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May 26, 2022

Via Email: sean.mizan@lacity.org

Bureau of Engineering
City of Los Angeles
Attn: Sean Mizan
201 N. Figueroa Street, Ste. 290
Los Angeles, CA 90012

Re: Proposed Vacation District (Bel Air Glen Homeowners Association)
Work Order No. E1401394
Council File No. 21-0735

Dear Mr. Mizan,

This office represents the Bel Air Ridge Homeowners Association ("BAR HOA") with regard to their interest in the proposed vacation of portions of Nicada Drive, Woodwardia Drive, and Angelo Drive, Work Order No. E1401394 (the "Proposed Vacation District"). The Proposed Vacation District is sought by the Bel Air Glen Homeowners Association ("BAG HOA"), a homeowners association immediately adjacent to BAR HOA.

BAR HOA will be irreparably harmed by approval of the Proposed Vacation District and opposes the request for the reasons detailed below. On behalf of our client, we respectfully request that the opposition of the BAR HOA be noted in the file for this matter. We additionally request confirmation that the matter will be scheduled for hearing before the City Council and that the summary vacation process will not be utilized.

Findings in Support of Vacation Cannot Be Made.

Streets and Highways Code § 8324 requires finding by the City Council that the proposed streets to be vacated are "unnecessary for present or prospective public use," in support of any adoption of a resolution approving the Proposed Vacation District. This finding cannot be made. The applicant's own admission that weekday cut-through traffic within the Proposed Vacation District prompted the application contradicts the finding that the subject streets are unnecessary for public use.

While cut-through traffic is certainly a concern for all residents within the vicinity of through streets connected to Beverly Glen Boulevard, traffic calming measures other than those that entirely remove the streets from public use can and should be implemented. The Proposed Vacation District lies entirely within the Hillside Area and is located within a Very High Fire Severity Zone. Should a fire or other emergency occur, it is absolutely essential that the through streets remain open for public use.

The Project is Not Categorically Exempt from CEQA,

CEQA is intended to be interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. 14 Cal. Code Regs. §15003(f); The Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 926.

Consideration of whether a project is categorically exempt from CEQA is a two-step process. The first question is whether substantial evidence supports a determination that a project fits within a particular exempt category. If not, the exemption does not apply. However, if the project arguably fits into the category, the City must then decide if any applicable exceptions defeat the exemption. Exceptions include whether the presence of unusual circumstances or cumulative impacts, among others, may result in environmental impacts. See Davidon Homes v. City of San Jose (1997) 54 Cal.App.4th 106, 115. As the California Supreme Court has held,

“A party invoking the exception may establish an unusual circumstance without evidence of an environmental effect, by showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location. In such a case, to render the exception applicable, the party need only show a reasonable probability of a significant effect due to that unusual circumstance. Alternatively, under our reading of the guideline, a party may establish an unusual circumstance with evidence that the project will have a significant environmental effect. The evidence, if convincing, necessarily also establishes ‘a reasonable probability that the activity will have a significant effect on the environment due to unusual circumstances.’ (Guidelines, § 15300.2, subd. (c).)” Berkeley Hillside Pres. v. City of Berkeley (2015) 60 Cal.4th 1086, 1105.

14 Cal. Code Regs. § 15300(c) provides that if there is a “reasonable possibility” of a “significant effect on the environment due to unusual circumstances,” then the categorical exemption cannot apply. A “circumstance is ‘unusual’ ... judged relative to the typical circumstances related to an otherwise typically exempt project.” Voices for Rural Living v. El Dorado Irr. Dist. (2012) 209 Cal.App.4th 1096, 1108-09.

Here, BAG HOA attempts to rely on the City’s CEQA Guidelines, Art. III(1)(e) and 14 Cal. Code Regs. § 15305 in support of their request for a categorical exemption from CEQA for the Proposed Vacation District. While the City’s CEQA Guidelines include minor street vacations where the vacated property does not constitute a buildable site that would allow a commercial or industrial development of more than 10,000 square feet or a residential development of more than

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25 units, the Proposed Vacation District can hardly be described as a “minor” street vacation. By the applicant’s own calculations, they seek to vacate over seven and a half acres of public roadway, totaling over 4,300 feet in length.

However, even if the City does make the determination that the Proposed Vacation District constitutes a “minor” street vacation, the unusual circumstance exception from the subject categorical exemption clearly applies. The Proposed Vacation District lies entirely within designated Hillside Area and within a Very High Fire Severity Zone. Elimination of public access through the Proposed Vacation District could have catastrophic consequences in the event of a fire in the vicinity as it would force all residents in the area to evacuate solely through the other existing through streets.

Conclusion.

Cut-through traffic during peak commuting hours is a real concern, and BAR HOA sympathizes with BAG HOA with regard to the issue. It experiences the same issues and has the same concerns. However, privatizing the roads within the Proposed Vacation District is not the answer. All that would accomplish is exacerbating the issues for the other neighborhoods in the area.

BAR HOA strongly objects to the Proposed Vacation District and encourages BAG HOA to pursue other traffic calming measures, such as speed humps and no-turn signs during peak commuting hours. Findings in support of the Proposed Vacation District cannot be made, and approval of the proposed district without studying its environmental impacts would clearly violate CEQA.

Thank you for your time and consideration of this matter. Please include this firm on the mailing list for public notices regarding this project. As always, please do not hesitate to contact me at any time with any questions or comments that you may have.

Sincerely,

GAINES & STACEY LLP

Fred Gaines

By
FRED GAINES

cc: Hon. Paul Koretz (Via Email)
Bel Air-Beverly Crest Neighborhood Council (Via Email)

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bcc: Amir Navib (Via Email)
Alvin Galstian (Via Email)
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