

ATTACHMENT NO. 3



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September 27, 2022
VIA EMAIL

Honorable Members of the City Council
Culver City
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Honorable Members of the City Council:

On behalf of project applicant Bastion Development Corporation ("Applicant"), we write in response to the administrative appeal ("Appeal") submitted by Supporters Alliance for Environmental Responsibility ("SAFER"), challenging the Planning Commission's August 24, 2022 adoption of a Sustainable Communities Project Exemption ("SCPE") under the California Environmental Quality Act ("CEQA") for the proposed 104-unit, dual-jurisdiction, mixed-use residential and commercial development ("Project") located at 12717-12761 W. Washington Boulevard in Culver City ("City").

Substantial evidence in the record supports the Planning Commission's adoption of a SCPE for the Project. This substantial evidence is principally set forth in the SCPE Memorandum prepared by environmental consultant Meridian Consultants, dated August 10, 2022. This SCPE Memorandum includes a total of 918 pages of materials and addresses all the applicable statutory criteria for a SCPE under the applicable statute, Public Resources Code Sections 21155 and 21155.1, demonstrating that the Project properly qualifies for a SCPE based on substantial evidence in the record.

On the other hand, the Appeal fails entirely to carry its burden to demonstrate any error on the part of the Planning Commission in adopting the SCPE for the Project. The single page Appeal merely argues by reference to a prior one-page letter from SAFER dated August 24, 2022, which does no more than assert in conclusory fashion that the Project does not qualify for a SCPE. No argument or evidence in support of this proposition is provided in the two letters that make up the Appeal.

As a CEQA statutory exemption, the City's adoption of factual findings supporting the adoption a SCPE is judged under the deferential "substantial evidence" test.¹ Under the substantial evidence test, an opponent challenging a City's factual determinations in support of a statutory exemption "must lay out the evidence favorable to the other side and show why it is lacking. Failure to do so is fatal."²

In its Appeal, SAFER makes no attempt to discuss the substantial evidence in support of the SCPE, much less lay that evidence out and show why its lacking. For this reason, alone, SAFER fails to meet its

¹ *Great Oaks Water Co. v. Santa Clara Valley Water Dist.* (2009) 170 Cal.App.4th 956, 967-68.

² *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1266.



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burden to show the Planning Commission erred when it adopted the SCPE for the Project. Moreover, SAFER offers no contrary substantial evidence in support of its baseless claims, but merely unsupported, cursory argument and speculation, which is not substantial evidence under CEQA.³

The Planning Commission properly adopted the SCPE for the Project and nothing in the Appeal demonstrates otherwise. The Appeal should be denied.

We are happy to answer any questions you may have and look forward to discussing this matter with you at the Project's upcoming hearing.

Best regards,

A handwritten signature in blue ink, appearing to be 'AB' followed by a stylized flourish.

Andrew Brady

AB:

cc. Erika Ramirez (Erika.Ramirez@culvercity.org)

³ See CEQA Guidelines, § 15384 ("Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.")