

ORIGINAL

**MASTER APPEAL FORM**

**ORIGINAL**

City of Los Angeles - Department of City Planning

**APPEAL TO THE: CITY COUNCIL**

**REGARDING CASE #:** GPC-2014-1947-CU-DB-SPP-SPPA-SPR

**PROJECT ADDRESS:** 211-241 NORTH VERMONT AVENUE

**FINAL DATE TO APPEAL:** MARCH 26, 2015

- TYPE OF APPEAL:**
- 1.  Appeal by Applicant
  - 2.  Appeal by a person, other than the applicant, claiming to be aggrieved
  - 3.  Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

**APPELLANT INFORMATION** - Please print Clearly

Name: **JIM McQUISTON**

Are you filing for yourself or on behalf of another party, organization or company?

- Self
- Other: \_\_\_\_\_

Address: 6212 YUCCA ST, LOS ANGELES CA 90028

My Aggrieved-Property Address: 770 NORTH ALEXANDRIA AVE, LOS ANGELES CA 90029

Telephone: **323-464-6792**

\* Are you filing to support the original applicant's position?

- Yes
- NO

**REPRESENTATIVE INFORMATION**

Name: TBA LATER

Address: \_\_\_\_\_

Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

**JUSTIFICATION/REASON FOR APPEALING** - Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

Entire

Part

Your justification/reason must state:

- \* The reasons 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

**ADDITIONAL INFORMATION/REQUIREMENTS**

Eight (8) copies of the following documents are required (1 original and 7 duplicates):

- \* Master Appeal Form
- \* Justification/Reason for Appealing document
- \* Original Determination Letter
  
- \* Original applicants must provide the original receipt required to calculate 85% filing fee.
- \* Original applicants must pay mailing fees to SIC and submit copy of receipt.
- \* Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 1226 K 7.
  
- \* Appeals to the City Council from a determination on a Tentative Tract (TI or V1T) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
  
- \* A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

"if a nonelected derision-making body of a local lead agency certifies an environmental Impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."

--CA Public Resources Code § 21151 ©

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

Appellant Signature:

Date: MARCH 25, 2015



Planning Staff Use Only

Amount \$ <u>106.80</u>	Reviewed and Accepted by <u>MNGUYEN</u>	Date <u>3/26/15</u>
Receipt No. <u>22916</u>	Deemed Complete by	Date



Determination Authority Notified



Original Receipt and BTC Receipt (if original applicant)

## JUSTIFICATION/ REASON FOR APPEALING

### 1. Reasons for the appeal

A. The CPC had no authority to take-up the matter.

B. Even if it is assumed CPC could take-up the matter, it had no discretion to approve the matter.

C. It is established that the City may not allow using a property in violation of City Plan for the property, if it is possible to use the property as the City Plan requires.

D. Findings which do not conform to law may not be set forth to justify a non-conforming use.

E. California Government Code and LAMC exclude participation by Council District in an action before a commission adjudicating a matter concerning an established Plan of a California City, which occurred in this matter.

F. California Government Code Sections 65860(b) and (d) permit “any resident or property owner” to file an action against the City, a “charter city of 2,000,000 or more population”, unless the City beforehand corrects City acts the resident or property owner alleges are not in accordance with law.

### 2. How I am aggrieved by the decision

I am a resident and property owner in the City. If the City does not conform to established and settled law governing City conduct, and the City *ad hoc* disregards its established Plan, the City damages my safety and well-being which is the *raison d’etre* for the Plan governing the use of properties.

Not only myself, but all others similarly-affected as residents or property owners, are aggrieved; thus the City’s wrong damages me doubly because of my State-imposed duty to correct City-wrongdoing.

### 3. Why I believe the Commission abused its discretion in this matter

A. The Commission by law was not allowed to adjudicate, nor to report to Council, concerning a matter concerning property within the SNAP (Vermont-Western Station Neighborhood Area Plan).

Because Commission had no lawful jurisdiction, it had no *discretion to approve*, as it did, this matter *under any circumstance*. The law specified jurisdiction elsewhere.

It is settled-law that without jurisdiction a body’s determination is *void ab initio*.

B. If the Commission with jurisdiction were permitted to take-up the matter, the Commission would have had to deny the project because it violates the SNAP; law prohibits discretion for any body to violate a City Plan.

C. The property at issue is and has-been gainfully-used in accordance with SNAP. Thus the opportunity to decide that the property cannot be used in accordance with SNAP is not an option in this matter. In fact, LAMC defines an attempt to abet the use of property in violation of a Plan as a criminal offense.

D. Even a cursory reading of the Commission’s Findings reveals their lack of legal relevance. Moreover, the Findings do not address the necessary questions of jurisdiction, SNAP authority, and objections raised by parties to the proceedings.

E. The Statements of the Council District at the Commission hearing obviously-prejudiced the outcome. And, no rebuttal comment to false-statements was allowed by the Commission, at the hearing or otherwise. The California Attorney General condemns such hearing process as prejudiced and violates Government Code Sections 54950-62.

F. After numerous court decisions against the City's obdurately-ignoring Court decisions on-point, thus promoting a seemingly endless-chain of debilitating, costly litigation and manpower-loss, the Commission aware of its law violations continued them, suggesting a higher power is forcing their corrupt process.

#### 4. Specifically the points at issue

A. Commission was advised by Statements and Request for Reconsideration that it was not authorized by law to take-up the matter. Statements cited cases, cases decided against the City, cases on-point from the California Supreme Court and Courts of Appeal. Yet without any attempt at rationalization the Commission did not act in accordance with law denying them discretion to take-up the case.

B. Commission was advised by Statements and Request for Reconsideration that it had no discretion to approve the matter, which specifically-violated SNAP. Not only did State and City law forbid approval, but Courts including the California Supreme Court forbade approval. Yet without any attempt at rationalization the Commission did not act in accordance with law prohibiting it to approve the project as proposed, if it were empowered to make a decision,.

C. Nothing in the Commission Report alleged that the parcel *cannot* be used in accordance with the Plan. Report merely alleges an enhancement. Hoary Supreme Court decisions and well-known ones against the City declare such legally-inconsequential reasons in the Report *may not* permit SNAP violations.

There are no legally-pertinent reasons in the Report offering even a scintilla of support to violate SNAP.

D. Findings are out-and-out untruths. Findings *deny* the supremacy of SNAP, which specifically says it invalidates all other Plans in conflict with it. Yet, the Findings base its reasons on other Plan's conflicting policies. Findings allege "C2" zoning, which is prohibited throughout SNAP; allege SNAP design-requirements are unworkable, but others manage to follow them; allege over-building must occur, but others manage without it.

And, Findings do not address the fundamental issue which *must be addressed*: How, in face of substantial accusations of violating law and Court decisions, the Commission could decide *for* the matter, and if it did, how its decision could be reconciled with present law.

E. It is a practice of CDs to come to hearings on which they *do not serve, wait until last, and then dictate how* the deciders shall decide. *No rebuttal is allowed.* This Commission got that treatment from CD13.

In 1971 California Legislature specifically-prohibited Council's ad-hoc influence on land-use decisions. But Commission *did as dictated* by CD13, even without rationale why that was correct.

Prejudicial-influence, such as CD dictation despite prohibition by law, is corruption.

F. In the Request for Reconsideration, I submitted a contemporaneous decision from the APC having jurisdiction over SNAP, regarding another case. The contrast between the contents of the decisions was so substantial as to define the decision of this appeal as devoid of any value whatsoever.

Why do valueless, void decisions continue to be filed? Will Council still do what law, Attorney General, and Courts declare is not lawful? This appeal may provide the answer.

Appellant will provide additional facts, citations, and excerpts of record later. But the Record available presently to the Council speaks for referral to the Central Area Planning Commission which is the Commission to which the matter should have been directed.

Until the CAPC hears the case, Council will not obtain jurisdiction otherwise.