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Submitted to City Council 4.01.10

TO: City of Sacramento Planning Commission
City of Sacramento City Council

Dear Commissioners and Council Members:

This letter provides my comments on the Curtis Park Village project and the EIR prepared for the project. I have previously submitted comments on the Draft EIR, and have reviewed the City's responses to my comments in the Final EIR as well as the rest of the Final EIR document.

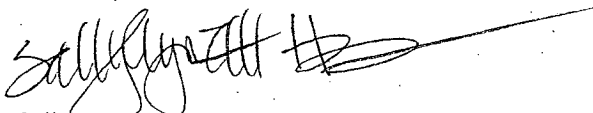
I have lived in Curtis Park for over 20 years, and have been involved in a variety of ways in the progress of the planning for the redevelopment of the Curtis Park railyards for most of that time. I am in favor of development of this key infill site with appropriate development that responds to the existing community and the location of two transit stations adjacent to the site. However, I am extremely concerned that the process for approval of this project, after many years of work by the City, the neighborhood, and the project proponent, seems at this time to be rushed to the point that appropriate public information and input has not been achieved, especially in regard to the project description and the EIR.

I am also extremely disappointed in the quality of the environmental analysis the Planning Commission and City Council are being asked to use in their decision making process. The draft EIR was fundamentally flawed and the Final EIR document has only made it worse.

At this time, the ^{City Council} ~~Planning Commission~~ should take the opportunity to inform the developer how the project should meet the goals of the City and the region for smart growth.

For the good of the City as a whole, the City should obtain clarification on the currently proposed project, or, if possible on a revised, smarter growth project, rewrite the EIR to adequately assess the environmental impacts of the proposed project, recirculate that revised Draft EIR for meaningful public comment, and then proceed with the approval hearings.

My specific comments are attached to this letter. I appreciate your attention to my concerns.



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ATTACHMENT.

Project Description

The proposed project has gone through many iterations. Throughout the preparation of the EIR, the project appears to have undergone revisions, resulting in inconsistencies and confusion in the Draft EIR document in the description of the project.

Many commenters noted this fundamental flaw in the EIR, and the City has prepared a Master Response to this issue. Unfortunately, the Master Response and the responses to individual comments fail to repair the flaws in the EIR, fail to complete the process of informing the public of the potential environmental effects of the project – the primary goal of CEQA – and also fail to clarify what the project proposed for approval by the City consists of.

Infill and Transit Orientation

The project site is a key infill site and has the advantage of location adjacent to two transit stations as well as several bus lines. The proposed project does not take advantage of the location of transit. Closest to the City College transit station, especially if a pedestrian bridge is constructed, is proposed a large suburban-style commercial center. As noted by SACOG in one of its comment letters included in the Staff Report for this project, not only is there is a substantial amount of existing commercial space, including vacant commercial space, in the vicinity of the project site, but the proposed commercial center is not a transit-oriented or local-serving type of land use. Who takes transit to the grocery store? This portion of the site should contain housing, preferably higher density housing, to increase the number of people living near transit.

Site Access and Dangerous Traffic Conditions

As noted in the letter from the South of Sutterville association, existing traffic conditions on Sutterville Road are very congested, leading to dangerous conditions for drivers, pedestrians, and bicyclists. Putting a commercial center with a regional draw at the southern end of the project site will only exacerbate these traffic conditions. Project proponent materials, and the EIR, state that the location of commercial uses at the site will reduce trips by serving residents at the site and in the existing neighborhood. Given the design of the project, it seems unlikely that residents will be able to access the commercial center without driving. With four existing grocery stores within a short distance of the site (Taylor's, Raley's, Mercado Loco, and Oto's), some of which are easily accessible without driving, it seems unlikely that the new commercial center would reduce trips if local residents cannot easily walk to it.

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February 23, 2010

EIR

The EIR fails completely in providing adequate disclosure to the public and the Planning Commission and Council of the potential impacts of the proposed project. The Draft EIR was fundamentally flawed, and in attempting to repair the EIR through the Final EIR, the process has only been made worse.

Addition of New Information to the EIR in the Final EIR without Recirculation

In response to comments, the Final EIR provides some of the information missing in the Draft EIR. However, in doing so, the EIR deprives the public of a meaningful opportunity to comment on the additional information and analysis. The Final EIR Master Response related to recirculation of the EIR provides an argument why provision of the missing information in the Draft EIR would not require recirculation. In addition to attempting to provide the missing information, the Final EIR also identifies yet further revisions to the project description, and states that these changes in the project do not result in a need to recirculate the Draft EIR.

The CEQA Guidelines require that the decision not to recirculate an EIR must be supported by substantial evidence in the administrative record. The Final EIR runs through the various issues analyzed in the EIR, and states that no new impacts will occur and therefore no recirculation is required. However, significant new information and changes in the project description are provided in the Responses to Comments, each time with a statement to the effect that this information is provided for information purposes and does not change the analysis in the Draft EIR. These statements are conclusory and not supported with the good faith, reasoned analysis and factual information required in response to comments.

Responses to Comments

Having gone to the effort to provide thoughtful and careful comments on the Draft EIR, I was distressed at the extent to which my comments were dismissed or were provided with an incomplete response. Here are my specific concerns.

Responses to Comment 10-6 – 10-10 – Master Plan, PUD Schematic Plan, Design Guidelines?

My comments noted that the Project Description of the DEIR discussed specific information included in documents that were not included in the DEIR, including the Design Guidelines and something referred to as the "Master Plan". The responses to these comments repeatedly state that all information was described in Chapter 3 of the DEIR and available at the City. This is not true, as shown by the late inclusion in the Final EIR of the PUD Guidelines in the Final EIR Appendix E. Since the PUD Guidelines were described as an integral part of the project description, provision of this new information should require recirculation to allow review by agencies and the public of the entire project and its impacts. Stating that this information is provided "for information purposes" as done in Response to Comments 10-6, does change the fact that this information is new essential information about the project.

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February 23, 2010

Finally, the DEIR repeatedly discusses a Master Plan. In response to my comment that the Master Plan was not included in the EIR or on the City's website, the Final EIR changes the text of the Draft EIR as shown below and substitutes a description of the Schematic Plan, which is newly provided in the Final EIR. Again, the public and agencies are deprived of an opportunity for meaningful comment on the actual project.

"all references to "Master Plan" are changed to "proposed land uses" throughout the DEIR".

Response to Comment 10-12 and 10-13 – What is the Revised RAP?

In response to my comment asking what the difference between the approved and proposed revised RAP (stated to be a project analyzed in the EIR), the response was "See Response to Comment 5-13". Response to Comment 5-13 quotes the DEIR's description of the process for approval of the revised RAP. This does not answer my question.

In my comment 10-13, I noted an example of why the revised RAP must be described in the EIR. In response, the Final EIR revises the text of the DEIR, but perpetuates the argument that actions described in the approved RAP are not a part of the proposed project.

If approval of the Revised RAP is an action to be covered by this EIR, then it had to have been described in the EIR. The EIR describes several items, including the removal of heritage trees, as a part of the approved RAP and therefore not a part of the proposed Curtis Park Village project. However, if the RAP is a part of the project covered by the EIR, then actions under the RAP that have not already occurred, and therefore are not a part of baseline existing conditions, would be results of the implementation of the revised RAP and therefore the impacts of those actions must be disclosed in the EIR. This has still not been done. It is a fundamental flaw to assume that baseline is equal to the no project conditions. If the trees are actually still there, then they are existing trees, and removal of those trees under the revised RAP would result in impacts that needed to have been disclosed in the EIR.

Response to Comment 10-16 – Project Schedule, Health Risks from TACs

In my comment, I noted that the project schedule was a factor in the assessment of impacts and provided examples of where the project schedule was used as an element of the analysis and assessment of impacts. I asked a direct question how the determination was made that health risks from TACs would be less than significant because they were temporary, including how long the construction would actually take. The response adds text stating that the construction period is not known. If the impact is less than significant because it is temporary, what is the meaning of temporary? How long would we be breathing dust and air pollution resulting from construction?

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February 23, 2010

Response to Comment 10-17 – Lack of Stable Project Description and 10-24 Arrangement of Land Uses

In response to my comment that the lack of a stable project description results in a flawed traffic, noise, and air quality analysis, and in response to my comment that Dowling Memo stating that the changes in the project description would not result in more trips does not look at the arrangement of land uses or the types of land uses affecting the direction and location or timing of trips, the response was “See Response to Comment 5-28”. This response is only about trip generation and does not address air quality and noise.

Response to Comment 10-20 – Lack of Stable Project Description

In reading the Draft EIR, it was extremely difficult to keep track of what the proposed project was that was being analyzed in the different chapters of the EIR. In my comment 10-20, I presented a quick table I had put together to try to understand what I was reading. My comment was responded to in Response to Comment 15-28.

In Response to Comment 15-28, the Final EIR presents what it describes as a corrected table, showing the project description quantified for the DEIR, the FEIR, and the DEIR traffic analysis. This response is the opposite of enlightening. First, the response states that the description of the DEIR traffic analysis Project Description numbers come from “page 36 of Appendix D of the DEIR (page 417 of the full appendices)”. This is not public-friendly. The pages in the appendices of the DEIR are not numbered. However, Table 1 – Trip Generation – Revised Land Uses, is found in the Dowling 12-12-2008 memo, which is in fact on the 417th page of the appendices of the DEIR. Thank goodness for Adobe! However, the memo uses different numbers than what is analyzed in the DEIR Traffic Chapter, which is the point of the memo.

The text of Response to Comment 15-28 further confuses the reader. For example, in the second paragraph following the table, the text of the response notes that the Project Description of the DEIR uses two different numbers in Chapters 3 and 5 for the amount of retail uses. The text of the response notes that these two numbers differ by 5,200 sf, and goes on to state, “it should be noted that the project description describes the 160,000 square feet as approximate. Actual buildout conditions are subject to change.” If the EIR uses mathematical models to project impacts of the project, for example for traffic, noise and air pollution, it matters what numbers are used in those projections. This statement is actually offensive in its implication that the numbers that are presented to the public, the Planning Commission, and Council do not matter since they are subject to change.

In the following paragraph, another similar “clarification” is attempted. The text of the Final EIR notes that the text of the DEIR describes the building holding the dinner theater and the restaurant pads and presents their square footage, but “The DEIR does not attempt to specify the actual square footage of the dinner theatre in this chapter but rather designates a general square-footage for entertainment

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February 23, 2010

purposes." It does not clarify the analysis in the EIR to state that none of the numbers in the document have meaning.

Finally, the Final EIR attempts to solve the problems with the traffic study by providing yet another memo from Dowling, in the Appendices to the Final EIR, dated September 2009. The numbers for the project description provided in this memo, while different from those in the DEIR and the 2008 Dowling memo, again do not match the "new" project description provided in the Final EIR.

Just what was the analysis which the Planning Commission and City Council are supposed to use in making their decision based on?