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**RE: CITY COUNCIL APPEAL JUSTIFICATION;
SILICON BEACH HOTEL PROJECT (11469 JEFFERSON BOULEVARD);
APPROVED BY PLANNING COMMISSION ON NOVEMBER 12, 2025 (ITEM PH-1)**

Dear Honorable City Council:

On behalf of UNITE HERE Local 11 (“Local 11” or “Appellant”), this office respectfully submits¹ this “Appeal” to the City of Culver City (“City”) involving a hotel development (“Project”) located at the northwest corner of the intersection at Jefferson Boulevard and Slauson Avenue at the above-referenced address (“Site”).

As discussed further below, the Project was initially approved in 2021 as a 175-room boutique hotel referred to by the then-applicant as the Jeff Hotel. The Project was subject to a Conditional Use Permit (“CUP”), Site Plan Review (“SPR”), Administrative Use Permit (“AUP”), and a Mitigated Negative Declaration (“MND”) (collectively “Initial Project Approvals”). Based on the City’s routine condition of approval (“COA”) on expiration of permits, these Initial Project Approvals have been extended several times by the City’s Planning Division and are subject to a max-5-year deadline under the Culver City Municipal Code (“CCMC” or “Code”). (See CCMC § 17.595.030.) The current applicant, Verdant Culver City LLC (“Applicant”), is now proposing a smaller 147-room development with other modifications, referred to as the Silicon Beach Hotel, and has sought approval of SPR and AUP (but no CUP), relying on an addendum to the MND (collectively “Modified Project Approvals”). On November 12, 2025, the City’s Planning Commission (“Commission” or “PC”) granted the Modified Project Approvals subject to a similar standard COA allowing time extensions under the Code.² This action, in effect, revived the hotel Project for potentially another five years before permits expire if construction does not start (i.e., 10 years total from 2021).

Five (5) years is long enough, much less ten (10) years. The City Council has the authority, precedent, and substantial evidence to impose a project-specific COA that puts a reasonable limit on future permit extensions. Here, Appellant requests the City Council grant the Appeal and place a COA on the Project that would impose a firm 12-month deadline for the Applicant to submit and secure construction/building permits, or else all Project approvals—including the CUP—will expire. *This is a fair and reasonable condition for the City, given that the Project construction is unlikely to commence until well after July 2026 (i.e., beyond the maximum five (5) years allowed under the Code), based on Applicant’s own statements during the Planning Commission hearing.* According

¹ Herein, page citations are either the stated pagination (i.e., “p. #”) or PDF-page location (i.e., “PDF p. #”).

² See [PC Agenda](#), Item PH-1; [PC Meeting Video](#), approximately 00:02:15 – 1:46:10 (public hearing).

to the Applicant, commencing construction by next year is infeasible and, in a perfect world without delay, it would probably be “a minimum of sixteen [16] months from today for groundbreaking.”³ However, the Applicant also stated that they could submit initial construction permits within six to eight months if they were “laser focused” and six to nine months thereafter to be “permit ready” with final permits from the City (based on their experience in California).⁴ Thus, the 12-month timeline is feasible on the Applicant’s timeline (albeit on the fast end).

The City should not risk further delay, as the standard COA adopted by the Commission allows construction to be delayed for potentially five (5) more years before permits would expire under the Code. The City should adopt a project-specific condition to keep the Applicant “laser focused” to make meaningful progress towards the start of construction. The City has legal authority, precedent, and substantial evidence to adopt a project-specific COA. Here, the current Applicant stands in the shoes of the original applicant, including all rights and responsibilities associated with the Project and Site (not applicant-specific). Additionally, the Applicant has been involved with the Project since at least 2024 and has benefited from prior time extensions of the Initial Project Approvals, including the latest extension, granted in July 2025. Furthermore, strict deadlines can be effective, given that the Applicant found it feasible to apply for the instant Modified Project Approvals one day before the City’s new Zoning Update went into effect (i.e., October 2024). In sum, a project-specific COA limiting time extensions is warranted.

Under the City’s appeal procedures codified in Chapter 17.640 of the Code, decisions made by the Commission are appealable to the City Council within 15 calendar days, which is extended to the next City Hall working day when the deadline falls on a holiday, weekend, or when City Hall is officially closed. (See CCMC § 17.640 subs., .025.B & .030.A.) Accordingly, this Appeal is timely submitted by the December 1, 2025 deadline.⁵

Consistent with the requirements under CCMC § 17.640.030.C (Required Statement and Evidence), this Appeal is based upon an error in fact, dispute of findings, and inadequacy of conditions. (Id., subd. 2.) Consistent with subd. 1 and subd. 3, the foregoing includes Local 11’s standing to submit this Appeal (infra section I) and a general statement of the Appeal and requested modified COA that would place a reasonable limitation on future permit extensions (infra section II). (Id., subd. C.1.) This is followed by the relevant legal authority and basis to impose such a COA (infra section III), the specific aspect of the Commission’s decision and supporting evidence substantiating the basis of the Appeal (infra section IV), and concluding remarks (infra section V). (Id., subs. C.1 & C.3.) This Appeal incorporates in its entirety all referenced documents,⁶ including but not limited to Local 11’s prior comments dated October 21, 2025 (attached hereto as Exhibit A [“Exh. A”]). This Appeal uses best efforts to provide accurate time stamps and closed caption statements made during the Commission hearing.

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³ See [PC Meeting Video](#), at approx. 1:25:00 -1:26:00.

⁴ *Ibid.*, at approx. 1:20:45 – 1:21:32.

⁵ The 15-calendar-day deadline fell on November 27 (i.e., Thanksgiving) with City Hall closed through the holiday weekend and reopening on Monday, December 1, 2025.

⁶ All hyperlinked documents are City documents already within its possession and further available from Appellant upon request.

I. STANDING

Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix—including approximately 100 members who live and/or work in the City. The union has a First Amendment right to lobby public officials in connection with matters of public concern, like compliance with applicable zoning rules and CEQA, just as developers, other community organizations, and individual residents do. Here, members serve the community near the Project Site and, thus, have an interest that the developments are timely built. Extended delays on unbuilt development projects can lead to stale entitlements that reflect outdated zoning rules and missed opportunities for alternative projects, as is the case here, where the City has adopted new zoning rules to incentivize mixed-use housing projects. Protecting its members' interests in the environment, zoning laws concerning public welfare, and housing availability is part of Local 11's core function. Recognizing unions' interest in these issues, California courts have consistently upheld unions' standing to litigate land use and environmental claims. (See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.) Furthermore, Local 11 has public interest standing given the proposed action relates to the City's public duty to comply with applicable zoning laws, and where Local 11 seeks to have that duty enforced. (See e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n6; *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169-170.) Hence, Appellant has a beneficial interest in the Project's compliance with the Code. (See *Braude v. City of Los Angeles* (1990) 226 Cal.App.3d 83, 87.)

II. GENERAL STATEMENT

In short, the Project was initially approved over four (4) years ago (i.e., July 2021) and has received multiple extensions, which under the Code, expire and become void after five (5) years (i.e., July 2026). The last extension, requested by the Applicant in July 2025, extended the Initial Project Approvals (including the hotel CUP) to July 3, 2026, unless a new entitlement is approved per City Planning's COA attached to this administrative approval. (See Fig. 1 below.)

FIGURE 1: INITIAL PROJECT APPROVAL EXTENSION COA 1 (HIGHLIGHTS ADDED)⁷

Conditions of Approval

1. The approval of Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Site Plan Review P2019-0194-AUP, including all Conditions of Approval outlined in Exhibit A dated April 28, 2021, enclosed as Attachment 3, shall be extended and remain in effect through July 3, 2026, unless and until a new entitlement for the property is approved by the Planning Commission and/or City Council.

Like other municipalities, the City has time limits to ensure timely development and prevent indefinite permits. Five years is a long enough delay, and the City should not risk further indeterminant delay. Prior to and during the PC hearing, Local 11 urged the Commission to consider a modified COA that would require, at a minimum, the submission and securing of construction and building permits within one (1) year before any further extensions could be granted. During the Planning Commission hearing, several parties (e.g., City staff, Applicant,

⁷ See [Extension Decision](#), PDF p. 3.

Commissioners) suggested that a modified COA imposing time limits would be infeasible, contrary to standard practice, lack precedent, and would not be proper because the current Applicant was not the original Project applicant when the Project was the Jeff Hotel. Respectfully, this is factually and legally incorrect, and the City has ample authority to impose project-specific COAs.

Ultimately, the Commission approved the Modified Project Approvals without a modified COA. Instead, the PC approved the Project with a standard COA 2 (see figure below), which is identical to standard COA 4 attached to the Project’s Initial Project Approvals.⁸ Accordingly, while the standard COA calls out for a one (1) year expiration, it is subject to CCMC § 17.595.030 that has a two (2) year expiration (id., subd. A), subject to an *automatic* two (2) year extension upon the written request from an applicant (id., subd. D.1), which may be further extended for another one (1) year extension at the discretion of the City Planning Director (id., subd. D.2). Hence, like the Jeff Hotel’s Initial Project Approvals (i.e., COA 4), the Modified Project Approvals could be extended potentially another five (5) years—nearly a decade after the 2021 hotel Project was initially approved.

FIGURE 2: MODIFIED PROJECT APPROVAL COA 2 (HIGHLIGHTS ADDED)⁹

2.	The land use permit to which the Project Conditions of Approval apply (the “Land Use Permit”) shall expire one year from the date of final approval of said Land Use Permit, if the use has not been exercised. As provided in CCMC Section 17.595.030 –“Time Limits and Extensions”, an applicant may request an extension of said expiration date by filing a written request with the Current Planning Division prior to the expiration of the land use permit.	Current Planning	
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Five (5) years is long enough, and the City should not risk potentially five (5) more years of delay by reviving stale permits. The City has a significant interest in ensuring the timely construction of developments consistent with current zoning and in preventing speculative land developments from keeping land in limbo indefinitely. Therefore, Local 11 urges the City Council to grant the Appeal and impose a firm deadline for meaningful progress on the Project to secure construction permits and start development. To this end, Appellant suggests the City Council modify standard COA 2 with the following proposed additions (shown underlined in blue):

The land use permit to which the Project Conditions of Approval apply (the “Land Use Permit”) shall expire one year from the date of final approval of said Land Use Permit, if the use has not been exercised. As provided in CCMC Section 17.595.030 –“Time Limits and Extensions”, an applicant may request an extension of said expiration date by filing a written request with the Planning Division prior to the expiration of the land use permit only if construction/building permits have been applied for and issued within 12 months from the date of final approval of said Land Use Permit. If construction/building permits have not been applied for and issued within said time limits, the property owner shall not be eligible for any further extensions. The Land Use Permit and all associated land use permits, including but not limited to any associated conditional use permits, shall expire and be deemed void. The owner shall execute and record a covenant in favor of the City memorializing this time limit.

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⁸ Ibid., PDF p. 17 (Resolution No. 2021-P003).
⁹ See [PC Resolution No. 2025-P015](#), PDF p. 24.

The above is a reasonable compromise given that the hotel Project already had a five (5) year deadline and exceeds the maximum delay under the Code (i.e., July 2026). The City has broad legal authority to impose the above condition (discussed infra section III), which appears to be feasible according to the Applicant, which stated it could be permit-ready (i.e., issued construction permits) within a 12 to 17 month period (discussed infra section IV). So too, the City has precedent to impose project-specific conditions that place limits on future extensions (i.e., the Points Warner parking structure), where the Commission granted a 12-month extension, subject to a status update in six months, and limited future administrative extensions (discussed infra section IV.E).

As approved by the Commission, the Project construction could be delayed for another four (4) or five (5) years under the Code before the Commission or Council would have a say—nearly a decade after Initial Project Approvals were granted in 2021. Local 11 respectfully disagrees with the Commission’s action and respectfully requests that the City Council impose the above condition, which is explicitly permissible under the City Code (discussed below infra section III).

III. LEGAL BACKGROUND ON CONDITIONS OF APPROVAL

A. CUPS AND COAS RUN WITH THE LAND

Generally, the authority for a city or county to set conditions on a development comes from their general police power under Cal Const art XI, §7, which allows them to enforce local ordinances not conflicting with state laws.¹⁰ A condition of approval must relate to the property (not to the particular applicant), with permit conditions running with the land.¹¹ Conditions may cover a wide array of issues and take various forms; in fact, a CUP is rarely granted without conditions, since a CUP is, by definition, conditional.¹² Similarly, a CUP runs with the land and benefits successor property owners.¹³ As stated by one court, “[c]onditions of a permit *run with the land*, once the benefits of the permit have been accepted. Subsequent owners of the land have *no greater rights than those of the owner at the time the conditional use permit was issued.*” (*Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, 1188 [emphasis added].)

B. COAS CAN BE BROAD

Conditions of approval take a wide variety of forms and can be established on an ad hoc, project-specific basis, including but not limited to exactions (e.g., fees, taxes, assessments, charges).¹⁴ Exactions are subject to special taking findings requiring a showing of a legitimate government interest, a nexus between the project and the condition, and rough proportionality to the project’s impact.¹⁵ However, exactions (i.e., those that divest an applicant of property, money, or

¹⁰ See *DeVita v County of Napa* (1995) 9 Cal.4th 763; *Candid Enters., Inc. v Grossmont Union High Sch. Dist.* (1985) 39 Cal.3d 878, 885; *Scrutton v County of Sacramento* (1969) 275 Cal.App.2d 412.

¹¹ See *Anza Parking Corp. v City of Burlingame* (1987) 195 Cal.App.3d 855, 858; *Ojavan Investors, Inc. v California Coastal Comm’n* (1994) 26 Cal.App.4th 516, 526.

¹² See *Malibu Mountains Recreation, Inc. v County of Los Angeles* (1998) 67 Cal.App.4th 359, 367.

¹³ See *County of Imperial v McDougal* (1977) 19 Cal.3d 505; *Malibu Mountains Recreation, Inc. v County of Los Angeles* (1998) 67 Cal.App.4th 359, 368.

¹⁴ See e.g., *Williams Communications, LLC v City of Riverside* (2003) 114 Cal.App.4th 642, 657 (street trenching fees); *Bright Dev. v City of Tracy* (1993) 20 Cal.App.4th 783 (requirement to install off-site utilities underground); *California Bldg. Indus. Ass’n v Governing Bd. of the Newhall Sch. Dist.* (1988) 206 Cal.App.3d 212, 235 (fees for public school facilities).

¹⁵ See *Nollan v California Coastal Comm’n* (1987) 483 U.S. 825 (requirement that applicant dedicate land to public as condition of approval of discretionary land use permit must be directly related to impacts of

property interest) have been distinguished from other types of development conditions that simply “regulate” or restrict the permitted use of the applicant’s property.¹⁶

C. SOFT COSTS ARE NOT VESTED RIGHTS

A developer’s right to complete a project does not vest until a valid building permit, or its functional equivalent, has been issued, and the developer has performed substantial work and incurred substantial liabilities in good faith reliance on the permit.¹⁷ A CUP may terminate, or be subjected to additional conditions, if the permitted use is not established within the specified time limit or if the permittee fails to take action in reliance on the CUP during that time.¹⁸ Even so-called “soft costs” incurred by a developer to obtain needed permits or in preparation for construction (e.g., expenditures for engineers, consultants, and lawyers) are not a basis for a vested rights claim.¹⁹

D. IMPOSING CONDITIONS IS SUBJECT TO THE SUBSTANTIAL EVIDENCE TEST

In the vast majority of cases that do not involve fundamental vested rights, the substantial evidence test will apply.²⁰ Substantial evidence includes facts, a reasonable assumption predicated upon fact, or expert opinion supported by fact; not argument, speculation, unsubstantiated opinion or narrative, clearly inaccurate or erroneous evidence, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment. (See e.g., Pub. Res. Code §§ 21080(e), 21082.2(c); 14 Cal. Code Regs. §§ 15064(f)(5), 15384.) As such, courts will not blindly trust bare conclusions, bald assertions, and conclusory comments without the “disclosure of the ‘analytic route the . . . agency traveled from evidence to action.’” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 404-405 [quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515].)

E. THE CODE GRANTS THE COUNCIL AUTHORITY TO IMPOSE THE MODIFIED COA

As shown in the figure below (following page), the City Code grants City decision makers the authority to implement project-specific COAs that are “reasonable and necessary” on the Project’s various land use entitlements. (See CCMC §§ 17.530.025 [AUPs/CUPs], 17.540.025 [SPR].) So too, time extensions under the Code can be “otherwise specified” in the permit or entitlement. (Id., § 17.595.030.A [Time Limits].) On appeal, the City acts de novo, with the ability to consider

development); *Dolan v City of Tigard* (1994) 512 U.S. 374 (nature of dedication requirement must be roughly proportional to impacts of project); *Ehrlich v City of Culver City* (1996) 12 Cal.4th 854 (rough proportionality standard applies to monetary exactions); *Koontz v St. Johns River Water Mgmt. Dist.* (2013) 570 U.S. 595.

¹⁶ See *Fogarty v City of Chico* (2007) 148 Cal.App.4th 537, 544; *Sterling Park, L.P. v City of Palo Alto* (2013) 57 Cal.4th 1193, 1204 (as used in Govt C §66020, exaction includes “actions that divest the developer of money or a possessory interest in property, but it does not include land use restrictions”).

¹⁷ See *Avco Community Developers, Inc. v South Coast Reg’l Comm’n* (1976) 17 Cal.3d 785, 791; *Toigo v Town of Ross* (1998) 70 Cal.App.4th 309.

¹⁸ See *Strong v County of Santa Cruz* (1975) 15 Cal.3d 720, 725; *Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal.App.4th 534, 553 (CUP only may not be enough to establish vested right); *City of West Hollywood v. 1112 Investment Co.* (2003) 105 Cal.App.4th 1134, 1148 (vested right may lapse or abandoned by expiration of permit).

¹⁹ See *Hermosa Beach Stop Oil Coalition v City of Hermosa Beach* (2001) 86 Cal.App.4th 534, 553, citing *Avco Community Developers, Inc. v South Coast Reg’l Comm’n* (1976) 17 Cal.3d 785, 793; *Consaul v City of San Diego* (1992) 6 Cal.App.4th 1781, 1797 (predevelopment expenditures do not establish vested rights).

²⁰ See *Breneric Assocs. v City of Del Mar* (1998) 69 Cal.App.4th 166, 175.

additional grounds, amend or adopt additional COAs, disapprove the land use entitlements, or refer the matter back to the Commission for further consideration. (Id., § 17.640.045.D [Action on Appeal].)

FIGURE 3: CITY CODE EXCERPTS (EMPHASIS ADDED)

§ 17.530.025 CONDITIONS OF APPROVAL.

In approving an Administrative Use Permit or Conditional Use Permit, the review authority may impose reasonable and necessary specific design, locational, and operational conditions that may include, but are not limited to, the City's Comprehensive Standard Conditions of Approval for Discretionary Land Use Permits as adopted by the Commission to ensure that the approval will be in compliance with the findings required by § 17.530.020 (Findings and Decision), above.

§ 17.540.025 CONDITIONS OF APPROVAL.

The Director may approve or recommend approval of a Site Plan Review for a proposed project in compliance with § 17.540.020 (Findings and Decision), and may impose conditions upon the project, including but not limited to, the City's "Comprehensive Standard Conditions of Approval for Discretionary Land Use Permits," as adopted by the Commission to ensure that the project will meet all of the required findings. Conditions may relate to both on- and off-site improvements that are reasonable and necessary to mitigate project-related impacts, and to carry out the purpose and requirements of the respective zoning district, and all applicable development standards and design guidelines.

§ 17.595.030 TIME LIMITS AND EXTENSIONS.

A. Time Limits. To ensure continued compliance with the provisions of this Chapter, each approved permit or entitlement shall expire two years from the date of approval, if the use has not been exercised, unless otherwise specified in the permit or entitlement or permitted by State law. A time extension may be granted in compliance with § 17.595.030.C. (Project Phasing) and § 17.595.030.D. (Extensions of Time) below, if a written request is submitted by the applicant and received by the Division prior to expiration of the approval.

§ 17.640.030 FILING AND PROCESSING OF APPEALS.

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D. Action. If the matter originally required a noticed public hearing, the Division or City Clerk, as applicable, shall notice the hearing in compliance with § 17.640.035 (Notice for Appeal Hearings). At the hearing, the review authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal. [¶] 1. By resolution, the review authority may affirm, affirm in part, or reverse the action, determination or decision that is the subject of the appeal. [¶] 2. When reviewing an appeal, the review authority may amend or adopt additional conditions of approval that may address other issues or concerns than the subject of the appeal. [¶] 3. When reviewing an appeal, the review authority may disapprove the land use entitlement approved by the previous review authority, even though the appellant only requested a modification or elimination of one or more conditions of approval. [¶] 4. If new or different evidence is presented on appeal, the Commission or Council may, but shall not be required to, refer the matter back to the Director or Commission for further consideration.

IV. RELEVANT FACTS & SPECIFIC ASPECTS OF THE APPEAL

A. PROJECT SITE HAS BEEN REZONED TO PRIORITIZE MIXED-USE HOUSING PROJECTS

The Project Site is a 33,813-sf parcel located on the northwest corner of Jefferson Boulevard and Slauson Avenue. (See [PC Staff Report](#), p. 2.) The Site is currently occupied by a single-story, 13,000 sf commercial shopping center with retail and restaurant uses, a surface parking lot, and landscaped areas. (Id.) The Site is within one-half mile of a major transit stop and zoned Mixed Use Corridor 2 (“MU-2”) (id.),²¹ which is an area intended for mixed-use development, such as projects that include housing.²² While the General Plan 2045 was approved in August 2024 and went into effect on October 9, 2024,²³ the Modified Project Approvals application was filed one day before. (See [PC Resolution No. 2025-P015](#), p. 1 [filed October 8, 2024].) Therefore, the application was deemed complete before the Zoning Code Update (i.e., October 2024), and City staff reviewed the Modified Project Approvals under the Site’s previous Commercial General (“CG”) zone standards. (See [PC Staff Report](#), p. 2.²⁴) Hence, the delay of the hotel Project has already resulted in the Property Site being subject to outdated zoning policies and rules.

B. PROJECT HAD A 5-YEAR MAXIMUM DEADLINE UNDER THE CODE WHEN ISSUED (JUL. 2021)

On July 12, 2021, the City Council (on appeal) granted then-applicant Sandstone Properties, LLC the Initial Project Approvals for the Jeff Hotel, which entailed a five-story, 175-room boutique hotel with restaurant, rooftop pool and bar, and two levels of subterranean parking. (See [PC Staff Report](#), p. 1.²⁵) The Initial Project Approvals included a CUP (i.e., P2019-0194-CUP), SPR (i.e., P2019-0194-SPR), AUP (i.e., P2019-0194-AUP), and an MND (i.e., SCH # 2021010247). (See [Extension Decision](#), PDF pp. 1-2.) The Initial Project Approvals were subject to COA 4, which provided for a one-year expiration if not exercised, subject to extension under the Code. (Id., at PDF p. 17.) As discussed above (supra section II) and in prior comments (see Exh. A, p. 2), the Code provided a maximum 5-year deadline before permits expire (see CCMC § 17.595.030.A & D), which would be July 2026 for the Initial Project Approvals. As discussed above (supra section III), the prior CUP and permits run with the Project Site, and the Applicant has no greater rights than those of the owner at the time the CUP was issued. Hence, the Applicant has already benefited from a Project with a maximum 5-year time period under the Code.

C. CITY ALREADY GRANTED FOUR EXTENSIONS WITH A 1-YEAR DEADLINE, WHERE THE HOTEL CUP EXPIRES, BUT FOR THESE NEW ENTITLEMENTS (JULY 2021 - JULY 2025)

Since 2021, four extensions have been granted by the City Planning. (See [Extension Decision](#), PDF pp. 1-2; see also [PC Staff Report](#), p. 1.) The first three extension requests (i.e., 2022, 2023, and 2024) were due to the purported severe impacts of the COVID-19 pandemic and subsequent effects on construction costs and interest rates. (See [Extension Decision](#), at PDF p. 2.) Yet, COVID-19 was not unexpected or a surprise when the Initial Project Approvals were granted by the City Council in July 2021 (i.e., 16 months after COVID-19 broke out in March 2020). The last extension request (i.e., July 2025) was purportedly due to the Applicant needing more time to

²¹ See also [General Plan 2045](#), pp. 103, 110 (Fig. 13), 115 (Fig. 16).

²² *Ibid.*, pp. 111-112, 114 (Tbl. 2 allowing 50 dwelling units/acre with neighborhood serving commercial), pp. 118-131 (Goal LU-1, LU 1.1, LU 1.2, LU-1.3, LU-9, LU-9.2).

²³ *Ibid.*, PDF p. 3.

²⁴ See also [PC Meeting Video](#), approx. 1:11:20-1:11:45 (planning staff comments).

²⁵ See also [CC Staff Report](#), pp. 1-3; *Id.*, Att-5 ([Resolution No. 2021-P003](#)), pp. 1-2.

“update plans and environmental studies to modify the [P]roject to meet current applicant goals and objectives.” (Id., at PDF p. 2.) This last extension of the Initial Project Approvals was subject to COA 1 (crafted by City Planning), which set a final one (1) year expiration deadline unless and until a new entitlement is approved for the Site. (See Figure 1 of this Appeal.) As discussed above (supra section III), the City has broad authority to place project-specific COAs.

D. MODIFICATIONS TO SUBSTANTIALLY SIMILAR HOTEL PROJECT AND MODIFIED PROJECT APPROVALS

Currently, the Project (now proposed as the Silicon Beach Hotel) has nominally reduced its square footage (i.e., from 111,000 to 109,800 sf), eliminated 28 hotel rooms (i.e., from 175 to 147 rooms), eliminated one level of subterranean parking (i.e., from two below-grade levels to one below-grade and one ground-level parking), and removed several amenities (e.g., meeting rooms, lounge, rooftop bar, etc.). (See [PC Staff Report](#), pp. 1-2.) The Applicant sought approval of the Modified Project Approvals, including a SPR and AUP (i.e., P2024-0246-SPR/AUP) and an addendum to the MND.

E. PLANNING COMMISSION HEARING WAS IMPROPERLY SKEWED (NOVEMBER 2025)

Prior to and during the Planning Commission hearing, Local 11 requested that the Commission consider a modified COA that would make future time extensions subject to the condition that construction building permits be submitted and secured within approximately six (6) and twelve (12) months, respectively. (See Exh. A; see also [PC Meeting Video](#), approx. 42:50 - 45:50.) During the public hearing,²⁶ multiple Commissioners, City staff, and Applicant representative opined on the feasibility and propriety of imposing a modified COA.²⁷ Various comments that were made were potentially misleading, inaccurate, and/or speculative, which may have improperly skewed the Commission’s decision-making process. Appellant *does not* suggest that these comments were intentionally or willfully made to mislead City decision-makers. However, further consideration is necessary to adequately consider the need for a modified COA that places reasonable limits on permit extensions, such as the following noteworthy highlights from the Commission public hearing on the Modified Project Approvals:

1. During its rebuttal, Applicant’s counsel strictly opined on the Project’s CEQA compliance with no comments regarding the modified COA. (Id., at approx. 53:50 – 56:10.)
2. During the Commission’s initial clarifications, City Planning staff suggested that the Applicant is new and “starting sort of from scratch,” and that it did not warrant reducing the time limit.²⁸ Later, staff again suggested that the Applicant is different from the prior applicant and that “treating it like it’s the same project didn’t feel correct” to Planning. (Id., at approx. 1:29:38 - 1:29:55.) However, CUPs and COAs run with the land and do not attach to specific applicants. (See supra section III.) It is also factually inaccurate to suggest: (i) that

²⁶ See gen., [PC Meeting Video](#), approx. 00:02:15 – 1:46:10, including: 02:15-13:10 (staff presentation); -16:50 (City staff clarifications), -29:05 (Applicant presentation), - 52.30 (public testimony, including Local 11 members at 42:50-45:50), - 56:00 (Applicant’s rebuttal), - 1:42:20 (PC questions, clarifications, comments through close of public hearing), - 1:46:10 (deliberation and vote).

²⁷ Ibid., at 1:09:15 – 1:12:30 (between Comm. Jones and City staff), 1:19-40 – 1:28:05 (between Comm. Jones and Applicant representative), -1:36:35 (between Comm. Jones and City staff), 1:37:45 - 1:38:255 (Vice Chair Carter comments); 1:41:10 - 1:41: 50 (Chair Menthe comments).

²⁸ Ibid., at approx. 1:10:38 – 1:10:53 (“I think one thing to note is that the previous applicant received extensions and has one that is valid now. This is a new applicant so it's they are starting sort of from scratch in a way and our standard is two years, so staff didn't see a reason to reduce it.”)

the Jeff Hotel Project is not substantially similar to the Silicon Beach Hotel Project;²⁹ (ii) that there is no relationship between the prior and current Applicant;³⁰ (iii) that the Modified Project Approvals are not inter-related to the Initial Project Approvals;³¹ or (iv) that the current Applicant has not already benefited from or received prior time extensions.³²

3. City staff confirmed that City decision-makers have the *discretion* to impose a modified COA (later seemingly confirmed by the Assistant City Attorney),³³ but were unaware of another project in which this occurred.³⁴ However, it is factually incorrect to suggest there is a lack of precedent when the Planning Commission imposed a project-specific COA when it granted the last extension. (See Figure 1 above of this Appeal.) Additionally, project-specific COAs are common, as was the case for the 2021 Initial Project Approvals for the Jeff Hotel design (i.e., including 140 COAs) and the 2025 Modified Project Approvals for the current Silicon Beach Hotel design (i.e., 102 COAs).³⁵ Additionally, the Commission imposed a project-specific condition on further time extensions for the long-delayed Points Warner parking structure development. In 2018, after City Planning granted seven one-year extensions, the Commission approved a 12-month extension of the project's SPR, which was subject to a status report in six (6) months, and prevented future administrative extensions.³⁶ Hence, the City has precedent, and has broad authority to establish project-specific COAs under the law. (See *supra* section III.)
4. In responding to questions from Comm. Jones, Applicant made several statements that warrant further consideration. (See [PC Meeting Video](#), approx., 1:19:41-1:28:09.)
 - Applicant repeatedly suggested there is no way out for them unless they get the Project open for business, and that the two (2) year requirement under the Code is appropriate.³⁷ However, this suggestion is factually incorrect. Like its predecessor in interest, the Applicant is not obligated under the Code to construct the Project, nor

²⁹ Both designs are roughly 110,000-sf, 5-story hotel despite the modification of removing 1,200 sf (-1.0%), 28-room (-16%), with one fewer level of underground parking (discussed *supra* section IV.D).

³⁰ See [PC Staff Report](#), p. 2 (“This applicant team *obtained permission from the owner* to act as applicant for the subject entitlement *prior to sale of the land* ...” Emphasis added.)

³¹ But for granting the Modified Project Approvals, the 2021 hotel CUP will expire July 3, 2026 under the COA attached to the most recent extension of the Initial Project Approvals. (See *supra* section II [Fig. 1].)

³² See [PC Staff Report](#), p. 2 (Applicant team “approached the City in 2024” to reduce scope of Project); [PC Resolution No. 2025-P015](#), p. 1 (Applicant filed application on “October 8, 2024”); [Extension Decision](#), PDF p. 17 (Applicant submitted a fourth extension of Initial Project Approvals on “June 27, 2025”).

³³ See [PC Meeting Video](#), approx. 1:33:20-1:33:46 (“The commission could change that the initial time period. So right now the code assumption is the permit expires two years from the date of approval unless the conditions of approval say otherwise.”)

³⁴ *Ibid.*, approx. 1:11:40-1:12:19 (In response to Comm. Jones’ clarification if the PC could impose a condition COA, City staff responded “It is under the Planning Commission’s purview to do so. We’ve not done that on another project as far as we know but it’s up to your discretion.”)

³⁵ See [Extension Decision](#), PDF pp. 17-49; [PC Resolution No. 2025-P015](#), PDF pp. 6-25.

³⁶ See [PC Staff Report](#) (1/10/18) Item A-1, pp. 1-3 (background); [PC Meeting Video](#) (1/10/18) 1:21:35-1:31:50 (City staff confirmed Commission’s ability to conditional approve extensions); [PC Minutes](#) (1/10/18) p. 8 (Commission’s project-specific condition).

³⁷ See [PC Meeting Video](#), at approx. 1:19:58 – 1:21:20 (“Generally speaking we put a lot of money in any developer does. And until we get this project open for business, we don’t see any money out. Right.... That said, the two year time frame that is there for all applicants on all projects makes a lot of sense to me.”); see also approx. 1:27:15-1:27:55 (“But there’s no way to see this out unless we break ground, build the hotel open and are successful operating the hotel. Right. ... There’s no opportunity for us to stop the project.”)

is it barred from selling the Project to another developer. As discussed above (supra section III), the Applicant has no more rights than its predecessor in interest, which has already enjoyed more than four years to build the Project. As discussed below, it will likely be at least 16 more months before construction commences (in a perfect world according to the Applicant), which is more than six (6) years since the hotel Project was initially approved back in 2021. So too, the Code allows a maximum of five (5) years to begin construction before permits expire, which would be 2030 or 2031 (i.e., ten (10) years since the 2021 Initial Project Approvals).

- Applicant stated that significant funds have been invested and will continue to be invested to obtain the necessary plans to secure construction permits.³⁸ However, as discussed above (supra section III), the Applicant's soft costs do not vest rights to a hotel CUP issued in 2021, which will not be exercised within the five (5) year max period under the Code.
- Applicant stated it would take its team approximately six months, if "laser focused" to submit initial construction plans (likely with an additional month or two contingency), with final construction permits issued six to nine months thereafter to be "permit ready" (i.e., 12-17 months).³⁹ This was echoed again by the Applicant, stating in a perfect world, with no delays, "ground breaking" could occur in 16 months.⁴⁰ As proposed above (supra section II), the modified COA imposes a 12-month deadline to secure construction permits, not ground breaking, which could occur thereafter. Thus, it is factually incorrect to suggest that the proposed COA is infeasible (albeit on the fast end of Applicant's timeline). If permits are secured within said timeline and additional time is needed before groundbreaking, the proposed modified COA allows the Applicant to seek permit extensions in accordance with the Code.

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³⁸ Ibid., at approx. 1:19:50- 1:20:48 ("Generally speaking we put a lot of money in, any developer does.... A project like this we have we have a project design, right? We don't have structural engineering done. We don't have mechanical engineering[,] ... electrical engineer or plumbing [,]... architectural design, an interior design, acoustic study[,]... low voltage system, etc.")

³⁹ Ibid., at approx. 1:20:45 – 1:21:32 ("That process begins after we obtain our approvals you know and from that date it generally takes our team about six months if we're laser focused on it and we don't skip a beat to prepare what we call the first submittal to the building department. A project of this complexity would probably want to have some contingency of maybe a month or two to submit from that process. Our experience in the state of California as it relates to obtaining the building permit there's typically three sometimes four rounds that go back and forth with the various stakeholders who review the plans. That process can take at a minimum six months, sometimes closer to nine months. At that point we are deemed permit ready, right.")

⁴⁰ Ibid., at approx. 1:25:00 -1.26.00 ("From where we're at right now ... again from the time we get approvals that will take us about six months to submit for [construction documentations] it'll take at best about six months to obtain approvals from the city. From that point it takes us about 90 days to go out to bid to all of the subcontractors on the project, simultaneously work on obtaining financing and break ground. You know in a perfect world if everything went as fast as possible with no delays along the way, this would be probably a minimum of sixteen months from today for groundbreaking.")

- The Applicant suggested that the chief concern for the City is that the Project construction could start and then suddenly stop, leaving a “hole” at the Project Site.⁴¹ Later, the Applicant suggested that the “worst case” scenario is that the Site remains as it is with its current businesses.⁴² However, it is factually incorrect to suggest this is the only concern for the City; there is also an opportunity cost to the City when development projects stall with stale entitlements, leaving developable properties in limbo. This can lead to underutilized development sites that are not being considered for their best and highest uses under current zoning provisions. This is an issue with speculative development projects. It has already proven true here, where the Project Site has not been developed since issuance of the 2021 Initial Project Approvals. While the Applicant suggests groundbreaking could occur in 16 months under ideal conditions without delay (i.e., sometime in 2027), the standard COA allows for potentially five (5) more years of delayed construction before permits would expire (i.e., perhaps 2030 or 2031). The opportunity cost for the City here is the potential for high-density mixed-use development—including desperately needed housing—consistent with the City’s current zoning priorities.
 - Applicant suggested that if macro-economic conditions prevented it from pursuing the Project, its only recourse would be “coming back” to the Commission or Council to seek further extensions.⁴³ However, this is factually incorrect. As with the 2021 Initial Project Approvals, the standard COA and Code provisions allow two (2) years, subject to an automatic two (2) year extension upon the request from an applicant, which is subject to yet another potential one (1) year extension that can be granted by City Planning (i.e., five (5) years in total). Hence, as with its predecessor in interest, construction can be delayed for at least four (likely five) years before this Applicant (or a potential successor in interest) would have to return to the Commission or Council.
5. When Comm. Jones asked about the modified COA, City staff made several comments that bear reexamining. (See [PC Meeting Video](#), approx. 1:28:05 – 1:36:42.) For example, City staff suggested a one (1) year timeline to secure building permits could be burdensome if numerous building and safety applications were submitted on the “same day.” (Id., at approx. 1:28:30 – 1:29:20.) However, sophisticated planning departments, like City Planning, routinely process applications every day. Additionally, to speculate that a flood of complex development projects would be submitted on the same day is not supported by substantial evidence. (See *supra* section III.) It is also factually incorrect to suggest it is infeasible for the City to process building permits within a reasonable timeframe or cause inordinate delay for the Applicant.

⁴¹ Ibid., at approx. 1:21:40 – 1:22:11 (“The idea of a giant hole or something in the property if we are unsuccessful is simply not feasible.... So the idea that we would first the city wouldn't give us the permit to go demolish the structures without having all of our permits in place.)

⁴² Ibid., at approx. 1:22:46- 1:23:00 (“So I’m just sharing that because at the worst we’ll have what’s there today at the best we’ll have our hotel. But our objective is to build this as quickly as possible, right? So that’s sort of addressing that.”)

⁴³ Ibid., at approx. 1:22:25-1:22:46 (“So if we were somehow unable to perform after putting in the money buying the property and getting our plans approved, something happened in the overall economic market micro macro market we had another you know, situation where we were stuck. Our only remedy would come would be to come in front of you and come in front of council to request some time right then that at that point if the city has a different vision on it then there’s no obligation to extend that.”)

6. Additionally, when asked by Comm. Jones if there is a legal standard that limits the ability to have further extensions, Assistant City Attorney made comments that (id., at approx. 1:30:22 - 1:32:40) warrant further consideration, such as:
 - First, it was suggested that a modified COA would deviate from what is allowed under the Code. Yet she later seemed to confirm that the Code specifically allows modification of time limits. Furthermore, the Code specifically grants the City decision-makers the ability to craft project-specific COAs, even conditions that may place limits on extensions. (See supra section III discussed CCMC §§ 17.530.025 [AUPs/CUPs], 17.540.025 [SPRs], 17.595.030.A [Time Limits].) Hence, the Code explicitly grants the City the authority to place reasonable conditions on time limits.
 - Second, it was suggested that the condition could have unintended consequences where someone could “theoretically” submit an application, go through “40 rounds” of staff comments, and not exercise the use within two (2) years (i.e., start actual construction). (Id., at approx. 1:30:25 – 1:31:52.) However, the modified COA is not being applied generally or theoretically to other developments; it would apply to this Project, which has already been granted five (5) years to construct. Nor is there any evidence to suggest 40 rounds of comments is likely; the Applicant stated, based on its experience in the state of California, obtaining building permits would involve “typically three, sometimes four rounds, that go back and forth with the various stakeholders who review the plans.” (Id., at approx. 1:20:45 - 1:21:32. [emphasis added].) Furthermore, it is speculative and not supported by substantial evidence to suggest that the modified COA would have unintended effects on unrelated developments when the modified COA would apply strictly to this Site for the long-delayed hotel Project. Hence, a carefully tailored, project-specific COA would not be subject to future, unrelated projects.
 - Third, it was suggested that using an application submission-based deadline “could be a little confusing” to staff because it would involve switching from the Code standard of two (2) years. (Id., at approx. 1:31:50- 1:32:40 [emphasis added].) However, looking at submission deadlines is not new to planning staff, who routinely look at submission deadlines when making deemed complete determinations (as was done here). Furthermore, to the extent the modified COA could be a little confusing for staff, this fear is entirely speculative, as City Planning staff can read and implement an explicit COA attached to the Project’s approvals. Reviewing compliance with COAs is routine work for sophisticated planning departments with diligent staff (as is the case here for the City). Hence, there is no reasonable basis to hold that competent City Planning or Building & Safety staff cannot apply a written project-specific COA.

It seems the comments from the respective parties may have influenced the Commission’s decision-making when considering whether to apply a modified COA limiting further permit extensions. For example, Vice Chair Carter suggested that a modified COA could create “what ifs” if permits were not issued, due in part to what the City has on its plate. (Id., at approx. 1:37:45 - 1:38:25.) Similarly, Chair Menthe suggested that the two years provided under the Code is “rather swift” and was reluctant to “penalize the new owner for anything the old owner did or didn’t do.” (Id., at 1:41:10 - 1:41:50.) Ultimately, the Commission approved the Modified Project Approvals subject to a standard COA 2. (See Figure 2 of this Appeal.) But as shown above, these comments can

be easily addressed and do not require denial of a reasonable time limit imposed by a conditional approval.

V. CONCLUSION

In sum, the Commission's action to approve the Project was based on an error in fact, law, and inadequate conditions. (CCMC § 17.640.030.C.2.) As discussed in the above (supra section III), the City has broad authority to impose conditions of approval, such as the modified COA requested (supra section II). The requested modified COA is not an exaction subject to the heightened *Nollan/Dolan* takings findings. Nevertheless, the modified COA would place a reasonable limit on future permit extensions, which has a nexus to the Project that has already been delayed, and is roughly proportionate to the impact to be avoided (i.e., further delay). Furthermore, the City cannot ignore the relevant Project history, the interrelated project approvals, or that this Applicant enjoys no more rights or privileges than its predecessor in interest. Lastly, there is substantial evidence to justify the modified COA, which the City Council has the authority under its Code to issue (supra section III).

Therefore, the Project was approved with inadequate conditions to mitigate potential impacts. To the extent the COA was denied because the Commission believed it did not have authority to impose the COA, that was an error of law. It was also an error of fact to the extent that the Commission relied on speculation, unsubstantiated opinion, or other factually inaccurate suggestions. Appellant respectfully requests that the City Council grant the Appeal and impose the requested modified COA (supra section II).

Respectfully submitted,



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