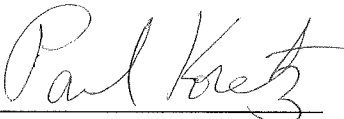


ITEM No. 26 - A

MOTION

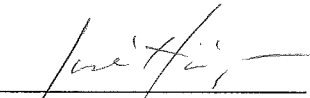
I MOVE that the matter of the Continued Consideration of Categorical Exemption and Planning and Land Use Management Committee Report relative to a Variance appeal for property at 1100-02 South Stearns Drive, Item No. 26 on today's Council Agenda, (CF 11-1556) BE AMENDED to adopt the attached *Proposed Findings and Conditions 1100 Stearns Drive Zone Variance and Zoning Administrator's Adjustment*.

PRESENTED BY:



PAUL KORETZ
Councilman, 5th District

SECONDED BY:

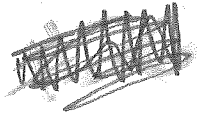


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October 4, 2011

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CF 11-1556
Proposed Findings and Conditions
1100 Stearns Drive
Zone Variance and Zoning Administrator's Adjustment
Submitted by: Council District Five

**PROPOSED FINDINGS
FOR ZONE VARIANCE APPLICATION
FOR LEGALIZATION OF THIRD DWELLING UNIT**

**(PURSUANT TO LOS ANGELES MUNICIPAL CODE SECTION 12.27)
FOR
1100-1102 S. STEARNS DRIVE, LOS ANGELES, CA 90035**

Pursuant to Charter Section 245 the City Council has asserted jurisdiction over the Central Area Planning Commission case regarding 1100-1002 S Stearns Drive in the case ZA-2009-2026-ZV-ZAA-ZAD-1A and CF 11-1556. Council hereby reverses the decision of the Central Area Planning Commission and grants the requested variance entitlement. This grant is based upon the findings of fact set forth in Municipal Code Section 12.27(D) as well as Charter Section 562. Furthermore the Council finds that the Zoning Administrator erred and abused her discretion in their failure to consider the unique nature of the proposed variance and subject property, their failure to consider General Plan policies supporting retention of existing housing, their failure to consider the oversized nature of the subject lot, as well as their reliance on the negative impacts of any precedent set by the grant. Variances are evaluated on their individual special circumstances; the action in this case is not based upon past precedent on other properties and does not set any precedent for properties outside the subject site.

The following findings of fact are required pursuant to section 12.27-D of the Los Angeles Municipal Code, all of which are affirmatively proven:

- 1. That the strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

This request entails the proposal to continue the use and maintenance of a detached approximately 790 square foot dwelling unit as part of an existing multi-level duplex located in the R1 Zone. The Property was previously zoned R2. In 1989 (Ordinance No. 165,167), the Property and certain surrounding area were rezoned from R2 to R1, which only allows one dwelling unit on the Property. Since the two dwelling units were legally permitted prior to the re-zoning, they retain a nonconforming status. The accompanying requests for a reduced rear yard, no additional parking and allowing automobiles to back into the street are all inter-related to the legalization of the existing third dwelling unit. The same findings apply to all the requests.

The Applicant purchased the Property in 2006, unaware that the third unit was unpermitted as a dwelling unit. A prior owner had previously converted a permitted recreation room into a third dwelling unit around 1992. In fact, at time of purchase the Applicant believed the third unit was legally permitted as a dwelling unit because the Multiple Listing Service ("MLS") sales sheet for the property indicated as much, there was a separate electric meter for this unit and the unit maintains a separate address listed as 1102 ½ Stearns Drive. Furthermore, documentation from the Los Angeles Department

of Water and Power indicated that the unit not only existed but had been subject to City permits and inspections.

While the current owner did not add the third dwelling unit, the choice to pursue the retention of a dwelling unit remains a hardship. This situation presents not only a hardship to the property owner facing the loss of a dwelling unit and the diminished use of their property, it also represents a hardship to the existing tenant that will be evicted if the variance is not granted. This situation further creates a hardship for the City of Los Angeles in that the loss of rental units is inconsistent with policies and regulations promoting the retention and expansion of the rental housing supply.

The Property was purchased with the non-conforming third unit already in place for as long as a decade or more. The current owners did not know that the unit did not technically conform to current zoning. The Applicant invested a great deal of money in refurbishing and rehabilitating the entire Property, including refurbishing the third unit, and moved into one of the two legal units at the Property so as to better maintain the Property. Specifically, the Applicant maintains a private courtyard patio for the third unit and remodeled and refurbished the interior and exterior of the unit

There also is a practical land difficulty which is attributable to the zoning provisions as pertains to the use of the land. The Property was previously zoned R2, which is permitted a maximum of two dwelling units on the site. In 1989, the Property was rezoned to R1 per Ordinance No. 165, 167 which was part of the City's Assembly Bill 283 Zoning Consistency Program which required consistency between the adopted Community Plan and the corresponding zoning. Multiple three unit properties currently exist in the R2 zone in the immediate areas surrounding the Property.

Additionally, no precedent would be set by granting the variance. The Property is unique in terms of size, shape, topography, and location and accordingly, no other property on the block, most of which are 1,000 square feet smaller can support an independent third unit without removing off-street parking. Further, the third dwelling unit is completely invisible to passers-by from the street and the Property appears only as a duplex with a detached garage to those viewing the Property from the street level. The circumstances here also are unique because the third dwelling unit currently exists and is otherwise permitted as a recreation room, adding to the unique relationship between the structures at the Property.

This neighborhood has existed with this unit in place for almost 20 years without harm or major incident. Denial of the variance would result in the loss of a housing unit from the City's current inventory. Allowing this third unit, which has existed without complaint for almost two decades, would promote adding increased housing units to the City's stock of rental housing without problem.

The general purpose and intent of the zoning regulations is to allow for the orderly development of land and maintenance of sufficient housing and other uses appropriate to the City's population. The intent of the City's zoning regulations stems from the General

Plan. The Wilshire Community Plan instructs the City Council to “provide for the preservation of existing quality housing, and for the development of new housing to meet the diverse economic and physical needs of the existing residents and expected new residents.” (Objective 1 Residential) Furthermore the City’s Housing Element to the General Plan states the Goal of the City’s housing policy as creating a “City where housing production *and preservation* result in an adequate supply of ownership and rental housing that is safe, healthy, sanitary and affordable to people of all income levels, races, ages, and suitable for their various needs.” (Goal 1) As the strict interpretation of the zoning code and the overall planning intent and policy are in conflict, the requested variance is the appropriate relief to reconcile the conflict. The proposed maintenance of the existing dwelling unit is consistent with the overall intent and purpose of the zoning code and General Plan.

The adjustment to the rear yard is necessary because moving an existing structure is impractical and represents a significant hardship as any relocation would displace the tenant and result in a less desirable location on the lot in terms of visibility to other structures on the street and consistency with the development character on the street.

The variances from the parking related to an existing garage which cannot be feasibly reconfigures or relocated. Relocation of the structure would disrupt residents on the site and result in alterations to historic structures and the character of improvements on the lots. While adequate on-street and off-street parking exist at the site, the four parking spaces on-site do not meet the technical requirements of the code. Relief is appropriate for this hardship and special circumstance specific to this lot and the arrangement of improvements.

Charter Section 562 states that a variance is an appropriate means to seek relief from a condition that is not self-imposed and to remedy a disparity of privileges. This condition was not self-imposed by the Applicant. The Applicant unknowing purchased a Property with an unpermitted dwelling unit. Further, there exist multiple three unit properties on corner lots in the area surrounding the Property.

2. **That there are special circumstances applicable to the subject property such as size, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The immediate area surrounding the subject Property consists of a variety of properties which have different sizes and configurations. The size and construction of the building and its location of the Property make the additional unit of approximately 790 square feet completely unobtrusive, and in fact, invisible from the street. As can be seen from the photographs submitted with the variance application, the unit is tucked behind the garage and the main structure above street level, and is completely concealed behind the landscaping and trees. Accordingly, the granting of the variance will not alter the character of the neighborhood.

There is also sufficient street parking. In fact, the unit has existed and been occupied for over a decade and has never caused any parking problem or congestion in the area. The Property is located on the corner of two local streets. As the streets are not classified as secondary or even collector streets, there is minimal traffic that flows through this neighborhood. Accordingly, as a result of the granting of the variance, there will be no increase in demand for parking or circulation issues. Furthermore the City Council considered photographs and testimony that sufficient parking exists at the subject site and greater neighborhoods. The adjustment and variance as to parking relieve circumstances specific to this property without negative impact to surrounding properties. The parking relief is necessary to prevent the destruction of existing improvements (both historic and more recent) and the disturbance of existing residents.

The subject parcel is approximately 7,181 square feet, substantially larger than the 5,000 square foot minimum lot size in the R1 zone, as well as larger than lots in the surrounding area. The corner location and trapezoidal lot shape create a unique situation on this lot that is not found in a typical lot in the neighborhood or greater area. This situation led to the construction of the existing unit and creates a unique circumstance for continued maintenance of that unit.

The proposed continued use of the dwelling unit is consistent with the larger lot size; additionally the shape and topography of the lot with the current configuration of structures on the lot means that the additional unit is not visible from the street. This circumstance is not present on other lots and creates a special circumstance where a three unit is integrated into the property without disrupting the character of the street.

The City Council in noting the unique nature of the lot and special circumstances of the property noted public testimony given regarding the look and feel of the property, statistical, mapping and zoning information contained within the subject case file, as well as photographs of the property. Based upon the whole of the record the Council finds that the lot itself is unique and present a special circumstance and furthermore that the dwelling unit and the arrangement of structures upon this unique lot creates a special circumstance that is not present or available on surrounding properties.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity, but which, because of such special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

No other similarly situated zoned properties in the same vicinity have been granted any variances to allow for conversion of more units beyond those which are currently permitted by the zoning or those which were permitted by the prior zoning. However, the Applicant has undertaken well-documented research of the legality of neighboring existing units which exceed the currently permitted density of one unit per lot R1 Zone. The Applicant's research indicates that within a 1000-foot radius from the Property, 3 three-unit buildings and 6 four-unit buildings exist. The Applicant's Property shares this

status with said other properties and thus no disparity exists between his use and these similar properties.

The granting of the variance for an existing third unit will not create a new pattern in this neighborhood. If the Applicant were denied the right to use the third unit at his Property even though there are other multiple unit buildings in the adjacent area, the Applicant would lose a substantial property right or use possessed by other properties in the same zone and vicinity. The Applicant purchased the Property with the third unit existing for approximately a decade, unaware that there was a zoning violation. It would create great practical difficulties and unnecessary hardships if the variance were denied.

While the property is presently zoned R1-1, prior zoning on the site was R2 and the period of initial development in the neighborhood allowed for single and multi-family residential development. This has resulted in a mix of structures in the area including many structures that contain more units than is indicated by the present zoning.

The requested variance is necessary to maintain the use and enjoyment of the dwelling unit which serves as necessary and desirable housing consistent with the City's General Plan. The loss of this unit would not only diminish the property right enjoyed by the property owner but would deprive the tenant of their home and would diminish the City's ability to provide an adequate rental housing market. The special circumstance and practical difficulties specific to this large and oddly shaped site support the continued appropriate use of this dwelling unit and its continued use is necessary to protect the use and property right of the site.

4. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

The Applicant has enhanced the value of the subject property and as a result the surrounding properties, since the Applicant purchased the Property two years ago. The Applicant has painted and repaired the Property and landscaped the entire perimeter and open areas at the Property. The Applicant has also maintained a private courtyard patio for the third unit. The Applicant has communicated with many of his neighbors concerning this application, and has received the support of many of them. Adequate parking exists for all three units, and a large number of legal multiple-unit buildings already exist in the vicinity.

With approval of the requested variance, the footprint of the Property will not change and no new construction will be required. The additional density increase is not contrary to the type of development in the area and would not be detrimental to the character of the area as the unit is invisible from the street. The neighborhood has existed in this same manner for more than a decade. No external changes to the site are proposed and the Applicant will not expand the dwelling unit beyond its present square footage of approximately 790 square feet. Denial of the variance would result in the loss of a housing unit from the City's current inventory.

The dwelling unit has existed (without formal permits for a dwelling unit) for over ten years. There will be no new physical or other impacts from the legalization and continued maintenance of the unit. The public welfare is enhanced through the provision of quality rental housing at this location and in fact the denial of the variance and removal of the unit would be detrimental to the public welfare by forcing a resident out of their home as well as permanently decrease the aggregate amount of rental housing available in this community.

The City Council has reviewed photographs, maps and public testimony regarding the subject site. The unique shape and size of the lot indicates that the third dwelling unit is not visible from the street and does not alter the look, rhythm or balance of improvements on the site. Based on these factors the improvements on the subject property are complimentary to the surrounding properties and are not detrimental to the public welfare or injurious to surrounding properties.

5. That the granting of such variance will not adversely affect any element of the General Plan.

The Wilshire Community Plan designates the subject Property for low density residential with corresponding zones of RS, R1, RD6 and RD5 and Height District No.1. This project will not increase the density of the neighborhood as the density has remained the same for over a decade as the unit has existed and been occupied over this period. Upon a review of the General Plan and based upon evidence in the file and presented in public testimony it is clear that the continued use of this existing dwelling unit is consistent with the General Plan and furthers the overall intent of the City's zoning and planning regulations. The granting of this variance will not result in adverse physical or land-use impacts and will not negatively impact any element of the General Plan. In fact, the General Plan instructs and supports the granting of the subject variance.

The existing unit was converted from a recreation room by a prior owner of this property. The unique size, orientation of the lot, arrangement of the structures on the lot and the issue of the existing unit being occupied creates a special circumstance and the consideration of the subject variance.

The General Plan and the intent of the zoning regulations is to allow for the orderly development of land and maintenance of sufficient housing and other uses appropriate to the City's population. The General Plan is instructive in resolving special circumstances and conflicts between policies and regulations. The Wilshire Community Plan instructs the City Council to "provide for the preservation of existing quality housing, and for the development of new housing to meet the diverse economic and physical needs of the existing residents and expected new residents." (Objective 1 Residential) Furthermore the City's Housing Element to the General Plan states the Goal of the City's housing policy as creating a "City where housing production *and preservation* result in an adequate supply of ownership and rental housing that is safe, healthy, sanitary and affordable to people of all income levels, races, ages, and suitable for their various needs." (Goal 1)

As the strict interpretation of the zoning code and the overall planning intent and policy are in conflict, the requested variance is the appropriate relief to reconcile the conflict. The proposed maintenance of the existing dwelling unit is consistent with the overall intent and purpose of the zoning code and General Plan.

Charter Section 562 – The five required findings for granting of a variance have been made by the City Council. The requested variance applies to an irregular large trapezoidal lot and the unique circumstance of an existing dwelling unit that functions as rental housing but presently lacks proper permits. The variance has been reviewed under the proper process set forth in the Charter and Municipal Code. The City Council has asserted jurisdiction over the Central Area Planning Commission’s decision in this case and has reversed that decision based upon errors and abuses of discretion by the Zoning Administrator.

Council finds that the Zoning Administrator erred and abused its discretion in their failure to consider the unique nature of the proposed variance and subject property, their failure to consider General Plan policies supporting retention of existing housing, their failure to consider the oversized nature of the subject lot, as well as their reliance on the negative impacts of any precedent set by the grant. Variances are evaluated on their individual special circumstances; the action in this case is not based upon past precedent on other properties and does not set any precedent for properties outside the subject site.

This necessary variance results from unique situations on the property that relate to the lot orientation, size and shape, as well as the arrangement of structures and uses established by the prior property owner. The hardships faced by this property are substantial and not self-imposed, the requested variance is the appropriate relief to correct these hardships, maintain harmony with the General Plan and achieve the planning goals of the City of Los Angeles.

The following findings of fact are required pursuant to section 12.28.C.4 of the Los Angeles Municipal Code, all of which are affirmatively proven:

- 1. That the granting of such adjustment will result in development compatible and consistent with the surrounding uses.**

The legalization of the existing recreation room as a dwelling unit triggers certain technical yard distance requirements which are not applicable if the structure remained as a recreation room. Accordingly, this application also includes a request to observe a reduced rear yard depth in connection with legalization of the existing unpermitted detached third dwelling unit at the rear of the Property. Legalization of this unit will not increase the size of the structure; the footprint will remain the same. The size construction of the building and its location at the Property make the additional unit of approximately 790 square feet completely unobtrusive, and in fact, invisible from the street. The existing unpermitted unit is tucked behind the garage and the main structure above street level, and is completely concealed behind the landscaping and trees.

Accordingly, the granting of the variance will not alter the character of the neighborhood and remains compatible with the predominant character of the area.

The subject property sits within a neighborhood of mostly historic Spanish homes. The existing improvements fit within that existing grain and feel of development. The structure that requires the yard adjustment is not visible from the street and does not alter the look, feel or function of the street or neighborhood, rather the adjustment is necessary to address practical hardships and unique difficulties with the subject site.

The City Council in making this finding reviewed written materials, maps and pictures in the subject case file as well as weighing public testimony. Based upon the whole of the record, the fact that no new structures are proposed and no new construction will occur; it is clear the resulting development is and will be compatible with surrounding uses.

2. That the granting of such adjustment will be in conformance with the intent and purpose of the General Plan of the City.

The Wilshire Community Plan designates the subject Property for low density residential with corresponding zones of RS, R1, RD6 and RD5 and Height District No.1. This project will not increase the density of the neighborhood as the density has remained the same for over a decade with the existence of this unit.

Further, Objective 1.1 of the Housing Element encourages the production and preservation of an adequate supply of rental and ownership housing to meet the identified needs of persons of all income levels and special needs. Allowing this third unit, which has existed without complaint for over a decade, would promote adding increased housing units to the City's stock of rental housing. The third unit cannot exist without the requested yard adjustment but the structure itself will remain in its current location regardless of its use. No new impact to the General Plan or the physical environment will result from the adjustment.

Objective 1-1 of the Wilshire Community Plan instructs the City Council to "Provide for the preservation of existing quality housing, and for the development of new housing to meet the diverse economic and physical needs of the existing residents and expected new residents in the Wilshire Community Plan Area." This adjustment will allow for the continued provision of housing on-site without any new physical impacts. Objective 1-3 further instructs "preserve and enhance the varied and distinct residential character and integrity of existing residential neighborhoods," and Policy 1-3.2 reads "Support historic preservation goals in neighborhoods of architectural merit and/or historic significance." The proposed adjustment allows for the preservation of existing structures on the site and maintenance of the residential neighborhood. With approval of this adjustment and accompanying variance the dwelling unit will not be visible from the street but the overall property will be maintained and the historic primary structures will remain intact and in their current position.

The City Council also considered written evidence, maps, photographs and oral testimony regarding the compatibility of the subject improvements with the surrounding properties. Based upon this evidence and a review of the General Plan, the Council finds that the adjustment will be complimentary to the General Plan and its policies.

3. That the granting of such adjustment is in conformance with the spirit and intent of the Planning and Zoning Code of the City.

The proposed project will not further reduce the rear yard setback any further than has already existed for more than a decade. The footprint of the garage has not changed since it was first constructed in 1931. The footprint of the existing structure has remained the same since it was permitted as a recreation room in 1992. Accordingly, the intent of the Zoning Code regarding required yards is generally preserved.

The general purpose and intent of the zoning regulations is to allow for the orderly development of land and maintenance of sufficient housing and other uses appropriate to the City's population. The intent of the City's zoning regulations stems from the General Plan. The Wilshire Community Plan instructs the City Council to "provide for the preservation of existing quality housing, and for the development of new housing to meet the diverse economic and physical needs of the existing residents and expected new residents." (Objective 1 Residential) Furthermore the City's Housing Element to the General Plan states the Goal of the City's housing policy as creating a "City where housing production *and preservation* result in an adequate supply of ownership and rental housing that is safe, healthy, sanitary and affordable to people of all income levels, races, ages, and suitable for their various needs." (Goal 1) As the strict interpretation of the zoning code and the overall planning intent and policy are in conflict, the requested variance is the appropriate relief to reconcile the conflict. The proposed maintenance of the existing dwelling unit is consistent with the overall intent and purpose of the zoning code and General Plan.

The adjustment to the rear yard is necessary because moving an existing structure is impractical and represents a significant hardship as any relocation would displace the tenant and result in a less desirable location on the lot in terms of visibility to other structures on the street and consistency with the development character on the street. The intent of the planning and zoning code is to protect safety and the visual environment. As the granting or denial of the proposed yard adjustment will have no physical impact on the look or safety of the proposed structure, the granting of the adjustment is consistent with the overall intent of the Planning and Zoning Code.

The City Council also considered written evidence, maps, photographs and oral testimony regarding the compatibility of the subject improvements with the surrounding properties. Based upon this evidence and a review of the General Plan, the Council finds that the adjustment will result in structures that already exist and are consistent with the surrounding structures and community. Such a condition supports the overall spirit and intent of the Planning and Zoning code.

4. That there are no adverse impacts from the proposed adjustment or that any adverse impacts have been mitigated.

The Applicant has enhanced the value of his Property, and as a result the surrounding properties, since the Applicant purchased the Property two years ago. The Applicant has painted and repaired the Property and landscaped the entire perimeter and open areas at the Property. The Applicant has communicated with all available surrounding neighbors concerning this application, and has received the support of those he was able to meet with. Adequate off-street parking exists for all three units.

The physical footprint of the Property will not change and no new construction will be required. The additional density increase is not contrary to the type of development in the area and would not be detrimental to the character of the area as the unit is invisible from the street. The neighborhood has existed in this same manner for more than a decade. No external changes to the site are proposed and the Applicant will not expand the dwelling unit beyond its present square footage of approximately 790 square feet. By contrast, denial of the variance would result in the loss of a housing unit from the City's current inventory. Further, the imposition of any conditions of approval would assure that the status quo will not change. Approval of this application will allow the Department of Building and Safety to ensure that the rear unit is built and maintained to required Code Standards. Therefore, as maintained, proposed and conditioned, the request will not result in any detrimental impacts to the area.

The dwelling unit has existed (without formal permits for a dwelling unit) for over ten years. There will be no new physical or other impacts from the legalization and continued maintenance of the unit. The public welfare is enhanced through the provision of quality rental housing at this location and in fact the denial of the variance and removal of the unit would be detrimental to the public welfare by forcing a resident out of their home as well as permanently decrease the aggregate amount of rental housing available in this community.

The City Council has reviewed photographs, maps and public testimony regarding the subject site. The unique shape and size of the lot indicates that the third dwelling unit is not visible from the street and does not alter the look, rhythm or balance of improvements on the site. Based on these factors the improvements on the subject property are complimentary to the surrounding properties and will not result in any adverse impacts.

5. That the site and/or existing improvements make strict adherence to zoning regulations impractical or infeasible.

The existing improvements at the Property dictate the established setbacks for the request. Observance of the required rear yard would require the demolition of part of the third dwelling unit. This would in turn require the demolition of that portion of the existing front duplex which currently observes a 10 foot, 6 inch passageway, which

would not be feasible without great hardship to the applicant. The proposed request is logical as it seeks to functionally integrate the existing improvements thereon with the subject request.

The adjustment to the rear yard is necessary because moving an existing structure is impractical and represents a significant hardship as any relocation would displace the tenant and result in a less desirable location on the lot in terms of visibility to other structures on the street and consistency with the development character on the street.

The subject parcel is approximately 7,181 square feet, substantially larger than the 5,000 square foot minimum lot size in the R1 zone, as well as larger than lots in the surrounding area. The corner location and trapezoidal lot shape create a unique situation on this lot that is not found in a typical lot in the neighborhood or greater area. This situation led to the construction of the existing unit and creates a unique circumstance for continued maintenance of that unit.

The proposed continued use of the dwelling unit is consistent with the larger lot size; additionally the shape and topography of the lot with the current configuration of structures on the lot means that the additional unit is not visible from the street. This circumstance is not present on other lots and creates a special circumstance where a three unit is integrated into the property without disrupting the character of the street. The arrangement of structures on the lot also creates a unique circumstance where structures cannot be relocated to comply with the strict yard requirements without disruption to tenants and damage to historic structures. Disruptions to historic structure and loss of rental housing is contrary to the General Plan.

The City Council in noting the unique nature of the lot and special circumstances of the property noted public testimony given regarding the look and feel of the property, statistical, mapping and zoning information contained within the subject case file, as well as photographs of the property. Based upon the whole of the record the Council finds that the lot itself is unique and present a special circumstance and furthermore that the dwelling unit and the arrangement of structures upon this unique lot creates a special circumstance that is not present or available on surrounding properties.

California Environmental Quality Act (CEQA) – The requested variance involves the legalization of an existing occupied dwelling unit. Any impacts from the dwelling unit exist in the environmental baseline and are not new impacts under CEQA. The City Council finds the project to be categorically exempt under CEQA. Pursuant to the City's CEQA Guidelines (CF 02-1507) under Class 1 (Existing Facilities) as the approval involves the legalization of an existing dwelling unit and no physical construction.

The project is also exempt under the State of California CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et seq) under Class 1 (Existing Facilities) an exemption which notes "the key consideration is whether the project involves negligible or no expansion of an existing use." In this case there is no physical change to the property and while a legal change to the dwelling unit is proposed no expansion or

reduction of the actual use on the ground is contemplated. Furthermore the change to a single unit is minor both in context of the site and the surrounding community, consistent with the provisions of the exemption.

The project is similarly exempt under Class 3 of the state guidelines as it involves “a duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.” The project is minor in nature, without adverse impacts and exempt consistent with the categorical exemption.

For the reasons set forth above the project is categorically exempt from the California Environmental Quality Act. In addition to the guidelines for exemption set forth in City of Los Angeles and State of California regulations the City Council has reviewed the evidence in the subject case file, weighed the public testimony and considered all the facts and potential impacts of the request. The finding that the project is categorically exempt is proper in relation to this evidence as well as the standards for exemption.

CF 11-1556
1100 Stearns Conditions of Approval

1. This grant authorizes: a) a Variance from Section 12.08-A of the Los Angeles Municipal Code ("Code") to allow the continued use and maintenance of an approximately 790 square foot one story third dwelling unit; b) a Variance from Section 12.21-A,4(a) of the Code to allow no additional parking space to be provided in lieu of the required one covered space for the third dwelling unit; c) a Variance from Section 12.21-A,(5)(i)(1) of the Code to allow automobiles to back out of the garage where the parking area serves more than two dwelling units and where the driveway access is to the street other than a major or secondary highway; d) a Zoning Administrator's Adjustment from Section 12.08-C,3 of the Code to allow a rear yard varying in depth from 3'6" to 5'6" in lieu of the 15 feet required, and e) A Zoning Administrator's Adjustment from Section 12.21-C,1(g) to permit the continued use and maintenance of the existing walls and a gate ranging in height from 3 feet 4 inches to 5 feet 3 inches with a cumulative height of 7 feet 8 inches in the front yard in lieu of a maximum permitted height of 3 feet 6 inches; and the existing walls ranging from 3 feet 5 inches to 6 feet with a cumulative height of 9 feet 6 inches in the northerly side yard in lieu of the maximum height of 8 feet otherwise permitted in the R1 Zone.
2. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
3. The use and development of the property shall be in substantial conformance with the plot plan, floor plan and elevation plan marked Exhibit "A", except as may be revised as a result of this action.
4. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
5. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
6. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
7. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
8. The driveway and pedestrian gates shall not open toward Stearns Drive or Whitworth Drive.

9. The height of walls and a gate in the front yard on Stearns Drive shall not exceed 4 feet 9 inches and 5 feet 3 inches, respectively with a cumulative height of 7 feet 8 inches measured from the sidewalk to the interior walls as shown on Exhibit "A".

The walls within the northerly side yard shall not exceed a maximum height of 6 feet with a cumulative height of 9 feet 6 inches measured from sidewalk to the interior walls as shown on Exhibit "A".

The walls shall be maintained in good repair and shall be kept structurally sound at all times. All repairs shall be made in compatible with the existing dwelling therewith in color and materials.

10. The subject walls and space between the interior and exterior walls shall be landscaped with shrubs, flowers or ground cover such that the exterior of the subject walls are completely covered by climbing vines or similar vegetation within 12 months from the effective date of the subject determination.

Prior to the issuance of any permits, evidence of compliance with this condition such as receipts, photographs, the plant species etc. shall be submitted to the Zoning Administrator.

11. The existing four-car garage shall remain on the subject property for parking use.

12. No mechanical equipment including air conditioning unit or similar structure shall be permitted in the required front, side and rear yards.

13. Noise generated on-site shall not exceed the decibel levels stated in the Citywide Noise Ordinance. Any music (amplified or non-amplified) in dwelling units shall not be audible beyond the boundaries of the subject property.

14. The third dwelling unit in the rear shall observe a minimum rear yard setback varying in depth from 3 feet 6 inches to 5 feet 6 inches, which shall be kept free and clear at all times.

15. Prior to the issuance of any permits or a Certificate of Occupancy, the applicant shall submit a plot plan to the Fire Department for review and approval. Any conditions required by the Fire Department for public safety and emergency access shall become conditions of this grant. Said Department's approval shall be included in the form of a stamp on the plans submitted to the Zoning Administrator.

16. Prior to issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.