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Superior Court of California  
County of Los Angeles

AUG 30 2018

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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF LOS ANGELES

BS174805  
BY FAX

15 SAVE OUR GLENDALE, an unincorporated )  
16 nonprofit association, )

17 Plaintiff and Petitioner, )

18 v. )

19 CITY OF GLENDALE, a municipal corporation; )  
20 GLENDALE CITY COUNCIL, governing body )  
21 of the City of Glendale; COMMUNITY )  
22 DEVELOPMENT DEPARTMENT, a local )  
23 agency; and DOES 1-20; )

24 Defendants and Respondents. )

25 ROES 1 - 20; )

26 Real Parties In Interest. )  
27 )  
28 )

CASE NO.:

VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF

California Environmental Quality Act (Cal. Pub  
Res. Code § 21000 *et seq*; Glendale Municipal  
Code §§ 30.63.070 – 080; State Planning and  
Zoning Law, Cal. Govt. Code § 65000 *et seq*.

Dept:

1 Petitioner and Plaintiff Save Our Glendale (“Petitioner”) alleges as follows:

2 **INTRODUCTION**

3 1. This action challenges the decisions by Respondents City of Glendale (“City”), Glendale  
4 City Council (“City Council”), and Glendale Community Development Department (“Development  
5 Department” or collectively with City and City Council as “Respondents”) in connection with approvals  
6 for a project known as the South Glendale Community Plan (“SGCP” or “Project”).

7 2. The SGCP consists of substantial and significant amendments to the policies of the  
8 existing South Glendale Community Plan, including zone changes and height district changes, as well as  
9 amendments to the City’s General Plan.

10 3. The SGCP covers an area totaling 2,952 acres with a population of over 100,000 people,  
11 including all of the neighborhoods within Glendale south of SR-134, including Downtown Glendale,  
12 Adams Hill, and Tropic. SGCP area is generally bounded by Chevy Chase Drive and Acacia Avenue  
13 to the north, Verdugo Road and city of Los Angeles to the east, the Adams Hill Neighborhood (bordered  
14 by Glendale Avenue to the west), and the city of Los Angeles to the south.

15 4. Petitioner challenges Respondents’ actions on July 31, 2018 in certifying the  
16 Environmental Impact Report (“EIR”) for SGCP, as well as adopting the Statement of Overriding  
17 Considerations, approving the Resolution Adopting the Tropic Center Plan (part of SGCP’s Alternative  
18 2) as amended, adopting the Motion Initiating Preparation of TOD Zone for the Tropic TOD Center,  
19 adopting a Motion Directing Staff to Modify the Land Use Element Text and Map Amendments to  
20 Match South Glendale Community Plan Modifications, adopting the Resolution to Amend Land Use  
21 Element Map Related to the Six C3 III Parcels – PGPA 1900448, and Introduction of Ordinance to  
22 Amend Zoning Map Related to the Six C3 III Parcels – PZC 1800449. All of these actions will allow  
23 Respondents to initiate zone changes and density increases in the Tropic Center (part of SGCP’s  
24 Alternative 2) and in the entire South Glendale area. Moreover, as stated in Respondents’ Resolution  
25 dated July 31, 2018: “The proposed new zones could be applied elsewhere in Glendale through future  
26 legislative actions, but are only proposed to be applied to South Glendale at the present time through the  
27 adoption of the proposed project.”

28 5. Petitioner alleges that Respondents’ actions violate provisions of the California

1 Environmental Quality Act, California Public Resources Code § 21000, *et seq* (“CEQA”), Glendale  
2 Municipal Code §§ 30.63.070 – 080, State Planning and Zoning Law, Cal. Govt. Code § 65000 *et seq.*  
3 Petitioner seeks a writ of mandate, *inter alia*, invalidating and setting aside Respondents’ above-  
4 described approvals and EIR certification.

5 **PARTIES**

6 6. Petitioner SAVE OUR GLENDALE is a California unincorporated nonprofit association  
7 (“SOG”). Its members include residents and residential property owners in the City of Glendale who  
8 advocate for residential quality of life, health and safety in Glendale and who would be negatively  
9 affected by the Project. SOG members have submitted written and oral comments to Respondents  
10 opposing the Project.

11 7. Defendant and Respondent City is a California charter city located in the County of Los  
12 Angeles, California. The Project is within the jurisdictional limits of the City.

13 8. Defendant and Respondent City Council is the elected governing body of the City and is  
14 the body responsible for the decisions being challenged herein, as well as for promulgating municipal  
15 ordinances, resolutions, and policies. The City Council is the lead agency responsible under CEQA for  
16 evaluating the environmental impacts of the SGCP.

17 9. Defendant and Respondent Development Department is an agency of the City responsible  
18 for developing, applying and enforcing state and local land-use and zoning laws within the jurisdictional  
19 limits of the City and acted as the lead agency for the Project.

20 10. Petitioner is ignorant of the true names and capacities of respondents sued herein as  
21 DOES 1 through 20, inclusive, and real parties in interest sued herein as ROES 1 through 20, inclusive,  
22 and therefore sues said respondents and real parties in interest by those fictitious names. Petitioner will  
23 amend this Petition to allege their true names and capacities when the same have been ascertained.  
24 Petitioner is informed and believes, and based thereon alleges, that each of these fictitiously named  
25 respondents is in some manner responsible for the wrongful conduct alleged in this petition. Petitioner  
26 is informed and believes, and based thereon alleges, that these fictitiously named respondents were, at  
27 all times mentioned in this petition, the agents, servants, and employees of their co-respondents and  
28 were acting within their authority as such with the consent and permission of their co-respondents.

1 **JURISDICTION AND VENUE**

2 11. Pursuant to California Code of Civil Procedure (CCP) §§ 1094.5 and 1085 and Public  
3 Resources Code (PRC) §§ 21168, 21168.5 and 21168.9, this Court has jurisdiction to issue a writ of  
4 mandate to set aside Respondents' decision to certify the Project's environmental impact report and  
5 purported approval of the Project.

6 12. Venue is proper in this Court because the Project lies entirely within the County of Los  
7 Angeles and the environmental impacts of the Project will be acutely felt in this County. The cause  
8 alleged in this Petition, or some part of that cause, arise in this county. (CCP § 393; *Cal. State Parks*  
9 *Foundation v. Super. Ct.* (2007) 150 Cal.App.4th 826.) Venue is also proper in this Court pursuant to  
10 CCP Sections §§ 394 (actions against a city, county or local agency) and 395 (actions generally), since  
11 the City of Glendale is in the County of Los Angeles.

12 13. This petition is timely filed within 30 days after Respondent's decision to issue a Notice  
13 of Determination in accordance with PRC § 21167(a).

14 14. Petitioner provided written notice to Respondents of its intention to file the petition in  
15 compliance with PRC § 21167.5. The notice and proof of service are attached hereto as Exhibit A.

16 15. Petitioner has caused a copy of this pleading to be served on the Attorney General not  
17 more than ten days after the commencement of this proceeding, as required by PRC § 21167.7 and CCP  
18 § 388. A true and correct copy of the notice is attached to this pleading as Exhibit B.

19 16. Petitioner has filed a request for hearing in compliance with PRC § 21167.4, a true and  
20 correct copy of which request is attached hereto as Exhibit C.

21 17. Petitioner has elected to prepare the record of proceedings in this matter pursuant to PRC  
22 § 21167.6(b)(2) and has filed notice of its intent to prepare said record of proceedings. A true and  
23 correct copy of the notice is attached to this pleading as Exhibit D.

24 18. Petitioner has performed any and all conditions precedent to filing this instant action and  
25 has exhausted administrative remedies to the extent required by law under PRC § 21177. Petitioner  
26 and/or other agencies and individuals raised each of the legal deficiencies asserted in this petition orally  
27 or in writing during the Respondents' decision-making process.



1 reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comrs.* (2001)  
2 91 Cal.App.4th 1344, 1354.

3 24. Second, CEQA requires public agencies to avoid or reduce environmental damage when  
4 “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. 14  
5 CCR § 15002(a)(2) and (3); *Citizens of Goleta Valley, supra*, 52 Cal.3d at 564. The EIR serves to  
6 provide agencies and the public with information about the environmental impacts of a proposed project  
7 and to “identify ways that environmental damage can be avoided or significantly reduced.” 14 CCR §  
8 15002(a)(2).

9 25. The required CEQA environmental review involves both substantive and procedural  
10 steps. Public participation plays an important and protected role in the CEQA process. *Laurel Heights*  
11 *Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 392 (“The  
12 EIR process protects not only the environment but also informed self government.”); *Concerned*  
13 *Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1986) 42 Cal.3d 929, 936  
14 (members of the public have a “privileged position” in the CEQA process). “Each public agency should  
15 include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent  
16 with its existing activities and procedures, in order to receive and evaluate public reactions to  
17 environmental issues related to the agency’s activities.” 14 CCR § 15201. The lead agency must  
18 consider all “comments it receives on a draft environmental impact report, proposed negative  
19 declaration, or proposed mitigated declaration.” PRC § 21091(d)(1); 14 CCR § 15074(b).

20 26. Furthermore, “where comments from responsible experts or sister agencies disclose new  
21 or conflicting data or opinions that cause concern that the agency may not have fully evaluated the  
22 project and its alternatives, these comments may not simply be ignored. There must be good faith,  
23 reasoned analysis in response.’ ” *People v. County of Kern* (1974) 39 Cal.App.3d 830, 841-842, 115  
24 Cal.Rptr. 67; accord, *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42  
25 Cal.3d 929, 935, 231 Cal.Rptr. 748, 727 P.2d 1029. Rather than sweep disagreements under the rug, the  
26 City must fairly present them in its EIR. It is then free to explain why it declined to accept commission  
27 staff suggestions.” *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940–  
28 941. “The full consideration of environmental effects CEQA mandates must not be reduced “ ‘to a

1 process whose result will be largely to generate paper, to produce an EIR that describes a journey whose  
2 destination is already predetermined.’ *Natural Resources Defense Council, Inc. v. City of Los Angeles*  
3 (2002) 103 Cal.App.4th 268, 271, 126 Cal.Rptr.2d 615).” *Save Tara v. City of West Hollywood* (2008)  
4 45 Cal.4th 116, 135–136.

5 27. Procedurally, a lead agency may not approve a project until the public has been given a  
6 full and adequate opportunity to participate and comment on the project.

7 28. “When assessing the legal sufficiency of an environmental impact report, the reviewing  
8 court focuses on adequacy, completeness and good faith effort at full disclosure.” *San Joaquin Raptor*  
9 *Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 653.

10 29. CEQA also disallows approval of a project that fails to comply with other laws. A lead  
11 agency may not approve a project with significant unavoidable impacts unless it is “otherwise  
12 permissible under applicable laws and regulations.” PRC § 21002.1(c).

13 30. An action alleging that a public agency is “carrying out or has approved a project that  
14 may have a significant effect on the environment” without having followed CEQA procedures with a  
15 legitimate approval of the project must be commenced within “180 days from the date of the public  
16 agency’s decision to carry out or approve the project, or, if a project is undertaken without a formal  
17 decision by the public agency, within 180 days from the date of commencement of the project.” PRC §  
18 21167(a).

### 19 **State Planning and Zoning Law**

20 31. The State Planning and Zoning Law, Cal. Government Code §§ 65000 *et seq* (“State  
21 Planning and Zoning Law”) governs the land use planning process for city, county and local government  
22 agencies within the State of California.

23 32. The State Planning and Zoning Law mandates that cities and counties prepare a general  
24 plan to govern the long term, physical development of the land under city and county jurisdiction. Cal.  
25 Govt. Code § 65300.

26 33. The General Plan is required to be internally consistent to be able to lay out the plan and  
27 vision for the long-term physical development of the land. Cal. Govt. Code § 65300.5. “[T]he general  
28 plan is required to be consistent within itself.” *Sierra Club v. Kern County Board of Supervisors* (1981)

1 126 Cal.App.3d 698, 703.

2 **Glendale Municipal Code**

3 34. Glendale Municipal Code § 30.63.070 requires that the amendments to the City’s General  
4 Plan first receive a written recommendation from the City’s Planning Commission before being  
5 approved by the City Council. Further, under Glendale Municipal Code, the Planning Commission shall  
6 hold a public hearing and consider all evidence presented for and against the proposal for General Plan  
7 amendment and shall consider all arguments pertinent thereto. The planning commission shall make a  
8 written recommendation on the adoption or amendment of a General Plan.

9 35. Glendale Municipal Code § 30.63.080 provides that if the City Council makes any  
10 substantial modifications to the General Plan amendments that were not previously considered by the  
11 City’s Planning Commission, that the substantial modifications will be remanded back to the City’s  
12 Planning Commission for its recommendation.

13 **Due Process and Good Faith at Disclosure**

14 36. Petitioner’s and other interested persons’ constitutional due process and fair hearing  
15 rights are violated when the lead agency fails to disclose pertinent information in good faith. An agency  
16 preparing an EIR should make a good faith effort to find out and disclose all that it reasonably can. 14  
17 Cal. Code Regs 15144, 15151; *Vineyard Area Citizens for Responsible Growth v. City of Rancho*  
18 *Cordova* (2007) 40 CA4th412, 428; *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm’rs*  
19 *(2001) 91 CA4th 1344; Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 CA3d421, 431.  
20 An agency is not acting in good faith when “it gives conflicting signals to decision makers and the  
21 public about the nature and scope of the activity being proposed.” *San Joaquin Raptor Rescue Center v.*  
22 *County of Merced* (2007) 149 Cal.App.4th 645, 655–656.

23 37. California Constitution guarantees the public’s right of access: “The people have the right  
24 of access to information concerning the conduct of the people’s business, and, therefore, the meetings of  
25 public bodies and the writings of public officials and agencies shall be open to public scrutiny.” Cal.  
26 Const., Art. I, Sect. 3(b)(1). Therefore, a public agency violates due process and fails to act in good  
27 faith when it arbitrarily and capriciously withholds information from the public forcing the public to  
28 pursue Public Records Act requests and to further request to augment the administrative record.



1 **PRIVATE ATTORNEY GENERAL**

2 38. This proceeding involves enforcement of important rights affecting the public interest.  
3 Issuance of the relief requested in this Petition will confer a substantial benefit on the public, including  
4 citizens, residents, businesses and taxpayers of the City, and will result in the enforcement of important  
5 public rights by requiring Respondents to comply with CEQA and other legal requirements applicable to  
6 the proposed Project; by voiding the Project approvals and the EIR certification, and prohibiting  
7 Respondents from taking further actions with respect to the Project (or its EIR) until it has complied  
8 with those legal requirements; and by prohibiting Respondents from using the EIR or undertaking any  
9 portion of the Project until they have fully complied with these legal requirements

10 39. Petitioner is entitled to recover attorneys' fees as provided in CCP § 1021.5 if it prevails  
11 in this action. The necessity and financial burden of enforcement of these public rights entitle Petitioner  
12 to an award of reasonable attorneys' fees pursuant to that section.

13 **STATEMENT OF FACTS**

14 40. The City determined that an EIR was required without the preparation of an Initial Study  
15 and prepared a Notice of Preparation on September 7, 2016. The State Clearinghouse assigned this  
16 Project State Clearinghouse (SCH) No. 2016091026. The Notice of Preparation circulated for public  
17 review and comment for a 30-day period beginning on September 7, 2016.

18 41. Unlike the development of the North Glendale Community Plan and its EIR, where  
19 members of the public and interested groups were included in the process, members of the public were  
20 specifically excluded from the team working on the SGCP and its EIR despite public's requests.

21 42. Petitioner is informed and believes, and based thereon alleges, that Respondents failed to  
22 consult all responsible agencies as required under CEQA.

23 43. The Draft Environmental Impact Report ("Draft EIR") was circulated for a 60-day public  
24 comment period between January 11, 2018 to March 12, 2018.

25 44. The SGCP presented various alternatives, all of which – except for the "No Project"  
26 alternative – exceeded the population growth projected by the Southern California Government  
27 Association of Governments (SCAG) by about 3-4 times. Further, the SGCP's EIR provided that the  
28 actual population growth may exceed the projections in the EIR upon full buildout of the Project.

1           45.     The Draft EIR identified seven adverse environmental impacts for which no feasible  
2 mitigation measures were found. Those included: aesthetics/shading, air quality and air pollution,  
3 greenhouse gas emissions, population and housing, open space and recreation, public services,  
4 transportation and traffic.

5           46.     On March 7, 2018 the Development Department presented the SGCP to the City of  
6 Glendale Planning Commission, to take testimony concerning the Draft EIR and the SGCP, including  
7 amendments to the General Plan. The City’s Planning Commission and the public recommended  
8 numerous revisions in the Draft EIR and noted critical omissions (e.g., open space, provisions for  
9 schools and public services).

10          47.     On March 13, 2018 the City Council proposed a Moratorium to halt residential  
11 developments in the Downtown Specific Plan (“DSP”) area, in view of the recent developments  
12 exceeding the number of dwelling units studied in the DSP’s EIR. In view of the health and safety  
13 concerns associated with the exceeding density in the DSP, on March 27, 2018 the City Council voted  
14 to approve the Moratorium and to initiate studies of and revisions to the DSP development policies to  
15 address the mentioned concerns. On May 8, 2018 the Moratorium, which was initially adopted for 45  
16 days, was extended for another 10 months and 15 days.

17          48.     The DSP area is covered by the SGCP.

18          49.     Presently, the City staff is tasked with studying and examining the potential physical,  
19 social and environmental impacts of developments in the DSP, and recommending new or amended  
20 policies, zoning or development standards, incentives, affordable housing requirements or impact fees  
21 with respect to the DSP for consideration by City Council. The City staff will also specifically analyze  
22 and address floor area ratios versus densities, guidelines for ground floor treatment, open space criteria,  
23 landscaping standards, and the open space incentive.

24          50.     On June 25, 2018 the Development Department presented the SGCP and its Final  
25 Environmental Impact Report (Final EIR) at a special meeting of the Planning Commission, along with  
26 the General Plan amendments, for review and comment. The Development Department did not provide  
27 any reasons for the proposed amendments to the General Plan other than the reason to make the SGCP  
28 consistent with the City’s General Plan; however, at least in part, the amendments were unrelated to the

1 SGCP. The Planning Commission raised numerous concerns about the SGCP and recommended  
2 amendments to the SGCP. The Planning Commission asked the Development Department to schedule  
3 additional meetings to discuss the recommended changes before voting on the SGCP and its EIR.  
4 However, the Development Department insisted on Planning Commission's vote in view of the time  
5 constraints (expiring \$500,000 Metro grant ) and inability to hold an additional meeting before the City  
6 Council's scheduled vote on the Project. Being assured that its recommended changes to the Project  
7 will be incorporated into the SGCP, the Planning Commission agreed to vote only on the Tropic Center  
8 Plan –part of the Alternative 2 of the SGCP. Making sure that its vote would apply to the Tropic  
9 Center Plan only, the Planning Commission unanimously voted on all the motions, including the  
10 proposed amendments to the General Plan. The Planning Commission's vote on June 25, 2018  
11 proceeded without the full reading of the motions' text. After the vote, the Planning Commission  
12 requested the Development Department to prepare the text of the motions it voted on to verify that its  
13 recommended changes were included in the final text of the approved motions. After reviewing the text  
14 of the prepared motions, the Planning Commission members noted that their recommended changes to  
15 the SGCP were not reflected in the text of the approved motions and once again asked the Development  
16 Department to confirm that that their vote applied only to the Tropic Center Plan. The Development  
17 Department reassured that the Planning Commission's vote applied to the Tropic Center Plan only.

18 51. Neither the Draft EIR nor the Final EIR has provided a separate project description and  
19 impacts of the Tropic Center Plan in the SGCP (e.g., the number of units to be added or the number of  
20 population growth expected). Tropic Center Plan has always been part of the Alternative 2 of the  
21 SGCP, together with the other part of the Downtown Development presently under study and subject to  
22 the Moratorium. The total growth of units for the Alternative 2 – for both the Tropic Center Plan and  
23 Downtown Development – was estimated in the EIR and under the SGCP to be 5,400-7,400.

24 52. On July 3 and July 17, 2018, Petitioner sought public records under California Public  
25 Records Act on the SGCP; Petitioner's both requests were arbitrarily denied by Respondents.

26 53. On July 31, 2018 the City Council conducted a hearing on the SGCP. The Development  
27 Department presented the SGCP as the Tropic Center Plan, but without any increase of density, zone  
28 changes, and General Plan amendments. Being assured by the Development Department that the Project

1 as approved would not include any density increases or zone changes, the City Council voted and  
2 approved all the motions: certified the EIR, adopted the Statement of Overriding Considerations,  
3 approved the Tropico Center Plan for the SGCP (with recommendation to study the Plan further for  
4 future approvals), approved the recommendations for General Plan amendment, and all the respective  
5 motions. The City Council’s vote proceeded without the reading of the text of the motions or  
6 resolutions prior to the vote.

7 54. On all hearings of March 7, May 25, and July 31, 2018 the Development Department  
8 verbally assured that the Project will be implemented only after the transit is in place. No such written  
9 assurances are found in the SGCP or its EIR.

10 55. On August 7, 2018 the City filed the Notice of Determination (“NOD”) regarding the  
11 Respondents’ mentioned approvals. The NOD included both the approval of the SGCP (Tropico Center  
12 Plan), initiation of zone changes, and amendments to the General Plan.

13 **FIRST CAUSE OF ACTION**

14 **(Violations of CEQA and CEQA Guidelines; EIR Does Not Comply With CEQA)**

15 56. Petitioner hereby realleges and incorporates by reference all of the above paragraphs as if  
16 fully set forth herein.

17 57. CEQA requires the lead agency for a project to prepare an EIR that complies with the  
18 requirements of the statute. The lead agency also must provide for public review and comment on the  
19 project and associated environmental documentation. An EIR must provide an adequate project  
20 description and sufficient environmental analysis such that decision-makers can intelligently consider  
21 environmental consequences when acting on the proposed projects.

22 58. Respondents’ action in certifying the EIR of the SGCP is a prejudicial abuse of discretion  
23 in that Respondents failed to proceed in the manner required by law and failed to support their decision  
24 by substantial evidence. Among other things, the City:

- 25 a. Adopted improper Project objectives. The EIR does not adequately analyze an  
26 adequate range of project objectives. Failed to set the proper objectives for the  
27 EIR of a community plan; i.e., to accommodate the reasonably projected natural  
28

1 growth of the population and to ensure there is adequate infrastructure to support  
2 such growth;

3 b. Failed to provide an adequate project description. The EIR project description is  
4 inadequate as it omits a number of critical details and fails to provide a stable and  
5 finite project description, among other things allowing for the use of flexible  
6 zoning;

7 c. Failed to adequately disclose and analyze the SGCP's environmental setting and  
8 baseline. Specifically, instead of choosing the population number as a baseline  
9 for the community plan, the City improperly chose the number of dwelling units  
10 as the baseline. Moreover, the chosen baseline of the natural growth of dwelling  
11 units without the Project (2,587 units in the next 22 years before 2040) was  
12 clearly inaccurate in view of the actual increase of dwelling units in South  
13 Glendale in the past 12 years (over 6,000 units) and the number of present  
14 numerous development project applications in South Glendale;

15 d. Failed to adequately disclose or analyze the Project's individual significant  
16 impacts on the environment, including but not limited to the Project's individual  
17 impacts with respect to aesthetics, air quality, greenhouse gas emissions, land use  
18 and planning, transportation and traffic, public utilities and services, public safety,  
19 open space, hydrology and water quality, utilities and infrastructure, noise, and  
20 cumulative impacts;

21 e. Failed to adequately disclose or analyze the Project's cumulative impacts from,  
22 among other things, all currently proposed projects, approved projects and  
23 approved projects yet to be built with the proposed zone changes and increases in  
24 density under the SGCP;

25 f. Improperly deferred and provided unenforceable mitigation measures. The EIR  
26 adopts unenforceable mitigation measures which defer critical details regarding a  
27 number of the Project's mitigation measures, including mitigation measures 4.2-3  
28 which merely calls for the City to "minimize exposure of new sensitive receptors

1 to toxic air contaminants (TACs) and fine particulate matter, to the extent possible  
2 and consider distance, orientation, and wind direction when siting sensitive land  
3 uses in proximity to TAC- and PM<sub>2.5</sub> emitting sources in order to minimize  
4 exposure to health risk”;

5 g. Failed to consider a reasonable range of alternatives by, among other things,  
6 failing to consider alternatives that would only accommodate the reasonably  
7 projected population growth for the area; and

8 h. Failed to recirculate the EIR after the addition of significant new information to  
9 the EIR after public notice was given of the availability of the Draft EIR for  
10 public review, but prior to certification.

11 59. PRC § 21080.4 specifically requires the lead agency to consult all responsible agencies  
12 prior to preparing the Draft EIR, and the legislative history of the statute makes clear that the purpose of  
13 such consultation is to ensure that responsible agencies can impose certain mitigation measures and  
14 require those to be included in the final EIR. Petitioner is informed and believes, and based thereon  
15 alleges, that Respondents failed to consult all responsible agencies (e.g., fire department, police  
16 department, etc.) as required under CEQA and PRC, despite the fact that the SGCP’s EIR identified  
17 seven adverse environmental impacts (including impact on public services).

18 60. CEQA requires every lead agency to provide a good faith, reasoned analysis in response  
19 to comments received on an EIR, to address recommendations and objections in detail, and to explain  
20 why specific comments and suggestions, especially those of experts, were not accepted. The EIR fails  
21 to respond adequately to comments on the EIR, including comments from Respondent’s experts and  
22 commissioners (e.g., comments regarding SGCP’s failure to meet project objectives, environmental  
23 setting and baseline, air quality, transportation, public safety, cumulative impacts, and the failure to  
24 disclose or analyze a reasonable range of alternatives).

25 61. CEQA also requires to not knowingly release a deficient document hoping that the public  
26 will correct the mistakes. The EIR for the SGCP is incomplete, inaccurate, inadequate and misleading.



- 1 d. The determination that some environmental impacts which had been identified as  
2 significant and unavoidable in both the Draft and Final EIRs are in fact less than  
3 significant;
- 4 e. The determination that overriding economic, legal, social technological, or other  
5 benefits of the Project outweighed its significant impacts on the environment; and
- 6 f. Failure to explain how the No Project Alternative would not achieve the same  
7 economic, legal, social, technological, or other benefits intended by the Project.

8 67. As a result of the foregoing defects, Respondents prejudicially abused their discretion by  
9 making determinations or adopting findings and a Statement of Overriding Considerations that do not  
10 comply with the requirements of CEQA and approving the Project in reliance thereon. Accordingly,  
11 Respondents' certification of the Final EIR and purported approval of the Project must be set aside.

12 **THIRD CAUSE OF ACTION**

13 **(Violations of CEQA; Facially Invalid Notice of Determination)**

14 68. Petitioner hereby realleges and incorporates all of the above paragraphs as if fully set  
15 forth herein.

16 69. Section 15094 of the CEQA Guidelines expressly states that a lead agency "shall file a  
17 Notice of Determination after deciding to carry out or approve the project." An agency has not  
18 "approved" a project under CEQA until it makes a "decision . . . which commits the agency to a definite  
19 course of action in regard to a project to be carried out..." 14 CCR § 15352; *see Coalition for Clean Air*  
20 *v. City of Visalia* (2012) 209 Cal. App. 4th 408, 423 ("[T]his mandatory language plainly means that a  
21 notice of exemption filed before project approval does not comply with Guidelines section 15062.").

22 70. The City Council's July 31, 2018 Project approval included directions to continue  
23 modifying the SGCP to rewrite substantial portions of the various centers and corridors where mixed  
24 uses are proposed to maintain current zoning densities, revise mixed land use designations, and modify  
25 Road's End Neighborhood to designate the area zoned R1R as Single Family Hillside Residential, none  
26 of which were studied in the Project's EIR or presented before either the Planning Commission or the  
27 City Council.



1 71. These modifications to the SGCP were not studied in the Project's EIR and did not  
2 commit the City to a definite course of action with regards to the SGCP.

3 72. As a result of the foregoing defects, Respondents prejudicially abused their discretion by  
4 approving the Project and issuing a Notice of Determination that fails to comply with the requirements  
5 of CEQA. Accordingly, Respondents' certification of the EIR and Project approvals must be set aside.

6 **FOURTH CAUSE OF ACTION**

7 **(Violation of Glendale Municipal Code)**

8 73. Petitioner hereby realleges and incorporates by reference all of the above paragraphs as if  
9 fully set forth herein.

10 74. Glendale Municipal Code § 30.63.070 requires that the amendments to the City's General  
11 Plan first receive a written recommendation from the City's Planning Commission before being  
12 approved by the City Council. Further, under Glendale Municipal Code, the Planning Commission shall  
13 hold a public hearing and consider all evidence presented for and against the proposal for General Plan  
14 amendment and shall consider all arguments pertinent thereto. The Planning Commission shall make a  
15 written recommendation on the adoption or amendment of a General Plan.

16 75. Glendale Municipal Code § 30.63.080 provides that if the City Council makes any  
17 substantial modifications to the General Plan amendments that were not previously considered by the  
18 City's Planning Commission, that the substantial modifications will be remanded back to the City's  
19 Planning Commission for its recommendation.

20 76. In view of the Planning Commission's marked insistence and the Planning Department's  
21 repeated confirmations that the Planning Commission's approvals on June 25, 2018 applied only to the  
22 Tropico Center Plan, the Planning Commission never made an affirmative recommendation for the  
23 amendments to the General Plan. Moreover, the General Plan amendments and its various elements  
24 were not duly presented to the Planning Commission by the Planning Department beyond briefly  
25 suggesting that those amendments were required only to make the SGCP consistent with the General  
26 Plan.

27 77. The City Council's July 31, 2018 approval of the Project made substantial modifications  
28 to the Project that were not previously considered by the City's Planning Commission, including

1 breaking out individual elements proposed for modification in the SGCP, studying a mixed use  
2 alternative that makes no changes to existing density and requiring the City to only update the Land Use  
3 Element of the City's General Plan rather than both the Land Use Element and Circulation Element at  
4 the same time.

5 78. The City violated its own municipal code by failing to duly obtain a recommendation  
6 from the City's Planning Commission for both the amendments to the General Plan and the changes  
7 later made by the City Council.

8 79. As a result of the foregoing defects, Respondents prejudicially abused their discretion by  
9 making substantial modifications to the Project that were not previously considered by the City's  
10 Planning Commission and the approval of the Project must be set aside.

11 **FIFTH CAUSE OF ACTION**

12 **(Violation of State Planning and Zoning Law; General Plan Internal Consistency)**

13 80. Petitioner hereby realleges and incorporates by reference all of the above paragraphs as if  
14 fully set forth herein.

15 81. As required by state law, the City has a General Plan that governs land use planning  
16 throughout the City. The general plan is a comprehensive declaration of goals, objectives, policies and  
17 programs for the development of the City. A general plan is often called a "constitution" for future  
18 development to which all other land use decisions must conform. *See Citizens of Goleta Valley v. Board*  
19 *of Supervisors* (1990) 52 Cal3d 553, 570.

20 82. Under Cal. Govt. Code § 65300.5, the general plan must be internally consistent.  
21 Moreover, "It is the *policies* which must be integrated, internally consistent and compatible, not the  
22 maps which simply depict policies applied to specific land areas, not the data and statistics, and not even  
23 the objectives within the various elements." *Garat v. City of Riverside* (1991) 2 Cal.App.4th 259, 300  
24 (emphasis in original).

25 83. The adoption and integration of the SGCP into the City's General Plan create internal  
26 inconsistencies in the City's General Plan by, among other things, 1) failing to provide for adequate  
27 public services in violation of the Safety Element to the City's General Plan, 2) failing to provide  
28 adequate park space in violation of the City's Park and Recreation Element, 3) calling for more

1 increases in density than the projected population growth in violation of the Land Use Element to the  
2 City's General Plan, 4) eliminating protection for historical properties in violation of the Historic  
3 Preservation Element to the City's General Plan, and 5) failing to provide for affordable housing in  
4 violation of the Housing Element of the City's General Plan.

5 84. As a result of the foregoing defects, Respondents prejudicially abused their discretion by  
6 adopting amendments to the General Plan that rendered the General Plan internally inconsistent.  
7 Accordingly, Respondents' approval of the Project and certification of its EIR must be set aside.

8 **SIXTH CAUSE OF ACTION**

9 **(Due Process)**

10 85. Petitioner hereby realleges and incorporates by reference all of the above paragraphs as if  
11 fully set forth herein.

12 86. Petitioner's and other interested persons' constitutional due process and fair hearing  
13 rights are violated when the public agency unreasonably fails to disclose pertinent information in good  
14 faith. An agency preparing an EIR should make a good faith effort to find out and disclose all that it  
15 reasonably can. 14 Cal. Code Regs 15144, 15151; *Vineyard Area Citizens for Responsible Growth v.*  
16 *City of Rancho Cordova* (2007) 40 CA4th412, 428; *Berkeley Keep Jets Over the Bay Comm. v. Board of*  
17 *Port Comm'rs* (2001) 91 CA4th 1344; *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176  
18 CA3d421, 431. An agency is not acting in good faith when "it gives conflicting signals to decision  
19 makers and the public about the nature and scope of the activity being proposed." *San Joaquin Raptor*  
20 *Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655-656.

21 87. Furthermore, California Constitution guarantees the public's right of access: "The people  
22 have the right of access to information concerning the conduct of the people's business, and, therefore,  
23 the meetings of public bodies and the writings of public officials and agencies shall be open to public  
24 scrutiny." Cal. Const., Art. I, Sect. 3(b)(1). The public agency fails to act in good faith when it  
25 arbitrarily and capriciously withholds information from the requesting public forcing the public to  
26 pursue public records act requests and further to request to augment the administrative record.

27 88. Throughout the entire process, during the Draft EIR presentations, Final EIR  
28 presentations, and the final hearing on the SGCP and its EIR, the Development Department provided

1 the public and the decision-makers an incomplete, inaccurate, misleading and inconsistent information  
2 about the Project, proposed approvals, and the implications thereof.

3 89. As a result, the public, the City's Planning Commission and City Council were  
4 misinformed by the Development Department on what the Project is and what is the significance of their  
5 approvals or EIR certification.

6 90. The Development Department did not provide an adequate description of the Tropico  
7 Center Plan, which was ultimately approved as the Project (e.g., the number of dwelling units to be  
8 added or the population increase associated with the Plan).

9 91. The Development Department continuously verbally assured that the SGCP Project will  
10 be implemented only after transit is in place, whereas no such assurance is given in the SGCP or its EIR.

11 92. The Development Department continuously verbally assured that the approved SGCP  
12 Project will apply only to the Tropico Center Plan, whereas the votes of both the unwitting Planning  
13 Commission and the City Council included amendments to the General Plan. The Development  
14 Department's later statement in the Resolution document that the amendments to the General Plan apply  
15 only to the SGCP area rather than to Glendale in general are inapposite.

16 93. The Development Department continuously assured that the approved SGCP Project  
17 would not change any zoning or increase density anywhere in South Glendale or in the approved  
18 Tropico Center Plan of the SGCP, whereas the Notice of Determination filed with the State  
19 Clearinghouse includes zone changes and implies density increases.

20 94. Respondents violated Petitioner's constitutional due process rights and failed to act in  
21 good faith by arbitrarily and capriciously denying California Public Records Act requests made on  
22 behalf of Petitioner on July 3 and 17, 2018 regarding the SGCP.

23 95. As a result of the foregoing defects, Respondents' approvals of the SGCP and its EIR  
24 must be set aside and declared null and void because those were approved, in part, based on the  
25 Development Department's materially misleading and false assurances, as well as the Respondents'  
26 arbitrary and capricious withholding of public records.

27 //

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioner prays for entry of judgment as set forth below:

3 1. For a peremptory writ of mandate commanding Respondents City and City Council to  
4 vacate and set aside the actions approving the SGCP and certifying its EIR, and all related approvals,  
5 including the adoption of the Statement of Overriding Considerations;

6 2. For a temporary stay, temporary restraining order, and preliminary and permanent  
7 injunctions enjoining Respondents, and their agents, employees, officers or representatives, and all  
8 persons acting in concert or participating with Respondents from taking any action to implement the  
9 Project, unless and until Respondents fully comply with CEQA, the State Planning and Zoning Law,  
10 Glendale Municipal Code, and all other applicable laws;

11 3. That this Court issue a writ of mandate suspending the authority of Respondents City and  
12 City Council, their officers, employees, agents, boards, commissions and other subdivisions, to grant  
13 any authority, permits, or entitlements as part of the SGCP until a valid and adequate EIR is prepared,  
14 circulated, and certified as complete, consistent with CEQA, Glendale Municipal Code, State Planning  
15 and Zoning Law and all other applicable laws, and until legally adequate findings of consistency of the  
16 General Plan are made as required pursuant to all applicable laws;

17 4. That this Court issue a temporary restraining order and a permanent injunction enjoining  
18 Respondents City and City Council, their officers, employees, agents, boards, commissions and other  
19 subdivisions, from undertaking or approving any activities or construction pursuant to the City's  
20 approvals as described herein, prior to the City's full compliance with CEQA, Glendale Municipal  
21 Code, State Planning and Zoning Law and all other applicable laws;

22 5. That this Court enjoin any activities or construction pursuant to the City's approval of  
23 SGCP and or SGCP EIR and related approvals;

24 6. For a declaration of the rights and duties of the parties hereto, including but not limited to  
25 a declaratory judgment that Respondents violated their duty pursuant to CEQA by certifying the EIR,  
26 issuing a Notice of Determination and purporting to approve the Project, and that the approvals for the  
27 Project, including the environmental document, are null and void and without legal effect;

28 7. For Petitioner's fees and costs, including reasonable attorneys' fees and costs, as

1 authorized by California Code of Civil Procedure § 1021.5 and any other applicable provisions of law;

2 8. For costs of suit; and

3 9. For such other relief as this Court deems just and proper.

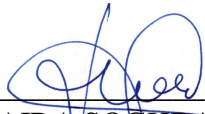
4  
5 DATED: August 30, 2018

MITCHELL M. TSAI, ATTORNEY AT LAW

6  
7 By:   
8 MITCHELL M. TSAI

9  
10 DATED: August 30, 2018

NAIRA SOGHBATYAN, ATTORNEY AT LAW

11  
12 By:   
13 NAIRA SOGHBATYAN

14 Attorneys for Petitioner SAVE OUR  
15 GLENDALE  
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