Santa Monica Coalition for a Livable City

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April 24, 2012

Re: Agenda Item 8-B, Miramar Float Up

Dear Councilmembers:

The Santa Monica Coalition for a Livable City ("SMCLC") strongly urges you to reject the current Miramar demolition and expansion proposal.

For the float up process to be a real and meaningful one, the strong objections of the Planning Commission and the community need to be incorporated into the process; the developer should be required to propose a better project with reduced mass and impacts on its neighbors, the community and the environment.

The Float Up Process Should Not Be a "Greenlight" for Massive Projects in the Face of Significant Planning and Community Objections

According to our Planning Director, the fundamental purpose of a float up is to give all of us – planners, residents, Planning Commission and the City Council -- a quick, initial look at a project. This is supposed to occur before the developer has expended too much money to see if the project makes sense and is consistent with the LUCE.

But in this case, as was the case with two other recent massive projects in the Bergamot Area, the developer has expended years amassing a team of lawyers and lobbyists to promote only one project while ignoring community opposition to the massive 550,000 sf hotel/condo proposal before you tonight.

Notwithstanding significant, growing objections to the project's mass from the Planning Commission and the public, the developer's latest submission simply rearranges the 550,000 sf project on the site and asks that the City commence development agreement negotiations.

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Any Approval of This 550,000 sf Project Could Inappropriately Constrain Analysis in a Draft Environmental Impact Report and Constitute Inappropriate Predetermination in Advance of Environmental Review under CEQA

A basic premise of CEQA is that environmental review begin at the earliest possible time, and well in advance of any project approvals. (CEQA Guidelines, § 15004.)

We are very concerned that the float up process not result in any approval of this 550,000 sf project, thereby undermining the entire CEQA process and rendering it ineffectual as a decision-making tool to arrive at a superior project with reduced environmental impacts.

This is of paramount concern because the float up process for both the Village Trailer Park and the Hines/Bergamot projects inexorably has led to the City giving a very large-scale version of the project its stamp of approval, without the benefit of environmental review under CEQA. Thereafter, the DEIRs for both projects did not include analyses of project alternatives of reduced size and impacts as CEQA requires.

This flawed approach – where the float up "concept" becomes "reality" -- is contrary to the dictates of CEQA, and could result in an inappropriately narrow DEIR that will be circulated for public review.

The Supreme Court has been clear regarding the need for early environmental review. In *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 131, the Court explained that the timing of environmental review must not be "so late that such review loses its power to influence key public decisions." A significant city action in furtherance of a project with potentially significant environmental impacts may commit an agency to a project "as a practical matter," even if the agreement is specifically conditioned on subsequent CEQA review and other contingencies. (Id. at p. 132.) Nor may environmental analysis occur at the point at which "bureaucratic and financial momentum render it practically moot." (Id., p. 130, fn. 9.) Nor should CEQA review be delayed to the point where it would "call for a burdensome reconsideration of decisions already made." (*Citizens for Responsible Government v. City of Albany* (1997) 56

Cal.App.4th 1199, 1221.) Otherwise, the risk is the drafting of an EIR "whose result will be largely to generate paper, to produce an EIR that describes a journey whose destination is already predetermined." (*Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271.)

If the City were once again to signal its approval of this large-scale project tonight, it may create "bureaucratic and financial momentum" behind the proposal, just as it did for the Village Trailer Park and Hines/Bergamot projects.

It is important that every DEIR fully explore project alternatives that would mitigate the significant impacts of the proposed project while satisfying the majority of the objectives set forth in the DEIR.

The Project Should Be Reduced in Size and Neighborhood Impacts in Response to the Planning Commission Objections

The primary issues of the Planning Commission--that the project is too big, too tall and the design is wrong for our City--have been ignored. The current proposals, including all four alternatives all keep the overall mass at 550,000 square feet.

The Planning Commissioners were very specific:

Commission Chair Newbold:

> "My general impression of the proposed project, though, is that it's large and monolithic and visually uninteresting."
>
> "And I just think that that big lawn is visually uninteresting and will never be a true public space."

Commissioner McKinnon:

> "But this design absolutely doesn't meet the needs of our city."
>
> "Because Mr. Epstein wants me to focus on the massing it's really quite easy: it's too big. And not just by a little way. It's way too big, for me at least 100,000 square feet too big, this project, and potentially 150,000 square feet."

"Mr. Epstein has constantly told me that this is a concept, and that we shouldn't look at the concept and get too tied down in it. The only point I would make is that **concepts have a way of becoming reality** unless you really resolutely argue why they don't work." (emph. added)

"People came out and spoke very strongly against you because it wasn't any one thing, it was the combination of things. It was the height of, not just one building but two buildings – it was the massing, it was the style of what you proposed, it was the combination of features that delivered the knock-out blows that people came here and wanted to deliver to you."

Commissioner Anderson:

"The LUCE says this needs to be a site of exceptional design and planning and I'm not seeing that."

Commissioner Winterer:

"I just think that it's all too tall given that elsewhere in the city the maximum height we allow is 81 feet right now under the LUCE."

"I think you need to set your goals much higher, and when you say you wanted to be iconic I think you have a ways to go."

Commissioner Parry:

"The open space at the intersection...would be more compelling if it were the only green respite for a few blocks, but no, we've got essentially the same thing right across the street."

Commissioner Ries:

"I do tend to believe that your rental units on the top are what's kind of creating some of the mass...If you lost some of the housing you would reduce some of your mass as well. So I'll leave it to you

> folks to work on a different design, but right now I'm not comfortable with the design."
>
> "...my note here is that the architecture is too heavy. So I like what the Shores did – I'm not saying do what the Shores did – but I like what they did, it was a very light design to me, very open."

The Current Project Is Inconsistent with the LUCE which Requires This Site to Transition to Its Residential Neighborhood

The developer quotes the part of LUCE Policy D1.6 that calls for an extension of downtown to the hotel properties to the north. But it left out the next part of the sentence, which emphasizes that any extension of higher commercial use must also transition well with the existing residential neighborhood. (Development Agreement Application Project Description Appendix 1, page 22.)

This issue was brought up at the Planning Commission but the developer persists in its misguided view that transitioning to the multi-family residential properties to the north is unnecessary. The developer should be required to comply with the LUCE directive, not skirt it. As proposed, the 10-12 story buildings and 550,000 square feet form a barrier to the neighborhood, not a transition that protects the surrounding community from encroaching development.

The Miramar's Project Is Simply a Rehash of a Project that Was Previously Rejected by Santa Monica

In 2002, the City Council turned down a plan for a similar hotel/residential project on this site that would have included a residential tower. Since then, the LUCE generally calls for building heights less than existing zoning to protect the City's character and its neighborhoods.

Santa Monica residents have made it clear, over and over again, that more high-rise buildings, particularly those that obstruct ocean views and tower over Palisades Park, are not in character with the City of Santa Monica.

In addition to nixing the prior high-rise proposal for this very site, Santa Monicans previously repelled plans for high-rise hotels along the west side of Ocean Avenue and plans to build a huge hotel on the current site of the Annenberg Beach House.

Real Community Benefits Are Woefully Lacking and Need to Be Clearly Understood at this Stage before Any Project Is Allowed to Proceed

Proposing a massive project that would exceed zoning and greatly impact the neighborhood requires significant, proportionate community benefits. To date, the developer labels as community benefits many features that are either required by the municipal code or would be expected of a 5-star luxury hotel.

In part, the continuing confusion in the community over what constitutes a real community benefit is a result of the fact that staff reports on this project (and others) do not distinguish what is already required by code to redevelop the site under existing zoning (such as statutory contributions to child-care, affordable housing, public arts) and what benefits are additionally proposed due to a Development Agreement that would allow a project to exceed existing zoning.

Additionally, luxury hotel amenities one would expect, given that this project is touted as a future world-class hotel destination, are not community benefits. Hotel amenities that have been mis-described as community benefits include:

Publicly-Accessible On-Site Open Space. Quoting Planning Commissioner Anderson: “When I look at that open space, though, to me it didn't really read as a significant community benefit, it read more as an amenity for the hotel.” And Commissioner Winterer: “The argument that that's why we should build these tall buildings because we are providing this open space I'm just not buying that.”

Unless the hotel’s open space is required to be public space -- open to the public for the same activities that are permitted in Palisades Park -- it cannot reasonably be construed as a “public” park, open space or community benefit. Would the Miramar permit residents to marry there without charging a fee or

having guests at the hotel?

Protecting the Moreton Bay Fig Tree. The tree is landmarked and therefore cannot be removed. It's disingenuous for the developers to tell the public that by keeping the tree in redeveloping the site it is bestowing a community benefit. (Recently, developer representatives claimed this as one of the significant public benefits to secure petition signatures at our local farmer's markets).

Public Streetscape Improvements (Landscape, streetscape, and sidewalk enhancements along Wilshire Boulevard, Ocean Avenue, and 2nd Street.) Any luxury hotel occupying this unique site would want to ensure that the surrounding streetscape and sidewalks appropriately mirror the hotel's luxury status. Controlling the improvements so that the surroundings are desirable from the hotel's own standpoint serves its business and its hotel guests and is not much of a community benefit to residents.

Historic Downtown Walking Tour [Participation in and support for the Santa Monica Conservancy Downtown Walking Tour Program (or other activity that promotes awareness and appreciation of historic resources in the Downtown).] Participants pay to go on this tour. Volunteer docents lead the walks. This is a very thin benefit, and certainly not enough to in any way justify exceeding the zoning.

Historic Downtown Plaque Program (Funding for a historic plaque program for designated Landmarks in the Downtown District.) Most cities already provide this type of benefit as part of their commitment to historic preservation. This offer doesn't come close to the scale of what the community should get in return for setting aside our zoning regulations.

Commemorative Feature/Object (Fabrication, installation, and maintenance of a commemorative feature/object in the publicly accessible open space area to narrate the history of the Miramar site.) Enough said.

Local Hiring Provision This is now a standard requirement in Santa Monica Development Agreements, but as written is essentially unenforceable by the City. Aspirational provisions in Development Agreements that are not enforced

and which have no penalties for noncompliance cannot be construed as community benefits.

Bicycle Sharing Program This is a benefit for hotel guests and employees.

Concierge Shuttle Vehicle Program This is a selling point for the hotel and maybe even an expected service for a 5-star hotel.

LEED Rating In a sustainable city like Santa Monica, residents expect any hotel, let alone one of this proposed size to obtain this rating. In reality, this is a hotel benefit, trading off capital costs against future operating costs and promoting a "green" image.

The Proposed Parking Will Make Neighborhood Parking Worse, Not Better

The Miramar's project proposal actually significantly DECREASES the number of parking spaces available for hotel guests, spa and retail visitors and employees of the Miramar. A maximum of 484 spaces and an unspecified minimum number are proposed. (DA Application section 4.1.7) That's a little over half of the 837 spaces required by the Municipal Code.

According to the developers' traffic report, the 120 luxury condos will have 264 parking spaces, and all residential-related parking (resident and guest) would be provided in a separate and secured area and thus would not be available for sharing." (Development Agreement Traffic and Parking Assessment Pages 14, 16.)

That leaves only about 200 spaces for hotel guests, employees, spa visitors, restaurant and retail visitors and others. That's about the same number of spaces at the current Miramar.

So it's hard to see how this project in any way alleviates the parking problems that are rampant in the Wilmont area, partly as the result of Miramar employees parking daily on the streets near the Miramar.

If the new hotel doesn't provide sufficient on-site parking, it's probable that hotel employees will still park on surrounding streets. What is a big problem now will become a huge problem when the current employees plus the 150 new employees all compete with residents for street parking in the neighborhood. This is an example of a neighborhood impact that LUCE disallows.

The developer told the Planning Commission that its parking numbers are preliminary and the new hotel will be designed so that there's enough parking. Those numbers should be verified by the planning staff at each step of the project so that the ultimate design accommodates adequate parking.

Lastly, the current parking plan, together with the report that produced it, simply isn't credible. Concluding that an expansion of the magnitude proposed will require so few parking spaces for guests and visitors just doesn't pass the test of reasonableness.

Similarly, a traffic study that concludes that there will be insignificant traffic impacts doesn't seem plausible. How can building 120 condominiums that require 264 parking spaces NOT add to the traffic in the area taking into account condo owners and their guests? And what about the additional vehicle traffic caused by those who come to use the spa and retail stores and restaurants?

The City and its Residents Need to Understand Financial Feasibility for a Reduced Project Now

It is important, particularly since this project has been in the works for over two years, that the developer be required to prove financial infeasibility if they contend that their current 550,000 sf hotel/condo project cannot be reduced in size or mix. Residents and the Planning Commission have been asking for a downsizing of this project for a long time, one that would result in a superior project.

Moreover, unlike other pending hotel projects in Santa Monica, this developer intends to use the sale of 120 condos to finance the entire redevelopment of its hotel. That's giving one developer an enormous windfall and setting a bad

precedent. The City needs to scrutinize the developer's financials at this stage of the process and determine to what extent a reduced project in height and mass is viable. Otherwise, "concept" becomes reality as Planning Commissioner McKinnon warned.

Conclusion

For all of these reasons, we call on the City Council to turn back the Miramar float up proposal and require the developers to return with a proposal that reflects the goals of the Planning Commission, the community at-large and the residents of the adjacent neighborhood. These include the following:

A significant reduction in overall mass;

Lower building heights;

A truly world-class design;

Genuine community benefits

Each of these needs to be on the table before the Council moves forward with a project of this importance on this iconic site.

Sincerely,

Victor Fresco, Diana Gordon, Sherrill Kushner, Jeff Segal, Susan Scarafia
Steering Committee

Cc: Planning Commission
David Martin
Roxanne Tanemori
Rod Gould
Marsha Moutrie
Neighborhood Groups