



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- Area Planning Commission, City Planning Commission, City Council, Director of Planning, Zoning Administrator

Regarding Case Number: CPC-2019-5742-DB
Project Address: 10555 W Bloomfield St Toluca Lake 91602
Final Date to Appeal: 9/14/20

2. APPELLANT

- Appellant Identity: Representative, Applicant, Property Owner, Operator of the Use/Site

Person, other than the Applicant, Owner or Operator claiming to be aggrieved

Person affected by the determination made by the Department of Building and Safety

- Representative, Applicant, Owner, Operator, Aggrieved Party

3. APPELLANT INFORMATION

Appellant's Name: Tracy Martin
Company/Organization:
Mailing Address: 10560 Bloomfield St Apt 6
City: Toluca Lake State: CA Zip: 91602
Telephone: 818 730 7050 E-mail: ms Tracy co@aol.com

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): Tess Taylor

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

Mailing Address: 11007 Kling ST Apt 7

City: Toluca Lake State: CA Zip: 91602

Telephone: 818 493 0489 E-mail: tess@narip.com

5. JUSTIFICATION/REASON FOR APPEAL

- a. Is the entire decision, or only parts of it being appealed?  Entire  Part
- b. Are specific conditions of approval being appealed?  Yes  No

If Yes, list the condition number(s) here: all

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

6. APPLICANT'S AFFIDAVIT

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

Appellant Signature: Tracy Martin Date: 9/13/20

**GENERAL APPEAL FILING REQUIREMENTS**

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **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.

- Appeal Application (form CP-7769)
- Justification/Reason for Appeal
- Copies of Original Determination Letter

b. **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. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. **Appeal Fee**

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

d. **Notice Requirement**

- Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
- Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

**SPECIFIC CASE TYPES - APPEAL FILING INFORMATION**

**C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)**

**1. Density Bonus/TOC**

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

**NOTE:**

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.
- Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

**D. WAIVER OF DEDICATION AND OR IMPROVEMENT**

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

**NOTE:**

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

**E. TENTATIVE TRACT/VESTING**

**1. Tentative Tract/Vesting** - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: 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.

- Provide a copy of the written determination letter from Commission.

**F. BUILDING AND SAFETY DETERMINATION**

**1. Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.**

**a. Appeal Fee**

- Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

**b. Notice Requirement**

- Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

**2. Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.**

**a. Appeal Fee**

- Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

**b. Notice Requirement**

- Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

**G. NUISANCE ABATEMENT**

**1. Nuisance Abatement** - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

**a. Appeal Fee**

Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

**2. Plan Approval/Compliance Review**

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

**a. Appeal Fee**

- Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

**NOTES**

*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.*

**Please note** that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:  89.00	Reviewed & Accepted by (DSC Planner):  MIGUEL GAMBORA	Date:  9/14/20
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 for Appeal of City Planning Commission Decisions from Hearing of May 28, 2020 and subsequent Letter of Determination dated July 21, 2020.**

**CASE No:** CPC-2019-5742-DB

**CEQA:** ENV-2019-5743-CE

**PLAN AREA:** Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass

**PROJECT LOCATION:** 10555 W. Bloomfield Street; 10551 - 10555 West Bloomfield Street; 4366 - 4378 North Cahuenga Boulevard / Cahuenga Development ("Project")

**APPLICANT:** Steve Bram, GSB Toluca, LLC. Representative: Eric Lieberman, QES, Inc.

**APPEAL OF:** Los Angeles City Planning Commission's May 28, 2020 decision to Exempt Above-Referenced Project From CEQA and Aspects of Modified Conditions of Approval, including improper application of OFF-menu incentive, as set forth in its July 21, 2020 Letter of Determination regarding the Project.

**APPELLANT:** Tracy Martin, 10560 Bloomfield Street #6, Toluca Lake, CA 91602

How Appellant is aggrieved:

1. Improper Application of OFF-Menu Incentive, Q Condition Violated
2. Improper Exemption From CEQA, Significant Cumulative Negative Impacts
3. Project Violates General & Community Plans
4. Traffic Study Required
5. Inadequate Reports From Applicant Ignore Dangerous Conditions
6. Denial of Due Process, Procedural Flaws, Brown Act Violations
7. Inconsistent With Historic Nature of Toluca Lake, Sets Negative Precedent

**CONCLUSION:**

- Appellant has shown there are sufficient reasons for the project to be sent back to the City Planning Commission for further study and determination.
- Appellant has shown that the project meets the minimum requirements to require an Environmental Impact Report. This project is complex and would benefit from the expertise available through public input.

## BACKGROUND

Applicant purchased three contiguous lots in Toluca Lake in 2019 and seeks to develop a 57-unit apartment building covering the three lots.

### 1. Improper Application Of OFF-Menu Incentive, Q Condition Violated

The Planning Department (“PD”) and the City Planning Commission (“CPC”) erred in permitting height increase as an OFF-menu non-appealable incentive, a decision which is beyond the scope of authority of both bodies, thus their *ultra vires* decision is void.

First, at the May 28<sup>th</sup>, 2020 CPC hearing, Commissioner and real estate attorney Dana Perlman said, “I do not think this qualifies for the OFF-menu incentive. I can see the justification for the ON-menu which is the reduction in open space, but not the OFF-menu which is the 11 feet additional height.” (43:40, May 28<sup>th</sup>, 2020 CPC Hearing Audio Recording, Agenda Item #10).

How then could this then be approved?!

Also, an OFF-menu incentive does not obviate the Q Condition, an ordinance which restricts height to 30', that was imposed on the west side of Cahuenga in keeping with single family homes and the character of the neighborhood. To achieve non-code compliant height of 41' (which adds 11' of height) would require a zone change. The PD and the CPC improperly allowed conversion of height increase from ON-menu to OFF-menu incentive, falsely classifying it to skirt the height restriction that would otherwise require a zone change approved by City Council. Only the LA City Council can alter or amend an ordinance that triggers a zone change. The PD and the CPC lack the authority to amend or overrule an. These changes were made without a public hearing by the City Council and its approval as required by state law.

And in any case, the Los Angeles City Charter (Section 563), which is what citizens of Los Angeles voted on and approved as the framework for Los Angeles Municipal Code, gives to right of appeal to any decision of a quasi judicial body.

### 2. Improper Exemption From CEQA, Significant Cumulative Negative Impacts

This Project does not qualify for a Class 32 Categorical Exemption. In fact, according to experts<sup>1</sup>, 80% of Categorical Exemptions to CEQA are invalid.

The PD and the CPC erred in their discretion to waive the need for an Environmental Impact Review (EIR) which is required as the Project will result in significant cumulative adverse impacts.

Six (6) possible exceptions to a Categorical 32 Exemption exist, five (5) of which apply here: Location, Cumulative Impact, Significant Effect, Hazardous Waste Site, and Historical Resources, yielding multiple impacts related to the Project rising to a level of significance that will require mitigation. There is no basis for Applicant's claim that the Project will yield no significant impacts.

In fact, it's quite the opposite: this Project triggers health and safety issues minimized by Applicant, including toxic emissions especially during construction, noise, traffic and environmental impacts. The increased density requested is even more troublesome in a post-COVID-19 world. Higher density breeds disease. Exhibit A: New York City.

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<sup>1</sup> James R. Childs, Preservation Consultant, and the North University Park Community Association have won 4 major CEQA litigations in the last 5 years in the West Adams district of Los Angeles.

In any case, an agency must prepare an EIR whenever it can be fairly argued that a project may have a significant environmental impact. If there is substantial evidence both for and against preparing an EIR, the agency must prepare the EIR.

The “fair argument” standard is a low threshold standard and reflects the strong public policy interest for resolving doubts in favor of a thorough environmental review. Where based on observation, the opinions and testimony from local residents are relevant to impacts such as aesthetics and traffic, and constitute substantial evidence in support of a “fair argument” for an EIR. *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App 4<sup>th</sup> 342, 355-356; *Ocean View Estates Homeowners Association, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App 4<sup>th</sup> 396-402; *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4<sup>th</sup> 322.

The environmental review’s “purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564

California law supports the strong presumption in favor of requiring preparation of an EIR based on what is known as the “fair argument” standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Laurel Heights Improvement Association v. Regents of the University of California*. (1993) 6 Cal.4th 1112, 11123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.

Under CEQA and CEQA Guidelines, if a project may cause a significant effect on the environment, the lead agency must prepare an EIR. Pub. Res. Code §21100, §21151. A project may have a significant effect on the environment if there is a “reasonable probability” that it will result in a significant impact. *No Oil, Inc. v. City of Los Angeles*, *supra*, 13 Cal.3d at 83 n.16. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared. CEQA Guidelines §15063(b)(1).

This standard sets a low threshold for requiring preparation of an EIR. *Citizen Action To Serve All Students v. Thornley* (1990) 222 Cal.App3d 748, 754. If substantial evidence supports a “fair argument” that a project may have a significant environmental effect, the lead agency must prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effect. *No Oil, Inc. v. City of Los Angeles*, *supra*; *Brentwood Association for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491

Under Public Resources Code §21080(e), §21082(c), and CEQA Guidelines §15064(f)(5) and §15384, reasonable assumptions predicated on facts, and expert opinions supported by facts can constitute substantial evidence. “Under the fair argument approach, any substantial evidence supporting a fair argument that a project may have a significant environmental effect would trigger the preparation of an EIR.” *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal. App.4th 98, 113 (italics in original). A significant impact may occur even if the particular impact does not trigger or exceed an agency’s arbitrarily set threshold of significance. *Id.* At 114.

*“The EIR has been aptly described as the heart of CEQA. Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment but also informed self-government. [T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA. The error is prejudicial if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.”* *Napa*

Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4th 342, 355-356

This class is not intended for projects that would result in any significant traffic, noise, air quality, or water quality impacts, which this Project would.

A CE should not be issued when there are sensitive issues and the Project fails to comply with the General Plan and Community Plan's stated objectives. To permit a CE in this case would cause irreparable and irreversible harm to the environment. To continue with a CE ignores the fair and reasonable argument that has been made, and the City cannot rely on a CE when mitigation is required.

That the City has issued a CE is not permissible under CEQA. CEQA sets a low threshold for not permitting a Categorical Exemption, namely that it should not be granted where there is a reasonable possibility of the activity having a significant effect. The Project has demonstrated environmental impacts and a CE is not justified.

### **3. Project Violates General & Community Plans**

The Project violates both the General Plan and the Sherman Oaks - Studio City - Toluca Lake - Cahuenga Pass Community Plan ("Community Plan). Also, Applicant wants higher density and height than currently permitted by the Community Plan, which states:

"The goals of the Ventura / Cahuenga Boulevard Corridor Specific Plan are to assure an equilibrium between the transportation infrastructure and land use development. They also provide for an effective local circulation system; promote attractive and harmonious site design for multifamily and commercial development; provide compatible and harmonious relationships between commercial and residential areas when adjacent to each other; promote and encourage the development of pedestrian activity, while reducing traffic congestion; and maintain the distinct character of each of the five Specific Plan communities located within its boundaries."

Project does none of these and also addresses none of the issues set forth in the Community Plan:

- Need to preserve single family neighborhoods
- Lack of open space in apartment projects
- Cumulative effects if permitted development exceeds infrastructure capacity
- Need to preserve and enhance historic residences
- Need for more affordable senior housing
- Rising cost of housing
- Compatibility between residential and industrial uses

This failure to comply results in spot zoning.

"The Mayor, the City Planning Commission, the City Planning Director and the City Attorney suffer from a misperception of the law that has gone on in this City for too long," says Daniel E. Wright, Esq. of the Silverstein Law Firm, APC, who specializes in Los Angeles land use and zoning. They act as though they may engage in what amounts to **SPOT general planning** and **spot zoning** to give to favored development interests what an average resident of this City could not dream of requesting – an individually tailored amendment of the long-term, comprehensive plan for how the City's growth is to proceed."

#### **4. Traffic Study Required**

There is no traffic study and in its place a wholly inadequate LA Dept. of Transportation assessment of low quality that has been conspicuously altered and underestimates traffic impact and daily trips. A traffic study is required. Also, the traffic assessment submitted by Applicant incorrectly refers to Vehicle Miles Travelled (VMT) using an improper formula. The correct formula is VMTs travelled in the area at the start of construction of the Project and compare this to expected VMTs on Project completion, including the cumulative impact of other projects coming online during or shortly after that time.

#### **5. Inadequate Reports Submitted By Applicant Ignore Dangerous Conditions**

Applicant's soil sampling is inadequate and ignores significant likelihood of structural damage and destabilization of adjacent buildings (one to the north is less than 6 feet away) and roadways with excavation of the 2-story subterranean parking structure. The water table, flooding risk and geological consequence of weakening the foundation of neighboring buildings has not been assessed, and is of extreme concern under normal circumstances, and even more so in earthquake country.

#### **6. Denial Of Due Process, Procedural Flaws, Brown Act Violations**

Many members of the public were unable to access the critical May 28<sup>th</sup>, 2020 CPC hearing held via Zoom teleconference and testify due to technical problems and system overload which maxed out at 300 participants. Despite a point of order brought by Appellant Tess Taylor to notify the CPC of this problem, the hearing continued when it should have been paused or delayed until the technical problems were resolved and the public's right to participate restored.

The fact that this was for technical reasons does not excuse it. Appellant Tess Taylor immediately informed city staff of this problem via email. Having widely publicized the hearing, she stated that she received email from many individuals who wished to testify on the Project and that the CPC could not reach an informed decision when public testimony is excluded. The CPC's failure to remedy the telephonic blockage impeded due process and the public's ability to be heard in a participatory democracy. Without the public's ability to be heard, the CPC cannot make informed decision.

CPC President Samantha Millman acknowledged the problem during her live tweet. Here is a screen shot of her live tweet *during* the May 28<sup>th</sup> Hearing at which this Project was heard:

\_\_\_\_\_ *Beginning of Screenshot* \_\_\_\_\_



Samantha Millman  
@SamMillman

May 28

We are currently hearing Item 9. If you are calling in for a later item and can't access the Zoom, please try again after 11:30. We look forward to hearing from you!

\_\_\_\_\_ *End of Screenshot* \_\_\_\_\_

Ms. Millman's live tweeted this moments before Item #10 on the hearing's agenda which is the Project that is the subject of this appeal. But how does this help and what members of the public, if any, would know to check Ms. Millman's twitter feed for a status update?

Even Nicholas Hendricks, Senior City Planner at the Department of City Planning assigned to the Project, stated, "I had a problem getting connected here" (38:54, May 28<sup>th</sup>, 2020 CPC Hearing Audio Recording, Agenda Item #10).

Public participation is vital to preserve due process, and the public was prevented from doing so. This should have been enough to postpone the hearing, or find a remedy to enable all who wished to testify to do be heard.

In addition, Appellant was prejudiced and disable from accessing the entire Project file to review as legally required during the COVID-19-mandated lockdown. Appellant repeatedly requested to be alerted and forwarded any new Project-related documents and/or updates via email and was repeatedly advised "no new material." On the day public comments for the CPC May 28<sup>th</sup> hearing were due, only then did she receive a 366-page document (Categorical Exemption Report, undated). This made it impossible to review and include meaningful analysis from the CE in Appellant's testimony, with the CE being a significant part of what Appellant disputes.

Also, according to the CP's *Virtual Hearing Instructions - Non-Commission Public Hearings and Board Meetings*

"All decision-makers, board members, and hearing officers will be participating from separate locations using remote meeting technology while safer-at-home orders are in place. They will only be visible to each other. Members of the public will be able to listen to the meeting audio and offer public comment via phone when called upon for each agenda item."

This policy negates the entire purpose of a "public hearing" by closing all visual access to "decision-makers, board members, and hearing officers." This differentiation of access to the hearing proceedings is contrary to both the letter and spirit of the Brown Act. It does not meet the burden set by the Governor's Executive Order N-25-20 (3/4/2020) for state and local bodies to "make reasonable efforts to adhere as closely as reasonably possible to the provision of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, to maximize transparency and provide public access to their meetings."

The Brown Act's purpose is to ensure that local agency deliberations are open so that the people "may retain control over the instruments they have created." Govt. Code Section 54950.

Failure to comply with notice requirements for neighborhood councils to distribute and post meeting agendas and minutes in conformance with the GTLNC's Bylaws, The Brown Act and the Neighborhood Council Posting Policy meant that residents were unaware of the existence of this Project until it was too late. Failure to timely communicate this Project to residents prevented their participation and foreclosed them from objecting, especially during the critical early stages.

Indeed, the way in which this Project was [not] advertised was designed to limit public awareness and evade transparency all while putting even greater strain on our neighborhood and city's already overburdened infrastructure. The wholesale disregard for the will of the residents (who objected strenuously once they were made aware of the Project), their quality of life and transparent government is just one reason why we file this appeal, challenging the CPC's approval under the flawed application of Density Bonus rules of a non-code-compliant four-story, 57-unit residential building located at 10555 W. Bloomfield Street in Toluca Lake.

## **7. Inconsistent With Historic Nature of Toluca Lake, Sets Negative Precedent**

The Project is grossly inconsistent with the historic nature of Toluca Lake and with residential development permitted for the area. At 47,313 sq ft, Project would be not at all compatible with the character, mass and scale of this neighborhood. The Project would be materially out of character with any other multi-family apartment building in the community and 30% larger than the next biggest apartment building, setting an unwelcome negative precedent.

This Project and successive projects of this size and scale will have an adverse cumulative impact on character, mass and scale of this unique neighborhood, setting an unwelcome negative precedent.

Toluca Lake is historic with past and present celebrities who now live or have lived there including Bob Hope, Bing Crosby, Ozzie and Harriet, Frankie Avalon, Bette Davis, Henry Winkler, Ron Howard and Jonathan Winters. More recently Steve Carrell, Melissa McCarty, Octavia Spencer, Miley Cyrus and Kirsten Dunst live or have lived in single family homes in the Toluca Lake tradition.

The east side of Cahuenga where this Project would be is comprised primarily of single-family homes. There are no projects of this size and scope in the area (east side of Cahuenga, south of Moorpark).

Compared to the 57 units proposed for this Project, nearby multi-unit apartment buildings are much smaller, which preserves the character of the neighborhood that makes it attractive, quaint and quiet. In fact, the proposed Project has almost 30% more units than the next-largest apartment building in the area, and is far greater than the average unit-size of 13. For comparison, by address and number of units, these include:

- 10609 Bloomfield Street 27 units
- 10625 Bloomfield Street 15 units
- SE Corner of Bloomfield Street at Cahuenga 8 units
- 4349 Cahuenga Boulevard 4 units
- 4383 Cahuenga Boulevard 20 units
- 4400 Cahuenga Boulevard 10 units
- 4406 Cahuenga Boulevard 11 units
- 4341 Cahuenga Boulevard 3 units
- 4400 Cartwright Avenue 19 units
- 10550 Moorpark Street 4 units
- 10605 Moorpark Street 7 units
- 10630 Moorpark Street 10 units
- 10650 Moorpark Street 40 units
- 10535 Moorpark Street 5 units

The Project should relate to and strengthen the core characteristics of Toluca Lake and the district, which in its present form it fails to do. New construction should build upon the story of Toluca Lake through its design, landscape, use and cultural expression. An understanding of the character and significance of the Toluca Lake should predicate any design or development activities.

### **A Short, Sordid History Of Spot-Zoning**

“Of great concern for City residents is the fact that for a number of years, City Hall began to allow developers to apply for general plan amendments, zoning changes, and removal of height limits to accomplish what the City Charter does not allow: parcel-by-parcel increase in land use density, up-zoning, and removal of height limits outside of a comprehensive planning process embodied in a holistic view of: (1) the entire general plan, (2) an entire element, or (3) a geographic area encompassing a

'significant social, economic or physical identity,'" says Daniel Wright, Esq. of the Silverstein Law Firm, APC, who specializes in Los Angeles land use and zoning.

With increasing frequency, city officials and politicians have dismantled the concept of a general plan by amending our City's community plans bit-by-bit and piece-by-piece.

According to Housing Is A Human Right report "The Garcetti-fication of Los Angeles: A Gentrification Cautionary Tale" (Feb 2019), Mayor Garcetti and his colleagues, quietly and with little public knowledge, helped to trigger citywide gentrification. California law requires that a city continually updates its general plan that in a substantive way protects residents from runaway luxury development and bad or corrupt land-use decisions made by politicians.

But in October 2005, the L.A. City Council, including Garcetti, discreetly approved a repeal of the municipal code that required politicians to update the general plan on a schedule. It would be a game changer for City Hall leaders and developers for years to come—and it continues to fuel L.A.'s gentrification crisis today.

It's the kind of low-profile chicanery pulled off by local politicians that Peter Moskowitz describes in *How to Kill A City* as a "preparatory phase" of gentrification. "[It] is rarely seen or talked about because it happens so long before most people witness gentrification in action," he writes, "but this stage is crucial for understanding gentrification." This has happened at City Halls all over America, including San Francisco, New Orleans, and New York.

In L.A., the preparatory phase worked this way.

By not requiring themselves to update the general plan, City Council members gave themselves a public excuse for delivering spot-zoning favors to developers. Since the general plan and its rules are outdated, L.A. politicians say, the city needs to keep up with the times and they must spot zone. The City Council and mayor ignore the general plan and approve a zone change or general plan amendment for megaprojects that are not normally allowed to be built. Spot zoning is disfavored by planners, community activists and residents – a luxury-housing tower can be suddenly dropped into a middle- or working-class neighborhood, with gentrification soon snowballing.

Unsurprisingly, developers and other real estate players are among the top contributors of campaign cash and other political money at City Hall. Between 2005 and 2017, the real estate industry forked over at least \$4.4 million in campaign contributions to L.A. candidates, according to the city's Ethics Commission. Alice Callaghan, a well-known, longtime homeless advocate in L.A.'s Skid Row neighborhood, noted: "Developers are reaping huge profits by lining the pockets of City Council members and the mayor while taxpayers are being asked to foot the bill to shelter those made homeless by these greedy developers and politicians."

Spot zoning was getting so out of hand during Garcetti's time as council president that former L.A. Planning Department Director Gail Goldberg said in 2008: "In every city in this country, the zone on the land establishes the value of the land. In Los Angeles, that's not true. The value of the land is not based on what the zone says... It's based on what [the] developer believes he can change the zone to. This is disastrous for the city. Disastrous. Zoning has to mean something in this city."

Spot zoning, an effective tool for government-sanctioned gentrification, also fuels "soft corruption" or "pay-to-play." Since City Council members have something to sell to developers – zone changes and general plan amendments – developers have something to buy from City Hall. Corruption and gentrification, in other words, are intertwined—and middle and working-class residents suffer the consequences.

### **Huizar Arrested**

The public has taken notice with the arrest in June 2020 of Los Angeles City Councilman Jose Huizar, the most prominent figure to face charges in the federal investigation into corruption at City Hall.

Huizar faces a racketeering charge arising from allegations he ran a pay-to-play scheme in which real estate developers were shaken down for cash bribes and campaign donations in exchange for Huizar's help getting high-rise development projects through the city's arduous approval process.

LA City Attorney Mike Feuer introduced an ordinance in August 2020 to revoke city permits and approvals for real estate projects if the City Council finds that developers or their representatives engaged in corruption, addressing what he calls development decisions "tainted by corruption and fraud" and to help restore public faith in City Hall.

### **Ryu To The Rescue**

We trust that our Councilmember David Ryu (CD4), in whose district this Project falls, who has taken a public stand against corruption, and whose advocacy on our behalf we appreciate at the May 28<sup>th</sup>, 2020 CPC hearing, will stand with us once again to oppose this over-reaching Project and cause it to be reduced in density and size, and to conform to code.

After all, why bother passing an ordinance if it is violated, or allow so many exceptions that the exceptions swallow the rule? If ordinances and codes are not enforced then they don't protect the people they're meant to protect and are rendered useless.

### **Please Take This Opportunity To Restore Public Faith in City Hall**

Approval of the Project and others like it will cause Appellant and residents irreparable and substantial harm by allowing excessive increases in allowable density without the existence of adequate infrastructure and services. Projects like this severely strain the ambient growth rate, existing infrastructure and public services, and set negative precedents for other developments that follow.

Applicant has failed to take appropriate precautions and environmental protections, and vastly underestimates or fails to mention altogether the negative permanent impacts of this Project on the neighborhood, health of residents, traffic, drive-time delays, emissions, air quality degradation, high level of density, parking and noise, among other things. My neighbors, community stakeholders and I protest shortcuts Applicant wants to take at the expense of residents.

This Project adversely affects us, Toluca Lake and surrounding communities, and we ask that you please:

1. Deny Applicant's request for a Class 32 Categorical Exemption from CEQA
2. Require an Environmental Impact Report
3. Require a Traffic Report
4. Deny 33% height increase to 41 feet instead of 30 feet

You, LA City Council, have the power to adjust or deny this project until Appellant's and the public's four (4) requests above are met.

We seek confirmation that your representation of us reflects our strong opposition to this Project, and we want you to oppose it, too.

Your commitment is needed now more than ever to protect our quality of life and all things that make our neighborhood worth living in – air quality, mature trees and open space.

Your commitment is also needed now more than ever to restore public faith in city government, and that the futures of residents in your districts and the quality of their neighborhoods are not traded for a developer's profitability and for something he wants to appropriate from us.

Please be responsible to us and protect people who live in this neighborhood (and in other neighborhoods), who don't want property values and quality of life to decrease, and rents to increase disproportionate to what they can afford.

Thank you.

Sincerely,

Tracy Martin  
Toluca Lake, CA  
September 14, 2020

**Applicant Copy**  
 Office: Van Nuys  
 Application Invoice No: 67032

City of Los Angeles  
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.



### City Planning Request

**NOTICE:** The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

If you have questions about this invoice, please contact the planner assigned to this case. To identify the assigned planner, please visit <https://planning.lacity.org/pdiscaseinfo/> and enter the Case Number.

**Invoice is valid for 30 days, payment must be received by 10/15/2020. For appeal case, your appeal is not valid unless the payment is received prior to 4:30PM on the last day of the appeal period.**

Applicant: ARTHUR PAUL HARTEL, III - HARTEL, III, ARTHUR PAUL ( 818-3555162 )
Representative:
Project Address: 10551 W BLOOMFIELD ST, 91602

**NOTES:**

CPC-2019-5742-DB-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
<b>Case Total</b>			<b>\$89.00</b>

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

Los Angeles Department of Building and Safety  
 Van Nuys 09/15/2020 8:17:32 AM  
 User ID: saron  
 Receipt Ref Nbr: 2020259003-2  
 Transaction ID: 2020259003-2-1  
 PLAN & LAND USE \$106.80  
 DEV SERV CENTER SURCH-PLANNING \$2.67  
 Amount Paid: \$109.47  
 Application Invoice Number: 67032

Council District: 4  
 Plan Area: Sherman Oaks - Studio City - Toluca Lake - Cahuenga Pass  
 Processed by NGUYEN, DANG on 09/14/2020

Signature: \_\_\_\_\_

**Building & Safety Copy**  
 Office: Van Nuys  
 Application Invoice No: 67031

City of Los Angeles  
 Department of City Planning



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### City Planning Request

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<b>Applicant:</b> MARTIN, TRACY ( 818-7307050 )
<b>Representative:</b>
<b>Project Address:</b> 10551 W BLOOMFIELD ST, 91602

<b>NOTES:</b>
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CPC-2019-5742-DB-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
<b>Case Total</b>			<b>\$89.00</b>

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Council District: 4  
 Plan Area: Sherman Oaks - Studio City - Toluca Lake - Cahuenga Pass  
 Processed by GAMBOA CAMPOS, MIGUEL on 09/14/2020

Signature: 