



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- Area Planning Commission City Planning Commission City Council Director of Planning
- Zoning Administrator

Regarding Case Number: VTT-74602-1A

Project Address: 3432 -3470 W Wilshire Blvd ; 659-699 S Mariposa Ave; 3265-3287 W 7th St; 666-678 S Irolo St

Final Date to Appeal: July 10, 2020

2. APPELLANT

Appellant Identity:
(check all that apply)

- Representative Property Owner
- Applicant Operator of the Use/Site
- Person, other than the Applicant, Owner or Operator claiming to be aggrieved

Person affected by the determination made by the **Department of Building and Safety**

- Representative Owner Aggrieved Party
- Applicant Operator

3. APPELLANT INFORMATION

Appellant's Name: Supporter's Alliance for Environmental Responsibility

Company/Organization: _____

Mailing Address: 4399 Santa Anita Ave, Suite 2005

City: El Monte State: CA Zip: 91731

Telephone: (510) 836-4200 E-mail: michael@lozeaudrury.com

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

- Self Other: _____

b. Is the appeal being filed to support the original applicant's position? Yes No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): Michael Lozeau
Company: Lozeau Drury LLP
Mailing Address: 1939 Harrison Street, Suite 150
City: Oakland State: CA Zip: 94612
Telephone: (510) 836-4200 E-mail: michael@lozeaudrury.com

5. JUSTIFICATION/REASON FOR APPEAL

- a. Is the entire decision, or only parts of it being appealed? Entire Part
- b. Are specific conditions of approval being appealed? Yes No

If Yes, list the condition number(s) here: All Conditions

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal How you are aggrieved by the decision
- Specifically the points at issue Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: Michael Lozeau Date: 7/7/2020

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Appeal Application (form CP-7769)
- Justification/Reason for Appeal
- Copies of Original Determination Letter

b. Electronic Copy

Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

- Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
- Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. Notice Requirement

- Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
- Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.

- Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- 1. Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.**

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- 2. Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.**

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.

Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

Please note that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

Justification/Reason for Appeal

3440 Wilshire Project

Vesting Tentative Tract No. 74602-1A (CEQA Case No. ENV-2016-3693-MND)

3440-3470 West Wilshire Boulevard, 659-699 South Mariposa Avenue, 3281-3287 West 7th Street, and 666-678 South Irolo Street

REASON FOR THE APPEAL: The Mitigated Negative Declaration (“MND”) prepared for the 3440 Wilshire Project aka VTT-74602-1A & ENV-2016-3693-MND (“Project”) fails to comply with the California Environmental Quality Act (“CEQA”).

SPECIFICALLY THE POINTS IN ISSUE: The specific points in issue are set forth in the attached comment letter dated May 1, 2020, in the expert comment letters attached thereto, and in this appeal.

HOW YOU ARE AGGREIVED BY THE DECISION: Members of appellant Supporters Alliance for Environmental Responsibility (“SAFER”) live and/or work in the vicinity of the proposed Project. They breathe the air, suffer traffic congestion, and will suffer other environmental impacts of the Project unless it is properly mitigated.

WHY YOU BELIEVE THE DECISION-MAKER ERRED OR ABUSED THEIR DISCRETION: The City Planning Commission (“CPC”) adopted the MND, the Errata to the MND, and the Mitigation Monitoring Program (MMP). The CPC also denied SAFER’s appeal, sustained the Advisory Agency’s March 25th, 2020 determination, and approved Vesting Tentative Tract Map No. VTT-74602 for the Project despite the fact that the MND fails to comply with CEQA, and the project fails to comply with the municipal code.

Transaction ID 090720ECO-509E3362-0F3B-4581-930D-B9F92E94FF0A
Transaction Time 07/09/2020 02:44:32 PM
Submission Date 07/09/2020
Payment Status APPROVAL

Completed Stages:

- Online Submittal:** ✓ 07/07/2020 04:57:20 PM - michael@lozeaudrury.com <michael@lozeaudrury.com>
Planner Approval: ✓ 07/08/2020 08:36:11 AM - Anna Vidal
Make a Payment: ✓ 07/09/2020 02:44:30 PM - michael@lozeaudrury.com <michael@lozeaudrury.com>
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Uploaded Files

Name	Uploaded by	Version	Source
1_VTT_3440 Wilshire_Appeal Application.pdf	SYSTEM	1	File Upload
2_VTT-74602-1A Appeal Justification Letter.pdf	SYSTEM	1	File Upload
3_LOD_VTT-74602 DL.pdf	SYSTEM	1	File Upload
InvoiceNo-65825-2ndLevelAppeal-VTT-74602-2A.pdf	Anna Vidal	1	Invoice Upload

0 Comments 0 Emails

Comments

Comments(0)

To link emails to this workflow - send or CC them to this workflow using the following workflow specific address: wf-6b2c0ea7a9ed4f00b70980adef68cfd.prod@simpligov.com. All emails sent into the workflow will display in the list below.