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August 22, 2019

Los Angeles City Council  
c/o Office of the City Clerk  
City Hall, Room 395  
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**APPEAL RESPONSE; CF 15-1518-S1**

On April 17, 2019, the Advisory Agency denied a Vesting Tentative Tract Map (VTT-74201-SL) in connection with the Edinburgh Avenue SLS project proposal. The Project would remove the existing Historic Cultural Monument-designated 8-unit bungalow court on the site and subdivide the parcel into eight lots with Vesting Tentative Tract Map No. 74201-SL, in order to support development of a small lot subdivision. Each lot would be developed with a three-story, three-bedroom, single-family residence, two covered parking spaces, and private patio/yard areas. In total, the Project would provide 14,088 square feet of residential floor area for a floor area ratio (FAR) of 1.18:1 across the entire Project Site, and a FAR of between 0.8 and 1.7 for the individual lots.

In its April 17, 2019 decision, the Advisory Agency denied the project but adopted findings relating to the certification of the Environmental Impact Report (EIR).

On April 26, 2019, the entirety of the Advisory Agency action was appealed by Guy Penini of BLDG Edinburgh, LLC, the project applicant, claiming to be aggrieved by the action, and presenting a list of justifications.

The Department of City Planning responded to the appeal (VTT-74201-SL-1A) in an Appeal Response Recommendation Report, supplemented by a submission with Additional Information dated May 28, 2019. The Appeal Response Recommendation Report and associated documents were presented to the Central Area Planning Commission (APC) at its meeting on May 28, 2019.

On July 9, 2019, the Central APC, following its action to deny the appeals at the hearing of May 28, 2019, issued its determination letter, thereby sustaining the actions of the Advisory Agency in certifying the EIR but denying the Vesting Tentative Tract Map.

On July 19, 2019, the applicant filed an appeal of the Central APC's decision, and another appellant, John Mottishaw, also filed an appeal of the same decision. The appeals again claimed that the City's findings were not supported by substantial evidence, and that the rehabilitation of the existing bungalow court was infeasible. The City has already adequately provided detailed and full responses to the applicant's appeal points, supported by substantial evidence in the record, in the Appeal Response Recommendation Report and its Additional Information supplement. The other appellant, John Mottishaw, made justifications similar to those of the applicant. The appellants continue to fail to present any new information or substantial evidence to dispute the City's certification of the EIR and adoption of required findings in connection with the denial of the Project.

The following represents a summary and response to the appeals filed on July 19, 2019:

#### **APPELLANT 1: GUY PENINI, BLDG EDINBURGH (APPLICANT)**

On July 19, 2019, the applicant/appellant submitted an appeal to the Central APC's action, VTT-74201-1A, upholding the Advisory Agency's action. The justification in this second appeal was largely similar to their justification of their appeal of the initial Advisory Agency action, with one addition identified below along with the remainder of the appeal points:

#### ***Repeated Appeal Points from Initial Appeal***

- *The City's action on the EIR is not supported by substantial evidence; according to the EIR there is no economically viable alternative to rehabilitate the existing buildings;*
- *The City's decision that a statement of overriding considerations cannot be made is not supported by substantial evidence;*
- *The City's denial of the Project violates the Subdivision Map Act;*
- *The City's denial of the Project is contrary to local and statewide housing policy;*
- *The City's denial of the Project violates the Housing Accountability Act;*
- *The City's denial of the Project violates the City's obligation to meet its Regional Housing Needs Allocation;*
- *Denial of the Project takes the Applicant's private property without just compensation;*
- *The City's denial of the Project is a violation of the Applicant's due process rights; and*
- *The City's denial of the Project is a violation of the Applicant's equal protection rights.*

The appeal points listed above restate the same points from the appellant's previous public comments regarding the Project as well as its appeal of the Project's tract map, dated April 26, 2019. The appellant provides no new information or substantial evidence regarding these appeal points to dispute the City's denial of the tract map and associated findings. Moreover, these appeal points were addressed in detail in the May 28, 2019 Additional Information supplement to the Appeal Response Recommendation Report (see pages 4 through 6 of the May 28, 2019 supplement), which is included in Council File 15-1518-S1.

The Applicant/Appellant includes one new appeal point that was not included in their appeal to the initial action:

#### ***Supplemental Appeal Point***

- *The City's findings, including Ken Bernstein's testimony that the Full Preservation Alternative was "potentially feasible," are not supported by substantial evidence;*

The Appellant asserts that Ken Bernstein's testimony at the Central APC meeting on May 28, 2019 that the Full Preservation Alternative (Alternative 2 in the EIR) is "potentially feasible" is not based on facts or evidence and must be rejected. Mr. Bernstein has worked in historic

preservation in Los Angeles for more than 20 years, including 13 years overseeing the City's Office of Historic Resources, and thus his testimony in this regard constitutes "expert testimony" which may be used as evidence to support the City's findings. Therefore the City's findings are supported by substantial evidence.

As the repeated Appeal Points have been addressed in detail in a previous document and the supplemental Appeal Point has been addressed here, the appeal should be dismissed.

## **APPELLANT 2: JOHN MOTTISHAW**

This appellant is a neighbor of the Project Site and did not submit a previous appeal of the Advisory Agency's action. The justifications associated with this appeal are organized as one letter written by the Appellant stating their case and co-signed by ten additional neighbors, followed by four additional letters from other concerned neighbors supporting the Appellant's letter. Many of these points are similar to points addressed in the responses to the Applicant/Appellant's appeal of the Advisory Agency's initial action. The points raised in this appeal are responded to below:

### ***Appeal Points***

- *The existing building foundations are structurally insufficient and it would take an enormous investment to make the foundations structurally sound for occupancy.*

The Appellant asserts that the Project's building foundations are structurally insufficient, and that rehabilitation of the existing buildings on site is not feasible due to the high cost involved in rebuilding the foundations. The Appellant asserts that he is a long-time resident of the neighborhood, previously ran a business building structural foundations, and has personally inspected the foundations. Nevertheless, expert testimony from Ken Bernstein presented at the Central APC meeting on May 28, 2019 stated that the Full Preservation Alternative (Alternative 2 in the EIR) is potentially feasible, based on his more than 20 years of experience in historic preservation, and examples of other similar buildings that have been rehabilitated. If expert testimony is in conflict, the City is not under any obligation to take one side's opinion over the other, and has the authority to make its determinations as long as they are supported by substantial evidence. Mr. Bernstein's expert testimony constitutes substantial evidence and therefore sufficiently supports the Central APC's decision to deny the appeal of the denial of the Vesting Tentative Tract Map and its associated findings. Therefore this appeal point should be dismissed.

- *The existing buildings on site should not have been designated a Historic Cultural Monument.*

The appellant claims that the decision to designate the existing bungalow court on site as Historic Cultural Monument No. 1105 was made hastily and that the buildings lack the architectural merit to deserve the designation. The decision by the City Council to designate the Project Site as a Historic Cultural Monument was made on the recommendation of the Cultural Heritage Commission following the full, public process involved in Historic Cultural Monument designation. The designation of the Project Site as Historic Cultural Monument No. 1105 is an existing fact and the City's decisions and finding reflect this fact. Therefore this appeal point should be dismissed.

*Conclusion*

The appeals address specific concerns regarding the decisions of the City regarding this Project and the adequacy of the findings in support thereof. Upon careful consideration of the appellants' points, the appellants have failed to adequately disclose how the City erred or abused its discretion. In addition, no new substantial evidence was presented that the City has erred in its actions relative to the City's decisions on this Project and the findings in support thereof. The appellants have repeatedly failed to raise new information to dispute the Findings for the City's actions on this matter. Therefore, the appeals should be denied and the actions of the Central Area Planning Commission should be sustained.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning



Adam Villani  
City Planner

VPB:HB:av

Enclosures  
*none*

c: Aviv Kleinman, Planning Deputy, Council District 5