Zoning Information memoranda ("ZI") 2453, 2454, and 2455 and cease enforcement of the policy in those documents, (2) refrain from requiring Historical Resource Assessments and Environmental Impact Reports for projects solely on the basis of their listing in SurveyLA, and (3) reinstate and process Cassilly's pending application for a discretionary Coastal Development Permit to demolish and rebuild the single-family home on Linden's property with a categorical exemption from CEQA.

The court has read and considered the moving papers, opposition, and reply, and renders the following decision:

The Petition is granted in part.

Petitioners' counsel is ordered to prepare a proposed judgment and writ of mandate, serve them on counsel for the opposing parties for approval as to form, wait ten days after service for any objections, meet and confer if there are objections, and then submit the proposed judgment and writ along with a declaration stating the existence/non-existence of any unresolved objections.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 85

19STCP00586

BARRY CASSILLY, et al. vs CITY OF LOS ANGELES

July 28, 2020

1:30 PM

Judge: Honorable James C. Chalfant

Judicial Assistant: J. De Luna

Courtroom Assistant: C. Del Rio

CSR: D. Van Dyke, CSR # 10795

ERM: None

Deputy Sheriff: None

Order to Show Cause Re: Judgment is scheduled for 08/20/2020 at 09:30 AM in Department 85 at Stanley Mosk Courthouse.

Notice is waived.



Planning APC West LA <apcwestla@lacity.org>

Agenda Item: WLA APC - Sept. 2 2020 - Reconsideration request. 426-428 E Grand Blvd.

4 messages

Laurette Healey <laurette@citylanduse.com>

Mon, Aug 24, 2020 at 7:21 PM

To: James K Williams <apcwestla@lacity.org>

Cc: Marcia Davalos <marcia@citylanduse.com>, Lea Arenas <lea@citylanduse.com>, Robert Thibodeau <robert@duarchitects.com>, Dustin Miles <brix001@hotmail.com>, Sophia Hastings <sophia@duarchitects.com>, Bailey Keyes <bailey@duarchitects.com>

Mr. James K. Williams
Commission Administrator
West Los Angeles Area Commission

James:

In accordance with Commission rules, an applicant may submit a request for reconsideration of a Commission Determination by the next regularly scheduled Commission Hearing. Case number DIR-2018-1485-CDP-MEL-1A was heard at the last WLA APC Hearing on August 19, 2020.

Therefore, on behalf of the applicant, Dustin Miles, I am submitting a reconsideration request to be placed on the next WLA APC hearing scheduled for September 2, 2020, for Case Number **DIR-2018-1485-CDP-MEL-1A. PROJECT SITE: 426-428 E GRAND BLVD.**

Please confirm your receipt of this email at your earliest convenience.

Respectfully,

**Laurette Healey**Principal
City Land Use, Inc.

310-968-7887

Laurette@CityLandUse.com

CityLandUse.com

Main: 15303 Ventura Blvd. Suite 900, Sherman Oaks, CA 91403

Field: 490 Santa Clara Ave. Venice Beach, CA 90291

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Laurette Healey <laurette@citylanduse.com>

Wed, Aug 26, 2020 at 1:02 PM

To: James K Williams <apcwestla@lacity.org>

Cc: Marcia Davalos <marcia@citylanduse.com>, Lea Arenas <lea@citylanduse.com>, Robert Thibodeau <robert@duarchitects.com>, Dustin Miles <brix001@hotmail.com>, Sophia Hastings <sophia@duarchitects.com>, Bailey Keyes <bailey@duarchitects.com>, Daniel Freedman <DFF@jmbm.com>, Daniel Freedman <DFreedman@jmbm.com>

Good Afternoon James,

I am forwarding to you the reconsideration request to placed on the WLA APC Agenda for its next hearing date, September 2, 2020, which I sent to you two days ago.

Can you please confirm your receipt of this email?

Respectfully,

**Laurette Healey**

Principal

City Land Use, Inc.



CITY LAND USE

310-968-7887

Laurette@CityLandUse.com

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Main: [15303 Ventura Blvd. Suite 900, Sherman Oaks, CA 91403](#)Field: [490 Santa Clara Ave. Venice Beach, CA 90291](#)

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Laurette Healey <laurette@citylanduse.com>

Wed, Aug 26, 2020 at 2:59 PM

To: James K Williams <apcwestla@lacity.org>, James Williams <james.k.williams@lacity.org>, Raoul Mendoza <raoul.mendoza@lacity.org>

Cc: Marcia Davalos <marcia@citylanduse.com>, Lea Arenas <lea@citylanduse.com>, Robert Thibodeau <robert@duarchitects.com>, Dustin Miles <brix001@hotmail.com>, Sophia Hastings <sophia@duarchitects.com>, Bailey Keyes <bailey@duarchitects.com>, Daniel Freedman <DFF@jmbm.com>, Daniel Freedman <DFreedman@jmbm.com>

[Quoted text hidden]

James Williams <james.k.williams@lacity.org>

Thu, Aug 27, 2020 at 8:03 AM

To: Laurette Healey <laurette@citylanduse.com>

Cc: James K Williams <apcwestla@lacity.org>, Raoul Mendoza <raoul.mendoza@lacity.org>, Marcia Davalos <marcia@citylanduse.com>, Lea Arenas <lea@citylanduse.com>, Robert Thibodeau <robert@duarchitects.com>, Dustin Miles <brix001@hotmail.com>, Sophia Hastings <sophia@duarchitects.com>, Bailey Keyes <bailey@duarchitects.com>, Daniel Freedman <DFF@jmbm.com>, Daniel Freedman <DFreedman@jmbm.com>, Ira Brown <ira.brown@lacity.org>, Juliet Oh <Juliet.Oh@lacity.org>

Good morning Laurette,

Thank you for your email indicating your plan to request a reconsideration at our next meeting. The procedure simply requires you to address the Commission when the reconsideration item is called.

Verbally request a reconsideration and the Commission will make a motion to reconsider or if no motion is made we will move forward with the meeting agenda.

Your email will be shared with the Commission and they will be expecting your request.

Best regards always,

James



James K. Williams
Commission Executive Assistant II
Cultural Heritage Commission
West LA Area Planning Commission
South Valley Area Planning Commission

james.k.williams@lacity.org
T: (213) 978-1295

Los Angeles City Planning
200 N. Spring St., Room 272
Los Angeles, CA 90012
Planning4LA.org



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DAY OF HEARING SUBMISSIONS