

Benjamin M. Reznik  
Direct: (310) 201-3572  
bmr@jmbm.com

1900 Avenue of the Stars, 7th Floor  
Los Angeles, California 90067-4308  
(310) 203-8080 (310) 203-0567 Fax  
www.jmbm.com

Ref: 74611-0001

March 2, 2018

**BY EMAIL (michael.espinosa@lacity.org)**

Chair Jose Huizar and Honorable Members of the  
Planning and Land Use Management Committee  
Attention: Michael Espinosa, Legislative Assistant  
200 North Spring Street  
City Hall, Room 395  
Los Angeles, CA 90012

Re: Board File 170118  
10830 Chalon Road, Bel Air  
Appeal of Building Permits  
*Hearing date: March 6, 2018; Agenda Item 10*

Dear Chair Huizar and Honorable Members of the Planning and Land Use Management Committee:

We represent Helen and James Zukin, owners and residents of 800 Tarcuto Way, located directly adjacent to the above-referenced Project and subject to all of its effects. As detailed in the appeal LADBS erred and abused its discretion by (1) failing to substantiate its conclusions with substantial evidence; (2) irrespective of any evidentiary basis, failing even to address two bases for the appeal (failure to obtain a haul route approval and use of an unjustified shrinkage factor); and (3) the LADBS (erroneously) determined the omitted issues fell outside its jurisdiction, failing to follow the procedural requirements of section 12.26-K of the Los Angeles Municipal Code ("LAMC"). As staff failed to follow the required procedures, failed to provide any written basis for its Determination on the majority of appeal points, and **acknowledged errors** in the grading calculations, the Director of Planning (the "Director") has no basis for upholding that Determination and must grant this appeal.

**1. The Export Calculations Failed to Account for Brush and Other Materials, Though the LAMC Requires It to Do So.**

Among other errors and omissions detailed in the appeal, we described errors in the soil grading and export volumes. Based on our first appeal, LADBS staff requested that the applicant substantiate its soil calculations in light of that appeal, but continued to assert no error, as described above. However, the plain language of section 91.7006.7.1 of the LAMC requires inclusion of material other than soils in export calculations:

"As used in this division, the term "export" and its derivatives shall be defined as the ***earth, brush or similar materials transported from a grading site***. The term "import" and its derivatives shall be defined as earth, brush or similar materials transported to a grading site."

(Emphasis added.) In contravention of these provisions, the calculations of export volumes for the Project—as well as the haul route approval—include only soil. The revised calculations submitted by the applicant purported to include brush, but did not include "other similar materials," such as trees and other vegetation, and conveniently estimated that volume at only 30 cubic yards ("c.y."). As a result, the calculations' stated total of about 970 c.y. enabled the applicant to avoid the process for a haul route approval, as well as any environmental analysis.

However, the Property contains a large quantity of vegetation applicant will remove. As described in a letter report prepared by experienced engineer Larry Gray of Spindler Engineering (the "Spindler Letter," attached hereto as Exhibit "B"), the plant material on the Property represents about 420 c.y. of export. Combined with the approximately 940 cubic yards of export already disclosed, this yields a total volume of ***at least 1,300 c.y. of total export material***.

As required by LAMC § 91.7006.7.5, export of more than 1,000 c.y. of material requires issuance of a haul route approval prior to issuance of a building permit. Consequently, issuance of a building permit by LADBS without requiring a haul route permit constitutes a violation of the LAMC.

## **2. The Board Must Require a Haul Route Approval for The Project.**

Here, among other things, the determination by the LADBS failed to provide any evidence concerning some determinations, and failed to consider required materials in export calculations. By failing to do so, the LADBS determination is fundamentally and fatally flawed and must be overturned.

Sincerely,



BENJAMIN M. REZNIK, NEILL E. BROWER of  
Jeffer Mangels Butler & Mitchell LLP

BMR:ki  
Enclosures: Report of Spindler Engineering  
cc: Ellia Thompson, Esq.

# Exhibit A



subdivision  
surveying  
planning  
drainage  
grading  
condominium



**SPINDLER ENGINEERING, INC.**

16823 Saticoy Street

Van Nuys, California 91406

Telephone (818) 782-2788 FAX (818) 782-0111

E-Mail [admin@spindlereng.com](mailto:admin@spindlereng.com)

**December 6, 2017**

**Mr. Benjamin Reznik  
Jeffer Mangels Butler & Mitchell LLP  
1900 Avenue of The Stars, 7<sup>th</sup> Floor  
Los Angeles, CA 90067**

**Re: 10830 Chalon Road**

**Dear Ben,**

**The following is my evaluation of brush and similar materials that will need to be exported from the subject site in order to complete the construction, which is identified on the Building Permits issued 8/11/17. To evaluate materials other than earth that would be exported from the subject property as defined in Section 91.7006.7 of the Code. I visited the site on December the 4<sup>th</sup>, took pictures, measured and counted trees and observed brush and other similar materials.**

**I assume that the site will be developed per the Building Permits that were issued 8/11/17 and as such, the property would require the removal of brush, trees and other similar materials in order to develop per the approved permits.**

**The following is my conservative evaluation of brush and other similar materials.**

- There were two large trees laying on the side of the hill that measured approximately 3 feet in diameter. Based on early photographs of these trees, I would estimate them to be at least 100 feet tall. The calculated volume of these trees would produce approximately 56 cubic yards of material.**
- I observed 8 trees with cumulative diameter of 2 feet and approximately 70 feet tall, which would produce approximately 92 cubic yards of material.**

- I observed 15 smaller trees with a cumulative diameter of 1 foot, approximately 50 feet tall which would produce approximately 87 cubic yards of material.
- The property is over 23,000 square feet and contains a home with a relatively small footprint. Conservatively I would say there is at least 10,000 square feet of thick brush and smaller trees in addition to the above. If this brush and smaller trees were ground it would add approximately 6 inches of similar material over the 10,000 square feet, which would equal 185 cubic yards of material.
- This would be the total of brush and similar material of 420 cubic yards.

To be on the conservative side, I did not include the heavy brush on the Southeast side of the property since I do not know where the property line is located or if the brush on that property will be removed or not.

If we add the brush and similar material to the earthwork calculations to the 8/11/17 permit, this would be 763 cubic yards of dirt plus 420 cubic yards of brush and similar material, total 1,183 cubic yards total.

To remove the 420 cubic yards of brush and similar material which does not compress like dirt, will take more truck loads than will the dirt. I would assume instead of 10 yards per truck load you may only get approximately 7 yards per truck load. This would add 60 additional truck loads to the haul route.

Sincerely,



Larry G. Gray

**SPINDLER ENGINEERING, INC.**

LGG:sd



**SPINDLER ENGINEERING, INC.**

# Exhibit B



**Photograph 1:** Oblique aerial view of the Property, showing the dense vegetation and two large Canary Island pines, prior to their felling.



**Photograph 2:** Alternate view of the large Canary Island Pine trees.



**Photograph 3:** Alternate view of the large Canary Island Pine trees, prior to felling.



**Photograph 4:** Close-up of one of Canary Island pines after felling. Note the diameter of the trunk relative to the fence height.





**Photograph 5:** Other trees and dense vegetation on the Property, all of which will require removal and hauling.



**Photograph 6:** Dense vegetation, brush, and one of the garden walls on the Property, all of which will require removal and hauling.



**Photograph 7:** Dense vegetation on the Property, all of which will require removal and hauling.