

13-0876



# Mitigated Negative Declarations

CEQA TECHNICAL ADVICE SERIES

## Negative Declarations

### What is a Negative Declaration?

When faced with a discretionary project which is not exempt from the California Environmental Quality Act (CEQA), a Lead Agency must prepare an "initial study" to determine whether the project may have a significant adverse effect on the environment. If such an effect may occur, the Lead Agency must prepare an environmental impact report (EIR). If there is no substantial evidence for such an effect, or if the potential effect can be reduced to a level of insignificance through project revisions, a Negative Declaration can be adopted (Section 21080).

A mitigated Negative Declaration is used in the second situation. The statute provides that mitigated Negative Declarations are used "when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment" (Section 21064.5).

### Fair Argument

The original determination made on the basis of the initial study whether to prepare either a Negative Declaration or an EIR is subject to the "fair argument" test (*Laurel Heights Improvement Assoc. v. U.C. Regents* (1993) 47 Cal.4th 376). In other words, if a fair argument can be raised on the basis of "substantial evidence" in the record that the project may have a significant adverse environmental impact - even if evidence also exists to the contrary - then an EIR is required. A Negative Declaration is authorized when the Lead Agency determines that no substantial evidence exists supporting a fair argument of significant effect. A mitigated Negative Declaration applies when changes to the project or other mitigation measures are imposed which such that all potentially significant effects are avoided or reduced to a level of insignificance.

SB 919 adds to CEQA a definition of the term "substantial evidence" (subdivision (e), Section 21080). Although this does not affect application of the fair argument standard, it provides the Lead Agency a means by which to gauge the quality of evidence discovered during its review of a project. Similarly, a court examining the actions of the Lead Agency now has a consistent standard by which to judge the quality of the evidence which was before the Agency.

Pursuant to Section 21080, substantial evidence includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." It does not include "argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment." Further, public controversy over the possible environmental effects of a project is not sufficient reason to require an EIR "if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment" (Section 21082.2).

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August 26, 2013

City of Los Angeles

Hon. Councilmembers, City Hall 200 N.Spring Street, Los Angeles,CA

Re: CFMS # 13-0876 , Case #VTT-72147-CN-1A, ENV-2013-221 Highland Park Transit Village  
[Ref. CFMS#09-0451, CFMS#09-0451-s2 (2010)and CFMS#03-2744 (2008)]

On behalf of Friends of Highland Park,

We strongly continue to oppose this proposed development into one of the oldest neighborhoods in the City of Los Angeles, and whose business district runs the Federal Historic Corridor of Route 66. Highland Park is rich in historical context dating back to before the founding of the Southwest Museum. Our natural artesian wells and springs from the San Gabriel Mountains and down along the Arroyo Seco tributary river to the Los Angeles River were first settlements to the original native inhabitants. It has been brought to the City records the many potentially negative impacts a development of this size and scope would cause to our natural resources. That is why the majority of the community have demanded an Environmental Impact Report and study, and the City's Mitigated Negative Declaration is incomplete and inadequate in addressing our neighborhood unique resources and character.

It needs to be pointed out that the developer and the City have at their disposal a variety of staff and departments working on moving this development forward no matter what evidence the community brings to light. And because of the evidence the community/Friends of Highland Park have brought to the record, some recommendation have been recorded by the Planning Commission. Two of these recommendations are 1. That the applicant is advised to follow State Fish & Game code section 7114, and 2. The applicant must follow through with soil studies to ensure the sites are free of Toxins from past industries on these sites. This requirement in itself should be the trigger for an Environmental Impact Report. The applicant has hired professional consultants to contradict the evidence brought on by Friends of Highland Park's appeals (Craig Lawson & Co., LLC Land Use Consultants and Parker Environmental Consultants). I would like to restate from the California Governor's Office of Planning and Research, 'Fair Argument: the original determination made on the basis of the initial study whether to prepare either a Negative Declaration or and EIR is subject to the "fair argument" test...In other words, if a fair argument can be raised on the basis of substantial evidence" in the record that the project may have significant adverse environmental impact- even is evidence also exists to the contrary- then an EIR is required. This is what our appeal demands.

Sincerely,

Lisa Duardo- on behalf of Friends of Highland Park

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J.F. 13-0876

CPC-2013-226-SPE-CU-ZAA-CCMP-SPP - Highland Park Transit Village Planning Commission Hearing 6/13/13.

From: Friends of Highland Park, 5615 N. Figueroa Street, Los Angeles, CA 90042

[friendsofhighlandpark@gmail.com](mailto:friendsofhighlandpark@gmail.com) or contact Lisa Duardo 323-255-9764

The concerns expressed on April 24, 2013 Advisory Commission have yet to be addressed satisfactorily. I am resubmitting my comments on behalf of Friends of Highland Park. I would like to say it is unfair for the developer to bring in tenants from his other housing developments to speak about reasonable rents and building management. What the citizens of Highland Park are most concerned with is this very large and intensive housing development in our neighborhoods public space. It was designated as 'under utilized' by the City without public comment- just as the City made a zoning 'correction' in December 2012 to a PF without public notification. And this new zoning code cuts the public process out by restricting our HPOZ from exercising their appointed powers on behalf of the neighborhood.

Concerns that continue:

The concern that the City is lacking in its due diligence regarding an evidenced based analysis on the impacts to the neighborhood in constructing a large project as proposed The HHPNC and others request that a site specific (narrowed) California Environmental Quality Act study happen before a development of this magnitude move forward.

Scenic vistas will be forever destroyed from a multitude of public spaces that include the Gold Line Station, sidewalks, streets and higher vista points like Debs Regional Park , the Audubon and Southwest Museum.

Site 1 does not meet the Fire Departments requirement of a maximum travel distance of 150 feet to the edge of a roadway.

The Geotechnical investigation done in June 2008 by Geocon was limited in scope and explored small samplings for physical soil properties on site 1 only. It did not investigate for groundwater or possible soil contamination from a bygone auto repair shop on site 1. And no investigation was done for site 2 or site 3. The Arroyo Seco river is 2500 feet downhill from this proposed development. The Arroyo is a major tributary to the Los Angeles River and is in its greater watershed and within Region 9 of the Equal Protection Agencies Water Quality Act and Federal Water Pollution Control Act.

Selling Air Space lots to private developers effectively eliminates the public space once held by the greater community.

Adding 70 – 18wheel trucks a day during excavation for 50 days and many more throughout the construction will pollute our streets and lungs. The truck route directly effects Monte Vista Elementary, Riordan Primary, Garvanza Elementary, Luther Burbank M.S., Annadale Elementary and Boy's Optimist Home. And there are signal lights at each school to keep truck idling and polluting.

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The added trucks and forthcoming cars to the area will increase traffic and pedestrian accidents and fatalities. January 28, 2013 – Arroyo Pkwy and Ave 52 an 18wheeler killed a motorcyclist- December 13, 2012 – A pedestrian was killed on Figueroa Street by Avenue 50 and Sycamore Park. And again in 2013 – a woman and child were killed in an auto accident on Figueroa Street and Avenue 51. Traffic on Figueroa is already bad- too many cars driving too fast.

Green House Gases and Urban Heat Island Effect is a significant impact to health and pollution. Increasing the hard dry surface area in a neighborhood will significantly raise the summertime temperatures in the area during the day and can raise the nighttime temps by more than 20 degrees. It will also increase the energy use in an already strained system leading to power outages. Young children and older populations can die in high summertime temperatures without adequate cooling systems.

This development does not follow the City's adopted ordinance of Low Impact Developments relating to storm water run- off.

Total disregard of the adjacent Masonic Temple, Monument #282 and the Federal Route 66 Corridor

A National Byway whose period of outstanding historic significance was 1926-1970 protection and preservation of cultural sites of interest along and near Route 66.

The community was never involved in the discussion of what our community needed or was lacking. I know we are park poor for our population. Ed Reyes decided that we needed affordable housing. And this is the end all reason for pushing this project down our throats. Your own document states that, "By creating a Conditional Use, the proposed outweighs any impairment of the public interest."

In one day I researched and found 120 rental dwelling units within a 10 minute walk to the Gold Line Station and 27 houses for sale. We also have several private housing developments in the area.

End

C.F. 13-0876

August 26, 2013

City of Los Angeles

Hon. Councilmembers, City Hall 200 N.Spring Street, Los Angeles,CA

Re: CFMS # 13-0876 , Case #VTT-72147-CN-1A, ENV-2013-221 Highland Park Transit Village [Ref. CFMS#09-0451, CFMS#09-0451-s2 (2010)and CFMS#03-2744 (2008)]

I protest the City of Los Angeles moving forward with development funding for a proposed development which is opposed and in active appeal process by the community.

On August 9<sup>th</sup>, 2013 I met with a representative for Council District 1 regarding the Highland Park Transit Village. I was accompanied by other members of the 'Friends' community group. At this meeting it was made known that this development could not be stopped as it already has, "millions of dollars already invested."

I would like to remind us all what is carved into the stone above the entrance to City Hall 'LET US HAVE FAITH THAT RIGHT MAKES MIGHT' Lincoln, and in honor of the Great Civil Rights March, 'IT IS ALWAYS THE RIGHT TIME TO DO THE RIGHT THING' MLK

Unfortunately, I have witnessed this Great City of ours make harmful and hurtful decisions on behalf of the available funds for its coffers than for the benefit of the City and its people.

Sincerely,

Lisa Duardo

5556 Echo Street, Los Angeles, CA 90042

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HOLLY L. WOLCOTT  
Interim City Clerk



ERIC GARCETTI  
MAYOR

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CITY CLERK

Council and Public Services  
Room 395, City Hall  
Los Angeles, CA 90012  
General Information - (213) 978-1133  
Fax: (213) 978-1040

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Division

[www.cityclerk.lacity.org](http://www.cityclerk.lacity.org)

When making inquiries relative to  
this matter, please refer to the  
Council File No.

August 14, 2013

To All Interested Parties:

The City Council adopted the action(s), as attached, under Council File  
No. 13-0303, at its meeting held August 14, 2013.

City Clerk  
kw

Jerry Henry  
5555 Echo Street #B  
Los Angeles, CA 90042

July 7<sup>th</sup>, 2013

C-F. 13-0876

Dear City Council Members,

I am a 10-year resident of Highland Park and I am writing this letter in strong opposition of the proposed Highland Park Transit Village labeled sites 1, 2, and 3. I am one of the original founding board members of the Milagro Allegro Community Garden located 115 S. Avenue 56 in the Northeast Los Angeles community of Highland Park. Our community garden integrates urban farming, art and education in the heart of the Highland Park neighborhood. Garden plots are available for any interested community members. The garden is community gathering space that hosts classes, workshops and events. Local schools have incorporated the garden into curriculum and after-school activities. The garden features 10,000 square feet of land divided into 32 raised plots for cultivating fruits, vegetables and flowers. We have been there serving the community since 2009. Our garden supports 70 community gardens throughout Los Angeles County and collectively, the gardens serve nearly 4,000 families. A housing project is definitely not what we need in the areas where the Highland Park Transit Village has been proposed.

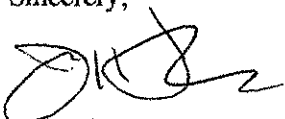
- The housing projects will congest our already dense community with absolutely be of no benefit to our community.
- I have proposed that the city consider opening those spaces to more community gardens that can help our community grow their own food, reduce poverty, mitigate the effects of global warming and benefit the environment.
- The Highland Park Transit Village does absolutely none of the following.
- It will have a negative impact on the environment, contribute to the global warming and with only 10 proposed "affordable" multi-family housing, not in any manner help bring a solution to any of the housing problems we have in Highland Park.
- The proposed site is only beneficial to the contractors and investors in the proposed site who gain to benefit financially from their proposed site.
- After they have moved on from Highland Park, we are left with these monstrosities of housing developments and will be stuck to live with the negative environmental impacts from the over crowding and lack of public parking.

Instead, lets give the community of Highland Park more community gardens, which can beautify the neighborhood, feed families, generate more community pride and involvement and help people learn how to work together in a positive way.

- More community gardens in Highland Park can provide access to healthy food in our metropolitan area, connect participants of all ages and abilities to positive nature and the earth.
- All of these things can help reduce poverty when it is a known fact that our economy has been struggling for the past few years.

I am passionately opposed to the proposed housing project and want to express how deeply saddened I was when I first heard about the proposed housing development and its definite negative impact to our community.

Sincerely,

  
Jerry Henry

BY \_\_\_\_\_

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