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August 28, 2007

RE: City Council Agenda Item: 7-A (Emergency Interim Ordinance re Development Agreements for Projects Exceeding 7500 square feet/15 housing units in LMSD/M1)

Dear City Council,

The Santa Monica Coalition for a Livable City (SMCLC) cannot support the staff's recommendation as to the establishment of a "Development Agreement process for changes in land use on parcels that exceed 32,000 square feet in the LMSD and 15,000 square feet in the M1 districts."

We believe it goes in exactly the wrong direction, at the wrong time, that it is at odds with the LUCE process and that you should not support it for these reasons:

1) THIS APPROACH IS ILL-ADVISED BECAUSE WE DO NOT HAVE A REVISED GENERAL PLAN WHICH WOULD FORM THE BASIS FOR NEGOTIATING DEVELOPMENT AGREEMENTS

Development agreements proceed from the fundamental premise that the community has already agreed upon, and implemented the relevant planning policies and objectives. The agreement is then negotiated so as not to compromise those very planning standards and so as not to reduce the quality of life in the community.

Since we are in the midst of revising our General Plan, we do not have sufficient clarity as to the master plan and infrastructure needs. As to the LSMD and M1 districts, the critical revised development standards are not yet in place for this last undeveloped area of our city. If we haven't yet, as a community, decided what is appropriate, how can we decide which projects that propose higher intensity uses and greater densities and scale are inappropriate and should not be approved under a development agreement?

2) NEGOTIATING INDIVIDUAL DEVELOPMENT AGREEMENTS PROMOTES BAD PLANNING

By its very nature, this approach promotes piecemeal planning, one development agreement at a time, with staff compelled to negotiate and tailor specific issues for each development agreement in isolation, instead of planning for the area as a whole which is what LUCE is designed to accomplish. This is a real problem with the industrial zone which

lacks a master plan and a related, integrated infrastructure.

3) DEVELOPMENT AGREEMENTS SHOULD BE THE RARE EXCEPTION BECAUSE THEY UNDERMINE PUBLIC CONFIDENCE IN LAND-USE DECISIONS

Development agreements undermine residents' confidence in community planning. Projects approved under development agreements are entitled to disregard the very zoning limitations residents have labored to enforce. In our view, proposing a development agreement process goes in exactly the opposite direction of what residents want. If every project, no matter how big, or inappropriate, can still proceed under a development agreement; the entire regulatory process, (as well as the ongoing LUCE effort) is undermined. And, how could you certify any such development as "consistent with" the 1984 General Plan that never contemplated such changes in use or scale?

Such a process is also very time-intensive for staff, the city and its residents. While there is a public process, valuable community and staff resources are committed at exactly the wrong time, when our efforts should be focused on implementing the LUCE.

4) PLANNING AND CHANGE UNCERTAINTY FAVOR DEVELOPERS NOT THE COMMUNITY

Negotiating development agreements in this interim period without a revised General Plan strongly favors developers and could foreclose the city's best planning and options.

While we are in the midst of reviewing and updating our city's land-use and circulation and housing elements we need to preserve all prerogatives to make projects conform to our revised General Plan. This is the stage where zoning changes can be enacted. But our city cannot take advantage of this flexibility under a development agreement because the developer is entitled to "freeze" all existing zoning and development requirements once a development agreement is signed. So this approach does not sufficiently protect the community's interests and investment in the evolving LUCE process.

5) HISTORICALLY THE CITY HAS NOT MONITORED DEVELOPMENT AGREEMENTS FOR COMPLIANCE WITH THEIR TERMS

SMCLC believes that all projects requiring development agreements now or in the future should be submitted to residents for a vote. Our city has failed residents too many times in approving development agreements over the past 25 years without sufficient or substantial public benefits that would justify the greater height, density and intensity of uses allowed.

Equally egregious, our city has not monitored these large-scale projects for compliance with traffic, circulation, parking or other required environmental mitigations. In the Special Office District alone, you have not periodically reviewed Colorado Place, the Arboretum, the Water Gardens, MTV Networks, or Lantana for compliance with the terms of their development agreements as required by M.C. 9.48.190. (Source: 2/06 SMCLC Public Records Request).

Because the city has failed to monitor and enforce development agreements as required by law, residents are now entitled to insist that all such agreements be placed on the ballot for a vote and a full discussion and disclosure of the public benefits, burdens, and negotiated mitigations.

6) CONCLUSION

For all the foregoing reasons, SMCLC urges you to reject this misguided approach which will not quell the development pressures that threaten to engulf the LMSD. (See yesterday's *LA Times* article re developer Hines purchase of 7 acre parcel in the LMSD to develop a 300,000 square foot regional job center)

You have the right tool for this precise situation --- you should impose a moratorium on all projects in excess of 7500 square feet under Govt. Code Section 65858 to protect the community's interest, utilizing the emergency findings that are enumerated in the proposed emergency ordinance.

Sincerely,

Diana Gordon
The Santa Monica Coalition for a Livable City

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