



Gonzales Law Group, APC  
800 Wilshire Blvd., Suite 860 | Los Angeles, CA 90071  
Telephone: 213.279.6965 | Fax: 213.402.2638  
www.gonzaleslawgroup.com

Chris Manasserian, Associate Attorney  
E-mail: [chris@gonzaleslawgroup.com](mailto:chris@gonzaleslawgroup.com)

August 26, 2020

VIA EMAIL

[cpc@lacity.org](mailto:cpc@lacity.org)  
Commission Executive Assistant  
City Planning Commission  
200 N. Spring Street Room 532  
Los Angeles, CA 90012

**RE: City Planning Commission Regular Agenda Meeting. August 27, 2020, 8:30AM  
Agenda Item 9.**

**17346 Sunset Boulevard; Case No. CPC-2018-504-DB-DRB-SPP-CDP-MEL; ENV-  
2018-505-MND**

Dear City Planning Commission:

As you know, we represent California Food Managers, LLC (“Applicant”) in connection with the above referenced Los Angeles Department of City Planning (“LADCP”) case for that certain real property commonly referred to as 17346 Sunset Boulevard (the “Property”). The Applicant is also the majority owner of the Property.<sup>1</sup> The Property contains approximately 14,962 square feet of lot area. The Property is zoned C2-1VL, and the Property is subject to the Pacific Palisades Commercial Village and Neighborhoods Specific Plan (the “Specific Plan”). The Specific Plan does not regulate the Property’s residential density, which is regulated by the underlying C2 zone. In the C2 zone the Los Angeles Municipal Code (“LAMC”) allows a by-right residential density of 1 unit for every 400 square feet of lot area.<sup>2</sup> Accordingly, the Property supports a by-right density of 37 dwelling units.<sup>3</sup>

---

<sup>1</sup> Heavenly Tiger, LLC is a 30 percent owner of the Property and has executed the Master Land Use Application authorizing above the application.

<sup>2</sup> LAMC Section 12.14.C.3 and 12.11.C.4

<sup>3</sup>  $14,962/400 = 37.405$  rounded down to 37 dwelling units.

The Property is currently improved with a vacant drive-thru fast food restaurant. The Applicant proposes to demolish the existing drive-thru restaurant and improve the Property with a vibrant mixed-use residential and commercial project with 39 dwelling units (inclusive of 4 units restricted for very low income occupants) and 2,900 square feet of ground floor commercial uses with associated parking (the “Project”). The Project application was originally filed on January 26, 2018, over 2 and a half years ago. The City Planning Commission (“CPC”) held a public hearing for the Project on July 6, 2020. LADCP recently issued the Department of City Planning Recommendation Report (the “Staff Report”) for the Project. The Staff Report recommends approval of the Project.

The Project’s Mitigated Negative Declaration (“MND”) was circulated for public review and comment from June 20, 2019 to July 10, 2019 as required by the California Environmental Quality Act (“CEQA”).<sup>4</sup> CEQA public review comments should focus solely on deficiencies in the environmental documents and possible impacts to the environment.<sup>5</sup> Edgewater Towers Condominium Homeowners Association (“Edgewater”), represented by Thomas A. Donovan, Esq., submitted an MND comment letter on July 10, 2019 (the “First Comment Letter”). On May 22, 2020, our office submitted a response to the First Comment Letter (the “GLG Response Letter”). The GLG Response Letter provided a detailed analysis of why the First Comment Letter was devoid of any substantial evidence. The GLG Response Letter is in the record and is hereby incorporated by reference. It is also worth noting that on February 5, 2020 our office submitted a letter detailing the Project’s full compliance with the California Coastal Act (the “GLG Coastal Act Letter”). The GLG Coastal Act Letter is in the record and is hereby incorporated by reference.

On July 2, 2020, Edgewater submitted another letter reiterating the exact same arguments as the First Comment Letter (the “Second Comment Letter”). On July 6, 2020, the City Planning Commission held a public hearing for the Project’s requested approvals (the “CPC Hearing”). Mr. Donovan spoke at the CPC Hearing and reiterated the same arguments in Edgewater’s First and Second Comment Letter. On August 24, 2020, Edgewater submitted yet another letter, reiterating most of the same arguments in the First and Second Comment Letters and presenting arguments directed at the Staff Report (the “SR Letter”) (collectively, Edgewater’s submitted letters will be referred to as the “Comment Letters”). Most of the arguments in the Comment Letters have been addressed in the GLG Response Letter and GLG Coastal Act Letter. The SR Letter is a mix of mostly old arguments previously stated by the First Comment Letter and few new arguments directed at the Staff Report.

None of the Comment Letters are supported by **any** substantial evidence.<sup>6</sup> The First Comment Letter was the **only** CEQA comment letter submitted during the MND public review

---

<sup>4</sup> California Code of Regulations Title 14, Chapter 3 (“CEQA Guidelines”) Section 15105(b).

<sup>5</sup> CEQA Guidelines Section 15204.

<sup>6</sup> Public Resource Code (“PRC”) 21082.2(c) defines substantial evidence as facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Argument, speculation, unsubstantiated opinion or

and comment period. To this day, as evidenced by our offices submitted letters, Edgewater has not provided **any**: (1) substantial evidence to support a fair argument that the Project may have a significant environmental impact or that the MND is otherwise inadequate; (2) evidence that the Project is inconsistent with the California Coastal Act (the “Coastal Act”); (3) evidence to support the Project is incompatible with applicable land use plans. The GLG Coastal Act Letter and the GLG Response Letter have been incorporated by reference and address most of the arguments presented in the SR Letter (arguments which, in some cases, are being presented by Edgewater for a third time). This letter describes in detail Edgewater’s failure to provide any evidence for the new arguments presented in the SR Letter.

The SR Letter was submitted on August 24, 2020. The city planner, Nick Vasuthasawat, gave us notice of the SR Letter on August 25, 2020 at 8:30 AM, within 48 hours of the scheduled CPC meeting. We request that this rebuttal letter is submitted in the record as a complying document to be considered by the CPC.

## **I. EVIDENCE IN THE RECORD ADDRESSES ALL POTENTIAL CONCERNS WITH THE PROJECT**

The SR Letter includes outlines five separate concerns with the Project, that have all been adequately responded to by evidence in the record.<sup>7</sup> Concerns include: 1) geologic risks; 2) violations of the Coastal Act Regional Interpretive Guidelines (the “RIG”); 3) noise; 4) precedential effects of approving the Project; and 5) landscaping. These concerns have all been addressed.

### **a. There Is No Substantial Evidence In The Record That The Project Presents Any Geological Risks**

The **only** CEQA comment submitted within the legal public review and comment period was the First Comment Letter.<sup>8</sup> Edgewater subsequently submitted a letter dated July 13, 2020 from their geological experts ENGEO (the “ENGEO Letter”). The ENGEO Letter was submitted over a year after the legally mandated CEQA public review and comment period. The only comment that can be considered for purposes of CEQA is the First Comment Letter. The First Comment Letter mentioned in passing that “[T]he Applicants geological reports were reviewed and analyzed by Edgewater’s consulting geotechnical experts”.<sup>9</sup> The First Comment Letter failed to identify the “consulting geotechnical experts” and did not provide an analysis from those experts. The ENGEO Letter, prepared July 13, 2020, was provided over a year later and cannot be considered evidence for purposes of CEQA. The MND is legally adequate.

---

narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment is not substantial evidence.

<sup>7</sup> SR Letter Page 1.

<sup>8</sup> As previously stated, the CEQA public comment and review period for the Project was between June 20, 2019 to July 10, 2019.

<sup>9</sup> First Comment Letter page 2.

Furthermore, the ENGEO Letter states that their review was limited to “documents provided by [Edgewater]”.<sup>10</sup> It remains unclear what documents Edgewater provided to ENGEO for their analysis.

Adoption of the MND is appropriate. All potential significant Project impacts have been disclosed and mitigated to a level of less than significant. Edgewater has failed to submit substantial evidence supporting a fair argument to the contrary. Edgewater’s untimely ENGEO Letter submitted at the eleventh hour cannot legally be considered substantial evidence for purposes of CEQA.

**b. The Project Complies With The RIG**

The SR Letter states that the Staff Report does not address “violations of the RIG”. The GLG Response Letter demonstrates that no such violation exists. Please see Section IV of the GLG Response Letter for a detailed explanation of RIG compliance.<sup>11</sup>

**c. Noise Concerns Are Based On Speculation**

The SR Letter reiterates the argument that the rooftop will be used for parties and late-night noise activities. Based on this assertion, Edgewater suggests eliminating the rooftop open space. Granting this request would result in less open space for the residents based on pure speculation. The LAMC clearly allows the use of rooftops as open space.<sup>12</sup> The SR Letter’s argument that the rooftop would “be utilized for parties and late-night noise activities” is speculation and not substantial evidence. None of the Comment Letters provide any substantial evidence that the noise from the rooftop would result in any adverse impact. Therefore, no mitigation measures are required. The SR Letter should be disregarded because there is absolutely no substantial evidence that “parties and late night noise activities” will occur and the rooftop open space is expressly permitted by the LAMC.

**d. The Project Will Not Have A Precedential Effect On Development In The Area**

The SR Letter once again attempts to make the argument that the Project will have a precedential effect on development in the area. The GLG Response Letter demonstrates that the precedent has already been set by the Edgewater Towers and surrounding structures. Please see the GLG Response Letter Section IV of the GLG Response Letter for details. The SR Letter’s new arguments include: 1) the Edgewater’s buildings were built before the Coastal Act and cannot be described as setting precedent; and 2) the Project’s mixed-use nature will signal to developers that they can build residential projects with “very small” commercial components.

---

<sup>10</sup> ENGEO Letter page 2.

<sup>11</sup> GLG Response Letter page 8-9.

<sup>12</sup> LAMC 12.21.G.2.a.4.iii states: Roof decks in developments built at an R4, RAS4, and/or R5 density, regardless of the underlying zone, may be used in their entirety as common open space.

Firstly, the fact that the Edgewater buildings were built prior to the Coastal Act has no relevance. Edgewater argues that the Project will have cumulative and precedential effect pursuant to Public Resource Code (“PRC”) §30250(a). The full text of PRC §30250(a) states:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

The SR Letter misrepresents the text of the PRC. Cumulative effects are to be considered only in areas that are “unable to accommodate” development. The existence of the Edgewater Towers prior to the existence of the Coastal Act is irrelevant as the Coastal Act is concerned with surrounding existing developments. The Property’s surrounding area is fully urbanized. The Edgewater Towers are four buildings located directly behind the Project on a hilltop and reach up to eight stories high. The Project’s height pales in comparison to the Edgewater Towers. The age of the building is irrelevant for the purposes of Coastal Act §30250(a).

Secondly, the Specific Plan expressly permits mixed use projects in commercial use zones.<sup>13</sup> One of the purposes of the Specific Plan is to assure that the Pacific Palisade Neighborhoods continue to function as significant commercial areas.<sup>14</sup> The Specific Plan encourages mixed-use projects. The Project is being built in accordance with the Specific Plan’s intent, goals, and objectives.

Lastly, the argument that 2,900 square feet of commercial uses is “small” is inaccurate. The current vacant fast food restaurant structure located on the Property is only 1,860 square feet. The Project would provide over 1,000 square feet of additional commercial space. The percentage of residential uses on the Property is irrelevant.

#### **e. The Staff Report Addresses Landscaping In Their Conditions of Approval**

The SR Letter argues that LADCP failed to address landscaping issues related to the Edgewater Towers. Edgewater cites a Condition of Approval in the Staff Report as evidence that LADCP has failed to address landscaping. This is a nonsensical assertion. Applicant **must** provide a conforming landscaping plan in order to satisfy Condition of Approval 16. LADCP addresses landscaping by imposing Condition of Approval 16.

---

<sup>13</sup> Specific Plan Section 6.A, 6.C.

<sup>14</sup> Specific Plan Section 2.A.

## **II. LADCP FINDINGS TO APPROVE THE WAIVER OF DEVELOPMENT STANDARD ARE SUBSTANTIATED**

Edgewater argues that the proper findings were not made to support a waiver of development standards pursuant to Los Angeles Municipal Code (“LAMC”) Section 12.22.A.25.g.2.i.c. Edgewater states: “there is no specific evidence to support a finding that the request for a density bonus is necessary to make the construction of affordable units feasible”.<sup>15</sup> LADCP makes several “specific” required findings. LADCP finds that the requested waiver is necessary to expand the building envelope for the additional affordable units.<sup>16</sup> LADCP also finds that the increase in FAR allows for an additional 22 dwelling units on the fourth and fifth floor.<sup>17</sup> These findings are sufficient and comply with state and local law.

California Government Code Section 65915(e) provides that waivers of development standards must be granted if such standards would physically preclude construction of a development project that includes affordable housing as required by California Government Code Section 65915(b). Density bonus projects are a rounded up base density of 38 units. The Project is requesting 39 units, including 4 Very Low Income affordable dwelling units. Although the Project has approximately 10% of the dwelling units set aside for Very Low Income households, the Applicant is only requesting a density increase of 2.5%, far less than the 32.5% density increase allowed by state and local law. The LADCP finds that the Project application of the Specific Plan’s highly restrictive height and FAR standards would physically preclude the Project’s construction by effectively shrinking the Project’s building envelope to such an extent that including the restricted Affordable Units and utilizing the density bonus would be impossible.<sup>18</sup> In addition, a smaller Project, both with regard to unit count and potentially with regard to commercial floor area, would not likely produce the requisite rentable square footage necessary to qualify for conventional financing.

Edgewater’s also claims that there is no “substantial evidence” for the finding. This claim conflates CEQA’s standard of evidence with the LAMC required findings outlined in 12.22.A.25.g.2.c that states: “The Director shall approve a Density Bonus and requested Incentive(s) **unless** the Director finds that: (i) The Incentive is not required in order to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5, or Section 50053 for rents for the affordable unit”. LADCP findings must include evidence that the incentive is **not** required in order to provide for affordable housing costs for the Project. The waivers are clearly required to build the Project with the 4 Very Low Income units restricted to affordable households, therefore the finding cannot be made.

---

<sup>15</sup> SR Letter page 4.

<sup>16</sup> Staff Report page F-1.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

**III. EDGEWATER'S SECOND COMMENT LETTER AND SR LETTER REPEAT ARGUMENTS THAT HAVE ALREADY BEEN SUBMITTED TO THE RECORD**

The Second Comment Letter and the SR Letter repeat the exact same arguments multiple times. With the submission of this letter, our office has now submitted three letters to the record rebutting **all** of Edgewater's arguments. Please see the GLG Coastal Act Letter and the GLG Response Letter, incorporated by reference, for our rebuttal to the remainder of Edgewater's comments in the SR Letter.

**IV. CONCLUSION**

The Project has been recommended for approval by the LADCP. The Staff Report and its attachments are over a thousand pages. Edgewater continues to repeat the same arguments while providing no new evidence for purposes of the Project's impacts. The ENGEO Letter, presented almost a year after the MND public review and comment period, should be disregarded. The SR Letter has failed to provide any new evidence and must, therefore, be denied in its entirety.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Chris Manasserian', written in a cursive style.

Christopher Manasserian, Associate  
Gonzales Law Group APC

Cc: Nick Vasuthasawat, Planning Assistant