



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: _____

Project Address: _____

Final Date to Appeal: _____

2. APPELLANT

Appellant Identity:
(check all that apply)

- Representative Property Owner
- Applicant Operator of the Use/Site

Person, other than the Applicant, Owner or Operator claiming to be aggrieved

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

- Representative Owner Aggrieved Party
- Applicant Operator

3. APPELLANT INFORMATION

Appellant's Name: _____

Company/Organization: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

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: _____

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: _____

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.

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____
Company: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ E-mail: _____

5. JUSTIFICATION/REASON FOR APPEAL

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b. Are specific conditions of approval being appealed? Yes No

If Yes, list the condition number(s) here: 8a, 8b, 8c, 8e, 8f, 15

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: *Cheryl Holston* Date: 2/22/21

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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)

Case # ZA-2020-2164-ELD-SPR
825-837 Holt Eldercare Community Response

Applying the “strict application” of land use regulations on the subject property would result in practical difficulties and unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations in our neighborhood.

Zoning laws are intended to promote the health, safety, welfare, convenience, morals, and prosperity of the community at large and are meant to enhance the general welfare rather than to improve the economic interests of any particular property owner.

They are designed to stabilize neighborhoods and preserve the character of the community. When enacting zoning ordinances, a municipality takes many factors into consideration. The most significant are the density of the population; the site and physical attributes of the land involved; traffic; the fitness of the land for permitted use; the character of the neighborhood in the community; the existing uses and zoning of neighbor property; the effect of the permitted use on land in the surrounding area; any potential decrease in property values; and the gain to the public at large weighed against economic hardships imposed on individual property owners. This zoning laws are not being adhered to in this case, resulting in a deleterious impact to our community.

The Zoning Administrator’s decision rendered on February 9, 2021 was an abuse of discretion. In reference to Findings for Approval (Amended by Ord. No. 182,095, Eff. 5/7/12.), the Zoning Administrator shall not grant the approval unless he or she finds that the strict application of the land use regulations on the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

Financial hardship is not one of the findings upon which a decision is made. As is referenced in the five findings below. On page 23 of the Zoning Administrator’s decision, the applicant states, “The requested deviations from the LAMC are necessary for the proposed Eldercare Facility to enable a financially viable eldercare facility; without such deviations it is impractical and infeasible to build such a facility on the subject property.” To make a decision based on this is an errant use of discretion. Making a decision based upon financial viability is irrelevant to any of the findings for approval.

1. That the project’s location, size, height, operations, and other significant features shall be compatible with and shall not adversely affect or further degrade adjacent properties, the surrounding neighborhood or the public health, welfare, and safety:

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

The height and massing of this proposed project are not in keeping with the envelope of this community. The proposed building envelope is larger than all other structures in the immediate area and is not compatible with the envelope of the community. The proposed 58-foot high, 57,680 square-foot, five-story Eldercare Facility is larger in height and massing than all other structures in the immediate area. There are no buildings on Sherbourne, Holt, or Le Doux between Gregory Way and Chalmers that cover five-stories and three adjacent lots. This height and massing are not in keeping with the envelope of this community.

The proposed mid-rise project is in the middle of an established low-rise neighborhood predominantly comprised of two and three-story duplexes and apartment buildings (refer to Exhibit 1 in the case files) that are built on single lots. The project is incompatible with, and shall adversely affect, adjacent properties, the surrounding neighborhood, and the public, health, welfare, and safety of the homeowners and renters that have resided in this community for decades.

The owner of 834 S. Sherbourne Drive owns two adjoining duplexes directly behind the proposed site. She has lived in this community for over 50 years. This project would loom over her property and will completely block her light in her garden full of plants established through her relationship. The new project is best described by one neighbor, Rabbi Keshirim, who explained to the Senior City Planner that it would look like, “an elephant in a bird’s nest” as it is plopped in the center of the block.

The character of this community is unique. The one existing modern four-story building on Holt is incongruent with the neighborhood of Spanish Revival Architecture. At least that building is toward the end of the block, not smack in the middle, and not encompassing three lots. As designed, this is a monolith from all angles. This should adhere to the existing City Planning Guidelines. No 360° tiering and articulation is shown which would be important to making this more congruent with the envelope of the community. Only the façade is tiered. Light and air to breath would allow this to be more compatible with the community. The project does not fit the land space. The setbacks between the adjacent buildings would be reduced from 8 feet to 6 feet.

The 10-foot front yard in lieu of the otherwise required 20-foot front yard pursuant to Ordinance No. 167,335 is an unwarranted deviation. This neighborhood is comprised of young children who play freely on the sidewalks, riding scooters and bicycles. There are also many elderly residents that would be impacted, as well as neighbors walking their dogs. It would be tragic for someone to be unfortunately injured in the community. Given the existing traffic and parking on the street (please refer to pictures submitted to the case files) it is already a challenge with the visibility of pedestrians. Adjoining properties, such as 839 S. Holt, need to be able to back out of the driveway, so this in itself causes additional concern.

The daily deliveries such as food, medical supplies, and other items that are necessary to support this project are also of concern. Medical emergencies are also inevitable and will impact the existing peaceful community. Street parking is already extremely limited. At 7am in

the morning there will be no spaces on the street for a vehicle to park and if vehicles are double-parked this will contribute to adverse traffic flow at a critical time.

Besides the height and massing issues, the density and FAR deviations of the proposed facility are unnecessary deviations. The subject 18,018 square-foot facility is zones [Q]R3-1-O, which permits a maximum of 36 guest rooms per 500 square feet of lot area, for a maximum of 36 guest rooms on the subject site. Height District No. 1 permits a maximum Floor Area Ratio (FAR) of 3.0:1, or approximately 34,170 square feet based on 11,390 square feet of buildable area. The project proposes a total of 80 guest rooms (62 Assisted Living guest rooms and 18 memory care guest rooms) and a total of 57,680 square feet for an FAR of 5.06:1.

The Density and FAR deviations are not necessary. They are only necessary to provide a financially feasible project (refer to page 24, paragraph 4 of the decision). That is not a finding and is an errant abuse of discretion by the Zoning Administrator. (On page 25, paragraph one the applicant states that the increase floor area is devoted to common areas serving the needs of the residents. If this is necessary then reduce the density and FAR by reducing the number of guest rooms, thereby reducing the need for deviations).

The applicant states that “to make Eldercare Facilities financially viable, certain costs such as land costs and architectural fees need to be divided across a sufficient number of Guest Rooms and beds” (page 25, paragraph 2). Again, this is an errant abuse of discretion in the zoning administrator’s decision as financial viability is not a finding in the decision making process.

Once again, the applicant states on page 25 paragraph 3 that, “The applicant has submitted a financial feasibility analysis, conducted by the Concord Group (TCG), dated August 14, 2020, demonstrating that the project is not feasible unless constructed as proposed.” Financial viability is, again, not a reason to approve a finding.

On page 27, the Zone Administrator found that the analysis of the alternative development scenario is reasonable and adequately demonstrates that the development

The Zoning Administrator finds that the analysis of the alternative development scenario is reasonable and adequately demonstrates that the development alternatives for a by-right eldercare facility is not viable, and the strict application of the land use regulations on the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations and inconsistent with the City's objective to promote and facilitate needed housing and services for the elderly. This is an errant use of discretion as financial viability is not a reason for a finding to be met.

3. The project shall not create an adverse impact on street access or circulation in the surrounding neighborhood:

This project will have an adverse impact on street access and circulation in the surrounding neighborhood with delivery trucks, ambulances and visitors coming and going and parking.

Onsite parking for deliveries is not provided. The developer suggested having a loading zone in front of the building which is appropriate for a commercial, not a residential setting and would take up valuable street parking for the already existing residents in the community. Additionally, even though all vendor deliveries shall be restricted to between the hours of 7am to 2pm daily there will be no way to control or enforce this.

There will not be enough spaces for workers and visitors, especially during holiday seasons when the community also has visitors.

There is already a tremendous parking problem in this neighborhood as there is a nursing school a few blocks away at Gregory Way and La Cienega that has no parking lot. These students regularly show up at 6am and park their cars on our streets for free, waiting for someone to leave so they can find a space. They then sleep in their cars until the school opens to ensure that they have a spot all day as there is no restricted parking in neighborhood. Also, because we are so near to Wilshire Blvd., many people park their cars on our streets for free and walk to their doctor's offices on Wilshire. When we leave for work, or simply go to the market and return, our space is gone leaving us to park on other surrounding blocks.

Additionally, it is important to note that Holt Avenue is a narrow street and when two cars are driving in different directions there are incidents of being sideswiped as has happened to several individuals in the neighborhood.

4. That the project provides for an arrangement of uses, buildings, structures, open spaces, and other improvements that are compatible with the scale and character of the adjacent properties and surrounding neighborhood:

As stated above, the project will not be compatible with the scale and character of the adjacent properties and surrounding neighborhood. There is nothing comparable in the neighborhood in relation to:

- 1) The scale – consuming 3 single lots with reduced setbacks – both front and side yards
- 2) Exceeding height with no offset in elevations to reduce the oversized, block-like structure
- 3) Character – it does not lend itself to the architectural character of the existing Mediterranean and Mid-Century design so that it blends into the neighborhood. Rather the project projects a commercial hotel-like look, sitting up against the parkway in front of the property.

5. That the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan and with any applicable specific plan.

The project is not in substantial conformance with the purposes, intent and

provisions of the General Plan, applicable community plan and with any applicable specific plan of a quiet residential neighborhood. Just ask our Councilmember Paul Koretz. Given everything that has been stated above, and evidenced by the additional documents provided, the project does not conform with any of the criteria being presented allowing waivers to be granted on this project.

Again, zoning laws are intended to promote the health, safety, welfare, convenience, and prosperity of the community at large and are meant to enhance the general welfare rather than to improve the economic interests of any particular property owners. They are designed to stabilize neighborhoods and preserve the character of the community. When enacting zoning ordinances, a municipality takes many factors into consideration. The most significant are the density of the population; the site and physical attributes of the land involved; traffic, the fitness of the land for permitted use; the character of the neighborhood in the community; the existing uses and zoning of the neighbor property; the effect of the permitted use on land in surrounding area; any potential decrease in property values; and the gain to the public at large weighed against economic hardships imposed on individual property owners.

To conclude, this applicant is seeking deviations from the zoning regulations which should be denied. The applicant on record is not the property owner on title. Documents signed as the owner of record were submitted on the zoning application are falsified.

This appeal is on behalf of Cheryl Holstrom of 842 S. Sherbourne, adjacent to the proposed property. I am not opposed to the use, to an Eldercare facility. Height, density and massing issues and the proposed property not being in consistent with the community envelope are the reasons that it does not meet finding #1 or #4.

- 1). This project will adversely affect and degrade adjacent properties as well as the surrounding area;
- 3). This project will create an adverse impact on street access and circulation in the surrounding neighborhood;
- 4.) This project provides for an arrangement of uses, buildings, structures, open spaces, and other improvements that are incompatible with the scale and character of the adjacent properties and surrounding neighborhood.

Given everything that has been listed above, the project does not conform with any of the criteria presented for deviations to be approved by the Zoning Administrator. The Zoning Administrator's decision is an errant abuse of discretion and the requested deviations should be denied approval.