



City of Culver City

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Staff Report

File #: 23-210, Version: 1

Item #: PH-1.

CC - PUBLIC HEARING: Appeal of the Planning Commission's Adoption of a California Environmental Quality Act Sustainable Communities Project Exemption for a Mixed-Use Project at 12727 Washington Boulevard (Project).

Meeting Date: October 10, 2022

Contact Person/Dept: Jose Mendivil, Associate Planner
Erika Ramirez, Current Planning Manager

Phone Number: 310-253-5757 /310-253-5727

Fiscal Impact: Yes No **General Fund:** Yes No

Attachments: Yes No

Commission Action Required: Yes No **Date:** August 24, 2022

Commission Name: Planning Commission

Public Notification: (E-Mail) Meetings and Agendas-City Council (10/05/2022); (Posted) City Website (09/16/2022); (Mailed) Property owners and occupants within a 500 ft radius extended (09/16/2022); (Posted) On-site along Meier Street, Zanja Street, and Washington Boulevards (09/19/2022).

Department Approval: Jesse Mays, Assistant City Manager, (09/27/2022)

RECOMMENDATION

Staff recommends the City Council consider the appeal of the Planning Commission's adoption of a California Environmental Quality Act (CEQA) Sustainable Communities Project Exemption (SCPE) as part of their approval of Site Plan Review, Administrative Use Permit, and Density and Other Bonus Incentives, P2021-0103-SPR, -AUP, -DOBI that allows a mixed-use project at 12727 Washington Boulevard (Project), and either:

1. Adopt a Resolution denying the Appeal and affirming the Planning Commission's adoption of a CEQA SCPE for P2021-0103-SPR, -AUP, -DOBI (Staff Recommendation); **OR**
2. Approve the Appeal and overturn the Planning Commission's adoption of a CEQA SCPE for P2021-0103-SPR, -AUP, -DOBI; subject to further environmental analysis under CEQA; and direct staff to return to the City Council with a proposed Resolution approving the Appeal; **OR**

3. Refer the Project back to the Planning Commission for further consideration based on new or different evidence presented in the Appeal.

PROCEDURES

1. The Mayor seeks a motion to receive and file the affidavit of publication and posting of the public hearing notice.
2. The Mayor calls on staff for a brief report and City Council poses questions to staff as desired.
3. The Mayor seeks a motion to declare the public hearing, providing the appellant the first opportunity to speak, followed by the applicant, and then the general public.
4. Applicant and appellant are given one opportunity to provide rebuttal comments.
5. The Mayor seeks a motion to close the public hearing after all testimony has been presented.
6. The City Council discusses the matter and arrives at its decision.

REQUEST

On September 8, 2022, Victoria Ann Yundt of Lozeau Drury timely filed an appeal, on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) (“Appellant”), to the Planning Commission’s Adoption of a CEQA SCPE for the Project described above. Appellant’s appeal request is included in Attachment No. 2.

BACKGROUND

The mixed-use Project is on a split jurisdictional site. In Culver City there are 104 dwelling units and 19,012 SF of ground floor commercial spaces within a 6 story, 67-foot-high building. There are 16 affordable units in Culver City, 5 Very Low Income and 11 Workforce units. The building extends across the City limits into Los Angeles as one structure of 5 stories and 56 feet in height. In Los Angeles there are 40 dwelling units with 3 Extremely Low-Income units and the Project has a total of 144 residential units. Surface parking and 2 levels of subterranean garage contain 234 parking spaces and are in both cities. Parking consists of 54 commercial parking spaces and 129 residential parking spaces (121 spaces in Culver City and 47 in Los Angeles). In addition, there are 25 bicycle parking spaces in Culver City and 46 bicycle parking spaces in Los Angeles.

Ground floor commercial uses have direct access off Washington Boulevard and the Culver City portion of Zanja Street. Ground level commercial parking is accessed from Meier and Zanja Streets and part of the commercial parking and all the residential parking is accessed from Meier Street. Los Angeles units are on the ground level facing Zanja Street and open space residential amenities are

on the second level. Residential units border the second level open space on the west or Meier Street frontage and south or Washington Boulevard frontage forming an L shaped structure across both jurisdictions. An additional amenity deck is located on the roof in the Los Angeles part of the building. The Project Vicinity Map is included in Attachment No. 4.

On August 24, 2022, the Planning Commission approved a Site Plan Review and Administrative Use Permit and recommended the City Council approve a Density and Other Bonus Incentives to allow the Project. Pursuant to CEQA Guidelines, the Commission adopted a SCPE (See Attachment No. 7 - CEQA Exemption Report). Entitlements for the Los Angeles portion include merging the alley into the existing Los Angeles parcels via a Tentative Tract Map and a Conditional Use Permit to allow for commercial parking in the R3 zone. Environmental Certification by Los Angeles is processed with a SCPE and separately approved by Los Angeles.

The August 24, 2022, approved Planning Commission Resolution, Staff Report, CEQA Exemption Report, Draft Minutes, and Preliminary Development Plans provide more detailed information (Attachment Nos. 5 through 9). As noted above, the Appellant timely submitted their appeal on September 8, 2022 (Attachment No. 2) and the Applicant response to the appeal is in Attachment No. 3.

DISCUSSION

Appeal

The Appellant, SAFER, states that the Project does not meet the requirements for an exemption under CEQA Section 21155.1. The Appellant states the City cannot rely on a SCPE and should instead prepare the necessary environmental review documents under CEQA. SAFER requests the City not approve the Project until the appropriate level of environmental review is completed. The appeal document does not include documentation or exhibits that could potentially prove the inadequacy of the Planning Commission CEQA determination.

Staff Response to Appeal

Meridian Consultants prepared the SCPE Report for the Planning Commission Public Hearing (Attachment No. 7). The report demonstrates the Project's compliance with Senate Bill (SB) 375, also known as "The Sustainable Communities Climate Protection Act of 2008", which states projects that combine transportation and land use planning to achieve State Green House Gas ("GHG") emission reduction targets and meet certain criteria may pursue a streamlined CEQA review.

The SCPE Report determined the Project meets SB375 requirements because it is in an area with a Regional Transportation Plan and Sustainability Communities Strategy ("RTP/SCS") approved by the Southern California Association of Governments ("SCAG") and updated every four years. The Project is also consistent with the requirements of the RTP/SCS because it is in a SCAG High Quality Transit Area (HQTA) and is near a major transit stop where intersecting fixed route bus lines have service intervals of 15 minutes or less during peak commute hours.

State Public Resources Code Section 21155.1(a) requires projects seeking an SB375 exemption to meet eight environmental criteria to be eligible for the exemption. Project technical studies included within the SCPE Report indicate all eight requirements are met:

1. The Site is adequately serviced by existing utilities and is connected to existing utility infrastructures.
2. The Site is in an urbanized area with existing building and surface parking.
3. The Site is not on the California Department of Toxic Substances Control's EnviroStor database.
4. The Site's Phase 1 Environmental Site Assessment ("ESA") and Phase 2 ESA did not indicate a release or presence of hazardous materials.
5. The Site does not contain historic resources.
6. The Site is not located in a Fire District, a Very High Fire Hazard Severity Zone, an Earthquake Fault Zone, or a flood zone. Further, the Site is not in an area with risk of explosions or health exposure to asbestos.
7. The Site is not designated for open space.
8. The Project is 15% more energy efficient than required by Title 24, and the buildings and landscaping is designed to achieve 25% less water usage than the average household use in the region.

State Public Resources Code Section 21155.1(b) requires that exempt projects also meet seven land use criteria. Pursuant to the SCPE Report, the Project meets these criteria based on the following:

1. The Site is approximately 1.32 acres in size (combining Los Angeles Parcels and Culver City Parcels), which is less than 8 acres.
2. The Project contains 144 residential units, which is less than the maximum 200 allowed (combined both Los Angeles and Culver City units).
3. The Project results in no net loss of affordable housing units; there are no residential units currently on the Project Site. The Project provides a total of 19 restricted affordable units, including 5 Very Low-Income units and 11 Workforce Income units in the Culver City, and 3 Extremely Low-Income units in Los Angeles.
4. The Project's single-level buildings do not exceed 75,000 sf in size. Instead, the Project consists of a 5-story to 6-story building atop 2 subterranean parking levels.
5. The Project is subject to the City's General Plan Environmental Impact Report ("EIR"), SCAG 2016 RTP/SCS, and the City of Los Angeles Coastal Transportation Corridor Specific Plan, and the West Los Angeles Transportation Improvement and Mitigation Specific Plan ("CTCSP/WLA TIMP") EIR.
6. The Site is surrounded by commercial, retail, and residential uses, and is not near operating industrial uses.

7. The Site is located within the SCAG HQTAs.

State Public Resources Code Section 21155.1(c) further requires the Project to meet one of three additional criteria to be eligible for the SB 375 exemption. The Project will provide 8 Low Income or lower units resulting in more than 5% of the 144-overall number of dwelling units provided to Very Low Income or lower income households. All restricted affordable units within the Project, both in Culver City and Los Angeles, are covenanted for 55 years. The August 10, 2022 Sustainable Communities Project Exemption Report describes in detail the SB 375 streamlined CEQA review and the Project's eligibility for a Sustainable Communities Project Exemption (Attachment No.7).

The Planning Commission determined on August 24, 2022 that pursuant to CEQA Guidelines noted above, initial review of the Project established there are no potentially significant adverse impacts upon the environment, and the Project is considered exempt from CEQA as a Sustainable Communities Project. Based on the SCPE Report and associated technical studies the adopted CEQA exemption satisfies the Project's environmental prerequisites, and no further analysis is required.

Applicant Response to SAFER Appeal

DLA Piper, LLP submitted a response to the appeal on behalf of the Applicant. The response restates the adequacy of the SCPE Report and notes there was substantial evidence in the Report that the SCPE can be made. The Applicant response further describes that the appeal fails to demonstrate any error on the part of the Planning Commission in adopting the SCPE and only asserts as a concluding statement that the Project does not qualify for a SCPE. No argument or evidence in support of the concluding statement is provided and there is no attempt to discuss the substantial evidence in support of the SCPE nor does the appeal lay out evidence proving the SCPE is lacking. The appeal offers no contrary substantial evidence. Attachment No. 3 includes the Applicant response.

City Council Review Authority

The City 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 City 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:

- Deny the Appeal and affirm the Planning Commission's CEQA adoption (Staff Recommendation).
- Approve the Appeal, overturn the Planning Commission's CEQA adoption, and require further environmental review.
- Refer the Project back to the Planning Commission for further consideration if new or different evidence is presented on appeal.

Environmental Determination

No further environmental analysis is required upon affirming the Planning Commission CEQA adoption. Denial of the Planning Commission CEQA adoption requires the Applicant conduct additional environmental analysis that must be reviewed and approved by the Planning Commission before the Density and Other Bonus Incentives can be approved by the City Council. Referring the Project back to the Planning Commission if new or different evidence is presented may result in additional or different environmental determinations.

CONCLUSION

Public participation is an important component of CEQA. There were extensive public participation opportunities for the Project including three Culver City required community meetings, several Los Angeles required community meetings, the Culver City and Los Angeles public hearings, and the appeal hearing. Project materials including environmental documentation were available for the public during the comment period for the Planning Commission and Appeal hearings. A SCPE Report was prepared for the Project and was subject to comment and public review between August 3, 2022 and August 24, 2022. The Planning Commission hearing was publicly noticed on August 3, 2022 and one appeal was filed.

The Planning Commission adopted SCPE is sufficient to meet CEQA requirements and no substantive deficiencies were identified by the appellant that require further environmental review based on review of the appeal and the responses summarized above.

FISCAL ANALYSIS

None.

ATTACHMENTS

1. 2022-10-10_ATT-1. Proposed City Council Resolution Denying the SAFER Appeal and Affirming the Planning Commission's CEQA SCPE adoption.
2. 2022-10-10_ATT-2. Appellant Letter dated September 8, 2022 (Lozeau Drury).
3. 2022-10-10_ATT-3. Applicant Response to Appellant Letter dated September 27, 2022.
4. 2022-10-10_ATT-4. Vicinity Map.
5. 2022-10-10_ATT-5. Planning Commission Resolution No. 2022- P017 & Exhibits A & B dated August 24, 2022.
6. 2022-10-10_ATT-6. August 24, 2022 Planning Commission Staff Report (without attachments).
7. 2022-10-10_ATT-7. August 24, 2022 Planning Commission CEQA Exemption Report
8. 2022-10-10_ATT-8. August 24, 2022 Draft Planning Commission Minutes.
9. 2022-10-10_ATT-9. Preliminary Development Plans April 22, 2022.

MOTIONS

That the City Council:

1. Adopt a Resolution denying the Appeal and affirming the Planning Commission's adoption of a CEQA SCPE for the mixed-use development at 12727 Washington Boulevard (Staff Recommendation);

OR

2. Approve the Appeal and overturn the Planning Commission's adoption of a CEQA SCPE for the mixed-use development at 12727 Washington Boulevard subject to further environmental analysis under CEQA; and direct staff to return to the City Council with a proposed Resolution approving the Appeal;

OR

3. Refer the Project back to the Planning Commission for further consideration based on new or different evidence presented in the Appeal.