

ATTACHMENT D
HEARING OFFICER ADDENDUM

**Hearing Officer Addendum
Affordable Housing Concession Permit #11879
127 & 141 N. Madison Avenue
Hearing Date: January 16, 2019**

received
2/1/19

The approval of the Affordable Housing Concession permit (AHCP) has been appealed. The appeal includes the following appeal points:

1. The CEQA determination is incorrect, citing that the proposed project does not qualify as an in-fill project and the consultant erred in failing to adequately analyze noise and vibration impacts on the Ford Place Historic District.
2. The KMA financial analysis is incorrect.
3. Additional points: there are significant tree impacts, the required findings cannot be made, significant errors and omissions, failures to consider evidence, decision not supported by substantial evidence, decision is arbitrary and capricious.

The applicant filed for an AHCP to exceed the floor area ratio (FAR) of the project from 1.5 to 2.25, and to exceed the maximum height limit to permit a building height of 62 feet (no height averaging) where the Zoning Code limits the maximum to 50 feet or 65 feet with height averaging. The applicant also requested a private tree removal permit to allow the removal of four protected trees on private property. In order to grant the AHCP, I was required to make the following three findings:

1. The concessions or incentives are required in order for the designated units to be affordable;
2. The concession or incentive would not have a specific adverse impact on public health, public safety or the physical environment, and would not have an adverse impact on property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, or adverse impact, without rendering the development unaffordable to low- and moderate-income households. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete; and
3. The concession or incentive would not be contrary to state or federal law.

A traffic impact analysis, acoustical study, an air quality assessment, greenhouse gas emissions analysis, a cultural resources analysis and survey were conducted. All found less than significant impacts. The noise and vibration analysis included an assessment of the nearest vibration sensitive receptors to the project site within the Ford Place Historic District. The analysis showed that none of the anticipated vibration levels would exceed the .12-in-per-second significance threshold at the closest historical buildings. Impacts were found to be less than significant. The cultural resource analysis identified three resources in the area, Ford Place Historic District, Playhouse Historic District and the Scottish Rite Cathedral. The analysis indicated that no impacts are anticipated to historical resources. Conditions of approval have been included regarding complying with a vibration management plan and implementing minimum allowable setbacks from vibration sensitive receptors for heavy machinery, as well as implement best

management practices to reduce construction noise levels. The project also requires Design Review by the Design Commission.

A consultant (KMA) completed a financial analysis of the proposed project using the same type of analysis/ methodology applied to every project in the City of Pasadena requesting an AHCP. KMA analyzed two development scenarios, the Base Case scenario and the Proposed Project scenario. In their analysis KMA concluded that there is not sufficient evidence for the City to reject the Height and FAR concessions requests under the financial evidence requirement parameters imposed by California Government Code Section 65915(d)(1)(A).

The applicant has also requested a tree removal permit for four protected trees. In order to approve a private tree removal permit one of six findings shall be made for each tree planned for removal. A tree report was submitted along with a landscape design plan. The landscape design plan indicated that 14 new trees are proposed as replacement trees. Based on the plan submitted with the types and locations of the trees in the landscape design plan, I was able to make the finding that the trees and their canopies would be sustainable over time by adhering to the adopted replacement matrix. A condition of approval is included requiring the applicant to submit a final landscape plan to be approved by the Zoning Administrator prior to the issuance of a building or grading permit.

A public hearing was held on January 16, 2019, but was not required. Public testimony was taken at the public hearing and taken into consideration.

I thoroughly reviewed the staff report and the exhibits. I also visited the subject site prior to the hearing date. I approved the Affordable Housing Concession Permit and the Private Tree Removal Permit with conditions of approval based on the required findings for the requested entitlement.

My findings remain the same. The appeal should be denied.

Undine Petrulis, Hearing Officer