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Memorandum

To: Francie Stefan, City of Santa Monica
Barry Rosenbaum, City of Santa Monica

From: Brian Boxer, PBS&J Project Manager
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Date: July 6, 2010

Re: Evaluation of Recommended Changes to Draft Land Use and Circulation Element and EIR Since Issuance of the Final EIR – July 6, 2010 Update

This memorandum contains an evaluation of the adequacy of the LUCE Environmental Impact Report (EIR) in light of proposed changes to the City of Santa Monica's (City) proposed Land Use and Circulation Element (LUCE) and the EIR that were initiated after issuance of the Final EIR for the LUCE. In particular, the memo addresses whether changes would necessitate additional environmental analysis requiring full or partial recirculation of the Draft EIR in order to ensure that all potential impacts of the LUCE, as currently proposed, have been adequately addressed in compliance with the *California Environmental Quality Act* (CEQA).

Project Background

The LUCE is intended to be a plan for the long-term enhancement of the City of Santa Monica that takes into account all of the features needed to conserve neighborhoods and improve the high quality of life and sustainability in the City. The LUCE, if approved, would serve as a comprehensive update of the existing Land Use and Circulation Elements of the City's General Plan, which were adopted in 1984. Adoption of the proposed LUCE qualifies as a project under CEQA, and is, therefore, subject to CEQA requirements for environmental documentation and disclosure; in this case, the preparation of an EIR that evaluates the potential environmental consequences of adoption and implementation of the LUCE.

The City of Santa Monica formally initiated the CEQA review process on April 24, 2009 with the issuance of the Notice of Preparation (NOP), which was filed with the California State Clearinghouse in the Governor's Office of Planning and Research (OPR) and the Los Angeles County Clerk/Recorder (County Clerk) as notification that an EIR would be prepared. A Draft EIR was then released by the City for public review and filed with OPR and the County Clerk on January 21, 2010. The Draft EIR addressed the potential environmental impacts of the draft LUCE, as proposed at that time. In April 2010, a Final EIR was issued by the City. The Final EIR provided written responses to all public comments received by the City during the public review period of the Draft EIR, as well as any text changes to the Draft EIR and a mitigation monitoring program.

As noted above, the proposed LUCE required review and recommendation by the Planning Commission, as well as review the Santa Monica City Council, prior to formal adoption and certification of the EIR. During the past several weeks, the Planning Commission and the City Council have conducted multiple study sessions on the proposed LUCE and have made recommendations for revision, clarification, addition, and deletion of policies. In addition, due to the study sessions conducted with the Planning Commission and City Council, certain clarifications to the text of the EIR were recommended. On July 6, 2010, the City Council conducted its final debate and made concluding recommendations for changes to the LUCE. This memorandum summarizes an evaluation of those recommendations by PBS&J and conclusions whether

additional environmental analysis requiring full or partial recirculation of the Draft EIR would be needed based on the requirements for recirculation of an EIR as outlined in the State CEQA Guidelines.

CEQA Requirements

Under CEQA, a lead agency is required to recirculate an EIR when “significant new information” is added to the EIR subsequent to its issuance for public review/consideration (refer to Section 15088.5 of the CEQA Guidelines). Under Section 15088.5, subdivision (a), “significant new information” is defined as including the disclosure of any of the following:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it; or
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Under Section 15088.5, subdivision (b), “[r]ecirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications to an adequate EIR.” In light of items (1) through (3), as shown above, PBS&J evaluated the recommendations for policy and language changes to the proposed LUCE and to the EIR and made a determination as to whether the recommended changes would constitute “significant new information.”

Results

Recommended Changes to the Proposed LUCE

PBS&J has reviewed the suggested policy and language revisions/clarifications/additions/deletions as suggested by the City staff, Planning Commission, and City Council through the City Council meeting of July 6, 2010 to determine whether conditions outlined in CEQA Guidelines Section 15088.5 (1) or (2) are met. In all, 111 changes to the proposed LUCE have been recommended. Of these, 16 of the recommended changes were incorporated into the Draft EIR analysis prior to its release, including modifications to policies S3.2, S5.2, and CE1.14; the addition of policies S1.7, S6.1, S6.7, and S6.8; and the renumbering of policies S5.2, S6.3, S6.4, S6.5, and S6.6. It should be noted that these modifications serve to reduce the potential impacts associated with land use change in the areas of greenhouse gas emissions and water supply. Because these recommended changes were already included within the analysis of the EIR, these language/policy revisions to the proposed LUCE do not need to be considered as part of this evaluation.

In addition, the following two policies that serve additional mitigating purposes were evaluated:

Policy HP1.10 Review proposed developments for potential impacts on unique archaeological resources, ~~subsurface historical resources, and paleontological resources, and human remains or associated funerary objects, and~~ incorporate appropriate mitigation measures to protect or document the resource, ~~as appropriate to avoid significant impacts.~~

Policy S1.3 ~~Strive to achieve~~ Implement the LUCE policies in order to achieve the following GHG reduction targets reflected by the Sustainable City Plan goals.:

- ~~Reduce community side GHG emissions to 15 percent below 1990 levels by 2015 citywide.~~
- ~~Reduce emissions from municipal operations by 30 percent below 1990 levels by 2015 for municipal operations.~~

The EIR evaluated similar policies in its analysis (refer to pages 4.4-40 and 4.14-21 of the EIR). With respect to Policy HP1.10, the recommended changes do not reduce the resources that would be protected or documented, but rather, the proposed modifications to this policy remove duplicative language that existed between the City's current historic resources element and the LUCE, as well as within the LUCE itself. As such, the analysis of the EIR would not require modification due to the changes to Policy HP1.10. With respect to Policy S1.3, the recommended changes would correct a typographical error that existed in the EIR and establish consistency between the Sustainable City Plan and the proposed LUCE. The EIR did not include the exact wording of the Sustainable City Plan, specifically "citywide" and "for municipal operations", although the analysis of the EIR included an evaluation of the potential mitigating effects of citywide (15 percent below 1990 levels) and municipal operations (30 percent below 1990 levels) greenhouse gas emission reductions by 2015. Therefore, since the analysis of the EIR already accounted for the recommended clarification to Policy S1.3, this change would not constitute significant new information, consistent with Section 15088.5 of the CEQA Guidelines, and would not trigger a need for recirculation of the EIR.

The majority of the remaining changes represent refinement of existing policies and/or language in the proposed LUCE, and the remaining changes are largely limited to clarifications/revisions with respect to building height/FAR/stories, City processes, affordable housing, and wording of the policies and/or language of the proposed LUCE.

It should be noted that, in cases where there are suggested increases in maximum permitted height (up to 11 feet in certain areas), there is not a corresponding increase in the number of floors (refer to recommended changes 1, 5, 17, 62, and 63 shown in Exhibit B – Changes to Draft LUCE as approved by City Council – July 6, 2010), nor an increase in maximum permitted floor area. Therefore, the overall level of projected land use change within the City would not be anticipated to change. As such, changes to the analysis of the EIR that are dependent on the level of future land use change (i.e. air quality, noise, traffic, public services, utilities, global climate change, energy) would not be required. Further, the recommended changes to building heights (up to 11 feet in certain circumstances, but primarily between 2 and 4 feet) are not considered substantial and would not be inconsistent with the heights of existing structures and the prevailing built environment within the City, which is largely urbanized. The proposed LUCE policies would continue to require future land use change to transition to lower heights when proceeding toward residential areas. As such, the analysis of visual resources included in the EIR would still be considered valid in light of the recommended changes. In short, the policy change allowing 11 feet of additional height in some areas does not create any new significant visual impacts that would trigger recirculation of the existing discussion of visual impacts.

Recommended changes 2, 3, 4, 9, 11, 12, 27, 49, 50, 54, 55, 57, 59, 60, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 79, 81, 82, 85, 86, 87, 95, 96, 97, 98, 99, 100, 101, 103, 104, 105, 106, 107, 108, and 109, as shown in Exhibit B, are limited to further direction of the processes that the City must undertake during implementation of the proposed LUCE and would not alter the level of land use change anticipated within the City. As such, these modifications would not necessitate additional environmental review or modifications to the analysis of the EIR.

In terms of affordable housing, recommended changes 13, 14, and 17, as shown in Exhibit B, provide clarification as to the type and level of affordable housing to be promoted under the proposed LUCE and would not be anticipated to alter the level of land use change that would occur with implementation of the proposed LUCE. As such, these modifications would not necessitate additional environmental review or modifications to the analysis of the EIR.

Recommended changes 10, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 51, 52, 56, 58, 77, 78, 80, 84, 90, 91, 92, 93, 94, and 102 represent refinements of wording within the proposed LUCE and would not necessitate additional environmental analysis or modifications to the analysis of the EIR.

Recommended changes 61 and 62 represent modifications to the boundaries of the Broadway/Colorado and Memorial Park Activity Center Overlays and the redesignation of certain land uses to be in line with existing development in those areas. The types and level of land use change that would be reasonably anticipated to occur as a result of these changes would be similar in massing, scale, and type to what was analyzed in the EIR. As such, these modifications would not necessitate additional environmental review or modifications to the analysis of the EIR.

Recommended changes 110 and 111 would allow for the development of auto sales facilities in the Industrial Conservation District, subject to a discretionary process and project-specific environmental review that considers other reasonably foreseeable land use changes throughout the Industrial Conservation District. Based on current land use and development trends under the City's Interim Auto Dealer Ordinance, and economic projections for the City and the District, the development of a large number of additional auto sales facilities is not considered to be a reasonably foreseeable land use change and would be speculative. However, the proposed changes allow flexibility for conditions to change and require subsequent project-specific environmental review that would provide the City tools to avoid currently unforeseeable environmental issues that may emerge in the future.

Based on a thorough review of these clarifications, PBS&J has concluded that they would not alter the analysis of any of the 17 environmental issue areas evaluated in the EIR. The recommended changes, as explained above, would neither create new significant effects not already discussed in the LUCE EIR (15088.5 (1)), nor would they substantially increase the severity of the impacts already discussed in the EIR (15088.5 (2)). In addition, no new feasible mitigation measures or alternatives would be available for incorporation into the project to reduce the significant and unavoidable effects of the project as a result of the recommended changes (15088.5 (3)).

In addition, suggested changes 15, 18, 64, 88, and 105 include additional policies to be added to the proposed LUCE. None of the additional policies shown above would constitute significant new information within the meaning of that term as it is used in CEQA and the CEQA Guidelines. These new policies would neither create new significant effects not already discussed in the LUCE EIR (15088.5 (1)), nor would they substantially increase the severity of the impacts already discussed in the EIR (15088.5 (2)). In addition, no new feasible mitigation measures or alternatives considerably different from others previously analyzed would be available for incorporation into the project to reduce the significant and unavoidable effects of the project as a result of the recommended changes (15088.5 (3)).

Recommended change 98 to the proposed LUCE involves amending the target mix of new land uses within the Mixed Use Creative District from 60 percent commercial and 40 percent residential to 50/50 with no more than a 5 percent deviation in either direction. This is anticipated to have reasonably similar impacts to those of the proposed LUCE, as the commercial and residential percentages changes only between 10 and 15 percentage points from the proposed LUCE.

Therefore, modifications to the target mix of new uses within certain districts to a mix range of 50/50 with up to 5% deviation would not result in the creation of new potentially significant impacts or a substantial increase in the severity of impacts already discussed in the EIR (Section 15088.5(1) and (2)). In addition, no new feasible mitigation measures or alternatives considerably different from others previously analyzed would be available for incorporation into the project to reduce the significant and unavoidable effects of the project as a result of the recommended changes (15088.5 (3)).

Changes to the EIR

As shown in greater detail in Attachment A, there are five clarifications to the text of the EIR that have been deemed necessary subsequent to the issuance of the Final EIR. The recommended clarifications are due, in part, to the study sessions conducted by the Planning Commission and City Council on the proposed LUCE.

Three of the five changes (EIR-1, EIR-4, and EIR-5) pertain to clarification of Alternative 3 with respect to building height and density. The level of land use change that would occur under Alternative 3, as shown in Table 6-2 on page 6-24 of the EIR, would not require modification as a result of these clarifications, and the discussion of impacts associated with implementation of Alternative 3 (Section 6.6.2) would also not require modification. As such, these changes would not materially affect the analysis of this Alternative, as shown in Chapter 6 of the EIR. Further, these clarifications do not constitute a substantial change nor do they create new significant impacts that were not included in the Final EIR analysis. As such, this change does not trigger a need for recirculation, consistent with Section 15088.5 of the CEQA Guidelines.

Recommended change EIR-2, which would amend MM4.2-2, clarifies the applicable rules and procedures for determining health risks and removes potentially unclear direction to City staff regarding implementation. As such, this change does not represent significant new information, and would not trigger a need for recirculation of the EIR, consistent with Section 15088.5 of the CEQA Guidelines.

Recommended change EIR-3 represents a clarification and corrects a typographical error in the EIR. Further, as the modification establishes consistency with the proposed LUCE and the Sustainable City Plan and was included within the analysis of the EIR, it does not present significant new information and would not trigger a need for recirculation of the EIR, consistent with Section 15088.5 of the CEQA Guidelines.

Conclusion

None of the changes to the proposed LUCE or EIR that have been recommended since the issuance of the Final EIR would result in environmental effects that would trigger the requirement for full or partial recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5, as shown above. Incorporation of these recommended changes to the proposed LUCE (through July 6, 2010) would not trigger the need for recirculation of the EIR or require the preparation of additional environmental analysis in order to ensure that all potential impacts of the proposed LUCE are addressed/acknowledged and in compliance with CEQA.

ATTACHMENT A

Changes to Final EIR

The following changes have been made to the discussion of the Final Environmental Impact Report (Final EIR). These changes are not significant in that they do not alter the level of significance of any impact addressed within the Final EIR or create new impacts that were not included in the FEIR analysis. This text is taken directly from the Final EIR. To show the revisions included in this errata any text to be deleted is reflected in ~~strike through~~ and new text to be added is shown in double underline.

1. The fourth full paragraph on page 2-9 has been clarified as follows:

Alternative 3: Condensed Nodal Development—Under this alternative, future land use changes would be focused even more on designated transit nodes than under the proposed LUCE. This would be expected to amplify transit benefits through the clustering of uses and further avoid intrusion into the existing neighborhoods of the City. ~~However, in order to accomplish this clustering, the maximum height of new land uses at the transit nodes would necessarily increase compared to the proposed LUCE, resulting in higher floor area ratios (FARs).~~ Based on the City's analysis, it is projected that policies and regulations restricting land uses to transit nodes would result in fewer hotels and creative office space and ~~allowing higher FARs around the transit nodes would result in more retail, general office, and medical office land uses, as well as slightly more multifamily residential units.~~ The overall amount of new land uses anticipated under this alternative would be greater than the proposed LUCE.

2. MM4.2-2, as stated on page 2-13 of Volume I and repeated on page 4.2-26 of Volume I and page 11-16 of Volume III, has been clarified as follows:

Mitigation Measure 4.2-2: The City shall amend Section 8.108 of the City Municipal Code to require the minimum distances between potentially incompatible land uses, as described below, ~~unless a project-specific~~ an evaluation of human health risks has determined that incremental health risks would ~~not~~ exceed applicable standards (e.g., incremental health risk standards ~~recommended or required by the Air Resources Board or the South Coast Air Quality Management District in Rule 1401 or any subsequent rule pertaining to stationary source toxic air contaminant emissions~~):

- Proposed dry cleaners and film processing services that use Perchloroethylene must be sited at least 500 feet from existing sensitive land uses including residential, schools, day care facilities, congregate care facilities, hospitals, or other places of long-term residency for people. Proposed sensitive land uses as previously listed shall be sited at least 500 feet from existing dry cleaners and film processing services that use Perchloroethylene.
- Proposed auto body repair services shall be sited at least 500 feet from existing sensitive land uses including residential, schools, day care facilities, congregate care facilities, hospitals, or other places of long-term residency for people. Proposed sensitive land uses as previously listed shall be sited at least 500 feet from existing auto body repair services.
- Proposed gasoline dispensing stations with an annual throughput of less than 3.6 million gallons shall be sited at least 50 feet from existing sensitive land uses. Proposed gasoline dispensing stations with an annual throughput at or above 3.6 million gallons shall be sited at least 300 feet from existing sensitive land uses. Sensitive land uses include residential, schools, day care facilities, congregate care facilities, hospitals, or other places of long-term residency for people. Proposed sensitive land uses as previously listed shall be sited at least 50 feet from existing gasoline dispensing stations with an annual throughput of less than 3.6 million gallons and 300 feet from existing gasoline dispensing stations with an annual throughput at or above 3.6 million gallons.
- Other proposed sources of TACs including furniture manufacturing and repair services that use Methylene Chloride or other solvents identified as a TAC shall be sited at least 300 feet from existing sensitive land uses including residential, schools, day care facilities, congregate care facilities, hospitals, or other places of long-term residency for people. Proposed sensitive land uses as previously listed shall be sited at least 300 feet from existing land uses that use Methylene Chloride or other solvents identified as a TAC.

- Proposed sensitive land uses including residential, schools, day care facilities, congregate care facilities, hospitals, or other places of long-term residency for people shall be sited at least 500 feet from existing freeways with 100,000 vehicles per day or more.
- 3. Policy S1.3 of the proposed LUCE, as stated on page 4.14-21 of Volume 1 of the Final EIR, has been amended to state:
 - Implement the LUCE policies in order to achieve the following-GHG reduction targets reflected by the Sustainable City Plan goals.:
 - ~~15 percent below 1990 levels by 2015~~
 - ~~30 percent below 1990 levels by 2015~~
- 4. The second and third paragraphs in the description of Alternative 3: Condensed Nodal Development on page 6-23 of the Final EIR have been modified to state:

More specifically, Alternative 3 assumes that future non-residential land uses would be built on approximately 11 acres less land than under the proposed LUCE, a decrease of about 10 percent in affected land area. Under Alternative 3, housing construction in existing neighborhoods would be the same as under the proposed LUCE, but other new housing would occur in the activity centers and districts where incentives would spur the construction of increased amounts of affordable and workforce housing. As is described in Table 6-2 (Land Uses Anticipated under Alternative 3), because of the additional ~~height and intensity concentration~~ concentration of uses into limited activity centers Alternative 3 would include more retail, general office, and medical office uses than under the proposed LUCE, with a commensurate decrease in hotel and post-production/creative office space. The reduction in the amount of hotel space in Alternative 3 is due to the elimination of the potential for motel development on Lincoln Blvd or in the mid-city area. Similarly, the reduction in the projected future post-production/creative office space is due to the concentration of development in the activity centers and away from the areas of the City where such space is expected to develop. It is important to note that, similar to the proposed LUCE, this alternative assumes a reduction of industrial space. Land use changes compared to the proposed LUCE are illustrated in Table 6-2.

With new land uses concentrated onto less land ~~and at higher densities~~, the trip-making characteristics in the City are improved compared to the LUCE. The improved factors include lower net new evening peak period trips, lower VMT, lower GHG per capita, and improved east-west corridor travel times. While it is assumed that the type of TDM measures that would be implemented under Alternative 3 would be the same as under the proposed LUCE, with greater ~~density concentration~~ density concentration of office and housing uses the TDM measures are expected to be more effective. Further, the greater concentration of new land uses in and around transit stations and corridors means that it would be easier to achieve higher levels of alternative mode use as both residents and employees would have shorter distances to available transit.

- 5. The third bulleted paragraph, beginning on page 6-12 of the Final EIR, has been clarified as follows:

Alternative 3: Condensed Nodal Development—Under this alternative, future land use changes would be focused even more on designated transit nodes than under the proposed LUCE. This would be expected to amplify transit benefits through the clustering of uses and further avoid intrusion into the existing neighborhoods of the City. ~~However, in order to accomplish this clustering, the maximum height of new land uses at the transit nodes would necessarily increase compared to the proposed LUCE, resulting in higher floor-area ratios (FARs).~~ Based on the City's analysis, it is projected that policies and regulations restricting land uses to transit nodes would result in fewer hotels and creative office space and allowing higher FARs around the transit nodes would result in more retail, general office, and medical office land uses, as well as slightly more multifamily residential units. The overall amount of new land uses anticipated under this alternative would be greater than the proposed LUCE.