

Communication from Public

Name: Jonathan Riker
Date Submitted: 04/10/2023 04:21 PM
Council File No: 22-0599
Comments for Public Posting: Please find attached a letter from the Applicant's representative regarding the appeal of case no. APCSV-2019-1481-SPE-SPP-CU-ZV at 4801-4815 N. Laurel Canyon Blvd.

April 10, 2023

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Los Angeles City Council Planning and Land Use Committee
Councilmember Marqueece Harris-Dawson, Chair
Councilmember Monica Rodriguez, Vice Chair
Councilmember Katy Yaroslavsky
Councilmember John S. Lee
Councilmember Heather Hutt

c/o City Clerk, Room 395
City Hall, 200 North Spring Street
Los Angeles, CA 90012-4801

Re: Case No. APCSV-2019-1481-SPE-SPP-CU-ZV for 4801-4815 N. Laurel Canyon

Dear Councilmembers:

Our law firm represents Nader and Dema Hattar, the owners of 4801 N. Laurel Canyon Boulevard in Los Angeles (“Property Owner”). We have reviewed both the Letter of Determination issued by the City of Los Angeles (“City”) on May 2, 2022, approving the construction, use and maintenance of a 736 square foot self-operated car wash tunnel as an accessory use to an existing gas station (the “Project”), as well as the appeal filed by the owner of a competing gas station with its own car wash tunnel located directly across the street. This letter is meant to supply the City with detailed response to the alleged CEQA violations contained in the competing property owner’s appeal.

The Project Description Adequately Describes the Project Entitlements

As noted by the appellant, pursuant to Section 15378 of the CEQA Guidelines, a “project” means “the whole of the action.” However, the term “project” refers to “the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. *The term ‘project’ does not mean each separate governmental approval.*”

Per CEQA Guidelines Sec. 15061, after a lead agency has determined that an activity is subject to CEQA, it must determine whether the project is exempt from CEQA. If it concludes that the project is exempt, the lead agency may prepare a Notice of Exemption, and pursuant to

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CEQA Guidelines Sec. 15062, the notice shall include “a brief description of the project.” There is no specific requirement that a Notice of Exemption must include a list of the various project entitlements and/or approvals requested in conjunction with a project.

Nonetheless, the Notice of Exemption prepared by the City for the Project *did, in fact*, include a specific list of the requested entitlements, which are “Specific Plan Exception, Project Permit Compliance, Conditional Use, and Variance.” (See Exhibit A.) Furthermore, descriptions of the entitlements were included in the City’s meeting agenda (Exhibit B and in the staff report prepared prior to the public hearing, which can be accessed at online. The report can be found at the following: https://planning.lacity.org/plndoc/Staff_Reports/2021/08-17-021/APCSV_2019_1481.pdf.)

Therefore, it was made abundantly clear to the public that approval of these entitlements would be required to carry out the Project.

The Project is Within the Scope of the Categorical Exemption Chosen by the City

The Project is a “small structure” that fits within the meaning of a Section 15303 categorical exemption, as described in the CEQA Guidelines. Specifically, this categorical exemption is applicable to “the construction and location of limited numbers of new, small facilities or structures” [or] “installation of small new equipment and facilities in small structures.” As stated in the CEQA Guidelines, examples of the types of projects that are within the scope of this exemption include, “*but are not limited to*” structures “not involving the use of significant amounts of hazardous substances and not exceeding 2,500 square feet in floor area” or “[a]ccessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.” Certainly, a 736 square foot car wash tunnel qualifies as a small structure.

Substantial evidence must support an agency’s determination that the project fits within an exemption category, which were provided by the City in its approval documents and in its staff report. First, the approved Project is described as a “736 square-foot” car wash tunnel as “an accessory use” to an existing gas station with convenience store. Also, the City found “no evidence of historic or current use, or disposal of hazardous or toxic materials at this location.” Therefore, the Project is consistent with the language described above in Section 15303. Furthermore, in its staff report, the City found no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies. Therefore, application of the categorical exemption described in CEQA Guidelines Sec. 15303 is appropriate when applied to the Project.

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The City's Approval of the Use of the Accessory Carwash is Justified, and the Appellant's Claim that the City Erred in Approving the Project is Not a CEQA Claim

The appellant's claim that the City somehow erred or abused its authority in approving the Zone Variance request to allow the accessory carwash is not a CEQA claim, and this argument should not be considered at this hearing in terms of whether the City violated the CEQA review process. The motivation of the appellant in filing this appeal also bears mentioning. This entire appeal is based on the owner of a competing gas station with a carwash located across the street from the Applicant's Project, who is hoping to stop his neighbor from being able to compete with his facility. As the City rightfully calls out in its determination, the appellant's property already received a Zone Variance for this exact same use in 2009. (Case No. ZA-2008-2924-CUB-CU-ZV – "Addition of a 575 Square foot drive thru car wash to an existing fueling station on a comm corner; proposed sale of beer and wine between hours of 7am – 2am for off-site consumption".)

Second, the City, in making a careful, detailed analysis of the current and historical use of the Property found that the Project Site due to its corner lot configuration and location along a busy thoroughfare, larger than average size of the lot, current and historic use as a gas station and convenience store, and adjacency to a major freeway, were more than enough justifications to determine that the Project Site "is *uniquely capable* of accommodating the proposed car wash and providing needed access and parking for the proposed incidental use ... [and] Granting the Exception acknowledges the special circumstances of the subject property that does not generally apply to other properties in the same zone in the surrounding area."

Finally, in granting the Zone Variance, the City states, "The Zone Variance is justified as the current use as a gas station and convenience store were established prior to the [Q] conditions being imposed in 1989." Furthermore, the City also states, "The unique location...and existing development of the site are special circumstances applicable to the subject property that do not apply generally to other property in the same zone and vicinity."

We appreciate the City's thorough analysis and thoughtful deliberation in granting the entitlements to this Project and respectfully request that you deny the appellant's appeal in its entirety.

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If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,



Elizabeth "Ellia" Thompson

cc: Andrew Jorgensen, AICP, City Planner

Attachments

EXHIBIT A

CITY OF LOS ANGELES
 OFFICE OF THE CITY CLERK
 200 NORTH SPRING STREET, ROOM 395
 LOS ANGELES, CALIFORNIA 90012
CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION

(PRC Section 21152; CEQA Guidelines Section 15062)

Filing of this form is optional. If filed, the form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062. Pursuant to Public Resources Code Section 21167 (d), the posting of this notice starts a 35-day statute of limitations on court challenges to reliance on an exemption for the project. Failure to file this notice as provided above, results in the statute of limitations being extended to 180 days.

PARENT CASE NUMBER(S) / REQUESTED ENTITLEMENTS
 CPC-2019-1481-SPE-SPP-CU-ZV / Specific Plan Exception, Project Permit Compliance, Conditional Use, and Variance

LEAD CITY AGENCY City of Los Angeles (Department of City Planning)	CASE NUMBER ENV-2019-1482-CE
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PROJECT TITLE	COUNCIL DISTRICT 2 – Krekorian
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PROJECT LOCATION (Street Address and Cross Streets and/or Attached Map) Map attached.
4801 – 4815 N. Laurel Canyon Boulevard; 12107 – 12111 W. Riverside Drive

PROJECT DESCRIPTION: Additional page(s) attached.
 The construction of a new 736 square foot 24-hour, self-operated car wash tunnel (17 ½ feet maximum height) in conjunction with an existing gas station with convenience store (to be remodeled), on an approximate 19,164 square foot commercial corner site. The car wash tunnel is proposed at the southwest corner of the site, adjacent to commercial uses. The project includes new landscaping, the addition of 8 new on-site trees and 3 new street trees, four additional parking spaces, new lighting, two new signs, a new trash enclosure area, new air/water location and the addition of two coin operation vacuum hoses with a sound dampener system. Access to the site will remain as is, which includes four driveway apron (two from each street frontage). Access to the carwash will be from the rear, north side of the tunnel, and exiting south near the Riverside Drive southwest driveway. The project includes the demolition of a small storage building (160 square feet), the removal of 9 palm trees (3 mature palms, 6 small palms) with 3 mature palms to remain, and grading of less than 500 cubic yards.

NAME OF APPLICANT / OWNER:
Nader Hattar, N&D Corporation

CONTACT PERSON (If different from Applicant/Owner above) Ken Kang, MK Design	(AREA CODE) TELEPHONE NUMBER (626)374-3834	EXT.
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EXEMPT STATUS: (Check all boxes, and include all exemptions, that apply and provide relevant citations.)
 STATE CEQA STATUTE & GUIDELINES

STATUTORY EXEMPTION(S)
 Public Resources Code Section(s) _____

CATEGORICAL EXEMPTION(S) (State CEQA Guidelines Sec. 15301-15333 / Class 1-Class 33)
 CEQA Guideline Section(s) / Class(es) Section 15303, Class 3(a)

OTHER BASIS FOR EXEMPTION (E.g., CEQA Guidelines Section 15061(b)(3) or (b)(4) or Section 15378(b))

JUSTIFICATION FOR PROJECT EXEMPTION: Additional page(s) attached
 See attached
 None of the exceptions in CEQA Guidelines Section 15300.2 to the categorical exemption(s) apply to the Project.
 The project is identified in one or more of the list of activities in the City of Los Angeles CEQA Guidelines as cited in the justification.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT ISSUED BY THE CITY PLANNING DEPARTMENT STATING THAT THE DEPARTMENT HAS FOUND THE PROJECT TO BE EXEMPT.
 If different from the applicant, the identity of the person undertaking the project.

CITY STAFF USE ONLY:

CITY STAFF NAME AND SIGNATURE Marianne King	STAFF TITLE City Planning Associate
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ENTITLEMENTS APPROVED
Specific Plan Exception, Project Permit Compliance, Conditional Use Permit, Variance

FEE: \$5,774	RECEIPT NO. 0202611515	REC'D. BY (DCP DSC STAFF NAME) Sheila Toni
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EXHIBIT B

**SOUTH VALLEY AREA PLANNING COMMISSION
REGULAR MEETING AGENDA
THURSDAY, AUGUST 26, 2021 AFTER 4:30 P.M.
(via TELECONFERENCE)**

**Meeting presentations will be available here <https://tinyurl.com/SouthValleyAPC8-26-21> by August 23, 2021.
Compliant Day-of-Meeting Submissions will be added to this drive as they are received.**

Mark Dierking, President
Lydia Drew Mather, Vice President
Ilyanne Morden Kichaven, Commissioner
Juana Torres, Commissioner
Vacant, Commissioner

Vincent P. Bertoni, AICP, Director
Shana M. M. Bonstin, Deputy Director
Arthi L. Varma, AICP, Deputy Director
Lisa M. Webber, AICP, Deputy Director

Etta Armstrong, Commission Executive Assistant I
apcsouthvalley@lacity.org
(213) 978-1128

In conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID-19, the South Valley Area Planning Commission meeting will be conducted entirely telephonically.

**SOUTH VALLEY AREA PLANNING COMMISSION MEETINGS CAN BE LISTENED TO BY DIALING (213) 621-2489 OR (818) 904-9450. YOU CAN ALSO VIEW THE MEETING ONLINE VIA ZOOM AT:
<https://planning-lacity-org.zoom.us/j/89295150589> AND USE MEETING ID: **892 9515 0589** AND PASSCODE **537646**.**

Members of the public who wish to participate in the meeting and offer public comment to the South Valley Area Planning Commission, can either access the link located above or call 1 (213) 338-8477 or 1 (669) 900-9128 and use Meeting ID No. 892 9515 0589 and then press #. Press # again when prompted for participant ID. You may use passcode 537646.

Pursuant to the Commission's operating procedures, the Commission at times must necessarily limit the speaking times of those presenting testimony on either side of an issue that is designated as a public hearing item. In all instances, however, equal time is allowed for presentation of pros and cons of matters to be acted upon.

Written submissions are governed by Rule 4.3 of the South Valley Area Planning Commission Rules and Operating Procedures which are posted online at <https://planning.lacity.org>, by selecting "About", "Commissioners", "South Valley Area Planning Commission", and "Operating Procedures". However, please see revised submission guidelines below which have been modified in order to accommodate the conduct of the meeting telephonically.

Initial Submissions, not limited as to volume, must be received by the Commission Executive Assistant no later than by 4:00 p.m. on the Monday prior to the week of the Commission meeting. Materials must be emailed to apcsouthvalley@lacity.org. **Secondary Submissions** in response to a Staff Recommendation Report or additional comments must be received electronically no later than 48-hours before the Commission meeting. Submissions shall not exceed ten (10) pages, including exhibits, and must be submitted electronically to apcsouthvalley@lacity.org. **Day of Hearing Submissions** within 48 hours of the meeting, up to and including the day of the meeting are limited to 2 pages plus accompanying photographs and must be submitted electronically to apcsouthvalley@lacity.org. Photographs do not count toward the page limitation. Submissions that do not comply with these rules will be stamped "**File Copy. Non-Complying Submission.**" Non-complying submissions will be placed into the official case file, but they will not be delivered to or considered by the Commission, and will not be included in the official administrative record for the item at issue.

The Commission may RECONSIDER and alter its action taken on items listed herein at any time during this meeting or during the next regular meeting, in accordance with the Commission Rules and Operating Procedures and provided that the Commission retains jurisdiction over the case. If a Commission meeting is canceled or adjourned due to lack of quorum, all remaining agenda items shall be continued to the next regular meeting or beyond as long as the continuance is within the legal time limits of the case or cases.

Requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act can be made by contacting the Commission Executive Assistant at (213) 978-1128 or by email at apcsouthvalley@lacity.org no later than three working days (72 hours) prior to the meeting. For

Telecommunication Relay Services for the hearing impaired, please see the information located on the last page of this agenda.

If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agenzized here, or in written correspondence on these matters delivered to this agency at or prior to the public hearing.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Agendas and Adopted Minutes are available on line at <http://planning.lacity.org>, by selecting "About", "Commissions, Boards & Hearings", and filter by "South Valley Area Planning Commission".

If you would like to receive a determination letter for any item on today's agenda, please email your request to apcsouthvalley@lacity.org. Please include your contact information (email or mailing address) and the case number associated with the item.

For additional information regarding the format of this telephonic public meeting, please visit our website at <http://planning.lacity.org>

***Información en español acerca de esta junta puede ser obtenida llamando al (213) 978-1300
Servicios de traducción al español están disponibles, de ser solicitados con un mínimo de 72 horas de
anticipación, en todas las juntas de la comisión.***

1. **DIRECTOR'S REPORT AND COMMISSION BUSINESS**

- Election of Officers
- Advance Calendar
- Commission Requests
- Approval of Meeting Minutes – April 22, 2021

2. **NEIGHBORHOOD COUNCIL POSITION STATEMENTS ON AGENDA ITEMS**

Presentations by Neighborhood Council representatives on any Neighborhood Council resolution, or community impact statement filed with the City Clerk, which relates to any agenda item listed or being considered on this agenda. The Neighborhood Council representative shall provide the Board or Commission with a copy of the Neighborhood Council's resolution or community impact statement by email to apcsouthvalley@lacity.org. At the Chair's discretion, presentations of Neighborhood Councils on any matter listed on the agenda for this Commission meeting may be taken at the time the agenda item is taken for consideration.

3. **GENERAL PUBLIC COMMENT**

The Commission shall provide an opportunity in open meetings for the public to address it **on non-agenda items**, for a cumulative total of up to thirty (30) minutes, on items of interest to the public that are within the subject matter jurisdiction of the Commission.

Members of the public who wish to participate in the meeting and offer public comment to the South Valley Area Planning Commission, can either access the link located at the top of this agenda or call 1 (213) 338-8477 or 1 (669) 900-9128 and use MEETING ID No. 892 9515 0589 then press #. Press # again when prompted for participant ID. You may use passcode: 537646.

4. **RECONSIDERATIONS**

- a. **MOTIONS TO RECONSIDER** - The Commission may make a motion to reconsider a Commission Action on any agenda items from its previous meeting, consistently with the Commission Rule 9.3, provided the Commission retains jurisdiction over the matter.
- b. **MERITS OF ANY ITEM THE COMMISSION HAS VOTED TO RECONSIDER** - If a majority of the Commission has approved a motion to reconsider a Commission Action, the Commission may address the merits of the original Commission Action.

5. **APCSV-2019-1481-SPE-SPP-CU-ZV**
CEQA: ENV-2019-1482-CE

Council District: 2 - Krekorian **
Last Day to Act: 08-26-21

PUBLIC HEARING REQUIRED:

PROJECT SITE: 4801-4815 North Laurel Canyon Boulevard;
12107-12111 West Riverside Drive

PROPOSED PROJECT:

Construction, use, and maintenance of a 736 square foot, 24-hour, self-operated car wash tunnel as an accessory use to an existing gas station with convenience store, on an approximately 19,164 square foot commercial corner site. A total of five parking spaces will be provided. The car wash tunnel is proposed at the southwest corner of the site, adjacent to a commercial use. The Project includes new landscaping around the site, the addition of eight new on-site trees and three new street trees, four additional parking spaces, new lighting, two new signs, a new trash enclosure area, new air/water location and the addition of two-coin operation vacuum hoses. The Project includes the demolition of a small storage building (160 square feet), the removal of nine palm trees (three mature, six small) and grading of less than 500 cubic yards.

REQUESTED ACTIONS:

- 1. Pursuant to CEQA Guidelines, 15303 and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies; and.
- 2. Pursuant to Section 11.5.7 F of the Los Angeles Municipal Code (LAMC), a Specific Plan Exception to the Valley Village Specific Plan (Ordinance No. 168,613) to allow the following:
 - a. An accessory car wash use in lieu of the C4 use limitations of Section 5.B of the Valley Village Specific Plan; and,
 - b. A front yard of three percent of the total lot area in lieu of the five percent required by Section 6.E.1 of the Valley Village Specific Plan.
- 3. Pursuant to LAMC Section 11.5.7 C, a Project Permit Compliance review with the Valley Village Specific Plan to allow the construction, use, and maintenance of a 736 square foot, 24-hour, self-operated car wash tunnel.
- 4. Pursuant to LAMC Section 12.24 W 27, a Conditional Use to allow a Commercial Corner Development with the following deviations from the standards of 12.22 A.23:
 - a. Less than 50 percent ground floor transparent windows;
 - b. An existing free-standing pole sign; and
 - c. 24-hour operations, daily.

5. Pursuant to LAMC Section 12.27, a Zone Variance from "Q" Conditions of Ordinance No. 165,108 which limit uses of the subject property to those permitted in the C1.5 Zone.

Applicant: Nader Hattar, N & D Corporation
Representative: Ken Kang, MK Design

Staff: Andrew Jorgensen, City Planner
andrew.jorgensen@lacity.org
(818) 374-9904

The next regular meeting of the South Valley Area Planning Commission will be held on **Thursday, September 9, 2021**

****Pursuant to Mayor Garcetti's Emergency Order issued on March 21, 2020, which was subsequently extended on April 17, 2020, the time to act on this item has been tolled for the duration of the local emergency period. Please note that other State law provisions may also apply.**

Notice to paid Representatives

If you are compensated to monitor, attend, or speak at this meeting, City law may require you to register as a lobbyist and report your activity. See Los Angeles Municipal Code §§ 48.01 et seq. More information is available at ethics.lacity.org/lobbying. For assistance, please contact the Ethics Commission at (213) 978-1960 or ethics.commission@lacity.org.

Reasonable Accommodations Consistent with Federal and State Law and California Governor's Executive Order N-29-20

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate. The meeting facility and its parking are wheelchair accessible. Language interpreters, sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than **three working days (72 hours)** prior to the meeting by calling the Commission Executive Assistant at (213) 978-1295 or by e-mail at apcsouthvalley@lacity.org.

Telecommunication Relay Services

Telephone communication is one of the most important forms of communication in society today. Due to advancements in technology, telephone devices have evolved with new services and capabilities. Individuals who are deaf and hard of hearing, and individuals with a speech disability are following these trends and are rapidly migrating to more advanced telecommunications methods, both for peer-to-peer and third-party telecommunications relay service (TRS) communications.

Telecommunications Relay Service is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico and the U.S. territories for local and/or long distance calls. TRS providers - generally telephone companies - are compensated for the costs of providing TRS from either a state or a federal fund. There is no cost to the TRS user.

What forms of TRS are available? There are several forms of TRS, depending on the particular needs of the user and the equipment available: TRS includes: Text to Voice TIY-Based TRS; Speech-to-Speech Relay Service; Shared Non-English Language Relay Service; Captioned Telephone Relay Service; Internet Protocol Relay Service; and Video Relay Service. Please visit this site for detail descriptions, <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Don't hang up! Some people hang up on TRS calls because they think the CA is a telemarketer. If you hear, "Hello. This is the relay service . . ." when you pick up the phone, please don't hang up! You are about to talk, through a TRS provider, to a person who is deaf, hard-of-hearing, or has a speech disability.

For more information about FCC programs to promote access to telecommunications services for people with disabilities, visit the FCC's Disability Rights Office website.