



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-2018-3289-CE

Project Address: 1138-1141 S. Broadway

Final Date to Appeal: _____

- 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 Taban

Company: Frontier Holdings West, LLC & Main Fund Associates, LLC

Mailing Address: 888 S Figueroa St # 1900

City: Los Angeles State: CA Zip: 90017

Telephone: (213) 745-5191 E-mail: daniel@jadeent.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): Alexander Irvine

Company: Irvine & Associates

Mailing Address: 660 S. Figueroa St., Suite 1780

City: Los Angeles State: CA Zip: 90017

Telephone: (213) 437-3403 E-mail: alex@irvineassoc.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: 9-5-19

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).
- NA ● 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.
- NA ● 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.
- NA ● 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.
- NA ● Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- NA ● 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): <i>Anne M. Vidal</i>	Date: 9/5/19
Receipt No: 0102087867	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

Office: Downtown
Applicant Copy
 Application Invoice No: 58848



6800P58848

City of Los Angeles
 Department of City Planning



LA Department of Building and Safety
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City Planning Req

NOTICE: The staff of the Planning Department will analyze your request on your application, regardless of whether or not you obtain the

This filing fee is required by Chapter 1, A

PLAN & LAND USE \$106.80
 DEV SERV CENTER SURCH-PLANNING \$2.67

Sub Total: \$109.47

Receipt #: 0102087867

Applicant: IRVINE & ASSOCIATES - IRVINE, ALEXANDER (B:213-4373403
 Representative:
 Project Address: 1140 S BROADWAY, 90015

NOTES: Appeal on ENV-2018-3289-CE by an agrieved party.

ENV-2018-3289-EAF

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
Development Services Center Surcharge (3%)	\$2.67
City Planning Systems Development Surcharge (6%)	\$5.34
Operating Surcharge (7%)	\$6.23
General Plan Maintenance Surcharge (7%)	\$6.23
Grand Total	\$109.47
Total Invoice	\$109.47
Total Overpayment Amount	\$0.00
Total Paid (this amount must equal the sum of all checks)	\$109.47

LA Department of Building and Safety
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Council District: 14
 Plan Area: Central City
 Processed by VIDAL, ANNA on 09/05/2019

PLAN & LAND USE \$106.80
 DEV SERV CENTER SURCH-PLANNING \$2.67

Sub Total: \$109.47

Signature: Anna M. Vidal

Receipt #: 0102087867



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EMAIL | Info@IrvineAssoc.com
WEBSITE | www.Irvineassoc.com

September 5, 2019

Los Angeles City Council
City of Los Angeles
200 North Spring Street
Los Angeles, California 90012

Re: **Appeal of ENV-2018-3289-CE**

Dear Los Angeles City Council,

We are writing on behalf of our Client, Frontier Holdings West, LLC and Main Fund Associates, LLC (the Appellant), who own several lots immediately to the east of the approved project, directly across the alley. The Appellant recently submitted an entitlement application for a high-density project which will be utilizing the Alley for vehicular access. The Appellant will be widening the alley as part of their project. We are writing to object to the Project approvals granted by the Zoning Administrator (ZA) in their May 23, 2019 Determination Letter (Determination Letter) for ZA-2018-3288-CUB-SPR and ENV-2018-3289-CE. Specifically, we request that the Los Angeles City Council require the Applicant to be consistent with the required dedication and improvement standards for South Broadway and the Alley. This would provide the 1-foot dedication and improvement standards along South Broadway and the 4-foot dedication and improvement standards within the Alley. Further, we object to the Categorical Exemption and request that the Los Angeles City Council require the Applicant to complete an expanded Initial Study environmental analysis pursuant to CEQA.

The City Erred

The Department of City Planning (Department) erred by not referring the Project case file to the Bureau of Engineering Land Development Group (BOE) for review and identifying the appropriate dedication standards for South Broadway and the Alley. The proposed Project is a 14-story hotel with 139 rooms, a ground floor restaurant/bar with 125 seats, and a rooftop patio/bar with up to 200 seats. All vehicular access for the proposed Project will be provided from the Alley, which is currently substandard at 12-feet in width. On November 30, 2018, Irvine & Associates submitted a letter (**Exhibit A**) to the ZA expressing concern over the lack of dedication and improvements to the Alley. We expressed the same concerns at the public hearing on October 17, 2018. The Planning Case Referral Form (PCRF), prepared for the proposed Project, on June 28, 2018 (**Exhibit B**) says, "If the PCRF Recommendations for Dedication or Street Widening is marked "Yes", a formal investigation and engineering report will be required." It is our understanding that no such engineering report has been prepared and the Department never referred the case to BOE. The Department also erred in not requiring the Project applicant to submit the Downtown Design Guide Checklist as a part of the Project application.

Alley Dedication and Improvements

According to Sheet 3 of BOE's Standard Street Dimensions Standard Plan S-470-1 (**Exhibit C**), an alley width

between two adjacent property lines is twenty (20) feet (10 feet half alley width). BOE Map Sheet 126A209 indicates that the existing alley width is twelve (12) feet (6 feet half alley width). As such, a four (4) foot dedication should be imposed on the Project along the alley in order to achieve the minimum 10 feet half ROW width required.

A PCRf (**Exhibit B**) was prepared for the Project by BOE on June 28, 2018. According to page 3 of the PCRf, the information is only a "preliminary recommendation" by BOE. LAMC Section 62.106.1(a) requires BOE to collect a fee of \$129 for the "preliminary land use review" contained in the PCRf. The Preliminary Required Improvements section on page 2 of the PCRf indicates that a dedication and other improvements will be required and a preliminary required improvement of "1 FT HIGHWAY DEDICATION REQUIRED. ALLEY TO BE WIDENED TO A MINIMUM OF 20 FT WIDE." On page 3 of the PCRf, it states that, "If the PCRf Recommendations for Dedication or Street Widening is marked "Yes", a formal investigation and engineering report will be required." The engineering report will be provided after submittal of all documentation and payment of fees. Measurements and statements contained herein may be adjusted in the engineering report." The Project includes a discretionary entitlement application for a Conditional Use Permit and Site Plan Review. These entitlements, coupled with known concern of the lack of dedication in alley, should have caused the Department to refer the case to BOE and the fee be paid consistent with LAMC Section 62.106.1(e). If such a report was prepared, BOE would have identified the dedication requirement and the Zoning Administrator could have conditioned the Applicant to comply with the recommendations of the letter. However, we have not found any record of an Inter-Departmental Letter prepared by BOE in the case file, which suggests that the Department did not refer the case to BOE.

South Broadway Dedication

In the Determination Letter (**Exhibit D**), the ZA does not require the Project to provide a 1-foot dedication along Broadway or a 4-foot dedication along the alley. In the Site Review Findings on page 38 of the Determination Letter, it incorrectly states in the "The Mobility Element (Mobility Plan 2035)" section that, "No dedication along Broadway is required." According to Mobility Plan 2035 (Mobility Plan) (**Exhibit E**), Broadway is designated as a Modified Avenue II. The Mobility Plan states that the designated right-of-way (ROW) width for the Modified Avenue II designation along Broadway, in front of the Project Site, is 90 feet (45 feet half ROW width). BOE Map Sheet 126A209 (**Exhibit F**) indicates that the existing ROW width along Broadway, in front of the Project Site, is 88 feet (44 feet half ROW width). As such, a one foot dedication requirement should be imposed on the Project along Broadway in order to achieve the minimum 45 feet half ROW width.

LAMC Section 12.37.A. states: "No building or structure shall be erected or enlarged, and no building permit shall be issued therefor, on any lot in any R3 or less restrictive zone (as such order of restrictiveness is set forth in Subsection B of Section 12.23); or on any lot in the RD1.5, RD2 or RD3 Zones; if such lot abuts a major or secondary highway or collector street unless the one-half of the highway or collector street which is located on the same side of the center of the highway or collector street as such lot has been dedicated and improved for the full width of the lot so as to meet the standards for such highway or collector street..."

According to Subsection B of LAMC Section 12.23, the order of restrictiveness is, with "the first being the most restrictive and the last being the least restrictive, is as follows: OS, A1, A2, RA, RE, RS, R1, RU, RZ, RW1, R2, RD, RMP, RW2, R3, RAS3, R4, RAS4, R5, CR, C1, C1.5, C4, C2..." According to Subsection B of LAMC Section 12.23, C2 is a less restrictive zone than R3.

Ordinance 184718 (**Exhibit G**), which became effective on March 4, 2017, modified various sections of the LAMC, including LAMC Section 12.37.A, in order to implement the Mobility Plan 2035 that was adopted by City Council on September 7, 2016. In LAMC Section 12.37.A., Ordinance 184718 only amended the last sentence of LAMC

Section 12.37.A., not the street designations contained in LAMC Section 12.37.A. The Street Designations and Standard Roadway Dimensions table on page 19 of the Mobility Plan (**Exhibit H**) indicates that streets previously built with a 56-foot roadway width were typical of the Secondary Highway designation that became designated as an Avenue II in the Mobility Plan. The Secondary Highway designated streets became re-designated in the Mobility Plan as either an Avenue I, Avenue II, Avenue III, or a Collector Street. The Avenue II designation is the only designation with a 56-foot roadway width. Therefore, LAMC Section 12.37.A applies to the Project Site and no building or structure shall be erected or enlarged on the Project Site, and no building permit shall be issued for the Project until the the one-half of the Secondary Highway (Avenue II) has been dedicated and improved for the full width of the lot. According to the PCRF and BOE Map Sheet 126A209, South Broadway maintains an existing half ROW of 44 feet. The PCRF states that a 1-foot dedication would be required to achieve the required 45 foot half ROW for the Avenue II designation in the Mobility Plan. The PCRF also states that the existing half roadway width of South Broadway is 28 feet. The Determination Letter incorrectly states in its "Findings of Fact" that South Broadway is "improved with 17 feet of curbs, gutters, sidewalks, street lamps, and asphalt pavement."

The approved Plans do not identify a dedication of 1-foot along South Broadway which makes the Project inconsistent with the Mobility Plan and invalidates the General Plan Consistency findings identified in the Site Plan Review section of the Determination Letter. If the case file had been referred to BOE Land Development Group, the Zoning Administrator could have identified it as a concern with the Applicant and/or included a condition of approval to comply with the standard.

No Downtown Design Guide Checklist Included with Project Application

LAMC Section 12.22.A.30(c) states that "Every project within the Project Area must comply with the Downtown Design Guide standards and guidelines." Pursuant to LAMC Section 12.22.A.30(d)(1), in order for an applicant "to apply for an Administrative Clearance, an applicant shall file an application with the Department of City Planning, on a form provided by the Department." The form that the Department provides applicants to demonstrate that their project complies with the Downtown Design Guide is the Downtown Design Guidelines Checklist (Checklist) (**Exhibit I**). The Project Applicant did not submit the Checklist to the Department. The lack of a submitted Checklist was brought up by Irvine & Associates in a letter dated November 30, 2018, which stated "It is also worth noting that at the time of submittal, the Applicant submitted the Citywide Design Guide checklist instead of the Downtown Design Guide Checklist (based on the Projects location, the Downtown Design Guide Checklist is required). This is important to add as the Downtown Design Guidelines provide additional design requirements and suggestions for both the proposed building and the alley that are not found in the Citywide Design Guidelines." In a letter dated February 8, 2019 from the applicant's environmental consultant, Kinsinger Environmental Consulting, the consultant responds that "While there is no Downtown Design Guide Checklist, and therefore it is not required to be filed." The Project application did not contain the Downtown Design Guide Checklist and the Project Applicant does not believe that they have to submit the Checklist and does not even believe it exists. The Department should have required the Project Applicant to submit the Checklist before deeming the Project application complete.

A CEQA Categorical Exemption is Improper

In a letter dated February 8, 2019, the Project Applicant's environmental consultant responded to concerns regarding the Project's environmental analysis. The Zoning Administrator adopted their letter and improperly approved a Categorical Exemption for the following reasons.

The revised noise analysis now assumes concrete trucks will stage on Broadway and a sound barrier will be constructed on the street with K rails and plywood. This feature should be included as a Condition of Approval if it

is relied on to mitigate construction noise levels. If noise levels require mitigation to be less than significant, then they are generating a significant impact. A Mitigated Negative Declaration would be a more appropriate CEQA analysis in this circumstance. The Project is also proposed to maintain a zero (0) foot setback to the adjacent building at 1144 S Broadway, which is an unreinforced masonry building. This will result in an unusual situation as the proposed Project will excavate the soil adjacent to the building and will require tie backs, underpinning, etc. No vibration studies have been conducted to assess this impact.

Conclusion

The Project Applicant did not submit the necessary fee in order for BOE to prepare the required engineering report that the PCRFB required. The ZA did not refer the Project to BOE for a formal investigation for the preparation of the required engineering report, as required by the PCRFB and LAMC Section 12.37. The ZA did not have the required engineering report from BOE with the required dedications for Broadway and the alley when the Determination Letter for the Project was issued and therefore, the ZA erred in their decision to approve the Project without the required BOE investigation or an engineering report.

The Project Applicant has not addressed the impacts of the temporary closure of Broadway, construction impacts on the adjacent unreinforced masonry building, or the site's potential historic significance. The Determination Letter does not include conditions to adequately mitigate these concerns.

For these reasons, and others, we respectfully request that the Los Angeles City Council deny the project as approved.

Sincerely,

Timothy Moran
Senior Project Manager
Irvine & Associates, Inc.