

**HOMEOWNERS OF ENCINO**

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**LOS ANGELES CITY PLANNING DEPARTMENT  
UPDATE TO THE HOUSING ELEMENT**

**RESPONSE TO INITIAL STUDY AND CHECKLIST**

**NOTICE OF PROPOSED MITIGATED NEGATIVE DECLARATION (MND)**

CASE NO. ENV-2007-5270-EAF

Responsible person: Naomi Guth, Citywide Planning Div.

*June 13, 2008*

**COMMENTS ON PROPOSED FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)  
(CEQA, SEC. 21082.2 and GUIDELINES SEC. 15070)**

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RESPONSE to the Draft Environmental Impact Report for a project known as: UPDATE TO THE HOUSING ELEMENT ENV-2007-5270-EAF

The project will be located at: **CITYWIDE**

The project applicant is: **LOS ANGELES CITY PLANNING DEPARTMENT**

The proposed project affects transportation, earth, air, water, plant life, population, energy, utilities, land use, and other environmental elements in Encino and the entire City of Los Angeles. This document contains our views on the scope and content of the environmental information which is germane to your environmental evaluation of this project.

**I. HOMEOWNERS OF ENCINO, INC.**

This Response is filed by the Homeowners of Encino, a California non-profit corporation duly organized and existing under the laws of the State of California. Homeowners of Encino is a public benefit association organized for the purpose of promoting social welfare. This corporation seeks to protect the residential character of its neighborhoods and to enhance the quality of life for its members and the community. Its members reside within the neighborhoods of the proposed project, and will be heavily impacted by it.

**II. DESCRIPTION OF PROJECT**

The Update of the Housing Element is an update to the current 1998-2005 Housing Element. The Update addresses a planning period of 2006 through 2014. The Update restates the Goals, Objectives and Policies from the current Housing Element and identifies the programs to implement them. The material change between the current Housing Element and the Update is the increase in the *number of new housing units* to be accommodated during this planning period

In accordance with the Regional Housing Needs Assessment (RHNA) for the Southern California Association of Governments (SCAG) region, the City is assigned an allocation of new housing

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units to accommodate during the Housing Element planning period. The current Housing Element includes a RHNA allocation of *60,280 new housing units* that were to be accommodated during the 1998-2005 planning period.

The Update includes a RHNA allocation of *112,876 new housing units* to be provided during the 2006-2014 planning period. The restatement of Goals, Objectives and Policies and the *112,876 additional housing units* constitute the "project" analyzed in this Initial Study. The impacts identified as a result of the changes made to the current Housing Element are addressed in the *1996 Final Environmental Impact Report (FEIR)* for the Framework Element of the General Plan.

The 1996 Framework Element projected the City's change in population and housing need from 1990 through today and beyond, and established the City's capacity to accommodate the projected growth to *4,306,500 persons and 1,566,000 households* (accommodated in 1,644,300 housing units, assuming a 5% vacancy rate in the stock).

The 1996 Framework Element FEIR analyzed the impacts associated with this growth. Given a 2005 population of 3,957,900 persons and a housing stock of 1,371,439 units, the 1996 Framework Element FEIR analysis addressed the impacts of the *addition of 112,876 new housing units* to be accommodated during the 2006-2014 planning period, and addressed the change in the Update of the Housing Element to the current Housing Element.

### **III. A NEW ENVIRONMENTAL IMPACT REPORT (EIR) MUST BE PREPARED**

The Initial Study and Checklist issued for this project by the Los Angeles Planning Department is based upon an outdated, incomplete 1996 FEIR and includes much speculation and unsubstantiated opinion. There is no factual evidence to support the claim that a 1996 environmental document will suffice to justify 112,876 additional housing units.

An new EIR must be prepared 'whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact (No Oil, Inc., supra, at p. 75, [118 Cal.Rptr. 34, 529 P@2d 66] ), even if there is substantial evidence to the contrary (Arviv Enterprises, Inc. v. South Valley Area Planning Comm.. (2002) 101 Cal.App.4th 1003, 1346 [125 Cal.Rptr.2d 1401

We *do not* agree with your conclusion that the outdated 1996 FEIR is adequate for the proposed project . The proposed project will have a significant effect on the environment, and therefore an extensive, thorough new EIR is required to address the significant new impacts in the revised the Housing Element.

We believe that the proposed project will have significant impacts on the environment that must be fully addressed in an a new Environmental Impact Report (EIR). An outdated, 1996 FEIR simply will not do for the following reasons:

1. The revised project will have a significant impact on air quality, water, natural resources, population, noise, geology, energy, and population growth that have not been addressed.
2. Guidelines Sec. 15064 requires that a Lead Agency "consider the views held by members of the public in all areas affected. If the Lead Agency expects that there will be a substantial body of opinion that considers or will consider the effect to be adverse, the Lead Agency shall regard the effect as adverse..."

Sec. 15064 further states "that if a Lead Agency is presented with a fair argument that a project may have a significant effect on the environment, the Lead Agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a

significant effect (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68)." It is our opinion that this project will have a negative impact that will be significant.

#### **IV. STATEMENT REGARDING MITIGATIONS**

In preparing your new EIR, it is important to recognize that any mitigations that you proposed in 1996 must go beyond those mandated by law or existing policy and practice. "Mitigations" that are otherwise required by law or other official regulations are unacceptable. Outdated measures cannot serve as mitigations to satisfy the requirements of the California Environmental Quality Act (CEQA)

We ask that you thoroughly investigate in the following environmental concerns in preparing the a new, complete and accurate EIR:

#### **V. IMPACTS ON EARTH**

This project with 112,876 additional housing units will result in disruptions, displacements, compaction and over-covering of soil. The EIR should specify what grading will be done, and provide a time line indicating the starting and ending dates of all grading and construction activities. Haul routes should be described, and mitigation proposed for dealing with the traffic congestion created by the hauling of large amounts of soil on city streets to dumpsites.

The information presented in the EIR should be sufficient to allow for a clear understanding of the geologic hazards and their impacts. The EIR should present a comprehensive summary of known geologic and seismic hazards near the site. These should be clearly identified to ensure that the proposed project will fully evaluate and mitigate the problems. The EIR should include maps that show areas of unsuitable fill soils, potentially unstable slopes, areas of differential settlement, areas of expansive soils, and the potential zone of inundation from flooding, due to a 100 year flood.

The EIR should present a summary of seismic information on ground acceleration and the duration of strong shaking that could be expected from large earthquakes on nearby faults. Impacts of seismic shaking on existing buildings in the area, and on stability of slopes and fills, should be addressed. Please see that the EIR conforms fully to the recommendations in the "Guidelines for Geologic/Seismic Considerations in Environmental Impacts Reports", and the Department of Mines and Geology's Note 43, "Recommended Guidelines for Determining the Maximum Credible and the Maximum Probably Earthquakes."

#### **VI. AIR IMPACTS**

The EIR should fully consider the air impacts due to the construction of 112,876 additional housing units. A project of this size will have a deteriorating effect on air quality in the region, which is located in a locality which does not meet Federal and State air quality standards. The construction of the project will generate Carbon Monoxide, Nitrous Oxide, Ozone and particulate matter, making it more difficult to attain the required air standards in the basin.

Please identify in the EIR the specific increases of air pollutants generated by this project, and the cumulative impacts on the air quality in the region. Your assessment should show how this project, when taken together with all other proposed projects in the area will impact air quality. It should show threshold levels of significance for each type of air emission.

The City of Los Angeles and the EPA have entered into a Consent Decree regarding growth within the Hyperion Service Area. They have agreed that growth within the area will not result in air emission increases, nor impede the region's progress toward National Ambient Air Quality Standards (NAAQS) attainment. Your EIR should show that all impacts have been reduced to

insignificance, in order to comply with the City of Los Angeles and EPA agreement. Anything short of this is a breach of the terms of the Federal consent decree, and actionable, with the possibility of substantial fines being imposed against the City.

Also address the air impacts at both the local level, and within the region. Explain how these impacts will be fully mitigated. Specifically, quantify all related vehicular air emissions, and include the factors, formulas and computations used to arrive at these impacts, and their mitigations. Provide an appendix with all necessary and supporting documentation, including the paper trail that will allow concerned citizens, or decision makers to trace your steps, and your conclusions with regard to air impacts.

Please explain in the EIR what effects diesel fumes, gasoline powered equipment fumes and construction odors will have upon those with respiratory problems, or the aged living nearby. Also discuss the impact on local flora and fauna, giving specific effects upon plant and animal life, as a result of the additional air degradation that may be caused by the project.

The EPA has stressed the importance of secondary air impact analysis. The EIR should assess the secondary air impacts that will result from this project and please provide adequate mitigations for these air impacts.

## **VII. WATER IMPACTS**

The Los Angeles basin is located in a permanent drought area. This project with 112,876 additional housing units will have a negative impact on water. Please address the direct water impacts from this project. Identify source of water, how it will be used in the project, and how the removal of water from the aquifer will be replaced. Fully explain the quantitative impacts on the local and regional water supply, as a result of this project. Estimate water consumption both during and after construction. Provide a detailed list of mitigations to reduce the consumption of water to insignificance. The use of an outdated, 1996 FEIR for this project is unacceptable because of its water impacts.

The City of Los Angeles has enacted ordinances which mandate many water saving and conservation measures. These items must be considered baseline, and do not qualify as mitigation measures, since they are already the law. Your EIR should impose extensive new measures to deal with the water consumption issue. Please also provide mitigations for dealing with secondary water impacts. The growth sustained by 112,876 additional housing units will consume large amounts of fresh water, which are in short supply in the region.

Also please detail the amount of water necessary for control of dust as well as the cumulative amount of water needed by this project during the construction phase. If reclaimed sewage water is to be used for dust control, the effects of misting and air borne transfer of viruses should be analyzed and reported.

Include the factors, formulas and computations used to arrive at these impacts, and their mitigations. Provide an appendix with all necessary and supporting documentation, including the paper trail that will allow concerned citizens, or decision makers to trace your steps, and your conclusions with regard to water impacts.

## **VIII. IMPACT UPON ANIMAL AND PLANT LIFE**

A project with 112,876 additional housing units will have a detrimental effect upon the flora and fauna in the project area. The area is a natural habitat for birds and other animals. It will not be possible to construct the 112,876 additional housing units without a serious impact on the local biota. The use of an outdated and incomplete 1996 FEIR for this project is unacceptable because of its impacts on animal and plant life. Provide a detailed assessment of impacts on both plant

and animal life as a result of the project. Also provide detailed mitigations to reduce these potential impacts to insignificance.

## **IX. NOISE IMPACTS**

A substantial amount of noise will be generated by the proposed 112,876 additional housing units in this project during construction. The movement of heavy vehicles, trucks, compressors and construction equipment could create severe noise problems. Show how it will be possible to construct this project, including removal of many cubic yards of soil without creating severe noise impacts. The use of an outdated, 1996 FEIR for this project is improper because of its noise impacts. The new EIR should explore the effects of noise levels on local residents and construction workers, during construction, and the impact on the emotional and physiological well being of people living nearby.

Please explain in detail the effects of specific pieces of construction equipment, the noise levels, dBA, frequency and duration of sound that people will be exposed to. Also explain the impact of sustained noise upon the aged or those who are ill and may reside near the construction site. The new EIR should provide mitigation measures that will reduce the noise created by this project to insignificance.

## **X. LIGHT AND GLARE IMPACTS**

Light and glare must be adequately assessed in the EIR. Residents living near the construction sites of 112,876 additional housing units will be subjected to light and glare. The use of an outdated, 1996 FEIR for this project is improper because of its light and glare impacts. Show how the new units will be illuminated without casting light and glare on nearby buildings. Any buildings located adjacent to 112,876 additional housing units will be directly impacted. The light and glare that will spill onto nearby buildings must be mitigated in the EIR. The 112,876 additional housing units could result in altered shade and shadow conditions which should also be mitigated to insignificance in the new EIR.

## **XI. CHANGES IN POPULATION**

Changes in population will occur if this project is approved. It will alter the distribution, density and growth rate in the region. Providing more housing, jobs and employment in this region will make it more difficult to achieve a balance between the environment and the population. It will cause greater population density in a region already without adequate infrastructure. The use of an outdated FEIR for this project is improper because of its population impacts.

In your new EIR, please show how the project adheres to the job/housing balance. Provide a detailed assessment of the growth and job impacts. What kinds and types of jobs will be created, as a result of the 112,876 additional housing units. Analyze the effects on unemployment on individuals with various jobs skills. Also explore what housing is available to accommodate any increase in direct and indirect employment. Provide a detailed list of mitigation measures to deal with any job/housing imbalance created by the project.

## **XII. HOUSING IMPACTS**

The project will impact land prices and housing availability in the area. The new EIR should show how 112,876 additional housing units can be sustained in an area with limited infrastructure. The new EIR should explain how the affordable housing stock will be attained. It should also show the impact on nearby small retail and consumer serving shops and businesses. The use of a 1996 FEIR for this project is improper because of its housing impacts.

### **XIII. TRAFFIC AND CIRCULATION**

Transportation and traffic circulation will be negatively impacted by the proposed 112,876 additional housing units in this project. There are a numerous E and F level intersections in the project area. The construction of 112,876 additional housing units and removal of large amount of soil over city streets will impede traffic and circulation and make gridlock worse. The use of an outdated, 1996 FEIR for this project is improper because of its traffic and circulation impacts. The new EIR should explain how the E and F level, gridlocked intersections in the area will be mitigated to insignificance.

Because of the project's magnitude and the substantial construction required, the proposed project will generate significant traffic congestion problems. Traffic congestion resulting from the expansion of freeways and access roads, lane closures, detours, slow moving construction vehicles and equipment, project personnel commutes, etc. significantly increase traffic and mobile-source air emissions.

Please provide detailed maps in the new EIR which will show how the project will mitigate traffic in the area, including the number of lanes of traffic that will be lost due to the movement of heavy equipment to and from the site during construction.

This project will have a mutual impact on other projects in the area. Explain in the new EIR the interactive impacts on the existing circulation system, on ATISAC, and the secondary highways. Explain thoroughly how you arrive at trip generation rates, trip distributions, time of day analysis, effects on A.M. and P.M. traffic conditions, etc. The new EIR should deal with the phasing issue comprehensively. What will be the incremental impacts on traffic, and if phased, how will the infrastructure be phased in so that all mitigations are in place to prevent increases in traffic or a degradation of circulation?

Include the factors, formulas and computations used to arrive at these impacts, and their mitigations. Provide an appendix with all necessary and supporting documentation, including the paper trail that will allow concerned citizens, or decision makers to trace your steps, and your conclusions with regard to traffic impacts.

### **XIV. PUBLIC SERVICE IMPACTS**

This project's 112,876 additional housing units will have negative public service impacts and therefore the reliance upon the outdated, 1996 FEIR is improper. An new EIR should be prepared which fully addresses impacts on public services. Police and fire services are inadequate to meet the present community needs. The 112,876 additional housing units will generate additional demands that the City systems cannot handle. The new EIR should show how Los Angeles intends to mitigate the drain on local public services. It should present a detailed explanation of the degraded response times to police, fire and paramedic services. It should present specific mitigations and funding mechanism that show how the applicant will offset the deteriorated public service response capability.

Your new EIR should thoroughly cover the adequacy of fire-flow requirements for the necessary level of protection, response distance from existing fire stations, etc. The quantity of water necessary for fire protection varies with the type of development, life hazard, occupancy, and the degree of fire hazard. Show what improvements will be needed to provide the adequate G.P.M. for fire-flow. The EIR should contain a thorough analysis of this topic, in consultation with the Water Services Section of the Department of Water and Power. It should also show how the G.P.M. requirements for the first-due Engine Company will be met, and the distance of the first-due Truck company.

Include off-site and on-site location of fire hydrants, fire lane widths, and how the 112,876 additional housing units will affect staffing for existing facilities, or the relocation of present fire

protection facilities. Your EIR should conform to the guidelines in the Fire Protection and Fire Prevention Plans, as well as the Safety Plan, which are elements of the Los Angeles General Plan C.P.C. 19708).

The EIR should also analyze police services and crime rates in the area, and the impact of this project on these rates. Include average response times, and show the number of officers deployed in the area, and the impact on current levels of staffing. Show how parking areas will be controlled, use of closed circuit television, and how elevators, lobbies and parking areas will be illuminated to prevent an increase in crime which could result from this project. In particular include data on burglary from autos, auto theft and assaults resulting from the 112,876 additional housing units.

#### **XV. IMPACT ON ENERGY AND UTILITIES**

Utilities will be impacted by the proposed project. The Lead Agency is, or should be, aware of the limits on solid waste disposal. Large amount of soil will have to be trucked to a dumpsite as the project proceeds, making landfill disposal problems worse. The use of an outdated, 1996 FEIR for this project is improper because of its energy impacts. The new EIR should quantify the impact that this project will have on the capacity and exhaustion of local landfills, both during and after construction. Specifically how many cubic yards of soil will be trucked to landfills, and how much solid waste will be exported, and to which sites? Show haul routes and the time of day when city streets will be used for this purpose.

How much electrical energy will be needed to operate the project, once it is in operation. Will backup energy sources be used? What will be the impact on the sewage system. Show the volume of sewage produced by the project, and how it will impact the Hyperion, Los Angeles Glendale and Tillman plants. Show which sewage lines will need to be upsized, which streets will be affected, and for how long a period.

The EIR should analyze the availability of hydraulic capacity for the anticipated flow in the local and interceptor sewers serving the proposed project area. The quantity and quality of wastewater to be discharged to the sewer system should be thoroughly analyzed.

The City of Los Angeles has enacted ordinances which are designed to reduce the volume of water introduced into the sewage system. These measures must be considered baseline, and do not qualify as mitigation measures, since they are already the law. Your EIR should impose extensive measures to deal with the sewage flow issue. Include the factors, formulas and computations used to arrive at these impacts, and their mitigations. Provide an appendix with all necessary and supporting documentation, including the paper trail that will allow concerned citizens, or decision makers to trace your steps, and your conclusions with regard to energy, sewage and utility impacts.

#### **XVI. AESTHETIC IMPACTS**

The 112,876 additional housing units in this project will result in aesthetically offensive sites to public view. Some residents living near the site presently, have an open view of the skyline. Their view will be blocked by the 112,876 additional housing structures that will be built. Mitigation should be proposed for this problem. The 112,876 additional housing units project will be out of scale in relation to the other buildings nearby. The use of the 1996 FEIR for this project is improper because of its aesthetic impacts. Explain how this project will impact the ambiance and habitability of the community. What impact will this project have on the other business establishments, access to businesses and the present viewscape? What impact will it have on the marketability of homes nearby?

## **XVII. GROWTH INDUCING IMPACTS**

The 112,876 additional housing units in this project will have a clear growth inducing impact. The use of the old FEIR for this project is improper because it will stimulate much new growth. The new EIR should discuss properly the growth inducing impacts of the project and the environmental effects, and must be adequate under CEQA, Pub. Res. Code, Sec. 21000 et seq. Please include a detailed forecast of growth for each phase of the project, if phased. What will be the cumulative impacts of growth in the region?

In *Laurel Heights Improvement Assoc. of San Francisco, Inc. v. Regents of the University of California* (88 Daily Journal D.A.R. 15037), the California Supreme Courts laid down clear guidelines and requirements for the preparation of an environmental document. Specifically the Supreme Court stated that "a EIR must include an analysis of the environmental effects of future expansion or other actions if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."

Please be sure the new EIR properly addresses and mitigates growth inducing impacts which will have individually limited, but cumulatively considerable impact. An EIR must be prepared which gives extensive discussion to dealing with short-term versus long-term effects.

These requirements must be interpreted broadly, consistent with the principle that "CEQA must be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language," (*Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247, 259)

## **XVIII. NO PROJECT ALTERNATIVE**

The importance of alternatives in the EIR process is clearly established in law. CEQA Sec. 21081 requires a finding of infeasibility for each environmentally superior project alternative in the EIR prior to approval of any project that will result in significant adverse environmental effects.

It will be essential that the EIR make a full assessment of the impacts of alternatives, including a thorough discussion of a No Project alternative. (*Citizens of Goleta Valley*, 89 Daily Journal D.A.R. 11920) A No Project alternative is especially important since the project is located in the center of a polluted ecosystem with degraded air, water and earth. This alternative should consider not constructing the 112,876 additional housing units, or shifting them elsewhere and thus reducing the demands on the infrastructure. The Lead Agency is required to make a finding, supported by substantial evidence that "no project" alternative is infeasible. You must be aware of this requirement in the preparation of the EIR.

## **XIX. REQUIREMENTS REGARDING PUBLIC NOTICE AND INPUT**

Assuming that a new EIR is prepared, as mandated by CEQA, your Notice of Preparation (NOP) should be sent to all public agencies, but more importantly the text of the entire document must also be made available, and easily accessible to the public.

The significant environmental issues and reasonable alternatives and mitigation measures which the Responsible Agency will need to have explored in the new EIR... (Guidelines, Sec. 15082 (b)(A))

CEQA Sec. 21153, also requires the Lead Agency to consult prior to completion of an environmental impact report with "any city or county which borders on a city or county within which the project is located..." Please see that this is done, in order to assure congruity of the project with neighboring communities.

In light of these statutory requirements, we ask that you make every possible effort to involve the public, community groups and interested citizens early on in the CEQA process, and in evaluating the new EIR you are about to prepare. This has not been done with the current iteration of the Housing Element.

We specifically request that you contact all bonafide community groups, homeowners and resident associations, interested citizens, local community associations, *and Neighborhood Councils* including a substantial representation of locally impacted residents and homeowners.

**XX. NO STATEMENT OF OVERRIDING CONSIDERATION SHOULD BE ISSUED BY THE LEAD AGENCY**

We ask that the lead agency prepare a final EIR that interprets CEQA to afford the fullest possible protection for the environment within the reasonable scope of the statutory language. (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d. 247) We request the lead agency require additional changes and alterations in the project to avoid and substantially lessen the significant impacts that have been reported in the FEIR, satisfying the requirements of CEQA Section 21001.

After certifying the FEIR, we ask the lead agency select the no discretionary action alternative because it has a right to approve or disapprove the project. The size of the proposed project places it in the "discretionary" category. This is because the project "requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances or regulations." (Guidelines 15002 and *Friends of Westwood, Inc. v. City of Los Angeles* (2d Dist. 1987) 191Cal.App.3d 259, 271-273). The *Friends of Westwood Court* stated that if there is a "doubt whether a project is ministerial or discretionary it should be resolved in favor of the latter characterization." This project is one in which the lead agency can impose reasonable conditions, based upon judgment. No Statement of Overriding Considerations should be issued.

**XXI.**

We appreciate your allowing us the opportunity to comment on the Proposed 112,876 additional housing unit project. We believe that use of the old 1996 FEIR is flawed, and used improperly, and instead a new EIR must be prepared. We look forward to receiving a detailed and comprehensive new EIR, fully in compliance with CEQA, State and local Guidelines.

Executed at Encino, California on June 15, 2008

by Gerald A. Silver, President, Homeowners of Encino.

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GERALD A. SILVER