

**Attachment to Appeal of Sierra Curtis Neighborhood Association (“SCNA”),
Eric Johnson and Andrea Rosen (“Appellants”)**

As described in much greater detail in prior written (reference list provided below) and oral comments provided to the Planning and Design Commission, along with further explication that may be submitted to the Council, Appellants appeal the actions of the Planning and Design Commission to adopt a CEQA Addendum and issue a conditional use permit (“CUP”) for the proposed Curtis Park fuel center, Project P14-036 (“Project”) on the following grounds:

1. **Approval of the Project is “detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood.”**

The California Air Resources Board (“CARB”), the state agency with expertise on air emissions and associated human health risks, has provided specific guidance to local agencies on the proper location of a large fuel center such as this (i.e. defined as higher throughput than 3.5 million gallons/year). CARB has very clearly articulated a guidance policy that local agencies should not allow location of large fuel centers within 300 feet of sensitive receptors. Here, the Project has more than two times that throughput (7.46 million gallons) and yet is located merely 85 feet from the nearest sensitive receptor (houses). The Sacramento Metropolitan Air Quality Air District (“SMAQMD”) has issued no land use guidance on the siting of fuel centers to date.

2. **The proposed Fuel Center is fundamentally inconsistent with the Curtis Park Village Development Guidelines (P04-109) adopted by the City Council in 2010 and which have the force of law.**

Please see attached letter of November 15, 2014 for reference. Briefly, the overriding goal of the development guidelines for this infill development was to ensure a high degree of compatibility with the existing neighborhood and to blend in as much as possible. It is not the design of the proposed fuel center that is inconsistent with the Development Guidelines, it is the use itself. A fuel center use is inimical to the specific goals and objectives of the Development Guidelines because it contradicts the goal of maximizing opportunities for efficient transit provided by public transportation. Further the Streetscape and Circulation requirements for Curtis Park Village call for an intimacy of scale and a sense of community that will invite pedestrian use and interaction. A large fuel center, whose very purpose is to attract enough cars to pump 7.45 million gallons of gas each year, located at a critical corner of the Traditional Shopping Center, will thwart that goal. The City has yet to further specify the General Plan definition of a Traditional Center in its infill sites, which vary considerably one from the other. There is no dispute,

however, that a Traditional Center designation emphasizes walkable neighborhoods and that people don't walk to a gas station, they drive. We note that this proposed fuel center is designed to service 16 cars simultaneously.

The fact that a gas station is an allowed use in the Shopping Center – PUD zone is irrelevant. A gas station requires a conditional use permit precisely so the City can judge each of these specific proposed uses on a site-specific basis. Fraternity and sorority houses are an allowed use as are bars, nightclubs, drive-in theaters and kennels. Most notably, heliports, correctional facilities, standalone parking facilities, and surface mining operations are all allowed uses in the SC-PUD zone. It is very likely that the City Council would not find many of these uses compatible with a development the City itself characterized as “ its pre-eminent infill development” when it sought over \$11 million in Proposition 1C funds from the State on behalf of this developer.

3. The City's reliance on a CEQA Addendum is legally deficient.

- a. The Curtis Park Village, as revised by the Project, will result in significant TAC emissions that were not disclosed in the prior EIR thereby necessitating a Supplemental EIR. The CEQA Addendum relies on a health risk assessment for TAC emissions that was anything but objective, followed a questionable methodology intended to justify maximum throughput, and failed to analyze the combined health risk of all sources of TACs associated with the Curtis Park Village project. Substantial evidence in the record establishes the Project, viewed in isolation, will result in significant health impacts resulting from TAC emissions. The combined health risk with other emission sources associated with the Curtis Park Village (i.e. mobile sources) further exacerbates that significant health risk.
- b. The Project requires a Supplemental EIR because the routine transport and use of hazardous materials (such as gasoline) requires wholesale revision to the prior EIR's analysis of hazardous materials. The City may not rely on or incorporate by reference or otherwise rely on the City's 2035 General Plan Master EIR to avoid preparing the required Supplemental EIR.
- c. The CEQA Addendum does not provide substantial evidence that the Project will not result in new, or significantly exacerbated, traffic impacts. The Addendum's traffic study does not account for the significant difference trip generation rates between a loyalty discount fuel center and an ordinary gas station.

4. The CEQA Addendum itself is legally deficient.

- a. The CEQA Addendum does not satisfy the City's duty to analyze whether the Curtis Park Village project, as revised by the Project, will result in significant toxic air contaminant ("TAC") impacts than previously disclosed in the prior EIR. Instead, it analyzes the TAC impacts in isolation.
- b. The CEQA Addendum was based on information provided by consultants hired by the applicant, and was not independently reviewed and analyzed by the City. The CEQA Addendum does not represent an objective analysis of the Project's environmental impacts.
- c. The CEQA Addendum fails as an information document with respect to the Project's human health risks from toxic air contaminants because (i) it buries the actual predicted health risk in an attachment, (ii) ignores entirely the California Air Resources Board's land use guidance to not locate large fueling centers (those with throughputs larger than 3.5 million gallons per day) within 300 feet of sensitive receptors, which the applicant is proposing to do here.
- d. The CEQA Addendum purported to rely on the City's 2035 General Plan Master EIR with respect to an analysis of hazardous materials, but the City is prohibited from doing so unless and until it performs an initial study to determine whether the Master EIR is adequate for that purpose. (Pub. Resources Code, § 21157.1.)

5. The City's approval of the Project would violate CEQA.

Even if one assumes that the resulting 9.9 incremental health risk is correct, the City failed to include any enforceable design feature or condition of approval ensuring that the Project does not result in a significant TAC impact by increasing its throughput above the 7.46 million gallons described in the Addendum's attachment. The City failed to make any findings establishing that such a condition was outside the City's authority.

The following SCNA written comments, and attachments, are incorporated by reference into this list of arguments for appeal:

- a. Letter of November 15, 2014
- b. Letter of February 26, 2015
- c. Letter of May 14, 2015 (addressed to Planning and Design Commission)
- d. Letter of May 14, 2015 (addressed to Antonio Ablog)