

TO: Jing Yeo, Special Projects Manager, Lead Agency
City of Santa Monica Planning and Community Development Department
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Sent by e-mail to jing.yeo@smgov.net by 5:30 p.m. on Oct 3, 2012. Hard copy also personally delivered by 5:30 p.m. on Oct 3, 2012—see proof of service.

Comments of Michael McKinsey, Brenda Barnes and Peter Naughton, Homeowners at Village Trailer Park and Interested Parties¹, on Draft EIR re: Proposed Development at 2848–2912 Colorado Avenue, Santa Monica 90404, SCH No. 2011121037

No reasonable or lawful basis/excuse exists for substantially abbreviating the already very brief process of public review of this DEIR, considering the time scheduled for beginning of construction, and especially considering the defects in the DEIR and necessary plans and ordinances required before it can lawfully be prepared. Jamming through final certification action on this EIR in such a way is unreasonable, unwise, improper, and unlawful.

Confining potential responders to the bare minimum 45 day time limit to submit their responses to this DEIR is an abuse of an important legal process. Such municipal / developer conduct raises concerns that this schedule represents an attempt to curtail both the general public's and public agencies' fair opportunities to properly review, scrutinize and offer rebuttal and collateral arguments regarding the already substantial documentation, over 2,000 pages in volume. This is unacceptable first considering that this key EIR is being proposed for certification within a development agreement framework under state and local laws, which both require compliance with the applicable general plan, when the General Plan for Santa Monica now consists of some elements that were adopted in 1994 and others that have replaced portions of the General Plan of 1984 at various periods from 2010 to the present. Several key items of these, such as the Housing Element, were adopted with no notice to these commenters, who asked for special notice of anything affecting the home they have owned at 2930 Colorado Avenue for 26 years. To require even two projects to be considered and commented on at once when this one is not scheduled to begin construction until 2015 (DEIR, p. 69) appears to be an intentional abuse of the public's right to comment prior to approval.

¹ The State Mobilehome Residency Law ("MRL"), Civil Code §§ 798 et seq. Uses "homeowner" as the terminology for a person entitled to reside in a mobilehome park. In Santa Monica, under Santa Monica Rent Control, City Charter § 2001, homeowners are covered as to the space they rent to put their mobilehomes on, on a permanent foundation, and live permanently in them, as "tenants," just as are all other persons entitled to rent housing units in Santa Monica. For consistency throughout these Comments, unless referring specifically to housing services and rents due to them as tenants of the spaces of ground or real estate rented by homeowners under Santa Monica Rent Control, the persons commenting will be referred to as "homeowners," as under the MRL. Each of the three of us is commenting jointly with the other two, but for him or her self alone, not representing each other

The unacceptability of jamming through this DEIR is also particularly unacceptable as the DEIR for a revised project on the adjoining property at 2930 Colorado Avenue (“VTP”) is also undergoing public review, the end of which public review period October 15, is only 12 days from now. That DEIR is being recirculated using the unlawful “ratio” method of claiming no new analysis of issues is needed, since issues have allegedly been adequately addressed for a larger project, so they are ipso facto, it is claimed, adequately addressed for a smaller project on the same site. ²

If this were lawful, a DEIR and FEIR could be prepared and circulated for an enormous project never truly proposed for a site—with mitigation measures allegedly adequate but never determined by a court to be adequate, for that size and type of development--and then the lead agency could just “ratio in” an actual development with completely different effects. In fact, that unlawful process appears to be what is being done with regard to all three of the projects proposed for the subject area, one at a time, and then how their changes affect the so-called “related” projects is truly impossible for anyone to measure or discuss.

This kind of piecemeal, haphazard, unthought-out decision-making is the primary ultimate

2 **Ratio test:** Comparing the contribution a subject impact makes to an already impacted situation to categorize the significance of its impact (e.g., a freeway is polluting already, so because this development's pollution is negligible compared to what is already there, we can ignore the impact of this development's pollution).

On appeal, “the existence of substantial evidence supporting the agency’s ultimate decision on a disputed issue is not relevant when one is assessing a violation of the information disclosure provisions of CEQA.” (Association of Irrigated Residents v. County of Madera (2003) 107 Cal.App.4th 1383, 1392 [133 Cal.Rptr.2d 718] (Irrigated Residents).) “If a final environmental impact report (EIR) does not ‘adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project,’ informed decisionmaking cannot occur under CEQA and the final EIR is inadequate as a matter of law. [Citation.]” (RiverWatch v. Olivenhain Municipal Water Dist. (2009) 170 Cal.App.4th 1186, 1201 [88 Cal.Rptr.3d 625] (RiverWatch); see Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1197-1198 [22 Cal.Rptr.3d 203]; Irrigated Residents, supra, 107 Cal.App.4th at p. 1391; Save Our Peninsula Committee v. Monterey County Bd. of Supervisors (2001) 87 Cal.App.4th 99, 118 [104 Cal.Rptr.2d 326] (Save Our Peninsula).) Communities for a Better Environment v. City of Richmond (1st Dist., 2010) 184 Cal.App.4th 70, 82-83, emphasis added.

Perhaps not ironically at all, the above-cited case concerns the Chevron refinery in Richmond that polluted the entire state this summer. Environmental review is not a meaningless procedural step to check off another box on the way to an already-determined approval outcome.

hazard the EIR process dictated by CEQA is meant to avoid. The public deserves to have the actual projects that will be built—with minor changes considering what turns out to be true as further work is done on projects the environmental effects of which have actually already been anticipated and discussed—not an ever-changing, ever-adjusted, ever-different shell game of proposals and EIRs followed by many major changes in back rooms without either the public's knowledge, opportunity to comment, or opportunity to have prior approvals based on different assumptions rescinded.

There are thus many issues that have been raised in comments to the NOP, preparation of DEIR and then the FEIR for the adjacent now-changed project that are similarly defective as to this project's regulatory framework, but proper analysis of how the proposals all affect each other requires far more than 45 days for each one. The DEIR and FEIR for VTP call the instant project and the project at 2834 Colorado “related,” as does this DEIR call the other two, but none of the three tells in any discernible fashion how the three projects are “related.” In fact, when there is an unmitigable significant environmental impact from one of the projects, the tendency often is to claim that defect will be corrected in one of the others, but the public has no opportunity to discuss how that is not true with any specifics of how the lead agency claims it is.

For example, the LUCE requires 50% commercial and 50% housing for projects in the Mixed Use Creative District (“MUCD”), where the subject property and the other two being discussed are located (LUCE, p. 116). When a 100% commercial development was being approved for 2834 Colorado, the Mayor—with no notice to anyone at VTP that VTP would be discussed—said the 100% commercial project could be compensated for with a 100% housing project at VTP. The size of that housing project was therefore predetermined, with no notice whatsoever to these commenters or their 108 affected neighbor homeowners. That kind of ever-moving target for discussion simply ravages the requirements of CEQA.

Again as to extending Pennsylvania Avenue from Stewart to Stanford, each proposed project in its DEIR claims the others will be necessary for it to actually happen, so there is never a chance to discuss the fact that it is impossible for the two parts of Pennsylvania Avenue to meet without going through Southern California Gas Company land to the south, where there are known underground leaking gas tanks. The issues are simply not presented for discussion, due to the violation of CEQA's public information requirements in the procedure the City is insisting on following to jam these three projects through and then make adjustments in backrooms later.

This is also particularly true because of the fact that the adjacent property on the west side has improperly changed the project from the one approved to another, without any recirculation of a DEIR for the now-proposed project. This also is particularly true since there are no area plans for either the area the subject property is located in—a so-called “Mixed Use Creative District” that has been given no name—or for the Bergamot Station District (LUCE p. 76), another area being planned without zoning ordinances. The Planning Department must consider the serious ramifications of such an abuse of important legal process and take action to extend the public review period of the subject DEIR for at least another 45 days after both area plans and the remaining elements of the General Plan are completed, with all necessary public comment prior to each approval.

The Notice Of Preparation (NOP) did not specify the area of the site

A proper notice, which requires, inter alia, giving the size of the proposed development land, a description of the neighborhood around the proposed development, describing the soil, and much more was not in the Notice of Preparation. We hereby formally object to the Notice as not constituting legal appraisal of the issues involved, as to which we are entitled to have the other agencies to which the Lead Agency sent the Notice apprised, so that they could possibly make a meaningful response. We also hereby demand a proper notice be sent to all the agencies, including all the applicable information included in Appendix A to CCR Title 14, and every similar piece of information applicable to this project in this place at this time. While a lead agency may make its own form, it may not legally leave out required information. From looking at this Notice, for instance, no responding agency would know that it is proposed to build 304,368 square feet on only 3 acres of land. The Notice thus failed to give notice.

Regulatory Framework:

The DEIR implies that the project will have less significant environmental impact because it complies with the general plan or its surrogate planning documents-LUCE and a Development Agreement. Compliance with the LUCE and CEQA are independent requirements. The mere fact that a project is consistent with an adopted general plan surrogate does not mean that its environmental effects cannot be significant. That is especially true when that surrogate is required to be supplemented by a Development Agreement in order to concretize the visioning dynamic of the General Plan document.

Presenting this project as if it were part of a coordinated area wide land use strategy is a blatant, knowing attempt at deception. In fact, there is no evidence to show that this project has any foundation on proper planning. It represents a speculative effort to alter the land use pattern on a site by site basis.

The LUCE, the most current conceptual framework for evaluating the effects of land use in Santa Monica, admits how problematical the area in which the site is located is, and does not rule out leaving the site in its current use. (LUCE Vol. 1. FEIR p.39) LUCE, while providing a sketchy visualization for land use change in the area in which the site is located, provides no basis in infrastructural fact for any change of its land use. The Bergamot Area Plan proposes to use a duplication of the LUCE visualization and base it on detailed inventories of constraints on land use change in its area. There is absolutely nothing in the works as an area plan for the area where the site actually is, since it is not located in the Bergamot Area. To date there is therefore no evidence that a serious evaluation of the risks of intensifying existing land uses in this area has been undertaken. The current proposal for development of this site is starkly premature.

This is particularly offensive to all principles of proper planning since the DEIR states construction will not begin until at the earliest 2015. [p.131] There is thus no rush, reason whatever to propose this project without an area plan in place, one that takes into account all the problems identified in LUCE and other applicable documents—seismic, geological including particularly the medium to high danger of soil liquefaction, no drainage in the area,

no fiber optic cables to the site so no way to attract the type of industry proposed, and on and on. This Draft EIR provides nothing for the public to discuss intelligently about so many aspects of environmental impacts that it is an embarrassment to the fine forms involved. One has to wonder what the actual goal of this proposal is.

The Draft EIR fails to proceed as required by law in that it concludes there is adequate law to approve the proposed project

Claimed compliance with the City's General Plan, discussed at Draft EIR pp. 59-61, has not been related to documents that are logically organized.

There is no statutory authority to assign any property, including but not limited to the subject one, to any LUCE designation.

The DEIR is vague about how the proposal complies with the LUCE. The current Zoning Ordinance reflects known limitations on changes of land use in the area. The DEIR attempts to infer that the LUCE through some insight not explained provides a basis for deviation from this land use pattern. Nothing is actually further from the truth. The area was designated with light industrial use decades ago primarily because a Priollo fault is merely less than two miles away (DEIR p.184). Nothing in LUCE changed that fact. It is unlawful to ignore known environmental hazards and discuss around them as though they had disappeared.

The DEIR is vague about how the proposal complies or might comply with the existing zoning of the site.

On p. 304 the DEIR states "A primary implementation action of the LUCE is the comprehensive Zoning Ordinance update" and then goes on to say "The Interim Ordinanceprovides an alternate process ...to ensure consistency with the implementation of the LUCE." It further states that "The project is currently inconsistent with the LMSD zoning provisions, including maximum FAR and height. However, as previously discussed, the Development Agreement would require that the project need only be consistent with the LUCE. The Development Agreement, which would ensure consistency with the LUCE would reduce the project's impact related to inconsistent zoning to less than significant." (p 309) By what means a DA could or would do so is never specified. First saying LUCE requires a comprehensive Zoning Ordinance update and then pretending that it does not is a shell game, deception of the public in its basest form. This violates CEQA's requirement that the public be allowed to discuss the environmental impacts presented by the lead agency fairly, simply, and honestly.

The Interim Ordinance does not permit community benefits to substitute for any variation from existing zoning ordinances except height limits.

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The Draft EIR either claims matters are insignificant without adequate support for the claim, claims matters are significant but will be mitigated to less than significant. again without adequate support for the claim, or states matters are significant and not mitigable, but then does not explain why such matters are overridden by community benefits.

The LUCE specifically mentions that "New land uses allowed under the proposed LUCE would not be located on a geologic unit or soil that is unstable or would become unstable and potentially result in on- or off-site landslides, lateral spreading, subsidence, or collapse." (LUCE Vol. 1. FEIR p.288) in this area. No serious articulation of how the proposed development complies with this proviso has been made in this DEIR.

The EIR fails to include details of the scoping instructions given to traffic consultants to examine the "slow street" concept in relation to Yale Street and Pennsylvania Avenue and the results of any parking studies done in this area. (Agenda Item 8-A Council Meeting July 12, 2011 Staff Report p.39)

The Draft EIR is fundamentally obfuscatory about the damage through noise pollution which this project is going to bring on this neighborhood

No effort is made to quantify the noise in the neighborhood from the likely construction at other development sites in the neighborhood, 2834 Colorado or at 2930 Colorado (Village Trailer Park). Therefore no basis for a comprehensive view of the adequacy of Noise Mitigation Measures currently used in Santa Monica is presented.

Failure to proceed as required by law in presenting traffic information and increased trips to be generated by the proposed project, in that inadequacies in the model used are not admitted to in the Draft EIR so the public can have a meaningful opportunity to discuss the results intelligently and influence decision-makers not to approve the proposed project.

The most recent citywide traffic counts were collected in Fall 2007. Some new traffic volume data was collected in September and December 2008. In the meantime, thousands of trips per day through the affected intersections were admitted to be caused by approved development. Then this DEIR acts as though the new developments had never been approved. Again, this is just base and blatant deception, unlawful under CEQA.

The DEIR did not include the mainline analysis required by the Congestion Management Program

The statement that "project trip generation estimates and a review of the project trip assignment shows that the proposed project is not expected to add more than 50 vph"(DEIR vol 2. p771) has not been substantiated . The analysis is not presented so the public can have a meaningful opportunity to discuss the results intelligently and influence decision-makers not to approve the proposed project

A weaving analysis and queuing analysis are required to determine whether the traffic would worsen weaving problems or cause back up on to the I-10 and I-405 freeways. No record of any discussions held with Caltrans regarding this analysis has been presented so the public can have a meaningful opportunity to discuss the results intelligently and influence decision-makers not to approve the proposed project

THE FAILURE OF THE DRAFT EIR TO ADEQUATELY PRESENT RELIABLE EVIDENCE ABOUT THE PROPOSED PROJECT'S IMPACT ON TRAFFIC PREVENTS MEANINGFUL PUBLIC PARTICIPATION IN THE EVALUATION PROCESS

Traffic: data presented does not provide a full understanding of the traffic consequences of the proposed project

The Santa Monica City TRAFFIX data base is based on traffic counts done in 2007. No new traffic counts were undertaken as the basis for any of the trip generation assertions made by the Draft EIR or the numerous projects approved, some of which have already been completed, since 2007.

The Draft EIR does not specify how the use of the City of Santa Monica TRAFFIX database could determine that any mitigation measure proposed would fully mitigate project-related impacts. Neither does it specify how the use of the City of Santa Monica TRAFFIX database would show that any mitigation measure proposed would fully mitigate project-related traffic impact in the neighborhood in construction year 2015 and after.

The Draft EIR merely states that traffic impacts would be mitigated. There is no evidence of how that would happen, how that was deduced from any data, or even what specific data was used to make that deduction. Conclusions of the traffic study that mitigation measures proposed for any intersection studied would reduce project impacts to below significant levels do not provide the basis for meaningful public participation in the evaluation of the project.

Traffic data used in the Draft EIR is out of date. It is therefore unreliable as to the assessment of the impact of the proposed project on current traffic conditions.

Traffic counts done in the current year show that the traffic data presented in the EIR intersection operation analysis does not accurately reflect the traffic impacts of the proposed development.

The data used throughout the Traffic Study for the Draft EIR was collected in 2007 for the majority of the intersections included as being within the traffic zone of influence of the proposed project. (Draft EIR Vol 2.p.650)

Traffic counts for the Traffic Study for the Draft EIR were done in the fall of 2008 for the intersections at Centinela Avenue & Exposition Boulevard, Bundy Drive & Wilshire Boulevard, Bundy Drive & Santa Monica Boulevard, Bundy Drive & Olympic Boulevard and Bundy Drive & I-10 Eastbound On-Ramp,

So called "existing traffic" (Draft DEIR Vol 2. p. 650) information on conditions at the

intersections at Yale Street & Colorado Avenue, Stewart Street & Pennsylvania Avenue, and Centinela Avenue & Nebraska Avenue, is more than three years old with a traffic count done in January 2009 as its source.

At crucially important intersections no criteria to determine a significant traffic impact were defined.

For the below mentioned intersections, no criteria to determine a significant traffic impact were defined. Instead, these intersections were treated as though they were signalized, and the impact analyses were conducted as if they were signalized intersections. (Draft EIR vol II p299). Therefore the proposed feasibility of mitigation of traffic impact has no proper basis.

These intersections are:

- Yale Street & Colorado Avenue
- Stewart Street & Pennsylvania Avenue
- Stanford Street (west) & Colorado Avenue
- Stanford Street (east) & Colorado Avenue
- Centinela Avenue & Pennsylvania Avenue/Iowa Avenue

No data is presented to show how the traffic mitigation measures proposed would be compatible with the social, economic and neighborhood character of the primarily residential area in which the project is sited.

Notwithstanding that the draft EIR does not adequately establish how the use of the City of Santa Monica TRAFFIX database would show that any mitigation measure proposed would fully mitigate project-related traffic impact in the neighborhood, the traffic mitigation measures proposed are not compatible with the social, economic and neighborhood character of the primarily residential area in which the project is sited. This failure to present information on how the mitigation measures would be compatible with the primarily residential character of the area in which the site is located prevents meaningful public participation in the evaluation process.

The draft EIR does not provide reliable trip generation data to as the basis for estimating the traffic impacts of the project on the neighborhood.

Trip Generation does not take into account the project site location bordering on a Trip Generation Area Type 1 (Draft EIR vol II p 915).

Although the Travel Demand Forecasting Model used in the study purports to be based on a relationship between travel and the built environment, it is unreliable in providing information on the behavior of pass by trips, a crucial element in measuring the traffic impact of the proposed project.

No Current Origin Destination (O-D) data is provided. No information on what trip production rates from the zonal socio-economic estimates of the LUCE were incorporated in the traffic study. What assumptions underlying the City of Santa Monica's Travel Demand Forecasting Model were used in the traffic study have not been specified. In particular the following information has not been provided:

- (a) What definition was used for trip rates by trip chaining?
- (b) How do the trip rates by trip purpose compare with those for other urban areas with similar characteristics? Were person or vehicle trip rates used? How do the rates compare with earlier rates for this area?
- (c) How do the mean trip lengths by trip purpose compare with those from other areas in Santa Monica with similar characteristics? Are the Home-based Work mean trip lengths the longest and the Home Based-Other mean trip lengths the shortest?
- (d) How do the Trip Length Frequency Distributions by trip purpose compare with other areas in Santa Monica with similar characteristics.

For that reason the traffic impact conclusions of the draft EIR are presented in a way that deprives the public of meaningful participation in a decision on what traffic impacts of the proposed project on the neighborhood could/should, or cannot be, mitigated.

The DEIR mischaracterizes the subject development

The DEIR refers to the project as infill development that would satisfy SCAG 2012–2035 Regional Transportation Plan objectives by stating that it would " Promote infill development and redevelopment to revitalize existing communities" (p. 312). Destroying an existing community to supposedly revitalize it is doublespeak of the basest, most dishonest sort. Moreover, when intersections involved already violate the Municipal Code in being worse than D level, it cannot promote any lawful objective to make those intersections worse, even if it were only by one trip a day, which of course this massive development is not.

The DEIR fails to identify standards essential to a proper evaluation of this proposed development. This deficiency cannot be saved by (mentioning) reference to a Development Agreement because nothing in that agreement provides the basis for planning the development. This is the case for sewers, water and hydrology.

A sewer study that shows that the City's sewer system can accommodate the entire development has not been prepared and is not available for evaluation. This exemplifies that the planning information being made available in the DEIR displays substantial contradictions and inconsistencies and is not logically organized. It generates reasonable doubt concerning the integrity of the regulatory framework being referred to as having the functionality of a General Plan.

A water study that shows that the City's water system can accommodate the entire development for fire flows and all potable needs has not been prepared and is not available for evaluation. This exemplifies that the planning information being made available in the DEIR displays substantial contradictions and inconsistencies and is not logically organized. It generates reasonable doubt concerning the integrity of the regulatory framework being referred to as having the functionality of a General Plan.

A hydrology study of all drainage to and from the site to demonstrate adequacy of the existing storm drain system for the entire development has not been prepared and is not

available for evaluation. This exemplifies that the planning information being made available in the DEIR displays substantial contradictions and inconsistencies and is not logically organized. It generates reasonable doubt concerning the integrity of the regulatory framework being referred to as having the functionality of a General Plan.

In fact, the map prepared by the Atkins company and included as Figure 4.9-2 for the Papermate Factory Project (Bergamot Transit Village Center) DEIR in January 2012 shows storm catch basins ending on both Stewart and Franklin just north of Nebraska Avenue. The small part of Colorado Avenue included at the upper left corner of that map shows no storm drainage pipes at all. Neither are there any shown for Pennsylvania Avenue or either Stewart or 26th Street north of Olympic. There is therefore no indication whatsoever that even a small storm can be handled in such large developments as are proposed in the instant DEIR. It simply will not do to study such a major issue of environmental impacts later. Neither tiering, proper planning, nor the guidelines of CEQA justify leaving the public completely in the dark about how flooding is proposed to be handled.

Likewise, the claim that the historic high ground water level is 34 feet deep while excavation for the subterranean garages will go only 25 feet [p.287] is unsupported by any evidence. The public cannot discuss intelligently some claim of historic fact without the citations to support it. This is particularly so as to industrial property that is and has been for decades allowed to have water put into the aquifer from allowed industrial uses on it and neighboring sites. This also ignores the fact that known leaking underground tanks are in the area, so what effect those leaks will have on the excavation cannot be intelligently discussed, since the DEIR does not admit these leaks exist or discuss them with citations to the evidence.

The Draft EIR has not adequately dealt with the Proposed Project's Adverse Effects on Greenhouse Gas/Climate Change (Greenhouse Gas/Climate Change, and Air Quality

No evidence that SCAQMD was approached regarding the project.. There is no evidence that the project related emissions specified in the draft EIR are accurately identified, categorized or evaluated. The DEIR fails to present any evidence that the output from the CALINE4 dispersion model included in the DEIR was independently verified. Similarly the CalEEMod worksheet results provided in Appendix B lack independent verification.

The Draft EIR either claims geological hazards are insignificant without adequate support for the claim, claims matters are significant but will be mitigated to less than significant. again without adequate support for the claim.

The DEIR fails to identify the site's location relative to the Santa Monica Fault and its surface expression and does not assess the likelihood of the fault or its traces traversing the project site, or examine records of activity on the fault. It is inconclusive on whether the Santa Monica fault would pose a hazard of surface rupture of the site, and does not evaluate the relative risk and consequences (potential damage) of fault rupture at the site if the fault were to extend below the site and an earthquake occurred on the fault. Implementation of the proposed project could expose people or structures to potential substantial adverse effects. The DEIR fails to present information so that the public can have a meaningful opportunity to

discuss the adverse effects intelligently and influence decision-makers not to approve the proposed project.

Blatantly false claims of environmental justice by building the proposed project, without any evidentiary support, violate both CEQA and equal protection principles of the state and federal Constitutions.

The instant DEIR states that it would promote environmental justice, table 4.9-1(p 313). Claiming to ensure environmental justice regardless of race, ethnicity, or income without presenting any evidence in a manner that would allow evaluation by the public of its doing so is, again, as in so many aspects of this DEIR, just offensive as well as unlawful.

The EIR has failed to discuss how the proposed project violates the right to environmental justice (Neighborhood Effects, Population and Housing, and Land Use and Planning) Not only is it adversely affecting more than the percentage of minorities in the City as a whole, it is impacting a growing percentage, using the force of the police power to decrease that growing percentage, and making the population of minorities more unstable. The chances that the high-rent units to be built in the proposed project, without even mentioning how many units would be reserved for low-income renters (who will no longer own any part of their housing, as we own our house now, so it is still environmental injustice), will be black or Hispanic, since over 50% of them made incomes in the lowest two group of five in 1999, is beyond ridiculous.

The public is not to be left in the dark on major issues, lied to on others, faced with claims with no evidence to support them on others, or a combination of all three couched in gobbledy-gook. This is the third EIR for a project in a block with major liquefaction and traffic problems to be foisted on the public as a kind of check-the-completion meaningless exercise. It violates the public's right to know and the public's right to influence decision-making. It is a sham.

The EIR fails to discuss the environmental impacts of the proposed project's being too high to avoid violating Solar Power Rights of neighboring properties (Neighborhood Effects, Aesthetics (Shadows))

The DEIR does not adequately describe the project in the sense that it does not say how tall or wide the proposed buildings are. Moreover, there is a two-story residence to the adjacent East of the site, and there are residences across the street not slated (yet) to be demolished. Therefore, it is inconceivable that a three- or more-story building could fail to block one or more roofs from being able to have solar panels. This right is required by City law. The EIR in discussing the Neighborhood Effects and Aesthetics of this issue fails to present any evidence that disruption of solar access in this context will be avoided.

The EIR fails to discuss how the proposed project, in its reliance on Village Trailer Park and 2834 Colorado as related projects, has adverse effects on Cultural Resources (Cultural Resources, Neighborhood Effects, Population and Housing, and Land Use and Planning)

The adjacent Village Trailer Park was built at the end of World War II. It is one of the few

remaining developments that old—and certainly the only one with 109 rental housing units, 52 low-income—in the City. Its loss therefore would represent bulldozing the past to provide yet another studio and commercial area, when this City of less than nine square miles already has approaching half its land mass dedicated to these uses and large McMansions, both dedicated to the rich, white, and powerful. Santa Monica in 1945 provided 109 rental units for low-income housing needed for soldiers returning from the War and their families. The Park is still—65 years later—like that, a place where people may be not rich, but they dare individuals and worthy to keep the homes they have nurtured. It is a unique cultural place, a real village with characters resembling virtually everyone in literature, where people know and look out for each other because the same people have been here for years, some for decades. Such a place is valuable culturally. The DEIR has failed to discuss that.

The Neighborhood Effects, Population and Housing Effects, and Land Use and Planning Illegality as far as the impact on Cultural Resources are therefore another reason the subject development is unthinkable. Santa Monica has thousands of square feet of empty studio, office, and commercial space. To destroy a unique bit of history and housing to build a glut of more business space is beyond poor land use and planning. To use the proposed project as the basis for a change in the zoning of adjacent land uses and give variances to do so is illegal because there is no legal basis for destroying this cultural resource.

The EIR did not discuss the proposed project's adverse effects on the displaced business entities as it classified the project as being "related" to others that have that effect.. The NOP mentions "the proposed project and the two related projects" "related project immediately to the west (2834 Colorado) and the pending related project immediately to the east (Village Trailer Park)" NOP p.3

The EIR fails to identify what existing land use, environmental conditions, public facilities/infrastructural issues exist to cause this project to be related as stated in the NOP. It has not shown what relationships, if any, pre-exist between land owners to cause it to be related to any other development project. Helpful, but not entirely satisfying this, would be the minutes of the meeting specified in Staff report (Agenda Item 8-A Council Meeting July 12, 2011) of parties that met to create a "multi-property master plan that is economically feasible but would likely need to be consolidated in one ownership entity"(ibid p.7).

The EIR must discuss the Environment Impacts of the proposed project's illegality being hidden from the residents by the City and the City's conspiring with the developers to try to impose area planning justifications to support the development with the intention of initiating a Development Agreement without allowing public participation in the process (Neighborhood Effects, Population and Housing, and Land Use and Planning)

It is a violation of the legal rights of the current residents in the area for the City to help developers who have never proceeded legally, as indicated herein. It is not only a violation of

the current residents' rights, however. Governmental failure to follow applicable law, and changing laws to fit the needs of business rather than ordinary citizens, can and does lead to a general feeling of justified lawlessness on the part of a population in general. This happened after the Rodney King verdicts in the Los Angeles area and is happening currently in the Oakland area after the Grant manslaughter verdict rather than murder, when people saw on videotape that a transit officer shot a man who was on the ground.

This zipcode is the poorest, most heavily minority, most heavily eldest-resident, most women-occupied neighborhood in town. Not only is the City not complying with the State law requirement to provide its share of low- and moderate-income housing. It is going out of its way to eliminate 109 units of such housing by taking bogus and completely indefensible steps such as declaring a two-lane road from nowhere to nowhere else a boulevard of any kind and proposing the extension of Pennsylvania Avenue as a reason for allowing this project. The EIR must discuss what poor, minority, older, women and others who see that those weak and defenseless people were used, tricked, and abused, while the rich and powerful were protected by the behavior of the City.

For the above-given reasons, and each of them, each issue listed must be discussed in the FEIR for the subject project, and the FEIR must find that there are significant adverse environmental factors that cannot in the present proposed project be mitigated sufficiently, so the project will have a negative effect on the environment and therefore under applicable law must be denied permission to proceed until and unless such adverse impacts are mitigated.

PROOF OF PERSONAL SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

P. R. Naughton is sworn and says:

I am over the age of 18 and a party to the within action. My business address is 406 Broadway, #332F, Santa Monica, California.

On October 3, 2012, I served the **RESPONSE TO DRAFT EIR FOR THE ROBERTS CENTER PROJECT** on the interested parties in the action by delivering a true and correct copy of such document in a sealed envelope to the office listed below, addressed as follows:

Jing Yeo, Project Planner
City of Santa Monica Department of Planning and Community Development
1685 Main Street
Santa Monica, CA 90401

On October 3, 2012, I also served a copy of this Proof of Service of the **RESPONSE TO DRAFT EIR FOR THE ROBERTS CENTER PROJECT** on other related interested parties in the action by mailing a true and correct copy of it in the United States mail with sufficient first-class postage affixed, in a sealed envelope to the office listed below, addressed as follows:

Marc L. Luzzatto
2444 Wilshire Blvd., Ste. 320
Santa Monica, CA 90403

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on October 3, 2012 at Santa Monica, California.

P. R. Naughton