

Ricardo Oliveira



April 22, 2026

Mary Gourley  
City Clerk  
City of Sebastopol  
7120 Bodega Ave.  
Sebastopol, CA 95472

**Re: Formal Written Objection to CEQA Exemption Finding and Approval of Alcohol Use Permit for Mansoor (Apple Noir, LLC) at 8050 Bodega Avenue — Planning File 2026-002 — City Council Hearing of April 21, 2026**

## **I. INTRODUCTION**

The undersigned hereby submits this formal written objection to the City of Sebastopol's finding that the proposed restaurant use at 8050 Bodega Avenue is categorically exempt from environmental review under Section 15301 — Existing Facilities, Class 1 — of the California Environmental Quality Act (CEQA) Guidelines, and to the City Council's April 21, 2026 decision denying the appeal and upholding the Planning Commission's approval of the Alcohol Use Permit for Mansoor (Apple Noir, LLC). This objection is submitted to formally preserve the undersigned's opposition in the administrative record for purposes of any further administrative or judicial proceedings.

For the reasons set forth below, the City's CEQA determination is legally inadequate on multiple independent grounds. The Class 1 categorical exemption does not apply to this project. The site presents unusual circumstances — specifically a severe and documented parking deficiency — that trigger the mandatory exception to categorical exemptions under CEQA Guidelines Section 15300.2(c). The applicant's own submitted plans reveal a physical expansion of the use that independently disqualifies the project from Section 15301 exemption. The City's single-sentence CEQA determination fails to constitute the required legal analysis under California law. The City Council's decision was made on an improper basis — the Council's expressed preference for a restaurant use rather than the applicable legal standards. And the administrative record was corrupted by false testimony regarding parking easements that do not exist, which must be

formally corrected. At minimum, the City is required to prepare an Initial Study to determine whether a Negative Declaration or Environmental Impact Report is warranted.

## II. PROJECT BACKGROUND AND RELEVANT HISTORY

The subject property at 8050 Bodega Avenue is a 7,047 square foot commercial building previously occupied by the Gravenstein Grill, which closed in December 2023. A new restaurant operator, Mansoor (Apple Noir, LLC), is proposing to occupy and operate at this location. The Planning Commission approved an Alcohol Use Permit on February 24, 2026, and the City Council denied the undersigned's appeal on April 21, 2026, upholding the approval.

The parking situation at this site has been progressively degraded by three successive legal instruments during the operational life of the prior restaurant:

1. An **Easement Agreement** executed August 16, 1985 and recorded December 31, 1986 (Document No. 86109627), between the owners of the neighboring office building parcel (Lot A) and the owner of what is now 8050 Bodega Avenue (Lot B), which granted the office building exclusive daytime use — between 7:00 a.m. and 7:00 p.m., Monday through Friday — of 32 parking spaces on Lot B. Under this easement, 8050 Bodega Avenue retains the right to use 32 parking spaces on Lot A only between 7:00 p.m. and 7:00 a.m. and on weekends and holidays.
2. A **2018 lot division** that partitioned off and sold to a new owner (4230 18th Street Partners, LP) a substantial portion of the original parcel, creating the separate parcel now known as 8086 Bodega Avenue (APN 004-350-076).
3. A **Grant of Parking and Storm Drain Easements** recorded March 27, 2018 (Document No. 2018020661), in which the owner of 8050 Bodega Avenue granted to the owner of 8086 Bodega Avenue exclusive parking rights over designated portions of 8050 Bodega Avenue for hotel parking purposes, continuing indefinitely.

The cumulative effect of these three instruments is that a significant deficiency exists in dedicated parking for daytime restaurant use at 8050 Bodega Avenue until 7:00 p.m. and potentially a deficiency at other times.

Critically, in 2018 a member of the Sebastopol Planning Department formally stated that the parking situation at this site needed to be reviewed and addressed. That review was never conducted. The prior restaurant continued to operate until December 2023 without the required parking review ever having taken place. The City is now using that same unreviewed, deficient parking condition as the CEQA baseline to justify exempting the new restaurant use from environmental review entirely.

## III. CORRECTION OF FALSE TESTIMONY IN THE ADMINISTRATIVE RECORD

At the April 21, 2026 City Council hearing, a prior owner of the subject property spoke during public comment and provided false information regarding parking easements affecting 8050 Bodega Avenue, asserting the existence of easements or parking arrangements that do not exist in the recorded public record.

The undersigned hereby formally and specifically objects to that testimony and requests that this written objection be treated as a correction of the record. The actual easements affecting parking at 8050 Bodega Avenue are those described in Section II above and are supported by the following recorded instruments, copies of which were submitted to the City as part of this proceeding and are part of the administrative record:

The 1985/1986 Easement Agreement (Document No. 86109627) is a recorded instrument in the Official Records of Sonoma County. Its terms are unambiguous: it grants the neighboring office building exclusive use of 32 parking spaces at 8050 Bodega Avenue between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday. The Grant of Parking and Storm Drain Easements (Document No. 2018020661) is likewise a recorded instrument in the Official Records of Sonoma County. Its terms grant exclusive parking rights over designated portions of 8050 Bodega Avenue to the owner of 8086 Bodega Avenue, continuing indefinitely. These are not disputed, ambiguous, or contested documents. They are official public records.

Any false testimony introduced at the hearing suggesting that these easements do not exist, have been terminated, have been modified, or do not affect parking at 8050 Bodega Avenue is contradicted by the official recorded documents and should be disregarded entirely. At multiple times in yesterday's hearing, it was stated that these easements do not include the City of Sebastopol as a party, and further falsely implying that therefore the easements can be disregarded in evaluating the use of 8050 Bodega Avenue. To the extent the City Council's decision was influenced by these false testimonies, that constitutes an additional basis for setting aside the decision, as a quasi-judicial decision that relies on materially false factual information cannot stand.

The undersigned requests that the City Clerk attach this written objection and correction directly to the administrative record for Planning File 2026-002 so that any reviewing court has a complete and accurate factual record before it.

#### **IV. THE CITY COUNCIL'S DECISION WAS MADE ON AN IMPROPER BASIS**

At the April 21, 2026 hearing, members of the City Council expressed that they liked the idea of a new restaurant at this location and were surprised that anyone would consider appealing the approval. These statements are part of the public record of the hearing and are deeply problematic as a matter of administrative law.

The City Council, when acting on an appeal of a planning decision, is exercising a quasi-judicial function. In that capacity it is required under California law to make its decision based on the applicable legal criteria — in this case, whether the CEQA exemption was properly applied, whether the parking deficiency constitutes unusual circumstances, and whether there is a fair argument of significant environmental impact. It is not permitted to base its decision on its general enthusiasm for the proposed use or its surprise that a neighbor would invoke their legal right to appeal.

Statements expressing a preference for the restaurant use, made without any corresponding legal analysis of the CEQA issues presented, are evidence that the Council's decision was not grounded in the required legal findings. Under California law, a quasi-judicial decision that is not supported by adequate findings and is instead based on improper considerations is subject to reversal by a court on a Writ of Mandate. The undersigned preserves this argument for any subsequent judicial proceedings.

Furthermore, the record reflects that no member of the Council, and no member of City staff, presented any analysis of the parking deficiency at the site during the hearing. The CEQA unusual circumstances exception was not discussed, the actual parking availability under the recorded easements was not analyzed, and the *Berkeley Hillside* two-part test was never applied. The Council's decision to deny the appeal was made without any engagement with the legal framework that governs it. This is an independent basis for judicial reversal.

## **V. LEGAL FRAMEWORK**

### **A. Section 15301 — Class 1 Categorical Exemption**

CEQA Guidelines Section 15301 exempts from environmental review the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving **negligible or no expansion of use**. The key consideration under Section 15301 is whether the project involves negligible or no expansion of use.

### **B. Section 15300.2(c) — The Unusual Circumstances Exception**

Categorical exemptions are not absolute. CEQA Guidelines Section 15300.2(c) provides that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. This exception operates as a mandatory bar to the use of a categorical exemption when its conditions are met.

### **C. The Berkeley Hillside Two-Part Test**

The California Supreme Court established the controlling legal framework for the unusual circumstances exception in *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086. Whether unusual circumstances exist is a factual determination reviewed under the substantial evidence standard, with the challenger bearing the burden of producing evidence of unusual circumstances that distinguish the project from others in the exempt class. Once unusual circumstances are established, the agency must conduct CEQA review if there is a fair argument that the unusual circumstances may result in a significant effect on the environment, with the less deferential fair argument standard applying to this second determination.

## **VI. ARGUMENT**

### **A. The City's CEQA Determination Is Legally Inadequate on Its Face**

The entirety of the City's CEQA analysis, as it appears in both the Planning Commission staff report and the City Council staff report, consists of a single sentence: *"The project is categorically exempt from the requirements of CEQA pursuant to Section 15301, Existing Facilities, because the restaurant will be located within an existing structure."*

This is not a CEQA analysis. It is a conclusory label. Nowhere in the staff report, the Planning Commission findings, or the City Council resolution does the City acknowledge the severe parking deficiency at this site, consider whether that deficiency or any other circumstance constitutes an unusual circumstance under Section 15300.2(c), or analyze whether a fair argument of significant environmental impact exists. The complete absence of any such analysis from the administrative record is itself an independent and sufficient ground to set aside the exemption finding.

This deficiency was compounded at the April 21, 2026 hearing, where no member of staff, no Council member, and no other participant presented any analysis of the parking conditions, the recorded easements, or the CEQA unusual circumstances framework. The Council's decision was made on an entirely empty CEQA record. Under California law, an agency invoking a categorical exemption must at minimum consider and address whether the exceptions to categorical exemptions apply. The City's complete failure to engage with the unusual circumstances exception at any level — particularly given that the parking deficiency was documented in the record and raised by the appellant — constitutes an abuse of discretion and a failure to proceed in the manner required by law.

### **B. The Applicant's Own Plans Reveal a Physical Expansion of Use**

The floor plan submitted by the applicant as Exhibit A to the Alcohol Use Permit application clearly shows a **"New Patio"** and **"Extended Patio"** areas beyond the existing patio. This new outdoor area does not appear to be part of the prior restaurant's footprint and represents a physical expansion of the use beyond what previously existed at the site.

The Section 15301 exemption applies only where there is **negligible or no expansion of use**. If the proposed restaurant is expanding into a new outdoor patio area not previously used for restaurant operations, the exemption is facially inapplicable. The project would instead need to be analyzed under a different CEQA framework, and the newly added patio areas would need to be evaluated for their own environmental impacts including noise, traffic generation, and neighborhood compatibility. Staff's failure to identify or address this expansion in the CEQA analysis is an additional and independent deficiency in the City's environmental determination.

### **C. The Project Presents Unusual Circumstances Under Section 15300.2(c)**

The parking deficiency at 8050 Bodega Avenue is not a routine condition. The City's own Planning Code requires **51 parking spaces** for a restaurant of 7,047 square feet. The site has significantly less parking available during much of the time, and possibly all of the time.

This is not a marginal shortfall. It is a fundamental and severe deficiency that plainly distinguishes this project from a typical restaurant occupancy, which is the class of projects Section 15301 is designed to exempt. No reasonable reading of the Class 1 exemption contemplates a 7,000 square foot restaurant with more than 50 seats operating with far fewer parking spaces than the Planning Code requires.

This deficiency was created and progressively worsened by three specific legal instruments — described in detail in Section II above and supported by recorded documents in the administrative record — that systematically reduced the parking available to support the restaurant use. The City's response that it cannot enforce private easements is correct as a matter of property law but is entirely irrelevant to the CEQA analysis. The easements are submitted not for enforcement but as documentary evidence of the actual physical parking conditions that exist at this site — which is precisely the evidence relevant to establishing the CEQA baseline. The City's obligation under CEQA is to evaluate environmental impacts as the project will actually operate in the real world. The recorded easements establish what parking is actually available for that use, and that evidence cannot be dismissed simply because the City is not a party to the easements.

Most significantly, the City's own Planning Department recognized in 2018 that this parking situation required review. This acknowledgment constitutes on-record evidence that the parking condition at this site was understood to be unusual and problematic. The fact that this review was never conducted does not eliminate the unusual circumstance — it compounds it. The City cannot now invoke the very baseline it acknowledged needed scrutiny as justification for bypassing CEQA review entirely.

There is therefore substantial evidence of unusual circumstances sufficient to satisfy the first part of the *Berkeley Hillside* test.

#### **D. There Is a Fair Argument of Significant Environmental Impact**

Once unusual circumstances are established, the City must conduct CEQA review if there is a fair argument that significant environmental impacts may result. The concrete facts in the record more than satisfy this standard.

The proposed restaurant has over 50 patron seats. The applicant stated at the Planning Commission hearing that staffing alone would be at least 30 persons. This means at any given time the restaurant may have in excess of 80 people — patrons and staff combined — arriving and departing by vehicle at a site with much less available parking spaces. The neighborhood maps included in the application materials confirm that the site is immediately surrounded by residential properties on multiple sides, making overflow parking impacts on those neighbors particularly acute.

With respect to traffic and circulation, the overwhelming majority of vehicles will be forced to seek parking on adjacent streets and neighboring properties, creating traffic congestion and circulation problems in the surrounding area. With respect to neighborhood impacts, overflow parking will displace onto neighboring streets and residential properties, creating impacts on adjacent land uses and residents that have never been studied or mitigated. The applicant acknowledged at the Planning Commission hearing that the business at 8086 Bodega Avenue — which holds the parking easement over 8050 Bodega — has been either failing or failed for the entire period since the lot split, meaning the 2018 parking easement has not been fully exercised to date. A successful restaurant generating parking demand well in excess of supply will create conditions materially worse than anything previously experienced at this location.

None of these impacts have ever been studied. The 2018 Planning Department statement acknowledging that the parking situation needed review confirms that these are not speculative concerns — they are recognized issues that have been deferred without resolution for eight years.

#### **E. SMC Chapter 17.160 Does Not Override CEQA**

The City relies heavily on SMC Chapter 17.160.040, the nonconforming use provision, to justify not requiring additional parking. This reliance is misplaced in the context of CEQA. SMC 17.160.040 is a local zoning ordinance provision that addresses zoning code compliance only. It does not and cannot override CEQA, which is state law. Even if the applicant is legally excused from providing additional parking under the City's Zoning Code, that local zoning determination has no bearing on the City's independent and mandatory obligation under state law to conduct environmental review when unusual circumstances exist. The two analyses are legally distinct and must be conducted separately. The City's conflation of its zoning analysis with its CEQA obligation is a fundamental legal error.

## VII. CONCLUSION AND REQUESTED RELIEF

For all of the foregoing reasons, the undersigned respectfully requests that the City of Sebastopol:

1. **Rescind the finding** that the proposed restaurant use at 8050 Bodega Avenue is categorically exempt from CEQA review under Section 15301 — Existing Facilities, Class 1, on the grounds that the City's CEQA determination is legally inadequate, unusual circumstances exist that trigger the mandatory exception under Section 15300.2(c), the applicant's plans reveal a physical expansion of use disqualifying the project from Section 15301 exemption, and there is a fair argument of significant environmental impact;
2. **Require preparation of an Initial Study** pursuant to CEQA Guidelines Section 15063 to evaluate the environmental impacts of the proposed restaurant use, with particular focus on parking, traffic, circulation, and neighborhood impacts;
3. **Suspend all approvals** related to the proposed restaurant use pending completion of the required environmental review;
4. **Rescind the Alcohol Use Permit** approved by the Planning Commission on February 24, 2026 and upheld by the City Council on April 21, 2026, as it was granted without the required environmental review having been completed; and
5. **Formally correct the administrative record** to reflect the true and accurate facts regarding the parking easements affecting 8050 Bodega Avenue, as set forth in Section III of this objection, and to disregard the false testimony introduced at the April 21, 2026 hearing regarding those easements.

## VIII. REQUESTS TO THE CITY CLERK

The undersigned respectfully requests that the City Clerk:

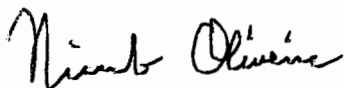
1. Formally include this written objection and all attachments in the official administrative record for Planning File 2026-002, and confirm in writing that this has been done;
2. Attach this written objection as a formal exhibit to the City Council resolution denying the undersigned's appeal, so that the objections are permanently linked to the official decision document related to yesterday's City Council hearing;
3. Formally note in the administrative record that post-hearing written objections were received that specifically dispute and correct false testimony given at the April 21, 2026 hearing regarding parking easements affecting 8050 Bodega Avenue, and that the

recorded easement documents establishing the true facts are incorporated into the record as attachments to this objection;

4. Provide the undersigned with written confirmation of receipt of this objection, including the date and time received and confirmation that it has been entered into the administrative record;
5. Notify the undersigned immediately upon the filing of any Notice of Exemption under CEQA Guidelines Section 15062 in connection with this project or Planning File 2026-002, and place the undersigned on the notification list for all future filings related to this matter;
6. Provide the undersigned with copies of any and all documents filed with or received by the City in connection with Planning File 2026-002 after the April 21, 2026 hearing, including any Notice of Exemption, building permit applications, business license applications, and any other approvals or permits related to the proposed restaurant use at 8050 Bodega Avenue; and
7. Provide the undersigned with a certified copy of the complete administrative record for Planning File 2026-002, including all staff reports, hearing notices, minutes, resolutions, submitted documents, public comments, correspondence, and all materials considered by the Planning Commission and City Council in connection with this matter, pursuant to the California Public Records Act (Government Code Section 7920 et seq.).

The undersigned reserves all rights to supplement this objection, to raise additional arguments, and to pursue all available administrative and judicial remedies in connection with this matter, including but not limited to the filing of a Petition for Writ of Mandate in Sonoma County Superior Court.

Respectfully submitted,



Ricardo Oliveira

CC: Mary Gourley, Clerk (via email, [mgourley@cityofsebastopol.gov](mailto:mgourley@cityofsebastopol.gov))  
Jill McLewis, Mayor (via email, [jmclewis@cityofsebastopol.gov](mailto:jmclewis@cityofsebastopol.gov))  
Sandra Maurer, Vice Mayor (via email, [smaurer@cityofsebastopol.gov](mailto:smaurer@cityofsebastopol.gov))  
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