

RESOLUTION NO. 17-0067

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL ADOPTING A MITIGATED NEGATIVE DECLARATION FOR THE DEVELOPMENT OF A MARKET AND BANK AT 707 NORTH SEPULVEDA BOULEVARD AND OFF-SITE PARKING AT 801 NORTH SEPULVEDA BOULEVARD (PARAGON COMMERCIAL GROUP - GELSON'S MARKET)

THE MANHATTAN BEACH CITY COUNCIL DOES HEREBY RESOLVE, FIND, AND DETERMINE AS FOLLOWS:

SECTION 1. Beginning in 2014, the City and Paragon Commercial Group ("Applicant") explored development opportunities for 707 North Sepulveda Boulevard to replace the auto care facility operating at the site. City staff informed Applicant that a traffic study is required as part of any application to redevelop the site. As the lead agency under the California Environmental Quality Act ("CEQA") (Pub. Res. Code § 21000, *et seq.*), the City undertook environmental review of existing conditions and, in March and December 2014, studies were initiated of existing traffic conditions and traffic counts in the area.

SECTION 2. On March 5, 2015, the Applicant filed an application seeking a Master Use Permit to develop a market and a bank located at 707 North Sepulveda Boulevard, reduced parking, and a sign program. The development would include the following components: (a) a 27,900-square-foot specialty grocery store with on-sale and off-sale alcohol sales and instructional tastings, incidental hot and cold prepared food offerings, and incidental seating areas (206-square-foot indoor incidental seating area and 503 square-foot incidental outdoor patio seating area); (b) a 6,684-square-foot bank building; (c) associated business identification signage; (d) a surface parking lot at 707 North Sepulveda Boulevard; and (e) a surface employee parking lot at 801 North Sepulveda Boulevard (collectively, the "Project"), as further described in the Initial Study/Mitigated Negative Declaration ("IS/MND") attached to this Resolution as **Exhibit A**. The proposed tenants are Gelson's Market and First Republic Bank.

SECTION 3. An Initial Study was conducted to assess the Project's potential environmental impacts, which concluded that the Project may have potential significant effects on Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise, but that each of these potential impacts would be mitigated to less than significant with mitigation measures imposed. In all other impact categories, including Transportation and Traffic, the Project would have no potential significant impacts. Based on the Initial Study, an IS/MND and Mitigation Monitoring and Reporting Program ("MMRP") was prepared for the Project. The MMRP is attached to this Resolution as **Exhibit B**.

SECTION 4. In accordance with CEQA and the CEQA Guidelines (14 Cal. Code Regs. § 15000, *et seq.*), the City issued a Notice of Intent to Adopt a Mitigated Negative Declaration ("NOI") on July 14, 2016. The IS/MND was circulated for public review and comment from July 21, 2016, through August 22, 2016. The City posted the NOI and made the IS/MND available for public review on the City's website and at City Hall, the City Police/Fire Facility, the local County

of Los Angeles Public Library, the Joslyn Community Center, and the Manhattan Heights Park and Community Center. The NOI was also noticed in *The Beach Reporter*. The IS/MND was also circulated through the Office of Planning and Research's State Clearinghouse (SCH No. 2016071058).

SECTION 5. The City received and considered all timely submitted comment letters, which included comments both in support of and opposed to the Project. Although not legally required to do so, the City prepared Responses to Comments received on the IS/MND and, prior to public hearings on the Project, made all responses available for public review at the same locations as the NOI and IS/MND. The Responses to Comments are attached to this Resolution as **Exhibit C**. The IS/MND and the Responses to Comments together constitute the Final IS/MND.

SECTION 6. On February 8, 2017, and March 22, 2017, the Planning Commission conducted a duly noticed public hearing to consider the Project. In its independent judgment and after considering all of the evidence in the record, and all comments and testimony presented at the hearing, the Planning Commission determined that there is no substantial evidence supporting a fair argument that the Project may have a significant environmental effect with incorporation of the mitigation measures identified in the IS/MND. By Resolution No. PC 17-01, the Planning Commission adopted the Final IS/MND and approved the Master Use Permit for the Project.

SECTION 7. Manhattan Beach Residents for Responsible Development ("MBRRD") and Donald McPherson filed appeals of the Planning Commission's decision to adopt Resolution No. PC 17-01.

SECTION 8. On May 2, 2017, the City Council conducted a duly noticed public hearing *de novo* and received testimony and comments from members of the public. Following the public hearing, the City Council unanimously directed staff to return with necessary draft resolutions to approve the Project.

SECTION 9. City staff and its independent environmental consultants determined that there is no substantial evidence supporting a fair argument of a significant environmental impact. Nevertheless, some commenters have attempted to present a "fair argument" of significant environmental impacts, including by reference to public controversy and comments on the traffic analysis for the Project. Comments on the IS/MND, including a letter from Allyn Rifkin, a traffic consultant, contend that an Environmental Impact Report ("EIR") must be prepared. Comments based on speculation, unsubstantiated opinion, or clearly erroneous facts do not constitute substantial evidence supporting a fair argument and do not require preparation of an EIR. (CEQA § 21082.2; CEQA Guidelines §§ 15064(f)(5), 15384.) For the following reasons, none of the information presented in response to the IS/MND, or orally or in writing at the public hearings on the Project, rises to the level of substantial evidence supporting a fair argument.

A. Baseline Traffic Counts, Weekend and Summer Traffic Conditions.

See IS/MND Response to Comment C-29 and MR-3.1.

- i. As detailed in Response C-29, claims that peak-hour traffic counts are significantly lower than those published by Caltrans, which were likely taken on a weekend, are erroneous. These claims are based on differences in the

computation and presentation of the two sets of traffic counts. For example, the referenced traffic counts from Caltrans were bi-directional whereas the traffic counts from the IS/MND were uni-directional. Once these differences are harmonized, the IS/MND's traffic counts are approximately 1.1% higher than the Caltrans counts. Therefore, it is erroneous to claim that the IS/MND's baseline traffic counts are lower than those from Caltrans. Further, peak weekend traffic is lower than peak weekday traffic, which means that the IS/MND's baseline traffic counts result in a more conservative analysis than would result from Caltrans' traffic counts or peak weekend traffic counts. Similarly, summer peak-hour traffic tends to be lower due to the absence of peak-hour school traffic and beach-oriented traffic generally increasing in the midday rather than during the AM/PM peak traffic periods. Because the contentions presented by commenters are based on an erroneous claim, they do not constitute substantial evidence of a potential significant impact.

B. Left-Turn Signal and Pocket at the 8th Street/Sepulveda Boulevard Intersection.

See IS/MND Response to Comment C-28, C-31, MR-3.2, and MR-3.3.

- i. Claims that the left-turn signal at the 8th Street/Sepulveda Boulevard intersection depends on external funding and is uncertain to be installed are clearly erroneous. As explained in the Traffic and Parking Study (page 8), the IS/MND (page 4.16-4), and Response to Comments C-31 and MR-3.2, the City is in the process of installing the left-turn protected signal phasing at the 8th Street/Sepulveda Boulevard intersection. This improvement does not depend on external funding; rather, 100% of the required funding is committed and reserved. It has been approved by the City Council, is included in the City's 2016 Capital Improvement Plan, and 80% of the design work is complete. It is expected to be completed by the end of 2017. Therefore, this unsubstantiated claim is erroneous and does not constitute substantial evidence of a potential impact to the intersection.
- ii. Claims that a 100-foot left-turn pocket is insufficient for the northbound Sepulveda Boulevard/8th Street intersection are unsubstantiated and speculative. The Traffic and Parking Study (page 32, Figure 14) determined that the highest peak-hour traffic volume would be 68 vehicles per hour. It was conservatively estimated that half of the existing left-turn movements at the 6th Street intersection would re-route to the 8th Street intersection once the current left-turn prohibition at 8th Street is removed. This conservative estimate results in a traffic volume of 87 vehicles and accounts for truck trips. Using the design standard in the Highway Design Manual's engineering design standard, a 95.5-foot left-turn pocket is suggested. Thus, the 100-foot left-turn pocket is sufficient to accommodate expected traffic volumes. No evidence has been presented to even question the use of the Highway Design Manual standard. Therefore, assertions that the 100-foot pocket is inadequate constitute speculation without facts and do not constitute substantial evidence of a potentially significant impact at the 8th Street/Sepulveda Boulevard

intersection. Further, these speculative claims of a potential impact depend on an erroneous and unsupported claim that the left-turn signal will not be installed. Even more, although not required by the environmental analysis for this Project, the Applicant has volunteered to (a) extend the left-turn pocket as far south as feasible in accordance with Caltrans requirements without impacting existing northbound through lanes on Sepulveda Boulevard and (b) stagger semi-truck delivery times at least 15 minutes apart.

C. Analysis of Traffic on Residential Streets and Cut-Through Traffic.

See IS/MND Response to Comment MR-3.0, MR-3.9, and C-32.

- i. Claims that the IS/MND does not specifically address residential traffic impacts are clearly erroneous. The IS/MND specifically analyzes traffic impacts in the nearby residential neighborhoods, including the intersections at Larsson Street/8th Street, Dianthus Street/8th Street, and Larsson Street/6th Street. These intersections are the most likely to experience increased traffic due to their proximity to the Project and each intersection would maintain an “A” level of service. Therefore, this assertion is clearly erroneous and does not constitute substantial evidence of a potentially significant impact that was not analyzed.
- ii. Claims that the IS/MND underestimates traffic impacts to residential streets are based on a clearly erroneous fact and unsubstantiated speculation: (a) that the Project would cause left-turn delays at the 8th Street/Sepulveda Boulevard intersection due to the lack of a certain left-turn signal and (b) this delay will induce drivers to instead turn left on 6th Street from Sepulveda Boulevard and use residential streets to cut back to the Project site. As discussed above, it is a clearly erroneous assertion that completion of the left-turn signal depends on external funding and is therefore uncertain. Thus, there is no basis to contend that there will be induced cut-through traffic via 6th Street. As determined in the IS/MND, all residential intersections would maintain their “A” levels of service.
- iii. The opinion that the IS/MND should not have utilized the pass-by trip methodology is unsubstantiated and erroneous. The IS/MND applied the industry standard pass-by trip reductions from the *Trip Generation Manual* published by ITE. These reductions account for trips that are not newly generated by the Project because they are existing trips with a stop to the grocery store or the bank. Contentions that a portion of the estimated “pass-by” trips would detour through residential streets via 6th Street is entirely based on the erroneous claim, as explained above, that traffic will divert to 6th Street because the left-turn signal at 8th Street depends on external funding and will not be installed. No evidence has been provided to raise doubts about the IS/MND’s application of this standard methodology. Therefore, this disagreement is an unsubstantiated disagreement over methodology and does not constitute substantial evidence of a potentially significant traffic impact.

D. The 78-foot “Turn-out Lane” on Southbound Sepulveda Boulevard.

See IS/MND Response to Comment C-34 and MR-3.6.

- i. Commenters assert without explanation or support that a 78-foot “turn-out” widened shoulder for vehicle access on southbound Sepulveda Boulevard into the parking lot is insufficient. This assertion is an opinion without any supporting facts or analysis. A widened shoulder lane is neither required to reduce traffic impacts nor imposed as mitigation, and as analyzed in the traffic analysis, it was not necessary because vehicle queuing was not anticipated for the inbound turning movement. Further, this not a “deceleration lane,” as neither Caltrans nor the City is requiring one. Most of the widened rights-of-way for site access along Sepulveda Boulevard are widened shoulders—not deceleration lanes—and, as such, do not meet Caltrans design standards for deceleration lanes. Caltrans’ correspondence identifies these design requirements for a deceleration lane, but does not require one. As analyzed in the IS/MND, the current road configuration will allow vehicles to safely and efficiently turn right into the Project site without causing any potentially significant impacts to traffic. Although a widened shoulder is unnecessary, the Applicant has agreed to dedicate the land to enhance ease of access. The width of the proposed widened shoulder is sufficient for motorists to slow down out of the traffic flow, and it meets the City’s standard width for a right turn pocket as well as Caltrans criteria for a widened shoulder. No fact or analysis has been presented to suggest that a widened shoulder of any length is required and, as commenters have acknowledged, there are no industry standards for commercial driveway turn-out lanes. Therefore, this unsubstantiated assertion is an opinion without facts and does not constitute substantial evidence of any potential traffic impact. Even more, although not required by the environmental analysis for this Project, the Applicant has volunteered to lengthen the widened shoulder to 110 feet to further enhance ease of access, and such a condition has been added to draft Resolution No. 17-0068.

E. Truck Ingress and Egress.

See IS/MND Response to Comment MR-3.4 and C-33.

- i. Claims that trucks will encroach into oncoming lanes or a curb when making two turning movements are clearly erroneous. The commenters analyze the following two turning movements, neither of which would occur: (1) for ingress, a right turn on 8th Street from southbound Sepulveda Boulevard or (2) for egress, a right turn on 8th Street from the Project driveway. The Project’s truck-access route proposes neither of these two truck movements. Rather, truck access is proposed as follows: (1) for ingress, a left turn on 8th Street from northbound Sepulveda Boulevard and (2) for egress, a right turn on Sepulveda Boulevard from the Project driveway. Pursuant to the conditions of approval, the Applicant is required to comply with the proposed truck-access route. The Project would require 2-3 of these truck deliveries a day. Therefore, the

commenters raise a clearly erroneous claim about site access for the Project and their claims do not constitute substantial evidence of a potential traffic impact.

F. Parking.

See IS/MND Response to Comment MR-2 and C-30.

- i. Comments on the IS/MND assert that the number of off-street parking spaces is inadequate under the Municipal Code and will result in increased parking demands on residential streets. This is not an environmental concern under CEQA, but is nonetheless erroneous. Manhattan Beach Municipal Code Section 10.64.050 authorizes the Planning Commission to grant a parking reduction if it finds that (a) “the parking demand will be less than the requirement in Schedule A or B” and (b) “the probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand.” A parking demand study was prepared for the Project and it concluded that peak parking demand will be 135 spaces. The Applicant is proposing to supply 135 parking spaces and, pursuant to Section 10.64.050, the Planning Commission made the requisite findings that this supply of parking will satisfy the parking demand of the Project and the probable long-term occupancy of the buildings. Therefore, the proposed number of parking spaces complies with the Municipal Code. Commenters speculate without facts or evidence that parking demand will be greater and this speculation does not constitute substantial evidence of a potential significant environmental impact.

G. Noise.

- i. Late comments on the IS/MND submitted before the City Council public hearing assert that noise from rooftop equipment (i.e., mechanical and HVAC equipment) will exceed City standards because no sound screens will be installed to block line of sight. This claim is erroneous. As explained in Section 4.12 of the IS/MND, mechanical and HVAC equipment, even without screening, would not exceed existing ambient conditions and has no potential to substantially increase noise levels at the nearest sensitive receptor. In addition, the Project must comply with Municipal Code Section 10.60.090, which requires all exterior mechanical equipment to be screened from view on all sides. Depending on the materials used, this screening would further reduce mechanical equipment noise by up to 18 dba. Therefore, the Project’s mechanical equipment has no potential to exceed the City’s standards or result in noise disturbances under Municipal Code Section 5.48.160 or 5.48.140.
- ii. Late comments on the IS/MND assert that a study of single-event noise events associated with Project operations is required. Any such analysis would be speculative. This noise metric is typically employed to analyze singular, high-level noise events that consistently occur as a result of project operations, such as airplane fly-overs for an airport project, helicopter flyovers for a hospital project, or rock blasting for a mining project. This type of consistent, singular

noise event would not occur as a result of this specialty grocery store and bank Project. Further, commenters provide no evidence that such noise events would occur as a result of the Project. Examples such as the noise from a car honking or backfiring are not singular noise events that would consistently occur as a result of the Project, but rather momentary noise that would inconsistently occur as part of the common urban environment. Therefore, any single-event noise study for this Project would be speculative and without a factual basis.

H. Cumulative Impacts.

Late comments on the IS/MND submitted before the City Council public hearing assert that the IS/MND did not consider “cumulative impacts” from other projects in the larger geographic area containing Manhattan Beach that may be developed in the future, including development in the Redondo Beach Harbor area, which is approximately three miles away and too distant from the Project site to produce related or cumulative impacts. As a threshold matter, CEQA requires a cumulative analysis based on *either* “a list of past, present, and probable future projects producing related or cumulative impacts” or “a summary of projections contained in an adopted local, regional, or statewide plan[.]”. (CEQA Guidelines Section 15130(b)(1). As described in IS/MND Section 2.2.2, the IS/MND’s analysis of cumulative impacts is based on growth projections *and* a list of cumulative projects in the area, including the Skechers’ office plans and the Rite Aid store planned for 1100 Manhattan Beach Boulevard. It concluded that all cumulative impacts would be less than significant without mitigation. Moreover, CEQA does not require the City to analyze speculative projects or projects that have not crystallized to the point that it would be reasonable or practical to evaluate their cumulative impacts.

SECTION 10. The City Council, as the lead agency for the Project, has considered the Final IS/MND, along with all comments timely received, the Responses to the Comments, and all oral and written testimony presented at the Planning Commission and City Council public hearings, including testimony from the City’s environmental consultant and City staff.

SECTION 11. The City Council finds, in its independent judgment after considering all relevant evidence in the record of proceedings for the Project, including without limitation the information set forth in the IS/MND, public comments, Responses to Comments, testimony from the City’s independent consultants, and other evidence presented at the City Council public hearing, including all the evidence presented at the Planning Commission hearing, that there is no substantial evidence supporting a fair argument that the Project may actually produce any significant environmental impacts that are not mitigated to a less than significant level through implementation of those mitigation measures identified in the IS/MND, included in the MMRP, and hereby imposed on the Project. Therefore, the City Council finds that the Project will not have a significant, unmitigated environmental effect.

SECTION 12. The City Council finds that the Final IS/MND reflects the Council’s independent judgment and analysis. No comments on the IS/MND or additional information or testimony provided to the City have produced any substantial evidence in support of a fair

argument that the Project may result in a significant, unmitigated impact to the environment. Pursuant to CEQA Guidelines Sections 15063(b)(1), 15064(f)(2), and 15070, preparation of an EIR would be inappropriate for the Project.

SECTION 13. The City Council hereby adopts the Final IS/MND (**Exhibits A and C**) and the MMRP (**Exhibit B**).

SECTION 14. The City Council hereby directs staff to prepare a Notice of Determination and file that Notice with the County Clerk in accordance with Section 15075(d) of the CEQA Guidelines.

SECTION 15. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 16. This Resolution shall be effective upon adoption.

PASSED, APPROVED and ADOPTED by the Manhattan Beach City Council on June 6, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

David J. Lesser
MAYOR

ATTEST:

Liza Tamura
CITY CLERK