



## 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: CPC 2021-10278-CU / ENV 2021-10280-MND

Project Address: 9201 Winnetka Ave.

Final Date to Appeal: 02/08/2023

#### 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: Marianne King

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

Mailing Address: 10041 Farralone Ave.

City: Chatsworth    State: CA    Zip: 91311

Telephone: (818) 298-2026    E-mail: making@socal.rr.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): \_\_\_\_\_

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: Marianne King Date: 2/3/2023

#### 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)

## **APPEAL Request and Justification of CPC 2021-10278-CU / ENV 2021-10280-MND**

Appellant: Marianne King

Project Address: 9201 Winnetka Avenue, Chatsworth

Background - The proposed project is the demolition of an existing (vacant) movie theater and the construction of three manufacturing/light industrial buildings comprised of approximately 273,500 square feet on a 14.6 acre site.

The project proposed to remove *all* 195 significant on-site trees. ("Significant" trees are 8 inches in trunk diameter or greater at 4 ½ feet above ground). These trees were identified in a Tree Report by Carlberg Associates, dated November 8, 2021.

The applicant representative met with the Chatsworth Neighborhood Council Land Use Committee in January 2022 where concerns were raised regarding the excessive tree removal, especially the large mature shade trees located along the site perimeter in the existing landscape setbacks that could be saved. The applicant was asked to come back to the Land Use Committee with a tree preservation plan and a revised landscaped plan showing which trees are to be preserved. The applicant came back in March 2022 with a marked up modified tree report list, giving the impression that 22 trees could be preserved. However, most of the trees that were added to the marked up list were tree saplings, meaning under 8 inches in trunk diameter, thus not the significant trees from the tree report. Only 6 trees that were noted to be preserved were from the official tree report.

The applicant continued with this false impression or bait and switch, if you will, that they would be preserving 22 out of the 195 significant trees. The CNC Board emailed a letter of support to the Planning Department on April 28, 2022 with the condition that ***"the applicant make greater effort to preserve the existing mature significant size shade trees (Camphors and four tall Aleppo Pines) along the north and west property lines and to consider the planting of native trees such as Coastal Live Oak or Valley Oak along the southern boundary of the site."***

The case was scheduled for the City Planning Commission (CPC) on November 17, 2022. There was **NO mention** of the CNC recommendation letter in the Staff Report, nor was it included under Exhibit "C," Public Comment. I emailed a comment letter to the CPC explaining the above situation and requested that Conditions of Approval be added to the Letter of Determination specifying the mature trees to be preserved. There was **NO discussion** of this issue at the CPC meeting from Planning Staff or from the CPC Commissioners. It was entirely ignored.

I requested a "Reconsideration" at the next CPC meeting of December 8, 2022 explaining again the issue including the fact that the MND mentions 22 trees will be preserved but there were no plans showing this detail, such as a tree preservation plan and a revised landscape plan. **Again, the CPC chose to ignore this and did not discuss my reconsideration request.**

**The specific points at issue are the following:**

- 1. The CPC erred and abused their discretion by ignoring the Appellant's concerns (twice) and by not bothering to make the necessary corrections.**

As discussed in the Background information, the Appellant submitted written testimony on two occasions; (1) prior to the November 17, 2022 CPC Meeting and (2) prior to the December 8, 2022 CPC Meeting. (See Exhibit "A": attached). Records prove that the written testimony was received prior to the CPC meetings. On both occasions, the written testimony explains the bogus information provided by the Applicant/Applicant Representative and thus seeks remedy requesting a Condition of Approval be added to the Letter of Determination to ensure that 22 *significant* trees out of the 195 *significant* trees will be preserved, *not tree saplings*.

The Appellant is a former City Planner and a current Board Member of the Chatsworth Neighborhood Council (speaking on behalf of herself) and is fully aware of the purpose and significance of public hearings. The purpose is to be heard and considered. The expectation is that any erroneous and/or insufficient information is corrected by the decision makers before a final determination is made.

In this case, there was no discussion of the Appellant's concerns and no corrections were made.

- 2. The MND (ENV 2021-10280-MND) includes unclear and insufficient information regarding proposed tree preservation.**

The MND includes repeated statements that there are 195 "trees" or 195 "private property" trees and that 22 "existing trees" will be preserved. The MND is craftily worded by not using the word "**significant**" trees, thus making it unclear if the 22 trees to be preserved are "significant" trees or saplings. Additionally, nowhere in the MND documentation does it show what 22 trees will be preserved. This omission and conflicting information should have been reviewed and corrected prior to the CPC's final decision. The tree report correctly and clearly states there are 195 "significant" trees on-site. It appears that the wording is intentional to give the impression the Applicant will be preserving 22 significant trees, the same impression that was given to the Neighborhood Council and to the CPC. (See Exhibit "B" attached)

- 3. The appellant is aggrieved by the decision as the CPC did not address appellants concerns regarding this issue, thus there is no existing requirement and accountability by the Applicant that ensures the preservation of 22 significant on-site trees.**

The Appellant hereby requests that the Letter of Determination (LOD) be amended to include the following Condition of Approval and that Exhibit "A," accompanying the LOD, be amended to include a revised site plan, a landscape plan, and any other pertinent plan, such as a grading plan, that clearly shows the significant trees to be preserved, identified with the same trees & numbers per Tree Report and Condition of Approval.

Please note, the proposed condition below is what was presented to the CPC on both occasions which includes 21 significant trees, an approximate 1,200 foot long dense shrub along the south property line, and the planting of native trees, such as Coast Live Oak and Valley Oak where possible.

**1. TREE/SHRUB PRESERVATION:**

- a. TREE PRESERVATION – The following significant trees shall be preserved as identified in the Tree Report dated November 8, 2021 (Carlberg Associates) : Tree # 6, 18, 19, 21, 22, 167, 168, 173, 174, 175, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, and 189.
- b. SHRUB PRESERVATION - The shrubs along the south property line (approximately 1,200 feet long) shall be preserved except for specified areas where tree replacement is proposed.
- c. The project shall also include the planting of native trees, such as Coastal Live Oak and Valley Oak, where possible/suitable.
- d. EXHIBIT "A" Site Plan, Grading Plan, and Landscape Plan shall be revised to clearly show the above trees (as identified on the tree report) and *clearly noted* to be preserved and protected during construction, including shrubs to be preserved along the south property line.