



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: CASE No CPC-2007-3888-CU-ZV-SPR-PA1 -1A

Project Address: 9055-9351 North Tujunga Avenue

Final Date to Appeal: March 31, 2021

2. APPELLANT

- Appellant Identity: Representative, Applicant, Property Owner, 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, Applicant, Owner, Operator, Aggrieved Party

3. APPELLANT INFORMATION

Appellant's Name: Mike Martin

Company/Organization: Ramco

Mailing Address: 9005 Bradley Ave

City: Sun Valley, State: CA, Zip: 91352

Telephone: 818 767-0700, E-mail: Mike@ramco.us.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): R. Nicolas Brown, AICP

Company: SATT, LLC

Mailing Address: 25355 Creekside Rd. 800429

City: Valencia State: CA Zip: 91380

Telephone: 6617539861 E-mail: SATTGovt@gmail.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: _____

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: *R Nicolas Brown* Date: 3/30/2021

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)

Applicant Copy
 Office: Downtown
 Application Invoice No: 71241

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.



6800171241



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:310321EBF-474A8042-9F44-45FF-8699-C65B9D88D750, Amount:\$109.47, Paid Date:03/31/2021

Applicant: RAMCO - MARTIN, MIKE (818-7670700)
Representative: SATT, LCC - BROWN, R. NICOLAS (661-7539861)
Project Address: 9227 N TUJUNGA AVE, 91352

NOTES: SECOND LEVEL APPEAL OF ENTIRE DECISION BY AN AGGRIEVED PARTY

CPC-2007-3888-CU-ZV-SPR-PA1-2A			
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
Development Services Center Surcharge (3%)	\$2.67
City Planning Systems Development Surcharge (6%)	\$5.34
Operating Surcharge (7%)	\$6.23
General Plan Maintenance Surcharge (7%)	\$6.23
Grand Total	\$109.47
Total Invoice	\$109.47
Total Overpayment Amount	\$0.00
Total Paid (this amount must equal the sum of all checks)	\$109.47

Council District: 6
 Plan Area: Sun Valley - La Tuna Canyon
 Processed by NGUYEN, MINDY on 03/31/2021

Signature: _____

Building & Safety Copy
 Office: Downtown
 Application Invoice No: 71241

City of Los Angeles
 Department of City Planning



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Council District: 6
 Plan Area: Sun Valley - La Tuna Canyon
 Processed by NGUYEN, MINDY on 03/31/2021

Signature: _____

**APPEAL OF
CASE No. CPC-2007-3888-CU-ZV-SPR-PA1-1A**

At its meeting of February 25, 2021, City Planning Commission sustained the Director of Planning in his approval of Case No. CPC 2007-3888-ZV-SPR-PA1, a waiver of required street dedication and improvement for Waste Management.

This appeal should not be seen as a punitive measure again Waste Management. On the contrary, they are commended for maintaining their side of the street, substantial compliance with Case No. CPC-2007-3888-CU-ZV-SPR, and operating an essential business for the City of Los Angeles. Nor is this appeal necessarily opposed a waiver.

Rather, this appeal is because of error and abuse of discretion by the Director and subsequently the City Planning Commission due to the numerous defects in the Letter of Determination. Specifically, the Director's decision was based on the belief that Peoria Street and Tujunga Avenue will be temporarily and permanently closed, which "legally" was not decided at the time of writing the Letter of Determination.

The appellant is merely requesting City Council to remand the matter, pursuant to Section 12.27-K of the Los Angeles Municipal Code, since evidence could not reasonably have been presented to the Director and the evidence is such a nature as might reasonably led to a different decision. Another resolution is for City Council to request written responses from the City Planning Department regarding the points listed below to ensure the Director's action stands on firm legal grounds.

The following points address statements made to City Planning Commission in City Planning Department's report:

Point No.1 *(pg. A-4 of the Staff Report, under added for emphasis)*

"The Los Angeles Municipal Code (LAMC) states in Section 12.37 that "the Director may waive, reduce or modify the required dedication or improvement as appropriate after making any of the following findings, in writing, based on substantial evidence in the record:

- (1) The dedication or improvement requirement does not bear a reasonable relationship to any project impact.
- (2) The dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on guidelines the Streets Standards Committee has established.
- (3) The dedication or improvement requirement is physically impractical."

APPELLANT'S Response: (False) There is no mention of Section 12.37 in the Letter of Determination. Nor was a Waiver of Dedication and Improvement (WDI) suffix on the

case number, which would have required the applicant to submit Findings. Los Angeles Municipal Code Section 12.37(I)3, regarding waiver of dedication and improvements, states "[f]or projects that require a discretionary entitlement, an applicant shall file a waiver request as part of the master land use application or subdivider's statement for the project."

Point No. 2 (pg. A-4 of the Staff Report, under added for emphasis)

"Through written documentation from the offices of City Council District 6 and the Bureau of Engineering (Exhibit D), **[Response A]** the designee of the Director determined that the dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on guidelines the Street Standards Committee has established. Furthermore, evidence was submitted into the record showing that the subject streets were not being used for traffic and circulation, [Response B], but rather illegal truck idling (Exhibit A) [Response C] as well as illegal dumping as indicated in the Council Motion."

APPELLANT'S Response A: (False) There was no Exhibit D in the Report to Commission nor was there an Exhibit D in the Letter of Determination (*online version*).

APPELLANT'S Response B: (Challenge) Three businesses (i.e., Ramco, Pick your Parts, Security Paving) dispute this statement because they use the subject streets. Furthermore, photographs submitted by staff clearly show the streets are used by 18 wheelers and passenger vehicles. The trucks in the staff's photographs are queuing to access businesses in this heavy industrial area. The queuing of vehicles in the street in this safe manner is similar to the familiar dealership vehicle transport trucks loading and unloading while parked in the street median or customers queuing outside of travel lanes to enter the drive-thru of Chick-fil-A or In-N-Out Burgers.

APPELLANT'S Response C: (Challenge) Staff did not state if "idling" exceeds 5 minutes or if it's permitted to "prevent [businesses] from accomplishing work or create a safety concern ..." (*Source: California Air Resources Board, Frequently Asked Questions Regulation for In-Use Off-Road Diesel-Fueled Fleets*)

Point No. 3 (pg. A-5 of the Staff Report, under added for emphasis)

"Currently, the Bureau of Engineering is managing a temporary street vacation of the subject streets in coordination with Council District 6. This process was initiated on February 11, 2020 by the City Council via the adopted Council Motion (CF 17-0244). The standard process for street vacations by the Bureau of Engineering includes its own environmental determination, public hearing, and investigations from other City agencies. The Bureau of Engineering describes this process as such:"

APPELLANT'S Response (Challenge) The Director based his decision on temporary and permanent closure of the streets. However, City Council Motion CF 17-0244 (attached) instructed Bureau of Engineering to only study "temporary" closure. It will not be known, if closure will occur until Bureau of Engineering completes its study.

Therefore, the Director exceeded his authority by presuming the streets will be temporarily and permanently closed.

Moreover, AB 332 requires input of “traffic engineers”. Los Angeles Department of Transportation has established procedures for studying traffic and circulation. After such study, environmental mitigation measures may outline street requirements different from Mobility 2035 or the Director’s conclusion that no improvements are required. Therefore, it was erroneous for the Director to predetermine the outcome of future environmental review of another Department. This approach has flaws and resulted in Site Plan Review, as previously learned by the City Planning Department.

Point No. 4 *(pg. A-5 of the Staff Report, under added for emphasis)*

“As the public street system belongs to the general public, there are many agencies (City of Los Angeles and other public utilities) who may be utilizing or have an interest in the public right-of-way proposed to be vacated. City agencies such as the Bureau of Engineering, Planning Department, Department of Transportation, Fire Department, Department of Water and Power and others, along with affected public utility companies such as the Gas Company and Pacific Bell, will be sent referrals for their comments and recommendations on the proposed vacation. Upon receipt of their responses, a report will be prepared by the Bureau of Engineering and submitted to the City Council through the Public Works Committee for their consideration.”

APPELLANT’S Response: (Challenge) Does this mean when BOE asks the City Planning Department to comment, their response will be the streets should be vacated as determined in CPC 2007-3888-ZV-SPR-PA1? This means the Director has predetermined the outcome of BOE’s study. It is bad policy for a decision-maker to predetermine the outcome of a future study before all facts are known.

Point No. 5 *(pg. A-5 of the Staff Report, under added for emphasis)*

“As such, a comprehensive study involving various City departments, including the Department of Transportation, will be conducted as part of the street vacation process lead by the Bureau of Engineering. Planning staff had received sufficient evidence from the Bureau of Engineering and the offices of City Council District 6 to make required findings pursuant to LAMC Section 12.37. [Response A] Additionally, Planning staff did not receive any other written evidence or documentation to prove otherwise.”
[Response B]

APPELLANT’S Response A: (Challenge) Refer to Point No. 1.

APPELLANT’S Response B: (Challenge) It is standard procedure that a public notice is not mailed for a waived public hearing. This is confirmed in Staff’s Response citing Condition No. A.17.f that states, “[t]he Plan Approval shall be determined by the Director of Planning, or the City Planning Commission on appeal. Should the Director require a public hearing, public notice shall be made to owners and occupants of property within a radius of 500 feet.” However, it was only upon receipt of the Director’s

determination that the public was aware of the action, which led to an appeal so the public can be heard.

Point No. 6 (pg. A-6 of the Staff Report, under added for emphasis)

“Thus, Staff determined that the public hearing was not required for the initial action. **[Response A]** Upon appeal, however, a public hearing notice was sent to owners and occupants of properties within a 500-foot radius two times in total, **[Response B]** along with publication in the newspaper and onsite posting, in order to notify any interested parties who wish to participate.”

APPELLANT’S Response A: (Challenge) Two Findings shall be made to waive a public hearing as required pursuant to Section 12.27-C of the LAMC. There is no written record that the Findings were made. Importantly, one of the required Findings asks if a waiver of the hearing could result in controversy. The record clearly shows a history of controversy.

APPELLANT’S Response B: (Question) What is meant by two times? There was no public notice for the waived public leaving City Planning Commission hearing as the only public notice. Therefore, the only way for the public to be heard was an appeal.

Point No. 7 (pg. A-6 of the Staff Report, under added for emphasis)

“As stated above, any potential impacts related to traffic and circulation, among many other topics, will be investigated thoroughly by the Bureau of Engineering **[Response A]** through their standard process for temporary and permanent street vacations. Evidence was submitted into the Planning case file record indicating illegal semi-truck idling on the subject streets and minimal use for traffic and circulation from the general public. Documentation was also submitted to Planning staff indicating that the Bureau of Engineering has collected signatures of adjacent property owners to move ahead with the temporary closure. **[Response B]** Lastly, there are additional streets in the surrounding area that provide adequate access to all lots without the use of the specific segment of Peoria Street and Tujunga Avenue,” **[Response C]**

APPELLANT’S Response A: (Challenge) The Planning Department relied on a yet to be completed future study. Therefore, the Director deferred mitigation of potential traffic and circulation impacts. Not only is this bad policy, it may be a violation of CEQA.

APPELLANT’S Response B: (False) All signatures of property owners adjacent to the proposed street closures were not collected. One property owner and their tenant do not support the closure and will not sign.

APPELLANT’S Response C: (False) It is an error to state there is “adequate access to all lots without the use of the specific segment of Peoria Street and Tujunga Avenue.” There are currently two ingress/egress points for 18-wheel trucks and passenger vehicles. The proposed closure leaves only one point causing a cluster and queuing of

trucks along Bradley Ave. and Tuxford Ave. This will create significant traffic and circulation impacts for a number of businesses.

Point No. 8 (*pg. A-8 of the Staff Report*)

“Rather, evidence was submitted to Planning staff that the current state of the subject streets have been creating public safety and quality of life issues.”

APPELLANT’S Response: (Challenge) This is exactly why there should have been a public hearing and why there should have been a traffic and circulation study to evaluate what the problems are and how they can be mitigated.

You are invited you to review a comprehensive presentation on InfoPost website <https://Appellant’s infopost.edublogs.org/?s=peoria>. You can easily access the website using the below QR Code.





AB-332 Vehicles: local regulations: street closures. (2017-2018)

As Amends the Law Today

[As Amends the Law on Nov 27, 2017](#)

SECTION 1. Section 21101.4 of the Vehicle Code is amended to read:

21101.4. (a) A local authority may, by ordinance or resolution, adopt rules and regulations for temporarily closing to through traffic a highway under its jurisdiction when all of the following conditions are, after a public hearing, found to exist:

(1) The local authority finds and determines that, based upon the recommendation of the police department or, in the case of a highway in an unincorporated area, on the joint recommendation of the sheriff's department and the Department of the California Highway Patrol, one of the following concerns exists along the portion of highway recommended for closure:

(A) Serious and continual criminal activity.

(B) Serious and continual illegal dumping.

(2) The highway is not designated as a through highway or arterial street, or, if the highway is so designated, the local authority, in conjunction with law enforcement and traffic engineers, has determined that a temporary closure may be accomplished without significant impact on the normal flow of traffic.

(3) Vehicular or pedestrian traffic on the highway contributes to the concern described in paragraph (1).

(4) The closure will not substantially adversely affect traffic flow, safety on the adjacent streets or in the surrounding neighborhoods, the operation of emergency vehicles, the performance of municipal or public utility services, or the delivery of freight by commercial vehicles in the area of the highway proposed to be temporarily closed.

(b) A highway may be temporarily closed pursuant to subdivision (a) for not more than 18 months, except that this period may be extended for not more than eight additional consecutive periods of not more than 18 months each if, prior to each of those extensions, the local authority holds a public hearing and finds, by ordinance or resolution, that all of the following conditions exist:

(1) Continuation of the temporary closure will assist in preventing the occurrence or reoccurrence of the concern described in paragraph (1), found to exist when the immediately preceding temporary closure was authorized. This finding and determination shall be based upon the recommendation of the police department or, in the case of a highway in an unincorporated area, on the joint recommendation of the sheriff's department and the Department of the California Highway Patrol.

(2) The highway is not designated as a through highway or arterial street, or, if the highway is so designated, the local authority, in conjunction with law enforcement and traffic engineers, has determined that the immediately preceding temporary closure has been accomplished without significant impact on the normal flow of traffic.

(3) Vehicular or pedestrian traffic on the highway contributes to the concern described in paragraph (1).

(4) The immediately preceding closure has not substantially adversely affected traffic flow, safety on the adjacent streets or in the surrounding neighborhoods, the operation of emergency vehicles, the performance of municipal or public utility services, or the delivery of freight by commercial vehicles in the area of the highway that was temporarily closed.

(c) The local authority shall mail written notice of the public hearing required under subdivision (a) or (b) to all residents and owners, as shown on the last equalized assessment roll, of property adjacent to the portion of

highway where a temporary closure or extension of temporary closure is proposed.

PUBLIC WORKS AND GANG REDUCTION COMMITTEE REPORT relative to the temporary closure of Peoria Avenue and Tujunga Avenue between Glenoaks Boulevard and 9000 Tujunga Avenue.

Recommendation for Council action, pursuant to Motion (Martinez – Krekorian):

INSTRUCT the Bureau of Engineering, with the assistance of the City Attorney, Department of City Planning, and the Los Angeles Department of Transportation, to review the feasibility of the temporary closure of Peoria Avenue and Tujunga Avenue between Glenoaks Boulevard and 9000 Tujunga Avenue for public safety reasons and to report with recommendations for such closure.

Fiscal Impact Statement: Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

SUMMARY

On March 3, 2017, Council considered Motion (Martinez – Krekorian) relative to the temporary closure of Peoria Avenue and Tujunga Avenue between Glenoaks Boulevard and 9000 Tujunga Avenue. Motion states the excessive amount of illegal dumping in the vicinity of these streets has created quality of life and public safety issues for the immediate area and surrounding community. Two large community clean-ups in 2016 resulted in the collection of 40 tons of illegally dumped trash and building debris. The Police Department (LAPD) has reported numerous crimes in the vicinity in the last few years, including assault with a deadly weapon and auto theft. Business owners and area residents complain that dumping resumes as soon as clean-ups are completed. LAPD supports the proposed street closure as a solution to the nuisance activities.

Motion movers recommend that Council instruct the Bureau of Engineering to report on the feasibility of closing the segment of Peoria Avenue described above. Council referred Motion to the Public Works and Gang Reduction Committee for consideration.

At its meeting held April 24, 2017, the Public Works and Gang Reduction Committee recommended that Council approve Motion.

Respectfully Submitted,

PUBLIC WORKS AND GANG REDUCTION COMMITTEE

MEMBER VOTE
BUSCAINO: YES
MARTINEZ: YES



PRICE: YES
O'FARRELL: ABSENT
RYU: YES

jaw

-NOT OFFICIAL UNTIL COUNCIL ACTS-



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: MAR 16 2021

Case No. CPC-2007-3888-CU-ZV-SPR-PA1-1A
CEQA: ENV-2020-2426-CE
Plan Area: Sun Valley – La Tuna Canyon

Council District: 6 – Martinez

Project Site: 9227 North Tujunga Avenue;
9055 – 9351 North Tujunga Avenue

Applicant: Douglas Corcoran
Waste Management Recycling and Disposal Services of California, Inc.
Representative: Dana Sayles, threeSixty

Appellants: Ernest R. Lenthall, Newman and Sons, Inc.
Representative: R. Nicolas Brown, SATT, LLC

At its meeting of **February 25, 2021**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following:

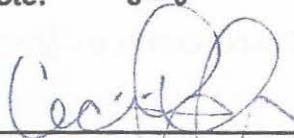
An approval of plans to modify conditions related to improvements associated with Peoria Street and Tujunga Avenue which will no longer be relevant once those portions of the street are vacated. Currently, these portions of the streets are not being used for traffic or circulation, and rather have been the site of illegal dumping activity and truck idling. Modification of these conditions would allow the Applicant to proceed with all previously approved conditions and receive a final Certificate of Occupancy to complete the project as intended. There are no other changes to the previously approved project.

1. **Determined**, based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15301, Class 1, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Denied** the appeal and **sustained** the Planning Director's Determination on behalf of the City Planning Commission dated August 12, 2020;
3. **Approved**, pursuant to Section 12.24 M of the Los Angeles Municipal Code (LAMC), a Plan Approval application for the Determination of Condition Compliance in accordance with Condition No. A.17.g. of Case No. CPC-2007-3888-CU-ZV-SPR, and find that the use and operating requirements for vehicle replacement and retrofitting (as noted on Condition No. 16.d) have been fully complied with;
4. **Conditionally Approved**, pursuant to LAMC Section 12.24 M, plans to permit a Recycling Materials Sorting Facility in the M2-1-G, M3-1-G, [T][Q]M2-1-G, [T][Q]M3-1-G Zones in relation to the temporary closure and future vacation of Peoria Street and Tujunga Avenue;
5. **Adopted** the attached Conditions of Approval; and
6. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: López-Ledesma
Second: Perlman
Ayes: Ambroz, Choe, Hornstock, Leung, Mack, Relan
Absent: Millman

Vote: 8 - 0



Cecilia Lamas, Commission Executive Assistant
Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: The decision of the Los Angeles City Planning Commission is appealable to the Los Angeles City Council within 15 days after the mailing date of this determination letter. Any appeal not filed within the 15-day period shall not be considered by the Council. All appeals shall be filed on forms provided at the Planning Department's Development Service Centers located at: 201 North Figueroa Street, Fourth Floor, Los Angeles; 6262 Van Nuys Boulevard, Suite 251, Van Nuys; or 1828 Sawtelle Boulevard, West Los Angeles.

FINAL APPEAL DATE: MAR 31 2021

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Conditions of Approval, Findings, Interim Appeal Filing Procedure

c: Heather Bleemers, Senior City Planner
Esther Ahn, City Planner

CONDITIONS OF APPROVAL

The project continues to be subject to all conditions of approval as required by CPC-2007-3888-CU-ZV-SPR, except as modified below:

Modify Condition No. A.14 to read as follows (deletions are in ~~strikeout~~):

A. Entitlement Conditions: Conditional Use and Variance for Waste Transfer Station and Materials Recycling Facility

14. Community Plan Design Guidelines:

- a. Designing the site and building(s) as to convey visual interest and to be visually compatible with adjacent uses.
- b. ~~Treating large expanses of blank walls and tilt-up concrete walls visible from the public right-of-way with contrasting complementary colors, building plane variation, murals, planters and/or other landscape elements to create visual interest.~~
- c. Screening of mechanical and electrical equipment from public view.
- d. ~~Screening of all rooftop equipment and building appurtenances from public view.~~
- e. Requiring the enclosure of trash areas for all projects.
- f. Requiring freestanding walls to conform to the requirements of Section A.2b above.
- g. Directing exterior lighting onto the project site and locating flood lighting so as not to impact any surrounding residential uses.

Modify Condition No. A.15 to read as follows (deletions are in ~~strikeout~~):

15. Traffic and Circulation. The project shall comply with the following conditions to the satisfaction of the Department of City Planning.

- a. Delivery of refuse, recyclable materials, green waste or wood waste shall be performed completely on the subject property within the area designated for pick-up/drop-off.
- b. Stacking for vehicles shall occur completely on site and not occur in the public right-of-way.
- c. Within the Transportation Demand Management (TDM) Plan, the applicant shall implement the following:
 - i. ~~The applicant shall hire or assign an individual to direct traffic at the driveway entrance of the subject facility at Tujunga Avenue/Bradley Avenue. The monitor shall direct traffic entering the site to ensure no blockage occurs on the public street during the hours of 6:00 a.m. to 7:30 p.m.~~

Modify Condition No. A.16.h. to read as follows (deletions are in ~~strikeout~~):

16. Environmental Justice. The following conditions shall be performed by the applicant in the spirit of furthering environmental justice and in an effort to reduce and off-set the significant impacts identified by the Environmental Impact Report, including project-specific and cumulative air quality impacts and to further reduce less than significant project specific and cumulative land use compatibility impacts:

- h. Weekly roadside cleanup of litter for typical truck access routes including but not limited to San Fernando Road, Glenoaks Boulevard, Bradley Avenue, Tujunga Avenue, Sheldon Street, Tuxford Street, and Penrose Street.

Modify Condition No. A.23.d.iv. to read as follows (deletions are in ~~strikeout~~):

23. Public Improvements:

- d. Dedication(s) and Improvement(s). Prior to the issuance of any building permits, public improvements and dedications for streets and other rights of way adjoining the subject property shall be guaranteed to the satisfaction of the Bureau of Engineering, Department of Transportation, Fire Department (and other responsible City, regional and federal government agencies, as may be necessary), for the following:

iv. Improvements.

- ~~(1) Tujunga Avenue — Construct additional surfacing to join the existing improvements to provide a 35 foot half roadway in accordance with Secondary Highway Street standard, including asphalt pavement, integral concrete curb, and 2-foot gutter and a 10 foot full width concrete sidewalk for a frontage length of 700 feet along Tujunga Avenue, north of the intersection with Bradley Avenue. Improvements shall minimize or avoid disruption/conflict with the existing easements with Vulcan Industries and monitoring wells or equipment required by state and local permits. Improvements need not include widening of the roadway. These improvements should suitably transition to join the existing improvement to the satisfaction of the City Engineer. Such improvements shall be constructed to the satisfaction of the City Engineer prior to issuance of the final certificate of occupancy.~~

Modify Condition No. A.26.c. to read as follows (deletions are in ~~strikeout~~):

26. **Conditions of Case No. ZA 94-0792(ZV)(PAD):** The following conditions from previous grant of entitlement No. ZA 94-0792(ZV)(PAD), APPROVAL OF PLANS, dated June 2, 1998, although primarily governing the use of the site as a landfill operation, remain pertinent as they represent the amalgamated terms and conditions of approval of prior cases [Case No. ZA 92-0002(ZV) and Case No. ZA 94-0792(ZV)]. Therefore, the following applicable terms and conditions shall continue with the parenthetical indicating the previous condition number as stated in the June 2, 1998 entitlement:

- ~~e. — The area in front of the masonry wall along Tujunga Avenue shall be landscaped with Oleander or similar shrubs and have a permanently installed watering system provided. (9)~~

Administrative Conditions (Plan Approval Application)

1. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building & Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building & Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building & Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the Final Plans, supplied by the applicant, shall be retained in the subject case file.

2. **Notations on Plans.** Plans submitted to the Department of Building & Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
3. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
4. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
5. **Department of Building & Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building & Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building & Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
6. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
7. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
8. **Expedited Processing Section Fee.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
9. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

 - a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
 - b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, of the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
 - c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the applicant and requesting a deposit. The initial deposit

shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).

- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the applicant otherwise created by this condition.

FINDINGS

APPROVAL OF PLANS

Pursuant to LAMC Sections 12.24-M and 12.24-E, following is a delineation of the mandated findings required for approval of plans to revise the use of the site associated with the previously approved Transfer Station and Materials Recycling Facility (TS/MRF):

- 1. The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.**

The subject property was previously known as the Bradley Landfill and Recycling Center (BLRC), a municipal solid waste (MSW) disposal and recycling facility. The site is currently occupied with a closed landfill, an inactive materials recycling facility with appurtenant equipment, and a green and wood waste recycling facility. Accessory activities on the site including environmental monitoring to meet local, state, and federal operating requirements.

The subject property is a single, irregular-shaped parcel, generally located at 9227 North Tujunga Avenue and spanning approximately 2,626,317 square feet (60 acres) in total lot area. The subject property is zoned M2-1-G, M3-1-G, [T][Q]M2-1-G, and [T][Q]M3-1-G, and is located within the Sun Valley – La Tuna Canyon Community Plan which designates the site for Light Manufacturing and Heavy Manufacturing land uses as well as a “Refuse Collection Yard.” The project site is bounded by a City of Los Angeles Department of Water and Power transmission line right-of-way to the northwest and the Southern Pacific Railroad/Metrolink rail line to the southwest, and is located directly west of the intersection of Glenoaks Boulevard, Peoria Street, Tujunga Avenue, and Bradley Avenue.

The proposed use of site was authorized under Case No. CPC-2007-3888-CU-ZV-SPR, which approved the construction and operation of a TS/MRF to receive, sort, consolidate, and prepare municipal solid waste as well as commercial and residential recyclable materials for transport to other regional landfills and recycled materials processing facilities. On February 24, 2010, the City Planning Commission had initially disapproved the project, but the City Council granted in part and denied in part the appeal which followed. As a result, the Conditional Use, Variances, and Site Plan Review for the project was approved subject to modified Conditions of Approval attached to Council File No. 10-0468. Subsequently, the City Council approved the appeal on May 11, 2010, and the Mayor issued final approval for the appeal on May 21, 2010.

As previously discussed, the Conditions of Approval require modifications in order to align with the City Council motion and future street vacation of Peoria Street and Tujunga Avenue. The intent of the street closures and future street vacations is to mitigate illegal dumping activity that has been occurring in the vicinity. The illegal dumping has been causing quality of life issues as well as public safety issues for both the immediate vicinity and surrounding community. The requested modifications are related to improvements associated with Peoria Street and Tujunga Avenue, which will no longer be relevant, as they would not serve any purpose for the project or for the streets that are to be vacated. Modification of these conditions would allow the Applicant to proceed with all previously approved conditions and receive a final Certificate of Occupancy to complete the project as intended. There are no other changes to the previously approved project described above.

Surrounding properties are generally improved and include various light manufacturing, heavy manufacturing, and public and institutional uses. Adjoining the property to the northwest is a City of Los Angeles Department of Water and Power transmission line right-of-way zoned PF-1XL and designated as Public Facilities within the Sun Valley – La Tuna Canyon Community Plan. Across Glenoaks Boulevard to the northeast is a landfill use in the A1-1XL-G Zone. Properties across Tujunga Avenue, Peoria Street and Bradley Avenue to the east include an automobile wrecking yard and a recycled rock materials business, zoned M3-1-G and designated as Heavy Manufacturing. Properties to the south include a concrete manufacturing facility in the M3-1-G Zone and the Southern Pacific Railroad/MetroLink rail line in the PF-1XL Zone.

The approval of the instant request will allow the already approved TS/MRF to fully comply with the conditions required by Case No. CPC-2007-3888-CU-ZV-SPR and begin operation as originally intended. The requested modifications will assure that the conditions of the entitlement align with the actions of the City Council to vacate portions of Peoria Street and Tujunga Avenue. The proposed closures will support the safe and functional operation of the site and surrounding area, while limiting unauthorized public access and illegal dumping activity. Furthermore, adjacent public rights-of-way, including Bradley Avenue and Tuxford Street, are already improved to current mobility standards and will continue to provide access to within the vicinity of the project site. As a result, the development of the site will provide a beneficial service to the City while remaining compatible with the existing surrounding uses.

2. **The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.**

Per the City Council motion described above, and the future vacation of Peoria Street and Tujunga Avenue, the Applicant requests a Plan Approval pursuant to LAMC Section 12.24-M to allow for the modifications within the intent of City Planning Commission Case No. CPC-2007-3888-CU-ZV-SPR. The closure of these streets has been necessitated by illegal dumping activity, which has degraded the quality of life and public safety for the immediate vicinity and surrounding community. The requested modifications are related to improvements associated with Peoria Street and Tujunga Avenue, which will no longer be relevant, as they would not serve any purpose for the project or for the streets that will be vacated. Modification of these conditions would allow the Applicant to proceed with all previously approved conditions and receive a final Certificate of Occupancy to complete the project as intended. There are no other changes to the previously approved project described above.

There is no change to the physical characteristics or operations of the previously approved use; therefore, the project's location, size, height, operations, and other significant features are and will continue to be compatible with the surrounding neighborhood. As previously discussed, the project's location has zoning and a land use designation for manufacturing uses as described in the Sun Valley – La Tuna Canyon Community Plan. Furthermore, the location of the project and surrounding area has a history of operating the site as a landfill, rendering the site suitable for the approved TS/MRF use. Appropriate conditions and mitigation measures have been imposed on the original entitlement to minimize impacts of the operation onto neighboring properties.

The approval of this instant request will allow the project to align with the actions by the City Council and thus improve the quality of life and public safety for residents and employees

of the surrounding neighborhood. The conditions identified as part of this request will no longer be relevant nor serve their original function once the street vacations are completed. The Department of Public Works Bureau of Engineering defines a street vacation as the abandonment or termination of the public right to use a street or public service easement. Therefore, public access will no longer be permitted on Peoria Street and part of Tujung Avenue upon completion of the street vacations, and the improvements originally required will no longer serve any purpose for the project or surrounding area. Adjacent public rights-of-way, including Bradley Avenue and Tuxford Street, are already improved to current mobility standards and will continue to provide access to within the vicinity of the project site. Modification of the requested conditions related to improvements for these streets will allow the Applicant to proceed with and complete the previously approved use as its location, size, height, operations, and other significant features have been found to be compatible with and unlikely to adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety, as conditioned under the prior approval.

3. The project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any specific plan.

The General Plan is comprised of several Elements, including the Land Use Element. The Land Use Element consists of 35 Community Plans, which contain the goals, objectives, and policies to guide the future development of the Plan Area. The Zoning Code is the implementing tool of the Community Plan's goals, objectives, and policies. The subject property is located in the Sun Valley – La Tuna Canyon Community Plan area, and designated for Light and Heavy Industrial land uses. The northern strip of the project site fronting Glenoaks Boulevard has a Light Industrial land use designation and lists the following corresponding zones: MR2 and M2. The majority of the project site has a Heavy Industrial land use designation, which corresponds to the M3 Zone. The site is zoned M2-1-G, M3-1-G, [T][Q]M2-1-G, and [T][Q]M3-1-G, which is consistent with the land use designation. Furthermore, the Community Plan labels the site as a "Refuse Collection Yard," which also aligns with the project.

The conditional use process is intended to provide review of the proposed use to assure compatibility with surrounding uses. As previously described, the use of the site as a TS/MRF was approved by the City Council on May 11, 2010 with the Mayor's final approval on May 21, 2010. The Conditional Use was approved with conditions that would ensure that any new development of the site would be in conformance with the intent of the General Plan. The proposed project has been designed to be compatible with the surrounding uses and the property will continue to be used in the manner in which it was approved, with no changes being proposed to any physical characteristics or operations of the use.

As such, the plan approval to allow for modifications to the TS/MRF will continue to conform with the purpose, intent and provisions of the General Plan, the applicable community plan, and any specific plan.

ADDITIONAL MANDATORY FINDINGS

4. Flood Insurance. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone X, which is categorized as an area with a minimal chance of flood hazard.

5. **Environmental Finding.** The City of Los Angeles found, based on the independent judgment of the decision maker, after consideration of the whole of the administrative record, the project is exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Class 1), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies.