



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: DIR-2018-2770-SPR-WDI

Project Address: 300-370 South Fairfax Avenue; 6300-6370 West 3rd Street; and 347 South Ogden Drive

Final Date to Appeal: 02/23/2022

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
Supporters Alliance for Environmental Responsibility

☐ 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: Supporters Alliance for Environmental Responsibility

Company/Organization: _____

Mailing Address: 4399 Santa Anita Ave, Ste 2005

City: El Monte State: CA Zip: 91731

Telephone: (510) 836-4200 E-mail: richard@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): Brian Flynn

Company: Lozeau Drury LLP

Mailing Address: 1939 Harrison Street, Suite 150

City: Oakland State: CA Zip: 94612

Telephone: (510) 836-4200 E-mail: brian@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

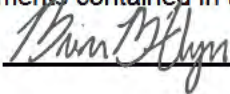
If Yes, list the condition number(s) here: All conditions

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:  Date: 02/22/2022

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.

Exhibit D - DIR-2018-2770-SPR-WDI-1A

Justification/Reason for Appeal

3rd and Fairfax Mixed-Use Project

DIR-2018-2770-SPR-WDI; ENV-2018-2771-EIR

I. REASON FOR THE APPEAL

The Environmental Impact Report ("EIR") prepared for the 3rd and Fairfax Mixed-Use Project (DIR-2018-2770-SPR-WDI; ENV-2018-2771-EIR) ("Project") fails to comply with the California Environmental Quality Act ("CEQA"). Furthermore, the Site Plan Review entitlements (DIR-2018-2770-SPR-WDI) was in error because (1) the City of Los Angeles ("City") must fully comply with CEQA prior to any approvals in furtherance of the Project and (2) the findings are not supported by substantial evidence. Therefore, the City of Los Angeles ("City") must set aside the Site Plan Review entitlements and circulate a revised EIR prior to considering approvals for the Project.

II. SPECIFICALLY THE POINTS AT ISSUE

Specifically, the EIR fails to adequately analyze the Project's environmental impacts and fails to impose all feasible mitigation measures to reduce the Project's impacts including, but not limited to, impacts to greenhouse gases, hazards, air quality, and noise. A revised EIR must be prepared to remedy these issues. Furthermore, proper CEQA review must be complete *before* the City approves the Project's entitlements. (*Orinda Ass'n. v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171 ["No agency may approve a project subject to CEQA until the entire CEQA process is completed and the overall project is lawfully approved."].) As such, the approval of the Project's Site Plan Review entitlements was in error. Additionally, by failing to properly conduct environmental review under CEQA, the City lacks substantial evidence to support its findings for the Site Plan Review entitlements including, but not limited to, the Project's conformance with the General Plan (Finding #1) and the Project's impacts on neighboring properties (Finding #3).

III. HOW YOU ARE AGGRIEVED 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.

IV. WHY YOU BELIEVE THE DECISION-MAKER ERRED OR ABUSED THEIR DISCRETION

The Director of Planning adopted the EIR and approved a Site Plan Review for the Project despite evidence in the record establishing substantial evidence that the EIR fails to adequately analyze the Project's environmental impacts and fails to impose all feasible mitigation measures to reduce the Project's impacts. The Department of City Planning should therefore have prepared a revised EIR and recirculated the revised document prior to consideration of approvals for the Project. The City is not permitted to approve the Project's Site Plan Review entitlements until the EIR's deficiencies are remedied.