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May 24, 2016

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Los Angeles City Hall  
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Date: 05/24/2016  
Submitted in PLUM Committee  
Council File No: 16-0439 & 16-0439-S1  
Item No. 4 & 5  
Deputy: Comm from Planning

Re: City Planning Case Nos: VTT-73656-CN-2A, CPC-2015-2593-GPA-ZC-HD-SPR-1A  
EIR-2014-4755-EIR

Project Address: 3321, 3351 South La Cienega Boulevard, and  
5707-5735 West Jefferson Boulevard

On March 10, 2016, the City Planning Commission certified the EIR, approved CPC-2015-2593-GPA-ZC-HD-ZAA-SPR, and granted in part/denied in part the appeal of Vesting Tentative Tract Map No. 73656, associated with the mixed-use development of up to 1,218 dwelling units and 300,000 square feet of commercial floor area.

Appeals of City Planning Commission's action relative to the appeal of VTT-73656-CN-1A and its actions and recommendations of CPC-2015-2593-GPA-ZC-HD-SPR were filed on April 11, 2016.

### APPEAL ANALYSIS

The Appellants' statements have been summarized in the following categories.

#### EIR Incorrectly Analyzed Neighborhood Impacts

In the appeal, the appellant's representative states that the project EIR incorrectly analyzed neighborhood impacts and that the Final EIR's conclusion that there would be "no significant" impact on residential traffic was also incorrect. The appeal also included a 6-page report by a transportation engineer, Allyn D. Rifkin, PE, who recommends that the City Council not certify the Final EIR until such time as neighborhood impacts are correctly analyzed an appropriate neighborhood traffic management plan is identified. The report recommends that additional features be included to reduce the potential for cut-through traffic through the community identified in the appeal as La Cienega Heights.

The City adequately analyzed potential traffic impacts to the adjacent, neighboring communities. The significance of potential neighborhood intrusion impacts by a project are determined by the magnitude of project traffic utilizing residential streets. The criteria used to establish intrusion impacts are set forth in LADOT's Traffic Study Policies and Procedures (May 2012). To evaluate

a project's neighborhood intrusion impacts, LADOT recommends conservatively assuming that residential streets carry an average daily traffic ("ADT") volume of 1,000 trips. Under LADOT's Traffic Study Policies and Procedures, a project will have an impact on a local residential street carrying an ADT of 1,000 trips if it will increase the ADT by 12 percent, or by 120 trips. To that end, neighborhood traffic corridors that expect more than 120 Project trips are considered as having potential for intrusion impacts prior to mitigation.

LADOT's policy also states that three conditions must be met to create conditions under which there could be a significant impact on local streets in a neighborhood:

1. There must be sufficient Project traffic that would be added to an arterial corridor such that the volume that may shift to an alternative route could exceed the minimum significance thresholds. The majority of vehicles on an arterial corridor tend to remain on that corridor even under congested conditions, as only a small portion of motorists are inclined to seek alternative routes.
2. There must be sufficient congestion on arterial corridors selected above such that motorists traveling along the corridor may desire to divert to a parallel route through a residential neighborhood. Unless congestion is severe, travel along arterial streets is generally faster than through neighborhoods, since arterial streets typically provide greater capacities, higher travel speeds, less driveway access, fewer stop signs, etc.
3. There must be available local neighborhood street(s) providing a parallel route of travel.

If one or more of these factors is absent, significant neighborhood traffic impacts would not occur.

Based on access routes to/from the project, along with the perception of neighborhood residents that cut-through traffic is currently occurring through specific local streets, the City considered nine segments as appropriate for evaluating potential neighborhood intrusion impacts (see full list in Chapter 4.L of Final EIR). Automatic 24-hour machine traffic counts for those street segments were conducted in April 2015. Those counts showed all local streets currently carry less than 3,000 ADT and operate within the normal thresholds of a residential street. To forecast future traffic conditions at the analyzed street segments, the existing 2015 24-hour volume was increased through the year 2018 to account for background traffic and related projects that could potentially utilize these roadway segments.

The traffic study determined ADT generation for the project is 10,136 vehicles. To meet LADOT's intrusion impact methodology of adding 120 trips to a typical residential road, the Project's contribution would require an assignment of slightly more than 1.0 percent of the Project's overall traffic (i.e.,  $10,136 \text{ ADT} \times 1\% = 101 \text{ ADT}$ ). Based on the location of the project and proximity to these potential cut-through routes, less than 1.0 percent is expected to utilize adjacent residential routes.

Although the project may add some daily trips to adjacent routes or other potential cut-through streets, applying the City's threshold criteria, the project would not significantly impact those streets. Additionally, comments received at the public hearing indicated that existing parking in the neighborhood was compromised by existing businesses operating along La Cienega Boulevard utilizing off-street spaces, particularly a rental car service. CEQA analyzes potential impacts that result from a proposed project and only requires mitigation of the project's impacts to existing environmental setting, not conditions associated with improvements that are not part of the project's scope (CEQA Section 21100b). Therefore, impacts related to neighborhood intrusion would be less than significant.

In response to the appeal and the report prepared by Allyn Rifkin, Gibson Engineering, prepared a response, and LADOT concurred (May 6, 2010 email), that the project was analyzed appropriately using LADOT's methodology for neighborhood intrusion, and impacts to the project vicinity were properly disclosed. The assertions made in the Rifkin report are not only

erroneous, but are not supported by the relevant trip calculations necessary to substantiate them. Moreover, the Rifkin report instead uses the traffic study in the City's EIR to improperly and irresponsibly make blanket statements about the traffic study's inadequacies without providing the necessary evidence to adequately dispute the EIR's conclusions relative to traffic. The Rifkin report also fails to detail how the City's application of the LADOT's methodology was flawed and neither does the appellant provide independent traffic counts or other analysis to adequately dispute the findings in the EIR. As presented, the appellant's assertions and the report by Allyn Rifkin do not provide substantial evidence to rise to the level of establishing a legitimate argument.

Notwithstanding the EIR's recognition of traffic impacts, the applicant has nevertheless continued to identify additional mitigation measures to lessen traffic impacts, in particular within Culver City. These have been reviewed by LADOT, which has further committed to including the additional measures identified in the Rifkin memo in the menu of items to be considered in the development of the Transportation Systems Management (TSM) mitigation already being required for the project. These include, the grocery delivery from the project site (should a grocery store locate at the project), the potential relocation of the Metro bus stop, and inclusion of queue detectors. While these items will be considered as part of the TSM, the City stands by its conclusions that the project will result in significant and unavoidable traffic impacts to 8 of the 58 study intersection, maintaining a conservative analysis of the project's impacts.

Being as the appellant has failed to adequately disclose how the City erred in its actions relative to the EIR and the associated entitlements, Planning staff respectfully recommends that the appeals, VTT-73656-CN-2A and CPC-2015-2593-GPA-ZC-HD-SPR-1A, be denied.

The City has conducted the Tentative Tract Map Approval Process in Violation of the Subdivision Map Act.

The appellant's representative states that under Government Code Section 66474.61, the advisory agency "shall deny approval of a tentative map... if it makes any of the following findings:

- a) That the proposed map is not consistent with applicable general and specific plans specified in Section 65451.
- b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The representative contends that only with the granting of a General Plan Amendment, is it possible for the Advisory Agency to make a finding of consistency with the City's General Plan. The representative concludes that because the City cannot make a consistency finding if there is no guarantee that a General Plan Amendment will be granted, that the Tract Map Approval is unlawful.

Approval of the proposed project is subject to the state and local regulations including the Subdivision Map Act (Government Code Section 66410-66499.58) of the State of California, the Los Angeles Municipal Code (LAMC), and the General Plan. The Subdivision Map Act requires local municipalities to justify the findings listed in Government Code Section 66474.61 in order to approve a subdivision. Both the Subdivision Map Act and the LAMC provide authority to the Advisory Agency and the City to conditionally approve tentative tract maps.

The Deputy Advisory Agency conditionally approved the proposed subdivision pursuant to the provisions of the Subdivision Map Act and upon the approval of the associated General Plan Amendment and Zone Change. In the event that the associated General Plan Amendment is not approved, the Advisory Agency included conditions in the Determination Letter to address General Plan inconsistency by requiring a General Plan Amendment as conditions of approval:

Condition No. 3d. Provide a copy of CPC case CPC-2015-2593-GPA-ZC-HD-ZAA-SPR. Show compliance with all the conditions/requirements of the CPC case(s) as applicable.

Condition No. 10a. Pursuant to the approval of CPC-2015-2593-GPA-ZC-HD-ZAA-SPR, limit the proposed development to: 1,218 dwelling units and 300,000 square feet of commercial floor area. The commercial space may include 200,000 square feet of office space, 50,000 square feet of grocery store, 20,000 square feet of restaurant space, and 30,000 square feet of general retail

Condition No. 11. Prior to the issuance of the building permit or the recordation of the final map, a copy of CPC-2015-2593-GPA-ZC-HD-ZAA-SPR shall be submitted to the satisfaction of the Advisory Agency. In the event that CPC-2015-2593-GPA-ZC-HD-ZAA-SPR is not approved, the subdivider shall submit a tract modification. Provide a copy of the Zone Change approval.

The approval of the General Plan Amendment as a condition of final map recordation is further substantiated in the Subdivision Map Act Section 66474.2(c), which states:

*If the subdivision applicant requests changes in applicable ordinances, policies or standards in connection with the same development project, any ordinances, policies or standards adopted pursuant to the applicant's request shall apply.*

The Tract Map Approval is also illegal because it assumes a General Plan Amendment can be lawfully processed by the City Planning Director, the Planning Commission, and the City Council at the request of the Applicant – which it cannot.

The appellant claims that the project as proposed violates Section 555 of the Los Angeles City Charter because the charter does not authorize an individual property owner to apply for a general plan amendment to enable rezoning. Further, appellant claims that the City Charter only allows general plan amendments, zoning changes and the removal of height limits if there is a comprehensive planning process through the entire general plan, an entire element or a geographic area encompassing a significant social, economic or physical identity.

However, the City Charter authorizes the Director of Planning, City Planning Commission, and the City Council to initiate the process for the City to amend its General Plan, pursuant to the Los Angeles Municipal Code's section 11.5.6-B and the City Charter, as follows:

Pursuant to Charter Section 555, the City's comprehensive General Plan may be adopted, and amended from time to time, either as a whole, by complete subject elements, by geographic areas or by portions of elements or areas, provided that any area or portion of an area has significant social, economic or physical identity.

The Charter does not prohibit the public from requesting that the City consider future General Plan Amendments. The public may request, upon submittal for initiation of the amendment, to the Department of City Planning, which arranges an internal working meeting to review the General Plan Amendment and whether to have the Director or his designee initiate the process to amend the General Plan or reject the request. The applicant submitted a signed request on June 7, 2015 for the Initiation Request for an Amendment to the City's General Plan & Zoning and the Director of Planning accepted and signed the request on June 9, 2015.

Furthermore, Finding 3 of the Department of City Planning's Recommendation Report, 'Charter Findings – City Charter Sections 555, 556 and 558 (General Plan Amendment)' states that the:

General Plan Amendment before the City Planning Commission represents an Amendment in Part of the West Adams-Baldwin Hills-Leimert Park Community Plan, representing a change to the physical identity of the project site, which is currently designated as Limited Manufacturing and zoned as MR1-1VL. The proposed C2 Zone is a corresponding zone to the proposed Community Commercial Land use designation in the Community Plan. The site has its own physical and economic identity in that it represents a transit-oriented district that pursuant to the General Plan should be planned

for a higher density, transit oriented mixed-use development that reduces vehicle trips and provides greater housing and local amenities to the neighborhood.

Therefore, the General Plan Amendment was initiated by the Department of City Planning and was recommended for approval because the site has its own physical and economic identity that warrants an Amendment to the General Plan. Therefore the Department of City Planning, the City Planning Commission and the City Council is well within the parameters of City Charter Section 555 and LAMC 11.5.6-B.

The City is Upzoning at the Request of the Project Applicant

The appellant claims that the City is upzoning at the request of developer, creating inconsistent zoning.

As previously stated above, the City Planning Department acted in accordance with the parameters granted by City Charter Section 555, and denoted in LAMC 11.5.6-b, in that the General Plan Amendment was formally initiated by the Department of City Planning and was recommended for approval because the site has its own physical and economic identity that warrants an Amendment to the General Plan.

The City Council Repealed a Section of the Municipal Code imposing a Duty to Periodically and Comprehensively Review and Amend the General Plan.

Appellant claims the City Planning department focuses on project-by-project General Plan amendments and density upzonings rather than on comprehensive and long-term planning and that this was a result of Ordinance 177103.

The Department of City Planning regularly undergoes comprehensive updates to the City's Citywide General Plan Elements and Community Plans. Nevertheless, the appellant's opinion on the Planning Department's focus and priorities is an opinion unrelated to the project appeal. Furthermore, the City Planning Department acted in accordance with the parameters granted by City Charter Section 555, and denoted in LAMC 11.5.6-b, in that the General Plan Amendment was formally initiated by the Department of City Planning and was recommended for approval because the site has its own physical and economic identity that warrants an Amendment to the General Plan, supports the City's goal of providing a jobs/housing balance near Transit stations, and acknowledges that the existing West Adams-Baldwin Hills-Leimert Park Community Plan did not contemplate light rail or the accommodation of development near light rail at this location.

Sincerely,

Sergio Ibarra  
City Planning Associate  
Major Projects, Department of City Planning