



Application

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: ENV-2014-1935-MND

Project Address: 3861, 3864, 3870, 3871, 3874, 3878, 3884, 3900, 3911 West Point Drive

Final Date to Appeal: March 23, 2016

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

2. APPELLANT INFORMATION

Appellant's name (print): Mark Kenyon

Company: Mount Washington Homeowners Alliance

Mailing Address: 505 W Avenue 44

City: Los Angeles State: CA Zip: 90065

Telephone: 323-533-0115 E-mail: mark.b.kenyon@gmail.com

- Is the appeal being filed on your behalf or on behalf of another party, organization or company?

- Self
 Other: Mount Washington Homeowners Alliance

- Is the appeal being filed to support the original applicant's position? Yes No

3. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

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

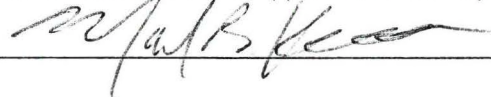
If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal
- Specifically the points at issue
- How you are aggrieved by the decision
- 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: 3-23-16

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).
- Original Applicants must pay mailing fees to BTC and submit a copy of 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.
- 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)). CEQA Section 21151 (c) appeals must be filed within the next 5 meeting days of the City Council.

This Section for City Planning Staff Use Only		
Base Fee: <u>\$89-</u>	Reviewed & Accepted by (DSC Planner): <u>LFS</u>	Date: <u>3/23/16</u>
Receipt No: <u>0104561181</u>	Deemed Complete by (Project Planner):	Date:
<input checked="" type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

Office: Downtown
 Applicant Copy
 Application Invoice No: 28822

City of Los Angeles
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.

City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

Applicant: MOUNT WASHINGTON HOMEOWNERS ALLIANCE - KENYON, MARK (B:323-5330115)
Representative:
Project Address: 3861-3911 N WEST POINT DR, 90065

NOTES:

ENV-2014-1935-MND			
Item	Fee	%	Charged Fee
Other with Surcharges (per Ordinance No. 182,106) *	\$89.00	100%	\$89.00
Case Total			\$89.00

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
Plan & Land Use Fees Total	\$89.00
Expediting Fee	\$0.00
OSS Surcharge (2%)	\$1.78
Development Surcharge (6%)	\$5.34
Operating Surcharge (7%)	\$6.23
General Plan Maintenance Surcharge (5%)	\$4.45
Grand Total	\$106.80
Total Invoice	\$106.80
Total Overpayment Amount	\$0.00
Total Paid (this amount must equal the sum of all checks)	\$106.80

Council District: 1
 Plan Area: Northeast Los Angeles
 Processed by FRAZIN STEELE, LAURA on 03/23/2016

Signature: L. Frazin Steele

LA Department of Building and Safety
 LA ESTE 104081884 3/23/2016 11:53:34 AM

PLAN & LAND USE \$106.80

Sub Total: \$106.80

Receipt #: 0104561181

MASTER CEQA APPEAL DOCUMENT FOR ENV-2014-1935-MND, DIR-2014-1927-SPP, DIR-2014-1934, DIR-2014-1938-SPP, DIR-2014-1939-SPP, DIR-2014-1940-SPP, DIR-2014-1941-SPP, DIR-2014-1942-SPP, DIR-2014-1705-SPP, and DIR-2014-2243-SPP

All nine of the Director's decisions listed above are supported by a single Mitigated Negative Declaration (ENV-2014-1935-MND). The Mount Washington Homeowners Alliance (MWAH) is appealing the failure of the City to fully disclose and mitigate the environmental impacts posed by the nine projects.

The MWAH incorporates into this Master Appeal Document by reference the entire record developed during the Director's decision-making process for the nine projects and the MWAH Appeal to the East Los Angeles Area Planning Commission. Furthermore, because the above referenced projects rely on “regulatory compliance measures” as part of the City's CEQA analysis and because this issue has already been documented in the below referenced cases, the MWAH incorporates by reference the entire record developed for Director's decision-making process for DIR-2014-2054-SPP [460 Crane Blvd., Los Angeles, CA 90065], DIR-2014-2050-SPP [462 Crane Blvd., Los Angeles, CA 90065], ENV-2014-2051-MND and the MWAH Appeal to the East Los Angeles Area Planning Commission for these projects on Crane Blvd.

HOW THE MOUNT WASHINGTON HOMEOWNERS ALLIANCE IS AGGRIEVED BY THE ACTIONS OF THE CITY:

The Mount Washington Homeowners Alliance (MWAH) is a non-profit, unincorporated association representing the interests of the residents of the Mount Washington community. The Land Use Committee of the MWAH reviews project proposals within the community regarding conformity to the City's General Plan Framework, the Northeast Community Plan, the Hillside Ordinances, the City's Retaining Wall ordinance, the Mount Washington/Glassell Park Specific Plan, the Los Angeles Municipal Code, and the California Environmental Quality Act (CEQA).

The residents of Mount Washington, including MWAH's members, have chosen to make this community their home, to raise their children here, to live out their lives here and, as a result, have a direct interest in the City enforcing its land use policies and actions in a manner that is consistent, fair and equitable. The MWAH is aggrieved by the failure of the Mitigated Negative Declaration (MND) to fully disclose and mitigate the environmental impacts posed by the nine projects.

THE REASONS FOR THE MWAH APPEAL:

I. Substantial evidence in the record

In the Department of Planning Recommendation Report prepared for this project for the East Los Angeles Area Planning Commission (ELAAPC), as well in testimony before the Commission, Planning Staff have misconstrued the meaning of substantial evidence as it relates to CEQA. As a result, they have misled the Commission concerning the evidence

provided by the MWHHA, its members, and members of the general public that provided testimony before the ELAAPC.

Quoting from California Resources Code Section 15384 Substantial Evidence is defined as:

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Planning Staff, to our knowledge, appear to limit their understanding of substantial evidence to the second part of the definition of section 15384. Furthermore, Staff appear to be overly reliant on the idea of facts and experts; and to discount relevant information and reasonable inferences from this information given by members of the public, as mere speculation and unsubstantiated opinion.

For example, both prior to and at the ELAAPC Hearing, the MWHHA and members of the public provided relevant information concerning fire safety and emergency access to the project site. This information was specific in nature, specific to the project, and the surrounding area. It included photographs, maps, City Fire Regulations, observations, experience, and personal testimony. This information included facts as well as other relevant information from which reasonable inferences could be made to support a fair argument to support the MWHHA's conclusions about fire access and safety.

However, Staff's apparent distorted view of what constitutes substantial evidence and their testimony on this point prejudiced our arguments before the Commission concerning the environmental impacts and mitigation measures. As a result, the MWHHA was not afforded a fair hearing. Our evidence remains un-rebutted, and the project still fails to adequately analyze and mitigate a number of environmental impacts including those to traffic, emergency access, fire access, fire safety, public utilities, biological resources, air quality, and geology and soils.

II. Regulatory Compliance Measures

As stated above, the MWAH incorporates by reference the entire record developed for Director's decision-making process for DIR-2014-2054-SPP [460 Crane Blvd., Los Angeles, CA 90065], DIR-2014-2050-SPP [462 Crane Blvd., Los Angeles, CA 90065], ENV-2014-2051-MND and the MWAH Appeal to the East Los Angeles Area Planning Commission for these projects on Crane Blvd.

The City's newly adopted CEQA process, wherein it relies on Los Angeles Municipal Code and other regulatory measures to assume environmental impacts are below a level of significance prior to disclosing what those impacts actually are and how the regulatory measures reduce them to below a level of significance, violates CEQA's requirement for the City to disclose ALL environmental impacts and violates CEQA's mandate regarding enforceability of project mitigation.

As a result, the Initial Study Checklist is deficient, the MND is inadequate, and the project's impacts have not been mitigated to below a level of significance.

Finally, the reason for the City adopting its new CEQA process appears to be entirely and only related to the City's desire to reduce the time it takes to process an MND. And is not related to any reasons tied to the CEQA process itself or to making this process produce better projects or better CEQA documents. Our evidence for this claim comes from the Crane Blvd. project ELAAPC Hearing where a Planning Staff Member appeared to testify to this as the reason.

III. Cumulative Impacts have not been disclosed

Staff's report and testimony on the cumulative impact analysis provided by the MND entirely sidesteps the MWAH's concerns and evidence. Furthermore, Staff has again utilized their flawed understanding of CEQA's definition of substantial evidence.

The facts that the MWAH pointed to in our analysis came directly from the MND itself.

The MND stated on page IV-49, there is a Less Than Significant Impact from impacts that are cumulatively considered "for the reasons stated in the Initial Study."

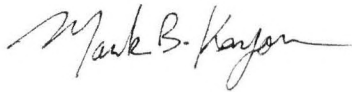
The "reasons stated in the Initial Study" and quoted in the Staff Report are: because the project would have no significant effect on the environment after mitigation it therefore would not have the potential to contribute to any cumulative impacts. This analysis violates CEQA mandate to consider cumulative impacts. By this logic one could never have situations where individual impacts are limited but cumulatively could be considerable.

The MWA has provided a fair argument that the project has potential cumulative impacts on land use, traffic, fire safety, fire and emergency access, biological resources, noise, and air quality.

IV. General Plan Consistency

The MWA includes here by reference our previous arguments from the record of this project on the City's failure to implement and monitor the Mitigation Measures related to the Northeast Community Plan's population density, inadequate infrastructure, and public health and safety.

Respectfully yours,

A handwritten signature in black ink that reads "Mark B. Kenyon". The signature is written in a cursive style with a long horizontal flourish at the end.

Mark Kenyon
MWA Land Use Committee