

MASTER APPEAL FORM

ORIGINAL

City of Los Angeles – Department of City Planning

APPEAL TO THE: CITY COUNCIL

(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: ~~DIR-2012-3534-DB-SPP-SPPA-SPR-1A~~ ^{APP} ENV - 2012 - 3532 - MX10

PROJECT ADDRESS: 5514-5560 W. Hollywood Blvd and 1666-1668 N. St. Andrews Place

FINAL DATE TO APPEAL: Not applicable. Appealable to City Council pursuant to Pub. Res. Code § 21151(c).

- TYPE OF APPEAL:
- Appeal by Applicant
 - Appeal by a person, other than the applicant, claiming to be aggrieved
 - Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

APPELLANT INFORMATION – Please print clearly

Robert P. Silverstein & Daniel E. Wright, Attorneys for Appellants ABS Mayer
Name: Bricker, LLC; Historic Hollywood Holdings, LLC; George Abrahams; & Argyle
Civic Association; authorized to sign on behalf of Appellants.

- Are you filing for yourself or on behalf of another party, organization or company?

Self Other: ABS Mayer Bricker, LLC; Historic Hollywood Holdings
LLC; George Abrahams; and Argyle Civic Association

Address: 215 N. Marengo Avenue, 3rd Fl.

Pasadena, CA Zip: 91101

Telephone: (626) 449-4200 E-mail: robert@robertsilversteinlaw.com

- Are you filing to support the original applicant's position?

Yes No

REPRESENTATIVE INFORMATION

Robert P. Silverstein & Daniel E. Wright, Attorneys for Appellants ABS Mayer
Name: Bricker, LLC; Historic Hollywood Holdings, LLC; George Abrahams; & Argyle
Civic Association; authorized to sign on behalf of Appellants.

Address: 215 N. Marengo Avenue, 3rd Fl.

Pasadena, CA Zip: 91101

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This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

JUSTIFICATION/REASON FOR APPEALING – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

- Entire Part

Your justification/reason must state:

- The reasons 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

ADDITIONAL INFORMATION/REQUIREMENTS

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
 - Master Appeal Form
 - Justification/Reason for Appealing document
 - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."

--CA Public Resources Code § 21151 (c)

I certify that the statements contained in this application are complete and true:

Appellant Signature: Daniel Wright Date: January 31, 2014
 Robert P. Silverstein & Daniel E. Wright, Attorneys
 for Appellants ABS Mayer Bricker, LLC; Historic Hollywood
 Holdings, LLC; George Abrahams; & Argyle Civic Association;
 authorized to sign on behalf of Appellants.

Planning Staff Use Only

Amount	<u>\$106.80</u>	Reviewed and Accepted by	<u>Eggertsen</u>	Date	<u>1/31/2014</u>
Receipt No.	<u>14983</u>	Deemed Complete by		Date	

- Determination Authority Notified Original Receipt and BTC Receipt (if original applicant)
by telephone

THE SILVERSTEIN LAW FIRM

A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

DAN@ROBERTSILVERSTEINLAW.COM
WWW.ROBERTSILVERSTEINLAW.COM

January 31, 2014

Los Angeles City Council
c/o Los Angeles City Clerk
200 N. Spring Street, Rm. 395
Los Angeles, CA 90012

Re: Appeal of Case No. DIR-2012-3534-SPP-SPPA-SPR and ENV-2012-3532-MND

Dear Members of the City Council:

This office represents George Abrahams, President of the Argyle Civic Association. Mr. Abrahams and the Association's members reside near, and will be adversely affected by, the proposed High Line West Project ("Project") at 5514-5560 W. Hollywood Blvd. and 1666-1668 St. Andrews Place. This appeal of Case No. DIR-2012-3534-SPP-SPPA-SPR and ENV-2012-3532-MND is filed, and the undersigned is authorized to sign, on their behalf.

This office also represents ABS Mayer Bricker, LLC, owner of the National Register historic properties located at 5500 Hollywood Blvd. and 1671 N. Western Ave., immediately adjacent to the Project, and Historic Hollywood Holdings, LLC, owner of the property located at 1657-1661 N. Western Ave., also adjacent to the Project. Accordingly, ABS Mayer Bricker, LLC and Historic Hollywood Holdings, LLC are the most impacted property owners vis-a-vis the proposed Project. This appeal of Case No. DIR-2012-3534-DB-SPP-SPPA-SPR and ENV-2012-3532-MND is also filed, with the undersigned authorized to sign, on their behalf.

As a preliminary matter, please ensure that notice of all hearings, actions, events and decisions related to the Project are timely provided to this office. All objections, including those regarding proper notice and due process, are expressly reserved. All prior objection letters submitted on behalf of the appellants are incorporated herein by reference.

Reasons for the appeal include, but are not limited to:

1. **There Is A Fair Argument Of Potentially Significant Impacts To Historic Resources That Has Not Been Analyzed Or Mitigated, And Which Requires Preparation Of An EIR.**

As the Project description in the Initial Study notes, “[t]he Applicant proposes the demolition of seven existing commercial structures; the partial demolition and preservation of one historic building façade (5524, 5526, 5528 Hollywood Blvd.) and the northerly most 44 feet of another historic building (5540, 5542, 5544 Hollywood Blvd.)” (the depth of the latter “preservation” may have changed per the Planning Commission determination).

The Initial Study acknowledges that 5524 Hollywood Blvd. is a designated local Historic Cultural Monument. It also states that 5540 Hollywood Blvd. is a historic resource subject to CEQA because it “appears to be eligible” for listing in the California Register. In fact, contrary to what City staff and the applicant’s expert claimed at the Planning Commission hearing, 5540-5544 Hollywood Blvd. was already deemed eligible for the National Register of Historic Places by the California Office of Historic Preservation in August 2011, and is currently listed in the California Register. See Exhibit 1. This fact of actual eligibility and actually being listed on the California Register is not disclosed in the Initial Study and is contrary to representations made on behalf of the Project applicant. These facts completely alter the City’s analysis and proposed approval of the Project.

As held by the California Supreme Court in Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal.4th 165, while CEQA is “directed primarily to ecological concerns and preservation of the environment,” it is also “the policy of the state to ‘preserve . . . examples of the major periods of California history.’” (Id. at 183-184, Pub. Resources Code § 21001 subd. (c).) CEQA also reflects the Legislature’s commitment to “take all action necessary to provide the people of the state with . . . historic environmental qualities . . .” (Id. at subd.(b).)

Demolition of a historic resource is a significant environmental impact that cannot, for purposes of CEQA, be mitigated to a level less than significant. Demolition that leaves only a façade is equally a significant environmental impact that cannot be mitigated to a level of less than significant. As the Initial Study itself notes, the demolition of the building, even if the façade remains, renders the Project inconsistent with the Secretary of Interior Standards for Rehabilitation.

Because there is a fair argument of these potentially significant impacts to historic resources on-site that have not been properly analyzed or mitigated to a level of less than significant, an MND is inappropriate. An EIR must be prepared.

There is also a fair argument of potentially significant impacts to nearby historic resources that has not been properly analyzed or mitigated to a level of less than significant. Pursuant to the Los Angeles CEQA Thresholds Guide, construction that reduces the integrity or significance of important resources on the project site or *in the vicinity* of a project would have a significant impact on historic resources.

Adjacent historic buildings include the Mayer Building located at 5500 Hollywood Boulevard and the Bricker Building located at 1671 N. Western Avenue. The Mayer Building is four stories and 45 feet tall. The Bricker Building is similar in scale. According to the Initial Study, the Project will be six stories and 86 feet tall – almost double the height of the adjacent historic buildings. This makes false the Initial Study claim that the Mayer Building and New Building will be “similar in height and scale.” Nothing could be further from the truth. A Project nearly twice the height of the adjacent historic structures and with no significant setbacks will dwarf and impair the character-defining elements of those nearby historic structures.

The Illustrative Perspectives of the Project that include the Mayer Building (Figures II-13 and II-14) are not to scale with the photo shopping of the Mayer Building into the illustration. The only purpose of such a distortion can be to deceive the public and decision makers into believing that the Project is similar in size and scale to the adjacent historic structure – when it is not.

2. There Is A Fair Argument Of Potentially Significant Aesthetic And Land Use Impacts That Has Not Been Analyzed Or Mitigated.

The huge disparity in size and scale between the Project and the adjacent historic resources is not only an adverse historic resource impact. It is also a potentially significant aesthetic and land use impact that has not been analyzed or mitigated.

According to the Initial Study, “[b]ased on the City of Los Angeles CEQA Thresholds Guide, a significant impact would occur if the Proposed Project were to introduce incompatible visual elements on the Project Site or visual elements that would be incompatible with the character of the area surrounding the Project Site.”

The Mayer Building is four stories and 45 feet tall. According to the Initial Study, the Project will be six stories and 86 feet tall – almost double the height of the adjacent Mayer Building. An 86-foot tall building is not generally consistent with an adjacent 45-foot tall historic building, and no proper evidence has been provided to support the assertions made in the MND on this issue.

The Illustrative Perspectives do not provide such evidence and actually misleads the public into believing that there is no difference in the height of the buildings. The photo shopped Mayer Building in Figure II-13 shows a height differential of only approximately 10%. If the photo shopped Mayer Building were to the same scale as the Project illustration, then the Mayer Building would be closer to 80 feet high; the MND is clearly inaccurate and highly misleading.

3. Mitigation Of Potential Vibration Impacts Are Inadequate And Improperly Deferred.

The Initial Study and MND acknowledge that the Project will create potentially significant construction vibration impacts to the adjacent Mayer and Bricker Buildings. “The Project would have the potential to cause a PPV ground-borne vibration level to exceed 0.12 inches per second at any historical building or building that is extremely susceptible to vibration damage,” implying that any vibration above 0.12 inches per second will likely result in damage to the historic resources.

Inexplicably, though, the only mitigation offered is the establishment of thresholds and monitoring after project approval, and then if the as of yet undetermined thresholds are met or exceeded, “or noticeable structural damage becomes evident to the project contractor,” some – but not necessarily all – heavy construction would stop pending resolution of the issue. By that time, though, the damage is already done.

This is improperly deferred mitigation. It is also inadequate mitigation. Although other feasible mitigation measures are available to the City to protect these historic properties from damage caused the Project, they have not been imposed to protect adjoining properties. The failure to impose all feasible mitigation is a failure to comply with the mandates of CEQA. Moreover, the alleged additional mitigation recommended by the Planning Commission is inadequate to properly mitigate impacts and damages to the adjacent historic resources.

4. **There Is A Fair Argument Of Potentially Significant Transportation Impacts That Has Not Been Analyzed Or Mitigated.**

In commenting on the Millennium Hollywood Project, Caltrans District 7 objected to the City's use of a faulty traffic impact analysis and the failure to use appropriate Caltrans criteria in assessing impacts to the Hollywood Freeway. The Caltrans correspondence can be found at <https://s3.amazonaws.com/s3.documentcloud.org/documents/715653/col-mill-calt-may-7-letter-to-city.pdf> and is incorporated herein by reference.

As an outgrowth of those objections in the Millennium matter, the City and Caltrans entered into a binding agreement regarding freeway impact analysis procedures that would apply to all projects in the City of Los Angeles going forward, including the Project that is the subject of this appeal.

The CMP Freeway Analysis of traffic impacts to the Hollywood Freeway in the Project's traffic study did not use the methodology demanded by Caltrans in its objections to the to the Millennium Hollywood Project and/or the resulting agreement with the City. The CMP Freeway Analysis also did not include effects from all related projects in the Hollywood Community Plan area, and the NBC/Universal Project in the Cahuenga Pass, and ignores the worsening of the level of service from additional trips.

An off-the-cuff statement by staff at the Planning Commission that the Caltrans thresholds were not met is unsupported by any evidence in the record. A fair argument of potentially significant traffic impacts, both Project-specific and cumulative, remains.


A new traffic study using the Caltrans standards identified in the agreement and/or in the May 18, 2011 Caltrans letter for which a hyperlink is provided above must be conducted. The study must also justify what appear to be unusually high reductions and trip credits for internal, transit, and pass-by trips.

The Planning Commission erred and abused its discretion in making findings that are not supported by substantial evidence in the record. Moreover, the conclusions of the Project MND on which the Planning Commission relied are themselves not supported by substantial evidence in the record, including but not limited to the impacts identified above and others that may be presented at the hearing of this matter.

Members of the City Council
City of Los Angeles
January 31, 2014
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Appellants are aggrieved by the decision of the Planning Commission in that Appellants and the adjoining community will be adversely affected by the negative impacts of the Project. Appellants are also aggrieved when decisions are made as to the Project that are not in compliance with applicable statutes and ordinances.

As required by the Master Appeal Form, an original and seven (7) additional copies of the form, this correspondence, and the Determination Letter are enclosed. Thank you for your attention to this matter.

Very truly yours,

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM

RPS:jmr
Attachments

Robert Silverstein - RE: 5540 Hollywood Blvd., Hollywood

From: "Woodward, Lucinda@Parks" <Lucinda.Woodward@parks.ca.gov>
To: Robert Silverstein <Robert@robertsilversteinlaw.com>
Date: 12/23/2013 2:03 PM
Subject: RE: 5540 Hollywood Blvd., Hollywood

That is my understanding. The PRC makes no reference to CHRIS in the matter of the California Register. CHRIS is simply an inventory kept by our office and the regional information centers. It is not regulated or mandated. See http://www.ohp.parks.ca.gov/?page_id=1068.

Lucinda M. Woodward
Supervisor, Local Government Unit
California Office of Historic Preservation
(916) 445-7028
(916) 445-7053 fax
www.ohp.parks.ca.gov

Note: Email is changed to Lucinda.Woodward@parks.ca.gov

From: Robert Silverstein [mailto:Robert@robertsilversteinlaw.com]
Sent: Monday, December 23, 2013 1:30 PM
To: Woodward, Lucinda@Parks
Cc: Brad Torgan
Subject: RE: 5540 Hollywood Blvd., Hollywood

Ms. Woodward:

Thank you for your fast response. To confirm, does this mean that 5540 Hollywood Blvd. is currently on the California Register, even though it may not yet be entered into the California Historic Resources Inventory System (CHRIS)? As of what date was it placed on the California Register? Thanks again.

Robert P. Silverstein, Esq.
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200

Facsimile: (626) 449-4205
Email: Robert@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com

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>>>

From: "Woodward, Lucinda@Parks" <Lucinda.Woodward@parks.ca.gov>
To: Robert Silverstein <Robert@robertsilversteinlaw.com>
Date: 12/23/2013 10:41 AM
Subject: RE: 5540 Hollywood Blvd., Hollywood

Mr. Silverstein,

Attached is the letter you have requested.

Pursuant to Section 5024.1(d)(1), properties formally determined eligible for listing in the National Register of Historic Places are placed on the California Register. Since the Section 106 review process, under which this undertaking was reviewed, is a federal process consisting of consultation between the SHPO and the federal agency (in this case the City of LA pursuant to 24 CFR Part 58), discussion of the California Register is not generally included in our response letters.

Thank you for pointing out that the property has not been entered into the CHRIS. I will let our data management team know.

Lucinda M. Woodward
Supervisor, Local Government Unit
California Office of Historic Preservation
(916) 445-7028
(916) 445-7053 fax
www.ohp.parks.ca.gov

Note: Email is changed to Lucinda.Woodward@parks.ca.gov

From: Robert Silverstein [<mailto:Robert@robertsilversteinlaw.com>]
Sent: Monday, December 23, 2013 9:29 AM
To: Woodward, Lucinda@Parks
Cc: Brad Torgan
Subject: 5540 Hollywood Blvd., Hollywood

Dear Ms. Woodward:

Brad Torgan of my office suggested I contact you with a question. We are trying to find out if 5540 Hollywood Blvd., Hollywood (Los Angeles) has been put on the California Register.

Would it be possible to obtain a copy of the August 8, 2011 concurrence letter, which we understand indicates that 5540 Hollywood Boulevard was determined eligible for the National Register of Historic Places under Criterion C at the local level of significance?

However, beyond that, our focus is to determine whether the building is now listed in the California Register (which apparently is not mentioned in the concurrence letter). We believe this evaluation is not yet located in the California Historic Resources Inventory System (CHRIS). But we believe that it is, at this time, actually listed in the California Register.

That is what we are trying to pin down. If you could send us any document confirming that 5540 Hollywood Blvd. is presently on the California Register, that would be most appreciated. Thank you in advance for your courtesy and assistance.

Robert P. Silverstein, Esq.
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Robert@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com

=====
The information contained in this electronic mail message is confidential information intended only for the use of the individual or entity named above, and may be privileged. The information herein may also be protected by the Electronic Communications Privacy Act, 18 USC Sections 2510-2521. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please

immediately notify us by telephone (626-449-4200), and delete the original message. Thank you.

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

1725 23rd Street, Suite 100
SACRAMENTO, CA 95816-7100
(916) 445-7000 Fax: (916) 445-7053
calshpo@parks.ca.gov
www.ohp.parks.ca.gov



August 8, 2011

REPLY TO: HUD1108905A-C

Shelley Lo
Environmental Specialist I
City of Los Angeles
Community Development Department
1200 W. 7th Street
Los Angeles, CA 90017

Dear Ms. Lo:

RE: CITY OF LOS ANGELES, DETERMINATIONS OF ELILGIBILITY FOR 1722 N. GARFIELD PLACE, 5540-5544 HOLLYWOOD BLVD., AND 5601-5605 HOLLYWOOD BLVD., LOS ANGELES

Thank you for consulting the California State Historic Preservation Officer (SHPO) pursuant to the Programmatic Agreement (PA) among the City of Los Angeles (City), the SHPO, and the Advisory Council on Historic Preservation regarding HUD-assisted undertakings reviewed by the City pursuant to 24 CFR Part 58.

1722 N. Garfield Place

Pursuant to Stipulation VI.D.1.a., I concur with your determination that the property located at 1722 N. Garfield Place is eligible for inclusion in the National Register of Historic Places under criterion C at the local level of significance. This building, constructed in 1924, retains a high level of integrity and is an important example of a multiple-family residence designed in the Spanish Colonial Revival style during the Los Angeles housing boom of the 1920s. The period of significance is 1924.

5540-5544 Hollywood Boulevard

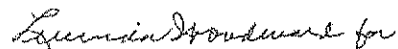
Pursuant to Stipulation VI.D.1.a., I concur with your determination that the G. M. Benethum Building, located at 5540-5544 Hollywood Boulevard is eligible for inclusion in the National Register of Historic Places under criterion C at the local level of significance. This building, constructed in 1921, retains a high level of integrity and is an excellent example of the Spanish Colonial revival style in a mixed-use property. It is also significant for its association with architect Frank Meline. The period of significance is 1921.

5601-5605 Hollywood Boulevard

Pursuant to Stipulation VI.D.1.a., I concur with your determination that the Hollywood Downtowner Inn, located at 5601-5605 Hollywood Boulevard is eligible for inclusion on the National Register of Historic Places under criterion C at the local level of significance. This property, designed by Jack Chernoff and constructed in 1956, retains a high level of integrity and is significant as an important example of a postwar modern style motel, designed with Goodie style influences. The period of significance is 1956.

If you have questions, please do not hesitate to contact Lucinda Woodward, Supervisor of the Local Government Unit, at (916) 445-4028 or at lwoodward@parks.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Lucinda Woodward for".

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer