

BRENTWOOD RESIDENTS COALITION

Case No. ZA 2009-3722 (CUB)(ZV)
CEQA: ENV-2009-3723-MND
Location: 11925-11927 West Montana Avenue,
11906-11928 West San Vicente Boulevard

Attachment to Appeal Form

1. Reasons for the appeal.

The CUB should not have been issued because (1) the proposed alcohol-serving restaurant would be situated in an area that is already oversaturated with alcohol-serving restaurants and the addition of the Applicant's self-described "destination" restaurant would facilitate the irreversible transformation of the local-serving character of the San Vicente Business Corridor into a "restaurant row" destination site, to the detriment of the Brentwood community quality of life and in violation of the Brentwood-Pacific Palisades Community Plan and the San Vicente Scenic Corridor Specific Plan; (2) the Applicant's code-required parking spaces are located in an off-site public parking garage in a residential building that is more than 750 feet away from the Applicant's restaurant, in violation of Municipal Code Section 12.21.A(4)(g); (3) the Applicant's code-required parking spaces are located in a public parking garage that cannot be used by the Applicant to satisfy its parking requirements due to restrictions on the use of the parking garage that are stated in the entitlement documents for the public parking garage; (4) the CUB requires the Applicant to provide 21 parking spaces *more* than required by code, implying that the intended "destination" restaurant will draw a greater number of patron vehicles than expected for non-destination alcohol-serving restaurants, but the CUB does not disclose where the vehicles will be parked (the public-parking garage lacks capacity for the excess vehicles) or the impacts/mitigations for handling such additional off-site parking; (5) the Mitigated Negative Declaration for the Applicant's project fails to identify or mitigate the project's potentially significant adverse environmental impacts, especially traffic-related impacts, in violation of the California Environmental Quality Act ("CEQA"); (6) the Conditions recited in the CUB were drafted without proper environmental guidance, due to the absence of a legally-sufficient environmental review document, or the necessary comprehensive traffic analysis, and therefore the CUB fails to identify, consider or mitigate the project's potentially significant adverse environmental impacts, in violation of CEQA; (7) the off-site parking and valet service create significant hazards that are not disclosed, analyzed or mitigated, in violation of CEQA; and (8) the code-mandated findings for granting a CUB cannot be satisfied.

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2. How are you aggrieved by the decision.

The Brentwood Residents Coalition (“BRC”) is a grass roots, non-profit advocacy group whose purposes are to preserve and enhance the environment and quality of life in Brentwood, to protect the integrity of residential neighborhoods, to assist with planning, to uphold zoning and municipal codes, to encourage traffic safety, and to educate the public on issues that affect quality of life and the environment. The BRC, representing the interests of those residing in Brentwood and dedicated to preserving the quality of life in Brentwood in a manner consistent with the Brentwood-Pacific Palisades Community Plan and the San Vicente Scenic Corridor Specific Plan, including the preservation of the local-serving business district along the San Vicente Corridor, has formed a coalition with Brentwood residents and residential organizations in opposing the CUB on the grounds that it impairs the quality of life in Brentwood. The BRC joins with the Brentwood Homeowners Association, the Saltair Neighbors, the 11847 Gorham Homeowners Association, the Los Angeles Police Department, and individual Brentwood residents, many of whom reside in close proximity to the proposed restaurant or its off-site parking garage, in opposing the CUB. The BRC and the residents whose interests it represents are aggrieved because operation of the proposed alcohol-serving restaurant at the corner of Montana Ave. and San Vicente Blvd. along the San Vicente Corridor would impair the quality of life in Brentwood by (1) oversaturating the San Vicente Business District with alcohol-serving restaurants, instead of a diverse mix of local-serving businesses; (2) increasing traffic and parking congestion along the San Vicente Corridor; (3) increasing traffic and parking congestion in the residential areas in close proximity to the San Vicente Corridor; (4) creating traffic and pedestrian hazards due to the valet-circulation routes necessitated by the off-site parking; and (5) interfering with the peace and tranquility of local residents due to off-site valet parking, overflow street parking in the neighborhoods, and cut-through traffic necessitated by the increased traffic congestion on San Vicente Blvd. and Montana Ave.

3. Specifically the points at issue.

The improper issuance of the CUB, without adequate parking and without the required environmental review/mitigation, will adversely impact the quality of life in Brentwood by (1) oversaturating the San Vicente Business District with alcohol-serving restaurants instead of a more diverse array of local-serving businesses necessary to preserve the Brentwood community’s quality of life; (2) significantly increasing traffic and parking congestion on and along the San Vicente Corridor, the primary local business district for residents in Brentwood; (3) significantly increasing commercial traffic and parking congestion on the residential streets that are within the potential circulation routes for the Applicant’s off-site parking or in close proximity to the Applicant’s restaurant and the

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off-site parking garage; (4) significantly increasing cut-through traffic on residential streets due to the increased congestion on San Vicente Blvd. and Montana Ave. resulting from the additional car “trips” necessitated by the Applicant’s approximately one-mile valet parking route; and (5) disrupting the peace and tranquility of the surrounding residential neighborhoods due to noise from the restaurant’s outdoor dining area and noise in the residential areas as patrons and employees park, walk and retrieve their vehicles, especially in the early morning and late evening hours.

4. Why you believe the decision-maker erred or abused their discretion.

(1) The Area Is Oversaturated With Alcohol-Serving Restaurants.

The ZA failed to properly consider the adverse environmental impacts that would likely result from granting a CUB to another restaurant in the already oversaturated San Vicente Corridor. The ZA concedes that “over-concentration can be undue when the addition of a license will negatively impact a neighborhood,” but her analysis considers only one type of potentially adverse impact: Crime. *ZA Determination, p. 19*. She erroneously concludes that the area is not unduly oversaturated because the crime rate is low.

A CUB, however, is properly denied if the oversaturation of alcohol-serving establishments would adversely impact the community, a standard that encompasses *all adverse impacts*, not merely *crime-related impacts*. The right to sell alcohol at a restaurant or other establishment has impacts other than crime-related impacts. A CUB intensifies the subject business’ usage – whether that usage is a restaurant or a hair salon. The CUB permit allowing the sale of alcohol generally increases the popularity and profitability of the business, thereby increasing the demands on local infrastructure, such as local streets and parking. With restaurants in particular, the ability to serve a full-line of alcoholic beverages effectively subsidizes the restaurant business, substantially increasing profit margins. The CUB thereby increases the profit potential for restaurants, which dramatically increases the economic incentive to open restaurants as opposed to opening a more diverse mix of retail businesses. Thus, oversaturation may adversely impact an area by (1) transforming what would otherwise be a diverse mix of retail establishments into a “restaurant row” destination point; and (2) increasing parking and traffic congestion in the commercial area and into the surrounding residential areas.

First, transformation of the San Vicente Corridor into a “restaurant row” with citywide “destination” appeal, instead of a primarily local-serving business district with a broad array of different types of local-serving businesses, would violate the San Vicente Scenic Corridor Specific Plan (the “Specific Plan”). The Specific Plan Guidelines state that the “ultimate goal for the San Vicente Corridor is the creation of a cohesive, pedestrian-

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friendly environment which complements the adjacent residential uses and provides basic [local-serving] community services including a mix of retail uses, personal services, restaurants and shops. . . .” *Specific Plan Guidelines*, p. 7. The “intent” is to “encourage uses that help define San Vicente Boulevard as a ‘special place’ or destination point *for residents and their visitors* while at the same time maintaining the neighborhood character of Brentwood by providing services needed such as grocery stores, cleaners and bookstores.” *Specific Plan Guidelines*, p. 7. Too many CUB-permitted restaurants violate the Specific Plan’s goal of maintaining the local-serving character of the San Vicente Corridor.

The San Vicente Corridor is already oversaturated with restaurants, with more than **50** restaurants within several blocks along the Corridor, most of which serve alcohol. A five minute drive along the San Vicente Corridor offers a choice of **9** restaurants with Type 47 licenses to serve a full-line of alcohol, **25** restaurants with Type 41 licenses to serve beer and wine, and **5** type 20 or 21 licensees. *Exhibit 1, attached* (List of San Vicente & Vicinity Alcohol-Serving Establishments). As this demonstrates, restaurants, with the significant economic bonus provided by municipal licensing to sell alcohol, are forcing out other, less lucrative local-serving businesses.

The Applicant’s restaurant would not only add another alcohol-serving restaurant to the already out-of-balance mix of uses, but the “destination” nature of the proposed restaurant would further impair the Specific Plan goal of maintaining a community-based, local-serving business district. The proposed “Fig & Olive” would be another addition to the growing list of expensive, alcohol-serving restaurants with citywide clientele, which would encourage the further deterioration of the Corridor’s local-serving character. In sum, the City’s exercise of its discretionary licensing authority, through the profligate issuance of too many CUBs, is changing the character of the San Vicente Corridor and the Brentwood neighborhood in general, in violation of the Specific Plan’s mandate to foster a mixed array of local-serving businesses.

Second, the oversaturation of CUBs, especially for expensive, so-called “destination” restaurants that lack adequate *on-site* parking, create increased parking and traffic congestion along the San Vicente Corridor, which spills-over into the surrounding residential areas. Thus, the hidden social cost of issuing CUBs to such establishments is borne by the community as the resulting intensification stresses the San Vicente Corridor’s very limited commercial infrastructure, forcing traffic, parking, safety and noise impacts into the surrounding residential neighborhoods, in violation of the Brentwood-Pacific Palisades Community Plan (the “Community Plan”).

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The Community Plan is clear that commercial development must be regulated to *prevent* (1) the “spill-over of commercial parking into residential neighborhoods,” (2) “spill-over of commercial areas traffic” into residential neighborhoods, (3) “expansion of commercial areas to beyond their present boundaries,” (4) uses that are “incompatib[le] with adjacent residential land use,” and (5) “inadequate transition between commercial and residential” uses. *Community Plan*, pp. I-3, I-4. Further, Community Plan Objective 1-3 is “to preserve and enhance the varied and distinct residential character and integrity of existing residential neighborhoods.” *Community Plan*, p. III-4. To achieve these important Community Plan objectives, Zoning Administrators considering discretionary applications, including CUB applications, cannot approve requested discretionary actions absent a finding that the action is consistent or in compliance with these Community Plan programs, policies and objectives. The Community Plan thereby precludes approval of discretionary actions, like the CUB requested by the Applicant, which would result in *all* of the above-listed adverse residential neighborhood impacts that the Community Plan is intended to prevent.

The ZA failed to consider the five Community Plan policies and Community Plan Objective 1-3, which preclude degradation of the existing Brentwood residential neighborhoods. Instead, the ZA considered the likely impact of the proposed alcohol-serving restaurant on the surrounding residential neighborhood in comparison not to the existing conditions in the surrounding Brentwood residential areas, but rather to “other areas of the City where there are residential uses adjacent to restaurants,” including “Downtown” Los Angeles, where “there are mixed use buildings with ground floor restaurants.” *ZA Ruling*, p. 17. By that standard, commercial development in Brentwood could properly be intensified and degrade the existing residential character of the surrounding areas to match other areas of the city, including downtown. The Community Plan makes clear this citywide standard applied by the ZA is improper.

Once the ZA’s citywide standard is rejected, it is clear that the likely adverse impact on the surrounding community precludes issuance of a CUB due to oversaturation. The restaurant’s location, with no on-site parking, and the location of the off-site parking garage, are both situated in or adjacent to residential neighborhoods. The Department of Alcohol Beverage Control analyzes this aspect of oversaturation, and the presumed adverse impacts of such proximity, by considering the number of residential units within *100 feet* of the subject site. Here, the Fig & Olive restaurant is to be located within 100 feet of approximately **71** multifamily residential units located at 11900, 11908, 11930, 11924, and 11920 Montana Ave. Similarly, the off-site parking garage at 11847 Gorham Ave. is within 100 feet of approximately **63** multifamily residential units in the condominium to which the garage is attached and approximately **46** more multifamily residential units across the street, at 11812, 11822, 11826 and 11836 Gorham Ave.

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Moreover, although the valet route has not been disclosed, it is clear that vehicles traveling between the restaurant's valet stand and the off-site parking will be forced to circle the surrounding residential neighborhoods in an approximately 1-mile loop, further expanding the burden on *thousands* of surrounding residents.

The request for a CUB is improper here due to the oversaturation of alcohol-serving restaurants and the lack of on-site parking to accommodate the intensified use of the property. Where, as here, the property owner has chosen to build-out the entire lot, without providing for on-site parking, the City should not grant a license to serve alcohol on the premises if the adverse traffic and parking impacts will be borne by nearby residents. A similar situation was recently considered by Zoning Administrator Sue Chang. On March 24, 2010, ZA Chang denied a CUB request for Le Pain Quotidien ("LPQ"), a restaurant chain founded and previously owned by Fig & Olive's owner, Laurent Halasz, who has described Fig & Olive as "similar" to LPQ. LPQ, like Fig & Olive, is self-described as a *destination attraction*, with LPQ designed to "attract tourists from European countries." Both restaurants are situated along the San Vicente Corridor. LPQ is in a Mini Shopping Center that was originally developed and previously owned by Sina Akhtarzad, who now owns (either individually or through a controlled entity) *both* the Mini Shopping Center where Fig & Olive intends to operate and the off-site parking garage on Gorham Ave.

In denying LPQ's request for a CUB, ZA Chang concluded that issuance of a CUB would "result in an undue concentration of premises for the sale or dispensing of alcoholic beverages in the area," citing the same list of San Vicente Corridor CUBs as attached as Exhibit 1. The oversaturation of alcohol-serving restaurants was deemed "undue because the applicant could not clearly demonstrate that the increased traffic and parking burden that would be created by the proposed alcohol-serving restaurant would be accommodated without adversely impacting the surrounding residential neighbors with spill-over parking and traffic congestion. *ZA Case No. 2009-0250, pp. 12-14.*

The same pattern is present here, where a "destination" restaurant is planned for a property that will be completely built-out without on-site parking, to maximize the property owner's rental income. Instead, the Applicant proposes to park all patron and employee vehicles in a parking garage located in a residential area. The net result is that the true cost of accommodating parking for the proposed alcohol-serving restaurant would be shifted to the community due to the resulting traffic and parking related impacts on the surrounding residential neighborhoods as well as increased traffic and parking congestion along the Corridor. The oversaturation of alcohol-serving restaurants, in conjunction with the absence of on-site parking and the obvious adverse

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impacts on the residential neighbors surrounding the restaurant and parking sites, renders the overconcentration undue.

Consistent with this analysis, the Los Angeles Police Department has opposed Fig & Olive's CUB application because (1) the area is oversaturated with alcohol-serving restaurants and (2) residents in the area (including the 11847 Gorham Homeowners Association, the Brentwood Homeowners Association, and the Saltair Neighbors) are strongly opposed to the application due to the likely adverse impacts.

(2) *The ZA's Approval Of The MND Is Improper Because It Does Not Disclose, Consider Or Mitigate The Likely Adverse Impacts Due To The Proposed Off-site Parking.*

The mitigated negative declaration ("MND"), in analyzing the project's transportation/circulation impacts, finds that there will likely be "no impact" or "less than significant impact" caused by a change from a gym with on-site parking to a restaurant and retail stores with all of the required parking provided by valet service to an off-site garage. According to the MND, the proposed 182-seat¹ restaurant, with *all* required parking provided by a valet service shuttling vehicles to a public parking garage in a residential building on Gorham Ave., will cause no (or no significant) transportation/circulation impacts. This finding was approved in full by the ZA, without discussion or analysis, despite the cogent and persuasive objections of the 11847 Gorham Homeowners Association and their expert traffic engineer, David S. Shender of Linscott, Law & Greenspan, Engineers. (These written objections are attached to the appeal filed by the 11847 Gorham Homeowners Association and incorporated by this reference). The ZA's failure to scrutinize and reject the defective MND analysis violates CEQA.

i. No meaningful environmental review is possible without a Route Map or Valet Plan. The most glaring defect in the MND analysis is the total failure to consider the impact of the off-site valet parking. The Applicant failed to submit a *Route Map* specifying the valet route between the restaurant and the off-site parking garage, or a *Valet Plan*, showing the location of the valet drop-off/pick-up location. The failure to provide the Route Map or Valet Plan during environmental review precludes issuance of an MND because the likely environmental impacts cannot be meaningfully assessed or mitigated without this significant information.

¹ The proposed restaurant's seating limit was later reduced to 158 seats.

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A Route Map is necessary for meaningful environmental review because of (1) the distance between the restaurant and the off-site parking garage, (2) the necessity for vehicles to traverse the often gridlocked San Vicente Boulevard, (3) the necessity for vehicles to traverse the surrounding residential neighborhoods, and (4) the presence of restrictions on the potential travel routes (including right-turn only lanes, no left turn signs, no right turn on red signs, one-way streets, and bus stops). The environmental impacts likely to result from the trips between the restaurant and garage will therefore differ significantly depending on the route actually taken. Thus, there is no meaningful way to assess the likely environmental impacts without a Route Map. This failure requires a new, detailed and comprehensive traffic analysis and recirculation of the resulting environmental documentation, whether that formal document is an MND or, as may be necessary, an environmental impact report (“EIR”).

A Valet Plan is also necessary for meaningful environmental review. The MND was prepared without specifying the valet drop-off/pick-up location (the “valet stand”). The likely environmental impacts are very different depending on the location of the valet stand. A valet stand located on San Vicente Blvd. or Montana Ave. would likely create significant safety hazards and traffic congestion. Presumably for that reason, the ZA has included a condition requiring that the valet stand be located on the property, so that vehicles are not dropped off and picked up on San Vicente Blvd. or Montana Ave. But, inconsistent with that requirement, the City’s Department of Transportation has directed that vehicles cannot be dropped off or picked up on the property because the driveway is substandard. Further confusion results from the complete failure to disclose how the driveway might be reconfigured to accommodate the valet parking or the place and direction of vehicle orientation on the property. No meaningful environmental assessment can be conducted without specification of a proper and detailed Valet Plan.

Finally, the potentially significant environmental impacts likely to result from the circulation of vehicles between the restaurant and off-site parking garage cannot be deferred for later environmental review without violating CEQA’s mandate against piecemealing. *Los Angeles Unified School Dist. v. City of Los Angeles*, 58 Cal.App.4th 1019, 1028 (1997) (holding that the lead agency must analyze the likely environmental impacts at the earliest feasible time and cannot defer or separate-out analysis of potential impacts).

ii. Off-site parking more than doubles the traffic burden on the San Vicente Corridor and the nearby residential streets. The traffic and circulation patterns due to the off-site parking will intensify the traffic burden by creating an entirely new “trip” – the trip to and from the off-site parking location. The potential routes would require round-trip travel of approximately one mile, along San Vicente, thereby adding to congestion of this often gridlocked street, and along the residential neighborhoods en route between the garage

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and restaurant, adding to traffic congestion. Yet this impact was not analyzed in the MND, rendering it inadequate to assess and mitigate the project's likely adverse impacts.

LADOT assumed that the valet route would not create any *new* trips because the 1998 environmental review for the Gorham public parking garage must have already accounted for the same volume and quality of trips as would be generated by a valet service between the restaurant and the Gorham parking garage. On that basis, the MND assumed that the off-site parking would not generate any *new* trips, even though Fig & Olive's predecessor, the gym, had no valet service or off-site parking, much less off-site parking at the Gorham garage. LADOT's assumption is belied by the entitlement documents for the Gorham Ave. public parking garage.

The entitlement history for the Gorham development project establishes that in 1998 the City required the developer of the Gorham Condominium Complex (the "Gorham Complex") to provide 81-96 *public parking spaces* on the ground floor of its parking garage because the condominium development project would eliminate a privately-owned outdoor public parking lot that had the capacity to park approximately 90 vehicles. The outdoor lot was used by businesses and patrons of businesses *directly to the north* of the planned Gorham Complex, along San Vicente Blvd., during *daytime* hours. The ZA's express findings in approving the otherwise nonconforming parking structure specifies that the intent, in requiring the developer to provide parking for the general public (recited as Condition No. 5r in its Vesting Tract Map), was to *replace* the outdoor public parking with public parking in the garage, thereby "easing the demand created by businesses directly to the north along San Vicente Boulevard" during daytime hours and, by providing overnight parking to local apartment and condominium residents, easing the demand created by "the many apartment residences in the immediate neighborhood which have limited parking facilities." As the ZA found, in approving the developer's requested variance, "the preservation of the current surface parking use, prevents the occurrence of the shortage of public parking which would result if the current parking use were not continued as proposed." *Case No. ZA 98-0570.*

The need to replace the existing outdoor public parking was, according to the ZA, demonstrated by "a Traffic Study dated February, 1997, and commissioned by the City, [where] it was determined that the elimination of this surface parking lot by new construction would exacerbate the parking availability in the area. Thus, the preservation of this use by the construction of a parking level to be used by the public within this otherwise residential project, prevents the loss of needed public parking." The ZA also found that the requested variance was justified by a new public benefit created by the required public parking lot: "During evening hours, it will offer parking for nearby

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apartments which were built when parking for fewer automobiles was the Code standard, thereby alleviating parking congestion caused by this factor.” *Case No. ZA 98-0570.*

It is clear that valet parking between San Vicente Blvd. to the Gorham garage was never considered or contemplated. Indeed, the ZA’s findings specify that the garage’s “location, being south of the Boulevard, provides a convenient access which does not interfere with the traffic movement along the Boulevard.” Thus, valet parking services between San Vicente and the garage were not considered in the original entitlement.

Contrary to LADOT’s assumption, the Gorham garage’s original entitlement did not address any commercial uses in the evening, any valet uses whatsoever, nor did it consider daytime uses other than use for *non-required* parking for the businesses “directly north” of the parking area. Further, the purpose of requiring the public parking was to *maintain* the existing capacity for daytime public parking for non-required uses – a purpose that would be subverted by allowing a new business to satisfy its code-required parking, thereby reducing the area’s capacity for non-required parking. It is therefore clear that, contrary to LADOT’s assumption, “trips” between the Applicant’s proposed restaurant and the Gorham garage were not considered in the original entitlement. *Exhibit 2*, attached (BRC/BHA Dept. of Building & Safety Appeal, Attachment pp. 4-8).

As a result, the MND is grossly defective for failure to consider that the proposed off-site parking for the Applicant’s restaurant more than doubles the “trips” from that which previously existed when the gym operated with no required off-site parking and a parking lot located behind the gym. Indeed, Linscott, Law & Greenspan has determined that the off-site valet parking will burden local streets, both residential and commercial, by creating approximately *440 additional car trips per day*. See Appeal filed by 11847 Gorham Homeowners Association, attaching the Linscott, Law and Greenspan Report. This qualifies as a significant traffic impact under the LADOT’s standards. *Id.*, pp. 8-9.

iii. The other appeals identify significant adverse impacts of the Applicant’s off-site parking. In appeals that have been filed by the 11847 Gorham Homeowners Association, the Brentwood Homeowners Association, and the Saltair Neighbors, numerous adverse impacts are identified, including traffic and parking congestion impacts, traffic and pedestrian safety hazards, and impacts that interfere with the quiet enjoyment of residential neighborhoods. The MND’s failure to identify, consider and mitigate these impacts renders it inadequate.

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iv. The Applicant's commandeering of the Gorham public parking garage will have adverse environmental impacts not considered in the MND. The ZA's determination also requires that the Applicant use the Gorham parking garage for both its code-required parking (39 spaces) and the 21 additional parking spaces required in the CUB. There has been no environmental analysis of the impact resulting from this displacement of 60 parking spaces that were supposed to benefit the general public by satisfying "demand [for parking] created by [1] businesses *directly to the north* along San Vicente Boulevard and [2] the many apartment residences in the immediate area, which have limited parking facilities." *Case No. ZA 98-0570, Finding No. 1.* Indeed, public parking had been required in 1998 by the ZA to prevent the elimination of this much-needed public parking capacity, which would otherwise create "a shortage of public parking." *Case No. ZA 98-0570, Finding No. 9.* To prevent this potentially significant adverse environmental impact, the Gorham Condominium developer was required to provide "a public parking area in a structure . . . providing non-required parking for the general public." *Case No. ZA 98-0570, page 1.*

Thus, the first adverse impact, not considered in the MND, is the loss of 60 public parking spaces, which will burden the area with additional traffic circulation and spillover parking in the residential neighborhoods. The second adverse impact is the loss of evening parking for the neighboring residential community. Under the ZA's finding, commercial parking is only available during daytime hours because, "[d]uring evening hours, [the public parking garage] will offer parking for nearby apartments which were built when parking for fewer automobiles was the Code standard, thereby alleviating parking congestion caused by this factor." *Case No. ZA 98-0570, Finding No. 3.* Third, and as specified in the other appeals, the proposed valet service between the restaurant and parking garage would increase traffic on San Vicente Boulevard due to the approximately one-mile driving route between the restaurant and garage. This would conflict with the ZA's finding in the 1998 proceeding that use of the Gorham public parking garage, "being south of the Boulevard, provides a convenient access which does not interfere with the traffic movement along the Boulevard." *Case No. ZA 98-0570, Finding No. 4.* The Applicant's valet circuit would also burden the residential neighborhood, in violation of the ZA's 1998 finding that the parking garage was effectively insulated from the neighboring residential areas. *Case No. ZA 98-0570, Finding No. 4.*

None of these impacts are considered in the MND.

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(3) The CUB Should Have Been Denied Because The Off-site Parking Is Not Legal.

This Commission previously denied the property owner’s request for a change of use to restaurant due to the lack of code-required parking. The present application for a CUB should likewise have been denied for lack of adequate parking because (1) the off-site public parking that the Applicant intends to use is more than 750 feet away from the restaurant, in violation of Municipal Code Section 12.21.A(4)(g); and (2) the Gorham public parking garage cannot be used to satisfy the Applicant’s code-required and CUB-required parking because it must be available for the uses specified in its entitlement documents. *Exhibit 2, attached.*

* * * * *

In conclusion, the Applicant’s CUB request should have been denied because (1) the proposed alcohol-serving restaurant would be situated in an area that is already oversaturated with alcohol-serving restaurants and the addition of the Applicant’s self-described “destination” restaurant would facilitate the irreversible transformation of the local-serving character of the San Vicente Business Corridor into a “restaurant row” destination site, to the detriment of the Brentwood community quality of life and in violation of the Brentwood-Pacific Palisades Community Plan and the San Vicente Scenic Corridor Specific Plan; (2) the Mitigated Negative Declaration for the Applicant’s project fails to identify or mitigate the project’s potentially significant adverse environmental impacts, especially traffic-related impacts, in violation of CEQA; and (3) the Applicant’s off-site parking is not legal because (a) the off-site public parking garage is more than 750 feet away from the Applicant’s restaurant, in violation of Municipal Code Section 12.21.A(4)(g); and (b) the entitlement documents for the public parking garage preclude its use for the Applicant’s parking.