

ORIGINAL



APPLICATIONS:

APPEAL APPLICATION

This application is to be used for any appeals authorized by the Los Angeles Municipal Code (LAMC) for discretionary actions administered by the Department of City Planning.

1. APPELLANT BODY/CASE INFORMATION

Appellant Body:

- Area Planning Commission, City Planning Commission (checked), City Council, Director of Planning

Regarding Case Number: VTT-72370-CN CP-CP-203-2551 SUB DB SPR-ENV-2013-2552-EIR

Project Address: 8150 Sunset Boulevard

Final Date to Appeal:

- Type of Appeal: Appeal by Applicant/Owner, Appeal by a person, other than the Applicant/Owner, claiming to be aggrieved (checked), Appeal from a determination made by the Department of Building and Safety

2. APPELLANT INFORMATION

Appellant's name (print): Fix the City LAURA LAKE

Company:

Mailing Address: 1557 Westwood Boulevard #235

City: Los Angeles State: CA Zip: 90024

Telephone: (310) 317-7400 E-mail: Laura@FixTheCity.org

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

Self, Other: Fix the City

- Is the appeal being filed to support the original applicant's position? Yes, No (checked)

3. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable):

Company:

Mailing Address:

City: State: Zip:

Telephone: E-mail:

Handwritten notes: 214 pages, [initials]

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

- A CEQA document can only be appealed if a non-elected decision-making body (ZA, APC, CPC, etc.) makes a determination for a project that is not further appealable. [CA Public Resources Code § 21151 (c)].
- 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.
- Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- 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.
- Appellants filing an appeal from a determination made by the Department of Building and Safety per LAMC 12.26 K are considered Original Applicants and must provide noticing per LAMC 12.26 K.7, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt.
- All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of the receipt.
- Original applicants must provide a copy of the original application receipt(s) (required to calculate their 85% appeal filing fee).
- A Filing Fee must be paid at the time of filing the appeal per LAMC Section 19.01 B.
- Appeal Application (form CP-7769)
- Justification/Reason for Appeal
- Copies of Original Determination Letter

6. FILING REQUIREMENTS/ADDITIONAL INFORMATION

I certify that the statements contained in this application are complete and true:
 Appellant Signature: *[Signature]*
 Date: 7/5/14

5. APPLICANT'S AFFIDAVIT

- 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

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

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

Are specific conditions of approval being appealed? Yes No

Is the entire decision, or only parts of it being appealed? Entire Part

4. JUSTIFICATION/REASON FOR APPEAL

FIX THE CITY

1557 Westwood Boulevard #235, CA, CA 90024

Messages: 310-317-7400

Laura.Lake@gmail.com

Jamesos@aol.com

July 5, 2016

JUSTIFICATION FOR APPEAL TO CPC

8150 SUNSET BOULEVARD VTT-72370-CN AND CPC-2013-2551-CUB-DB-SPR, ENV. 2013-2552-EIR

Fix the City appeals the approval of the Vesting Tentative Tract Map for 8150 Sunset Boulevard, with respect to (1) due process violations involving informing the public of a street vacation and compensating private easement owners regarding the vacation of a portion of Crescent Heights for vehicular use, (2) the use of city property in a private project, (3) an increase in FAR from 1:1 to 3:1, and (4) inconsistency with the Hollywood Community Plan and MP 2035. We incorporate by reference all documents and testimony submitted for this project.

The Applicant has incorrectly presented the project as a by-right project. The Advisory Agency, in approving the VTT, has violated multiple city and state laws requiring discretionary approvals, and thereby deprived the City Council of its critical role in reviewing a major development project and safeguarding the historical architecture of the site.

We ask that the CPC rescind this approval and remand the application back to the Advisory Agency to comply with laws governing street closures, use of public property, public notice, density bonus requests, and compatibility with the General Plan.

We ask that the city leave the right turn lane as-is and use the city-owned "island" property at 8118 Sunset Boulevard for 24 affordable housing units.

We note that the LOD did not address the need for a variance to permit restaurants above the ground floor. This is still needed, but not addressed in the LOD or the revised Application.

FIX THE CITY IS AGGRIEVED

Fix the City is aggrieved by this decision because it will impact the quality of life and emergency services in the community, as well as set a precedent for the Hollywood Community Plan, which we successfully litigated. We continue to be concerned with the provision of adequate infrastructure to protect public safety and assure the quality of life for Angelenos.

FIX THE CITY

A STREET VACATION IS REQUIRED UNDER CITY AND STATE LAW

1. Only the City Council, and not the Deputy Advisory Agency, has the authority to vacate a street that is part of the Circulation Element of the General Plan. The Applicant must apply for a General Plan Amendment to change the circulation element of the Hollywood Community Plan and the maps shown in MP 2035 (the General Plan Framework Circulation Element). There is no application for a GPA for this project in the file. The Advisory Agency, in approving the VTT, has abused its discretion.
2. To close this portion of Crescent Heights, the City Engineer is required to make a finding that the roadway "is unnecessary for present or prospective public use" (California Streets and Highways Code Section 8324(b). No such finding has been made. Given the heavy traffic at this intersection, as documented in the EIR, it would not be supported by substantial evidence. The Advisory Agency does not have authority to violate state law mandating this finding.
3. Hundreds of **private easement owners** have no idea that their property rights are being taken without just compensation by the Applicant. The City must provide notice to private easement owners within the original Crescent Heights Tract of 1905. This VTT violates the rights of private easement owners under the California Streets and Highways Code Section 8353(b):

“(b) A private easement claimed by reason of the purchase of a lot by reference to a map or plat upon which the street or highway is shown is not extinguished pursuant to subdivision (a) if, within two years after the date the vacation is complete, the claimant records a verified notice that particularly describes the private easement that is claimed in the office of the recorder of the county in which the vacated street or highway is located.”
4. The Advisory Agency lacks the authority to merge a public street and city property with private property without a street vacation. None of the diagrams of the tract with its air lots include the street. There is no merger and re-subdivision of the street and the city parcel (8118 Sunset) through this tract map. Therefore, a tract map may not be used to vacate the street. A formal street vacation is required. The Applicant cannot merge city property with his own property. That is a taking, and that is what has been approved by the Advisory Agency in a gross abuse of discretion.
5. The Public Hearing Notice of May 24, 2016 (p. 2) described an off-menu incentive involving **“land to be set aside for street purposes”** rather than closure of an existing public street. This is deceptive and violates fundamental rights of due process as guaranteed by state and local law regarding vacating a

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public street (California Streets and Highways Code Sections 8320-8325, and 8353(b) and LAMC 12.37).

6. Including both sides of this roadway to boost FAR as an off-menu incentive for the project violates due process since there is no compensation to the city based on Fair Market Value for the city's half of the street abutting its parcel at 8118 Sunset Boulevard. Use of city property in this manner violates LAMC Chapter 1, Article 1, Section 7, "Real Property." The Applicant at best owns to the mid-line of the street.
7. Use of any city property requires **Fair Market Value** payment if the property is declared surplus, or the property is rented/used by the applicant. There is no evidence of compliance with this requirement under the Department of General Services or the Bureau of Engineering.
8. The map included with the May 24, 2016 Public Hearing Notice showed the street OPEN (VTT Case File). The general public as well as those owning private easements for vehicular access under California Streets and Highways Code Section 8353(b) would have no way to know that a street was going to be closed to vehicular traffic. The notice procedures violated due process requirements under the California Streets and Highway Code and LAMC 12.37.
9. There was no evidence of publication of notice for the public hearing, or that the street would be closed, as required under state and local law for the vacation of a public street.
10. Use of the city-owned 8118 Sunset Boulevard by the Applicant constitutes a gift of public land to a private party without fair market value compensation to the city, without a finding that it is surplus or a remnant parcel, that it is not required for future use. Only the City Council has the authority to permit city land to be used by a private party, and all of the procedures and findings included in Chapter 1, Real Property, Section 7.
11. This project is not consistent with the street and highway maps in the Hollywood Community Plan and MP 2035.
12. There are easements shown on the current ZIMAS map for the project site: the first is the present turn lane, the second is a similar second turn lane or sidewalk that would match the turn lanes on the opposite side of the street at 8100 Sunset Boulevard. There is no analysis or explanation by the Deputy Advisory Agency for why either of the two easements on the project site are to be vacated and replaced by a two-foot dedication. The so-called improvement of the intersection violates LAMC 12.37.A.3 "No additional improvement shall be required on such a

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lot where complete roadway, curb, gutter and sidewalk improves exist within the present dedication contiguous thereto.” The Advisory Agency and the City Engineer have abused their discretion.

13. The street was not posted to show the street would be closed as required by state law (Section 8324 California Streets and Highway Code Section 8323).
14. The discussion of Vision Zero on pages 46, 99-100 of the LOD is not supported by any substantial evidence regarding pedestrian, bicycle or auto accidents on the portion of Crescent Heights to be vacated. There is no analysis of the impact of road closure on cyclists and proposed bike routes for this area.

PROJECT IS NOT CONSISTENT WITH HOLLYWOOD COMMUNITY PLAN OR MP 2035 AS CLAIMED ON PP. 83-84

1. The maps for the Hollywood Community Plan and MP 2035 show the roadway open. Therefore, two General Plan Amendments are required to close the street and make it consistent for circulation purposes, with the Hollywood Community Plan.
2. The traffic impact analysis did not address the closest intersections, and failed to reconcile the project impacts, cumulative impacts with the added congestion of MP 2035. Did the cumulative impact analysis include the added congestion of MP 2035?
3. Commercial delivery trucks Havenhurst (p. 94 LOD), a local residential street, will not be compatible with residential use. The grocery store will have early deliveries, as will many restaurants that have requested CUBs. The noise and disruption of large delivery trucks and their beeping warning sounds, will disturb neighbors. This has not been addressed in the EIR and mitigated.
4. The project is not compatible in scale or density with adjacent properties, as shown in the figure submitted by Fix the City. There is substantial evidence in the record from adjacent property owners and their legal representatives that the project will dwarf adjacent properties. It is therefore not consistent with the Hollywood Community Plan (“The Plan encourages the preservation of lower density residential areas, and the conservation of open space lands.”).
5. The Statement of Overriding Considerations is predicated upon compliance with the General Plan. It is not in compliance due to closing the street and intensification not permitted in neighboring properties. Therefore, the VTT is spot-zoning through unlawful off-menu incentives:

- a. Including all of the roadway as FAR; and
 - b. Claiming that the project site is located in HD 1 which has an FAR of 1.5:1, when in fact it is in HD 1D, with an FAR of 1:1 (LAMC 12.25.A).
6. The VTT approved by the Advisory Agency is not consistent with the Hollywood Community Plan, Standards and Criteria, which clearly states:

“No increase in density shall be effected by zone change or subdivision unless it is determined that the local streets, major and secondary highways, public transportation available in the area of the property involved are adequate to serve the traffic generated.”

The EIR provides ample substantial evidence that the streets are not adequate and that TR-1 is required. The City of West Hollywood has informed the City of Los Angeles that it will not implement TR-1 and that it is opposed to the project. Therefore, an increase in density through a subdivision is not consistent with the Hollywood Community Plan.

7. The VTT is not consistent with the Hollywood Community Plan Housing Standards and Criteria regarding the adequacy of the existing and assured circulation system and the availability of sewers, fire protection services and facilities and other public utilities. The Plan states that the **intensity of development “shall be limited in accordance with the following criteria:**” the adequacy of the existing circulation system, and the availability of sewers, drainage facilities, fire protection services and facilities, and other public utilities. The LOD does admit on p. 127 that the project has incremental adverse impacts on LAFD response time.

Water supply, water pressure, failing water mains, sewer availability are inadequate to meet current and cumulative demand, based on the EIR’s substantial evidence and the comments submitted to the city. Most of all, due to traffic, staffing cutbacks and population growth, LAFD response time is far below the established standard of reaching the scene within five minutes 90% of the time. None of the three stations that serve the site meet that time. Under these circumstances, the VTT is not consistent with the Hollywood Community Plan.

3:1 FAR IS NOT PERMITTED AS AN OFF-MENU INCENTIVE

1. The request for 3:1 FAR as an off-menu incentive cannot be granted by the Advisory Agency without an application for a CUP under CP-3251-DB. See LAMC 12.24 U.26-Density Bonus Requests for Housing Development Projects in

which the density increase is greater than the maximum permitted in LAMC Section 12.22 A.25.

Furthermore, LAMC 12.22 Section 25 Affordable Housing Incentives – Density Bonus (f)(4)(ii) specifically requires that the parcel be located in HD 1 (which has an FAR of 1.5:1). This project is located in HD-1D with an FAR of 1:1. It therefore does not meet the requirement to be in any of the HD 1 designations listed in the LAMC above.

Likewise, proximity to a major transit stop is 1500 feet, not anything more. This is also defined in the state statute; thus the city does not have the authority to override the state. Clearly, the legislative intent was to permit a doubling of FAR, not a tripling. Such an increase would require the CUP and findings cited above, which cannot be made, as discussed below.

2. LAMC 12.22 Section 25.A. Affordable Housing Incentives – Density Bonus (g)(3)(i) clearly states that requests for waivers or modifications of any development standard not on the menu cannot be granted if it is “subject to other discretionary applications...” But it IS subject to other discretionary applications under CP 3251-DB, 5/19/16, p. 3.
3. A CUP for more than 35% density increase requires a finding that the approval would not adversely affect or further degrade adjacent properties, the surrounding neighborhood, etc. (CP-3251-DB, 5/19/2016, p. 3). There is substantial evidence in the record that adjacent property owners believe that the intensification of the project would degrade their quality of life and the value of their property. In addition, there is substantial evidence in the record that the project would adversely impact public safety by further slowing first responders. Furthermore, the introduction of a commercial loading dock for truck deliveries to the grocery store and businesses on Havenhurst, a local residential street, will most definitely be incompatible with the Community Plan.
4. Approval of 3:1 FAR would set a growth-inducing precedent for the other commercial properties in the area, which are limited to 1:1 FAR and are predominantly low-rise.

ALTERNATIVE 9 AS APPROVED BY THE ADVISORY AGENCY, DOES NOT QUALIFY FOR ELDP STATUS

As explained by the Legislative Analyst’s letter of May 1, 2014 the project was assumed to create more high-paying jobs by increasing commercial space from 80K SF to 111K SF. Instead, the project approved by the Advisory Agency reduced commercial square footage from 80K SF to 65K SF. Therefore, the assumption that the project will

FIX THE CITY

increase high-paying, high skilled jobs is not supported by the project as approved. Furthermore, the jobs to be located in the project are not necessarily high-paying, high-skilled jobs: a grocery store and restaurants are not high-skilled, high-paying jobs, for the most part. Therefore, the project cannot remain an ELDP project as approved (see p. 197 LOD).

INCORPORATION OF CITY PROPERTY AS PROJECT'S OPEN SPACE

Pages 81, 91, 133, 197, of the LOD assert that the city property (8118 Sunset Boulevard and half the roadway) is open space. It is not zoned Open Space or Public Facilities, but rather, C4-1. It is not a park, as claimed elsewhere in the LOD. To be a park, the City would have to dedicate it as a park. It appears that the drawings for the so-called public plaza are a sterile area, passive open space, that will not attract residents or the community. However, landscaping the existing 8118 Sunset as a pocket park, dedicating it as parkland, would be an amenity for the community, as long as it is property maintained and provides active uses.

Sincerely,

Laura Lake

James O'Sullivan

Laura Lake, Ph.D.

James O'Sullivan

FIX THE CITY

Attachments:

8 copies Letter of Determination,

8 copies of Form CP-7769 (5/25/16)

Office: Van Nuys
Applicant Copy
 Application Invoice No: 30561

City of Los Angeles
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.

City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

Applicant: FIX THE CITY - LAKE, LAURA (B:310-3177400)
Representative:
Project Address: 8148-8182 W. SUNSET BOULEVARD

NOTES:

VTT-72370-CN-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
Case Total			\$89.00

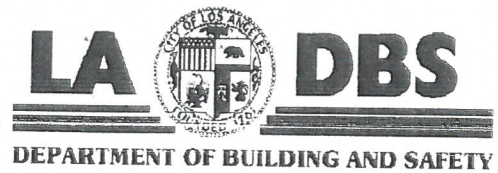
Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
Plan & Land Use Fees Total	\$89.00
Expediting Fee	\$0.00
OSS Surcharge (2%)	\$1.78
Development Surcharge (6%)	\$5.34
Operating Surcharge (7%)	\$6.23
General Plan Maintenance Surcharge (5%)	\$4.45
Grand Total	\$106.80
Total Invoice	\$106.80
Total Overpayment Amount	\$0.00
Total Paid (this amount must equal the sum of all checks)	\$106.80

LA Department of Building and Safety
 VN TONI 201085068 6/30/2016 2:00:09 PM
 PLAN & LAND USE \$106.80
 Sub Total: \$106.80

Receipt #: 0201331585

Council District: 5
 Plan Area: Hollywood
 Processed by AGUSTIN, HERMINIGIL on 06/30/2016

Signature: *[Handwritten Signature]* for



LA Department of Building and Safety
 VN TONI 201085068 6/30/2016 2:00:09 PM
 PLAN & LAND USE \$106.80
 Sub Total: \$106.80

Receipt #: 0201331585

