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Los Angeles City Council
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City Hall, 3rd Floor
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C.F. 12-0967

Re: Council File 12-0967

ENV-2007-365-MND; 5241-5247 Santa Monica Blvd. & 5238-5246 Virginia Ave.

Honorable President Wesson and Council members:

Today's City Council agenda includes consideration of an appeal by Seta Panosian regarding the City Planning Commission's April 12, 2012 approval of a Mitigated Negative Declaration ("MND") for a proposed 82,041 sq. ft. development at 5241-5247 Santa Monica Blvd. & 5238-5246 Virginia Ave. in East Hollywood (the "Project"). The appeal, listed on the Council agenda as item #8, argues that an Environmental Impact Report ("EIR") is required for the Project under the California Environmental Quality Act ("CEQA"). The Planning and Land Use Management Committee ("PLUM") recommended at its September 11, 2012 meeting that the City Council deny the appeal and approve the MND. My neighbors and I are asking that you instead support the appeal.

The Administrative Record contains expert testimony stating unequivocally that an Environmental Impact Report is necessary to properly analyze the potential impacts that would result from development of the Project. This testimony includes correspondence from another Lead Agency, the Los Angeles Unified School District, stating that the Project is not compatible with Kingsley Elementary School, which is located immediately east of the subject site.

Whether the administrative record contains a fair argument sufficient to trigger preparation of an EIR is a question of law, not a question of fact. Under this test "deference to the agency's determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary." Sierra Club v. County of Sonoma (1992) 6 Cal.App.4th 1307, 1318.

The EIR is acknowledged as "the heart" of CEQA. Guideline § 15003(a). EIRs provide public agencies with in-depth review of projects that have potentially significant environmental effects. County of Inyo v. Yorty (1973) 32 Cal.App.3d 795. The EIR acts as an "informational document," and by utilizing its objective analysis public agencies "shall mitigate or avoid the significant effects on the environment...whenever it is feasible to do so." § 21002.1

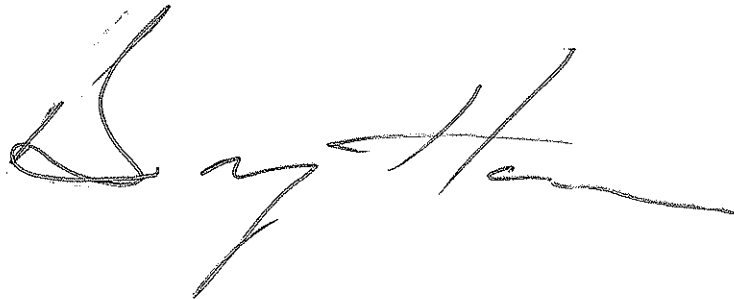
Preparation of an EIR rather than a Negative Declaration is required if there is substantial evidence in the "whole record" of proceedings that supports a "fair argument" that a project "may" have a significant effect on the environment. Guideline § 15064(f)(1). An EIR must be prepared whenever there is substantial evidence that significant effects "may" occur. §§ 21082.2(a), 21100, 21151. "May" means a reasonable possibility. League for Protection v. City of Oakland (1997) 52 Cal.App.4th 896, 904-905. Sundstrom v. County of Mendocino (1988) 202 Cal.App 3d 296, 309.

Courts have repeatedly affirmed that the fair argument standard is a "low threshold test." Evidence supporting a fair argument of **any** potentially significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. League for Protection v. City of Oakland (1997) 12 Cal.App.4th 896. Sundstrom supra, 310. Mejia v. City of Los Angeles (2005) 130 Cal.App.4th 322.

Over 300 petition signatures have been submitted by my community against the Project, and it is strongly opposed by the East Hollywood Neighborhood Council, the Hollywood Design Review Committee, and the parents and teachers of the 536 children at Kingsley Elementary School. The Project site formerly housed several auto repair and painting operations over a period of decades, and the soil that will blow across the playfield of Kingsley Elementary School during excavation and construction contains elevated lead levels. Our community has presented expert testimony detailing the MND's inadequacy in relation to impacts from construction noise, air quality, and hazardous waste. Additional objections have been submitted related to impacts due to shade/shadow, light and glare, traffic, and other issues. The Project therefore demands an environmental impact report. The developer's lobbyists dismiss such concerns as irrelevant, but that's exactly what they are paid to say.

Consider these issues when you vote today, and think about the kids who may suffer because of it.

Thank you,

A handwritten signature in black ink, appearing to read "D. J. Han". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.