



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: May 2, 2018

TO: Hearing Officer

SUBJECT: Time Extension Request for Variance #11738

LOCATION: 167 East Walnut Street

APPLICANT: John Warfel and Jan VanTilburg

ZONING DESIGNATION: CD-1 (Central District Specific Plan, Old Pasadena subdistrict)

GENERAL PLAN DESIGNATION: Medium Mixed-Use (0.0 – 2.25 FAR)

CASE PLANNER: Beilin Yu

STAFF RECOMMENDATION: Acknowledge the Environmental Determination, and adopt the Specific Findings in Attachment A to **approve** a Second Time Extension for Variance #11738.

PROJECT PROPOSAL: Time extension request for Variance #11738: Request to allow for a one-year extension from the expiration date of Variance #11738, which was originally approved by the Zoning Hearing Officer on June 6, 2012, to deviate from the height and setback requirements for the construction of a new multi-family structure containing 100 residential units. Per Section 17.64.040 of the City's Zoning Code, a permit or approval is valid for 36 months from the effective date of approval. A first time extension was approved by the City Council on April 3, 2017 for a one-year extension from the effective date of the City Council approval. The request is for a second one-year extension from the expiration date of April 3, 2018.

ENVIRONMENTAL DETERMINATION: An Initial Study with a Mitigated Negative Declaration was approved for the project by the Hearing Officer at a public hearing on June 6, 2012. The Initial Study determined that the project will have less than significant environmental impacts with the incorporation of the proposed Mitigation Measures. The proposed time extension application will not result in any new environmental impacts. It has further been determined that there are no changed

circumstances or new information as part of the proposed Time Extension application that necessitate further environmental review.

BACKGROUND:

Site characteristics: The subject property is an irregular shaped through lot, containing frontages on East Walnut Street, North Marengo Avenue, and at the intersection of Chestnut Street and Townsend Place, where both streets end. The Metropolitan Transportation Authority (MTA) light rail tracks traverse the eastern edge of the property where the MTA owns a “tunnel” area between the elevation of the track and the elevation of the street, prohibiting access from East Walnut Street or North Marengo Avenue. Therefore, the only frontage providing access to the subject property is through the intersection of Chestnut Street and Townsend Place.

The property is currently vacant and has previously been graded approximately 30 feet deep to accommodate the light rail tracks; as such from the intersection of Chestnut Street and Townsend Place, the property contains a steep down slope to the MTA light rail tracks. Due to the slope, the structure is proposed to be 90’ in height when measured from the existing grade at the light rail tracks, and 60’ as measured from the existing grade at street level.

Adjacent Uses:

- North – Commercial Office
- South – Mixed-Use and Memorial Park
- East – Commercial Office
- West – Multi-Family, Single Family, and Religious Facility

Adjacent Zoning:

- North – CD-1 (Central District Specific Plan, Old Pasadena Subdistrict)
- South – CD-2 and OS (Central District Specific Plan, Civic Center Subdistrict and Open Space)
- East – CD-1 (Central District Specific Plan, Old Pasadena Subdistrict)
- West – CD-1 (Central District Specific Plan, Old Pasadena Subdistrict)

Previous zoning cases on this property:

- V #11738 - 1. Variance: To allow a new 89,795 square foot six-story building containing 100 residential units over three-levels of subterranean parking with 128 spaces to have a height of 90’ (as measured from the existing grade at the Metropolitan Transportation Authority light rail tracks), where the maximum permitted height is 60’;
- 2. Minor Variance: To allow the new structure to provide a 136’ setback from Walnut Street frontage, where the maximum permitted setback is 5’-0”;
- 3. Minor Variance: To allow the new structure to provide a 55’ setback from Marengo Avenue frontage, where a maximum

setback of 10'-0" is permitted. Approved with conditions on June 6, 2012.

- Time Extension Request for V#11738 - To allow for a one-year extension for Variance #11738. Approved by City Council on April 3, 2017.

PROJECT DESCRIPTION:

The applicants, John Warfel and Jan VanTilburg, have submitted a second Time Extension Request to allow for a one-year extension from the expiration date of April 3, 2017 for Variance #11738. Variance #11738 was originally approved by the Zoning Hearing Officer on June 6, 2012. Variance #11738 allowed a new 89,795 square foot six-story multi-family building to have a height of 90', as measured from the existing grade at the Metropolitan Transportation Authority light rail tracks, where the maximum permitted height is 60'. Additionally, two Minor Variances were approved to allow the structure to provide a 136' setback from the Walnut Street frontage, where the maximum permitted setback is five-feet; and to allow a 55' setback from the Marengo Avenue frontage, where the maximum permitted setback is ten-feet.

Per Section 17.64.020 of the City's Zoning Code, a decision of the Hearing Officer shall become effective on the 11th day following the date of the decision, unless an appeal is filed. No appeals were filed for the approval of Variance #11738 therefore the approval became effective on June 19, 2012. Per Section 17.64.040 of the City's Zoning Code, a permit or approval is valid for 36 months (June 19, 2015) from the effective date of approval except where an extension of time is approved. The applicant is required to file a written request for a Time Extension before the expiration of the permit.

On May 12, 2015, the applicants submitted the first Time Extension Request, which was approved by the Hearing Officer at its August 5, 2015 hearing. Within the appeal period, which was from August 6, 2015 through August 17, 2015, the adjacent neighbor, The Walnut Plaza, appealed the Hearing Officer's decision to the Board of Zoning Appeals.

On December 16, 2015, the appeal of the Time Extension Request was considered by the Board of Zoning Appeals. After hearing public testimony, the Board of Zoning Appeals made a motion to uphold the Hearing Officer's decision to approve a one-year Time Extension Request for Variance #11738, which resulted in a 2-2 vote by the four members present. Pursuant to Section 17.72.070.B.5, the Board of Zoning Appeal's 2-2 vote resulted in a failure to act on the required CEQA clearance for this discretionary project, and the failure to make the required CEQA findings deemed the Time Extension Request disapproved. A failure to act is considered a decision and may be appealed.

The appeal period for the Board of zoning Appeal's decision was from December 17, 2015 through December 28, 2015. On December 28, 2015, the applicants submitted an appeal application, appealing the Board of Zoning Appeals decision to the City Council.

The hearing for the appeal of the Time Extension Request was held at the April 3, 2017 City Council meeting. At the April 3, 2017 meeting, after taking public testimony, the City Council made a motion to adopt staff's recommendation and approve the one-year Time Extension Request for Variance #11738 that resulted in a 7-0 vote by the seven members present. The approval extended the expiration date to April 3, 2018.

A second one-year extension may also be granted if the applicants file a written request for a Time Extension before the expiration of the permit. On June 15, 2016, during the pendency of the appeal of the first Time Extension Request, the applicant submitted the subject application for a second one-year time extension. If approved this time extension would extend the expiration date to April 3, 2019. This time extension is the last time extension allowed for this project.

ANALYSIS:

According to the information provided by the applicant, the Time Extension is being requested to allow the project additional time to complete the permitting process with the Los Angeles Metropolitan Transit Authority that is being processed concurrently with the City approvals. The time extension is required to complete the approval process.

Per Section 17.64.040.D of the City's Zoning Code, the review authority may approve an application for a time extension only after first finding that: 1) The findings and conditions of the original approval still apply; and 2) The proposed project meets the current height, setbacks, and floor area ratio requirements of the Zoning Code and is consistent with the General Plan, any applicable Specific Plan, and the Zoning Map.

The findings and conditions of the original approval still apply as there have been no changes in circumstances or new information provided as part of the proposed Time Extension to warrant the original findings and conditions invalid.

As described earlier in the report, Variance #11738 was approved to deviate from the maximum height and setback requirements. The project meets all other development standards applicable to the project, as these standards have not been modified.

ENVIRONMENTAL REVIEW:

An Initial Environmental Study was prepared for the project and concluded that there will be less than significant impacts on the environment because mitigation measures will be incorporated to the project to reduce the traffic impact to a less-than-significant level and to ensure the interior noise level does not exceed 45 dB in any habitable room. The Mitigated Negative Declaration was adopted by the Hearing Officer on June 6, 2012. The proposed Time Extension application will not result in any new environmental impacts. It has further been determined that there are no changed circumstances or new information as part of the proposed Time Extension application that necessitate further environmental review.

CONCLUSION:

Staff concludes that the findings necessary for approving the Time Extension request can be made (Attachment A). The findings and conditions of the original approval still apply; and the proposed project meets, with the exception of the approved Variance, the remaining development requirements of the Zoning Code; and is consistent with the General Plan, any applicable Specific Plan, and the Zoning Map. Therefore, staff recommends approval of the Time Extension request, subject to the findings in Attachment A.

ATTACHMENTS:

Attachment A: Specific Findings

ATTACHMENT A
SPECIFIC FINDINGS FOR TIME EXTENSION FOR VARIANCE #11738

Time Extension Request: To allow for a one-year extension from the expiration date for Variance # 11738

1. *The findings and conditions of the original approval still apply.* There have been no changes in circumstances or new information provided to warrant the original findings and conditions invalid. The Variance to allow the proposed multi-family structure to exceed the maximum permitted height of 60' was approved because it was found that the property contained an exceptional circumstance. Specifically, the property was previously graded 30 feet down to accommodate the MTA light rail tracks, and because the City's Zoning Code requires the maximum permitted height to be measured from the lowest grade adjacent to an exterior wall, the height of the proposed apartment building is 90' when measured from the grade at the light rail tracks and 60' when measured from the street level grade, thus exceeding the maximum permitted height. The property still contains this exceptional circumstance and therefore the findings for the original approval still apply.

The Minor Variances to exceed the maximum permitted setback of 10' from Marengo Avenue and 5' from Walnut Street were approved because of the subject property's unique circumstances. The property contains a 130' frontage along Marengo Avenue however this frontage is mainly occupied by a "tunnel" area belonging to MTA, which is open to 30' below street level, prohibiting the development of the proposed structure in compliance with the maximum permitted 10' setback. The property contains a 45' street frontage along East Walnut Street., however the light rail tracks runs entirely through this width, and the area is also open to the tracks 30' below the street level, also prohibiting the development of the proposed structure in compliance with the maximum permitted 5' setback. The property still contains these exceptional circumstances and therefore the findings for the original approvals still apply.

2. *The proposed project meets the current height, setbacks, and floor area ratio requirements of the Zoning Code and is consistent with the General Plan, any applicable Specific Plan, and the Zoning Map.* The development standards applicable to the approved project have not been modified, and therefore the proposed project still meets the requirements of the Zoning Code, including floor area ratio, density, open space and parking.

The proposed project is consistent with the purpose of CD-1 Old Pasadena "to maintain and reinforce the historic character of the area, and to support its long-term viability as a regional retail and entertainment attraction through the development of complementary uses, including medium to high density housing near light rail station". The proposed project will provide high density housing near Gold Line Memorial Park Station.

The project is consistent with Policy 1.2 of the General Plan, which encourages growth and new construction in infill areas and away from Pasadena's residential neighborhoods and open spaces by redeveloping underutilized commercial and industrial properties, especially within the Central District, Transit Villages, Neighborhood Villages, and along selected corridors. The subject site is an undeveloped lot within the Central District Specific Plan, near the Memorial Park Metro Station.