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July 7, 2016

Councilmember Paul Koretz, CD5
200 North Spring Street, Suite 400
Los Angeles, CA 90012

Re: The Motion to Prepare a Short Term Rental Ordinance

Case No.: DIR-2016-1243-CA
Council File No.: 14-1635-S2

Dear Councilmember Koretz,

The Benedict Canyon Association appreciates your efforts to provide safeguards to protect the community in the proposed Short-Term Rental Ordinance. We remain concerned that the ordinance does not protect the hillside areas and that the environmental documentation now prepared for the proposed ordinance fails to identify potentially significant impacts that should trigger the preparation of an Environmental Impact Report.

Please consider the comments below and request that the proper level of scrutiny be brought to the ill-conceived plan to allow hotel-type accommodations in residential zones, and especially in the Very High Fire Hazard Severity Zones in the City. The City has suggested that the project could have no possible impact on the environment and therefore should be exempt from CEQA review. We disagree, as described more fully below, and provide comments on the proposed Negative Declaration that the City has produced as an alternative to the exemption it has proposed.

The proposed Negative Declaration (No. ENV-2016-1277-ND) bases its analysis on the argument that short-term rental activity is already occurring and because the ordinance would restrict some types of short-term rentals, the overall activity from short-term rentals would decrease and therefore no significant impacts could occur. This argument echoes that of the child who murders his parents and then pleads for mercy from the court because he is an orphan. Regardless of whether the baseline for CEQA analysis of this ordinance includes a certain level of illegal activity, the presence of that activity is the fault of the City for failing to maintain public order and to enforce

its own zoning and building and safety codes. It is hardly comfort to a community experiencing the adverse impacts of illegal short-term rentals to be told there will be no impacts because some of the worst offending activities might be curtailed.

The City does not present compelling evidence to support the conclusion that short-term rental activity would decrease over the long run under the new ordinance. All of the analysis (which lacks much in the way of actual data) relies on short-term extrapolations (e.g., one year after the enactment of the Santa Monica ordinance). Environmental review requires consideration of the entire life of the project, which in this instance is indefinite following the adoption of the ordinance. Given the rapid growth of short-term rental platforms over the last several years, it is foreseeable that with the explicit legalization of certain types of short-term rentals the overall number of rentals in the future (5 or more years in the future) would exceed the number today, even if there might be a temporary decline in some short-term rental activities after the adoption of the ordinance. The Planning Department appears to discount the powerful economic incentive that will be put in place by creating a new legal means of income available to property owners in the City through short-term rentals and also improperly downplays the deterrent effect that the current illegality of short-term rentals has on law-abiding citizens. We find that the argument that there will never be more short-term rentals than there are today, which is the lynchpin of the analysis concluding that the ordinance will have no impact on the environment, is both unproven and certainly false, and therefore the City cannot adopt either the exemption to CEQA or the findings in the proposed Negative Declaration that all depend on the assumption that short-term rental activity will never increase in the future.

The Negative Declaration also relies on the idea that people will only be able to rent out primary residences to support the conclusion that the proposed ordinance will reduce impacts from noise. The ordinance does not, however, require that those owners be home at their primary residence when it is rented out, or that they babysit the “guests” to whom they have rented their property. The owner of a primary residence may be at the movies for the night or in Spain for two months. This provision cannot address impacts from increased noise or the “party house” problem and the conclusion in the draft Negative Declaration that noise impacts will not increase is incorrect.

For the hillside areas of the City, the proposed Negative Declaration improperly argues that enactment of the ordinance would have no impact on emergency evacuation. This is not true. Many streets in hillside areas are substandard (e.g., narrow and steep), and residents already have difficulties with parking availability. Furthermore, during Red Flag days, cars cannot be parked on the street because they must be kept clear for Fire Department apparatus and for evacuation (see L.A.M.C. Section 80.72). Short-term rentals will generate additional people in vehicles accessing these streets and trying to park. Furthermore, out-of-town guests will have no idea about Red Flag days and the special parking requirements they entail. Even if such guests are ticketed and/or towed, there is no way to tie this infraction back to the operator of the short-term rental, nor would it dissuade future violations. Permanent residents learn quickly about the special needs for Fire Department access and the potential for tickets when parked

improperly, while the proposed ordinance would provide an endless supply of visitors with no such experience. The hillside areas do have evacuation plans (unlike most other areas of the City) that would be adversely impacted by the proposed ordinance. These very plans were used as a rationale to try to trim the trees along roads in our canyon from curb to sky, so we know these evacuation plans exist and must be considered in this context.

The Negative Declaration must have been drafted by someone who has never been to the hillside areas of the City, because it contains the following statement, which would be funny if the implications were not so serious:

The potential for wildland fires does not exist, as the vacation rental uses will be conducted only at existing developed residential locations.

Does the City believe that wildland fire cannot exist at residential locations? We know all too well that this statement is false. Some of us remember the Bel-Air-Brentwood Fire (see LAFD historical archive at http://www.lafire.com/famous_fires/1961-1106_BelAirFire/1961-1106_LAFD-Report_BelAirFire.htm) and others have lived through smaller, more recent, fire events. For the record, wildland fires can start at any residence or along any street or back yard or trail in the hillside areas. This is why they are officially designated as Very High Fire Hazard Severity Zones.

The inevitable increase in short-term rental activities in Very High Fire Hazard Severity Areas will increase the risk to the public and requires review in an Environmental Impact Report. Short-term renters unfamiliar with the hazards of living in hillside areas and the precautions that must be taken to avoid starting a wildland fire (e.g., with barbecues, smoking, even hot mufflers on cars) will increase the fire risk and the overall hazard for members of the community. Residents are educated on fire safety through many avenues, including through the annual brush clearance notices sent by the City. Short-term guests simply do not have the same experience and level of awareness of, or investment in, their surroundings as residents and consequently pose a significantly increased hazard for the community.

The City has argued that the proposed ordinance should be exempt from CEQA under the “common sense” exemption. This is inappropriate. The supposedly “common sense” argument made by the City is that the amount of short-term rental activity in the City would never increase beyond current levels, which defies common sense. We have provided a “fair argument” here that the project could have significant adverse impacts on the environment, which precludes the use of such an exemption. The City, in both its proposed exemption and draft Negative Declaration have ignored key facts about noise, hazards, and emergency evacuation and have taken an extremely short-term view of the project that downplays its foreseeable adverse impacts over its indefinite lifespan.

We therefore request that the City prepare an Environmental Impact Report for the proposed ordinance and to mitigate the foreseeable impacts by, among other things,

excluding the Very High Fire Hazard Severity Zones of the City from legalization of any short-term rentals. We also ask that the City apply its resources to enforcing current zoning codes with regards to short-term rentals to protect the safety and quiet enjoyment of our beautiful canyons.

Sincerely,



Matthew Post
President, Benedict Canyon Association

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