



**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: VTT-74129-CN and ENV-2018-2721-CE

Project Address: 714-718 North Sweetzer Ave.

Final Date to Appeal: March 30, 2019

- 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): Keith Nakata

Company: \_\_\_\_\_

Mailing Address: 811 N. Croft Ave.

City: Los Angeles State: CA Zip: 90069

Telephone: 323-653-0455 E-mail: keithnakata@earthlink.net

- 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): \_\_\_\_\_

Company: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

**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: *Kath Hekata*

Date: 3/29/19

**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).
- 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:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

**Justification/Reason for Appealing**  
**Appeal to City Council**  
**Case Numbers VTT-74129-CN and ENV-2018-2721-CE**  
**Project Address 714-718 N. Sweetzer Ave.**

The within appeal is filed on the ground that Central Los Angeles Area Planning Commission (CAPC) erred and abused its discretion by approving the project And issuing an exemption to CEQA pursuant to State CEQA Guidelines, Section 15332 (Class 32) and that there is no substantial evidence demonstrating that an exemption to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies and by approving a Vesting Tentative Tract for merger and re-subdivision of two lots into one lot and a 26-unit condominium building at 714-718 N. Sweetzer Ave. and by adopting the Conditions of Approval and findings of the Deputy Advisory Agency.

Appellant Keith Nakata is a 30 year resident of the neighborhood where this project is located as well as the 3 other additional projects by the same developer, Etco Homes in the same neighborhood. In addition to this, Keith Nakata is a resident and taxpayer in the City of Los Angeles and as such is entitled to full enforcement of its local zoning and planning laws, the California Environmental Quality Act, and other state and local laws pertaining to the project.

The CAPC abused its discretion because:

- 1) The violation of the General Plan and the zoning ordinance also precludes the necessary findings under CEQA. The City did not perform CEQA review, concluding instead that a categorical exemption for "infill projects" (Class 32) applied. This infill exemption is only available for projects in strict compliance with both the general plan and the zoning code. Accordingly, specific findings must be made about such compliance, including the following finding, reflected in page 15 of the Letter of Determination:
  - (a) THE PROJECT IS CONSISTENT WITH THE APPLICABLE GENERAL PLAN DESIGNATION AND ALL APPLICABLE GENERAL PLAN POLICIES AS WELL AS WITH APPLICABLE ZONING DESIGNATION AND REGULATIONS.
  
- 2) The project does not comply with the General Plan of the City of Los Angeles and therefore the required Subdivision Map Act findings cannot be made. As reflected on page 20 of the Letter of Determination, these required findings are:
  - (a) THE PROPOSED MAP WILL BE/IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.

(b) THE DESIGN AND IMPROVEMENT OF THE PROPOSED  
SUBDIVISION ARE CONSISTENT WITH APPLICABLE GENERAL  
AND SPECIFIC PLANS

- 3) The conditions of approval do not mitigate impacts of the project below a level of significance under CEQA.
- 4) The conditions of approval do not mitigate the impacts of the project.
- 5) The approval of the project is not supported by adequate findings
- 6) The findings in support of the approval of the project are not supported by substantial evidence in the record.

The project violates the General Plan because construction of a condominium building instead of the presently permitted apartment building would eliminate 14 Rent Stabilized Ordinance "RSO" residential rental apartments affordable to moderate, low-income and very-low income persons and would result in only 2 affordable residential units through the use of a density bonus. The 14 units in the three demolished structures were all subject to the Rent Stabilization Ordinance (RSO). The Ellis Act provides that the presently permitted apartment building is still subject to the RSO. The newly constructed units must be rented to either the evicted tenants or the new tenants at the same rental rates allowed by RSO at the time the Notice of Intent to Withdraw was filed with the City, plus annual adjustments allowed under RSO. (LAMC sec. 151.26(A)(2).)

Because it removes affordable rental housing from the Hollywood community, the project is incompatible with the adopted Hollywood Community Plan, which provides:

Objective 3. To make provision for the housing required to satisfy the varying needs and desires of all economic segments of the Community, maximizing the opportunity for individual choice.

Because it removes affordable rental housing from the Hollywood community, the project is incompatible with the Housing Element of the General Plan Framework of the City of Los Angeles, which contains the following Goals, Objectives and Policies:

**Goal 1:** A City where housing production and preservation result in an adequate supply of ownership and **rental housing that is safe, healthy and affordable to people of all income levels**, races, ages, and suitable for their various needs.

Objective 1.2 **Preserve quality rental and ownership housing for households of all income levels and special needs.**

**Policies:**

**1.2.2- Encourage and incentivize the preservation of affordable units, to ensure that demolitions and conversions do not result in the net loss of the City's stock of decent, safe, healthy or affordable housing**

**1.2.8 -Preserve the existing stock of affordable housing near transit stations and transit corridors. Encourage one-to-one replacement if demolished units.**

**Objective 1.3 Forecast and plan for changing housing needs over time in relation to production and preservation needs.**

For purposes of consistency with CEQA, the Housing Element of the General Plan Framework and the required Subdivision Map Act findings, the cumulative impacts of the project must be taken into account. **ETCO Homes will demolish 73 units of RSO housing on only 2 blocks on the 700 block of North Sweetzer Ave. and 700 block of North Croft Ave.** The city fails to evaluate beyond the boundaries of the actual proposed project the RSO losses as required by the Housing Element of the General Plan Framework. Another project at 411-439 S. Hamel Road by ETCO Homes in our community has demolished 5 more lots of RSO housing with 25 more demolished RSO Units.

**Further, in violation of the Citywide General Plan Housing Element Framework, the Deputy Advisory Agency failed to refer to any data reflecting the loss of RSO housing in the area or in the City generally. In 2018, in the City of Los Angeles 5.5 Units of RSO Housing were lost each and every day totally 2,007 for the year. According to the Coalition of Economic Survival, between the years 2001 and 2018, 24,903 units of RSO housing was lost.**

The project also violates the zoning ordinance, because the map does not depict a 2.5-foot dedication along the alley, which is required by section 12.37 of the zoning code. The Bureau of Engineering recommended a condition to require this dedication in advance of the public hearing. at page 6 of the prepared by the Deputy Advisory Agency in advance of the public hearing. (See Planning Department Staff Report and Draft Tentative Tract Report With Conditions, pg. 6, Bureau of Engineering condition 2.) At the hearing the Bureau of Engineering acknowledged this requirement, and the applicant has also acknowledged the requirement in its own letters.

The City Engineer has the authority to waive dedication requirements under section 12.37.I.6, but it expressly refused to do so during the hearing, and left this determination to the Deputy Advisory Agency.

The Deputy Advisory Agency can grant a waiver from a dedication requirement under section 12.37.I.3, and by making findings under section 12.37.I.2.b. The City "may" grant a waiver if it makes any of the following 3 findings:

(1) The dedication or improvement requirement does not bear a reasonable relationship to any project impact.

(2) The dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on guidelines the Streets Standards Committee has established.

(3) The dedication or improvement requirement is physically impractical.

However, in fact the Deputy Advisory Agency did not grant a waiver from the 2.5-foot dedication in its Letter of Determination. The word "waiver" never appears in the LOD, and the 2.5-foot dedication along the alley is not discussed. Also, the Deputy Advisory Agency made no findings in support of a waiver under section 12.37.I.2.(b). Instead, the Deputy Advisory Agency merely deleted the recommended Bureau of Engineering condition 2 from the final report.

No waiver should be granted and the Bureau of Engineering condition 2 should be reinstated and made a condition of the final map.

The City's power to grant a waiver or to exclude a recommended condition is entirely discretionary and need not be exercised. Here, the City should refrain from exercising this discretion and should reinstate Bureau of Engineering condition 2. The alley is a substandard 15 feet in width, which is insufficient for access. Directly to the south across the alley is a commercial property located at 8275 Melrose property, which is zoned C4-1XL and is developed with a three-story commercial building built in 1963. The current zoning would allow for a far larger building to be built on this site over the whole site, and that future development could further burden the substandard width alleyway. The dedication of 2.5 feet along the southern edge of the subject project would allow the alley to be widened for a linear distance of 180 feet, which is more than half of the 315-foot length of the alley between Sweetzer and Harper Avenues. This would improve access for through traffic on the alley, as well as for backing and other maneuvers in and out of the project site and in and out of the 8275 Melrose property.

For these same reasons, even if the 2.5 foot dedication were not required by the zoning code, but merely requested by the Bureau of Engineering by way of a recommended condition, there is no basis for deleting the recommended condition. It should therefore be reinstated.

The appellant will submit additional correspondence and support for his appeal before the City Council meets to consider the appeal.