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VIA EMAIL

November 20, 2025

Jeremy Bocchino, City Clerk
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City of Culver City
9770 Culver Boulevard, 1st Floor
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Peer Chacko, Senior Planner
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Re: Appeal of the November 12, 2025 Decision of the Planning Commission to Approve the Tentative Parcel Map for the 5757 Uplander Project (P2024-0190-SPR/TPM)

Dear City Clerk Bocchino and Planner Chacko:

I am writing on behalf of the Supporters Alliance for Environmental Responsibility ("SAFER") and its members living and/or working in or around the City of Culver City ("City") to appeal the Planning Commission's decision of November 12, 2025 to approve the Tentative Parcel Map for 5757 Uplander Project, which proposes the construction of 1,077 residential units, 5,772 square feet of ground floor commercial space and 1,383 parking spaces on approximately 8.34 acres, located on Accessor Parcel Numbers 4134-005-021, 4134-005-004, 4134-005-003, and 4134-005-002 ("Project"), and to approve the Project based on the Culver City General Plan 2045 and Zoning Code Update Certified Programmatic Environmental Impact Report ("PEIR"), certified in 2024.

SAFER objects to the City's decision to rely on the City's 2045 General Plan PEIR for reasons included in the attached comment letter, which was filed with the Planning Commission prior to its decision. The City should have prepared an EIR for the project and circulated the draft EIR for public review and comment in accordance with CEQA prior to considering approvals for the Project. SAFER requests that the City Council reverse the Planning Commission's decision and direct staff to prepare a project-specific EIR to analyze the Project.

This appeal is timely filed within 10 calendar days of the Planning Commission's decision.

November 20, 2025

Appeal of Tentative Parcel Map for 5757 Uplander Project (P2024-0190-SPR/TPM)

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Drury".

Richard Drury
Lozeau Drury LLP



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VIA EMAIL

November 25, 2025

Jeremy Bocchino, City Clerk
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Peer Chacko, Senior Planner
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Re: Appeal of the November 12, 2025 Decision of the Planning Commission to Approve the Site Plan Review for the 5757 Uplander Project (P2024-0190-SPR/TPM)

Dear City Clerk Bocchino and Planner Chacko:

I am writing on behalf of the Supporters Alliance for Environmental Responsibility ("SAFER") and its members living and/or working in or around the City of Culver City ("City") to appeal the Planning Commission's decision of November 12, 2025 to approve the Site Plan Review for the 5757 Uplander Project, which proposes the construction of 1,077 residential units, 5,772 square feet of ground floor commercial space and 1,383 parking spaces on approximately 8.34 acres, located on Assessor Parcel Numbers 4134-005-021, 4134-005-004, 4134-005-003, and 4134-005-002 ("Project"), and to approve the Project based on the Culver City General Plan 2045 and Zoning Code Update Certified Programmatic Environmental Impact Report ("PEIR"), certified in 2024.

SAFER objects to the City's decision to rely on the City's 2045 General Plan PEIR for reasons included in the attached comment letter, which was filed with the Planning Commission prior to its decision. The City should have prepared an EIR for the project and circulated the draft EIR for public review and comment in accordance with CEQA prior to considering approvals for the Project. SAFER requests that the City Council reverse the Planning Commission's decision and direct staff to prepare a project-specific EIR to analyze the Project.

This appeal is timely filed within 15 calendar days of the Planning Commission's decision.

November 25, 2025

Appeal of Site Plan Review for 5757 Uplander Project (P2024-0190-SPR/TPM)

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Drury". The signature is fluid and cursive, with the first name being more prominent.

Richard Drury
Lozeau Drury LLP



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VIA E-MAIL: peer.chacko@culvercity.gov

November 12, 2025

Culver City Current Planning Division
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Culver City, CA 90232

Re: Comments on Proposed Mixed-Use Project at 5757 Uplander Way (Case No. P2024-0190-SPR/TPM)

Honorable Members of the Planning Commission:

This comment letter was prepared on behalf of the Supporters Alliance for Environmental Responsibility (“SAFER”), an organization with members living and/or working in and around Culver City, regarding the proposed mixed-use project at 5757 Uplander Avenue in Culver City, California (“Project”). This massive Project would construct 1,077 residential units, including 78 “very low-income” units, 5,772 square feet of ground floor commercial space and 1,383 parking spaces. The developer, B9 Sequoia, Culver City Owner LP (“Developer”), filed two SB 330 applications, first on February 2, 2024 and then again on April 11, 2025, both times invoking vesting rights to development standards in place on those dates.

For the November 12, 2025 Planning Commission meeting, staff is recommending that the Commission approve the Project absent any project-specific environmental review under the California Environmental Quality Act (“CEQA”) on grounds that the Project is “within the scope” of the City’s December 2024 Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the environmental effects of the City’s 2045 General Plan and updated zoning code at a very high level, but did not attempt to analyze impacts associated with the construction and operation of any specific development project. Ignoring this significant deficiency, staff now points to an October 2025 “CEQA Clearance” document to assert the Project is a later activity consistent with the PEIR and “no further environmental analysis is required.” (CEQA Clearance, at p. 1-2.)

Staff is wrong that an EIR is not required for the Project. Staff’s own earlier 1,177-page Initial Study enumerated the Project’s many potentially significant environmental impacts

requiring a project-specific EIR. Conversely, the General Plan's PEIR was never intended to analyze or mitigate any particular project's myriad environmental effects, and staff's CEQA Clearance document, despite its length, proves this point. The CEQA clearance document points to generalities and aspirational policies to claim it has analyzed the Project's effects and any impacts would be mitigated. That approach is refuted below.

For the Planning Commission's public meeting, the City has asked the public to review and comment on documents that total nearly 5,000 pages across the PEIR, Initial Study and newly-available "CEQA Clearance" document. In fact, the public was afforded just over two days to review the 2,628-page CEQA Clearance document before the November 12, 2025 meeting.

The Planning Commission should not condone an end run around meaningful public participation by depriving residents a reasonable opportunity to review and comment on the proposed Project. SAFER urges the Planning Commission to reject staff's recommendation, and instead direct staff to prepare a project-specific EIR to circulate for public review and comment prior to any Project approval.

PROJECT DESCRIPTION

The Project would construct three new seven-story mid-rise buildings (nearly 90 feet tall) consisting of 1,077 residential units (including 78 very low-income units) and 5,772 square-feet of retail space. The Project proposes 131,834 square-feet of open space, including 36,516 square-feet of public open space. The Project also proposes 1,382 vehicular parking spaces (1,362 residential and 20 commercial) located within a combination of subterranean (up to two levels) and podium parking levels, and 305 bicycle parking spaces.

The developer has requested entitlements for:

- Zone Change Map Amendment to change zoning from Mixed-Use High (MU-HD) to Planned Development (PD);
- General Plan Amendment related to various General Plan policies and standards in effect as of February 2, 2024, when the Project's preliminary application was submitted;
- Comprehensive Plan to develop standards for the new PD Zone District; Density and Other Bonus Incentives (DOBI) to allow increased density with affordable units incorporated into the Project, as well as a height incentive;
- Approval for Extended Hours of Construction (CCMC Section 9.07.035.C.1); and
- Vesting Tentative Parcel Map and Final Map to consolidate the existing four Project Site parcels and subsequently divide the Project Site into three parcels, each to contain one of the three Project buildings.¹

¹ See Culver City Initial Study For the 5757 Uplander Project (December 2024).

LEGAL STANDARD

CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. That presumption is reflected in the fair argument standard. Under the fair argument standard, a lead agency must prepare an EIR whenever substantial evidence found in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. (*See* CEQA § 21082.2; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1993) (“Laurel Heights II”) 6 Cal. 4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.)

Staff is proposing that the City rely on CEQA Guidelines § 15168(c)(2) to avoid project-level CEQA review on grounds the Project would be within the scope of the PEIR prepared for the City’s 2045 General Plan. In other words, staff proposes to “tier” any necessary environmental review from the PEIR. In general, tiering refers to using the analysis of more general matters contained in a programmatic EIR with later EIRs and negative declarations on narrower projects, then incorporating by reference the general discussions from the broader EIR. This process works to concentrate the later EIR or negative declaration solely on the issues specific to the later project.” (*See* CEQA Guidelines § 15152(a).)

PEIRs are prepared for a series of actions that are related geographically or are part of a continuing program. (Guidelines §15168.) A PEIR is used for purposes of: (1) avoiding multiple EIRs, (2) simplifying later environmental review, and (3) consideration of broad programmatic issues. (*See, e.g.,* Cal. Practice under CEQA, Cont. Ed. Bar 2d ed. (2016) §10.14B.) Importantly, the agency must examine each activity to determine whether additional environmental review is required. (*Id.* at § 10.16a.)

Whether subsequent environmental review is necessary requires a two-step process. First, the agency considers whether the activity is covered by a PEIR by analyzing whether the activity will result in environmental effects that were not examined in the PEIR. (CEQA Guidelines §15168(c)(1).) Central here is whether a later action is within the scope of the PEIR. To make that determination, a lead agency must consider the following:

- (1) the consistency of the later activity with the type of land use allowed;
- (2) the planned density and building intensity;
- (3) the geographic area analyzed for environmental impacts; and,
- (4) covered infrastructure as described in the program EIR.

(CEQA Guidelines §15168(c)(2).)

If the agency determines the activity is covered by a PEIR, it must evaluate the proposed activity to determine whether any new environmental effects could occur, or new mitigation measures would be required due to events occurring after the program EIR was certified. (CEQA Guidelines §15168(c)(2).)

The above determination is a factual question based on substantial evidence found in the record. (CEQA Guidelines §15168(c)(2).) Agencies often prepare a written checklist to determine whether the environmental effects are within the scope of the PEIR. (CEQA Guidelines § 15168(c)(4).) If the agency finds that the project is within the scope of the PEIR, and that no new effects could occur and no new mitigation measures would be required under Guidelines section 15162, the agency can approve the project without any new environmental document. (CEQA Guidelines §15168(c)(2).)

If the project is not within the scope of the PEIR, review is not governed by section 21166's substantial evidence standard. Instead, the agency must determine whether the later project might cause significant environmental effects not considered in the program EIR, and a tiered EIR must be prepared if there is substantial evidence that the project arguably may have such effects. (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1321.)

DISCUSSION

I. TO DATE, STAFF HAS ISSUED CONTRADICTORY ANALYSES ON THE PROPOSED PROJECT'S POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS.

For the Planning Commission meeting, staff is now claiming **no** further CEQA review is required because the Project is “within the scope” of the City’s 2024 General Plan PEIR. A chronology of relevant events illustrates why the Project needs further investigation beyond the PEIR’s analyses.

- **February, 2024:** the developer submitted its preliminary application pursuant to SB 330 ensuring the Project was subject only to those ordinances and policies in effect when the completed preliminary application was submitted.²
- **August, 2024:** City issued Final PEIR for the General Plan 2045 and Zoning Code Update Project.
- **October, 2024:** General Plan 2024 takes effect.³
- **December, 2024:** City’s Initial Study for 5757 Uplander Avenue Project finding the Project would cause numerous potentially significant impacts on the environment requiring an EIR.

² December 2024 Initial Study at p. 1 *citing* Govt. Code §§ 65589.5(o) and 65941.1(d).

³ <https://www.culvercity.gov/Services/Building-Development/General-Plan>

- **April 2025:** the developer re-submits its preliminary application under SB 330 thereby “invoking vesting rights to development standards in place at that date.”⁴
- **October 2025:** Staff issued its “5757 UPLANDER PROJECT CEQA Guidelines Sections 15168(c) Clearance.”

In less than one year, staff has prepared nearly 4,000 pages of contradictory and irreconcilable environmental analyses for the same Project. In the December 2024 Initial Study, staff found the Project would cause numerous potentially significant impacts requiring an EIR. Then just a few months later, staff reversed course, issuing a “CEQA Clearance” document which purports to “address the environmental effects of the 5757 Uplander Project,” and claiming the PEIR “anticipated development on the Project Site.”⁵

The City cannot now simply disregard its own Initial Study’s in-depth impact analysis unequivocally calling for project-specific CEQA review on grounds the City finalized a high level PEIR for its 2024 General Plan. The fact is, no aspect of this massive 8.3-acre, nine-story project with 1,077 residential units, 5,772 square-feet of retail and 1,383 parking spaces has ever been subject to CEQA’s legal requirements for an EIR. Therefore, the City may not evade a Project EIR by asserting it would be within the scope of the PEIR pursuant to CEQA Guidelines § 15168(c)(2).

II. THE CITY’S 2024 INITIAL STUDY IDENTIFIED NUMEROUS POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS REQUIRING PREPARATION OF AN EIR.

Prior to issuing the PEIR, City staff outlined the Project’s myriad environmental effects in its December 6, 2024, Initial Study pursuant to CEQA Guidelines §15168(c)(1), finding that the Project “may have a significant effect on the environment, and an environmental impact report is required.” (2024 Initial Study at p. EC-3.) Specifically, the initial study determined that the proposed Project had the potential to degrade the quality of the environment for the following environmental topics:

- Aesthetics (conflicts with applicable zoning or other regulations governing scenic quality);
- Air Quality (all aspects except for odors);
- Cultural Resources (archaeological resources);
- Energy;
- Geology and Soils (paleontological resources);
- Greenhouse Gas Emissions;
- Hazards and Hazardous Materials (emergency response);

⁴ Draft Planning Commission Resolution, No. 2025-P013 at p. 1 (Nov. 12, 2025.)

⁵ CEQA Clearance Document at p.1-1.

- Land Use and Planning (consistency with plans and policies);
- Noise (all aspects except for aircraft noise);
- Population and Housing (population growth);
- Public Services (fire protection, police protection, schools and parks);
- Recreation;
- Transportation;
- Tribal Cultural Resources; and,
- Utilities and Service Systems (water supply/infrastructure, electric and natural gas facilities).

Staff most certainly was aware of, if not involved in, the preparation of the PEIR while it was drafting the Project's Initial Study, and still concluded that "[e]ach of the topics determined to have the potential for significant impacts in this Initial Study will be subject to further evaluation in the EIR, including evaluation of the potential for cumulatively significant impacts. (Initial Study at pp. B-41-42.) Now less than one year later staff is inexplicably asserting no project-specific CEQA analysis is required based on a questionable "comparative analysis of project impacts" from the General Plan PEIR.

III. AN EIR MUST BE PREPARED FOR THE PROPOSED PROJECT BECAUSE THE PEIR WAS NOT INTENDED TO ADDRESS PROJECT-SPECIFIC CONSTRUCTION AND OPERATIONAL IMPACTS.

The City is allowed to tier project-specific CEQA review to a first-tier programmatic EIR, but it may not evade second tier review when, as here, the administrative record is replete with information that a later project could cause potentially significant environmental effects. Therefore, the question is not whether to prepare an EIR; instead, the question is the scope of the EIR the City must prepare for public review and comment. (CEQA § 21068.5; Guidelines § 15152(d).)

The public had little more than 2 days to review the 2,628-page CEQA Clearance document and compare it to the 1,177-page Initial Study, and the 900-page PEIR. Nevertheless, even a brief examination of staff's conflicting documents reveals that (1) the General Plan PEIR cannot supplant vital project-specific CEQA analysis; and (2) given staff's own conflicting conclusions in the record, an EIR is required.

The City's PEIR analyzed the full range of CEQA topics and found that implementation of the General Plan would result in significant and unavoidable impacts on (1) Air Quality, (2) Cultural Resources, (3) Noise, and (4) Transportation. (PEIR's Notice of Completion; DEIR Chap. 6.) Staff cannot plausibly claim that the General Plan PEIR adequately addressed these significant impacts at the project-specific level, and that the City is unable to propose any additional Project alternatives or feasible measures to mitigate the Project's future construction and operational impacts.

The PEIR was clear that it did not evaluate any specific projects, and could not speculate on the impacts caused by future projects. For example, in the PEIR's Air Quality analysis, it emphasized that it did not assess currently proposed or identified projects, and therefore "the exact nature of potential development was unknown, and determining localized [air quality] impacts from operational activities is speculative. Therefore, the analysis of localized impacts was discussed only qualitatively in the PEIR." (PEIR at p. 4.2-31-32)

Likewise, in terms of construction-related air quality impacts, the PEIR acknowledged "construction has the potential to create regional air quality impacts," But "as there are no specific projects currently proposed under the General Plan and Zoning Code Update and there is no knowledge as to timing of construction, location or the exact nature of future projects, analysis of construction emissions would be speculative at best. Information regarding specific development projects, including specific buildings and facilities proposed to be constructed, construction schedules, quantities of grading, and other information would be required in order to provide a meaningful estimate of emissions. Since this information is unknown, emissions modeling is not feasible. (PEIR at p. 4.2-39.)

Similarly, the PEIR disclaimed mitigating local air quality impacts: "There is no information regarding specific development projects, including specific buildings and facilities proposed to be constructed, construction schedules, quantities of grading, and other information that would be required in order to provide a meaningful estimate of emissions. Since this information is unknown, emissions modeling is not feasible and would be speculative at best. Applicants of future project developments under the Project would be required to conduct CEQA analyses, if necessary, in order to determine significance based on the individual project's specifics." (PEIR at p. 4.2-39.)

Neither did the PEIR attempt to quantify project-specific greenhouse gas emissions: "All future projects developed under the General Plan 2045 would be required to comply with applicable USEPA, CARB and SCAQMD emissions standards, rules, and regulations. In addition, applicable CEQA analysis, as required, would determine significance based on the individual project specifics." (PEIR at p. 4.7-45.)

This is a small sample of the instances the PEIR acknowledged it was not intended to address and mitigate future projects' impacts, because, unsurprisingly, general plan PEIR's look at broad policies and regulatory consistency, not future development projects. General Plan PEIRs, by their nature, lack the specificity necessary to inform the public of the unique impacts posed by future projects in their communities. In short, the PEIR was not drafted to serve as the foundation for staff's CEQA Clearance document. This is especially true given the size and intensity of the proposed Project as evidenced by staff's 2024 Initial study.

Even if a proposed project was "within the scope" of a PEIR, tiering still has no application if the proposed Project has not previously been subject to review." (*Friends of College of San Mateo Gardens v. San Mateo* (2016) 1 Cal.5th 937, 950 ("*San Mateo Gardens*").)

A decision to proceed under CEQA's subsequent review provisions must necessarily rest on a determination — whether implicit or explicit — that the original environmental document has some informational value. (*Id.* at 951.) Only if the original environmental document has some informational value despite the proposed changes, changes in circumstances or new substantial information does the agency proceed to decide under CEQA's subsequent review provisions whether such changes or substantial new information will require major revisions to the original environmental document because of the involvement of new, previously unconsidered significant environmental effects. (1 Cal.5th at 952.) Given the lack of specificity in the General Plan PEIR, staff cannot reasonably claim that document addressed *i.e.*, provided some informational value regarding the potential environmental impacts of the proposed Project's 1,077 residential units plus retail.

As the California Supreme Court held, “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320.) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (CEQA § 21068; see also Guidelines § 15382.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109.)

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens*, 124 Cal.App.4th at 1220.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.) The EIR process “protects not only the environment but also informed self-government.” (*Pocket Protectors*, 124 Cal.App.4th at 927.)

According to the “fair argument” standard applicable to environmental review under CEQA § 21151, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (Guidelines § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Id.* at 928.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc.*, at 13 Cal.3d at

83.) In short, the “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. (Kostka & Zishcke, *Practice Under CEQA*, §6.29, pp. 273-274.)

Despite the extremely limited time period to review the CEQA Clearance document and compare it to the PEIR and Initial Study, it is clear that the PEIR lacked the specificity necessary to serve as the CEQA document for the proposed Project. CEQA simply requires more. The City must conduct a proper, detailed analysis to show to the public it has investigated and mitigated to the extent feasible the myriad impacts staff’s own Initial Study identified. There is a fair argument based on staff’s own substantial evidence from the 2024 Initial Study that the Project requires preparation of an EIR.

IV. CONCLUSION

For the above reasons, the Planning Commission should decline to recommend the City Council approve the Project and the CEQA Clearance document, and instead direct staff to prepare and circulate an EIR for public review. The City may not rely on the General Plan PEIR as the final CEQA analysis for the massive proposed Project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Drury". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Drury