

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION

*1112 I Street, Suite #100
Sacramento, California 95814
(916) 874-6458*

December 5, 2007

TO: Sacramento Local Agency Formation Commission
FROM: Peter Brundage, Executive Officer ^{PB}
RE: Arden Arcade Incorporation Proposal Status Report (03-07)

RECOMMENDATION:

Receive and File December Status Report

DISCUSSION:

The Environmental Impact Notice of Preparation (NOP) for public and agency comments for the Arden Arcade Incorporation Proposal closed on Monday, November 26, 2007. In addition, LAFCo and our EIR consultant held a public workshop on Wednesday, November 14, 2007 to scope the issues related to the preparation of the Arden Arcade Incorporation Draft EIR. The purpose of the NOP is to obtain comments from the public and agencies impacted by this proposal prior to preparing the Draft EIR. NOP comments are intended to help scope the EIR in order to include all relevant environmental issues in the Draft EIR.

The attached NOP response letters and testimony from the public workshop have been forwarded to LAFCo's EIR consultant in order to be incorporated into the Draft EIR.

After the Draft EIR is completed, it will be circulated for a 45-day public and agency comment period. At that time, I will present the Draft EIR to the Commission during a public hearing to solicit comments from the Commission and public prior to preparing the Final EIR.

The public and affected agencies will be able to provide comments on the Draft EIR during the 45-day review and comment period. The Final EIR will respond to issues and

comments raised during this 45-day public comment period. The purpose of this process is to provide a number of opportunities for public and agency comments and input throughout Commission proceedings on this proposal.

The Draft Comprehensive Fiscal Analysis will also be available to the public and affected agencies for comment and input prior preparation of the Executive Officer's staff report for this proposed project.

Currently, there are no other significant issues to report. The EIR and fiscal consultant are still in the data gathering stage of this project.

Project Revenue, Expenditures, and fund Balance

The attached spreadsheet provides a summary and detail of deposits, LAFCo match, expenses, and fund balance as of Thursday, November 29, 2007.

| | |
|--------------------|-----------------|
| Proponent Deposits | \$58,189 |
| LAFCo Match | 58,189 |
| Less: Expenses | <u>(56,093)</u> |
| Fund Balance | \$60,285 |

LAFCo's remaining match is \$41,811.

Summary of LAFCo Matching Funds

| | |
|-----------------------|-------------------------|
| LAFCo Share of Cost | 100,000.00 |
| LAFCo Contribution | <u>58,189.00</u> |
| Remaining LAFCo Match | <u>41,811.00</u> |

Summary of YTD Project Revenue and Expenses

| | |
|---------------------|-------------------------|
| Proponents Deposits | 58,189.00 |
| LAFCo Match | 58,189.00 |
| Expenses | <u>56,093.37</u> |
| Fund Balance | <u>60,284.63</u> |

Arden Arcade Deposits, Expenditures and Fund Balance

11/2/07

Deposits

| Date | Proponent's Payment | LAFCO Match | Total Funds |
|--------------------|----------------------------|--------------------|--------------------|
| 2-Jul-07 | 17,000.00 | 17,000.00 | 34,000.00 |
| 25-Jul-07 | 11,189.00 | 11,189.00 | 22,378.00 |
| 10-Sep-07 | 5,000.00 | 5,000.00 | 10,000.00 |
| 1-Oct-07 | 15,000.00 | 15,000.00 | 30,000.00 |
| 26-Nov-07 | 10,000.00 | 10,000.00 | 20,000.00 |
| | | | 0.00 |
| | | | 0.00 |
| | | | 0.00 |
| | | | 0.00 |
| Total Funds | 58,189.00 | 58,189.00 | 116,378.00 |

Expenditures

| Date | Expenditures | Amount | Description of Work |
|-------------------------------------|---------------------|-------------------------|---------------------------------|
| July | LAFCo Invoice No. 1 | 5,010.00 | Legal and Enviornmental Support |
| August | LAFCo Invoice No. 2 | 1,367.50 | Legal and Enviornmental Support |
| September | LAFCo Invoice No. 3 | 2,730.50 | Legal and Enviornmental Support |
| September | LAFCo Invoice No. 4 | 1,850.50 | Legal and Enviornmental Support |
| Sept-Oct | LAFCO Invoice No. 5 | 1,055.25 | Legal and Enviornmental Support |
| 19-Oct-07 | EIR-Brandman | 21,615.72 | EIR Expenses as of Nov. 6, 2007 |
| 7-Nov-07 | EIR-Brandman | 22,463.90 | EIR Expenses as of Nov. 6, 2008 |
| 11/2/07 YTD Expenditures | | 56,093.37 | |
| 11/2/07 Project Fund Balance | | <u>60,284.63</u> | Authorized but not expended |

DEPARTMENT OF TRANSPORTATION

DISTRICT 3 – SACRAMENTO AREA OFFICE

VENTURE OAKS, MS 15

P. O. BOX 942874

SACRAMENTO, CA 94274-0001

PHONE (916) 274-0614

FAX (916) 274-0648

TTY (530) 741-4509

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NOV 26 2007

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

November 19, 2007

07SAC0204

03 SAC-80/51/50 P.M. 12.476/5.498/5.336

Incorporation of New City of Arden Arcade

Notice of Preparation

SCH# 2007102114

Mr. Peter Brundage

Sacramento County Local Agency Formation Commission

1112 I Street #100

Sacramento, CA 95814

Dear Mr. Brundage:

Thank you for the opportunity to review and comment on the Arden Arcade incorporation documentation. Our comments are as follows:

- This project proposes to incorporate the Arden Arcade area of Sacramento County into a City. The City is to adopt its own new General Plan. Based on the potential for significant impacts with the incorporation of a new City, the completion of an Environmental Impact Report has been determined to be necessary. Given that the Project is the incorporating of a new City (Arden Arcade) that will utilize existing Sacramento County General Plan uses, zoning, and transportation systems, Caltrans concurs with the transportation analysis proposed in the Notice of Preparation. Assuming incorporation is successful, Caltrans will want to work closely with the new City as it begins to prepare its new General Plan. At that time, we will request a full traffic study for the new City.

Please provide our office with a copy of any further actions regarding this project. If you have any questions regarding these comments, please contact Ken Champion at (916) 274-0615.

Sincerely,

Handwritten signature of Kenneth Champion in cursive.

*for*Bruce De Terra, Office Chief
Office of Transportation Planning South

c: Scott Morgan, State Clearinghouse

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION (LAFCo)

PUBLIC SCOPING MEETING

SACRAMENTO COUNTY ADMINISTRATION BUILDING
BOARD OF SUPERVISORS CHAMBERS
700 H STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, NOVEMBER 14, 2007

5:30 P.M.

A P P E A R A N C E S

Stephen L. Jenkins, AICP
Michael Brandman Associates

Peter Brundage
Sacramento Local Agency Formation Commission

Public Participants

Michael Seaman
Member of the Public

Joel Archer, Chair
Arden Arcade Incorporation Committee

I N D E X

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P R O C E E D I N G S

-oOo-

MR. BRUNDAGE: I'd like to welcome the huge crowd here this evening. I thought there would be a few more people. But it's past 5:30 so I think we'll get underway.

What I intend to do real quickly is just to explain the project, describe it a little bit, and then turn it over to Steve to just briefly speak about the Notice of Preparation process and then take any public testimony that may be made this evening.

First off, the project is basically the proposed incorporation of the Arden Arcade community. The location is on the map behind me, the furthest on your right. It is basically bounded on Ethan Way and the City of Sacramento on the west, on the north by Auburn Boulevard, on the east by Mission Avenue and on the south by Fair Oaks Boulevard.

At this time the petition was initiated by registered voters and it does not propose to dissolve or reorganize any special districts such as fire, water or parks. Those special districts would continue to provide services after the incorporation. The new city would be required to provide law enforcement, animal control and engineering services to the new city.

The LAFCo Commission has directed me to evaluate the annexation to the City of Sacramento and also possible district reorganizations and consolidations of some of the special districts. And we will be doing that evaluation both in the EIR and in the comprehensive, physical analysis that is required for this incorporation.

Tonight is the scoping meeting on the environmental issues. Therefore your comments should be directed towards the potential environmental impacts related to the government reorganizations that I have described this evening as well as the potential creation of a new city.

Steve is here just to give brief comments on the Notice of Preparation and the process. We are really encouraging any written comments to be submitted to Peter Brundage, the Executive Officer of LAFCo at 1112 I Street, Suite 200, Sacramento, California, 95814. Comments should be mailed to us by the deadline and they are due on Monday, November 26 at five p.m.

So with any other comments I'll give it to Steve just to kind of briefly talk about the environmental

process.

MR. JENKINS: Thank you, Peter. My name is Steve Jenkins, I am a Director with Michael Brandman Associates, a consulting firm, environmental consulting firm here in Sacramento. We have been selected by LAFCo to prepare the Environmental Impact Report for the proposed incorporation of Arden Arcade.

As Peter indicated, the purpose of the meeting tonight is to conduct a public, early consultation and scoping meeting.

For the record I'll indicate that we did release a Notice of Preparation in accordance with Section 15082 of the CEQA guidelines on October 26. We submitted it to the clearinghouse; we mailed it to a mailing list. It is published on the LAFCo webpage and it was posted at the County Clerk's Office as required by law. As Peter indicated, it is being circulated for a public review period of 30 days which will end on Monday, November 26.

The purpose of the Notice of Preparation is to provide agencies that are responsible for approving or acting on the proposed incorporation and agencies that are responsible for protecting public trust resources such as animals, fish and game resources and that type of thing, to give them an opportunity to review and comment on the proposed incorporation.

In addition, in accordance with Section 15083 of the CEQA guidelines there is not required but an opportunity to conduct an early consultation or scoping meeting to provide other public agencies, members of the public and interested organizations to comment on the alternatives that are being proposed for review. To comment on any potential impacts, mitigation measures and that type of thing that they would like to have addressed in the Environmental Impact Report.

As I noted the Notice of Preparation does contain a list of proposed alternatives. It describes in detail the methodology that we will use in evaluating the various impacts in that. It also includes a list of the project objectives that are being sought by the incorporation proponents. The importance of those objectives is that any alternative for mitigation measures that are imposed must generally carry out those project objectives.

So with that, for the record, I'll conclude my presentation.

One final thing. The purpose of the meeting is not to receive any comments on whether the incorporation should be approved or not. The purpose is to receive public comments on the types of issues that should be addressed in the Environmental Impact Report. Thank you, Peter.

MR. BRUNDAGE: So with that if there's any comments please come up to the podium and state your name and your comment for us.

And again I would appreciate or encourage that in addition to your testimony this evening that you provide your comments in writing so that we can assure that we capture everything that you have said. We do have court reporters here and we can use that but we would also appreciate your written statements.

MR. JENKINS: And just one other comment. If you would please either write your name down or spell your name so that the court reporters can pick that up, appreciate it.

MR. SEAMAN: Hi, I'm Michael Seaman, S-E-A-M-A-N. I live on Merrywood Drive in Arden Arcade; I have since 1978. I am also a Director on the Board of the Fulton-El Camino Recreation and Park District. I am not here to give you comments from the Park District, I'll give you my comments.

Now your Commission, Peter, has made a major blunder in seeking to go to the full EIR for an area that is totally built out. Anybody with an eyeball can look at your map and the vacant parcels, which by the way, it has inaccuracies in it. But even if it was all true, you can clearly see that the area is built out. We all know it's built out. So the notion that somehow there is a direct or indirect potential for significant change to the physical environment is just plain baloney.

And most of the stuff that is in the Notice of Preparation is really a consultant trolling for money. Either that or it's a commission seeking to kill the request from the citizen committee that put forth the request for incorporation.

You have the OPR incorporation guidelines. I know that you've used them, you've read them because you cited it in your notice of preparation. These are the guidelines that are issued by the Governor's Office. And it says essentially you are going to make one of three decisions,

one of which does not apply clearly and that is the 15320 section of the CEQA guidelines pertaining to exemption. That has to do with consolidating districts. So either you are going to conclude that there is no significant environmental impact based on an initial study, which is what the guidelines say, or you are going to conclude there is potential for significant environmental impact based on an initial study.

Now your Commission has chosen not to do an initial study. The CEQA guidelines give you that authority but it has to do with when it's clear that a full EIR is needed. It is not clear. And I have given you testimony about that in the past, I don't have to repeat that testimony.

Citrus Heights was a totally different situation than Arden Arcade. The Citrus Heights incorporation involved some rather large tracts of open land. So a reasonable person could look at that and say, well, you know, there is a possibility that there will be an indirect potential for conversion of the physical environment. That is not the case in Arden Arcade. It just simply isn't. And your own data, the map that you presented to the public shows that very clearly.

What you should do is an initial study. And as I've said before, if you go through Sacramento County's initial study checklist, which is the one that everybody uses in this local area and has for decades, you will see there is not a significant potential for environmental impact on any of the questions asked on the initial study. So if you did an initial study you would conclude that you don't have to do a full EIR.

Now what is the issue about doing a full EIR? It costs money, unnecessarily costs money. As one of five people on the Board of Fulton-El Camino Rec and Park District I have a responsibility, a fiduciary responsibility to my constituents about our budget.

As you know, Peter, some of our budget goes to pay for LAFCo expenses. We are assessed, along with other special districts, for the operations of LAFCo. So we have a direct interest in knowing that our money is well spent. It is not being well spent in this regard.

Let me give you a good example of that. Look at page seven of your scoping study proposal. I'll read it to you. Under *Schools* it says:

"The Arden Arcade Gwinn Elementary School, at 100 North Street, is the only public school in Arden Arcade and is part of the Morgan Hill Unified School District. The northern part of Arden Arcade, north of Church Avenue, is part of the Morgan Hill Unified School District and the southern part of Arden Arcade, south of Church Avenue, is part of the Gilroy Unified School District. After incorporation, school district boundaries will not change."

Well that is completely wrong. We are not part of Santa Clara County. I think you know that. And if your staff had any intelligence between their ears they would have read the document before issuing it to the public.

So either we have a consultant who is just being lazy and using a word processor to shift paragraphs from one document to another in another part of the state, or, and I think this is worse, your staff is not doing its job in checking the work. I want to know, what are we paying for when we get this kind of gross error?

Now suppose you correct that, and I assume you will. You've shot yourself in the foot already. it's just like John Edwards' \$400 haircut, Rudy Giuliani's cross-dressing and Mitt Romney's animal abuse of his Irish Setter on the family vacation. These things stick, they don't go away.

What you have demonstrated to us tonight is that this is just a sleazy game to mess with the process. If you did the process properly you would do an initial study and you would make conclusions from that.

There is only one thing on the checklist that I can see LAFCo having a real oar to stick in the water and that is environmental justice. Your issue there is to ensure that the boundaries that are proposed do not artificially mess with low-income communities. Well there is no gerrymandering that is going on here. Furthermore Arden Arcade is not a well-off community. If anything it is full of underprivileged communities of interest.

And it is seeking to serve them the same way that it seeks to serve everyone else in Arden Arcade, by generally upgrading the service level that is delivered to the citizens. Something that is the primary driving reason

for the incorporation. Sac County has dropped the ball over the years and is not capable of being a municipal services agency in a way that the public wants. That's why the public has in so many numbers signed the petition of incorporation.

So what would I like you to do? I would like you as a result of the public input you are receiving tonight to change the whole way you are going about this. You can save dollars and you can save time and you can get it right instead of abusing the CEQA process. Thank you.

MR. BRUNDAGE: Thanks. Do we have any other commentors that would like to speak? Seeing none I will close the hearing -- the meeting, the workshop and we will provide a response in the EIR during the preparation of our document.

In addition once we issue the EIR there is a 45 day review period where again the public can comment, provide written comments, and we will address those comments in a response in the final Environmental Impact Report.

Thank you for attending this evening and I hope you have a good evening.

MR. ARCHER: Do you have any written comments as of this point?

MR. BRUNDAGE: So far I've received two letters, one from the Sacramento Regional County Sanitation District, the second was from an individual, Dr. Robert Heiligman, I believe is how you pronounce it. They were received this week and those are the only two so far.

We have distributed the NOP to quite a few agencies and have made it, as Steve mentioned, available on our website.

MR. ARCHER: Will those comments be available to the public?

MR. JENKINS: Can you come up and speak, for the record.

MR. ARCHER: Sure.

MR. JENKINS: And while you're doing that I'll just indicate, this is Steve Jenkins with Michael Brandman Associates. We obviously take responsibility for the typo in the issue of schools and we will correct that.

I would ask Mr. Seaman as part of his formal comments, if he chooses to make some, to point out the apparent inaccuracies in the vacant land map that he referred to.

MR. ARCHER: Joel Archer, A-R-C-H-E-R, Chair of the Arden Arcade Incorporation Committee. I was curious if comments that have been made currently or even in the future will be available to the public or to the Incorporation Committee?

MR. JENKINS: The comment letters themselves? Yes, those are all public documents. Upon the close of the 30 day period next Monday all of that can be made available to anyone.

MR. ARCHER: Good, thank you.

MR. BRUNDAGE: Again, thanks for attending and have a good evening.

(Thereupon, the Public Scoping Meeting was adjourned at 5:56 p.m.)

--oOo--

CERTIFICATE OF REPORTER

I, John Cota, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Department of Toxic Substances Control public hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said public hearing, nor in any way interested in the outcome of said matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of November, 2007.

JOHN COTA

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NOV 26 2007

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

November 24, 2007

Mr. Peter Brundage
Executive Officer
Sacramento LAFCO
1112 I St., #100
Sacramento, CA 95814

Dear Mr. Brundage:

Re: EIR for Proposed Incorporation of New City of Arden Arcade

This letter is in response to the scoping notice for the above EIR. The EIR should describe and analyze the following information, relevant to residents of Sacramento County whom would be affected by the proposed incorporation:

1. The proposed new city boundaries would carve out a significant portion of the long-established community of Carmichael. The EIR should analyze the prospective physical and socio-economic and fiscal impacts, and describe the rationale for, the incorporation of the new city on division of the community of Carmichael. The EIR should describe the physical characteristics, size of the areas, spheres of influence boundaries, special district boundaries, etc., of the remaining unincorporated area, relative to neighboring cities and surrounding the proposed new city.
2. The proposed boundaries would create a peninsula of unincorporated land south of Fair Oaks Boulevard. The EIR should explain the rationale for the proposed boundaries of the new city, including the impacts on service delivery and other issues. The EIR should describe how the proposed boundary, including creation of the referenced peninsula, is consistent with LAFCO statutes and policies for orderly growth and development.
3. The EIR should compare the demographic and socio-economic characteristics of the population of the proposed city with the remainder of the unincorporated area of Sacramento County, particularly the areas abutting the proposed City boundaries, including the number of registered voters in each of the areas. The EIR should identify the major sources of the new City's projected revenue sources, and should describe any agreements with local governments and major auto dealers within the proposed boundaries, and should assess the relative portion of the new city's revenues anticipated to be dependent on auto sales.
4. The EIR should analyze the existing and additional population and land use development potential of the new City, as compared to potential for population growth relative to the assumptions of the revenue formulas pursuant to Revenue and Taxation Code Sec. 1105 et. seq. (as amended by AB 1602 in 2006). The EIR should describe in detail the assumptions of the statutory formula and timing implications under which the new city would qualify for motor vehicle in lieu revenues. The EIR should describe in detail the impact on the County in the long term, and the limitations of revenue neutrality provisions on the County.
5. The EIR should analyze alternative boundaries for the proposed city, which would reduce the fiscal and service delivery impacts on Sacramento County, including an alternative of annexation by the City of Sacramento.

Mr. Peter Bundage
Arden Arcade EIR
Page two

6. The NOP indicates there would likely be no difference between the Proposed Project and No Project Alternative. The EIR should explain the rationale for this assumption, given that upon incorporation, new cities take on land use obligations as a single local government. For example, the EIR should assess the portion of the County's housing needs proposed to be addressed within the boundaries of the new City, and assess this relative to the obligations the new city would have as a separate local government from the County under the general plan housing element requirements of State law.

7. The EIR should disclose the cost of its preparation and the sources of revenue to cover these costs.

Thank you for the opportunity to respond to the scoping notice.

Sincerely,

Linda M. Wheaton
Carmichael resident

Cc: Supervisor Susan Peters

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NOV 26 2007

Comments of Michael Seaman
To the Sacramento County Local Agency Formation Commission

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

Re: Notice of Preparation Scoping Document for Incorporation of New City
of Arden Arcade

November 26, 2007

The following comments are submitted in response to your Commission's request for written comments on the Notice of Preparation Scoping Document for the New City of Arden Arcade. These written comments supplement my oral testimony given at the LAFCO public hearing on this subject on November 14, 2007.

OVERALL

In general, the Notice of Preparation (NOP) oversteps the boundaries of common sense. The California Environmental Quality Act (CEQA) is about decision makers' disclosure of impacts from a project and the mitigation of such impacts as may be disclosed. Given that the Arden Arcade area has been built out for decades, the project, formation of a new city for that built out area, is benign. In light of this, taking the CEQA process through a full EIR procedure adds unnecessary time and expense, while contributing nothing to the knowledge base.

The October 2003 OPR Incorporation Guidelines lay out three basic determinations a LAFCO can make with respect to the potential environmental effects of an incorporation. One of those three choices, a finding of exemption, clearly does not apply in the case of the Arden Arcade cityhood request. The other two choices, per the OPR guidelines (at page 48) are:

- "The incorporation does not have the potential to result in significant environmental impacts, based on an initial study."
- or
- "The incorporation has the potential to result in significant environmental impacts, based on an initial study."

The CEQA Guidelines, at Section 15060(d) empower a lead agency to skip the initial review of a proposed project and begin work directly on a full Environmental Impact Report (EIR) process *if the lead agency can*

determine that an EIR will be clearly required for the project. LAFCO has stated a full EIR process is necessary because of a past lawsuit concerning another incorporation. But that other incorporation was a different project with a different set of circumstances. If every lead agency that ever lost a law suit was to follow LAFCO's line of thinking, all projects subject to CEQA would immediately default to a full EIR process, regardless of the facts pertaining to any given project. The existence in state law and administrative guidelines of procedural options other than a full EIR are proof that CEQA is not intended to only lead to use of the full EIR process. Since no two projects are alike, the law clearly provides lead agencies with flexibility when circumstances vary as to time, place and project specifics.

For the fully built-out Arden Arcade area, LAFCO has nonetheless decided that it will pursue a full blown EIR with the associated extended timelines and costs that accompany the execution of an unnecessary level of analysis.

LAFCO could (and should) follow the OPR Incorporation Guidelines and perform an initial study, which would lead to the obvious determination of no significant impacts. Doing so in the sunshine of public review and comment would insulate LAFCO from lawsuits. But LAFCO has chosen instead to delve deeply into the question of environmental impacts when it is plain that there are none. This does a disservice to the public.

The NOP clearly states that Section 57376 of the State Government Code requires a new city to abide by existing County rules for a minimum period of time or until the new city adopts its own ordinances. The NOP also clearly states that Section 65360 of the Government Code stipulates that a new city has 30 months following incorporation to adopt its own General Plan and it further states its assumption that the City of Arden Arcade will do as other newly formed cities have done---adopt the currently-operative County General Plan for its interim decision making.

This means the NOP anticipates that the project (incorporation) will not change anything related to municipal ordinances or land use processes. After saying that, the NOP then launches into a relentless search for "maybes" associated with ordinances and land use, yet then concludes in its discussion of the No Project alternative that, "the potential environmental effects of the No Project Alternative and of the proposed Project may be the same." I agree with that latter statement. The impacts are the same with or without

the project. No change to the physical status quo is as solid a basis for a determination of no significant impacts as there could be.

The correct direction for LAFCO to take concerning the application of CEQA to the Arden Arcade cityhood request is to conduct an initial study, which would lead to the conclusion that there are no significant effects. A Negative Declaration could then be prepared and circulated for public review and comment.

SPECIFIC COMMENTS

Page 1

Project Description

This section is accurate in stating that the proposed project is the formation of a new city. The reader can easily see that annexation of the area by an existing city is not on the table. However, this paragraph fails to mention that a mayor would be elected, bringing the total of elected officials for the new city to seven. This section also clearly states that land use will not be affected by the project.

Level of Detail of Environmental Analysis to be Included

The reason for choosing a Draft Program EIR is not given, which is no surprise since there is no valid basis for selecting a Draft Program EIR in the absence of an Initial Study.

Purpose of Public Scoping Process

This section says LAFCO is the Lead Agency (OK, fine) then says a Program EIR will be prepared. After saying that, the document says the public gets to provide input about what should be covered in the analysis. This is like asking the public about the cows that have left the barn. It would have been more honest to have said to the public, "Help us figure out what needs to be analyzed" without the bias associated with defaulting beforehand to a full blown program EIR.

But since the NOP asked for input, here is mine: there are no significant impacts. Since there are no impacts, there is nothing to mitigate. The only

reasonable alternatives LAFCO could legitimately look into would be boundary adjustments to maintain a fair balance of delivered services.

Page 3

Description of Proposed Project

This section fails to include the mostly accurate description of the proposed project that the NOP provides on its first page, i.e.

"...a new City of Arden-Arcade would be a General Law City with a city manager form of government. The general governmental structure would include management, administration, and support operations that would be provided by the new City of Arden Arcade. A six member city council elected at large would govern the new city. The city manager, city clerk, city treasurer and city attorney would be appointed and removed by the city council."

The NOP should add to this language that there will also be an elected mayor of the new city.

This section states an assumption that the existing County land use laws will remain in effect until changed by the new city. This assumption is not followed in the balance of the NOP. Had it been followed, the NOP would be proposing that there are no significant effects.

Page 5

Description of Proposed Project (continued)

The section continues with an assumption that the new city will follow the existing General Plan during an interim period as other new cities in the region have done. This assumption is also not followed in the balance of the NOP. Had it been followed, the NOP would be proposing that there are no significant effects.

Proposed Boundary

The boundaries appear to be reasonable. The City of Sacramento constrains on the western edge and a small portion of the southern edge. Fair Oaks

Boulevard and Auburn Boulevard/Capital City Freeway are major arteries that definitely divide the area from mostly recreational space in the City of Sacramento to the North and urban areas to the south. The eastern boundary has been established by the County of Sacramento and is widely regarded as a valid boundary between Arden Arcade and Carmichael. Since the boundaries are reasonable, LAFCO does not need to revise them.

Government Reorganization

The NOP states that the proposed project will not change any of the service boundaries of the existing special districts and cities. That being the case, there is no valid basis to finding anything other than "no significant effects" that would follow from approval of the proposed project.

Municipal Services Plan

There are no significant impacts associated with the continuation of the services listed.

Page 7

Municipal Services Plan (continued)

There are no significant impacts associated with the continuation of the services listed.

There is a gross error in the paragraph about schools. It is obvious from the NOP language that the consultant lifted words from a different document having to do with a project in Santa Clara County. Worse, the LAFCO staff either did not review the flawed language or allowed it to pass through despite the obvious error. When I pointed this problem out at the November 14th hearing, the consultant stated that the wording would be corrected. Unfortunately for LAFCO and the public, the damage has been done. This is the kind of problem that cannot go away through the miracle of word processing. It is the kind of blunder that sticks. The consultant has demonstrated that it is just cranking out stock phrases for income purposes. Tellingly, LAFCO has shown its hand by establishing its inability to ensure accuracy. With this paragraph the NOP has clearly defined a lack of credibility for LAFCO's application of CEQA.

Page 8

Municipal Services Plan (continued)

There are no significant impacts associated with the continuation of the services listed.

Revenue Neutrality

This section is out of place in the CEQA process. It belongs in the Comprehensive Fiscal Analysis, but not in the environmental document.

Permits and Permitting Agencies---Sacramento LAFCO

It is misleading for the Lead Agency to recite its powers and duties in its environmental document. Cities and counties do not waste ink in their environmental documents citing chapter and verse of their police powers. LAFCO's application of CEQA in this instance is just one part of LAFCO's discretionary authority regarding the incorporation of Arden Arcade. But this Section reads as though the other components are subservient to the environmental document. In reality, CEQA is supposed to add value for LAFCO in its discretionary approval process by disclosing environmental impacts. And since there are no significant impacts, LAFCO can freely continue with the rest of its discretionary approval process for Arden Arcade's incorporation.

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Permits and Permitting Agencies---Responsible Agencies and Trustee Agencies

It is true that LAFCO is the only public agency with discretionary jurisdiction over the incorporation.

Scope of EIR

The NOP does not disclose what factors were considered in its preliminary review of the proposed project, nor how those factors lead to the decisions that there were potential significant impacts and that no initial study would be prepared. Was there some kind of surrogate process that took place prior

to the NOP? How did LAFCO make this decision? It surely was not in response to my prior public comments, given at LAFCO meetings, about the lack of need for anything other than an Initial Study leading to a Negative Declaration. By refusing to do an initial study, which would have disclosed no significant impacts, LAFCO has deliberately chosen to pursue an unnecessary and costly full EIR. LAFCO cannot find any significant impacts, as demonstrated by the NOP's statement that the No Project alternative and the proposed project have the same impacts.

When pressed about this, LAFCO staff has consistently referred to its experience with the Citrus Heights incorporation process. But that project occurred years ago in a different part of Sacramento County, with a different environmental setting. Lead Agencies are supposed to apply CEQA on a case-by-case basis, taking into account the specific circumstances that bear on each project. If LAFCO would do so with an open mind, as intended by CEQA, then it would perform an initial study, which would inevitably lead to a finding of no significant effects, thereby saving time and money for the applicants and the public.

Less Than Significant Impacts

I agree with these conclusions of this section. However, the section is incomplete in that the list of less than significant impacts is incomplete and too short.

Pages 11-13

Potentially Significant Impacts---Air Quality

It strains credibility to propose that air quality will change due to the substitution of a city council for a county Board of Supervisors, particularly when the land uses will not change as a result of the proposed project. Whether the proposed project is approved or not, the California Air Resources Board will continue to be responsible for the regulation of mobile sources and air toxics. The Sacramento Air Quality Management District will continue to be responsible for maintaining an Air Quality Plan that applies to the Arden Arcade area and for controlling stationary sources of air pollution.

The inclusion of this parameter as a potential significant impact appears to indicate a consultant trolling for dollars, as evidenced by the obviously *de minimus* amount of vacant parcels shown in Exhibit 3. While on the subject of Exhibit 3, the Exhibit should include a matrix listing the specific vacant lots' parcel numbers and street addresses, the applicable zoning, and the existence of any development proposals for those lots already in the Sacramento County land use approval queue. A good many of the lots on the map are already undergoing construction, or are already proceeding through the Sacramento County land development process, or have been approved for development by Sacramento County, or are in residential areas with development entitlement exempt from CEQA, or are within the Auburn Blvd. Redevelopment Area. At least one lot (a mirror-image "P" shape at Watt and El Camino), appears to be the current location of a US Post Office building. The "vacant lot" at the NE corner of Fulton Avenue (inaccurately labeled as Monroe Street) and Cottage Way is a used car sales business. There are homes under construction on the lot just north of Sierra Blvd. on the west side of Fulton Avenue. The largest indication of vacant land on the map is the "J" shaped site on Loma Vista Way. That site has a development plan pending with the County for houses and a small office building. The fifth lot SW of Fulton on Auburn Blvd. is a recently built car dealership (Nieillo). Even if none of those inaccurate or misleading "vacant lots" was corrected on the map, the only reasonable conclusion is that the map shows an environmental setting that is totally built out.

None of the significance criteria can be validly applied to the proposed project. If anything, air quality will likely improve as a result of the proposed project because the city council will be better able to respond to citizen concerns about the issue than the current form of governance can. For example, suppose citizens of the area request the County to purchase electric vehicles for public works use in the area, the better to improve air quality. Even if the County Supervisor who represents the Arden Arcade area agreed with the citizens, the votes of two other Supervisors, whose loyalties are to citizens who reside elsewhere, are required. The standard County reply in that sort of situation is that money is needed for something else, somewhere else.

The inclusion of GHG emissions as a parameter is also invalid. First, as the NOP points out, AB32 rules have not been adopted. In fact, per SB97 of 2007, the Office of Planning and Research has until July 1, 2009 to issue GHG CEQA guidelines and the Resources Agency has until January 1, 2010

to certify and adopt the guidelines. But more importantly, cities are known for sustainability initiatives, not counties. At the recently concluded US Green Building Council's Greenbuild 2007 conference, speakers repeatedly pointed out the importance of the ambitious goals the US Conference of Mayors (not the National Association of Counties) has set to address climate change and sustainability. Cities are actively working towards those goals. The Mayors' Panel at Greenbuild stated that cities are uniquely suited to take the local initiative to achieve greenhouse gas reduction. Significantly, the Clinton Climate Initiative, Architecture 2030 and the American Institute of Architects are all working with cities, not counties, to implement sustainability programs and practices.

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Biological Resources

This section says the NOP assumes land uses will not change as a result of incorporation and adds, "...it is unlikely that the proposed incorporation would create adverse impacts on identified biological resources." Then it refers back to the flawed logic that somehow the fully developed area is characterized by a large amount of vacant land (it is not) and therefore, despite the requirement in state law for a later General Plan to comply with CEQA, prematurely attempts to implement CEQA for the years-in-the-future adoption of a General Plan by the City of Arden Arcade. This is just grasping at straws.

Hazards and Hazardous Materials

The same conclusion applies to this section, i.e. grasping at straws. There are no hazards and hazardous materials issues related to the proposed incorporation. For example, McClellan Field was an airport well before Arden Arcade's urbanization was implemented by Sacramento County. Incorporation will not make it go away. Neither are there wildlands, subject to wildland fires, anywhere in the project area. And who in their right mind would assume that the establishment of a city council for Arden Arcade would somehow impede an adopted emergency response plan or emergency evacuation plan?

Hydrology and Water Quality

Here is another section that struggles to find possible impacts where there are none. Maybe the consultant has expertise in hydrology, but please spare us the unnecessary detailed analyses of surface and groundwater flows. Those are not issues that will change whether the City of Arden Arcade is formed or not. Inundation by tsunami 100 miles from the ocean? Mudflows in an area devoid of slopes? Dam failure? If Folsom Dam fails it will be due to an act of God or the errors of the federal government, not the actions of the new City of Arden Arcade. False considerations such as these have no place in the environmental analysis for this proposed project. That such considerations made the list of potential significant impacts is yet another demonstration of the insincerity of LAFCO's preferred course for environmental analysis.

Pages 16-17

Land Use and Planning

As noted above and as pointed out in this section, land use issues will not change as a result of the proposed incorporation. Eventually, the City of Arden Arcade will adopt its own General Plan, but will have to apply CEQA in so doing. It is premature to know how that eventual City of Arden Arcade General Plan will turn out, as LAFCO apparently learned from the Citrus Heights incorporation experience. As cited by the NOP, the Citrus Heights final EIR concluded that, "It was determined upfront that any type of a 'redevelopment scenario' (reuse of developed lands) for the project territory would be far too speculative, or useful for evaluation of environmental impacts resulting from project approval."

Despite having "learned" that lesson, LAFCO now seeks to apply a wildly doubtful set of assumptions about land use development intensity being either reduced or increased by 20%! Where did that thinking come from? Is there some kind of nefarious scheme afoot to burn down 2 out of 10 existing residences? Or to shutter 2 of 10 existing businesses? Of course not. How in the world could development increase 20% in the next 30 months after incorporation given that the economy is currently in a downward cycle? Such a rapid turnaround of economic fortune is completely improbable. The chosen scenarios are entirely misleading and, to borrow a phrase from the

Citrus Heights incorporation EIR, "...far too speculative, or useful for evaluation of environmental impacts resulting from project approval."

Also, as previously noted, it is particularly inappropriate to treat Arden Arcade's incorporation as though the circumstances are the same as existed in the case of Citrus Heights' incorporation. At the time of the Citrus Heights proposal, there were, arguably, some very large tracts of open, developable land. Even though the County had not stood in the way of development of those tracts, the argument was made that incorporation would open the floodgates of land development. This argument, however tenuous for Citrus Heights 13 years ago, certainly does not apply in the current case of the fully developed Arden Arcade area.

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Population and Housing

Here is yet another section that grasps at straws. It is obvious from the incorporation map (Exhibit 2) that there is no gerrymandering going on in the proposed project. Areas in the adjacent City of Sacramento are off limits for this subject. Demographics of population in the unincorporated areas outside the proposed city boundary to the South and East do not indicate any kind of environmental injustices are in play there. No new roads or other population-inducing infrastructure are in the works because the new city is fully built out. The area already includes a disproportionate share of low and moderate income housing units in comparison to the rest of the region. Incorporation of Arden Arcade will not change population levels or the housing stock.

Noise

This section states, "It is unlikely that incorporation will create any adverse impacts on identified noise." I agree. The section then wanders off into highly speculative territory by asserting that the area could become much noisier if the unsupported assumptions about land development come to pass. The argument is misleading and without merit.

Public Services and Recreation

The proposed project does not propose to change the delivery of services from the array of special districts in the area. No change to those services equals no significant impacts due to the proposed project. Detailing and evaluating those services via the Arden Arcade incorporation CEQA process is a waste of time and money. LAFCO can, and should, evaluate those services, but not in this context. Instead, LAFCO is required to evaluate such services in its Municipal Services Review (MSR) authority. Interestingly, all of the special districts reviewed thus far under that authority have been found to:

...provide efficient, comprehensive services to the residents and visitors of the area and do so in a highly professional and cost-effective manner. (paraphrased from MSR findings for special districts that serve Arden Arcade and reviewed to date by Sacramento LAFCO, per LAFCO's web site for MSRs)

The proposed project does apply to the municipal services now provided by the County. A driving force behind the Arden Arcade incorporation effort is the improvement of those services over the inadequate level of service now offered by the County.

Fortunately, this section states it will not require a significant comparative analysis of the environmental impacts that may result from alternative means of providing services to Arden Arcade. That is a wise choice.

Unfortunately, that wisdom is trumped by the unnecessary determination that a qualitative analysis of service delivery under an annexation scenario is appropriate. Such a scenario is not part of the scope of the proposed project. Substituting a speculative, completely different development scenario (other than the "No Project Alternative") is not an appropriate role for an environmental document. If the proposed project was about building an apartment complex, it would be like the environmental process wondering what the impacts would be if the project was an office park instead, even though such a proposal was not on the table.

Finally, this section once again inappropriately suggests that development of a mere handful of small vacant lots will somehow upset the apple cart of existing service delivery.

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Transportation

This section correctly states that it is unlikely that the proposed incorporation would create any adverse traffic impacts. Despite this, the section hastens to add that the handful of vacant lots will require detailed analysis of trip generation rates. What a waste of time and money! Again, Arden Arcade is a fully built out area. Land development will not change as a result of the act of incorporation. Yes, a future General Plan has to be done, but it will require its own CEQA determination.

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Utilities and Service Systems

My comments above concerning Public Services and Recreation apply to this section as well. Please see also my comments above concerning how cities are addressing energy use and sustainability. It is confusing to have infrastructure matters discussed in so many different sections. From the NOP, one can envision a draft Program EIR that is full of duplicative analysis and conclusions, since the incorporation will not change the infrastructure of this built out area, will not alter the regional service delivery mechanisms (e.g. landfills, wastewater treatment, energy utilities, etc.), and will not influence land use patterns. This is another section of the NOP that is grasping at straws.

Pages 22-23

Growth Inducing Effects

The section properly defers consideration of growth-inducement to the arena of the new City's eventual General Plan. The section correctly states that it is not anticipated or assumed that the act of incorporation itself will have growth inducing effects.

Cumulative Projects

The section correctly states that it is unlikely that the proposed incorporation would create any adverse cumulative impacts as no new development of land use changes will result that were not already approved in the county General Plan and analyzed in county certified CEQA documents.

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Alternatives to be Addressed in the EIR---No Project Alternative.

The section states that the potential impacts of the No Project alternative and the proposed project may be the same. Indeed, they are the same. The area is build out and the only changes stemming from the proposed project involve a different form of governance intended to improve the area and stem the malaise of indifference demonstrated by the County over the years.

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Alternative Boundaries

LAFCO is supposed to look at boundaries. This section indicates that minor modifications to the proposed boundaries might be in order. How that translates to the need for an expensive, time-consuming EIR is a mystery. As noted above, the proposed boundaries appear reasonable.

Alternative Method of Providing Public Services by Existing Service Providers

This section raises an inappropriate issue. Alteration of services from existing service providers is not part of the project description, except for the municipal services currently provided by the County (e.g. filling potholes, rounding up stray dogs, etc.). For those services, the City of Arden Arcade intends improved service delivery. Any other consideration of alternative services should be done by LAFCO as part of its MSR authority, which is outside the scope of the incorporation's CEQA analysis.

CONCLUSION

In summary, the NOP points in the direction of an effort to try and make something out of nothing. It is inappropriate to proceed with an analysis that desperately tries to find impacts when there are none. LAFCO should instead do an honest, open Initial Study. When it does, it will conclude that there are no significant impacts and set about to prepare a Negative Declaration. This will save time and money and enable LAFCO to spend its energy on the more legitimate inquiry about the financial aspects of the incorporation and the precise boundaries.