

**Agenda Date:** 5/2/2017

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Anne McIntosh, Community Department Director

Laurie B. Jester, Planning Manager

Eric Haaland, Associate Planner

**SUBJECT:**

Master Use Permit for a Market with Off-Site Alcohol Sales and On-Site Alcohol Consumption and Tastings and a Bank at 707 North Sepulveda Boulevard; the Provision of Off-Site Parking at 801 North Sepulveda Boulevard; Reduced Parking; Sign Program; and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Paragon Commercial Group- Gelson's Market) (Community Development Director McIntosh).

**AFTER CONDUCTING PUBLIC HEARING, DIRECT STAFF TO PREPARE RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND APPROVING APPLICATION**

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**RECOMMENDATION:**

Staff recommends that after conducting the public hearing the City Council direct staff to prepare a resolution to adopt the mitigated negative declaration and conditionally approve the request.

**EXECUTIVE SUMMARY:**

Paragon Commercial Group ("Paragon" or "Applicant") has submitted an application for a master use permit ("MUP") to develop a bank and convert an existing automotive facility to a grocery store with an eating and drinking establishment component (the "Project") on Sepulveda Boulevard between 6th and 8th Street. In addition, Paragon has submitted a parking study to support reduced parking.

After the Planning Commission approved the Project, a Councilmember submitted a request to review the decision, and opponents to the Project filed two appeals.

The Municipal Code requires a public hearing *de novo* for all appeals and councilmember review requests concerning quasi-judicial matters. *De novo* means that the Council must

take a “fresh look” at all the evidence presented at the public hearing and, after the public hearing is closed, base its decision on the evidence presented at that hearing. To approve the application, the Council must make certain land use findings listed in this report. The key findings are:

1. Is the Project appropriate for the proposed location and compatible with surrounding uses?
2. Is the site adequate to accommodate a market and a bank without adversely impacting surrounding uses?
3. Will the parking demand of the proposed market/bank use be less than Code parking requirements?
4. Will the probable long-term use occupancy of the structures generate additional parking demand?

A Mitigated Negative Declaration (MND) was drafted for the Project. Both Appellants urge that the City Council require an Environmental Impact Report.

## **DISCUSSION:**

### Proposed Meeting Format

As a threshold issue, the City Council should consider the following proposed format for the public hearing:

1. Council determines format
2. The Mayor opens the public hearing
3. Community Development Director provides a brief overview of the process
4. Staff describes the project
5. City Traffic Engineer addresses traffic and parking
6. CEQA Consultant addresses environmental issues
7. CEQA Peer Review presents results of peer review
8. Council questions of prior presentations
9. Applicant's presentation (15 minutes)
10. Appellants' presentations (15 minutes, each)
11. Mayor invites additional speakers
12. Applicant rebuttal
13. Mayor closes public hearing
14. City Council questions and deliberation
15. City Council motion/direction to staff

### Project Overview

The subject site consists of two commercially zoned parcels. The primary site occupies almost an entire block and contains a vacant auto dealership/repair shop comprised of two primary buildings totaling 38,107 square feet of floor area (707 North Sepulveda Boulevard); a single-lot parcel with a vacant 2,242 square-foot automotive building (801 North Sepulveda Boulevard) to the north of the primary site is proposed for employee parking. The Applicant proposes to: (1) retain and modify the main building for grocery store use on the primary site; (2) demolish the smaller building near the corner of Sepulveda Boulevard

and 8th Street; and (3) construct a 6,684 square foot bank building near the corner of Sepulveda and 6th Street. A total of 34,584 square feet of floor area is proposed. In addition, the Applicant has applied for: off-site alcohol sales and on-site alcohol sales and service, including tastings; and reduced parking based upon a project parking analysis.

The proposed uses, grocery store (food and beverage sales) with on-site eating and drinking, and bank, are permitted uses in the CG zone. However, a Master Use Permit is required because the proposal is for establishment of a multiple-tenant commercial use in the General Commercial (CG) zone with floor area exceeding 5,000 square feet, or a site area exceeding 10,000 square feet. On-site eating and drinking, alcohol sales/service, and reduced parking also require a Use Permit. In addition, MBMC Section 10.72.060 requires an approved sign program for any multiple tenant site. The project is located on a 93,988 square-foot primary site containing a vacant auto dealership/repair building. The existing building to the rear of the site is proposed to be remodeled and expanded into a 27,900 square-foot grocery store. A smaller, 6,339 square foot former auto sales office portion of the building on the corner of Sepulveda and 8th Street is proposed to be demolished. A new 6,684 square foot bank building is proposed to be constructed in the front on the south side of the site, near the corner of Sepulveda and 6th Street. A 7,200 square-foot off-site parking lot at 801 North Sepulveda Boulevard across 8th Street from the primary site (soon to have a new address: 1045 8th Street) is also proposed.

The project conforms to the City's requirements for use, floor area, setbacks, height, signage and landscaping as shown in the Project Overview (Attachment 1).

Staff will provide a detailed Power Point presentation on the project at the meeting (Attachment 2).

The project plans and material submitted by the applicant are provided as Attachment 3.

#### Consistency with General Plan

The proposed location of the use (Sepulveda Boulevard) and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan. The General Plan's designation for the site is general commercial, and the project is for commercial uses, not residential or industrial.

#### Consistency with Zoning

The stated purpose of the CG zone is as follows:

*CG General Commercial District.* To provide opportunities for the full range of retail and service businesses deemed suitable for location in Manhattan Beach, including businesses not permitted in other commercial districts because they attract heavy vehicular traffic or have certain adverse impacts; and to provide opportunities for offices and certain limited industrial uses that have impacts comparable to those of permitted retail and service uses to occupy space not in demand for retailing or services.

The proposed location of the use (Sepulveda Boulevard) is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located because

Sepulveda is a main commercial thoroughfare and the district is a commercial district where a grocery store and bank will complement a full range of retail and service businesses suitable for Manhattan Beach.

### Use Permit Findings

#### *Use Permit*

MBMC Section 10.84.060 provides that in order to approve a use permit, the following findings must be met:

1. The proposed location of the use is in accord with the objectives of [the Zoning Code] and the purposes of the district in which the site is located;
2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;
3. The proposed use will comply with the provisions of [the Zoning Code], including any specific condition required for the proposed use in the district in which it would be located; and
4. The proposed use will not adversely impact or be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

As conditioned, the Project will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City, because Municipal Code requirements and conditions of approval address lighting, security, safety, aesthetics, landscaping, hours of operation and parking.

The proposed uses will comply with the provisions of the Zoning Code because the site is zoned for general commercial uses, such as the ones proposed, which are typical uses for the Sepulveda commercial corridor.

The proposed uses are compatible with surrounding uses and will not adversely impact or be adversely impacted by nearby properties because the uses are typical of Sepulveda Boulevard commercial establishments, and are primarily oriented toward the commercial corridor, with physical buffering and minimal orientation toward residential uses. The building has substantial setbacks/landscaping, and buffer walls for compatibility with the surrounding commercial and residential uses. As shown in the environmental documentation and as discussed below, Sepulveda Boulevard and other nearby streets can accommodate the anticipated traffic generated by the uses. The Applicant will be providing adequate parking for the proposed uses. The proposed uses will not generate vibration or odors, and will not adversely impact the security and personal safety of residents or aesthetics. The project will not create demands exceeding the capacity of public services

and facilities.

As shown in the Planning Commission Resolution (Attachment 5) the Commission made each of these findings.

### Parking

The Applicant proposes 135 full-time standard parking spaces, and two large-truck loading spaces at least 80 feet deep each. The primary parking lot on the site with the two project buildings would contain 119 spaces serving customers and employees. An off-site parking lot, permanently dedicated to the project, located across 8th Street, would provide 16 spaces for grocery store employees only. This secondary lot would conform to the 400-foot maximum distance required for off-site parking as required by MBMC Section 10.64.020(F). The applicant has also indicated off-site parking agreements for 20 private parking spaces near the intersections of Sepulveda Boulevard and 10th Street, and 5 parking spaces at Sepulveda Boulevard and 6th Street have been obtained. These additional parking spaces are either part-time, or are greater than 400 feet from the primary site, therefore, they would be supplemental only and not be counted toward required parking.

The on-site parking lot provides conventional surface parking in a design determined to be acceptable to the City's Traffic Engineer and consistent with the requirements of MBMC Chapter 10.64. The off-site parking lot also has an appropriate design and is consistent with the Code requirements. This lot is located on a separate site north of 8th Street, west of two other commercial lots abutting Sepulveda Boulevard, which are not owned by the applicant.

The Municipal Code would normally require 171 spaces if the Applicant could not justify a reduction in the number of spaces pursuant to MBMC Section 10.64.050(B). That Section provides:

"A use permit may be approved reducing the number of spaces to less than the number specified in the schedules in Section 10.64.030, provided that the following findings are made:

1. The parking demand will be less than the requirement in Schedule A or B; and
2. The probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand."

Section 10.64.050(B) recognizes that certain specific uses, and combinations of uses, will consistently not generate the demand quantities specified for regular use in the Code. One comparison that might exemplify how the code-specified parking ratio might be higher than actual demand in this case; that is while grocery and retail uses have similar operational characteristics, and have the same basic parking ratio (1/200 square feet), retail requirements decline (to 1/250 square feet) as operations exceed 5,000 square feet, but those for grocery stores do not. The code also reduces parking requirements (to 1/1000 square feet) for "bulk storage" portions of large retail uses, but does not do the same for food and beverage sales. The Code does not acknowledge the same lessened total parking demand for large grocery stores that it does for large retail stores.

To support its request for reduced parking, the Applicant has provided a parking demand

study-Traffic Impact and Parking Demand Study dated June 28, 2016-assessing the Project's estimated actual demand to justify this parking reduction. The study is attached as Appendix H of the Initial Study and provided at the following city website link:

<http://www.citymb.info/home/showdocument?id=23860>

The Traffic Impact and Parking Demand Study analyzed the anticipated parking demand for the project. The parking study based its analysis on the most recent versions of two nationally recognized parking demand documents: Institute of Transportation Engineers (ITE) Parking Generation and Urban Land Institute (ULI) Shared Parking. After factoring in nationally recognized peak parking demands for grocery store, restaurant, and bank uses, it concluded conservatively that a minimum of 135 parking spaces would be sufficient to meet the highest expected parking demand on any day. In addition, another demand study was conducted using actual parking counts for a comparable Gelson's Store in Hollywood, which resulted in a lower calculated weekend peak parking demand-132 spaces-than the ITE / ULI calculations.

The City Traffic Engineer found the parking demand analysis contained within the Traffic Impact Study to be complete and accurate. The parking demand was based on a maximum 27,900 square foot supermarket with food service (28 seats), and a 7,000 square foot (6,800 sq. ft. leasable) bank. The site would have 119 on-site parking spaces and 16 auxiliary site employee spaces, totaling 135 dedicated spaces. In addition, the Applicant has acquired a full-time parking lease for 20 spaces in a remote private lot on 10th Street just west of Sepulveda Boulevard for a total of 155 on-site and off-site parking spaces. The Applicant has also acquired a weekend parking lease for 5 additional parking spaces in an adjacent private lot on the southwest corner of 6th Street and Sepulveda Boulevard, which would make a total of 160 available parking spaces available on weekends.

In sum, based on a thorough review of the parking analysis, application of standard industry practices and professional expertise, the City Engineer recommends that no less than 135 spaces be provided at all times. In addition, he recommends that the City require a traffic management plan, with features such as requiring all employees to park in off-site dedicated parking lots until those lots are full, then park in the main parking lot. The conditions of approval in the Planning Commission Resolution provide the details of these conditions.

### Traffic

The MND analyzed the traffic generated by the project and determined that traffic will not create any significant traffic impacts in light of the City's significance criteria. Some of the key traffic components of the project include the following:

Sepulveda Boulevard Driveway - The existing driveway would be relocated to the south with right turn in/out access only. The center median on Sepulveda Boulevard adjacent to the project site will be modified to prohibit left turn movements (Northbound) in/out of this driveway. The driveway will include a widened shoulder to facilitate southbound deceleration into the project out of travel lanes, subject to Caltrans approval. A right-turn pocket is not required by the traffic analysis, but is considered desirable by the City if feasible.

8th Street Driveway - Two existing driveways would be consolidated into one. Large

grocery delivery trucks would use this driveway to enter the site. Left turns exiting the site at this driveway towards the residential uses to the west, would be prohibited.

6th Street Access - The existing driveway on 6th Street just west of Sepulveda Boulevard will be closed, and new curb, gutter and sidewalk constructed, as part of the project.

Sepulveda Boulevard/8th Street Intersection - The City will be constructing new northbound and southbound left turn arrows at this signalized intersection pursuant to a Highway Safety Improvement Program grant. This work is expected to be completed in 2017, prior to the Project's completion.

The Traffic Impact and Parking Demand Study, included at Appendix H of the Initial Study, provides further discussion on the existing conditions, project traffic, future traffic conditions, and project circulation.

Sepulveda Development Guidelines:

The City Council adopted the Sepulveda Boulevard Development Guide in 1997, which specifies some desirable physical elements for this commercial corridor as well as design guidelines. The project follows the suggestion of a right-turn pocket by proposing a widened shoulder at its Sepulveda driveway (subject to Caltrans approval) for improved traffic flow. A full-length right turn pocket that conforms to Caltrans guidelines is not attainable at this site, due to insufficient project frontage. Therefore, a widened shoulder of approximately 10 feet wide has been included in the project description instead that essentially accomplishes the same purpose.

Certain project features are consistent with Sepulveda Boulevard Guidelines as follows:

- Vehicle circulation for the primary site has a simple internal loop design with minimal driveway intrusions to streets. The auxiliary parking site has a simple, but constrained, design that could benefit from access to the greater area of the adjacent easterly parcel (vacant car lot) with future development of this site. Circulation for the adjacent commercial parcel and streets would also benefit from driveway and other facility sharing between the parcels. The Planning Commission Resolution of approval includes conditions requiring the subject project to cooperate with future reciprocal access and similar efforts to achieve these benefits, consistent with the Guidelines.
- Standard and disabled access sidewalk dedications have, or would be completed, and pedestrian access into the site is provided.
- The project is oriented away from the westerly adjacent residential neighborhood with landscape buffers provided. Retention of the primary rear building wall is intended to buffer construction and business operations from residential neighbors.
- Project utilities will be placed underground, and extensive site landscaping including trees, is proposed.
- Loading and trash areas will be visually screened at an interior location which benefits visual aesthetics.
- Signage will be compatible with the building and site.

### Alcohol Sales

The applicant proposes three types of alcohol uses for the market: traditional grocery store alcohol sales (off-sale beer, wine and liquor), alcohol beverage tasting in a limited designated area (promoting off-sale purchases), and on-site consumption (on-sale of beer and wine in the indoor and outdoor restaurant area only). Traditional off-sale grocery store alcohol has typically not raised concerns. Alcohol tasting is more recently popular at specialty markets in the area, and has generated some concerns in the past. Accordingly, the Resolution contains specific conditions to regulate alcohol uses. Recent Manhattan Beach approvals for this type of alcohol tasting include Bristol Farms and Ralphs markets. The Police Department has not identified concerns resulting from its experience with stores providing alcohol tasting.

If not properly regulated, on-site consumption in dining/bar areas generates the most concern for alcohol-licensed establishments in the City. The project includes 12 dining seats inside, including an interior sushi/wine service counter, and 16 dining seats outside, all located near the northeast corner of the market building. This location is oriented toward the entry and parking area, and is also adjacent to 8th Street, with a landscape buffer separation. While the proposed outdoor dining area has some exposure to residential neighbors, grocery store eating and drinking areas such as this typically do not generate alcohol related problems.

### Signs

The proposed Sign Program conforms to the requirements of Chapter 10.72 of the Zoning Code. Project signs primarily include tenant identification wall signs, and one large pole sign. The pole sign would somewhat replicate the existing auto dealership pole sign, being about the same height and square footage. The pole sign would be located slightly to the south, within the landscape area abutting Sepulveda Boulevard. While the Zoning Code permits one pole sign on a commercial site such as this, there have been concerns with pole signs at times. The Planning Commission Resolution, approved the pole sign and accompanying wall signs as the Code permits, with prohibitions of excessive lighting as is typical for use permit sign approvals.

### Planning Commission decision and additional conditions of approval

After a continued public hearing held on February 8, 2017 and March 22, 2017, the Planning Commission adopted Resolution No. PC 17-01 (Attachment 5) adopting the MND and approving the application (by a 2:1 vote). The minutes for these meetings are provided as Attachment 6. The facts and findings supporting the decision are contained in Resolution No. PC 17-01.

The Planning Commission added the following conditions of approval relating to pedestrian and bicycle improvements:

1. A new eight-foot wide Sepulveda sidewalk, plus a 3-foot "furniture zone" (Condition 26. o.)



2. On-site bike parking located closer to 8th Street with clear access (Condition No. 26. r.)
3. A new mid-block cross-walk on 8th Street connecting the employee parking lot with the main site, and “keep clear” markings on the street (Condition No. 31)
4. Crosswalk enhancements at the intersection of Sepulveda and 8th Street (Condition No. 32)
5. Crosswalk enhancements at the intersections of Larsson Street at 6th and 8th Streets (Condition No. 32)
6. A new Class II bikeway on 8th Street adjacent to the project (Condition No. 33)

With the additional conditions, the Commission imposed over 50 conditions of approval. If the Council directs staff to draft a resolution for approval, the City Council has the discretion to impose any conditions reasonably related to the Project.

Several of the new conditions (1, 3, 5 and 6) are challenging from a site planning and construction standpoint, or they may even be infeasible, however that determination cannot be made without further study from the City Traffic Engineer and other City Departments. If the City Council supports the general concept of the new conditions, then staff will bring back revised language that meets the spirit and intent of the original conditions.

The March 22 Planning Commission staff report includes two additional potential conditions of approval that staff proposed for the Commission to consider adding to the Resolution regarding control of off-site shopping carts, and provision of electric car chargers. The Commission did not discuss this proposal, however staff believes that these new conditions have value and the applicant indicated at the Commission meeting that they did not object to the new conditions and therefore staff is again recommending that these new conditions be considered. Draft language for those conditions, which could be added to Condition No. 26, is as follows:

- The operator shall provide and maintain an “invisible barrier” system that prevents shopping carts from being removed from the site by customers. The system shall include electronic sensors that disable carts prior to leaving the site.
- The operator shall provide and maintain a minimum of two electric vehicle chargers within the primary project parking lot that are available to customers. The design and signage of the chargers shall not obstruct or prevent use of required parking spaces for general parking purposes.

Additionally, since the Planning Commission hearing, staff has discussed various options to address the neighbors’ concerns for the surrounding residential neighborhood due to the proposed project. Staff would recommend another new condition for the applicant to fund a neighborhood traffic study to evaluate non-residential traffic issues in the surrounding area of Larsson, 8th and 6th Streets. A similar condition was placed on the Mall project with the applicant funding up to \$20,000 for a study, and if the City Council supports the general concept of the new condition then staff will bring back language with a Resolution.

### Appeals

Two appeals were timely submitted (Attachment 4). The language in quotes are the basis for the appeal. The following responds to the points raised in those appeals.

Manhattan Beach Residents for Responsible Development (MBRRD) Buchalter Appeal-  
Item A1: "The MND used an improper 'Baseline.'"

Response: The Traffic Study conducted baseline traffic counts in March and December 2014, at which time the auto repair shop was in operation. It is common practice to use existing or new traffic data up to two years prior to initiation of a project's CEQA environmental review for the analysis of traffic impacts, notwithstanding any substantial changes to the roadway network. Therefore, it is proper to take a trip credit for the auto repair because those trips were included in the "existing conditions" traffic counts and should be subtracted from the new project conditions. Additionally, the project emissions during construction and operation were analyzed in the Initial Study, Section 4.3, and the findings indicate that there is a less than significant impact as none of the SCAQMD standards are exceeded. (Additional details are provided in the MND Response to Comments, Part III - B, Comment Letter C, Page III-53, Response to Comment 9.

Item A2: "The Traffic Study ignored the potential impacts of weekend and beach traffic."

Response: While grocery stores do generate slightly higher peak hour traffic on weekends, the project also includes a bank that will be closed on weekends. In addition, weekend peak hour traffic volume is lower than weekday peak hours. A weekend peak hour analysis was conducted and is documented in the MND Response to Comments document, which shows that while project trips are somewhat higher during a weekend peak hour, the lower peak hour volumes result in a smaller change to the intersection Level-of Service. Therefore, the worst case scenario remains the weekday peak hours. More detailed discussion is located in the Response to Comments, Part III A- Master Response to Comments, MR-3.1- Weekend Traffic Analysis, pages 10-12.

The City follows the LA County Congestion Management Plan Traffic Impact Analysis Guidelines, which requires that traffic counts be taken on school days to measure a typical weekday. Abnormal or overly high/low traffic volume days should not be used because they do not represent typical conditions. While overall daily traffic volumes in beach communities can be somewhat higher on sunny summer days than school days, the AM and PM peak hour volumes tend to be lower due to the absence of school traffic. Also, beach oriented traffic generally peaks in the midday, not during the commuting hours.

Item A3: "The improper baseline underestimates the increase in noise for the project."

Response: The project noise study was completed using mid-day measurements of existing noise levels at the site, and modeling of anticipated project noise around the site's perimeter. Project delivery-truck, outdoor dining, and roof equipment noise levels, were analyzed and determined to be less than the ambient noise levels at neighboring residences. Truck vibration was found to be less than applicable thresholds. General traffic noise from the abutting segment of Sepulveda Boulevard would be less than significant, and below the 3dBa CNEL standard considered to be barely perceptible. The project is not expected to cause or add Single Event Noise impacts that would have a significant impact. The project hours of operation are typical for those along the Sepulveda Boulevard commercial corridor. Condition No.

25 of the PC Resolution limits deliveries to 7:00 AM to 1:30 PM Monday through Saturday, except small delivery vans that may deliver during regular business hours of 7:00 AM to 10:00 PM. No delivery vehicles may be on the property after hours and not Sunday deliveries are allowed. So there will be no night time deliveries during the most sensitive noise hours. The MBMC does address and limit unusual types of noises, in Sections 5.48.140 and 5.48.160 E, and the project is required to comply with those Code standards. More detailed discussion of project operational noise is located in the Response to Comments, Part III B- Comment letter C, pages 37-38, Response to Comments 15-17.

Temporary construction noise is exempted by the Municipal Code from noise level maximums during permitted construction hours, but is expected to be in low-to-moderate ranges, which is considered acceptable by the General Plan. Additionally, eight construction noise mitigation measures are required by the proposed Mitigated Negative Declaration that include physical noise barriers and management of construction equipment and activities in noise-sensitive manners. More detailed discussion of project construction noise is located in the Response to Comments, Part III B- Comment letter C, pages 36 and 39, Response to Comments 14 and 20.

Item A4: "There is no mitigation or conditions for the number and types of project trucks and truck noise."

Response: All truck trips are included in the Trip Generation rates used in the Traffic Study. As discussed above, the project noise study included an analysis of truck trip noise, and there is no CEQA mitigation required for truck trips. The number of trucks is not specifically limited by the Conditions of Approval, but the delivery route and hours for semi-truck trailers is conditioned. Additionally, Condition No. 1 of PC Resolution No. 17-01 requires substantial conformance with the plans and project description, and Condition No. 2 requires compliance with the Mitigation Monitoring and Reporting Program. Condition No. 20 requires compliance with the MBMC Noise standards. Condition No. 25 of the PC Resolution limits deliveries to 7:00 AM to 1:30 PM Monday through Saturday, except small delivery vans that may deliver during regular business hours of 7:00 AM to 10:00 PM. No delivery vehicles may be on the property after hours and no Sunday deliveries are allowed.

Items B and C: "The City should have prepared an EIR instead of an IS/MND. The MND is legally defective since it is not CEQA Compliant."

Response: In accordance with the California Environmental Quality Act ("CEQA"), an initial study was prepared for the project. CEQA and CEQA Guidelines govern which type of environmental document a lead agency must prepare. A detailed discussion of CEQA and the determination to prepare an MND is included in the Environmental Review section at the end of this report.

Item D: "Other CEQA Violations"

Response: (1 and 3) A neighborhood study and neighborhood traffic impacts are not a requirement of CEQA and the City has not established significance criteria for

neighborhood traffic impacts.

(2) The Project has included a widened shoulder in its site plan, not a deceleration lane. Neither the City nor Caltrans is requiring a deceleration lane because the Traffic Study found that vehicle queuing will not be a factor when entering the driveway on Sepulveda Boulevard. Caltrans' correspondence identifies the design requirements for a deceleration lane, but does not require the project to provide one. Nevertheless, the widened shoulder will provide sufficient width for motorists to slow down out of the traffic flow prior to entering the project site. It will meet the City's standard width for a right turn pocket as well as Caltrans criteria for a widened shoulder.

#### Donald McPherson Appeal

Item 1: "A required "deceleration lane" and bus turnout was deleted from the project."

Response: The Project includes a widened shoulder in its site plan, not a deceleration lane. Caltrans' criteria for full width and length deceleration lanes are not feasible along Sepulveda Boulevard, due to closely spaced driveways and intersections. In fact, all of the "deceleration lanes" along Sepulveda Boulevard are widened shoulders or turn pockets, and do not meet Caltrans design standards for deceleration lanes, due to restricted right-of-way and short property frontages. It should be clarified that the "deceleration lane" in the site plan and project description meets the City's standard width for a deceleration lane, as well as Caltrans criteria for a widened shoulder, but is not intended to meet Caltrans definition of a "deceleration lane".

Further, the Traffic Study found that vehicle queuing will not be a factor when entering the driveway on Sepulveda Boulevard. While the Sepulveda Development Guide recommends deceleration lanes for project driveways, it is a guideline and not a requirement.

Caltrans' correspondence identifies the design requirements for a deceleration lane, but does not require the project to provide one. Nevertheless, the widened shoulder will provide sufficient width for motorists to slow down out of the traffic flow prior to entering the project site, and improve overall traffic safety adjacent to the project, as opposed to none at all.

An Errata with the clarification language for the widened shoulder, for consistency with the Planning Commission staff report, was distributed to the Planning Commission at the February 8th Planning Commission meeting and made available to the public at that time, and posted on the website and distributed again on March 22nd. This language is also consistent with the language in the March 22 Planning Commission staff report (page 4, item 38). Additionally, the nomenclature in the draft Planning Commission Resolution was changed to reflect the infeasibility of meeting Caltrans' design criteria for a deceleration lane" and described as a "widened shoulder" to more accurately describe the proposed area for vehicles turning into the Sepulveda Boulevard driveway. A bus turnout was suggested in public testimony, but was never included as part of the project. It should be noted that changes to a Draft

Resolution can be made at any time prior to and during a Planning Commission meeting, including the inclusion of additional conditions. The Planning Commission was informed of those changes during the public meeting and approved the revised Resolution language including additional conditions.

Item 2: "Deceleration lane violates the Sepulveda Development Guide."

Response: The Sepulveda Boulevard Development Guide states, "The Guidelines are intended to encourage certain desirable elements to be included within development projects on the corridor. They are to be used as a supplement to the City Zoning Code requirements during Use Permit and other discretionary project reviews. The Planning Commission may decide if any of the guidelines are unnecessary or inappropriate for incorporation within a certain project." As such, the Guide is a guideline, not a requirement.

Specifically, the Guide states, "A right-turn deceleration pocket (and bus turnout when applicable) should be provided at the primary vehicle access point for each block from Sepulveda Boulevard to improve safety and circulation. Unusually long block faces should have multiple right-turn pockets. The appropriateness of requiring right-turn pockets will be reviewed individually for each project." The proposed widened shoulder meets the City's design criteria for a right turn pocket.

The proposed Sign Program conforms to the requirements of Chapter 10.72 of the Zoning Code. Project signs include one large pole sign, which would somewhat replicate the existing auto dealership pole sign, being about the same height and square footage. The pole sign would either utilize the existing poles in the same location or be a new sign located elsewhere within the landscape area abutting Sepulveda Boulevard, provided all code and safety criteria are met. The sign is permitted by Code and is not limiting any traffic improvements along Sepulveda Boulevard.

Item 3: "Parking Design Violations (Parking Codes)"

Response: Based upon the following analysis, staff is of the opinion that the 135 parking spaces proposed for the project will adequately meet parking demand. The Municipal Code provides three approaches to calculating required parking. First, using the parking tables for all the uses calculated separately would require 171 parking spaces. The second approach allows collective parking with up to a 15% parking reduction with findings required. The third approach, which the project is utilizing, is a parking demand study with specific findings, through the Use Permit process. The findings show that the long-term occupancy of the building will not generate additional parking demand. The MBMC recognizes that certain specific uses, and combinations of uses, will consistently not generate the demand quantities specified within the Code and allows the parking demand study.

In deciding whether to grant a reduction, the Planning Commission must consider data that would justify the parking requirement. The Applicant has provided a Traffic Impact and Parking Demand Study assessing the Project's estimated actual demand to justify this parking reduction. The parking study based its analysis on the most

recent versions of two nationally recognized parking demand documents: Institute of Transportation Engineers (ITE) Parking Generation and Urban Land Institute (ULI) Shared Parking. After factoring in nationally recognized peak parking demands for grocery store, restaurant and bank uses, it concluded conservatively that a minimum of 135 parking spaces would be sufficient to meet the highest expected parking demand on any day. In addition, another demand study was conducted using actual parking counts for a comparable Gelson's Store in Hollywood, which resulted in a lower calculated weekend peak parking demand-132 spaces-than the ITE / ULI calculations.

The City Traffic Engineer found the parking demand analysis contained within the Traffic Impact Study to be complete and accurate. The parking demand study includes employee parking demand. The parking demand was based on a maximum 27,900 square foot supermarket with food service (28 seats), and a 7,000 square foot (6,800 sq. ft. leasable) bank. The site would have 119 on-site parking spaces and 16 employee spaces in a secondary lot across 8th Street to the north, totaling 135 dedicated spaces. Employees would fill up the secondary lot first then park in the main lot after the north lot was full. This secondary lot would conform to the 400-foot maximum distance required for off-site parking as required by the MBMC. Two large-truck loading spaces at least 80 feet deep each are also provided in accordance with MBMC requirements. In addition, the Applicant has acquired a full-time parking lease for 20 spaces in a private lot on 10th Street just west of Sepulveda Boulevard for a total of 155 on-site and off-site parking spaces. The Applicant has also acquired a weekend parking lease for 5 additional parking spaces in an adjacent private lot on the southwest corner of 6th Street and Sepulveda Boulevard, which would make a total of 160 available parking spaces available on weekends. These additional parking spaces are either part-time, or are greater than 400 feet from the primary site, therefore, they would be supplemental only and not be counted toward required parking.

In sum, based on a thorough review of the parking analysis, application of standard industry practices and professional expertise, the City Engineer recommends that no less than 135 spaces be provided at all times. The City Traffic Engineer has found that the parking demand study in the Traffic Study is sound and reasonable, and is based on professionally accepted parking demand methodologies and guidelines. In addition, he recommends that the City require a traffic management plan, with features such as requiring all employees to park in off-site dedicated parking lots until those lots are full, then park in the main parking lot. The conditions of approval in PC Resolution provide detailed conditions to ensure parking is operating as planned, including an Employee Parking Management Plan and Penalties and Corrective Measures if needed. More detailed discussion of the parking demand is located in the Response to Comments, Part III A- Master Response to Comments, MR-2: Parking, pages 5-8.

Item 4: "Rooftop machinery noise will drive residents crazy."

Response: The project noise study was completed using mid-day measurements of existing noise levels at the site, and modeling of anticipated project noise around the site's perimeter. Project delivery-truck, outdoor dining, and roof equipment noise

levels, were analyzed and determined to be less than the ambient noise levels at neighboring residences. Truck vibration was found to be less than applicable thresholds. General traffic noise from the abutting segment of Sepulveda Boulevard would be less than significant, and below the 3dBa CNEL standard considered to be barely perceptible. More detailed discussion of project operational noise is located in the Response to Comments, Part III B- Comment letter C, pages 37-38, Response to Comments 15-17.

Temporary construction noise is exempted by the Municipal Code from noise level maximums during permitted construction hours, but is expected to be in low-to-moderate ranges, which is considered acceptable by the General Plan. Additionally, eight construction noise mitigation measures are required by the proposed Mitigated Negative Declaration that include physical noise barriers and management of construction equipment and activities in noise-sensitive manners. More detailed discussion of project construction noise is located in the Response to Comments, Part III B- Comment letter C, pages 36 and 39, Response to Comments 14 and 20.

#### **PUBLIC PARTICIPATION AND NOTICE:**

In July 2016, the City released the Draft Initial Study/MND for public review. Numerous public comments on the project are contained in the “Initial Study/Mitigated Negative Declaration Response to Comments”, and “Gelson’s Project MND Support Letters” documents provided on the Planning Division’s Gelson’s page contained within the City’s website (Attachment 8).

Public comments were received prior to and during the public hearing before the Planning Commission from January to March, 2017.

A public notice for the project was mailed to property owners within 500 feet of the site, emailed to persons previously expressing interest in the project, and published in the Beach Reporter newspaper on April 20, 2017. Additional public comments have been received for the City Council’s review during this hearing process.

#### **ENVIRONMENTAL REVIEW**

In accordance with the California Environmental Quality Act (“CEQA”), an initial study was prepared for the project. CEQA and CEQA Guidelines govern which type of environmental document a lead agency must prepare. A lead agency prepares a Negative Declaration-as opposed to an Environmental Impact Report (“EIR”)-in either of two circumstances:

- (1) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment; or
- (2) The initial study identifies potentially significant effects, but
  - (a) revisions to the project avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
  - (b) there is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

In this case, the initial study identified potentially significant effects arising from the project,

but revisions to the project can avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and there is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

The initial study for the project identified potentially significant effects in five environmental impact categories: Biological Resources, Cultural Resources, Hazards & Hazardous Materials, Geology/Soils, and Noise. In the first four categories, the potential environmental effects generally relate to the potential discovery of unanticipated resources and hazards, but also to known asbestos in an existing building to be demolished. In the noise category, potential impacts relate to short-term construction noise that may increase ambient noise levels above applicable thresholds in the surrounding area. For each potential impact, revisions to the project, which would be imposed as mitigation measures, would reduce potential impacts to less than significant. For example, construction noise in the surrounding area is reduced through restrictions on construction activities and a requirement to erect a noise barrier.

Accordingly, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project. The Draft IS/MND was circulated to public agencies, interested organizations and individuals for review from July 21, 2016 through August 22, 2016. Comments were submitted on the Draft IS/MND during the public review period, via email and other written correspondence. Responses to the comments were prepared, and are available for review at the web link in Attachment 8.

In sum, because the project as revised would result in no significant environmental effects, an MND is the appropriate environmental document. Preparing an MND rather than an EIR does not limit the scope of environmental factors analyzed in the environmental document; the MND captures the same scope of environmental analysis as would be analyzed in an EIR, including an analysis of potential traffic/circulation, noise, and air quality impacts. Based on the comprehensive analysis in the MND prepared here, there is no substantial evidence to support a fair argument that an EIR would identify new environmental impacts or reach conclusions different from those in the MND.

#### **ALTERNATIVES:**

The City Council has the following alternatives to the staff recommendation of approval:

1. Approve the project as proposed with additional conditions;
2. Approve a smaller project (i.e. with less square footage);
3. Direct staff to draft a resolution containing findings to deny the Project;
4. Direct staff to prepare an Environmental Impact Report.

#### **CONCLUSION:**

Staff recommends that the City Council conduct the public hearing, discuss the proposed project, and direct staff to draft a resolution adopting the MND and conditionally approving the application, to be returned at a future meeting for adoption.



**Attachments:**

1. Project Overview/Zoning Summary chart
2. PowerPoint Presentation
3. Applicant Materials and Plans
4. Appellants' Materials
5. Planning Commission Resolution No. PC 17-01
6. Planning Commission Meeting Minutes of February 8 and March 22, 2017
7. Public Comments Received Between April 20 and 24, 2017
8. Planning Commission Reports and Related Material (Staff PowerPoint and public comments and PowerPoints distributed at March 22, 2017 Planning Commission meeting, public comments received between March 23 and April 19, 2017, and Environmental Documentation, at website address:  
<http://www.citymb.info/city-services/community-development/planning-zoning/current-projects-programs/green-code-amendments-for-zoning-and-public-rights-of-way> )
9. City Council Staff Report for Public Hearing (Due to the large number of pages for this particular staff report, this is an alternative option to review the complete staff report. This attachment is only available online.)