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September 19, 2016

The Honorable Mayor Devine and Members of the City Council and Housing Authority
City of Glendale
613 East Broadway, Suite 200
Glendale, CA 91206

Re: Agenda Item 1: Updates to Glendale's CEQA Guidelines and Municipal Code

Dear Mayor Devine and Members of the City Council and Housing Authority:

The Glendale Historical Society is grateful for the opportunity to comment on the proposed update to Glendale's local CEQA Guidelines. Established in 1979, our non-profit organization has more than 650 members and works to preserve and celebrate Glendale's rich history and remaining architectural heritage.

We are pleased that the City has decided to update its local CEQA Guidelines; however, we respectfully request some changes to the Guidelines as proposed in the name of good governance and a fair, transparent process that prioritizes the public's interest when evaluating the impacts of new development.

Our main objection pertains to the Staff Report recommendation to revoke the requirement that the City select the consultant for Environmental Impact Reports (EIR) and reserve that right for developers, not only in areas formerly operating under the Redevelopment Agency Guidelines (1986), but in all commercial, multi-use, and industrial zones of the city. The rationale for tilting the process further in the favor of developers is weak, and the potential impact on the public interest, and on public confidence in their local government, is significant. We ask you please to insist that the City select EIR consultants no matter where in Glendale development occurs.

The Purpose of an EIR: Who Is the Client?

The purpose of an EIR is to protect the public interest by analyzing expected project impacts on traffic, parking, ambient noise, water use, historic resources, etc. and to provide the information necessary for the City to make informed decisions about the project. It is not designed for the benefit of the developer; the developer bears the cost in anticipation of the private rewards of the project. There is an inherent conflict of interest when developers hire their own consultants to review project-related impacts that EIRs are designed to analyze with objectivity and transparency.

The Glendale Historical Society (TGHS) advocates for the preservation of important Glendale landmarks, supports maintaining the historic character of Glendale's neighborhoods, educates the public about and engages the community in celebrating and preserving Glendale's history and architectural heritage, and operates the Doctors House Museum. TGHS is a tax-exempt, not-for-profit 501(c)(3) organization, and donations to TGHS are tax-deductible to the extent permitted by law.

When the developer is given responsibility for “contracting, monitoring and paying the environmental consultant,” the developer is the client. As the client the developer is in a position to influence the process unduly in his or her favor. At Tuesday’s meeting you will hear from someone who has been professionally part of a consultancy team for developers who threatened not to pay for EIR results they did not like and who reserved the right to reject an unfavorable EIR in its entirety and move on to another firm, illustrating how it corrupts the process to allow private interests with a financial stake in the outcome of a report to select and hire the consultant who produces it.

If the City is the client, as it should be as lead agency, the situation changes; developers cannot simply decline to submit unfavorable reports, and efforts to sway the consultant or the process in other ways will not carry weight. The claim that “the City [would] retain control over document quality” when it neither selects nor directly hires the consultant but only weighs in at the beginning of the process, by determining the scope of the work, and at the end, by reviewing the draft, releasing for comment, and preparing the final documents, is unpersuasive; the City has to be in control of the process to exert control over quality.

There have been several instances over the years when historic resource assessments, far more often than not prepared by the same firm with a reputation for developer-friendly outcomes, found properties to be ineligible for landmark designation despite previous, city-adopted surveys that found them eligible for the Glendale, California, and/or National Registers. These structures range from 100-year-old Craftsman houses to commercial buildings by internationally recognized architects. We cannot believe that developers do not take advantage of the opportunity to select consultants they think will produce conclusions favorable to their projects. Anything but an unbiased selection process undermines the point of an objective EIR and undermines faith in the integrity of the City’s process for understanding the true impacts of projects on the community.

City Selection of the Consultant Does Not Increase Time

The Staff Report gives time-savings as a rationale for allowing developers to select EIR consultants. The report suggests that sending out a Request for Proposals (RFP) slows the process down by at least three months. That may be true, but there is no requirement that the City solicit RFPs if it selects and hires the consultant, and we urge Council to drop that provision when it updates the CEQA Guidelines. Indeed, by incorporating that requirement the proposed Guidelines virtually guarantee that the developer would never want the City to proceed with the environmental review. Of the many entities in Southern California that select and hire the EIR consultant (among them Burbank, Los Angeles, Los Angeles County, Claremont, Santa Ana, Pasadena, and Long Beach), it is common for the City to choose from a pre-qualified list of consultants. They recover the full cost of the EIR preparation from the developer; some also charge an administrative fee of between 10 – 20 percent as compensation for the staff time involved in the EIR process.

The effort involved in compiling the list of pre-qualified consultants—and Glendale should already have one in place, although it may be time to review—is not onerous, and the selection process can be as simple, and unbiased, as going down the list with each new project. There may some day be a project so extraordinary that a more tailored selection process may be required, but at that point staff can request an exception. There is no indication such a process would have been necessary for the projects that have come forward in the last several years.

We also note that an EIR prepared by a consultant selected and hired by the developer is by its nature a document that must be treated skeptically. This is simply not the case when the City selects the consultant through an unbiased process. The suggestion that it is less work to perform a full and thorough vetting of a document draft whose analysis and conclusions cannot be taken at face value than to monitor the preparation of a report where no conflict of interest exists is worrisome. We believe the opposite is true.

Reduced Staffing Levels Do Not Justify the Proposed Change

The Staff Report invokes “reduced staffing levels” as an implicit argument for allowing the City to shift the burden of hiring, monitoring, and paying the consultant to the developer in all but residential zones. This reason, which has been invoked repeatedly to justify all manner of changes to planning processes in the last few years, is not good enough. Recovery of the full costs associated with the entire EIR process—the consultant fee plus an administrative fee—should give the City the flexibility to find or hire on a temporary basis if necessary the staff support. We do not want to see under-staffing treated as an opportunity to support process changes that are detrimental to the community’s interests, rather than as the significant challenge to the healthy functioning of the Department of Community Development and the morale of its staff that they in fact represent.

Conclusion

The Staff Report argues for allowing developers to select EIR consultants in all multi-use, commercial, and industrial zones because allowing them to select for Redevelopment Agency projects “proved to work well.” If there is any real analysis behind that evaluation, it is certainly not set forth in the report. In fact, it is impossible either to prove or disprove this claim, because to do so depends on counterfactuals: we simply do not know what the outcomes would have been if the City had chosen EIR consultants all along.

But we do know that it is the job of the City, not developers, to look out for the interests of the community. The purpose of the EIR is to protect those interests. To allow developers to select and hire EIR consultants ignores the inherent conflict of interest. It nakedly puts developer interests first and damages public confidence in fair and transparent government processes. The City is accountable to citizens for their decisions; developers are not. The only way to have a transparent and objective process is for the City to make all the crucial decisions about the preparation of the EIR, no matter where in Glendale development takes place.

Thank you for your consideration of our position on this very important matter.

Sincerely,

Greg Grammer

Greg Grammer, President
The Glendale Historical Society

cc:

The Honorable Ardy Kassakhian, City Clerk
Mr. Scott Ochoa, City Manager
Mr. Phil Lanzafame, Community Development Director