

Response to Addendum to the Appeal of the Planning Commission Adopted
Mitigated Negative Declaration (MND) for the Hampton Inn and Suites
Development (the Project)

NOTE The Addendum was filed on March 23, 2005, by Lake & Lake Consultant, Inc , consultant for Emily Fisher (the Appellant) A summary of the Appellant's arguments are underlined and followed by staff's responses Responses may be repeated due to repetition of some of the appellant's arguments The terms Lead Agency and City of Culver City mean the same and are interchangeable

- A The Project violates the General Plan Land Use Element Neighborhood Serving Corridor designation which limits commercial buildings to two to three stories, the project violates overall height limits for Neighborhood Serving Corridor and General Corridor designations, and the project violates the C-1 Zone designation which is suppose to protect residential areas from non-neighborhood serving uses

The Project does not violate the General Plan and the Zoning Code the Project as proposed is consistent with the General Plan and Zoning Code Section J-1 below provides a more detailed response

- B There is an undue concentration of hotels in the vicinity, most owned by the applicant

There is no General Plan policy or Zoning Code standard that limits the number of hotels in a particular area Further, there is no code regulation that limits the number of hotels owned by the same individual Market forces eventually dictate the wisdom of having a concentration of hotels in one area

There is no verification that the Applicant owns most of the hotels in the vicinity the Appellant's claim is not substantiated by evidence proving hotel ownership by the Applicant But even if that claim is true, there is nothing in the General Plan or Zoning Code that would make such a factor a potentially significant impact The applicant, regardless of ownership in other areas of the City must still comply with General Plan and Zoning Code guides and development standards for this Project

- C General Plan Land Use Element Policy 16 E encourages motel uses near freeway off-ramps along Sepulveda Boulevard yet Hampton Inn and Suites is a hotel, not a motel

Staff must have flexibility in interpreting the General Plan, a literal reading of the General Plan for every issue could lead to erroneous conclusions For purposes of complying with this specific policy, Motels, as the encouraged use, are close to hotel uses Also motel use is a potentially more intense use

than hotel use. It benefits the area to have the less intense use that still complies with the spirit of General Plan Land Use Element Policy 16 E.

- D The Planning Commission, in approving the project, violated case law as established by the California Third Appellate District Court of Appeals ruling on *The Pocket Protectors v. City of Sacramento*.

Staff believes that there is substantial evidence in the record to determine that an Environmental Impact Report (EIR) is not needed and that the MND as approved by the Planning Commission is sufficient to comply with the California Environmental Quality Act (CEQA) obligations. Such evidence includes the Council required traffic and shade and shadow studies that revealed no significant impacts, the Phase 1 (soil) Environmental Report that indicates no significant impacts with regard to potential soil contamination, the amount of earth that will be disturbed in order to construct the hotel which is below South Coast Air Quality Management District (SCAQMD) thresholds of significance, the number of rooms proposed for the hotel that are below SCAQMD thresholds of significance, the overall design of the project that meets General Plan and Zoning Code guidelines and standards.

The serious public controversy surrounding this project, in and of itself, does not automatically require the lead agency to prepare an EIR. Individuals with serious concerns or opposition to a project does not always translate to the preparation of an EIR. The initial study for this project revealed that with mitigations, potential impacts will be reduced to less than significant. Some of these mitigations include limiting access to the alley, the requirement to continually clean and maintain the alley, the prohibition of left turn movements onto or out of the Project site, graffiti removal within 48 hours of its application, continual litter removal from the site, privacy curtains in each hotel room, and proper illumination.

- E The uses allowed in both C-1 and C-3 are limited to serving the adjacent residents rather than transients.

The General Plan Land Use Element language for commercial corridors does not restrict uses to only neighborhood serving. The language is meant as a guide and restricting uses to only those that local residents can access would contradict another General Plan Land Use objective that calls for the City to foster business growth by promoting establishments that serve the neighborhood, community, and regional markets (Objective 8 Fiscal Health). Also, this hotel will potentially serve local residents when their relatives visit from out of town.

- F Hotels are defined in the Zoning Code but motels are not, hotels are allowed in the C-1 Zone but motels are not. In the absence of a definition for motel, it is impossible to determine if the project is a hotel or a motel

Section G below addresses this concern

- G Because it is unclear whether the project is a hotel or a motel, parking is a key issue with motels requiring more parking than hotels. The project may not have sufficient parking.

The Project is considered a hotel because none of the hotel suites have kitchen facilities and there is no resident manager unit. Rooms furnished with microwave/refrigerators are not considered to have kitchens. Although motel is not defined in the definitions section of the Zoning Code (hotel is defined) the parking section of the zoning code provides sufficient information for staff to make a reasonable distinction between a hotel and motel. Per the parking section, a hotel requires one half space per room plus one space per 350 square feet of office area. A motel requires one space for each unit without kitchen facilities, one and a half spaces for each unit with kitchen facilities, two spaces for any resident manager unit, and one space per 350 square feet of office area. These distinctions in parking requirements compared with the Project's proposal that does not include rooms with kitchen facilities and a resident manager unit is sufficient for staff to determine that the Project is a hotel and not a motel.

The Project requires 42 parking spaces and the applicant is providing 25 extra spaces (none of which have to be standard in size). Assuming a 74% occupancy, (the applicant estimates 70% occupancy annually) and one vehicle per occupied room 57 parking stalls will generally be in use. This is less than the 67 stalls provided. The site has sufficient parking. The hotel will not have a restaurant or meeting rooms for outside guests. No parking demand will be created by restaurant or conference uses.

The applicant followed the more restrictive C-1 zone standards that do not allow motel use. The applicant could have requested a zone change from the more restrictive C-1 to the less restrictive C-3 to be consistent with the General Plan and built a Motel which could be a more intense land use.

- H The Planning Commission resolution states that a hotel use is similar to a motel use yet the motel parking rate is not required and the resolution does not state that motels are not allowed in the C-1 Zone.

This concern is addressed in the various sections of this response

- I The project violates Policy 1 B of the General Plan Land Use Element which states that residential neighborhoods are to be protected from encroachment

of incompatible land uses and environmental hazards which may have negative impacts on quality of life issues

The Project as proposed and with the required mitigations in the MND, does not encroach into adjacent residential areas. Mitigations serve to reduce any potential negative impacts. The project is compatible with surrounding commercial uses along Sepulveda Boulevard.

- J The following points are numbered under major headings and may be a repetition from above, this is how they were presented in the March 21, 2004 Addendum

1 California Environmental Quality Act (CEQA) Issues

Generally, the appellant argues that per CEQA, if the lead agency determines that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) must be prepared

Per CEQA Section 15064 (f) (2), a lead agency shall prepare an MND if it determines that a project may have significant effects on the environment but through revisions to the project, those effects can be mitigated to less than significant. The various mitigation measures in the Planning Commission adopted MND for the Project represent revisions that staff believes will reduce the Project's environmental effects. An EIR is not required.

1a Traffic Issues

The appellant stated that a traffic study should have been conducted because the expected number of vehicle trips in a peak hour on Saturdays exceeds the City adopted threshold for requiring traffic studies. Further, the appellant stated that the City did not demonstrate substantial evidence that traffic impacts would not be significant and that it had the power to redesign the project in order to protect residents and businesses.

The City Council adopted policy on traffic studies does not require traffic studies for projects estimated to create 49 trips or less in any one hour. In any one hour period during the weekday AM and PM peak periods the Project is expected to generate 47 trips, this will occur at the PM peak. The peak hour generator (the one hour expected to create the most trips) is expected to be 55 vehicle trips on Saturdays. The City has discretion in requiring a traffic study when a project is expected to generate between 50 and 99 vehicle trips in any one hour and requires traffic studies for projects expected to create 100 or more vehicle trips in any one hour. With regard to this Project it is a reasonable assumption that on Saturdays there will be less ambient traffic. Given this assumption, staff decided that a traffic study was not needed to review the Project's expected vehicle trips that exceed 49 (by six trips) only on Saturdays. The vehicle trip numbers were calculated using the 6th Edition of the Trip Generation Manual and the City Council required

traffic study used the 7th Edition of the Trip Generation Manual Use of the 7th Edition did not result in larger projected vehicle trips

For reasons stated above, the potential increase of vehicle trips onto Sepulveda Boulevard was not considered significant Further, in addition to the MND mitigations, the project will require New Development Impact Fees These fees must be used to reduce overall traffic impacts caused by new development in the area This is a code required fee and not discretionary As a clarification to the one traffic mitigation measure that does not allow left turn movements onto or out of the project site, the Council could request the Applicant to provide maps that show hotel patrons how to access the freeways and major arterials such as Venice Boulevard, Sepulveda Boulevard, and Washington Place Such clarification does not require recirculation of the MND

Further traffic analysis is included in the Council required traffic study which determined that there are no potential traffic impacts

1b Land Use Issues

The Appellant states the project is in conflict with the General Plan Land Use Element and the Zoning Code

The Project site is split zoned, one portion is zoned Limited Commercial (C-1) and the other portion is zoned Commercial (C-3) The appropriate zoning for the General Plan Land Use Neighborhood Serving Corridor designation is C-1 while the appropriate zoning for the General Plan Land Use General Corridor designation is C-3

The proposed project does not violate any policies relevant to the Neighborhood Serving Corridor designation because none of the project area is within the Neighborhood Serving Corridor designation Per the General Plan Land Use Map, the site is designated General Corridor and the Project is consistent with General Corridor land use policies The C-1 Zoning on the property is inconsistent with and subordinate to the General Corridor designation

The project site's zoning does not determine the site's General Plan Land Use designation, rather, the General Plan Land Use Map determines the Land Use designation and zoning appropriate for that designation In several cases (such as with this Project), there are zoning designations that are inconsistent with the General Plan At some point in the future, it is anticipated that zoning will be brought into compliance with General Plan Land Use designations In some cases that could be down zoning or as with this project up-zoning from C-1 to C-3

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Within the General Corridor Land Use designation buildings are characterized as 2-3 stories, recognizing their proximity to residential neighborhoods and in other areas are allowed a height limit up to 56 feet. This indicates that the 2-3 story characterization does not apply in areas where a 56 foot tall building could be allowed (it is not practical to build commercial floors with 18 foot high clearances). The Applicant could have requested a zone change from C-1 to C-3 for that portion of the Project site that is inconsistent with the General Plan and designed the Project using only the less restrictive C-3 development standards.

However, the applicant chose to use the more restrictive C-1 development standards. This Project does not exceed the C-1 height limit of 43 feet; its height is 37 feet. Recognizing the proximity of the proposed building to the residential zones east and south of the site, 71 feet and 41 feet respectively, the 4 story building was not considered an impact to surrounding residential areas. Per the C-1 development standards, they could have proposed a hotel structure as close as 5 feet to the alley at the rear and as close as 22 feet to the south property line. On the north side they have no setback requirement yet the design has a 10 foot setback in that portion facing an apartment building. Furthermore, from the rear the proposed hotel is 88 feet from the rear residential property lines along Bentley Avenue.

Had the Applicant been granted a zone change to C-3, which would have made the project consistent with the General Plan Land Use Map, the Project could have been built to 56 feet in height and positioned to within 5 feet of the rear property line and to within 22 feet of the south property line abutting the residential zone.

In staff's analysis, there is no conflict with the General Plan Land Use Element, Land Use Designations, or Zoning Code development standards.

1c. Noise Issues

The project will potentially result in significant noise impacts

I. According to the Noise Element of the Culver City General Plan, the area is mapped at 70 decibels (dB).

Sepulveda Boulevard is at 70 dB and Bentley is at 65 dB. The project is located within a 65 dB and 70 dB area.

II. Under "Noise-Sensitive Land Uses", Culver City includes hotels as a noise-sensitive use.

This is correct.

III Per Noise Element Page N-22, 'Hotel and motel recreation areas are to be under 65 dB, however the outdoor pool area for the hotel is proposed to be in an area with at least 70 dB

This is correct. Hotels and motels should have an exterior noise standard of 65 dB. However, the pool area will be located between a 65 dB and 70 dB area. The outside ambient noise level potentially affecting the pool area will be dampened because the pool will be opened on only one side (almost fully enclosed) and screened by a perimeter block wall. Additionally as part of the building permit process, the Project will be required to meet exterior and interior noise standards as determined by the Building Official.

IV The exterior and interior noise standard for these land uses is 65 dB Community Noise Equivalent Level (CNEL) exterior and 45 dB CNEL interior. The state also requires that residential buildings or structures proposed to be located within the 60 dB contour be flagged for a noise study (Culver City General Plan Noise Element, p. N-21).

At the building permit phase, this Project will be required by the Building Official to meet exterior and interior noise standards that are compliant with the City's Noise Element and the Building Code. Secondly, the proposed project is not a residential building or structure.

V On page N-25 of the Noise Element, hotels and motels are found normally incompatible in Zone C (70-75 dB).

The proposed project is in an area that is 70 dB on Sepulveda and 65 dB on Bentley. That would place it in the 65-70 dB category, in which hotels, motels and transient lodging are Zone B — Compatible with Mitigation. Zone B is interpreted to mean: New construction or development should be undertaken only after detailed analysis of the noise reduction requirements are made and needed noise insulation features in the design are determined. Noise insulation features will be reviewed and required during the building permit process. Additionally, the Building Official may require submittal of a Noise Study as part of the building permit process.

2 Serious Public Controversy is documented in petitions and testimony before the Culver City staff and Planning Commission and the lead agency ignored this testimony. Per CEQA Section 15064 (c), shall consider the views held by members of the community. Further, the lead agency violated CEQA Section 15064 (f) which requires the lead agency to determine if one or more impacts will be significant based on substantial evidence in the record of the lead agency.

Per CEQA, the existence of public controversy over the environmental effects of a project shall not require preparation of an EIR if there is no substantial evidence that the project may have a significant effect on the environment. No new evidence has been provided since the adoption of the MND that

would warrant additional study. Controversial testimony in and of itself does not automatically result in a requirement to prepare an EIR. Substantial evidence in the record leading to an MND determination includes the siting and design of the proposed hotel including its height, setbacks, and parking, staff comments and recommended conditions leading to mitigation measures that must be completed by the applicant, the Phase 1 (soil) Report and the traffic and shade and shadow studies that were required by the City Council. These studies determined that there are no significant impacts.

A comment by the Police Department regarding traffic was a memo from the Chief received during the normal internal review process. His review addresses traffic impacts in general. However, his memo specifies the Police Department's concerns: restriction of left turn movements to and from the Project site and access to the alley. These concerns were addressed through conditions of approval that prohibit left turn movements and restrict access to the alley from the Project site to emergency vehicles only.

A memo by Economic Development, also received during the normal internal review process, addresses a proposed Municipal code amendment on hotels and motels that was never presented to the City Council. The memo also addresses potential economic impacts and a possible Market Impact Analysis that would have been part of the hotel/motel ordinance that was never presented to the Council. There is no code requirement for a Market Impact Analysis; further, consideration of the economic viability of a hotel in the surrounding area of the Project site is not a CEQA requirement nor is it required in the municipal code. Market forces will eventually dictate the economic success of the Project if it is built.

3 A Cumulative Impact Analysis was not conducted with regards to traffic.

Because the project is consistent with the General Plan and with the thresholds established for traffic, there are no cumulative impacts. Staff determined that a traffic study was not necessary. However, the Council required a traffic study which determined that there were no cumulative traffic impacts and no traffic impacts in general. The traffic study goes into more detail.

4 The Project has inadequate parking.

As already stated above, the definition for Motel is implied within the Parking Section of the Zoning Code that states parking requirements for motels with or without kitchen facilities. This same section provides a different parking requirement for hotels which are defined in the Definition section of the code. Enough language exists in the code for staff to make a reasonable distinction between hotels and motels. As already stated above, the Project exceeds the parking requirements by 25 extra spaces.

5 According to the Culver City Parking Table there is insufficient parking for both employees and patrons

Parking requirements as shown in the Code take into account both employee and guest parking demand. Further, the Appellant assumes 100% occupancy. The hotel will potentially have, on average, a 74% occupancy rate. Further, no one can assume that all employees and patrons will each arrive in their own vehicles. The City should not require more parking than what is required by code if there is no basis for making such a demand. As noted above, given the 74% occupancy rate and the established parking requirement for a hotel, there is sufficient parking.

6 Meeting Rooms require more parking

The only meeting room will be for guest use and is only 12 feet by 21 feet. It is not anticipated that additional parking would be needed for such a small meeting room. The floor plans do not show any conference rooms and during the building permit process, staff will ensure that working drawings are consistent with the conceptual plans as approved by the Planning Commission.

7 Parking should be subterranean to protect residents from automobile noise

This is a site plan issue and the appeal period has already passed, the Appellant did not appeal the site plan review. Along this section of Sepulveda Boulevard, noise from cars entering or exiting the hotel is not anticipated to be significant.

8 The Project's height is not consistent with the Zoning Code height limits

The proposed hotel is 37 feet in height as defined by the Zoning Code, the definition of height does not include a parapet wall. If we were to include the height of the parapet wall, the entire building except for one architectural feature in the front (C-3 portion) would be 42 feet, 2 inches in height which is less than the C-1 height limit of 43 feet. New buildings are not required to have the same height as existing neighboring buildings.

9 Shade and shadow impacts were not analyzed

These impacts are taken into account through the allowed building envelope which is controlled by the code limits on height and setbacks. Nevertheless, the Council required a shade and shadow study which determined that two properties east of the site and the apartment building north of the site would be most affected by shade and shadow during the Winter Solstice (when shadows are the longest). During the Winter Solstice, the rear yard portions

of the two east properties will be shaded while the apartment building to the north will receive the most shade and shadow. However, the Winter Solstice occurs only one day out of the year. Shadowing will be minimal and will not be cast through out the day. Further, the apartment building to the north is within a commercial zone wherein no setback is required along interior property lines (the Applicant has proposed a 10 foot side setback). Also the City has no ordinance or policy other than required setbacks and height limits, restricting the amount of shade and shadow that can potentially be caused by new development. There are no City adopted shade and shadow standards. Shade and shadow impacts resulting from this Project are not significant.

10 Sensitive receptors (a chapel and Tellefson Park) are located within 500 feet of the Project

Sepulveda Boulevard, by its active commercial and vehicular nature does not lend itself to a contemplative nature. The chapel building is set back about 90 feet from Sepulveda Boulevard, giving substantial distance from the commercial/vehicular activity along Sepulveda Boulevard. To truly cause an impact to the chapel, hotel patrons would have to access the chapel site. The same can be said for the park located a city block behind the Project site and screened from view of the proposed hotel by several homes. The City should not make a finding that the Project will have negative affects on these sensitive receptors because hotel patrons may access these sites and cause harm. The City has no method for predicting potential negative activity at the park or at the chapel. Nothing in the municipal code restricts hotel use to within 500 feet of a park or chapel.

11 Views will be eliminated and cause negative aesthetic impacts to the surrounding area and the Project will block the sun

A shade and shadow study determined that during the Winter Solstice, when the shadows are the longest the apartment north of the site will be most affected by shadowing. Shadowing on single family homes will be very minimal and will at most affect two homes at their rear yards. These shadows will not be significant in nature and will not be cast through out the day. Further, the City does not have a view protection ordinance and views of the mountains or ocean are not guaranteed. Bentley Avenue and the portion of Sepulveda Boulevard where the Project site is located are not identified as scenic vistas. When built the hotel will block the view of the freeway which could be characterized as a positive affect.

12 There may be sewer construction associated with the project that was not analyzed

The City's Public Works Department did not identify any potential impacts to the sewer system during its review of the Project. The sewer system for the Project will connect to the Sepulveda Boulevard sewer main. The Public Works Department determined that per the City's Sanitary Sewer Master Plan Update P-575 (February 1995 prepared by Boyle Engineering), the Sepulveda Boulevard sewer main can adequately serve the Project. Currently there are no sewer construction plans for Pigott Drive and Bentley Avenue.

13 There is no geological analysis of the water table and potential impacts to the adjacent properties during excavation of the subterranean parking area

The Applicant will be required to provide a geologic study as part of the grading permit process. As part of the building permit documents, the Applicant will have to submit a shoring plan. The Building Safety Division, as part of its plan check process, will review the shoring plan and engineering calculations associated with the construction of the subterranean parking area. If the Applicant causes any damage to adjacent properties, they will be responsible to repair the damages.

14 The increase in sewer demand was not analyzed for potential significance

As stated above, the increase in demand this project is expected to create can be served by the Sepulveda Boulevard sewer main.

15 The Project will create an impervious structure more than 25 surface parking spaces. This has implications with regards to stormwater impacts

Condition Nos. 36 and 37 of Planning Commission adopted Resolution No. 2004-P014 address this concern. They read respectively:

'Concurrent with the submittal of the site improvement plan, a Standard Urban Stormwater Mitigation Plan (SUSMP) shall be submitted to the Engineering Division for review and approval. The SUSMP shall be prepared in accordance with requirements of the Culver City Municipal Code, Chapter 5.05. The first $\frac{3}{4}$ of rainfall shall be treated or filtered prior to draining from the site, and

'Concurrent with the submittal of the site improvement plan, an erosion control plan shall be submitted for review and approval by the City Engineer. The erosion control plan shall be developed and implemented in accordance with the requirements of the Los Angeles County Stormwater Quality Management Program NPDES Permit No. CAS614001. The plan shall include the design and placement of recommended Best Management Practices (BMPs) to effectively prohibit the entry of pollutants from the

construction site into the public street and/or storm drain system. The improvement plans shall note that the contractor shall comply with the 'California Storm Water Best Management Practice Handbook'

16 The project will create significant adverse impacts on the existing zoning

Most of these issues have been discussed above. The Commercial Setback Overlay Zone (CSO) which is not shown on the plans is City wide along several commercial corridors. It requires a zero setback along commercial streets with allowances for hardscape and landscape areas and public amenities such as public art. The Project is consistent with the CSO Zone which does not affect the side and rear setback areas.

17 The Project is not consistent with the CSO Zone and its design does not provided a pedestrian friendly environment

A finding was made within Planning Commission adopted Resolution No 2004-P014 and no variance is needed for the Sepulveda Boulevard setback. The finding language reads " The project, as designed, is consistent with the Zoning Code. The horizontal staggering of the front setback at the upper levels is consistent with the overall spirit and purpose of the Commercial Setback Overlay (CSO) Zone because it helps to achieve the CSO purpose of preserving and reinforcing a traditional cityscape and creating a pedestrian oriented environment. The proposed design brings portions of the building close to the front while still providing articulation through varying setbacks. The design of the front façade includes a planter area, building articulation, storefront (street level) windows and an area for a future art piece. In staff's opinion, the Project meets the intent of the CSO.

18 The privacy of residents is affected by the project

Reasonable protection of privacy for the neighboring residents is achieved through the setbacks which are more than what the Code requires. Additionally, Condition No. 31 of Planning Commission adopted Resolution No. 2004-P014 was revised to ensure that trees be planted to ensure privacy. It reads: Subject to approval by the Planning Manager and the Environmental Maintenance Manager, the applicant shall plant trees within the three-foot landscape overhang along the project site's south property line and along the east property line.

19 Noise The Noise Element prohibits hotels in areas where the dB is above 65 outdoors and 45 indoors Noise from construction will be significant and has not been disclosed or mitigated, especially regarding limitations on the hours during which construction would be permitted, given proximity to residences

The Noise Element does not prohibit or discourage hotels in the 65-70 dB range The Interior and Exterior Noise Standards outlined on page N-22 of the Noise Element state that the appropriate exterior design standard CNEL for hotels, motels and transient lodging should not exceed 65 dB For this Project that would only include the hotel's recreation area or the pool Because the pool will be partially covered and screened, the noise level is expected to be dampened Appropriate building code requirements needed to achieve dB compliance will be enforced during the building permit process

All construction, whether for residential or commercial projects, are required to follow the City's code mandated hours of operation No construction can occur outside those limits (no construction before 8 AM or after 8 PM, Monday through Friday, before 9 AM or after 7 PM, Saturdays and before 10 AM or after 7 PM, Sundays) Given the already existing noise levels along Sepulveda Boulevard and the Project's size compliance with the existing City's hours of construction and nuisance ordinances will be sufficient to mitigate noise related construction impacts

20 Noise from the semi-enclosed pool area could potentially impact the surrounding area The applicant did not state the pool's hours of operation The pool should be totally enclosed to eliminate ambient noise for hotel guests

The potential noise caused by pool use will not be significant because the pool is semi-enclosed and noise will be damped by the ceiling, perimeter wall and hotel structure For these same reasons, ambient noise will also be reduced for hotel patrons using the pool

21 The City's appeal fees are too much and discourage the filing of fees

The Appellant filed an appeal of the Planning Commission's adoption of the MND This comment is not a CEQA issue

22 The Project site was not posted as required by ordinance

The site was posted for the December 8, 2004, Planning Commission hearing on November 16, 2004 for the March 28, 2005, City Council appeal meeting it was posted on March 7, 2005 and for the October 10, 2005, Continued City Council appeal meeting, it was posted on September 19, 2005

23 The use of the alley for trash delivery violates the emergency only use of the alley

Delivery vehicles and customers will only be able to access the Project site via Sepulveda Boulevard. Trash collection, which will be allowed off of the alley, is not a violation of Condition No. 40 of Planning Commission adopted Resolution No. 2004-P014 which reads: "Access to the alley located along the project's easterly boundary shall be restricted to emergency access only. A wrought iron gate, or other material as approved by the Planning Division, shall be installed at the entrance to the alley. A Knox Box shall be installed, to the satisfaction of the Fire Department, for emergency access." This emergency only limitation is only for access to and from the site via the alley. It does not constitute a limit on the use of the alley as a whole. City sanitation trucks will not access the site but rather the trash enclosure that faces the alley. Further, the alley is an established access route for trash collection.

24 Culver City should require the Applicant to dedicate a portion of their Project site for the widening of the alley

The Applicant is responsible for only reconstructing/repairing the portion of the full width alley adjacent to their site. Specifically, Condition No. 39 of Planning Commission adopted Resolution No. 2004-P014 reads: "The applicant shall reconstruct the entire width of the adjacent alley located along the project's easterly boundary. This work shall consist of milling the existing asphalt and repaving with a minimum of two inches of new asphalt pavement and reconstruction of the concrete gutter." This does not imply that they have to reconstruct the full length of the alley. Normally, a developer fronting an alley is always required to reconstruct only that portion of the alley fronting their site. There is no basis requiring reconstruction of the full length. Also, in its review, Public Works did not require a dedication. This project will not contribute any new traffic to the alley and the trash truck is already using the alley for trash pick-up of other businesses. The Project's impacts to the alley do not translate to a dedication requirement.

25 Culver City should not facilitate monopolies

The Appellant filed an appeal of the Planning Commission's adoption of the MND. This comment is not a CEQA issue. Further, the market analysis issue is discussed above.

26 The Project is not planned with a restaurant component yet the Hampton Inn national chain advertises full breakfast as an amenity. Proper entitlements are required for the restaurant use.

The Project is not designed with a restaurant and as such will not be allowed a restaurant use unless proper approval by the City (discretionary entitlement).

additional parking, building permit, etc) is granted. Periodic field checks during construction and a final walk through of the completed project prior to issuance of a Certificate of Occupancy will ensure that no restaurant is installed at the site.

27 Hampton Inns typically provide a small retail shop for their customers. There is an absence of discussion regarding a retail shop at this site.

There is no discussion of a retail shop because the conceptual floor plans do not include a retail shop. As with the restaurant, a retail shop, or any use other than what has already been approved, will have to be reviewed on a case by case basis. If parking or land use intensity forbids such proposed changes, they will not be approved by the City.

Conclusion

The Appellant states that a full EIR should be required and the project must be redesigned and scaled down.

Staff disagrees with this conclusion. Based on the already prepared MND, the traffic study, the shade and shadow study, and the Phase 1 environmental (soil) report, no further environmental analysis is needed and no additional mitigations, other than those in the MND, should be required.

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**ADDENDUM TO APPEAL BY EMILY FISHER, JANUARY 11, 2005
RE MITIGATED NEGATIVE DECLARATION FOR HAMPTON INN
3954 SEPULVEDA BLVD , CULVER CITY**

March 21, 2005

Dear Mayor Rose and Culver City Council

We respectfully submit this addendum to the Appeal filed by Emily Fisher on January 11, 2005, challenging the Environmental Determination (Mitigated Negative Declaration) for the Hampton Inn Suites proposed for 3954 Sepulveda Boulevard (copy of appeal attached)

The goal of this appeal is to enforce the General Plan Land Use Element of Culver City to bring neighborhood serving businesses of two to three stories to this neighborhood. This application is for a four story building, *in direct violation of the Culver City General Plan Land Use Element. It is illegal (violates the General Plan and CEQA) and bad public policy.* A full discussion of the General Plan for this neighborhood follows below.

If this application is approved, there will be seven (7) hotels/motels¹ in this one area, most owned by the applicant. This is an undue concentration of hotels, and the creation of a near monopoly by the applicant.

A full EIR is required because there are significant adverse environmental impacts, significant cumulative impacts that were not identified or analyzed, and serious public controversy.

On December 7, 2004, the Third Appellate District of Court of Appeal of the State of California, issued a landmark certified opinion, *The Pocket Protectors v City of Sacramento*, that mandates preparation of a full EIR because there is a lack of substantial evidence in the record and serious public controversy. This opinion was published a day before the Culver City Planning Commission adopted a Mitigated Negative Declaration for Hampton Inn Suites (December 8, 2004, the day after publication of this landmark decision). **Thus the Planning Commission acted in direct violation of established case law.**

Culver City must therefore prepare a full EIR and mitigate all significant adverse impacts identified below. Suggested mitigations are offered because we believe that an

¹~~Dino's~~, Sunburst, Ramada, Astro, Half Moon and Travel Lodge
Dean's

Lake & Lake Consulting, Inc.

Strategic Research

appropriately scaled and massed project, with necessary mitigations, can be developed on this site

The General Plan for Culver City was adopted in 1996. The General Plan is the blueprint for development. The proposed Hampton Inn Suites violates the Culver City General Plan height limits for Neighborhood Serving Corridors² and General Corridors³ (Zones C-1 and C 3, respectively)

At four stories, the project dwarfs its neighbors. The C-1 Zone on this site is adjacent to residential properties that are separated by an alley and clearly intended to protect residents from non-neighborhood-serving uses. The C-1 Zone is labeled "Limited Commercial" on the Culver City Zoning Map.

The Culver City Redevelopment Plan, adopted January 12, 2004, shows Component 4 designates this block as General Corridor (Figure 8). This is consistent with the zoning map.

The uses in both C 1 and C 3 Zones are limited to serving the adjacent residents, rather than transients. Thus both development standards (height) and use (non neighborhood serving) limitations of the General Plan are violated by a hotel use that exceeds the height limit.

While "hotels" are defined in the Culver City Zoning Code,⁴ motels are not. Hotels are a permitted use in the C 1 Zone, but motels are not. In the absence of a definition of motel, it is impossible to determine whether Hampton Inn Suites is a hotel or a motel. Therefore the

²"Neighborhood Serving Corridor. This designation allows a range of small scale commercial uses with an emphasis on neighborhood serving retail. It is intended to serve the needs of adjacent residential neighborhoods and nearby businesses by encouraging desirable existing and future uses such as sidewalk cafes, bakeries, dry cleaners, small markets, tax services, medical offices and small scale mixed use residential opportunities. The designation is characterized by a two story maximum height limit, with three stories allowed in selected areas. This designation is applied to limited sections of Sepulveda Boulevard, Washington Place [near this site], Overland Avenue and Culver Boulevard. ' Emphasis added, Culver City General Plan Land Use Element, page LU 19.

³"General Corridor. This designation allows a range of small to medium scale commercial uses, with an emphasis on community serving retail to which patrons often travel by car. It is intended to support desirable existing and future neighborhood and community serving commercial uses, and limited medium density housing opportunities compatible with adjacent residential neighborhoods. The designation is characterized by areas with two to three story height limit, recognizing its proximity to residential neighborhoods. " (Culver City General Plan Land Use Element, page LU 20, emphasis added)

⁴"HOTEL. ' A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are six (6) or more guest rooms, and in which no provision is made for cooking in any individual room or suite" (Section 37.2 Definitions, Culver City Zoning Code)

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Hampton Inn Suites may be in violation of the C 1 Zone if it is indeed a motel

Furthermore, the amount of parking for a motel without kitchen facilities is twice the amount required for a hotel. Therefore, the issue of whether this use is permitted in the C 1 zone is key, and the amount of parking is also key.

General Plan Land Use Element Policy 16 E encourages motel use near freeway off ramps along Sepulveda Boulevard. But Hampton Inn Suites is supposedly a hotel, not a motel. Furthermore, many motels have been built in this area subsequent to the 1996 adoption of the Culver City General Plan. Indeed, there is an overly intense cluster of hotel/motel transient uses in this area.

The Planning Commission Resolution acknowledges that "although this project is a hotel, its use is similar to a motel use" (Page 2). So why doesn't the City require motel parking standards and note that a motel use is not permitted on the C 1 portion of the site?

Is this a motel or a hotel? The use is allegedly the same, but in the absence of a definition of a motel, the city is acting in an arbitrary and capricious manner by permitting it on the C 1 property and by not requiring more parking.

The project violates Policy 1 B of the General Plan Land Use Element

"Protect the City's residential neighborhoods from the encroachment of incompatible land uses and environmental hazards which may have negative impacts on the quality of life (such as traffic, noise, air pollution, building scale and bulk, and visual intrusions)" (Culver City General Plan Land Use Element Objective 1, Policy 1B, page LU 27)

The required findings for Site Plan Review cannot be made because this project is not in conformance with the General Plan Land Use Element

1 CEQA Section 15064(f)(1) states clearly

"If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR" (emphasis added)

The record includes a traffic calculation that indicated that on Saturdays the threshold for a traffic study would be triggered. This suggests that there may be a significant traffic impact, and yet no traffic study was conducted, in violation of the above CEQA requirement. No substantial evidence has been presented by the Lead Agency demonstrating that the traffic impacts are not significant.

In the video of the Planning Commission of December 8, 2004, Planning Commissioners

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constantly referred to the gridlock along Sepulveda Boulevard adjacent to the proposed project. A reasonable person would conclude that there may be significant adverse traffic impacts.

Commissioners asked if this traffic had been considered. Staff did not reply that it had. Instead, staff relied on the threshold of the project's trip generation, and failed to state on the record that because of the Saturday trip generation, they had the discretion to conduct a full traffic study and consider the cumulative impacts.

The City has the ability to redesign the project in a manner that protects residents and existing businesses, can require more parking, and enclose all parking by going subterranean, and thereby protect residential neighbors from noise from car alarms, remotes, etc.

The CEQA Checklist specifically cites "Land Use/Planning" impacts (see page 2). Given the conflict with the General Plan, staff erred in failing to check off a potential adverse impact for this category. Likewise, on page 7 of the MND, Staff erred in checking "no impact" for

"(b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?"

Finally, the MND failed to accurately check potential significant impacts for noise pollution. Page 7 of the MND should have checked potentially significant impacts for noise under

"(A) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?"

According to the Noise Element of the Culver City General Plan, this area is mapped at 70 dB. It is exposed to noise from I 405, aircraft from LAX and Santa Monica Airports, helicopters. Under "Noise Sensitive Land Uses," Culver City includes hotels as a noise sensitive use. Also, on page Noise 22, "Hotel and motel recreation areas" are to be under 65 dB, but the outdoor pool area for the hotel will be in area with at least 70 dB.

"The exterior and interior noise standard for these land uses is 65 dB CNEL exterior and 45 dB CNEL interior. The State also requires that residential buildings or structures proposed to be located within the 60 dB contour be flagged for a noise study" (Culver City General Plan Noise Element, p. Noise 21).

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Though mandated by the Culver City General Plan and California law, no noise study is in the record. Thus the MND is in error.

Finally, on page Noise 25, hotels and motels are found "normally incompatible" in Zone C (70-75 dB).

"New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of noise reduction requirements must be made and needed noise insulation features included in the design."

The proposed project is in violation of the Culver City General Plan Circulation Element Goal. "Residential neighborhoods that offer residents the qualities of a peaceful small town environment. To protect the peaceful nature of the City's neighborhoods, non-residential parking intrusion and cut-through traffic must be reduced" (Culver City General Plan Circulation Element, page C-23).

Since there was no traffic study, there is no analysis of the traffic impacts of cut-through traffic seeking to go southbound on Sepulveda but unable to do so due to the mitigation measure of a median preventing left-hand, southbound turns out of the hotel driveway. Likewise, there was no parking analysis despite the fact that residents have already petitioned the city to initiate permit-only parking on Bentley.

2. **Serious public controversy** is documented in petitions and testimony before Culver City staff and commissioners. Objections to height, views, trash collection, etc. are in the record but were ignored, and contradictory conditions were placed on the project that denied mitigation of acknowledged impacts. The response of staff and the Planning Commission violated ***CEQA Section 15064 c***.

"In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency."

It is suggested that Culver City adopt a new Environmental Assessment form similar to the South Coast Air Quality Management District. This form (attached) asks

"Has this project generated any known public controversy regarding potential adverse impacts that may be generated by the project? Controversy may be construed as concerns raised by local groups at public meetings, adverse media attention such as negative articles in newspapers or other periodical publications, local news programs, environmental justice issues, etc." (emphasis added)

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The answer to this question is that there is considerable controversy in the record for this project and in the newspapers emphasizing the refusal of the City Council to protect communities from inappropriate development in Culver City

Given the city's failure to follow CEQA and base its decision on facts presented in the record, one can only conclude that the railroading of this project is an abject example of environmental justice concerns

The concerns of less affluent residents appear to be dismissed in the name of assumed economic benefits for Culver City. Between the lines, this community is old, the residents are less affluent, so their concerns are not legitimate and do not need to be investigated

The Staff Report and Planning Commission actions were speculative and conclusionary in nature rather than based on the facts on record, violating CEQA Section 15064(f)

"The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency"
(emphasis added)

Below are examples of such speculation and conclusionary statements, that violate CEQA. But the record is rife with speculation, e.g., Culver City Interoffice Memorandum, October 7, 2004 to Jose Mendivil, Community Development and Planning, from John A. Montano, Chief of Police. "By its very nature, this hotel will impact the traffic in and around the local area."

In the absence of a full traffic study, how can this conclusion be reached? It is speculative in nature. The chief had reviewed blueprints, not traffic data. This is insufficient analysis to reach his conclusion. In the absence of a full traffic study, his determination violates CEQA.

Likewise, the Interoffice Memorandum to Kellee Fritzel, Economic Development Manager, from Chris Evans, Redevelopment Intern, October 5, 2004, speculates that the outcome for this project would be the same if it were under the new CUP ordinance for Hotels (which is not part of the record), except that a Market Impact Analysis would be required along with "other mandatory information" (page 2).

The failure of the Lead Agency to require a Market Impact Analysis is unexplained and lead to speculative and conclusionary judgments on page 3 that "Based on the site plans, residential impact should be minimal." But the record shows that residents felt that the impacts would be significant.

Again, the memo is conclusionary. "The three homes will back up to hotel, but height

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and use discrepancies are not uncommon in this area of LA county because of prop 13 " This does not mean that the height impact is not significant The statement is conclusionary in nature and violates CEQA

This memo also claims that there is concern over the impact a new hotel will have on existing operators, and that a new "unprecedented level of competition" will be created (page 3) Where are the facts to support this?

The memo states that "without a market impact analysis, it is hard to predict what would happen " It then speculates that "it is expected that the newer Hampton Inn will stay open and the other more blighted hotels will close, the competition being too much for them" (page 3) Again, where is the Market Impact Study to support this conclusion?

The memo also claims that the Hampton Inn would "provide easy access to the airport via the 405," but fails to acknowledge that there is no southbound entrance to the 405 at this site, and that elsewhere in the record it is stated by the applicant that the site is too far from the airport (LAX) to attract passengers

The record fails to note that the applicant owns two hotels in the same block, and one, the Sunburst, that rents by the hour How can it be assumed that his operation will be higher class?

- 3 CUMULATIVE IMPACT ANALYSIS The City's guidelines for when a traffic study is required have a fatal flaw they fail to include cumulative impacts as part of the methodology The Lead Agency also failed to consider cumulative traffic impacts, in violation of CEQA Section 15064(h)(1)

When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable 'Cumulatively considerable' means that the incremental effects of an individual project are significant when viewed in connection the effects of past projects, the effects of other current project, and the effects of probable future projects "

During the Planning Commission hearing on December 8, 2004, the City Attorney was asked by a commissioner if cumulative impacts were also required to be analyzed He answered yes But the guidelines used for traffic studies do not include cumulative impact analysis No cumulative impact analysis can be found in the record

Furthermore, one of the so called "mitigations" for traffic is to install a median on

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Sepulveda to prevent left turns But this will cause significant traffic impacts for residents on the adjacent streets, as cars needing to go south circle around Analysis of such impacts is required under CEQA

In the absence of a traffic study that considered existing levels of service, other pending and proposed projects, I 405 construction projects, and ambient growth projections, the failure to prepare a full EIR is in violation of CEQA Section 15064(f)(5)

"Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts "

CEQA requires full disclosure and mitigation of significant adverse impacts, including cumulative impacts (Page 6, Staff Report, December 8, 2004) A traffic analysis must include pending projects and apply the ambient growth rate to determine the impact of the project in the future

The peak traffic on Saturdays per Staff Report, exceeds the 50 vph threshold and requires further analysis of cumulative impacts in order to determine if there is a significant traffic impact There is no information provided on current Levels of Service (LOS) and the impact of the proposed project on those critical intersections

- 4 PARKING IS INADEQUATE While Culver City may only require 5 parking space/room for hotels, it requires 1 space per motel room, but there is no definition in the Culver City Zoning Code for Motel It is therefore arbitrary and capricious to classify Hampton Inn Suites as a hotel rather than a motel The parking standards for a motel should be applied because this site is assumed to be reached by private auto and the owner will not provide a shuttle to LAX
- 5 According to Culver City's Employee Parking Area Table, 30% of a retail or commercial use is assumed to be devoted to employees This would leave 47 spaces for 77 guests and result in a parking shortage, thereby threatening nearby residential streets with visitors or employees using precious on-street parking

Adjacent residential neighbors have petitioned for permit parking There is a deficit of street parking and therefore the conclusion that "The site meets its on site parking requirement and there will be a condition that requires patrons and employees to park on site" is patently misleading hotels have a higher employee ration than motels This site, if built in Los Angeles, would be required to have one space per room, plus spaces for the meeting rooms It is woefully inadequate

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It is imperative that this hotel/motel provide adequate parking so that residential street parking is not impacted. This must be analyzed in an EIR.

Since this is a discretionary approval, the City Council should impose a parking requirement of one parking space per room (77 parking spaces) with very few compact stalls. This is what adjacent cities require for hotels, to cover both guests and employees. It is what Culver City requires for motels without cooking facilities.

6 MEETING ROOMS REQUIRE ADDITIONAL PARKING

The claim is made that only guests can use the meeting rooms, but that merely means that to use the conference rooms the meeting organizer rents a room. Therefore (1) the traffic impacts can be much greater than assumed in the traffic analysis, and (2) the *parking requirements should be increased* to provide parking for a meeting room at a hotel. Otherwise, a covenant to prohibit non guests from attending a function at the hotel should be required. Residents should be given standing in the covenant to enforce this restriction.

7 PARKING SHOULD BE SUBTERRANEAN TO PROTECT RESIDENTS FROM AUTO NOISE. If the parking is redesigned to be entirely subterranean, a larger landscaped buffer would be possible and residential neighbors would be protected from noise from auto door locks and alarms.

8 HEIGHT The height of the building (42' 2" plus 5' parapet) is excessive and is incompatible with the predominant one and two story buildings nearby. The staff report claims that the building is 37 feet (page 2, December 8, 2004). The application shows a 42' 2" building plus parapet.

9 Shade and shadow impacts on three adjacent properties was not identified in the environmental review. The project will have significant adverse impacts on the sale and character of the general area of the project. A shade shadow analysis is required.

10 There are two sensitive receptors within 500 feet that were not identified or analyzed in the environmental review (Catholic Chapel and nunnery on Sepulveda Boulevard) and Tellefson Park. An increase in transients in this vicinity would have an adverse impact on the quiet and contemplative nature of the church and the safety of children playing in the park.

11 There will be significant aesthetic impact and adjacent residences' afternoon sun and views of the Santa Monica Mountains and sunsets for adjacent residents (photo attached).

12 There may be sewer construction associated with the project that is not analyzed in the environmental review that involves Bentley and Pigott Avenues.

- 13 **Geological** There is no analysis of the water table and risk of subsidence for adjacent properties due to excavation for the subterranean garage, and no analysis is provided of damage to adjacent residential structures from construction vibrations
- 14 The project will increase water and sewer demands due to the laundry requirements, pool, bathrooms, and conference rooms This is not analyzed in the environmental review Just because there may be capacity does not mean that this is not a significant increase in demand
- 15 The project will create an impervious surface with 25 or more parking spaces (parking lot for 47 cars) This is not analyzed in the Public Works Stormwater Planning Program Priority Project Checklist

- 16 **The project will create significant adverse impacts on existing zoning**

This site includes three zones C 1, C 3, and CSO (Commercial Setback Overlay) The plot plan does not show the CSO Zone While cooking facilities are banned, they are not defined Typically, Hampton Inn Suites provide refrigerators and microwaves (see attached prospectus from Hampton Inn Suites website, showing the room prototype and stating that the room includes "kitchen area with microwave, refrigerator and sink") These must be banned Otherwise, a zone variance is required

Extended stay hotel/motels, according to ITE definitions, include "kitchenette facilities " Under Culver City C-1 Zoning, such facilities are not permitted

The environmental review failed to identify these inconsistencies, nor did it address consistency with the anticipated new Culver City Hotel Ordinance If a new law can be reasonably anticipated, its impacts must be analyzed They were not

Furthermore, residents were denied access to draft versions of this ordinance by Planning Department staff This draft ordinance would have made a Market Impact Study mandatory

- 17 The project does not comply with the vertical setback requirements of the CSO Zone and does not provide a pedestrian friendly development If horizontal setbacks could be substituted for vertical setbacks, the ordinance would provide this option It does not Testimony was provided before the Planning Commission that made it clear that residents particularly on the north side, sought a project that stepped away from their properties

"The CSO regulations provide for minor variations to setback requirements for upper levels provided findings are made that are consistent with the overall spirit and purpose of the CSO zone The second, third, and fourth stories are not setback at least 10 feet in the front However, the front of the building is

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staggered horizontally with varying setbacks (2 to 8 feet) Staff believes the proposed setback is consistent with overall spirit and purpose of the CSO Zone Requiring the full depth of a 10 foot setback would not achieve a traditional cityscape or pedestrian oriented environment "

A variance is required to waive the required 10 foot setbacks from Sepulveda Boulevard

The Staff Report claims that the Sepulveda Boulevard frontage "enhance the pedestrian experience" (page 3, December 8, 2004) However, looking at the Sepulveda elevation, it is hardly pedestrian friendly Again, the Staff Report is conclusionary in nature and not based on the record

Full compliance should be required Otherwise, the project has created yet another significant adverse aesthetic impact by its deviation from CSO standards It is therefore not consistent with the objectives of the General Plan, as stated on page 8 of the Staff Report, December 8, 2004 It also does not harmonize with adjacent uses because of its scale and massing

- 18 **PRIVACY FOR RESIDENTS Section 37 37 (6)© Building Privacy Design**
Requirements are violated because windows enable staff or guests of the hotel/motel a view down into the residentially zoned property Requiring curtains or blinds does not assure privacy opaque glass would provide that protection and is recommended

The Planning Commission requested as a condition of approval that tall trees with canopies be planted at the back of the site to protect residential views But this condition is nowhere in the Resolution of the Planning Commission

- 19 **NOISE** The project is located in an area mapped by Culver City in 1991 as 70 db Note that this map has not been updated The 1996 Noise Element prohibits hotels in areas where the db is above 65 outdoors and 45 indoors Noise from construction will be significant and has not been disclosed or mitigated, especially regarding limitations on the hours during which construction would be permitted, given proximity to residences

- 20 **Noise from the semi-enclosed pool area** what are the hours of operation for the pool? The pool should be totally enclosed to eliminate ambient noise for hotel guests

- 21 **Culver City's appeal fees for this approval total \$1,532 (\$1,288 for Site Plan Review Appeal and \$244 for MND Appeal) are prohibitively high compared with neighboring jurisdictions such as LA, which charges the public only \$71 to file a site plan review appeal (and this includes appealing the environmental clearance) The City Council has cynically placed a prohibitively high price tag on democracy and is asked to waive the fee so that the Site Plan Review determination can also be appealed It makes no**

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sense to bifurcate the appeal process into environmental and Site Plan Review

- 22 Culver City and the Applicant have failed to post the site as required by law (see attached photos)
- 23 **ALLEY TRASH AND DELIVERIES VIOLATES EMERGENCY-ONLY USE OF ALLEY** "The alley at the rear, along the project's easterly boundary will be restricted to emergency access only and access to the hotel will occur only off of Sepulveda Boulevard," trash and commercial deliveries (e g , laundry) will be made via the alley, thus impacting the residential neighbors. It is therefore requested that the project be redesigned to provide for loading and deliveries, including trash, to be accessed from Sepulveda and not the alley

Furthermore, Condition 42 of Resolution No 2004 P014 directly contradicts the emergency-only use of the alley

"42 The applicant shall install a trash enclosure to the satisfaction of the City's Sanitation Division Manager. The enclosure shall be redesigned to allow direct trash pickup from the alley "

Trash pick up is not an emergency use and is a major adverse impact on the quality of life for residential neighbors due to noise from bottles, garbage trucks, and odors

- 24 **ALLEY DEDICATION SHOULD BE REQUIRED** The adjacent public alley is only 17.25 feet wide. Why isn't the City Engineer requiring a dedication from the applicant to bring the alley to the standard dimension of 20 feet? All other alleys in this area are 20+ feet in dimension. Note that trash collection in this area is very early in the morning and a significant adverse noise impact for adjacent residences. Also, the Culver City Redevelopment Plan Component Area 4 mandates "Alley reconstruction throughout the Amendment Area" (the Redevelopment Plan for the Culver City Redevelopment Project, January 12, 2004, page 78). The project has not been required to reconstruct the alley.

It should be required to not only reconstruct the alley to conform with the Redevelopment Plan, it should also be required to dedicate the additional 2.75 feet to bring the alley up to minimum standard dimensions.

- 25 **CULVER CITY SHOULD NOT FACILITATE MONOPOLIES**

Culver City failed to conduct a market analysis. It's background on the applicant relied upon the applicant's information and was not independent. Thus it failed to note that the applicant owns two hotels on this block, one of which, the Sunburst, rents by the hour. If, as the Redevelopment Agency Memo of October 5, 2004 predicts, the other "blighted" hotels will close, then the applicant will have a near

monopoly of hotels in Culver City

According to the Staff Report, December 8, 2004, page 3

"This section of Sepulveda Blvd is currently home to four [six if one includes the Travel Lodge around the corner] hotels. Of concern is the impact that the new hotel will have on the business of the current hotel operators. Without a market impact analysis, it is hard to predict what would happen. This is creating a near unprecedented level of competition."

"However, as the proposed Hampton Inn will be of a much higher quality than the existing hotels, and should hourly rates be disallowed in Culver City, it is expected that the newer Hampton Inn will stay open and the other more blighted hotels will close, the competition being too much for them."

The Staff Report conveniently hides the fact that these "blighted" hotels are the only ones not owned by the applicant and that one of them that rents by the hour is owned by the applicant. Furthermore, without a cost benefit analysis, taking into account the loss of revenue to the city if the existing hotels close, it is not possible to conclude that this project will help the city's finances. The applicant is seeking an undue concentration of hotels for this one block. Good planning dictates a balance of uses.

The Staff Report contradicts itself. On page 2 it claims to ensure that "a high quality hotel" is built. But on page 3 (attached), it claims that "The goal of attracting top quality hotels and motels is not forwarded by the opening of the Hampton Inn."

- 26 **RESTAURANT?** Hampton Inn advertises full breakfasts on CNN, but claims that they will not need a restaurant license, but merely serve continental breakfasts. This does not correspond with their national operation. A restaurant license is required for the preparation and dispensing of food, as well as a County health inspection.
- 27 **Will there be a retail shop on the premises?** Hampton Inn and Suites typically provide a small shop to service patrons. No discussion is provided regarding this use.

CONCLUSIONS

A full EIR is required for this project. The Environmental Determination (page 6, Staff Report, December 8, 2004) failed to identify, analyze and mitigate many of the significant adverse impacts identified above. The CEQA checklist must be revised, all significant impacts revealed, a NOP of preparation sent and comments from the public incorporated into the DEIR.

Furthermore, the determinations by the Planning Commission and staff must be based on the facts presented and not conclusionary in nature. Robust analysis is required and creative

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mitigations, to make this project compatible in scale and massing with its neighbors

The claim made on page 2 of the Site Plan Review Resolution is in error this project is not "designed to harmonize with the neighboring motel, apartment building, and nearby residential and commercial uses " Due to its height and failure to step back vertically, it is a giant big box development, an assault on pedestrian life and on the quality of residential life

For all these reasons, the process should start anew, fully comply with CEQA, and revise plans to change the use, height, massing and scale of this project in a manner that complies with the General Plan and protects the quality of life and small town feeling of Culver City

Respectfully,

A handwritten signature in black ink, appearing to read "LL Lake", written in a cursive style.

Laura Lake, Ph D

Attachment No 12

General Comments/Responses from the May 31, 2005, Community Meeting on the Hampton Inn Mitigated Negative Declaration

At the March 28, 2005, City Council Appeal meeting for the Hampton Inn Mitigated Negative Declaration (MND), the Council requested that the City provide an opportunity for the community and the Applicant to meet and discuss the various issues surrounding the proposed hotel (the Project). The following are summary points and responses to the issues discussed at the community meeting held on May 31, 2005, at City Hall.

- 1 The community was concerned about the dirt and debris that was deposited on the Project site. Staff informed the audience that the City's Building Inspector and Code Enforcement staff were following through in assuring that the Applicant remove the debris. Some days after the meeting, the debris was removed.
- 2 The community asked about the status of the traffic and shade and shadow studies. The Applicant informed the audience that completion of those studies was in progress. The individuals drafting the studies introduced themselves.
- 3 The audience asked if Caltrans concerns regarding the Project's potential impacts on freeway traffic would be addressed in the traffic study. They also expressed several traffic-related concerns. The traffic consultant took note of their concerns and stated he would consider these concerns while drafting the traffic study (when the traffic study was completed, a copy was sent to Caltrans).
- 4 The audience noted their understanding that the project is not consistent with the General Plan and Zoning Code. Staff explained its reasoning in concluding that the project was consistent with the General Plan and Zoning Code.
- 5 The community stated their concerns that the project will cause significant impacts with regards to noise and lighting and that during construction, noise and traffic impacts will be significant. The hotel use will not cause significant noise levels. Further, the hotel will be required, during the building permit process, to be compliant with noise standards as noted in the Building Code and the City's noise element. During the building permit process, staff could require an anti-skid broom finish to the parking areas. Lighting will be required to not be obtrusive to adjacent properties and this will be reviewed during the building permit process. The Applicant will be subject to limitation on hours of construction as stated in the municipal code and the City's nuisance ordinance. Traffic impacts during construction will not be significant as this is a relatively small construction site.

Summary Points

May 31, 2005 Hampton Inn Community Meeting

Page 1

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- 6 The community expressed concerns about the feasibility of having another hotel in an area with several existing hotels/motels. Economic issues such as potential over concentration of hotels are not factors the City considers in determining whether or not to recommend approval of a project. Market forces will eventually dictate if a location for a specific use (such as a hotel) is good or bad. The City can guide development and uses through zoning development agreements, and redevelopment law. In this case, the proposed hotel is not a prohibited use in this specific area.
- 7 The community would rather have small scale neighborhood serving uses than a hotel. The property owner has the right to develop the site as long as it is consistent with CEQA, the General Plan, and Zoning Code. This Project is compliant with CEQA and City standards and regulations. The City can consider community concerns as part of their final discretionary decision.
- 8 The audience noted their concerns about the alley (trash, prostitution, and drugs). City staff noted that these are issues that are continually addressed through code enforcement and police presence. The Project, in and of itself, will not automatically exacerbate these problems. The City cannot predict future criminal activity by future hotel patrons.
- 9 The community talked about shade and shadow issues and stated that per CEQA, scenic vistas must be protected (they stated that views of the mountains would be eliminated). The shade and shadow consultant briefly stated the methodology for shade and shadow studies. At that time, he had not completed his study. As to the protection of scenic vistas, there is no view protection ordinance in the City and this area of the City is not an established scenic vista. CEQA as it relates to scenic vistas was not violated. Also to require all development in this area to be low enough so as to not block views of the mountains would lead to underdevelopment and/or no development (development objectives could potentially not be met with such a limit on square footage).
- 10 The community talked about pollution, pollution during construction, and soil testing for the site. The size of the Project does not reach South Coast Air Quality Management District thresholds of significance for both construction and operations, it is a relatively small hotel. The Applicant conducted a Phase 1 (soil) study and determined that there appeared to be no significant environmental concerns as they relate to soils. The site has historically been used as a nursery and no evidence of hazardous materials were found at the site.
- 11 The community asked about impacts to City services and infrastructure. During the City review of the Project, the Police and Fire Departments did not express concern over their ability to provide services to the area after the

hotel is built The City sewer system is adequate for this Project and proper drainage of the site will be reviewed at the grading permit phase

The meeting ended with a summary of the next steps the completion of the technical studies, the public review period, and the continuance of the City Council appeal meeting Staff also summarized the potential outcomes, the Mitigated Negative Declaration (MND) could be upheld, additional mitigations could be required potentially causing the MND to go back to the Planning Commission for review, or an Environmental Impact Report could be required

AGENDA

HAMPTON INN COMMUNITY MEETING

MAY 31, 2005

7 00 – 8 30 p m

Meeting Objectives

- 1 *Provide an update to residents regarding events since the City Council meeting of March 28 2005*
 - 2 *Review and clarify residents concerns*
 - 3 *Provide the opportunity for technical consultants to clarify issues with residents*
 - 4 *Review next steps*
-

7 00 p m Introductions and Agenda Review

7 10 p m Events Since the March 28, 2005 City Council Meeting

7 20 p m Review residents concerns

8 20 p m Summary and Next Steps

8 30 p m Adjourn

City of Culver City California
City Council Agenda Item Report

ATTACHMENT NO 13

Meeting Date 10/10/05		Item Number PH-2	
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 10/5/05			
Department Approval Susan Evans 10/5/05		CAO Approval Scott Bixby for Jerry Fulwood 10/4/05	
City Controller Approval Mary Noller for Marlee Chang 10/4/05			

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

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 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

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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 have been completed and the community meeting was held staff is now returning to the Council with its additional discussion based on the studies and with a final recommendation

For a full background on the March 28th City Council appeal meeting please refer to the March 28 2005 City Council Agenda Item Report (Attachment No 10) All attachments to the March 28th report which include staff's initial response to the original appeal letter are included in this current report and in their original order Additional attachments not part of the March 28th report include Attachment No 11 the staff response to the appellant's Appeal Addendum filed on March 23 2005 by Lake & Lake Consultant, Inc and the March 23 2005 Appeal Addendum Attachment No 12 general comments/responses to the May 31 2005 Community Meeting and Attachment No 13 the Traffic Study Shade and Shadow Study and Phase 1 Environmental Report These technical studies were transmitted to the Council under separate cover on August 31 2005

DISCUSSION

Original Appeal Letter

The appellant claims the MND was inadequate and requests that the adoption of the MND as presented to the Planning Commission be overturned and that a more in-depth environmental analysis be conducted The appellant's January 11 2005 appeal letter is included as Attachment No 2 The appellant's argument includes issues related to traffic pollution and aesthetics/noise/massing Attachment No 3 is a summary of the appellant's January 11 2005 appeal letter and staff's response

Appeal Addendum filed on March 23 2005 by Lake & Lake Consultant Inc

On March 23 2005 the appellant's consultant filed an addendum to the January 11 2005 appeal letter Staff did not have time to prepare written responses (for the March 28 2005 appeal meeting) to the issues raised in the addendum but staff was ready to give oral comments Attachment No 11 is staff's written response to the

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various issues raised in the addendum the addendum itself is also part of Attachment No 11

In summary staff disagrees with the addendum's comments and conclusions and does not believe that an Environmental Impact Report (EIR) is warranted. Nothing in the addendum's statements lead staff to believe the MND is inadequate.

May 31 2005 Community Meeting

As part of the Council's wishes the City facilitated a meeting between the Bentley Avenue community and the applicant. A summary of the issues raised by the community and general staff responses to those issues are included in Attachment No 12. Generally the community restated concerns already expressed in previous written and oral testimony. They also talked about other issues such as trash and debris on the project site and the alley overall safety in the surrounding area and traffic concerns. Both the traffic and shade and shadow consultants were present and took note of the community's concerns. They both explained their respective methodologies. As of the date of the community meeting they had not completed their studies.

Staff noted trash issues on the site were addressed through code enforcement procedures and meetings with the Building Inspector. Debris in the alley and overall safety are continually addressed through City Public Works crews and the Police Department (even if the hotel project is not built on the project site). In summary as with the addendum issues brought up by the community at the meeting did not lead staff to a conclusion that the MND is inadequate.

TECHNICAL STUDIES

The Council required a traffic study and shade and shadow study. In addition at the May 31 2005 meeting the community asked if there had been a soils test on the site. The applicant responded to this specific community concern by conducting a Phase 1 Environmental Report (a preliminary soil analysis/review). These three technical studies identified as Attachment No 13, were transmitted to the City Council and the appellant on August 31 2005. The specifics of the results are in the respective studies.

In sum the traffic study did not reveal potential traffic impacts. Projected vehicle trip contribution due to the hotel project and projected cumulative vehicles trips after the hotel is built and operating are not high enough to indicate there will be substantial impacts. They are within and below thresholds of significance (this also holds for the project's expected contribution to freeway traffic). With regard to projected trip

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contributions to Bentley Avenue and Pigott Drive the average daily traffic is expected to increase by 19 trips per street. The projected percent trip increase is 1% to 1.5% which is below the 12% increase threshold for potential significance.

The only suggestion the traffic study makes is the City could request the applicant to provide directions and routing information that includes only arterial roadways and freeways (I-405, Sepulveda Boulevard, Venice Boulevard, Sawtelle Boulevard, and Washington Place) to its patrons and other vehicles accessing the site. If the Council so desires, staff could add this requirement as a mitigation measure.

The shade and shadow study determined that during the Winter solstice when shadows are the longest, there will be shading affecting the apartment to the north and the rear portions of two residential properties to the east of the site. Staff does not believe that these shadows are significant enough to require an EIR. New development always has the potential to create new shadows. However, this project complies with the code required height and setback requirement and nothing in the Zoning Code or the General Plan restricts height and massing because of the shade new developments may cause. It is only when a new development proposes heights and setbacks outside of the code requirements that shade and shadow may be identified as a significant impact.

The Phase 1 Environmental Report (preliminary soil review) determined that based on the historical uses of the site (a nursery and a vacant lot) and review of various city permits issued over time, there is no evidence of hazardous materials on the project site. Therefore, no further soil testing is required at this time.

In conclusion, the technical studies did not reveal any new environmental impacts that would require additional environmental analysis beyond the Planning Commission adopted MND.

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

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is the case any potential increase in City revenues from the development of the vacant lot will not occur

CONCLUSION

The appellant argues that the project poses a significant threat to the health and welfare of local residents thereby reducing the quality of life in the vicinity of the project site. Staff concludes that the project does not pose such a threat. It complies with the General Plan and Zoning Code and the Site Plan Review conditions of approval and mitigations identified in the MND reduce potential impacts to a level of insignificance. Moreover, staff concludes that the blighted vacant lot is more of a negative impact on the community than a developed economically functioning property and that the MND sufficiently addresses the potential environmental impacts associated with the hotel and no further environmental analysis is required.

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 Mitigated Negative Declaration (MND)
- 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 Traffic Study, Shade and Shadow Study, and Phase 1 Report (transmitted under separate cover on August 31, 2005)

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MOTION

That the City Council

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

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 the addition of one mitigation measure that requires the Applicant to provide directions to the hotel that makes use of only key arterials and freeways

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