

MASTER APPEAL FORM

City of Los Angeles – Department of City Planning

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

REGARDING CASE #: CPC-2014-3119-ZC-SN-ZV-ZAI-SPR

PROJECT ADDRESS: 6001-6067 Wilshire Blvd & 6000 West 6th Street, LA CA 90036

FINAL DATE TO APPEAL: June 8, 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: James O'Sullivan

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

Self Other: Fix The City Inc.

Address: 907 Masselin Avenue Los Angeles CA,

Zip: 90036

Telephone: 213-840-0246 E-mail: jamesos@aol.com

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

Yes No

REPRESENTATIVE INFORMATION

Name: _____

Address: _____

Zip: _____

Telephone: _____ E-mail: _____

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: _____

Date: _____

Planning Staff Use Only

Amount	Reviewed and Accepted by	Date
Receipt No.	Deemed Complete by	Date

Determination Authority Notified

Original Receipt and BTC Receipt (if original applicant)

James O’Sullivan and Fix the City
Basis for Appeal
CPC-2014-3119-ZC-SN-CDO-MCUP-ZV-ZAI-SPR
ENV-2013-1531-EIR

James O’Sullivan and Fix the City, Inc. (collectively, “Appellants”) appeal the determination of the City Planning Commission (CPC) in its entirety. Appellants are aware that they cannot appeal the following determinations: (1) zone change; (2) establishment of signage district; and (3) certification of the EIR. Appellants disagree with the recommendations of the CPC on these items, and waive no objections to those recommendations in this document. Appellants’ concerns on these approvals will be provided to City Council prior to the hearing on these requests.

Appellants appeal the CPC’s determination to (1) approve a design overlay in the Miracle Mile CDO; (2) approve a Master Conditional Use Permit for consumption of alcoholic beverages; (3) approve a variance for bicycle parking; (4) approve zoning administrator’s interpretations permitting museum use in the C-2 zone and that Los Angeles Municipal Code section 12.24-Y applies to museum and theater uses; (5) approve site plan review; (6) approve special permission for reduction of off-street parking spaces; (7) adoption of conditions of approvals and findings.

Appellants Are Aggrieved by the Approvals

James O’Sullivan and Fix the City, Inc. are aggrieved by the CPC’s approvals. Mr. O’Sullivan was a member of the Community Advisory Committee that created the Community Design Overlay in the Miracle Mile area; and this project is not consistent with the design overlay. Mr. O’Sullivan and Fix the City are aggrieved additionally because they are concerned about intensive development occurring throughout the City without adequate improvements and funding for the City’s basic infrastructure services such as emergency medical services, and without assessment of the need for improved infrastructure as required by the City’s Framework Element.

Basis for Appeal

I. Design Overlay Does Not Comply with Miracle Mile CDO Because a Sign District Cannot Be Created in the Miracle Mile CDO

The CPC abused its discretion when it granted the project a design overlay, because the project does not comply with the intent, policies, or standards of the Miracle Mile Community Design Overlay District (CDO). The CDO was established because the Miracle Mile area “contains some of the best examples of Art Deco architecture in the country.” As the City observed when enacting the CDO, new development in this area has not been consistent with that architecture. The purpose of the CDO is to “preserve [] the existing Art Deco architecture and insure [] that new construction is consistent with the spirit of the [Miracle Mile] District.” While it is true that the project will preserve the exterior of the Streamline Moderne 1939 May Company building, the signage component of the project is inconsistent with the historic nature of that structure and with the requirements and policies of the CDO in general. The CDO specifically notes that “the placement, construction, color, font style, and graphic composition of signs has a collective impact on the appearance of an entire district.” The guidelines require that “signs should not dominate or obscure the architectural elements of building facades, roofs, or landscaped area.” Signs hanging on the face of a building are not as encourage as signs hanging perpendicular to the buildings. The size and quantity of window

signs are limited. The CPC's determination to grant the Design Overlay inappropriately relies upon the fact that the City Council may grant a Sign District zoning designation to the project, and does not address the inconsistency with the CDO. Moreover, a [Q] condition currently in place on this parcel specifically incorporates the signage limitations of the CDO for this specific property. Finally, the Design Overlay is not consistent with the General Plan's Transportation Element, in which Wilshire Boulevard in the Miracle Mile area is a designated Scenic Highway. Signage is highly restricted within 500 feet of the Centerline of a scenic highway. The CPC's determination to grant the Design Overlay ignores this conflict with the Transportation Element and is thus an abuse of discretion.

The CPC's determination to grant the Design Overlay also fails to consider the degree to which the new construction deviates from the CDO's design guidelines, including the use of a spherical structure when the CDO guidelines require flat roofs and the use of projecting spires instead of flat roof line. The guidelines also seek continuity of roof heights, which is not present in the project because the sphere and the spires are higher than the original 1939 Robinson May building.

It is particularly inappropriate to grant a Design Overlay without involvement of the Cultural Heritage Commission, the City body that is designated to oversee alterations of the City's designated cultural monuments like the 1939 May Company Building. The Cultural Heritage Commission should be permitted to opine upon the project *now*, before entitlements are granted to alter the May Company building's historic perfume bottle, one of the most iconic features of the building, according to the EIR. Although the EIR claims the Cultural Heritage Commission will be consulted, there are no specifics. What event will trigger the consultation? When will the Culture Heritage Commission be consulted as to whether it thinks that the use of the perfume bottle, which has historically been unadorned, to display a commercial sign, is appropriate? This approval will grant an entitlement; how will the Cultural Heritage Commission be permitted to weigh in with any effect if the entitlement has been granted? Similarly, the project's entitlements essentially permit demolition of the 1946 portion of the May Company building and permit demolition of the Tea Room, the last remaining contributing interior portion of the 1939 May Company building. If the Cultural Heritage Commission is not consulted until the applicant actually seeks a demolition permit, the Commission will be opining upon "a done deal." The time for meaningful consultation is now.

II. The Variance for Bicycle Parking is Not Needed to Address Special Circumstances or to Preserve a Substantial Property Right Possessed by Others in the Same Zone or Vicinity

The CPC's findings in support of the variance to permit relocation of bicycle parking further than the required 50 feet from the entrance are not supported by substantial evidence and are abuse of discretion. Variances must strictly meet the required findings. In particular, the variance must be granted only if there are special circumstances applicable to the property that do not apply to other property in the same zone or vicinity. The variance relies heavily on the fact that this is an historic property and that bicycle parking can't be situated nearby as a result. This same statement could be made of any of the historic properties in the Miracle Mile area, so it is difficult to see how the CPC's finding that the project is somehow uniquely situated will withstand scrutiny.

Indeed, the CPC's findings admit that it would be possible to construct bicycle parking in a code compliant location, but that it would require the elimination of code-required parking. The reason that the project does not comply with the Bicycle Ordinance is that it wants to do too much on the site. A variance cannot be granted on this basis alone.

III. The Zoning Administrator Interpretations Are Inappropriately Applied Here

The CPC's determination to apply the Zoning Administrator's Interpretations to the project are not supported by the law.

The ZAI permitting a 10 percent reduction in parking for commercial uses to be applied to a museum use does not adequately address how museum use may be different from other commercial uses. Are occasional visitors to museums as likely to take transit as, say, an office worker on a regular commute? A museum is not typical of a commercial institution, which can use traffic management techniques to deter regular visitors from making trips (by requiring employees to pay for parking, giving out transit passes, facilitating carpools, guaranteeing rides home, etc.) A museum's ability to do so is much more limited. Moreover, the transit station near the museum will not be operational for 10 years at best, so permitting the parking reduction on this basis is also unjustified.

The ZAI permitting a non-profit museum in the C2 zone is likewise unsupported. Non-profit museums are generally larger institutions than for-profit museums, which are typically more like store-front enterprises. The City's largest museums are all non-profit or public. The underlying C2 zoning does not permit a non-profit museum to operate in this zone. The CR zone does, under its restrictions, but the C1 zone intentionally excludes museum uses from that zone. Where the City has clearly expressed an intention not to permit the museum use in the C1 zone, and has not expressly permitted it in the C2 zone, there is no clear reason why the Zoning Administrator should be permitted to override that determination.

The Use List is not a justifiable basis to depart from the zoning code's strictures. In this case, museum uses are not included in the C2 zone on the Use List. Moreover, the Use List itself appears to be an unconstitutional delegation of zoning authority from the City Council to the zoning administrator, and is thus the enabling municipal code provision (LAMC 12.21.A.2) is void, as is the Use List.

IV. Site Plan Review Must Be Denied Because the Project Does Not Conform to the Applicable Plans

The CPC abused its discretion by granting a Site Plan review to the project due to its many inconsistencies with the General Plan and the Community Design Overlay. One of the required findings in support of Site Plan Review is that the project conforms to the policies of the General Plan and any applicable community plan or specific plan. As set forth above, the project does not conform to the CDO for several reasons: the signage plan conflicts with the CDO, the architecture conflicts with the CDO's architectural guidelines, and the signage plan conflicts with the General Plan Transportation Element's requirement that signage be limited within 500 feet of the centerline of a scenic highway.

In addition, the CPC erred in granting Site Plan Review because it cannot support the findings that the project is compatible with existing development on adjacent and neighboring properties. Permitting oversized supergraphic signage in an historic area will detrimentally affect the aesthetics

of the neighborhood – this is the precise reason that the CDO prescribes signage guidelines, which the project entirely disregards.

The project’s mitigation measures are also inadequate to ensure proper performance of the infrastructure, particularly with regard to emergency medical services.

V. Reduction of Off-Street Parking Is Inappropriate; Surrounding Area Will Be Impacted

The CPC determination that the project need not comply with parking requirements is not supported by substantial evidence. The CPC relies on the applicant’s statement that it will share parking with LACMA. There is not evidence that there is currently sufficient parking for both institutions to provide 482 spaces for use by the project. Moreover, there is no binding mitigation measure prohibiting simultaneous special events at both institutions, so there is no guarantee that there will not be excessive demand for parking.

The determination relies upon the transit station that is part of the Purple Line. This station will not be operational for more than 10 years. If the project is constructed sooner there will be impacts on the surrounding neighborhood because visitors will not be able to take advantage of the transit service until it is operational.

Moreover, the surrounding area will be impacted by the patrons of the project looking for parking.

VI. Master Conditional Use Permit Determination Is Not Supported by Any Findings

The CPC approval contains no findings in support of the determination to grant the Master Conditional Use Permit permitting the sale and consumption on site of alcoholic beverages. The failure to make the findings required by LAMC 12.24.W.1 is fatal to this approval. These findings include specific requirements relating to the location of facilities serving alcohol relative to schools and to other such facilities. None of this information is in the CPC approval and thus there is a complete failure to provide adequate evidence tracing the decision-maker’s path supporting the approval.

VII. Removal of Q conditions that Were Mitigations Imposed In 1993 EIR is Inappropriate

The project’s conditions of approval remove [Q] conditions that were included as mitigation in the 1993 EIR for the Forest City project. There has not been full disclosure which [Q] conditions were imposed as mitigation measures for the portions of that 1993 project that have since been constructed. The CPC’s findings do not contain evidence showing which [Q] conditions are being removed and whether those conditions were necessary mitigation measures for the portions of the prior project that were constructed.

VIII. The C2 Zoning Does Not Permit Non-Profit Museum Use By Right; a Conditional Use Permit is Required

As set forth above, the non-profit museum use is not permitted in the underlying C2 zoning. The City’s reliance on the ZAI, which is premised on a Zoning Administrator’s Use List, is improper. C2 zoning does not permit non profit museum uses. The LAMC is clear on this point. Non-profit

museums are permitted in the CR zone (subject to the relatively restrictive development standards of that zone). The C1 zone expressly permits all uses in the CR except, among other things, museums. The C1.5 zone permits only for-profit museums, which are generally much smaller than the non-profit museums. The C2 zone permits uses in the C1 and C1.5 zones, so non-profit museum uses are expressly excluded. The "Use List" illegally overrides the City's legislative determination that nonprofit museums are not a permitted use in the C2 zone, and cannot support the ZAI. A conditional use permit or zone change is required.