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Deputy Advisory Agency

Department of Building and Safety

CASE NO. ZA 2006-5863(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Bunker Hill Urban Renewal Project  
Area and the Central Business  
District Redevelopment Project Area

Floor Area Ratio Averaging in Unified  
Developments

Section 12.24-W, 19 of the Los Angeles  
Municipal Code

For purposes of making a finding that a commercial, industrial or mixed use development is unified pursuant to Section 12.24-W, 19 of the Los Angeles Municipal Code, two or more parcels or lots of record may be considered "contiguous" without actually touching each other so long as they are in close proximity and connected by substantial streetscape and landscape improvements.

Section 12.21-A.2 of the Code provides in pertinent part:

"2. Other Use and Yard Determinations by the Zoning Administrator. The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

## **Background**

Urban Partners is proposing a unified development in downtown Los Angeles on three separate lots: the renovation of the historic Herald Examiner building at 1111 South Broadway, and the construction of two new mixed-use towers at 1108 South Hill and 120 West 12th Streets. The development is proposed to consist of 587 condominiums, 33,000 square feet of retail space, and 40,000 square feet of commercial and office space. Parking for 891 cars will also be provided. The development is planned to include an outdoor plaza and a cohesive streetscape plan.

To entitle the proposed development Urban Partners is requesting approval for a tract map, a variance, a Zoning Administrator's adjustment, and conditional use permits for alcohol, a dance hall, and a penny arcade. Urban Partners is also seeking, pursuant to Section 12.24-W, 19 of the Code, a Zoning Administrator's approval for a conditional use permit for floor area ratio (FAR) averaging in a unified development.

Section 12.24-W, 19 was adopted pursuant to Ordinance No. 166,025, which went into effect on August 9, 1990. The ordinance does not apply citywide, but only to unified commercial, industrial or mixed use developments in the Bunker Hill Renewal Project Area and the Central Business District Redevelopment Area. Zoning is restricted to the C, M or R5 Zones.

## **Downtown Policy**

The City of Los Angeles has had a long-standing policy of encouraging dense, mixed use development downtown, Southern California's premier governmental and commercial center as well as the hub of the region's transportation system. Such development is intended to revitalize the central city, helping to achieve the vision of a vibrant, 24-hour urban core that encourages residents and workers to walk and use public transit.

To carry out this policy the City has enacted, over the years, regulations that provide exceptions from the Code's citywide rules. Section 12.22-A, 26, for example, provides incentives to convert downtown's existing commercial and industrial buildings into housing through adaptive reuse, while Section 12.22-A, 18 provides incentives to combine residential and commercial uses in the same project. Section 12.21-A, 4(i) allows reduced parking in the central business district and Article 4.5 allows the transfer of unused floor area ratio (TFAR) from donor to receiver sites.

The FAR averaging ordinance is just another example of the City recognizing that the Code's citywide rules often hinder rather than help it achieve the vision of a revitalized urban core. Without averaging, each building in a unified development would have to separately comply with the Code's Height District regulations that limit the ratio between total square footage and the buildable area of a lot.

## **Flexible Approach**

FAR averaging permits a flexible approach to designing unified developments. Some of the individual buildings in the development may exceed permitted FAR so long as, when calculated as a whole, the FAR for the entire development does not exceed the maximum permitted by the Height District. This way any impacts anticipated by the applicable Community Plan are not exceeded, while architects are still allowed to creatively vary the size, height, orientation and setback of the development's various buildings. Shade and shadow impacts can be minimized, aesthetics improved, more open space provided, amenities shared, public improvements made, and, where applicable, historic structures saved and renovated. Since averaging does not diminish a unified development's overall scale and therefore its economic feasibility the goal of a revitalized downtown is not compromised.

## **Unified Development**

The FAR averaging ordinance only allows averaging on a case-by-case basis via an application for a conditional use permit and only for unified developments. The ordinance considers a development to be "unified" if it is:

- “(a) a combination of functional linkages, such as pedestrian or vehicular connections;
- (b) in conjunction with common architectural and landscape features, which constitute distinctive design elements of the development;
- (c) is composed of two or more contiguous parcels, or lots of record separated only by a street or alley; and
- (d) when the development is viewed from adjoining streets appears to be a consolidated whole.”

## **Interpretation**

As part of its effort to entitle the Herald Examiner project Urban Partners has requested a Zoning Administrator's interpretation of the word "contiguous" as used in Paragraph (c) above, specifically requesting clarification as to whether the parcels must physically touch each other.

The term "contiguous" is not defined in Section 12.03 of the Code, nor is it defined in Section 12.24-W,19. Correspondence submitted to this Office and included in the file demonstrates that there is a diverse range of opinions as to what the term means. While a review of the legislative record does not show that the policy-makers themselves ever discussed the meaning of the term, it does show that they were concerned that FAR averaging not be permitted for parcels that are miles apart and thus clearly not part of the same development. Still, a close reading of Paragraph (c) suggests that no bright line can be reliably established that would apply in every case. Instead, the same as for Paragraphs (a), (b) and (d), the individual facts submitted with each application must be

reviewed to determine whether a development is “unified” Since too rigid an application of the term “contiguous” would be inconsistent with the City’s broad policy of relaxing citywide standards in order to revitalize downtown, the Zoning Administrator should take into consideration the ordinance’s intent -- to permit flexibility in design. Given this purpose and the different ways the term may be interpreted a Zoning Administrator may construe it broadly to encompass the concept of connectivity between parcels in close proximity to each other, even if they are not physically touching.

### **Conditions**

To make the required finding that a proposed development is “unified” a Zoning Administrator may impose conditions. For example, a Zoning Administrator might require an applicant to submit a streetscape and landscape plan that describes the improvements that will be made and how they establish connectivity between the parcels. Some of the improvements that might be funded by such a plan are: street lights and street trees; landscaping, including bus stop gardens and landscaped medians and parkways; publicly accessible open spaces, plazas, paseos or greenways; mid-block crossings; street furniture such as benches, bus shelters, bicycle racks, and trash containers; sidewalk treatments; signage; and public art. The improvements should be substantial and visually apparent so as to connect all of the development’s parts into a unifying whole.

### **Finding**

For the reasons set forth above and as more particularly described elsewhere in this interpretation, I determine that for purposes of making a finding that a commercial, industrial or mixed use development is unified pursuant to Section 12.24-W, 19 of the Los Angeles Municipal Code, two or more parcels or lots of record may be considered “contiguous” without actually touching each other so long as they are in close proximity and connected by substantial streetscape and landscape improvements.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

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ML:AB:Imc