



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: /s William Wood Date: December 20, 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)

BOARD MEMBERS

Lawrence Szabo
Kate Scanlon-Double
David Ewing
Paola Pini
William Wood

December 20, 2021

Los Angeles City Council

RE: 1801-1821 S. Penmar Ave. & 1169 E. Palms Blvd - Case No. VTT-82077-SL-HCA and ENV-2020-4774-CE

Appeal Justification

Honorable Commissioners:

The East Venice Neighborhood Association (EVNA) submits this appeal of the approvals of the above-referenced proposed project as set forth in the August 31, 2021 letter from Heather Bleemers, Deputy Advisory Agency (the “DAA Letter”), and as upheld by the West Los Angeles Area Planning Commission (WLAAPC) in its letter dated December 9, 2021 (the “WLAAPC Letter”). EVNA challenges the approvals as erroneous and an abuse of discretion, as well as the processes for these decisions. At the WLAAPC meeting on November 17th, the City Planner erroneously claimed that there was no change in the square footage of the bungalows, when in fact each of the seven bungalows’ building areas was increased by approximately 8.5% by the addition of covered porches that intrude into the City’s dedications.

As explained below, EVNA requests that the decision be remanded to the WLAAPC to make a decision based on a complete record, which was lacking for their November 17, 2021 meeting, and with the presence of the City Attorney to clarify the crucial issue of the sequencing of the two cases involved in this project, the initial Los Angeles Department of Building and Safety (DBS) approval and the subsequent filing of the Subdivision Application. This sequencing issue that could have far-reaching ramifications for the City’s ability to realize its street engineering upgrades.

The first issue EVNA raises is the lack of proper and sufficient notice regarding the appeals and hearings for this project. Despite requests by EVNA to be timely informed and a November 29, 2021 email from WLAAPC Executive Assistant James Williams to EVNA Board Member Paola Pini stating that “the determination letter should go out this week,” EVNA did not receive the WLAAPC Letter until late in the afternoon on December 13. The deadline for this appeal is December 20 (because December 19 is a Sunday). Because of holiday travel schedules, EVNA must file this appeal on December 17—giving us fewer than 4 days. That is insufficient time to prepare and file an appeal. Until such time as members of the public are given an adequate opportunity and sufficient time to file appeals, City officials should at the very least extend the courtesy of sending electronic notice of letters. This lack of notice is on top of the WLAAPC’s failure to timely notify EVNA of the October 20, 2021 hearing, which resulted in the agenda item being continued to November 17.

In anticipation of the October 20 WLAAPC hearing, EVNA submitted an Appeal Supplement on October 18, incorporated herein by reference. This document was not included in the Supplemental Submittal Documents for the October 20 or the November 17 WLAAPC meetings. It appeared that some Commissioners were looking for the Appeal Supplement when it was referenced during the November 17, but that it was unavailable.

As noted in the Appeal Supplement, plans were not made available regarding various specific conditions listed in the DAA Letter. Moreover, the City improperly accepted and processed the developer's application to "remodel" the bungalow structures from DBS before the developer applied for the Small Lot Subdivision in October 2020. The City also erred in granting the building permits for an SLS project before granting the actual SLS.

The proposed project has always been a single project—with the intention to divide the property into single-family lots and sell them separately. On a November 10, 2020 Zoom meeting with concerned neighbors, the developer stated that the SLS had always been their intention. As the SLS is a discretionary case, the City could have exercised its dedication along Penmar Avenue and more of its dedication along Palms Boulevard. But the approvals and permits already granted by DBS intruded into the dedications, making it seem difficult and impractical for the City to exercise its dedications (and apparently making City decisionmakers reluctant to do so). During his testimony to the WLAAPC meeting, the City Planner erroneously denied that the recently approved DBS 'remodel' plans conflicted with the dedications. The City Planner seemed uninformed about how DBS calculates a building's gross floor area. According to the California Building Code (CBC), the added porch area, a usable area under the horizontal projection of the roof, must be included when calculating a building gross floor area. The roofed portion of the DBS' approved porches extend into the side and front yard setbacks, contradiction the planner erroneous statement that the footprint of the original buildings remained unchanged by the DBS permit. Beyond this erroneous fact, the raised floors of the porches, approved by DBS, extend well beyond the roof line and into the dedication themselves along both Penmar Avenue and Palms Blvd., thereby preempting the City's ability to fully exercise its dedications.

This also reflects a problem with the categorical CEQA exemption erroneously granted to the project by DCP and erroneously affirmed by the WLAACP's denial of the appeal. CEQA Guidelines Section 15332, Class 32, specifies that exemptions under this section can only apply when "... (d) Approval of the project would not result in any significant effects relating to traffic, ...". The CEQA exemption was improperly granted because the approvals for this project negatively impact the City's ability to adequately upgrade this narrow, crowded, substandard, collector street (Penmar Avenue) and its difficult, oblique intersection with Palms Blvd. to proper engineering standards.

It is our contention that the sequencing of the LADBS permit applications and approvals before the application for the SLS project improperly prejudiced the City's decision not to exercise its dedications on the property both along Palms Blvd. and Penmar Ave. to the extent that it could have, and as BOE had expressed its intention to do in its PLANNING CASE REFERRAL FORM (Reference Number: 201800111, dated 03/22/2018).

This improper ordering of the approvals and permits is EVNA's chief concern with—and the City's central error—regarding this project. Not only does it prevent the City from implementing street widening as a necessary safety and traffic measure for this narrow section of Penmar Avenue, but if accepted as a practice, it also has far-reaching ramifications, for the City's ability to realize its program of street engineering upgrades, which would have a serious effect on traffic, citywide.

As noted in the Appeal Supplement, the City's allowing and processing the approvals in this order violated Municipal Code § 12.36—which requires applicants filing for projects requiring multiple approvals to "file applications at the same time for all approvals reasonably related and necessary to complete the project"—and hindered the City's ability to exercise the dedications and improve neighborhood safety. Moreover, because the DBS approved the design for the building permits before the developer submitted the SLS application, the approved design was not checked for compliance with the Bungalow Court and Existing Structure Small Lot Design Standard, in violation of Ordinance 185462 § 27(b)(2).

At the November 17 WLAAPC hearing, property owner Steve Schwarz stated that he was “advised by City Planning to apply for LADBS prior to the subdivision.” And Alex Truong, City Planning Associate, stated that the sequencing was not out of order. But the advice or opinions of City Planning officials do not make their actions or decision making lawful and cannot override the Municipal Code or Small Lot Subdivision Ordinance.

As shown in the attached diagram, the ordering of the permits and approvals allowed the developer more area to build upon, the developer gained and built a total of 341 additional square feet on the second floor of five bungalows.

The City Planner Associate inaccurately stated that the bungalow footprints (area) did not change, and therefore the sequencing order did not affect the project. According to the California Building Code (CBC), Section 202 Definitions, the Gross Floor Area is: “The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.” The CBC makes it clear that whether the area is enclosed or not, it qualifies as usable square footage, and must be counted toward the total square footage of the building.

The approved DBS remodel, shown as Exhibit A of the DAA Letter, indicates a new covered entry porch for each of the seven bungalows, adding approximately 48 sf of usable area under the horizontal projection of the roof. However, Exhibit A does not provide any building section to fully understand the design of these porches.

Therefore, although the enclosed part of the building footprint did not change, according to CBC, the area of the existing bungalows increased by ~48 sf, which is approximately an 8.5% increase in floor area for each bungalow.

EVNA and the East Venice neighborhood residents who signed the petition supporting EVNA’s appeal respectfully request that the City follow the law and act in the interest of public safety to exercise the dedication along Penmar Avenue.

For the reasons set forth above, EVNA requests that the WLAAPC’s decision be remanded for a determination based on a complete record that includes EVNA’s Appeal Supplement discussing issues with the ordering of the permit and approval processes for this project, or that the WLAAPC’s decision and the DAA Letter and ZAA Letter be overturned as erroneous and an abuse of discretion.

Respectfully,

East Venice Neighborhood Association
EVNA.Venice@gmail.com

Applicant Copy
 Office: Downtown
 Application Invoice No: 77160

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:201221ABF-14DACB97-74F2-4281-8BF9-2D8DA5B30E62, Amount:\$109.47, Paid Date:12/20/2021

Applicant: EAST VENICE NEIGHBORHOOD ASSOCIATION (213-7385442)
Representative:
Project Address: 1169 E PALMS BLVD, 90291

NOTES:

VTT-82077-SL-HCA-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: 11
 Plan Area: Venice
 Processed by VIDAL, ANNA on 12/20/2021

Signature: _____

Building & Safety Copy
 Office: Downtown
 Application Invoice No: 77160

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.



6800177160



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