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

SECONDARY SUBMISSIONS



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AVNC Officers Co-Chairs: Josh Hertz, Edward Morrissey • Treasurer: Anthony Forester • Secretary: Brett Kushner

September 8, 2022

to:

Vince Bertoni, AICP
vince.bertoni@lacity.org

City of LA Planning Department
200 North Spring Street
Los Angeles, CA 90012

re: The Los Angeles Tree and Shrub Protection Ordinance (LATPO)

Dear Mr. Bertoni,

It has come to the attention of the Atwater Village Neighborhood Council that the Planning Department has been applying the Los Angeles Tree and Shrub Protection Ordinance (LATPO) ⁽¹⁾ inconsistently. There is a development project in East LA (case no. APCE-2015-2048-ZC-ZADZAA) being challenged in a CEQA lawsuit because the LATPO, as well as the California Department of Fish and Wildlife (CDFW) regulations were bypassed during the planning process and approval was recommended by planning staff. However, nearly a mile away in El Sereno, another project (case no. ENV-2014-3179-MND), a similar development, was not recommended by planning staff because it violated the previously mentioned ordinances. These inconsistent interpretations of the LATPO are unfair, contradictory, and the LATPO must be applied to all projects equitably.

The LATPO is in place to protect native endangered trees such as the Southern California Black Walnut Tree. It is a cultural resource to the Indigenous People of Los Angeles for food, medicine, and clothing purposes; and it is also a natural resource, capable of establishing wildlife habitats, and quickly regenerating after a wildfire. However, the City of Los Angeles issues a permit to remove a black walnut tree every 7.2 days⁽²⁾.

¹ ⁽¹⁾ https://www.asnc.us/2021TreeOrdinance_13-1339_ORD_186873_02-04-2021_FINAL.pdf

² ⁽²⁾ *Conservation of California Walnut in the Eastern Santa Monica Mountains, Longcore and Noujdina, March 2022, The Urban Wildlands Group.*



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We urge you to adopt a higher standard for mitigation for developments which have the California Black Walnut and other endangered trees on its premises.

Attached is a one sheet with more information on the benefits of the tree, as well as the work various organizations in the Northeast LA area are making to have the City recognize "Northeast LA Black Walnut Tree Day". Having the City collaborate with this coalition can move us all the right direction towards responsible land stewardship.

Thank You.

Sincerely,

Josh Hertz
AVNC Co-Chair

Edward Morrissey
AVNC Co-Chair

cc:

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apeastla@lacity.org

City Planning Commission
cpc@lacity.org

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NELA Black Walnut Day
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Certified as NC #33 May 28, 2002

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November 4, 2021

RE: Application for Type 47 Full Liquor License for Put Me in Coach
(Case Number ZA-2016-4552-CUB)

Attn: City of Los Angeles, Department of City Planning (Case Officer Adrineh Melkonian)
Obiamaka Ude, Planning Assistant
The Honorable Kevin De Leon, City Council District 14 Field Representative, and Staff

Dear City of Los Angeles, Department of City Planning (Case Officer Adrineh Melkonian),

We represent the Historic Highland Park Neighborhood Council Board ("HHPNC") and the approximately 65,000 stakeholders in the Highland Park community. We write in support of the application for sale and dispensing of a full line of liquor by the restaurant located at 4939 York, Los Angeles, California, operating under the name "Put Me In Coach" (Case Number ZA-2016-4552-CUB), provided that the license is non-transferable and the hours of operation continue as presented (with outdoor patio closing at 10:30pm daily).

The applications were filed with the Los Angeles Department of City Planning, and are made pursuant to LAMC Section 12.24-M. After eliciting feedback and input from stakeholders and board members, including some who live near and or are familiar with the establishments, we believe these applications should be approved.

Sincerely,

Duncan Gregory

Duncan Gregory

President, HHPNC

MOUNT WASHINGTON HOMEOWNERS ALLIANCE



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September 22, 2022

East Los Angeles Area Planning Commission

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Alice Inawat, Committee Executive Assistant, apceastla@lacity.org

Dylan Lawrence, Planning Assistant, Dylan.lawrence@lacity.org

RE: Hearing Date: Wednesday, September 28, 2022, 4:30 p.m.
Agenda Item 6: 824 Cynthia, DIR 2021-3272-BSA-1A

Commissioners:

The Mount Washington Homeowners Alliance agrees with the Appellant in this case, Peter Parrish, and respectfully submits this letter in support of the Appellant.

The Mount Washington Homeowners Alliance (“MWAHA”) is a non-profit 501(c)4 corporation of approximately 400 residents living in Mount Washington, a Very High Fire Hazard Severity Zone and hillside area with acutely substandard infrastructure. Since 2001, we have worked to balance the interests of real estate development with the health and safety of residents within the Mount Washington/Glassell Park Specific Plan (“the Specific Plan”) area.

The appeal process regarding the development of 824 Cynthia has spanned over three years and generated voluminous evidence and multiple rulings. At this point it can, however, be distilled to a simple issue:

The plans and resulting construction did not comply with the East Los Angeles Area Planning Commission’s August 12, 2019 Letter of Determination’s modified conditions protecting the significant tree.

Failure to enforce the ELAAPC conditions sets a dangerous precedent, encouraging developers and others to disregard the ELAAPC because there are no consequences, making the ELAAPC impotent, powerless and ineffectual.

P. O. Box 65855, Los Angeles, CA 90065-0855
www.mwha.us; www.facebook.com/MWHAAlliance

Enforcement in this case would place a modest financial burden on the current owner, the cost of which they may recover from the developer, and will not inconvenience the owner or interfere with enjoyment of the home.

Accordingly, we ask that ELAAPC enforce its' prior order of August 12, 2019 and require the owner to move the offending wall and boulders outside of the dripline of the significant tree, to preserve the health of the tree and to comply with ELAAPC's conditions. And to further comply by surrounding the required "new Significant Tree" with native plants.

ELAAPC'S MODIFIED CONDITIONS

The August 12, 2019, ELAAPC's modified conditions required the following:

- d. Replacement, Relocation and Remove of Trees. As defined by the Specific Plan, a Significant Tree is any tree which measures 12 inches or more in diameter at four and a half feet above the average natural grade at the base of the tree and /or is more than 35 feet in height. Per tree letter dated August 1, 2018, prepared by William R. McKinley, Consulting Arborist, #WE-4578A, there is one avocado tree with a 20-inch diameter at Diameter Breast Height (D.B.H.) on site that is considered a Significant Tree and shall be retained. There are no Protected Trees on the project site and the project will not require removal of Protected Trees.
- i. A Landscape Plan shall be provided to the Department of City Planning, Development Services Center for review and approval. **The Landscape Plan shall show a minimum of three (3) trees including two (2) existing DIR-2018-305-SPP-1A C-2 and one (1) new Significant Tree.** A copy shall be retained in the administrative case file.
- ii. **The new Significant Tree shall be a minimum 24-inch-box size tree planted on site and shall be surrounded by Native Plants according to xeriscape and landform planting specifications.**
- e. **Protection of Trees during Construction. The driplines for Significant Trees, as defined in the Specific Plan, shall be preserved. Neither the proposed grading nor other construction activity shall occur within the driplines of all Native or Significant Trees. If digging of trenches within the dripline is absolutely necessary for the installation of utilities, hand tools or small hand-held power equipment shall be used to avoid cutting roots.**
[Emph added]

The Mt Washington/Glassell Park Specific Plan provisions incorporated by ELAAPC's conditions provide that:

Native Plants: Any (plant) species listed in Phillip A. Munz' "A Flora of Southern California" (or its successor standard reference as adopted by the Director) and identified as indigenous to the Los Angeles area. (Sec. 3, Definitions) [The replacement tree, the orange tree, was supposed to be surrounded by native plants.]

Relocation and Remove. No Native Tree or Significant Tree

may be relocated or removed except as provided in Article 7 of Chapter I or Article 6 of Chapter IV of the LAMC or unless a Project Permit is obtained pursuant to Section 8 of this Plan. Removal shall include any act which will cause a Native or Significant Tree to die, **including but not limited to acts which inflict damage upon the root system or other part of tree by fire, application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land by excavation or filling dripline area around the trunk, or by changing the local drainage pattern, either inside or outside the dripline, such that it significantly affects the amount of water that reaches the tree roots.** (Section 6 F 4.)¹

Thus, the builder was required to have a landscape plan showing two existing trees and to add a third significant tree which was to be surrounded with native plants. The significant trees, including the large avocado tree at issue, were to be protected. Specifically, **no grading or other construction activity was allowed within the dripline** to preserve the root system and watering needs as required under the Specific Plan. (The only exception was hand excavation if absolutely necessary for utilities—that exception was not implemented because all utilities are on the opposite side of the house.)

As is required, these modified conditions were explicitly applied to the current owner of the property:

TRANSFERABILITY

This determination runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions of this grant. If any portion of this approval is utilized, then all other conditions and requirements set forth herein become immediately operative and must be strictly observed.

Thus, the current owner is responsible for compliance with the ELAAPC's August 12, 2019 conditions. They may, however, seek recovery of costs from the developer, whether in small claims court or otherwise.

THE VIOLATIONS

Unfortunately, as shown by Mr. Parrish's documents and photographs, the plans did not comply with ELAAPC's conditions, and the builder violated the conditions by grading and doing other construction activity within the dripline; he:

Inflict[ed] damage upon the root system or other part of tree by fire,

¹ This comports with the current LA City Tree Ordinance, LAMC 17.05 R: "The term "removed" or "removal" shall include any act that will cause a protected tree or shrub to die, including but not limited to acts that inflict damage upon the root system or other parts of the tree or shrub by fire, application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land by excavation or filling the drip line area around the trunk."

application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land by excavation or filling dripline area around the trunk, or by changing the local drainage pattern, either inside or outside the dripline, such that it significantly affects the amount of water that reaches the tree roots.

The evidence provided by Appellant shows that grading and excavation was done within the dripline and changed the local drainage pattern, effecting the amount of water that reaches the roots. Although a watering system was placed to artificially keep the tree alive, that system may itself now be in violation of water shortage regulations.

The wall constructed within the dripline has also changed the drainage pattern and adversely impacted the root system. It is unknown what materials were used to create the wall and whether toxins from those materials are leaching and adversely affecting not just the tree but the surrounding area.

The drainage pattern needs to be re-established to assure the future health of the tree and safe conditions.

Evidence and testimony by an expert from Northeast Trees which resulted in the August 12, 2021 ELAAPC conditions also established that the avocado tree at issue has shallow roots which can be easily damaged. The boulders currently placed on top of the roots are damaging the tree and may result in a future dangerous condition, weakening the root system, destabilizing the tree and killing the tree.

The owner's arborist reports that the required new significant tree has now been planted. It is unclear, however, whether the required native planting was done around the new tree. Given that the new tree is a non-native and that the area is under prolonged drought conditions and restrictions, it is even more important that the native plantings surround the tree.

THE PROPOSED COMPROMISE REMEDY

Because ELAAPC's conditions were not followed, the resulting permits were improperly issued and should be revoked, including the certificate of occupancy. Mr. Parrish, and MWHHA, are, however, proposing a compromise and less stringent remedy.

Specifically, the owner must move the offending wooden wall and boulders outside of the dripline to protect the tree. It is not clear whether the wooden materials used to create the wall contain toxic substances as is often the case. If the wood is treated and contains chemicals toxic to the tree and native plants, different materials should be used for the relocated wall. And the owner must plant native plants surrounding the new tree as required by ELAAPC's August 12, 2021 order.

This compromise gives effect to ELAAPC's conditions, discourages developers from ignoring the law and ELAAPC's conditions, encourages Planning to following ELAAPC

DIR 2021-3272-BSA-1A
824 Cynthia
MWHHA

conditions, and protects the tree. This work should be accomplished within a specified time period, preferably by the end of 2022.

FAILURE TO ENFORCE ELAAPC'S CONDITIONS CREATES A DANGEROUS PRECEDENT IMPACTING ELAAPC'S CREDIBILITY AND THE COMMUNITY'S HEALTH AND SAFETY

MWHHA is seeing an increase in builders knowingly violating the Specific Plan and Los Angeles City Tree Ordinance. Within the last few months violations have occurred on eight separate lots on Quail, one lot on Mt Washington Drive and multiple lots on Museum Drive. These are just the lots which Urban Forestry has cited and placed holds on. Others are still under investigation.

These violations are occurring because builders often do not face consequences for their misconduct and violations. The attitude and conduct fostered by a lack of enforcement places health and safety risks on the community ranging from dust and subsidence to jeopardizing wildlife corridors and impairing the environment. In turn, it creates more work for Urban Forestry, Planning and ELAAPC because of the damage caused by the developers. These laws, and the work of the ELAAPC, exist for a reason and should not be ignored and violated.

We respectfully ask that ELAAPC enforce its prior conditions and impose the compromise remedy.

Respectfully,



Patricia Winters
2022 Vice President Land Use
Mt Washington Homeowners Alliance
landuse@mwha.us
mwha.pat@gmail.com

DAY OF HEARING SUBMISSIONS

Mark Kenyon

505 W Avenue 44

I am a resident of Mount Washington and the Executive Director of North East Trees (NET), the largest tree planting non-profit in Los Angeles Co. By my position and experience at NET I can speak as an expert to the tree issues before you and the LA Municipal Code Sections that apply.

I urge you to grant the appeal and enforce the tree ordinances that have been so obviously violated in this case.

The Conditions of approval 6.e that driplines shall be preserved and no construction activity shall occur within the driplines, was clearly violated. You or anyone need only look at the photographs provided by both the appellant and Staff. I direct your attention to the Staff presentation page 14 upper right photo.

The fact that Condition 6.e was violated is not in controversy – nowhere in the record does staff, the applicant, or owner provide any evidence to refute this fact.

Rather Staff tries to distract you by submitting an irrelevant arborist letter that only shows that the significant avocado tree was alive and well in February of this year.

That letter is irrelevant because the City Municipal Code already defines what to do in this case, the law is clear, and you are obligated to follow the law and cannot ignore what the people have enacted, and neither you nor staff can make your own laws.

Both the Specific Plan at Section 6 article F.4 and the LAMC at Article 6 of Chapter IV state:

*Removal shall include any act which will cause a Native or Significant Tree to die, including but not limited to acts which inflict damage upon the root system or other part of tree by fire, application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land **by excavation or filling dripline area** around the trunk, or by changing the local drainage pattern, either inside or outside the dripline, such that it significantly affects the amount of water that reaches the tree roots.*

By law this significant tree is considered to have been removed. There is no evidence in the record or before you that you can use to conclude otherwise.

As a result, Conditions of approval 6.d has also been violated and you should require the significant Avocado to be replaced as required by the Specific Plan.

Additionally, you should require the garden retaining wall to be removed and the original topography to be restored in the hope that these efforts might help heal this tree. Avocado Trees can live up to 400 years and grading into the dripline area has removed a significant amount of its root structure.

Again, I urge you to grant the appeal and send a message to staff to protect the trees of Los Angeles – these trees are a critical infrastructure that will help mitigate coming climate change.



Planning APC East LA <apceastla@lacity.org>

824 Cynthia Hearing

1 message

Yael Pardess <yaelp33@icloud.com>

Wed, Sep 28, 2022 at 2:50 PM

To: apceastla@lacity.org

Cc: Pat Mt Wash Land Use <mwha.pat@gmail.com>, Peter Parrish <peter.parrish@solargnosis.com>

My Comment to case DIR-2021-3272-BSA-1A

I live in Mount Washington and am a member of the Mount Washington Home Owner Alliance (MWHHA) and the Protected Tree Committee

My comment is in support of the compromise offered by MWHHA and Peter T. Parish .

ELAAPC issued a ruling to protect a significant healthy tree, as shown ,The city Planning and the builders did not follow the ruling.

This tree is is just one significant tree but It represents many other protected or significant trees that are either cut all too often or left to die after excavation or construction on our hill. This relaxed or non existing enforcement is to the detriment of the hill stability, our safety and all the important benefits that these trees provide. Developers blatantly ignore hillside ordinances and protected tree ordinances. They clear cut whole lots and their protected trees ahead of obtaining any permits to do so. They get waivers left and right to bypass carefully crafted ordinances that make our lives here safer. We are vigilant as a community and report what we see but it is not up to us to enforce the laws, it is up to city, Planning, ELAAPC and Urban Forestry. We can alert, and appeal alert and appeal, but if your rulings aren't enforced, the credibility of this body is compromised and developers take advantage of everyone. They already know that they can get away with it because the city is slow or missing in action, and as a result- we, the community suffers. Our safety ,our micro climate and our daily lives are impacted by this lack of enforcement. In the last year we have reported or halted several constructions due to illegal clearcutting. Developers who do not follow the regulations must be punished as the law suggests. We urge you to make a statement by ruling for this compromise. And I hope that it will send a signal to developers that this body and the law matter.

Thank you for your time

Yael Pardess

yaelp33@icloud.com

Mount Washington

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