

August 22, 2017

Honorable Members of the Planning and Land Use Management Committee
City of Los Angeles City Council
200 North Spring Street
Los Angeles, California 90012

RE: Applicant's Response to Appeal in Case No. CPC-2016-1080-GPA-ZC-HD-MCUP-ZV-SPR

Honorable Members of the Planning and Land Use Management Committee:

Liner LLP represents Art District E4, LLC ("AD4"). AD4 is the project applicant for the 929 E. 2nd Street Project (the "Project"). The Project proposes to rehabilitate the existing two-story Challenge Creamery Butter Association Building at 929 E. 2nd Street ("Project Site") and construct a five-story addition above the building to create a seven-story, 131-foot tall mixed-use development. The Project includes ground floor retail, restaurant, and café uses above an automated parking structure and a private membership club containing artists' studios and other club amenities. Project entitlements were approved by the Advisory Agency on May 3, 2017, and the City Planning Commission ("CPC") on June 29, 2017, who issued a recommendation to the City Council to approve the Project and all requested entitlements.

An Appeal ("Appeal") to the CPC determination was filed July 14, 2017 by Travis Schlink, a resident of 120 S. Vignes St., a converted residential loft building located across the street from the Project Site. The Appeal challenges the CPC's recommendation for approval of a Conditional Use Permit ("CUP"), Zone Variances, and Site Plan Review for the Project. The Appeal raises issues that were raised before and fully addressed and rejected by the CPC in its July 29, 2017 Letter of Determination. The CPC rejected the arguments raised in the Appeal because the arguments rely on factual inaccuracies and are otherwise unsupported by evidence in the record. For the same reasons, as spelled out below, the Planning and Land Use Management ("PLUM") Committee should reject the arguments raised in the Appeal and deny the Appeal in its entirety.

I. THE ARGUMENTS RAISED ON APPEAL LACK MERIT AND SHOULD BE REJECTED

A. Adequate Legal Notice Was Provided to the Residents of 120 S. Vignes

The Appeal's Findings/Justification form ("Justification") challenges the CPC's CUP issuance on the grounds that insufficient notice was provided to the appellant and other residents of 120 S. Vignes, which is alleged to be an unspecified procedural or legal violation. The appellant's Justification sets forth no facts that would show a violation occurred and is factually inaccurate.

First, the Justification does not state facts necessary to establish a claim of inadequate notice. Namely, it does not say what the notice requirement is, when the notice was given, and when the Advisory Agency hearing actually occurred. On this basis alone the claim of inadequate notice should be denied for failure to allege facts sufficient to establish a notice violation.

Second, valid legal notice was provided to the 120 S. Vignes residents, including the appellant. A CUP requires a written notice be mailed at least 24-days prior to a hearing to parties within 500 feet of the proposed use. (LAMC § 12.24-D.2.) The notice for the April 19, 2017 hearing was mailed to all required parties, including the 120 S. Vignes residents, on March 23, 2017. Accordingly, notice was mailed out 27 days before the hearing, three days more than the 24-day requirement.

The Justification first states no notice of a March 22nd hearing was provided to the residents of 120 S. Vignes. However, the Advisory Agency hearing did not take place on March 22, 2017, it took place on April 19, 2017. The March 22nd date was postponed because the City discovered it had inadvertently failed to give notice to the residents of 120 S. Vignes St. due to the fact that the 120 S. Vignes building is not listed as a multi-family building on the tax roll from which the City's notice mailing list was generated. As fully explained on pages F-29 and F-30 of the CPC's June 29, 2017 Letter of Determination (emphasis added):

An investigation indicated the reason notices were not mailed to the 120 S. Vignes St. residents is the units in that building do not appear on the Los Angeles County Assessor information from which the mailing list for the notices was generated. *Upon the discovery, the City discovered the addresses associated with the 120 S. Vignes residents, and provided the list to the City's vendor for mailing notices. The March 22, 2017 hearing was cancelled and new hearing notices were mailed out to all prior recipients in addition to the 120 S. Vignes residents for the rescheduled Advisory Agency/Hearing Officer hearing on April 19, 2017 to provide those residents with sufficient notice and opportunity to participate in the public process for the approval of the Project. The initial failure to mail the first hearing notice to the 120 S. Vignes residents was an unfortunate and unintentional error that has subsequently been corrected. Accordingly, notice was provided to local residents as required by law, and numerous comments were received by residents of the building in writing and in person at the April 19, 2017 Advisory Agency hearing.*

The appellant's selective quotation in its Justification left out the part of the above statement that, when the inadvertent failure to notify the residents of 120 S. Vignes was discovered, the initially-scheduled March 22nd hearing was postponed and new notices were mailed out to those residents with a new hearing date of April 19th. Several of the 120 S. Vignes residents submitted written comments to the City prior to the April 19th hearing, appeared at the hearing, and made comments on the record. Accordingly, the 120 S. Vignes residents were given full notice and the opportunity to be heard. No notice or due process violation of any kind occurred here and the Appeal fails completely to indicate otherwise.

B. The Zone Change is Not Properly Addressed on Appeal and is Appropriate Because it is Consistent with the Zoning and Size and Scale of Adjacent and Nearby Projects

The Justification alleges that the Project's 131-foot height, 102,679 square feet of floor area, and 3.47:1 floor area ratio ("FAR") make it inconsistent with the zoning and size and scale of neighboring structures. As an initial yet crucial matter here, the Appeal does not challenge the Project's requested Zone Change. As indicated in the Appeal Application filed on June 14, 2017, the Appeal only challenges the recommendations for approval of a CUP, Zone Variances, and Site Plan Review. On this basis alone, this claim should be rejected because it is not properly raised on Appeal.

Nevertheless, the Appeal's assertion that the proposed Project is inconsistent with the zoning and size and scale of the neighborhood is inaccurate. As indicated on page F-25 of the CPC's Letter of Determination, the Project's proposed zone change from CM-1-RIO to C2-2-RIO would make the Project Site consistent with the neighboring C2-2-zoned Garey Building site, which is adjacent to the Project Site immediately to the west on the same block. The Garey Building has a slightly greater 3.5:1 FAR than the Project's 3.47:1 FAR, and significantly more square feet overall – 420,719 square feet of floor area in total, compared to the Project's proposed 102,679 square feet of total floor area (See Case No. CPC-2006-8630-GPA-ZC-SPR). The Project thus has the same zoning and is much smaller overall than the immediately adjacent Garey Building, and it complies with the requirements of the C2-2-RIO zone.

Other recent notable, even larger projects in the near vicinity of the Project Site include: (1) One-Santa Fe, which is approximately 350 feet away from the Project Site and includes 6-story building that, like the Project, was rezoned to C2-2D. One Santa Fe has a 3:1 FAR and 439 residential apartment units, 17 live/work units, approximately 51,250 square feet of retail-commercial space, and approximately 802 parking spaces; and (2) 950 E. 3rd St., which is approximately 480 feet away from the Project Site and includes eight 5 and 6-story buildings, which includes 472 apartments (576,940 square feet of residential area), 23,384 square feet of retail space, and 774 parking spaces. This project is currently under construction (Case No. ZA 2000-1712-CUZ-ZV-SUB-ZAI-ZAD-SPR-PA2). The mass and scale of the proposed Project is consistent with, and is in fact much smaller than, several nearby projects and has the same zoning designation as the adjacent property and several other properties in the immediate vicinity.

C. The Project's MND Accurately Describes its Size and Scale

The Justification states, with no analysis or citation, that the Project "misrepresents its own size and scale." This argument was previously raised and disposed of by the City on page F-25 of the CPC's June 29, 2017 Letter of Determination. As the City previously concluded, the Project's Mitigated Negative Declaration ("MND") fully discloses its size and scale. The MND notes that Floor 4 of the Project, where

the automated parking system would be located, would be approximately 32 feet tall. This information is fully disclosed in the MND, and is graphically depicted in Figure A-6 (page A-12) and further explained in Table A-1 (page A-14). Under City regulations, the above-grade automated parking system does not include multiple levels of solid floors, and is therefore counted as a single floor. The total height of the parking system of 32 feet and the total building height of approximately 131 feet proposed for the Project are fully and accurately disclosed and identified in the MND. There is no misrepresentation of the size and scale of the Project in the MND.

D. The Appeal Provides No Basis to Challenge the MND's Analysis of Traffic Impacts

Regarding alleged traffic impacts of the Project, the Appeal states that the MND "[u]nderestimates traffic and parking congestions during rush hours and after closing" and that the "project scope and traffic impact is excessive for Vignes Street. It will create an unnatural intersection and traffic congestion in our alleyway." The Justification provides no facts and no citations to the MND or the Project Traffic Study to support its claims. On that basis alone, the claims should be rejected.

Furthermore, as indicated on page F-23 of the CPC's Letter of Determination, a full Traffic Study was prepared for the Project in March 2016, and approved by the Los Angeles Department of Transportation ("LADOT"). The Traffic Study and the Project's MND take into account impacts caused by both construction and operations of the Project, and analyze present traffic conditions as well as future traffic conditions at the 2019 proposed buildout of the Project. As discussed in Section XVI, Transportation/Traffic, starting on page B-147 of the MND, the Project will add new vehicle trips beyond what the current residential use of the Challenge Cream and Butter Association Building generates, but it will not result in significant impacts under the applicable California Environmental Quality Act ("CEQA") thresholds. This analysis also includes a finding that no significant cumulative traffic impacts would be caused by the Project, which takes into consideration impacts from ongoing and future development projects in the area. Moreover, the Project does not propose to make any use of the alley adjacent to the

120 S. Vignes property as the alley is not a reasonable means of accessing the Project Site, and the Appeal puts forth no argument or evidence that would indicate otherwise.

To further reduce the Project's less-than-significant impacts on traffic, the Project includes the implementation of Project Design Feature PDF-TRAF-1, which details requirements for a Construction Traffic Management Plan to be adopted which would further reduce any potential temporary Project-related construction impacts to local access and ensure emergency access is maintained. The Appeal puts forth no facts or arguments to suggest the Project's traffic analysis showing no significant impacts is incorrect or invalid. On this additional basis, the Appeal should be denied.

E. The Appeal Raises an Invalid Parking Claim that is Also Factually Inaccurate

The Appeal also alleges that the Project "[w]ill result in the removal of at least 9 street parking places that we rely on, with no proposed accommodations." As an initial matter, the Project is considered an infill development in an identified employment center within a transit priority area. (MND, at p. B-1). Under California Senate Bill 743 ("SB 743"), parking impacts of such projects are not considered significant impacts on the environment under CEQA. (Pub. Res. Code § 21099(d)(1).) To the extent the Appeal would raise a claim under CEQA as to parking impacts, such claims would not be valid.

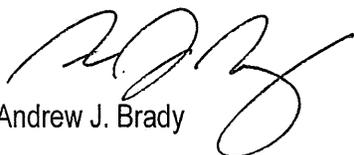
Further, the claim that parking spaces will be lost as part of the Project and that no accommodations are being provided is patently false. As indicated on page F-22 of the CPC's Letter of Determination, the Project will provide 241 parking spaces on-site, which would be 51 spaces more than what is required by the LAMC. Public parking will also be included as part of the Project. Accordingly, there will be more parking available as a result of the Project than there is currently.

II. **CONCLUSION**

The Appeal and its Justification do not raise any valid claims against the Project. Its arguments were properly rejected by the City prior to the CPC approval of the Project, and they should also be rejected by the PLUM Committee.

Very truly yours,

LINER LLP


Andrew J. Brady

AJB: