



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: ENV-2014-1094-MND

Project Address: 611 South Gayley Ave., Westwood, Los Angeles, CA 90024

Final Date to Appeal: none

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

2. APPELLANT INFORMATION

Appellant's name (print): Steven D. Sann, Stephen Resnick

Company: _____

Mailing Address: 10940 Wilshire Blvd., Suite 1400

City: Los Angeles State: CA Zip: 90024

Telephone: (213) 448-8147 E-mail: stevesann2001@yahoo.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): Dean Wallraff, Esq.

Company: Advocates for the Environment

Mailing Address: 10211 Sunland Blvd.

City: Shadow Hills State: CA Zip: 91040

Telephone: (818) 353-4268 E-mail: dw@aenv.org

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: August 12, 2016

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: \$ 89	Reviewed & Accepted by (DSC Planner): Daniel Skolnick	Date: 8/12/16
Receipt No: 0202342602	Deemed Complete by (Project Planner): Daniel Skolnick	Date: 8/12/16
<input checked="" type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

August 12, 2016

Advocates for the Environment

A non-profit public-interest law firm
and environmental advocacy organization



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

re: Appeal of CEQA Determination for 611 S. Gayley Ave. Project, Case No.
ENV-2014-1094-MND (related to Case ZA-2014-1095-CU-ZAA-
DRB-SPAA-SPP-1A)

Dear Los Angeles Department of City Planning:

This letter justifies the appeal filed by our clients, Steven D. Sann and Stephen Resnick, of the decision of the West Los Angeles Area Planning Commission (the **Commission**) denying Mr. Sann's appeal and approving the above-referenced project (the **Project**) at their meeting on July 6, 2016, as documented in the determination letter dated July 12, 2016, which is attached to this letter. The Project land-use approvals are now final under the Los Angeles Municipal Code and cannot be further appealed. Our clients appeal the City's adoption of the CEQA Mitigated Negative Declaration for the Project under Public Resources Code § 21151(c), which allows CEQA determinations made by non-elected City bodies to be appealed to the City Council.

Mr. Sann is a long-time community leader in Westwood. Mr. Resnick is a Westwood homeowner, a President of a local homeowners association, and the Secretary of the Westwood Neighborhood Council. Our clients, Mr. Sann and Mr. Resnick, will be aggrieved by the construction of a dormitory building with objectionable features that will harm the neighborhood, including the following:

- Potentially allowing up to 150 residents;
- Insufficient parking for a facility of this size, particularly in the area around UCLA where parking is in very short supply;
- Allowing unaffiliated borders to live in the Project, which effectively makes it a dormitory instead of a fraternity; and
- Allowing the use of the rooftop "terrace" to be used by building occupants, even though there is strong evidence showing that allowing college students roof access presents a safety problem.

Our clients are also aggrieved by the lack of notice provided them of the July 23, 2015 Zoning Administrator (ZA) hearing on the Project and on the CEQA determination for the Project. It is possible that the ZA would have agreed with our clients on additional conditions of approval to be imposed on the Project, avoiding the necessity of this appeal, and of Mr. Sann's previous appeal from the ZA determination to the Commission.

Lack of Proper Notice

Our clients, Westwood community leaders, and other representatives of the Westwood Neighborhood Council made numerous comments on the Project at the Westwood Community Design Review Board (**DRB**) meetings, and filled out speaker cards at those meetings. Those cards were collected by Naomi Guth, the Director of Planning's representative at the DRB meetings. She transmitted them to Jonathan Hershey, the hearing officer who conducted the July 23, 2015 public hearing on the Project on behalf of the Zoning Administrator (**ZA**). But the Department of City Planning (the **Department**) failed to give notice of the July 23, 2015 ZA hearing to those speakers or to the Neighborhood Council, as required by Los Angeles Municipal Code (**LAMC**) § 11.5.7.F.3.b.

“The Planning Department requires that an official notice be sent by U.S. mail to the appropriate Certified Neighborhood Council for each public hearing on a case.” (<http://empowerla.org/departments-of-city-planning-early-notification-report-for-ncs/>) The City never sent the Westwood Neighborhood Council (the **Neighborhood Council**) a notice of the July 23, 2015 ZA hearing by U.S. mail as this policy requires.

As a result of this lack of proper notice, Mr. Sann and Mr. Resnick, representatives of the Neighborhood Council, and other persons who had expressed an interest in the Project were deprived of their right to attend the July 23, 2015 ZA hearing, and none of them had an opportunity to submit written comments into the record of the hearing. When our client appealed to the West Los Angeles Area Planning Commission, the Commissioners at the appeal hearing acknowledged the lack of notice, and that our clients and other Project opponents, including the local Neighborhood Counsel, were prejudiced by the City's failure to give proper notice so they could participate in the ZA hearing. But the Commission denied the appeal anyway.

The lack of proper notice for the ZA hearing prejudiced Mr. Sann and other Project opponents because it deprived them of the opportunity to participate in the ZA hearing, at which they might have been able to negotiate conditions of approval that would have made the Project acceptable to them.

The City Council should remedy this unfair situation by granting the appeal, which would allow the Applicant to re-file applications for Project entitlements. Our clients and other neighborhood stakeholders, including the Neighborhood Council, would probably be able to negotiate with the Applicant and the City acceptable conditions of approval, avoiding the need for appeals the second time around.

CEQA Errors

The Initial Study and the accompanying the Mitigated Negative Declaration adopted by the ZA are flawed in important ways, as discussed below. One of the errors—

improper analysis and mitigation for greenhouse-gas effects—was the subject of a recent lawsuit, in which the Court of Appeal held that the greenhouse-gas mitigation measures applied in this case did not comply with CEQA.

Greenhouse Gas Analysis

The Initial Study (IS) attached to the Mitigated Negative Declaration (MND) admits that the project will have potentially significant greenhouse gas (GHG) effects unless mitigation is incorporated (IS at pp. 9, 16). But the only GHG mitigation measure, VII-10 requires use of low- and non-VOC (volatile organic compound) paints, sealants, etc. (MND at p. 2.) VOCs have a minimal effect on climate change. The use of only low- and non-VOC-containing paints, sealants, adhesives, and solvents will not mitigate the Project's greenhouse-gas effects to any significant degree. VOCs do have some GHG effects, but the quantities of VOCs emitted by evaporation from paints, sealants, adhesives and solvents are minuscule, compared with the many metric tonnes of CO₂ emitted by the Project's burning of natural gas, and by the electric power plants supplying electricity for the Project.

And the IS simply contains no analysis of Greenhouse Gas Emissions effects. CEQA Guidelines § 15064.4 states that “a lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project.” The IS here has made no such effort. The public and the decision-makers are entitled to know how many additional tons of annual GHG emissions the Project will cause.

This firm recently won a case against the City of Los Angeles in the California Court of Appeal on the issues just discussed—the GHG mitigation measure and the lack of adequate analysis of the Project's GHG effects. (*Friends of Highland Park v. City of Los Angeles* (2015) 2015 Cal.App.Unpub LEXIS 8002.) The facts in the case were very similar to the facts relating to this Project, and the GHG mitigation measure that the court held to be inadequate in that case was identical.

The Project's GHG effects may be significant because the building sector in the United States accounts for approximately 48% of annual GHG emissions. (Hal S. Knowles, III, *Realizing Residential Building Greenhouse Gas Emissions Reductions*, at p. 2, available from U.S. EPA Web Site: <http://www.epa.gov/ttnchie1/conference/ei17/session5/knowles.pdf>.) There are mitigation measures the City can adopt to significantly reduce the Project's GHG effects. One summary of such measures, prepared by the California Attorney General's Office, is available at http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf.

The City should amend the IS to provide a proper analysis of the Project's GHG effects, and adopt effective mitigation for those potentially-significant effects.

Incorrect Project Description

The project-description portion of the MND characterizes the Project as a “fraternity house,” but, as approved, it’s really a dormitory, not a fraternity. The last fraternity to own the property has not operated there since UCLA suspended it in the 1960s. No fraternity has operated on the Project Site for the last decade. Though there has been a discussion that the fraternity might be re-started if the Project is approved, the Applicant is not obligated by the Conditions of Approval to operate the Project as a fraternity. Condition of Approval number 7 allows the use of the facility “for the housing of collegiate fraternity members, unaffiliated boarders, or a combination of both.” This effectively authorizes the Applicant to operate the Project building as a dormitory if the Applicant fails to sign a lease with a fraternity organization or the fraternity organization fails to become affiliated with UCLA.

Such a failure is likely. To be economically viable, the fraternity would will need to attract 100 or 150 residents, because the Project is so large and expensive. The Assistant Director of Students, UCLA’s Director of Fraternity and Sorority Relations, testified at the Commission hearing that the average UCLA fraternity had between 35 and 45 members, and that only two had memberships in the low 50s. Under these circumstances, it is highly unlikely that a fraternity operated on the Project Site would be able to attract sufficient members to make the fraternity financially viable.

The Conditional Use Permit for the Phi Kappa Psi fraternity next door to the Project Site at 613 S. Gayley Ave. requires that the fraternity remain affiliated with UCLA and subject to fraternity rules imposed by UCLA. The applicant here has refused to agree to such a condition, and the City has failed to require fraternity affiliation as a condition of approval of the Project. Such a condition would protect the community from excessive drinking, partying, and other violations of the peace by the Project residents. UCLA’s Director of Fraternity and Sorority Relations testified at the Commission hearing that an unaffiliated fraternity on the Project Site would be “crashing the campus.”

Under these circumstances, characterizing the Project as a fraternity appears to be a ruse to get approval to construct a for-profit dormitory catering to UCLA students. The Westwood community would not support such a use for the Project site.

As a dormitory, the number of “guest rooms” should be re-evaluated. The MND characterizes the Project as having 22 guest rooms, but, under LAMC § 12.03, which defines “dormitory,” “every 100 square feet of superficial floor area in a dormitory shall be considered as a separate guest room.” In a 15,481 square-foot building there is likely much more than $22 \times 100 = 2,200$ square feet of superficial floor area in the Project’s 22 dormitory rooms. In fact, it is common practice in fraternities to lodge visitors in common rooms at certain times of the year. If all of the building’s space were used for such lodging, the building would have $15,481 \div 100 = 154$ rooms under LAMC § 12.03. The applicant

acknowledged at the Commission hearing that there might be as as many as 100 residents. The 22-room figure should be revised upward accordingly, which will affect open-space and parking requirements.

Air Quality Impacts during Construction

On December 12, 2014, the South Coast Air Quality Management District (SCAQMD) sent a letter to the Department, pointing out that the construction of a 15,481-square-foot building over a subterranean garage could have significant localized air-quality impacts on nearby residences. SCAQMD recommended that the IS include an analysis of these impacts using SCAQMD's Localized Significance Methodology, to determine whether the impacts would be significant. If so, CEQA requires that they be mitigated to a less-than-significant level.

The SCAQMD letter, as expert commentary on the Project, is substantial evidence that the Project may have significant air-quality impacts. The IS simply states that the Project will have less than significant air-quality impacts, with no discussion and no substantiation in the record to support this conclusion. This is legally insufficient. An IS must support its conclusions with evidence in the record. The IS should be revised to analyze the potentially significant air-quality effects that the SCAQMD brought to the City's attention, and mitigate them if they are significant.

Parking

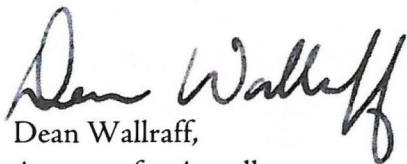
The Project will also have significant adverse effects on local parking. As discussed above, the Project could have up to 150 residents, but there are only 31 vehicular parking spaces. This is far too few for 150 residents, or even for 100 residents, and therefore the building will contribute to the huge parking shortage in the North Westwood Village Specific Plan area. That parking shortage causes students and residents to park in inappropriate places—on planters, medians, in alleys and driveways—creating safety problems by blocking emergency vehicle access.

Even though an impact on parking is not itself an adverse environmental impact, the Project's cumulative contribution to a parking shortage must be analyzed in the CEQA documentation if it affects traffic and air quality, as it would in this case. (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656,697.) Traffic, air quality, and emergency-vehicle are heavily impaired in the UCLA area, and the IS should have analyzed cumulative impacts in these areas, from parking and from other aspects of the Project.

Conclusion

My clients respectfully request that the City Council grant the appeal, to disapprove the Project in its present form, so that Mr. Sann, the Neighborhood Council, and other Westwood stakeholders can have an opportunity to negotiate acceptable conditions of approval with the City and the Applicant. This would also give the City an opportunity to fix the errors in the IS and MND discussed above. Failure to fix these CEQA errors will make it very likely that a Superior Court challenge to the CEQA approvals will succeed.

Sincerely,



Dean Wallraff,
Attorney for Appellants,
Steven D. Sann and Stephen Resnick

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 VAN NUYS, CA 91401
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Sale

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 MASTERCARD
 Entry Method: Swiped
 106.80
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 Appr Code: 003772
 Total: \$
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Customer Copy
 THANK YOU!

LA DEPART.
 LA Department of Building and Safety
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 PLAN & LAND

Receipt #:

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.

Planning Request

Analyze your request and accord the same full and impartial consideration to whether or not you obtain the services of anyone to represent you.

Required by Chapter 1, Article 9, L.A.M.C.

Applicant: SANN, STEVEN. D. (213-4400147)
Representative: ADVOCATES FOR THE ENVIRONMENT - WALLRAFF, DEAN (B:818-3534268)
Project Address: 611 S GAYLEY AVE, 90024

NOTES: Stephen Resnick, Co-appellant

ENV-2014-1094-MND-REC1-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$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

LA Department of Building and Safety
 VN ZABE 202096465 8/12/2016 2:16:52 PM

PLAN & LAND USE \$106.80

Sub Total: \$106.80

Receipt #: 0202342602

Council District: 5
 Plan Area: Westwood
 Processed by SKOLNICK, DANIEL on 08/12/2016

Signature: 