

NORTH UNIVERSITY PARK COMMUNITY ASSOCIATION (NUPCA)

MASTER APPEAL FORM CONTINUATION:

ENV-2016-1631-CE

CASE NO. ZA-2016-1630 (CUB)

2595 SOUTH HOOVER ST, Suite B. / CD-8 MARQUEECE HARRIS-DAWSON / SOUTH, L. A. PLANNING AREA

On behalf of the North University Park Community Association (N.U.P.C.A.) who are aggrieved parties, we do object to and appeal the South Area Planning Commission Letter of Determination ("Letter") decision of June 14, 2019 which "*determined, based on the whole record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 1, Class 5, and Category 35.*"

To affirm the use of a categorical exemption (CE) is to arbitrarily dismiss the substantial testimony in the record of the indifference displayed by this granting and ignoring the sensitive uses surrounding the subject site.

The "Letter" completely ignores the existence of substantial evidence demonstrating that an exception to a categorical exemption applies pursuant to CEQA Guidelines 15300.2. The SAPC failed to consider the substantial factual record before them but rather decided that the convenience of the student residents' access to beer and wine was tantamount. This makes no sense in terms of the record.

We ask that City Council void and rescind the CEQA clearance and that an MND process be started.

The proposed Categorical Exemption (CE) for the 2595 South Hoover CUB is not legally sufficient to meet the requirements of CEQA in protection of our environment. Title 14, California Code of Regulations, Chapter 3, Guidelines for Implementation of CEQA, states a categorical exemption should not be used where the activity would cause a substantial adverse change. The testimony of many stakeholders demonstrates this would cause an adverse change.

Furthermore, Section 15300.2 (c), explains: Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment.

CEQA sets a very low threshold for not permitting a Categorical Exemption, namely that it should not be used where there is a reasonable possibility of the activity having a significant effect. The appeal by NUPCA meets this bar for the following reasons.

The adopted (CE) is not sustainable in the light of the whole record as it fails to:

1. Understand and recognize that this is a unique community of sensitive uses surrounding the subject site
2. Assess impacts. A CE is not supposed to be used when there is a possibility of impacts as testimony clearly demonstrates
3. Provide the facts to assist a decision maker in understanding the significant impacts.
4. Provide mitigations to the impacts of the proliferation of alcohol outlets, the complication of traffic access and egress on Adams Boulevard and adequate parking for a restaurant use
5. The project creates cumulatively considerable impacts; a Categorical Exemption is not permitted in cases of cumulative impacts.

The expressed overriding concerns of City Hall regarding alcohol distribution in South-Central, calls for a transparent and public process with restrictive requirements and a limited issuance of

conditional-use permits. This policy was in response to the decades old indifference to the social problems caused directly by the overwhelming proliferation of liquor-stores that infested the community. That the sheer numbers of liquor-stores undermined the social fabric of the South Los Angeles neighborhoods is without question.

A CE cannot achieve a transparent and public process. Indeed the number of conditions the AZA attached to this granting should have been a warning sign that there are environmental impacts to the community. The very attempt to condition this granting illustrates that there are potential impacts which need greater scrutiny than a CE would allow.

The AZA writes *"The grant has been well conditioned, which will protect the health, safety and welfare of the surrounding neighbors. The potential effects of excessive noise or disruptive behavior, criminal activity and underage drinking have been considered and addressed by prohibiting off-site sales, requiring exterior lighting, requiring age verification and requiring proactive security measures."*

The residents of South Central have fought long and hard to rescue their community by opposing this social deterioration, store-by-store, case-by-case and hearing-by-hearing, year-after-year. Their struggles and achievement record speaks for itself.

2595 South Hoover is primarily a student residence wherein rentals have been known to be advertised by bed. There is no earthly reason that the inhabitants of "The Element" with their penthouses, pool and barbecue pits and Wi-Fi should have alcohol available downstairs from their dorm-like room rentals and penthouses. Their ads for rentals note the easy close availability of BacaroLA and Nature's Brew, where one can go for beer or wine. There is already easy access to drinks either north on Union or South to the University Village complex three block to the south. There is no reason to allow the proliferation of alcohol outlets by allowing it at this student residence. There is already an over proliferation of establishments providing alcoholic beverages as the AZA acknowledges.

Andrea Canty, (then) President of the Empowerment Congress North Area Neighborhood Development (NANDC) on behalf of the Council wrote on June 20, 2016 in opposition to the granting, specifying these particular issues:

Nuisance and interference with the enjoyment of life for Ward Villa and the childcare centers: If this building will be used for student housing from the neighboring universities and with alcohol consumption, students will be a nuisance to the adjacent Ward Villa Senior Citizen Complex. We have received many complaints over the years at various off campus housing complexes where there was excessively loud music, loud talking, parties extending throughout all hours of the night, an impediment of parking, and physical altercations that require police assistance.

Increased risk of drunken drivers in the midst of the Hoover Recreation Child Care Center that operates Monday through Friday and has some special programs on weekends. There is also another childcare center on the south side of the street where families may be tragically impacted.

Increased request for Conditional Use Permits for the sale of beer, wine and alcohol within a one mile radius. The Board and stakeholders in this community do not want this community to become inundated with establishments offering beer, wine and alcohol especially when we have been working diligently to discontinue liquor license in this area.

Categorical exemptions, however, are subject to important exceptions based on factors such as location, cumulative impact, or unusual circumstances. Cal. Code Regs. tit. 14, § 15300.2. A CE should not have been granted due to the unusual circumstances of the surrounding sensitive uses.

An agency should decide whether a project is eligible for a categorical exemption as part of its preliminary review of the project without reference to or reliance upon any proposed mitigation measures. *Salmon Protection & Watershed Network v. County of Marin*, (2004) 125 Cal. App. 4th 1098, 1108.

The SAPC ignored the overwhelming and unique importance of the specific location of this Project with respect to its' social-cultural context and the potential negative impacts any liquor sales would have on immediate vulnerable neighbors: The children, teenagers and young adults that utilize the Hoover Recreational Center Park, the elderly residents of the Ward Villa Residents, the preschoolers and nuns at the Sisters of the Company of Mary, the homeless single parent Veterans with children at the Casa de Rosas, and the followers and students at the Art of Living Foundation.

These are the people, the neighbors, who, along with the surrounding community, have objected to the proposed liquor sales application. They have written letters, attended public hearing and solicited the assistance of their elected public officials. They have made their voices clear this Project does not belong at this location and that such granting has serious impacts.

Admittedly the AZA in his report has dutifully noted all the comment letters received and the oral testimony given. He has also dutifully noted the existence and proximity of the institutional and community uses of the neighboring buildings. Unfortunately he has failed to comprehend how all these entities function in the real world. He has failed to acknowledge the gravitas of these special uses and the impacts that an adjacent liquor sales could have

The AZA in his decision displays a significant deaf ear to the unique circumstances when he writes: *"In addition, being located near two major thoroughfares, the restaurant offers a viable commercial use that contributes to the vibrancy of the area. The restaurant offers a convenience of serving beer and wine, which is generally expected by residents living in urban areas, and residents of mixed-use projects expect such amenities without the inconvenience of driving elsewhere"*.

The AZA's conclusions are especially troubling since he had the opportunity of reviewing two separate public hearings on the Project proposal over a year-and-a-half period. The applicant's original request to the ZA was far more grandiose: a full line of liquor, more than double the floor space at 3,691 square feet with 97 indoor seats, and 333 square foot outdoor with 20 seats, and live entertainment. This audacious request was meet with immediate resistance by the community.

The following selected comments are from the first public hearing, June 21, 2016 as reported by the AZA in his Determination:

Jacquelyn Dupont-Walker; *"I am here on behalf of myself and on behalf of the Ward EDC. There are 120 families in the Ward Villas next door that will be directly impacted by the noise and loitering resulting from this project. This will directly impose upon the seniors living nearby and will impact their quality of life such as interrupting their night time sleeping"*

Sister Mary Gomez representing Sisters of the Company of Mary: *"I represent the pre-school across the street. This use is too close to our school and I am totally against it. I am concerned for the safety of my students and their families. This environment will cause distress. Drinking will occur in front of these families and the hours are far reaching."*

Ronald Cargill representing the WARD EDC stated; *"The required findings for the conditional use cannot be made. This is the wrong location and an incompatible use, there are sensitive receptors*

nearby including: senior citizens, school children across the street, low income housing nearby and a park across that street that will directly be impacted by this project. This project will further degrade the community because the noise impacts will impose upon people sleeping. This project is under parked because it is within an Empowerment Zone and this will result in a negative impact, as there is insufficient parking in the area. The Categorical Exception that was issued is inappropriate because there are sensitive receptors nearby”.

Lynell Washington representing Council District-8, the Office of Councilmember Harris-Dawson presented the following: *“We support a restaurant without alcohol services at this time”.*

A second public hearing was held on October 24, 2018 for the applicant’s “modified” Project for dispensing on-site beer and wine, with 32-seats on 1,550 square feet. The adjacent stakeholders and the community spoke-up again opposing the Project for many of the same reasons.

Jean Frost of the Empowerment Congress North Area Neighborhood Development Council spoke of the project: *“not fitting the neighborhood due to the sensitive uses near the site and for this reason they cannot support the application... The site is within the Neighborhood Stabilization Ordinance... The project is under- parked, and there is concern of over consumption of alcohol”.*

Jacquelyn Dupont Walker, expressed opposition to the request and spoke: *“of an opportunity to build the community and a desire to maintain affordable housing.”* She expressed concerns of: *“quality of life issues and the site affecting the sensitive uses around the area, including the daycare, park, 37 homeless single parents”... She stated: “the owner already knew about the issues of alcohol in the community... This is not an appropriate addition to the restaurant and the area is not underserved”.*

James Haywood Jr. of the Ward Villa Senior Complex, former owner of a beer and wine establishment in Crenshaw, stated: *“this would have a negative effect on children. There is a park in the northeast corner and a senior complex near the site. The parking lot will not accommodate the use, and the area has more Dulls”.*

Lynell Washington, Planning Director for Council Office 8, spoke of a public hearing with the NANDC on October 4, where many were in attendance: *“The dialogue was going on for a long time, and the NANDC voted to reject the conditional use request. Council Office supports the NANDC’s vote because there are sensitive uses, comments expressing concerns, a public park, and homeless shelter”.*

In the over two years that this Case was on the desk of the AZA it had received many letters and taken much public testimony opposing the applicant’s various requests for on- site liquor sales. That the opposition was not limited to just the scale of the requests but went to the heart of the issue of their very concept: placing a negative usage in the center of long standing beneficial institutions serving the University Park community. The impact seems to have been lost by the AZA. The AZA has embraced the applicant’s willingness to voluntarily reduce the scale of the onsite alcohol sales as opportunity to have the City reward them for their collaboration with his approval. His bias is discernable within a review of his required Findings.

In the previously quoted the AZA Finding 1. The AZA offers supportive language for the Projects purported beneficial qualities. He finds: *“The Project offers a viable dining option to the area...The restaurant offers sliders, chicken wings and strips...allows the patrons to purchase beer or wine to compliment their meal...contributes to the vibrancy of the area...a convenience to beer and wine expected by residents living in urban areas...residents of mixed-use projects expect such amenities without the inconvenience of driving elsewhere...”*

In Finding 3. the AZA claims; *“The proposed use of the subject site is consistent with, and aids to advance the following objectives and policies identified in the South Los Angeles Community Plan...Policy 2-4.3: Ensure that commercial infill projects achieve harmony with the rest of existing development.”*

“The Associate Zoning Administrator recognizes that the number of off-site locations exceeds the number allocated for the census tract. Over concentration can be undue when the addition of a license will negatively impact a community. Overconcentration is not undue when the approval of a license will benefit the public welfare and convenience.”

In response, the AZA requires the readers to find as he did that the applicant's Project would actually “benefit the public welfare and convenience”. There is no sustainable position based on the facts to find that the “public welfare” benefits by the sale of beer at a hamburger stand.

In Finding 6. The AZA actually takes a bow for his efforts of supporting the applicant's modification efforts: *“The grant has been well conditioned, which will protect the health, safety and welfare of the surrounding neighbors. The potential effects of excessive noise or disruptive behavior, criminal activity and underage drinking have been considered and addressed by prohibiting off-site sales, requiring exterior lighting, requiring age verification and requiring proactive security measures.”*

The AZA has indeed compiled a lengthy list of requirements for the applicant to complete in order to be granted a Conditional Use for alcoholic sales. However it is a list that I frankly believe should be universally applied to any and all CU applications for liquor sales. Perhaps most of them already are standard requirements. In any event these conditions cannot and do not provide for mitigations that sufficiently mitigate the intrusive use of alcohol sales at this subject site. In the light of the whole record, a CE is not an adequate environmental instrument to insure compliance with CEQA.

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