

## Communication from Public

**Name:** Reuben Duarte

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**Council File No:** 21-1493

**Comments for Public Posting:** On behalf of the Applicant, please see the attached responses to the CEQA appeal scheduled for the March 1, 2022 PLUM Committee meeting as agenda item no. 12. CF 21-1493.

February 23, 2022

File Number: 49JZ-247743

**VIA ELECTRONIC MAIL ONLY**

Planning and Land Use Management Committee  
of the City Council  
City of Los Angeles  
200 N. Spring Street  
Los Angeles, California 90012  
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Re: Response to Maddren Appeal (Case No. ENV-2021-3350-CE)

Dear Commissioners:

This firm represents Hollywood Citizen News, LLC (“Applicant”) regarding the Master Plan Approval (“MPA”), case No. ZA-2021-3349-MPA, (“Project”) to permit the sale of alcoholic beverages for an event space, located at 1545-1551 North Wilcox Avenue (“Site”) in the Hollywood area of the City of Los Angeles (“City”). This MPA was filed in connection with the property’s previously approved Master Conditional Use Permit (“MCUP”), case No. ZA-2017-755-MCUP-SPR.

This letter responds to the issues raised in the appeal submitted to the City on December 20, 2021 by Casey Maddren (“Appellant” and the “Appeal”). We respectfully request the Planning and Land Use Management recommend denial of the Appeal and affirm the Zoning Administrator’s (“ZA”) approval of the MPA from September 16, 2021<sup>1</sup>, and the Central Area Planning Commission’s denial of the appeal on December 9, 2021. The Appellant objects to the City’s approval on several grounds: (1) the Project does not qualify for a Class 1 Categorical Exemption (“Class 1 Exemption”) under the California Environmental Quality Act (“CEQA”); (2) the Project does not qualify for a Class 1 categorical exemption because it is part of a larger piecemealed project; (3) the City has not proceeded in a manner required by law; (4) the City’s determination is not supported by the findings; (5) the ZA’s determination to waive the public hearing was inappropriate based on community comments on MCUP; and (6) the MPA’s

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<sup>1</sup> The Master Plan Approval requested the following: (1) The sale of alcohol beverages to include full-line (beer, wine, liquor) for on-site consumption in conjunction with the operation of the Event Space; (2) Live entertainment (including disc jockey) and amplified music, Live acoustic (non-amplified) music with up to three musicians, ambient music, and dancing within the enclosed Event Space; (3) Hours of operation from 8:00 AM to 2:00 AM daily; and (4) A modification in the Event Space’s floor area and seating from the Original Approval to 17,188 square feet and 832 seats, respectively. (“Project”). In the Letter of Determination (“LOD”) issued on September 16, 2021, the ZA approved the request.

determination letter excludes relevant related cases. Our response to these objections are as follows.

## 1. The Proposed Class 1 Categorical Exemption is Permitted Under CEQA

The Appellant alleges that the Project may not utilize a Class 1 Exemption under CEQA because the Project involves the change of use from a vacant former newspaper publisher to the proposed restaurant and event space uses. This argument is without merit.

The Appellant states that the existing building had been vacant for decades. This is not true. The building was occupied as recently as 2019 with offices and a recording studio. Additionally, the Appellant suggests that a change of use is also disqualifying of a Class 1 Exemption, also known as the “existing facilities exemption”. This too is not accurate and a misunderstanding of the purpose of the exemption. The Class 1 Exemption applies to development projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of existing or former use.<sup>2</sup> Examples of developments that fall under Class 1 Exemption are provided in CEQA Guidelines Section 15301(a)-(p). The Project is most similar to the example in Section 15301(e) as described below and in the Appellant’s justification letter:

*Additions to existing structures provided that the addition will not result in an increase of more than:*

- (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, or whichever is less; or*
- (2) 10,000 square feet if:*
  - (A) The Project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and*
  - (B) The area in which the project is located is not environmentally sensitive.*

The Site is located in a highly developed urban setting surrounded by other urban uses and is currently developed with a two-story commercial building and basement. The building was previously used as an office and recording studio. As an already developed urban infill property, the Site is in an area where all public services and facilities are available to allow the maximum development permissible in the City’s General Plan. Further, as discussed above, the Site is not located in an environmentally sensitive area. Accordingly, to qualify under the Class 1 Exemption, floor area additions to the existing structure may not exceed 10,000 square feet.

The LAMC defines floor as “the area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms

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<sup>2</sup> CEQA Guidelines Section 15001.

housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas.”<sup>3</sup>

Though the subject of this appeal is the CEQA determination on the MPA for the Event Space, the overall project that includes the change of use from office to restaurant and event space resulted in a net reduction of the building’s floor area from the existing 43,230 square feet to 32,015 square feet, or a net reduction of 11,215 square feet of floor area. Because neither the overall project, nor specifically this MPA, resulted in an increase in floor area, let alone an increase in 10,000 square feet, the Project meets the Class 1 Exemption criteria.

CEQA Guidelines Section 15300.2(a) –(f) provide exceptions to categorical exemptions depending on the nature or location of a project, or unusual circumstances that create the reasonable possibility of significant effects. In order for a project to qualify for a categorical exemption, the project must be able to demonstrate that it does not fall under any of the exceptions. These exceptions are briefly responded to below, except for 15300.2(a) because this exception only applies to Class 3, 4, 5, 6, and 11 categorical exemptions.

## **(b) Cumulative Impacts**

As discussed in the Project analysis below, the Project is a MPA on a previously approved MCUP. While the subject of this appeal is the determination on the Event Space, the overall Project results in a net reduction of 11,215 square feet of floor area, which includes the change of use from office to restaurant and event space. The Project would have no significant impacts to the environment because the Project would only consist of this change of use and reduction of floor area to an existing building on already developed site. As such, the Project would not result in significant cumulative impacts.

## **(c) Unusual Circumstances**

The Site is located in a highly developed urban setting surrounded by other urban uses and is currently developed with a two-story commercial building and basement. There are no unusual circumstances that exist in connection with the Project, Site or surrounding environmental conditions that have the potential to result in a significant environmental impact upon the environment.

## **(d) Scenic Resources**

The Site is not bordered by or within the viewshed of any designated scenic highway as identified in the Mobility Element of the City of Los Angeles General Plan. Further, there are no existing trees on the Site, protected or otherwise, or unique geologic features on-site. The Site is located in a highly developed urban setting surrounded by other urban uses and is currently developed with a two-story commercial building and basement. Therefore the Project would not damage any scenic resources within an officially designated scenic highway.

## **(e) Hazardous Materials**

Pursuant to California Government Code Section 65962.5, the DTSC shall compile and update a list of all hazardous waste facilities subject to corrective action<sup>4</sup>, all land designated as

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<sup>3</sup> LAMC Section 12.03.

<sup>4</sup> California Health and Safety Code Section 25187.5.

hazardous waste property or border zone property<sup>5</sup>, all information received by the DTSC on hazardous waste disposals on public land<sup>6</sup>, and all sites listed pursuant to Section 25356 of the Health and Safety Code. Based on review of the DTSC EnviroStor Database, the Site is not listed for cleanup, permitting, or investigation of any hazardous waste contamination. Therefore, the Site is not located on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code.

**(f) Historic Resources**

The Applicant nominated the Citizen News building for local designation as a historic cultural monument (“HCM”). The building was successfully approved for HCM status on December 7, 2018<sup>7</sup> by the City Council. Again, while the subject of this appeal is the CEQA determination on the MPA related to the Event Space only, the overall project consisting of the change of use, alcohol service, and building improvements were analyzed in environmental case no. ENV-2017-756-MND. This analysis found the project would not have any adverse impacts to the existing building as a historic resource. To the contrary, the rehabilitation of the now historic Citizen News building has greatly enhanced its historic integrity.

Consistent with the CEQA Guidelines, the Project qualifies under the Class 1 Exemption as confirmed based on the following substantial evidence that the Project meets the previously discussed Class 1 criteria.

**2. The Project Was Not Improperly Piecemealed**

The Appellant alleges that the Project does not qualify for a Class 1 Exemption from CEQA because it is the latest in a series of piecemealed approvals related to a larger hotel/entertainment complex which includes the Thompson Hotel, the Tommie Hotel, the Dream Hotel and the proposed hotel at 6421 Selma Avenue. There is no merit to this argument.

The Project is not a reasonably foreseeable consequence of the other named projects or any other projects in the vicinity. The Appellant references Relevant Group, however Relevant Group is not the applicant or owner of the Project. The applicant and owner of the Project is Hollywood Citizen News, LLC. As a general rule, relationships between property owners or applicants of different properties do not change the threshold of review required pursuant to CEQA. The projects identified by the Appellant involve separate properties that are being developed by separate legal entities and separate entitlement applications. Each of the named projects were reviewed by the appropriate City departments and approval bodies and received separate approvals. Similarly, each of the projects are bound by separate conditions of approval that are applicable on a project-specific basis, and each project underwent separate environmental review under CEQA. Therefore, the Project was not improperly piecemealed with respect to the named projects in the vicinity and the Class 1 Exemption is appropriate for the reasons stated above.

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<sup>5</sup> California Health and Safety Code Section 25220.

<sup>6</sup> California Health and Safety Code Section 25242.

<sup>7</sup> Council File 18-0917.

### 3. The City Complied with the Requirements and Procedures of the LAMC

The Appellant claims that the City's process to approve the Project was intended to "shut the public out" and that there is no justification to waive the public hearing. This claim is completely unfounded. The Applicant and City followed the mandated requirements in the LAMC related to an MPA request.<sup>8</sup>

Specifically, the Applicant received approval for a MCUP on May 13, 2019 to "permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption at a maximum of three establishments in the C4-2D Zone," and a Site Plan Review to "allow a development project that results in a change of use which results in a net increase of 1,000 or more daily trips." The three establishments included two ground floor restaurants and a second floor event space. Condition of Approval No. 6 requires "each individual venue shall be subject to a Master Plan Approval (MPA) determination pursuant to Section 12.24.M of the Los Angeles Municipal Code in order to implement and utilize the Master Conditional Use authorization granted." As required per Condition of Approval No. 6 of the MCUP, and as authorized by LAMC Section 12.24.M, the Applicant submitted two MPAs related to one of the two ground floor restaurants ("Restaurant 1") and the second floor event space ("Event Space") to permit the City to review each tenant space in greater detail and to tailor site-specific conditions of approval for each tenant.

In addition, Condition of Approval No. 6 also permits the Applicant to request a waiver of public hearing at the discretion of the Chief ZA, subject to the finding that the project (1) will not have a significant effect on adjoining properties or on the immediate neighborhood; and (2) is not likely to evoke public controversy. The Applicant submitted a request to waive the public hearing to the ZA on September 13, 2021, where its justifications are incorporated here by reference. The City granted the request to waive the public hearing and made a determination on the Project on September 16, 2021 based on the justification that the Project in the MPA resulted in less floor area than proposed under the original MCUB and would be unlikely to evoke public controversy because no appeal was filed during the 15 day appeal period following the ZA's approval on May 13, 2019.

The Appellant also raises issues regarding the operations of the nearby Dream Hotel. However, the Dream Hotel is not part of the Project and is not relevant to the subject appeal. The Dream Hotel is also under separate ownership, thus we cannot comment on the operations of a unrelated project and ownership entity.

For these reasons, the City properly complied with applicable LAMC requirements and the Conditions of Approval in the MCUP. The Appellant's objections are not supported by the facts or law.

### 4. The City's Determination is Supported by the Findings and Findings are Supported by Evidence)

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<sup>8</sup> Applicants with approved MCUPs are required to submit a MPA under LAMC Section 12.24.M.

The Appellant makes several objections to the ZA's findings with regard to the MPA. As discussed in detail below, these objections are unfounded and unsubstantiated. The Appellant also fails to acknowledge that the City granted approval for the three tenants and their proposed operations in the 2019 MCUP approval. The uses and operations contemplated by the Project have already been reviewed by the City and subject to a public hearing on February 20, 2019. No appeal was filed in connection with the City's determination on the MCUP or the original MND, including none by the Appellant.

*a. The proposed use will not adversely affect the welfare of the community.*

The Appellant alleges that allowance for two new restaurants and an event space offering live music and alcohol service will adversely affect the welfare of the community. The Project is located in a highly urbanized area in the heart of a vibrant and active commercial corridor where the surrounding uses are primarily commercial and hospitality related uses, including retail, offices, hotels, restaurants, and bars. The Project is consistent with these types of uses already prevalent in the Hollywood community. Further, the ZA recognized that the approval of the MPA does not relieve the Applicant of its responsibility to comply with the conditions of approval of the MCUP. In addition, as part of this MPA approval the ZA incorporates more venue-specific conditions of approval, including limitations on hours of operation, noise, and alcohol service. Therefore the Project will not adversely affect the welfare of the community.

*b. Granting of the application will not result in a undue concentration of alcohol serving establishments*

The Appellant alleges that the granting of the MPA will result in a undue concentration of alcohol serving establishments in a census tract with many such establishments. Regardless, Business and Professions Code Section 2395.84(b)(1)-(2) permits the issuance of an alcohol license in such areas if the local governing body demonstrates that public convenience or necessity may be served. The Project is located in an area surrounded by properties in the C4-2D (Commercial) zone that are designated for Regional Center Commercial land uses within the Hollywood Community Plan. As such, the area surrounding the Project is an appropriate location for commercial uses with alcohol permits. With respect to the overall concentration of liquor license permits, the City has the authority to impose and enforce operating conditions on discretionary permits such as the Master Conditional Use Permit for alcohol sales in conjunction with restaurant and bar sales.

In connection with the original MCUP and this MPA request, the City has twice now found that public convenience or necessity would be served by the issuance of the permit. Additionally, the Project is subject to conditions required by the Los Angeles Police Department ("LAPD"), the Department of Alcohol Beverage Control ("ABC"), and the LAMC to protect against any negative impacts associated with the sale of alcohol. The LAPD and ABC may impose additional requirements to protect the surrounding residents, businesses, and visitors in the area from the public nuisance of individuals associated with the sale of alcohol. If the Project becomes a nuisance or otherwise fails to comply with the conditions outlined in the CUB permit, the City would have the police power to revoke the CUB permit. Additionally, consistent with *City of Hayward v. Board Trustees of California State University* (2015) 242 Cal.App.4th 833 and the

requirements stated in the California Constitution Article XIII, Section 35(a)(2), the obligation to provide adequate police services is the responsibility of the City. LAPD would continue to monitor activities associated with CUB permits and identify additional resource needs including staffing, equipment, basic cars, other special apparatuses, and possibly station expansions or new station construction that may become necessary to achieve the required level of service. Through the City's regular budgeting efforts, LAPD's resource needs would be identified and allocated according to the priorities at the time. Thus, the approval of this MPA will not result in a undue concentration of alcohol serving establishments and the Appellant's argument is without merit.

*c. Use of 2020 crime statistics is appropriate.*

The Appellant alleges that the use of 2020 crime statistics is inappropriate because of the COVID-19 pandemic's potential impact on those statistics. There is no evidence provided that the 2020 crime statistics are inappropriate. The ZA requested the most recent statistics from the Los Angeles Police Department ("LAPD"), which provided statistics for the previous year of 2020. Regardless of the year, the City does not have a specific threshold in which a conditional use permit, MCUP, or MPA may be approved or denied based on crime statistics. Such statistics are considered holistically to assess neighborhood conditions, which informs the ultimate conditions of approval incorporated into a project. As previously mentioned, the City reviewed the request for the use of the event space and service of alcoholic beverages in 2019, and this second consideration of the Project and MPA in 2021. The ZA has incorporated numerous conditions of approval in the MPA, including venue-specific conditions of approval, including limitations on hours of operation, noise, and alcohol service. Further, the ZA recognizes that the approval of the MPA does not relieve the Applicant of its responsibility to comply with the conditions of approval of the MCUP. Thus, the use of the 2020 crime statistics is appropriate and the Appellant's objection is not supported by the facts or law.

*d. Proposed use will not detrimentally affect nearby residential zoned communities.*

In addition to Section 2(a) above, which is incorporated here by reference, the event space is located entirely within the second floor of the Citizen News building with no outdoor areas associated with its use strictly limiting all activity and noise to within the existing structure's walls. Therefore, the approval of the MPA would not be detrimental to nearby residential zoned communities.

For these reasons, the findings made by the ZA in the determination letter are proper and the Appellants objections to them are not supported by the facts or law.

5. The City's granting of the waiver of public hearing was appropriate.

The Appellant alleges that the City's granting of the waiver of public hearing was improper because there were members of the community, including the Appellant, who spoke in opposition or with concerns about the original MCUP request at the February 20, 2019 public hearing.

The Appellants argument is without merit. The Applicant acknowledged the issues raised by speakers, including those by the Appellant, at the February 20, 2019 public hearing and the MCUP request was taken under advisement following the hearing. During this time, the Applicant worked to address the majority of concerns raised. The ZA issued its approval for the MCUP request on May 13, 2019 and the required 15 day appeal period ended on May 28, 2019. No appeal was filed during this appeal period, including from the Appellant.

Further, the ZA's granting of the waiver of the public hearing was proper and in compliance with the approved MCUP, the Conditions of Approval, and City policy. Specifically, MCUP Condition of Approval No. 6 states that any application may request a waiver of public hearing at the discretion of the Chief ZA, subject to the findings that (1) the project will not have a significant effect on adjoining properties or on the immediate neighborhood; and (2) the project is not likely to evoke public controversy. As discussed in response no. 1 above, the Applicant submitted a request to waive the public hearing to the ZA on September 13, 2021 stating that the project would not have a negative impact on the community because the MPA results in less floor area than proposed in the original MCUP, and would not evoke public controversy because no appeal was filed. The City granted the request to waive the public hearing and made a determination on the Project on September 16, 2021. The Appellant's opposition to the overall project is untimely as he participated in the original MCUP hearing on February 20, 2019 and was provided ample opportunity to file an appeal to that determination and chose not to do so. It is not the responsibility of the ZA or the City to infer controversy where none exists. Thus the granting of the request to waive the public hearing for the Project complied with the conditions of the original MCUP and City Policy.

#### 6. The Determination Letter Includes All Relevant Information.

The Appellant alleges that the ZA's September 16, 2021 determination letter on the MPA excludes relevant and significant information. Specifically, the Appellant appears to argue that the ZA neglected to reference the case numbers for the 2019 MCUP, the other 2021 MPA for Restaurant 1, and all other similar cases in the neighborhood. This argument is without merit.

As stated above, the Project approved under the original MCUP included three tenant spaces, the service of alcohol beverages and allowance for special events in the Event Space. The City approved the MCUP in 2019. The purpose of a master conditional use permit is to allow the City to evaluate the proposed venues on an aggregate scale to streamline future review of the venues individually at a later date. Specifically, before a venue may utilize the grant under the MCUP, each is required to submit a master plan approval to be reviewed by the City so site-specific conditions may be considered based on the more detailed information provided during this master plan approval process. As a matter of process, each venue is to submit a separate master plan approval and is assigned separate case numbers, even if submitted for consideration by the City at the same time and located in the same building. The MPA in question is related specifically to the Event Space only, but very clearly identifies the 2019 MCUP and MPA for Restaurant 1 on the first page of the determination letter, and subsequently on page 17 of the required findings. The ZA made a determination that there were no relevant cases located off-site, which is consistent with the similar determination made for the 2019 MCUP where no relevant off-site cases were also listed. Thus the determination letter includes all relevant information.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Alfred Fraijo Jr.', with a stylized flourish at the end.

Alfred Fraijo Jr.  
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP