

MASTER APPEAL FORM

4.

City of Los Angeles – Department of City Planning

APPEAL TO THE: City Council
(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: Case No. CPC-2014-666-VCU-ZAA-SPR, CEQA: ENV-2011-2689-EIR

PROJECT ADDRESS: 11725 W. Sunset Boulevard, 11728 W. Chaparal Street, and 141 N. Barrington Avenue

FINAL DATE TO APPEAL: May 28, 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: Raymond Klein, President of Brentwood Homeowners Association or designee

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

Self Other: Brentwood Homeowners Association

Address: PO Box 49427

Los Angeles, CA Zip: 90049-0427

Telephone: (310) 471-8712 E-mail: info@brentwoodhomeowners.org

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

Yes No

REPRESENTATIVE INFORMATION

Name: Raymond Klein

Address: 908 Kenfield Ave

Los Angeles Zip: 90049

Telephone: 310-472-2908 E-mail: rklein908@gmail.com

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary 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
- How you are aggrieved by the decision
- Specifically the points at issue
- 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 BTC 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 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) 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 decision-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 (c)

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

Appellant Signature: Raymond Klein Date: MAY 27, 2015

Planning Staff Use Only

Amount	\$106.8	Reviewed and Accepted by	<i>Maddie [Signature]</i>	Date	5/27/15
Receipt No.	0202224918	Deemed Complete by	<i>Jessie [Signature]</i>	Date	5/27/15

- Determination Authority Notified Original Receipt and BTC Receipt (if original applicant)

Case No. CPC-2014-666-VCU-ZAA-SPR
CEQA: ENV-2011-2689-EIR
Address: 11725 W. Sunset Boulevard, 11728 W. Chaparal Street, and
141 N. Barrington Avenue

Attachment to Appeal Form
Justification/Reason for Appealing

The Brentwood Homeowners Association (“BHA”) appeals the entire Determination of the City Planning Commission made on May 13, 2015, in Case No. CPC-2014-666-VCU-ZAA-SPR (“CPC Determination”).

The BHA appeals the Adoption of the Mitigation Monitoring Program and the related Environmental Findings and Statement of Overriding Considerations.

The most concise statement of how the BHA and the entire West Los Angeles area (the residents and workers in which use Sunset Boulevard daily as one of the few available east-west streets for vehicle travel) are aggrieved by the CPC Determination is represented by a statement of Councilmember Krekorian: “Our neighborhoods should not be expected to endure grossly excessive projects that surpass the limitations of our infrastructure and violate the restrictions of our community’s specific plans.”

The BHA is a nonprofit voluntary homeowner association representing over 3,100 single-family homes in the Brentwood community. Its geographic coverage area surrounds the proposed project (“Project”) of the Applicant, Archer School for Girls, Inc.(“Archer” or “School”). Also, the BHA stakeholders, and residents and workers throughout Brentwood, Pacific Palisades, and Santa Monica, use Sunset Boulevard to get to the I-405 and must drive past the Project site in the ordinary course of their lives and would be subjected to the numerous, adverse, and significant environmental impacts of the Project.

The BHA possesses copies of over 650 emails objecting to the Project that have been sent to the Department of Planning (and are therefore in the record) and to Councilmember Mike Bonin. There is also a Petition opposing the Project signed by over 1,785 persons. The general gist of the emails is disbelief and outrage that such a large traffic-generating project is being proposed for an already gridlocked area.

The City Planning Commission erred and abused its discretion in approving the Project, and the findings and conclusions contained in the CPC Determination are erroneous and not supported by substantial evidence and cannot support approval of the Project. In this BHA appeal of the CPC Determination, and of all

entitlements relating to the Project, and its appeal of the Mitigation Monitoring Program and the related Environmental Findings and Statement of Overriding Considerations, we incorporate herein, by reference, the issues raised and arguments made in prior filings and attachments (including without limitation, our letters, dated December 13, 2014, and April 20, 2015), our testimony in these matters, the contents of the hundreds of emails filed with the Department of Planning opposing the Project, and the filings and testimony of the Residential Neighbors of Archer (including the letter dated April 20, 2015, from Beverly Grossman Palmer to Los Angeles City Planning Commission), Brentwood Residents Coalition, Brentwood Hills Homeowners Association, and all other organizations and individuals opposing the Project, and the letter, dated April 22, 2015, including Exhibits, from Councilmember Mike Bonin to the City Planning Commission.

1. The Project's size and operations are not compatible with, and will adversely affect, the surrounding neighborhood, and the public health, welfare, and safety.

- 36 months of construction, 7:00am - 6:00pm, which do not need to be consecutive, and therefore total time could be extended for years;
- 88,724 sq ft of existing building area increased to 150,262 sq ft, plus another 85,500 sq ft underground parking structure;
- removal of two adjacent residential properties to be replaced by school buildings;
- 47 extracurricular Special Events increased to 65;
- 113 existing onsite parking spaces increased to a maximum of 251;
- targeted baseline enrollment of 450 students increased to 518;
- increased use permitted for commercial filming and for summer school;
- average daily vehicle trips during peak traffic hours on sports or event days increased from 460 to 821.

2. The Project, as approved by the CPC, is grossly out of balance with the built environment, and will adversely affect adjacent properties, the surrounding neighborhood, and the public health, welfare, and safety.

Finding 2, and specifically the statement on page F-11 of the CPC Determination that the Project, as conditioned, creates a “harmonious balance between the built environment and [school] operations”, cannot be rationally or lawfully made and is not supported by substantial evidence.

This boilerplate wording in Finding 2, such as “any additional expansion of the site or increase in enrollment may disrupt this delicate balance” on page F-11, has been

included in most of the prior Related On-Site Cases cited at the bottom of page F-5.

- The physical facilities approved in those Cases were the most that the decision-makers could justify for Archer, which was being “shoehorned” into the residential neighborhood.
- The 450 targeted baseline enrollment was the most that could be approved, with a cushion up to 518 for more acceptances than expected but a clear statement that 518 was not intended to be reached.
- The Special Events were increased a few times, but 47 was the most that traffic would bear.

That is, until Archer uses its influence and asks for more. Then, magically, a new scale is brought in and large expansions of the site, operations, and enrollment can be made without disrupting the previous “delicate balance.”

Now Archer again wants more:

- a net increase in building area of 61,538sq ft (69% increase over existing);
- a new enrollment provision of 518 which may be reached every year;
- 65 Special Events (38% increase).

Planning Staff and the CPC once again put a heavy finger on the scale, and make an erroneous, unsupported Finding that these enormous increases are once again in harmonious balance.

Seriously?

The CPC Determination emphasizes Archer’s traffic management program for *students*, but students are not the primary problem. The problem is the parents, step-parents, grandparents, siblings, and every other *guest* or spectator related to an Archer student or visiting team student. Archer’s Project is not about education, it’s about becoming a giant exhibition center with:

- 650 seats in one gym
- 180 seats in a second gym
- 395 seats in a performance center
- 182 seats in athletic field bleachers

Any increases in car trips during peak hours would have an exponential impact on driving times on Sunset Blvd, which is at capacity already.

We ask that you consider not only our neighborhood, but also the workers who must use Sunset Blvd to access the 405 or go east of the 405 to return to their homes and families. Once the vehicles on a roadway have reached capacity, as is the case with eastbound Sunset Blvd from 3:00pm - 7:00pm, it is acknowledged by all traffic experts that very few additional cars will have an exponential impact on the drive time. Once a road is at *capacity*, such as the stretch of Sunset Boulevard in front of Archer, adding an additional number of cars equal to 2-3% causes the time to travel a one mile stretch of road to increase 400%. To some extent, the local residents are better able to reorganize their driving patterns than the workers going home to their families. *The lives of thousands of citizens* would be adversely impacted by Archer's aggressive expansion plan.

3. The CPC Determination erroneously fails to acknowledge and restrict traffic impacts.

The construction period, will have real world and substantial impacts, including tens of thousands (yes, that number is correct) of construction related vehicles.

The thousands of haul trucks, cement mixers, cranes and steel delivery trucks will create havoc on Sunset Boulevard for a prolonged period of time, as they drive substantially slower and take up more space than passenger vehicles.

In addition, the post-construction operations will bring thousands more cars to the campus each year. The entry to the campus is on a blind curve and even one car queuing on Sunset Boulevard will create a safety hazard. And how can as many as 251 vehicles simultaneously exiting the campus after an event have no negative impact?

4. Condition 13 needs to be entirely rewritten in order to accurately state what is intended, be consistent with the Mitigation Monitoring Program adopted by the CPC, and be capable of monitoring and enforcement.

Condition 13 is erroneous and deficient since it does not include restrictions on departing vehicles. Mitigation Measure K-2 includes departures, but Condition 13 does not. Other inconsistencies need to be corrected.

In order to accomplish its intent, Condition 13 needs to apply the limits to student and parent carpools as well as "guests". And it needs to apply to ALL vehicles arriving and departing the campus; the current wording would require an inquiry of

each vehicle driver to determine whether they are there to attend a Special Event or Interscholastic Athletic Competition.

Condition 13 needs to require that Archer shall install at the Sunset Boulevard driveway entrance a computerized system that automatically counts, and generates a permanent written record of, each vehicle entering the Archer campus 24 hours a day, 7 days a week. The Archer guard at the Sunset Boulevard driveway entrance must be required to manually record, during all hours with vehicle arrival limitations, the license plate of any vehicle that enters during such times and is not required to be counted as part of the limits on vehicle arrivals. The School must be required to install a “FULL” sign that can be activated by the Archer guard at the Sunset Boulevard gate to prevent vehicles turning into the driveway from Sunset Boulevard after the maximum number of vehicles has been reached.

The Monitoring and Enforcement provided in Mitigation Measure K-2 is unrealistic, deficient, and will not mitigate the adverse traffic impacts of the Project. Periodic field inspections by LADOT and an annual report submitted by the School are grossly inadequate, even if they were required in the CUP and actually occurred.

5. The Finding that construction impacts would be temporary is erroneous.

According to the Findings, construction impacts in the categories of noise, vibration and traffic are all significant and unavoidable.

By defining construction impacts as temporary, the Findings are disregarding real-world scenarios and impacts. In reality, a number of large-scale developments and infrastructure improvements using Sunset Boulevard for ingress and egress are already on the books. Approving projects and disregarding construction impacts that will actually be continuous, in perpetuity, is short-sighted and erroneous.

6. The proposed Finding that Archer “provides an essential benefit to that immediate area” (the adjacent community) is not accurate and not supported by substantial evidence.

The Fehr & Peers student resident map shows that only 18.29% of the students reside in the entire 90049 zip code area. In fact, that map shows that 15.44% of the students reside in the 90272 and 90402 zip codes, which means that guests from

those areas coming to sports competitions and special events would be increasing the most problematic traffic which is eastbound on Sunset Boulevard.

7. The statement in the proposed Findings that it is “necessary” to locate all athletic practices, Interscholastic Athletic Competitions, and Special Events on the Sunset Boulevard campus is not accurate and not supported by substantial evidence.

Archer has been operating successfully for 15 years with its current footprint of physical facilities. Its enrollment is often above its targeted baseline enrollment. Archer brags about the excellent colleges to which its seniors are accepted. Many Archer students testified at the Hearing on December 8, 2014, regarding their exceptional education experience. Archer is financially well off as proven by its ability to pay for the expensive Project it would like to build. The truth of the matter is that Archer does **not need** the Project, it merely *desires* the Project because it is envious of nearby schools such as Brentwood School and Harvard-Westlake that located at their much larger campus sites many years before Archer’s recent arrival in a small residentially zoned area.

8. Proposed CEQA Environmental Findings relating to traffic and transportation are erroneous, deficient, and not supported by evidence.

The methodology used is faulty, deficient, outdated, and contrary to recognized current traffic/transportation science.

Once an intersection is at Level E or F, as defined in Circular No 212, which LADOT and the EIR are using for traffic analysis, adding cars to the approach to the intersection will not show that the volume going through the intersection will change. But the delay of the queue approaching the intersection will increase. For example, the number of cars going eastbound at Sunset/Barrington will not change because it is maxed out (as defined by LOS E), *but the time it will take to get to the 405 will certainly increase*. Traffic congestion is subject to a tipping point - - it's not linear. Add a few additional cars to a crowded road at rush hour, and traffic slows down, and the carrying capacity of the road declines. As traffic slows down below certain speeds, the road actually loses capacity and goes slower and slower, producing a traffic jam. That is what we experience going eastbound on Sunset Boulevard, 3:00pm – 7:00pm when only 2 - 5 cars can make it through a light cycle at Sunset/Bundy and Sunset/Saltair. Unless someone looks at **delay** at an F intersection like Sunset/Barrington, instead of **volume**, the real life impact of more cars cannot be determined.

9. That the two intersections nearest the site are already at LOS E or F, and therefore the Project impacts are not relevant, defies all logic and is illustrative of a defect that runs throughout the Environmental Findings adopted by the CPC.

The statement implies that since the closest intersections are already at capacity and are failed intersections, the failed condition would not be attributable to the Project, and therefore no further analysis is required. Since Revised Table 7 in the FEIR shows that, on event days, an additional 361 net daily trips would be generated by the Project, the EIR and the CEQA Findings are deficient until the real impact of the proposed Project on those intersections is analyzed and publicly disclosed.

10. There is no substantial evidence to support the finding required by the Brentwood-Pacific Palisades Community Plan, which states “the decision maker shall adopt a finding which addresses the availability of infrastructure as part of any decision relating to an increase in permitted density or traffic impacts.”

11. The CEQA Environmental Finding on page 120 of Exhibit E adopted by CPC is not supported by substantial evidence.

That Finding erroneously relies on the Mitigation Measures on pages 124-125 of Exhibit E (CEQA Findings) to reduce the proposed Project’s impacts to less than significant.

Mitigation Measure K-1 would raise the required student busing from 50% to 70%. Since the actual busing percentage *already exceeded* 70% in the baseline year (see DEIR), the Mitigation Measures will have ZERO effect, and cannot be properly defined as mitigation.

Mitigation Measure K-2 would limit vehicles generated by guests arriving between 6:00pm and 7:00pm to 126. However, the existing number at that hour is 85 according to Revised Table 7 in the FEIR. There is no evidence that a 48% increase in trips would not be significant. And at an hour of the day, person after person has stated it often takes an hour to drive eastbound on Sunset Boulevard the one mile from Bundy Ave to the 405 Freeway.

12. The Department of Planning told the CPC that “Notwithstanding the opposition referenced above, the Archer School did receive a significant amount of support...”

This statement is highly misleading. The overwhelming majority of statements of support of the project come from current and former parents and students, faculty and staff, who do not necessarily live near the School.

By contrast, ALL of the opposition emails come from homeowners and residents within one mile of the school. In addition, homeowners groups representing the silent majority of over 10,000 residents formally oppose the project.

To register the falsehood that this project has support in the community is absurd and insulting.

In conclusion, the City Planning Commission erred and abused its discretion in approving the Project, and the findings and conclusions contained in the CPC Determination, including the Mitigation Monitoring Program and Environmental Findings and Statement of Overriding Considerations adopted by the CPC, are not supported by substantial evidence and cannot support approval of the Project that is grossly excessive in size and surpasses the limitations of our infrastructure and violates the restrictions of our Plans and zoning. The Statement of Overriding Considerations is replete with errors and cannot support or justify adopting the FEIR in view of the CPC conclusion that the Project will have significant and unavoidable effects (after all feasible mitigation) on the environment. It was erroneous to conclude that no further changes or alterations to the Project to avoid or substantially lessen these particular environmental effects are feasible. The City Council should overturn the CPC Determination and refuse to certify the FEIR.

Respectfully submitted,
Brentwood Homeowners Association
By *Raymond Klein*, President
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