



APPLICATIONS:

APPEAL APPLICATION CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) Instructions and Checklist

Related Code Section: The Los Angeles Municipal Code (LAMC) Section 11.5.13 (Ord. No. 186,338) established the appeal procedure to the City Council for California Environmental Quality Act (CEQA) determinations.

Purpose: *The Appeal* - A CEQA clearance can only be appealed if a non-elected decision-making body (ZA, APC, CPC, DIR) makes a determination for a project that is not further appealable. To initiate appeal of a CEQA document this form must be completely filled out with the required materials attached and filed within 15 calendar days from the final administrative decision, of the entitlement application.

General Information

Appealable CEQA documents:

- Certified Environmental Impact Report (EIR)
- Statutory Communities Environmental Assessment (SCEA)
- Mitigated Negative Declaration (MND)
- Negative Declaration (ND)
- Categorical Exemption (CE) determination
- Statutory Exemption (SE) determination

NOTE:

- Actions not appealable include an addendum, findings made pursuant to CEQA Guidelines Section 15162, or a determination that an action does not constitute a project under CEQA.
- All CEQA appeals are heard by the City Council.

This form is only for the appeal of Department of City Planning determinations: All other CEQA appeals are filed with the City Clerk pursuant to the LAMC Section 197.01.

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.

1. Case Information

Environmental Case Number: ENV-2019-2728-CE

Related Entitlement Case Number(s): DIR-2019-2727-CCMP

Project Address: 1421-1439 West Adams Boulevard

Date of Final Entitlement Determination: February 27, 2020

The CEQA Clearance being appealed is a(n):

- EIR
 SCEA
 MND
 ND
 CE
 SC

2. Appellant Identity (check all that apply)

- Representative
 Property Owner
 Other Person
 Applicant
 Operator of the Use/Site

3. Appellant Information

Appellant Name: James R. Childs

Company/Organization: North University Park Community Association (NUPCA)

Mailing Address: 2326 Scarff Street

City: Los Angeles State: CA Zip: 90007

Telephone: 213 747 2526 E-mail: jeanjim2341@att.net

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

- Self
 Other: _____

b. Is the appeal being filed to support the original applicant's position? Yes No

4. Representative/Agent Information

Representative/Agent name (if applicable): _____
 Company: _____
 Mailing Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ E-mail: _____

5. Appeal Justification

Attach a separate sheet providing your specific reasons for the appeal. Your reasons must state how you believe CEQA was incorrectly applied, providing a legal basis for the appeal.

6. Applicant's Affidavit

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

Appellant Signature: Amos R. Childs Date: 3/06/20

ENVIRONMENTAL APPEAL FILING REQUIREMENTS

Note: City Clerk prepares mailing list for CEQA appeals per LAMC Section 11.5.13 E.

1. Three (3) sets - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Environmental Appeal Application (form CP-7840)
- Justification/Reason for Appeal
- Copies of the written Determination Letter, from the final appellate body, which must be a non-elected decision-making body

2. Electronic Copy

- Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Environmental Appeal Application.pdf", "Justification/Reason Statement.pdf", "Final Determination Letter.pdf"). No file should exceed 9.8 MB in size.

3. Appeal Fee

- Original Applicant - A fee equal to 85% of the original application fee of the Environmental case; provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
- Other Persons - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

This Section for City Planning Staff Use Only		
Base Fee: <u>\$89</u>	Reviewed & Accepted by (DSC Planner): <u>Ann M. Vidal</u>	Date: <u>3/6/2020</u>
Receipt No: <u>0109163887</u>	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

Applicant Copy
 Office: Downtown
 Application Invoice No: 63621

City of Los Angeles
 Department of City Planning



LA Department of Building and Safety
 LA ADIM 109006332 3/6/2020 1:36:02 PM

City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord your application, regardless of whether or not you obtain the service.

PLAN & LAND USE \$106.80
 DEV SERV CENTER SURCH-PLANNING \$2.67

Sub Total: \$109.47

This filing fee is required by Chapter 1, Article 9,

Receipt #: 0109163887

Applicant: NORTH UNIVERSITY PARK COMMUNITY ASSOCIATION (NUPCA - CHILDS, JAMES R. (B:213-7472526)
Representative:
Project Address: 1429 W ADAMS BLVD, 90007

NOTES:

ENV-2019-2728-EAF-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
Case Total			\$89.00

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
Plan & Land Use Fees Total	\$89.00
Expediting Fee	\$0.00
Development Services Center Surcharge (3%)	\$2.67
City Planning Systems Development Surcharge (6%)	\$5.34
Operating Surcharge (7%)	\$6.23
General Plan Maintenance Surcharge (7%)	\$6.23
Grand Total	\$109.47
Total Invoice	\$109.47
Total Overpayment Amount	\$0.00
Total Paid (this amount must equal the sum of all checks)	\$109.47

Council District: 1
 Plan Area: South Los Angeles
 Processed by VIDAL, ANNA on 03/06/2020

Signature: *Anna Vidal*

Receipt #: 0109163887

LA Department of Building and Safety
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 PLAN & LAND USE \$106.80
 DEV SERV CENTER SURCH-PLANNING \$2.67
 Sub Total \$109.47

Justification/Reason for Appeal

ENV-2019-2728-CE

(Related case DR-2019-2727-CCMP)
1421-1439 West Adams Boulevard

Environmental Review

A categorical exemption is not the appropriate level of environmental review for a project that is highly discretionary, is in a historically sensitive environment, located on a scenic highway, and fails to meet the objectives of the Adams-Normandie Preservation Plan.

I. The project will have a demonstrable significant effect on the environment and does not qualify under Article 19, Class 32 exemption.

The use of a CE, pursuant to Article 19, Section 15332, and Class 32 of the State CEQA Guidelines cannot be sustained by a clear factual analysis because:

- The proposed project does not conform to the Adams Normandie Preservation Plan
 - The proposed project does not conform to the Secretary of the Interior's Standards
- And therefore will cause substantial and adverse changes.¹

Among the many areas where the project fails in compliance to the Preservation Plan are:

9.3.7. The lot coverage for an in-fill project should be substantively consistent with the lot coverage of nearby Contributor properties

9.4.1. New residential structures should harmonize in scale and massing with the existing historic structures in the surrounding blocks.

9.7.1. New construction should incorporate materials similar to those used traditionally in historic structures in the area.

11.2.1. Where varying setbacks exist, new construction should attempt to function as a buffer by providing a variable setback.

11.2.2. New structures should reflect the traditional widths of historic structures in the area. If a structure is proposed that is wider than most historic structures along a street the new structure should be broken into appropriately sized modules.

11.3. Building Mass, Scale and Form.

11.3.1. New structures should maintain the average scale of historic structures within the area.

11.3.2. New structures should draw from surrounding historic structures in establishing as identifiable base, middle, and top.

¹ Title 14, California Code of Regulations, Chapter 3, Guidelines for Implementation of CEQA, states a categorical exemption should not be used where the activity would cause a substantial adverse change. Furthermore, Section 15300.2 (c), explains: 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.

11.3.3. New structures that are taller than existing historic commercial structures in the area should be designed to emphasize the existing cornice heights in the area.

11.3.4. The basic building form for new commercial structures should be a simple rectangular solid.

11.3.5. New commercial structures should attempt to reflect the traditional commercial storefront widths in a historic commercial area.

11.4.5. Generally, architectural details should be arranged to emphasize the horizontal features of facades.

11.5.5. Multistory structures should provide a clear delineation, by way of differentiated materials and features, between the ground floor, the upper floor and the roof of the building.

The record shows that the project fails in these numerous areas while staff arbitrarily picked the few areas where it could be argued that the project **does** comply: a preservation plan is not a menu where you pick the guidelines you wish to conform to and disregard the others. There is a provision for infill projects to be taller but how much taller is arguable and they still need to comply with the Plan. There are **no** five story buildings in the Zone. The massing completely dominates the setting with a modern building design completely inappropriate to the zone.

If you looked at the Director's remarks for (11.3.1. pg.11 of the CCMP decision letter) you found the following: *"Surrounding historic structures in the Adams-Normandie HPOZ are typically one to three stories tall, with the exception of the abutting First AME Church, which is approximately four stories. From grade the church rises approximately 55 feet to the roof ridge of the sanctuary and 95 feet to the top of the Steeple. The proposed five-story structure will measure 60 feet, nine inches from grade to the roof deck parapet, which is not substantially taller than the main mass of the church and well below the height of the steeple. However, because the proposed building will be taller than adjacent two-and-three-story multifamily structures on W. Adams Blvd. as well as the two story apartments abutting the rear, it has been designed in modules and with setbacks, transitional height and varying materials to minimize the overall scale and perceived bulk of the structure." The Director acknowledges that the streetscape's historic structures are "one to three stories tall" and that the abutting historic church is "55 feet to the roof ridge of the sanctuary", and that the project is a "five story structure will measure 60 feet."*

The Project is further inconsistent with policies and goals set forth in the South Los Angeles Community Plan, including, but not limited to, the Community Plan's goal that *"Projects should contribute to reinforcing the distinctive and historical character of the corridors and the residential neighborhoods they serve."*²

II. Further, exceptions under 15300.2 do apply to this project.

The Class 32 "Infill" Categorical Exemption (CEQA Guideline Section 15332 exempts infill development within urbanized areas **if it meets certain criteria**. The class consists of environmentally benign infill projects that are consistent with the General Plan and Zoning requirements which would include its conformance to the adopted Preservation Plan. The OHR has gone through an extensive attempt to offer a band aid to this out of scale, massive, across-three-parcels box, trimmed with insensitive cladding materials, to offer the unsupported opinion that this project conforms to the applicable Preservation Plan.

² (South LA Community Plan. p. 3-6.)

Further staff abused its discretion when it advised the HPOZ Board at its public hearing on October 2, 2019 that it could not address massing and height in direct violation of its obligations under the Preservation Plan.

At the South Area Planning Commission hearing on February 18, both the Adams Normandie Board Chair and the Board architect testified that the project did not conform to the Preservation Plan but they were advised by staff that there was nothing they could do regarding the massing, scale and compatibility and they had to accept most of the project design. Both Board members expressed dissatisfaction with the strong arm tactics to achieve for Board approval. The Chair voted against the project and the Board architect stated he would have voted against the project had he not been advised that what was presented was the best they could expect.

In addition to design issues, this class is not intended for projects that would result in any significant traffic, noise, air quality, or water quality impacts. Simply look at the parking provided and use of outdated 2016 information they have used as their basis for excusing traffic impacts.

Serious issues of safety, parking and circulation arise when student housing design prevails, which the Neighborhood Stabilization Ordinance was intended to mitigate. The developer has designed his units with student residency in mind based on the configuration of the units with inadequate parking.

III. A CE should not be issued when there are unusual circumstances creating the reasonable possibility of significant effects;

The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within an officially designated scenic highway;

Adams Boulevard is a City designated scenic Highway.

The project as proposed is inconsistent with the goals established by its Scenic Highway designation. (See the Mobility/Transportation Element of the General Plan). Scenic Highways, according to the Mobility/Transportation Element, "include many of the City's iconic streets. Preservation and enhancement of these streets and their scenic resources need to be preserved." Adams Boulevard between Figueroa and Crenshaw is a designated Scenic Highway.

The manner in which Adams Boulevard is interpreted in the CCMP decision reflects a lack of understanding of the nature and history of Adams Boulevard: it is not primarily a commercial corridor. Today Adams Boulevard beginning from Figueroa west to Hoover has only one commercial building the Automobile Club of Southern California (LA-HCM#72). From Hoover to Vermont there are only two commercial buildings, the Ralph's Market and the Baskin-Robins on the SE and NE comers of Vermont respectively. There is also one mixed-use building, the ELEMENT on the NW comer of Hoover. Across Vermont to the project site, the south side of Adams is an institutional use, St Agnes Roman Catholic Church, and on the north there is a comer gas station and the derelict auto lots that comprise the subject site and two buildings at comer of Catalina.

Adams Boulevard needs to be evaluated with an understanding of its development as a residential street, unlike Figueroa Street which can be for the most part envisioned as a primarily commercial corridor. The complexities involved in designing a project for historic Adams Boulevard are more intricate, calling for not adopting a CE in these unique circumstances.

A categorical exemption should not be issued when there are sensitive issues and the project fails to comply with the Preservation Plan and the south community plan's stated objectives. To permit a CE in this case would cause irreparable and irreversible harm to the environment.

In all of the record, there is no serious analysis of the impacts to the adjacent First AME Zion Church, HCM #341. The CHC designee abused their discretion when he capriciously signed off on a project that effects an HCM.

To continue with a CE, given the expert testimony on the record and extensive community comment at the February 18 SAPC hearing ignores the fair and reasonable argument that has been made.

IV. Even if the Project did fit within the Class 32 exemption, the exemption would be inapplicable because several exceptions to categorical exemptions apply (CEQA Guidelines § 15300.2.) “A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.” (CEQA Guidelines § 15300.2(f).) Under this exception, a categorical exemption cannot be relied upon if there is a fair argument supported by substantial evidence that the project may have a significant adverse impact on an historic resource.

The developers' proposed new 5-story in height structure will dominate the historic block face, which is comprised of several historic;] 1-story, 2-story and a 3-story structures. The proposed new 5-story building's setback will obscure our City's monument from drivers traveling west along Adams Boulevard, which is a designated scenic highway. This obstruction of the historic view corridor is in clear violation of the SISG. The proposed 5-story height also towers over the adjoining 1-story historic sanctuary and will block sunlight from its' stained-glass clerestory windows, also a violation of the SISG.³

The historic district itself is a historic resource and the infill parcels cannot be separated from their context and justified at their present massing, scale and design.

The District is the Resource, Not its Individual Parts. Designated historic districts are significant as a collective whole and must be considered as such, and protected in their entirety. This is the primary, overarching principle. • New construction must respond to and protect the integrity of the overall historic district in much the same way as an addition does to a historic building.⁴

There is scant analysis of impacts to the First AME Zion Church, a landmark that will be severely impacted in terms of light, air, functionality, and setting. Rather the developer offers, since it will remain a landmark, it is not impacted, which is simply not the case. There is extensive testimony by preservation experts that the stained glass windows will be seriously impacted and how they contribute to the manner in which the monument is experienced. Also disturbing is the remarks made by the current Church pastor that he intends to paint out the stained glass to offer concerts on site.

As explained in the SAPC appeal, *the glory of the sun's rising morning light is celebrated by the faithful through its collection and focus of the church's glass windows. They are intended to inspire the congregation with god's wonderful gift of light. The windows come in all matter of design but their*

³ 2 ADAMS-NORMANDIE HISTORIC PRESERVATION OVERLAY ZONE BOARD, at Special Meeting, Wednesday October 02, 2019 / 6:00 pm, 2211WestJefferson Blvd./ Jefferson-Vassie D. Wright Memorial Library, comment from NUPCA and WAHA

⁴ “Compatible Infill Design Principles for New Construction in Oregon’s Historic District”, Restore Oregon Special Report

*placement is to allow the sun to shine inward, for both the illumination of the interior and of the soul. When a new proposed project interferes most significantly with this process it must be evaluated as a negative impact. It hasn't been and it must be done.*⁵

V. The City Cannot Rely upon a Categorical Exemption When Mitigation is required.

"An agency should decide whether a project is eligible for a categorical exemption as part of its preliminary review of the project (CEQA Guidelines, §§ 15060 and 15061), not in the second phase [of review] when mitigation measures are evaluated." (Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165, 1199-1201; City of Pasadena v. State of California (1993) 14 Cal.App.4th 810, 820, [determination of "applicability of an exemption must be made before ... [the] formal environmental evaluation..."].) By definition, a project does not qualify for a categorical exemption unless the agency has determined environmental impacts cannot occur and mitigation measures are unnecessary. An agency may not "evade these standards by evaluating proposed mitigation measures in connection with the significant effect exception to a categorical exemption." (Azusa Land, supra, 52 Cal.App.4th at 1201.) "Reliance upon mitigation measures (whether included in the application or later adopted) involves an evaluative process of assessing those mitigation measures and weighing them against potential environmental impacts, and that process must be conducted under established CEQA standards and procedures for EIRs or negative declarations." (Salmon Protection & Watershed Network v. County. of Marin (2004) 125 Cal.App.4th 1098, 1108.)

Here, the City has imposed conditions of approval upon the Project to address potential impacts of massing and scale, non-conformance the Preservation plan, as required, and impacts to the adjacent First AME Zion Church.

The Preservation Plan

*In addition to following these guidelines, successful new construction shall take cues from its context and surroundings. One of the first steps in designing a new building within an historic district is to look at other buildings on the block, and other similar buildings in the neighborhood. In general, new construction should not try to exactly replicate the style of the surrounding historic structures. However, it is important that the design of new construction in an historic district be consistent with the design of surrounding historic structures and sites. Design elements that are usually important in establishing this consistency include orientation on a site; massing and scale; roof form; materials and the patterns of doors and windows. Most HPOZs have stood the test of time because they contain structures that are designed and constructed with a high level of design integrity and quality of workmanship.*⁶

The Project is further inconsistent with policies and goals set forth in the South Los Angeles Community Plan, including, but not limited to, the Community Plan's goal that "Projects should contribute to reinforcing the distinctive and historical character of the corridors and the residential neighborhoods they serve." (South LA Community Plan. p. 3-6.)

⁵ James Childs, Preservation Consultant

⁶ The Design Approach. Section 9.2, Adams Normandie Preservation Plan, page 65

In Conclusion

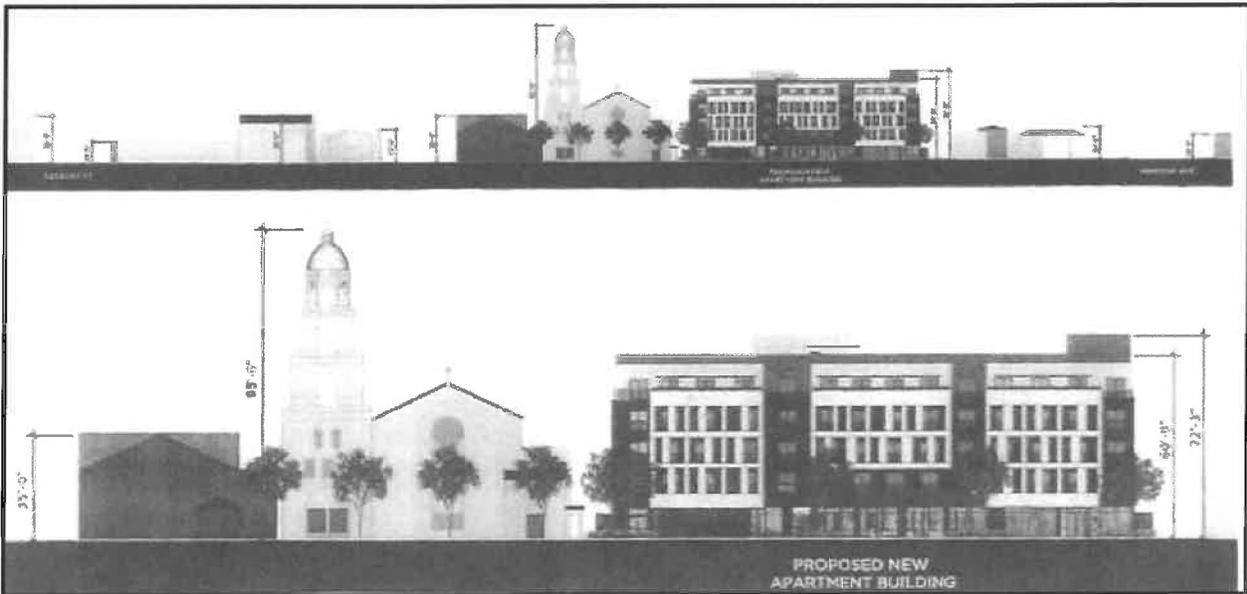
That the City has issued now a CE is not permissible under CEQA. CEQA sets a very low threshold for not permitting a Categorical Exemption, namely that it should not be used where there is a reasonable possibility of the activity having a significant effect.

The District Infill buildings should relate to and strengthen the core characteristics of the district....New construction should build upon the story of the district through its design, landscape, use, cultural expression, and associated interpretive displays. An understanding of the character and significance of the district should predicate any design or development activities.⁷

Here the City ignored the Preservation Plan, ignored all of the factual data at its hand, and allowed a backward review process that entirely skewed the ability of the Adams Normandie HPOZ Board to fulfill its duties under their Plan and have a Plan compliant project. By the time the developers scheduled their project before the Adams Normandie Board, the Board was presented with a "take it or leave it" project and given advice from the City that they had no control over the massing and scale of this project. As a result, the project has demonstrated environmental impacts and a CE cannot be justified.

Jim Childs

North University Park Community Association (NUPCA)



Streetscape illustration from the developer's project plans.

⁷ "Compatible Infill Design Principles for New Construction in Oregon's Historic District", Restore Oregon Special Report

