

May 8, 2024

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Los Angeles City Planning Commission  
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RE: Appeal of: Density Bonus/ TOC Affordable Housing Incentives, Project Permit Compliance Review, and adoption of a Categorical Exemption for **Case No. DIR-2021-1238-TOC-SPP-HCA**; Project Addresses: 1114 N. Heliotrope Dr., Los Angeles, CA 90029.

This appeal challenges the planning department's approval of two Transit Oriented Community (TOC) projects that are actually one development split in half in order to evade proper environmental analysis and Site Plan Review. Rather than considering the two projects as one unified development, the planning department has instead improperly issued two separate approvals to the same applicant.

The two projects are located on parcels immediately adjacent to each other, with the same applicant and with duplicate designs and entitlement requests. Two appeals are required.

My family owns Linoleum City, which has served the Hollywood community for 76 years. Our store at 4849 Santa Monica Blvd. is located immediately adjacent to the two projects, which not only would dwarf our building, but at a height of 66 feet would stand almost 40 feet taller than any other structure in the area.

Since we are being required to file two separate appeals, the subject of this first appeal is a 30-unit, five-level, 66-foot tall, 15,450 sq. ft. development on a 6,750 sq. ft. lot located at 1114 N. Heliotrope Dr. The project received (among other approvals) waivers of the specific plan's transitional height and stepback requirements, a 460% increase in the allowed Floor Area Ratio (FAR), and a 25% reduction in the required open space.

The subject of our second appeal is also a 30-unit, five-story, 66-foot tall, 15,479 sq. ft. development on a 6,750 sq. ft. lot, located at 1115 N. Berendo St., which is immediately adjacent to the Heliotrope Dr. project. This project also received waivers of the specific plan's transitional height and stepback requirements, a 460% increase in the allowed FAR, and a 25% reduction in the required open space.

The project therefore is not two separate developments of 30 units each, but one development totaling 60 units. The city's failure to effectively consider the environmental impacts associated with the "whole" project constitutes a piecemeal approach to cumulative impact analysis. Such segmentation is expressly forbidden under the California Environmental Quality Act. CEQA's "*requirements cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.*" Plan for Arcadia, Inc. v. City Council of Arcadia (1974) 42 Cal.App.3d 712, 726.

“Such conduct amounts to ‘piecemealing,’ a practice CEQA forbids.” Lincoln Place Tenants Ass’n v. City of Los Angeles (2007) 155 Cal.App.4th 425, 450; see also Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora (2007) 155 Cal.App.4th 1214, 1231. “City violated CEQA by treating them as separate projects subject to separate environmental reviews.”]; Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal.App.4th 1170, 1200.

Here, the city has failed to consider the true unit count of the two buildings as one project, the “whole of an action.”

Had the two projects been properly considered as one development, Site Plan Review would also be required. When combined, the two projects consist of 60 units (or 52 units when deducting the 4 units of dedicated affordable housing for each). Yet the city has allowed the applicant to cheat the system rather than follow the law. Because the combined 2 projects involve more than 50 units, a Site Plan Review is required.

Under LAMC Section 16.05, the purposes of a Site Plan Review are: “to promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting, and to control and mitigate the development of projects which are likely to have a significant adverse effect on the environment.” None of these goals are accomplished here.

Site Plan Review requires a finding under LAMC §16.05 F.2 “that the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities... and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.” Yet the project’s height and massing are incompatible with the surrounding built environment and is greatly out of character with the immediate neighborhood. At 66 feet tall and covering 2 parcels, the combined project would dwarf the existing neighborhood.

Proper environmental and Site Plan Review is especially critical due to the proposed project being located within the Vermont Western Transit Oriented District Specific Plan, also known as the Station Neighborhood Area Plan, or SNAP. The SNAP Development Standards and Design Guidelines specifically identifies Heliotrope Drive and Berendo Street as important historic elements within the Plan Area, as noted below from page 3 of the Guidelines:

Most of the historically significant buildings were constructed and designed when Hollywood was at it’s economic height in the Twenties and Thirties. These buildings were commonly done in Mediterranean, Spanish-Moorish, Beaux Arts, Spanish/Southwestern, Craftsman and Art Deco styles. These styles and their principal characteristics can be found described in a number of reference books, including A Guide to Architecture in Los Angeles and Southern California, David Gebhard, and Robert Winter. Santa Barbara, Peregrine Smith, 1977.

Inspiration for single family homes, duplexes, apartments and condominiums can be found throughout the Plan Area, but especially along New Hampshire Avenue, Berendo Street, Edgemont Street and Heliotrope Drive. Ideas for institutional buildings can be found along Vermont Avenue, where there are at least four major historical structures:



Note below photos of the existing historic residential character of the 1100 blocks of Heliotrope Dr. and Berendo St.:



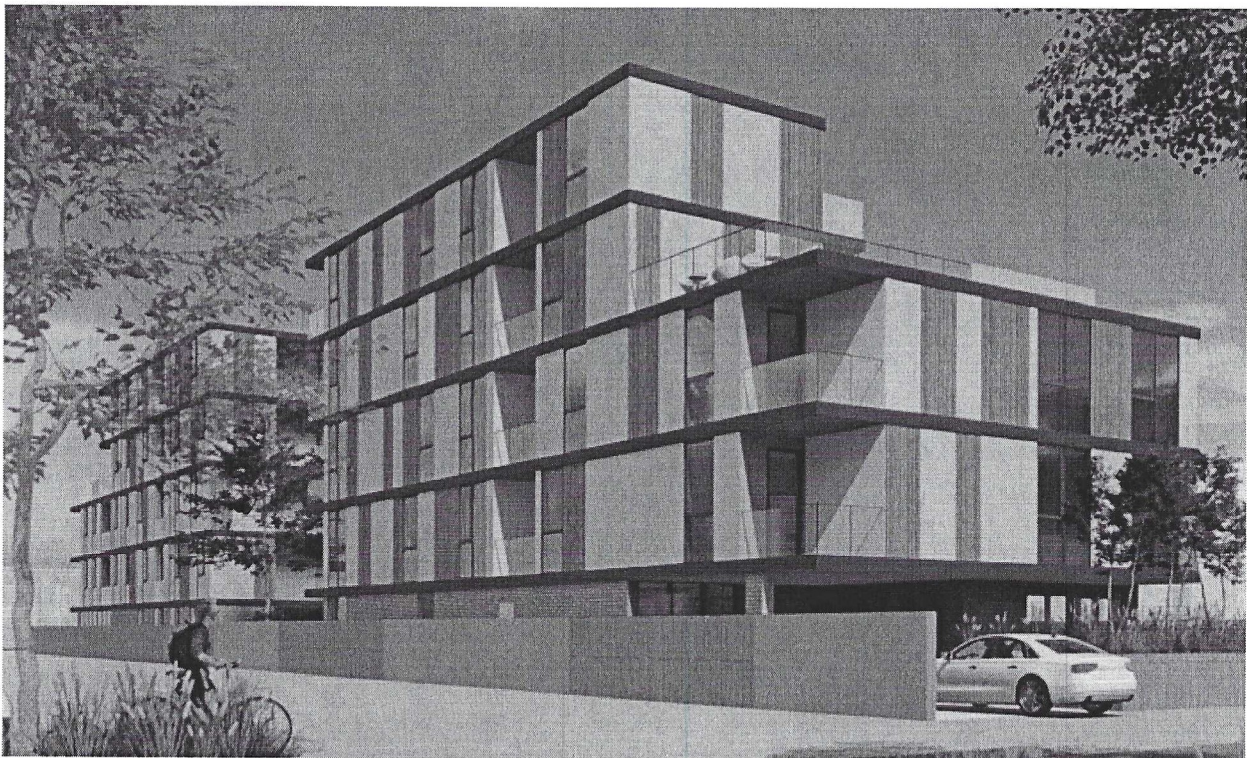
Photos above and below: 1100 block of N. Heliotrope Dr.







Photo above: 1100 block of North Berendo Street.



Rendering above of Berendo St. side of proposed project.



Under CEQA, when an agency is making an exemption determination it may not ignore evidence of an unusual circumstance creating a reasonable possibility of a significant environmental impact. Committee to Save the Hollywoodland Specific Plan v City of Los Angeles (2008) 161 Cal.App.4th 1168, 1187 (city approval set aside because city failed to consider proffered evidence regarding historic wall).

Likewise, an agency may not avoid assessing environmental impacts by failing to gather relevant data. The city's determination letter contains **no** findings whatsoever to justify the categorical exemption. Instead, the city simply states "*based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the project is exempt from the California Environmental Quality Act...and there is no substantial evidence demonstrating that any exceptions*" apply.

First, there was no justification "prepared and found in the environmental case file," other than a "finding" stating: "*The project should not result in significant effects related to traffic, noise, air quality or water quality.*"

Second, substantial evidence is defined in Section 15384 of the CEQA Guidelines as "*enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record.*"

The city has failed in its responsibility to examine the "whole record," first by allowing the developer to piecemeal his project, and second by refusing to review the cumulative impacts of successive projects over time. In particular, the city has failed to review impacts to population displacement, traffic circulation, public resources, and other environmental factors affected by allowing density increases inconsistent with the applicable general plan policies as well as with applicable zoning designation and regulations.

A CEQA categorical exemption is inapplicable when the cumulative impact of successive projects of the same type over time is significant. The cumulative impact of the proposed project in conjunction with other developments in the vicinity has not been analyzed.

**The city has failed to determine whether or not the incentives are required to order to provide for the 4 units of affordable housing.**

The determination letter states at page 13: "*The list of incentives in the Transit Oriented Communities Guidelines were pre-evaluated at the time the Transit Oriented Communities Affordable Housing Incentive Program Ordinance was adopted to include various types of relief that minimize restrictions on the size of the project.*" This is simply not true.

The text of Measure JJJ in no manner "pre-evaluated" the incentives ultimately adopted by the City Planning Commission for the TOC Guidelines. Ordinance 184,745 simply states: "*The City Planning Commission shall review the TOC Guidelines and shall by vote make a recommendation to adopt or reject the TOC Guidelines.*"

The TOC Guidelines are not an ordinance. They are not present in the Municipal Code. The Commission was required to "*make a recommendation.*" Recommendations by the Commission on zoning changes are prescribed by the City Charter to be forwarded to the City Council for approval and codification



as an ordinance. None of this occurred. Instead, a developer's wish list of relaxed zoning standards was approved by the Commission and has since been illegally enforced as if it were somehow the law.

In fact, the record contains no evidence whatsoever regarding whether or not the TOC incentives are necessary to provide for the minimal amount of affordable housing required by the TOC Guidelines because the city has never requested such evidence.

Furthermore, if the list of TOC incentives had been pre-evaluated for all factors, then approvals would be ministerial, not discretionary. The Director retains the authority to reject incentives if it can be determined that the incentive is not required to provide for the housing. The fact that the City refuses to determine whether or not the incentive is necessary does not somehow make the approvals mandatory.

**The project does not substantially comply with the applicable regulations, findings, standards, and provisions of the specific plan.**

The combined project as approved is in no manner consistent with the regulations and standards of the SNAP. The project's height, transitional height, building setbacks, density, FAR, lack of adequate parking, rigid rooflines and other characteristics directly contradict not only the underlying zoning restrictions and design requirements, but the very purpose of the Vermont Western Transit Oriented District Specific Plan.

The specific plan states in its text that it is intended to "*guide all development, including use, location, height and density to assure compatibility,*" and to "*preserve the quality of existing residential neighborhoods by limiting new residential development which would exceed the prevailing density of such neighborhoods, and establish standards for new construction in such neighborhoods to conform to the existing neighborhood.*" Nothing about the approved project is consistent with this goal.

On behalf of our community and for the reasons cited in this appeal, we ask that the City Planning Commission uphold our appeals and overturn the planning department's approvals of the proposed project.

We reserve the right to submit additional objections in support of our appeals.

Thank you,