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SECONDARY SUBMISSIONS

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November 2, 2021

VIA E-MAIL

The Honorable Central Los Angeles Area Planning Commission
200 North Spring Street, Room 1070
Los Angeles, California 90012
Attn: Etta Armstrong, Commission Executive Assistant

apccentral@lacity.org

Re: Appeal for 843-847 South Sherbourne Drive (ZA-2019-7715-ELD; ENV-2019-7716-CE)

Dear Honorable Commissioners:

This firm represents Daly Property Management Corporation (the "Applicant") in connection with the proposed demolition of an existing 12-unit multifamily residential building and the construction of a seven-story, 32,120-square foot Eldercare Facility with a total of 56 units, including 48 units for Assisted Living Care Housing and 8 units for Alzheimer's/Dementia Care Housing ("Project") located at 843-847 South Sherbourne Drive ("Project Site") in the Wilshire community. On June 1, 2021, the Zoning Administrator ("ZA") issued a determination (the "Determination Letter") and granted approvals for the Project that included an Eldercare Facility Unified Permit for the construction, use, and maintenance of an Eldercare Facility consisting of Assisted Living Care Housing and Alzheimer's/Dementia Care Housing in the [Q] R3-1-O Zone. The ZA also determined that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Section 15332.

On June 13, 2021, Cheryl Holstrom and Nikki Vescovi, Co-Chairs of the Sherbourne Eldercare Community Response Team, Shelly Lavin, President of the 839 S. Holt Avenue Homeowners Association, and Daniel Sidis (collectively, the "Appellant") appealed Conditions 8b., 8c., 8d., 8e., and 8f. of the ZA's determination (the "Appeal").

The Appeal alleges that the ZA abused its discretion in making the findings required to approve the Eldercare Facility Unified Permit. Specifically, the Appeal alleges that the ZA abused its discretion in making the required "unnecessary hardship" finding, and that the Project would be incompatible with the adjacent properties and surrounding neighborhood, would adversely impact street access and circulation in the surrounding neighborhood, and would not be in substantial conformance with the General Plan.

This response focuses on the assertions raised by the Appellant related to the Project. As demonstrated below, each of the arguments in the Appeal is meritless, and we respectively request that the Central APC deny the Appeal and uphold the ZA's determination.

1. There is Substantial Evidence in the Record to Support the "Unnecessary Hardship" Finding.

The Appellant alleges that there is not substantial evidence in the record to support required Eldercare Unified Facility Permit Finding 1: "The strict application of the land use regulations on the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations." Appellant alleges that the ZA abused its discretion in making this finding.

Appellant argues that a project's financial unviability cannot be the basis for a finding of "unnecessary hardship." However, this argument misreads the two precedent cases cited in the Appeal. *See Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916 ("*Stolman*"); *Walnut Acres Neighborhood Assn. v. City of Los Angeles*, 235 Cal. App. 4th 1303 ("*Walnut Acres*"). In both *Stolman* and *Walnut Acres*, the Court of Appeal assumed that financial hardship *could* be sufficient for purposes of finding the "unnecessary hardship" required to approve a variance and Eldercare permit, respectively—exactly the opposite of Appellant's argument. In both cases, rather, the court found that there was not substantial evidence to support the claimed financial hardship. In *Stolman*, the applicant provided generic information abouts its profits, but provided "no information from which it can be determined whether the profit is so low as to amount to "unnecessary hardship."" *Stolman*, 114 Cal.App.4th 916, 926. Moreover, there was no evidence that the requested variance was necessary for the applicant's business to continue to operate. *Id.* at 926–927. Similarly, in *Walnut Acres*, the applicant made generic assertions that additional density and floor area were necessary for "economies of scale" to make a proposed Eldercare Facility feasible, but provided no substantial evidence to support that assertion or to show that a smaller facility could not be profitable. *Walnut Acres*, 235 Cal.App.4th at 1315.

The Project is easily distinguishable from the precedent cases. In fact, the Applicant and ZA followed the exact path the courts prescribed in *Stolman* and *Walnut Acres* to show unnecessary financial hardship. As discussed on Pages 16-18 of the Determination Letter, the Applicant prepared a financial analysis of the Project Site and Project that compared various development scenarios based on their estimated rates of return and minimum required financial viability. *See* Hendrickson Consulting (HC), Financial Feasibility Analysis, February 18, 2021 (attached). As shown in the table on Page 17 of the Determination Letter, the analysis included a "by-right" Eldercare Facility and an "intermediate" option in addition to the proposed Project. The estimated yield to cost for each of these options shows that only the proposed Project would achieve the minimum profitability necessary to be financially viable (i.e., meeting the minimum market expectations for a similar project type necessary to attract investment capital).

Although not directly cited in the Determination Letter, HC's analysis also evaluated two additional multi-family housing options, to examine other project types that could be developed at the site in addition to an Eldercare Facility. *See* Financial Feasibility Analysis, at Pages 4 and 5. In particular, HC analyzed a by-right, market-rate multi-family project and a Transit Oriented Communities (TOC) Tier 3 mixed-income multi-family project. As with the two alternative Eldercare Facility proposals, HC's analysis shows that neither multi-family housing project option would achieve the minimum profitability necessary to be financially viable based on the minimum market expectations for a multi-family housing project. *See id.* at Page 5, Table 2.

HC's analysis regarding the multi-family housing project alternatives constitutes additional substantial evidence that further buttresses the substantial evidence already in the record in the Determination Letter. Substantial evidence shows that only the Project with the proposed parameters would be financially viable. This evidence is more than sufficient to meet the standards for showing unnecessary hardship established in *Stolman* and *Walnut Acres*. Therefore, contrary to Appellant's assertions, the ZA did not abuse its discretion in making this finding.

2. <u>The Project Would be Compatible with Adjacent Properties and the Surrounding Neighborhood.</u>

The Appellant alleges that the ZA abused its discretion in making required Eldercare Facility Unified Permit Findings 2 and 5: "The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety," and "The project provides for an arrangement of uses, buildings, structures, open spaces and other improvements that are compatible with the scale and character of the adjacent properties and surrounding neighborhood." In particular, Appellant alleges that the height of the Project, at seven stories, would be incompatible with the adjacent properties and surrounding neighborhood.

The building's architecture has been sensitively designed to respect the surrounding neighborhood and the privacy of adjacent buildings. There are no balconies overlooking the neighboring properties on the north and south elevations. The building's top two floors have been scaled back, recessed, and articulated to achieve a terraced effect and reduce the overall massing on the upper levels. The building incorporates fluted glass and a window blind system to avoid any impacts to privacy or from light pollution.

Although the existing immediately adjacent properties are only two stories, the Project Site's zoning allows buildings up to 45 feet tall as of right, and the block contains existing buildings up to four stories. In addition, in the 12-block radius surrounding the Project, bounded by La Cienega Boulevard, Gregory Way, Robertson Boulevard, and Olympic Boulevard, there are several five-story buildings that are existing or in progress, including at 1023 South Shenandoah Street, 1057 South Corning Street, 1064 Holt Avenue, and 905 South Le Doux Road. And, as noted on Page 20 of the Determination Letter, all the surrounding sites are eligible for projects up to 67 feet tall with TOC Tier 3 incentives. The majority of entitlement applications filed since

2019 have been for TOC projects, meaning the Project is compatible with the other proposed new development for the neighborhood.

The Appellant erroneously claims that the ZA abused its discretion by referencing the TOC Tier 3 incentives. However, the ZA was simply – and appropriately – analogizing to the building heights that *could be permitted* on all the surrounding properties through projects seeking TOC incentives. Importantly, a TOC Tier 3 project application would be subject to the State Housing Accountability Act and would therefore be impossible to deny absent extraordinary findings that the City could not make for a housing project proposed at this Site. Far from an abuse of discretion, this analysis constitutes substantial evidence in support of the ZA's determination regarding Findings 2 and 5.

The Appellant also objects to the Project's occupying two single lots with reduced rear setbacks. However, there are several other existing buildings on the block that occupy two lots, and the Appellant has offered no additional evidence to suggest why the reduced rear setback is inappropriate. By contrast, the ZA's findings included a detailed discussion of the rear yard request and why it is necessary and would be minimally impactful:

> [T]he rear yard will only be reduced at the ground floor because of a 6-foot high semi-subterranean parking level which will be occupied in the rear yard setback by a patio area for the residents. Though the 6-foot height of the patio conforms to the normal 6-to 8-foot high walls that normally contain rear yards, there will be a 5-foot high safety railing around the patio with landscaping to conceal it so that residents are protected from falling. The rear patio area aligns with the surface parking area for the building to the west of the site and does not look into any residential units at the rear of the westerly building. The upper floors will be set back the full 15 feet. Determination Letter, at Page 25.

These findings constitute substantial evidence in the record in support of the rear yard setback reduction. Appellant's unsupported assertions are insufficient to rebut this substantial evidence.

The Appellant also objects to the architectural character of the Project, arguing it is incompatible with the existing design of the neighborhood and would have a "commercial hotel-like look." However, the ZA specifically found that the "design of facility is residential in character." Determination Letter, at Page 24. In particular, the ZA found that "an architectural canopy and house numbers were included on the Sherbourne façade to establish a clear building identity as a residential use." *Id.* at Page 20. Appellants have offered no substantive evidence to rebut this substantial evidence in the record.

The requested floor area, height, and additional deviations from the applicable zoning regulations are necessary to achieve a functionally and financially viable Eldercare Facility. The only way to accommodate the necessary Project parameters within the Project Site is to increase the building envelope, in part by allowing additional height. The City has recognized that Eldercare Facilities serve a City- and region-wide demand for assisted living facilities and on-site social services for an aging-in-place population. (See LAMC § 14.3.1 ["The purpose of this article is to . . . facilitate the processing of applications of Eldercare Facilities. These facilities provide much needed services and housing for the growing senior population of the City of Los Angeles."].) The Eldercare Facility Unified Permit process explicitly allows deviations from the zoning regulations, with appropriate safeguards, to accommodate these much-needed projects. The Appellant's overly narrow focus on building heights cannot be allowed to undermine the overall purpose of the Eldercare Facility ordinance.

3. **The Project Would Not Adversely Impact Street Access or Circulation in the Surrounding Neighborhood.**

The Appellant alleges that the ZA abused its discretion in making Eldercare Facility Unified Permit Finding 4: "The project shall not create an adverse impact on street access or circulation in the surrounding neighborhood." The Appellant claims the Project will adversely impact street access and circulation, primarily due to the lack of on-street parking and the use of Sherbourne Drive as a "cut-through" street for commuters. However, these complaints have nothing to do with the Project itself or with the condition allowing tandem parking for all parking spaces.

As discussed in the Determination Letter, most Project residents will not own vehicles. As such, the Project will generate very little traffic or parking demand. Gibson Transportation Consulting, Inc. (GTC) prepared trip generation estimates comparing the Project to a by-right, 12-unit multi-family apartment project. *See* GTC, Trip Generation Estimates for the Sherbourne Senior Housing Project, September 16, 2020 (attached). This analysis shows that the Project would generate fewer trips than the by-right project. Appellant's claims therefore stand in stark contrast to this substantial evidence in the record.

None of the Appellant's assertions, even if true, would rise to the level of a hazardous geometric design feature, as contemplated by the CEQA Appendix G significance thresholds for Transportation impacts. On the contrary, the Project would include a safe and modern circulation system and fully enclosed parking. All tandem parking would be in the fully enclosed garage and, as conditioned, an on-site valet attendant is required.

Substantial evidence in the record supports the determination that the Project will not create an adverse impact on street access or circulation in the surrounding neighborhood. Appellant has not offered any evidence to the contrary, and the ZA did not abuse its discretion in making this finding.

4. **The Project Would Be in Substantial Conformance With the General Plan.**

The Appellant alleges that the ZA abused its discretion in making Eldercare Facility Unified Permit Finding 6: “The project is in substantial conformance with the purpose, intent and provisions of the General Plan, applicable community plan, and with any applicable specific plan.” However, the Appellant does not offer any evidence or additional arguments to support this assertion. Rather, it simply refers to the other arguments elsewhere in the Appeal. As discussed above, these arguments are without merit. The Determination Letter included findings, supported by substantial evidence, that the Project was consistent with the policies and objectives of the Wilshire Community Plan and the Housing Element of the General Plan. Determination Letter, at Pages 25–26. The Appellant has offered no evidence to rebut these findings, and the ZA did not abuse its discretion in making this finding.

* * *

Based upon the clear evidence in the record and the ZA's determination, we respectfully request that you deny the Appeal, and allow the Project to move forward.

Thank you for your consideration, and please contact me with any questions.

Sincerely,

Dave Rand

Enclosures: Hendrickson Consulting (HC), Financial Feasibility Analysis, February 18, 2021
GTC, Trip Generation Estimates for the Sherbourne Senior Housing Project, September 16, 2020

cc: Renata Ooms, Department of City Planning
Daniel Skolnick, Council District 5
Daniel Ahadian

HENDRICKSON CONSULTING

1505 Bridgeway – Suite 101, Sausalito, California 94965 - (415) 332-7169 – Bill1Hendrickson@gmail.com

February 18, 2021

Dale Seltzer
Daly Property Management
9743 Oakmore Road
Los Angeles, CA 90035

Dear Mr. Seltzer:

At your request Hendrickson Consulting (HC) has evaluated the financial feasibility of a senior community on the 12,000 square foot parcel located at 847 South Sherbourne Drive in the City of Los Angeles (the City). Under City [Q] R3-1-0 zoning restrictions, Daly Property Management, Inc. (DPM) and its consultants have indicated that the proposed project would be limited to 21,420 square feet in a four-story structure plus additional square footage for underground parking (the "By-Right Project"). This report represents an update to the May 30, 2020 report.

If constructed under current City restrictions, DPM estimates that the community would consist of 24 assisted living (AL) and Memory Care (MC) units/beds using typical unit sizes, common areas (e.g. dining, circulation, activities, office), and circulation. As will be shown below, HC believes that the community under these restrictions is not financially viable. We have based our conclusions on our experience providing financial forecasts for over 100 senior communities.

In addition, DPM has requested that HC evaluate a potential "Intermediate Project" totaling 26,775 building square feet in five stories and consisting of 40 AL/MC units. HC believes this project is also not financially viable, as is shown below.

Methodology

HC has taken the following steps to evaluate the financial feasibility of the community.

1. Evaluate the project cost budgets provided by DPM
2. Forecast operating cash flow in a proforma prepared by HC and based on a comparison to other AL/MC facilities
3. Use a "yield to cost" (YTC) analysis to determine if any of the three project options meets market expectations for similar projects
4. Reviewed published capitalization (cap) rates to assist in estimating an appropriate YTC level for each of the three options

Project and Financing Costs

Project construction costs for each option are estimated at $400 per square foot for a Type 1 building and $30,000 per space for underground parking. Soft costs are approximately 25% of construction costs and contingencies are estimated at 5% of all costs. All project options would begin construction in Fall-2021 and open in Spring 2023.

Operating Revenues and Expenses

Rates in 2021 dollars are estimated to average $8,260 per month for AL studio units and $10,250 per month for all MC units. The number of MC units is estimated at 6,10, and 8 respectively for the Buy-Right, Intermediate, and Proposed project options. Fill-up to stable occupancy (about 93%) is expected to take 6-12 months. Inflation is estimated at 3.5% per year. Operating expenses are based on a comparison to other AL/MC facilities and include management fees equal to 5.0% of revenues, property taxes, and capital maintenance expenses.

Yield to Cost (YTC) Analysis

There are several methods used for evaluating the feasibility of a proposed AL/MC project, including YTC, return on investment, internal rate of return, and cash on cash. The YTC represents a common "first cut" analysis to determine which of many development options meets the investor's criteria. Since each of the AL/MC options is still in the preliminary assumptions stage (e.g. construction costs are estimated, not based on bids), HC believes the YTC is an appropriate measure to use. YTC is defined as the net operating income (NOI) at stabilization in current dollars divided by the project cost, including land, construction, soft costs, contingencies, and financing. A YTC goal is typically 1.0%-2.0% above the capitalization (cap) rate for an AL/MC facility.

For our purposes we have based our estimates on averages as reported in the CBRE Senior Housing & Care Investor Survey for the first half (H1) and second half of 2020 (H2). CBRE reports that the H2 cap rate for Class A "core" AL properties is 6.3% and for MC properties is 7.2%. These rates have increased since H1 (generally pre-Covid) by approximately 0.3%-0.5% likely primarily due to the impacts of Covid-19, which HC anticipates will improve in latter 2021. For purposes of our analysis, we have used a 6.0% cap rate since each of the three options is more heavily weighted to AL units, and added 1.0% to reflect risk factors (fill-up, staffing) associated with a new project, bringing the YTC hurdle rate to 7.0%.

As shown, the proposed project is the only option which exceeds this hurdle rate, with the By-Right and Intermediate options well below. In conclusion, it is HC's opinion that the two smaller alternatives to the proposed 56-unit AL/MC project are not financially viable. As is, the 56-unit project provides fewer units with more floors than the 80+ units 2-4 story projects typically built by AL/MC developer/operators and is viable only because of the high monthly rates that can be supported in this market area.

Please call me with any questions.

Sincerely,

William D. Hendrickson

William D. Hendrickson

TABLE 1
SOUTH SHERBOURNE SENIOR PROJECT
COMPARISON OF THREE PROJECT OPTIONS

Scenario	By-Right	Intermediate	Proposed
Building Square Footage	21,420	26,780	32,070
Approximate AL/MC Units	24	40	56
Stories	4	5	7
Land Value	$5,000	$5,000	$5,000
Project Costs	$14,300	$18,600	$21,100
Total Project Costs (000s)	**$19,300**	**$23,600**	**$26,100**
Operating Revenue	$2,860	$4,700	$6,520
Operating Expenses	($2,260)	($3,390)	($4,320)
Net Operating Income (000s)	**$600**	**$1,310**	**$2,200**
Yield to Cost	3.1%	5.6%	8.4%
Hurdle Rate	7.0%	7.0%	7.0%
Project Feasibilty	NO	NO	YES

ADDENDUM - ANALYSIS FOR MULTI-FAMILY HOUSING (MFH) OPTIONS

HC has been requested by DPM to analyze two additional MFH options, a By-Right Option consisting of 15 market rate units, and a Transit Oriented Communities (TOC) Tier 3 Option consisting of 17 market rate and 9 affordable units. As before, project assumptions have been provided by DPM and its consultants. Key assumptions are shown in **Table 2**. The YTC for MFH development is estimated at 5.5%, 1.0% above an estimated 4.5% cap rate. This lower rate reflects recent sales information and the lower risk associated with MFH versus AL/MC projects.

By-Right - Construction costs are estimated at $300 psf for the building, $300,000 for site work, and $0.9 million for two subterranean parking levels accommodating 30 spaces ($30,000 per space). Soft costs (permits, fees, architectural) are estimated at 13% of building costs, and contingencies are 5% on all costs. Rental rates are estimated at $4,000 per month in 2021 dollars for the average 1,215 sf two-bedroom two bath apartments. Operating expenses, including property taxes, equate to about 35% of annual revenues. As shown, the YTC is below the hurdle rate, due primarily to the $5.0 million land cost.

TOC Tier 3 - Construction costs are estimated at $300 psf for the building, $300,000 for site work, and $390,000 for one subterranean parking level accommodating 13 spaces. Soft costs (permits, fees, architectural) are estimated at 12% of building costs, and contingencies are 5% on all costs. Rental rates are estimated at $3,500 per month in 2021 dollars for the average 1,050 sf small two-bedroom two bath apartments. Additionally, DPM has indicated that there will be an affordable requirement for 9 apartments at a weighted average rental rate of $650 per month. The affordable apartment sizes are also estimated at 1,050 sf. Operating expenses, including property taxes, equate to about 41% of annual revenues. As shown, the YTC is also below the hurdle rate, due primarily to the $5.0 million land cost and the burden of the affordable units.

TABLE 2
SOUTH SHERBOURNE SENIOR PROJECT
COMPARISON OF TWO MFH OPTIONS

Scenario	**By-Right**	**TOC Tier 3**
Building Square Footage	21,420	31,130
Apartments - Market	15	17
Apartments - Affordable	-	9
Apartments - Total	15	26
Stories	4	7
Land Value	$5,000	$5,000
Project Costs	$9,400	$12,200
Total Project Costs (000s)	**$14,400**	**$17,200**
Operating Revenue	$690	$750
Operating Expenses	($240)	($310)
Net Operating Income (000s)	**$450**	**$440**
Yield to Cost	3.1%	2.6%
Yield to Cost - Hurdle Rate	5.5%	5.5%
Project Feasibility	NO	NO

September 16, 2020

Mr. Daniel Ahadian
nūr – DEVELOPMENT | CONSULTING
1601 S. Genesee Avenue
Los Angeles, California 90019

Re: TRIP GENERATION ESTIMATES FOR THE SHERBOURNE SENIOR HOUSING PROJECT LOS ANGELES, CALIFORNIA **Ref: J1854**

Dear Mr. Ahadian:

Gibson Transportation Consulting, Inc. (GTC) prepared this letter to summarize traffic estimates for the proposed Sherbourne Senior Housing Project (Project) at 847 S. Sherbourne Drive in Los Angeles, California.

PROJECT DESCRIPTION

The Project would contain 48 assisted living units and eight memory care units, along with various amenities for residents, in a seven-story building. Vehicular and service access would be provided via two driveways along Sherbourne Drive, with sufficient internal storage to ensure there would be no queuing onto the public street. Passenger pick-up/drop-off would be provided inside the ground parking level, and pedestrian access would be provided via a separate lobby entrance along Sherbourne Drive.

The Project site is made up of one parcel that is currently developed with a 12-unit apartment building (Existing Use). The Existing Use would be demolished to construct the Project.

Utilizing Transit Oriented Communities Tier 3 incentives for existing by-right zoning would allow development of up to 25 standard apartment units (which would include 22 market-rate units and three affordable units), which was studied as a potential alternative (By-Right Alternative Use) to the Project.

TRIP GENERATION RATES

Trip generation estimates for the Project, the Existing Use, and the By-Right Alternative Use were prepared using rates published in *Trip Generation Manual, 10th Edition* (Institute of Transportation Engineers, 2017) (ITE Rates) and *Transportation Assessment Guidelines* (Los Angeles Department of Transportation [LADOT], July 2020) (LADOT Rates) in accordance with LADOT requirements and best practices.

Trip generation rates were developed based on surveys of similar uses from around the nation (in the case of the ITE Rates) and locally (in the case of the LADOT Rates). Collectively, the rates were used to estimate trip generation over 24-hour periods as well as during the morning and evening commuter peak hours, when ambient traffic levels are highest. The surveys and, thus, the rates include all types of vehicular trips to and from a site, including resident, employee, visitor, service vehicles, and emergency vehicles.

It is important to note that even the trip generation rates that are not necessarily based on local surveys (i.e., the ITE Rates) are nonetheless adaptable and applicable to local developments. The surveys used to develop the rates are often collected in suburban locations with isolated vehicular access and self-contained parking supplies, making it simple to count trips associated with a particular site, and where alternative travel modes, such as public transit, are not a significant contributor. In GTC's experience, when conducting internal surveys to develop empirical trip generation rates based on local sites in Los Angeles, the rates are almost invariably lower than those published due to higher density of development combined with access to alternative modes of transportation. For this reason, LADOT prescribes the use of the published ITE Rates and allows deductions to be applied to account for the use of public transit or walking/bicycling.

Table 1 summarizes the raw trip generation rates (i.e., no transit deductions applied) for standard apartment units, assisted living units, and affordable family housing units during the morning and evening peak hours and over the course of a 24-hour day. As shown, the rates for standard apartment units are substantially higher than those for assisted living.

TRIP GENERATION ESTIMATES

Table 2 summarizes trip generation estimates for the Project, the Existing Use, and the By-Right Alternative Use options.

As shown, the Project is estimated to generate a gross total of 146 daily trips, including 11 morning peak hour trips and 15 evening peak hour trips.

The Existing Use generates approximately 88 daily trips, including six during the morning peak hour and seven during the evening peak hour. Therefore, after removal of the Existing Use, the Project would generate a net increase of only 58 new daily trips, including five new morning peak hour trips and eight new evening peak hour trips.

The By-Right Alternative Use would generate a gross total of 173 daily trips, including 12 morning peak hour trips and 13 evening peak hour trips. Accounting for the removal of the existing use, the By-Right Alternative Use would generate 85 net new daily trips, including six new morning peak hour trips and six new evening peak hour trips. This is more than the net new trips that would be generated by the Project during both the morning and afternoon peak hours.

None of the estimates in Table 2 account for the use of public transit. Transit buses run on La Cienega Boulevard and Olympic Boulevard, both of which provide stops less than a 0.25-mile walking distance from the Project site. Transit usage would further reduce the number of trips to and from the Project site from the estimates shown in Table 2 for both the Project and By-Right Alternative Use.

CONCLUSION

The Project would result in minimal additional traffic to and from the Project site compared to the Existing Use, accounting for all vehicular traffic to and from the Project site (resident, employee, visitor, service, and emergency vehicles). The By-Right Alternative Use, which is a likely redevelopment scenario in the event the Project does not get built, would generate more trips than the Project.

Sincerely,

Jonathan Chambers

Jonathan Chambers, P.E.
Senior Associate

Lauren Mullarkey Williams

Lauren Mullarkey-Williams
Associate

TABLE 1
TRIP GENERATION RATES

Land Use [a]	**ITE Land Use**	**Rate Basis**	**Daily**	**Morning Peak Hour**	**Evening Peak Hour**
Multi-Family Housing (Low-Rise)	220	per du	7.32	0.46	0.56
Assisted Living	254	per bed	2.60	0.19	0.26
Affordable Family Housing	[b]	per du	4.16	0.52	0.38

Notes:
du: dwelling unit
[a] Trip generation rates from *Trip Generation, 10th Edition* (Institute of Transportation Engineers, 2017), unless otherwise noted.
[b] Trip generation rates for affordable family housing are defined in *Los Angeles Department of Transportation (LADOT) Transportation Assessment Guidelines* (LADOT, July 2020).

TABLE 2
TRIP GENERATION ESTIMATES

Land Use [a]	ITE Land Use	Units	Daily	Morning Peak Hour	Evening Peak Hour
Proposed Project					
Assisted Living	254	56 beds	146	11	15
Existing Use to be Removed					
Multi-Family Housing	220	12 du	88	6	7
By-Right Alternative Use					
Multi-Family Housing	220	22 units	161	10	12
Affordable Family Housing	[b]	3 units	12	2	1
Total			*173*	*12*	*13*
Net Project Total (Proposed Project - Existing)			**58**	**5**	**8**
Net By-Right Total (By-Right Alternative - Existing)			**85**	**6**	**6**

Notes:
du: dwelling unit
Estimates based on trip generation rates from Table 1.
None of the estimates account for the potential use of public transit.
[a] Trip generation rates from *Trip Generation, 10th Edition* (Institute of Transportation Engineers, 2017), unless otherwise noted.
[b] Trip generation rates for affordable family housing are defined in *Los Angeles Department of Transportation (LADOT) Transportation Assessment Guidelines* (LADOT, July 2020).

DAY OF HEARING SUBMISSIONS

Renata Ooms <renata.ooms@lacity.org>

Sherbourne Eldercare Facility, Case No. ZA-2019-7715-ELD

2 messages

Shelly Lavin <Shelly104@earthlink.net> Thu, Nov 4, 2021 at 4:48 PM
To: Renata.ooms@lacity.org

Hello Ms. Ooms,

My name is Shelly Lavin and I live at 839 S Holt Ave. My townhouse is approx. 200 feet from the purposed Sherbourne Eldercare project.

The Sherbourne project is purposed at 7 stories in height with a zero rear yard setback.

A project of this size will present density issues as well as air quality issues to the adjacent properties.

This is a huge consideration as there is another Eldercare Assisted Living Project approved for the properties located at 825-837 Holt located adjacent to my property at 839 Holt which will result in more density issues and air quality issues.

Neither of these projects blend into the current envelope of our community. Thank you for your consideration in this matter.

Yours truly,

Shelly Lavin

President

839 So. Holt Townhomes Assn.

Renata Ooms <renata.ooms@lacity.org> Thu, Nov 4, 2021 at 5:24 PM
To: Shelly Lavin <Shelly104@earthlink.net>

Thank you, received.

LOS ANGELES CITY PLANNING

Renata Ooms
Pronouns: She, Hers, Her
City Planner
Los Angeles City Planning
200 N. Spring St., Room 763
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E-NEWS

[Quoted text hidden]

nūr DEVELOPMENT | CONSULTING

November 9, 2021

ATTN: Central Area Planning Commisison
Department of City of Planning
RE: Request for Time Extension for Appellate Decision and Continuance of Hearing
Project: A 7-Story, 56-Unit Eldercare Facility
Address: 847 S Sherbourne Dr, Los Angeles, CA 90035

Dear Central Area Planning Commission,

On behalf of the ownership group, we request a continuance of tonight's hearing and hereby grant an extension of time to a date uncertain to be able to respond to the last minute letter submitted by the Channel Law Group.

Thank you,

Daniel Ahadian
nūr - DEVELOPMENT | CONSULTING
310.339.7344
daniel@nurdevelopment.com
www.nurdevelopment.com

Connect
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Collaborate

Etta Armstrong <etta.armstrong@lacity.org>

Appeal of Eldercare Facility Permit at ZA-2019-7715-ELD-1A

1 message

Jamie Hall <jamie.hall@channellawgroup.com> Mon, Nov 8, 2021 at 1:39 PM
To: apccentral@lacity.org
Cc: Etta Armstrong <etta.armstrong@lacity.org>, Cheryl Holstrom <cjholstrom@sbcglobal.net>

Dear Commissioners:

This office represents Appellant Cheryl Holstrom regarding the above-referenced Project. The Project cannot satisfy legally-required findings for the Eldercare Permit because there is no "unnecessary hardship" justifying the excessive relief requested by the Project. The applicant's own financial analysis demonstrates that even a Six Story Alternative would achieve commercially normal profits, and even less-than-optimal profits are not necessarily an unnecessary hardship. We respectfully request that the Project be denied as set forth in the initial appeal.

Regards,

Jamie T. Hall
Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211
Main Number: (310) 347-0050
Direct: (310) 982-1760
Fax: (323) 723-3960
Email:jamie.hall@channellawgroup.com
Website: www.channellawgroup.com

Sherbourne - Appeal Supplemental 11-8-21 (1).pdf
176K

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JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

*ALSO Admitted in Texas

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

November 8, 2021

VIA EMAIL

Etta Armstrong, Commission Executive Assistant
Central Area Planning Commission
apccentral@lacity.org

Re: Appeal of Eldercare Facility Permit at ZA-2019-7715-ELD-1A

Dear Commissioners:

This office represents Appellant Cheryl Holstrom regarding the above-referenced Project. The Project cannot satisfy legally-required findings for the Eldercare Permit because there is no "unnecessary hardship" justifying the excessive relief requested by the Project. The applicant's own financial analysis demonstrates that even a Six Story Alternative would achieve commercially normal profits, and even less-than-optimal profits are not necessarily an unnecessary hardship. We respectfully request that the Project be denied as set forth in the initial appeal.

I. The Hearing Must Be Re-Noticed to Describe Proper Relief for the Rear Yard

The City has failed to disclose the full extent of yard relief required. The requested rear yard relief does not permit development of the Project as proposed. Condition of Approval 8.e provides: "The facility may observe a zero-foot rear yard for up to six-feet above grade in conformance to approved Exhibit 'A' with a 5-foot safety rail around the patio." This condition permits a zero-foot rear yard up to six-feet above grade, with the default 15-foot rear yard applicable beyond six feet above grade. Landscape planters are not permitted projections within yards, and fences within rear yards are not permitted to exceed eight feet in height above grade at any point per LAMC 12.22-C.20(f)(3). Thus, deck's landscape planters and five-foot safety rail around the patio are unpermitted projections within the rear yard. The mere reference to Exhibit "A" cannot excuse the City's failure to disclose the extent of yard relief applying the plain language of the Zoning Code. The Commission lacks authority to approve greater relief than approved by the Zoning Administrator without noticing a new hearing. If approved with an erroneous condition, any permits issued by LADBS would be exposed to appeal.

II. The Project Fails to Demonstrate Hardship Justifying the Full Extent of Relief

LAMC Section 14.3.1(E) provides that the Zoning Administrator "shall not grant the approval unless he or she finds that the strict application of the land use regulations on the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations." Here, the applicant's own financial analysis demonstrates that the relief is far beyond what is necessary to overcome unnecessary hardships, identifying a 7 percent "hurdle rate" consisting of a 6 percent cap rate and 1 percent profit. (LOD p. 17) The proposed project results in a yield of 8.4 percent, yielding a 2.4 percent profit – far beyond the mere 1 percent profit sufficient to justify development.

The Project's requests for relief are inflated to earn the Applicant supernormal profits – 2.4 times the profit to justify development – and are disproportionate to any hardship. ***Assuming the truth of everything in the applicant's financial analysis***, the applicant could achieve a financially viable profit by removing the entire seventh story of the building which includes only 6 of the 56 units and approximately 4,000 square feet of Floor Area. Such a project would require relief for only 50 units (instead of 56), an FAR of 3.94 to 1[1] (instead of 4.5 to 1) and a height of only 58 feet (instead of 67 feet). Without the roof deck, the Project still qualifies as an Eldercare Facility as defined in LAMC Section 12.03. The seventh-story deck is a voluntary amenity not required by the Zoning Code, does not generate revenue for the Project and is a self-imposed hardship as proposed. Minor alterations to the landscape plan could accommodate all required landscaping elsewhere within the Project, such as the expansive Second Story Deck or Front or Side Yards. As demonstrated below, the applicant's own financial analysis demonstrates that a six-story structure would be feasible. ***Holding constant everything about the Project except removing the seventh story, the Six Story Alternative achieves commercially normal profits.*** Its 7.06 percent yield to cost exceeds the 7 percent the hurdle rate.

FINANCIAL ANALAYSIS: SIX STORY ALTERNATIVE			
	Intermediate	**Six Story**	**Project**
Units	40	50	56
Stories	5	6	7
Land Value (000s)	$5,000	$5,000	$5,000
Project Costs	$18,600	$19,850*	$21,100
Total Project Costs (Land + Project)	$23,600	$24,850*	$26,100
Operating Revenue	$4,700	$5,610*	$6,520
Operating Expenses	($3,390)	($3,855)*	($4,320)
Net Operating Income (Revenue – Expenses)	$1,310	$1,755	$2,200
Yield to Cost (NOI/Total Cost)	5.6%	**7.06%**	8.4%
Hurdle Rate	7%	7%	7%
Project Feasibility	No	**Yes**	Yes
* Average value of Intermediate and Project. In each case, the average is a conservative estimate because the Six Story alternative includes two more units than the average of Intermediate and the Project. 56 minus 40 equals 16, divided by 2 equals 8. 40 units plus 8 units equals 48 units. The Six Story alternative accommodates 50 units.			

Finally, ***even reduced profits do not result in unnecessary hardship***. A developer who has not only retained the full value of its initial investment, but achieved than anticipated gain, has not suffered an unnecessary hardship. Even if the Six Story Alternative would reach less than a 7 percent yield to cost, such a scenario would result in profits approaching commercially competitive rates.

III. <u>The Class 32 Categorical Exemption is Improper</u>

The Project is not eligible for the Class 32 Categorical Exemption. The Project will result in significant noise, traffic and air quality impacts. The Project is not consistent with applicable zoning regulations because it requests five deviations from the Zoning Code. Furthermore, unusual circumstances preclude the use of the Class 32 Categorical Exemption.

I may be contacted at 310-982-1760 or at jamie.hall@channellawgroup.com if you have any questions, comments or concerns.

Sincerely,

Jamie T. Hall

[1] 32,130 square feet minus 4,000 square feet equals 28,130 square feet. 28,130 square feet divided by 7,140 square feet equals 3.939.