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ENVIRONMENTAL
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Comments on Draft EIR No. 2000-3577
Los Angeles Sports and Entertainment District

coordinated by

Environmental Defense
Environmental Justice Project Office

in conjunction with

Figueroa Corridor Coalition for Economic Justice

February 26, 2001

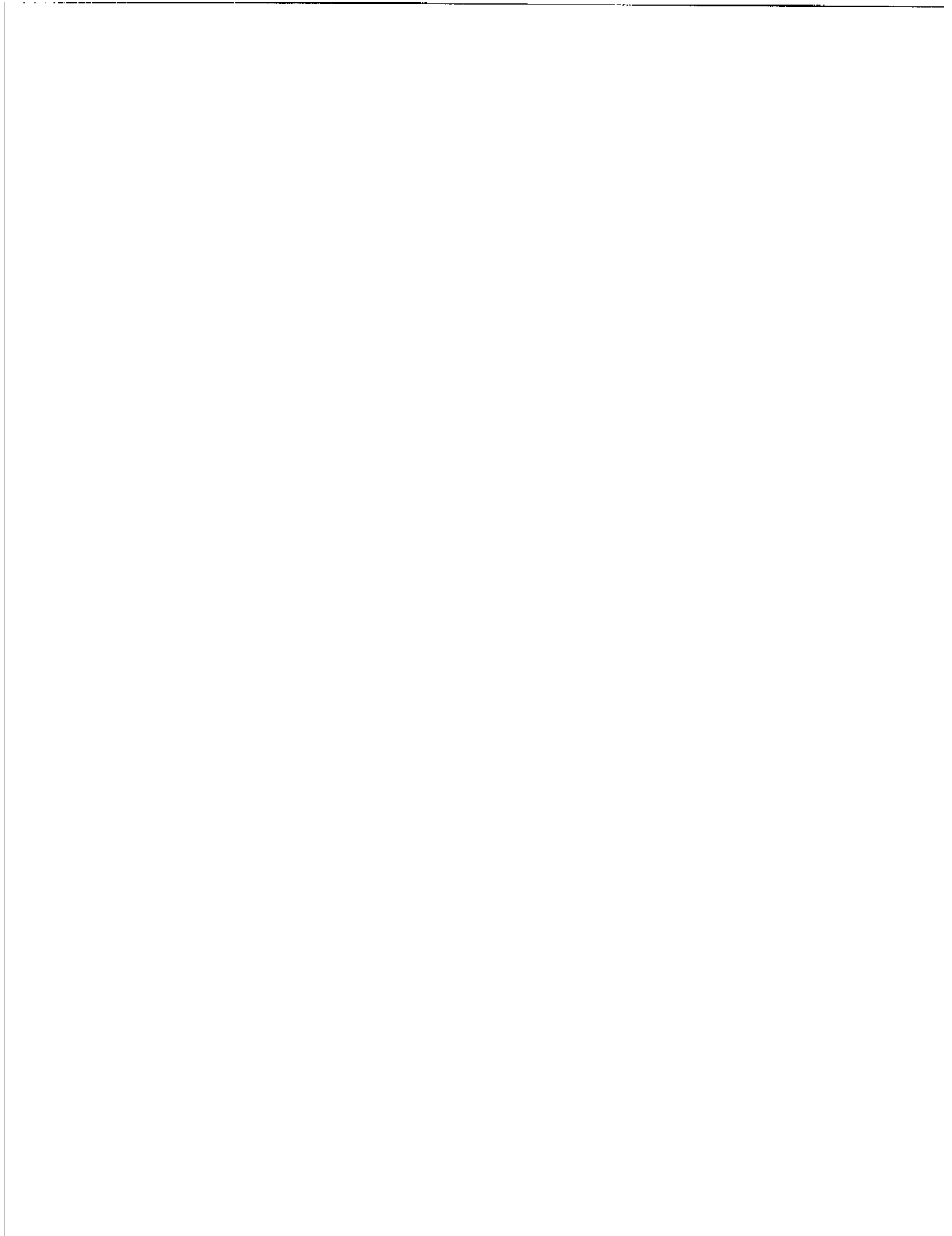


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FIGUEROA CORRIDOR COALITION FOR ECONOMIC JUSTICE

2636 Kenwood Avenue
Los Angeles, CA 90007
323.732.9961 ext. 203
323.733.8831 facimile

Action for Grassroots
Empowerment and Neighborhood
Development Alternatives
(AGENDA)

All People's Christian Center

Association of Community
Organizations for Reform
Now (ACORN)

Blazers Youth Services

Budlong and Jefferson Black Club

Central American Resource Center
(CARECEN)

Clinica Oscar Romero

Coalition for Community Health

Coalition LA

Community Coalition for Substance
Abuse Prevention and Treatment

Concerned Citizens of South
Central Los Angeles (CCSCLA)

El Rescate

Environmental Defense --
Environmental Justice Project
Office

Episcopal Church of St. Phillip the
Evangelist

Esperanza Community Housing
Corporation

Faithful Service Baptist Church

Hotel Employees and Restaurant
Employees (HERE) Local 11

Los Angeles Alliance for a New
Economy (LAANE)

Neighbors for An Improved
Community (NIC)

Project Islamic HOPE

St. John's Episcopal Church

St. John's Well Child Center

St. Mark's Lutheran Church

Service Employees International
Union (SEIU) Local 1877

Strategic Actions for a Just
Society (SAJS)

Student Coalition Against Labor
Exploitation (SCALE)

United University Church

February 26, 2001

Lateef Sholebo, Project Coordinator
Environmental Review Section
Los Angeles City Planning Department
221 N. Figueroa, Room 1540
Los Angeles, CA 90012-2601

Re: Comments to Draft EIR No. 2000-3577 - Los Angeles Sports
and Entertainment District

Dear Mr. Sholebo:

The following are comments from the Figueroa Corridor Coalition for Economic Justice ("FCCEJ") regarding the Draft Environmental Impact Report ("DEIR") for the Los Angeles Sports and Entertainment District (the "Project").

FCCEJ is a coalition dedicated to the protection and improvement of the neighborhoods surrounding the Figueroa Corridor and the principles which unite us. A list of our most recent organizational membership is attached in *Appendix 1*. FCCEJ also has a substantial membership of individual residents who live in the communities surrounding the Project and in the Figueroa Corridor (*see attached map*).

Our perspective on this DEIR is entirely concerned with the health, safety, and quality of life issues that this Project presents to low-income people of color -- our members who live and work in the area surrounding the proposed Project.

As discussed in detail below, FCCEJ finds (1) substantial environmental impacts have been ignored in the DEIR, and (2) other substantially environmental impacts have been inadequately addressed.

Of particular concern are the environmental justice issues that are evident in the overwhelming negative environmental impacts the Project will impose disproportionately on low-income people of color in the surrounding neighborhoods. We are also alarmed by the lack of specific and enforceable benefits that the Project will have on this population, and a lack of sensitivity to the existing environmental conditions, history, and context of the community surrounding the proposed Project.

I. GENERAL COMMENTS

A. The Requirement for Additional Time Was Inappropriately Denied.

FCCEJ, as well as a number of other organizations and individuals, recently requested additional time to review the voluminous Project DEIR. One of the main reasons for the request was that many of our members who will be directly impacted by this proposed development need a Spanish language translation of this DEIR to effectively review it and provide educated comments. The request for additional time to review the DEIR was denied by the City Planning Department without explanation. We believe this denial clearly violates the tenets of environmental justice and the public participation requirement of one of its legal bases, Title VI of the Civil Rights Act of 1964.

As discussed in the DEIR and these comments, this Project will generate significant negative environmental effects on a minority and low-income community. By the denial of additional time, members of that community are being deprived of the opportunity to closely review the DEIR and its discussion of identified environmental impacts and their predicted magnitude and compare those impacts with their daily experiences over the past year living with the environmental impacts of Staples Center operations.

By refusing this request for additional time, the Planning Department as Lead Agency is refusing to include essential input in the final EIR regarding the magnitude and variety of potential environmental impacts as well as the effectiveness of proposed mitigation based upon the real life daily observations of impacted residents. Rather, the Planning Department is choosing to rely primarily instead on expert sampling, models and extrapolation. This refusal to extend the time to comment also deprives both community members and decision-makers of the formal response by the EIR consultants to this community input, undermining the adequacy and validity of the EIR process.

We recognize that there will be other opportunities for the public to voice their concerns regarding the Project. However, it is important to distinguish between public testimony provided subsequent to the approval of the final EIR, and the public comment that occurs within the legal and formal EIR review process. In the latter case, the Lead Agency is required to produce formal written responses per the requirement of California Environmental Quality Act ("CEQA").¹

Our strenuous objection stated, FCCEJ submits the following comments on the DEIR at this time, to comply with the inexplicably short comment period.

¹14 Cal. Code Regs. §§ 15088(a), 15132.

B. The DEIR Contains No Analysis of Energy Use or Sources.

Although an EIR should include the energy environmental impacts of a project, the DEIR for the Project fails to include such an analysis. This omission seems particularly puzzling in light of the ongoing energy crisis facing the state and the region. Thus far, the City of Los Angeles has been shielded from energy price volatility because of surplus generation capacity and existing long-term contracts for purchasing energy. Considering projected growth and the current strains on the energy grid, however, this will not always be the case.

The vast proposed Project includes plans for a major 1,200 room convention center hotel, a second 600 room hotel, a 7,000 seat live theater, 800 residential units, up to 300,000 square feet of office space, and up to 125,000 square feet of sports club.² Such buildings will require huge amounts of energy to provide the proper lighting, machinery, and ancillary functioning throughout the day and often into the night. In light of the size of the Project and the energy crisis, we believe a full energy analysis should be completed in compliance with requirements set forth in CEQA, and that an energy analysis, complete with required mitigation measures, should be included in the final EIR.

1. CEQA Requirements Support Completion of an Energy Analysis in the Final EIR.

According to the CEQA Guidelines, Appendix F, "Potentially significant energy implications of a project should be considered in an EIR." The discussion of energy impacts should explain why certain construction measures were incorporated in the project and why other measures were dismissed. Impacts to be evaluated include the project's energy requirements and its energy use efficiencies; effects on local and regional energy supplies and on requirements for additional capacity; effects on peak and base period energy demands; the degree to which the project complies with existing energy standards; effects on energy resources and the projected transportation energy use and its overall use of efficient transportation alternatives.³

According to Public Resources Code section 21100(b)(3), mitigation measures for EIR analysis should include measures to reduce wasteful, inefficient and unnecessary consumption of energy. These measures include the potential of siting, orientation, and design to minimize energy consumption, including transportation energy; the potential for reducing peak energy demand; alternate fuels (particularly renewable ones) or energy systems; and energy conservation which could result from recycling efforts.⁴ Failure to include a detailed statement setting forth

² DEIR, p. 1

³ App. F, § II(C)

⁴ App. F, § D 1-4

mitigation measures proposed to reduce wasteful energy consumption as required by Public Resources Code § 21100(b)(3) may render an EIR legally inadequate.⁵

2. Proposed Greenbuilding Guidelines and Energy Mitigation Measures.

We urge the Project applicant, L.A. Arena Company, LLC ("Project Applicant") to use the Leadership in Energy and Environmental Design (LEED) system developed by the U.S. Green Building Council (*Appendix 2*). The LEED guidelines encourage use of non-toxic materials, renewable energy and water efficiency. If a building or project meets certain specific criteria under the LEED guidelines, the building or project can seek certification under the program. We encourage the Project Applicant to seek the platinum certification under the LEED guidelines, utilizing the cleanest and most energy efficient building standards. According to the U.S. Green Building Council, such LEED buildings can be built within a mere 2-3% cost increase, and often the energy savings pay back that extra cost in short order.

3. Recommendations:

In addition to implementing the LEED guidelines in construction and operation, we propose that the mitigation measures include:

- On-site solar and photovoltaics power generation, which will lessen any added load to Los Angeles Department of Water and Power's generation facilities. Clean, on-site energy generation will also delay or prevent the need to build additional petroleum-based generation capacity. Because such plants often end up in communities of color and low-income neighborhoods, on-site power generation for the Project could increase environmental quality elsewhere in the region.
- If off-site generation is pursued, 20% of the Project's total use should come from renewable technologies (solar, wind, geothermal, etc.) to reduce environmental impacts associated with fossil fuel energy use.
- Design and operate Project buildings to meet building energy efficiency and performance as required by ASHRAE/IESNA 90.1-1999 or the local energy code, whichever is more stringent.
- Zero use of CFC-based refrigerants, HCFC's or Halon in base building HVAC and refrigeration systems to reduce ozone depletion.

⁵ *People v. County of Kern* (1976) 62 Cal. App. 3d 761.

We look forward to a comprehensive energy analysis, including discussion of appropriate mitigation measures, to be included in the final EIR.

C. The Development Time Frame Section of the Project Description Is Inadequate.

From review of the DEIR Project description, it is unclear what the planned time line is for Project construction. Although an approximately seven-year construction period is put forward in the DEIR, a specific time line for construction has not been offered.⁶ Therefore we cannot tell what will be built when, and cannot determine at what intensity the environmental impacts will occur at any particular point in time over the next seven years. This ambiguity as to construction time makes it difficult to comment intelligently about the ramifications of the environmental impacts of the Project construction. This is particularly challenging because certain DEIR analysis is specifically tied to the construction of the Project (e.g., air quality, pedestrian safety, traffic and parking).

We understand that the Project Applicant, for practical economic reasons, is seeking maximum flexibility with respect to future Project design. It is our belief that tools like the proposed equivalency matrix need to be carefully balanced with appropriate environmental protection and mitigation measures so that benefits to the Project Applicant do not unfairly burden the local community with additional environmental degradation.

1. Recommendations

According to California law, a project description in an EIR must include all relevant parts of a project, including reasonably foreseeable expansion or other activities that are part of the project.⁷ As a result, and for the reasons set forth above, we request that the final EIR provide much more specific information, including a time line, on the details of the construction plan for the Project.

⁶ DEIR, p. 70

⁷ *Laurel Heights Improvement Assn. v. Regents of the University of Cal.* (1988) 47 Cal. 3d 253.

II. SPECIFIC COMMENTS ON THE DEIR

A. The Land Use Section of the DEIR Is Inadequate.

1. The DEIR Land Use Section Omits Consideration of the Adjacent Pico Union I and II Redevelopment Plans.

The DEIR states that the Project is subject to and guided by numerous land use plans, including the *Central Business District Redevelopment Plan*, the *City's Central City Community Plan*, the *City of Los Angeles Zoning Code*, the Housing Element of the *City's General Plan Framework*, the *Downtown Strategic Plan*, the *South Park Development Strategies and Design Guidelines*, the Southern California Association of Governments *Regional Comprehensive Plan and Guide* (RCPG), and the *Figueroa Corridor Economic Development Strategy*.⁸

Although the DEIR discusses many appropriate land use plans, a glaring omission is any reference to the *Pico Union I* and *Pico Union II* Redevelopment Plans. These Redevelopment Plans cover geographic areas located directly west and adjacent to the proposed Project which have been dedicated to the preservation and improvement of affordable housing for approximately 30 years, and home to working class and low-income people of color for decades. Both plans have recently been extended to 2010.

According to the Community Redevelopment Agency of the City of Los Angeles, the primary purpose of the *Pico Union I* plan is to "*provide the residents of Pico Union with affordable and decent housing opportunities.*"⁹ In addition, the Redevelopment Project seeks to:

- improve the appearance of the community through rehabilitation and improved land use;
- improve the traffic flow within and through the area; and
- stimulate the economy to create new business opportunities and jobs.

As explained more fully below, without due consideration to the *Pico Union I and II* Redevelopment Plans and their goals, the proposed Project will:

- cause "gentrification" and thus reduce the amount of housing that is affordable to working class and low-income people at a time when, according to the City's own

⁸ DEIR, pp. 88-118

⁹ Pico Union I Redevelopment Project, Five-Year Implementation Plan, FY2000-FY2004, Health & Safety Code Section 33490, Adopted, November 16, 2000.

Housing Crisis Task Force Report, the City is suffering a "profound crisis of housing affordability;"

- strain traffic flow within and through the area; and
- undermine the development of home-grown businesses.

We request that the final EIR include a detailed analysis of the relationship of the proposed Project to the *Pico Union I and II* Redevelopment Plans.

2. The Specific Plan Must Be Broadened to Include Adjacent Low-Income Residential Areas.

One of the land use challenges of the proposed Project is how to balance the needs of a 3.75 million square foot regional sports and entertainment attraction with those of an existing historic residential community, without negatively impacting that community. As shown throughout these comments, our members who live in the area have suffered from a lack of environmental mitigation from the current operations of Staples Center, the precursor to the Project. The Project Applicant has recognized these problems, and has recently engaged in a cooperative effort with FCCEJ to mitigate these negative impacts. From our experiences, we have all learned the hard way that it is much more difficult to mitigate problems after they have occurred than to prevent them from occurring in the first place, by having appropriate mitigation measures and processes in place.

High-end projects such as the proposed Project development create economic pressures on property values and real estate behavior in adjacent low-income neighborhoods, often referred to as "gentrification." Without very careful intervention, the result is generally displacement of low-income minority residents.

FCCEJ has documented specific cases of rent increases and reduced maintenance that occurred immediately after the construction of the Staples Arena. Interviews and focus groups with current residents who currently live adjacent to the existing Staples Center have provided vivid examples of what happens when no land use mechanisms or mitigation are in place to protect housing resources. Residents have testified that some of their rents were increased substantially (in one case from \$250 to \$500) immediately following the construction of the Staples Center. In another case, residents explained that their landlord stopped providing services to the building as soon as the Staples Center was constructed, anticipating an imminent sale to developers interested in implementing the many downtown visions of planning described above.

Entities devoted to the protection and development of long-term affordable housing in the area-- non-profit housing developers □ have been completely frustrated by an atmosphere of speculation

immediately following the Staples development. In some cases, property owners have raised asking prices to two or three times the previous year's price.

It is true that the residential rent increases are beyond those permitted by the current Rent Stabilization Ordinance and that housing conditions cited are out of conformance with the City's Code. However, it is also true that it is beyond the City's current resources to mitigate the severe impact that an enormous Project will have on a community -- unless specific land use and planning mechanism are in place that incorporate a geographic area broader than those owned by the Project Applicant near the proposed Project.

We believe it is bad planning to limit the entire proposed specific plan to the Project site. It is particularly crucial that residential minority neighborhoods are incorporated into the proposed Specific Plan because:

- After approximately 40 years of effort in the area of affordable housing, *Pico Union I and II* will expire soon after the projected completion date of the Project. The City cannot afford to delete this effort with a new one, and must protect its historic investment in affordable housing in an historic minority neighborhood.
- Most of the investments made by local, state, and federal agencies in affordable housing have expiration dates that permit reversion to market rate in a few short years. The Figueroa Corridor is an area in which many of these investments have either reached their expiration dates or will reach their expiration dates before the completion of this Project, exposing them to the economic pressures described above. A list of these 253 buildings, representing 16,684 housing units is provided in *Appendix 3*.¹⁰

Given the current affordable housing crisis, the current financial crisis of the L.A. Community Redevelopment Agency, and the severe limitations of the City's resources for affordable housing in a period of extreme need, it is imperative that past and current investments and efforts for affordable housing are not completely canceled out by the loss of affordable housing. This negative impact, which is inconsistent with existing adjacent plans, will disproportionately impact low-income people of color who live in the surrounding community.

3. Recommendations

We are recommending related land use strategies that will assist in mitigating the projected impacts of displacement, gentrification, and loss of affordable housing and their disparate impact

¹⁰ Neighborhood Knowledge Los Angeles, Department of Urban Planning, School of Public Policy and Social Research, UCLA.

on minority working class residents. A preview of these impacts has already occurred as a result of the existing Staples Center, and thus every measure of prevention and cure must be considered in reference to the much larger proposed Project.

Our land use mitigation recommendations are:

- Extend the Specific Plan boundaries to include existing residential areas that have been struggling for years to provide affordable housing, such as the Community Redevelopment Agency's *Pico Union I and Pico Union II Project Areas*.
- Include the language recommended by the *L.A. Housing Crisis Task Force* in the Specific Plan and the Disposition and Development Agreement/Developer Agreement, provided in *Appendix 4*.

B. The DEIR Section on Population, Housing and Employment Fails to Address the Issue of Affordable Housing and Gentrification of the Surrounding Community.

The affordable housing and displacement problems described above must be viewed in the context of the current affordable housing crisis in Los Angeles. The City's affordable housing crisis has been well documented in the recent report issued by the Los Angeles Housing Crisis Task Force. Some of the *Los Angeles Housing Crisis Task Force Report's* ("*Task Force Report*") findings are:

- Over the next few years, thousands of units in the City's older housing stock will be demolished to make way for new residential, commercial and school construction.
- As described above, most of the subsidies invested by public agencies in affordable housing have expiration dates which permit reversion to market rate.
- The City is nearly built out, and suitable parcels of land for new housing are so scarce that construction has nearly ceased. Between July 1998 and June 1999, 1,940 net new housing units were built in the City of Los Angeles while population increased by 65,000 people.

Regional projections from the Southern California Association of Governments ("SCAG") as presented in the DEIR do not adequately reflect the affordable housing shortages in Los Angeles. SCAG projections in the DEIR for growth in the housing supply in the Los Angeles subregion does not include a breakdown of the affordable housing supply, or make adjustments for overcrowding, overpayment, or slum conditions. This is a significant oversight given the low-income community that surrounds the proposed Project site. The proposed Project will have a deleterious effect on the affordable housing supply in a community that is already sorely lacking in affordable housing.

According to SCAG calculations cited in the *Task Force Report*, the City will need 60,280 new units in a seven and half year period between 1998 and 2005, or about 8,000 new units a year. Of this number, 3,787 must be affordable. The City's building permit data shows that between July 1998 and June 1999, 2,621 units were constructed and 781 were demolished. In the six months between June and December 1999, 2,337 units were constructed and 429 units were demolished. Although construction appears to be increasing, it is still a long way from the 8,000 annual units projected by SCAG. Nor does new construction address the problem of affordability. In fact, new construction compounds the problem of affordability because the units demolished to make way for new construction are the City's older and most affordable housing units.

In the neighborhoods that surround the Figueroa Corridor, 36% of residents live below the federal poverty level. According to 1990 Census data for the 90015 zip code (where the Project will be located), 90.9% of occupied units are renter occupied units. The median household income for the area is \$15,656 — half of the median household income for Los Angeles City (\$30,925). Eighty-seven and a half percent of residents are classified as Hispanic, and 50.4% residents have less than a 9th grade education.

This population's inability to afford market-rate housing fuels an exploitative slumlord industry, so severe that the City established the Systematic Housing Code Enforcement Program (SCEP) to respond to the increase in slum housing as documented by the *Blue Ribbon Citizen's Committee on Slum Housing*. The lack of appropriate planning and mitigation regarding this issue have exacerbated this problem in housing since the development of the existing Staples Center three years ago.

1. The Failure to Mitigate The Project's Negative Impacts on Affordable Housing May Violate Fair Housing Statutes.

The potential for unmitigated displacement will exclusively impact Latinos, poor families with children, women, seniors and people with disabilities who live in the area impacted by the Project. All of these populations are entitled to special protection under federal and state statutes guaranteeing fair housing civil rights. These include the Federal Fair Employment and Housing Act¹¹, and the California Fair Employment and Housing Act (FEHA), Government Code section 12955 et seq. It is important to note that while under the Federal Fair Housing Act, proof of violation is based upon discriminatory intent, such a showing of intent is not required under FEHA. Rather, a violation of FEHA is based upon a showing of discriminatory *effect*.¹²

The community surrounding the proposed Project is a low-income, predominately Latina/o community that suffers from sub-standard apartments and housing shortages at levels well above

¹¹ Title VIII of the Civil Rights Act of 1968, as amended 1988. 42 U.S.C. Section 3601.

¹² Cal. Gov. Code § 12955.8.

the rest of the City. The DEIR fails to adequately address the impact that the loss of affordable housing will have on an already vulnerable community, a loss of housing that may be a violation of state and federal statutes.

2. The DEIR Fails to Adequately Analyze the Connection Between Project Wage Levels and Nearby Housing Prices.

Among the South Park Design Guidelines listed, one is "creating a Live/Work Community" (DEIR, p. 188). Yet there is a growing gap between wages and housing costs. Over the past ten years, job growth has been highest in the service and retail sectors. While job growth has been concentrated in low-wage sectors, since the end of the recession in 1997, housing prices have continued to rise.

According to the *Task Force Report*, the housing crisis impacts people who earn less than \$25,000 per year, 92% of whom must pay over half of their pre-tax income for rent. In Pico Union and other neighborhoods which surround the Project, many residents are low-wage workers that earn minimum wage, which is \$14,040 per year. The *Task Force Report*, produced by business, community, and City staff, states that a minimum \$14.90 per hour wage is necessary for a worker to afford a two bedroom apartment in Los Angeles -- much less than the current California minimum wage of \$6.75 per hour.

While types of jobs that may be created from the proposed Project are listed in the DEIR, there is no analysis of job quality, wage levels, or full-time/part-time ratios. The DEIR states that "employment growth directly attributable to the Project will have a favorable impact on employment in the Central City Community Plan Area, and will assist in the recovery of downtown Los Angeles employment levels last seen prior to the economic recession of the early 1990s."¹³ However, the DEIR cannot address the issue of economic revitalization without taking into account job quality.

Los Angeles is the capital of working poverty. In the late 1990's, 64.1% of all poor adults and children in Los Angeles County lived in a household in which at least one member worked full-time, according to *The Other Los Angeles: The Working Poor in the City of the 21st Century*, a study released in August 2000 by the Los Angeles Alliance for a New Economy ("LAANE") (Appendix 5).

Poverty has grown, despite the fact that unemployment was under 6% in 2000. The *Los Angeles Times* has reported that of the over 300,000 new jobs created in Los Angeles County since 1993, a majority pay substantially below-average wages of less than \$25,000 a year (Appendix 6).

¹³ DEIR, p.191.

3. **The DEIR Does Not Address the Impact of Low-Wage Jobs on Public Services.**

As with the Staples Center, the economic development benefits of the L.A. Sports and Entertainment District are described in the DEIR. However, the Staples Arena, according to their own Arena Jobs Incentive Program report in November 2000 (*Appendix 7*), created a high number of part-time, low-quality jobs. A full 83% of all Staples employees are part-time, according to the report, and only 14% are classified as "quality jobs."¹⁴ Low quality jobs create burdens on public services that the DEIR does not address.

According to an issue brief produced by the LAANE, "[G]overnment at all levels, from local to federal, faces increased costs because poverty-wage jobs without health care benefits lead to an increased need for anti-poverty programs and services. Ultimately, these increased costs are borne by taxpayers."¹⁵ The brief goes on to calculate that the family of the typical Los Angeles County low-wage worker (who earns \$7.50 per hour, works 1,900 hours per year, and supports a family of four) is eligible for anti-poverty programs which cost at least \$8,209 per year (*Appendix 8*).

The final EIR needs to further study the possible impact of low-wage jobs on social services for the community around the proposed Project and explore ways to mitigate these impacts.

4. **Strong Links Between Economic Development and Affordable Housing Must Be Developed and Maintained.**

The negative impact on affordable housing, and particularly the disproportionate impact the Project will have on Latino families, also undermines the Project's purported consistency with other land use programs, including SCAG's guidelines for growth management which promote *Social, Political and Cultural Equity*.¹⁶ The DEIR identifies the Project's relevance to the guideline that states, "encourage employment development in job-poor localities through support of labor force retraining programs and other economic development measures."¹⁷ However,

¹⁴ "Quality job" is defined as a job that pays an annual salary over the Lower Living Standard Income Level applicable to the Los Angeles Metropolitan Statistical Area for a family of four, or \$27,771 annually.

¹⁵ LAANE, "We All Pay the Price: Anti-Poverty Subsidies for Low-Wage Workers in Santa Monica's Coastal Zone"

¹⁶ DEIR, p. 103

¹⁷ DEIR, p. 104.

local residents have observed that even good wages will be offset by the costs of transportation from affordable housing in outlying areas, or by increased housing costs.¹⁸

We fully encourage a well planned and implemented local job training and placement program to be associated with this Project, as such a program, if successful, could reduce vehicle trips generated by employees during the construction and operating phases of the Project as well as providing employment opportunities to local residents. It is also important to assure that affordable housing not be sacrificed in order to meet the economic goals of this Project.

5. Conclusion

The DEIR states that the Project "would not result in any significant environmental impacts upon housing, population and employment and therefore no mitigation measures are required."¹⁹ In actuality, there *are* numerous highly significant environmental impacts on housing, population and employment that require further analysis and mitigation.

The proposed Project is expected to create a significant number of retail, parking attendant, restaurant and hotel jobs, though the quality or wage level of these jobs is not discussed. Without wage standards and full-time hour requirements it is safe to assume that the Project's retail and service sector jobs will be the low-wage, no-benefit, part-time work those sectors typically provide. If at the same time the Project causes surrounding rents and property values to rise, this further affects the demand and supply of affordable housing.

6. Recommendations

We list suggested mitigation measures and encourage further exploration of those as well as other ways to address the impacts. Beyond mitigating specific impacts, we also believe incorporating affordable housing, job quality and community access measures would contribute significantly to the cumulative benefit of the proposed Project. In a statement of overriding consideration, such community benefits would help outweigh negative Project impacts that cannot be fully mitigated.

Our proposed mitigation measures include the following:

¹⁸ FCCEJ, Community Focus Group discussion 1/31/01.

¹⁹ DEIR, p.193.

Affordable Housing

- A fee of \$10 per square foot of commercial development (non-housing development) should be paid into a Figueroa Corridor Housing Trust Fund. The Fund should be managed by a separate non-profit governed by community, labor and Staples representatives and offered to local non-profits that provide service-enriched housing.
- Establish mechanisms for neighborhood residents and non-profits to have the first right of refusal to purchase buildings with scheduled expiration of affordability requirements.
- We request that in the final EIR the City use actual numbers rather than forecasted information to analyze the housing impacts of the Project. For example, the DEIR states that a total of 10,658 dwelling units were *forecasted* for the Central City Community Plan Area in 2000.²⁰ The actual number of total dwelling units constructed, which may well be considerably lower, is not stated.

Employment

- The Project Applicant should extend application of the City's Living Wage and Service Worker Retention ordinances to commercial tenants, who are expected to produce most of the long-term jobs associated with the Project. Living Wage jobs will help mitigate the loss of affordable housing for local employees as well as contribute to the economic development of the City.
- The Project Applicant should agree to be neutral and to encourage others to be neutral when workers are considering unionization. Union jobs typically pay higher wages and carry more benefits than non-union jobs.
- The Project Applicant should set local hiring targets and implement a local hiring/First Source hiring program. The DEIR states that "it is anticipated that the location of the jobs created within the Central City Community Plan Area will improve the balance between jobs and housing and result in greater individual and group benefits."²¹ However, it does not present any evidence to support this anticipation, nor detail concrete ways in which local hiring would be accomplished. Local hiring targets met through a First Source hiring program would help create a Live/Work Community, mitigating the loss of affordable housing for local employees. Additionally, as discussed in Section D below, increased local hiring would also mitigate traffic impacts by decreasing levels of peak hour traffic.

²⁰ DEIR, p. 189.

²¹ DEIR, p. 193.

- The Project Applicant should invest in training to qualify local residents for these jobs, including jobs with the opportunity for advancement in the sports and entertainment industry into positions which pay higher wages, and should create incentives for their commercial tenants to do the same.
- In the final EIR, economic information may be required to support findings that certain mitigation measures or alternatives are not economically feasible. Under 14 California Code of Regulations section 15131 (c), agencies must consider economic and social factors, particularly housing needs, along with environmental, legal and technological factors, in determining whether mitigation measures and project alternatives are infeasible.²²

C. The Drainage and Surface Water Quality Sections of the DEIR Are Insufficient.

After reviewing the DEIR, we find that the water quality analysis is insufficient. Our concerns include the fact that the DEIR fails to analyze for compliance with water quality standards, requirements for new sources to impaired waterways, anti-degradation requirements and special needs of Ballona Creek as an area of biological significance. Because the Project stormwater runoff will ultimately impact the Ballona Creek, our concerns are highlighted by the fact that Ballona Creek is already severely impaired by a host of pollutants.

1. Characteristics of the Ballona Creek Watershed.

Presently, the Ballona Creek Watershed is identified by the Los Angeles Regional Water Quality Control Board ("LARWQCB") as having the following beneficial uses:

- *Ballona Creek: Existing beneficial uses:* Non-contact recreation, Wildlife habitat. Potential: drinking water, contact recreation, and warm freshwater habitat.
- *Ballona Creek Estuary: Existing:* Navigation, contact recreation, non-contact recreation, commercial and sport fishing, Estuarine Habitat, Marine Habitat, Wildlife Habitat, Rare, Threatened & Endangered Species, Migration of Aquatic Organisms, Spawning, Reproduction and/or Early Development, Shellfish Harvesting.
- *Ballona Wetlands: Existing:* Contact Recreation, Non-contact Recreation, Estuarine Habitat, Wildlife Habitat, Rare, Threatened & Endangered Species, Migration of Aquatic Organisms, Spawning, Reproduction and/or Early Development, Wetland Habitat.

²² See also 14 Cal. Code Regs. §§ 15091, 15364.

Moreover, Ballona Creek is recognized as a Significant Ecological Area ("SEA") by the LARWQCB.²³ The SEAs designated by LARWQCB are analogous to "environmentally sensitive areas" under the California Coastal Act which are "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."²⁴

Unfortunately, notwithstanding these beneficial uses and the Watershed's ecological importance, levels of the following toxic and other pollutants found in the Ballona Creek Watershed already exceed federal and state water quality standards: arsenic, cadmium, copper, DDT, lead, PCBs, ChemA, chlordane, dieldrin, silver, tributyltin, zinc, enteric viruses, and trash.²⁵ Many of these pollutants are toxic to aquatic life and harmful to humans.

2. The DEIR Fails to Adequately Analyze Impacts Associated with Potential Violations of Water Quality Standards.

The DEIR indicates that "[a] project would have a significant impact to drainage or surface water quality if development of the project were to result in any of the following:...violate water quality standards...."²⁶

We agree with this general conclusion. Despite this, however, the DEIR concludes there is *no significant impact* in terms of violations of water quality standards.²⁷ Yet, there is no analysis or description of how this conclusion was reached. This is a violation of CEQA.²⁸

²³ LARWQCB Basin Plan (1994) pages 1-17.

²⁴ Public Resources Code ("PRC") § 30107.5.

²⁵ LARWQCB 1998 303(d) List of Impaired Waterbodies, pages 67-68.

²⁶ DEIR, 202-203.

²⁷ DEIR, 205-206.

²⁸ See *Topanga Assn. For a Scenic Community* 11 Cal.3d 506, 515 (applied to the CEQA context in *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 404 ["*Laurel Heights I*"].) As stated by the Court in *Laurel Heights I*:

The Regents miss the critical point that the public must be equally informed. Without meaningful analysis ... in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. We do not impugn the integrity of the Regents, but neither can we countenance a result that would require blind trust by the public [emphasis added], especially in light of CEQA's fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials.

Section 303 of the Clean Water Act defines "water quality standards" as consisting of both the uses of the surface (navigable) waters involved and the water quality criteria which are applied to protect those uses.²⁹ Under the Porter-Cologne Water Quality Control Act,³⁰ these concepts are separately considered as beneficial uses and water quality objectives.

Water quality standards consist of designated beneficial uses for state waters (like those identified above for Ballona Creek) and water quality criteria designed to protect those uses.³¹ Under the Clean Water Act, the states are primarily responsible for the adoption, and periodic review of water quality standards.³² However, where a state does not act to adopt or update a standard, EPA can promulgate standards. Pursuant to this authority, in 1992, EPA promulgated the National Toxics Rule ("NTR"), to bring noncomplying states, such as California, into compliance with the Clean Water Act.³³

The federal government also recently enacted the California Toxics Rule ("CTR") after California failed to do so.³⁴ Additional numeric water quality standards are also set forth in the Water Quality Control Plan, Ocean Waters of California.³⁵ Further, water quality criteria include those narrative and numeric objectives set forth in the Water Quality Control Plan for the Los Angeles Region.³⁶

"To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."

²⁹ Basin Plan, p. 3-1.

³⁰ California Water Code, Division 7, Chapter 2, Section 13050.

³¹ 33 U.S.C. § 1313; LARWQCB Basin Plan, at 3-1.

³² 33 U.S.C. § 1313.

³³ 40 C.F.R. 131.36.

³⁴ 65 Fed. Reg. 31682, 31683 (U.S. EPA, May 18, 2000) ("Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the States of California").

³⁵ State Water Resources Control Board Resolution No. 97-026. ("Ocean Plan").

³⁶ Basin Plan, Chapter 3.