



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Public Hearing on Appeals of Design Review Board's approval of Design Review Board Case No. 2101078 located at 1633 Victory Boulevard

1. Motion to sustain the Design Review Board's decision to adopt the subsequent mitigated negative declaration and to approve the Design Review application with conditions.
2. Motion to sustain the Design Review Board's decision to adopt the subsequent mitigated negative declaration and to approve the Design Review application with amended conditions.
3. Motion to continue the matter, directing the City Attorney to draft findings reversing the Design Review Board's decision and denying the project.

COUNCIL ACTION

Item Type: Public Hearing

Approved for September 27, 2022 **calendar**

EXECUTIVE SUMMARY

This hearing is to consider two separate appeals of the Design Review Board's July 14, 2022 decision to approve, with conditions, case number PDR 2101078 and adopt the Subsequent Mitigated Negative Declaration (MND). The case involves a request to modify a previously-approved three-story hotel project on a 21,647 square-foot lot, zoned C3 I (Commercial Service, Height District I) located at 1633 Victory Boulevard. The project is not located in the Downtown Specific Plan (DSP) area and is therefore not subject to the City's current hotel development moratorium applicable to the DSP only.

In January 2019, the Design Review Board (DRB) approved a 34,575 square-foot, 64-room hotel with a two-level subterranean garage with 64 parking spaces and a total export of 12,348 cubic yards of soil (the "Original Project"). Soon after, the Original Project was appealed to the City Council. In May 2019, City Council voted to adopt the MND and sustain the DRB's approval.

On January 20, 2021, the applicant resubmitted an application (PDR 2101078) to revise the Original Project by expanding the building to accommodate an additional 18 guest rooms and increasing the building square footage by 6,205 square feet (the “Revised Project”). The Revised Project would still be three-stories but would expand the building footprint towards the northern interior property line and revise the interior setback from 15-feet to 11-feet, 6-inches. It would also eliminate portions of the Outdoor Terrace, including the previously approved pool, located at the second level of the northeast corner of the building. The Revised Project would consist of 82 rooms, 40,780 square feet of building area, and a two-level subterranean garage with 67, instead of 64, parking spaces.

On July 14, 2022, the DRB adopted a Subsequent MND and approved the Revised Project with 13 conditions (See DRB Record of Decision, July 14, 2022, attached as Exhibit 3 for discussion and set forth below).

On July 28, 2022, two separate appeals were filed – one by the applicant/property owner and another by the adjacent property owner (neighbor). The appellant/applicant requests the City Council delete 3 of the 13 DRB’s conditions of approval for PDR 2101078 (see staff’s analysis of Appellant No.1 basis for appeal below for details) and approve the subsequent MND for the Project. The appellant/neighbor requests the City Council overturn the DRB’s decision and deny the project.

COUNCIL PRIORITIES

Economic Vibrancy

One of the City’s major goals is fostering an environment that supports diverse, vibrant businesses and job opportunities supported by both a skilled, local labor force and a fiscally prudent and financially healthy city government. The proposed hotel expansion will generate transient occupancy tax (TOT) for the city as well as provide job opportunities for Glendale’s residence.

RECOMMENDATION

Staff recommends the City Council sustain the Design Review Board’s decision to approve Design Review Board Case No. PDR 2101078 with the conditions as imposed by the DRB, adopt the Subsequent Mitigated Negative Declaration (MND), and approve the Mitigation Monitoring and Reporting Program (MMRP) attached to the Subsequent MND. If the Council wishes to reverse the Design Review Board’s decision, an alternate motion is included that would authorize continuation of the matter for two weeks without further public notice and would direct the City Attorney to prepare draft findings reversing the Design Review Board’s decision and deny the project.

BACKGROUND

Appellant 1: Anand Desai c/o AV Hospitality, LLC

Status of Appellant 1: Applicant/Owner

Appellant 2: Philip Marks

Status of Appellant 2: Neighbor (owner/resident of adjacent property)

Assessor's Parcel Number: 5626-013-024

Zone: C3 (Commercial Services) Zone, Height District I

Land Use Element: Commercial Services

Existing Site Characteristics: The project site is an approximately 21,647 square-foot lot, located at the northwest corner of Victory Boulevard and Winchester Avenue. The subject property is currently occupied with a 3,537 square-foot one-story commercial building that consists of offices, three automobile service bays, and a steel canopy. City records indicate closure of the underground storage tanks was completed on October 28, 1993 by the City of Glendale's Fire Department, Hazardous Materials Section. The surface of the site is mostly paved with concrete and asphalt, with limited landscaping at the southwest portion of the site. There are no protected indigenous trees species on or within twenty feet of the site.

Surrounding Land Use/Zoning: Surrounding the project site are R1 zoned properties with single-family residences to the north, C3 zoned properties with commercial uses to the east and south, and R1 and C3 zoned properties with single- and multi-family residences to the west.

	Zoning	Existing Uses
North	R1 – Special Recreation Zone and	single-family residential
South	C3 – Commercial Services	Commercial/Industrial
East	R1 – Special Recreation Zone and C3 – Commercial Services	Single-family and multi-family residential
West	C3 – Commercial Services	Gas station and multi-family residential

Project Site	C3 – Commercial Services	Commercial
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Environmental Determination: A Subsequent MND was prepared and circulated for the Revised Project from April 28, 2022 to May 19, 2022 for a 20-day review period. Significant impacts were identified for Geology and Soils, Noise and Tribal Cultural Resources; however, mitigation measures have been added to reduce identified impacts to less than significant levels.

- GEO -1** In the event that paleontological resources are unearthed during the proposed project-related subsurface activities all earth-disturbing work within a 100-meter radius must be temporary suspended or redirected until a paleontologist has evaluated the nature and significance of the find. After the find has been appropriately mitigated, work in the area may resume.
- HAZ – 1** A soil management plan (SMP) shall be prepared prior to issuance of any grading permit on the subject property. The SMP shall require that a geologist/environmental professional be on-site during site grading and excavation activities to monitor for potentially impacted soils not identified during the Phase II assessment prepared by Conservation Consulting International (CCI) and to perform South Coast Air Quality Management District (SCAQMD) Rule 1166 monitoring. The SMP shall also include recommended actions for handling and disposing of potentially impacted soils, if identified during site grading and excavation activities.
- NOISE -1** The hours of operation for the outdoor terrace shall be limited to between 8:00 AM and 8:00 PM Monday through Sunday.
- NOISE -2** The use of amplified sound shall be strictly prohibited.
- TRIBAL-1** Prior to the issuance of demolition, grading or building permits for the project, the applicant shall submit written verification that a qualified archaeological monitor has been retained to monitor ground disturbance necessary to prepare the ground surface.

The Final Subsequent Mitigated Negative Declaration is attached as Exhibit 6.

Project History:

- September 21, 2017** Application was submitted.
- June 14, 2018** DRB decision of return for redesign (5-0 vote) with the conditions.
- September 13, 2018** Applicant resubmitted an application with redesigned

	features to address the conditions outlined from the June 14, 2018 DRB meeting.
January 10, 2019	DRB approved the project (4-0 vote) with conditions and adopted the final mitigated negative declaration (the “Original Project” is attached as Exhibit 4).
May 7, 2019	The City Council sustained the DRB’s approval decision and adopted final mitigated negative declaration.
January 20, 2021	Applicant resubmitted an application to revise the Original Project by expanding the building to accommodate an additional 18 guest rooms, increasing the building square footage by 6,205 square feet and increase the amount of parking within the subterranean garage to 67 instead of 64 parking spaces (the “Revised Project”).
July 14, 2022	DRB approved the Revised Project (3-1 vote) with conditions and adopted the subsequent mitigated negative declaration (attached as Exhibit 3).
July 28, 2022	Two separate appeals were filed by the applicant/property owner and the adjacent property owner (neighbor). (Exhibit 10).

ANALYSIS

Appellant No. 1 – Applicant/Property Owner

The Applicant contends that the project complies with all development standards for the C3 zone, with the Revised Project proposing an 11-foot, 6-inch interior setback along the northern interior property line.

The Applicant’s argument focuses on the Revised Project being a “By-Right” project that complies with Zoning development standards, and claims DRB exceeded its authority by imposing additional setbacks at the upper floors of the rear façade, which would reduce the overall square footage and thus render the project financially unfeasible.

Staff’s Response:

For C3 zoned properties adjacent to residential zones, the Zoning Code requires interior setbacks for new buildings that are between 28 and 35 feet in height to be set back a minimum of 7-feet and average of 10-feet. The Revised Project’s proposed height is 35 feet with a consistent 11-foot, 6-inch interior setback from the northern property line. The Revised Project does meet the Zoning Code’s development standards in terms of setbacks, height, landscape area and parking.

Appellant No. 1 contends that the Design Review Board exceeded its authority by imposing requirements beyond the standards set by the Zoning Code.

Staff's Response:

Under Glendale Municipal Code (GMC) Section 2.52.120 ("Powers and Duties"), the DRB has the power and duty to review, approve, disapprove and attach conditions to design plans and design review applications in accordance with the intent, purpose and standards for design review established by GMC Section 30.47 Design Review. GMC Section 30.47.030 (I) (1) states that the review authority has the authority to impose conditions in order to ensure compatibility with surrounding development in terms of size, scale, bulk/mass, roofline orientation, setbacks, and site layout. In consideration of design review, the review authority shall be guided by the intent and standards by GMC Section 30.47.040 ("Standards"). Further, the DRB's decision making is guided by the Comprehensive Design Guidelines adopted by City Council on November 29, 2011 (attached as Exhibit 12). The DRB decision making is consistent with the intent, purposes and standards of GMC 30.47, to properly exercise its power and duties.

As a result, the DRB exercised its authority as provided by GMC Section 30.47.030 (I) (1).

Appellant No. 1 requests that City Council sustain the DRB's approval of the Revised Project and adoption of the Subsequent MND but to amend the decision by excluding conditions 1, 3, and 4.

Staff's Response:

On July 14, 2022, the DRB approved the Revised Project with a total of 13 conditions:

1. Reduce the massing at the second and third level expansions at the eastern and western façades to be more consistent with the Original Project.
2. At the outdoor terrace at the second level along the northern façade, the landscape planter and 7-foot tall acoustic screen wall shall span the entire length of the terrace and to buffer the neighboring property from views and potential noise.
3. Provide window openings at the ground level of the Winchester (east) façade to enhance the pedestrian experience and to avoid a blank wall at the street.
4. If allowed by Building & Safety, relocate the egress staircase at the east side of the courtyard to reduce or eliminate its visibility from the street and neighboring properties. If this is not possible, provide a privacy screen at the north side of the upper landing and a solid railing for the entire run of the staircase.
5. The landscape design at the northern interior yard should be revised to re-introduce a layered design that includes a variety of canopy trees, shrubs and ground cover, and return the previously-approved landscape buffer.

6. The paved walkway at the northern interior yard should be removed and replaced with layered landscaping. Portions of the paved walkway providing emergency egress out of the building and onto the public alley located at the northwestern portion of the lot should remain to comply with Fire and Building & Safety codes.
7. Raise the height of the proposed concrete masonry unit (CMU) wall along the northern interior property line to be 8-feet high. Clad the wall with stucco on both sides to allow the wall to reflect the stucco cladding of the hotel building.
8. Relocate the backflow preventer located at the street front yard along Winchester Avenue to the parking garage or at the north side of the alley.
9. Prior to Building & Safety plan check submittal, the rooftop mechanical screens are to be lowered to comply with the Zoning Code and for applicant provide plans demonstrating how the roof top equipment will be adequately obscured from view.
10. The overall pattern and placement of materials at the north facade should be redesigned at the upper floor levels (second and third) to improve the hierarchy of applied finishes, as well as improve the appearance of the façade.
11. Provide greater articulation and design character at the north façade, possibly by providing variation in parapet heights, changes in wall plane, incorporation of windows featuring high sill heights to preclude views toward the neighbors to the north, and/or other design revision to achieve this goal.
12. Revise the design of the street façade at the lobby to make it more distinctive and inviting, possibly by widening its street frontage, incorporating additional architectural design features, and/or other design changes to achieve this goal.
13. Prior to Building & Safety plan check submittal, a lighting plan shall be provided to staff demonstrating lighting detail that are appropriate to the building design and shielded to avoid spillover onto adjacent properties.

The Appellant No. 1 (Project Applicant) requests DRB's approval decision be sustained but that conditions of approval 1, 3 and 4 be deleted.

DRB Condition of Approval #1 - "Reduce the massing at the second and third level expansions at the eastern and western façades to be more consistent with the Original Project."

This condition relates to the areas at the rear of the building that were modified in the Revised Project to expand the number of hotel rooms and reduce the outdoor area at the second-floor terrace.

Chapter 4 of The Comprehensive Design Guidelines (Guidelines) encourage the mass and scale for new projects to fit well with surrounding building fabric. The Guidelines acknowledge that new proposals need not copy existing development; however, the mass and scale of development should respect adjacent building context. According to

the Guidelines, when new buildings are significantly larger than the surrounding context a variety of architectural strategies should be used to express or break up the massing of the building including: variations in building height, setbacks and step-backs, recessed volumes, and/or breaking up the overall mass into separate forms.

The Original Project was reviewed by the DRB twice, on June 14, 2018 and January 10, 2019. At the 2018 hearing, DRB voted unanimously (5-0) to return the project for redesign with conditions (attached as Exhibit 5). This submittal featured interior setbacks that ranged from 10-feet to 11-feet, 6-inches along the northern yard. The DRB expressed concerns about the design's compatibility with the neighborhood, privacy for the residential parcels to the north, and the landscape barrier between the hotel and the north residential neighbor.

The Original Project's second (2019) submittal was approved with conditions by DRB unanimously (4-0, 1 seat vacant). It included revisions to provide greater interior setbacks at the rear, and was enhanced with a verdant landscape palette consisting of several trees to establish a buffer between the hotel and the adjacent residences, as well as enhancing the overall appearance from the street. The northern interior setback for the second level outdoor terrace was increased an additional 3-feet, 6-inches (11'-6" initial submittal; 15-feet approved), and portions of the building with guestrooms at the second and third levels were set back an additional 14-feet (10-feet initial submittal; 24-feet approved). The landscaped planters at the perimeter of the second level outdoor terrace were increased an additional four-feet (initial submittal: approximately five-feet depth; approved: 9-feet depth) to provide greater visual and sonic buffering. To reduce noise generated from the terrace's pool area, flush mounted acoustical panels were proposed at the interior face of the 7-foot tall perimeter walls. The eastern and central portions of the north facade of the Original Project were only one-story high, corresponding to the location of the outdoor terrace and pool. This height related to the adjoining context and provided a transitional massing that reflected the scale of the abutting one-story single-family residence on Winchester.

The Revised Project's (2022) building foot print largely resembles the approved Original Project's site planning (2019) at the street and alley facades (west, south, and east), with the setbacks varying from 0- to 6-feet. However, the Revised Project proposes to expand the building footprint and 3-story mass towards the northern interior property line. Whereas the Original Project featured a large terrace at the second level, the Revised Project proposes new units at the east side of that area, which produces a three-story volume that is much closer to the adjoining single-family property to the north. In addition, the setback across the entire north façade is reduced from 15-feet to 11-feet, 6-inches. Though a smaller second-floor terrace remains at the north façade, its reduced width and the presence of two stories of

guestrooms at each side significantly increases the mass of the building, particularly with regard to the house to the north. Because of this, the DRB conditioned that the Revised Project's second and third level massing at the east and west sides of the north facade be reduced to be more consistent in spirit and intent with the Original Project approved by the DRB and sustained by the City Council.

DRB Condition of Approval #3 "Provide window openings at the ground level of the Winchester (east) façade to enhance the pedestrian experience and to avoid a blank wall at the street."

The Revised Project's eastern façade at the ground level facing Winchester Avenue consists of a long unbroken wall that is clad with stone veneer. The Guidelines for commercial buildings discourages long continuous unarticulated segments of building walls facing the public street. Condition #3's goal is to implement an architectural solution to visually break the monotonous, unarticulated wall with window openings to break up the wall's mass and enhance the pedestrian experience. Furthermore, Condition #3 will continue the quality design and detailing expressed on the front façade (Victory Boulevard) onto the eastern elevation facing Winchester Avenue.

DRB Condition of Approval #4 "If allowed by Building & Safety, relocate the egress staircase at the east side of the courtyard to reduce or eliminate its visibility from the street and neighboring properties. If this is not possible, provide a privacy screen at the north side of the upper landing and a solid railing for the entire run of the staircase."

The Original Project's design included internal egress staircases throughout the building. However, the Revised Project introduces an exterior egress staircase for the extended wing at the east side of the outdoor terrace to provide emergency egress for the proposed added guest rooms. The exterior staircase's second level will be partially visible and the third level will be highly visible from the single-family residence abutting to the north, raising privacy concerns. Condition #4 recognizes relocation of the staircase may hinder feasibility for the desired guestroom count and also may not be feasible due to Building & Safety and/or Fire Codes. As a result, flexibility was provided within the condition to incorporate screening as an alternative to relocation to provide greater privacy for the adjacent single-family residences.

Appellant No. 2 – Neighbor

Appellant No. 2's argument focuses on a variety of issues:

- 1) The Original Project (2019) was conditioned by the City Council to pave the four-foot strip of land adjacent to the existing alley was not vetted by Public Works – Traffic Division;
- 2) Not all members of the DRB acted in a fair and impartial manner;
- 3) The environmental review analysis regarding the project site's average daily trips relied on a different project (the Original Project 2019) and was not accurately analyzed as a separate and new project;
- 4) The Comprehensive Design Guidelines (Guidelines) should be applied on the Revised Project's northern elevation and should go far enough to address solar access rights, privacy and nuisance;
- 5) The DRB did not adequately address fire safety, noise or other nuisance issues by the placement of the "smoking deck" (outdoor terrace); and,
- 6) Ground contamination from automotive liquids (such as, oil, transmission fluid, antifreeze, brake fluid) were not tested.

1) Appellant No. 2 contends that the paved four-foot strip of land on the hotel's property and adjacent to the alleyway was not vetted by Public Works – Traffic Division. The four-foot paving creates an unsafe condition confusing the driving public to legal and safe speed limits for alleys, increases the chance of damaging private property, and requires the forfeiture of portions of the public right-of-way for private business overflow or queuing.

Staff's Response:

In May, 2019, the City Council sustained the DRB's decision to approved the Original Project with an added condition that a portion of the subject property along the western property line shall be paved with a minimum width of four-feet to enhance vehicular access along the alleyway. The applicant incorporated the additional paving on the subject property to satisfy the City Council's condition.

As is routine, the Revised Project had been internally routed to various City departments. Public Works – Traffic Division did not express any concern about the additional four-foot wide paved area adjacent to the alleyway. As conditioned, the paving on the hotel's private property will span the length beginning from the Victory Boulevard public right-of-way to the hotel garage vehicle entrance and exit. The Revised Project's architectural drawings (sheet A1.9) indicate the four-foot strip of land will be dedicated to the City in order to widen the alley and does not require forfeiture portions of the public right-of-way for private business overflow.

2) Appellant No. 2 contends that financial implications are beyond the DRB's purview. However, not all DRB members acted in a fair and impartial manner by taking in consideration of the Revised Project's financial infeasibility without the proposed expansions. The DRB did not equally considered the Revised Project's financial implications (devaluation) on the adjacent property were not considered.

Staff's Response:

The GMC does not specify financial considerations as a criterion for a review authority's purview for design review. As stated within Appellant No 1's first contention, the DRB has the authority to impose conditions with regard to design in order to ensure compatibility with surrounding development in terms of size, scale, bulk/mass, roofline orientation, setbacks, and site layout. The conditions imposed were based on the project's design and not on financial considerations. Staff is recommending DRB's conditions be upheld.

The DRB's approval is on appeal to the City Council and the City Council will hear the case de novo, independently reexamining the case. In this matter, the City Council is the project's design review authority and will analyze its compatibility with surrounding development in terms of size, scale, bulk/mass, roofline orientation, setbacks, and site layout based on the GMC and Design Guidelines. Consideration of financial feasibility or impacts is not specified as a criteria for design review by the GMC.

3) Appellant No. 2 contends the eight-foot tall border wall between the two properties threatens the public safety for pedestrians utilizing the sidewalk along Winchester Avenue. The solid concrete wall proposed to be constructed up to the Winchester Avenue public right-of-way creates an issue between the pedestrian interface and the appellants existing driveway. The block wall should be stepped away Winchester Avenue (at least 3 feet to match the hotel's buildings setback) with fencing material allowing visibility.

Staff's Response:

At the perimeter of the northern interior property line, the Revised Project proposes to construct a 6-foot tall concrete block wall finished with stucco. The block wall spans the entire length of the north property line, extending to the Winchester Avenue right-of-way.

Staff recommends the block wall be setback three-feet from Winchester Avenue to match the setback of the hotel building to maintain setback consistency. Additionally, as a consideration, the first five to ten feet of the wall can be constructed with a

combination of concrete blocks finished with stucco and wrought iron (e.g. three-foot tall block wall and three-foot tall wrought iron above) to enhance the line-of-site between pedestrians walking on Winchester Avenue and the appellant's driveway.

4) Appellant No. 2 contends the DRB did acknowledge the validity and benefit of a solar easement for the adjacent property during discussion; however, the DRB did not consider setting a solar easement as a condition of approval. While the City of Glendale does not have an adopted solar easement ordinance, stepping back the upper levels of the building can achieve the goals of the Design Guidelines.

Staff's Response:

Pursuant to California Civil Code, Chapter 3, Subdivision 18, Section 801, "Solar easement" means the right of receiving sunlight across real property of another for any solar energy system. The city does not have an adopted solar easement ordinance, and the appellant states that DRB Condition of Approval #1 will serve two purposes in that it will achieve the massing goals of the Design Guidelines and also greater solar access for any future solar panel project on adjacent properties.

The new three-story hotel is compliant with the Zoning Code requirements in terms of height, street front and street side setbacks, and interior setback at the north. A solar study was prepared for the Revised Project in order to analyze the shade and shadow patterns of the proposed hotel building on the abutting residence to the north (Solar Study by TJP Architectural Solutions, August 30, 2022, Exhibit 7). The Revised Project's shade and shadow patterns would have a significant effect if it shades currently unshaded uses located off the site that are sensitive to shadow, such as the abutting single-family residence, for more than two continuous hours between 9:00 AM and 3:00 PM during the winter, or 9:00 AM and 5:00 PM during the summer. The nearest shadow sensitive receptor is a single-family residence abutting to the north. A shadow is dependent on the height, size, and shape of the building from which the shadow is cast and the angle of the sun. The angle of the sun varies with respect to the rotation of the earth and the earth's elliptical orbit. The longest shadows are cast during winter months, and the shortest shadows are cast during the summer months.

Simulations of the shadows that would be created by the proposed Revised Project are presented in the illustrative graphic findings of the solar study. The solar study analyzes the shadows during summer solstice, fall equinox and winter solstice periods. The City's maximum seasonal shading thresholds would occur:

- Summer Solstice (June 20) 9:00 AM to 5:00 PM
- Winter Solstice (December 21) 9:00 AM to 3:00 PM

The summer and winter solar study simulations illustrate that some shadows fall around the single-family residence north of the Project site with varying degrees between each of these two threshold periods. Shade impacts to these land uses would increase and/or decrease progressively as the Earth rotates. The modeling demonstrates that shadows would not be cast on the sensitive property to the north during summer daytime periods. While the shading onto the nearby residential property would increase during the winter solstice for a duration of (2:11 PM – 3 PM; 49 minutes), it would still be below the threshold of two continuous hours.

5) Appellant No. 2 The Revised Project and CEQA review should be treated as a “new” project.

Staff’s Response:

Within the context of CEQA, the term “project” has a specific meaning. Under Section 15378 of the CEQA Guidelines, “Project” means the *whole* of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The term “project” refers to the *whole* of an action and to the underlying physical activity being approved, not to each government approval (CEQA Guidelines Section 15378(c)). Thus, even if the Lead Agency needs to grant more than one approval for a project, only one CEQA document should be prepared. As a result, the hotel project is a proposed revision to a previously approved project.

Additionally, by Section 15162 (a) Subsequent Negative Declarations of the CEQA Guidelines, when a negative declaration has been *adopted* for a project, a subsequent negative declaration shall be prepared if the lead agency (City of Glendale) determines there are evidence of substantial changes proposed in a project which will require major revisions of the previous negative declaration due a substantial increase in the severity of previously identified significant effects. The Revised Project proposes to increase the previously approved hotel guest room total by 28 percent (from 64 guestrooms; to 82 guestrooms), increase the total building floor area by 18 percent (from 34,575 square-foot; to 40,780 square-foot), and expand the building footprint and three-story massing towards the northern interior property line. And, as stated above, in the event if the Lead Agency needs to grant more than one approval for a project, only one CEQA document should be prepared. As a result of the major revisions to the Original Project for which an MND was adopted, a Subsequent MND was determined to be the appropriate CEQA review for the Revised Project.

6) Appellant No. 2 The Subsequent Mitigated Negative Declaration (MND) did not accurately analyze the Vehicle Miles Traveled (VMT), which the VMT baseline should reflect the traffic usage at the time the application was submitted (Revised Project was submitted January 20, 2021).

Staff's Response:

As indicated above, the Revised Project is not a "new project" pursuant to the CEQA Guidelines, and a Subsequent MND was prepared to analyze the Revised Project (2021) in order to examine the potential environmental impacts caused by the proposed modifications to the Original Project approved during 2017. Under Section 15125 (a) (1) "Environmental Setting" of the CEQA Guidelines, a project's baseline is at the time of the environmental analysis was commenced. The Original Project was submitted on September 21, 2017, and the environmental analysis commenced 30-days after the submittal. As a result, the Project baseline was established when the environmental analysis commenced and the VMT analysis appropriately reflected the baseline which accounted for existing uses on the site. Analysis of the Revised Project in a Subsequent MND does not require use of an updated baseline.

The lead agency has discretion to treat historical conditions or conditions that predate publication of the notice of preparation as the baseline for evaluating an impact if its reasons for doing so are supported by substantial evidence. For example, in *North County Advocates v. City of Carlsbad* (2015) 241 CA4th 94, the court upheld the use of historical occupancy rates at a retail center as the baseline, even though the area to be redeveloped had been vacant for some time, because that baseline represented actual levels of past use. Such is the case here, where the existing baseline at the time environmental review commenced in 2017 for the Original Project included the then existing uses at the site. These uses ceased operation after environmental review commenced but before the applicant revised the Original Project such that current site vacancy is a consequence of the Original Project. The Guidelines were amended in 2018 to recognize that lead agencies may use historical conditions to define the "existing conditions" baseline when environmental conditions change or fluctuate over time, e.g., such as occupancies of existing retail building that change over time. (14 Cal Code Regs §15125(a)(1)). The Guideline states that existing conditions may be defined "by referencing historic conditions" that are supported by substantial evidence, "where necessary to provide the most accurate picture practically possible of the project's impacts." 14 Cal Code Regs §15125(a)(1). The baseline for VMT analysis used at the commencement of the environmental review provides the most accurate picture of how the Project will impact the site by replacing existing permitted uses.

Appellant No. 2 The existing land uses identified within Trip Generation Analysis seem to have all been conducted under the single, one-story, building and were ancillary to one another (not four separate businesses).

Staff's Response:

The existing land uses identified within the Translutions, Inc. memo (dated September 15, 2022 and attached as Exhibit 9) were identified using the City's Building & Safety records, as well as past Zoning Use Certificates (ZUCs) and Business Registration Certificates (BRCs). Building & Safety permit records indicate the project site is addressed as 1633 Victory, 1633 Victory Unit B and 1633 Victory Unit C. Planning Division records indicate the previous land uses at these addresses were auto repair/oil change (3 bays), auto repair/oil change (4 bays under the canopy), and two used-auto sales offices. Provided these occupants were addressed separately and were issued separate ZUCs and BRCs, these existing land uses were not ancillary to one another as contested by Appellant No. 2. As a result, the Translution, Inc. memo (Trip Generation Analysis) accurately identified that the building was improved with separate independently addressed tenant spaces and registered land uses.

Appellant No. 2 The DRB did not adequately address comments regarding fire safety, noise, or other nuisance issues along the northern side caused by the placement of the outdoor smoking terrace.

Staff's Response: The Original Project included an approximately 4,755 square-foot outdoor terrace with a swimming pool located at the northeastern portion of the building at the second level. The Revised Project decreases the size of the outdoor terrace and eliminates the pool from 4,755 square feet to approximately 2,970 square-feet to accommodate portions of the additional floor area. The reduced outdoor terrace will remain available as a hotel guest amenity and will include landscaping and a seating area. Since hotel guests will use the outdoor terrace, operational noise from this area could result in noise impacts to the adjacent residential use. Although the City's noise ordinance protects residents from excessive sounds, mitigation measures have been added to the Subsequent MND to limit the hours of operation for use and occupancy of the outdoor terrace be limited to between 8:00 AM and 8:00 PM Monday through Sunday. Additionally, mitigations also specify that the Hotel Operator shall post signage at all entrances and exits to and from outdoor terrace listing the outdoor terrace hours of operation and require the hotel operator to prohibit access to the outdoor terrace after 8:00 PM daily.

The applicant's submittal and plans do not indicate the outdoor terrace's purpose to be used as "smoking deck". Any person that designates a Smoking Permitted Area shall obtain, maintain, and renew a license required under Section 5.40 of the GMC, for designating, operating, and maintaining an outdoor smoking permitted area on the premises, and pay the fee for the license. To date, a Smoking Permitted Area license has not been submitted.

In terms of fire safety, the Revised Project would require compliance with the Uniform Fire Code, including installation of fire sprinklers, and submission of plans to the Glendale Fire Department at the time building permits are submitted for approval. The overall need for fire protection services is not expected to substantially increase as a result of the Revised Project's additional 20 guest rooms. The Revised Project was routed to the Fire Department for comment. The Fire Prevention Division did not express concerns with fire safety issues with the outdoor terrace.

Appellant No. 2 The environmental studies are incomplete and inadequate. The grounds along the northern property line at the western end have never been tested for ground contaminants even though they are known dumping ground for automotive liquids.

Staff's Response:

Included as part of staff's environmental review, a Limited Phase II Environmental Site Assessment (ESA) was conducted at the project site by Conserve Consultant International (CCI). The purpose of this was to assess whether historical uses of the property, including a gasoline station and automobile repair shop, have adversely impacted the subsurface environment beneath the property. This assessment included the analysis of a total of 13 soil boring samples collected from inside the existing building and from exterior areas throughout the property. According to city records, a permit was issued in 1981 for the removal of one 6,000-gallon UST, one 1,000-gallon UST, and two 4,000-gallon UST. And in 1993, the Glendale Fire Department (GFD) issued a "No Further Action" letter following the removal of a 500-gallon waste oil UST. Soil borings were advanced in the area of the former hazardous waste storage enclosure and former waste oil underground storage tank (UST) on the western portion of the property, the former motor vehicle fuel UST on the east exterior portion of the property, in the area of the former waste oil UST on the north exterior portion of the property adjacent to the former fuel dispenser islands, product piping lines, hazardous waste storage enclosure, and the clarifier and in-ground hydraulic lifts located inside the property building. For soil boring locations, reference Figure 3 of the Limited Phase II ESA (attached as Exhibit 8).

Based on the results of this assessment of the soil samples, the ESA concluded that it does not appear that the historical uses of the property, including, but not limited to a gasoline station and automobile repair shop, have significantly impacted the subsurface environment beneath the areas of the property assessed. However, based on the 15-foot deep excavation needed for the subterranean parking garage, staff incorporated a mitigation measure within the Subsequent MND (attached as Exhibit 6) requiring a soil management plan (SMP) for any soil excavation on the property. As standard practice, the SMP shall require that a geologist/environmental professional be on-site during excavation activities to monitor for potentially impacted soils not identified during this

assessment and to perform South Coast Air Quality Management District (SCAQMD) Rule 1166 monitoring.

STAKEHOLDERS/OUTREACH

As required by the CEQA Guidelines (14 Cal Code Regs §150072(a)(1)), the City issued a Notice of Intent of the Draft Subsequent Mitigated Negative Declaration (MND) for the Proposed Project on May 26, 2022. The Subsequent MND was circulated for public review and comment from April 28, 2022 to May 19, 2022 for a 20-day public comment period as required by CEQA. Outreach was undertaken to the following stakeholders:

- Residents
- Business owners
- Parties and/or individuals that expressed interest

The Planning Division utilized the following outreach methods:

- Issued a Notice of Intent of the Draft Subsequent Mitigated Negative Declaration (MND).
- Circulate the Subsequent MND for public review and comment for a 20-day period.
- Conduct public hearing with the Design Review Board regarding the Revised Project.
- Issue public notices via mailer and email.
- Publish public notices with Los Angeles County Clerk, State of California – Office of Planning & Research and on the Planning Division website.

FISCAL IMPACT

There is no fiscal impact associated with approving the Final Subsequent MND, MMRP and requested entitlements.

ENVIRONMENTAL REVIEW

As required by the CEQA Guidelines (14 Cal Code Regs §15072 (a)), the City issued a Notice of Intent of the Draft Subsequent Mitigated Negative Declaration (MND) for the proposed Revised Project on April 28, 2022. The Project Subsequent MND was circulated for public review and comment from April 28, 2022, through May 19, 2022 for a 20-day period. Numerous public comments were received and responses to each public comment were drafted and incorporated into the Subsequent MND, which was prepared pursuant to the City of Glendale's adopted Procedures for Preparation and Processing of Environmental Documents (Glendale CEQA Guidelines, 2016) and Public Resources Code §§21000 et seq., and the CEQA Guidelines (15 Cal Code Regs §15000 et. seq. The Subsequent MND was published on the City's website on April 28, 2022. The Final

Subsequent MND and proposed Mitigation Monitoring and Reporting Plan are attached to this report as Exhibit 6.

CAMPAIGN DISCLOSURE

In accordance with the City Campaign Finance Ordinance No. 5744, Exhibit 11 is attached and contains the names and business addresses of the members of the board of directors, the chairperson, CEO, COO, CFO, Subcontractors and any person or entity with more than 10% interest or more in the company proposed for contract in this Agenda Item.

ALTERNATIVES

In regards to the Design Review Board applications, the City Council has the following four alternatives to consider:

Alternative 1: The City Council may sustain the Design Review Board's decision to adopt the subsequent mitigated negative declaration and to approve the Design Review Board application with conditions.

Alternative 2: The City Council may sustain the Design Review Board's decision to adopt the subsequent mitigated negative declaration and to approve the Design Review Board application with amended conditions

Alternative 3: The City Council may continue the matter, directing the City Attorney to draft findings reversing the Design Review Board's decision and denying the project.

Alternative 4: The City Council may also consider any other alternatives to design review submission not proposed by staff.

ADMINISTRATIVE ACTION

Submitted by:

John Takhtalian, Interim Director of Community Development

Prepared by:

Dennis Joe, Planner

Reviewed by:

Jay Platt, Principal Urban Designer

Erik Krause, Deputy Director of Community Development

Bradley Calvert, Assistant Director Community Development

Jason Bradford, Director of Finance

Michael J. Garcia, City Attorney

Approved by:

Roubik R. Golanian, P.E., City Manager

EXHIBITS / ATTACHMENTS

1. Location Map
2. Photographs of the Existing Property
3. Proposed "Revised Project" (2021) - Reduced Plans/ DRB Record of Decision/Staff Report
4. Approved "Original Project" (2019) - Reduced Plans/City Council Resolution/Staff Report
5. Returned for Redesign (2018) - Reduced Plans/DRB Record of Decision/Staff Report
6. Subsequent Mitigated Negative Declaration
7. Solar Study (TJP Architectural Solutions, August 30, 2022)
8. Limited Phase II ESA (Conservation Consulting International, October 11, 2016).
9. Trip Generation Memo (Translutions, Inc., dated September 15, 2022)
10. Appeal Forms (completed by the appellants no. 1 and no. 2)
11. Campaign Disclosure Form
12. Comprehensive Design Guidelines (web link)