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February 12, 2009

Our File Number: 0XRS-142898

**HAND DELIVERED**

Mr. Michael Kissell  
Planning Director  
City of Industry  
15625 East Stafford Street, Suite 100  
City of Industry, California 91744

Re: Planning Commission Hearing on the Supplement to Industry Business Center Environmental Impact Report (NFL Stadium)

Dear Mr. Kissell:

This firm represents the City of Diamond Bar ("Diamond Bar") regarding its interests in the NFL Stadium project (the "Project") proposed by Industry East Business Center, LLC (the "Applicant") located at the eastern edge of the City of Industry ("Industry"). Diamond Bar is opposed to the Project and believes that the Industry Planning Commission cannot recommend approval of the Project at this time.

As you know, Diamond Bar provided detailed comments on the Draft Supplement to Industry Business Center Environmental Impact Report (the "Draft SEIR") and the Final Supplemental Environmental Impact Report (the "Final SEIR"). Those documents suffer from serious deficiencies and fail to satisfy the requirements of the California Environmental Quality Act ("CEQA"). Making matters worse, Industry's ramrod approach to Project approval has denied the public sufficient time to review many of the Project's environmental and approval documents.

For example, we had to virtually pry the 87-page staff report out of the City Clerk's office less than 48 hours before the Planning Commission hearing today. Nonetheless, we reviewed the report and were not surprised to find it suffered from many of the same deficiencies that plague the Project's environmental documents. In addition, the staff report and the draft resolutions attached to it contain more fundamental flaws and unsubstantiated conclusions that further mislead the decision makers and the public.

Mr. Michael Kissell  
February 12, 2009  
Page 2

First, the Planning Commission cannot recommend approval of the 2008 revised Plan of Development ("2008 Plan of Development") because it cannot make the findings required for that approval pursuant to Section 17.24.080 of Industry's zoning code. The draft City Council resolution (attached as Exhibit "A" to the Planning Commission Resolution No. PC-387) tries in vain to make these required findings, but falls short. It merely provides unsupported assertions that are inconsistent with the Project's own environmental documents. The Draft SEIR and Final SEIR clearly show that the Project would at a minimum: (1) overwhelm the local and regional circulation system, (2) be incompatible with surrounding residential communities; and (3) have significant and unavoidable environmental impacts related air quality, noise, traffic, and fire protection and emergency services, all of which would be detrimental to the public health, safety, or general welfare. Consequently, the Planning Commission does not have sufficient grounds to support the findings required by Industry's zoning code.

Second, it appears Industry never approved the underlying 2004 Plan of Development for the Industry Business Center ("2004 Plan of Development"). The staff report repeatedly notes that the City Council certified the environmental impact report ("EIR") for the 2004 Plan of Development, but there is no evidence that the project itself was approved. In other words, Industry left the 2004 approval process unfinished. Now, the Planning Commission is using that faulty foundation to justify using a supplemental EIR for the Project, when in fact there are gigantic differences between the 2004 Plan of Development and the 2008 Plan of Development, including an NFL Stadium. This approach violates CEQA.

Third, the staff report continues the untrue mantra that the 2008 Plan of Development reduces the overall square footage compared to the 2004 Plan of Development. That claim is extremely misleading and ignores the square footage associated with the Stadium and all of the Project's parking structures. Instead of coming clean, the staff report rests upon the false impression that the Applicant has reduced the overall square footage of industrial, commercial and office space from 4,779,000 to 2,985,000. The staff report further confuses this issue by presenting a "project square footage breakdown" table that equates to 3,820,000 square feet of development, excluding the Stadium. Put differently, even the staff report is internally inconsistent regarding the Project's maximum square footage.

If Industry honestly accounted for all uses, the Project would total approximately 6,275,000 square feet. Unfortunately, Industry has chosen to ignore this reality and allowed it to infect the Draft SEIR and Final SEIR.

Mr. Michael Kissell  
February 12, 2009  
Page 3

Hence, the severity of the Project's significant and unavoidable impacts are masked by underestimation. The Planning Commission's recommendations should not allow this fundamental flaw to go unresolved.

Fourth, the staff report hastily recommends approval without recognizing that Industry added significant new information to the Final SEIR after circulation of the Draft SEIR. The Final SEIR was hundreds of pages long and included ten new appendices with significant new technical information. Upon review, we believe that significant new information will trigger recirculation. Moreover, what the Final SEIR had in quantity, it lacked quality. For example, many of Industry's responses to Diamond Bar's comments on the Draft SEIR lacked good-faith reasoned analysis. The sheer volume of new information, coupled with the City Council's rushed approach to certify the Final SEIR before the Planning Commission has even reviewed the matter, precludes meaningful public review and input.

To conclude, Diamond Bar contends that the Draft SEIR and Final SEIR are legally and technically inadequate, and that Industry has virtually ignored the Project's impacts on the Diamond Bar community and its residents. For these reasons, we respectfully request on behalf of Diamond Bar that the Planning Commission not recommend approval of the 2008 Plan of Development until Industry has resolved the serious inadequacies associated with this matter.

Sincerely,

James E. Pugh

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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cc: James DeStefano  
Michael Jenkins, Esq.