

**Iraheta, Alba**

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**To:** Jomsky, Mark  
**Subject:** RE: Call up 141 South Lake

**From:** Erika Foy [REDACTED]  
**Sent:** Friday, July 9, 2021 1:42 PM  
**To:** Jomsky, Mark <mjomsky@cityofpasadena.net>  
**Subject:** Call up 141 South Lake

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Hi Mark- Can you please add the following comment to item 21?

Dear Mayor and Council- I am writing to ask you to support the call for review of the BZA decision to overturn the zoning administrators determination for the project at 141 South Lake Avenue in District 7. Madison Heights Neighborhood Association has just now had a chance to discuss the Central District Specific Plan and is now preparing comments for the planning commission presentation. I feel it is very important the public has an understanding as to how this decision might affect South Lake for the future and if this decision affects the Central District Specific Plan process. It can be very confusing and hard to follow what's happening with this decision and we need your expertise to understand what's going on and what the ramifications might be going forward. I do know David Reyes was quoted in the Star News on November 12, 2019 saying if this decision is "successful, the lawsuit could widen the pathway for developers looking to bypass elements of Pasadena's overarching development plans, which would create "concern about the city's ability to plan for its future," Reyes said. "This would represent an additional intrusion into that realm."

The BZA may have made the correct decision, but I believe the council has an obligation to the public to really clarify and offer transparency during this time as to what this means for the community and neighboring residences. I am concerned there is an issue here with the public's ability to shape and develop the Specific Plan through the proper public process by already changing the scope and original purpose of Lake Ave. I appreciate the consideration. Erika Foy

07/12/2021

Item 21

**Iraheta, Alba**

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**From:** Nina Chomsky [REDACTED]  
**Sent:** Friday, July 9, 2021 1:51 PM  
**To:** PublicComment-AutoResponse  
**Subject:** City Council Meeting 7/12/2021; Agenda Item 21; Call Up of BZA Decision - 141 S. Lake Ave.

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**Please Deliver to the Council and Post -- Thank You.**

**Re: City Council Meeting 7/12/2021; Agenda Item 21; Proposed Call For Review of Board of Zoning Appeals Decision to Overturn the Zoning Administrator's Determination for the Project at 141 South Lake Avenue.**

Mayor Gordo and councilmembers,

I am writing in my individual capacity to **SUPPORT** the above-referenced Call For Review..

- The Board of Zoning Appeals (BZA) decision, overturning the Staff's recommendation, demands a full airing and discussion at the Council. South Lake Ave. is one of Pasadena's several premiere commercial and "shopping" streets. This decision under the current and applicable Central District Specific Plan which is rooted in extensive and broad public participation, sets aside decades of Planning and Zoning policies identifying, encouraging, and maintaining South Lake as a primary "shopping" and commercial street. Further, the decision sets in motion the permanent transformation of the street without broad public participation and BEFORE the future Central District Specific Plan update process is finalized.
- The issue before the BZA was whether an affordable housing concession or incentive can be granted for modifications of use restrictions. The Zoning Administrator determined No. The pertinent application requested one affordable housing concession to allow the residential use to occupy more than 50 percent of the project's gross floor area on the eastern portion of the site (along Lake Avenue). The current and applicable Central District Specific Plan and Zoning Code provide that along South Lake Ave:

*"ground-floor housing is prohibited, and housing shall not occupy more than 50 percent of total building floor area along Lake Avenue from Green Street south to California Boulevard, to maintain the commercial retail and service character of the South Lake Shopping Area. Housing is allowed on upper floors and adjacent parcels to stimulate and activate the area."*

- On the other hand, the Appellant argued before the BZA that the requested concession applies to a development standard, not a use standard, and, that the refusal to grant the concession violates the State (Housing) Density Bonus Law (SDBL). The BZA (3-1 vote) agreed, in effect, ignoring the 50% rule and allowing the SDBL to override long-time City policy as well as setting the stage for the transition of South Lake to a primary Housing corridor as opposed to a primary commercial, "shopping" street, all outside of the public process that should govern the adoption and updates of Specific Plans, particularly one so important as the Central District Specific Plan.

Please agree to call this BZA decision up to the Council for a full and detailed public discussion of such changes to City policies and such impacts to South Lake Ave.

Thank you for your consideration of my comments and concerns.

Sincerely,  
Nina Chomsky

**07/12/2021**

**Item 21**

RECEIVED

2021 JUL 12 AM 8:45

CITY CLERK  
CITY OF PASADENA



July 12, 2021

**City Council**

c/o Mark Jomsky

City Clerk  
100 North Garfield Ave. Pasadena, CA 91101

**Re: Review of BZA decision for proposed project at 141 South Lake**

Dear Mayor Gordo and City Council members:

Livable Pasadena is writing in support of a City Council review of the recent BZA decision regarding the proposed project at 141 South Lake Avenue. It is vital that the community be allowed to provide comments and to have a full discussion of the BZA's reversal of the city staff's recommendation. This project will have serious implications for the future of development decisions in Pasadena and will greatly change the character of South Lake Avenue. We believe that the BZA incorrectly determined that the concession requested from the developer was a design standard. Furthermore, there are strong public policy issues at play. The community currently is participating, through public comments, on proposed changes to the Central District Specific Plan. Dramatic changes to the South Lake Avenue shopping area should not be made until that process is completed. As a result, we believe the City Council should ultimately uphold the original city staff's prior decision to deny, and overturn the BZA decision to approve, the above proposed project.

Thank you, Megan Foker  
On behalf of Livable Pasadena

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**Iraheta, Alba**

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**From:** julianna <[redacted]@net>  
**Sent:** Saturday, July 10, 2021 12:27 PM  
**To:** PublicComment-AutoResponse; Jomsky, Mark  
**Cc:** 'julianna'; 'David Delgado'; Lyon, Jason  
**Subject:** RE: July 12th City Council Agenda Item #21 -- Consideration for Call for Review  
**Attachments:** CC Agenda Item# 21 - Call for Review of BZA Decision on 141 S. Lake.docx

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Mark,

Please add the following memo to correspondence for Item #21 on the July 12<sup>th</sup> Council Agenda (also attached).

—

DATE: July 9, 2021

TO: Honorable Mayor and Members of the Pasadena City Council

FROM: Julianna Delgado, PhD, AICP, Planning Commissioner/BZA Member

**RE:** July 12<sup>th</sup> City Council Agenda Item #21: Consideration of a Call for Review of a Board of Zoning Appeals' decision to overturn the Zoning Administrator's Determination No. 54 for the project at 141 South Lake Avenue in Council District 7 (Councilmember Williams, District 2).

At the BZA's June 17<sup>th</sup> Public Hearing on this matter, no correspondence or public comment was received. In case you were not able to listen to the recording of the meeting, I voted in favor of the Board's decision to overturn based on the analysis which follows. The former Zoning Administrator ("ZA") erred in applying the Pasadena Municipal Code and defied State law in disallowing the developer of the 141 South Lake Avenue mixed-use project to apply for an Affordable Housing Concession Permit ("AHCP") for one concession: to exceed 50% of the building square footage for housing.

**DISCUSSION:**

The ZA's determination was based on applying PMC Code Section 17.30.030.C.2.b., which states that "...housing shall not occupy more than 50 percent of total building floor area along Lake Avenue from Green Street south to California Boulevard [Area 3 of the Lake Avenue Subdistrict, Central District Specific Plan]. Ground floor housing is also prohibited there. However, the Code's building floor area restriction is vague and open to two interpretations: broad and narrow. The Central District Specific Plan, which the Code implements, is equally vague on the matter. Applying either interpretation, the ZA decision was in error.

**Interpretation #1**

The Code could be read broadly as placing a housing development cap on the entirety of Area 3. The Specific Plan refers to maintaining the commercial shopping character of the South Lake area, not a single parcel or building. If read this way, some projects may be permitted with more housing, others less as long as the cumulative amount is not exceeded and the ground floor restricted to pedestrian-

oriented retail or service uses. Based on my site visit, Area 3 has two mixed-use developments fronting Lake: the Prado (corner of Lake and Green) with 103 units and the Pasadena Collection (at Lake and Cordoba) with 40 live/work spaces. An AHCP for 141 South Lake Avenue to provide more than 50% of the project's building square footage for housing would not result in exceeding the housing cap in Area 3. Thus, the ZA's determination, if relying on this interpretation, would not be based on fact.

### Interpretation #2

Although not explicit, the Code could also be read narrowly—which the ZA did—as placing a restriction on the amount of housing permitted on each and every parcel. Even so, to exceed 50% square footage for housing, contrary to what the ZA contended would not require a 'land use variance'. Here the ZA confused the definition of a *land use*, which refers to a category of human activity, with a *development standard*, the physical modification of the environment in terms of size and location.

Furthermore, the ZA failed to consider the City's own distinction between the two. PMC Section 17.30.040 lists on Table 3-2, the Central District General Development Standards [my emphasis]. Under the category of "Residential uses," it calls out "Standards applicable to residential uses where allowed in nonresidential districts," which includes by reference the 50% limitation, a development standard in Area 3.

**Denying the project to apply for an AHCP to exceed 50% is contrary to the City's and State's Density Bonus laws.** A density bonus concession serves as a type of variance in development standards 'by right,' as a performance incentive to encourage more affordable housing in California. The applicant is not proposing to change the land use (e.g. to industrial) nor produce units on the pedestrian-oriented ground floor, but instead to increase the intensity of housing on upper floors, without exceeding other development standards. Per State law, a concession may be "modifications of zoning code requirements related to building standards." In compliance with State law, under PMC Code Section 17.43.040, "Density Bonus Allowance," among concessions the number of dwelling units permitted per acre or the building height (the vertical plane) may be exceeded, which increase physical intensity. It stands to reason the percentage of square footage (the horizontal plane), a development standard per the PMC correlated with the production of habitable space, would also be permitted to be increased as an incentive. Thus, if the Code section is read in the narrowest sense, then the ZA's determination was also in error and did not comply with sound planning standards and practices nor with City and State regulations.

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Whichever reading of the Code was applied, the former ZA's determination was in error. Therefore, based on impartial further analysis and reasoning in support of the City's and State's laws, I voted to overturn the ZA decision and simply allow the applicant to apply for an Affordable Housing Concession Permit, which if submitted will be subject to further review.

**Julianna Delgado, M.Arch, Ph.D, AICP**

President, Southern California Planning Congress  
Planning Commissioner, City of Pasadena

Professor Emerita, Department of Urban and Regional Planning  
Co-Director, California Center for Land and Water Stewardship  
California State Polytechnic University, Pomona

**Iraheta, Alba**

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**From:** Richard McDonald < >  
**Sent:** Monday, July 12, 2021 10:04 AM  
**To:** PublicComment-AutoResponse  
**Cc:** Jomsky, Mark; Reyes, David; Rocha, Luis; Yu, Beilin; Burke Farrar  
**Subject:** Agenda Item 21

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Please provide the following statement from the applicant to the City Council for Agenda Item 21 tonight. Thank you.

Dear Mayor and City Council Members --

On March 19, 2021, the Superior Court granted the applicant's petition for a writ of mandate and ordered the City to process the applicant's appeal of the ZA's September 26, 2019 refusal to process its Affordable Housing Concession Permit ("AHCP"), under the State Density Bonus Law, incorporated in the Municipal Code at 17.43 (the, "SDBL").

On June 17, 2021, the BZA heard the appeal and overturned staff's decision in a well-reasoned, thoughtful opinion grounded in facts and law.

That its decision has been called for review is not surprising. That the call for review is supported by the anti-affordable housing crowd also is not surprising. As alleged in Section C of our Petition & Complaint against the City, entitled "The Political Environment in Pasadena", beginning at Paragraph 49, "Over roughly the past three years, various neighborhood associations, including but not limited to, Pasadena Heritage, the Madison Heights Neighborhood Association, the West Pasadena Residents Association, and others, have objected to density bonus projects and development throughout the City as a matter of principle in direct opposition to the SDBL."

But, the law is what it is and no amount of legal sophistry by the City will change that. Regardless of whether you call the interior square footage ratio a use restriction or a development standard, state law allows the applicant to get a concession from it and preempts any local opinions to the contrary. *See, e.g., Ruegg & Ellsworth v. City of Berkeley*, 277 Cal. Rptr. 3d 649, 676-77 (2021) (reaffirming the State's ability to pass housing legislation limiting local governments' discretion to deny housing projects). That the City purposely ignores that legal reality is simply more evidence of its willingness to violate the SDBL, Housing Accountability Act, and act in bad-faith.

Accordingly, should you decide to call it for review, the applicant simply would request that the hearing date be coordinated with it so that it can appear and present all of the issues that were presented to the BZA for your determination. Under the Code, your hearing will be a de novo hearing, which makes it important for the applicant to be able to appear and participate. Thank you.

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Richard A. McDonald, Esq.

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