



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-2017-2171-CE

Project Address: 1525 & 1533 N. Palisades Dr. and 17310 & 17320 W. Vereda Del La Montura, Pacific Palisades

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): Robert T. Flick and Sandra L. Flick

Company: _____

Mailing Address: 1516 Michael Lane

City: Pacific Palisades State: CA Zip: 90272

Telephone: (310) 459-5868 E-mail: rflick@flicklaw.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): Kristina Kropp, Esq.; Robert L. Glushon, Esq.

Company: Luna & Glushon

Mailing Address: 16255 Ventura Boulevard, Suite 950

City: Encino State: CA Zip: 91436

Telephone: (818) 907-8755 E-mail: kkropp@lunaglushon.com

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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: Robert J. Hlisch Date: 05/01/2018

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: \$89.00	Reviewed & Accepted by (DSC Planner): Steven Wechsler	Date: 5-3-18
Receipt No: 0201517966	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified	<input checked="" type="checkbox"/> Original receipt and BTC receipt (if original applicant) N/A	

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ATTACHMENT TO APPEAL

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Appellants: Robert T. Flick and Sandra L. Flick are owners and residents in the immediate vicinity of the Project and, therefore, most impacted thereby.

Project: A four story, 64,646 square foot "Eldercare Facility" at 1525-1533 North Palisades Drive ("Project").

Reason for Appeal: The Categorical Exemption is inappropriate under the California Environmental Quality Act ("CEQA")

How Appellants Are Aggrieved: Appellants live in close proximity to the proposed Project and would be subject, along with many others in the community, to all of its material and adverse impacts.

1. The Project Does Not Fit Within a Class 32 Exemption

In order to fit within a Class 32 exemption, the Project (1) must be consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (2) must occur within city limits on a project site of no more than five acres substantially surrounded by urban uses; (3) have no value as habitat for endangered, rare or threatened species; (4) not result in any significant effects relating to traffic, noise, air quality, or water quality; and (5) be adequately served by all required utilities and public services. These findings cannot be made for the within Project. The Project does not meet the requirements of parts (1), (2), (3) or (4). In particular:

a. The Project is not consistent with the Community Plan

The Project is inconsistent with numerous elements of the Brentwood-Pacific Palisades Community Plan, including the following:

- Community Plan Policy, page IV-2 states "**Locate senior housing projects in neighborhoods within reasonable walking distance of health and community facilities, services and public transportation.**"

The Project is inconsistent with this Policy as there are no health or community facilities located within reasonable walking distance of the Property. As ascertainable from Google Maps, the closest pharmacy is 2.4 miles from the Property, and the closest physician's offices are over 4.5 miles from the Property

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- Community Plan Policy, page V-3 mandates that **“no structures should Exceed 30 feet in height within 15 feet and 30 feet of front and rear property lines.”**

The Project building would soar 40 feet straight up above Vereda de la Montura with a setback of only 7 feet and nearly 60 feet above Palisades Drive at the southerly end of the building. The JM Letter states that the Community Plan limits do not apply because the Property is not in a pedestrian-oriented area. Although a certain level of fitness is necessary, the Property is located in the middle of parks and in the vicinity of residences and enjoys substantial pedestrian activity. The height limitations also provide a general guideline and should not be ignored wholesale.

- Community Plan Policy 1-3.2 that requires that (1) the Project **“preserve existing views in hillside areas,”** and (2) **“new development [be] adjacent to or in the viewshed of State parkland . . . [and] protect views from public lands and roadways.”**

As set forth in greater detail below, the views of a Significant Ridgeline and a Scenic Element mountainside within Topanga State Park will be decimated by the Project.

- Community Plan Policy 2-1.3 specifically mandates that commercial projects **“be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development.”**

There are no 4 story buildings in the Palisades Highlands, and no buildings with subterranean parking. Also, there are no other buildings with street setbacks of only 7 feet. The proposed size and scale of the building is unlike anything in this neighborhood. Due to the fact that the proposed Project's FAR is approximate 1.50 (or greater), as compared to approximately 0.58 for the small commercial structure next door, approximately 0.5 to 0.7 for residential properties and 0.00 for the City and State Park Land, the Project, will stick out like a sore thumb rather than blend in with the scale and character of its surrounding neighborhood. The occupancy density of 96 residents per acre, plus staff and visitors, is substantially more than DOUBLE the typical occupancy density of the neighborhood residential properties.

- Community Plan Policy V-4 (“Surface Parking Landscape”), which requires **“a landscaped buffer along public streets or adjoining residential uses.”**

No meaningful landscaping will be provided on the Property along the streets abutting the Project.

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b. The Property is not “substantially surrounded by Urban Uses

The Property is located in the Santa Monica Mountains and substantially surrounded by Park Land and open space, with pockets of suburban, **not urban**, uses, located nearby. The Project site and the two immediately adjacent parcels together comprise approximately 27 acres. **Approximately 92% of the aggregate area of the three contiguous parcels is City-owned, Open Space Park Land**. Those parcels are in turn substantially surrounded by Topanga State Park. Cooper Ecological Monitoring, Inc., in its letter dated April 9, 2018 that is attached as an exhibit to the LG Letter (“Cooper Report”) also addresses the issue, stating on page 3, **“A corner of its southern (southeastern) boundary features commercial development, but most of its southern and its entire western boundary borders open space that lies directly adjacent to Santa Ynez Canyon Park. Thus, to say that it is “substantially” surrounded by urban uses is not accurate, as wildlife can easily access the entire property via its southern and western borders.”**

To meet the definition of “urban infill”, at least 75% of perimeter must contain qualified urban uses, which is not the case with the Property) contained in *Public Resources Code Section 21061.3*, saying that the term “infill site” is not used in the Class 32 exemption regulation. Because neither the *Public Resources Code* nor the regulations defines “substantially surrounded by urban uses”, the *PRC 21061.3* definition of “urban infill site” is useful and should not be discarded.

c. The Property does have value as habitat for endangered, rare or threatened species

Contrary to the simplistic assertion contained in the Meridian Consultant report the **Cooper Report** (attached hereto) describes in substantial detail the value that the Property has as habitat for state-identified rare species, such as Southern Sycamore Alder Rare Woodland and two-striped garter snake. Also, the **Cooper Report** points out that Santa Ynez Canyon is a wetland (i.e.: a blue line stream) that may be subject to Federal regulation, which was not discussed in the report provided by developer.

The **Cooper Report** identifies numerous deficiencies in the report prepared by Meridian Consultants on which developer, and thus the Zoning Administrator and Area Planning Commission relied upon in approving the CEQA Class 32 Exemption.

Based on all of the foregoing, it is clear that the required finding that the Property lacks habitat value is not supported by substantial evidence and in fact is contrary to the evidence presented by the **Cooper Report**.

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d. There is no substantial evidence to support the finding that the Project will not have a significant effect relating to traffic, noise and water quality.

(i) **Traffic.** The Cooper Report references several possible significant traffic impacts.

(ii) **Noise.** The noise "analysis" provided by developer contains nothing more than a one-time measurement and does not reference the time of day the measurements were taken, or the weather conditions. Developer does not provide any specs for the proposed HVAC equipment or the anticipated noise that would be generated.

2. Exceptions to Exemptions Apply

Public Resource Code Section 15300.2 provides the following, relevant, exceptions to Categorical Exemptions pursuant to which the within granted Exemption is inappropriate:

(a) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(b) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. *CCR 15300.2(c)*

- As clearly indicated in the snapshot from the CALFIRE map of Very High Fire Hazard Severity Zones ("Very High Fire Risk Zone") in Los Angeles County, the Property is within a Very High Fire Risk Zone. In addition to the risk to residents, the Project would greatly increase the risk of fire in the area, due to the anticipated outdoor activities (including smoking) by staff, visitors and residents of the Project.

- The analysis of Wilson Geosciences Inc. and Geo-Dynamics, Inc. attached hereto states that "our general findings indicate that there are unique circumstances affecting the proposed development" and goes on to identify six such circumstances.

- The Cooper Report describes the Property as abutting "one of the largest and most significant remaining sycamore-oak canyon habitats within the city of Los Angeles (Santa Ynez Canyon), which borders (and in other areas includes) Topanga Canyon State Park" after which the report author comments "I know of no similar natural environment within the city limits".

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For all of these reasons, a Class 32 Categorical Exemption is wholly and completely inappropriate. The Commission should require environmental review of all the impacts identified above.

3. The Categorical Exemption is inconsistent with the City's prior findings in three other "less impactful", smaller land use projects which resulted in Mitigated Negative Declarations (MND).

1988 ZA-1988-435-PP 2-Story, 28,300 Square Feet Retail
MITIGATED NEGATIVE DECLARATION REQUIRED MND-88-285

2000 ZA-2000-3070-CDP 8-Unit Residential Condominiums
MITIGATED NEGATIVE DECLARATION REQUIRED
ENV-2000-3071-MND

2007 ZA-2007-4681-CDP 8-Unit Residential Condominiums
MITIGATED NEGATIVE DECLARATION REQUIRED
ENV-2007-4682-MND

Even though the City required MND's for the above cases, here the ZA and Area Planning Commission determined the Project, a 4-Story, 64,646 Square Feet, 82 Guest Rooms and 64 Parking Spaces/ Two Subterranean Garage Levels (a much more intensive, impactful development) qualified for a Categorical Exemption.

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