



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: ZA-2019-5552-ZV (Remand)

Project Address: 9760 West Pico Boulevard

Final Date to Appeal: 02/10/2022

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ 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 ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: Yeshiva University Los Angeles Boys High School

Company/Organization: _____

Mailing Address: 9760 W. Pico Blvd.

City: Los Angeles State: California Zip: 90035

Telephone: (310) 203-3180 E-mail: rgargir@yula.org

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): John M. Bowman, Esq.

Company: Elkins Kalt Weintraub Reuben Gartside LLP

Mailing Address: 10345 W. Olympic Blvd.

City: Los Angeles State: California Zip: 90064

Telephone: (310) 746-4409 E-mail: jbowman@elkinskalt.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:  Date: 2/4/22

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) |

Justification/Reason for Appeal

Case No. ZA-2019-5552-ZV (Remand)
Zone Variance for Signage

9760 West Pico Boulevard
Los Angeles, California 90035

Yeshiva University Los Angeles Boys High School (the “YULA”), as the applicant under the City of Los Angeles Department of Planning Case No. ZA-2019-5552-ZV (Remand), hereby provides its Justifications and Reasons for Appeal of the Associate Zoning Administrator’s denial of the zone variance for signage (the “Decision”) at YULA’s property located at 9760 West Pico Boulevard, Los Angeles, California 90035 (the “YULA Campus”).

I. The Reason for the Appeal

YULA appeals the Decision because the Associate Zoning Administrator (“AZA”) erred and abused his discretion as summarized in Section II below.

YULA is aggrieved by the Decision because it deprives YULA of the ability to install signage at the YULA Campus that is customary, necessary, and appropriate for a private school campus with multiple buildings in a mixed-use urban setting.

II. Justification and Points at Issue

The AZA erred and abused his discretion as summarized below.

A. The AZA Erred in Denying the Application

The Decision was based on multiple errors of fact and law, including but not limited to the following erroneous statements:

Statement No. 1: “Pursuant to Los Angeles City Charter Section 562 and Los Angeles Municipal Code (LAMC) Section 12.27, I hereby DENY a Zone Variance to allow: ... ~~Fourteen~~ Twelve (12) on-site wall signs totaling ~~501 487.24~~ square feet of surface area in the R1 zone in lieu of the maximum 30 square feet of surface area, and six (6) signs in the R1 Zone that individually exceed the maximum 20 square feet of surface area pursuant to LAMC Section 12.21-A.7(h).” [Decision, page 1 (Underline and strikethrough in original.)]

Applicant’s Response: This statement is erroneous in several respects. As indicated in Exhibit G-1, Summary of Revised Sign Program (see attached), which was presented to the AZA during the public hearing on May 6, 2021, YULA’s revised sign plan includes only **six (6)** signs in the R1 zone that total **108.96** square feet. The remaining six (6) signs that have been proposed as part of YULA’s revised sign program would be located in the C4 zone, and three (3) of those signs are permitted by right. Furthermore, as indicated in Exhibit G-1, YULA’s revised sign plan includes only **two (2)** signs in the R1 zone that individually exceed the maximum 20 feet.

Statement No. 2: “In denying the request to allow ~~501 487~~ square feet of sign area in lieu of the maximum 30 square feet [of] sign area for identification, the alternate placement of signs and additional monument signs, the intent to limit the use of the dual property to uses that are

compatible with the adjoining low density residential neighborhoods is preserved.” [Decision, page 13 (Underline and strikethrough in original.)]

Applicant’s Response: This statement is erroneous. As indicated in Exhibit G-1, only **108.96** square feet (not 487 square feet) of signage is proposed in the R1 zone under YULA’s revised signage plan. Moreover, there is no evidence in the record that the proposed signs would be incompatible with the adjoining low density residential neighborhood. Indeed, only one of the signs proposed in the R1 zone would be visible from any residence. That sign (*i.e.*, Sign ST-02a) is a critically-needed identification sign for the YULA campus.

Statement No. 3: “As stated previously, six signs exceed the individual maximum limit of 20 square feet and the total amount of signs far exceeds the maximum limit of 30 square feet.” [Decision, p. 15.]

Applicant’s Response: This statement is erroneous. As indicated in Exhibit G-1, only **two (2)** signs are proposed in the R1 zone that will exceed the individual maximum limit of 20 square feet. Specifically, Signs ST-02a and ST-02b will each have an area of 32.6 square feet. The sign area of the other four (4) signs proposed in the R1 zone range from 8.62 square feet to 15.65 square feet.

Statement No. 4: “The position [is] supported by the fact the applicant is seeking privilege to install donor signs rather than seeking a right to install signs for directional purposes [on] three buildings on the 1.4-acre site.” [Decision, pp. 14 and 15.]

Applicant’s Response: None of the six (6) signs proposed in the R1 zone are “donor” signs. Rather, each of these signs simply identify the YULA Campus or specific buildings on the YULA Campus by name, and therefore constitute identification signs as allowed by Condition No. 42 of the Conditional Use Permit in Case No. CPC-2009-1049-VCU-ZV-PAD. The only proposed sign that could be fairly described as a “donor sign” is Sign ST-31, which would be installed in the C4-zoned portion of the site and within the courtyard area where it will not be visible from any residence.

Statement No. 5: “The right to install signs designed as plaques [sic], directories, directional symbols, etc. ... remains available to the applicant as is the right to cover the courtyard as alluded to in the testimony.” [Decision, pp. 14 and 15 (ellipsis in original.)]

Applicant’s Response: During the public hearing, the Applicant accurately pointed out that if the courtyard was covered rather than open to the sky, the signs that are proposed within the courtyard area would not even be subject to the City’s sign regulations. The Applicant made this statement in order to illustrate that strict application of the City’s sign regulations (as it pertains to signs within the courtyard that will not be visible from any residence) would not serve any valid public purpose. However, this does not mean that the Applicant has a “right” to cover the courtyard. Covering the courtyard would convert the courtyard into “floor area” as defined in the City’s zoning regulations, which would trigger, among other things, the need for additional parking that YULA cannot feasibly provide, as well as the need for a new discretionary approval by the City Planning Commission which cannot be assumed. For these reasons, the AZA’s conclusions as to required Finding Nos. 1 and 3 are based on a false premise.

B. The AZA Abused His Discretion

Since the AZA issued his original decision in this case on May 29, 2020, YULA has made numerous and substantial concessions in an effort to address the concerns raised by a few neighbors. Specifically, YULA has:

- Eliminated the “Gelman Hall” sign (Sign ST-07), which as originally proposed would have faced east toward residences across Castello Avenue.
- Eliminated the 95.5-square-foot “Samson Center” sign (Sign ST-03), which as originally proposed would have been installed near the roofline of the Samson Center building and visible from residences.
- Relocated the “Kestenbaum Commons” sign (ST-04) to another location on the same building where it will not be visible from any residence.

The AZA failed to acknowledge – let alone properly consider – these changes to YULA’s sign program in the Decision. Instead, after taking the matter under submission for a period of over eight months, the AZA arbitrarily denied the application in its entirety, essentially re-issuing his original decision with only nominal changes to the wording.

The AZA also abused his discretion inasmuch as the findings do not support the Decision and are not supported by substantial evidence in the record. For example, the AZA denied YULA’s application in its entirety, finding, among other things, that the proposed signage “would be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the subject property is located as it would intensify the residentially zone portion of the subject property and introduce an element to the surrounding residential that is not anticipated.” [Decision, p. 16.] However, as a result of the changes to the signage program listed above, all but one of the nine (9) proposed signs that require a variance will be installed within the courtyard area of the YULA Campus and will not be visible from any residence. The Decision does not – and cannot – explain how signs that are not even visible from any residence could possibly be “materially detrimental” to the public welfare or injurious to other property in the same zone and vicinity.

The AZA also abused his discretion because all of the findings necessary to grant the requested variance can be made in this case, and all such findings are supported by substantial evidence, as set forth below:

1. The strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.

Yeshiva University Los Angeles Boys High School (YULA) is an existing private school that was developed on the subject property pursuant to a conditional use permit and other discretionary approvals. Strict application of the relevant provisions of the zoning ordinance would result in practical difficulties and unnecessary hardships inasmuch as it would preclude YULA from installing signage that is customary and appropriate for a private school in a mixed-use urban setting. The proposed signage is necessary for the identification of the various buildings and facilities that comprise the YULA campus by students, teachers, staff, visitors, and emergency responders.

Pursuant to LAMC § 12.21.A.7(h), the total amount of signage on a lot in a residential zone is restricted to 30 square feet, and any individual sign is limited to 20 square feet. The

rationale for this limitation is to protect the character of residential neighborhoods from unsightly commercial signage. Although these limitations are appropriate for residential uses, they impose a unique hardship on schools and similar uses that are allowed in residential zones by conditional use permit. The discretionary review and approval of these uses ensures that the character of the residential areas in the vicinity of the subject property is protected. Hence, the hardships associated with strict application of the relevant sign regulations to the YULA campus are unnecessary and inconsistent with the purposes and intent of the zoning regulations.

The Decision does not dispute the Applicant's contention that strict application of the relevant provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships. Instead, the Decision simply asserts that the requested variance would not be "consistent with maintaining the character of the surrounding Low Residential neighborhood" and for this reason would be "inconsistent with the intent and purpose of the residential zoning for the subject site." (Decision, p. 13.) However, there is no evidence to support this finding. In fact, only one of the six (6) signs proposed in the residentially-zone portion of the subject site would be visible from any residence. The only sign that would be visible from any residence (Sign ST-02a) is proposed to be installed above the main gate to the campus and is needed for identification purposes. Sign ST-02a will not detract from the character of the surrounding neighborhood inasmuch as it will not be illuminated and will have an aesthetically-pleasing design.

2. There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.

There are special circumstances applicable to the subject property that do not apply generally to other property in the same zone and vicinity, including the following:

- The subject property is a comparatively large (1.4-acre) lot that is subject to dual zoning (C4 on the north and R1V2 on the south).
- The subject property is developed with a private school and related uses pursuant to a conditional use permit and other discretionary approvals previously granted by the City. The YULA campus is unique as compared to development on other properties in the same zone and vicinity inasmuch as it is not used for residential or commercial purposes.
- Unlike many other private schools in the City that are surrounded on all sides by residential uses, the subject property is located in a mixed-use area, with institutional uses to the west, commercial uses to the north and northeast, and residential uses to the east and south.

The Decision concludes that there are no special circumstances applicable to the subject property simply because there are two other lots in the vicinity of the subject property that have dual zoning. (Decision, p. 14.) However, neither of those lots is developed with a private school, which has unique signage needs. Furthermore, in Case No. CPC-2009-1049-VCU-ZV-PAD, the City Planning Commission previously determined that there are special circumstances applicable to the subject property, including its "dual zoning and the location of the existing improvements which are being retained."

3. The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.

Owners of other property in the vicinity of the subject property have a right to install signage that is necessary and appropriate for the commercial or residential use of the property. However, that right is denied to the subject property due to its dual zoning and its development as a private school. The requested variance is necessary to allow for signage that is customary, necessary, and appropriate for a private school campus with multiple buildings in a mixed use urban setting.

The Decision states that this finding cannot be made because (1) there are no “special circumstances” applicable to the subject property, and (2) the applicant is seeking a “privilege” to install “donor” signs. (Decision, p. 15.) However, there are special circumstances applicable to the subject property for the reasons stated under Finding No. 2 above. Furthermore, none of the six (6) signs proposed in the R1 zone are “donor” signs. Rather, each of these signs simply identify the YULA Campus or identify specific buildings on the YULA Campus by name, and therefore constitute identification signs as allowed by Condition No. 42 of the Conditional Use Permit in Case No. CPC-2009-1049-VCU-ZV-PAD. The only proposed sign that could be fairly described as a “donor sign” is Sign ST-31, which would be installed in the C4-zoned portion of the site and within the courtyard area where it will not be visible from any residence.

4. The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.

The proposed signage will be constructed with high-quality stainless steel with channel letters and logos for an aesthetically pleasing appearance. None of the signs will be illuminated. The proposed signage is conservative and compatible with nearby residential uses. Only one of the nine signs that are the subject of the requested variance will be visible from any residence.

The Decision states that the proposed signage would be “materially detrimental” to the public welfare or injurious to the property or improvements in the same zone or vicinity because the signs would “intensify the residentially zoned portion of the subject property and introduce an element to the surrounding residential neighborhood that is not anticipated.” (Decision, p. 16.) However, this conclusion is not supported by any evidence in the record. Only one of the proposed signs that require a variance would be visible from any residence, and the only sign that would be visible to any residence has been designed to be compatible with the character of the residential area. Furthermore, the statement that the signs would introduce an “element” to the surrounding neighborhood that is “unanticipated” is both baseless and irrelevant to any of the required findings. Given the existence of the YULA Campus, and in the light of Condition No. 42 of the Conditional Use Permit in Case No. CPC-2009-1049-VCU-ZV-PAD, conservative identification signs of the type proposed by YULA were clearly anticipated.

5. The granting of the variance will not adversely affect any element of the General Plan.

The Community Plan designates the subject property for (a) Low Density Residential land use, with the corresponding zones of RE9, RS, R1, RD6, RD5, and (b) Neighborhood

Commercial land use, with the corresponding zones of C1, C1.5, ,C2, C4, RAS3, RAS4, and P. Private high schools and private colleges are permitted by conditional use permit in the R1 zone and are permitted by right in the C4 zone, and are therefore consistent with the Neighborhood Commercial and Low Density Residential land use designations. Moreover, the Community Plan designates the Property as containing a Private Senior High School and Private College.

The Decision states that the proposed signage is “not in keeping with the intent of the existing low residential land use designation” for a portion of the subject property, that granting the variance would “adversely affect the West Los Angeles Community Plan,” and that denial of the variance is necessary to prevent the “encroachment of incompatible uses.” (Decision, p. 17.) However, there is no evidence in the record to support any of these conclusions. Only one of the proposed signs that require a variance would be visible from any residence, and the only sign that would be visible to any residence has been designed to be compatible with the character of the residential area.