

**APPEAL OF
CASE No. CPC-2007-3888-CU-ZV-SPR-PA1-1A**

At its meeting of February 25, 2021, City Planning Commission sustained the Director of Planning in his approval of Case No. CPC 2007-3888-ZV-SPR-PA1, a waiver of required street dedication and improvement for Waste Management.

This appeal should not be seen as a punitive measure again Waste Management. On the contrary, they are commended for maintaining their side of the street, substantial compliance with Case No. CPC-2007-3888-CU-ZV-SPR, and operating an essential business for the City of Los Angeles. Nor is this appeal necessarily opposed a waiver.

Rather, this appeal is because of error and abuse of discretion by the Director and subsequently the City Planning Commission due to the numerous defects in the Letter of Determination. Specifically, the Director's decision was based on the belief that Peoria Street and Tujunga Avenue will be temporarily and permanently closed, which "legally" was not decided at the time of writing the Letter of Determination.

The appellant is merely requesting City Council to remand the matter, pursuant to Section 12.27-K of the Los Angeles Municipal Code, since evidence could not reasonably have been presented to the Director and the evidence is such a nature as might reasonably led to a different decision. Another resolution is for City Council to request written responses from the City Planning Department regarding the points listed below to ensure the Director's action stands on firm legal grounds.

The following points address statements made to City Planning Commission in City Planning Department's report:

Point No.1 (*pg. A-4 of the Staff Report, under added for emphasis*)

"The Los Angeles Municipal Code (LAMC) states in Section 12.37 that "the Director may waive, reduce or modify the required dedication or improvement as appropriate after making any of the following findings, in writing, based on substantial evidence in the record:

- (1) The dedication or improvement requirement does not bear a reasonable relationship to any project impact.
- (2) The dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on guidelines the Streets Standards Committee has established.
- (3) The dedication or improvement requirement is physically impractical."

APPELLANT'S Response: (False) There is no mention of Section 12.37 in the Letter of Determination. Nor was a Waiver of Dedication and Improvement (WDI) suffix on the

case number, which would have required the applicant to submit Findings. Los Angeles Municipal Code Section 12.37(I)3, regarding waiver of dedication and improvements, states "[f]or projects that require a discretionary entitlement, an applicant shall file a waiver request as part of the master land use application or subdivider's statement for the project."

Point No. 2 (pg. A-4 of the Staff Report, under added for emphasis)

"Through written documentation from the offices of City Council District 6 and the Bureau of Engineering (Exhibit D), **[Response A]** the designee of the Director determined that the dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on guidelines the Street Standards Committee has established. Furthermore, evidence was submitted into the record showing that the subject streets were not being used for traffic and circulation, [Response B], but rather illegal truck idling (Exhibit A) [Response C] as well as illegal dumping as indicated in the Council Motion."

APPELLANT'S Response A: (False) There was no Exhibit D in the Report to Commission nor was there an Exhibit D in the Letter of Determination (*online version*).

APPELLANT'S Response B: (Challenge) Three businesses (i.e., Ramco, Pick your Parts, Security Paving) dispute this statement because they use the subject streets. Furthermore, photographs submitted by staff clearly show the streets are used by 18 wheelers and passenger vehicles. The trucks in the staff's photographs are queuing to access businesses in this heavy industrial area. The queuing of vehicles in the street in this safe manner is similar to the familiar dealership vehicle transport trucks loading and unloading while parked in the street median or customers queuing outside of travel lanes to enter the drive-thru of Chick-fil-A or In-N-Out Burgers.

APPELLANT'S Response C: (Challenge) Staff did not state if "idling" exceeds 5 minutes or if it's permitted to "prevent [businesses] from accomplishing work or create a safety concern ..." (*Source: California Air Resources Board, Frequently Asked Questions Regulation for In-Use Off-Road Diesel-Fueled Fleets*)

Point No. 3 (pg. A-5 of the Staff Report, under added for emphasis)

"Currently, the Bureau of Engineering is managing a temporary street vacation of the subject streets in coordination with Council District 6. This process was initiated on February 11, 2020 by the City Council via the adopted Council Motion (CF 17-0244). The standard process for street vacations by the Bureau of Engineering includes its own environmental determination, public hearing, and investigations from other City agencies. The Bureau of Engineering describes this process as such:"

APPELLANT'S Response (Challenge) The Director based his decision on temporary and permanent closure of the streets. However, City Council Motion CF 17-0244 (attached) instructed Bureau of Engineering to only study "temporary" closure. It will not be known, if closure will occur until Bureau of Engineering completes its study.

Therefore, the Director exceeded his authority by presuming the streets will be temporarily and permanently closed.

Moreover, AB 332 requires input of “traffic engineers”. Los Angeles Department of Transportation has established procedures for studying traffic and circulation. After such study, environmental mitigation measures may outline street requirements different from Mobility 2035 or the Director’s conclusion that no improvements are required. Therefore, it was erroneous for the Director to predetermine the outcome of future environmental review of another Department. This approach has flaws and resulted in Site Plan Review, as previously learned by the City Planning Department.

Point No. 4 (*pg. A-5 of the Staff Report, under added for emphasis*)

“As the public street system belongs to the general public, there are many agencies (City of Los Angeles and other public utilities) who may be utilizing or have an interest in the public right-of-way proposed to be vacated. City agencies such as the Bureau of Engineering, Planning Department, Department of Transportation, Fire Department, Department of Water and Power and others, along with affected public utility companies such as the Gas Company and Pacific Bell, will be sent referrals for their comments and recommendations on the proposed vacation. Upon receipt of their responses, a report will be prepared by the Bureau of Engineering and submitted to the City Council through the Public Works Committee for their consideration.”

APPELLANT’S Response: (Challenge) Does this mean when BOE asks the City Planning Department to comment, their response will be the streets should be vacated as determined in CPC 2007-3888-ZV-SPR-PA1? This means the Director has predetermined the outcome of BOE’s study. It is bad policy for a decision-maker to predetermine the outcome of a future study before all facts are known.

Point No. 5 (*pg. A-5 of the Staff Report, under added for emphasis*)

“As such, a comprehensive study involving various City departments, including the Department of Transportation, will be conducted as part of the street vacation process lead by the Bureau of Engineering. Planning staff had received sufficient evidence from the Bureau of Engineering and the offices of City Council District 6 to make required findings pursuant to LAMC Section 12.37. [Response A] Additionally, Planning staff did not receive any other written evidence or documentation to prove otherwise.”
[Response B]

APPELLANT’S Response A: (Challenge) Refer to Point No. 1.

APPELLANT’S Response B: (Challenge) It is standard procedure that a public notice is not mailed for a waived public hearing. This is confirmed in Staff’s Response citing Condition No. A.17.f that states, “[t]he Plan Approval shall be determined by the Director of Planning, or the City Planning Commission on appeal. Should the Director require a public hearing, public notice shall be made to owners and occupants of property within a radius of 500 feet.” However, it was only upon receipt of the Director’s

determination that the public was aware of the action, which led to an appeal so the public can be heard.

Point No. 6 (pg. A-6 of the Staff Report, under added for emphasis)

“Thus, Staff determined that the public hearing was not required for the initial action. **[Response A]** Upon appeal, however, a public hearing notice was sent to owners and occupants of properties within a 500-foot radius two times in total, **[Response B]** along with publication in the newspaper and onsite posting, in order to notify any interested parties who wish to participate.”

APPELLANT’S Response A: (Challenge) Two Findings shall be made to waive a public hearing as required pursuant to Section 12.27-C of the LAMC. There is no written record that the Findings were made. Importantly, one of the required Findings asks if a waiver of the hearing could result in controversy. The record clearly shows a history of controversy.

APPELLANT’S Response B: (Question) What is meant by two times? There was no public notice for the waived public leaving City Planning Commission hearing as the only public notice. Therefore, the only way for the public to be heard was an appeal.

Point No. 7 (pg. A-6 of the Staff Report, under added for emphasis)

“As stated above, any potential impacts related to traffic and circulation, among many other topics, will be investigated thoroughly by the Bureau of Engineering **[Response A]** through their standard process for temporary and permanent street vacations. Evidence was submitted into the Planning case file record indicating illegal semi-truck idling on the subject streets and minimal use for traffic and circulation from the general public. Documentation was also submitted to Planning staff indicating that the Bureau of Engineering has collected signatures of adjacent property owners to move ahead with the temporary closure. **[Response B]** Lastly, there are additional streets in the surrounding area that provide adequate access to all lots without the use of the specific segment of Peoria Street and Tujunga Avenue,” **[Response C]**

APPELLANT’S Response A: (Challenge) The Planning Department relied on a yet to be completed future study. Therefore, the Director deferred mitigation of potential traffic and circulation impacts. Not only is this bad policy, it may be a violation of CEQA.

APPELLANT’S Response B: (False) All signatures of property owners adjacent to the proposed street closures were not collected. One property owner and their tenant do not support the closure and will not sign.

APPELLANT’S Response C: (False) It is an error to state there is “adequate access to all lots without the use of the specific segment of Peoria Street and Tujunga Avenue.” There are currently two ingress/egress points for 18-wheel trucks and passenger vehicles. The proposed closure leaves only one point causing a cluster and queuing of

trucks along Bradley Ave. and Tuxford Ave. This will create significant traffic and circulation impacts for a number of businesses.

Point No. 8 (*pg. A-8 of the Staff Report*)

“Rather, evidence was submitted to Planning staff that the current state of the subject streets have been creating public safety and quality of life issues.”

APPELLANT’S Response: (Challenge) This is exactly why there should have been a public hearing and why there should have been a traffic and circulation study to evaluate what the problems are and how they can be mitigated.

You are invited you to review a comprehensive presentation on InfoPost website <https://Appellant’s infopost.edublogs.org/?s=peoria>. You can easily access the website using the below QR Code.

