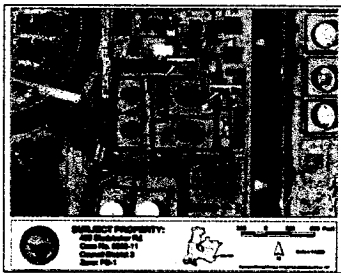


Home Depot City Council October 3, 2006

Department of Planning & Building

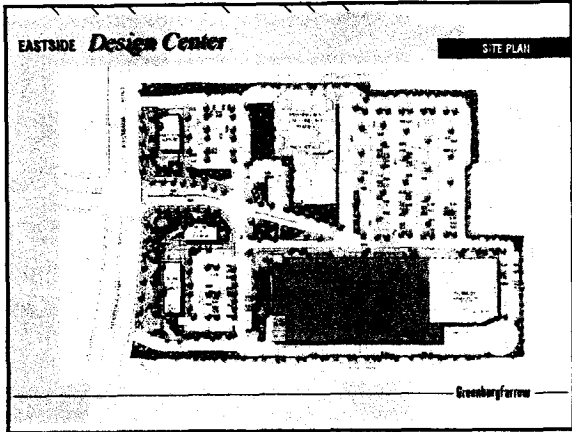


Project Location



Project Components

- 137,156 sq. ft. Home Depot with Garden Center
- 6,000 sq. ft. restaurant with 2,050 sq. ft. outdoor dining
- 4,800 sq. ft. retail pad
- 7,200 sq. ft. retail pad
- 754 parking spaces (parked to code)



Project Entitlements

- Certification of Final EIR
 - Adopt Statement of Overriding Considerations
- Site Plan Review
- Conditional Use Permit (PD-1, Subarea 19)
 - General Industrial
- Local Coastal Development Permit (LCDP)
- Tentative Parcel Map
- Standards Variance
 - Curb Cuts
 - 30% On-site Open Space

Offsite Open Space

1.37 Acres

Building Design

- Overall attractive design
- Green building features
 - On-site water efficiency
 - Light pollution reduction
 - Stormwater management
 - » Dry stream beds and bioswales
- Articulation on south elevation
- Color palette
- Public plaza
- Sign program

Purpose of CEQA

- To disclose to decision makers and the public the significant environmental effects of the proposed activities (project).
- To identify ways to avoid or reduce environmental damage.
- To prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures.

EIR History

- NOP: March 19, 2004 – May 4, 2004
- Scoping Meeting: April 7, 2004
- Draft EIR: May 2, 2005 – June 15, 2005
- May 19, 2005: PC Study Session
- Recirculated DEIR: June 2, 2006 – July 17, 2006
- PC Study Session: July 6, 2006
- PC Public Hearing: August 17, 2006
 - Unanimously Certified

Remaining Impacts

- Air Quality
 - Short-term during construction
 - Operational: Vehicles
- Public Services and Utilities
 - Solid waste disposal capacity in Los Angeles County
- Traffic and Circulation
 - Studebaker Road/SR-22 (westbound)
 - Studebaker Road/SR-22 (eastbound)
 - Pacific Coast Highway/7th Street
 - Pacific Coast Highway/2nd Street
 - Studebaker Road/2nd Street (requires acquisition of right-of-way)

Additional Agencies

- SCAQMD
 - Air quality
 - » Remediation
 - » Construction and operation
- DTSC Lead Agency
 - Soils and groundwater
 - » RCRA remediation
- California Coastal Commission
 - Appealable area
 - Coastal Development Permit
 - » Sewer connection over Loynes Drive bridge

Community Benefit

- Replacement of heavy industrial use with community-serving retail
- Remediation of a contaminated site
- Attractive site design
- Voluntary green elements
- Contribution to Loynes Drive maintenance
- Off-site open space at 7th Street

RECOMMENDATION

- Receive the supporting documentation into the record, conclude the public hearing, deny the appeals, and sustain the decision of the planning commission to adopt the resolution certifying Final Environmental Impact Report 10-04 / SCH#2004031093, and adopt a Statement of Overriding Considerations and Mitigation Monitoring Program; and
- Approve the Site Plan Review, Conditional Use Permit, Local Coastal Development Permit, Tentative Tract Map and Standards Variances for the Retail-Commercial Center, subject to conditions.

TO:

All L.B. City Council Members,
Mayor Bob Foster
Ms. Frick, Planning Director for the City of L.B.
Dave Roseman, City's Traffic Engineer
Greg Carpenter, Planning Bureau Manager
Building and Planning Officials

My name is Barbara Goldberg, I reside at 6300 E. Vermont St., L.B. in University Park Estates on the corner of Vermont and Silvera. I can't make it to the meeting tonight, however I would like this document read by all the people it is appointed to. There are many issues that the City Council needs to be concerned with before they vote on this project.

1. **TRAFFIC:** Quoting from the P.T., We all know that 3.5 mill. Spent on changing street lights and dedicated turn lanes (will not) ease traffic from the 22 FWY. onto 2nd ST. and PCH. Even the attorney, Doug Otto, who represents the developers "Traffic is an issue". With new developments going in on 2nd St. and PCH and possibly where the Pumpkin Farm is located. We need to reconsider the major traffic jams, accidents, noise and air pollution. Quoting from the P.T., (Susan Frick, the city's planning director) says that "the project will create some traffic impact and notes that 20,000 yearly will be spent on enhancing Loynes Drive. Loynes Dr. has been fixed numerous times with no success because it was built on a landfill. I would like to find out how many accidents occur on Loynes Dr. every year. Also, nobody seemed to mention the fact that consumers and day laborers will figure out a faster and easier way out of this project, going directly by my house where many children play. (Off Loynes Dr, right on Palo Verde, right on Silvera, straight onto 7th Street.) This will create a huge problem since this is a residential area where many children play and Kettering Elementary School has issues of traffic and children crossing the street. Quoting from the P.T. (Dave Roseman, city's traffic engineer) said the study they did was very conservative. We need to take all matters into consideration including new development before we vote on this project.

2. **Home Depot** or what they are calling a new sleek H.D. with a garden center. A few issues that need to be mentioned about H.D. that are being heard in Federal and local court are the issue of DAY LABORERS. The residents of the Burbank H.D. made H.D. put in a shelter so that Day Laborers wouldn't stand outside across the street. However this plan has not worked because contractors and consumers do not go into the shelter. Actively they have a lawsuit being pursued because even though H.D. put a shelter in, day laborers still stand across the street and in the parking lot. The lawsuit is that H.D. is aiding and abetting of illegal aliens, supporting illegal immigration, which is illegal and being fought in Federal Court. In Austin, TX. There have been numerous complaints and possible lawsuits because day laborers whistle and taunt 12 and 13 year old girls on the way to school, they urinate in the back of the store and throw trash on sidewalks.(N.Y. Times 10/10/05) In Campbell, Ca., a complaint about noise pollution because H.D. was built to close to homes in a residential tract. The city is looking at inciting them for criminal infraction which could result in a court case costing

the city plenty of dollars. A Utah town threatens to shut down H.D. for being such a mess. If you visit the library or internet you will find many other cases of why not a H.D. should not be considered for this land.

3. NEARBY H.D. CENTERS: There are 2 H.D. nearby, one is 5.2 miles away from the proposed site and one is 7 miles away. We have a Lowes which is 2.2 miles away and don't forget about Ace Hardware Store on 2nd street that has been there for years which is 1.2 miles away. Do we need another Home Depot that will generate 500,000 a year for a city that will be inundated with lawsuits of noise pollution, air pollution, accidents, possible injustices on children and unhappy L.B. residents that have lived here for a lifetime?

4. OTHER USES FOR THIS SITE: Quoting from the P.T. (Doug Otto, representing the developers) points out that there are worse things that can happen to this site. He says "The site can be turned into a truck transfer center" Does he think the residents of L.B. would allow such a thing? The site has been zoned for general industrial usage. If the city can issue a conditional use permit because the developers are planning to build for retail space and a restaurant, why can't they rezone it for something else, instead of industrial usage? How come the City of L.B. has not issued the developers of this land to clean up the dilapidated water tanks and contaminated soil before any other projects can be proposed. I propose that the city of L.B. look into this project further before voting. We need comprehensive reports on proposed newly developed centers and traffic reports that will not impact our streets and highways. We need a comprehensive report on the pollution and noise this will cause. We need to look at L.B. as a small metropolis and not one entity. We need a fresh, futuristic vision of a city that we can be proud of, one that doesn't have a Home Depot with a few restaurants built around it. With all of the new projects being proposed in East L.B. we need to look at this side of the city as a whole and not one parcel of land. This project has too many negatives than positives. Please hear my plea when I say vote No on Home Depot!

I would like to end this by saying there are many other issues that need to be addressed with this proposed site. I feel a true injustice by my elected city officials if they vote yes on this project. You need to consider the whole east side instead of one parcel of land. I have been a proud voting citizen all my life and take pride in who and what I vote for. I have to say this is the lamest idea for such a beautiful parcel of land that I have ever come across. There is a lot at stake here and I believe we need to investigate all aspects of this project. The developers of this land need to listen to the majority of residents who do not want this project and come up with something we can all agree upon.

Please consider the negatives of this project and the future lawsuits that will come if this project goes through. Is 500,000.00 in revenue worth this?

Vote No on Home Depot
Thank you for your consideration
Barbara Goldberg

LUCE FORWARD

ATTORNEYS AT LAW • FOUNDED 1873
LUCE, FORWARD, HAMILTON & SCRIPPS LLP

BRIAN C. FISH, PARTNER
DIRECT DIAL NUMBER 619.699.2424
DIRECT FAX NUMBER 619.645.5395
EMAIL ADDRESS bfish@luce.com

RE:
CIT
LONG BEACH

06 OCT - 11 11:00 AM '06

600 West Broadway
Suite 2600
San Diego, CA 92101
619.236.1414
619.232.8311 fax
www.luce.com

2

October 2, 2006

35067-1

VIA FACSIMILE AND U.S. MAIL

Long Beach City Council
City of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802
Attn: City Clerk

Re: October 3, 2006, City Council Meeting – Agenda Item No. 2
(Appeal of Case No. 0308-11/EIR No. 10-04 (Home Depot EIR))

Dear Mayor Foster and City Council Members:

This firm represents AES Alamitos, L.L.C. AES Alamitos, L.L.C. is the owner of the gas-fired power plant located at 690 North Studebaker Road, adjacent to the proposed Home Depot site. On behalf of AES Alamitos, L.L.C., and its parent company, AES Southland, L.L.C. (collectively, “AES”), we submit the following comments in support of the appeal of the above-referenced project proposing development of a Home Depot and additional commercial retail and restaurant facilities at 400 Studebaker Road (“Project”).

As an initial matter, AES does not oppose the Project in concept. However, we are filing this letter because the Project as proposed does not adequately address the Project’s potentially detrimental effects and adverse impacts on the adjacent AES property and the businesses being conducted thereon. AES previously detailed these concerns in 3 letters to the City dated June 15, 2005, December 12, 2005 and July 17, 2006. The City’s response to those letters and the Final EIR for the Project (“FEIR”) does not adequately resolve AES’ concerns regarding the Project. Rather than repeat the numerous issues raised in AES’ prior letters, we hereby incorporate each of those letters by reference (a copy of which is attached hereto) and summarize a few of the issues below.

Inadequate Disclosure of Public Impacts

The FEIR is deficient because it does not adequately disclose potential adverse impacts of locating the Project adjacent to the AES operations. CEQA Guideline section 15126.2(a) requires that an EIR “analyze any significant environmental effects the project might cause by

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Long Beach City Council
October 2, 2006
Page 2

bringing development and people into the area affected.” The FEIR limits its analysis of this issue to the potential release of ammonia. The FEIR also needs to perform a more complete analysis of the impacts of bringing substantial numbers of new people in close proximity to AES’s facility. This is especially so where, as here, the FEIR is not clear on the types of commercial establishments that will occupy the Project’s retail space and that may encourage people to congregate and/or dine in outdoor areas close to AES’ facility. Other impacts that should be properly analyzed include, without limitation, potential safety impacts due to the deficient emergency response times (FEIR, p. 4.10-3) in the unlikely event of an industrial accident at the AES facility and the potential to expose the AES facility (recognized as critical infrastructure by the Department of Homeland Security) to new security threats. Contrary to CEQA Guideline section 15126.4(a)(1)(D), the FEIR also fails to disclose to the public the potentially significant impacts of Mitigation Measure 4.6.10. Without a better understanding of what changes to the environment might result because of the measures/revisions to the AES Business Emergency Plan, Hazardous Materials Response Plan, and the Risk Management Plan, the EIR fails as an informational document.

Invalid Mitigation Measures

AES also opposes proposed Mitigation Measure 4.6.10 because it may unlawfully burden AES by purporting to impose restrictions on AES operations rather than the Project and the Project applicant. This mitigation measure requires “the City Health Department and the CUPA to review the existing Business Emergency Plan, Hazardous Materials Response Plan, and the Risk Management Plan for the [AES facility] to determine if any additional measures/revisions are necessary as a result of project implementation.” (City Response to Comment No. O-2-5; Recirculated EIR Mitigation Measure 4.6.10.)

As currently drafted, Mitigation Measure 4.6.10 violates the Constitution by imposing obligations on AES that are not “roughly proportional” to AES’ impacts on the environment. (CEQA Guideline, § 15126.4(a)(4).) All impacts at issue are caused by the Project; therefore all mitigation measures must burden the Project, not AES. Further, by failing to identify the specific “additional measures/revisions” for the same that may be imposed on AES operations “as a result of Project implementation,” or at least the performance criteria for the same, Mitigation Measure 4.6.10 unlawfully defers formulation of an effective mitigation measure. (CEQA Guideline, § 15126.4(a)(1)(B).)

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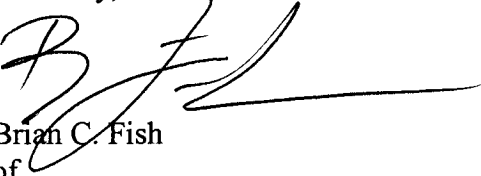
Long Beach City Council
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Page 3

Conclusion

In apparent recognition of the validity of AES' concerns, Response to Comment 0-2-7 states that "[t]he City Department of Health and Human Services has determined that restrictions would not be placed on AES with respect to their current operations." However, the Final EIR fails to reflect this information. A simple change to the Mitigation Measure 4.6.10 is needed to acknowledge the City's commitment that AES is not required to mitigate the Project's impacts, yet the City has so far refused to make that change.

Thank you for your consideration of AES' comments and concerns. In addition to the above matters, please note that AES reserves the right to object to the Project based on issues raised by other commentators to the extent such comments relate to Project impacts that may adversely effect the AES property or AES operations. Should you have any questions or comments, please feel free to contact Vitaly Lee at (562) 493-7307 or myself.

Sincerely,



Brian C. Fish
of

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

BCF/

cc: Marc Z. Michael, Esq. (via e-mail)
Ms. Angela Reynolds, City of Long Beach (via e-mail)
Mr. Tony Chavez (via e-mail)
Mr. Vitaly Lee (via e-mail)
Laura Carroll, Esq. (via e-mail)
Jennifer Chavez, Esq. (via e-mail)



Irma Heinrichs
10/03/2006 09:25 AM

To: Jerry Soriano/CH/CLB@CLB
cc:
Subject: City Council Meeting 10/3/06

For the meeting tonight

Irma Heinrichs
City Clerk Department
City of Long Beach
333 West Ocean Boulevard, Lobby Level
Long Beach, CA 90802
(562) 570-6228
(562) 570-6789 (FAX)
irma_heinrichs@longbeach.gov

Building a Great City, Delivering Exceptional Service
---- Forwarded by Irma Heinrichs/CH/CLB on 10/03/2006 09:25 AM ----



"Kathie Crawford"
<kncrawford@Verizon.net>
09/29/2006 05:21 PM

To: <cityclerk@longbeach.gov>
cc: <cityattorney@longbeach.gov>
Subject: City Council Meeting 10/3/06

Comments from Kathleen N. Crawford, appellant in the matter of the Home Depot proposal:

These written comments regarding my appeal of the Planning Commission's approval of the Home Depot EIR are to be presented to the City Council for the October 3, 2006, meeting in lieu of my speaking at that meeting.

To the City Council Members:

Because I know that my concerns in general with the inadequate and incorrect EIR will be presented by other speakers, I wish to impart just one concern to the Council.

The job of the city staff, the Planning Commission, and now, the City Council is to manage and protect the resources and communities of this city. I am very concerned that this instance will be another in a long line of such decisions that show very little "planning". If this project, or any other proposed project becomes fact, the proper "planning" must be done.

The taxpayers and citizens of this city should expect that the questions of such issues as sewers, traffic, and loitering day-laborers would have been carefully analyzed by the city staff, and their results carefully considered and questioned by the Planning Commission and then the City Council. The developer should bear the burden of solving of such problems.

We should be able to trust the city departments concerned to have the expertise to realistically address such issues. We should also be able to trust the appointed Commissions and elected officials to have the overall picture. For instance, does the claim of an increase in sales tax of \$5 million consider how much of the sales tax now generated by Lowe's, located in Long Beach a few miles from this site, will be lost to Lowe's and gained by Home Depot? What is the annual sales tax now generated by Lowe's?

I am not convinced that the Planning Department and the Planning Commission did more than rubber stamp the project, and that is not acceptable. The taxpayers and residents of this city deserve better and have paid for better than that.

Thank you for your careful consideration of this proposal and the concerns presented by the appellants.

Kathleen N. Crawford
421 Linares Avenue
Long Beach, CA 90803

Doug Drummond
6242 Monita Street
Long Beach, CA 90803
Phone (562) 598-560
E-mail: d.drummond4@verizon.net

September 24, 2006

PLANNING AND OUR SEADIP BASIN
NOT A HOME DEPOT

A DEVELOPER IS TRYING TO LOCATE A HOME DEPOT ON AN OIL TANK FARM PROPERTY IN AN INDUSTRIAL ZONE EAST OF STUDEBAKER AT LOYNES DRIVE. THE APPLICATION REQUESTS AN ACCESSORY USE PERMIT FOR RETAIL SALES IN AN INDUSTRIAL ZONE. THE PRIMARY FUNCTION OF A HOME DEPOT *IS* RETAIL SALES, NOT MANUFACTURING OR WAREHOUSING. IT APPEARS THIS STRATEGY IS BEING USED TO AVOID THE RE-ZONING PROCESS. ALL HOME DEPOTS ARE PRIMARILY RETAIL BUSINESSES. AN ACCESSORY USE, BY DEFINITION, IS SECONDARY OR SUBORDINATE TO A PRIMARY USE. I UNDERSTAND THIS FORM OF APPLICATION HAS **NEVER** BEEN USED IN LONG BEACH TO ENABLE OPERATION A BIG BOX BUSINESS?

THE AREA SOUTH OF 7TH STREET TO THE LOS CERRITOS MARINA, AND FROM 7TH AND BELLFLOWER TO THE SEAL BEACH/ORANGE COUNTY LINE IS OF CRITICAL IMPORTANCE. IT INCLUDES THE CERRITOS WETLANDS, VERY IMPORTANT AND CONGESTED TRAFFIC INTERSECTIONS AND ROUTES AND THREE "GATEWAYS" INTO LONG BEACH (7TH STREET, 2ND STREET, AND PACIFIC COAST HIGHWAY).

THE BASIN WAS STUDIED AND ZONED IN THE 1980'S AS THE "SEADIP PLAN." A FEW YEARS LATER LEGISLATION WAS PASSED TO PROTECT WETLANDS AND THAT PLAN BECAME UNWORKABLE. IN THE MID-1990'S ACTION WAS TAKEN THAT BROUGHT THE UNDEVELOPED UN-INCORPORATED LANDS (OWNED BY THE BRYANT TRUST AND BIXBY RANCH COMPANY) INTO THE CITY OF LONG BEACH. SINCE THEN, NO AREA PLANNING HAS BEEN ORDERED.

BEFORE **ANY** PERMITS ARE ISSUED FOR INDIVIDUAL PROJECTS, IT IS **ESSENTIAL** THAT THE ENTIRE AREA BE STUDIED (WITH THE PARTICIPATION AND INPUT OF AFFECTED NEIGHBORHOODS) AND PLANNED.

I ASK THAT CITY COUNCIL ACT TO ORDER SUCH A STUDY AND TO APPROVE A MORATORIUM ON ALL DEVELOPMENT UNTIL THE WORK IS COMPLETED AND A NEW PLAN ADOPTED. DIRECTION TO STAFF SHOULD ENCOMPASS: IMPROVING THE FLOW OF TRAFFIC, CONFIGURING AND RESTORING THE WETLANDS, ENHANCING ATTRACTIVENESS OF ENTRY CORRIDORS, BEAUTIFICATION OF THE AREA, AND THE ADOPTION OF ZONING WHICH WILL BE COMPATIBLE WITH THE WETLANDS AND SURROUNDING NEIGHBORHOODS.

THIS PLANNING CAN ENABLE ALL FUTURE USES TO EQUITABLY SHARE TRAFFIC CAPACITY **AND** COSTS OF IMPROVEMENTS. AND, WE CAN MAKE LONG BEACH A MORE BEAUTIFUL PLACE.

CHATTEN-BROWN & CARSTENS

3250 OCEAN PARK BOULEVARD

SUITE 300

SANTA MONICA, CALIFORNIA 90405

www.cbcearthlaw.com

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ACM@CBCEARTHLAW.COM

October 3, 2006

By Hand Delivery

Long Beach City Council

Civic Center Plaza

333 West Ocean Blvd., 14th Floor

Long Beach, California 90802

Re: Opposition to Approval of Home Depot Project;

Honorable Councilmembers:

On behalf of Los Cerritos Wetlands Land Trust and Stop Home Depot, in a letter dated September 28, 2006, we urged you to continue this hearing until after the Planning Commission reconsidered its August 17 action. That decision was based upon an erroneous application of CEQA's provisions for a Statement of Overriding Considerations, without first finding that all feasible alternatives and mitigation measures have been adopted. Further, the decision should be reconsidered because it also was based, at least in part, upon a factual misunderstanding that the Home Depot project would go to the Boeing site in Seal Beach if not approved for the Studebaker site. In addition to these significant reasons to continue the hearing on this project, it should not be approved because the Environmental Impact Report (EIR) is inadequate for the many reasons already set forth in the record.

Among other reasons, we believe the EIR is inadequate because of: 1) the failure to adequately respond to the comments of the South Coast Air Quality Management District regarding the need for analysis of the air quality impacts of remediation of the site; 2) the inconsistencies in the traffic analysis and the failure to recognize the real magnitude of expected cut-through traffic that will impact residents and students at Kettering Elementary School; 3) the safety concerns relating to an increased use of Loynes Drive; 4) the infeasibility of the proposed turnpockets on Studebaker and/or 2nd Street due to the restoration of the wetlands; 5) the uncertainty of the traffic improvements that are proposed but that require CalTrans concurrence; 6) the adverse impacts that the project would have on the adjoining waterways and soon to be restored wetlands; and 7) the inadequate survey of burrowing owls, and other bird species, and the failure to adequately mitigate adverse biological impacts, as identified by the Department of Fish and Game.

In addition to the objections expressed by our clients and others regarding the inadequacy of the EIR, and the inadequate responses to many of the comments on the EIR, we are uncertain whether the following concerns have been raised, and therefore now raise them:

I. SIGNIFICANT IMPACTS WERE NOT PROPERLY ANALYZED

A. Land Use Impacts

1. The Project Violates the Local Coastal Program

The Local Coastal Program (LCP) for Long Beach prohibits the disruption of existing neighborhoods from traffic flow. (LCP p. III-S-6.) As discussed in comments submitted by Heather Altman and many others, this project will have significant cut-through traffic impacts on local neighborhoods in violation of this LCP requirement. This violation of the LCP was not analyzed in the EIR because the EIR inaccurately claims there will be no cut-through traffic impacts.

2. Approval of a Variance Does Not Mitigate Impacts from the Lack of Compliance with the Community Plan's Open Space Requirements

Under the Community Plan for the area, 30 percent of the land must be preserved in open space required. Here, only 21.64 percent of the land will be preserved, although a 1.37 acre undeveloped parcel adjacent to 7th Street is proposed to be improved as a public park, with the open space "attributed" to the project. Even with that land, the project would only have 26.6 percent open space. The EIR provides that the variance is a mitigation measure and concludes the land use impacts are not significant. (MM 4.8.1) However, obtaining a variance does not mitigate an impact and the impact of reduced open space at the development should be considered a significant adverse land use impact, both in terms of impacts at the Studebaker site, and as a precedent that may weaken the Community Plan requirement for 30 percent open space for commercial developments.

B. There Was Inadequate Consideration of the Safety Concerns Associated with the Design of the Project

The project design is very unusual in that it proposes to essentially build commercial uses and parking lots around a remaining small parcel where a tank and certain industrial operations will be retained. The likelihood of vehicles careening into

the retained parcel, and the incompatibility of these different uses was not adequately considered. Additionally, the Planning Commission issued a variance to allow a 68 foot wide driveway, and two 30 foot driveways, rather than the 24 foot wide driveways authorized by the Municipal Code. Such a vastly wider driveway will induce multiple entries and exits at the same time, and the safety impacts of this were not considered.

C. Contributions to Climate Change

The EIR should discuss the Home Depot project's impact on climate change. According to the EIR, the project will add 5700 trips each day and 8500 trips each day on weekends. The EIR should therefore analyze the impact of greenhouse gas emissions from the increased vehicle traffic and the resulting climate change and consider measures to mitigate those impacts.

The burning of fossil fuels results in the accumulation of "greenhouse gases" such as carbon dioxide, methane and nitrous oxide in the atmosphere. It is that accumulation of gases which results in climate change. In California, the state government has acknowledged the global ramifications of greenhouse gas emission. On June 1, 2005, Governor Schwarzenegger issued Executive Order S-3-05, which notes that "California is particularly vulnerable to the impacts of climate change." This Executive Order also details the significant impacts increased greenhouse gas emissions will have on the state including threats to the Sierra snowpack, an exacerbation of existing air quality problems, human health impacts from increased heat stress, rising sea level and threats to the state's water supply. The California legislature concurred in this recognition of the significant impacts of greenhouse gas emissions in its enacting of Health and Safety Code section 43018.5, which requires the Air Resource Board to "adopt regulations that achieve the maximum feasible and cost-effective reduction of greenhouse gas emissions from motor vehicles."

An EIR must identify the significant effects of a proposed project's potential to degrade the quality of the environment. (Public Resources Code § 21083(b).) An increase in greenhouse gas emission has the ability to severely degrade the environment, thus this impact must be studied in the EIR, and feasible mitigation measures should be considered.

II. THE ALTERNATIVES ANALYSIS IS INADEQUATE

A. Home Depot Must Consider Alternative Locations

Some commenters urged consideration of alternative sites in Long Beach, and

specifically recommended siting the Home Depot over by the 710 freeway, which is more commercial, has good freeway access, and has a greater need for entry level jobs. However, the EIR refused to consider any off-site alternative, and thus fails to consider a reasonable range of alternatives.

The EIR admits the adverse traffic impact of the project but claims that moving the project to another site would have significant unavoidable impacts, and therefore it is not necessary to consider an offsite alternative:

Reasonable alternatives were considered in DEIR 2005, consistent with Section 15126.6 (c) of the CEQA guidelines. As discussed in DEIR 2005, the project area is built out and there are existing impacted intersections in the area; therefore, any development on this site would likely result in significant traffic impacts. In addition, for any development on the 17.8-acre site, significant construction air quality impacts are likely. Finally, as discussed in Section 4.10, at the time of DEIR 2005 circulation for public review, any development in the City of Long Beach would be required to acknowledge a significant cumulative impact related to solid waste (landfill capacity). Therefore, the fact that the alternatives considered would reduce impacts when compared to the proposed project fulfills the "reasonability" requirement under CEQA.

(FEIR Vol. III, p. 3-12.) This generalized conclusion is inadequate. Alternative sites were required to be considered because, as the EIR found, any project at the proposed site would have significant traffic impacts, but a project at other sites might not have the same adverse traffic impacts, though there would be an adverse impact on solid wastes at any site in the City. If no alternative site exists that would avoid or substantially lessen the significant effects of the project, then an analysis of alternative sites need not be considered. However, if the City concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion in the EIR. For example, in some cases there may be no feasible alternative locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.

B. Alternative Uses of the Site Should Have Been Considered

The only other alternatives considered in the EIR are the No Project Alternative and Industrial Uses. No alternative use of this property for open space or wetlands restoration is considered, although it was suggested by many members of the public. By comparing to the proposed project to Industrial Uses, the impacts of the proposed project are once again improperly downplayed. The EIR does not identify an environmentally

superior alternative, as it is required to, because it says the impacts from the reduced density, and two industrial uses are similar.

C. The Alternatives Analysis Is Skewed so that the Proposed Project Appears Less Impactful than the Reduced Density Alternative

The reduced density alternative does not incorporate the same mitigation measures as the project, so the EIR concludes it is not environmentally preferable. However, when the reduced density alternative is properly considered with all mitigation measures, it would in fact be the environmentally superior alternative on-site alternative, and should be so acknowledged.

D. The Project May Not Be Approved as Proposed Because There May Be Feasible Alternatives or Mitigation Measures

Contrary to the discussion in the staff report of adopting a statement of overriding considerations if the City Council finds the benefits of the project outweigh the adverse environmental impacts, the project cannot be approved because there may be feasible alternatives or mitigation measures that have not been considered that would avoid or at least mitigate the adverse impacts of the project. The City Council cannot approve this project, with its admitted and its obvious, but denied, adverse impacts, unless the Council finds, based upon substantial evidence, that there are no feasible alternatives. Such evidence does not currently exist because the EIR fails to consider a reasonable range of alternatives, including off-site alternatives, and mitigation measures, such as a reduced density alternative.

III. VARIANCES WERE IMPROPERLY GRANTED

In order to support a variance for either the reduction in open space, or the substantially wider driveways, there must be circumstances unique to the property that makes a variance necessary. We are aware of no information in the record that supports the variance for either the wider driveways or the reduction in open space. Certainly a less intense use of the property would have allowed the preservation of 30 percent of the open space. The variance for the failure to provide thirty percent of open space that was granted, even if theoretically allowed, was not supported by substantial evidence. Nor is the need for driveways twice as wide as those normally allowed demonstrated.

IV. CONCLUSION

The EIR for the project is inadequate, and there are strong policy reasons—

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including the adverse impacts on traffic, safety concerns, and the extent to which the project would jeopardize restoration of wetlands-- why the project should not be approved. We strongly urge you to either disapprove of the proposed project or return it to the Planning Commission for reconsideration. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Chatten-Brown", with a long horizontal flourish extending to the right.

Jan Chatten-Brown