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January 28, 2014

City Clerk  
1685 Main Street  
Santa Monica, California 90401

Sent via Email to [clerk@smgov.net](mailto:clerk@smgov.net)

RE: Agenda Item 7-A. Introduction and First Reading of an Ordinance approving the Proposed Development Agreement 10DEV-002 to allow a mixed-use project totaling 765,095 square feet consisting of 473 rental housing units, 25 artist work/live units, approximately 374,434 square feet of creative office space, approximately 15,500 square feet of restaurant space, and approximately 13,891 square feet of retail space at 1681 26th Street; Certify the Final Environmental Impact Report prepared for the project in accordance with CEQA; and adopt a Resolution adopting the Mitigation Monitoring Program, Necessary CEQA Findings, and Statement of Overriding Considerations for the project

Dear Mayor O'Connor and the Honorable City Councilmembers,

I write on behalf of the Santa Monica Coalition for a Livable City ("SMCLC"), an organization of Santa Monica residents concerned about sustainable commercial development in the City of Santa Monica ("City"). SMCLC submitted extensive comments on the Draft Environmental Impact Report ("DEIR") for the proposed project, and has separately submitted comments on the proposed Development Agreement and on the economic feasibility analysis for the project and its alternatives. This comment letter focuses on the clear legal deficiencies of the Final Environmental Impact Report ("FEIR") and the findings purporting to support the approval of the proposed 766,000 square foot commercial/retail/residential development (hereinafter, "proposed project"). The proposed project will likely be the largest development that the City will approve in the Bergamot Area, occupying more than seven critical acres at the gateway to the area. It will add nearly 7,000 daily car trips to an area already heavily congested with traffic and cause significant, unmitigable impacts at numerous intersections both in the City and in Los Angeles. The proposed project has engendered significant opposition from residents of the City and neighboring jurisdictions due to these impacts. Yet, in spite of the widespread concern about the traffic impacts of the proposed project, the EIR fails to make a good faith effort to identify and evaluate the impacts of an alternative project that would reduce the traffic impacts.

The proposed project is located on a critical parcel for the implementation of the newly adopted Bergamot Area Plan (“BAP”),<sup>1</sup> as it would constitute a significant component of the area demarcated in the BAP as the Bergamot Transit Village District (“BTV District”). Yet the proposed project does not conform to the design standards of the BAP, deviating in significant ways from its development standards. As the project to be approved under the BAP, the Council must ensure that the proposal does not jeopardize the clear intent reflected in the BAP to create a pedestrian scale “village” in the area. The staff report does not provide adequate evidence to support the proposed project’s violation of the carefully thought-out development and design standards.

**I. The Environmental Impact Report Does Not Analyze an Appropriate Range of Alternatives to the Project and Thus Falls Short As a Document of Disclosure**

SMCLC commented on the DEIR that the project did not consider a true reduced alternative. The FEIR does not remedy this deficiency. Indeed, the EIR and emails that SMCLC has been able to obtain via the Public Records Act suggest that the applicant has intended from the start to manipulate the EIR process so that a true comparison of its project to a genuine reduced project would never take place. Indeed, the EIR contains more information about the even larger version of the project that was rejected during the float-up process well before the DEIR was completed, than it does any of the alternatives, including the “residential alternative” that has now become the project.

The California Environmental Quality Act (“CEQA”) requires that an EIR analyze alternatives that may reduce the significant impacts of a proposed project. As SMCLC pointed out in its DEIR comments, the EIR’s range of alternatives was quite limited. The DEIR discussed (in addition to the required “No Project” alternative), a Tier 1, or zoning compliant alternative; a “residential” alternative of the same size as the proposed project with one commercial building converted to residential use (this is now the proposed project); and a “reduced” alternative that was a mere 145,000 square feet smaller than the proposed project. Moreover, the “reduced” alternative analyzes a project with ratcheted up traffic generation. It is generally accepted as a rule of thumb in Santa Monica that office/commercial use generates about three times as much traffic as residential uses. The “reduced” alternative analyzes a project with far more commercial than residential uses, and thus the traffic impacts of the “reduced” alternative are far greater than the traffic impacts of a more residential reduced alternative – how much greater, the Council and the public will never know, because no such alternative was analyzed in the EIR.

The City appears to recognize that a reduced *residential* alternative to the project should be considered. Indeed, a reduced residential alternative conforms to the policies in the LUCE and BAP regarding the proportion of residential uses in the BTV District. In fact, just last week, the City received a financial feasibility analysis of the proposed project which for the first time analyzes the supposed feasibility of constructing a reduced alternative with a significant residential component. However, this is too little and too late. The fact that the City requested such analysis reveals that the City realizes that a reduced size residential alternative is relevant to study and consider as a possible future use on the site.

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<sup>1</sup> The full text of the Bergamot Area Plan, as adopted in September 2013, is available at: <http://www.smgov.net/uploadedFiles/Departments/PCD/Plans/Bergamot-Area-Plan/Bergamot-Area-Plan-Draft-June-2013.pdf>. The document referenced at the hyperlink is incorporated herein by reference as though fully set out as an exhibit hereto.

However, under CEQA, the City may reject an alternative for further analysis only if the alternative is clearly infeasible. The reduced residential alternative is not “clearly” infeasible. The City should have studied such an alternative in the EIR so that the Council and the public would know the environmental impacts of a scaled down residential project, rather than at the last moment trying to convince the public that it didn’t need to do such an analysis because it would not have been financially feasible to build the project. CEQA requires that an agency study reasonable alternatives to a project, and does not permit a presumption of economic infeasibility to justify the exclusion of an entire alternative from further study in the EIR.

Indeed, the need to do study a reduced residential alternative is also apparent from the very structure of the City’s own planning documents, the LUCE and the BAP. The LUCE and BAP established a “tiered” scheme of development. The proposed project is a Tier III project, the largest permitted under the planning documents. A Tier 1 project is zoning-compliant. All of the alternatives in the EIR are either Tier III projects or the Tier 1 zoning compliance project. Yet the BAP and the LUCE contain a second level approach, permitting projects that are not as large as a Tier III project with a lower level of community benefits. Under the LUCE, a Tier 2 project may be built only to 60 feet and a 3.0 FAR, while under the BAP, the LUCE’s limits were even further narrowed. A Tier II project in the BTV District can have a 2.2 FAR (as opposed to the 2.5 FAR of a Tier III project), and can build up to 60 feet, as opposed to the 86 feet permitted to qualifying Tier III projects. Because the City’s planning documents rely upon the “tiered” structure to establish the various development standards applicable to a project, it is only logical that it study the impacts of a project constructed to meet the Tier II development standards.

It is clear that right from the proposed project’s initial application in May 2010, the materials before the City reflected an intent to obscure the true plans for the project. The cover letter with the application states, “In addition to our proposed project, and in response to requests by planning commissioners, we have also included in this package two alternative ideas which would include a greater percentage of residential. We ask that you study these alternatives in sufficient detail as a part of the environmental review (the EIR) for the project such that City Council would be in a position to approve either alternative idea should we agree together to move in that direction.” (Exhibit A, p. 3.) The applicant was hedging its bets, and doing so in the EIR so that it could blow as the political winds might carry it. Documents obtained through the Public Records Act show that early versions of the EIR incorporated the various “alternative” configuration as “project options.” (Exhibit B, pp. 147-150; see also Exhibit C, p. 4 [financial analysis by CBRE showing that Alternative 2, reduced project alternative was “conceived as part of EIR process;” whereas residential alternative 1 was not conceived in EIR process].) Had this approach been maintained in the DEIR, perhaps a genuine reduced project alternative would have been discussed. However, at the applicant’s request, these “options” were struck from the DEIR, and seemingly converted into the “alternatives” discussion of the EIR. The end result of this manipulation is an EIR that was stacked from the start to analyze a far larger project than is now before the Council. And because CEQA requires the study of alternatives with reduced impacts to the project, the alternatives identified were reduced in comparison to the larger project. Had the EIR begun with the premise of more residentially oriented project (a prospect that the developer intentionally left open from the start), the alternatives analyzed would have been those with reduced impacts to *that* project. Instead, the alternatives are designed to reduce the impacts of a much larger project.

Moreover, the result of the inclusion of the original project resulted in an EIR that incorporated significant information about the largest, originally proposed project that was never a genuine consideration, in spite of the developer and the City knowing full well when the DEIR was being drafted that a project of that size was off the table. Indeed, the developer specifically required that the entire original traffic study of the larger project be retained in the EIR. (Exhibit D.) This appears to have been so that the developer can tout how much less traffic the “reduced” project generates over its original, *rejected* proposal. That is not the purpose of an EIR. An EIR is intended to study a proposed project and to identify alternatives to that project that could reduce environmental impacts. This EIR contains an unclear project description that evolved as the document went from draft to final. The public is disserved by this approach, because while the project ostensibly decreased in intensity of use, had the applicant been forthright about its plans at the outset a meaningful range of alternatives might have been analyzed to provide the public with the true environmental cost of the current proposal relative to the alternatives.

## **II. The Traffic and Circulation Impacts of Current Proposal Have Not Been Properly Analyzed**

Before the Council is a project that has changed substantially in its design since the traffic and circulation were analyzed in the EIR. The EIR’s traffic analysis utilizes a circulation pattern with underground parking exits onto Olympic Boulevard. (See FEIR, p. 4.16-2, showing Access Scenario 3 which was analyzed for the proposed project.)<sup>2</sup> As currently proposed according to the plans on file with the City, the massive underground parking garage, which will span the entire site, will have three entrances. From Olympic, there is an entrance only gate. Under Building 1 and in the residential area near Buildings 3 and 4, there are entry and exit gates along Nebraska Avenue. (See Exhibit E; see also BD 06.17A & B.) The only exit gates are on Nebraska Ave. It appears from the circulation plans on file with the City that some sort of turn restrictions may be envisioned along Nebraska to force some of the exiting traffic to travel on the newly created north-south streets through the project site to Olympic. This circulation was not analyzed in the EIR.<sup>3</sup>

Requiring the entirety of the 2,000 vehicles parked in the underground structure to exit on Nebraska will significantly affect both the vehicular and pedestrian experience on that street. Similarly, diverting traffic through the project site will likewise affect these streets. While the regional traffic patterns that this project will affect are likely the same as analyzed in the EIR, the traffic patterns at the project site and in the immediate vicinity of the project are likely to be significantly affected by this

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<sup>2</sup> The EIR’s traffic analysis also falls short of legal requirements because it is based on projected figures for 2012 rather than the actual baseline of traffic when the counts were taken, as required by *Neighbors for Smart Rail v. Los Angeles MTA* (2013) 57 Cal.4<sup>th</sup> 439, 457.

<sup>3</sup> The most recent Supplemental Traffic Study, which is an appendix to the FEIR, discusses two circulation arrangements, including the plan now set forth by the applicant. However, the analysis does not extend to the effect of traffic on the Nebraska or the new north-south streets, and, significantly, the discussion was never incorporated into the body of the FEIR so that a person who did not read the entire traffic study appendix would be able to find it. The FEIR does not discuss the proposed circulation in the main body of the document. Burying important details about a project in an appendix is contrary to the public disclosure requirements of CEQA.

newly modified circulation pattern. This is especially concerning here because of the City's significant efforts in the LUCE and BAP to improve the pedestrian experience in this area. The BAP designates new street standards and requirements for this area. The BAP designates Nebraska Avenue as a "Shared Space Street," as well as all streets in the "Pedestrian Priority Corridor," which includes the entire project site. The through streets in the project site are designated as "Flexible Streets" and "Shared Space Streets." The BAP requires that "no entries to parking areas or garages shall be located on the Pedestrian Priority Corridor," and "garage entrance, driveways, parking space, loading docks. . . are not permitted along the Flexible Street type streets." (BAP, B.10.A.06 & 07.) Flexible Street standards apply to all streets in the Pedestrian Priority Corridor. A Flexible Street "emphasizes pedestrian and placemaking aspects," while a "Shared Space Street" "is a special street type that emphasizes a quality pedestrian realm through the use of landscaping, street furnishings, and paving materials." The EIR includes as a "Threshold of Significance" that the project would "conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities." (EIR, 4.16-47.) The EIR concludes that this threshold is not met by the project, but never analyzes the planned on-site circulation for consistency with the BAP's pedestrian policies. Absent such analysis, the EIR's conclusion is unsupported.

Instead of analyzing the new circulation plan and its effect on adjacent streets, the FEIR states that the garage access ramps are not in conflict with the proposed street use. Inexplicably, while the DEIR identifies the access ramps to and from the underground garage as disrupting pedestrian traffic along Olympic Boulevard, the FEIR removes this concern from the list of reasons why the project is not consistent with applicable land use plans. (See, e.g., FEIR 4.10-22.) There is no basis provided for eliminating this concern. Indeed, with the addition of access ramps on Nebraska Avenue, a street specifically designated in the BAP to be inviting to pedestrians, the interface between the access ramps and pedestrians is all the more concerning. The FEIR should identify a critical inconsistency between the applicable land use plans and the project, not eliminate the DEIR's prior concern with no supportable reason. The EIR does not withstand scrutiny when it fails to consider the impacts of changed circulation in the local project area, particularly on the newly created streets designated to accommodate pedestrians and cyclists in the BAP.

### **III. The Project Does Not Comply With Development and Affordable Housing Standards of the Bergamot Area Plan and the Land Use and Circulation Element**

The Bergamot Area Plan (BAP) was approved by the City Council just a few months ago, at a time when the City Council was well-aware of the plans for the proposed project, having reviewed and rejected the initial over-large float version and having certainly been aware of the considerable controversy over the project's significant traffic impacts and the negative reactions to the project from the City of Los Angeles and Cal-Trans, among many others. The Council adopted the BAP and incorporated many specific standards directly applicable to the proposed project, full well knowing that Hines' proposal did not meet the standards in the newly-adopted plan. Now the Council is faced with its first project to be approved under the BAP, for the largest parcel in the area and one of the largest components of the area designated as the Bergamot Transit Village (BTV) District. The decisions the Council makes with regard to the proposed project will have profound consequences on the look and feel of development in and around the entire area. Yet the staff report proposes to permit the applicant to evade many of the standards in the BAP, including those specifically designed to promote the

pedestrian and open space goals of the BAP. The project violates several mandatory standards of the BAP, and the staff report inappropriately recommends “flexibility” as to other standards without sufficient evidentiary basis that the standards cannot be met. An approval that is in conflict with the standards of a General Plan or Specific Plan is void on its face, and due to these deficiencies, the project as proposed will not survive judicial scrutiny.

**A. The Project Does Not Meet the Mandatory Bergamot Area Plan Standards for Building Height and Floor Area Ratio**

**1. Overly High**

The standard height for a Tier III project under the BAP is 75 feet. The BAP allows increase height to 86 feet, as requested for Bldgs 1 and 2, if the ground floor height is raised from 13.5 feet to 18.5 feet. As the Staff Report candidly admits, the ground floor height of Building 1 is 18 feet, not 18.5 feet. Yet the Staff Report inexplicably concludes that Building 1 satisfies the BAP’s mandatory standards for 86 foot height with an 18 foot ground floor. 18 feet is not 18.5 feet, and the building falls short.

**2. Excessively Large**

While the LUCE permitted a 3.5 FAR for the BTV area, the Council significantly reduced the permissible FAR to a maximum of 2.5 when it adopted the BAP in September. The staff report does not even bother to analyze the project’s consistency with the mandatory FAR standard, other than stating that the sum total of buildings on the project site have an FAR of 2.5. This issue is not so easily settled, however. In the project’s initial phases, the applicant intended to subdivide the parcel into five separate sites. (See Exhibit F, Informal Subdivision Map; see also Exhibit G, p. 2 [City staff comments regarding need for each of five parcels to stand alone].) The Development Agreement set out in conjunction with the project permits the five buildings to be developed by five separate developers, and does not even require that all the buildings be constructed. Instead of assessing the FAR of each structure on the site (see BD07.03), the staff report apparently averages all of the FAR for all the structures across the site. However, individually, almost every structure is larger than what would otherwise be permitted on the five individual building sites, as SMCLC has calculated based solely on information provided by Hines in slides BD07.03 and BD00.07. The FAR for each building is as follows:

Building 1:	2.56
Building 2:	2.87
Building 3:	2.70
Building 4:	1.72
Building 5:	2.55

Standing alone, only *one* of these structures satisfies the mandatory FAR limit in the BAP.

As staff informed SMCLC (see Exhibit H), “If Hines were to submit a subdivision map in the future that subdivided the property into separate land parcels then the FAR would be based on those individual parcels and not the entire project area.” Yet the DA before the Council permits the project to

be developed as five separate sites, with no guarantee that all the five sites will be developed. Permitting oversized development on four of the five sites undermines the careful determination in the BAP to *reduce* the permitted FAR in this BTV District from that originally established in the LUCE, “so as to achieve a scale that is consistent with the community vision for a pedestrian-oriented district that provides high quality open spaces, and this is oriented to and accessible by transit.” (BAP, p. 72.) The overly large structures under the BAP’s careful design guidelines, and, as discussed below, disregard for other design standards, reduces the quality of the pedestrian experience, creating canyonized open spaces wedged between buildings rather than the “high quality open spaces” envisioned for this District in the BAP. Hines should not be permitted to make an end-run around the FAR when it intends for each of the structures to be developed independently, and perhaps not to be developed at all.

**B. The Proposed Project Does Not Meet the Other Development Standards and Does Not Qualify for “Flexibility” Because It Does Not Demonstrate a Need for Such Flexibility**

The BAP contains very specific development standards beyond height and FAR, include limitations on maximum floor plate (35,000 sq ft); building modulation for top two floors; and specific street standards for the new streets planned as part of the BAP implementation. The project falls short of these standards as well, in some cases by a great degree. Building 1 exceeds the maximum floor plate standard on *every floor*. On most floors, Building 1 exceeds the standard by more than 10,000 square feet. ***This means that Building 1 is larger than the largest structure envisioned in the BAP by nearly 40 percent.***

Not only is Building 1 far larger than any structure permitted under the BAP’s development standards, three of the five buildings fail to meet the BAP’s standards for upper floor modulation. These modulation standards are critical to ensure the quality of the open spaces that are supposed to be a central feature of the project. Without sufficient recesses of the upper floors, light will be unable to reach the open spaces and the areas will feel hemmed in rather than accessible. This is why the BAP specifically requires that the top floor of Tier III structures in the BTV District be reduced by 50% from the size of the largest floor plate, and that the story below the top floor be reduced by 90% from the largest floor plate. These standards are not met by either of the commercial buildings or by the Building 3 of the residential structures. The chart below demonstrates the degree to which Buildings 1-3 do not satisfy the standards:<sup>4</sup>

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<sup>4</sup> For each structure on the chart, a discrepancy exists between the proposed floor sizes reported in the staff report and presented by Hines on chart BD 00.07. This analysis will use the staff report figures, but the discrepancy makes it impossible for anyone to properly evaluate the degree to which these buildings depart from the building modulation standards.

	Largest Floor Plate	Required Top Floor Size	Proposed Top Floor	Percent Exceeds Standard	Required 2 <sup>nd</sup> Highest Floor	Proposed 2 <sup>nd</sup> Highest	Percent Exceeds Standard
Building 1	48,335	24,167.5	29,352	122%	43,501.5	47,305	108%
Building 2	28,140	14,070	20,475	145%	25,326	29,553	116%
Building 3	17,545	8,772.5	7,842	Meets standard	15,790.5	17,416	110%

All of these structures significantly exceed the required upper floor modulation standards. For Building 1, not only does the oversize building not reduce its upper floors sufficiently to meet the building modulation standards, it begins with a floor plate that exceeds the permissible maximum by nearly 40 percent, so these upper floors are considerably larger than they would be in a structure that satisfies all of the BAP's standards.

Nor does the staff report provide sufficient justification for disregarding these carefully considered standards. While the BAP does allow for a degree of flexibility, that flexibility is appropriately awarded only upon meeting specific findings, which the staff report does not satisfy.

In order to obtain "flexibility" in the application of these standards, the applicant must demonstrate, and the Council must conclude, that "meeting all development standards will prevent physical innovation in mixed use development and/or building design."

With respect to Building 1, which is far larger than any structure permitted under the BAP, the staff report contends that it is largely due to the existence of a 30 foot wide glass bridge connecting two separate buildings. The staff report does not demonstrate that the removal of the bridge would actually satisfy the 35,000 square foot limitation, nor does the staff report demonstrate why the structures on either side of the bridge could not be reduced in overall size to satisfy the limits of BAP. Indeed, a look at the gross floor areas for Level 1 and Levels 2-4 show only approximately 1,000 square feet of difference in gross floor area between Level 1, where there is no bridge, and Level 2-4 with the bridge. Obviously, the bridge is not the only or even the primary reason why Building 1 is so out of scale. The findings must demonstrate that the limitations on floor plate size and upper floor modulation will *prevent* innovation. The standards cannot be evaded simply by the applicant's desires without a showing that, without an accommodation, innovation would be impossible. The findings do not satisfy this requirement.

The staff report contends that Building 2 requires a top floor that is 145% percent larger than permitted because the current design allows the project to meet sustainability goals by providing a larger area for photovoltaic cells. While solar energy is a laudable goal, this finding does not demonstrate that the large roof on Building 2 is necessary to satisfy these goals. What about other structures on the site? As the BAP has stringent energy conservation goals, based upon this precedent any developer can request flexibility to accommodate more solar rooftop panels, effectively nullifying the standard,

without any demonstration that these panels are a necessary contribution to the project's energy conservation measures.

Building 3 exceeds the development standards for its second highest floor, a fact which the staff report excuses because "removal of floor area from the 6<sup>th</sup> floor would diminish Building 3's ability to properly demarcate The Green and provide a firm western edge to the public space." (p. 29.) It is entirely unclear why the second highest floor of the structure serves such a critical demarcating role for the public space, which is experienced by pedestrians at ground level.

Finally, the staff report creates an inappropriate averaging mechanism to look at the project as a whole rather than the individual structures. (See Staff Report Table 10.) The BAP does not allow this type of averaging. The purpose of the BAP's limitations are to effectuate the plan's goals of creating a pedestrian scale community in the BTV District. Averaging five buildings across a seven acre site does not address the pedestrian experience at a given point in the District. Each building should be considered on its own, and if it does not meet the standards, its size should be reduced so that it complies with the BAP.<sup>5</sup>

### **C. Nebraska Avenue As Proposed Does Not Meet BAP's Street Development Standards**

The staff report argues that the creation of new streets through the project is a great benefit. However, it does not evaluate whether the new streets meet the specific standards established in the BAP. Indeed, the extension of Nebraska Ave falls short of these standards. The BAP requires that along Nebraska Avenue in the portion designated as a "Shared Street," there be provided a minimum public open space of 17 feet on either side, plus 20 foot width for the street; the street area including sidewalks on the applicant's property should be 37 feet wide. The proposed project, as shown on Hines BD 07.08, provides only 34 feet for Nebraska Avenue, with 22 feet of paved space and only 12 feet of open space, well short of the required 17 feet.

Nor does the staff report include any analysis as to how the proposed project will satisfy the street frontage standards by providing active ground floor usage and adequate ground floor window space. All of the streets along the proposed project site are in a "pedestrian priority zone," which the BAP establishes as deserving of the highest priority consideration in project design. Indeed, the project plans show Nebraska Avenue's sidewalks being breached by the project's access driveways and service areas in several spots, which is hardly indicative of a pedestrian priority area.

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<sup>5</sup> The other findings in support of the flexible standards are likewise lacking. For instance, the findings emphasize that "continuous floor plates" in the commercial Buildings 1 and 2 allow space for companies to grow which otherwise might relocate. That is true of any size building, so the argument is illogical. Why have any limits on floor plate size if you can exceed the limits by simply arguing that providing a bigger space is better for business? The findings rely on the creation of "open spaces" in the project, which, with a few exceptions, consist essentially of passages between buildings which would exist regardless of any "open space" goals. Finally, relying upon the entirely private rooftop and upper level open spaces in Building 1 as a public amenity is specious and lacks any evidentiary basis. Providing private spaces for the tenants of that building is not the same as providing a space accessible to the public, even if the public is able to gaze upon it from below (with rather limited sight lines).

**D. The Proposed Project Does Not Satisfy Affordable Housing Policy in the LUCE or BAP**

The affordable housing requirements in the City of Santa Monica are embedded in the City's Charter under the Chapter "City Council", at section 630, which mandates as follows:

The City Council by ordinance shall at all times require that not less than thirty percent (30%) of all multifamily-residential housing newly constructed in the City on an annual basis is permanently affordable to and occupied by low and moderate income households. For purposes of this Section, "low income household" means a household with an income not exceeding sixty percent (60%) of the Los Angeles County median income, adjusted by family size, as published from time to time by the United States Department of Housing and Urban Development, and "moderate income household" means a household with an income not exceeding one hundred percent (100%) of the Los Angeles County median income, adjusted by family size, as published from time to time by the United States Department of Housing and Urban Development. At least fifty percent (50%) of the newly constructed units required to be permanently affordable by this Section shall be affordable to and occupied by low income households.

To effectuate this charter provision, the Council enacted Chapter 9.56 under the City's Zoning and Planning ordinances, entitled "Affordable Housing Production Program." The minimum affordable housing requirement for a Tier 1 residential or mixed use project is defined in Section 9.56.050(c) of the City's Affordable Housing Production Program as follows:

(c) For all other multi-family applicants, the multi-family project applicant agrees to construct at least: (1) five percent of the total units of the project for 30% income households; (2) ten percent of the total units of the project for 50% income households; (3) twenty percent of the total units of the project for 80% income households; or (4) one hundred percent of the total units of a project for moderate income households in an Industrial/Commercial District.

Hines has elected to build 24 of its 498<sup>6</sup> units for "30% income families," which means that its minimum number of affordable units is  $498 \times .05$  or **25 units**. The proposed project's 24 units affordable to households with incomes at 30% or less of Area Median Income as defined by HUD fall one unit short of the minimum requirement. This alone violates the law. In addition, even if 25 units were provided, the project would violate both the LUCE and the Bergamot Area Plan.

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<sup>6</sup> Although staff and Hines claim that the 25 work/live units should be classified as commercial, the AHPP defines a "Dwelling Unit" as : "One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with full cooking, sleeping and bathroom facilities for the exclusive use of a single household." The work/live units clearly fall within this definition, and thus the staff determination is entitled to no deference.

## 1. LUCE Violations

The LUCE emphasizes and repeats in several sections that any proposal for residential housing above the base height of 32 feet **must** provide **additional** affordable housing above the minimum requirements. Page 2.1-44 of the LUCE, states with regard to the Bergamot Transit Village: “Proposals above the base height **must** provide the City with enumerated community benefits as identified in the “Five Priority Categories of Community Benefits” section of this chapter. Housing and mixed-use housing projects will be required to provide a percentage of affordable units either on- or offsite.” (Emphasis supplied.) As the Council reaffirmed last month, affordable housing is the highest priority community benefit. This is repeated in the “Community Benefits” chapter of the LUCE as follows: “In the few areas where additional project height above Tier 2 may be requested, the required process is a Development Agreement to allow the City Council **to ensure that these significant projects provide community benefits** as previously identified in the “Five Priority Categories of Community Benefits” section of this chapter.” (LUCE 3.2-6)

The section discussing the LUCE Housing Policy then notes that the LUCE accomplishes its policy by, *inter alia*, “Establishing a maximum ministerial base building height of 32 feet and **requiring** that projects over the base incorporate community benefits, with affordable housing identified as a primary community benefit.” (LUCE 3.3-2) This requirement is underscored on page 3.3-4, where, after stating that even projects between 35 and 45 feet in height must supply additional affordable housing, the LUCE emphasizes that even more affordable housing is required over 45 feet:

Higher Amount of Affordable Housing Incentivized above 45 Feet – An **increased percentage of affordable housing will be required in housing or mixed-use housing projects in order to request building height above 45 feet** in the limited locations where this incentive applies. Additionally, a greater amount of affordable and/or workforce housing could be built as the community benefits incentive requirement at this height.

After many more references to the significance of affordable housing beyond the minimum, particularly in transit-oriented districts, the LUCE enunciates its goals, including Goal H1.6, which requires the City to: “Encourage the production of affordable housing on the boulevards and in the districts by **requiring a percentage of affordable housing as a pre-condition for consideration of height above the base.**”

## 2. Bergamot Area Plan Violations

The Bergamot Area Plan, because it must be consistent with the LUCE, repeats many of the same requirements listed above. Policy LU1.5 specifies as a goal to “Strive to achieve a target of 30% of new housing that is affordable to households earning between 30% and 180% of area median income.” The Council amended this income range on September 10, 2013, to clarify that the range should be 30% to 150% as follows:

“8. Modify Chapter 5 (Development Standards), standard B.1.0 Low Income/Workforce Housing Units (page153):

For Tier I and Tier II projects in the BTV and MUC Districts, for all units in a project above and beyond those required by the AHPP, an

FAR bonus shall be provided equivalent to 25% of the floor area constructed for workforce housing, provided:

The units are deed restricted for any level of affordability up to 120% of area median income (AMI) for single and one-bedroom units and up to 150% of area median income (AMI) for two or more bedroom units.

The mix of units receiving the discount includes at least 50% with two or more bedrooms.”

The discussion confirms the Council’s intent to reduce the upper range of incomes that are to be provided through affordable housing programs. Incomes in excess of the “moderate” definition in the City’s charter, however, do not fall within the definition of “affordable” in either the City’s charter or the LUCE, and therefore will not satisfy the requirement of additional “affordable housing” as the LUCE requires. Although Hines seeks to designate some units as “moderate” income, it is not clear what income level is contemplated. Of the total units proposed by Hines, less than 15% -- 13.5% to be exact -- of the units produced under the Affordable Housing Production Program are affordable at levels between 30% and 180%. Less than 10% of the units -- 8.2% more precisely -- are at the 30% and “moderate” (presumably 100%) levels. This is less than one-third of the 30% specified in the LUCE and in the Bergamot Area Plan, certainly not enough for a Tier 3 project.

In short, this project falls short at every level. On its face, it provides one unit less than the mere minimum 5% required by the Affordable Housing Production Program. It does not provide additional affordable housing for households earning less than 100% of the area median income as required by Section 630 of the City Charter and the LUCE, despite a height far exceeding 45 feet. Finally, although it is the largest project anticipated in the Bergamot area, and particularly the Bergamot Transit Village, it fails to meet even half of the 30% goal for new housing at levels between 30% and 180%. The Council will violate the law and its responsibility to the residents of the City if it approves this project.

## CONCLUSION

The EIR for the proposed project fails on one of its core functions: the disclosure to the public and decisionmakers whether there are alternatives that can remedy the serious environmental impacts of a proposed project. The proposed project cannot be approved while such questions remain unanswered. And in light of the City’s commitment to the implementation of the Bergamot Area Plan, the record does not support the determination to disregard the plan’s thought-out standards for this, the first and largest project in the area. The project should not be approved as written in light of these deficiencies and the many other flaws identified by SMCLC and others in the Development Agreement for the project.

Sincerely,



Beverly Grossman Palmer  
STRUMWASSER & WOOCHER LLP  
Cc: City Councilmembers (council@smgov.net)

# **EXHIBIT A**

May 20, 2010

10 MAY 20 P 4:45

The City of Santa Monica  
Attn: Ms. Eileen Fogarty  
Director, Planning & Community Development  
1685 Main Street, Room 212  
Santa Monica, CA 90401

Eileen:

Hines

Enclosed please find our draft Development Agreement, application and project plans for Bergamot Transit Village Center. As you know, we have been involved with business, civic and charitable activities in Santa Monica for more than 20 years. Additionally, for more than three years we have been working toward achieving entitlements for this specific site. In that time, we have had multiple meetings with your staff, met at least once with each of the Planning Commissioners, and met with most of the members of the City Council on one or more occasion. Our project has evolved substantially over the last three years into something that now mirrors the intent of the draft LUCE and the desires we've heard communicated by members of the community. **We have reduced the project's size by nearly 300,000 square feet** from its earliest iteration. Our project will comply with the 2010 LUCE when it is adopted.

In addition to the various meetings outlined above, we also held a community outreach meeting (on 12/15/2009) and a float up to the Planning Commission (on 1/27/2010). We have reviewed the comments collected from each of those meetings in detail (including the preparation of a transcript of the Planning Commission hearing) and have gone to great lengths to incorporate the essence of those collective comments into the plans which are attached as a part of this package. The primary changes to the plan which was presented to the public in both December and January include: a reduction in the total square footage of almost 20,000 square feet, greater variance and articulation to the roof heights and the creation of more accessible and larger open spaces fronting Olympic Boulevard.

While the draft LUCE currently contemplates a density of 3.5:1 (in terms of floor area ratio), the proposed project contains a floor area ratio of 3.08:1. The proposed use is a transit-oriented, mixed-use development project which includes creative arts, residential (for sale or lease) and community/retail uses. The proposed project is roughly 60% creative arts and 40% residential and ground floor community/retail uses. The project will complement the existing commercial office and creative arts uses surrounding the site,

help address the need for additional housing in the City and allow for the creation of a pedestrian-friendly live/work/play community.

The plans contemplate the construction of five new buildings, including: (1) three creative arts buildings with varying heights to a maximum of 81 feet, (2) two residential buildings (for lease or sale) with varying heights to a maximum of 81 feet, and (3) community serving and retail spaces to be situated in various locations on the ground floors of the five buildings. It is currently contemplated that the buildings will be constructed atop three levels of subterranean parking that will provide approximately 1,900 parking spaces, with the actual number of spaces and levels to be determined based upon a demand analysis. In total, the new project contains a total of 957,521 square feet, including approximately 567,000 square feet of creative arts space, and 391,000 square feet of residential space and community/retail spaces.

The public benefits associated with the project include the following:

- a) The implementation of a performance based TDM program which will reduce the traffic associated with the project.
- b) The enhancement of the neighborhood with new buildings compatible in size to those currently existing in the surrounding area.
- c) The creation of community serving retail in an amenity constrained area of the City.
- d) The creation of a 15 foot sidewalk around the entire perimeter of the site on a site that has had little or no sidewalk on the majority of the site since 1957.
- e) The creation of a marked walking trail (including posted measurements) in, through and around the site.
- f) Increased tax revenue to the city to pay for community services.
- g) The contribution of money toward the creation of a mid-block signalized crossing between 26th Street and Stewart on Olympic allowing for the safe crossing for vehicles, bicycles and pedestrians to and from the light rail station across Olympic.
- h) The expansion of the arts both through the creation of additional creative arts space and payment of a public arts fee.
- i) Increased permeability through the site via four new vertical cut thru (including 1 vehicular cut thru) that will allow for safe and accessible circulation for pedestrians and bicycles around and through the site on a site that has been essentially closed to the public since 1957.

- j) The creation of large plazas and open space to be implemented for both public and occupant use.
- k) The creation of on-site affordable housing (vs. an in-lieu fee).
- l) The creation of workforce housing with priority given to those working in the city within given job types, (including first responders, teachers, nurses, police officers, fire fighters, etc.) and those working in close proximity to the site.
- m) The creation of a proper "front door" for the first stop in the City on the Exposition Light Rail line.
- n) The creation of a sustainable new development (each of the new buildings will be LEED certified).
- o) The creation of bicycle storage lockers.
- p) The concealment of the existing electrical substation.
- q) The concealment of the existing phone and power lines.
- r) The improvement of the bus stop as outlined in the TDM plan.

In addition to our proposed project, and in response to requests by planning commissioners, we have also included in this package two alternative ideas which would include a greater percentage of residential. We ask that you study these alternatives in sufficient detail as a part of the environmental review (the EIR) for the project such that City Council would be in a position to approve either alternative idea should we agree together to move in that direction.

We look forward to working with you toward the final approval of this project.

Sincerely,



Colin P. Shepherd  
Senior Vice President

Cc: Rod Gould – City of Santa Monica  
Jing Yeo – City of Santa Monica  
Doug Metzler - Hines

# **EXHIBIT B**

## CHAPTER 3 Project Description

The proposed Bergamot Transit Village Center Project (proposed project) would result in the development of a transit-oriented, mixed-use development comprised of residential and retail uses as well as creative arts space, located in close proximity to the existing Bergamot Station, a renowned art gallery complex, and to the future Expo light-rail station. The project site was previously home to Papermate, used for the manufacturing and distribution of their products and is developed with buildings of lower scale and height totaling approximately 206,000 square feet (sf). The proposed project would include demolition of existing facilities uses and the construction of five mixed-use buildings, totaling approximately 769,580,000 sf across five building sites.

### 3.1 EXISTING PROJECT SITE CHARACTERISTICS

#### 3.1.1 Project Location

The proposed project site is located at 1681 26<sup>th</sup> Street in the eastern portion of the City of Santa Monica. The City of Santa Monica is located in west Los Angeles County, and is bound by the City of Los Angeles, to the north, south, and east, and the Pacific Ocean to the west. Regional access to the City and the proposed project is provided by Interstate 10 (I-10), which bisects the City, and Pacific Coast Highway (PCH), which traverses the western edge of the City. The project site is located across the street from the Bergamot station, which will be the first Exposition Line light rail stop in Santa Monica. The project site is located approximately 2 miles from PCH and the Pacific Ocean, and approximately 0.25 mile from the I-10. Figure 3-1 (Regional Location Map) illustrates the project site's regional location and vicinity.

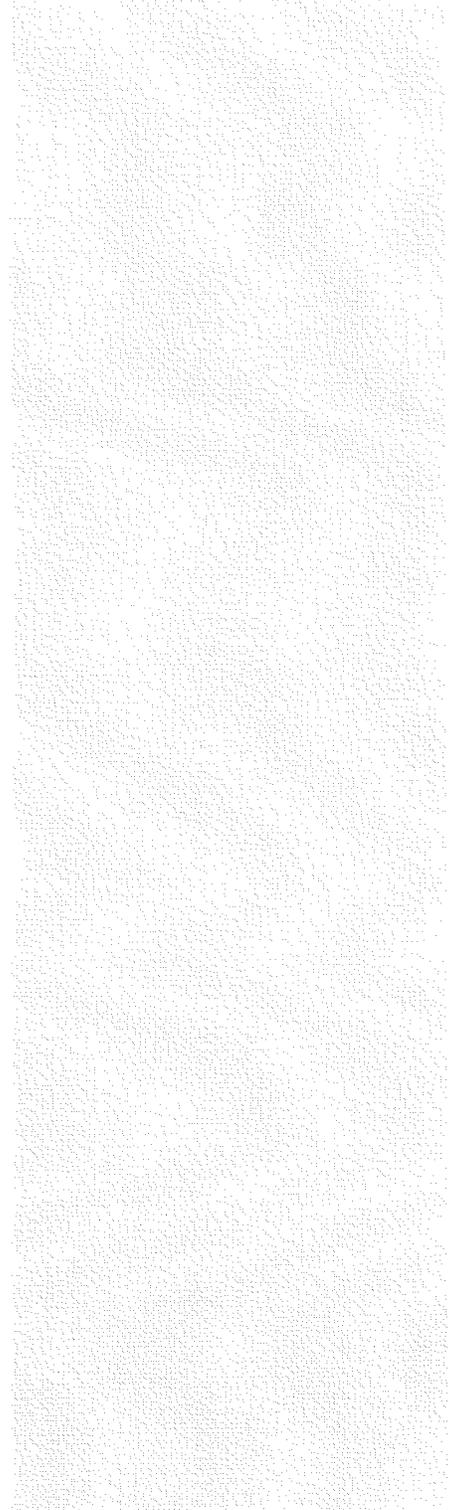
The approximately 7.1-acre project site (310,504 sf) is a flat, linear shaped parcel, consisting of two legal lots bound by Olympic Boulevard to the south, 26<sup>th</sup> Street to the west, commercial office uses to north, and Stewart Street to the east. The project site has approximately 1,362 feet of frontage along Olympic Boulevard, approximately 336 feet of frontage along 26<sup>th</sup> Street, approximately 67 feet of frontage along Stewart Street and is approximately 1,281 feet along the northern edge. Refer to Figure 3-2 (Project Site and Surrounding Land Use Map) for the exact location of the project site.

#### 3.1.2 Existing Land Uses

The project site is located within an area developed with an assortment of uses including office, warehouse, industrial, retail, residential, and creative arts uses, and is designated by the City's Land Use and Circulation Element (LUCE) as the Bergamot Transit Village. The proposed project site is currently developed with two buildings totaling approximately 206,000 sf that were the former home to Papermate (currently Gillette) for the manufacturing and distribution of pens. ~~Though~~ No residential uses currently exist on the project site; the closest residential neighborhoods to the project site are located south of Exposition Boulevard, east of Stewart Street and north of Colorado, east of 26<sup>th</sup> Street.

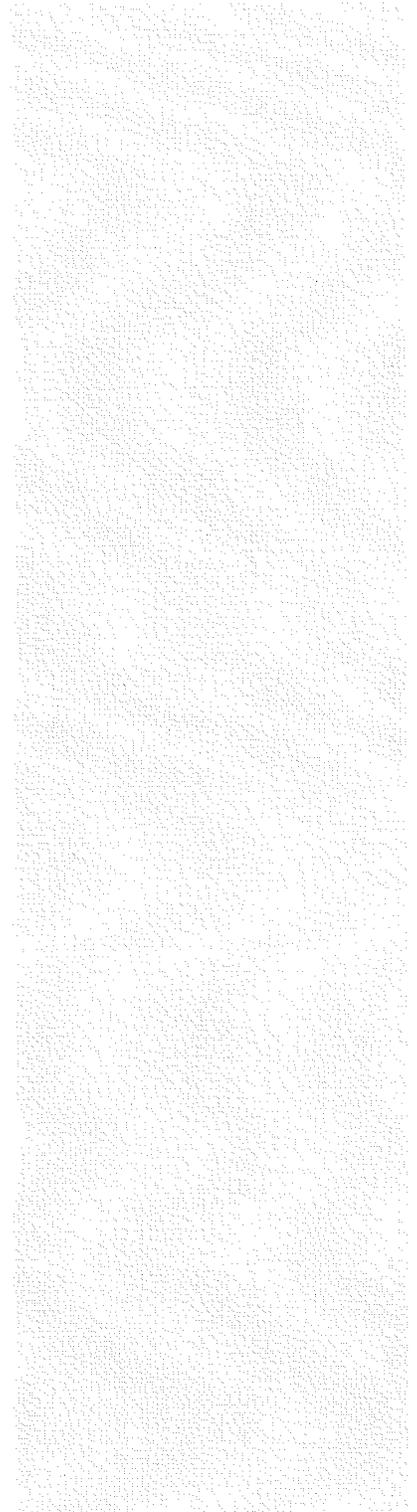
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**Figure 3-1 Regional Location Map**



**Figure 3-2 Project Site and Surrounding Land Use Map**

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The site is fully developed and is considered to be almost entirely impervious, consisting of asphalt parking areas and building foundations. The exception to this is a small area of grass at the southwest corner of the site and a small area of grass and trees along the southern and eastern edges of the site.

Although the project site is located on Olympic Boulevard, primary access to the site is provided from 26<sup>th</sup> Street on the west and Stewart Street on the east. The project site is served by mass transit along the Olympic Boulevard corridor. Street trees are located along the project site western, southern, and eastern frontages.

### 3.1.3 Surrounding Land Uses

Development in the immediate vicinity of the project site includes a mix of creative arts, office, warehouse, industrial, and retail uses. Refer to Figure 3-2. Immediately adjacent uses include the following:

- **North**—Three, single-story, commercial warehouse buildings occupied by creative art uses
- **South (across Olympic Boulevard)**—Bergamot Station consisting of creative art uses, including design firms and art galleries
- **East (across Stewart Street)**—Single-story, artist gallery occupied by the William Griffin Gallery
- **West (across 26<sup>th</sup> Street)**—The Water Gardens, consisting of six, six-story, multi-tenant commercial office and ground floor retail buildings

### 3.1.4 General Plan/Zoning Designations

Zoning on the project site as well as the immediately surrounding area to the north, east, and south is the Light Manufacturing and Studio District (LMSD). This district is intended to preserve existing light industrial uses, provide a location for studio-related uses, and provide opportunities for artist studio live/work residential development. Properties to the west of the project site are zoned C5 (Special Office Commercial).

The land use designation of the project site, as adopted in early 2010 in the City's LUCE, is the Bergamot Transit Village district. This is true of properties to the north, east, and south as well. Permitted uses in Bergamot Transit Village designation include residential, retail, restaurant, and creative arts/office uses. The Bergamot Transit Village allows for development with a maximum height of 86 feet and a maximum floor area ratio of 3.5:1.

The City of Santa Monica is in the process of preparing a Bergamot Area Plan consistent with the LUCE. A series of community meetings have been held as part of this process.

## 3.2 PROJECT CHARACTERISTICS

The proposed project would result in the development of one of three project options. Regardless of the project option ultimately selected, the proposed project would require the demolition of the existing approximately 206,000 sf of vacant industrial and office uses at the project site, removal of all parking areas, and removal of the limited on-site vegetation. The All proposed project options would result in the construction of five mixed-use buildings that would include creative arts, retail, and residential uses

across five sites, as well as subterranean parking and a substantial amount of open space and subterranean parking. A description of the proposed three project scenarios is provided below.

**■ Proposed Project Option 1**

Implementation of the proposed project (Scenario 1) will require the demolition of the existing approximately 206,000 sf of vacant industrial uses at the project site, removal of all parking areas, and removal of the limited on-site vegetation. The demolished structures would be replaced by would result in the construction of approximately 766,094,573 sf of building area across five sites within five new buildings. Sites Buildings 1 through 5 would be oriented side-by-side from west to east along Olympic Boulevard, as illustrated in Figure 3-3 (Proposed Project Option 1 and Option 2 Site Plan). Under the proposed project the proposed project Option 1, a maximum of approximately 494,927,566,573 sf of creative arts uses would be located exclusively on Sites Buildings 1, 2, and 4 on the western portion of the project site, and a maximum of 325,444 residential dwelling units would be located exclusively on Sites Buildings 3 and 5 on the eastern portion of the project site. Retail uses would be located on the ground floor of some each of the proposed buildings; not exceeding approximately 46,895,742 sf. Buildings would range in height from 18.55 feet to a maximum of up to 86 feet. While the proposed buildings currently programmed for the site under Option 1 are anticipated to be an average of 66 feet six stories high, the shadows and aesthetics analysis will study a worst-case scenario height of 86 feet with a maximum of six seven stories for the creative arts buildings and eight stories for the residential buildings. Table 3-1 (Proposed Project Scenario 1 Option 1 Development Summary) provides a breakdown of the proposed square footage by building.

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**Table 3-1 Proposed Project (Scenario 1) Proposed Project Option 1 Development Summary**

	Gross Square Feet	Retail (sf)	Creative Arts (sf)	Residential (sf)	# of Dwelling Units (du)
Building 1	279,146	48,236	260,910	0	N/A
Building 2	472,086	42,087	460,099	0	N/A
Building 3	455,025	9,374	445,654	0	N/A
Building 4	220,652	23,404	0	196,654	186
Building 5	434,202	20,547	0	440,585	458
<b>Total Proposed</b>	<b>766,094,573</b>	<b>46,895,742</b>	<b>494,927,566,573</b>	<b>224,272,307,236</b>	<b>325,344</b>
<b>Existing</b>	<b>206,000</b>	<b>—</b>	<b>206,000</b>	<b>—</b>	<b>0</b>
<b>Net Increase</b>	<b>560,094,573</b>	<b>46,895</b>	<b>288,927</b>	<b>224,272</b>	<b>325,344</b>

SOURCE: Gensler, Bergamot Transit Village Center Project Data (May 20, 2010).

**■ Vehicular Access, Circulation, and Parking**

Proposed Vehicular access to the project site under Option 1 will be primarily from Olympic Boulevard with the construction of two new north/south streets in the western and eastern portions of the project site. Additional access points on both from 26<sup>th</sup> Street and Stewart Street would connect to a new

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east/west street that would run along the northern edge of the project site. The new north/south street on the western end of the project site located between Sites 1 and 2 Buildings 2 and 3 would intersect the new east/west street and allow for the potential for a connection to Pennsylvania Avenue to the north. This street would have a 68-foot right of way (ROW), one travel lanes in each direction, bike lanes, street parking along the entire eastern lane and a portion of the western lane, street trees and wide sidewalks. The new north/south street on the eastern end of the project site located between Sites 3 and 4 Buildings 4 and 5 would function as a project driveway and terminate at the new east/west street. This street would have a 62-foot right of way (ROW), one travel lane in each direction, street trees, landscaping, and wide sidewalks. As part of the proposed project, a 60-foot-wide north/south vehicular street would be constructed which would bisect the project, connecting Olympic Boulevard to the street at the back of the site. Emergency access, as well as refuse, recycling, and deliveries to the project site will be from an alleyway the east/west street, accessible from both 26<sup>th</sup> and Stewart Streets, to be constructed along the northern edge of the project site.

Pedestrian access to the project site will be available via sidewalks ranging from a 12 to 15 feet in width-foot wide sidewalk that would wrap around the project site, except along the north side of the project site, connecting to four-two/three north/south walkable plazas, and the two north/south streets, and a 45-foot-wide sidewalk that will circumvent the project site, except along the north side of the project site, as well as one east/west pedestrian pathway. Additionally, a new signalized mid-block crossing will be added on Olympic Boulevard at the proposed western north/south street to provide pedestrians and bicyclists a direct link between the project site and the future Exposition Light Rail Transit (Expo LRT) at Bergamot Station to be located across from the project on the south side of Olympic Boulevard. Another new signalized mid-block crossing will be added on Olympic Boulevard at the proposed eastern north/south street to provide pedestrians and bicyclists with an alternative route to cross Olympic.

Parking for the proposed project the proposed project under Project Option 1 would be provided within up to three levels of subterranean parking, supplying including approximately 1,961-950 parking spaces. The subterranean parking would be accessible via multiple ramps from the proposed east/west street, and Olympic Boulevard, 36<sup>th</sup> Street, Stewart Street, the proposed north/south street, and the proposed, northern alley east/west street. Of the 1,961-950 parking spaces proposed, 306 spaces would be handicap and van accessible. Additionally, 404-334-33 bike parking spaces would be provided.

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**Comment [AWS1]:** Parking has been revised. Update when final Traffic Study is received.

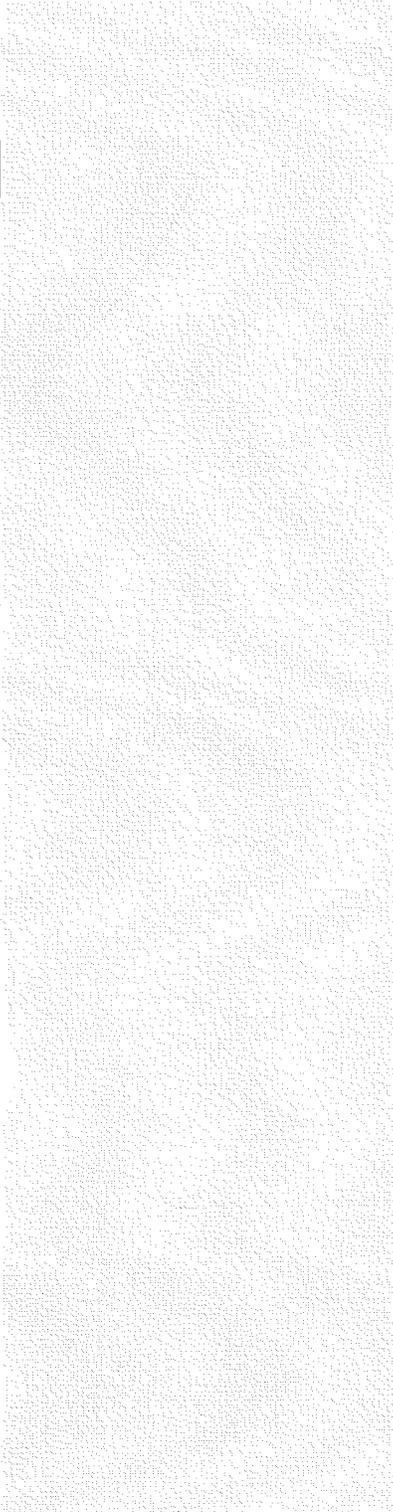
<sup>1</sup> Peche and Peeres, Draft Traffic Study for the Bergamot Transit Village Center, July 2014

<sup>2</sup> Peche and Peeres, Draft Traffic Study for the Bergamot Transit Village Center, July 2014

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**Figure 3-3**  
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Project Proposed Option 1 and Option Proposed Project 2 Site Plan



## ■ Open Space and Landscaping

The proposed project ~~Project Option 1~~ will provide ~~includes~~ approximately ~~179,513~~ ~~of~~ ~~four~~ ~~acres~~ ~~of~~ ~~open~~ ~~space~~ ~~(179,867~~ ~~sf)~~. Open space amenities include a large, publicly-accessible plaza directly across the future Expo light-rail station, a publicly-accessible neighborhood park addressing the east/west street at the north of the site, a series of publicly-accessible pocket parks, ~~two~~ parks, ~~four~~ ~~three~~ ~~and~~ ~~two~~ walkable plazas, a playground, and a kid's room. Open space areas would be landscaped with a variety of trees, shrubs, and grasses. The perimeter of the site along 26<sup>th</sup> Street, Olympic Boulevard, and Stewart Street, and the east/west street would be lined with trees and a new sidewalk. The ~~two~~ proposed north/south roadways would also be landscaped with trees and shrubs. The proposed open space areas and landscaping ~~are~~ ~~is~~ ~~design~~ ~~intended~~ to enhance the pedestrian environment in the area, in anticipation of the future Expo light-rail station to be located on the south side of Olympic Boulevard.

## ■ Ancillary Project Activities

Infrastructure improvements (i.e., utilities, on-site roadways, adjacent access driveway, etc.) necessary to serve the proposed development would be constructed. The future on-site utilities would connect to existing City systems and facilities and some off-site improvements to existing infrastructure may also be required.

## ■ Scenario 2 Project Alternative 1 Option 2

An alternate development scenario (Scenario 2) will also be analyzed in the EIR and ~~Project Alternative 1 Option 2~~ would include more residential uses and reduce overall building square footage compared to the proposed project than ~~Project Option 1~~ by changing the primary use on ~~Site Building 43~~ from creative arts to residential. In this alternate scenario ~~Under Alternative 1 Option 2~~, the project ~~Building 3~~ would include ~~173,444~~ total additional dwelling units in place of, compared to the proposed, ~~119,861~~ ~~sf~~ ~~45,654~~ ~~sf~~ of creative arts uses and ~~17,411~~ ~~sf~~ of retail uses proposed above under ~~Option 1~~. The proposed square footage and uses proposed under ~~Project Alternative 1 Option 2~~ within all other buildings for Sites 1, 2, and 3 would remain unchanged from the proposed project, the orientation of the five buildings, and building heights would remain be the same as those described above under the proposed project ~~Project Option 1~~. Overall, the alternate scenario ~~Alternative 1 Option 2~~ would include a total of ~~762,976,946,476~~ ~~sf~~ of building area, consisting of ~~375,585,420,919~~ ~~sf~~ of creative arts uses, ~~49,888~~ residential dwelling units, and ~~29,391,837,666~~ ~~sf~~ of retail uses. Table 3-2 (~~Alternative Scenario 2~~ ~~Alternative 1 Project Option 2~~ Development Summary) provides a breakdown of land use square footages by building under the ~~Scenario 2 Alternative 1 Project Option 2~~. Vehicular access, circulation, parking, open space, landscaping and ancillary project activities described for the proposed project ~~Project Option 1~~ above, would also apply to ~~Alternative 1 Project Option 2~~.

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Comment [AWS2]: Confirm. Came from old landscape plans. Believe has been updated.

**Table 3-2 Alternative Scenario (Scenario 2) Alternative 1 Project Option 2 Development Summary**

	Gross Square Feet	Retail (sf)	Creative Arts (sf)	Residential (sf)	# of Dwelling Units (du)
Building 1	279,446	48,236	260,940	0	N/A
Building 2	472,096	42,067	460,009	0	N/A
Building 3	443,980	9,425	0	434,555	444
Building 4	220,052	23,404	0	496,654	496
Building 5	131,202	20,617	0	440,585	458
<b>Total</b>	<b>762,976,946,476</b>	<b>29,391,83,766</b>	<b>375,585,420,949</b>	<b>358,000,441,794</b>	<b>498,488</b>
<b>Existing</b>	<b>206,000</b>	<b>—</b>	<b>206,000</b>	<b>—</b>	<b>0</b>
<b>Net Increase</b>	<b>556,976,746,476</b>	<b>29,391</b>	<b>169,585</b>	<b>358,000</b>	<b>498,488</b>

SOURCE: Gensler, Bergamot Transit Village Center Project Data (May 20, 2010). Existing building area totals 206,000 sf. Alternative 1 Scenario 2 would result in a net increase of 556,976,746,476 sf of building area.

**Project Option 3**

Similar to Project Options 1 and 2, Project Option 3 would result in the construction of five mixed-use buildings oriented side-by-side from west to east along Olympic Boulevard, as illustrated in Figure 3-4 (Project Option 3 Site Plan). However, the amount of building area proposed under Project Option 3 would be reduced to 766,094 sf, consisting of a maximum 494,927 sf of creative arts use, XXXX residential dwelling units, and 46,895 sf of retail uses.

Although the amount of development occurring on the project site under Project Option 3 would be less than Project Options 1 and 2, building heights would continue range from 55 feet to a maximum of up to 86 feet and the shadows and aesthetics analysis will study a worst case scenario height of 86 feet with a maximum of seven stories for the creative arts buildings and eight stories for the residential buildings. The footprint of buildings proposed under Project Option 3 would be reduced compared to those proposed under Project Options 1 and 2. Table 3-3 (Project Option 3 Development Summary) provides a breakdown of the proposed square footage by building.

Table 3-3 Project Option 3 Development Summary					
	Gross Square Feet	Retail (sf)	Creative Arts (sf)	Residential (sf)	# of Dwelling Units (du)
Building 1					
Building 2					
Building 3					
Building 4					
Building 5					
<b>Total</b>	<b>766,094</b>	<b>46,895</b>	<b>494,927</b>	<b>224,272</b>	
<b>Existing</b>	<b>206,000</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>0</b>
<b>Net Increase</b>	<b>560,094</b>	<b>—</b>	<b>—</b>	<b>—</b>	

SOURCE: Santa Monica, City of, Bergamot Transit Village, Proposed Mix of Uses. Existing building area totals 206,000 sf. Project Option 3 would result in a net increase of 560,094 sf of building area.

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Comment [AWS3]: Only SF for residential uses has been provided.  
ADD MORE DETAILS REGARDING PLACEMENT OF USES

### Vehicular Access, Circulation, and Parking

Vehicular access, circulation, pedestrian access, and parking on the project site under Project Option 3 would be the same as that described for Project Options 1 and 2, with the exception of the location of the two north/south streets and the number of pedestrian and bicyclist links between project site and the south side of Olympic Boulevard. The proposed north/south street on the western end of the project site would be located between Building 1 and 2, and the north/south street on the eastern end of the project site would be located between Buildings 3 and 4. In addition to the signalized mid-block crossing on Olympic Boulevard at the proposed western north/south street that would provide pedestrians and bicyclists a direct link between the project site and the future Exposition Light Rail Transit (Expo LRT) Bergamot Station, that would occur under all project options, a second pedestrian link would be provided from the eastern north/south street across Olympic Boulevard.

### Open Space and Landscaping

Open space and landscaping would be similar to that described for Project Options 1 and 2; however, because the footprint of buildings proposed under Project Option 3 would be reduced compared to those proposed under the other project options, additional open space areas would be provided. Project Option 3 would include approximately 179,867 sf of open space consisting of two parks, three walkable plazas, a playground, and a kid's room.

### Comparison of Project Options

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<b>Table 3-4 Project Options Development Summary Comparison</b>			
<i>Land Use</i>	<i>Project Options</i>		
	<i>1</i>	<i>2</i>	<i>3</i>
<i>Creative Arts (sf)</i>	566,573	420,919	494,927
<i>Retail (sf)</i>	83,712	83,756	46,866
<i>Residential (sf)</i>	307,236	441,791	224,272
<i>Residential (du)</i>	344	498	222
<i>Total Building Area</i>	957,521	946,476	766,004
<i>Open Space</i>	179,513	179,513	179,867
<i>Parking Spaces</i>	1,950	1,950	1,950

**Ancillary Project Activities**

Infrastructure improvements (i.e., utilities, on-site roadways, adjacent access driveway, etc.) necessary to serve the proposed development would be constructed. The future on-site utilities would connect to existing City facilities and some off-site improvements to existing infrastructure may also be required.

**3.3 CONSTRUCTION SCENARIO**

The proposed project will be constructed in up to five phases (each phase consisting of the construction of one or more buildings and all or any adequate portion of the garage) over a period of not longer than twenty years.

**3.4 PROJECT OBJECTIVES**

The following objectives have been identified by the Applicant for the proposed project:

- Create a complete community, consistent with LUCE Goals and Policies, with a necessary mix of uses that includes creative arts, neighborhood commercial, and residential and
  - > Building types and scale that reflect an “urban village” concept
  - > Landscaped open space to increase recreational opportunities and livability of the neighborhood development
  - > Maximize retail opportunities based on proximity to the future Expo Light Rail Station
  - > Vehicular & pedestrian access both in the project vicinity and across the site to improve circulation and connections within the project vicinity
  - > The ability to provide public gathering places; active and passive open spaces; plazas and paseos
  - > A TDM plan that reduces PM peak hour trips

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**Comment [crg4]:** Note to Jing: These are directly from Hines. I am happy to discuss and/or revise to incorporate objectives that may be more appropriate from the City.

### 3.5 INTENDED USES OF THIS EIR

This EIR has been prepared to analyze environmental impacts resulting from implementation of the proposed project as well as appropriate and feasible mitigation measures or project alternatives that would minimize or eliminate the impacts associated with proposed development. This document is intended to serve as an informational document. Additionally, this EIR will provide the primary source of environmental information for the lead agency to consider when exercising permitting authority or approval power related to implementation of the proposed project.

This EIR is intended to provide decision-makers and the public with information that enables them to intelligently consider the environmental consequences of the proposed action. In a practical sense, EIRs function as a technique for fact-finding, allowing an applicant, concerned citizens, agency staff, and decision-makers an opportunity to collectively review and evaluate baseline conditions and project impacts through a process of full disclosure.

### 3.6 PROPOSED PROJECT ALTERNATIVES

In accordance with Section 15126.6 of the CEQA Guidelines, alternatives to the proposed land use are analyzed. Detailed information regarding the three project alternatives is provided in Chapter 6 (Alternatives to the Proposed Project) of this EIR. These alternatives include the following:

- No Project/No Development Alternative
- No Project/Reasonably Foreseeable Development
- Reduced Project Alternative
- ~~An Alternative reduces individual, project-related impacts~~

### 3.7 PUBLIC ACTIONS AND APPROVALS REQUIRED

Consistent with Section 15065(b) of the CEQA Guidelines, the City of Santa Monica is the lead agency for the proposed project. As such, this EIR will be used by the City to both evaluate the environmental impacts created by implementation of the proposed project, and develop conditions of approval which would address those impacts for which mitigation measures are proposed in the EIR. The City Council will consider approval of the project as part of the City's development review process and would certify the project's Final EIR concurrently with project approval. In addition to Council approval of the Development Agreement, the following specific actions must be completed prior to construction of the proposed project:

- Certification of the Final EIR (City Council)
- Approval of a Statement of Overriding Considerations (City Council)
- Approval of a Development Agreement (City Council)
- Approval of subdivision maps, as necessary, to facilitate the separate financing of the five buildings and/or for-sale housing within those buildings that are primarily residential
- Approval of landscaping, exterior lighting, and signage in accordance with the Development Agreement (Architectural Review Board)
- Demolition and Building Construction Permits (Building and Safety Division)

- Any other incidental discretionary or ministerial approvals needed for the construction and operation of the proposed project

### 3.7.1 State and Local Agencies

In addition to the City of Santa Monica (Lead Agency), there are federal, state, and regional agencies that have discretionary or appellate authority over the project and/or specific aspects of the project. The responsible agencies will also rely on this EIR when acting on such projects. Those federal, state, or local agencies that would rely upon the information contained in this EIR when considering approval include, but are not necessarily limited to, the following:

- South Coast Air Quality Management District
- California Regional Water Quality Control Board (Permit for dewatering during construction and National Pollutant Discharge Elimination System [NPDES] permit)
- State Water Resources Control Board (General Construction Activity Stormwater Permit)
- California Department of Transportation (Caltrans)
- California Department of Toxic Substance Control

### 3.8 CUMULATIVE DEVELOPMENT SCENARIO

Section 15355 of the CEQA Guidelines defines “cumulative impacts” as “two or more individual effects that, when considered together, are considerable or that compound or increase other environmental impacts.” In general, these impacts occur in conjunction with other related developments whose impacts might compound or interrelate with those of the project under review.

In order to analyze the cumulative impacts of the project in combination with existing development and other expected future growth, the amount and location of growth expected to occur (in addition to the proposed project) must be considered. As stated in Section 15130(b) of the CEQA Guidelines, this reasonably foreseeable growth may be based on either of the following, or a combination thereof:

- A list of past, present, and reasonably anticipated future projects producing related or cumulative impacts, including those projects outside the control of the agency
- A summary of projections contained in an adopted general plan or related planning document which is designed to evaluate regional or area wide conditions

For the purposes of this EIR, the potential cumulative effects of the proposed project are based upon a list of projects identified by the City and neighboring jurisdictions, as well as build-out of the LUCE, depending upon the specific impact being analyzed. The list of related projects within the vicinity of the proposed project is provided in Table 3-3 (Cumulative Projects within Bergamot Transit Village and Mixed Use Creative Districts).

**Comment [crg5]:** Note to Jing: Need this info from staff or Fehr & Peers.

**Table 3-3 Cumulative Projects within Bergamot Transit Village and Mixed Use Creative Districts**

Project Name	Address	Description
Libregale	2834 Colorado Ave	151,500 of creative arts space

**Table 3-3 Cumulative Projects within Bergamot Transit Village and Mixed Use Creative Districts**

<i>Project Name</i>	<i>Address</i>	<i>Description</i>
Roberts Center	2848–2912 Colorado Ave	Mixed-use project with 170 residential units, ~12,000 sf retail space and ~135,000 sf creative studio space
Village Trailer Park	2930 Colorado Ave	399,581 sf total including 227 condos, 166 rental units, 105,334 sf creative arts space, and 11,710 sf retail space
Paseo Nebraska	3030 Nebraska Ave/ 3025 Olympic Blvd	Includes 545 residential units, 75,000 sf creative studio space, and 5,000 sf retail space
Agensys	Stewart St south of Olympic Blvd	Pharmaceutical Office/Lab/Manufacturing Complex consisting of 153,000 sf building with 204 parking spaces
Santa Monica College (SMC) Academy of Entertainment and Technology (AET) Campus Expansion	Southeast corner of Stewart St and Pennsylvania Ave	New 19,419 sf wing to AET building, 27,753 sf for KCRW radio station, and 450 space parking structure

SOURCE: City of Santa Monica, Development Agreement Projects within Bergamot Transit Village and Mixed Creative Districts.

### 3.9 REFERENCES

Gensler. *Bergamot Transit Village Center Landscape Plan*, May 20, 2010.

———. Bergamot Transit Village Center Project Data, May 20, 2010.

Hines. *Bergamot Transit Village Center Site Plans*, March 15, 2011.

Santa Monica, City of. *Santa Monica General Plan*. Land Use and Circulation Element, adopted July 6, 2010.

———. *Santa Monica Municipal Code*.

# **EXHIBIT C**

January 11, 2012

Jing Yeo  
Special Projects Manager  
City of Santa Monica  
1685 Main Street  
Santa Monica, CA 90401

**Value Enhancement Analysis for the Bergamot Transit Village Center**

Dear Ms. Yeo:

CBRE Consulting is pleased to submit this report to The City of Santa Monica, regarding the value enhancement analysis for the proposed project and the Environmental Impact Report alternatives for the 7.1-acre Bergamot Transit Village Center site at the intersection of 26<sup>th</sup> Street and Olympic Boulevard in Santa Monica.

CBRE Consulting has completed an analysis of the proposed mixed-use project and two alternatives as compared to a Tier 1 Project (per the 2010 Adopted LUCE and current practice). The purpose of this analysis is to estimate the incremental value of the density that exceeds a Tier 1 (1.75 FAR) project under the LUCE.

**BACKGROUND**

The proposed project would result in the demolition of the existing site improvements and construction of approximately 766,000 square feet of floor area across five sites. Under the proposed project, a maximum of approximately 495,000 square feet of office uses would be located exclusively on Sites 1, 2, and 4 of the project site, and a maximum of 325 residential dwelling units would be located exclusively on Sites 3 and 5 of the project site. Retail uses would be located on the ground floor of some of the proposed buildings in an amount not to exceed approximately 47,000 square feet.

In addition to the proposed project, this report also analyzes two alternatives. Alternative 1 would include more residential uses and reduce overall square footage as compared to the proposed project by changing the primary use on Site 4 from office to residential. Under Alternative 1, the project would include 173 total additional dwelling units in place of

120,000 square feet of office uses and 17,000 square feet of retail uses proposed above. The square footage and uses proposed under Alternative 1 for Sites 1, 2, and 3 would remain unchanged from the proposed project. Overall, Alternative 1 would include a total of 763,000 sf of floor area, consisting of 376,000 square feet of office uses, 498 residential dwelling units, and 29,000 square feet of retail uses.

Alternative 2 (the Reduced Project Alternative as contemplated by the Environmental Impact Report) would include a total of 621,000 square feet of floor area, consisting of 430,000 square feet of office uses, 241 residential dwelling units, and 25,000 square feet of retail uses.

For each project alternative above, this analysis estimates the incremental value of the excess density as compared to a Tier 1 project under the LUCE. The Tier 1 project studied in this analysis would reduce overall development to a total Floor Area Ratio of 1.75 and consist of 60% commercial and 40% residential uses of new, incremental development as outlined in the 2010 LUCE. The Tier 1 project would include a total of 542,500 square feet of floor area consisting of 407,900 square feet of office uses and 134,600 sf of residential uses. A summary of the square footage by use for the various projects is provided in the Value Enhancement Summary below.

#### **VALUE ENHANCEMENT ANALYSIS RESULTS**

The purpose of this analysis is to estimate the incremental value of the density that exceeds a Tier 1 (1.75 FAR) project under the LUCE. To estimate this value enhancement, CBRE calculated the stabilized value for each alternative and subtracted projected development costs (excluding land) to derive a value in excess of cost (excluding land). The Value Enhancement Summary below provides the comparative results for the various project alternatives as compared to a Tier 1 project.

Our value enhancement analysis indicates that the increased density for the proposed project results in a value in excess of cost (excluding land) that is \$23.4MM greater than the corresponding value of a project at a Tier 1 density. For comparison, the value enhancement of the additional density for Alternative 1 is \$14.6MM and for Alternative 2 is \$8.8MM.

It is important to note that the value in excess of cost (excluding land) described in the Value Enhancement Summary below is not synonymous with developer profit. In order to determine developer profit/loss, the developer's land basis must be subtracted from any value in excess of cost.

## Value Enhancement Summary (Excluding Land)

	<i>Proposed</i>	<i>Alt. 1</i>	<i>Alt. 2</i>	<i>Tier 1</i>
Office Square Footage	495,000	376,000	430,000	407,900
Residential Square Footage	224,000	358,000	166,000	134,600
Retail Square Footage	<u>47,000</u>	<u>29,000</u>	<u>25,000</u>	==
Total Square Footage	766,000	763,000	621,000	542,500
Net Operating Income	\$28,060,000	\$25,761,000	\$22,944,000	\$20,190,000
Stabilized Value	374,021,000	359,051,000	304,671,000	266,305,000
Less Total Project Costs (Excl. Land)	<u>(291,984,000)</u>	<u>(285,850,000)</u>	<u>(237,290,000)</u>	<u>(207,680,000)</u>
Value in Excess of Cost (Excl. Land)	\$82,037,000	\$73,201,000	\$67,381,000	\$58,625,000
Less Tier 1 Value	<u>(\$58,625,000)</u>	<u>(\$58,625,000)</u>	<u>(\$58,625,000)</u>	<u>(\$58,625,000)</u>
<b>Value Enhancement</b>	<b><u>\$23,412,000</u></b>	<b><u>\$14,576,000</u></b>	<b><u>\$8,756,000</u></b>	<b><u>\$0</u></b>

Source: CBRE Consulting.

The table below includes Land Value for the site as derived from the 2011-2012 property tax bill. The Land Value does not include financing costs, carry costs, or any other entitlement costs incurred by the developer.

## Value Enhancement Summary (Including Land)

Value in Excess of Cost (Excl. Land)	\$82,037,000	\$73,201,000	\$67,381,000	\$58,625,000
Less Land Value	<u>(\$76,893,000)</u>	<u>(\$76,893,000)</u>	<u>(\$76,893,000)</u>	<u>(\$76,893,000)</u>
Value in Excess of Cost (Incl. Land)	\$5,144,000	(\$3,692,000)	(\$9,512,000)	(\$18,268,000)
Less Tier 1 Value	<u>\$18,268,000</u>	<u>\$18,268,000</u>	<u>\$18,268,000</u>	<u>\$18,268,000</u>
<b>Value Enhancement</b>	<b><u>\$23,412,000</u></b>	<b><u>\$14,576,000</u></b>	<b><u>\$8,756,000</u></b>	<b><u>\$0</u></b>

Source: CBRE Consulting.

Please contact us should you have any questions or require additional information.

Sincerely,



Thomas R. Jirovsky  
Senior Managing Director

## I. INTRODUCTION

### OVERVIEW

Hines intends to develop a mixed-use (office/residential/retail) project on the 7.1-acre site located on the northeast corner of the intersection of 26<sup>th</sup> Street and Olympic Boulevard in Santa Monica. For the purposes of this analysis, CBRE Consulting analyzed four alternatives described below.

#### **Proposed Project:**

The proposed project is designed with 495,000 square feet of office uses, 224,000 square feet of residential uses (with 325 dwelling units) and 47,000 square feet of retail uses. Parking is provided within a subterranean garage including up to 1,950 parking spaces.

#### **Alternative 1:**

This alternative would reduce office uses to 376,000 square feet, increase residential uses to 358,000 square feet (with 498 dwelling units), and reduce retail uses to 29,000 square feet. Parking would be provided within a subterranean garage including up to 1,950 parking spaces.

#### **Alternative 2:**

This alternative was conceived as part of the EIR process and would reduce overall development by over 20%. This alternative consists of 430,000 square feet of office uses, 166,000 square feet of residential uses (with 241 dwelling units) and 25,000 square feet of retail uses. Parking would be provided within a subterranean garage including up to 1,600 parking spaces.

#### **Tier 1 Project:**

This alternative would reduce overall development to a total Floor Area Ratio of 1.75 and consist of 60% commercial uses and 40% residential uses of incremental, new development as outlined in the 2010 LUCE. The resulting square footages are 407,900 square feet of office uses and 134,600 sf of residential uses.

### SCOPE OF WORK

CBRE was retained to assess the value enhancement of these alternatives. To this end, CBRE performed the following tasks:

- Visited the subject site and surrounding area to determine surrounding uses and amenities;
- Gathered market data on stabilized building sales prices in Santa Monica locations;

- Gathered information on lease rates & operating costs for apartments, retail and office space in Santa Monica;
- Incorporated construction cost data for office, retail, residential and parking structures;
- Developed a financial pro forma model and prepared a value enhancement analysis of the alternatives.

# **EXHIBIT D**

**Rachel Kwok**

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**From:** Metzler, Doug [mailto:Doug.Metzler@hines.com]  
**Sent:** Tuesday, December 13, 2011 7:06 PM  
**To:** Jing Yeo; Akula, Varun  
**Cc:** carrie.garlett@atkinsglobal.com; Chris Harding  
**Subject:** RE: EIR Alts

We did – thanks for checking in. We believe it is best for us to study each of the alternatives at the impact threshold testing level of analysis (apologies if that terminology is inaccurate). Additionally, Ken and Chris agreed that it would be extremely beneficial to include trip data on the 957,000 square foot project (including the conversion from retail to restaurant) in an appendix for informational purposes. Please give me a call when you can. Thanks for your help.

Doug

Douglas H. Metzler | Hines  
444 S. Flower Street | Suite 2100 | Los Angeles, CA 90071  
Office: 213.629.5200 | Fax: 213.629.1423

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**From:** Jing Yeo [mailto:Jing.Yeo@SMGOV.NET]  
**Sent:** Tuesday, December 13, 2011 6:56 PM  
**To:** Akula, Varun; Metzler, Doug  
**Subject:** EIR Alts

Hi guys,  
Have you had a chance to touch base with your team on our discussions this morning?  
Thanks,  
Jing

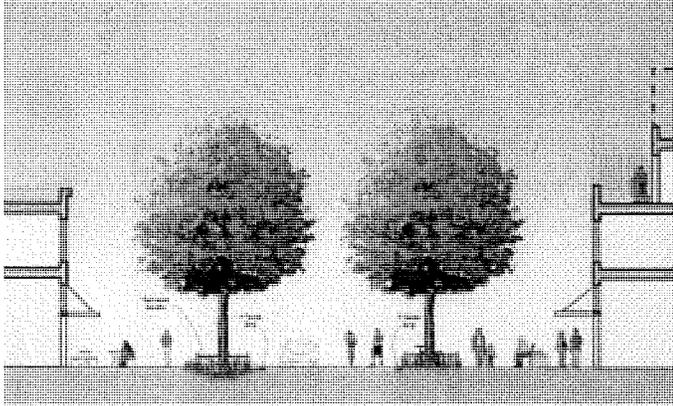
Jing Yeo, AICP  
Special Projects Manager  
City of Santa Monica  
Planning and Community Development  
1685 Main Street  
Santa Monica, CA 90401  
tel: (310) 458-8203 fax: (310) 576-4755  
e-mail: [jing.yeo@smgov.net](mailto:jing.yeo@smgov.net)

Response to SMCLC Request #1

Response to SMCLC Request #1

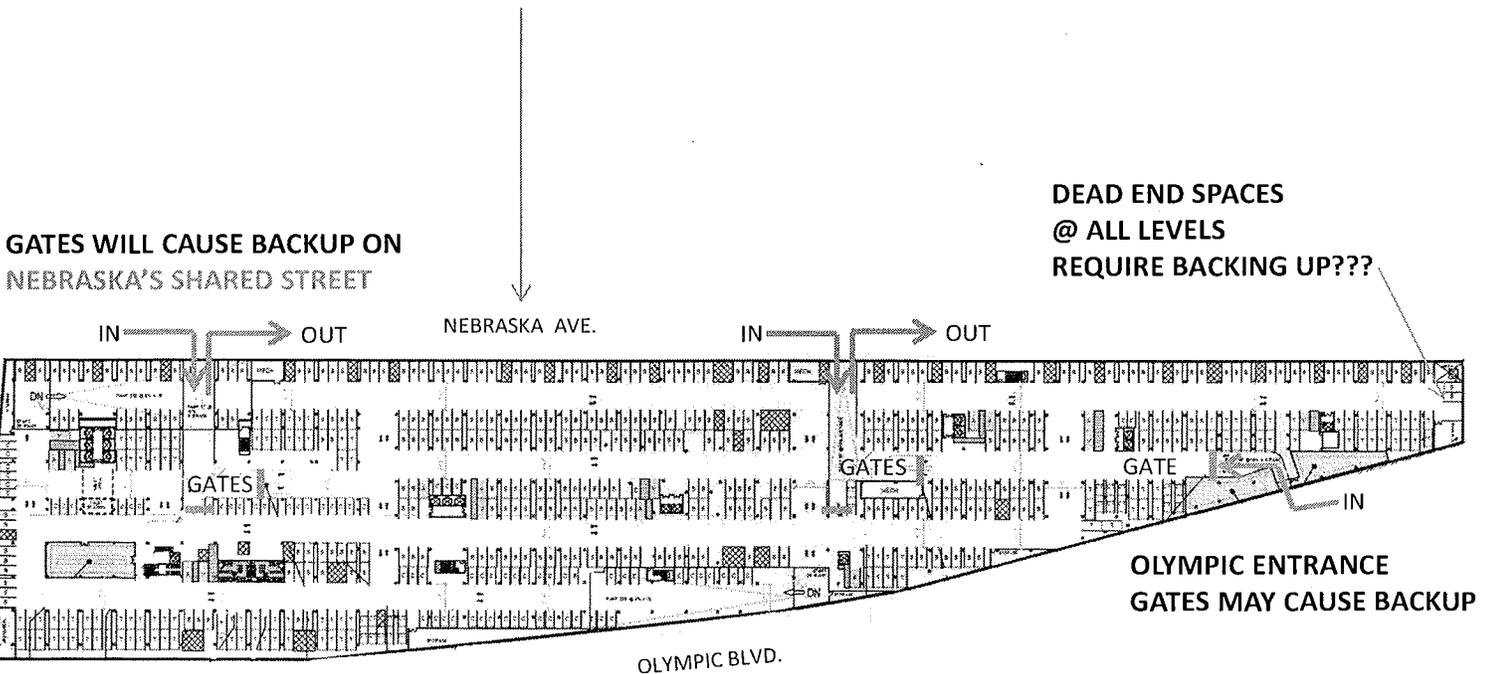
000185

# **EXHIBIT E**



1,950 CARS ARE ENTERING & EXITING ON A SHARED STREET COMBINING CARS, PEDESTRIANS, CYCLISTS, & BABY STROLLERS  
 BTV PLAN STATES :

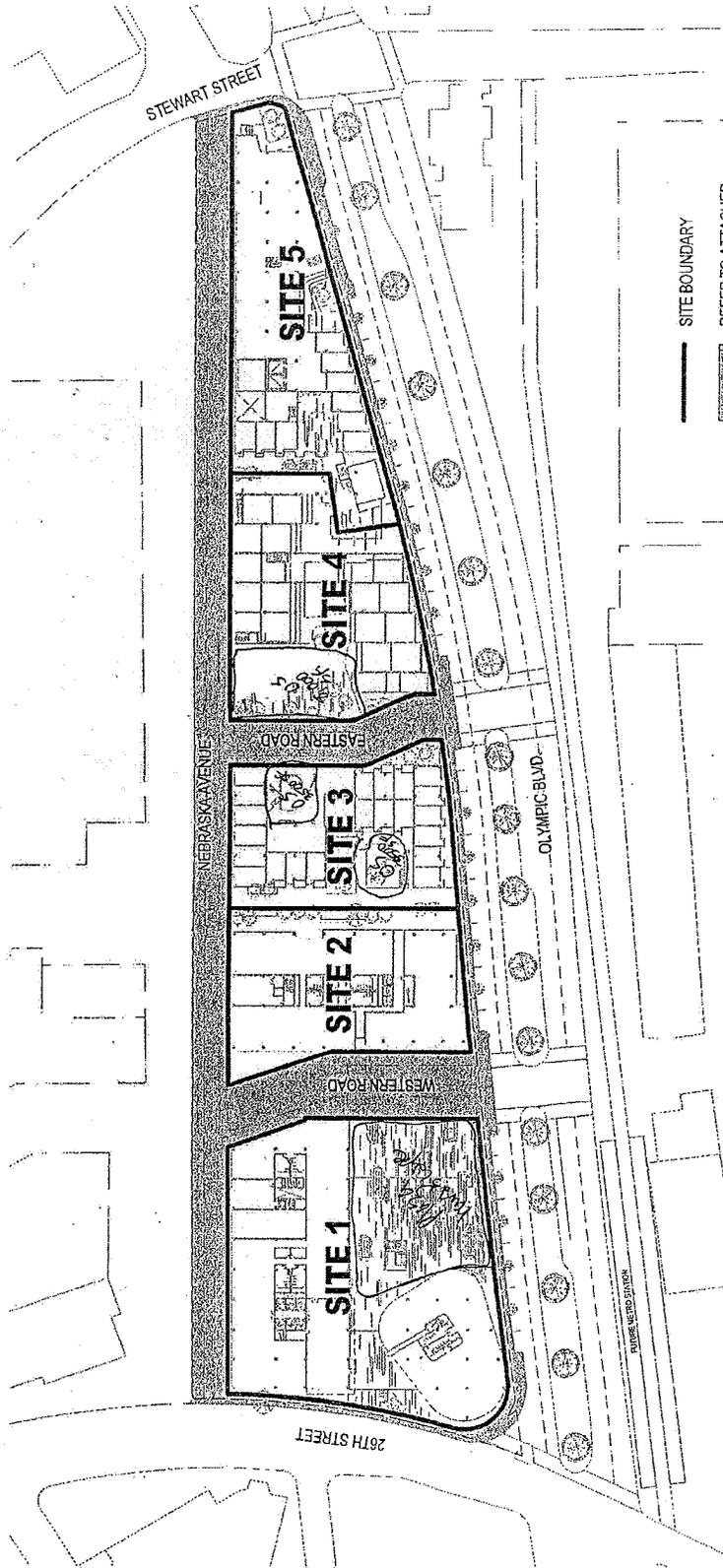
*"PROJECT DESIGN SHOULD MINIMIZE THE INTERACTIONS BETWEEN VEHICLES AND PEDESTRIAN/BICYCLE ACTIVITY"*



CARS WILL TRAVEL INSIDE THE GARAGE UP TO ½ MILE TO REACH A PARKING SPACE

# **EXHIBIT F**

cancel by end of June



Hines  
Gensler

Bergamot Transit Village Center

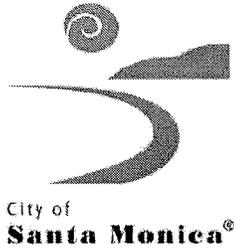
INFORMAL SUBDIVISION MAP - SITES 1-5

1" = 100'-0"

02/16/12

© 2012 Hines

# **EXHIBIT G**



**CITY OF SANTA MONICA**  
**PLANNING & COMMUNITY**  
**DEVELOPMENT**

**MEMORANDUM**

**Date:** February 28, 2012  
**To:** Doug Metzler, Hines  
**From:** Jing Yeo, Special Projects Manager  
**Subject:** Bergamot Transit Village Center (Former Papermate site) – Comments on Revised Concepts

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Thank you for your presentation on February 8, 2012 on the progress that has been made since the City Council float-up of August 23, 2011. We appreciate your team's efforts to be responsive to most of the comments raised at the Council float-up meeting particularly in the following areas:

- Further thoughts on the dimensions of the Western street
- Thoughts on dimensions of the Eastern street
- Refinement to the driveway entrance to the parking garage from Olympic Boulevard to reduce its impact on the pedestrian environment
- Thoughts on how the main Plaza could be activated
- Bicycle access and facilities such as bike racks and bike storage for employees
- Adding a corner gateway element to Building 2
- Exploration of concepts for a residential building on Site 4

This memorandum outlines staff and consultant comments at a level commensurate with the broad ideas and concepts that were presented at this meeting. The 4 photos of the model and reference images associated with dimensioned site plans is the level of detail that has been presented for comment.

The comments, along with the summary recommendations, should serve as a guide for significantly more development of the project design as you proceed through the entitlement process.

**Site Planning and Circulation**

With regards to the circulation, staff notes that you have responded to the request for maintaining the sidewalk dimensions of the Western street. The ideas presented for diagonal parking while still maintained appropriate sidewalk dimensions are appreciated but we would reserve that the final street design will be the subject of further review with the City's transportation staff as to the feasibility of the proposal.

As for the Eastern street, staff disagrees with the assertion that the street functions well without street parking. The desire to place street parking or reserving the space for it to occur is based on ensuring that the street looks and feels like a typical public street adjacent to the public parks. Without the buffers on the edges of the travel lanes, the street appears as a private driveway as opposed to a public space, despite the presence of sidewalks or trees.

***Recommendation:** Diagonal parking on the Western street will be the subject of further review but right-of-way for flexibility in the street design has been accommodated. Street parking must be included on the Eastern street in order to ensure that it appears and functions like a typical public street.*

**Interface of private patios with public open space**

The open spaces around Building 3 have not been sufficiently described to allow an understanding of how the public green spaces will interface with the adjacent private residential patios. Given their location and surrounding on three sides by the residential building, these green spaces may function more as a project amenity for the on-site residents rather than being perceived by the casual passer-by as a public park.

The public park on the west side of Building 4 has an entrance to the subterranean garage that cuts into a significant portion of the park. The approximately 6,000 sf public park loses approximately 1,500-2,000 sf of that space due to the entrance and the resulting grade differential. Opportunities exist for perhaps terraced seating where there is a grade differential between the top of the garage entrance and the surrounding park space. Further, the rooftop of the garage entrance could be transformed into a public amenity with the addition of the green roof that expands instead of limiting the amount of space that has been designated for park at that location.

***Recommendation:** Provide elevations of each ground floor building face with massing concepts shown above. Provide concept landscape plans for each site that convey the interface between public parks and private open space.*

**Parking Ingress and Egress, Loading, and Project Servicing**

Given the proposal to subdivide the subject property into 5 parcels, each site should be able to stand on its own and therefore have separate access to the subterranean garage below. Prior comments have focused on optimizing turning movements and vehicle flow, optimizing ground floor opportunities, and maximizing the pedestrian quality of sidewalks along the Nebraska extension. Including garage access for each site or phase, where feasible, is a critical

component to support the desired flexibility for a scenario where each parcel may be developed separately and therefore, should be able to stand on its own.

**Recommendation:** Review vehicular ingress and egress for each parcel or phase to account for the possibility of separate development. Any new ingress and egress points should optimize turning movements and flow, optimize ground floor opportunities, and maximize pedestrian quality of sidewalks along the proposed Nebraska extension.

#### **General Configuration of Buildings on Site**

An alternative for Building 4 as a residential building was presented. Based on the block model and photos presented, there is some concern about the "heaviness" of the bridging element between the two wings of the building. The effect of the building mass to the ground floor area below has not been clearly demonstrated or presented. The ground floor experience of Buildings 4 and 5 on Nebraska Avenue extension is also not clearly presented, whether in the proposed form or in the alternative residential scenario.

**Recommendation:** Clearer concepts should be presented for Building 4 in its proposed (creative office) and alternative (residential) form. Ground floor elevations for Buildings 4 and 5 are necessary to understanding whether they conform with the Draft Principles for Bergamot Transit Village.

#### **General Comments Regarding Proposed Architecture**

Staff noted, and the developer and architect acknowledged, that the architecture of individual buildings is not fully developed and is conceptual only. As such, comments with regard to this crucial project component are limited given the limited materials presented to date. In general staff continues to express concern that the approach still trends towards the creation of a master-planned collection of buildings that does not yet appear to reinforce the concept of an urban transit village. Without dimensioned elevations, it is difficult to understand and evaluate the relationships between the ground floor base and adjacent public space and the magnitude of the roofline variation, stepbacks, and setbacks being proposed. In order to evaluate the building form, location, and scale, it is necessary to have more developed concepts for four sides of each building and it is not clear those concepts have yet progressed beyond a physical block model, particularly for Buildings 3, 4, and 5.

Given the areas that need additional design development, staff is evaluating alternative design review processes that may allow the project to proceed at its current level of conceptual design while accounting for the possibility of multiple project developers.

**Recommendation:** The applicant has made significant progress in the site design but in general staff acknowledges that the architectural concepts presented for individual buildings will continue to evolve. Given the LUCE and City Council's direction to ensure that a transit village-scale and human scale environment is created, more developed ground floor concepts need to be submitted in order to conduct a design evaluation necessary for the project's formal public hearings. Alternatively, staff is exploring other design review approaches that would provide

*similar assurance that a walkable, urban village environment is supported through the project design.*

**SUMMARY**

The above comments and recommendations are a general summary of staff's responses to the ideas presented at the February 8 meeting. They acknowledge the further thoughts and ideas that the applicant has made towards responding to the comments from the August 2011 City Council float-up. While the physical block model was acceptable for a conceptual float-up discussion with the City Council, staff must emphasize the need for a combination of drawings and renderings, with a focus on the ground floor elevations and relationships, in order to conduct an appropriate design evaluation at the level necessary for formal public hearings on the project.

# **EXHIBIT H**

**From:** Jing Yeo <[Jing.Yeo@SMGOV.NET](mailto:Jing.Yeo@SMGOV.NET)>  
**Subject:** RE: Bergamot Project Concerns  
**Date:** January 21, 2014 at 3:20:56 PM PST  
**To:** 'Mary Marlow' <[m.marlow@verizon.net](mailto:m.marlow@verizon.net)>  
**Cc:** David Martin <[David.Martin@SMGOV.NET](mailto:David.Martin@SMGOV.NET)>

Hi Mary,

I'm finally getting around to your 3rd e-mail! Here are answers to your questions:

- 1) We have not received a subdivision map that proposes to subdivide the project site into separate land parcels. As such, the parcel area includes the entire project site although they could choose to construct the buildings at different times. Such an approach does not necessarily require a land subdivision. If Hines were to submit a subdivision map in the future that subdivided the property into separate land parcels then the FAR would be based on those individual parcels and not the entire project area.
- 2) Hines has not submitted a subdivision map. For informational purposes, there is a sheet (BD07.03 about 3 pages from the end of the booklet) that Hines provided in their plans which shows the site boundaries and approximate square feet.
- 3) The definition of floor area (or as you refer to it 'net floor area') is from the existing zoning ordinance which excludes areas such as stairways, elevator shafts, unenclosed balconies, and mechanical equipment rooms. In a project of this size with fire existing requirements it's not unusual for that difference in floor area.
- 4) Please see Page 56, Table 16 of the Council report for a list of the required fees.
- 5) The 25 artist work/live units are commercial space because their primary use is as work space for artists with an incidental living component. As such, none of them are deed-restricted since they are considered primarily working studios.
- 6) The affordable units are divided between the residential and creative office phase of the project. The units are deed-restricted across 3 residential buildings so that deed-restrictions would occur with the building permits that are issued for each residential building. While the staff report summarizes the total, Page 43 of the development agreement (Attachment 5 to the staff report) provides of breakdown of how many units are to be deed-restricted in each building. The affordable units associated with the creative office phase would only be deed-

restricted in the residential buildings upon issuance of a building permit for a creative office building (see Page 46, 2.7.4(f) of the DA)

7) Draft EIR Section 4.17, Page 4.17-1 through 4.17-39 provide a discussion and analysis of water supply. As stated on Draft EIR page 4.17-39, use of groundwater from City wells is consistent with the estimated safe yields of the Santa Monica Groundwater Basin and imported surface water supplies from Metropolitan would ensure that adequate water supplies are available to meet future water demand. The City's 2010 Urban Water Management Plan has also analyzed future water demand that would occur with buildout of the LUCE and determined that water supplies would be adequate to serve future demand. Even more recent information regarding the City's goal to be water self-sufficient by 2020 is available in the following City Council staff report regarding the Sustainable Water Master Plan: <http://www.smgov.net/departments/council/agendas/2013/20130514/s2013051404-A.htm>

8) Yes, the EIR includes mitigation measures MM4.6-1 and 4.6-2, which require the preparation of a detailed soils and geotechnical analysis to be performed prior to issuance of a grading permit. The analysis must include an evaluation of onsite faulting which may require subsurface exploration using methods such as trenching. The analysis must be performed in accordance with the City's Guidelines for Geotechnical Reports in order to establish fault locations and potential recency of activity. The proposed project must then comply with the recommendations of the final soils and geotechnical report which will be reviewed for approval by the City.

Hope that answers your questions. I've tried to attach relevant excerpts from documents referenced in this e-mail for your convenience.

Thanks,  
Jing

-----Original Message-----

From: Mary Marlow [<mailto:m.marlow@verizon.net>]  
Sent: Monday, January 20, 2014 6:52 PM  
To: Jing Yeo  
Cc: David Martin  
Subject: Bergamot Project Concerns

Hi Jing,

I'm reading the staff report on the BTV project and would like answers to the following concerns:

- 1) What is the net FAR for each of the 5 planned parcels listed in the development agreement?
- 2) Is there any map or documentation that shows the square footage of each of the 5 parcels?
- 3) Why is there such a large difference between the gross and net square footage (96,333) of the total buildings in the plans? What is included in gross that's not in net square footage?
- 4) Please supply a list of the \$11.5M required fees in the DA highlights section of the staff report.
- 5) Are the 25 live/work units counted as commercial or residential? Will they be deed restricted affordable below 100% of AMI for artists?

- 6) Are all affordable units deed restricted immediately upon certificate of occupancy?
- 7) Doesn't state law require an estimated 20 year water supply for all new construction? With the drought, can this requirement be met?
- 8) Will Hines be required to trench, etc. for earthquake faults or any other hazards?

Thanks for prompt answers,  
Mary