



City of Culver City

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Staff Report

File #: 22-22, Version: 1

Item #: PH-1.

CC - PUBLIC HEARING: Appeals of the Planning Commission's Approval of Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP, and Adoption of Mitigated Negative Declaration for the Jeff Hotel, Located at 11469 Jefferson Boulevard.

Meeting Date: July 12, 2021

Contact Person/Dept: Michael Allen / Current Planning Manager

Phone Number: 310-253-5727

Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Public Hearing: ☒

Action Item: ☐

Attachments: Yes ☒ No ☐

Public Notification: (Mailed) Property owners and occupants within a 500-foot radius of the project boundary area (6/21/2021), (Posted) City website (06/24/2021), (Published) Culver City News on 6/24/2021, (E-Mail) Meetings and Agendas - Planning Commission (06/24/21)

Department Approval: Sol Blumenfeld, Community Development Director (07/01/2021)

RECOMMENDATION:

Staff recommends the City Council consider the appeals of the Planning Commission's April 28, 2021 approval of a Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP, that allows the construction of a 5-story boutique hotel at 11469 Jefferson Boulevard ("Project") and adoption of a related Mitigated Negative Declaration ("MND") finding the Project, as mitigated, will not result in significant adverse environmental impacts (collectively, "Project Approvals"), and either:

1. Deny the appeals and affirm, in whole or in part, the Planning Commission's approval of Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP, and adoption of the MND; **OR**
2. Grant the appeals and reverse, in whole or in part, the Planning Commission's approval of Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP, and adoption of the MND; **OR**

3. If new or different evidence is presented on appeal, the City Council may, but is not required to, refer the matter back to the Planning Commission for further consideration.

PROCEDURES:

1. Mayor calls on staff for a staff report and Commission poses questions to staff as desired.
2. Mayor opens the public hearing, providing the applicant the first opportunity to speak, followed by appellants, and then the general public.
3. Applicant and appellants are given one opportunity to provide rebuttal comments.
4. Mayor seeks a motion to close the public hearing after all testimony has been presented.
5. City Council discusses the matter and arrives at its decision.

BACKGROUND:

The Project, also known as the “Jeff Hotel,” involves the development of a new, five-story, 175-room boutique hotel building with a restaurant and a two-level subterranean parking garage. A pool and roof top bar are located on the fifth floor. The 111,000 square foot building reaches up to the maximum 56-foot height limit allowed with rooftop mechanical equipment no higher than 13’-6” as measured from the roofline. Proposed landscaped areas are incorporated throughout the site and within the public right-of-way. Parking for the proposed uses is provided on site within a subterranean parking structure that would accommodate 150 parking spaces.

The Project was originally scheduled for a Planning Commission hearing on March 10, 2021. Due to public comment received in response to the publicly circulated Mitigated Negative Declaration (MND), the public hearing was continued. Public comments raised as part of the circulated MND included air quality, hazardous materials, green-house gas emissions, parking, vehicle miles travelled (VMT), and noise/vibration. The Planning Commission continued the item to April 28, 2021, to allow the Project's environmental consultant to respond to public comment, which can be found in the updated Final MND.

On April 28, 2021, the Planning Commission approved a Conditional Use Permit (CUP), Site Plan Review (SPR) and Administrative Use Permit (AUP) to allow the Project and, pursuant to the California Environmental Quality Act (CEQA) Guidelines, the Commission adopted an MND after finding the proposed Project, as mitigated will not result in potentially significant adverse environmental impacts.

On May 11, 2021 and May 13, 2021, respectively, Brian Flynn of Lozeau Drury and Jordan Sisson of Gideon Kracov (collectively, “Appellants”) filed appeals challenging the Planning Commission’s approval of the CUP, SPR, AUP and adoption of the MND. The appeal filed by Lozeau Drury is on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) (“SAFER Appeal”). The appeal filed by Gideon Kracov is on behalf of Omar Lopez, Ramez Ethnasios, and UNITE HERE Local 11 (“UNITE Appeal”).

DISCUSSION:

The Project applicant is requesting the following permits as part of their approval:

Conditional Use Permit No. P2019-0194-CUP: for the establishment of a hotel, to ensure compatibility, configuration, design, location, and potential impacts of the proposed use, and suitability of the use to the site and surrounding area.

Site Plan Review No. P2019-0194-SPR: for a new 111,000 s.f. five-story 175-room boutique hotel building with restaurant and two-level, below-grade parking garage, to ensure the Project complies with all required standards and City ordinances and to establish all onsite and offsite conditions of approval.

Administrative Use Permit P2019-0194-AUP: for valet-assisted tandem parking, on-sale alcohol for restaurant/bar, and outdoor dining to ensure compatibility, configuration, design, location, and potential impacts of the proposed use, and suitability of the use to the site and surrounding area.

An MND of Environmental Impact prepared for the project disclosed that the project will not have a significant impact on the environment. Studies were completed for Air Quality, Greenhouse Gas Emissions, Noise and Vibration and Traffic as well as consultation with Tribal Consultation with the Gabrieleno Band of Mission Indians - Kizh Nation. Mitigation measures have been incorporated into the project's design to reduce impacts on the environment to a less than significant level.

As stated above, two appeals have been filed with the City. Each of the appeals set forth unique comments on the Project. The appeals are summarized separately below.

SAFER Appeal

Lozeau Drury LLP submitted an appeal on behalf of the Supporters Alliance for Environmental Responsibility ("SAFER") (Attachment 2). Their stated concern was that the MND adopted by the Planning Commission was improper under CEQA, claiming there is a fair argument that the Project may result in significant environmental impacts. They are stating that an Environmental Impact Report (EIR) must be prepared for the project.

Lozeau Drury had previously submitted a comment letter to the Planning Commission (dated February 19, 2021) as part of the circulation of the MND. That letter stated the Project might have significant impacts related to indoor and outdoor air quality, health impacts from diesel particulate matter, and greenhouse gases. The SAFER Appeal has not raised any new or substantially different issues than set forth in the February 19th letter.

UNITE Appeal

Gideon Kracov, Attorney at Law submitted an appeal on behalf of Omar Lopez, Ramez Ethnasios, and UNITE HERE Local 11 (Attachment 3). The UNITE appeal (dated May 13, 2021) comments on several concerns with the MND including Traffic/GHG, Construction Noise, Reduced Parking, Land Use/Housing, Other CEQA Issues and claims the Culver City Municipal Code (CCMC) required findings cannot be adequately supported.

Response to SAFER Appeal

The MND was prepared by ESA, an environmental consulting firm. As part of the MND process, letters are solicited from concerned parties prior to the completion of the Final MND and hearing by the Planning Commission. As noted above, Lozeau Drury submitted a letter dated February 19, 2021, that commented on concerns about significant impacts. The Final MND included comprehensive responses to all comments of Lozeau Drury's February 19, 2021 letter, and are presented as Response to Comment Nos. IND 9-1 to IND 9-32 in Attachment D, Responses to Comments, of the Final MND (Attachment 6). Based on the responses provided, the Draft MND is sufficient to meet CEQA requirements and no substantive deficiencies were identified that require preparation of an EIR.

Response to UNITE Appeal

The City did not receive comments from Gideon Kracov during the MND review period or at the Planning Commission public hearing. For in-depth responses to the issues raised in the UNITE Appeal, please refer to Attachment No. 4 (Supplemental Final Initial Study/Mitigated Negative Declaration Environmental Responses). The following are a summary of the response to their comments of concern.

Traffic/GHG Impacts. The California Governor's Office of Planning and Research (OPR) *Technical Advisory on Evaluating Transportation Impacts in CEQA* (December 2018) provides guidance in the assessment of Vehicle Miles Traveled (VMT). A VMT analysis was conducted according to the City's *Transportation Study Criteria and Guidelines*, adopted by the City Council on July 13, 2020, and are the basis upon which development projects are evaluated. Based on a review of the City's CEQA VMT guidelines and with the utilization of the City's VMT Tool, the Project does not require any further VMT analysis and is presumed to have a less-than-significant VMT impact based on its location within one-half mile of the Westfield-Culver City Transit Center, which the City defines as a key Transit Priority Area (TPA).

The *Technical Advisory* states that, for redevelopment projects that result in a net overall increase in VMT (such as the Project), the recommended screening and significance thresholds should be applied as part of the VMT analysis. The recommended screening thresholds include the presumption of a less-than-significant VMT impact for land use projects proposed within one-half mile of an existing major transit stop or an existing stop along a high-quality transit corridor. This screening threshold, as defined explicitly in the City of Culver City's *Transportation Study Criteria and Guidelines*, was applied for the Project.

A Transportation Demand Management Plan will be implemented as part of the project and designed to address vehicular traffic, including reducing hotel travel by personal automobile. With the TDM Plan and other improvement measures, the Project adequately analyzed and mitigated transportation impacts as part of the Project Traffic Impact Study.

The UNITE Appeal also claims the Project will increase VMTs, directly affecting the Project's greenhouse gas ("GHG") footprint. The Project's GHG emissions were appropriately analyzed in the Draft MND in consideration of the Project's mobile source emissions. As such, no further response is

warranted regarding GHGs.

Construction Noise. As discussed in the Draft MND (page B-66) and as shown in Table B-16, the Project's construction noise levels during the hours allowed by the CCMC were estimated to reach a maximum of 70 dBA Leq at the nearest off-site sensitive receptor location. This maximum construction noise level would not occur during the entire construction duration. As shown in Table B-16 on page B-67 of the Draft MND, the maximum construction noise level would be associated with the last phase of construction activity when overlapping building construction, paving, and architectural coating activities would occur at the same time.

The CCMC provides specific noise regulations for noise sources within the City, and states that construction activity shall be prohibited, except between the hours of 8:00 a.m. to 8:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturdays, and 10:00 a.m. to 7:00 p.m. on Sundays. Pursuant to General Plan Policy 2.A, the Project would include a temporary sound barrier installation at the construction site, as indicated in the Final MND, identified as PDF-NOI-1, Noise Reduction Measures. Therefore, the minimum performance standard in PDF-NOI-1 is feasible and appropriate and additional reductions are not required since the Project's construction noise would not contribute to nighttime noise and would satisfy the detailed and reasoned analysis for noise compatibility in the vicinity.

Reduced Parking. The parking utilization study performed as part of the parking demand analysis was based on parking surveys of three local hotels. Since hotel room occupancy data were not available for two of the hotels, they were not utilized in the Project's parking demand calculations. The peak parking demand ratio applied for the Project was developed based solely on data from the hotel with the highest parking demands out of the three surveyed locations, which was the DoubleTree by Hilton Hotel at 6161 Centinela Avenue (the "DoubleTree"). Room occupancy data indicated that average room occupancies in June and July 2018 were approximately 95.3 and 93.8 percent, respectively. These rates are considerably higher than hotel room occupancy rates experienced across Los Angeles County (79.7 percent) and the LAX/Inglewood/Culver City submarket (86.4 percent) and, therefore, are conservative and appropriate for use in determining the Project's peak parking demands.

The Project includes an automobile parking supply of 150 parking spaces in its two subterranean parking levels. In addition, with 24-hour valet-assisted parking operations, valet attendants will have the option of utilizing portions of the drive aisles and corners of the parking levels to fit additional parked vehicles if needed. It was determined that 12 additional vehicles can be parked on each subterranean level outside the parking spaces. Therefore, the Project's parking facility will have the capacity to store up to 174 automobiles.

The Project will charge guests and patrons for parking in the subterranean parking facility; however, parking fees will be nominal so as not to incentivize off-site parking. There will also be a validation system for customers of the bar and restaurant, that will reduce parking fees substantially for patrons of those uses. It is the Project's intent to park all users on-site, and it will be able to do so with the proposed 150-space striped parking supply.

The Project's parking demand analysis is adequate, and the Project is not expected to have spillover

parking impacts in the local neighborhood. If, as described in the October 19, 2020 Traffic Impact Study, the City determines there is an intrusion of Project parking on nearby residential streets, the Project shall pay for a parking study to determine if mitigation measures are needed and pay for the cost of implementing those mitigation measures.

Land Use/Housing. As discussed in the Draft MND (p. B-59), the General Plan designation for the Project Site is General Corridor which allows for a range of small to medium scale commercial uses with an emphasis on community serving retail, office, and service uses along major corridors. The Project is consistent with the General Corridor designation as it is proposing a hotel use with restaurant uses on the ground floor. The site is zoned General Corridor for commercial uses, not for residential uses. Thus, objectives to increase affordable housing supply, do not directly apply to the Project Site since it is not designated for residential use.

There was related public comment received at the Planning Commission hearing that reflected concern that the land use was inappropriate and that a mixed-use housing development, not a hotel, should be constructed on the site. The site is located along the City's commercial corridors that is suitable for the intended hotel use and there are many other sites along the commercial corridors that are also suitable for mixed use housing development.

Other CEQA Issues. The UNITE Appeal incorporates by this reference all written and oral comments submitted on the Project by any commenting party/agency. As concluded in the Final MND, based on the responses provided in the Final MND, the Draft MND environmental analysis was sufficient to meet CEQA requirements and no substantive deficiencies were identified that require preparation of an EIR.

Code Required Findings. The above-mentioned issues do not raise any new or substantially more severe significant environmental impacts that were not already considered during the environmental review for the Project. As concluded in the Final MND, based on the responses provided in the Final MND, the Draft MND environmental analysis is sufficient to meet CEQA requirements and no substantive deficiencies have been identified that require preparation of an EIR.

City Council Review Authority

The Council's consideration of the appeal is "de novo." In essence, this means the City Council is holding a new hearing. In that regard, the Council is not solely limited to considering the record that was before the Planning Commission.

- The City Council's review authority for this appeal is governed by CCMC Section 17.640.030.D, which provides that the City Council may consider any issue involving the matter that is the subject of the appeal in addition to the specific grounds that form the basis of the appeal. In its consideration of this matter, the City Council may take the following actions:
- Affirm, affirm in part, or reverse the Planning Commission's decision.
- Amend or adopt additional conditions of approval that may address issues or concerns regarding the Project (regardless of whether they were raised in the appeal).
- If new or different evidence is presented on appeal, the Council may, but is not required to, refer the matter back to the Commission for further consideration.

ENVIRONMENTAL DETERMINATION

With implementation of the Project's design features and prescribed mitigation measures, all identified potentially significant impacts associated with the proposed uses and land use designations are reduced to a less than significant level. Therefore, as provided in the MND the Project does not result in conflicts with the applicable General Plan or Zoning Code or any other applicable land use plan, policy, or regulation such that significant physical impacts on the environment occur. Accordingly, the Planning Commission, after full consideration of the application, plans, staff report and environmental information and testimony presented, adopted the MND and associated mitigation measures, finding the Project will not result in significant adverse environmental impacts.

The City Council's denial of the Appeals and affirming the Planning Commission's approval of the Project and adoption of the MND, if that is the action taken, reflects the City Council's review and independent consideration of the entire record of proceedings, including applicant submittals, staff reports and attachments thereto, public hearing testimony and correspondence, the Planning Commission record, the MND and the Supplemental Final MND Responses. The City Council's action to affirm the adoption of the MND would further reflect the City Council's independent judgment and determination that the Project, as mitigated, will not result in significant adverse environmental impacts, and that the MND is adequate and has been completed in compliance with CEQA. Such action would further confirm the adoption of the Mitigation Monitoring Program attached to the MND as Attachment "C," which mitigations have been imposed as conditions of the Project Approvals.

CONCLUSION

Public participation is an important component of CEQA. A draft MND was prepared for the proposed hotel and circulated for public review and comment between January 21, 2021 and February 19, 2021. The MND, CUP, SPR, and AUP were approved by the Planning Commission on April 28, 2021, publicly noticed on February 18, 2021. Two appeals of the Project Approvals were filed. The Appeals were reviewed by the City's environmental consultant who then prepared a response to the comments in the Appeals.

Based on that review, the responses summarized above and those included in the Final MND, the Draft MND environmental analysis is sufficient to meet CEQA requirements and no substantive deficiencies have been identified by the appellants that require preparation of an EIR.

FISCAL ANALYSIS:

The requested action of denying the Appeals and affirming the Planning Commission approval of the subject Project does not result in any fiscal impacts.

ATTACHMENTS:

1. Proposed City Council Resolutions Denying the SAFER and UNITE Appeals and Affirming the Planning Commission's Approval of the Project and Adoption of the MND
2. Appellant Letter of May 11, 2021 (Lozeau Drury)
3. Appellant Letter of May 13, 2021 (Gideon Kracov)
4. Supplemental Final Initial Study/Mitigated Negative Declaration (IS/MND) Environmental Responses
5. April 28, 2021, Planning Commission Resolution No. 2021-P003 Approving the Project
6. Final MND
7. Development Plans

MOTION:

That the City Council:

1. Adopt a Resolution denying the SAFER appeal and affirming, in whole or in part, the Planning Commission's adoption of the Mitigated Negative Declaration and approval of a Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP for the boutique hotel development at 11469 Jefferson Boulevard:
 - A. with no additional mitigations; or
 - B. with additional conditions.
2. Adopt a Resolution denying the UNITE Appeal and affirming, in whole or in part, the Planning Commission's adoption of the Mitigated Negative Declaration and approval of a Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP for the boutique hotel development at 11469 Jefferson Boulevard:
 - A. with no additional mitigations; or
 - B. with additional conditions.

OR

3. Grant the SAFER Appeal and overturn, in whole or in part, the Planning Commission's adoption of the Mitigated Negative Declaration and approval of a Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP for the boutique hotel development; and direct staff to return with a proposed Resolution consistent with the City Council's findings on the appeal;
4. Grant the UNITE Appeal and overturn, in whole or in part, the Planning Commission's adoption of the Mitigated Negative Declaration and approval of a Conditional Use Permit P2019-0194-CUP, Site Plan Review P2019-0194-SPR, and Administrative Use Permit P2019-0194-AUP for the boutique hotel development; and direct staff to return with a proposed Resolution consistent with the City Council's findings on the appeal;

OR

5. Refer the Project back to the Planning Commission for further consideration, based on

new or different evidence presented in either or both of the Appeals.