

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: ENV-2015-3927-MND

Project Address: 675-85 S. Bixel St., 1111 W. 7th St., 1112-42 W. Ingraham St.

Final Date to Appeal: 03/15/2018

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): David Hurtado

Company: Resident

Mailing Address: 1100 Wilshire Boulevard, Suite # 1708

City: Los Angeles

State: CA

Zip: 90017

Telephone: (213) 908-1123

E-mail: david@dhgre.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): _____

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: 3/5/18

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>\$89-</u>	Reviewed & Accepted by (DSC Planner): <u>Yarana Perez</u>	Date: <u>3/6/18</u>
Receipt No: <u>0101858653</u>	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

**RE: Justification for Appeal; 675 South Bixel Street, 111 West Seventh Street;
Bixel Residence/Hotel Project (DCP Case Nos. ENV-2015-3927, ZA-2015-3926)**

Dear Honorable Planning and Land Use Management (PLUM) Commissioners:

This Appeal challenges the mitigated negative declaration (MND) for the referenced Bixel Residence/Hotel development (Project), adopted by the Central Area Planning Commission (APC), made effective by the **attached letter of determination (LOD)**. Accordingly, the Project's land use entitlements are not further appealable. As a document prepared under the California Environmental Quality Act (CEQA), the MND is appealable to the highest elected decision-making body (City Council) of the City of Los Angeles (City). As custom for the Department of City Planning (DCP), this Appeal is timely submitted within 15 days of the LOD mailing date.

This Appeal incorporates all comments submitted on the Project, and respectfully requests the Honorable Councilman Gilbert A. Cedillo to PLUM Committee members to **overturn APC's adoption** of the MND and ensure an environmental impact report (EIR) is prepared for the following reasons:

1. ***NEARBY RESIDENTS SHOULD BE PROTECTED JUST LIKE OTHER SIMILARLY-SITUATED RESIDENTS UNDER THE CCWSP.***

The Project will cast significant shadows on pool areas at 1100 Wilshire and 664 S. Bixel, which will affect the quality of life for nearby residents. These residential uses should be protected in a manner consistent with the spirit of the Central City West Specific Plan (CCWSP) as adopted in 1991. The area is no longer the commercial area it once was nearly 30 years ago. After countless land use approvals by the City, the area has become significantly more residential, as evidenced by the above-mentioned properties located next to the Project site.¹ These properties are functionally the same as the three to seven-story apartments in R4(CW) and RC4(CW) Zones that are currently protected under the CCWSP.² Residents near the Bixel Project should be no less protected.

2. ***NOTHING PREVENTS THE APPLICANT FROM ABANDONING THE RESIDENTIAL TOWER AFTER THE HOTEL IS BUILT.***

At page II-12 of the MND, it states **the hotel will be built first with the residential tower only "presently anticipated to begin concurrently."** The hotel already includes more rooms than allowed under the Municipal Code, robs square footage from the residential site via a density transfer, while also short-changing the community of all ground-floor retail uses.³ The hotel site also includes hotel-dedicated parking separated from the residential parking, which is inconsistent with DCP parking regulations. As approved, the applicant could abandon the residential tower once the hotel is built with its own parking. Nor does anything prevent these residential units, if ever built, from being used as short-term rentals akin to a hotel. While the applicant is eager to tout its residential units, they do not seem eager to build it. In the midst of a housing crises, potential homeowners and renters cannot rely on empty promises, nor should the City. If approved as a housing project, the Project must include meaningful/enforceable conditions.

¹ Office space at 1100 W. Wilshire Blvd. was converted into 240 dwelling-units in 2004 (DCP Case No. CPC-2003-5286). The apartment complex at 666 S. Bixel St. was approved in 2009 and 2013 for the construction of 214 dwelling-units (DCP Case Nos. DIR-2003-1372, DIR-2008-3169).

² According to ZIMAS: 123 S. Lucas (153 units under DCP Case No. APCC-2009-2066), 331 N. Boylston (121 units under DCP Case No. DIR-2014-4506), 1270 W. Temple (99 units), 1347 W. Court (92 units), 245 S. Lucas (61 units), 1440 W. Temple (46 units), 216 N Bixel (30 units), 1313 W. Court (24 units), and 1407 W. 3rd (24 units).

³ Made worse by APC approval of applicant's last-minute request for additional deviations at the residential tower.

3. THE BIXEL PROJECT SHOULD BE ANALYZED UNDER AN EIR JUST LIKE SIMILAR PROJECTS IN THE APC AREA.

The Project is a massive two-structure development, totaling 43 stories and 588,000+ sq.ft. of development, including 548 residential and hotel units, on a ten-lot site (1.95 acres). Smaller mixed-use projects seeking similar entitlements have required EIRs to study environmental impacts and consider project alternatives, such as the Sapphire project just one-block away from the Bixel Project.⁴ However, unlike the Sapphire project's EIR, the MND did not consider any project alternatives that would reduce CEQA impacts. Nor did APC consider adopting a "statement of overriding consideration" identifying the specific benefits of the Project that outweigh its environmental harm, which is required under CEQA when approving a project with significant unmitigated impacts. The smaller Sapphire project was approved only after consideration of project alternatives and adoption of a statement of overriding consideration⁵—so too should be required for the larger Bixel Project.

4. APC FAILED TO MENTION—MUCH LESS CONSIDER—A MODIFIED DESIGN THAT WOULD REDUCE CEQA IMPACTS.

Under CEQA, an EIR must be prepared if there is a "fair argument" a project will have a significant impact. Here, expert evidence shows potential impacts on traffic, air quality, and greenhouse gas emissions. The Bixel Project also conflicts with the letter and spirit of applicable zoning regulations (indicated above), which is a recognized CEQA impact. A modified design was proposed that would reduce these CEQA impacts, which was never discussed or considered by APC. This was unacceptable for the Sapphire project, why is the applicant getting preferential treatment?

5. NUMEROUS RESIDENTS HAVE OBJECTED TO THE BIXEL PROJECT THROUGHOUT THIS APPROVAL PROCESS.

Those objections include the 30+ residents who signed a previously-circulated petition against the Project. **Three appeals were filed challenging the Project's land use entitlements**, including one on behalf of the 1100 Wilshire Property Owner Association. That appeal was only recently withdrawn, despite no changes being made to the Project. The concerns previously raised by the community remain unresolved for similarly-situated residents. It is unclear why the land use entitlements are not appealable to City Council, like the MND, to at least consider modifications and conditions that would address community concerns.

CONCLUSION

In short, residents depend on the PLUM Committee to be responsible stewards of City decision-making on environmental and land use policy, such as treating similar-situated residents and projects in a consistent and fair manner. For the reasons discussed herein, this Honorable body should reject the MND and require a full EIR for the Bixel Project.

⁴ On February 26, 2018, APC approved almost identical entitlements for the proposed two-structure project at 1111 W. Sixth St. totaling 14 stories and 348,431 sq.ft. of development, including 369 apartment units, on a 13-lot site (1.92 acres) (DCP Case Nos. APCC-2015-3032, ENV-2015-3033). See APC Agenda (02/26/18), <http://planning.lacity.org/InternetCalendar/pdf.aspx?Id=59923>.

⁵ See DCP Staff Report (02/26/18), <http://planning.lacity.org/StaffRpt/InitialRpts/APCC-2015-3032.pdf>; APC Audio Recording (02/26/18), <http://planning.lacity.org/StaffRpt/Audios/Central/2018/02-26-18/5%20APCC-2015-3032.MP3>.