

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 11/14/05	Item Number: <u>PH-3</u>
AGENDA ITEM: Appeal of the Planning Commission's Adoption of a Mitigated Negative Declaration for the Hampton Inn and Suites Development, Located at 3954 Sepulveda Boulevard (This is a Continued Item).	
Contact Person/Dept.: Jose Mendivil	Phone Number: (310) 253-5757
Fiscal Impact: Yes ☒ No ☐	General Fund: Yes ☒ No ☐
Public Hearing: ☒	Action Item: ☐ Attachments: ☒
Public Notification: Notices were mailed on September 19, 2005 to all property owners and occupants within a 300 foot radius of the site, extended to end of city block; on September 19, 2005, the site was posted; courtesy notices were mailed on September 19, 2005, to the City Council, Planning Commission, Cultural Affairs Commission, Culver City Homeowners Association, Culver City Chamber of Commerce, CAO, and Department Heads; Master Notification List e-mailed by the CAO's office on 11/10/05. Additional courtesy notices were sent to only the property owners, businesses, and occupants on Bentley Avenue, Pigott Drive and Sepulveda Boulevard on November 1, 2005.	
Department Approval: Susan Evans 10/31/05	CAO Approval: Jerry Fulwood 11/9/05
City Controller Approval: Marlee Chang 11/9/05	

RECOMMENDATION:

That the City Council deny the appeal and uphold the Planning Commission's December 8, 2004 finding of a Mitigated Negative Declaration that was adopted in conjunction with the approval of Site Plan Review, SPR P-2004126, that allows the construction of a 4-story, 77-room, 35,104-square foot Hampton Inn and Suites Hotel at 3954 Sepulveda Boulevard but with additional mitigations to address concerns raised during the appeal process.

BACKGROUND:

On December 8, 2004, the Planning Commission approved a Site Plan Review to construct on a vacant lot, a 4-story, 77-room, 35,104 square foot Hampton Inn and Suites Hotel with some subterranean parking. In conjunction with the Site Plan Review approval and pursuant to the California Environmental Quality Act (CEQA) guidelines, the Commission adopted a Mitigated Negative Declaration (MND) after finding that the proposed hotel project will require mitigation measures to reduce certain impacts on the environment.

On January 11, 2005, Emily Fisher (the "Appellant") filed an appeal on the adoption of the MND following a discussion with staff regarding alternative types of appeal.

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The appellant was informed that if she appealed only the CEQA determination, and not the Site Plan Review, the Council could only consider the adoption of the MND and not the merits of the Site Plan Review. The appellant decided to challenge just the MND. No appeals were filed for the Site Plan Review. The Site Plan Review resolution (Attachment No. 6) and the Planning Commission staff report for the Site Plan Review (Attachment No. 7) are presented in this agenda report for information purposes only.

On March 28, 2005, the City Council held the appeal meeting for the Hampton Inn MND. After hearing testimony from the appellant and several members of the Bentley Avenue community, the Council decided to continue the meeting to a date uncertain. They asked for the following: preparation of a traffic study, preparation of a shade and shadow study, and staff facilitation of a meeting between the applicant, the appellant, and the Bentley Avenue community. The technical studies were completed and there was a community meeting.

Staff returned to the City Council on October 10, 2005, with additional discussion on the studies and with a final recommendation. At that meeting, the Council voted to continue the item to November 14, 2005. They requested that the Applicant, Appellant, and Bentley/Pigott community meet one more time to determine if a compromise could be achieved with regard to shade and traffic issues. That meeting was held on October 20, 2005 and is summarized in this report.

For a full background on the October 10th City Council appeal meeting please refer to the October 10, 2005, City Council Agenda Item Report (Attachment No. 13). All attachments to the October 10th report are included in this current report and in their original order except that the original Attachment No. 13 (the Traffic Study, Shade and Shadow Study, and Phase 1 Environmental Report) is now Attachment No. 14. Please note that Attachment No. 14 was transmitted to the Council under separate cover on August 31, 2005.

DISCUSSION:

Summary of October 20, 2005, Meeting

Approximately 16 people attended the meeting and included the Appellant, Applicant, members of the surrounding community, and Council members Corlin and Rose. In addition, one staff person and a City consultant acting as mediator/moderator were present. The moderator first gave an opportunity for the appellant to speak and specifically asked that she list the most important issues she feels most impact the community. Her list included:

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1. The shape, size, and height of the proposed hotel; the placement of the windows and their effect on privacy; the overall aesthetics of the hotel structure;
2. Construction impacts such as dust, noise, and exhaust and potential disturbance of pesticides and fertilizers that could have been deposited from previous uses;
3. Impacts caused by use of the hotel parking lot such as noise (car alarms, engines, screeching tires) and fumes;
4. Traffic impacts on Bentley Avenue, Pigott Drive, and Sepulveda Boulevard and further impacts created by the delineators required to restrict left turn movements;
5. Spillover parking onto local streets;
6. Short distance of trash enclosure to neighboring residential properties, and related odors and noise during pickup;
7. 24-hour activity of the proposed hotel which could increase overall noise and traffic and the cumulative effects of 24-hour activity when combined with pre-existing hotels in the immediate vicinity; this concern juxtaposed with the nearby residential area; and,
8. Noise caused by individual air conditioning units for each of the hotel rooms.

The Applicant was then given an opportunity to speak. He presented different versions of conceptual plans that he had shown to Planning staff prior to submitting his application. Originally he was proposing a 5-story hotel with approximately 120 rooms. He reduced its massing and proposed a caretaker apartment unit; this was further revised on the plan the Planning Commission approved. Issues/comments that were raised by the Applicant included:

1. A hotel franchise such as Hampton Inn or Holiday Inn requires at least 70 to 75 rooms;
2. The project approved by the Planning Commission is reduced from the Applicant's original concept;
3. The long and narrow lot shape is difficult to work with in regards to placement of structures, parking areas, drive/fire access aisles, and underground parking;

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4. The applicant is most familiar with the hotel industry and does not engage in other types of business; and,
5. Placement of the trash enclosure off the alley makes most sense due to limitations by the City's Sanitation Division (if the trash enclosure was placed in the middle of the lot, there could be difficulties in accessing the trash bins).

The Appellant discussed the possibility of a different use all together. Mixed use with residential condominiums was brought up as an example by the Appellant's representative. The moderator asked the applicant if he would consider developing a use other than a hotel. The applicant stated that he was in the hotel business and that he had no desire to develop another kind of use for the project site. He stated that he would be willing to sell the property for another use if an acceptable offer was made.

The moderator asked if the Appellant was willing to discuss solutions assuming a hotel use for the site. The Appellant stated she would like to talk about other uses but was not opposed to hearing about potential revisions for the hotel use. The Applicant presented a rough draft of a scaled down hotel plan which generated a discussion on various options. These included:

1. A reduction down to three stories but with the building footprint moved closer to the rear property line in order to accommodate the rooms lost from the fourth story;
2. An increase of up to five stories in the front portion of the building accompanied by a decrease down to three stories toward the rear;
3. A reduction in the height of the parapet wall;
4. An increase in the subterranean parking area;
5. An increase in landscaping that incorporates trees for screening purposes;
6. Relocation of the access ramp for the subterranean parking towards the front.

The Applicant did not commit to these revisions but stated he would review his resources to determine the practicality of making such changes. The Appellant's representative asked if he could locate all parking underneath by increasing the subterranean parking area. The Applicant estimated it would cost about one million additional dollars for full subterranean parking. Further, parking spaces would be lost because not all the parking currently proposed for the project can be accommodated underground. Foundation walls and columns, the pool located at

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natural grade, and the elevator shafts would all limit the number of underground parking spaces to less than what is currently proposed.

Another point raised by the Applicant is that if the hotel is scaled down and less rooms (or smaller rooms) are planned, a potential hotel franchise may be lost. He explained that various franchises have minimum standards, some more stringent than others. He wishes to build and operate a franchise hotel with higher standards instead of an independent hotel with reduced standards.

The moderator asked if the Appellant and the Applicant would be willing to meet one more time after the Applicant has had time to study the feasibility (in terms of both cost and compliance with Zoning Code regulations) of the scaled down hotel and increased subterranean parking options. Both parties did not object, however the Appellant felt that there was no discussion on potential solutions to many of the issues she listed at the beginning of the meeting. Staff told both parties that they would be contacting them for potential meeting dates after the Applicant has had time to research the feasibility of carrying out the options. The meeting was then adjourned.

Follow-Up after the October 20, 2005, Meeting

The following week staff contacted both parties. The Applicant stated that he would not make any revision to the site plan as approved by the Planning Commission but would be willing to meet with the Appellant to discuss the various issue points listed by the Appellant. The Appellant did not see a reason to meet again since the Applicant was not willing to consider any of the scaled down hotel and/or full subterranean parking options. With that, staff did not attempt to schedule any further meetings. Staff believes that given the record of public testimony, the inability to arrive at a compromise after two community meetings, and very informal discussions between both parties outside of the City Hall setting, any further attempts to resolve conflicts in a community meeting setting will not lead to an outcome that both parties can accept.

With some revisions to the MND and proposed additional mitigations discussed below, staff recommends that the City Council should at this time decide on whether to uphold the MND or uphold the appeal.

Revised MND Discussion

Following the public review period, the Planning Commission approved the Initial Study/Mitigated Negative Declaration (IS/MND) and Site Plan Review for the proposed project. The approval of the MND was then appealed to the City Council. After hearing public comments, the City Council directed that a shade/shadow

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analysis and a traffic study be prepared to provide additional information regarding these issues. These studies were completed and have been included as appendices to the IS/MND. Revisions to the draft IS/MND have also been made in response to public comments and to reflect the additional technical studies. Changes to the IS/MND text are indicated with ~~strikeout~~ and *italics* notation. Two additional mitigation measures have been added under Section VII. - Hazards and Hazardous Materials and Section XI. - Noise. The new technical studies, analysis and mitigation measures do not raise any significant new issues that would require recirculation of the MND under CEQA Guidelines Section 15073.5, but only clarify or add requirements to the project to provide additional protection to adjacent residents from potential environmental impacts. The changes to the IS/MND are described below.

Shade/Shadow Analysis. A shade and shadow study was prepared to determine the extent to which the project would block sunlight to adjacent properties. The study concluded that the proposed project would not shadow any adjacent single-family residence roof at any time throughout the year, that the apartments to the north would be partially shaded at the Winter Solstice, that there would be minor shading of the roof of the apartments at other times of year, and that there would be minor shading of the motel to the south in the late afternoon in the spring and summer. These impacts are considered less than significant. This additional information is contained in Section I – Aesthetics of the Revised MND.

Pesticides and Fertilizers. Neighbors raised the concern that residual contamination from pesticides and fertilizers, including DDT, could be present in the soil as a result of the site's prior use as a commercial nursery. The Phase I Environmental Assessment Report for a Vacant Lot 3948-3954 Sepulveda Boulevard, Culver City, CA prepared by ACS Associates, August 22, 2005 concluded that there was no evidence of hazardous materials or waste at the site, or in governmental records, and that no further investigations were recommended. Although the Phase I Environmental Site Assessment found no evidence of contaminated soil, the following mitigation measure is recommended to provide additional assurance that this potential impact is addressed prior to grading or construction.

MITIGATION MEASURE H-1

a) Prior to issuance of a grading or building permit, the applicant shall demonstrate to the Building Official that sub-surface soils testing has been conducted by a qualified professional to determine whether any residual pesticide or fertilizer contamination is present at the site in quantities that could present a health hazard either to construction workers or occupants of surrounding properties.

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b) If contamination is found, it shall be remediated pursuant to applicable city, state or federal law prior to commencement of grading or construction, in a manner meeting the approval of the Building Official.

Noise. The appellant raised a concern that the site is impacted by high ambient traffic noise from Sepulveda Boulevard and the 405 Freeway, and that this could adversely affect occupants of the hotel. According to the Noise Element of the General Plan, the site is impacted by traffic noise levels of approximately 65-70 dB CNEL. The Noise Element also provides policy direction for development in noise impacted areas. Acceptable noise levels for hotels are 65 dB CNEL exterior and 45 dB CNEL for interior noise. The site is located in the 65-70 dB contour, which is Zone B. Hotel use in this zone is considered “compatible with mitigation.” The Noise Element states as follows:

“New construction should be undertaken only after detailed analysis of the noise reduction requirements are made and needed noise insulation features in the design are determined. Conventional construction with closed windows and fresh air supply systems or air conditioning will normally suffice.” (Table N-4)

The following mitigation measure would require the project proponent to ensure that the structure is designed to mitigate noise levels in compliance with this policy and other applicable laws and codes.

MITIGATION MEASURE N-1

a) Prior to issuance of a building permit the applicant shall provide evidence acceptable to the Building Official that the structure has been designed such that interior and exterior noise levels will comply with the City's Noise Element and all laws and codes applicable to hotel uses.

b) If determined necessary by the Building Official, prior to issuance of an occupancy certificate, the applicant shall provide a noise study confirming that noise levels meet all applicable policies, laws and codes.

Traffic. During the initial application review process, the proposed project was reviewed by the City's Traffic Engineering Manager and it was determined that local and regional traffic and parking would not be significantly impacted by the project. The morning peak hour trip generation was calculated to be 43 and the afternoon peak hour trip generation was calculated to be 47. The project peak hour trip generation was calculated to be 55 and determined to occur on Saturday only. Although the City does not typically require traffic studies for projects generating up to 49 trips in any one hour, following the public review period and in response to public concerns, a formal traffic study was prepared at the direction of the City

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Council. The traffic study is provided as Appendix 2 to the MND. The study found that although several intersections in the vicinity are projected to operate below an acceptable level of service, the proposed project would not significantly impact any intersection or roadway segment. The project is also consistent with the General Plan Land Use Element, therefore no general traffic improvements or additional mitigation measures are warranted in connection with this project.

CONCLUSION

Public participation is an important component of CEQA. A draft Initial Study/Mitigated Negative Declaration was prepared for the proposed hotel and circulated for public review. Following the approval of the MND and Site Plan Review by the Planning Commission, the MND was appealed to the City Council. In considering the appeal, the Council directed staff to conduct a more thorough analysis of shade/shadow and traffic issues. In addition, staff reviewed other issues raised by the appellant, including potential toxic contamination from pesticides and noise impacts.

The new technical studies, analysis and mitigation measures contained in the Revised IS/MND do not raise any significant new issues that would require recirculation of the MND under CEQA Guidelines Section 15073.5, but only clarify or add requirements to the project to provide additional protection to adjacent residents from potential environmental impacts. If the Council concurs with this assessment, the Revised MND should be approved and the appeal denied. However, if the Council believes that there are potentially significant impacts that could occur with the proposed project, then staff should be directed to prepare an EIR.

FISCAL ANALYSIS:

There is no immediate fiscal impact resulting from this item. However, during the appeal process the Site Plan Review is on hold and no construction can occur. If the Council determines that the impacts of the project are potentially significant (regardless of the mitigations included in the MND) and that an EIR should have been prepared, the Site Plan Review would no longer be in effect. Should the project applicant then choose to proceed with the project, an EIR would have to be prepared and the EIR and Site Plan Review be acted upon by the Planning Commission. A delay in the project could result in the project not being built. If this is the case, any potential increase in City revenues from the development of the vacant lot will not occur.

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ATTACHMENTS:

1. Draft City Council Resolution No.____ Denying the Appeal and Upholding the Planning Commission's Adoption of the Mitigated Negative Declaration (MND).
2. Appellant's January 11, 2005, appeal letter.
3. Summary of Appellant's Argument (January 11 letter) and Staff Response.
4. REVISED Mitigated Negative Declaration (MND) without attached studies.
5. Interdepartmental Memorandum Regarding Trip Generation.
6. December 8, 2004, Planning Commission Resolution No. 2004-P014 Approving Site Plan Review, SPR P-2004126.
7. December 8, 2004, Planning Commission Staff Report with attachments except the MND.
8. Minute excerpts for the December 8, 2004, Planning Commission meeting.
9. Caltrans Letter.
10. March 28, 2005 City Council Staff Report (without attachments).
11. Staff response to Appellant Appeal Addendum filed on March 23, 2005 by Lake & Lake Consultant, Inc., and March 23, 2005 Appeal Addendum.
12. General comments/responses to May 31, 2005 Community Meeting.
13. October 10, 2005 City Council Staff Report (without attachments).
14. Traffic Study, Shade and Shadow Study, and Phase 1 Report (transmitted under separate cover on August 31, 2005).

MOTION:

That the City Council:

Adopt Resolution No. 2005-R denying the appeal and adopt the Planning Commission's Revised Mitigated Negative Declaration for the Hampton Inn and Suites development at 3954 Sepulveda Boulevard with additional mitigations pertaining to Soils and Noise.

OR,

Adopt Resolution No. 2005-R denying the appeal and adopt the Planning Commission's Mitigated Negative Declaration for the Hampton Inn and Suites development at 3954 Sepulveda Boulevard with no additional mitigations.

OR,

Overturn the Planning Commission's adoption of a Mitigated Negative Declaration for the Hampton Inn and Suites development and request an Environmental Impact Report be prepared for review prior to the effective date of the Site Plan Review.