

ORIGINAL



APPLICATIONS:

APPEAL APPLICATION

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

1. APPELLANT BODY/CASE INFORMATION

Appellant Body:

- Area Planning Commission, City Planning Commission, City Council, Director of Planning

Regarding Case Number: VTT-74201-SL; ENV-2016-1367-EIR

Project Address: 750-756 1/2 North Edinbrough Avenue, Los Angeles, CA 90046

Final Date to Appeal: 07/19/2019

- Type of Appeal: Appeal by Applicant/Owner, Appeal by a person, other than the Applicant/Owner, Appeal from a determination made by the Department of Building and Safety

2. APPELLANT INFORMATION

Appellant's name (print): Guy Penini

Company: BLDG Edinbrough, LLC

Mailing Address: PO Box 385

City: Beverly Hills, State: California, Zip: 90210

Telephone: (323) 505-2534, E-mail: gpenini@bldgpartners.com

- Is the appeal being filed on your behalf or on behalf of another party, organization or company? Self, Other
Is the appeal being filed to support the original applicant's position? Yes, No

3. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): Elisa L. Paster

Company: Glaser Weil LLP

Mailing Address: 10250 Constellation Boulevard, 19th Floor

City: Los Angeles, State: California, Zip: 90067

Telephone: (310) 556-7855, E-mail: epaster@glaserweil.com

4. JUSTIFICATION/REASON FOR APPEAL

Is the entire decision, or only parts of it being appealed? Entire Part

Are specific conditions of approval being appealed? Yes No

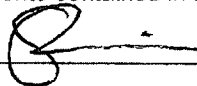
If Yes, list the condition number(s) here: _____

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

5. APPLICANT'S AFFIDAVIT

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

Appellant Signature: 

Date: 7/19/19

6. FILING REQUIREMENTS/ADDITIONAL INFORMATION

- Eight (8) sets of the following documents are required for each appeal filed (1 original and 7 duplicates):
 - Appeal Application (form CP-7769)
 - Justification/Reason for Appeal
 - Copies of Original Determination Letter
- A Filing Fee must be paid at the time of filing the appeal per LAMC Section 19.01 B.
 - Original applicants must provide a copy of the original application receipt(s) (required to calculate their 85% appeal filing fee).
- All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of the receipt.
- Appellants filing an appeal from a determination made by the Department of Building and Safety per LAMC 12.26 K are considered Original Applicants and must provide noticing per LAMC 12.26 K.7, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt.
- 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.
- Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- 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.
- A CEQA document can only be appealed if a non-elected decision-making body (ZA, APC, CPC, etc.) makes a determination for a project that is not further appealable. [CA Public Resources Code ' 21151 (c)].

This Section for City Planning Staff Use Only		
Base Fee: <u>10,243</u>	Reviewed & Accepted by (DSC Planner): <u>Sarahi Ortega</u>	Date: <u>7/19/19</u>
Receipt No: <u>010-206-7971</u>	Deemed Complete by (Project Planner):	Date:
<input checked="" type="checkbox"/> Determination authority notified		<input checked="" type="checkbox"/> Original receipt and BTC receipt (if original applicant)

Attachment to Appeal
Vesting Tentative Tract Map No. 74201-SL/ ENV-2016-1367-EIR (SCH No. 2017011016)
Justifications for Appeal to City Council

1. The City's findings are not supported by substantial evidence and are flawed. Mr. Bernstein's testimony that the Full Preservation Alternative (Alternative 2 in the EIR) was "potentially feasible" is not based on any facts or evidence and must be rejected. It is a post hoc rationalization of the Advisory Agency's last minute decision, which is in direct contravention of the City's own EIR.
2. The City's action on the EIR is not supported by substantial evidence. This includes, but is not limited to, the fact that evidence in the record supports approval of the Project and demonstrates that there is no feasible preservation alternative – be it full or partial preservation – to the project. According to the EIR, there is no economically viable alternative to develop a residential Project that preserves or rehabilitates the existing improvements on the Property, based on the Market Analysis (provided in Appendix H of the Draft EIR).
3. The City's decision that a statement of overriding considerations cannot be made is not supported by substantial evidence. This includes, but is not limited to, the fact that the City's denial would "preserve" a structurally unsound, uninhabitable bungalow court, leaving a blight upon the neighborhood and depriving the community of eight housing units. Balancing the benefits between saving a building that cannot be feasibly restored with the approval of the Project, the benefits clearly outweigh and override the significant unavoidable impacts.
4. The City's denial of the Project violates the Subdivision Map Act and is unsupported by substantial evidence because the findings are not sustained by fact or law. This includes, but is not limited to, the fact that the findings cite to only one reason to deny the project – that it would not be consistent with the Conservation Element of the General Plan. Yet, this decision ignores the overwhelming extent to which the Project is consistent with the General Plan. Moreover, the denial does not result in preservation of a HCM or consistency with the Conservation Element of the General Plan. As even admitted in the Draft EIR, there are potential environmental risks to preservation. This is even assuming that preservation is feasible, which the City admits is not the case.
5. The City's denial of the Project is contrary to local and statewide housing policy. Both the City and the State are in a housing crisis, as articulated by the Mayor of Los Angeles, the City Council, the Legislature and the Governor. These policies strongly encourage the creation of housing. The City has not provided any evidence that there is a feasible alternative; it is mere speculation. Thus, if the denial is upheld, then the site will result in zero housing units, contrary to public policy.
6. The City's denial of the Project violates the Housing Accountability Act (Government Code § 65589.5) by: failing to inform Applicant that the Project was not compliant with applicable plans and policies, yet using inconsistency with those policies as the sole

rationale for denial; failing to make findings required for disapproval of a project; and requiring redesign the project.

7. The City's denial of the Project violates the City's obligation to meet its Regional Housing Needs Allocation pursuant to the Government Code.
8. Denial of the Project is a prima facie case of the City temporarily and permanently taking Applicant's private property without just compensation.
9. The City's denial of the Project is a violation of Applicant's substantive and procedural due process rights under the U.S. and California Constitutions.
10. The City's denial of the Project is a violation of Applicant's equal protection rights under the U.S. and California Constitutions because, without limitation, every similarly situated small lot subdivision has been approved. Indeed, the HCM process was used to delay and/or deny Applicant's previous request for a small lot subdivision, even though every similarly situated small lot subdivision has been approved.

For all of the foregoing reasons, this appeal should be granted. If the City fails to do so, Applicant will pursue any and all legal remedies afforded to it under law, including a lawsuit against the City. We will also pursue the claims stayed in the previous litigation between the Applicant and the City of Los Angeles. We reserve any and all rights related to this appeal and future lawsuits.



LOS ANGELES
 201 N. LOS ANGELES ST., STE. 13A
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VAN NUYS
 14540 SYLVAN ST.
 VAN NUYS, CA 91411
 TEL: (818) 779-8866, FAX: (818) 779-8870

CONTRACT

CASE NUMBER: VTT-74201 **BTCID:** VO19-535
REFERENCE: VO18-599,LA19-412 **DATE:** 7/18/2019
SITE ADDRESS: 756-756 N EDINBURGH AVE
AUTHORIZED BY: RIVA

DESCRIPTION OF SERVICES AND FEES:

Labels and Mailing Preparation - Number	810	x \$1.91	\$1,547.10
Mailing Only - Number	0	x \$1.56	\$0.00
Appeals - Number		x \$1.65	
Posting of Site - Number of signs	0	x \$75.00 (1 st)	\$0.00
	0	x \$60.00 (addtl.)	
Research/Add'l N.C. and Council Notification			\$13.00
All Weather Posting (optional)		\$20.00	
Removal of Signs (optional)	0	\$50.00	

TOTAL DUE: \$1,560.10

A COPY OF THIS FORM MUST BE PRESENTED TO THE PLANNING DEPARTMENT AT THE TIME OF FILING TO HAVE YOUR APPLICATION DEEMED "COMPLETE"

Note: If applicant/map maker is retaining labels for addition of case number, labels must be returned to BTC within 7 days from the date of this invoice, or BTC will be forced to produce labels and charge the applicant/map maker. If bill is not paid, further processing of your other cases will stop. For cases requiring immediate mailing, labels must be submitted on the day of payment or BTC will produce labels and charge applicant/map maker.

x

CP

The City of LA usually generates a determination letter comprising of one(1) to three(3) pages which requires 1st Class postage. If your project requires a determination letter that exceeds three pages, you will be billed for excess postage and material costs that are due on receipt of bill. A \$ 50.00 fee will be charged if you want a copy of the BTC file(s).

x

CP

Refunds and Credits only valid one year from the original filing date. Cancellations and changes are subject to a 20% or \$50.00 handling fee, whichever is greater. Returned checks subject to a \$200.00 fee. If the check is fraudulent, the City will be notified that the invoice is null and void. A fee of 10% will be charged to re-activate all null and void invoices.

x

CP

If instructed by the city that your case has gone to appeal, we will immediately mail out per city instructions. The cost of mail and processing of \$\$1.65/label, is immediately due to us from you. It is to be paid within 10 days. If we do not receive payment within 10 days, a 10% a month (starting after 10 days) fee will be charged and due.

x

CP

Signature: _____

Telephone: (323) 505-2534

Print Name: BLDG PARTNERS LLC - GUY PENINI (APP/REP)



PAID

1255 + 205

148.50

Refunds and Credits only valid one year from the original filing date.