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October 6, 2004

Aric Streit(A)(O)
Pinewood Limited Partnership
1543 Edris Drive
Los Angeles, CA 90035

Robert B Lamishaw (R)
JPL Zoning Services, Inc.
6257 Van Nuys Boulevard, #101
Van Nuys, CA 91401

Department of Building and Safety

CASE NO. ZA 2004-3033(ZV)(ZAA)
ZONE VARIANCE AND ZONING ADMINISTRATOR'S ADJUSTMENT
10045, 10047, and 10051 Pinewood Avenue
Sunland-Tujunga-Lakeview Terrace-Shadow Hills-East La Tuna Canyon Planning Area
Zone : R3-1
D. M. : 202.5A201
C. D. : 2
CEQA : ENV 2004-3034-ND
Fish and Game : Exempt
Legal Description : A Fraction Lot 153, Los Terrenitos Tract

Pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27, I hereby DENY:

a variance from Section 12.21-A,4(a) to permit 47 parking spaces in lieu of the 51 parking spaces required, in conjunction with the non-permitted conversion of a recreation room into two additional units which trigger a requirement of 4 additional parking spaces for a total of 51 parking spaces, and

Pursuant to Los Angeles Municipal Code Section 12.28-A, I hereby DENY:

a Zoning Administrator's Adjustment from Section 12.10-C,4 of the Municipal Code to permit the continued use of an illegally converted 28th and 29th unit (converted from a recreation room) in an otherwise permitted 27-unit apartment building wherein the lot area required for the additional two units is 23,000 square feet and the existing lot area is 21,768 square feet.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at

the public hearing on July 30, 2004, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the five requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27 of the Municipal Code have not been established by the following facts:

BACKGROUND

The property consists of two lots with a combined area of 21,768 square feet. The property is developed with a three-story apartment building with 27 legal units and two illegal units and parking underground for 47 vehicles

Surrounding properties are developed with apartment buildings, townhouses, and single-family dwellings in the R3-1 and RD3-1 Zones.

Previous zoning related actions on the site include:

Case No. ZA 89-1114(ZV) - On May 27, 1990, the Zoning Administrator denied a variance to allow the continued used of 29 units instead of the permitted 27 dwelling units and a variance to permit 47 parking spaces instead of 50 spaces. In the determination, the Zoning Administrator referenced a communication from the applicant at the time, indicating the applicant's intent to return the illegally converted units to the permitted recreation room.

Notice to Comply - Issued by the Housing Department on October 2, 2002 for the following violations: 1) No building permits or Certificate of Occupancy for Units 110 and 111 nor for the entire building to reflect the additional units: 2) Repairs regarding ventilation, plumbing, ceilings and dampness in habitable rooms for Unit 105; 3) Fire door closing maintenance, garage auto gate unsafe and replacement of waste line in parking area. According to the Housing Department, except for the matter related to legalizing the additional units, the other items have been corrected.

VARIANCE FINDINGS - PARKING REDUCTION

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

   The subject case entails two requests, one of which is a variance to allow for a reduction in the number of required parking spaces from 51 to 47 spaces in an existing apartment building, wherein two units were illegally converted from a

recreation room. The additional units, which the applicant also seeks to retain and legalize through the accompanying Zoning Administrator's Adjustment case, trigger the increase in the number of parking spaces required. The records of the Department of Building and Safety show that a Certificate of Occupancy was issued for the subject building on April 29, 1988 for a 27-unit apartment building with a recreation room and 47 parking spaces required and provided.

The applicant purchased the apartment complex with the additional units already existing as an illegal conversion. At the public hearing the applicant also noted that he was aware at the time of purchase that these units had not been legally permitted. Although records show that the last owner change was in the year 2000, there is reference in the file to an ownership change in 2000 in name only enabling a transfer between a limited liability company to a limited partnership company which shows no distinct change in owners. It appears that the applicant's ownership of this property may predate the year 2000, however, the records are unclear on this matter.

On May 27, 1990, the Zoning Administrator denied the first request on this matter, under Case No. ZA 89-1114(ZV). Said request consisted of two variances seeking to permit the same request considered in the current case - a legalization of the additional two units and a permission to reduce the number of required parking spaces resulting from the additional converted units. The past record on the matter shows that the prior owner almost immediately after receiving a Certificate of Occupancy converted the recreation room to the two illegal dwelling units. At the time, the Department of Building and Safety determined that within 8 months of the issuance of the Certificate of Occupancy the additional units were already being occupied. On December 13, 1988, the Department issued an Order to Comply for these violations followed by another Order to Comply issued on August 30, 1989 which superseded the 1988 Order.

In denying the two variances in 1990, the Zoning Administrator also referenced a letter from the owner of record, which indicated that the owner intended to bring the development back so that it would conform with all the zoning regulations. Obviously this offer by the prior owner was not fulfilled and the illegal units have continued to exist despite the prior denial on the matter and the apartment building has been deficient in parking since the first year of its occupancy.

The applicant claims that all tenants have assigned parking spaces and has submitted a signed document from tenants attesting to the availability of such parking. The applicant also notes that the additional parking is the result of the Municipal Code's requirement for parking which requires additional 1/2 spaces for units with specific number of habitable rooms. At the public hearing, the applicant indicated that the tenants do not park on the street, that there is a nearby bus route on Foothill Boulevard and that parking is assigned and modified accordingly based on tenants's needs and family size.

Roberta

At the public hearing, a member of the Sunland Tujunga Neighborhood Council testified that " ... it is easier to get forgiveness than permission..." noting that the Neighborhood Council had voted to oppose the applicant's request citing in particular the parking impact on the neighborhood. A copy of the Neighborhood Council's action on the matter was subsequently submitted for the file. At the hearing, the speaker added that the Neighborhood Council understands that sometimes the City seeks to extract a benefit for the community from cases such as this one by requiring that the additional, illegal units be designated for senior housing. However, the speaker noted that such an outcome does not alleviate parking problems. She added that seniors still own cars and drive and that there is almost no public transit in Tujunga. In a subsequent letter on the matter, the same speaker indicated concerns that "... *The owner's 2 extra units are not a little accident. They are a product of brazen greed and confidence that the city will forgive and he will conduct business as usual after a slap on the wrist. .... We want to urge the city to send a strong message to owners and developers that LA is no longer a ' pay to play' city."*

Gary Hedge

Another speaker indicated that he owned property within 500 feet of the property and that formerly he owned the abutting 24-unit apartment building. He noted that Pinewood Avenue is a narrow street. He added that tenants do not like tandem parking and that tenants in one-bedroom units have more than one car. The speaker indicated that the use of the additional units represented " illegal income" and that the recreation room originally approved had been for the enjoyment of tenants and that this amenity had been taken away from them. He expressed concerns that this "stolen income" was unfair competition to other property owners and that the Plan calls for lower density and more people means more cars.

In response, the applicant's representative acknowledged that the area is congested but noted that ridding the area of two units would not alleviate the parking situation. The applicant indicated that the property is well-maintained and designed in an Art Deco style with rarely a vacancy. Subsequent to the hearing, the applicant submitted a letter responding to issues raised at the hearing by the speakers and citing a shortage of low and median income units. In the letter, the applicant noted a willingness to offer the two units to median-income tenants and to maintain as affordable housing the units citing that this " ... benefit comes at absolutely no cost or negative consequence to anyone."

In his letter, the applicant stated that since the apartment complex has been in use, there has never been a complaint regarding "inadequate or crowded street parking conditions." With respect to the homeowner who represented the Neighborhood Council, the applicant states "... *What the objecting homeowner really means to say is that since he/she already enjoys the benefits of living in a beautiful area such as Tujunga, it is of no concern to him/her if other people, in need of a respectable home on a quiet street, are denied such an opportunity.*"

In reference to the other speaker's testimony at the hearing, the applicant writes *"A business person, who does not live in the area and who was an unsuccessful bidder for the property in the year 2000, objected to our request because the result would be a windfall profit. This objection is most bizarre, considering that our request does not affect him and his argument does not address the issues of habitability and sorely need living units. There is a vindictiveness in his argument and certainly no concern for those seeking housing in the community."*

Other correspondence in opposition to the request received included 13 form letters from residents on Silverton Avenue, one block to the east, citing severe parking shortages on Pinewood Avenue and Samoa Avenue affecting the neighborhood. Also received was a petition with 22 signatures citing parking and traffic problems as well as individual letters with similar concerns.

While the applicant may not be directly responsible for the addition of the two illegal units, the applicant acknowledged at the public hearing that he was aware in purchasing the property that these units had not been legally permitted. Correcting this condition in terms of a land use resolution was only sought by the applicant after the Housing Department issued its Notice to Comply in 2002. In this instance there is no hardship associated with the request that relates directly to any hardship associated with the zoning provisions and their application. The proposed legalization of the additional two units and its corresponding request to waive the resultant increase in the parking requirement can only be considered a self-imposed hardship inasmuch as compliance with the Code requirement can be attained by observing the permitted density and the zoning provisions do not impair the applicant from enjoying use of the property.

Charter Section 562 states that a variance shall not be used to grant a special privilege nor to permit a use substantially inconsistent with the limitation on other properties. A variance is an appropriate means to seek relief from a condition that is not self-imposed and to remedy a disparity of privileges. While the applicant may not have been a participant in the direct conversion of the units, "due diligence" did reveal to the applicant the legal status of the units and the property was acquired with this knowledge nonetheless. There is no flaw in the Zoning Code Provisions, which impairs the use of the property. In this case a grant of the variance request, would provide a reward in the form of a waiver of parking requirements which are the result of an illegal conversion of units rather than the result of some special circumstances of the property. This would be akin to the granting of a special privilege which is otherwise not provided to other property owners who have abided by the zoning limitations on their respective ownerships.

2. **There are no special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity**.

There are no special circumstances which would distinguish the property from other similar properties or which would constitute an impediment to the application of the zoning regulations. The applicant's justification for this finding states that the property's proximity to bus routes and the Code's requirement for 1/2 parking spaces allocates different ratios to similar units. None of these arguments result in any special circumstance unique to this parcel. In fact, such circumstances of a location which is in proximity to bus routes and of required compliance with the manner in which the Code calculates parking, applies equally to very other parcel in the immediate neighborhood and in the City.

3. **Such variance is not 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 the property in question.**

No other similarly zoned properties in the same vicinity have been granted any variances to allow for reduced parking, especially when such requests are triggered by a non permitted addition to the original number of units allowed by the City. Granting a variance would have the effect of bestowing a special privilege to one property owner which is not enjoyed by others. No other property has been shown to have such a substantial property right. In fact, the prior 1990 Zoning Administrator's action was to deny the same variance request, and the key circumstances associated with the prior and current request remain unchanged.

4. **The granting of such variance will 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.**

At the public hearing and in correspondence from neighbors from various surrounding streets, opposition to the reduction in parking has been strongly noted. Parking congestion and traffic circulation impacts have been noted. Pinewood Avenue has been described as a narrow street where access is difficult. Neighbors have noted that parking overflow impacts occur not only on Pinewood Avenue but also on Samoa Avenue. The Zoning Administrator on a mid-morning visit to the site (when typically parking is lighter due to people being at work) noted that on-street parking exists but available spaces were limited on Pinewood Avenue. On Samoa Avenue no available parking on the street existed as both sides of the street were full of parked vehicles. Part of Pinewood Avenue has sidewalks that are not improved so cars, especially in front of the project site, are parked on what would otherwise function as a sidewalk. Such circumstances do not create an ideal pedestrian environment and certainly add to pedestrian/motorist conflict. One letter writer had noted concerns for the children who walked to an elementary school (Pinewood Elementary School) which is located within 300 feet of the project.

Permitting a reduction in parking, where no distinct issues of disparity exist, and which is a result of an illegal conversion and addition of density establishes a precedent-setting approval which can be materially detrimental to the area even if these existing conditions have been occurring since 1988. The neighborhood, due to the shortage of parking associated with older buildings and with recent, more intense development already experiences a burden on the parking availability.

In this case there is no claim that can be made that any of the abutting properties will remain undeveloped or are zoned for uses that will retain the properties as vacant land. Some of the abutting residential properties, although zoned and planned for multiple residential uses in the R3 Zone, are developed with older developments with low densities, well below those permitted by the R3 Zone. It is thus not unlikely to anticipate that these will eventually be redeveloped with higher densities as permitted. This will further contribute to the need for strict adherence to the required off-street parking ratios. The fact that the existing non-permitted units have been rented out for 16 years does not minimize the fact that the building's non planned density has contributed to parking impacts on the local streets. To allow the maintenance of the additional units with no available parking on the applicant's property would further exacerbate a critical parking problem in the area and contribute to overcrowding and congestion in the area. Individually, and subsequently cumulatively, an approval of the variance request would result in materially detrimental impacts for the area.

5. **The granting of the variance will adversely affect any element of the General Plan.**

The Sunland-Lake View Terrace-Shadow Hills-East La Tuna Canyon Plan map designates the property for Medium Residential land uses with a corresponding zone of R3 and Height District No. 1.

The proposed project will do nothing to alleviate the existing congestion in the area and may contribute to further congestion along local streets in the vicinity of the subject property. As such it is not in keeping with the intent of the community plan which recognizes that there has been inconsistent development that the street systems and infrastructure cannot sustain and has established limits accordingly which non permitted additional density thus threatens.

ADJUSTMENT FINDINGS - REDUCED LOT AREA FOR TWO ADDITIONAL UNITS

In order for an adjustment from the zoning regulations to be granted, all five of the legally mandated findings delineated in Section 12.28 of the Los Angeles Municipal Code must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

6. **The granting of an adjustment will not result in development compatible and consistent with the surrounding uses.**

The adjustment sought entails a request to allow a legally permitted 27-unit apartment building to be converted into a 29-unit building. As noted, the 28th and the 29th additional units in the building already exist.

The property is zoned R3 and planned for Medium Density Residential. The R3 Zone requires a minimum of 800 square feet of lot area for each dwelling unit which the addition of the two extra units cannot meet. To allow the additional density would be commensurate with the density permitted for a higher zone, R4, and a more intense plan land use designation. There are no other examples in the vicinity of additional units permitted with reduced lot area requirements. In fact, the majority of the developments within the same zone are developed below the permitted maximum density. Across the street, the property is zoned RD3, a more limited residential density which if the request was granted would only result in a wider gap permitted between land use densities.

7. **The granting of an adjustment will not be in conformance with the intent and purpose of the General Plan.**

The Sunland-Lake View Terrace-Shadow Hills-East La Tuna Canyon Plan map designates the property for Medium Residential land uses with a corresponding zone of R3 and Height District No. 1.

The proposed addition of two units is in excess of the permitted lot area requirements of the R3 Zone and is not consistent with the intent of the Plan in designating this property as R3 with its corresponding area regulations.

8. **The granting of an adjustment is not in conformance with the spirit and intent of the Planning and Zoning Code of the City.**

In this instance, the request conflicts with the spirit and intent of the zoning provisions. The R3 Zone establishes certain thresholds for lot area to avoid an overcrowding of density on a lot which cannot accommodate a higher number of units. In this case while there is no addition of floor area, the resultant density increase has consequences in terms of added parking requirements and over development on the property.

9. **There are adverse impacts from the proposed adjustment or any adverse impacts have not been mitigated.**

The existing building was developed with 27 units and soon thereafter converted to 29 units. The applicant has offered to reserve the two units for median income tenants in an effort to provide a housing benefit for the community in exchange for a legalization of the two units. Typically, the City seeks as rental units those

which are targeted to those individuals in the Lower or Very Low Income categories. In those cases, the Housing Department requires a covenant which restricts those units to use by those in said income levels for 30 years. The State density bonus provisions also allow for additional density by right provided that certain thresholds identified regarding income can be met and guaranteed. The State density bonus does not waive parking requirements but it does allow for a reduction in the required parking based on the targeted income level and/or age group.

While housing needs have been at the forefront of discussion, particularly where these are intended to serve specific segments of the population, provision of such housing must still be considered in the context of the surrounding residential community. Existing conditions must be considered as well as the quality of life provided to tenants in buildings which were not designed for higher densities and to neighbors who unknowingly have to absorb the incremental impacts resulting from more units which were not planned or approved in the neighborhood. As such no finding can be made that the proposed adjustment will not create any adverse impacts.

10. **The site and/or existing improvements do not make strict adherence to the zoning regulations impractical or infeasible.**

As similarly noted in Finding No. 2, the request is a proposal for the property to be developed over the permitted density. There are no limitations which make strict adherence to the zoning regulations impractical or infeasible as the underlying permitted density of 27 units represents the planned land use adopted in the Community Plan.

The proposed project will do nothing to alleviate the existing congestion in the area and may contribute to further congestion along local streets in the vicinity of the subject property. As such it is not in keeping with the intent of the community plan which recognizes that where there has been inconsistent development, the street systems and infrastructure cannot sustain it and as such has established limits accordingly. Additional density resulting from illegal conversions thus threatens the foundation of the plan.

ADDITIONAL MANDATORY FINDINGS

11. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that the property is located in Zone C, areas of minimal flooding.

12. On July 15, 2004, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Negative Declaration No. ENV 2004-2034-ND (Article

V - City CEQA Guidelines) and determined that this project will not have a significant effect on the environment.

13. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.

APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after OCTOBER 21, 2004, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at www.lacity.org/pln.** Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Lourdes Green

LOURDES GREEN
Associate Zoning Administrator
Direct Telephone No. (213) 978-1313

LG:mg

cc: Councilmember Wendy Greuel
Second District
Adjoining Property Owners
County Assessor