



## 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: APCC-2020-537-ZC-CUB

Project Address: 1523-1541 Wilcox Ave

Final Date to Appeal: 01/28/2021

#### 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  
David Carrera

☐ 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: David Carrera

Company/Organization: \_\_\_\_\_

Mailing Address: 6530 Leland Way

City: Los Angeles    State: CA    Zip: 90028

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

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): \_\_\_\_\_

Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

#### 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: 7.d.

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: 1-28-21

#### 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)

## **Reason for Appeal of APCC-2020-537-ZC-CUB.**

1-28-2021

First, I would like to point out that I never received a copy of the LOD in any way, electronically or mail, despite the fact that I signed up to receive it via DCP link/google forms. This explains why this appeal is being made at the last minute, as I just found out late last night that an LOD had been issued.

The APC erred in its decision to allow the hours of operation for the rooftop indoor space from 10AM and not 12AM like the outdoor space. The two spaces are actually one space with large openable walls and it is inconceivable that they will have separate closing times in practice and the possibility for nuisances created in the community is very high. The condition that the whole rooftop should close at 12AM was in response to community and Council District 13 input and the established precedent in the immediate area. DIR-2014-4657-SPR and ZA2014-3016(CUB)(ZV), located at 1523-1529 Cahuenga Boulevard and 6500 Selma Avenue, respectively, both limited hotel rooftop activities to 12AM. Therefore, the City Council should reverse the Commission's approval to allow the use of the rooftop, inside AND outside until 1AM and instead limit the use of the rooftop until 12AM .

LAPD pointed out that this was a potential Quality of Life issue and the community's concerns should be listened to and considered.

The commission didn't give adequate consideration for an owner that has a history of disruptive behavior at their current location, the Dream Hotel, 6415 Selma. They currently have not identified a current operator, but even if they have, it's reasonable to believe, based on their history in the community, that they will put in another problem operator.

Conditions can always be made more liberal but it is hard to reign them when problems occur and the community suffers in the meantime.

**The City Planning Commission erred and abused its discretion when it approved the Site Plan Review with an Outdoor Eating Area above the ground floor.**

### *Zone Variance Required*

Section 12.03 of the LAMC defines an Outdoor Eating Area as "a covered or uncovered portion of a ground floor restaurant which is not completely enclosed within the building; is used primarily for the consumption of food and/or drinks by the patrons of the restaurant; and is not larger than 50 percent of the dining area of the ground floor restaurant."

I am aware of a 1961 Zoning Administrator's Interpretation (ZAI 1808) which is relied upon by the Planning Dept. and the Department of Building and Safety in

approving Outdoor Dining Areas above the ground floor, but this application is flawed and an abuse of their authority. In applying that flawed application of the 1961 ZAI, the Commission has committed the same err and abuse of discretion.

First, the definition of Outdoor Eating Areas was established in 1990 by legislation after the 1961 ZAI 1808 and therefore supersedes any application of ZAI 1808 when interpreting any rules and regulations applicable to Outdoor Eating Areas. Second, ZAI 1808 never considered Outdoor Eating Areas above the ground floor. Lastly, ZAI 1808 is very clear in allowing outdoor dining areas that are “incidental” to the main “Restaurant, Café, Eating Establishment or Refreshment Facility”. In this case before you, the outdoor area approved by the CPC is not “incidental” to the enclosed restaurant area. Quite the opposite, the outdoor area (5000 sq. ft.) is superior to the enclosed portion of the rooftop restaurant (2000 sq. ft.).

To use ZAI 1808 in establishing rules and regulations which conflict with the adopted legislation of the City Council is an err and abuse of discretion. Regardless of the Planning Dept. and LADBS's practice, the Planning Commission cannot rely on that practice if it can be demonstrated that such a practice is contrary to law.

Moreover, the City’s approval of process for Outdoor Eating Areas in general demonstrates ambiguity and inconsistency.

The following are Zone Variances the City has recently granted to allow Outdoor Eating Areas above the ground floor.

CPC-2008-3440-ZC-CUB-CU-ZV-DA-HD (2013) - 1720-1770 Vine Street  
CPC-2009-3416-TDR-CUB-CU-CUW-ZV-SN-DA-ZAD-SPR-GB (2010) - 695-699  
Figueroa Street  
CPC-2007-3931-ZC-HD-CUB-CU-ZV-SPR (2008) - 6415 Selma Avenue  
ZA-2001-1210-CUB-ZV (2001) - 550 Flower Street

There are numerous other instances where a project included a Zone Variance for Outdoor Eating Areas above the ground floor, including this project.

If the City is to formally change the rules and regulations relating to Outdoor Eating Areas above the ground floor, it must do so through a Code Amendment or through a new ZAI that would inherently consider the 1990 legislation that defined Outdoor Eating Areas.

The City Council, if it does not want to do that on a citywide policy, should at least require that this project obtain a Zone Variance in order to permit the consumption of food and/or drinks by the patrons of the proposed rooftop restaurant/bar.

*Zone Change and CUB Required to be Filed per Multiple Approvals*

As required by the Multiple Approvals Ordinance, “applicants shall file applications at the same time for all approvals reasonably related and necessary to complete the project.” This didn’t occur and these entitlements should have been filed at the same time as the original building entitlements.

**Governing/Decision Making Body**

This case should have been heard by CPC and not the APCC according to LAMC.

**Applicant Copy**  
Office: Downtown  
Application Invoice No: 69859

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.

If you have questions about this invoice, please contact the planner assigned to this case. To identify the assigned planner, please visit <https://planning.lacity.org/pdiscaseinfo/> and enter the Case Number.

**Receipt Number:280121EC0-BC3FAD91-69ED-4FD5-98A8-B5ED38EA8605, Amount:\$109.47, Paid Date:01/28/2021**

Applicant: -- - CARRERA, DAVID ( 323-6462047 )
Representative:
Project Address: 1531 N WILCOX AVE, 90028

### NOTES:

APCC-2020-537-ZC-CUB-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
<b>Case Total</b>			<b>\$89.00</b>

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
<b>Plan &amp; Land Use Fees Total</b>	<b>\$89.00</b>
<b>Expediting Fee</b>	<b>\$0.00</b>
<b>Development Services Center Surcharge (3%)</b>	<b>\$2.67</b>
<b>City Planning Systems Development Surcharge (6%)</b>	<b>\$5.34</b>
<b>Operating Surcharge (7%)</b>	<b>\$6.23</b>
<b>General Plan Maintenance Surcharge (7%)</b>	<b>\$6.23</b>
<b>Grand Total</b>	<b>\$109.47</b>
<b>Total Invoice</b>	<b>\$109.47</b>
<b>Total Overpayment Amount</b>	<b>\$0.00</b>
<b>Total Paid</b> (this amount must equal the sum of all checks)	<b>\$109.47</b>

Council District: 13  
Plan Area: Hollywood  
Processed by VIDAL, ANNA on 01/28/2021

Signature: \_\_\_\_\_





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