

GIDEON KRACOV

Attorney at Law

801 South Grand Avenue
11th Floor
Los Angeles, California 90017

RECEIVED
2021 MAY 13 PM 1:47

(213) 629-2071
Fax: (213) 623-7755

CITY CLERK
CITY OF CULVER CITY
gk@gideonlaw.net
www.gideonlaw.net

May 13, 2021

VIA HAND-DELIVERY & EMAIL:

City Clerk Division
City of Culver City – City Hall
9770 Culver Boulevard, 1st Floor
Culver City, CA 90232
city.clerk@culvercity.org

CC: Lisa Edwards, Contract Planner
lisa.edwards@culvercity.org
Michael Allen, Planning Manager
Michael.Allen@culvercity.org

RE: APPEAL OF 11469 JEFFERSON BOULEVARD PROJECT (CASE NO. 21-920)

Dear City Clerk:

On behalf of Omar Lopez, Ramez Ethnasios, and UNITE HERE Local 11 (“**Local 11**”) (collectively “**Appellants**”), this Office submits¹ this “**Appeal**” to the City of Culver City (“**City**”) involving the above-referenced five-story, 175-room hotel development (“**Project**”) located at the northwest corner of the intersection at Jefferson Boulevard and Slauson Avenue (“**Site**”) proposed by Sandstone Properties, LLC (“**Applicant**”). This Appeal includes the Project’s various City approvals, including but not limited to: Conditional Use Permit P2019-0194-CUP (“**CUP**”); Site Plan Review P2019-0194-SPR (“**SPR**”); Administrative Use Permit P2019-0194-AUP (“**AUP**”); and Mitigated Negative Declaration (SCH # 2021010247) (“**MND**”) (collectively “**Project Approvals**”). Pursuant to Culver City Municipal Code (“**CCMC**” or “**Code**”) § 17.640.030, this Appeal is timely submitted within 15 days after the Project Approvals were approved by the City Planning Commission on April 28, 2021.²

I. STANDING

Omar Lopez and Ramez Ethnasios are City residents that live within 0.4 – 0.2 miles from the Site. Such geographic proximity alone is sufficient to establish standing under CEQA. (See *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 272 [plaintiff living 1,800 feet from annexed property has standing to challenge the annexation]; see also *Citizens Ass’n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 158 [“a property owner, taxpayer, or elector who establishes a geographical nexus with the site of the challenged project has standing.”]) Furthermore, absent adequate analysis and full mitigation of Project-related impacts, Appellants will be adversely affected by the Project including but not limited to noise, traffic, air quality, and other Project-related impacts.

¹ Please note that pages cited herein are either to the page’s stated pagination (referenced herein as “**p. ##**”) or the page’s location in the referenced PDF document (referenced herein as “**PDF p. ##**”).

² City (4/28/21) Planning Commission Regular Meeting, p. 5 (Item PH-2), <https://culver-city.legistar.com/View.ashx?M=A&ID=813537&GUID=949CCBC9-2867-4632-969B-A95824E056F8>.



Local 11 represents more than 30,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix—including approximately 100 members who live and/or work in the City. The union has a First Amendment right to lobby public officials in connection with matters of public concern, like compliance with applicable zoning rules and CEQA, just as developers, other community organizations, and individual residents do. Here, members live and/or work near the Project Site and, thus, have an interest that the Project is compatible with adjacent development and complies with all applicable zoning rules and regulations. So too, members have an interest in the City adequately considering the best and highest use of the Site, such as prioritizing housing (market and affordable) for the Project Site in light of the desperate need for housing (particularly affordable housing).

Protecting its members' interest in the environment, zoning laws concerning public welfare, and housing availability is part of Local 11's core function. Recognizing unions' interest in these issues, California courts have consistently upheld unions' standing to litigate land use and environmental claims. (See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.) Furthermore, Local 11 has public interest standing given the proposed action relates to the City's public duty to comply with applicable zoning and CEQA laws, and where Local 11 seeks to have that duty enforced. (See e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n6; *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169-170.)

Hence, Appellants have a beneficial interest in the Project's compliance with the Code and CEQA. (See *Braude v. City of Los Angeles* (1990) 226 Cal.App.3d 83, 87.)

II. GENERAL STATEMENT

This Appeal is based on the Project's non-compliance with the Code and the California Environmental Quality Act ("CEQA") and based on an error of fact, dispute of findings, and inadequacy of conditions to mitigate potential impacts.

III. SPECIFIC APPEAL POINTS

1. TRAFFIC/GHG IMPACTS

The Project's traffic impacts, including vehicle miles traveled ("VMT"), are not sufficiently mitigated. The MND's own numbers, the Project will generate more than 1,400 average daily trips ("ADT(s)"), which is nearly four times the ADTs at the Site. For context, the City's screening criteria for small projects is 250 ADTs. Additionally, based on the MND's own numbers, the Project will generate nearly 3.5 million annual VMTs, which is more than five times the annual VMTs at the Site. Furthermore, this Project removes local serving retail. The hotel primarily serves folks from out of town when they already have nine hotels within 1.5 miles of the Site and untold number of AirBnBs. A bar and restaurant with a special deal for a select group of local folks are not the same as flower shops, nail salons, and dentists that serve all local folks. The Project will increase VMTs, which directly affects the Project's greenhouse gas ("GHG") footprint. Furthermore, during the Planning Commission hearing, the Applicant referenced numerous measures intended to reduce the Project's mobile emissions/VMTs (e.g., encourage carpooling, public transit, transit subsidies, etc.).³

³ http://culver-city.granicus.com/player/clip/2044?view_id=1&redirect=true.

However, none of these measures are adequately enforceable in the Project Approval conditions. As such, these measures are illusory and not based on fact.

2. CONSTRUCTION NOISE

The Project will cause construction noise up to 70 dBA, which is 7-8 decibels above existing ambient levels near residents just north of the Site. For context, a 5 dBA threshold is imposed for operational impacts. So too, page 23 of the Noise Element suggests 70 decibels lasting for one minute should not occur. The MND proposes only a 10-dba sound barrier. This is not maximum mitigation as required by Measure 4 of the Noise Element. The neighbors are not urban residents from a noise perspective, they are zoned R-1, designated low density, and flanked by an alley and neighborhood street. More can be done to get it done to reduce construction noise to relevant standards mentioned in the Noise Element, such as:

- Exterior 65 dB in CNEL,
- Interior 45 db in CNEL for cumulative noise,
- The compatibility for Single Family homes with mitigation, which starts at 60 db

3. REDUCED PARKING

The Project is providing 150 parking spaces premised on a parking study provided by the Applicant. This is substantially less than the roughly 300 spaces required under the Code or the 400 spaces based on rates by the well-regarded Urban Land Institute. Even a former City traffic engineer Mr. Kassan raised serious questions about the efficacy of the study, which is premised on only three local hotels. For example:

- The City engineer ask for more details about the three surveyed hotels, MND could provide details on only one.
- The City engineer asked for a safe level of 15 percent or 22 extra spaces, Project provides only half of that.
- The City engineer warned that the 24/hour valet operation and employee on-site parking could be discarded by hotel management absent city monitoring, but the Applicant responded that they have no intent to discard them and do not need to be monitored.
- The City engineer warned that charging for parking will make it more likely for bar and restaurant patrons to use neighborhood streets, Applicant fails to say what nominal fees are going to be charged or how much they will provide for validation, much less commit to them as a condition of approval.

Inadequate parking will spill over into the neighboring community, which is not adequately analyzed and/or the reductions were not substantiated.

/ / /

4. LAND USE/HOUSING IMPACTS

The MND fails to adequately assess conflicts with goals, policies, and objectives of applicable plans. For example, the General Plan encourages housing here. General Plan Policy 2.B states that the City will “continue to allow and encourage multiple family housing opportunities in areas designated for such development.”⁴ This area is designated for mixed-use development. Additionally, Objective 3 of the General Plan reads: “Affordable housing. Encourage the provision of housing opportunities for all members of the community.”⁵ Here, the City’s balance between jobs and housing is among the worst in the region—worse than Beverly Hills, West Hollywood, Burbank, and Santa Monica.⁶ Admittedly, 97 percent of people who work in Culver City live outside of the city.⁷ This commercial project will exacerbate the City’s job/housing imbalance by further increasing housing demand. Failing to consider the Site for a housing development conflicts with the City’s ability to meet its current and forthcoming housing obligations (i.e., Regional Housing Needs Assessment [“RHNA”]). In sum, these strongly suggest conflicts with both General Plan Policy 2.B and Objective 3, which is not discussed in the MND.

5. OTHER CEQA ISSUES

This Appeal incorporates by this reference all written and oral comments submitted on the Project by any commenting party/agency. It is well-established that any party, as Appellants here, who participates in the administrative process can assert all factual/legal issues raised by anyone. (See *Citizens for Open Government v. City of Lodi* (2006) 144 Cal.App.4th 865, 875.) These comments include inadequate analysis and mitigation of other environmental impacts, such as indoor/outdoor air quality, GHGs, and hazards (to name a few). (See Final MND, PDF pp. 251-579.)

6. CODE-REQUIRED FINDINGS

Due to the above-mentioned issues, the Code-required findings are not adequately supported by substantial evidence. (See e.g., CCMC § 17.530.020 subds., A, C, D, and E; CCMC § 17.540.020 subds., A and D; CCMC § 15.530.020 subds. A, C, D, and E.)

The specific evidence has been provided to the City in written and oral arguments. (See Final MND, PDF pp. 251-579.)⁸ Appellants reserve the right to supplement these comments at future hearings and proceedings for this Project. (See *Cmtys. for a Better Env’t*, 184 Cal.App.4th at 86 [EIR invalidated based on comments submitted after Final EIR completed]; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120 [CEQA litigation not limited only to claims made during EIR comment period].)

/ / /

⁴ General plan, pdf p. 68.

⁵ General plan, pdf p. 68.

⁶ Culver City General Plan Update, <https://culver-city.legistar.com/View.ashx?M=F&ID=8652145&GUID=F2A5DB07-EE66-46F5-8AA0-A0B7EEF07770>, p. 33.

⁷ Ibid.

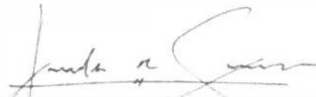
⁸ See also http://culver-city.granicus.com/player/clip/2044?view_id=1&redirect=true.

IV. CONCLUSION

In closing, Appellants urge the City to grant the Appeal until the issues discussed herein are resolved in a recirculated MND or Environmental Impact Report, as required under CEQA.

On behalf of Appellants, this Office requests, to the extent not already on the notice list, all notices of CEQA actions and any approvals, determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. (Pub. Res. Code §§ 21092.2, 21167(f) and Gov. Code § 65092 and CCMC § 17.630.010.A.d.) Please send notice by electronic and regular mail to: Jordan R. Sisson, Esq., 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, jordan@gideonlaw.net.


Sincerely,



Jordan R. Sisson
Attorney for Appellants

DANIELLE A WILSON

Date 5/13/21

Pay to the order of City of Culver City \$ 1500 $\frac{00}{100}$
fifteen hundred and 00
100 Dollars  Security Features
Included
Details on Back
citibank®

CITIBANK, N.A.

Memo Jeff Hotel appeal  MP

⑆322271724⑆ 40025747615⑈ 0184