

May 23, 2022

File Number: 84YX-357387

Los Angeles City Planning Commission
City of Los Angeles
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

Re: 4544 West Los Feliz Boulevard (DIR-2021-10084-TOC-HCA; ENV-2021-10085-CE)
Appeal of the Director's Determination—Transit Oriented Communities
Affordable Housing Incentive Program and CEQA Categorical Exemption-Class
32

Dear Honorable Commissioners:

This firm represents Jeanette Laba and Eric Herzog ("Appellants") in connection with the proposed 27-unit apartment building (the "Project") located at 4544 West Los Feliz Boulevard ("Project Site") in the City of Los Angeles ("City") (DIR-2021-10084-TOC-HCA; ENV-2021-10085-CE). A Letter of Determination ("LOD") was issued on May 6, 2022 approving the Project with conditions as a Transit Oriented Communities ("TOC") Housing Development and finding the Project categorically exempt from the California Environmental Quality Act ("CEQA") with a Class 32-Infill Development exemption. In accordance with Los Angeles Municipal Code ("LAMC") Section 12.22-A,25(f), Appellants live at 4543 Avocado Street, which directly abuts the Project Site, and may appeal the TOC Program portion of the determination. This letter describes the reasons and justifications for Appellants' appeal of the TOC and CEQA determinations. Appellants adopt and incorporate by reference all objections raised by other parties during the environmental review and land use entitlement process for the Project.

A. The Project Site Is Not Eligible For A TOC Housing Development Because The Adjacent Bus Route Does Not Meet The Requirements For A Major Transit Stop.

The Project Site does not meet the eligibility criteria set forth in Section IV of the Transit Oriented Communities Affordable Housing Incentive Program Guidelines ("TOC Guidelines"). Specifically, the Applicant and Department of City Planning ("DCP") incorrectly state that the Project Site is within 750 feet of a Major Transit Stop at the intersection of Los Feliz Boulevard and Hillhurst Avenue, where two qualifying transit services, the Metro 180 bus line and the Los Angeles Department of Transportation

("LADOT") Observatory/Los Feliz DASH bus line intersect. The City's ZIMAS website does not designate the Project Site as eligible under the TOC Program. See ZIMAS Parcel Report for 4544 West Los Feliz Boulevard (attached hereto as Exhibit "A").

Additionally, as the Los Feliz Neighborhood Council ("LFNC") noted in a May 17, 2022 letter to DCP, LADOT, and Council District 4 (attached hereto as Exhibit "B"), the Observatory/Los Feliz DASH bus line rarely, if ever, runs frequently enough to qualify this intersection as a Major Transit Stop. The LFNC requested that additional resources and attention be allocated to assure that the Observatory/Los Feliz DASH bus line runs often enough to qualify for the TOC Program, which it presently does not.¹

Because the Observatory/Los Feliz DASH bus line does not have at least 15 minute average peak headways during morning and afternoon peak commute periods, it should not qualify the intersection of Los Feliz Boulevard and Hillhurst Avenue as a Major Transit Stop and the Project should not be eligible for the TOC Program. Accordingly, if the Project is not eligible for the TOC Program, then the base and additional incentives as well as the associated site development and design features referenced in Conditions of Approval Numbers 1 through 5 and 7 in the LOD should not apply and the Project's height, floor area ratio, residential density, parking, open space, and setback requirements should be adjusted accordingly to be in compliance with the applicable R3-1 Zone.

Nevertheless, even if the Project is found eligible for the TOC Program, the necessary TOC Program findings cannot be made.

B. The Requested Incentives Will Have Specific Adverse Impacts Upon Public Health and Safety And The Physical Environment.

1. Noise Impacts

The Applicant prepared a Noise Technical Report to analyze the Project in October 2021. The Noise Technical Report did not adequately assess potential noise impacts on Appellants' property or the other residences along Avocado Street. For example, the Noise Technical Report stated that existing noise level measurements were taken in a

¹ Additionally, it should be noted that the LFNC Planning and Land Use Management Committee Chair sent an email inquiry to the Hearing Officer on April 26, 2022 regarding the status of the review of the Project's application, which apparently was unanswered. As such, the LOD was issued prior to DCP receiving important feedback from the LFNC. See May 17, 2022 LFNC letter to Hearing Officer requesting further information about plans for traffic and pedestrian safety, access to the property on Los Feliz Boulevard, and changes to keep the palm tree on Rodney Drive (attached hereto as Exhibit "C"). Such information should be provided to the LFNC and further discussions with the LFNC should occur prior to Project approval.

single location at the corner of Rodney Drive and Avocado Street, in front of one residence that backs up to the Project Site. However, no measurements were taken from the backyards of sensitive receptor locations at residences on Avocado Street, which would be far closer to the Project Site than the noise measurement location on the street corner. The Noise Technical Report should be revised to include measurements taken directly next to the southern side of the Project Site where the property abuts the residences located on Avocado Street.

Additionally, the Noise Technical Report “assumes that [construction] vehicles would not be capable of operating directly where the Project’s property line abuts adjacent structures,”² but there is no indication in the LOD’s conditions of approval that this assumption is correct and will be enforced on the Project Site during construction. An additional condition of approval should be added to the LOD that enforces the Noise Technical Report’s assumption about the location of construction vehicles onsite to avoid impacts to adjacent residents on Avocado Street.

Similarly, assumptions were made in the Noise Technical Report about the haul route trucks would follow during construction because an official haul route was not approved at the time of the analysis. It is unclear if the existing restrictions limiting left-hand turns off of Los Feliz Boulevard onto Rodney Drive from 7:00-10:00 a.m. and 3:00-7:00 p.m. Monday through Friday were taken into account when making this assumption. Because of the turn restrictions, trucks coming to the Project Site heading west on Los Feliz Boulevard would likely turn left at Hillhurst Avenue, then right on Avocado Street in order to turn right onto Rodney Drive and enter the Project Site or turn right again to park along Los Feliz Boulevard. This truck traffic noise could impact Appellants and the surrounding neighborhood by increasing existing noise levels by 3dBA or more on Avocado Street. This impact should have been more thoroughly evaluated before making the finding that there would be no specific adverse impacts upon public health and safety and the physical environment.

The Noise Technical Report also states that off-site noise impacts from vendors and employees that access the construction site were analyzed, but it is unclear if any of those individuals were assumed to park vehicles on or access the Project site from Avocado Street, Rodney Street, Los Feliz Boulevard, or other streets in the area.³ This should be clarified and the Noise Technical Report revised to accurately evaluate off-site noise impacts on the surrounding neighborhood before making the finding that there would be no specific adverse impacts upon public health and safety and the physical environment.

² Noise Technical Report, prepared by DKA Planning (October 2021), page 10.

³ Noise Technical Report, page 11.

Finally, the Noise Technical Report assumes that the only noise generated on the rooftop common open space would be human conversation.⁴ This does not account for larger gatherings of people, music, or other amplified noise that might occur on the rooftop or the individual units' balconies. The Noise Technical Report concludes without demonstrating any supporting evidence that the 20 to 30 foot height difference between the roof of the adjacent residences would eliminate any direct sound path. The potential impact of noise from the lower balconies is also not evaluated in any detail in the Noise Technical Report. The Noise Technical Report should be revised to more accurately evaluate noise impacts from the roof and balconies on the sensitive receptors in the surrounding neighborhood, especially those directly to the south of the Project Site, before making the finding that there would be no specific adverse impacts upon public health and safety and the physical environment. Furthermore, Appellants request the following design changes and conditions of approval:

- Remove Project balconies from the south side of the building facing Avocado Street.
- Relocate the rooftop common open space away from the south side of the building facing Avocado Street.
- Require noise barriers be constructed around the rooftop common open space in order to prevent noise from carrying into the neighborhood to the south.
- Restrict hours of use of the outdoor common open spaces to 7:00 a.m. to 10:00 p.m. daily.
- Construct noise barriers and plant privacy hedges at least ten (10) feet high on the south side of the Project Site.

2. Historic Resources Impacts

The Project violates the Secretary of the Interior's Standards for the Treatment of Historic Properties. A project has a significant impact if it would result in a significant adverse change in the significance of a historic resource. A substantial adverse change occurs, among other things, if a project does not conform to the Secretary of the Interior's Standards. The Applicant prepared a Memorandum for the Record (MFR) to analyze the Project's impacts to the potential Los Feliz Boulevard Multi-Family Residential Historic District.⁵ The MFR incorrectly concludes that the Project is consistent with Standard 9 regarding "related new construction." Standard 9 provides:

The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment. (Emphasis added.)

⁴ Noise Technical Report, page 17.

⁵ Memorandum for the Record, prepared by Sapphos Environmental, Inc. (August 31, 2021).

The Project does not meet this standard for several reasons. The modern design is not in keeping with the other architectural types comprising the potential Los Feliz Boulevard Multi-Family Residential Historic District. The Project is taller than adjacent buildings in the Los Feliz Boulevard Multi-Family Residential Historic District, and the choice of materials, such as corten steel, is a stark departure from the collection of historic multi-family residential buildings along Los Feliz Boulevard. It is possible to design new buildings in the neighborhood that do not contrast with the existing historic buildings in such an incongruous manner. For example, the Scientology Mission of Los Feliz on the corner of Hillhurst Avenue and Avocado Street incorporated historically-inspired features in its design, making the 2013 structure blend in with other older buildings in the neighborhood. The same could and should be done for this Project. Until then, the Project will have a specific adverse impact on the Los Feliz Boulevard Multi-Family Residential Historic District.

3. Geotechnical And Seismic Impacts

The Project includes a subterranean parking garage that calls for approximately 10,000 cubic yards of dirt to be exported. As noted in the LOD, the Project Site is located within the Upper Elysian Park Fault Zone, the Alquist-Priolo Fault Zone, and a Liquefaction Area. Despite these facts, no soils or geotechnical reports are provided in the DCP case file for the Project or referenced in the LOD, and the Director's determination that there would be no specific adverse impacts upon public health and safety and the physical environment is not supported by evidence in the record. Given the Project design and location in a fault zone, Appellants are concerned that the excavation of the parking garage could impact their adjacent property as well as their Avocado Street neighbors' properties. Evidence supporting the finding that there would be no specific adverse impacts upon public health and safety and the physical environment should be provided and evaluated before a final determination is made.

C. The Required Class 32 Categorical Exemption Findings Cannot Be Made.

The LOD states that the Project is exempt from CEQA pursuant to CEQA Guidelines Section 15332 (Class 32) and there is no substantial evidence demonstrating that an exception to a categorical exemption applies. This finding is incorrect. Specifically, the Director erred in finding that approval of the Project would not result in any significant effects relating to noise. As described above in Section B.1, there are noise impacts that are inadequately addressed in the Noise Technical Report, and as such, the City cannot conclude that the Project will have less than significant impacts.

Similarly, there is a lack of evidence demonstrating less than significant potential geotechnical and seismic impacts due to excavation of the subterranean parking garage

and the Project Site's location within the Upper Elysian Park Fault Zone, the Alquist-Priolo Fault Zone, and a Liquefaction Area. As described above in Section B.3, evidence should be provided to support the use of a Class 32 Categorical Exemption for this Project in this location.

The City also cannot conclude that no exception to the Class 32 Categorical Exemption applies because, as described above in Section B.2, the Project may cause a substantial adverse change in the significance of a historical resource. The Project's design features, including materials, features, and height will not be compatible with the potential Los Feliz Boulevard Multi-Family Residential Historic District, as required by Secretary of the Interior's Standard 9. As such, because the Project does not conform to the Secretary of the Interior's Standards, a substantial adverse change may occur. This disqualifies the City from relying on the Class 32 Categorical Exemption under CEQA Guidelines Section 15300.2.

D. Conclusion

The Appellants support new development on the Project Site that is respectful and protective of the surrounding residents. As currently designed, however, the Project fails to do so. Based on the above, the Director erred in approving the Project under the TOC Program, and the Applicant and City must correct significant flaws in the Project's design before final approval. The Director also erred in finding the Project categorically exempt from CEQA, and further analysis must be conducted to analyze and mitigate potential impacts. The Appellants look forward to working with the Applicant and the City to address these issues.

Regards,



Alison G. Martinez
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Exhibit A



City of Los Angeles Department of City Planning

5/22/2022 PARCEL PROFILE REPORT

PROPERTY ADDRESSES

4544 W LOS FELIZ BLVD

2140 N RODNEY DR

ZIP CODES

90027

RECENT ACTIVITY

None

CASE NUMBERS

CPC-2016-1450-CPU

CPC-1986-831-GPC

CPC-1963-15406

ORD-164699

ORD-129279

ORD-126662

DIR-2021-10084-TOC-HCA

ENV-2021-10085-EAF

ENV-2016-1451-EIR

Address/Legal Information

PIN Number	150B197 46
Lot/Parcel Area (Calculated)	13,493.0 (sq ft)
Thomas Brothers Grid	PAGE 594 - GRID A3
Assessor Parcel No. (APN)	5590003006
Tract	AVOCADO TRACT
Map Reference	M B 22-138/139
Block	None
Lot	11
Arb (Lot Cut Reference)	None
Map Sheet	150B197

Jurisdictional Information

Community Plan Area	Hollywood
Area Planning Commission	Central
Neighborhood Council	Los Feliz
Council District	CD 4 - Nithya Raman
Census Tract #	1891.02
LADBS District Office	Los Angeles Metro

Permitting and Zoning Compliance Information

Administrative Review	None
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Planning and Zoning Information

Special Notes	None
Zoning	R3-1
Zoning Information (ZI)	ZI-2441 Alquist-Priolo Earthquake Fault Zone
General Plan Land Use	Medium Residential
General Plan Note(s)	Yes
Hillside Area (Zoning Code)	No
Specific Plan Area	None
Subarea	None
Special Land Use / Zoning	None
Historic Preservation Review	Yes
Historic Preservation Overlay Zone	None
Other Historic Designations	None
Other Historic Survey Information	None
Mills Act Contract	None
CDO: Community Design Overlay	None
CPIO: Community Plan Imp. Overlay	None
Subarea	None
CUGU: Clean Up-Green Up	None
HCR: Hillside Construction Regulation	No
NSO: Neighborhood Stabilization Overlay	No
POD: Pedestrian Oriented Districts	None
RFA: Residential Floor Area District	None
RIO: River Implementation Overlay	No
SN: Sign District	No
Streetscape	No
Adaptive Reuse Incentive Area	None

This report is subject to the terms and conditions as set forth on the website. For more details, please refer to the terms and conditions at zimas.lacity.org
(*) - APN Area is provided "as is" from the Los Angeles County's Public Works, Flood Control, Benefit Assessment.

Affordable Housing Linkage Fee	
Residential Market Area	Medium-High
Non-Residential Market Area	High
Transit Oriented Communities (TOC)	Not Eligible
RPA: Redevelopment Project Area	None
Central City Parking	No
Downtown Parking	No
Building Line	None
500 Ft School Zone	No
500 Ft Park Zone	No
Assessor Information	
Assessor Parcel No. (APN)	5590003006
APN Area (Co. Public Works)*	3.219 (ac)
Use Code	0100 - Residential - Single Family Residence
Assessed Land Val.	\$572,714
Assessed Improvement Val.	\$79,633
Last Owner Change	06/15/2010
Last Sale Amount	\$9
Tax Rate Area	13
Deed Ref No. (City Clerk)	815244
	641212
	425069
	1081945-46
Building 1	
Year Built	1940
Building Class	D7C
Number of Units	1
Number of Bedrooms	3
Number of Bathrooms	2
Building Square Footage	2,226.0 (sq ft)
Building 2	No data for building 2
Building 3	No data for building 3
Building 4	No data for building 4
Building 5	No data for building 5
Rent Stabilization Ordinance (RSO)	No [APN: 5590003006]
Additional Information	
Airport Hazard	None
Coastal Zone	None
Farmland	Area Not Mapped
Urban Agriculture Incentive Zone	YES
Very High Fire Hazard Severity Zone	No
Fire District No. 1	No
Flood Zone	Outside Flood Zone
Watercourse	No
Hazardous Waste / Border Zone Properties	No
Methane Hazard Site	None
High Wind Velocity Areas	No
Special Grading Area (BOE Basic Grid Map A-13372)	Yes
Wells	None
Seismic Hazards	
Active Fault Near-Source Zone	
Nearest Fault (Distance in km)	Within Fault Zone
Nearest Fault (Name)	Upper Elysian Park
Region	Los Angeles Blind Thrusts

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 (*) - APN Area is provided "as is" from the Los Angeles County's Public Works, Flood Control, Benefit Assessment.

Fault Type	B
Slip Rate (mm/year)	1.30000000
Slip Geometry	Reverse
Slip Type	Poorly Constrained
Down Dip Width (km)	13.00000000
Rupture Top	3.00000000
Rupture Bottom	13.00000000
Dip Angle (degrees)	50.00000000
Maximum Magnitude	6.40000000
Alquist-Priolo Fault Zone	Yes
Landslide	No
Liquefaction	Yes
Preliminary Fault Rupture Study Area	No
Tsunami Inundation Zone	No
Economic Development Areas	
Business Improvement District	None
Hubzone	Not Qualified
Opportunity Zone	No
Promise Zone	None
State Enterprise Zone	None
Housing	
Direct all Inquiries to	Los Angeles Housing Department
Telephone	(866) 557-7368
Website	https://housing.lacity.org
Rent Stabilization Ordinance (RSO)	No [APN: 5590003006]
Ellis Act Property	No
AB 1482: Tenant Protection Act	See Notes
Assessor Parcel No. (APN)	5590003006
Address	4544 LOS FELIZ BLVD
Year Built	1940
Use Code	0100 - Residential - Single Family Residence
Notes	The property is subject to AB 1482 only if the owner is a corporation, limited liability company, or a real estate investment trust.
Public Safety	
Police Information	
Bureau	Central
Division / Station	Northeast
Reporting District	1142
Fire Information	
Bureau	West
Batallion	5
District / Fire Station	35
Red Flag Restricted Parking	No

CASE SUMMARIES

Note: Information for case summaries is retrieved from the Planning Department's Plan Case Tracking System (PCTS) database.

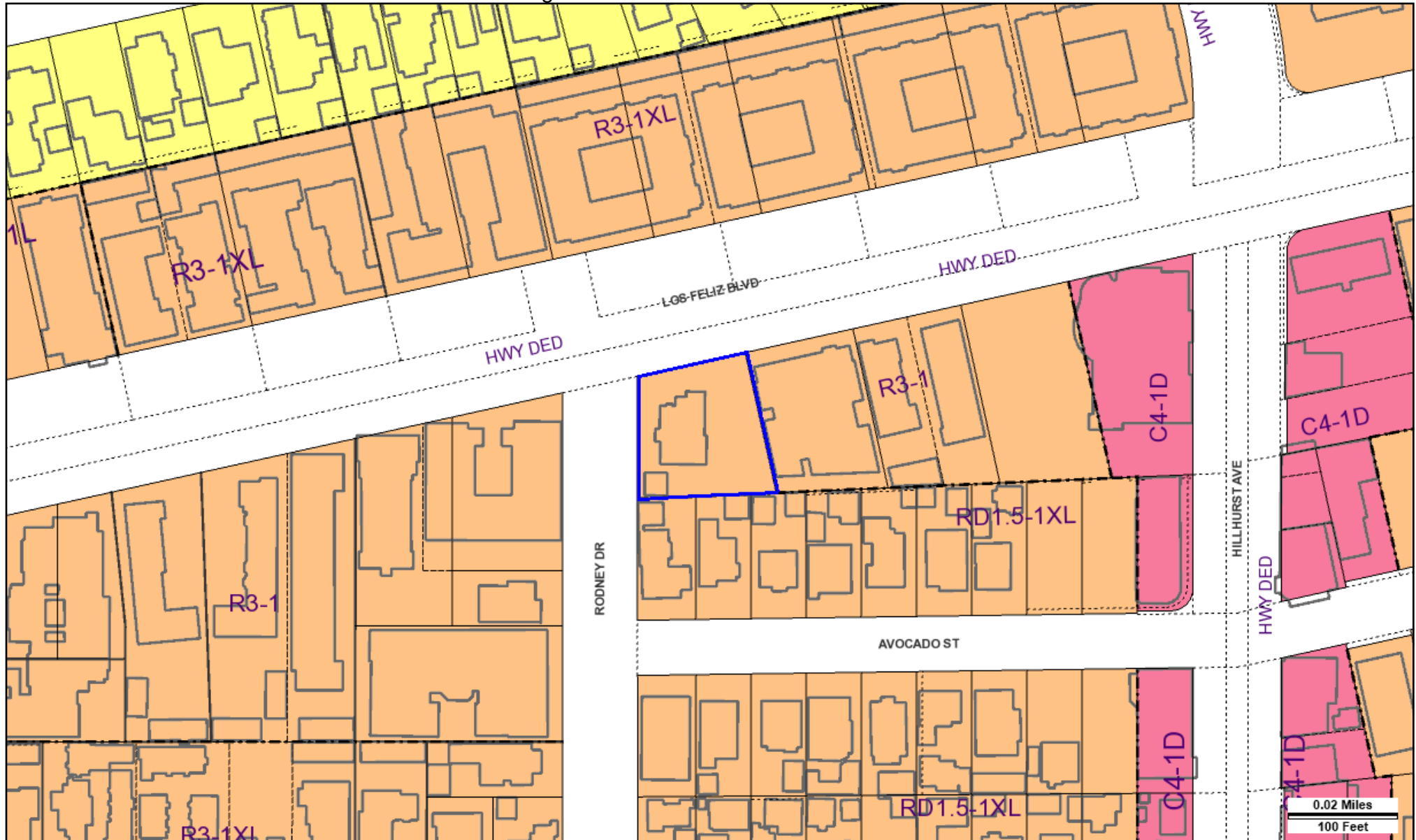
Case Number:	CPC-2016-1450-CPU
Required Action(s):	CPU-COMMUNITY PLAN UPDATE
Project Descriptions(s):	UPDATE TO THE HOLLYWOOD COMMUNITY PLAN
Case Number:	CPC-1986-831-GPC
Required Action(s):	GPC-GENERAL PLAN/ZONING CONSISTENCY (AB283)
Project Descriptions(s):	HOLLYWOOD COMMUNITY PLAN REVISION/GENERAL PLAN CONSISTENCY PLAN AMENDMENT, ZONE CHANGES AND HEIGHT DISTRICT CHANGES
Case Number:	CPC-1963-15406
Required Action(s):	Data Not Available
Project Descriptions(s):	
Case Number:	DIR-2021-10084-TOC-HCA
Required Action(s):	TOC-TRANSIT ORIENTED COMMUNITIES HCA-HOUSING CRISIS ACT
Project Descriptions(s):	PURSUANT TO LAMC 12.22 A.31 A TRANSIT ORIENTED COMMUNITY PROJECT WITH THE FOLLOWING INCENTIVES, AN INCREASE IN HEIGHT OF ONE-STORY, A REDUCTION IN OPEN SPACE, AND A REDUCTION IN THE REQUIRED SIDE YARDS. AN ENVIRONMENTAL REVIEW FOR A HAUL ROUTE.
Case Number:	ENV-2021-10085-EAF
Required Action(s):	EAF-ENVIRONMENTAL ASSESSMENT
Project Descriptions(s):	PURSUANT TO LAMC 12.22 A.31 A TRANSIT ORIENTED COMMUNITY PROJECT WITH THE FOLLOWING INCENTIVES, AN INCREASE IN HEIGHT OF ONE-STORY, A REDUCTION IN OPEN SPACE, AND A REDUCTION IN THE REQUIRED SIDE YARDS. AN ENVIRONMENTAL REVIEW FOR A HAUL ROUTE.
Case Number:	ENV-2016-1451-EIR
Required Action(s):	EIR-ENVIRONMENTAL IMPACT REPORT
Project Descriptions(s):	UPDATE TO THE HOLLYWOOD COMMUNITY PLAN

DATA NOT AVAILABLE

ORD-164699

ORD-129279

ORD-126662



Address: 4544 W LOS FELIZ BLVD

APN: 5590003006

PIN #: 150B197 46

Tract: AVOCADO TRACT

Block: None

Lot: 11

Arb: None

Zoning: R3-1

General Plan: Medium Residential



Exhibit B



TREASURER
Erica Vilardi-Espinosa

VICE PRESIDENT
Misty LeGrande - Communications

PRESIDENT
Jon Deutsch

VICE PRESIDENT
Dan McNamara - Administration

SECRETARY
Amanda Blide

May 17, 2022

City of Los Angeles Department of City Planning;
City of Los Angeles Department of Transportation;
City of Los Angeles Council District 4

To Whom it May Concern,

It has come to our attention that there are parcels within Los Feliz that are designated for consideration under the Transit Oriented Communities Affordable Housing Incentive Program based on their proximity to the DASH Observatory Bus Route.

While we support both the TOC program and the DASH, we must note that the Observatory Bus rarely-if-ever runs frequently enough to qualify parcels for this designation.

We request that either: additional resources and attention be allocated to assure that the Observatory DASH runs often enough to qualify such parcels for the TOC program.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jon Deutsch', written over a blue horizontal line.

Jon Deutsch, President
Los Feliz Neighborhood Council

By:

Dan McNamara
LFNC Vice President - Administration

Exhibit C



May 17, 2022

Hearing Officer
Department of City Planning
Office of Zoning Administration
200 North Spring Street, 7th Floor
Los Angeles, CA 90012

Re: DIR-2021-10084-TOC-HCA/4544 W Los Feliz Blvd

Dear Hearing Officer,

Although the above-referenced project was approved by the Department of City Planning pursuant to a letter of determination issued May 6, 2022, we write to request further information about plans for traffic and pedestrian safety, access to the property on Los Feliz (curb cut), and change to keep the palm on Rodney and adjust the driveway.

Note that project approval was issued after an April 26, 2022 email inquiry by our Committee Chair into the status of your review of the project application was ignored and went unanswered.

Sincerely,

Jon Deutsch, President
Los Feliz Neighborhood Council

By:

Planning and Land Use Management Committee

CC:
Chris Mamian, Applicant
Gary Benjamin, Representative