MASTER APPEAL FORM

City of Los Angeles – Department of City Planning

4.

ORIGINAL

APPEAL TO THE: City Council
(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: CPC-2010-1554-DB-SPP; ENV-2012-110-EIR

PROJECT ADDRESS: 1601 -- 1605 N. Hobart Blvd.; 1600-1608 N. Serrano Ave.

FINAL DATE TO APPEAL: June 18, 2015

TYPE OF APPEAL:

1. ☐ Appeal by Applicant
2. ☑ Appeal by a person, other than the applicant, claiming to be aggrieved
3. ☐ Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

APPELLANT INFORMATION – Please print clearly

Name: David Bell

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

☑ Self ☐ Other: _____

Address: 4317 Kingswell Ave.

Los Angeles CA Zip: 90027

Telephone: (213) 814-9127 E-mail: dlawrencebell@gmail.com

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

☐ Yes ☑ No

REPRESENTATIVE INFORMATION

Name: _____

Address: _____

_____ Zip: _____

Telephone: _____ E-mail: _____

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: _____ Date: June 18, 2015

Planning Staff Use Only

Amount	106.80	**Reviewed and Accepted by**	LFS	**Date**	6/18/15
Receipt No.	0103453006	**Deemed Complete by**		**Date**	

☒ Determination Authority Notified ❑ Original Receipt and BTC Receipt (if original applicant)

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June 18, 2015

City of Los Angeles, Department of City Planning
201 N. Figueroa Street, 4th Floor
Los Angeles CA 90012

Re: 1601-1605 N. Hobart Blvd.; 1600-1608 N. Serrano Ave.
CPC-2010-1554-DB-SPP; ENV-2012-110-EIR

To the City Planning Department:

Please be advised that I am appealing the approvals in the above-referenced, in particular the Project Permit Compliance Review and the certification of the EIR. I am a property owner in both East Hollywood (within the certified Neighborhood Council district for the project) as well as Los Feliz – which is adjacent to the affected neighborhood. As a property owner and stakeholder in these communities, I am aggrieved by the flagrant disregard of both the specific plan (SNAP) and CEQA.

I am a former president of the East Hollywood Neighborhood Council, and currently sit on the East Hollywood Planning and Land Use Entitlements Committees. As such, I was present at the hearing on this matter before the Neighborhood Council and expressed my dismay at the cavalier attitude taken toward the destruction of one of the few remaining historic landmarks in the neighborhood. At one point, the representative for the applicant asked me whether I was interested in having the historic property at 1601 N. Hobart moved to my front yard – which would be funny if it weren't such a tragedy for the community.

As has been made abundantly clear to the applicant as well as the City, the property at 1601 N. Hobart is clearly a historical landmark. The Draft EIR states that the property contains no significant historic resources, and therefore a preservation alternative to the complete demolition of the historic property at 1601 N. Hobart was not necessary. According to the Historic Resource Assessment Report, prepared by the applicant in 2012, recognized that, in a study in *1979,* it was determined that the house "appears eligible for the National Register as an individual property through survey evaluation" with a status code of 3. In *2010,* however, one of the original preparers of this report, Christy McAvoy (whose husband was a co-founder of the applicant, and who was hired by the applicant to do another report) recanted her conclusion and noted that the property had ceased to be historic because "its surroundings are heavily dominated by newer and larger apartment buildings."

At the EHNC Planning Committee meeting, I noted to the applicant that the argument that a historic property in our neighborhood had become *less* historic over time sounded like nonsense. At that time, I and several other members of the committee suggested that the historic home could be moved to the part of the parcel that faced Serrano Avenue – a street that is not "dominated by newer and larger apartment buildings," and is, in fact, perfectly suited to a potential historic district.

This alternative was rejected out of hand by the applicant. The building is not historic, they said, and therefore no discussion of alternatives was necessary.

I repeat now what I said at the committee meeting: this argument is patently frivolous.

Approval of this project – with the destruction of this historic resource is contrary to the mandate of the specific plan (SNAP) – which provides that historic preservation and the preservation of the character of the neighborhood is a primary concern of the specific plan. There was no consideration of this historic resource in the plans for this project. The community's interest in preserving the historic character of the community was simply ignored.

I am personally aggrieved by the approval of this project and the destruction of this historic landmark. As a property owner in both East Hollywood and the adjacent neighborhood of Los Feliz, I have a premium for my property based upon the historic character of these neighborhoods. As such, the historic character of the community is a communal asset that enhances the quality of life as well as the property value of the surrounding community. *If this house can be torn down based upon the nonsensical analysis of the EIR, then absolutely nothing in this community is safe from destruction.*

The refusal of the applicant to include a preservation alternative in the EIR violates the clear standards of CEQA. "The purpose of an EIR is to give the public and government agencies the information needed to make informed decisions, thus protecting 'not only the environment but also informed self-government.' [Citation.]" *In re Bay-Delta Programmatic Environmental Impact Report coordinated Proceedings* (2008) 43 Cal.4th 1143, 1162. "[M]itigation and alternatives discussion forms the core of the EIR." *Id.*

"An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects...." Guidelines § 15126.6(a). The fact that alternatives "would impede to some degree the attainment of the project objectives, or would be more costly" does not excuse compliance with these requirements. *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4t 1437, 1456-1457 (EIR held inadequate for failure to review potentially feasible alternative of land exchange with BLM permitting relocation of subdivision project); see Guidelines § 15126.6(b).

As one federal appellate court put it: "An agency cannot restrict its analysis to those 'alternative means by which a particular applicant can reach *his* goals.' [Citation.]" *Simmons v. U.S. Army Corps of Engineers* (7th Cir. 1997) 120 F.3d 664, 669 (emphasis in original); see id. at 666 (an agency may not "slip past the strictures of [NEPA]" by "contriv[ing] a [project] purpose so slender as to define competing 'reasonable alternatives' out of consideration (and even out of existence)");[6] see also *Sierra Club v. City of Hayward* (1981) 28 Cal.3d 840, 862 ("if alternative sites could be rejected as long as they were unfit for an identical use, developers could easily describe the proposed use in so narrow a manner that it could be served only by the restricted parcel subject to an agricultural preserve contract").

Here, the "analysis" in the EIR that the historic house at 1601 N. Hobart was no longer historic because the rest of the neighborhood had been degraded is nonsense. Further destruction of the last remaining historic resources in our neighborhood cannot be justified on the basis of the past destruction of historic resources. The fact that this is the *last remaining historic structure on the street* only makes the structure *more precious,* not less! Moreover, the complete refusal to consider a reasonable preservation alternative, namely moving the historic structure to Serrano Avenue, a street that is certainly eligible as a historic preservation district, flies in the face

[6] To the extent CEQA was modeled after the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321 et seq., NEPA case law may be treated as "persuasive authority in interpreting CEQA." *Citizens of Goleta Valley v. Board of Supervisors (Goleta II)* 52 Cal.3d 565, fn. 4.

of CEQA and the community's concern – codified in the specific plan – for preservation of the character and historic resources of the community.

I attempted to testify on this matter before the City Planning Commission on May 14, 2015. I checked the Commission's posted agenda – noted that the matter was number one on the agenda – and showed up for the hearing at 8:30 in the morning. Unfortunately, the Commission had pre-determined that the matter would be held until the end of the meeting – some six-and-a-half hours later. I am informed and believe that the Commission Chairman informed the applicant that the matter would not be heard until later in the day. Moreover, I am informed and believe that supporters of the project were informed that the matter would be heard later in the day. Opponents of the project, however, were not informed of the delay in the hearing. At the lunch break, I had no choice but to return to work. I was unable to take off the entire day to testify for one minute – which is all the time allotted to opponents of the project – and had to leave before testifying. This complete lack of concern for the citizens who take time out from their days to monitor such projects amounts to a violation of due process and the deprivation of a fair hearing.

In the end, however, it doesn't matter, since approval of this project was a foregone conclusion even before the Planning Commission hearing. The City's approval of this project and certification of the EIR are the result of irreversible momentum and amount to nothing more than a post-hoc rationalization for a project that the City has already committed to approve.

In *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, the California Supreme Court ordered the City of West Hollywood to set aside approval of a project because "the City committed itself to a definite course of action regarding the project before fully evaluating its environmental effects." 45 Cal.4th at 143. *Save Tara* involved a plan to build new structures on city-owned property that contained a historic house. Before completing environmental review, the city approved a "Conditional Agreement for Conveyance and Development of the Property," which provided that the city would convey the land to a developer and lend the developer money to build the structures, provided CEQA requirements were first satisfied, among other conditions. 45 Cal.4th at 124. The Supreme Court held that the agreement constituted an approval of the project because, despite the CEQA-compliance condition, the agreement committed the agency to the project *as a practical matter.* 45 Cal.4th at 140-141. The agreement state that its purpose was to cause the redevelopment of the property. *Id.* It did not make clear that the city would remain free not to ahead with the project based on findings in the EIR. *Id.* Surrounding circumstances demonstrated the city's commitment: It approved another loan to the developer that was not conditional; in support of the developer's application to a federal agency for funding, the city told the agency it would commit up to $1 million in aid; it announced in its newsletter that it "will redevelop the property"; its official told residents it was obligated to continue on a path toward redevelopment and that certain options for uses favored by opponents, such as a park or library, had been ruled out; and tenants of the historic house were informed they would be relocated."

Here, in June, 2010, the CRA/LA Board of Commissioners approved a permanent loan agreement with the applicant for $5,027,000 in funding for the project. In October 2010, CRA/LA disbursed $3,584,500 to the applicant to acquire the properties. In November 2012, the Landmark California Development Corporation disbursed $600,000 to the applicant. This funding fulfilled a 2008 Condition of Approval requirement attached by the City Council to a project called the Camerford Lofts.

Similarly, approval of the Millennium Hollywood Project also included a last-minute amendment by Council District 13 directing $2.4 million dollars to the applicants as a condition of approval.

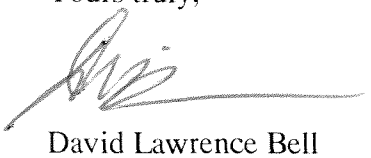
On May 2, 2014, the City Council voted to transfer $1.5 million to the applicant from the Affordable Housing Trust Fund. The motion instructed the General Manager of the Los Angeles Housing and Community Investment Department to amend a loan agreement previously approved for another project and transfer $1.5 million to the applicants "to support the Coronel Apartments." In November 2013, the Housing and Community Investment Department had refused to proceed with processing federal housing tax credits for the project after the federal agency's required Section 106 environmental determined that the house at 1601 N. Hobart is eligible for inclusion on the National Register of Historic Places. Federal regulations prohibit the use of tax credits for projects impacting a historic resource. Instead of applying federal tax credits, the City has decided to shift state tax credits to the project, which do not require environmental review of historic resources.

In addition to the money and influence advanced to the project, the residents have been instructed to relocate in advance of the demolition of their homes. The East Hollywood Neighborhood Council and its Planning Committee have long been aware of this applicants tendency to allow current residents of affordable, rent-control housing to endure squalid conditions in an effort to force them to self-relocate and thus save the applicant relocation funds.

Significantly, the applicant has completely ignored the community's request for alternative uses for the historic resource located at 1601 N. Hobart. Despite expert testimony provided at the Neighborhood Council meeting on this project, the applicant's position is that the house is not historic and it needs to be demolished.

The project and EIR approved by the City Planning Commission is contrary to State law, the specific plan for the community (SNAP) and CEQA and, as such, it should be rejected by the City. The City should direct the applicant to study and present a plan for historic preservation of the significant historic resource located on the property.

Yours truly,



David Lawrence Bell
Property Owner, Stakeholder,
Member East Hollywood Neighborhood
Council Planning and Land Use Entitlements Committee.