

ORIGINAL



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-74868; CPC-2016-4888-TDR-SN-MCUP-SPR; and ENV-2016-4889-EIR

Project Address: 1001 Olympic Blvd; 911-955 S. Georgia St.; 1001-1016 W. James M. Wood Blvd.; 936-950 S. Bixel St.; and 1013-1025 W. Olympic Blvd.

Final Date to Appeal: 07/22/2019

- 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): 926 James M. Wood Boulevard, LLC

Company: _____

Mailing Address: 825 S. Barrington Avenue

City: Los Angeles State: CA Zip: 90049

Telephone: (213) 279-6965 E-mail: mgonzales@gonzaleslawgroup.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): Michael Gonzales

Company: Gonzales Law Group

Mailing Address: 800 Wilshire Boulevard Suite 860

City: Los Angeles State: CA Zip: 90039

Telephone: (213) 279-6965 E-mail: mgonzales@gonzaleslawgroup.com

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
- How you are aggrieved by the decision
- Specifically the points at issue
- 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: Ch. Khan on behalf of appellant Date: 7/22/19

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: <u>\$89.00</u>	Reviewed & Accepted by (DSC Planner): <u>Anna Van</u>	Date: <u>07/22/19</u>
Receipt No: <u>0104068226</u>	Deemed Complete by (Project Planner):	Date:
<input checked="" type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

ATTACHMENT A

APPEAL OF VTT-74868, CPC-2016-4888-TDR-SN-MCUP-SPR, AND ENV-2016-4889-EIR

926 James M. Wood Boulevard, LLC (“Appellant”) is the owner of that certain parcel of real property commonly known 926 James M. Wood Boulevard (the “Appellant Property”). The Appellant Property is directly west of the Project site, separated only by Georgia Street. Appellant has concerns on project impacts given the proximity of the Appellant Property to the Project site. The City Planning Commission (“CPC”) erred in approving the above referenced project (the “Project”) because the CPC failed to make the required findings pursuant to Los Angeles Municipal Code (“LAMC”) 12.24.W.1 to justify a conditional use permit for the use of alcohol (“MCUP”), the CPC failed to make the required findings pursuant to LAMC 16.05 to justify site plan review (“SPR”), and the Project’s environmental impact report (“EIR”) has serious concerns regarding potentially significant impacts that have been improperly mitigated, inadequately analyzed, or ignored altogether, as discussed in a letter from Appellant to the Department of City Planning dated August 13, 2018 (the “EIR Letter”). The attached EIR Letter has previously been submitted to the record and is hereby incorporated by reference.

MCUP Specific Issues

Specifically, LAMC Section 12.24.W.1.a.1 requires a finding that the proposed use will not affect the welfare of the pertinent community. In this case, the Project takes no measures to protect the pertinent community. The CPC’s letter of determination for the Project dated July 05, 2019 (the “LOD”) states that “other conditions related to excessive noise, loiter and noise prevention will safeguard the residential community”¹, however no conditions are cited in the LOD and no such conditions can be found. There are no conditions to curb the negative impacts commonly associates with the sale of alcoholic beverages.

LAMC Section 12.24.W.1.a.2 also requires a finding that the granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages. The LOD indicates that there is a higher than normal concentration of alcohol in the Property’s census tract, but does not adequately explain how increasing the amount of alcohol related businesses will not create an undue concentration.² The LOD states that approval of the license will benefit the public welfare and convenience, but offers no justification for how the approval will benefit the public welfare and convenience. There are currently 98 on-site and 14 off-site licenses in the census tract, much higher than the allowed 2 on-site licenses and 1 off-site license per census tract. Any additional licenses should be subject to more scrutiny. Therefore, the findings should thoroughly analyze how multiple additional licenses would be a public benefit.

LAMC Section 12.24.W.1.a.3 also requires a finding that the proposed use will not detrimentally affect nearby residentially zoned communities. There are residentially zoned communities less than a thousand feet from the Project site. The LOD states that potential effects of excessive noise or disruptive behavior have been considered and addressed by imposing conditions related to noise and loitering.³ The LOD contains no provisions addressing loitering or noise related to the alcohol use.

¹ LOD F-31

² LOD F-32

³ LOD F-33

SPR Specific Issues

Specifically, LAMC Section 16.05.F.1 requires a finding that the Project is in substantial conformance with the purposes, intent, and provisions of the General Plan and applicable community plan. In this case, the Project completely fails in accomplishing the goals of the City's Housing Element.⁴ The Project's decision to not ignore the General Plan's Housing Element by not providing any affordable units is made at a time where the City desperately needs affordable housing. On June 5th, 2019, the Los Angeles Homeless Services Authority ("LAHSA") released information that shows the homelessness in the City increased by 16% over the last year.⁵ The project does nothing to help address the problem of housing affordability or homelessness. The Project provides 879 residential units, with none set aside as affordable units. The lack of affordable housing is in contrast with the General Plan's Housing Elements Goals including but not limited to:

- 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;
- Goal 3: A City where there are housing opportunities for all without discrimination; and
- Goal 4: A City committed to ending and preventing homelessness.

The Project also fails to address multiple objectives and goals of the Central City Specific Plan including but not limited to:

- Objective 9.1: To address the problems of the homeless population by creating a mix of policies, services and facilities that better serve their needs.
- Objective 9.2: To provide the requisite services, housing opportunities, and community environments to allow the homeless to rejoin the workforce and lead more productive lives.
- Policy 9-1.1: Preserve the existing affordable housing stock through rehabilitation and develop new affordable housing options.

As discussed above, the Project provides over 850 units but fails to provide a single affordable dwelling unit. The LOD claims that the Project is advancing the City's housing goal by providing a mixture of bedroom counts for the units. The mixture of bedroom counts do not matter when discussing housing affordability. For the reasons stated above, the CPC has failed to make the necessary finding that the Project is in substantial conformance with the Housing Element of the general plan.

EIR Specific Issues

As discussed above, the EIR Letter discusses the Project's failure in analyzing significant impacts. Appellant is still concerned by CPC's inaction to address the issues discussed in the EIR Letter. The previously submitted letter is contained in the proposed Project's environmental file. Appellant reserves its rights to submit additional evidence related to project impacts pursuant to the CEQA.

⁴ City's Housing Element

⁵ LAHSA's 2019 Greater Los Angeles Homeless Count can be accessed at <https://www.lahsa.org/documents?id=3423-2019-greater-los-angeles-homeless-count-los-angeles-county.pdf>

Conclusion

The foregoing should not be viewed as a comprehensive list of the CPC's failure in properly analyzing the Project and the EIR. Appellant reserves the right to supplement its comments.



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August 13, 2018

Jonathan Chang
City of Los Angeles Department of City Planning
221 North Figueroa Street, Suite 1350
Los Angeles, CA 90012

Via E-Mail: jonathan.chang@lacity.org

**Re: Draft Environmental Impact Report
1001 Olympic Project**

Dear Mr. Chang:

This office represents 926 James M. Wood Boulevard, LLC (“926”). Please accept this letter as 926’s comments on the Draft Environmental Impact Report (“DEIR”) for the proposed 1001 Olympic (Olympia) Project (the “Project”). As discussed in greater detail below, 926 has found the DEIR to be lacking in several respects and has serious concerns regarding potentially significant impacts that have been improperly mitigated, inadequately analyzed, or ignored altogether.

1. **Aesthetics**

The DEIR points out in Section IV-A that the site’s existing use is a two-story office building which creates negligible shadows, glare, and night time illumination. The Project design, on the other hand, involves considerable height and massing. While there are tall buildings to the north and south of the Project site, the immediate vicinity of the site is made up of low-rise structures. The Project’s mass and height are entirely incompatible with the surrounding area and uses.

The four-story podium and three towers ranging from 43 to 65 stories will result in substantial shade and shadow impacts. Much of the Project’s surrounding area will be affected by shade and shadow throughout the day. The DEIR also acknowledges that recognized sen-

sitive receptors will experience shade and shadow impacts for three to four hours per day. In addition, light-colored and reflective building materials will result in glare impacts and the lighting required for such a massive project will create a new source of night time glare.

2. Air Quality

Section IV.B of the DEIR is inadequate in both its analysis and mitigation of impacts to air quality.

First, the DEIR ignores localized impacts associated with nearby, concurrent construction projects. For example, a hotel will be constructed directly across the street from the project at 926 James M. Wood Boulevard (identified in the DEIR as 916 James M. Wood). Construction will take place from approximately the fourth quarter of 2018 through 2020.

Section II of the DIER states that construction of the Project is expected to take 48 months with an anticipated operational date in 2023. There will consequently be overlap between the construction schedules of the two adjacent projects. The DEIR fails to address the cumulative impacts of that and other projects in the vicinity with respect to both construction and operational emissions.

In addition to the inadequate mitigation of air quality impacts, the DEIR ignores localized impacts associated with nearby, concurrent construction projects. The mitigation measures provided in Section IV.B of the DEIR are insufficient to reduce the Project's construction air quality impacts to a less than significant level. Mitigation Measure AIR-MM-2 provides as follows:

On-road medium-duty and larger diesel-powered trucks with a gross vehicle weight rating of at least 14,001 pounds shall, at a minimum, comply with USEPA 2010 on-road emissions standards for PM10 and NOx. Contractor requirements to utilize such on-road haul trucks or the next cleanest vehicle available will be included as part of the Project construction contracts.

The mitigation measure mandates that vehicles satisfy specific emissions, but also provides that "the cleanest vehicle available" will suffice. The uncertainty of the mitigation measure renders it invalid under CEQA.

3. Transportation and Traffic

Section IV.M of the DEIR fails to adequately analyze both the construction and operational impacts of the Project on traffic and transportation.

The Project site is surrounded by local streets which are inadequate to accommodate the influx of traffic that the Project will generate. Construction traffic will stifle the streets in the vicinity and operation of the Project will overload the surface streets and freeway off-ramps serving the neighborhood.

The DIER further fails to adequately account for cumulative construction impacts. As noted above, projects in the immediate vicinity of the Project site are anticipated to overlap in their construction duration. Among them is a 247-room hotel project across the street. The impact of construction vehicles and equipment accessing those sites concurrently is not adequately analyzed or mitigated.

4. Project Alternatives

CEQA requires that an EIR provide analysis of project alternatives that would diminish or eliminate significant impacts. Specifically, CEQA Guidelines section 15126.6 provides in pertinent part as follows:

- a. Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives...

* * *

- b. Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination.

The alternatives analysis should therefore provide a meaningful range of alternatives which would both reduce significant effects on the environment and achieve most of the project's objectives.

Section V of the DEIR lists the following as the Project objectives:

- 1) Capitalize on a smart growth opportunity by intensifying a currently underutilized site with residential and commercial uses near public transit lines (Metro Rail and Bus), thereby reducing vehicle miles traveled (VMT), pollutant emissions, and greenhouse gas emissions.
- 2) Create a pedestrian friendly environment and activate the street frontages along Olympic Boulevard and Georgia Street, and support accessibility for future

residents and guests, L.A. Live patrons, the Convention Center, and the South Park community.

- 3) Contribute housing opportunities toward the City's Regional Housing Needs Assessment (RHNA) allocation.
- 4) Develop residential and ground floor commercial uses that generate local tax revenues, and generate residents who support local businesses.
- 5) Bring an architecturally distinctive, vertical neighborhood to the Los Angeles Sports and Entertainment District and to the downtown Los Angeles skyline.

The alternatives presented in the EIR fail to satisfy the requirements of CEQA Guidelines section 15126.6 because they would not achieve the Project's objectives. Alternative B eliminates all residential and hotel uses, replacing them instead with office and commercial space. Alternative B's exclusion of housing changes the character of the Project entirely. In so doing, it fails to satisfy over half of the Project objectives, including Objectives 1, 3, and 4.

Alternative D, "Regional Retail Alternative," fails for similar reasons. Alternative D removes residential and hotel uses in favor of an all-retail project. The alternatives analysis is therefore incomplete.

The DEIR also fails to satisfy CEQA's requirement that the EIR "identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination." (See CEQA Guidelines section 15126.6.)

Only one rejected alternative is described, an all-office building option, which meets practically none of the Project's objectives. Further, the DEIR includes no discussion of alternative locations for the Project, either as considered or rejected alternatives.

5. Conclusion

In view of the comments above, 926 urges the City to withhold certification of the DEIR and approval of the Project until the deficiencies in the DEIR are fully addressed. 926 requests that it be provided with copies of any notices pertaining to the Project at this address.

Jonathan Chang, City of Los Angeles
August 13, 2018
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The foregoing should not be viewed as a comprehensive list of the deficiencies in the Project DIER. 926 reserves the right to supplement its comments. We look forward to the City's timely and complete responses. Please do not hesitate to contact me with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeremy Brust', with a stylized flourish at the end.

Jeremy Brust

JB

cc: Chris Atkinson (chris@pppre.com)
Chris Modrzejewski (cm@m-consultants.net)
Leanna Libourel (leanna@plusdevelopmentgroup.com)