

Wendy Atkins

From: Rebekah Barr
Sent: Friday, September 28, 2018 9:36 AM
To: Wendy Atkins
Subject: FW: 870 Broadway at MacArthur Place Project

See below...

From: kipz@aol.com <kipz@aol.com>
Sent: Friday, September 28, 2018 9:32 AM
To: City Council <citycouncil@sonomacity.org>
Cc: Cathy Capriola <ccapriola@sonomacity.org>
Subject: 870 Broadway at MacArthur Place Project

To the Sonoma City Council,

I am writing again in support of the project before you concerning the disposition of the parcel at 870 Broadway at MacArthur Place.

I fully believe that evidence presented supports approval of the 870 Broadway project. And, with the most recent modifications, the project is entirely and unarguably aligned with the City of Sonoma development code and absolutely complies with the intent and the letter of the General Plan.

Here are my observations:

- 1)) David Goodison, Sonoma City Planning Director, has already presented professional, compelling arguments in support of the project. His very detailed review of the developer's application has left no doubt that all issues concerning the project have been considered...and approved.
- 2) Prior appellants have been involved in an abandoned prior project proposal to develop a much larger 3-story hotel on the same location - yet, at the last Council meeting, they were opposed to the current project which is smaller and far less intrusive to Broadway and MacArthur neighbors (even before recent modifications). Such criticism seemed hard to understand. Their objections appeared disingenuous and inconsistent, given prior attempts to be involved in developing the property. In addition, tactics such as a Friday night 'document dump' into Council members' laps before a Monday meeting (to which Council Member Hundley referred at the last meeting), served as quite a calculated attempt to obfuscate and delay the Council's proceedings. The fact that such an unfair tactic succeeded should be a clear admonition of any future attempts to stall or thwart Sonoma's progress.
- 3) Aesthetics - the cluster and height of the affordable units seemed to be an issue as did tree removal. As mentioned above, with the most recent modifications, the project is entirely and unarguably aligned with the City of Sonoma development code and absolutely complies with the intent and the letter of the General Plan.
- 4) At the last Council meeting I believe I heard a veiled threat of negative voter response if Council members were to vote in favor of this project. I continue to argue that the Council may incur voters' dissatisfaction if members fail to act on this community opportunity.
- 5) All acknowledge that 870 Broadway is an eyesore and has been a blight to/on the town of Sonoma for the past 10 years
- 6) You have a 'bird in the hand' project which the planning department has strongly supported in a super majority vote of 5-2
- 7) The project meets every variance and zoning requirements of the City of Sonoma development code and meets the intent and letter of the General Plan
- 8) The project clearly 'solves' the blight problem and simultaneously seeks to involve east side neighbors in its retail operations and newly landscaped grounds

9) Your inaction may delay this project and/or even jeopardize its ability to be started in this 'building' year. The developers have complied with all demands made of them and seem still able to complete the project and make a profit. At some point, via delay, the economic feasibility of this project will dissipate and the project will be lost - the developers will walk away.

In summary, I have heard much subjective prior objection to what the Planning Commission has already approved as a long-awaited community opportunity and resource. The project has already been 'tweaked' and the developers have already demonstrated a willingness to be responsive to perceived improvements. Sonoma needs and deserves to have its 'face' improved after 10 years of scarring on Broadway. The community opportunity for that is right now. This matter, for the betterment of Sonoma, is in your hands.

I again invoke Voltaire in this matter: "The perfect is the enemy of the good". You have in front of you a good project, made better over time to further comply with City of Sonoma development code and the intent and letter of the General Plan.

Sincerely,

Richard M. Altman
8742 Summerhill Lane

Cathy Capriola

From: kipz@aol.com
Sent: Tuesday, August 07, 2018 11:36 AM
To: Madolyn Agrimonti
Cc: Amy Harrington; David Cook; Gary Edwards; Rachel Hundley; Cathy Capriola
Subject: Response to Sonoma City Council's Hearing on 870 Broadway Project

Dear Madam Mayor,

I attended last night's Council meeting concerning the disposition of the parcel at 870 Broadway at MacArthur Place.

I did not offer a 'public comment' at the time but chose to 'sleep on it' and ponder exactly what I heard last night.

My conclusion is that the evidence presented supports approval of the 870 Broadway project.

Here are my observations:

- 1)) **David Goodison**, Sonoma City Planning Director, obviously commanded the respect of all parties at last night's meeting. His presentation was professional, compelling and in support of the project. His very detailed review of the developer's application left no doubt that all issues concerning the project had been considered...and approved.
- 2) **Disingenuous Architectural Standards of Applicants** - seems that Mr. Conforti, one of the two appellants, was involved in an abandoned prior project proposal to develop a much larger 3-story hotel on the same location - but now he is opposed to the current project which is smaller and far less intrusive to Broadway and MacArthur neighbors. His criticism seems hard to understand. Given the fact that he has been a resident of Sonoma for close to 50 years, his protective instincts are admirable. But his objections seem disingenuous and inconsistent, given his prior attempts to be involved in developing the property. In addition, the combination of the appellant's Friday 8-page lawyer letter (to which the developer responded on Monday) and of the appellant's 500-page Friday night 'document dump' into Council members' laps before Monday evening's meeting (to which Council Member Hundley referred last night), seems to be quite a calculated attempt to obfuscate and delay the Council's proceedings. Seems unfair that the tactic succeeded.
- 3) **Aesthetics** - the cluster and height of the affordable units seem to be an issue as does tree removal. These seem to be valid concerns which should be able to be addressed.
- 4) **Threat of Voter Retaliation** - I believe I heard a veiled threat of negative voter response if you were to vote in favor of this project. I would argue that you may indeed offend voters - but for the opposite of the reason offered: your inaction on this community opportunity.
 - a) all acknowledge that 870 Broadway is an eyesore and has been a blight to/on the town of Sonoma for the past 10 years
 - b) you have a 'bird in the hand' project which the planning department strongly supported in a super majority vote of 5-2
 - c) the project meets every variance and zoning requirement required by the City of Sonoma
 - d) the project clearly 'solves' the blight problem and simultaneously seeks to involve east side neighbors in its retail operations and newly landscaped grounds
 - e) your inaction may delay this project and/or even jeopardize its ability to be started in this 'building' year. The developers have complied with all demands made of them and seem still able to complete the project and make a profit. At some point, via delay, the economic feasibility of this project will dissipate and the project will be lost - the developers will walk away.

In summary, I heard much subjective objection last night to what the Planning Commission has already approved as a long-awaited community opportunity and resource. The project may need to be 'tweaked' a bit and the developers have

already demonstrated a willingness to be responsive to perceived improvements. But, Sonoma needs and deserves to have its 'face' improved after 10 years of scarring on Broadway. The community opportunity for that is right now. This matter, for the betterment of Sonoma, is in your hands.

Voltaire's admonition seems to apply in this matter: "The perfect is the enemy of the good". You have in front of you a good project.

Sincerely,

Richard M. Altman
8742 Summerhill Lane

September 26, 2018

City Council of the City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476

Re: Support for the “Gateway Mixed Use Project” Located at 870 Broadway

Dear Mayor and Councilmembers:

My family, friends and I were so excited to see the wooden story poles that were recently set up at 870 Broadway to represent the potential “Gateway Mixed Use Project” proposed at the northeast corner of Broadway and MacArthur.

We are a working family with children in school, sports, and other activities and unfortunately do not have the time to attend City Council meetings or actively participate in the city’s development process. But as your constituents we respectfully request that you support and approve the Gateway Mixed Use Project for the following reasons:

- The proposed Gateway Mixed Use Project was designed in consideration of public input and with aesthetics that mirror common architectural themes found throughout our city. The renderings of the proposed development are beautiful and will blend-in and match the character of other buildings along this section of Broadway.
- This project proposes to construct 35 new residential units. The entire bay area region—including the City of Sonoma—needs more housing supply. The proposed Gateway Mixed Use Project also offers an affordable housing component which will help to maintain the fabric of diversity that is being strained in our community by exorbitant costs of living.
- The Gateway Mixed Use Project appears to be a viable proposal and would provide needed public sidewalk improvements, tax revenues, new commercial/retail space and additional housing options if approved.
- And finally, if not the Gateway Mixed Use Project, then what? Rejection of this perfectly acceptable project will cause the development process to start over for this site. The time, energy, and resources put into this project will be wasted and it will likely be several more years before another proposal would be ready for approval. We are tired of waiting. The existing chain-link fence, asphalt lot, high weeds, and derelict buildings at 870 Broadway are an example of blight in our city. Improvements should be encouraged and made as soon as possible.

The current use of the property at the corner of Broadway and MacArthur does not add to the character and charm that we all love about Sonoma. Nor does the decaying condition of the site

properly represent our community to visitors. We are proud of our city and want to see it beautified and improved. In addition to the benefits described above, the Gateway Mixed Use Project is an opportunity for the City of Sonoma to take advantage of private investment to upgrade this prominent and highly visible corner into a charming setting. As our elected representatives, we strongly urge you to support and approve the Gateway Mixed Use Project at 870 Broadway.

Sincerely,

Courtney E. Benedict
497 Engler St.
Sonoma, CA 95476

Thursday, August 2, 2018 at 4:38:28 PM Pacific Daylight Time

Subject: Gateway Project

Date: Thursday, August 2, 2018 at 4:36:35 PM Pacific Daylight Time

From: Chas Blackford

To: David Goodison

Dear Councilmember Goodison

I am writing today to again express my support for the Sonoma Gateway project. I previously spoke at the planning commission meeting emphasizing the need to find a community pleasing project to replace the Sonoma Car and Truck eyesore.

It seems to me this project ticks all the boxes:

1. Provides badly needed housing units
2. Provides affordable housing
3. Provides additional retail options close to the plaza that (hopefully local centric and not another wine tasting venue)
4. Meets the off street parking requirements
5. Is well designed and attractive

Please reject this NIMBY appeal and support your planning commission in accepting this project.

Sincerely,

Chas Blackford

629 1st St. W

Sonoma, CA 95476

Cathy Capriola

From: Lou Braun <loubraun2003@yahoo.com>
Sent: Saturday, August 04, 2018 5:50 PM
To: City Council
Cc: Madolyn Agrimonti; David Cook; Gary Edwards; Amy Harrington; Rachel Hundley
Subject: Comments RE Sonoma Gateway Appeal - Braun
Attachments: Gateway Project - Appeal Comment - Braun - 080418.pdf

Dear Mayor Agrimonti and Councilmembers,

I wish to urge you to uphold the appeal of the Gateway Project as it does not comply with the General Plan and Development Code and the applicant has not provided substantial reasons to justify its non-compliance.

I have spoken out against this project in previous meeting with the Planning Commission and wish to thank you in advance for considering my comments in the attached letter.

Your continued service to our community is much appreciated.

Sincerely,
Louis Braun
871 1st St W.
Sonoma, CA 95476
415.317.4337

Louis Braun
871 1st St West
Sonoma, CA 95476
August 4, 2018

Via E-Mail: CityCouncil@sonomacity.org

Mayor Madolyn Agrimonti and Members of the City Council
City of Sonoma, No. 1 The Plaza
Sonoma, CA 95476

RE: Gateway Project

Dear Mayor Agrimonti and Councilmembers,

I wish to urge you to uphold the appeal of the Gateway Project as it does not comply with the General Plan and Development Code and the applicant has not provided substantial reasons to justify its non-compliance.

I'm sure you agree that the Broadway corridor is an incredibly important resource which is our responsibility to protect. It's not just another street! It grandly announces our community to the visitor and, like our town square, is a source of pride for all who live here.

Therefore, our development code specifically states (19.32.010): *"Historic structures on Broadway will be preserved, restored and re-used, while new development will respect and contribute to the character of the area."* And goes on to state (19.32.020):

"New commercial and mixed use buildings and alterations to existing structures should contribute to the established Broadway streetscape."

If this project is built, you'll need to be able to answer a fundamental question that many in Sonoma will ask you: **How does this project respect and contribute to the character of the area?** If it is built, I can guarantee you that most people in this town will be saddened and outraged. It will be as if a Los Angeles condo park was suddenly dropped from the sky onto Broadway. They will wonder how in the world it ever came to be approved.

For instance, our Development Code requires that "mass, scale, proportion" must be compatible with the surrounding neighborhood. And while most buildings on Broadway are no more than 30' wide, this project's commercial building on Broadway is twice that and it's 120' long. Being close to the street, you can count on it to dominate that corner. Granted, the old auto center unhappily dominates that area today. But do we really want to build a "new dominator" to replace the "old dominator?" Once built, it is going to be there a long time! Again, the development code (19.32.010) states that new mixed-use development *should enliven Broadway with small-scale retail, office, and residential uses.* Do you think this is small-scale?

I do not think it's "small scale" and so wondered how the staff report prepared by the City Planning Director did think so. The answer may be found in the "Findings" section of the "Supplemental Report" (p16) where we read:

<i>(Below is the requirement)</i>	<i>Architectural Considerations</i>	<i>(Below is staff response)</i>
<p>a. New infill structures should support the distinctive architectural characteristics of development in the surrounding neighborhood, including building mass, scale, proportion, decoration/detail, door and window spacing/rhythm, exterior materials, finished-floor height, porches, and roof pitch and style.</p>	<p>Each of the buildings adjoining the street features porches, entry walks, and low landscaping fences designed to engage the street, which is characteristic of older development along Broadway. The building elevations feature porches, eaves, and insets that help reduce their scale and incorporate traditional design elements.</p>	

I do not see how “porches, eaves, and insets” help to reduce the scale of buildings that are so much bigger than typical buildings on Broadway. To me, this explanation simply skirts the critical issue of “mass, scale, and proportion.” Do you think it is an acceptable explanation?

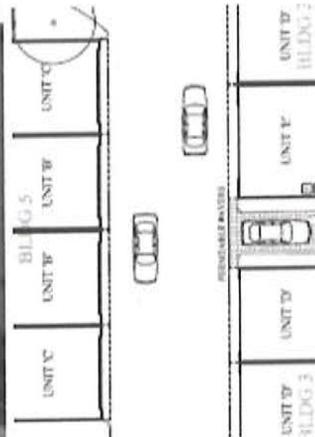
But how do we judge whether the development “*respects the character of the area?*” To me, the distinctive but obvious thing about Sonoma’s character is that people live in neighborhoods where our front doors face a street. Even in our lower cost neighborhoods, the designers do not cordon off residents into isolated compounds but have always incorporated a street metaphor to be compatible with the rest of the town. For instance, look at Steve Ledson’s development off MacArthur at First Steet West (top photo).



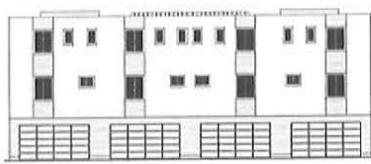
Notice how Ledson created a narrower street which allows the residents to actually see each other and creates a sense of neighborhood.

In contrast, note the photo below that shows a development approach that’s similar to the one the Gateway developer has incorporated for the Gateway Project.

Like Los Angeles, this project is car-centric, not people-centric. The main way most residents will enter and leave their units will be via an automatic garage door opener. They will drive through a maze of garage doors, open one, drive in, and close it. The design cuts people off and reflects a soulless, anonymous world where no one sees each other. Does this reflect our town character?

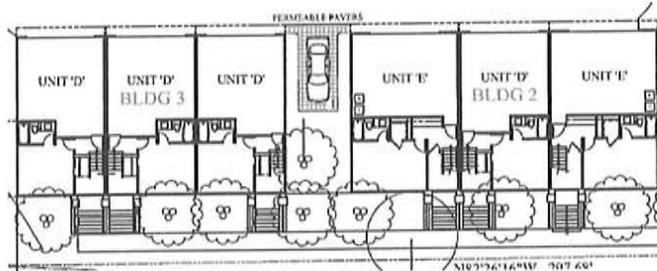


Below left are the four garages for Building 6. Directly across the street from them (below right) are the six garages for Buildings 2 & 3. Garages are everywhere to be seen but no front doors. Do you see how this cuts people off from each other? Does this approach support our community's values?

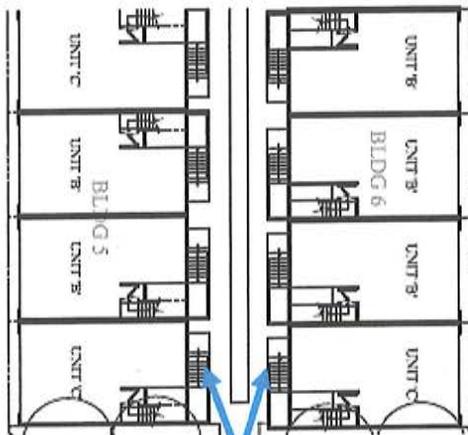


In sum, for most residents the "front door" will be the garage door. And, perhaps worse, the "front door" is not a very attractive place for most of these residents. For instance, the front doors of Buildings 2 & 3 (right) are just feet away from a fence on the north side of the property and residents will need to walk around the building to get to the front door. But no one will do that. Instead, they'll just drive into the garage and close the door.

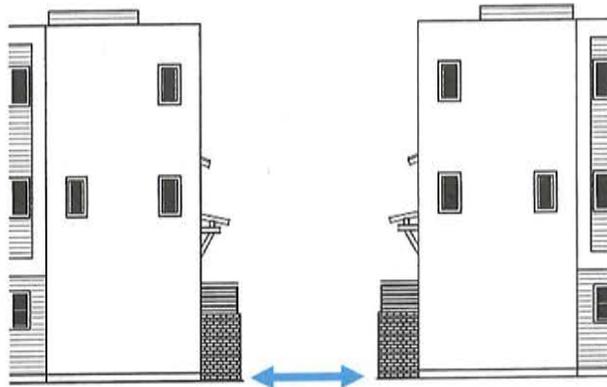
This is a fence →



The situation is actually worse for the residents of Building 5 & 6 as their front door landings (below left) are about 12" from each other. As designed, the primary walls are 20 feet apart but will tower straight up to 32 feet high, which will create a shadowy, largely sunless canyon between these buildings. We can do better than this!



These are "front door landings"



The front door landings are about 12' apart

In sum, this development does not respect and contribute to the character of the area. It is way out of whack in terms of mass, scale and proportion. For these reasons, I urge the city council to uphold the appeal.

Thank you for considering my comments and for your continued service to our community.

Sincerely,

Louis Braun

August 1, 2018

Mayor & City Council
City of Sonoma

Dear Mayor Agrimonti and City Council Members,

Attached to this transmittal letter is our response to the appeal of our project at Broadway and MacArthur here in Sonoma. As part of our response, we would like to make sure it is clear that we are willing to make the following adjustments to our plans which we can do without materially changing the nature of the project:

1. Reduce drive aisle widths in conformance with fire department regulations and by doing so increase our landscape area and exceed the "averaging" setback as described in the Historic Zoning Code (see Item 2).
2. Increase average setbacks for the buildings along Broadway and MacArthur from 20.6 feet to 22 feet (the average setback of the two adjoining structures is 21 feet).
3. Increase from 6 to 8 the number of parking spaces by buildings 1 and 4.
4. Provide covered carports with solar panels for the aforementioned 8 spaces.
5. Provide a different architectural building style for some or all of the interior townhomes which reduce peak building heights to 31.5 feet. As a point of reference, our closest residential neighbor (a duplex) is 33 feet in height.

Our Appeal response will provide you with a point by point rebuttal to each of the appellant's claims but we felt it important to highlight the foregoing.

As you deliberate this appeal we hope you will also keep in mind the following:

- Ours is a well-designed replacement for a longtime blighted location.
- We are providing much needed new housing, both market rate and affordable.
- We are providing 24% of our units as affordable when the requirement is only 20%.
- Half of our affordable units will be rented at a rate 10% below the required rate.
- We are offering a wide variety of housing types and sizes including townhomes, flats, single family residences and apartments.
- We are providing new retail spaces for, hopefully, local businesses to operate. The retail spaces are surrounded by a wide covered veranda that will encourage locals and visitors alike to "sit awhile".
- Per both city guidelines and a professional parking analysis, the project exceeds the required parking for all elements of the development.
- We have not asked for a single variance and have met all the requirements of the Sonoma development code.

- All of the above is eclectically designed and fully landscaped in a way that engages with passersby and enhances the pedestrian experience.

Sincerely

Broadway & MacArthur, LLC
Development Team

Attachment

July 31, 2018

City of Sonoma
Mayor and City Council
No. 1 the Plaza
Sonoma, Ca. 95476

Re: Gateway Mixed-Use at 870 Broadway

Dear Mayor Agrimonti and Council Members:

This letter is our response to the appeal filed May 25th regarding the project approved by the Planning Commission on May 10th of this year.

The issues set forth in the appeal are simply not borne out by the facts and nature of the project. The following is a discussion of the issues brought forth in the appeal.

(Appeal issues are in standard print, our responses are in bold and elements from the Development Code or General Plan are in *italics*.)

(A) Inadequate CEQA process.

1. The Planning Commission did not adequately discuss or take separate action on the Initial Study and Mitigated Negative Declaration before discussion of the merits the project and the use permit approval.

The Planning Commission was provided with all the necessary and pertinent information as is normal for such an application. Staff presented the information in its regular and customary fashion. The commission and the public were provided the requisite time to discuss and review all the project information. The commission took two separate actions: 1) Adopted a Resolution making the findings for a negative declaration and, 2) Adopted a Resolution granting approval of a Use Permit and Tentative Map, all of which conforms with the City's standard operating procedures for projects of this nature.

(B) Inadequate Environmental Review: The Initial Study failed to adequately identify the potentially significant impacts including, but not limited to, the following issues regarding Aesthetic and Visual Impacts.

1. The project is inconsistent with the development patterns of the Broadway Corridor Planning Area and the Historic Zone including, but not limited to, setbacks, scale, massing and height.

The project meets or exceeds all the standards in the Broadway Corridor Planning Area and the Mixed-Use development standards including setbacks, coverage, FAR, open space and height.

The project also is consistent with the Historic Zone guidelines as outlined below.

1. (Historic Zone Guidelines) Site Plan Considerations.

a. New development should continue the functional, on-site relationships of the surrounding neighborhood. For example, common patterns that should be continued are entries facing the public right-of-way, front porches, and garages/parking areas located at the rear of the parcel.

Every building in our development adheres to this requirement. The buildings all have entries facing the public right of way and each has covered porches and/or balconies. The garages and parking are in the rear of the buildings and away from Broadway and MacArthur streets.

b. Front setbacks for new infill development should follow either of the following criteria:

i. Equal to the average front setback of all residences on both sides of the street within 100 feet of the property lines of the new project; or

ii. Equal to the average front setback of the two immediately adjoining structures on each side of the new project.

c. In cases where averaging between two adjoining existing structures is chosen, the new structure may be averaged in a stepping pattern. This method can work especially well where it is desirable to provide a large front porch along a portion of the front facade.

While the setback averaging guideline is not a requirement for this project, the average proposed setback along the property frontages, as approved by the Planning Commission, is 20.6 feet. After review, we have decided to make some imperceptible adjustments to the drive aisle widths resulting in increased setbacks and increased landscape area. These adjustments achieve an average setback of more than 22 feet which exceeds the 21 foot average setback of the two adjacent structures.

2. Architectural Considerations.

a. New infill structures should support the distinctive architectural characteristics of development in the surrounding neighborhood, including building mass, scale, proportion, decoration/detail, door and window spacing/rhythm, exterior materials, finished-floor height, porches, and roof pitch and style.

The buildings immediately adjacent to our project are 30 and 33 feet in height which is similar to the maximum height of our proposed buildings. The MacArthur Place Hotel has several buildings greater than 30 feet in height. All of our proposed buildings along MacArthur and Broadway are 30 feet or less and only the commercial building reaches to 30 feet and then only at the very peak of the sloped roof so that most of the building is well below this height. The other five buildings are all 26.5 feet or less. All the structures along either street are designed in a residential style with porches and traditional roof structures matching the variety of styles along Broadway and MacArthur.

b. Because new infill structures are likely to be taller than one story, their bulk and height can impose on smaller-scale adjoining structures. The height of new structures should be considered within the context of their surroundings. Structures with greater height should consider providing greater setbacks at the second-story level, to reduce impacts (e.g., blocking or screening of air and light, privacy, etc.) on adjoining single-story structures.

There are no single story adjacent structures. Both existing adjacent structures are of a significant scale with heights of 30 feet or more.

The existing adjacent building on Broadway is a two-story structure with a maximum height of 30 feet. The proposed residential buildings along our north property line incorporate additional setbacks at the third-story level of over seven feet.

c. The incorporation of balconies and porches is encouraged for both practical and aesthetic reasons. These elements should be integrated to break up large front facades and add human scale to the structures.

Every structure in the project has either a porch or balcony and some have both. The largest structure, the commercial building, has a porch that wraps around the full length of the front and both sides. This structure also has 4 balconies on the second level.

d. The proper use of building materials can enhance desired neighborhood qualities (e.g., compatibility, continuity, harmony, etc.). The design of infill structures should incorporate an appropriate mixture of the predominant materials in the surrounding neighborhood whenever possible. Common materials are brick, horizontal siding, shingles, stone, stucco, and wood.

The project incorporates traditional materials such as vertical siding, shingles and a variety of traditional masonry accents including ledger stone and brick. There are traditional porches and balconies with wood railings on all the buildings fronting Broadway.

2. The project setbacks, scale, massing and height were not adequately analyzed for consistency with the "desired future" statement of the Broadway Corridor Planning Area, and the Historic Zone.

As described below, the project adheres to the "Desired Future" in every way.

"Desired Future. Historic structures on Broadway will be preserved, restored and re-used, while new development will respect and contribute to the character of the area. Mixed use development will be directed so as to retain the predominantly residential character of First Street West while enlivening Broadway with small-scale retail, office, and residential uses..."

The commercial building is designed in a residential fashion using traditional Craftsman style architecture that includes a huge wrap-around porch and significant articulation of the façade. The commercial tenant spaces will attract small-scale, hopefully local, businesses. These tenants will help attract people to the wrap-around porch which will act as a gathering place that enlivens Broadway. In addition, there are residential uses fronting on both Broadway and MacArthur.

3. The requested height exceptions require review as a potentially significant visual impact.

There are no "height exceptions." The Planning Commission has the discretion to permit structure heights up to 36 feet for Mixed Use projects. Even so, none of our buildings is 36 feet in height. Additionally, there is no "potential significant visual impact". There are only two existing structures immediately adjacent to our property and both have a maximum height of 30 feet or more.

The overall massing and intensity of use of the project is well below the applicable metrics. The density is 33 units although 37 is allowed. The FAR is .87 which is 13 percent below the allowable

FAR of 1.0. We exceed the open space requirement by over 2,000 square feet. While there are two definitions in the Development Code addressing how to calculate building coverage, this project adheres to the more stringent standard of 60% coverage, including parking and driveways.

The General Plan consistently addresses the desire and need for mixed use with housing near the commercial core. To provide a variety of housing (which this project does) including affordable units, the General Plan and development code encourages higher density mixed use. The Community Development Element of the GP states:

"...seeks to enliven it with an additional residential presence through mixed use development and added higher density housing in established multifamily areas surrounding the commercial core"

The General Plan also clearly states the following:

A major goal of Sonoma's 2020 General Plan is to provide a diversity of housing types available and affordable to residents and the local workforce. In furtherance of this goal, the Plan provides for densities in Sonoma's multi-family, commercial, and mixed-use districts of up to 20 units per acre and establishes a Residential Housing Opportunity district with densities up to 25 units per acre. In addition to increasing densities, the Plan provides expanded areas for multi-family infill, including encouraging residential uses in the downtown area and along Broadway. Furthermore, within its Gateway Commercial, Commercial, and Mixed-Use districts, the City typically requires new development to include a residential component of at least 50 percent of the total building area.

This project perfectly fulfills all these aforementioned goals.

An exception to the normal standards of the development code is justified by environmental features or site conditions; historic development patterns of the property or neighborhood; or the interest in promoting creativity and personal expression in site planning and development;

The building to the east is 33 feet in height. The building to the north is 30 feet in height. The main building of MacArthur Place Hotel is more than 32 feet in height. In order to provide a variety of housing and commercial uses in support of the General Plan objectives and to stay below Site Coverage standards while providing usable open space, three story structures are required. Even with three story buildings our density, site coverage and FAR are below the allowable maximum. These taller structures are located off Broadway and MacArthur in the interior of the site. Our project advances the goals of the General Plan by providing a wide variety of housing (single family, multifamily and apartments) with a neighborhood commercial element. The project also provides both public and private bicycle facilities to promote their use.

Granting the exception will not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and in the same zoning district.

There is no detriment to adjacent properties. Mixed-use zoning allows for building heights up to 36 feet, yet none of our structures reach that height. There are only two immediately adjacent structures to our site, one of which is residential and 33 feet in height. Furthermore, only a small percentage of the total roof structure of our buildings are more than the 30 feet in height and these buildings are in the interior of the project. The intensity of use for the project is below every metric in the code. The FAR is 13% lower than allowable. Building Coverage is less than 40% while 60% is allowed. The density is 11% lower than allowed by the code.

4. The project applicant did not provide adequate analysis and other materials that would demonstrate the compatibility with surrounding historic development patterns of the Broadway Corridor Planning Area and Historic Zone.

Everything required by the City's application was provided in addition to supplemental items that are not necessarily required until design review. We provided a comprehensive project description, a site plan, tentative map, landscape plan, floorplans, four sided elevations as well as colored elevations and renderings. Exhibits showing the relationship between the new buildings along MacArthur and Broadway to the two adjacent buildings were also supplied.

5. The Initial Study relies on the future decisions of the Design Review Historic Preservation Committee to mitigate potential Aesthetic and Visual Impacts. These potential impacts must be evaluated and mitigated as a part of the CEQA process prior to discussion of the merits of the project.

The Initial Study in no way relies on the future decisions of the Design Review Committee to mitigate potential impacts. It simply and correctly states that any materials or colors proposed are subject to the approval of the Design Review Committee. There are no Aesthetic and Visual impacts that require mitigation measures as the project meets the goals, standards and guidelines of the development code and General Plan. The project intensity is well below the allowable standards of density, building coverage, FAR and exceeds the open space requirement.

6. Failure to analyze the project for consistency and conformance with the General Plan and Development Code including, but not limited to, the following development standards and guidelines:

1. The proposed development is inconsistent with policies of the General Plan and Development Code to ensure compatibility of infill development within the Historic Zone.

As stated above, the project adheres to the goals of the General Plan, the standards of the development code and to the guidelines for infill development in the Historic Zone.

2. Project exceptions and findings were not adequately reviewed, discussed or acted upon and cannot be made

There are no project exceptions and in the course of our appearances at the Staff Advisory Committee, three different Planning Commission meetings and a large community meeting, this project was exhaustively discussed and reviewed. As stated above, it adheres to the goals of the General Plan, the standards of the development code, and to the guidelines for infill development in the Historic Zone.

3. Broadway setbacks do not conform to the requirements of the Development Code and the Historic Zone.

Based on the historic development pattern of the site and the adjacent properties, the setbacks exceed the guidelines of the Historic Zone.

The following are policies and goals that this project meets or exceeds in the General Plan Housing Element:

Policy 1.1: Encourage diversity in the type, size, price and tenure of residential development in Sonoma, while maintaining quality of life.

Policy 1.2: Facilitate the development of affordable housing through regulatory incentives and concessions, and available financial assistance. Proactively seek out new models and approaches in the provision of affordable housing, including junior second units and cottage housing.

24% of the project's housing units are designated affordable.

Policy 1.3: Ensure the Growth Management Ordinance provides sufficient annual unit allocations to meet Sonoma's regional housing growth needs (RHNA).

Policy 1.4: Encourage the sustainable use of land and promote affordability by encouraging development at the higher end of the density range within the Medium Density, High Density, Housing Opportunity, and Mixed-Use land use designations.

Policy 1.5: Continue to provide opportunities for the integration of housing in commercial districts and the adaptive reuse of non-residential structures.

Policy 1.6: Utilize inclusionary zoning as a tool to integrate affordable units within market rate developments and increase the availability of affordable housing throughout the community.

Policy 3.1: Maintain sustainable neighborhoods with quality housing, infrastructure, and open space that fosters neighborhood character and the health of residents.

Policy 3.7: Ensure the continued availability and affordability of income-restricted housing for low and moderate income households.

Policy 6.1: Preserve open space, watersheds, environmental habitats and agricultural lands, while accommodating new growth in compact forms in a manner that de-emphasizes the automobile.

Policy 6.2: Implement Sonoma's Green Building Ordinance to ensure new development is energy and water efficient, and consider establishing additional incentives to achieve energy and water conservation efficiencies higher than those required by the Ordinance. Revise and/or revisit the ordinance as necessary to reflect the introduction of a State-wide green building code.

Policy 6.3: Promote the use of sustainable construction techniques and environmentally sensitive design for all housing to include best practices in water conservation, low-impact drainage, and greenhouse gas reduction.

Policy 6.4: Promote the use of alternative energy sources such as solar energy, cogeneration, and non-fossil fuels

The homes will be pre-wired for solar panels and the covered parking for residents will be equipped with solar panels to provide HOA power. Additionally, there will be electric vehicle charging stations in the common area and the homes with garages will have conduit in place for easy EV charging installation.

Policy 6.5: Incorporate transportation alternatives such as walking, bicycling and, where possible, transit, into the design of new development.

The project is located on a bus route with a stop directly adjacent to our commercial building. In addition, the project provides bicycle parking for residents and guests.

7. Traffic and Parking:

1. The traffic and parking analysis was not adequate, including, but not limited to, the review of the following: The applicant's discussion of a food service use in the commercial building, lack of a required loading space, inadequate covered parking for the apartments, inadequate guest parking, and the interaction of unrestricted residential parking and commercial parking.

The following is directly from the General Plan Housing Element:

Residential parking requirements play a significant role in project design and achievable densities and can greatly impact the cost of development. Sonoma offers reductions in its residential parking standards as a means of facilitating the development of affordable and special needs housing, as well as mixed use, live-work, and pedestrian-oriented housing.

The GP further states:

Furthermore, the Planning Commission is permitted to grant exceptions to parking standards of up to 30 percent in response to environmental features and site conditions, to historic development patterns, and to promote creativity in site planning and development. Affordable housing projects are eligible for reduced parking under the City's density bonus ordinance.

There is more than sufficient space along Broadway to provide Commercial loading zoning with a painted curb. Further, we do not envision a food service use.

The project will provide covered parking for all residential parking spaces. Those spaces belonging to residents not in a garage or under a new building will be covered with a canopy structure.

Chapter 19.48 of the Development Code clearly states that the number of parking spaces for Mixed-Use is determined by the Use Permit which gives the Planning Commission discretion per the General Plan goal of encouraging Mixed Use. The City commissioned traffic study that also analyzed the shared parking demand confirmed that the number of spaces provided was more than sufficient. The study states "the proposed supply of 16 shared parking spaces would be sufficient to accommodate the peak weekend demand of 14 based on shared parking concept."

Furthermore, there is 160 feet of available curb space along Broadway (after reductions for loading zone and bus stop) that is available for public parking. This equates to an additional 7 spaces that are available for commercial and guest parking directly in front of the site.

Lastly, by adjusting the drive aisle widths as mentioned above we are able to add 2 additional onsite parking spots and still remain under the 60% Site Coverage threshold.

2. The supplemental parking analysis was not adequate, including, but not limited to, the following: Reduction factors used, periods of demand, shared parking dynamic.

The traffic engineer, under separate cover, will provide a response to this item.

3. Inadequate analysis of the impacts of the adjacent high school traffic and parking issues.

The traffic engineer, under separate cover, will provide a response to this item.

Sincerely;

Broadway & MacArthur, LLC Development Team

R. Barry McComic

R. Geoff McComic

R. Scot Hunter

Sonoma, CA 95476

Rebekah Barr

From: Cathy Capriola
Sent: Friday, August 10, 2018 10:19 AM
To: victor@victorconforti.com
Cc: City Council; bill@marcuswillers.com; carol@marcuswillers.com; Jim Moore; Wendy Atkins
Subject: FW: Late mail - Correction to the record
Attachments: Broadway Letter from Applicant Attorney to City Council.pdf; Mayor and City Council Members.pdf; Conforti 870 Broadway.pdf

Dear Vic:

I have received your email and am copying the entire City Council as a means to forward your response to them directly.

Planning staff will also add this to the record and our correspondence file for the project.

Thank you,

Cathy

From: Victor Conforti [mailto:victor@victorconforti.com]
Sent: Friday, August 10, 2018 10:05 AM
To: Cathy Capriola <ccapriola@sonomacity.org>
Cc: Madolyn Agrimonti <madolyn.agrimonti@sonomacity.org>; Bill Willers <bill@marcuswillers.com>; Carol Marcus <carol@marcuswillers.com>
Subject: Fwd: Late mail - Correction to the record

Begin forwarded message:

Cathy,

I would like to correct the record regarding the late mail from Owen Smith presented at the August 6 public hearing, on the Appeal to the City Council of the Gateway Mixed Use project at 870 Broadway.

The letter states... "The plan Victor and his office came up with, which is attached for your reference, was an 81,000 square foot, 3-story building on the corner backed by a massive parking lot with room for more than 90 cars - roughly double the square footage of the project he now opposes. There was no arm-twisting involved. In other words, he suggested that some version of that design would be doable on the site."

On the contrary, after doing this preliminary study I told the project developer Mr Kessler, president of The Kessler Collection a hotel development company from Georgia, that a three story development in that location would be difficult to get approved by the Sonoma Planning Commission. I recommended to Mr. Kessler that he use an underground parking structure to allow the design to be a two story building, if he wanted to get an

approval. Following this, Mr. Kessler had his designer Georgia Reese-Vanderbilt and Associates from Atlanta, take over the design and prepare other several other proposals.

Please place this in the record of the Appeal hearing proceedings. Also please forward this to the Mayor and the other City Council members.

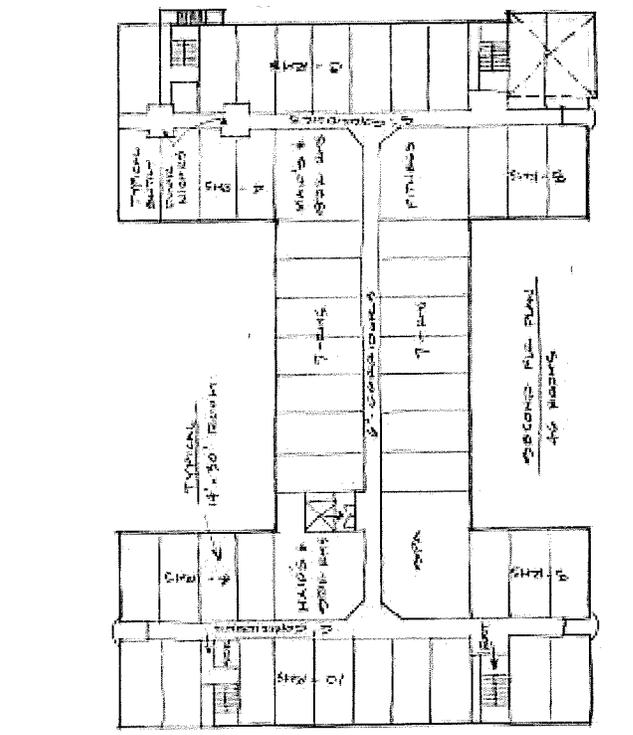
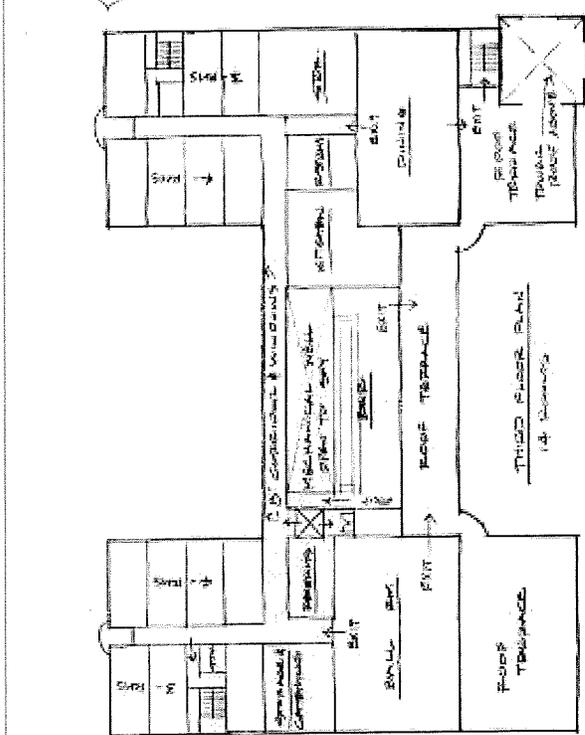
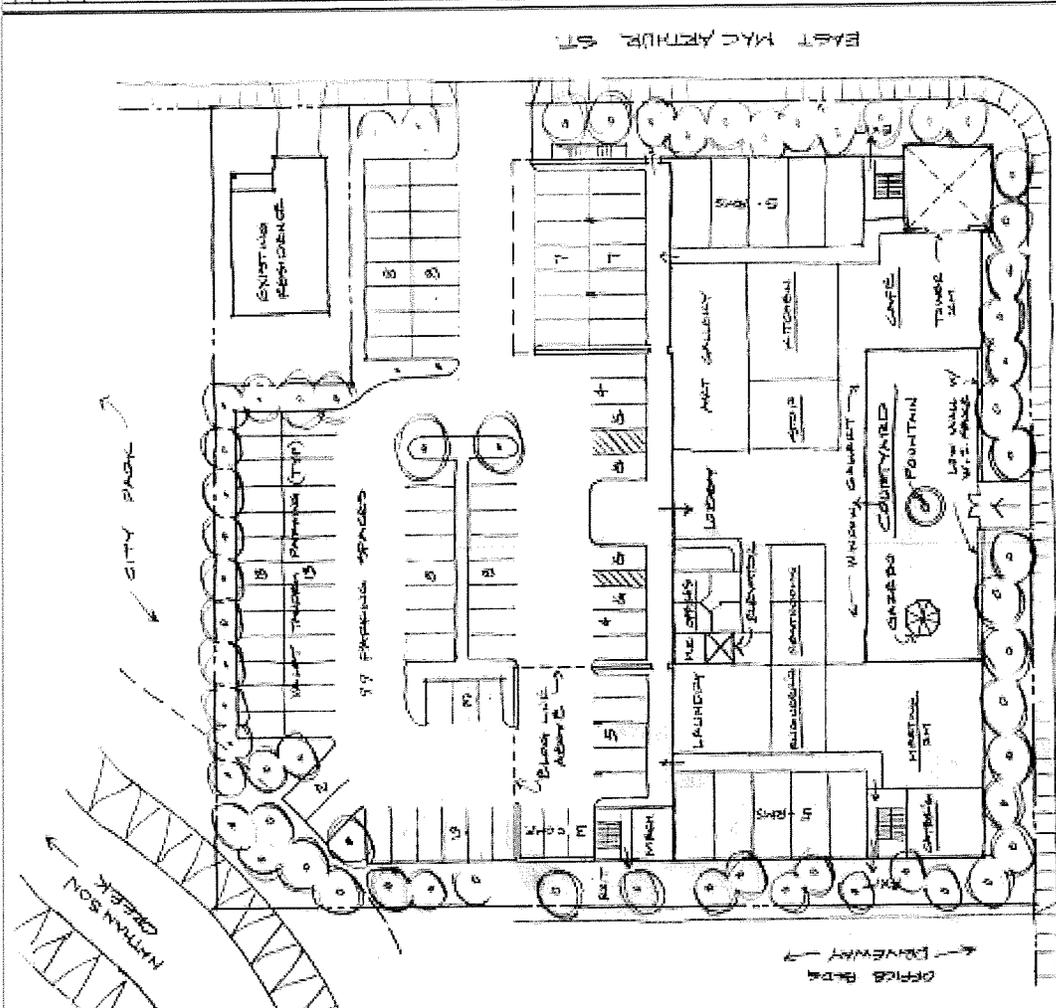
Thank You,

Victor Conforti - Architect
755 Broadway
Sonoma, CA 95476
707-996-7923
victor@victorconforti.com

From: David Goodison <davidg@sonomacity.org>
Subject: Late mail
Date: August 6, 2018 at 3:33:16 PM PDT
To: Victor Conforti <victor@victorconforti.com>, Bill Willers <bill@marcuswillers.com>

Hello—The following late mail has been received over the weekend and late this afternoon.

David



The Development Code for the Broadway Corridor Planning Area:

B. Desired Future. *Historic structures on Broadway will be preserved, restored and re-used, while **new development will respect and contribute to the character of the area. Mixed use development will be directed so as to** retain the predominantly residential character of First Street West while **enlivening Broadway with small-scale retail, office, and residential uses.***

The Development Code **Section 19.10.020**, states "The MX Zoning district is intended to allow for **higher density housing types, such as apartments or condominiums**" **NOT larger townhouses or detached single-family residences.** Larger-size units-defeat the purpose of the Mixed Use zoning, and waste valuable MX-Zoned land on luxury housing that exacerbates the housing affordability crisis Sonoma is in.

The 20-unit/acre density assumes that small units should be built. Building Town Houses and Single Family Residences at 20 units/acre results in an unacceptable site planning outcome, with inadequate open spaces, inadequate building separations, unacceptable vehicular and parking patterns and dominance of three-story buildings, all of which results in an incompatible scale, massing and intensity. This project with its' large, out-of-scale buildings, is not the "Desired Future" described above.

One of the results of the above is that the **Site Coverage is 64%**, which exceeds the max. of 60%, and **requires an exception** and the associated findings. I don't believe the findings can be made. (see comments below).

Parking:

The 23 Townhouses and Single Family Residences have 2-car private garages, which is in excess of the minimum 1-1/2 parking space per unit. This is the choice of the developer to meet the market's requirement of a 2-car garage for this price point home. The garages are for the exclusive use of the homeowner, and no other residents or guests can use them. To perform the calculations properly, these should be separated out to avoid including the excess capacity, which is not available to other general parking requirements.

The Townhouses and Single Family Homes still require guest parking at the minimum required number of 25% times the minimum unit parking requirements.

The guest parking for the Townhouses & Single Family Residences is: 23 units x 1.5 space/unit = 34.5 min. spaces required. 34.5 spaces x 25% = 8.6 required guest parking.

There are 4 apartments over the commercial building, plus 8 apartments in Buildings #1 & #4, for a total of 12 apartment units.

Required minimum parking (excluding private garages)

Apartment Carport parking 1/unit	=	12 spaces
Apartment uncovered 1/2/unit	=	<u>6 spaces</u>
Subtotal	=	18 spaces
Apartment Guest Parking 25% of 18	=	4.5
Townhouse Guest Parking 25% of 34.5	=	8.6
Commercial Parking 4,100 SF /300 SF	=	13.7
Total Required (excluding private garages)	=	44.8

Proposed Parking (excluding private garages)

Bldgs. #1 & #4: 8 Apts. Covered parking Two 4-car carports (Next to Bldgs. #4 & #9)	=	8 spaces
Bldg. #8: 4 Apts. 2 nd Floor, Covered parking 4 covered spaces behind commercial building	=	4 spaces
General uncovered parking at east portion of project	=	<u>6 spaces</u>
Subtotal	=	18 spaces
Net commercial after deducting 4 apartment spaces Located at rear of commercial bldg.	=	8

Note: MX Use Bldg. is on a separate parcel with 12 parking spaces (when 14 are required) for 4,100 SF commercial, minus the 4 covered spaces required for the 4 Apts. on the 2nd floor, for a net of 8 spaces reserved for the commercial space.

Total provided spaces (excluding private garages) = 26

This results in a deficit of 19 spaces, which requires an exception, which has findings that are not easy to make.

The Development Code does allow for **sharing of residential guest parking with a commercial use**, if the two uses have parking demand periods that are complimentary because they are at different times. This is the case with mixed use office and residential projects, where daytime office parking is high and residential is low, and where office evening and weekend parking demand is low, and residential parking demand is high. **But, retail and other similar commercial uses, have peak parking demands that are not compatible. Retail parking**

demand is high during evenings and weekends, when residential parking demand is also high, so they are not compatible.

The project's commercial parking provides only 12 spaces total on a separate parcel. These spaces are likely to be reserved for customers and for the four 2-bedroom apartment parking. When these residents are home in the evenings and weekends, using their 4 covered spaces, **so there will be only 8 spaces for the 4,100 SF commercial use**, and this is during the highest parking demand periods. The unmet parking demand will spill out on the neighboring streets, which are already impacted by MacArthur Place hotel employees. This is why minimum parking standards are required to be on-site. To further exacerbate the situation, the City of Sonoma's parking requirements are below those of Sonoma County, and other cities in the county.

The parking deficits will require an Exception that require findings for the deficient parking. Also exceeding the Site Coverage limit will require another Exception:

19.54.050 Exceptions:

Section H. Findings: Section 2: Projects within the Historic Overlay District, Section E: Findings & Decisions: "... only if the Planning Commission first finds that: ... (there are three findings, all of which must be made.) The second finding, Paragraph 2: "An exception... is justified by environmental features or site conditions, historic development patterns of the property or neighborhood; or the interest in promoting creativity and personal expression in site planning and development."

There are no environmental features or site conditions, historic development patterns of the property or neighborhood that would justify an Exception for the parking deficit or exceeding the Site Coverage limit. Nor is there adequate creativity and personal expression in the site planning and development, which to the contrary, are flawed due to forcing too many large buildings onto the site. **Therefore, I feel that the findings required by Paragraph 2 above cannot be made.**

Historic Overlay District: Development Code 19.42 Historic Preservation. 19.42.040 Guidelines for Infill Development:

Section A: Purpose: "... to be compatible in scale and treatment with the existing older development and to maintain the overall historic character and integrity of the community."

Section B: Guidelines for Compatibility "The single most important issue... is one of compatibility, especially when considering larger structures."

I don't believe that the project conforms to the guidelines, especially regarding incompatibility of the massing, scale, bulk and height in relation to the Historic Overlay District and Historic Preservation.

If the applicant were to propose a modified project:

- the units were smaller with more modest amenities;
- there were more flats, instead of townhouses;
- there were more rentals, and smaller for-sale units;
- the units were "affordable by design";
- the scale and massing were reduced; and
- more 2-story buildings were proposed;

Then it is likely that:

- the parking demand would be reduced;
- the Site Plan would be more generous;
- the project would be more compatible and in scale with the existing streetscape;
- the project would not require any exceptions;
- the neighbors might be more supportive; and
- the project could get approved.

This is an important gateway location at the entrance to the Broadway Historic Corridor and The Sonoma Plaza, and deserves better. The standards and guidelines define what is compatible with the conditions that surround the Site. The quantifiable standards are numerical maximums and minimums. They are not set fixed values, but are min's and max's subject to your determination of what level is appropriate. That is why you the Planning Commissioners, are here to evaluate each unique situation, and decide what is a reasonable under the particular circumstances.

I know every applicant and their architect want to design and build the best project they can create. The problem is something I've seen many times in my 45 years practicing architecture in Sonoma. If the program given to the architect is too aggressive, or represents too many unrealistic requirements and objectives, no amount of design can overcome the resulting negative design consequences. **By adjusting the program to make it better fit the site, the neighborhood and the town, I believe that the project's architect, given the flexibility and reasonable direction, can create a project that we can all be proud of.**

Sincerely,

Victor Conforti - Architect

Thursday, August 2, 2018 at 2:17:35 PM Pacific Daylight Time

Subject: Broadway Project

Date: Thursday, August 2, 2018 at 2:16:48 PM Pacific Daylight Time

From: jcorroon1@gmail.com on behalf of James Corroon

To: David Goodison

David,

I support Scott Hunters proposal for affordable housing on Broadway. In addition it will eliminate the eyesore which it currently is.

Thank you,

Jim

James M. Corroon
3745 Grove St.
Sonoma, CA 95476
707-343-7247 Home
415-846-3796 Mobile
jim@corroon.com

Cathy Capriola

From: Robert Demler <robertcdemler@gmail.com>
Sent: Monday, August 06, 2018 6:28 PM
To: City Council
Subject: Late Communication - City Council Meeting of August 8, 2018

RE:

6.2: Review, Discussion, and Possible Action to Uphold or Deny an Appeal of the Planning Commission's Approval of and Possibly Approve: 1) a Mitigated Negative Declaration; 2) a Tentative Map and Use Permit for the Gateway Mixed-Use Development, 870 Broadway (City Manager)

RECOMMENDATION: Staff recommends that the City Council direct staff to prepare resolutions denying the appeal and adopting the mitigated negative declaration and approving the Tentative Map and Use Permit for consideration at a subsequent meeting, scheduled for a date certain.

Dear City Council:

I had planned to be at tonight's meeting to support the Gateway Project at 870 Broadway. I know some of you are always reachable at any time and I apologize for this late message but I am not feeling well tonight and am unable to be present.

I urge you to deny the appeal and approve the Tentative Map and Use Permit for this project,

Kind regards,

Robert Demler
649 1st Street West #8
Sonoma, CA 95476-7050
707-996-3432 [Home]
707-536-6788 [Mobile]

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
FAX (510) 286-5559
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life!*

March 20, 2018

Mr. David Goodison
City of Sonoma
Planning, Building, and Public Works
1 The Plaza
Santa Rosa, CA 95476

SCH# 2018022046
04-SON-2018-00241
PM: SON-12-38.026
GTS ID 9700

Gateway Mixed-Use Development at 870 Broadway in Sonoma – Mitigated Negative Declaration (MND)

Dear Mr. Goodison:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans' *Strategic Management Plan 2015-2020* aims to reduce Vehicle Miles Travelled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the MND.

Project Understanding

The applicant proposes to redevelop the 1.86-acre project site with a mixed-use development featuring 35 residences and a 4,100 square-foot commercial space which would accommodate up to three tenant spaces. The development plan places a two-story building at the southeast corner of the site, aligned with State Route (SR) 12 (Broadway). The ground floor of the mixed-use building will consist of commercial space, with four two-bedroom flats located on the second floor. This building would have a height of 30 feet. Eight apartment units divided between two four-duplex buildings would be located north of the mixed-use building, fronting SR 12 (Broadway), while three detached units would be placed along the West MacArthur Street frontage. The remaining 20 townhomes would be grouped among five building clusters located within the interior of the site. These would be three-story buildings with heights ranging from 32 feet to 35 feet. The northeast corner of the site, which typically lies within the creek setback, would be used as a common space area. A network of interior sidewalks would allow pedestrian circulation throughout the site, including access to the common open space areas. The applicant proposes a main and an emergency access on East MacArthur Street. Each townhouse unit would have a two-car garage and ten additional covered parking spaces would be located on the east side of the

Mr. David Goodison, City of Sonoma
March 20, 2018
Page 2

mixed-use building. In addition, 21 uncovered parking spaces are proposed, for total of 77 spaces. To accommodate the proposed development, all existing structures on the site would be demolished. Requested entitlements include a Use Permit, Tentative Map, Design and Architectural Review. The project site is not located in Priority Development Area.

Access Operations

Please provide a copy of the *Road Diet* study cited on page 11 of the February 20, 2018 Traffic Impact Study.

Vehicle Trip Reduction

In Caltrans' *Smart Mobility 2010: A Call to Action for the New Decade*, this project falls under **Place Type 2 Close-in Compact Communities – Close-in Corridors**, which comprises of housing with scattered mixed use centers and arterial corridors forming the skeleton of the transportation system. Housing varies in density, transit is available to connect neighborhoods to multiple destinations, and arterial streets with a variety of fronting development types. Given this Place Type and intensification of use, which typically leads to an increase in VMT and corresponding low levels of active transportation, we encourage the City to establish a Transportation Demand Management elements described below to promote smart mobility and reduce regional VMT and traffic impacts to the STN:

- Project design to encourage walking, bicycling, and convenient transit access;
- Ten percent vehicle parking reduction;
- Electric vehicle (EV) charging stations and designated parking spaces for EVs and clean fuel vehicles;
- Commuter subsidy for transit, carpool, vanpool, and bicycle use for employees and residents on an ongoing basis;
- Enhanced bus stops including bus shelters;
- Secured bicycle storage facilities;
- Bicycle route mapping resources and bicycle parking incentives;
- Bicycle share membership;
- Fix-it bicycle repair station(s); and
- Decrease headway times and improve way-finding on nearby Sonoma County Transit bus routes 30, 30X, 32, 34, 38, 40 and 53 to provide a better connection between the project, nearby transit stations and regional destinations.

Reducing parking supply can encourage active forms of transportation, reduce regional VMT, and lessen future transportation impacts on SR 12 (Broadway) and other State facilities. These smart growth approaches are consistent with the MTC's RTP/SCS goals and would meet Caltrans Strategic Management Plan sustainability goals.

Mr. David Goodison, City of Sonoma
March 20, 2018
Page 3

For additional TDM options, please refer to Chapter 8 of Federal Highway Administration's *Integrating Demand Management into the Transportation Planning Process: A Desk Reference*, regarding TDM at the local planning level. The reference is available online at: <http://www.ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf>.

For information about parking ratios, please see MTC's report, *Reforming Parking Policies to Support Smart Growth*, or visit the MTC parking webpage: http://www.mtc.ca.gov/planning/smart_growth/parking.

Multimodal Transportation

The project should be conditioned to ensure connections to planned and existing bike lanes and multi-use trails to facilitate walking and biking to the project site. Specifically, the project should provide connections to the planned Class II bike lanes on SR 12 (Broadway) and East MacArthur Street and the existing Nathanson Creek Trail per the *Sonoma County Bicycle and Pedestrian Plan, 2014 Update*. Providing these connections with streets configured for alternative transportation modes will reduce VMT by creating multi-modal links to nearby transit centers, Sonoma County Transit bus routes 30, 30X, 32, 34, 38, 40 and 53, and the Petaluma Downtown Sonoma-Marin Area Rail Transit Station.

Lead Agency

As the Lead Agency, the City of Sonoma is responsible for all project mitigation, including any needed improvements to the STN. The project's financing, scheduling, implementation responsibilities and monitoring should be fully discussed for all proposed mitigation measures, prior to the submittal of an encroachment permit.

Encroachment Permit

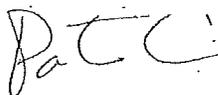
An encroachment permit is needed for Mitigation Measure 16.a, which requires a curb extension, and any required restriping at the northwest crosswalk entry adjoining the project site on SR 12 (Broadway). Lane or shoulder closure charts for any work which interferes with operations of SR 12 (Broadway) shall be submitted to Caltrans for review and approval. Detailed design comments will be provided during the Encroachment Permit Review Stage. The City of Sonoma/applicant can schedule an encroachment pre-application meeting with Arun Guduguntla at arun.guduguntla@dot.ca.gov.

To apply for an encroachment permit, please complete an encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW, and submit to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See the website link below for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Mr. David Goodison, City of Sonoma
March 20, 2018
Page 4

Should you have any questions regarding this letter, please call Stephen Conteh at 510-286-5534
or Stephen.conteh@dot.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Maurice". The signature is stylized and cursive.

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

Wendy Atkins

From: David Eichar <eichar@sbcglobal.net>
Sent: Friday, September 28, 2018 5:56 PM
To: City Council
Cc: Planning
Subject: Gateway project appeal - meeting of October 1st

Mayor Agrimonti and Council Members;

I have reviewed the updated proposal for the Gateway project and still have concerns on all the issues I raised before. Since my original comments to the Planning Commission are included in the agenda packet, I won't repeat all of the details, as you can read them their.

- The affordable apartments size at 486 square feet is unchanged and too small. The affordable unit mix should be the same as the overall mix of residential units. I do appreciate that the developer is willing to rent 4 of the apartments at 60% AMI level. If the 1 bedroom apartments were the same size at the 1 bedroom apartments in the all affordable Altamira apartments, I would be a lot more receptive to the project.
- Though there is an improvement with respect to parking, I still have a concern that there will not be enough parking spaces. The updated proposal details shows 7 units (4 flats and 3 single family) with 2-car covered parking. These appear to be dedicated parking, not available for general visitor or commercial parking. As pointed out by a peer review of the parking study done for the Hotel Project Sonoma, "if the residential units have reserved parking spaces, fewer spaces will be available for the shared parking pool and a slightly higher peak parking demand ... is projected to occur." These 7 units must be given only one dedicated parking space, not 2. Alternatively, 5 more general parking spaces should be added to the site.
- I am still concerned about the use of the commercial spaces. I would like to see local serving businesses, such as hair salons, not tasting rooms or wine bars. The conditions of approval should include a restriction from leasing the commercial space to tasting rooms and wine bars.

I also found an error in the drawings in the updated plans. On page 4 of the pdf, showing the overall project layout with unit and building details, in the bottom right corner is a table of unit sizes and parking space information. For unit type 'D', the number of units is listed as 4, but the drawing shows 6 type 'D' units. The table appears to be wrong and the drawing correct, the total number of units is 33, but the sum of the number of units column equals 31.

Regards,
David Eichar

Sunday, July 22, 2018 at 2:10:28 PM Pacific Daylight Time

Subject: Gateway project; parking

Date: Wednesday, March 28, 2018 at 12:45:44 PM Pacific Daylight Time

From: David Eichar

To: James Bohar, Kelso Barnett, James Cribb, Robert Felder, Ron Wellander, Carol Jansen, Lynda Corrado

CC: David Goodison, Cristina Morris

Planning Commissioners;

As pointed out by a peer review of the parking study done for the Hotel Project Sonoma, "if the residential units have reserved parking spaces, fewer spaces will be available for the shared parking pool and a slightly higher peak parking demand ... is projected to occur."

<https://sonomacity.civicweb.net/Portal/MeetingInformation.aspx?Org=Cal&Id=77>

Therefore, any dedicated parking spaces, such as the two-car garages, must be factored into any calculation of parking requirements.

Regards,
David Eichar

Subject: Gateway Project at MacArthur and Broadway

Date: Saturday, May 5, 2018 at 5:13:40 PM Pacific Daylight Time

From: David Eichar

To: James Bohar, Kelso Barnett, James Cribb, Robert Felder, Ron Wellander, Carol Jansen, Lynda Corrado, Robert McDonald

CC: David Goodison, Cristina Morris

Planning Commissioners;

Though there have been changes to the project since it was last before you, the major issue I have with it is the size of the affordable units. I explained my issue with this at the March 29th meeting. The affordable units are 1 bedroom apartments with only 486 square feet. This is very small compared with other 1 bedroom apartments, even the 1 bedroom apartments at the 100% affordable Altamira apartments.

The following was provided to me by Planning Director David Goodison for the Altamira apartments:

Unit Name	Number of Units/bedrooms	Sq. Ft
A1	20/1	582
A2	2/1	685
B1	14/2	826
C1	2/3	1,172
TH1	10/3	1,151-1,311

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<https://sonomacity.civicweb.net/document/12676/Review,%20Discussion,%20and%20Possible%20Action%20on%20a%20Ho.pdf?handle=A501117EAF0D40649C1D85BC3278065C>

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- There are 12 units without private garages.
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- $12 * 1.5 = 18$, plus 25% additional, = **22.5** spaces for the units without garages
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- There are 21 units with private 2 car garages. These garage spaces will not be shared with other units and will unlikely be used by guests. Therefore, the 25% additional spaces for guests will be needed outside of these garages. $21 \text{ units} * 1.5 \text{ spaces per unit} = 31.5 \text{ spaces}$. These 31.5 spaces are provide in the garages. Still needed are the 25% addition spaces for guests = **7.875** spaces.
- $22.5 + 12 + 7.875 = 42.375$ spaces outside of private garages needed.
- There are 32 spaces outside of the private garages. $42.375 - 32 = 10.375$ space shortfall.

The third concern I have is that the commercial spaces be used for local serving businesses, such as hair salons, not for tasting rooms or wine bars. The conditions of approval should include a restriction from leasing the commercial space to tasting rooms and wine bars.

Regards,

David Eichar

Subject: Re: Gateway Project at MacArthur and Broadway
Date: Tuesday, May 8, 2018 at 12:58:56 PM Pacific Daylight Time
From: David Eichar
To: James Bohar, Kelso Barnett, James Cribb, Robert Felder, Ron Wellander, Carol Jansen, Lynda Corrado, Robert McDonald
CC: David Goodison, Cristina Morris
Attachments: Attached Message.eml

Planning Commissioners:

I have done some research on apartments.com of available apartments within approximately 15 miles of Sonoma. The median size for 1 bedroom apartments is 676 square feet (average is 675.4 sq ft). This matches the average size of one bedroom apartments found in the 50 major US cities, 678.32 square feet.

<http://www.businessinsider.com/heres-what-the-typical-1-bedroom-apartment-costs-in-50-us-cities-2016-6>

The median price of one bedroom apartments within 15 miles of Sonoma per apartments.com is \$1750 per month. Another interesting analysis found that for apartment complexes with multiple one bedroom apartments of different sizes, the difference in price is around \$1.50 per square foot. (For example, the Capri Creek apartments had an available one bedroom 519 square foot apartment for \$1660 and a 695 square foot apartment for \$1945 per month.)

Taking the median size (676 sq ft) and median price (\$1750/month) for one bedroom apartment, adjusting at \$1.50 per sq foot for a smaller apartment of 486 square feet, yields \$1465 per month at market rate.

According to David Goodison (see attached e-mail), for affordable apartments restricted to 100% AMI renters, the maximum rent would be around 1,460/month for a couple who rent a 1 bedroom apartments. This is a discount of only \$5 per month from the calculated market rate above.

The city of Sonoma needs real affordable housing, not housing that may technically meet the requirements for affordable housing, but because of the small size of the apartments, are really market rate housing.

The developer should design and build the affordable units which complies with the Development Code: "compatible with the design or use of the market-rate units".

Regards,
David Eichar

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On 5/5/2018 5:13 PM, David Eichar wrote:

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The following was provided to me by Planning Director David Goodison for the Altamira apartments:

	Number of	
--	-----------	--

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B1	14/2	826
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RECEIVED

MAY 08 2013

Item #2

LATE MAIL

CITY OF SONOMA

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Regards,

David Eichar

Cathy Capriola

From: David Eichar <eichar@sbcglobal.net>
Sent: Saturday, August 04, 2018 2:16 PM
To: City Council
Subject: Gateway Project - August 6th meeting

Mayor and city council members;

Part of the state of California efforts to reduce greenhouse gas emissions is to encourage reduction in vehicle miles traveled (VMT). The California Air Resources Board (CARB) and the California Air Pollution Control Officers Association (CAPCOA) includes *PDT-1 Limit Parking Supply* in their measures to reduce VMT. However, CAPCOA states, "Reduction can be counted only if spillover parking is controlled (via residential permits and on-street market rate parking)"

<http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

The Sacramento Metropolitan Air Quality Management District includes the same restrictions for VMT reduction credit for PDT-1 in their guide for land use emission reductions.

<http://www.airquality.org/LandUseTransportation/Documents/SMAQMD%20LU%20Measures%20V3.0.pdf>

In addition, good public transportation is also required to achieve VMT reduction. The bus schedule hours and time between buses in Sonoma must be greatly enhanced before limiting parking would encourage VMT reduction.

The Gateway Project is close to other residential areas where there are no such on-street parking restrictions. Therefore, the Gateway project should be required to provide adequate parking. By my calculations, which are included in the agenda packet, the project as approved by the Planning Commission is short 10 parking spaces.

Regards,
David Eichar

Wendy Atkins

From: Rebekah Barr
Sent: Friday, September 28, 2018 11:45 AM
To: Wendy Atkins
Subject: FW: Pass the Broadway Gateway Project!

From: Carole Eubanks <carolee42@outlook.com>
Sent: Friday, September 28, 2018 11:36 AM
To: City Council <citycouncil@sonomacity.org>
Cc: Cathy Capriola <ccapriola@sonomacity.org>
Subject: Pass the Broadway Gateway Project!

We respectfully urge the passage of this project. It will bring much needed housing (both market rate and affordable), along with a retail presence that could quickly become a popular gathering place.

The site is currently an eyesore and nuisance that has existed far too long and has become a blight on our community. It represents an unappealing glimpse of Sonoma for anyone traveling down Broadway.

The developers have listened to community input. The plan was approved on May 20 by a supermajority of the Planning Commission. It is a beautiful, well-designed project that will quickly blend into the fabric of Broadway and the surrounding community.

The issues set forth in the appeal are simply not borne out by the facts at hand. Please vote to approve!!

Regards,
Carole Eubanks and David Deigan

Rebekah Barr

From: Victor Gonzalez <gonzy52@comcast.net>
Sent: Monday, September 24, 2018 1:32 PM
To: City Council; Cathy Capriola
Cc: SCOT HUNTER
Subject: Gateway Project 10/1 2nd Appeal Hearing: "Don't let perfect be the enemy of the good" or "Death by a thousand cuts"

The City Council will consider the appeal of the Broadway & MacArthur Project on Monday 10/1. I urge the Council to support the design revisions that have been made as a result of your 1st appeal hearing. At the first hearing I heard a familiar reframe: "The project can be made better". This is of course true of any project and the definition of better will depend who the judges are. You are the judges but in real estate development there are also financial realities required to make projects feasible. Or if the years long approval process and current lack of professional staff may just discourage the developers enough that they give up and you have yet another failed project on one of the city's most important site. So what are the facts to be considered?

- Compliance or exceeding with all current building and planning codes
 - If the Council feels the parking, height, lot coverage, affordability or other zoning codes are deficient then it is the responsibility of the Council to amend the zoning ordinances not penalize a developer who complies
 - If a project complies with all regulations then the threshold for denying a project, especially one with an Affordable Housing component, must be very high as significant investment in time & money has been made in reliance on the local codes.
- What basis could be used for denial?
 - Design: Is the design objectionable? It is very hard to make this argument as they are good looking buildings.
 - Are health and safety concerns raised? I did not hear any.
 - Does it block private view? Private views are not private property & can not be an valid objection
 - Does it alter the historic district's surrounding context? The proposal is arguably much more consistent with the neighboring historic structures than most of the surround development on Broadway
 - Will the project benefit the City fiscally or cost the city money? By all accounts the city will gain fees, sales tax and an increased tax base while costing the City nothing .
 - Is the existing use better than the proposed use? Nobody, even the most ardent opponents, embrace the current attractive nuisance that it is just waiting for a fire or other calamity. The current condition of the site seriously mares the City's "Gateway".
- Final Yes or No:
 - Will the construction of the project enhance or degrade the City? I see only benefits and no downsides on a city wide basis.
 - After multi failed development attempts what is the likelihood of a "better" development being proposed in the future? Every failure discourages the next proposal and especially given the history of this highly visible site. Maybe the site will sit vacant for another 10 years because nobody wants to touch it.
 - Environmental Studies show no impacts
 - Strong professional staff and Planning Commission support (You picked the Planning commission for this job)
 - Years of processing and compliance with all codes
- The Council represents the leadership of the whole City not just a few. I urge the Council to promote the quality of the whole City and deny this appeal & approve this proposed project.

Thank you.



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

March 23, 2018

David Goodison
City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476

Subject: Gateway Mixed-Use Development
SCH#: 2018022046

Dear David Goodison:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on March 22, 2018, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

**Document Details Report
State Clearinghouse Data Base**

SCH# 2018022046
Project Title Gateway Mixed-Use Development
Lead Agency Sonoma, City of

Type MND Mitigated Negative Declaration
Description The project involves redeveloping the 1.86-acre site with a 4,100 sf commercial space, 35 residential units, and associated parking. All structures on the site would be demolished.

Lead Agency Contact

Name David Goodison
Agency City of Sonoma
Phone 707-938-3681 **Fax**
email
Address No. 1 The Plaza
City Sonoma **State** CA **Zip** 95476

Project Location

County Sonoma
City Sonoma
Region
Lat / Long
Cross Streets Broadway (hwy 12)/East MacArthur St
Parcel No. 018-412-025, -030
Township **Range** **Section** **Base**

Proximity to:

Highways 12
Airports
Railways
Waterways Nathanson Creek, Fryer Creek
Schools Sonoma Valley HS, Prestwood Es, St Francis
Land Use closed auto sales, rental and repair facility; GP: Mixed use; Z: Mixed use within historic overlay zone

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Sewer Capacity; Soil Erosion/Compaction/Grading; Traffic/Circulation; Water Quality; Water Supply; Wetland/Riparian; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 4; Resources, Recycling and Recovery; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Board, Region 1; Department of Toxic Substances Control; Native American Heritage Commission

Date Received 02/21/2018 **Start of Review** 02/21/2018 **End of Review** 03/22/2018

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
FAX (510) 286-5559
TTY 711
www.dot.ca.gov

*Making Conservation
a California Way of Life!*

March 20, 2018

SCH# 2018022046
04-SON-2018-00241
PM: SON-12-38.026
GTS ID 9700

Mr. David Goodison
City of Sonoma
Planning, Building, and Public Works
1 The Plaza
Santa Rosa, CA 95476

Gateway Mixed-Use Development at 870 Broadway in Sonoma – Mitigated Negative Declaration (MND)

Dear Mr. Goodison:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans' *Strategic Management Plan 2015-2020* aims to reduce Vehicle Miles Travelled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the MND.

Project Understanding

The applicant proposes to redevelop the 1.86-acre project site with a mixed-use development featuring 35 residences and a 4,100 square-foot commercial space which would accommodate up to three tenant spaces. The development plan places a two-story building at the southeast corner of the site, aligned with State Route (SR) 12 (Broadway). The ground floor of the mixed-use building will consist of commercial space, with four two-bedroom flats located on the second floor. This building would have a height of 30 feet. Eight apartment units divided between two four-duplex buildings would be located north of the mixed-use building, fronting SR 12 (Broadway), while three detached units would be placed along the West MacArthur Street frontage. The remaining 20 townhomes would be grouped among five building clusters located within the interior of the site. These would be three-story buildings with heights ranging from 32 feet to 35 feet. The northeast corner of the site, which typically lies within the creek setback, would be used as a common space area. A network of interior sidewalks would allow pedestrian circulation throughout the site, including access to the common open space areas. The applicant proposes a main and an emergency access on East MacArthur Street. Each townhouse unit would have a two-car garage and ten additional covered parking spaces would be located on the east side of the

Mr. David Goodison, City of Sonoma
March 20, 2018
Page 2

mixed-use building. In addition, 21 uncovered parking spaces are proposed, for total of 77 spaces. To accommodate the proposed development, all existing structures on the site would be demolished. Requested entitlements include a Use Permit, Tentative Map, Design and Architectural Review. The project site is not located in Priority Development Area.

Access Operations

Please provide a copy of the *Road Diet* study cited on page 11 of the February 20, 2018 Traffic Impact Study.

Vehicle Trip Reduction

In Caltrans' *Smart Mobility 2010: A Call to Action for the New Decade*, this project falls under **Place Type 2 Close-in Compact Communities – Close-in Corridors**, which comprises of housing with scattered mixed use centers and arterial corridors forming the skeleton of the transportation system. Housing varies in density, transit is available to connect neighborhoods to multiple destinations, and arterial streets with a variety of fronting development types. Given this Place Type and intensification of use, which typically leads to an increase in VMT and corresponding low levels of active transportation, we encourage the City to establish a Transportation Demand Management elements described below to promote smart mobility and reduce regional VMT and traffic impacts to the STN:

- Project design to encourage walking, bicycling, and convenient transit access;
- Ten percent vehicle parking reduction;
- Electric vehicle (EV) charging stations and designated parking spaces for EVs and clean fuel vehicles;
- Commuter subsidy for transit, carpool, vanpool, and bicycle use for employees and residents on an ongoing basis;
- Enhanced bus stops including bus shelters;
- Secured bicycle storage facilities;
- Bicycle route mapping resources and bicycle parking incentives;
- Bicycle share membership;
- Fix-it bicycle repair station(s); and
- Decrease headway times and improve way-finding on nearby Sonoma County Transit bus routes 30, 30X, 32, 34, 38, 40 and 53 to provide a better connection between the project, nearby transit stations and regional destinations.

Reducing parking supply can encourage active forms of transportation, reduce regional VMT, and lessen future transportation impacts on SR 12 (Broadway) and other State facilities. These smart growth approaches are consistent with the MTC's RTP/SCS goals and would meet Caltrans Strategic Management Plan sustainability goals.

Mr. David Goodison, City of Sonoma
March 20, 2018
Page 3

For additional TDM options, please refer to Chapter 8 of Federal Highway Administration's *Integrating Demand Management into the Transportation Planning Process: A Desk Reference*, regarding TDM at the local planning level. The reference is available online at: <http://www.ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf>.

For information about parking ratios, please see MTC's report, *Reforming Parking Policies to Support Smart Growth*, or visit the MTC parking webpage: http://www.mtc.ca.gov/planning/smart_growth/parking.

Multimodal Transportation

The project should be conditioned to ensure connections to planned and existing bike lanes and multi-use trails to facilitate walking and biking to the project site. Specifically, the project should provide connections to the planned Class II bike lanes on SR 12 (Broadway) and East MacArthur Street and the existing Nathanson Creek Trail per the *Sonoma County Bicycle and Pedestrian Plan, 2014 Update*. Providing these connections with streets configured for alternative transportation modes will reduce VMT by creating multi-modal links to nearby transit centers, Sonoma County Transit bus routes 30, 30X, 32, 34, 38, 40 and 53, and the Petaluma Downtown Sonoma-Marin Area Rail Transit Station.

Lead Agency

As the Lead Agency, the City of Sonoma is responsible for all project mitigation, including any needed improvements to the STN. The project's financing, scheduling, implementation responsibilities and monitoring should be fully discussed for all proposed mitigation measures, prior to the submittal of an encroachment permit.

Encroachment Permit

An encroachment permit is needed for Mitigation Measure 16.a, which requires a curb extension, and any required restriping at the northwest crosswalk entry adjoining the project site on SR 12 (Broadway). Lane or shoulder closure charts for any work which interferes with operations of SR 12 (Broadway) shall be submitted to Caltrans for review and approval. Detailed design comments will be provided during the Encroachment Permit Review Stage. The City of Sonoma/applicant can schedule an encroachment pre-application meeting with Arun Guduguntla at arun.guduguntla@dot.ca.gov.

To apply for an encroachment permit, please complete an encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW, and submit to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See the website link below for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Rebekah Barr

From: Steven Hightower <hitower@sonic.net>
Sent: Friday, September 07, 2018 1:18 PM
To: City Council
Cc: Cathy Capriola
Subject: Broadway housing project

Honorable Council

I believe you should approve this project without further delay. As the developers have pointed out repeatedly:

- The project is a very well designed replacement for a longtime blighted location.
- They are providing much needed new housing with 24% of the units as affordable — a 20% increase over the required level. And half of the affordable units will be rented at a rate well below the required rate.
- There is a broad variety of housing types including townhomes in two and three bedroom configurations, flats, single family residences and apartments, and it is designed and fully landscaped in a way that engages with passersby and enhances the pedestrian experience.
- There will be new retail spaces for local business (preferably not tasting rooms)....such new retail, together with the engaging design referred to above will hopefully have the effect of drawing foot traffic further down Broadway....a benefit to all the businesses in the first couple of blocks, **and** the Museum (which, BTW the city should in all fairness be supporting as a tier one non-profit!!)
- The project exceeds the required parking for all elements of the development.
- We are told, and believe, that the proponents have not asked for a single variance and have met all the requirements of the Sonoma development code, and the project has been approved by the professionals in the planning department

The opposition to this project comes from the same old small but loudly vocal group of NIMBY (with a Never) who want Sonoma to return to the 50's.

Not a week goes by when the IT, the PD or the Sun doesn't run an article about the dearth of housing in Sonoma. It's true, and you all know it. Do your jobs, folks....make a decision and make the right one.

Steven and Troy Hightower
226 Spain st W.

Sent from iPad, so please excuse any grammar or spelling glitches due to typing on glass.....

Sent from iPad, so please excuse any grammar or spelling glitches due to typing on glass.....

Rebekah Barr

From: Cathy Capriola
Sent: Thursday, September 27, 2018 10:47 AM
To: Rebekah Barr
Subject: FW: Gateway Appeal - Story Poles
Attachments: Alterations Response.pdf

From: SCOT HUNTER <scothunter@comcast.net>
Sent: Wednesday, September 26, 2018 11:36 AM
To: Cathy Capriola <ccapriola@sonomacity.org>
Cc: Kathy Pease <kpease@masfirm.com>
Subject: Re: Gateway Appeal - Story Poles

Please include this response to the appellant's letter in the Councilmember's packet for the October 1, meeting. Thank you.

Scot Hunter
415-990-9911

On Sep 25, 2018, at 3:05 PM, Cathy Capriola <ccapriola@sonomacity.org> wrote:

From: Bill Willers <marcuswillers@comcast.net>
Sent: Monday, September 24, 2018 9:57 AM
To: City Council <citycouncil@sonomacity.org>; Madolyn Agrimonti <madolyn.agrimonti@sonomacity.org>; Gary Edwards <gary.edwards@sonomacity.org>; Amy Harrington <amy.harrington@sonomacity.org>; Rachel Hundley <rachel.hundley@sonomacity.org>
Subject: Gateway Appeal - Story Poles

Mayor Agrimonti and Council Members,

Attached is a letter expressing concerns that Victor Conforti and I have related to the current story poles representing the Gateway Project.

Thank you for your consideration,

Bill Willers

707 815-0872

The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal.

September 26, 2018

Mayor & City Council
City of Sonoma

Subject: Gateway Alterations Letter

Mayor Agrimonti & City Council Members,

The following is in response to the appellants' September 21 letter which we received yesterday, September 25, regarding project alterations and story poles.

The story poles were installed per a plan that was reviewed and approved by City staff. We used the engineer recommended by the City to develop the plan and that plan went through several iterations with detailed input from City staff. That same engineer certified the placement and height of the poles.

The number of trees on the site is based on the Planning Commission's condition of approval of a 2.0:1.0 replacement ratio and has not changed.

The project, as approved by the Planning Commission, was presented to the City Council at the August 6th meeting. This was a public hearing with public comment and where members of Council provided input and guidance. The architecture style of the buildings which the story poles demonstrate was a part of the City Council presentation and was shown previously as an alternate style at the Planning Commission. Keep in mind that since our project still has to go through Design Review, final architecture remains fluid.

After August 6th, we met with City staff and went over the input garnered from the meeting and how we should address it in a responsive way. We then reviewed our plans, and since height was mentioned by several Councilmembers as a concern, determined that if we made the townhomes 100% modern farmhouse style (the same modern farmhouse style as shown by David Goodison at both the Planning Commission and City Council), we could bring the maximum height onsite down to 30 feet. Again, architectural style is not set in stone after Planning Commission approval as applicants are still required to submit this aspect of the project to Design Review. Based on our meeting with staff, in addition to the architectural adjustment, we were able to make certain other modifications including the addition of 3 more parking spaces and a revision to our affordable housing proposal.

It is specious at best to claim that these changes were done out of the public view. This project will go before its fifth public meeting at the October 1st City Council meeting. The council will again have a chance to review the project in a public forum including any modifications. Furthermore, with guidance from staff, we installed a very public demonstration of the project with the story poles. In no way is the Council or the public being denied an opportunity to comment on the project and any modifications. The adjustments made to our plans since the August 6th meeting are in direct response to the suggestions made by Councilmembers. To have ignored their suggestions might well have been viewed as being non-responsive. The specific nature of the project has not changed. The layout, number of buildings and unit count is exactly the same.

We would be remiss if we didn't point out the irony of the appellants' first complaining about the height of the project and now complaining about the reduction in the height of the project. At the August 6th

Council meeting, Planning Director David Goodison gave a full-throated rebuttal to each and every aspect of the appeal. Our modifications since that meeting only make those rebuttal arguments stronger. This project is in complete and absolute compliance with the General Plan but the appellants' most recent communication would seem to make clear that they won't be satisfied unless and until we abandon this development.

Sincerely,

The Broadway & MacArthur
Development Team

Subject: Broadway & MacArthur Project

Date: Saturday, August 4, 2018 at 9:48:47 AM Pacific Daylight Time

From: Diane Jacobson

To: Madolyn Agrimonti, Amy Harrington, David Cook, Gary Edwards, Rachel Hundley

CC: David Goodison

To the Sonoma City Council Members:

We are writing to express our strong support for the project proposed by Broadway & MacArthur, LLC. That lot has been an eyesore for many years, and has descended into dereliction during the past ten. The proposed project has been well-designed, thoroughly reviewed and vetted, and is responsive to the needs of the city. Our city sorely needs the housing that will be provided, and the project will be welcoming (rather than ugly and repelling) to visitors.

We respectfully ask that you approve this project without further delay.

Thank you.

Diane and Ken Jacobson
649 First Street W, #9
Sonoma
707 996 9548

Carol Marcus
873 First Street West
Sonoma, CA 95476
707-996-4926

March 28, 2018

Sonoma Planning Commission
1 The Plaza
Sonoma, CA 95476

Re: Sonoma Gateway Project

Dear Chairman Felder and Members of the Planning Commission,

The current Gateway Project proposal is much the same as it was six months ago. Though the residential unit mix has been redistributed and reduced by four units, and a few feet have been carved off the heights of the buildings, it is still the same automobile-centric project that could be located in any city in America, but should not be located in Sonoma.

In all of the iterations of this proposal, not once has the surrounding neighborhood been depicted in the drawings. This is crucial for a project of this significance as our gateway to the Plaza district. Had the surroundings been offered, it would have shown how anomalous this project is in its context.

The applicant's decision to treat 27 of the 35 units (whether shared-wall or not) as though they were single family dwellings, in that each has its own garage, is what's driving the design of this project. It's what's necessitating the disproportionately large area dedicated to driveways and the disproportionate height of the buildings, as the ground floor is given over to garages. A careful study of the townhouse blocks reveals that you would rarely enter your unit from the front door, rather, you would enter through the garage. What is depicted as the fronts of the townhouse buildings is the back. Imagine entering Buildings 2, 3 and 7 from your front door, along the northern or eastern property lines, respectively. You never would. Would guests? Or would guests also come in through the garage? Though car dependence is intended to be minimized in the Mixed Use Zone, moving through the site along the driveways reveals a 33-35 foot wall of nothing but garage doors. This is not at all consistent with existing patterns of development in Sonoma, nor the requirements of the Broadway Corridor (Section 19.32.020 A.5) which state that, "multi-family developments shall require screening and buffering of parking and driveway areas."

As soon as you create shared-wall single family homes, rather than true multi-family residences as are intended in the Mixed Use zone, you create the expectation that the car will be included as part of the unit, and the development becomes centered on the car. Two examples of Mixed Use projects built in Sonoma highlight the difference between a development that is pedestrian-oriented (which is what's intended in the Mixed Use zone) and one that is centered on the car. The Valley Oaks project off of Lyon Street, north on Highway 12, has 43 units and a common building on a parcel just slightly larger than 870 Broadway. Not only does this project create landscaped pedestrian outdoor spaces by congregating parking along its perimeter (but shielded from Highway 12), it offers the kind of housing intended in the Mixed Use zone. By contrast, the Mixed Use project to the south of it, also on the east side of Highway 12, amasses housing units into two 30-foot-high structures, and is completely surrounded by car

circulation. Each unit has its own garage. People in Sonoma tend not to like this project is because it's an anomaly in Sonoma. It doesn't fit here. The buildings in that project are each about 80 feet wide and 30 feet high. As a comparison, the townhouse blocks in the current proposal are 80-100 feet wide and 33-35 feet high, and anywhere from 20 to 30 feet apart from each other.

As in last year's proposal, this proposal places the commercial building, a hundred and twenty feet long, and now 32 feet high measured from the sidewalk level to the top of the building (having carved 3'-9" off the height of the building) along Broadway, sixteen feet from the sidewalk. This building is still proposed to be elevated two feet above the Broadway street level, a pattern anomalous with that of Sonoma, and certainly with the Broadway Corridor. Though developments in the Mixed Use Zone are intended to be designed to reduce car dependence, should a neighbor confined to a wheelchair approach the commercial building from Broadway and desire to enter, he or she would need to employ the ramp accessible only from the car entrance to the building. Had the surrounding neighborhood been studied and shown on any of the drawings, it would have become readily apparent that this proposal does not pay attention to the established patterns of development along Broadway.

The proposed buildings are still taller, more massive, and more prominent than anything in the area. Thirty feet is the height limit in the Mixed Use Zone. Though thirty-six feet high is allowed as an exception in the Commercial and Mixed Use zones, it is to allow for "third-floor multi-family residential development." The intent behind this exception is in the detail of its language: to allow smaller, third floor units above commercial space, not three-story, owner-occupied units which dedicate the ground floor to garages. I would suggest that the Planning Commission request of the applicant several three-dimensional images illustrating the experience of walking through this site rather than stand-alone images of each building as though each existed in a vacuum. Of particular concern is the sun-less, twenty-foot wide canyon proposed between Buildings 5 and 6 which are proposed to be almost thirty-three feet tall. This is an anomalous development pattern in the City of Sonoma. Another area of concern are the two townhouse blocks along the northern property line which present approximately 140 feet of building length, 35 feet tall to the neighbor to the north. Not only is this insensitive to the neighbor and out of scale with the neighborhood, but it will assuredly cut off any access to sunlight that the northern neighbor may have previously enjoyed.

It's notable that there is a separate "Streetscape" section of the Development Code (19.12). It reads, "Sonoma's streetscapes are among the most important urban design features of Sonoma, because their appearance, character and the impressions they evoke, create the public image of the City. That image is significant to how residents and visitors think and feel about the City." As proposed, this project looks as if it could be located in just about any American city. There is nothing in terms of its massing, its site planning or its architecture which indicate that this project belongs in Sonoma. As a gateway property, and one of the last remaining large, Mixed Use-zoned parcels in Sonoma, it is important that this project receive the scrutiny of the Planning Commission that the site demands.

I appreciate your taking the time to consider my comments.

Sincerely,

Carol Marcus

Carol Marcus
873 First Street West
Sonoma, CA 95476
707-996-4926

August 1, 2018

Sonoma City Council
1 The Plaza
Sonoma, CA 95476

Re: Sonoma Gateway Project Appeal

Dear Mayor Agrimonti and Members of the City Council,

I am writing to ask that you support the appeal of the Sonoma Gateway project at 870 Broadway. I have offered verbal and/or written comments about this project since its preliminary Study Session before the Planning Commission last September. I remain opposed to the project based on the following:

- The project is not in compliance with the General Plan or the Development Code
- Unsubstantiated analyses of Aesthetic Impacts in the Initial Study
- The Planning Commission made its decision based on incomplete submittal information from the applicant and without making necessary findings for exceptions to the Development Code

Paragraph One on Page One of the General Plan describes the quality that has remained consistent in every General Plan produced in the City of Sonoma, **"These plans have represented the collective vision of the community and expressed its desire to preserve and improve upon the *essential characteristics that define Sonoma*"** (italics mine). Those of us lucky enough to call Sonoma home were originally attracted to the City in large part due to these essential characteristics, and these characteristics remain a central reason why tourists flock to us. We are unique. We are an historic city with a downtown plaza, approached from the south by the original, mission-linking El Camino Real. The General Plan and the Development Code have been sound guiding documents to ensure that Sonoma retain these essential characteristics while allowing for new development. In fact, General Plan Goal 4.1 in the Community Development Element **"promote(s) innovative design and mixed uses through the Development Code."** It's important to note that Implementation Measure 4.1.1 of this Goal calls for the implementation of the Development Code **"to ensure the provision of *appropriate street connections, lot patterns, site designs, building forms...*"** (italics mine).

The reason the proposed project violates so many of the City's policies and regulations is because it does not offer the type of housing that is envisioned in the General Plan or the Development Code for a Mixed Use site. The MX (Mixed Use) zoning district is **"intended to allow for higher density housing types, such as apartments and condominiums, both separately and in conjunction with commercial and office development, in order to increase housing opportunities, reduce dependence on the automobile, and provide a pedestrian presence in commercial areas."** (SMC 19.10.020 C.1.) The current proposal, contrary to the type of housing envisioned in this zoning designation, offers predominantly shared-wall, single-family, market-rate, owner-occupied homes, each with its own two-car garage (as one would expect for a single-family home), with eight 486 square-foot rentals added as a

nod to providing “housing opportunities.” The decision by the developer to include two-car garages with each shared-wall and single-family home is what’s necessitating the request for an exception to the site coverage regulation because of the disproportionately large area dedicated to automobile circulation (whether permeably-paved or not), and results in a less-than adequate, if not dangerous, pedestrian experience. The proposed buildings are taller than what’s allowable in the MX zone without an exception, a result of the ground floors being dedicated to two-car garages.

I find the analysis in the staff report’s Summary of General Plan Consistency insufficient. Under the Community Development Element (CDE), staff refers to its Initial Study to support its conclusion that the proposed project will have no significant impact on scenic vistas. Staff argues that since the existing buildings on the site partially obscure views to the hills, “construction of the Project would not have a substantial adverse impact on a scenic vista and would result in a less-than-significant impact.” Where is the data to back up this analysis? The proposed buildings are far greater in number, far taller and more closely spaced than the existing buildings. Though three-dimensional renderings of the project showing surrounding development along Broadway and along MacArthur were requested of the applicant by the Planning Commission and by the public, none were ever furnished. How are staff and the Planning Commission supposed to render informed analyses and decisions about the project’s impact without this information? It is not out of the ordinary for applicants to provide this information. Three dimensional renderings were provided by the applicants of the Hotel Sonoma project because of its important location near the Plaza. As a gateway to the Historic District, this project, too, is in a prominent location. This is too critical a site in Sonoma to make these decisions based on insufficient information.

Also, under the Community Development Element, staff’s analysis of the project’s compliance with CDE Policy 5.5 which is to “**promote higher density, infill development, while ensuring that building mass, scale, and form are compatible with neighborhood and town character,**” concludes that the Project will be “visually compatible with its surroundings” based on its analysis in the Initial Study. The project is inconsistent with the development standards of height, site coverage and setbacks. Thirty feet is the height limit in the Mixed Use Zone. Though thirty-six feet high is allowed as an exception in the Commercial and Mixed Use zones, it is to allow for “**third-floor multi-family residential development.**” (SMC 19.40.040 B.1.) The intent behind this exception is in the detail of its language: to allow smaller, third floor units, such as apartments and condominiums (SMC 19.10.020 C.1.) not three-story, shared-wall, owner-occupied, single-family homes which dedicate the ground floor to two-car garages. During both the March and the May Planning Commission meetings, staff argued that these height-limit violating buildings are on the “interior” of the site and will therefore not be viewable from Broadway or MacArthur. Once again, had three-dimensional renderings been produced showing views from Broadway and MacArthur, it would have become apparent that this is not the case. Furthermore, in order to grant the height exceptions, the Planning Commission must make all of the following three findings (SMC 19.54.050 E.), which it did not and, I would argue, cannot.

1. **The adjustment authorized by the exception is consistent with the General Plan, any applicable specific plan, and the overall objectives of this development code;**
2. **An exception to the normal standards of the development code is justified by environmental features or site conditions; historic development patterns of the property or neighborhood; or the interest in promoting creativity and personal expression in site planning and development;**
3. **Granting the exception will not be detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and in the same zoning district.**

The project also exceeds the site coverage requirement, yet the above findings to grant the exception were never discussed by the Planning Commission. The Initial Study concludes that this issue can be addressed with the use of permeable pavers, and that “subtracting out the area of permeable paving would bring the Project into compliance...” There is no citation in the Initial Study as to where in the Development Code this calculation is allowable.

In the Initial Study’s Guidelines for Infill Development in the Historic Overlay District, staff concludes that the project is consistent with the overall development pattern of Broadway and East MacArthur Street as “all structures adjoining street frontages are designed with doors, windows and porches facing the street.” What about the street which accesses all of the units in this development? It is apparent that this street is not considered as a street at all, but, rather, as a back alley. The “fronts” of Buildings 2, 3 and 7 face fifteen-foot wide setbacks from their respective property lines, and the “fronts” of Buildings 5 and 6 are in a sunless, twenty-foot wide, 33-foot tall canyon. A drive down the street in this development reveals that the street fronts are actually the backs of the buildings, as one is confronted by nothing but garage doors. This is a pattern which is inconsistent with development patterns in the Historic Overlay District and with the design standard of the Broadway Corridor (Section 19.32.020 A.5) which states that, “**multi-family developments shall require screening and buffering of parking and driveway areas.**” Though this issue was raised by the public at the Planning Commission meetings, these garage-laden facades were determined to be on the “interior” of the site, therefore the parking was determined to be screened from view from MacArthur and Broadway. Had the applicant provided three-dimensional renderings of the actual experience of moving around and through the site, as requested, it would have become apparent that this is not the case, and how anomalous this project is in Sonoma. Whereas “pedestrian presence” is supposed to be emphasized in the Mixed Use zone, the site planning of this development makes it very difficult, if not dangerous, for a pedestrian, as the car is given priority. Personally, I would not want to have to access my front door along the northern or eastern property lines of this development, nor would I want my guests to have to arrive this way.

Under the Environmental Resources analysis of the General Plan, staff concludes that the project is in compliance with the General Plan because, though 75% of the existing trees on the site are proposed to be removed, the applicant is proposing a replacement tree program which exceeds the City’s Tree Ordinance. A total of 36 trees are proposed to be removed, and a Condition of Approval is for the trees to be replaced at a ratio of 2:1. Valley Oaks with heights of 32, 38, 40 and 50 feet are proposed to be cut down and replaced by 15-gallon Crape Myrtles. Though 72 new trees are required, the proposed Landscape Plan indicates a total of 28. This issue received little to no scrutiny by the Planning Commission. I would conclude that this proposal is not in compliance with Policies ER 2.6 or ER 2.9 of the Environmental Resources Element of the General Plan which requires the applicant to “**preserve existing trees and plant new trees**” and “**require new development to avoid potential impacts to wildlife habitat, air quality, and other significant biological resources, or to adequately mitigate such impacts if avoidance is not feasible.**”

Under the Circulation Element analysis of the General Plan, staff concludes that the Project will not result in unacceptable intersection operation at Broadway and MacArthur Streets. The traffic analysis did not consider the number of people in cars exiting the site in search of parking because of the insufficient number of parking spaces proposed. While I appreciate the theory that shared parking can reduce the number of parking spaces necessary on a mixed-use site, this is best implemented when office spaces, rather than neighborhood-serving retail spaces, are in the mix. Empirical evidence from impacted neighbors suggest that as a minimum, the City’s stated parking standards in SMC 19.48.040,

Table 4-4 should be met. For **“multifamily dwellings, condominiums and other attached dwellings: one and one-half space for each unit with one space for each unit covered, plus guest parking at the rate of 25% of total required spaces.”** For **“retail: one space for each 300 square feet of gross sales area plus one space for each company vehicle...”** And, for **“single family housing: one space in a garage or carport per unit.”** Buildings 1 and 4 have a total parking deficit of eight spaces. Buildings 2 and 3 have a total deficit of one guest space. Building 8 has a deficit of at least eleven spaces, and Buildings 9, 10 and 11 have a surplus of eight guest spaces, as the surplus garage spaces in these homes cannot be considered as guest spaces. Thus, the project has a total parking deficit of at least twelve spaces. To expect that Buildings 1 and 4 will have their parking requirement of 16 (only eight of which are provided near Buildings 1 and 4) met by the guest spaces behind Buildings 9, 10 and 11 is poor planning. To expect that Building 8’s parking requirement of at least twenty-one spaces (10 provided) would have to (almost) be met by utilizing the same eight guest spaces behind Buildings 9, 10 and 11 is equally problematic. Yet, these eight spaces are the only ones available to meet the parking deficits of Buildings 1, 4 and 8. The other guest spaces scattered about the site barely fulfill the parking requirements of Buildings 2, 3, 5, 6 and 7. These are not insignificant parking shortfalls, and are unlikely to be mitigated by a shared parking model. Required findings to grant the parking exception were never made by the Planning Commission. Furthermore, I feel it is poor planning to have to rely on the project’s CC &R’s to enforce that no one will use their garages for anything other than the storage of cars. This is a policy that pits neighbor against neighbor, and is therefore unlikely to happen, or, if it does, creates a hostile environment among neighbors.

This site represents one of the few remaining opportunities in Sonoma to provide affordable housing as is intended in the Mixed Use zone, (SMC 19.44.050) that is, affordable units **“reasonably dispersed throughout the development and should be compatible with the design or use of the market-rate units in terms of appearance, materials, and finish quality.”** The proposed affordable units do not comply with the description of inclusionary units in the Development Code in that they are all 486 square feet, one-bedroom rentals, clustered in four-plexes. The proposed affordable units bear no similarity whatsoever to the market rate, for-sale units. Though they may represent 24% of the number of living units on the site, they account for less than 10% of the floor area of the living units.

It’s notable that there is a section singled out as **“Streetscape”** in the Development Code (SMC 19.12.010). It reads, **“Sonoma’s streetscapes are among the most important urban design features of Sonoma, because their appearance, character and the impressions they evoke, create the public image of the City. That image is significant to how residents and visitors think and feel about the City.”** What is most visible as one travels north on Broadway are the trees, and the hills to the north as a backdrop. There is no question that something needs to be developed on the vacant lot at 870 Broadway. The weeds are advancing through the asphalt, and it is not a desirable gateway to Sonoma’s Historic District. The massing of the current proposal is antithetical to the streetscape along the Broadway Corridor. As proposed, this project looks as if it could be located in just about any American city. In fact, as I write this, a similar project by the same developer is under construction in the City of Napa. Only there, the project is not located on the main axis leading to the historic center of the city. There is nothing in terms of this project’s massing, its site planning or its architecture which indicate that this project belongs in Sonoma. There are examples of housing developments of a similar density in the City of Sonoma which adhere to the General Plan and Development Code. As a gateway to the Historic District, and one of the last remaining large, Mixed Use-zoned parcels in Sonoma, it is important that this project undergo a thorough analysis of its impacts on the community based on a complete

presentation by the applicant, substantiated analysis, thorough scrutiny by the Planning Commission, and that, at very least, it complies with Sonoma's General Plan and Development Code.

I appreciate your taking the time to consider my comments.

Sincerely,

Carol Marcus

Rebekah Barr

From: Joyce Miller <jemsonom@gmail.com>
Sent: Tuesday, September 25, 2018 5:25 PM
To: City Council; Cathy Capriola
Subject: Fwd: Broadway and MacArthur Development Appeal

Dear City Council,

Below is an email I sent on August 1, 2018 supporting the project at the corner of E. MacArthur St. and Broadway. The project will come before the City Council, yet again, this time on October 1, 2018. Since the August 6th meeting, where the council did not make a decision, I understand that the developer has made further modifications to the plan based on Council and community feedback. Those changes include:

- reducing height
- increasing parking
- adding additional landscaping
- enhancing architectural details
- replacing concrete and asphalt with decorative pavers
- increasing set backs
- renting or selling affordable units

It appears that the developer has made numerous modifications and upgrades over the last year and has operated in good faith. The Planning Commission approved this project back in May. What are we waiting for? We need more affordable and moderate housing in this City and an eyesore, empty lots is just sitting idle. Please approve this project.

Regards,
Joyce Miller
649 First St West Unit #3
Sonoma

----- Forwarded message -----

From: **Joyce Miller** <jemsonom@gmail.com>
Date: Wed, Aug 1, 2018 at 2:56 PM
Subject: Broadway and MacArthur Development Appeal
To: <Madolyn.Agrimonti@sonomacity.org>, <Amy.Harrington@sonomacity.org>, <David.Cook@sonomacity.org>, <Gary.Edwards@sonomacity.org>, <Rachel.Hundley@sonomacity.org>
Cc: <davidg@sonomacity.org>

Dear Council Members,

The August 6, 2018 session of the council includes a review of the Broadway and MacArthur development appeal. I am unable to attend the session and express my support for the project; so I am sending you an email instead.

The corner of Broadway and MacArthur has sat idle way too long and has become an eyesore. Having lived in the past on East MacArthur St., I'm particularly sensitive to the lack of development. Our community needs more housing and the proposed project provides market rate and affordable units. I believe it's time to approve the development since a super majority of the Planning Commission did approve it on May 20, 2018.

From what I understand, the developers did not ask for any variances, made numerous changes to the plans based on input from the Planning Commission and the community, 24% of the units are affordable when the requirement is only 20%, and half of the affordable units will be rented at 10% below the required rate. I've seen the most recent renderings and find the complex appealing. The design fits with the character of our town and will present well as one drives down Broadway.

Let's not drag this process out any further. That corner of our town deserves better. I hope you will consider approving this project.

Regards,
Joyce Miller
649 First St. West Unit #3
Sonoma

Wednesday, August 1, 2018 at 3:04:53 PM Pacific Daylight Time

Subject: Broadway and MacArthur Development Appeal

Date: Wednesday, August 1, 2018 at 2:56:32 PM. Pacific Daylight Time

From: Joyce Miller

To: Madolyn Agrimonti, Amy Harrington, David Cook, Gary Edwards, Rachel Hundley

CC: David Goodison

Dear Council Members,

The August 6, 2018 session of the council includes a review of the Broadway and MacArthur development appeal. I am unable to attend the session and express my support for the project; so I am sending you an email instead.

The corner of Broadway and MacArthur has sat idle way too long and has become an eyesore. Having lived in the past on East MacArthur St., I'm particularly sensitive to the lack of development. Our community needs more housing and the proposed project provides market rate and affordable units. I believe it's time to approve the development since a super majority of the Planning Commission did approve it on May 20, 2018.

From what I understand, the developers did not ask for any variances, made numerous changes to the plans based on input from the Planning Commission and the community, 24% of the units are affordable when the requirement is only 20%, and half of the affordable units will be rented at 10% below the required rate. I've seen the most recent renderings and find the complex appealing. The design fits with the character of our town and will present well as one drives down Broadway.

Let's not drag this process out any further. That corner of our town deserves better. I hope you will consider approving this project.

Regards,
Joyce Miller
649 First St. West Unit #3
Sonoma

Tom Origer & Associates

Archaeology / Historical Research

November 6, 2017

Wendy Atkins
City of Sonoma
1 The Plaza
Sonoma, California 95476

RE: Archival review results on the property at 870 Broadway, Sonoma, Sonoma County.

Dear Ms. Atkins:

At your request, we completed a search of the archaeological base maps, site records, and survey reports on file at the Northwest Information Center (NWIC), Sonoma State University, for the property at 870 Broadway, Sonoma, Sonoma County. In addition, we reviewed documents and maps pertinent to this project that are on file at our offices and the local Native American community was contacted.

Environmental Setting

The study area is located at 870 Broadway, Sonoma, Sonoma County, and it consists of 1.876 acres situated on generally level land. The study area is at the center of the Sonoma Valley. The closest water source is Nathanson Creek located approximately 20 meters northeast of the northeastern corner of the study area.

The geology of the study area consists of alluvial fan deposits that were formed between the middle of the Pleistocene through the Holocene epoch (1.28 million years ago to present) (Wagner *et al.* 2004).

The majority of the study area contains Huichica soils with a small portion of the southwest corner containing Wright soils (Miller 1972:Sheet 108). Both Huichica and Wright soils range from poorly draining to moderately well-draining, loams found on low terraces. In a natural state these soils support the growth of grasses, forbs, and scattered oaks. Historically, parcels containing these soils were used for pasture, vineyards, and some prune orchards (Miller 1972:48 and 86).

Ethnographic Review

At the time of European settlement, the study area was included in the territory controlled by the Coast Miwok (Barrett 1908; Kelly 1978). The Coast Miwok were hunter-gatherers who lived in rich environments that allowed for dense populations with complex social structures (Barrett 1908; Kroeber 1925). They settled in large, permanent villages about which were distributed seasonal camps and task-specific sites. Primary village sites were occupied continually throughout the year and other sites were visited to procure particular resources that were especially abundant or available only during certain seasons. Sites often were situated near sources of fresh water and in ecotones where plant life and animal life were diverse and abundant.

The village of *hū'tci* is reportedly located 'near the plaza' (Barrett 1908:312). The Plaza is located approximately ½-mile north of the study area.

Native American Contact

A request was sent to the State of California's Native American Heritage Commission seeking information from the sacred lands files and the names of Native American individuals and groups that would be appropriate to contact regarding this project. Letters were also sent to the Federated Indians of Graton Rancheria, the Kashia Band of Pomo Indians of the Stewarts Point, Lytton Rancheria of California, Middletown Rancheria of Pomo Indians, and the Mishewal-Wappo Tribe of Alexander Valley.

Buffy McQuillen, Tribal Historic Preservation Officer for the Federated Indians of Graton Rancheria responded stating that the study area is within their ancestral territory. They requested that they be provided with the results of our research efforts and recommendations. No other responses have been received as of the date of this report.

Archival Review

Research was completed at the Northwest Information Center of the California Historical Information System (NWIC file number 17-1260). Our record search showed that the study area had not been previously subjected to an archaeological survey. Thirteen surveys had been conducted within ¼-mile of the study area (Beard 2009a, 2009b, 2009c; Chavez 1988; Dawson 2013; Franco and Origer 2016; French and Fredrickson 1976; Jordan 2014; Jones and Beard 2001; Ledebuhr and Origer 2008; Medin and Galvin 2002; Painter 2015; Supernowicz 2007). One of these studies (Medin and Galvin 2002) included an architectural study of buildings adjacent to Highway 12 (Broadway). The buildings at 870 Broadway were evaluated in 2012 by JRP Historical Consulting (Allen 2012) and found to not meet criteria for inclusion in the California Register or National Register.

A review of 19th and 20th century maps suggest buildings could have been within the study area as early as 1902, however finer scaled maps produced at a later time show buildings present by 1933 (Bell and Heymans 1888; Bowers 1867; GLO 1858; McIntire and Lewis 1908; Peugh 1934; Reynolds and Proctor 1898; USACE 1933, 1942; USGS 1902, 1951a, 1951b). County records indicate that at least one of the structures was constructed in 1920.

Historically, the study area is situated on lands once claimed by the Mission San Francisco Solano de Sonoma (hereafter, the Sonoma Mission) (GLO 1880). The Sonoma Mission was the last of 21 missions established in California by Franciscan missionaries between 1769 and 1823. In 1833, the Mexican government began secularizing California mission lands. After futile starts in the Petaluma and Santa Rosa areas, Governor José Figueroa commissioned General Mariano Vallejo, former *Commandante* of the San Francisco Presidio and *Comissionado* of the Mission San Francisco de Solano, to establish a presidio and pueblo at Sonoma. About 6,064 acres of mission lands were set aside for the pueblo in 1834, excluding a two-acre parcel containing the mission buildings and the 12-acre mission vineyard. The mission is located just over ½-mile north of the study area.

Recommendations

Because the property has been thoroughly developed, archaeological survey at this time would be futile. We recommend that after the existing buildings and paving have been removed, and prior to new construction, an archaeological survey should be completed. Because the buildings were evaluated for their historical potential and found to not meet criteria for inclusion in the California Register or the National Register, no further work is recommended for the buildings.

Accidental Discovery

In determining the potential for buried deposits, factors include landform age, distance to water, slope of the study area, and archaeological data (Meyer and Kaijankoski 2017). The study area was essentially level but is only moderately close to water. The geology of the study area is made up of Holocene and Pleistocene alluvial deposits formed between 1.28 million years ago to present. Buried prehistoric archaeological sites are found in or beneath Holocene-age depositional landforms (Meyer and Kaijankoski 2017). Based on the study area's geologic age, our analysis of the environmental setting, and incorporating King (2004) and Meyer and Kaijankoski's (2017) analysis of soil sensitivity for buried sites, the probability of identifying a site within the study area is 5-20%.

In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire-affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).

The following actions are promulgated in the CEQA Guidelines Section 15064.5(d) and pertain to the discovery of human remains. If human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines the remains are Native American, the coroner will contact the Native American Heritage Commission. The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity.

Summary

This record search included review and analysis of various environmental and cultural factors, including soil surveys, geological data, and the locations of known archaeological sites. The study area lies within the community of Sonoma. The proximity of fresh water and areas of well-drained soils that could have supported a variety of plants that in turn could have served as food and cover for animals, suggests that the study area could have been a desirable place for prehistoric occupants of the region to live or gather resources.

Please contact us if we can be of further assistance or if you have questions.

Sincerely,



Eileen Barrow
Senior Associate

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Page 7
November 6, 2017

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Tom Origer & Associates
Archaeology / Historical Research

August 6, 2018

RE: Historical significance of the property at 870 Broadway, Sonoma

Dear Mr. Hunter:

I am writing in response to concerns expressed regarding potential impacts to historic resources arising from the proposed project at 870 Broadway, Sonoma, Sonoma County, California. As you know, JRP completed an analysis of the historical significance of the buildings on the property, and I provided a review of their methods and conclusions. The buildings were found to not meet criteria for inclusion in the National Register of Historic Places or the California Register of Historical Resources. Further, JRP's methods and thorough analysis were found to be clear and complete.

The concerns expressed relate to potential impacts to the Broadway Corridor, as defined by the City of Sonoma (§19.32) where the area north of MacArthur Street is described as possessing *"a clear visual organization defined by historic structures with landscaped front yards and generally regular setbacks, street trees, and a consistent street width. South Broadway, in contrast, features a patchwork of older (but not historic) commercial buildings, new commercial and multifamily residential development, historic single-family homes and remnant agricultural buildings. These uses are interspersed with vacant parcels."*

While the subject parcel is located at the northeast corner of Broadway and MacArthur, the existing conditions are more reflective of the South Broadway area. The lack of historically significant structures, absence of street trees or any form of landscaped setback to align with the residential landscaping to the north, and the presence of residential structures to the north and east all reflect the conditions of the South Broadway area.

I have not completed a detailed review of the proposed development for compatibility with the City's goals for the Broadway Corridor; however, the replacement of the existing buildings, which do not contribute to the historical significance of the corridor, with residential structures that incorporate an appropriate setback from the street and landscape elements compatible with surrounding residential development would not comprise a significant impact to the ability of the Broadway Corridor to convey its historical importance.

Cordially,



Janine M. Origer
Senior Associate

Rebekah Barr

From: Robert Pique <robertlique@gmail.com>
Sent: Monday, September 24, 2018 4:54 PM
To: City Council; Cathy Capriola
Subject: Gateway Project (W. McCarthur and Broadway)

To whom it may concern,

We are neighbors of this project at 1068 Fryer Creek Drive, and a fully support this project going forward. It will remove the blight, provide business and housing opportunities, and it has responded positively to earlier concerns and has made appropriate changes. Please give this project your support to proceed. Thank you,

Robert Pique

Rebekah Barr

From: Christopher Prete <cprete355@gmail.com>
Sent: Monday, August 06, 2018 11:21 AM
To: City Council
Subject: Broadway Gateway appeal

Council Members,

I recommend that the City Council deny the appeal of the Planning Commission's approval of the Broadway / MacArthur "Gateway Project". The project requested no variances from existing code, is a very good mix of housing types and replaces a blighted property at the entryway to the City. This area is in dire need of additional housing. A growing number of workers already commute from Solano County to work in Sonoma Valley, and local merchants are having a difficult time staffing. Younger people I know tell me they plan on leaving Sonoma for other states due to the cost and lack of housing. If we can't allow a place for people to live, we'll lose the next generation of employees to places that will. And as the town becomes an enclave of wealthy second home owners, we'll also lose being a real community. Thank you for considering.

Christopher Prete
355 First St West

August 6, 2018

File Number: 000X-167155

VIA E-MAIL AND HAND DELIVERY

Mayor Madolyn Agrimonti
and Members of the City Council
City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476
E-Mail: citycouncil@sonomacity.org

Re: August 6, 2018 City Council Appeal Hearing
Sonoma Gateway Mixed-Use Project (Item 6.2)

Dear Mayor Agrimonti and Councilmembers:

This firm represents Broadway & MacArthur, LLC, the developer of the proposed Sonoma Gateway Mixed-Use Project located at 870 Broadway (the "Project"), which is scheduled for an appeal hearing on August 6th. We write to respond to the letter submitted by Hanson Bridgett, legal counsel for appellants Bill Willers and Victor Conforti, arguing that the Project requires additional environmental review under CEQA. As detailed below, the arguments in the letter have no merit, and the City Council should deny the appeal and approve the Project.

The Project is well-designed, compatible with the surrounding area, and complies with all applicable legal requirements. The City fully analyzed the Project's potential environmental impacts in an Initial Study and Mitigated Negative Declaration ("MND"), which addressed each of the topics required by CEQA. The City further supported the MND with multiple technical reports prepared by expert consultants, addressing traffic, noise, historic resources, environmental site conditions, and tree preservation. The City's planning staff have also prepared a detailed staff report for the appeal documenting the Project's compliance with the City's land use plans, zoning,

and development and design standards, and responding to each of the erroneous claims made in the appeal.

In the latest correspondence, Hanson Bridgett claims that the City should conduct additional environmental review for the Project and prepare an environmental impact report ("EIR") to comply with CEQA. Hanson Bridgett and the appellants, however, have not identified any specific environmental impacts requiring further study, nor have they provided any evidence to support their claims. In particular, they have not submitted any technical reports by qualified experts to refute the analysis prepared by the City's experts. The lawyers at Hanson Bridgett, in particular, do not have any relevant expertise that would allow them to opine on technical subjects like traffic, aesthetics, historic resources, architecture and design, and cumulative impacts. For the reasons detailed below, Hanson Bridgett's specific CEQA arguments lack merit and should be rejected.

I. Hanson Bridgett raises issues that are outside the scope of the appeal.

Hanson Bridgett has raised issues that are outside the scope of the appeal. Municipal Code § 19.84.030(D) ("Scope of Land Use Permit Appeals") mandates that a land use appeal "*shall be limited* to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed." (Emphasis added.) Appellants failed to present many of the issues discussed below—including cultural resources impacts, land use impacts, and cumulative impacts—to the Planning Commission and/or in their written appeal. Those issues are therefore outside the scope of the appeal and should be disregarded.

II. The MND is an appropriate CEQA document for the Project; No EIR is required.

To require preparation of an EIR, the appellants must point to "substantial evidence" supporting a fair argument that the Project may result in a significant adverse impact on the physical environment. (*Porterville Citizens for Responsible Hillside Development* (2007) 157 Cal.App.4th 885, 899–900.) Substantial evidence includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact." (Pub. Res. Code § 21080, subd. (e).) However, "argument, speculation, unsubstantiated opinion or narrative, and evidence which is clearly erroneous or inaccurate . . ." does not constitute substantial evidence. (Pub. Res. Code § 21080, subd. (e)(2).) Of particular importance for this appeal, "[i]n the absence of specific factual foundation in the record,

dire predictions by non-experts regarding the consequences of a project do not constitute substantial evidence." (*Porterville, supra*, 157 Cal.App.4th at 901 [citing *Gentry v. City of Murrieta* (1995) 26 Cal.App.4th 1359, 1417].) Likewise, "unsubstantiated fears and desires of project opponents do not constitute substantial evidence." (*Id.*)

Here, Hanson Bridgett and appellants have not submitted *any evidence*, much less substantial evidence, to contradict the conclusions of the MND. They have not submitted any technical or expert reports to refute the analysis prepared by the City's experts. The Hanson Bridgett lawyers themselves do not have relevant expertise that would allow them to opine on technical subjects like traffic, aesthetics, historic resources, architecture and design, and cumulative impacts. The Hanson Bridgett letter is also based on a number of factual and legal errors. Thus, as explained in more detail below, appellants' submittals amount to nothing more than erroneous statements, unsubstantiated arguments, speculation, and non-expert opinion, and they do not qualify as substantial evidence of any environmental impact. (Pub. Res. Code § 21080, subd. (e)(2).)

Moreover, the City has discretion to determine whether the evidence offered by project opponents qualifies as substantial evidence. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928). It is also entitled to determine any disputed issues of credibility. (*Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 684.) The City should exercise that discretion here and make an express determination that Hanson Bridgett and appellants have not submitted any substantial evidence and that they lack credibility on each of the issues raised. The City should instead, as it is entitled to do, "rely on the expertise of its planning staff in determining whether a project will have a significant impact on the environment." (*Porterville Citizens for Responsible Hillside Development* (2007) 157 Cal.App.4th 885, 901.)

Because there is no substantial evidence that the Project as mitigated may have a significant effect on the environment, CEQA mandates that the City "shall" prepare an MND. (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 171; Pub. Res. Code, §§ 21080, subd. (c)(1), 21082.2, subd. (a); Cal Code Regs., tit. 14, §§ 15063, subd. (b)(2), 15064, subds. (f)(1)-(3), 15070, subds. (a),(b) ("CEQA Guidelines").) The City's decision to prepare an MND rather than an EIR was therefore appropriate.

1. The MND properly analyzed aesthetic impacts.

The MND fully analyzed the Project's potential aesthetic impacts and found that they would be less than significant. (MND, pp. 7-13.) As part of this analysis, the MND evaluated the Project's compliance with relevant design standards from the Development Code, the Design Guidelines for Infill Development in the Historic Overlay District, and the Broadway Corridor standards. (*Id.*) Moreover, the staff report for the appeal hearing further explains why the Project is consistent with all design standards and will not have significant aesthetic impacts (Staff Report, pp. 7-18, Tables 2-4), and it responds in detail to each of the aesthetic and design issues raised in the appeal (*id.*, pp. 25-29, 31).

Despite this extensive analysis, Hanson Bridgett argues that the Project will have significant impacts on scenic vistas of hills to the north and west of the site, as seen from adjoining public streets and sidewalks. Not so. The MND explains that the existing buildings on the site already block views of the hills to the north, and that views to the west are similarly limited because they are obscured by existing buildings and vegetation. (MND, p. 7.) Thus, under CEQA, these blocked views are part of the existing environmental "baseline," and they are not impacts attributable to the Project. (CEQA Guidelines § 15125 [project impacts must be measured against existing environmental baseline].) Hanson Bridgett simply misunderstands CEQA's distinction between an environmental baseline and a project's impacts.

Hanson Bridgett further speculates that construction of new buildings and removal of trees may have various aesthetic impacts, including on visual character and lighting. Yet Hanson Bridgett does not specify what those impacts might be, and it does not provide any supporting evidence, much less the substantial evidence required by CEQA.

To the contrary, the MND and the staff report provide dozens of pages of analysis, explaining how the Project is consistent with applicable development and design standards and why it would not have any aesthetic impacts. (MND, pp. 7-13; Staff Report, pp. 7-18, 25-29, 31, Tables 2-4.) In particular, the Project complies with applicable Development Code standards that relate to visual character, including requirements for height, setbacks, scale, massing, and building coverage. (Staff Report, pp. 19, 25-26.) The Project is also compatible with the site plan criteria, architectural

considerations, and sustainable construction techniques from the Design Guidelines for Infill Development in the Historic Overlay District. (Staff Report, pp. 15–18; Municipal Code § 19.42.050.) Finally, the Project is visually compatible with the adjoining structures and traditional development patterns in the Broadway Corridor, and it complies with applicable Broadway Corridor guidelines and standards, including for height, setbacks, massing limits on the street frontage, and transitions to adjoining residential structures. (Staff Report, pp. 20, 26, 28–29.) The City is entitled to “rely on the expertise of its planning staff in determining whether a project will have a significant impact on the environment.” (*Porterville Citizens for Responsible Hillside Development* (2007) 157 Cal.App.4th 885, 901.) It should do so here, and it should reject the unsubstantiated and erroneous arguments advanced by Hanson Bridgett.

2. The MND properly analyzed cultural resource impacts.

It is undisputed that the existing buildings on the site are not historic, and that the MND properly concluded that demolishing them would not be a significant historic impact. (MND, p. 23.)

Hanson Bridgett, however, argues that the MND fails to analyze the Project’s potential impacts on the historic Broadway Corridor, and that the Project does not meet the planning and design standards for the Broadway Corridor. Neither claim is true.

First, as explained above, the City fully evaluated the Project’s compliance with all relevant development and design standards, specifically including the Broadway Corridor. (MND, pp. 10–11, 40–41; Staff Report, pp. 10–17, 27–29.) Second, planning staff have determined that the Project is substantially consistent with the Broadway Corridor; that appellants’ claims to the contrary are erroneous; and that impacts related to the Broadway Corridor would be less than significant. (*Id.*)

The Hanson Bridgett letter does not undermine the City’s analysis. Hanson Bridgett has not submitted any supporting evidence showing that the Project is inconsistent with the Broadway Corridor. Additionally, Hanson Bridgett itself does not have any relevant technical expertise that would qualify it to opine on cultural resource impacts and compliance with the City’s technical planning requirements. Finally, Hanson Bridgett’s claims are erroneous and are refuted in detail by the staff report. As noted above, the City Council is legally entitled to rely on the opinions of its own planning staff. (*Porterville Citizens, supra*, 157 Cal.App.4th at 901.) It should do so here,

and it should expressly find that Hanson Bridgett and appellants lack credibility on this issue.

3. The MND properly analyzed land use and planning impacts.

Hanson Bridgett also argues that the Project will have significant land use and planning impacts because it is inconsistent with the Design Guidelines for Infill Development in the Historic Overlay District. This argument fails for the same reasons discussed above. First, the City has fully analyzed the Project and determined that it is consistent with the guidelines. (Staff Report, pp. 15–18, 25, 27–29; Municipal Code § 19.42.050.) Second, Hanson Bridgett has not offered any contrary evidence and is not qualified to opine on the Project’s consistency with the City’s technical design guidelines. Third, Hanson Bridgett’s and appellants’ claims are unsubstantiated, erroneous, and refuted in detail by the City’s planning staff. (Staff Report, pp. 15–18, 25, 27–29.)

4. The MND properly analyzed transportation and traffic impacts.

The MND fully analyzed the Project’s potential traffic impacts, and it supported its analysis with a Traffic Impact Study (“TIS”) prepared by an expert traffic engineering firm. The MND and TIS show that the relevant intersection at Broadway and East MacArthur will continue to operate acceptably with the addition of Project traffic. In the near term, the intersection would continue to operate at LOS B (a.m.) and LOS C (p.m.)—both with and without the Project. (MND, p. 50, TIS, p 11.) Under year 2040 cumulative conditions, the intersection would continue to operate at LOS C (a.m. and p.m.)—both with and without the Project. (*Id.*) In other words, the Project will not cause any change to the intersection’s levels of service, and the City properly determined that the Project’s impacts will be less-than-significant. Caltrans also reviewed the TIS and did not identify any issues with the impact conclusions.

Hanson Bridgett argues that the Project will cause a significant impact by degrading the intersection from LOS B to LOS C. This is factually and legally untrue. Factually, Hanson Bridgett simply mischaracterizes the report, which clearly shows that the Project is not responsible for degrading the intersection LOS. (TIS, p. 11, Tables 8 and 9.) Legally, even if the Project were to degrade the intersection to LOS C, that would not be a significant impact. Under the City’s and Caltrans’ standard thresholds of significance, LOS B and LOS C are acceptable and a significant impact does not occur

until LOS D. The City, as lead agency, has broad discretion to choose its own thresholds of significance. (See CEQA Guidelines § 15064.7; *Oakland Heritage Alliance v. City of Oakland*, 195 Cal.App.4th 884, 896 (2011) [agency has discretion to rely on adopted standards to serve as significance thresholds for a particular project].) Hanson Bridgett and appellants have not submitted any evidence, much less substantial expert evidence from a qualified traffic engineer, demonstrating that the Project would have a significant impact notwithstanding the City's chosen thresholds of significance.

Hanson Bridgett also argues that the MND and TIS should have considered additional study intersections, including Second Street East/MacArthur and First Street West/MacArthur. The City's expert traffic consultant, however, properly determined which study intersections to include and exclude, given the Project's trip generation rate, proximity to the intersections, traffic levels, and other relevant factors. Once again, Hanson Bridgett and appellants have not submitted any evidence whatsoever, much less evidence from a traffic expert, showing that the Project would have significant impacts on additional intersections. The City Council should expressly find that Hanson Bridgett's and appellants' erroneous arguments and unsupported non-expert opinions lack credibility, and it should reject them.

5. The MND properly analyzed cumulative impacts.

As required by CEQA, the MND evaluated the Project's potential cumulative impacts for all environmental topics (MND, pp. 6, 56), and it included particularly detailed analysis of cumulative air quality impacts (MND, pp. 15-17), cumulative noise impacts (MND p. 42-43; Noise Study, pp. 10, 15), and cumulative traffic impacts (MND, pp. 49-50; TIS, pp. 8-11). The MND also imposed four mitigation measures—including for hydrology and water quality and utilities and service systems—to reduce all potential cumulative impacts to a less-than-significant level.

Hanson Bridgett argues that the cumulative impact analysis is inadequate. Yet it does not specifically identify which part of the analysis is allegedly inadequate, nor does it submit any evidence demonstrating a potentially significant cumulative impact. Rather, Hanson Bridgett appears to suggest that the cumulative analysis should include more detail. CEQA, however, does not require MNDs to study cumulative impacts at the same level of detail as the impacts of the project alone. (CEQA Guidelines § 15130(b); *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2012)

205 Cal.App.4th 552.) The level of detail provided by the City is more than adequate and is consistent with CEQA's requirements.

Hanson Bridgett also argues that the MND should have analyzed the cumulative impacts of the Project together with the nearby Altamira Apartments Project. But it once again fails to specifically identify what those alleged impacts would be or to submit any supporting evidence. In addition, Hanson Bridgett fails to recognize that CEQA authorizes two different approaches to cumulative impact analysis: (1) a list-based approach, considering related projects (such as Altamira Apartments); or (2) a plan-based approach, considering projections of future development contained in a General Plan. (CEQA Guidelines § 15130(b).) Here, the City properly chose to rely on the plan-based approach by evaluating the Project together with the future growth projections contained in the General Plan. The City had no obligation to use the list-based approach.

III. The Planning Commission approval process complied with CEQA.

Hanson Bridgett suggests that the Planning Commission erred by failing to consider and vote on the MND and the Project approvals in the correct order. As detailed in the staff report, however, this allegation is factually incorrect. (Staff Report, p. 25.) The Planning Commission extensively considered both the Project and the environmental issues, and it voted to adopt the MND before voting to approve the Project. There was no procedural error. In addition, the appeal renders the argument moot because the City Council will now be the final decision-making body on the Project.

* * * * *

In short, the City has fully and properly evaluated the Project's environmental impacts in the MND, and appellants and their lawyers have not submitted any evidence

SheppardMullin

Mayor Madolyn Agrimonti
August 6, 2018
Page 9

to the contrary. The City Council should deny the meritless appeal and approve this long-planned, well-designed Project, which will be an asset for the community.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Alex L. Merritt". The signature is fluid and cursive, with a large loop at the end.

Alexander L. Merritt
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Cathy Capriola

From: David Goodison
Sent: Sunday, August 05, 2018 2:13 PM
To: Cathy Capriola; Veronica Nebb
Subject: FW: Victor Conforti - Architect
Attachments: Mayor and City Council Members.pdf; Conforti 870 Broadway.pdf

From: Owen Smith <owen.smith@sunlever.com>
Date: Sunday, August 5, 2018 at 2:12 PM
To: Madolyn Agrimonti <madolyn.agrimonti@sonomacity.org>, Amy Harrington <amy.harrington@sonomacity.org>, David Cook <david.cook@sonomacity.org>, Gary Edwards <gary.edwards@sonomacity.org>, Rachel Hundley <rachel.hundley@sonomacity.org>
Cc: David Goodison <davidg@sonomacity.org>
Subject: Victor Conforti - Architect

Dear Mayor and City Council Members,

Attached please find my letter and supporting document that I think you may find to be critical in your decision on the appeal of the plans Broadway & MacArthur, LLC has put forward for 870 Broadway.

Best,
Owen

--

Owen Smith
President, Sunlever Corporation
CA BRE 01939847
PO Box 2369
Del Mar, CA 92014
owen.smith@sunlever.com
858 242 2462

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5 August 2018

To: Mayor and City Council, City of Sonoma, CA with a copy to local media
Subject: Victor Conforti, Architect

VIA EMAIL

Dear Mayor and City Council Members,

As an introduction for those of you I have not met, I came to our great State of California on Marine Corps orders. When I completed my last active duty assignment in 2012 I had a unique opportunity to get back into the profession that I had left 11 years earlier: I formed my own company to work for a client interested in building on sites in Sonoma County. That work brought me to your beautiful city and the site at 870 Broadway.

When my client decided to concentrate their efforts elsewhere, I took a disproportionate personal financial risk to buy out of the contract I had negotiated on their behalf and acquired their option to purchase the site. While holding preliminary public meetings to determine the best use for the site, I was able to close the purchase of the property with a group of like-minded partners who acted very quickly. Had they not stepped up I would likely have been forced to sell the site to a used car dealer.

Since then our partnership has been through an iterative process to find the right builder to develop the site.

We were all excited to have finally found the right fit with Broadway & MacArthur, LLC. This proposed use is loyal to our original purpose: to balance the needs of the community with the right plan to bring out the property's value.

I was saddened to hear of Victor Conforti's appeal of this application and quite frankly totally taken aback. Victor was hired by my former client to develop preliminary plans for a hotel on the site.

The plan Victor and his office came up with, which is attached for your reference, was an 81,000 square foot, 3-story building on the corner backed by a massive parking lot with room for more than 90 cars - roughly double the square footage of the project he now opposes. There was no arm-twisting involved. In other words, he suggested that some version of that design would be doable on the site.

At the very least it seems that Victor is conflicted based on his involvement in previous efforts to develop the site. I hope you will consider his objections tainted due to his representation (via design) to his client that the site could be developed in a much more intense manner than is currently proposed.

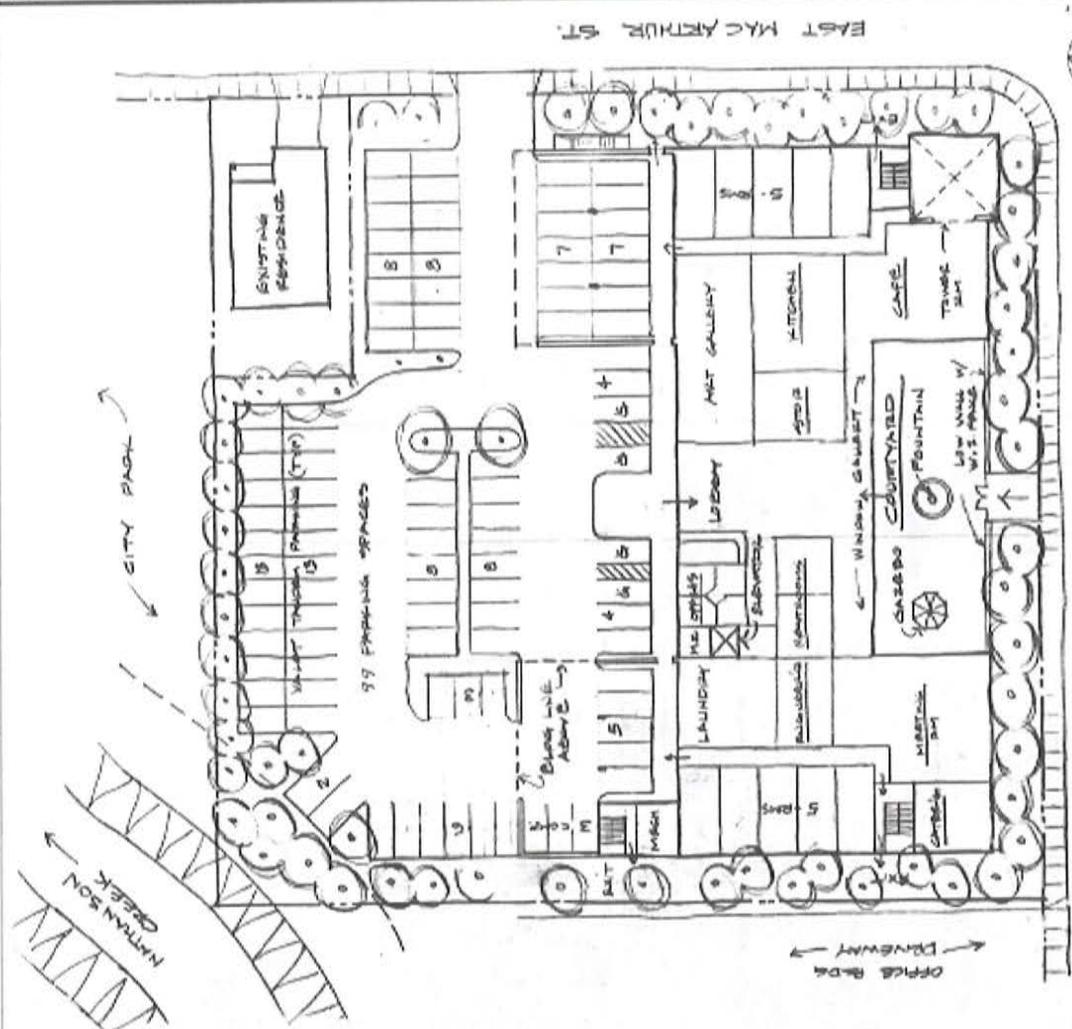
I hope that you will reject the appeal, approve this great project, and in so doing provide a small win for a veteran-owned enterprise and a big win for your beautiful city.

Thank you for your hard work in service of your community.

Best,

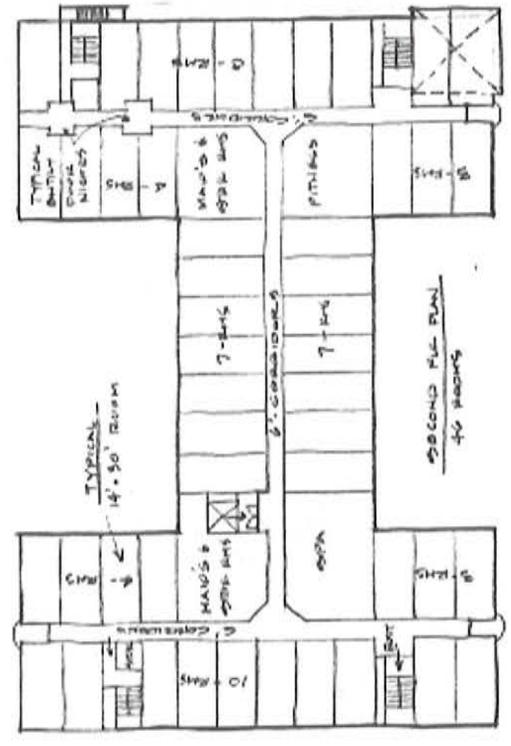
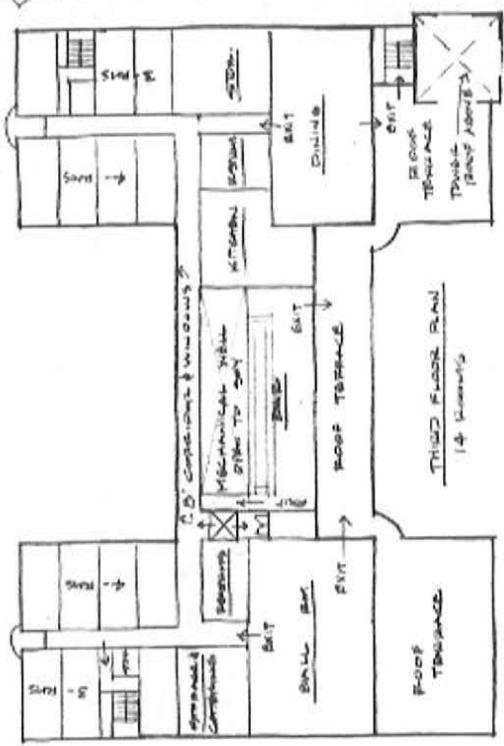


Owen Smith
President, Sunlever Companies



SITE DATA
 SITE AREA = 80,520 SF
 COVERAGE = 29,165 SF = 0.36 COVER MAX
 TOTAL BLDG = 80,764 SF > 3 FLS (INCLUDES ROOF TERRACES)
 F.A.R. = 1.00 < 1.0 MAX
 PLOTS = 99 COTS

BROADWAY
 SITE PLAN & 1ST FLR.
 SCALE 1" = 20'



Subject: 870 Broadway project

Date: Thursday, May 10, 2018 at 1:31:55 PM Pacific Daylight Time

From: Chickie Vella

To: David Goodison

To the Sonoma Planning Commission- I live at 845 Austin Ave. which is directly across Nathanson Creek from this proposed project. I have a previous commitment tonight which is why I will not be there in person, but wanted the commission to know that I have some concerns about this project. I feel that due to some of the large sized units within this project are very out of place in the Historic Broadway District, and they seem to overwhelm the smaller scale of the existing neighboring buildings. It just is so large and out of place with everything else around it, including the intersection at Broadway and E. MacArthur. I also have concerns about the great lack of proposed parking spaces. Being there is also proposed to be retail space in the project, it makes me wonder where the people who will be working there will park-most employees are not allowed to park onsite which would cause them to park in the surrounding neighborhood. That coupled with the fact that if any of the residences in the project had guests, they too would have to look for parking off site. I have lived on my property for 40 years, and feel that the height of this building would be rather overwhelming to have across the creek. The Truck and Auto center had lower buildings and you could see over them so it never seemed to feel imposing. I could go on, but I feel that this proposed building is in no way consistent with preserving the towns' small- scale and historic character. Thank you, Chickie Vella

Vella Cheese Company of CA

315 Second St. East

Sonoma, CA 95476

(707) 938-3232

(707) 938-4307 FAX

www.vellacheese.com

Cathy Capriola

From: Gary Edwards
Sent: Monday, August 06, 2018 9:31 AM
To: Cathy Capriola
Subject: Fwd: Appeal of Sonoma Gateway Project.

Gary Edwards, Council Member
City of Sonoma

Begin forwarded message:

From: Chickie Vella <chickievella@gmail.com>
Date: August 3, 2018 at 11:16:24 PM PDT
To: madolyn.agrimonti@sonomacity.org, david.cook@sonomacity.org,
gary.edwards@sonomacity.org, amy.harrington@sonomacity.org,
rachel.hundley@sonomacity.org
Subject: **Re: Appeal of Sonoma Gateway Project.**

Councilmembers; I write this email in support of the above mentioned project. I live on Austin Ave. and my property backs up to this. I have lived on this property for 40 years, many of which I had Bob Bona and the Truck and Auto as neighbors. Never once was there an issue with living with the car lot as a neighbor-and he was there first. In the winter when all the leaves were gone from the trees and I could see the traffic light change color from the kitchen window, I still had no issue because I always had the feeling of open space. I could see out over the car lot because it was so low , to both Broadway and East MacArthur. To me this was part of living so close to a mixed use designation. During the time I have owned the property MacArthur Place came into being, also a great neighbor and part of what my part of Austin was destined for. Now that this new project has proposed for this site I have many issues. This project is not in compliance with the City's General Plan or Development code, and it also exceeds building height limitations, as the block of building on the inside appears to be 37 feet tall which will loom over the front building which is 27 feet tall. It also seems as if one must drive through the whole project in order to find parking for the retail shops which makes it obvious that they intend for people to park on the street. Which leads to the problem of street parking. Being I live on one of the streets closest to the project it seems logical that I can figure that customers coming to the shops, people visiting the residents of the proposed houses and employees of said shops, will be parking in the neighborhood. This project is at the gateway to our city, but doesn't in any way fit in on Broadway which is a mix of two story and one story buildings with small front yards and driveways separating each lot. There have been a few projects on Broadway by this proposed project that have done a very nice job of remodeling an older home, or even adding to it while retaining its'

look . This is what I believe is referred to as Sonoma Mix. Please uphold this appeal and have the developer come up with something that doesn't remove trees and over build the lot. This is within the Broadway Historic District and looks to be completely incompatible with it. The people of Sonoma have a right to expect a good design that we can live with at the gateway to our city. I don't want to have to live for the next 40 years looking at an over built project every

time fall rolls around with a lot of cars parked for 8 hours a day on our residential streets. We do care about where we live. Chickie Vella. 845 Austin Ave.

On Aug 3, 2018 7:10 PM, "Chickie Vella" <chickie@vellacheese.com> wrote:

Vella Cheese Company of CA

[315 Second St. East](#)

[Sonoma, CA 95476](#)

(707) 938-3232

(707) 938-4307 FAX

www.vellacheese.com

Subject: MacArthur Street project

Date: Thursday, May 10, 2018 at 3:09:28 PM Pacific Daylight Time

From: Ditty

To: David Goodison

David,

Please forward to Planning Commissioners for tonight's meeting

Dear Commissioners,

As a resident of Chase Street I could be considered a NIMBY. I have no issue with the concept of this project. However, as is usual with Sonoma projects, parking is an issue. Not only are there too few parking spaces for daily use but I have issue with the presumption that because it's a mixed use project, parking can be shared among the uses. That may work in an office/apartment situation where there is no overlap in uses but in a retail/residential/restaurant use I believe there are conflicts that need to be taken into account. Weekend use of all 3 components and weeknight use of the residential/restaurant components will surely create conflicts for parking spaces within the project, making it necessary to use street parking for project businesses and the guests of residents. This project does not exist in a vacuum. There is the proposed increase in size coming up for MacArthur Place as well as the Filling Station and brewery already approved across the street on Broadway. The area needs to be looked at as a whole, not on a project by project basis, everyone presuming the same street parking will be available for all projects to use. MacArthur already uses our streets for staff parking and when there is a large event and they are full, the surrounding streets are used as their parking lot. You have a chance to make sure that this site has adequate on site parking for the uses it proposes. Please make sure this is a great project and an asset to the entrance to Sonoma.

Ditty Vella

Rebekah Barr

From: Bill Willers <marcuswillers@comcast.net>
Sent: Monday, September 03, 2018 12:26 PM
To: City Council; Amy Harrington; David Cook; Gary Edwards; Madolyn Agrimonti; Rachel Hundley
Subject: Gateway Appeal- Recent Court Case
Attachments: NilesvFremont.pdf

Mayor Agrimonti and Council Members,

Attached is a recent CEQA Court Case with many similar issues to the Gateway Appeal. I thought it would be helpful in your consideration of our appeal.

Thank you,

Bill Willers
Tel: (707) 996-2396

Marcus & Willers Architects

The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

PROTECT NILES et al.,
Plaintiffs and Respondents,
v.
CITY OF FREMONT et al.,
Defendants and Respondents;
DOUG RICH et al.,
Real Parties in Interest and
Appellants.

A151645
(Alameda County
Super. Ct. No. RG15765052)

The City of Fremont (City) approved a residential and retail development (Project) in its Niles historical district over considerable neighborhood opposition. The City adopted a mitigated negative declaration after finding the Project as mitigated would have no significant adverse environmental impact. Protect Niles¹ petitioned for a writ of mandamus ordering the City to overturn the project approvals and prepare an environmental impact report. The trial court granted the petition after finding substantial evidence supported a fair argument of significant adverse impacts on aesthetics (incompatibility with the historical district) and traffic. We affirm.

¹ Protect Niles is an unincorporated association formed after the Project’s approval to “protect the Niles [historical district] neighborhood and ensure the City’s compliance with [the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.).”

We conclude the Project's compatibility with the historical district is properly analyzed as aesthetic impacts, and we find substantial evidence in this record supports a fair argument of a significant aesthetic impact of the Project on the Niles historical district. We also conclude the record contains substantial evidence supporting a fair argument of significant traffic impacts, notwithstanding a professional traffic study concluding the anticipated adverse impacts fell below the City's predetermined thresholds of significance.

I. BACKGROUND

Niles Historical Overlay District

The City has designated certain areas of Niles as the Niles Historic Overlay District (Niles HOD),² and adopted design guidelines and regulations for commercial properties in the core area of the district (HOD Guidelines; Fremont Mun. Code, § 18.135.010 et seq.). The district has a distinctive character with large unusual trees lining the streets, and its seven-block-long commercial main street and surrounding neighborhood feature historic buildings with diverse architectural styles and details. According to a planning staff report on the Project before us, the HOD Guidelines also offer "general guidance . . . for maintaining compatibility with the unique characteristics" of the HOD for areas outside the commercial core. The HOD Guidelines' "vision" for the Niles HOD is in part to preserve the district's "small town character." The City's Historical Architectural Review Board (HARB) is charged with reviewing exterior features of proposed developments in the Niles HOD and advising the planning commission and city council regarding project approvals. (Fremont Mun. Code, § 18.135.050.)

The Project site lies entirely within the Niles HOD and abuts the Niles commercial core. Niles's main street, Niles Boulevard, borders the Project site at an acknowledged

² Niles hosted silent movie production in the 1910's and is home to historic mills, orchards, and nurseries from the mid-19th century, as well as an 1869 station on the first transcontinental railroad. Today, restored steam engines take visitors on excursions through Niles Canyon to the northeast, and the town hosts several events and fairs.

“gateway” to the Niles HOD and westbound motorists on Niles Boulevard encounter a large “NILES” sign as they pass under a railroad trestle just before the Project site. The site was used for foundry, manufacturing, and machining purposes in the early 1900’s, cannery activities from the 1920’s to the 1940’s, and varied chemical manufacturing thereafter. After a 2008 fire destroyed a historic office building, HARB took steps to allow demolition of buildings remaining on the site, and environmental remediation has made the site suitable for residential construction.

Project Description

In June 2014, developers Doug Rich and Valley Oak Partners (collectively Valley Oak) submitted a planning application for the Project. The six-acre Project site was vacant except for building foundations, piles of debris, and some trees. The irregular shaped site is bordered on the south by Alameda Creek and the Alameda Creek Trail; on the west by a neighborhood of single family homes; on a northwest diagonal by the Niles HOD commercial core; and on the north and east by Niles Boulevard.

Valley Oak proposed building 85 residential townhomes in the southern portion of the site and mixed residential and retail in the northern portion. The density of the townhouse area would be 15.6 units per acre (85 homes on 5.43 acres), with a maximum height of 35 feet (three stories). A new street (New Street) in the Project would be built to connect with Niles Boulevard. Valley Oak’s “vision for this site is the establishment of an iconic development that enhances the historic character of Niles’ town center, the sense of arrival to the Alameda Creek Trail, and most importantly, the reinforcement of the vitality and eclectic nature of the Niles community.”

Environmental Review

Following an initial study, City planning staff prepared a draft mitigated negative declaration (MND) in lieu of a full environmental impact report (EIR). The draft MND found the Project would have no impact or a less than significant impact (with or without mitigation) in all environmental areas studied, including as relevant to this appeal “Aesthetics, Light and Glare” and “Transportation/Traffic.” On the aesthetic issue, the City found the Project would not “[s]ubstantially degrade the existing visual character or

quality of the site and its surroundings” because it “would be visually compatible with surrounding development and consistent with the vision for Niles, as outlined in the [HOD Guidelines] The proposed buildings and landscapes reinforce the gateways and the strong sense of place found in Niles.” Moreover, the visual appearance of the site would improve from its existing “dilapidated, unsightly visual appearance.” On the traffic issue, the City relied on an expert traffic study and found the Project would not have significantly adverse traffic impacts with the addition of a single mitigation measure requiring Valley Oak to ensure adequate sight distance at the intersection of the proposed New Street and Niles Boulevard intersection (New Street/Niles intersection).

The draft MND was referred to HARB for advisory review. Specifically, HARB was asked to review the historical resources section of the draft MND and review the Project overall for compatibility with the HOD Design Guidelines. In a report to HARB, City staff recommended that HARB find the Project compatible because it reflected the architectural styles of former industrial buildings on the site and reduced heights of buildings on the Project’s periphery preserved views and softened the interface with adjacent areas. At a January 2015 HARB hearing, several Niles residents argued the Project was not consistent with the HOD: they objected to the height of some three-story buildings (particularly on the Project site periphery), which might block hill views; the density in the townhouse area; the architectural style of the buildings; and the choice of colors and materials on building exteriors. They also objected to the Project’s density as a generator of traffic and parking problems in and around the Niles HOD. Most HARB members echoed these sentiments, while a distinct minority of speakers and HARB members spoke in favor of the Project and its consistency with the HOD Guidelines. HARB voted four to one to recommend denial of the Project because it “would be incompatible in terms of siting, massing, scale, size, materials, textures, and colors with existing development in the Niles [HOD].”

The Project and draft MND were next referred to the planning commission for approval. A staff report again recommended Project approval and adoption of the draft MND. At the February 2015 hearing, Valley Oak defended the Project design in terms

similar to the staff report and reported plans to change some exterior and roof designs in response to HARB's concerns. When pressed on the density issue, Valley Oak said the Project would not be economically feasible if the density were significantly reduced. Public comments submitted in writing and those presented orally at the hearing reflected the same concerns expressed during the HARB hearing.³ The commissioners voted six to zero (with one member recused) to recommend that the city council approve the Project and adopt the draft MND subject to conditions including height reduction of some townhouses; ensuring high windows did not provide views into adjacent homes; reduced use of metal siding; and improved traffic flow at the New Street/Niles intersection with a turnaround.

At a March 3, 2015 city council meeting, residents continued to object to the Project despite some modifications. Some councilmembers echoed these concerns. The New Street/Niles intersection was discussed extensively, specifically regarding the need for a left-turn pocket lane to ensure safety and traffic flow. However, the council voted three to two to approve the Project and adopt the draft MND.⁴ The City issued a "Notice of Determination," finding the Project as mitigated would not have a significant effect on the environment. It separately found the Project was "functionally and aesthetically compatible with the building styles, materials, colors and significant features . . . with the Niles HOD." One of the City's "conditions of approval" dealt with traffic issues: "The applicant shall work with the Public Works Department to include a north[/west]bound left-turn pocket lane on Niles Boulevard at the new intersection of Street A and Niles Boulevard if the Public Works Department determines the adequate right-of-way will accommodate a left-turn pocket lane."

³ Residents presented commissioners with a petition purportedly signed by 175 citizens asking them to consider the Project's impacts before allowing "this high-density project" to move forward. Commissioners were later presented with a petition in favor of the Project signed by eight Niles business owners.

⁴ The council again voted three to two to approve the Project and adopt the draft MND after a second reading on March 17, 2015.

The only relevant CEQA mitigation measure required a specified sight distance at the New Street/Niles intersection. As approved, the Project still included 98 residential units.

Trial Court Proceedings

On April 3, 2015, Protect Niles and Niles resident Julie A. Cain (collectively, Protect Niles) petitioned for a writ of mandamus ordering the City to set aside the Project approvals and prepare an EIR. Protect Niles argued substantial evidence supported a fair argument of significant aesthetic/land use impacts (consistency with the Niles HOD), traffic impacts, hazardous materials impacts, and impacts on the Alameda Creek Regional Trail.

The trial court found substantial evidence supported a fair argument of significant impacts on aesthetics and traffic only. On aesthetics, the court cited “the testimony and views of members of the public and the opinions of the HARB members who were clear in their view that the project is incompatible with the Niles esthetic. . . . [¶] [T]he opinions of the HARB members, charged with the duty to evaluate esthetics, must be considered in the same category as ‘expert’ testimony.” On traffic, the court cited “a plethora of commentary by members of the public . . . [describing] an already low level of service and asserting that the reduction in the level of service will be more significant than is reflected in the Initial Study/MND. [¶] . . . [¶] Respondents are incorrect that the Initial Study/MND data does not demonstrate a traffic impact. Respondents are also incorrect that a change in level of service from ‘E’ level to ‘F’ level is not substantial evidence of a significant traffic impact, and that conclusion is particularly true in combination with the relevant personal reservations from the community members who describe the actual impacts of the Initial Study/MND’s statistics on the level of service. [¶] [T]he City is [also] incorrect that [an adopted threshold of significance] trumps a fair argument that a project may cause a significant impact. (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111–114.) [¶] The record also reflects commentary regarding the safety, or lack thereof, of the proposed left turn for vehicles traveling northward on Niles Boulevard at the street

proposed to be built as the primary entrance to the project. That commentary was validated by the city councilman, who has traffic engineer expertise” The court ordered the City to vacate its Project approvals and refrain from approving the Project “absent compliance with CEQA in the preparation of an EIR.” Valley Oak appeals.

II. DISCUSSION

A. *CEQA Legal Standards*

“The foremost principle under CEQA is that the Legislature intended the act “to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” [Citation.] . . . [¶] [The Supreme Court has] repeatedly recognized that the EIR is the “heart of CEQA.” ([Citations]; see also [Cal. Code Regs., tit. 14], § 15003, subd. (a)⁵.) “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” [Citation.] To this end, public participation is an “essential part of the CEQA process.” ([CEQA] Guidelines, § 15201; [citation].)

“With certain limited exceptions, a public agency must prepare an EIR whenever substantial evidence supports a fair argument that a proposed project “may have a significant effect on the environment.” ([Pub. Resources Code,] §§ 21100, 21151, 21080, 21082.2 [fair argument standard]; [CEQA] Guidelines, §§ 15002, subd. (f)(1), (2), 15063; [citation].) “ ‘Significant effect on the environment’ means a substantial, or potentially substantial, adverse change in the environment.” ([Pub. Resources Code,] § 21068; see also [CEQA] Guidelines, § 15382.)’ [Citation.]

“If there is substantial evidence in the whole record supporting a fair argument that a project may have a significant nonmitigable effect on the environment, the lead agency shall prepare an EIR, even though it may also be presented with other substantial evidence that the project will not have a significant effect. ([Pub. Resources Code,]

⁵ Regulations implementing CEQA are codified at California Code of Regulations, title 14, section 15000 et seq. and are called the “ ‘State CEQA Guidelines.’ ” (Cal. Code Regs., tit. 14, § 15001.) These regulations are hereafter referred to as CEQA Guidelines.

§ 21151, subd. (a); [CEQA Guidelines], § 15064, subd. (f)(1), (2); [citations].) ‘May’ means a reasonable possibility. ([Pub. Resources Code,] §§ 21082.2, subd. (a), 21100, 21151, subd. (a); [citation].)

“ ‘Substantial evidence’ means ‘enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.’ ([CEQA] Guidelines, § 15384, subd. (a).) Substantial evidence ‘shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.’ ([*Id.*], § 15384, subd. (b).) ‘Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.’ ([*Id.*], § 15384, subd. (a).)

“The fair argument standard is a ‘low threshold’ test for requiring the preparation of an EIR. [Citations.] It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is *de novo*, *with a preference for resolving doubts in favor of environmental review*. [Citations.] [¶] [H]owever, we must ‘ “giv[e] [the lead agency] the benefit of [the] doubt on any legitimate, disputed issues of credibility.” ’ [Citation.] . . . [¶] Relevant personal observations of area residents on nontechnical subjects may qualify as substantial evidence for a fair argument. [Citations.] . . . [¶] On the other hand, mere argument, speculation, and unsubstantiated opinion, even expert opinion, is not substantial evidence for a fair argument. ([Pub. Resources Code,] § 21082.2, subd. (c); [CEQA] Guidelines, § 15384, subd. (a); [citations].) ‘The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.’ ([Pub. Resources Code,] § 21082.2, subd. (b); [citation].) Neither is the mere possibility of adverse impact on a few people, as opposed to the environment in general.” (*Pocket*

Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 926–929, fns. omitted (*Pocket Protectors*).

B. *Motion to Dismiss*

On May 29, 2018, Protect Niles moved to dismiss this appeal on the ground it became moot with the City’s May 25 publication of a draft EIR on a revised Project application by Valley Oak. Protect Niles argues Valley Oak voluntarily complied with the trial court judgment and the appeal accordingly seeks nothing more than an “advisory opinion that the [C]ity’s approval of the [Project] did not require preparation of an EIR.” We disagree. The *City* has voluntarily complied with the trial court’s directive to prepare an EIR, but the *City* is not an appellant in this case. The appellant, Valley Oak, was not commanded to take any particular action by the trial court and thus cannot have voluntarily complied with the trial court’s order. Valley Oak’s alleged submission of a revised Project application is not tantamount to withdrawal of its original Project application or abandonment of its legal position in this appeal that the original application was properly approved by the *City* without preparation of an EIR. Dismissal of an appeal is discretionary (Cal. Rules of Court, rule 8.244(c)(2); *Fox Searchlight Pictures, Inc. v. Paladino* (2001) 89 Cal.App.4th 294, 300, fn. 4.) We decline to do so at this late date. Moreover, the appeal is not truly “moot.” Were Valley Oak to prevail in this appeal, the *City*’s 2015 Project approval would be restored regardless of the status of the revised application and EIR.⁶

⁶ We deny Protect Niles’s May 29, 2018 request for judicial notice because, even assuming the attached materials are subject to judicial notice, they do not demonstrate the case has become moot. Accordingly, we also deny Valley Oak’s June 13, 2018 request for judicial notice that was submitted in opposition to Protect Niles’s motion to dismiss. (See *Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063 [judicial notice taken only of relevant material], overruled on other grounds in *In re Tobacco Cases II* (2007) 41 Cal.4th 1257, 1276.)

C. *Aesthetic Impacts*

1. *Alleged Forfeiture of Land Use Guidelines Argument*

As a preliminary matter, we address Valley Oak’s contention that Protect Niles forfeited its argument that the Project is incompatible with HOD Guidelines because it did not appeal the trial court’s rejection of an argument regarding violation of land use policies. In the trial court, Protect Niles argued evidence of the Project’s incompatibility with the Niles HOD supported a fair argument of significant impacts on both aesthetics and local land use policies—specifically, conflict with the HOD Guidelines. The City and Valley Oak responded to both theories. In its written order on the merits, the trial court accepted the aesthetic impact theory and did not address the land use policy issues. Valley Oak appealed and Protect Niles did not file a cross-appeal.

Valley Oak argues that, by failing to cross-appeal, Protect Niles forfeited an argument based on conflict with land use policies. Like the trial court, we need not address this argument because we conclude Protect Niles’s arguments regarding the Project’s incompatibility with the Niles HOD are properly analyzed as aesthetic impacts.

2. *CEQA Review of Aesthetic Impacts*

Under CEQA, it is the state’s policy to “[t]ake all action necessary to provide the people of this state with . . . enjoyment of *aesthetic*, natural, scenic, and *historic* environmental qualities.” (Pub. Resources Code, § 21001, subd. (b); italics added; see *id.*, § 21060.5 [defining “‘environment’ ” to include “objects of historic or aesthetic significance”].) Thus, “aesthetic issues are properly studied under CEQA.” (*Preserve Poway v. City of Poway* (2016) 245 Cal.App.4th 560, 577 [reviewing cases].) As guidance for evaluation of aesthetic impacts, the CEQA Guidelines suggest agencies consider whether a proposed project would “[s]ubstantially degrade the existing *visual character* or quality of the site and its *surroundings*.” (CEQA Guidelines, appen. G, § I, subd. (c), italics added [environmental checklist form].) The CEQA Guidelines specifically note that “the significance of an activity may vary with the setting.” (CEQA Guidelines, § 15064, subd. (b); *North Coast Rivers Alliance v. Marin Municipal Water*

Dist. Bd. of Directors (2013) 216 Cal.App.4th 614, 624 [lead agency may find impact significant “ ‘depending on the nature of the area affected’ ”].)

Several courts have recognized that a project’s impact on the aesthetic character of a surrounding community is a proper subject of CEQA environmental review. In *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, the court ruled an EIR was required where evidence showed a two- and three-story 120-unit senior housing facility might cause significant “changes to the physical and aesthetic conditions and character of the surrounding low-density, single-family residential neighborhood” due to the proposed facility’s density and height. (*Id.* at p. 1335; see *id.* at pp. 1327–1329, 1337.) In *Pocket Protectors*, the court ruled an EIR was required where a proposed development on narrow parcels within a larger planned residential development might cause significant aesthetic impacts due to the proposed development’s limited green space, minimal setbacks, and parallel rows of houses creating a tunneling or canyoning effect. (*Pocket Protectors, supra*, 124 Cal.App.4th at pp. 908–910, 936–939; see *id.* at pp. 929–936 [on similar grounds finding substantial evidence of fair argument of conflict with local land use policies].)

In *Eller Media Co. v. Community Redevelopment Agency* (2003) 108 Cal.App.4th 25, an agency’s decision to prepare a supplemental EIR on a proposal to erect a billboard was affirmed in part because it “could potentially affect the visual environment” in a Hollywood redevelopment area. (*Id.* at p. 35; see *id.* at pp. 29–30, 44.) The agency further found the billboard’s height and massiveness and its support structure might be incongruent with an historic building on the project site or provide an inappropriate backdrop for the scenic vista of Sunset Boulevard, a major scenic highway in the neighborhood. (*Id.* at pp. 35–36.) Similarly, the agency found the billboard’s scale and character might be inappropriate in proximity to residences, a church, and playground.⁷ (*Id.* at p. 35 [also finding incompatibility with adjacent land uses]; see *Friends of College*

⁷ The agency made similar findings based on conflict with the redevelopment plan’s broad goals and specific directives regarding historic buildings. (*Eller Media Co. v. Community Redevelopment Agency, supra*, 108 Cal.App.4th at pp. 32–34.)

of San Mateo Gardens v. San Mateo County Community College Dist. (2017) 11 Cal.App.5th 596, 609–611 [demolition of building and surrounding gardens might have significant adverse aesthetic impact on college campus].)

Courts have cautioned that CEQA aesthetics review should not be used to protect the views of particular persons versus the general public. (See *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 900–903 [no EIR required where neighbors urged city to preserve beauty of area but provided no evidence housing development would cause substantial adverse impact on a public view]; *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1042 [complaints that high school stadium lights would disturb peace and calm of neighborhood were evidence of aesthetic impacts only on particular persons].) Similarly, CEQA aesthetics review should not be used to secure social or economic rather than aesthetic environmental goals. (See *Porterville*, at p. 903 [concerns that project’s construction quality could reduce neighboring property values was not a legitimate CEQA issue]; *Preserve Poway v. City of Poway, supra*, 245 Cal.App.4th at pp. 565–566 [objections that housing development would replace a popular horse boarding facility raised psychological or social concerns, not CEQA environmental concerns].)

Courts also emphasize that context is crucial in determining the appropriateness of CEQA aesthetic review. In *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, our colleagues in Division Four upheld a city council’s decision to adopt an MND for an urban infill senior housing project and rejected an argument that an EIR was required to assess the project’s aesthetic impact on the neighborhood. (*Id.* at pp. 576–577.) “[W]e do not believe that our Legislature in enacting CEQA . . . intended to require an EIR where the sole environmental impact is the aesthetic merit of a building in a highly developed area. [Citations.] To rule otherwise would mean that an EIR would be required for every urban building project that is not exempt under CEQA if enough people could be marshaled to complain about how it will look. . . . The aesthetic difference between a four-story and a three-story building on a commercial lot on a major

thoroughfare in a developed urban area is not a significant environmental impact, even under the fair argument standard.” (*Id.* at p. 592.) “[A]esthetic issues like the one raised here are ordinarily the province of local design review, not CEQA.” (*Id.* at p. 593.) However, *Bowman* added an important caveat: “[T]here may be situations where . . . an aesthetic impact like the one alleged here arises in a ‘particularly sensitive’ context ([CEQA] Guidelines, § 15300.2)⁸ where it could be considered environmentally significant” (*Bowman*, at p. 592, italics added.) The court held no EIR was required “[b]ased primarily on the [proposed project’s] environmental context”—a single senior housing facility in a mixed-use urban setting. (*Id.* at p. 576.) Here, Valley Oak proposes building a 6-acre housing complex within a designated historical district—an area the City itself has recognized as a particularly sensitive context.

The court in *San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, similarly emphasized context when it upheld application of a categorical exemption to a project to add utility boxes to San Francisco sidewalks. (*Id.* at p. 1017.) The court held an “unusual circumstances” exception to the exemption was not merited based on the project’s aesthetic effects even under a fair argument standard. (*Id.* at pp. 1023–1024 [applying CEQA Guidelines, § 15300.2, subd. (c)].) As in *Bowman*, *supra*, 122 Cal.App.4th 572, the court emphasized that “ ‘[t]he significance of an environmental impact is . . . measured in light of the *context* where it occurs.’ ” (*San Francisco Beautiful*, at p. 1026, italics added.) The historic district setting at issue here is readily distinguishable.

In *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357 (*Eureka*), we rejected arguments that an EIR was inadequate

⁸ CEQA Guideline section 15300.2, subdivision (a) provides that some of CEQA’s categorical exemptions “are qualified by consideration of where the project is to be located—a project that is ordinarily insignificant in its impact on the environment may in *a particularly sensitive environment* be significant.” (Italics added.) As noted *ante*, the CEQA Guidelines similarly counsel that an agency, when assessing a project’s environmental impacts, should recognize that “the significance of an activity may vary with the setting.” (*Id.*, § 15064, subd. (b).)

because it failed to analyze the impact of a school playground on the historical and aesthetic character of the surrounding residential neighborhood. (*Id.* at pp. 374–376.) Again, context among other factors distinguishes *Eureka* from this case. First and most importantly, the city had prepared an EIR on the project in *Eureka*, so the question before us was whether the city’s finding of no significant environmental impact after mitigation was supported by substantial evidence, regardless of any substantial evidence to the contrary; here, where the city relied on an MND, the question before us is whether there was *any* substantial evidence in the record of a significant environmental impact, regardless of substantial evidence supporting the city’s finding of no significant impact. “[T]his distinction is crucial for purposes of our review.” (*North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors, supra*, 216 Cal.App.4th at p. 627.)

Second, appellants in *Eureka* had made a “historical resources” impact argument not supported by the record. Although 53 locally-listed historic structures were in the 30-block neighborhood of the project, the appellants failed to show the *neighborhood itself* had been designated a historic resource or that the project would adversely impact any specific historic resource in the neighborhood. We noted that CEQA defines a significant impact on a historical resource as a change to the *physical* condition of the resource. (*Eureka, supra*, 147 Cal.App.4th at pp. 374–375; see Pub. Resources Code, § 21084.1 [defining “historical resource” and providing a “substantial adverse change in the significance of an historical resource” may be a significant effect on the environment]; CEQA Guidelines, § 15064.5, subs. (a), (b); see also *id.*, § 15064.5, subd. (b)(1), (2) [defining “substantial adverse change in the significance of an historical resource” as demolition or material alteration in the physical characteristics of the resource].) Here, Protect Niles does not argue the City failed to comply with CEQA’s historical resource provisions.

Third, in *Eureka* we rejected the appellants’ aesthetic impact argument because “nothing was presented in the record that established an aesthetic impact on any of” the historic structures in the neighborhood or established that the playground was “located in a ‘particularly sensitive’ context. (See [CEQA] Guidelines, § 15300.2.)” (*Eureka, supra*,

147 Cal.App.4th at p. 375, fn. omitted; see *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*, *supra*, 215 Cal.App.4th at pp. 1043–1045 [rejecting argument that project would have adverse aesthetic impact on alleged historical district where district never was recognized by city and no evidence district would be materially impaired].) Here, as discussed *post*, there was substantial evidence of an adverse impact on the unusual setting of the Niles HOD, as mapped and officially recognized by the City.

Finally, in *Eureka* we rejected the appellants’ argument that the “playground structure was ‘enormous and garish’ and ‘wholly inappropriate for this site’ ” and thus would have a significant adverse environmental impact. (*Eureka*, *supra*, 147 Cal.App.4th at p. 376.) “[T]he CEQA issue of aesthetics is not the judging of the individual beauty of the [playground], but rather the physical elements of the preexisting environment [it] may significantly impact.” (*Ibid.*) Here, while many of public comments on the Project criticized the aesthetics of the Project independent of its setting, Protect Niles’s litigation argument rests on the Project’s aesthetic impact on the *setting*, i.e., the Niles HOD.

In sum, we conclude a project’s visual impact on a surrounding officially-designated historical district is appropriate aesthetic impact review under CEQA. We do not believe this view undermines the separate scheme for CEQA review of environmental impacts on historical resources. (See Pub. Resources Code, § 21084.1; CEQA Guidelines, § 15064.5(a), (b).) As noted, those rules focus on direct physical changes to historical resources themselves that materially impair those resources’ historical significance, not a project’s aesthetic impact on its historical setting.⁹ (See *Eureka*, *supra*, 147 Cal.App.4th at pp. 374–375.) We do not believe the Legislature intended CEQA review to overlook a project’s aesthetic impact on a historical district where the

⁹ Although CEQA Guidelines section 15064.5, subdivision (b)(1) refers to physical change of “the resource or its immediate surroundings,” subdivision (b)(2) defines material impairment only in terms of physical changes to the resource itself. The governing statute, Public Resources Code section 21084.1, does not refer to immediate surroundings.

Legislature expressly provided that CEQA addresses projects' aesthetic and historic environmental impacts (Pub. Resources Code, § 21001, subd. (b)), specified that any objects of historical or aesthetic significance are part of the environment (*Id.*, § 21060.5), and intended that CEQA be liberally construed to afford the fullest possible protection to the environment (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390).

3. *Substantial Evidence of Aesthetic Impact on Niles HOD*

Here, substantial evidence clearly supported a fair argument the Project would have an adverse aesthetic impact on the Niles HOD.

As noted *ante*, the initial study concluded the Project is aesthetically compatible with the Niles HOD because it reflects the architectural style of the industrial buildings that previously occupied the site and the HOD Guidelines recognize eclectic architecture within the district. During public hearings on the Project, Valley Oak defended the Project's aesthetics in similar terms and cautioned that "false historicism is the worst way to honor the past." Some City officials echoed these sentiments.

HARB, however, opined that the Project was inconsistent with the Niles HOD because of its height, density and massing, as well as its architectural style. HARB member Shaiq opined that the Project "did not compl[e]ment Niles because of its density," which would take away "the small town feeling" of Niles. HARB member Adamson said "something 'village-ie' would be best," with less density and more open space. HARB chairperson Price said, "Architectural features should have some significance with current historical features in Niles" but "[m]ost important" is "density . . . in keeping with the HOD." Niles residents echoed these views. One argued the "[HOD] Guidelines emphasized scale and a view to the hills. The height of the buildings should be both one and two stories. . . . Niles was about a small town feel." Another said the "modern, high-tech look" of the Project was not an "appropriate entrance to the core of the current downtown Niles [HOD]." Still another resident agreed that "the gateway should say that this is what you'll get when you enter downtown." Other resident comments were that "the architecture was interesting, but not right for Niles"; "the

cannery design was actually beautiful, but the rest was not appropriate for Niles”; and a “more traditional look should be used to blend” into the adjacent neighborhood.

Despite Valley Oak’s promises to modify the Project, residents and some City officials nevertheless continued to find the Project incompatible with the Niles HOD. Planning Commissioner Leung said the design was “really contemporary” and “too far away from where Niles is” aesthetically. Commissioner Bonaccorsi said the “sea of 30[-foot] houses” was a different look from the former industrial buildings on the site. Niles resident Scott Rogers said the Project “doesn’t look like Niles,” and Niles resident Deni Caster said the Project’s “design factors in a historical area demand your attention.” Even after the Project was modified in response to the planning commission’s conditions, similar opinions were voiced. City Councilmember Bacon said the Project “failed to relate the historic character of Niles” and “clearly does not match the character of what we have in Niles.” He observed, “when you have 24 garages in a row and three-story developments you have a canyon effect,” and reduced massing would “give it a much different character.” Niles resident Al Menard said, “This is too modern of a site for a historic district. . . . [P]eople when they come underneath the railroad tracks they see a historic venue that they know . . . is part of the historic community of Niles. And if we don’t do that we’ve lost a lot of our integrity and a lot of our history.” Niles resident Dorothy Bradley urged the city council to “please downsize the project. It’s too much for Niles.” Niles resident Kimberly Harbin complained “there doesn’t seem to have been much of an effort at all to make the architecture fit into what we consider the small town, Norman Rockwell charm that is Niles.” In short, opinion differed sharply as to the Project’s aesthetic compatibility with the historic district.

We recognize that aesthetic judgments are inherently subjective. (See *Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 402.) But “[p]ersonal observations on these nontechnical issues can constitute substantial evidence.” (*Ibid.*) Here, the comments about incompatibility were not solely based on vague notions of beauty or personal preference, but were grounded in inconsistencies with the prevailing building heights and architectural styles of the Niles HOD

neighborhood and commercial core. (Cf. *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1352 [“[u]nsubstantiated opinions, concerns, and suspicions about a project, though sincere and deeply felt, do not rise to the level of substantial evidence”].) HARB, the board specifically charged with assessing compatibility with the Niles HOD and presumably comprised of persons with some expertise in historic aesthetics, overwhelmingly voted to deem the design incompatible based in part on its “massing, scale, size,” which was never significantly modified. (Cf. *Pocket Protectors, supra*, 124 Cal.App.4th at pp. 931–932 [planning commissioners’ fact-based opinions based on planning expertise were substantial evidence for fair argument].) Although the Project was modified somewhat following the HARB meeting, the density and architectural style of the Project were never changed such that HARB’s criticisms became irrelevant. (See *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist., supra*, 11 Cal.App.5th at p. 610 [“comments remained relevant after the revised addendum” to an MND where relevant facts had not changed].) Moreover, many of the conditions added to the Project approvals by the city council were merely precatory and not added as required *CEQA mitigation* measures to reduce an environmental impact to less than significant.

Valley Oak argues the Project cannot plausibly result in an adverse aesthetic impact on its surroundings because it is being upgraded from a dilapidated vacant lot to attractively landscaped new construction. On this theory, construction of any nature or character within the Niles HOD could not plausibly have an adverse aesthetic effect on the historic district because the project would presumably be more attractive than a vacant lot. We reject that categorical approach.

Valley Oak suggests the Project’s impact on the HOD cannot be significant because the Project site is on the edge of the district and outside its commercial core. However, “[t]he significance of an environmental impact is not based on its size but is instead ‘measured in light of the context where it occurs.’ ” (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist., supra*, 11 Cal.App.5th at p. 610 [aesthetic impact of removing campus gardens potentially

significant because gardens were “unique,” even though loss of total landscaped and open space would have been less than one-third of one percent].) The Project site is at a recognized “gateway” to the Niles HOD, it abuts the commercial core and extends the commercial strip, and it lies entirely within the historical district.

Valley Oak also argues “the mere conclusion of an advisory body like HARB does not by itself constitute substantial evidence to support a fair argument of a significant environmental impact. (*Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 435–436.)” In *Perley*, the county planning commission had ordered preparation of an EIR, but the board of supervisors overruled its decision on appeal and approved the project after adopting an MND. (*Id.* at p. 429.) The Court of Appeal affirmed the denial of a petition to overturn the board’s decision, noting that the plaintiff had failed to point to specific evidence in the record that would support a fair argument of significant environmental effects. The plaintiff had cited the fact that “the planning commission came to a different conclusion than the board.” (*Id.* at pp. 434–435.) The court wrote, “The commission’s *conclusions* from the evidence presented to it do not themselves constitute *evidence* of such effects.” (*Id.* at p. 435.) Here, Protect Niles does not rely alone on the HARB *vote* as evidence of a significant aesthetic impact, but also cites board members’ underlying aesthetic judgments about the effect of the Project. Other courts have distinguished *Perley* on similar grounds. (*Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1115–1116 [advisory historic board’s fact-based determination of historic status was substantial evidence supporting a fair argument project would destroy historic resource]; *Pocket Protectors, supra*, 124 Cal.App.4th at p. 934 [planning commission’s factual findings of conflict with land use policies was substantial evidence of fair argument of significant impact].) In our view, HARB members’ collective opinions about the compatibility of the Project with the Niles HOD are substantial evidence in this record of the Project’s potentially significant aesthetic impacts.¹⁰

¹⁰ Valley Oak also argues that relying on the views of HARB *advisory* board members to find substantial evidence of a fair argument would undermine the city council’s authority to make the final *decision* on environmental impacts. This argument

We recognize few if any comments during hearings on the Projects specifically argued an MND was inappropriate and an EIR was necessary. However, Valley Oak does not contend the aesthetic impacts issue was not administratively exhausted. We also recognize that because aesthetics is an inherently subjective assessment the City could well act within its discretion if, after preparation of an EIR, it concludes the Project will have no significant aesthetic impact on the historical district. Our role here, however, is not to anticipate whether an ultimate evaluation by the City, one way or the other, might be supported by substantial evidence. Our function is to ensure the CEQA environmental review process serves its purpose of facilitating informed decision-making with public participation on environmental issues. Preparation of an EIR will facilitate the informed self-government process of evaluating the Project's aesthetic impact on the Niles HOD. An EIR will describe the Project's compatibility with the Niles HOD, assess the adequacy of proposed mitigation measures, discuss possible alternative designs, and assess their feasibility.¹¹ (1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2018) §§ 11.9–11.13, pp. 11-7 to 11-8.)

D. *Traffic Impacts*

Valley Oak argues the trial court erred in ruling substantial evidence supports a fair argument of significant traffic impacts from the Project. In the trial court, Protect Niles's argument on the traffic issue consisted almost entirely of quotes from the record—comments made by residents, City officials or staff, and professional consultants—expressing concerns about traffic impacts caused by the proposed New Street/Niles intersection.¹² We agree with the trial court that these fact-based

confuses the lead agency's authority to make the *ultimate* significant impact findings after appropriate environmental review with the agency's responsibility to *initially* prepare an EIR if there is a fair argument of a significant environmental impact.

¹¹ Tellingly, the planning commission and city council attempted to prematurely engage in this process by discussing the economic feasibility of Project alternatives based on informal discussions with Valley Oak.

¹² Protect Niles incorporates most of these quotes into its respondents' brief on appeal as well.

comments constituted substantial evidence supporting a fair argument the Project will have significant adverse traffic impacts.

1. *Background*

The Niles HOD is bordered by Alameda Creek to the south and west and by Mission Boulevard to the north and east (a four- to six-lane major arterial, traveling in an east-west direction). Niles Boulevard (a two-lane minor arterial street) traverses Niles, connecting with Mission Boulevard (Niles/Mission intersection) east of Niles and becoming Alvarado-Niles Road west of the Niles commercial core on the way to Union City.¹³

Heading westbound from the Niles/Mission intersection, Niles Boulevard narrows, with a low speed limit, to pass under a railroad trestle before making a hard right along the eastern side of the Project site. Niles Boulevard continues west to the Niles commercial core. Valley Oak plans to add angled parking along the Project's Niles Boulevard frontage. Exit from the angled parking spaces would require drivers to back into the eastbound lane of Niles Boulevard.

The traffic study analyzed traffic flow at the proposed location of the New Street/Niles intersection and congestion at nearby intersections, including Niles/Mission. Relying on trip generation rates for residences and quality restaurants taken from the Institute of Transportation Engineers publication, *Trip Generation* (9th edition), the study estimated the Project would generate 785 daily trips (including 569 generated by the Project's dwelling units). When rerouted traffic from the adjacent neighborhood was factored in, the study projected 55 morning peak hour trips through the New Street/Niles intersection and 78 during the evening peak hour.

On safety and traffic flow at the New Street/Niles intersection, the study concluded a left-turn pocket lane on westbound Niles Boulevard was warranted under national guidelines. However, City staff decided not to require a left-turn pocket lane for

¹³ We take judicial notice of the general geography of the Fremont area. (Evid. Code, § 452, subd. (h).)

two reasons. First, “without a left-turn pocket, this intersection would operate much like the existing intersections in downtown Niles . . . where left-turn vehicles on Niles Boulevard share a single lane with the vehicles traveling through. [One such downtown] intersection . . . operates adequately, yet it has a greater number of left turns than those estimated for the [New Street/Niles intersection].” Second, “[h]aving no left-turn pocket at the [New Street/Niles intersection] would help to slow down vehicles as they enter downtown Niles.” The traffic study also assessed visibility at the intersection. Relying on the posted speed limit of 25 miles per hour on Niles Boulevard, it determined the minimum acceptable sight distance at the intersection would be 150 feet and recommended the City require the Project design ensure such sight distance. As noted *ante*, the MND included such a mitigation measure.

The traffic study also assessed whether the Project would cause increased congestion at nearby intersections. As relevant here, it concluded the level of service at the Niles/Mission intersection would deteriorate from an already “unacceptable” E level of service to a lower F level of service. However, the amount of deterioration would be less than the City’s predetermined thresholds of significance for signalized intersections. (See CEQA Guidelines, § 15064.7.)

The initial study incorporated the traffic study’s analyses and concluded the Project would have less than significant traffic impacts with mitigation to ensure adequate sight distance at the New Street/Niles intersection.

2. *Left-Turn Pocket Lane*

Residents and City officials expressed concern that, without a left-turn pocket lane at the New Street/Niles intersection, westbound drivers on Niles Boulevard taking the hard-right turn might run into cars queued up to turn left into the Project. As City Councilmember Bacon said, “[I]f there were three or four vehicles queuing and trying to make that left turn, . . . you’d have very little room for someone coming around that corner . . . [V]isibility is quite bad.” He called it “a blind turn” and a “pretty dangerous” situation. City Councilmember Jones observed that westbound drivers on Niles Boulevard “have a tendency as they make the right turn [after the railroad underpass],

they hit the gas.” The City Community Development Director Jeff Schwob agreed that speeds on Niles Boulevard generally are a concern: “I would say people drive way too fast down Niles Boulevard. . . . Whether they’re going to pick up enough speed right there around the corner, I don’t know. But once you [are into the commercial core], it’s like ‘oh my gosh.’ ” Niles resident Dorothy Bradley stated: “I live on Niles Boulevard . . . and they raised the speed limit from 35 to 40 miles an hour on a short strip and . . . believe me, people go flying by my house at 45 and 50 miles per hour before they reach the overpass into Union City,” apparently referring to a portion of Niles Boulevard to the west of the Niles commercial core. Niles resident Roger Marshall criticized the traffic study’s reliance on the downtown intersection, noting a substantial difference in the westbound approaches to the two intersections, and faulted the study for not taking into account the Project’s new angled parking would require motorists to back into Niles Boulevard.¹⁴

These *fact-based* comments are substantial evidence supporting a fair argument that the New Street/Niles intersection will create traffic safety hazards due to excessive queuing in the westbound lane, a tendency of westbound drivers to exceed the posted speed limit, and limited visibility around the 90-degree curve. Significantly, even the traffic study’s author acknowledged a left-turn pocket lane was warranted by engineering standards. Although he insisted the intersection was safe without the pocket lane, his analysis of the intersection was based at least in part on the posted speed limit despite ample evidence that speed limits were often exceeded in that area. Moreover, the reasons City staff did not require the left-turn pocket lane—a concern about the character of the district and a desire to slow traffic down as it entered the commercial core—reflected a balancing of the risks and benefits of the proposed safety measure in comparison to other goals. This is the sort of evaluation that should *follow* preparation of an EIR, not justify reliance on an MND. In any event, the city council added a Project approval condition

¹⁴ Marshall apparently supported his critique with personal observations that are not in the record: “This afternoon I observed traffic conditions near the curve where Niles Boulevard goes under the [railroad trestle]. (See attached table).”

(not a CEQA mitigation measure) that merely required Valley Oak to “work with” City staff on the issue with a goal of adding the left-turn pocket lane *if* there was a sufficient right-of-way—no alternative measures were considered or mandated if not.

3. *Congestion on Niles Boulevard and at Niles/Mission*

Another traffic concern raised during the public review process was increased congestion on Niles Boulevard including the Niles/Mission intersection, which might arise due to both additional traffic from Project residents and interference with traffic flow caused by drivers backing out of the angled parking places. Niles residents Renee Guild and Ken Morjig respectively reported the Niles/Mission intersection was already “a disaster waiting to happen” and “a bad issue.” Niles resident Deni Caster stated that even without the Project, “I have been in stopped traffic that is backed [into the center of the commercial core] in the morning, trying to exit onto Mission Boulevard.” Thus, Caster described a pre-existing traffic back-up on Niles Boulevard between the commercial core and Niles/Mission intersection directly affecting the Project’s Niles Boulevard frontage. Niles resident Jennifer Emmett similarly stated: “I travel down Niles [Boulevard] in the direction of the [Project] every day. Many mornings traffic is already backed up past the border of the [Project site] nearly to downtown. . . . [Drivers are] waiting 5 minutes to get just from the [railroad] underpass to Mission Boulevard most mornings.” Another Niles resident Kimberly Harbin said, “I live on Niles Boulevard itself and backing out of the driveway in the morning, it’s already difficult. I especially am thinking of people coming out from that are [*sic*¹⁵] and then nipping down through Niles Boulevard and getting stuck [west of the commercial core].”

These fact-based comments by residents support a fair argument that the Project would have a significant adverse impact on traffic congestion on Niles Boulevard in the vicinity of the Project. Residents’ personal observations of traffic conditions where they live and commute may constitute substantial evidence even if they contradict the conclusions of a professional traffic study. (See *Keep Our Mountains Quiet v. County of*

¹⁵ Harbin was apparently referring to the Project.

Santa Clara (2015) 236 Cal.App.4th 714, 735–736 & fn. 13.) This is especially true where, as here, residents cite specific facts that call into question the underlying assumptions of a traffic study.

In any event, even assuming the traffic study’s trip estimates are accurate, the study acknowledged an existing “unacceptable” level of service at Niles/Mission intersection and predicted it would further deteriorate with the Project’s addition, but not beyond the City’s predetermined thresholds of significance. Valley Oak argues the trial court improperly ignored the thresholds of significance and held the deterioration of service from level E to F itself supports a fair argument of traffic impacts. In concluding substantial evidence supports a fair argument of significant traffic impacts, we do not rely solely on the undisputed deterioration from level E to F.¹⁶ Rather, we do not agree with Valley Oak that the significance thresholds necessarily *shield* the City from the EIR requirement. Thresholds of significance may not be applied “in a way that forecloses the consideration of any other substantial evidence showing there may be a significant effect.” (*Communities for a Better Environment v. California Resources Agency, supra*, 103 Cal.App.4th at p. 114, disapproved on other grounds by *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1109, fn. 3.) By their very nature, thresholds of significance address average congestion impacts at signalized

¹⁶ Valley Oak argues the trial court improperly “developed on its own initiative” the argument that the deterioration from level E to F itself constituted substantial evidence of adverse traffic impacts. Valley Oak contends the argument is foreclosed by the plaintiffs’ failure to exhaust their administrative remedies by raising it in the administrative proceeding. (*North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors, supra*, 216 Cal.App.4th at pp. 623–624.) Because we do not adopt the trial court’s position, we need not address the exhaustion argument. However, we note that the deterioration from level E to F was expressly mentioned by one speaker in the administrative proceedings as one indication of adverse traffic impacts, and other speakers described already-unacceptable levels of congestion in the approach to the Niles/Mission intersection. In our view, these comments were sufficient to put the City on notice as to the residents’ concerns about the Project’s possibly worsening already-congested conditions on Niles Boulevard, as is reflected in the traffic study. (See *id.* at p. 623 [comments must express concerns so lead agency has opportunity to evaluate and respond].) These comments were cited in Protect Niles’s petition to the trial court.

intersections in the City.¹⁷ The fact-based comments of residents and City staff and officials supported a fair argument that unusual circumstances in Niles might render the thresholds inadequate to capture the impacts of congestion on Niles Boulevard extending from the Niles/Mission intersection well into the Niles HOD commercial core. Residents aptly described Niles as “geographically cut off from the rest of Fremont,” which might cause congestion effects atypical of the City. Also, Niles Boulevard serves as the main street of the commercial core of the Niles HOD, such that congestion arguably adversely affects the character of the historical district, another unusual impact.

In sum, we conclude substantial evidence supports a fair argument that the Project would have significant adverse aesthetic and traffic impacts and therefore affirm the trial court.

III. DISPOSITION

The judgment is affirmed. Valley Oak shall bear Protect Niles’s costs on appeal.

¹⁷ The traffic study implies the thresholds of significance are generally applicable to environmental review of development projects and were not adopted specifically for the Project or for the Niles area.

BRUINIERS, J.

WE CONCUR:

SIMONS, Acting P. J.

NEEDHAM, J.

Filed 8/9/18

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

PROTECT NILES et al.,
Plaintiffs and Respondents,
v.
CITY OF FREMONT et al.,
Defendants and Respondents;
DOUG RICH et al.,
Real Parties in Interest and
Appellants.

A151645

(Alameda County
Super. Ct. No. RG15765052)

**ORDER CERTIFYING OPINION
FOR PUBLICATION**

THE COURT:

The opinion in the above-entitled matter filed on July 16, 2018, was not certified for publication in the Official Reports. For good cause appearing, pursuant to California Rules of Court, rule 8.1105(b), (c), the opinion is certified for publication.

Date _____

_____ Acting P.J.

Superior Court of Alameda County, No. RG15765052, Frank Roesch, Judge.

Sheppard Mullin Richter & Hampton, Arthur J. Friedman, Alexander L. Merritt; Allen Matkins Leck Gamble Mallory & Natsis and David H. Blackwell for Real Parties in Interest and Appellants.

Brandt-Hawley Law Group and Susan L. Brandt-Hawley for Plaintiffs and Respondents.

No appearance for Defendants and Respondents.

Rebekah Barr

From: Bill Willers <marcuswillers@comcast.net>
Sent: Sunday, August 05, 2018 7:24 AM
To: Amy Harrington; Madolyn Agrimonti; Rachel Hundley; David Cook; Gary Edwards
Cc: David Goodison; City Council
Subject: Sonoma Gateway Appeal - Video simulations of the Approved project.

Here is a link to various videos simulations of the approved Sonoma Gateway Project showing the scale and massing of this project.

https://www.youtube.com/channel/UCp_1CMbx-mFwq9UJt6OcM0w/videos

Thank you,

Bill Willers and Victor Conforti

Rebekah Barr

From: Cathy Capriola
Sent: Thursday, September 27, 2018 10:48 AM
To: Rebekah Barr
Subject: FW: Gateway Appeal - Story Poles
Attachments: Gateway Alterations.pdf

From: Bill Willers <marcuswillers@comcast.net>
Sent: Monday, September 24, 2018 9:57 AM
To: City Council <citycouncil@sonomacity.org>; Madolyn Agrimonti <madolyn.agrimonti@sonomacity.org>; Gary Edwards <gary.edwards@sonomacity.org>; Amy Harrington <amy.harrington@sonomacity.org>; Rachel Hundley <rachel.hundley@sonomacity.org>
Subject: Gateway Appeal - Story Poles

Mayor Agrimonti and Council Members,

Attached is a letter expressing concerns that Victor Conforti and I have related to the current story poles representing the Gateway Project.

Thank you for your consideration,

Bill Willers

707 815-0872

The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal.

September 21, 2018

Sonoma City Council
1 The Plaza
Sonoma, CA 95476

Re: Sonoma Gateway Project Appeal – Alterations

Dear Mayor Agrimonti and Members of the City Council,

The signs on the fences at the Gateway site indicate that changes have been made to the project since its approval by the Planning Commission on May 10, 2018. According to these signs, all of the buildings are now proposed to be a maximum of thirty feet high, and the number of replacement trees has been increased to 72. The story poles do not depict the project that was approved by the Planning Commission and was appealed to you.

We feel it is inappropriate for the developer to have initiated these changes out of the public light, and misleading to the public and to the City Council to have had the story poles erected to represent a project that has not been reviewed and which does not represent the mass, scale and height of the project that was appealed to you. Moreover, many key elements of the buildings' forms, such as actual roof lines (rather than just eave lines) and porches which would more accurately depict building mass and proximity to property lines, have not been indicated with the story poles. There has been no new information about any proposed revisions furnished by the applicant to-date, therefore neither the City Council nor the public know what the current proposal is. We feel that the City Council should be the body in control of requesting any project changes they might want to see, not the applicant, and this should be done in a public setting.

Not only is this appeal about insufficient environmental evaluation, but it is about the City Council interpreting the policies set forth in the General Plan and the Sonoma Municipal Code including housing types in the Mixed-Use zone, compatibility with development in the Historic Overlay District, site coverage, building heights, setbacks, tree removal, and parking requirements.

We feel that the City Council should require that the project approved by the Planning Commission on May 10 be the project under review, including having accurate story poles for the 35'-2" three-story buildings including their ridge lines, as well as building porches shown. The story poles should be up for at least two weeks in advance of the appeal hearing, so the public and the Council can see an accurate representation of the approved project, and that the corrected story poles should remain in place until after the Council has taken its final action on the project.

If the applicant wishes to significantly re-design their project to better fit our community, the City Council should remand that new project back to the Planning Commission with clear direction from the City Council for any modifications they wish to see.

We would be happy to meet with you at the project site to further explain our concerns to you.

Sincerely,

Bill Willers and Victor Conforti

James R. Woods

Dear City Council,

As a resident and business owner in Sonoma (19201 Sonoma Highway, PMB 145), I write in support of the project to be located at Broadway and MacArthur (A.K.A. the Sonoma Truck and Auto Center) and against the nuisance appeal of the project approvals by the Planning Department and Planning Commission. My support is founded upon the following key points:

- The development will remove a long-standing eye sore which is located as the gateway to our Historic Plaza and beautiful city.
- It is a well-designed development.
- The development will provide affordable and much-needed housing.
- There will be a wide variety of homes constructed: townhomes, family residences and apartments.
- Tasteful retail space is included in the proposed development.
- The development has been exposed to Public review, Planning Department review, and Planning Commission review.
- Not a single variance has been sought by the developers.

Against approvals by the Planning Department and Planning Commission, is a nuisance appeal which seeks to block this well-conceived and carefully vetted development without merit or substance. Indeed, I doubt that any development at this site would meet the approval of the appellants. I respectfully request that the City Council deny this appeal and allow this well designed and needed project to proceed.

Yours Very Truly,

James R. Woods



Memorandum

Date: August 1, 2018

Project: SON055

To: David Goodison
City of Sonoma

From: Dalene J. Whitlock
dwhitlock@w-trans.com

Subject: Response to Comments on the Sonoma Gateway Project Traffic Impacts

As requested, additional information is provided to address comments, shown in italics, on the *Traffic Impact Study for the Sonoma Gateway Project*, February 20, 2018 and its addendum dated May 10, 2018.

The traffic and parking analysis was not adequate, including, but not limited to, the review of the following: The applicant's discussion of a food service use in the commercial building, lack of a required loading space, inadequate covered parking for the apartments, inadequate guest parking, and the interaction of unrestricted residential parking and commercial parking.

The traffic analysis used a standard rate for retail uses to assess potential impacts associated with the proposed 3,500 square feet of commercial space. Because there are numerous permitted uses associated with the land used for which the project would be zoned, traffic analyses are not typically based on the trip generation for any specific use, but rather for the land use category. This is done to ensure that analyses are consistent and not skewed toward a lower-intensity use which could later be modified to something more intense. It is further typical for commercial space not to have a specific tenant committed, so the end use is often not known. In the case of the Sonoma Gateway project, a food service use was not specifically addressed in the trip generation, but food service is a very common component of retail projects, including both small strip-centers and shopping malls. The potential for food service to be included as part of the project would therefore generally be covered by the rates applied.

The need for a loading space is not typically addressed in traffic analyses because this is a transient activity that typically occurs during off-peak hours in the early morning. Should a loading zone be needed for the specific uses included in the project as proposed, that would be an issue for the applicant to work out with the City, but it would not be necessary to address it in the traffic study except in the context of parking adequacy. If parking would need to be reduced to accommodate a loading zone, this would affect the results of the parking study.

The requirement for covered parking is not a traffic impact; the parking requirements are identified in the study, but it is up to the City to determine if any exceptions from these requirements are to be granted. However, the project is required to provide 33 covered spaces, and includes 58 covered spaces, which exceeds the number required. This would not typically be interpreted as being inadequate.

Similarly, the requirement for guest parking is not a traffic impact issue; in fact, adequacy of parking is not a CEQA issue at all. The parking was evaluated in the Addendum and determined to exceed the amount required by the City. Although there are fewer spaces allocated to guest and commercial parking than required under the code, as shown in the shared parking analysis, because the times of day when these uses have their peak demand does not coincide, the peak parking demand is projected at 72 vehicles, with 74 spaces available. The parking analysis indicates that there is adequate parking for guests, and the interaction between guest parking and commercial uses is expected to work acceptably.

The supplemental parking analysis was not adequate, including, but not limited to, the following: Reduction factors used, periods of demand, shared parking dynamic.

The factors applied, periods of demand and shared parking dynamic were based on industry standards and the best information available. It should be noted that even if the applied mode adjustment and noncaptive ratios were left at 100 percent, which would be overly-conservative and inconsistent with the ULI Shared Parking methodologies, the projected peak parking demand would be 74 spaces, which is equal to the proposed supply. The weekday and weekend hourly residential and retail parking demand profiles are based on significant research conducted by ULI, and there is no clear reason to conclude that usage patterns would be different at this particular site, so we maintain that our analysis adequately accounts for all the anticipated parking demand.

Inadequate analysis of the impacts of the adjacent high school traffic and parking issues.

Congestion associated with traffic and parking for the nearby high school is generally limited to areas south of the project site as the school is not located immediately adjacent to the project site. The interaction was addressed in terms of how the project-added traffic would affect operation of the intersection of Broadway/MacArthur Street, but no other specific impacts on the high school are anticipated.

Thank you for giving W-Trans the opportunity to provide these services. Please call if you have any questions.

DJW/djw/SON055.M1