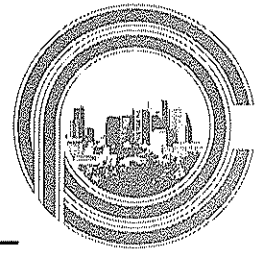




Los Angeles City Planning Department

221 North Figueroa
16th Floor



OFFICE OF ZONING ADMINISTRATION

MEMORANDUM

ZA MEMORANDUM NO. 104

February 13, 1998

TO: Office of Zoning Administration
Department of Building and Safety
Bureau of Engineering
Public Counters
All Other Interested Parties

FROM: Robert Janovici *RJ*
Chief Zoning Administrator

SUBJECT: **LAND USE ENTITLEMENTS ON LOTS AFFECTED BY STREET WIDENING
(SECTION 12.37-G, LAMC)**

Concerns have been expressed about the applicability of Section 12.37-G to existing lots with previously recorded highway dedications that have not yet been utilized to physically widen the street. The issue is what is the appropriate area of the lot to use in determining maximum permitted Floor Area Ratio (FAR) and residential density.

For some time it has been our practice to calculate these entitlements based on the smaller lot area defined by the ultimate lot lines. For cases where highway dedication has been imposed as a condition of approval, this has resulted in a reduction in allowable FAR and density from what would otherwise be permitted if these entitlements were based on the original, larger lot area. Experience has shown, however, that years may elapse between the time that a highway dedication is recorded and the street is actually improved. In some cases, due to fiscal constraints and/or an incomplete right-of-way, it's possible that the street may never be improved.

A more literal reading of Section 12.37-G suggests, however, that land use entitlements should be determined on the basis of the original lot area at least until such time as the street is physically widened. The last paragraph of this provision reads as follows:

"In applying all other provisions of this article, the area of such lot shall be considered as that which existed immediately prior to such required street widening."

It can thus be concluded that the purpose of this provision is to avoid imposing a "double penalty" on property owners which would require both a dedication and/or improvement of land, as well as a commensurate reduction in the development potential of a site. While an owner may not build on any land dedicated for street widening, a taller building that accommodates the full entitlement may be constructed, as long as the structure complies with any height restrictions that have been imposed on the lot.

The reference to "this article" restricts the application of Section 12.37-G to any provision contained in Article 2, Zoning, namely zone changes, conditional uses, and variances, as well as building permits issued by ministerial action. Because tract and parcel maps are governed by Article 7, Division of Land, Section 12.37-G is not applicable, and land use entitlements are properly determined on the basis of the area of the lot subsequent to highway dedication.

City Planning Commission Statement of Policy Confirmation

On December 11, 1997, the City Planning Commission adopted the following "Statement of Policy Confirmation" concerning the applicability of Section 12.37-G (CPC 97-0381 POL):

1. *The City Planning Commission confirms that Section 12.37-G of the Los Angeles Municipal Code (LAMC) is applicable to any provision governed by Article 2. This includes any building permit issued by ministerial action, or any entitlement approved by discretionary action, including zone changes, variances, and conditional uses.*
2. *If dedication of land is required for street improvements, and street widening shall commence at the same time as development on the lot, then land use entitlements such as permitted Floor Area Ratio and residential density shall be determined on the basis of the original and not the ultimate lot lines.*
3. *If new development takes places on a lot with an existing, recorded dedication, land use entitlements shall be based on the original and not the ultimate lot lines until the street is physically widened. After a street has been widened, all future land use entitlements shall be based on the new, smaller lot area. To determine if a dedication has ever been used and to verify actual street dimensions, applicants must obtain appropriate sign-off from Bureau of Engineering staff.*

NOTE: In conformance with State law, all zoning in the City of Los Angeles is consistent with its General Plan. Government Code Section 65860 (d), more commonly referred to as "AB 283," requires consistency between zoning and the General Plan in the City of Los Angeles. Therefore, if a project's proposed Floor Area Ratio and residential density are consistent with its zoning, then it is also

consistent with the General Plan (in the City of Los Angeles, the applicable Community Plan).

Administrative Procedure

The following administrative procedure, cooperatively developed by the Department of City Planning, the Department of Building and Safety, and the Bureau of Engineering, shall be followed in administering Section 12.37-G:

If a dedication is shown on a Cadastral Map, the initial presumption of the Department of Building and Safety shall be that the street has been physically widened, and that entitlements should be based on the new, smaller lot area. If, however, an applicant obtains sign-off from Bureau of Engineering staff indicating that the street has not actually been widened, then the area of the lot shall be calculated on the basis of the original and not the ultimate lot lines. Applicants may use one of two methods below to obtain Engineering sign-off:

- 1. Obtain and submit a copy of an approved Engineering "as-built" street improvement plan, which shows the actual physical dimensions and width of the street on which the subject lot fronts. Engineering staff will then compare the street improvement plan to the Cadastral Map to determine if the highway dedication has been used and the street physically widened. Because Cadastral Maps are not updated to reflect the status of street improvements, the street dimensions shown may not correspond to actual street widths. Thus, Engineering staff will rely on the street improvement plans to verify actual street dimensions.*
- 2. Submit a plot plan or map prepared and certified by a qualified professional, such as a land surveyor or a licensed engineer, which identifies actual street and lot dimensions. Engineering staff will then compare this against the Cadastral Map to determine if the highway dedication has been used and the street physically widened.*

Z.E. Memo 1-7-87

This memorandum supersedes the memorandum issued by the Zoning Engineer on January 1, 1987 referenced as "Density calculations for Lots Requiring Street or Alley Dedication" as it applies to zone changes, conditional uses, and variances, or any other provision governed by Article 2, Zoning. Z.E. Memo 1-7-87 remains in effects with respect to tract and parcel maps because these are governed by Article 7, Division of Land.