*Ascent Share*

December 2012

# Are Effects of the Environment on People Subject to CEQA? Yes!

By Gary D. Jakobs, AICP, Principal
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Date: December 2012

If a tree falls in the forest and lands on you, does it create an impact? Should an EIR evaluate whether future residents of a proposed housing project will be exposed to toxic air contaminants from an adjacent freeway? Should we analyze and recommend mitigation for seismic risks, if a project is proposed near an active earthquake fault? According to one 2011 court decision, the answer is an emphatic "no." But does this decision jibe with CEQA's legislative intent and with the statute, itself? We believe it does not, and a close inspection of the full array of CEQA provisions indicates that effects of the environment on people are, indeed, within the purview of the statute. Although a handful of decisions align with *Ballona,* others have come to the opposite conclusion. We believe the correct decision is that CEQA covers the people who would be exposed to environmental hazards associated with the location of a project, consistent with the statute's legislative intent. However, because there is ambiguity resulting from a lack of an explicitly worded mandate, court decisions have gone both ways. *Ballona,* with very strident language, has raised the profile and subsequent debate about this issue.

At issue in the *Ballona* case was whether an EIR should address as a significant effect the potential for sea level rise to flood a coastal project. The court opined that effects of the environment *on a project and the people using the project* are "neither consistent with CEQA's legislative purpose nor required by the CEQA statute;" instead, the Court said CEQA is only concerned with whether a project causes effects on the environment, and excluded effects that may be caused by locating people in proximity to an environmental hazard.

## The *Ballona* Case

Citing similar prior appellate decisions on the issue, the decision by California's 2nd District Court of Appeal, in *Ballona Wetlands Land Trust v. City of Los Angeles* (filed November 9, 2011), has tried to remove as a required subject of CEQA documents the effects of the environment on people that result from locating a proposed project in harm's way of an existing or potential future hazardous condition.

The *Ballona* EIR evaluated impacts of developing the second phase of the mixed-use Playa Vista project on a low-lying property, known as the Ballona Wetland, near the coast in the City of Los Angeles. The Playa Vista project's history, including previous CEQA reviews, has included multiple conflicts with project opponents and prior court actions. Among other topics, the draft EIR evaluated the project's contribution to greenhouse gases and, according to the Court, "briefly noted that global warming could result in a rise in sea level and the inundation of coastal areas." The final EIR expanded the analysis in response to comments to address the potential for sea level rise to inundate the project site. The EIR concluded that the project would not be subject to inundation as a result of potential sea level rise and provided substantial evidence to support that conclusion.

The Court examined two issues related to sea level rise in response to challenges to the EIR's adequacy: (1) did the EIR need to discuss impacts of sea level rise on the project in the first place, and (assuming it did) (2) was the EIR's analysis adequate? The Court first concluded that the EIR need not discuss impacts of sea level rise on the project or the people who may live there. It then determined, without reference to its first conclusion, that the EIR adequately addressed the issue. This paper will not address why the Court ruled on the adequacy of the analysis after it found the evaluation to be unnecessary, but rather will focus on the first issue, the necessity of evaluating impacts of environmental conditions, including natural or human-caused hazards, on a project and the people using the project.

## The Court's Rationale

The *Ballona* decision stated the following:

> The purpose of an environmental impact report is to identify the significant effects on the environment of a project…" (Public Resources Code[PRC], § 21002.1, subd. [a]; see also *id.,* §21061), " 'Significant effect on the environment' means a substantial…adverse change in the environment." (PRC §21068; see also Guidelines, §15382.) " 'Environment' means the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance." (PRC, §21060.5; see also Guidelines §15360.)
>
> Thus, the purpose of an EIR is to identify the significant effects of a project on the environment, not the significant effects of the environment on the project (*City of Long Beach v. Los Angeles Unified School Dist. [2009]* 176 Cal.App.4th 889, 905 [C*ity of Long Beach]*). The petitioner in *City of Long Beach* challenged the adequacy of an impacts analysis in an EIR for the construction of a new high school, arguing among other things that the EIR failed to address the impacts on staff and student health of emissions for nearby freeways. We held that the EIR was not required to discuss the impacts on staff and student health of locating the project near the freeways…

The Court cited two additional cases (*South Orange County Wastewater Authority v. City of Dana Point* and *Baird v. County of Contra Costa*) where conclusions were similarly reached that CEQA is only

concerned with impacts of a project on the environment. But this Court went further, expressing that using certain parts of CEQA Guidelines to support the validity of evaluating effects of environmental hazards on projects and people was inconsistent with the statute. The Court noted the following:

- Guidelines §15162.2 states, in part, that EIRs should evaluate the impacts of bringing people and development into an area. "*For example, an EIR for a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision…*" Here, the Court agreed that evaluating environmental effects of bringing development and people to an area is consistent with CEQA, "…but identifying the effects on the project and its users of locating the project in a particular environmental setting is neither consistent with CEQA's legislative purpose nor required by the CEQA statutes."

- Appendix G (Initial Study Checklist): "A few of the questions on the (checklist) form concern the exposure of people or structures to environmental hazards and could be construed to refer to not only the project's exacerbation of environmental hazards but also the effects on the users of the project and structures in the project of preexisting environmental hazards…We believe that to the extent that such questions may encompass the latter effects, the questions do not relate to environmental impacts under CEQA and cannot support an argument that the effects of the environment on the project must be analyzed in an EIR."

- Footnote 9 in the decision states: "In our view, the statement in the Guidelines §15126.2, subdivision (a) that 'the EIR should evaluate any potentially significant impacts of locating development in other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas' is consistent with CEQA only to the extent that such impacts constitute impacts on the environment caused by the development rather than impacts on the project caused by the environment."

Thus, the Court did not overturn these CEQA Guidelines. Rather, the decision stated they were not to be used to require evaluation under CEQA of "impacts on the project caused by the environment."

## Was the Decision Correct in Light of CEQA's Full Provisions and Legislative Intent?

In supporting its decision, the *Ballona* Court cited one subdivision of one section of legislative policy in Chapter 1 of CEQA (PRC §21002.1 [a]) and two sections in Chapter 2.5 of CEQA, Definitions (PRC §§21060.5 and 21068), all focusing on the purpose of an EIR or the definition of significant effect on the environment. None of the fundamental statements of legislative intent from PRC §§21000 and 21001 was cited in the decision. A careful reading of these legislative intent provisions reveals a high priority

for protecting people from adverse environmental conditions. This was not addressed in the *Ballona* decision. By not considering this aspect of legislative intent, the decision headed in the wrong direction.

CEQA includes specific legislative intent in PRC §§ 21000 and 21001 that addresses the relationship between the environment and people's health and welfare. This includes:

> "The Legislature finds and declares as follows: The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern. It is necessary to provide a high-quality environment that at all times is healthful and pleasing… There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state…" (PRC §21000 [a-c])
>
> "The Legislature further finds and declares that it is the policy (of California) to: (b) Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise. … (e) Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations. (PRC §21001 [b] and [e])

This legislative intent language is fundamental to CEQA. It expresses the importance of issues that relate to the interaction between the environment and people, including bringing people into contact with the existing environmental conditions. Clean air and water, freedom from excessive noise, and enjoyment of environmental qualities are important primarily, or only, because of the relationship between people and their environment. Thus, the Legislature, in creating CEQA, believed it was important to determine environmental effects from people's exposure to environmental conditions.

Further, the CEQA statute is replete with direct and indirect references to the need to evaluate environmental impacts from exposing a project to environmental conditions, which are, in effect, impacts of the environment on the project. Several are noted as follows:

- PRC §21083 requires that the State Office of Planning and Research prepare guidelines for implementation of the CEQA statute and PRC §21083(b)(3) states , in part, that the guidelines "…shall include criteria to follow in determining whether or not a proposed project may have a significant effect on the environment," including if the "environmental effects of a project will cause substantial effects on human beings, either directly or indirectly."

- PRC §21084 does not allow the use of categorical exemptions for projects located on a site with hazardous materials. By disallowing exemption from environmental analysis, the Legislature was not intending to protect the hazardous materials. Rather, the Legislature was concerned with the potential effect of those hazardous materials on a project and its users.

- PRC §21096 requires use of the Airport Land Use Planning Handbook for projects proposed within airport land use compatibility boundaries concerning exposure of the project and people to noise and aircraft hazards (among other issues). Aircraft safety and noise, in this instance, are

existing environmental conditions that could affect a project and its users.

- PRC §21151.8, requires the environmental analysis for a school site to determine if the site is exposed to hazardous substances or air emissions, including from freeways.

These provisions clearly confirm that CEQA is concerned not only with changes in environmental conditions caused by a project, but also with environmental impacts caused by exposing the project and people using a project to adverse environmental conditions. We note that for both types of effects, a physical change to the environment (i.e., development of a project) is the cause of the impact.

How does this square, then, with the Court's determination that CEQA is only intended to address a project's effect on the environment, and not how environmental conditions affect a project and its users? Key citations in the *Ballona* decision are repeated below:

> The purpose of an environmental impact report is to identify the significant effects on the environment of a project…" (PRC §21002.1, subd. [a]; see also *id.,* §21061), " 'Significant effect on the environment' means a substantial…adverse change in the environment." (PRC §21068; see also Guidelines, §15382.) " 'Environment' means the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance. (PRC, §21060.5; see also Guidelines §15360.)

The *Ballona* Court neither cited nor considered CEQA's statutory intent language, specific statutory provisions that direct examination of environmental impacts from exposure of projects to environmental hazards, nor the requirement to evaluate indirect effects, all of which clearly address this issue. Maintaining the health and welfare of the people of the state, as declared to be the intent of CEQA, would necessitate consideration of the effects of existing natural hazards and adverse environmental conditions on people. A project is defined as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment…" (PRC §21065); a project's effects are defined as "…all the direct or indirect environmental effects of a project…" (PRC §21065.3); and a significant effect is defined as a "…substantial, or potentially substantial, adverse change in the environment" (PRC §21068). Although the statute does not define indirect changes, the CEQA Guidelines do: "An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution" (Guidelines §15064[d][2]). An indirect consequence caused by a project's physical location that would result in changes to the "health and welfare of the people of the state" would meet this concept of an indirect environmental effect.

## Conclusion

Limiting environmental review to only the effects of a project on the environment ignores CEQA's clear legislative intent for "maintenance of a quality environment for the people" of California and the requirement to address indirect impacts, which can include locating a project and people in harm's way of an adverse environmental condition or natural hazard. Taken as a whole, it is clear that CEQA is concerned about direct and indirect environmental impacts caused by locating a project proximate to an existing or reasonably foreseeable environmental hazard (in addition to the effects of the project on the environment). To conclude otherwise, i.e., to exclude coverage of risks to people's health and safety from environmental conditions, would run counter to the legislative intent that CEQA should "provide a high-quality environment that at all times is healthful and pleasing."

The broader point is that CEQA requires consideration of the direct and indirect effects of a project, and, as indicated by the discussion herein, is specifically concerned with protecting the health and welfare of people and understanding the effects on people of placing a project in proximity to existing or reasonably foreseeable hazardous environmental conditions. For instance, the proposed construction of a freeway would require evaluation of toxic air effects to people living, going to school, and working next to the freeway (i.e., the effect of the project on the environment, including people). It makes no sense then, and is inconsistent with CEQA's legislative intent and certain statutory provisions, to ignore the same effects from an existing freeway on a school and its users where the school is proposed on an adjacent site (i.e., the same type of impact, but from the perspective of the environment's effect on the project and its people). In fact, in a decision by the same 2nd Appellate District, made after *Ballona,* the Court recognized the validity of exposing people (i.e., students) to an existing hazard as a significant effect under CEQA. In *City of Maywood v. Los Angeles Unified School District (LAUSD)*, filed July 18, 2012, an EIR addressed a proposed high school project on a site located straddling an existing, busy street in the City of Maywood. The trial court concluded that "the LAUSD failed to investigate whether the presence of an active roadway bisecting the campus, traversed by a pedestrian bridge, would have significant impacts on pedestrian safety." In other words, the lead agency failed to adequately evaluate how the project's proposed location exposed students to an existing hazardous condition (i.e., the existing busy street bisecting the campus). The appellate court affirmed the trial courts conclusion and overturned the EIR.

Thus, the *Ballona* decision offers a view of CEQA that runs counter to the overall legislative intent of the statute. Moreover, while the *Ballona* decision suggested that using certain parts of the Guidelines to justify addressing evaluation of impacts of exposing a project to adverse environmental conditions was not correct, it did not invalidate those guidelines, and they still stand. Also, another decision by the same appellate district contradicted the premise of *Ballona*. It would be incorrect, then, to change the current practice of CEQA document preparation by not considering environmental effects caused by exposing a project and people to existing or reasonably foreseeable natural hazards and adverse, human-caused environmental conditions.

## What's Next?

Because the *Ballona* decision has caused confusion about this issue and the Supreme Court has declined to review the decision, an explicit legislative clarification would be beneficial. This could be

accomplished with a straightforward amendment of the definition of significant effect on the environment (§21068) or the requirements regarding the contents of the guidelines (§21083). Potential statutory amendment language is offered below. These suggested amendments would not expand the reach of CEQA nor increase the burden of environmental review, but rather, they would add certainty and clarity to the statute and would confirm the current professional practice of addressing exposure of projects and people to environmental hazards in CEQA document preparation.

- **§ 21068. SIGNIFICANT EFFECT ON THE ENVIRONMENT**
  "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in the environment, including an adverse change in exposure of people by a proposed project to a substantial, existing or reasonably foreseeable, natural hazard or adverse physical environmental condition.

- **§ 21083. OFFICE OF PLANNING AND RESEARCH; PREPARATION AND DEVELOPMENT OF GUIDELINES; CONDITIONS**
  (a) The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. The guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.
  (b) The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the environment" if one or more of the following conditions exist:
  (1) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.
  (2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
  (3) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly. including effects resulting from the location of a project in relation to an existing or reasonably foreseeable natural hazard or adverse physical environmental condition.

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*Please note that the above discussion reflects the opinions of experienced environmental planners. Ascent Environmental, Inc. is a forward-looking environmental and natural resources consultancy. We do not practice law nor give legal advice, but rather apply our extensive CEQA experience in our environmental practice with the goal of developing defensible environmental documents. Please consult with a qualified attorney for counsel regarding the CEQA compliance requirements of your projects.*

The FIRST sentence in the SUBDIVISION PLAN IMPLEMENTATION published in 2014 says:
***"The Small Lot Ordinance allows for the subdivision of underutilized land in multi-family and commercial areas.***

NUMBER 1: A public street used by residents is **NOT underutilized**. This street is furnished with parked cars day and night and has provided substantial evidence to contradict any notion this is somehow "underutilized."

NUMBER 2: This street and dwellings are **NOT underutilized**. These properties have been utilized consistently since the 1930's, utilized to serve their original purpose and intent.
Buildings full of long-time residents contradict any notion that real live people occupying these buildings is to be interpreted as somehow "underutilized."

This proposition poses another example of manipulating and abusing the very intention of what the small to subdivision was intended for. Nothing in the plan implementation describes evictions, assigning a new identity to the area, destroying open space, landscape, imposing massive structures in an area completely incompatible with what already is in place, confiscating neighbors views and light - all which compromise the natural dynamic of the neighborhood as a whole. The Department needs to properly assess just how risible this whole thing is for this location. The Department also needs to makes decisions based on community and neighborhood impact. Thus far, there has been not one pice of evidence entered into the record on how this specifically ties in with existing community. How the demographics are appropriate. How farcical it is to be under an impression that unaffordable housing is actually a positive contribution to this neighborhood - on this street. Removing parking, removing housing already in place, removing the very ingredients that Valley Village is specifically known for visually and culturally. Already knowing the Department employees are not interested in community needs or any of our concerns, the fact remains anyone with a six grade education can look at A and look at B to know which one makes sense and complies with a very specific plan written for anyone to understand, and which one does not belong and does more harm than anything else. Your department is not objective. Your department cares not about plan compliance or neighborhood character. Your departments interest is serving lawyers and developers their plans on a silver platter. Yet we write these letters, we spend time and energy on copying and pasting the mountains of codes, plans, evidence and documentation that you always fail to provide. We have all learned by now the only thing that does matter is to make absolutely certain every single letter makes it into the record knowing our only recourse will be a lawsuit. Nothing we prove or say to your department changes anything. Your department cannot even provide ONE SINGLE PROJECT it has denied in the last year; despite the former.

The Plan implementation states the Small Lot Design Guidelines shall not supersede any adopted Specific Plan which clearly says:
**ISSUES**

**Inconsistent incremental development**
The plan states inconsistent development is an issue. Why would planning want to contribute to this issue as opposed to contributing to the solution.

**COMMUNITY ISSUES AND OPPORTUNITIES**
**Preservation and enhancement of the positive characteristics of EXISTING residential neighborhoods.**
The plan states preservation and enhancement of the positive characteristics of EXISTING residential neighborhoods. What is ALREADY here is an existing residential neighborhood.
Our positive characteristics are what is already here on this block. The plan states this is an issue which means we are supposed to be making decisions in the direction of solutions.
We have not seen anything in the report that reflects this contributes to any of the specific plan issues.

**COMPLEMENT any unique existing developments/uses**
NEIGHBORHOOD CHARACTER
Preserve and enhance the positive characteristics of EXISTING uses which provide the FOUNDATION for COMMUNITY IDENTITY, such as scale, height, bulk, setbacks and appearance.

Regards,

Zachary C.
Corteen Place, Valley Village

October 19, 2016

Case: VTT 73704, ENV-2015-2618-MND
Council FIle: 16-1048
Hermitage Ave and Weddington St.
To: PLUM COMMITTEE: councilmember.huizar@lacity.org, councilmember.cedillo@lacity.org
councilmember.fuentes@lacity.org, councilmember.harris-dawson@lacity.org
councilmember.englander@lacity.org, sharon.dickinson@lacity.org etta.armstrong@lacity.org

My name is David Hernandez. I have resided at 5312 Bellingham Ave #3, Valley Village CA 91607 for **over 24 years**.
We moved into the Maui Palms Apartments due to the nature of the area, the **quality of life** and the **sense of community** which came from living on a street where single family homes shared a **balanced environment** with a limited number of multi- family living units.

We participated in Neighborhood Watch Meetings hosted by residents of the single family homes and worked together as a community.

Our street is located between Chandler Blvd and Magnolia with the street Weddington in the half way point. Our building complex has its southern border at Weddington.

Over the years we have seen the removal of many the single family homes on our street and in their place, more Multi Family Units were constructed. As the tread continued, challenges began to arise.

At this point, the **major challenge is** with the **parking situation** on Bellingham Ave from Magnolia to Chandler and on Weddington.

If I arrive home after 7:00PM it is almost **guaranteed there will be no parking available** on Bellingham or Weddington. I find myself having to park on Magnolia or on Chandler. There are evening when the parking on Magnolia and Chandler are not available.

In addition to having to park so far away and with the limited lighting, **the area has become unsafe for some to walk so far at night**.

Any additional development on either Bellingham, Weddington or the neighboring streets **will only add to a situation which has already reached a crisis in the area of parking**. Please feel free to contact me for any further information.

David Hernandez

the Museum
of the San Fernando Valley

Los Angeles Department of city Planning
Cultural Heritage commission

In regards to Case # CHC-2015-775-HCM
ENV-2015-776-CE

Address of 5303-5305 Hermitage Ave., North Hollywood CA

Dear Commission,

This letter representing The Museum of The San Fernando Valley is in support of a historic designation for this property.

As an organization of History and culture in the San Fernando Valley we aim to sustain our heritage through the preservation of its historically and culturally significant structures. By nominating historic and significant homes, as the one on Hermitage Ave., and creating monuments to our unique history, we are accomplishing this noble cause.

We consider the property at 5303-5305 Hermitage Ave. to retain the properties of historic significance and support it's nomination as a cultural monument.

Thank you for listening to The Museums position on this important matter.

Sincerely,
Scott Sterling
President: The Museum of The San Fernando Valley

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www.theMusuemSFV.org museumsanfernandovalley.blogspot.com

# ADMINISTRATIVE RECORD

CASE NUMBERS: VTT-73704-SL, DIR-2015-2697-SPP, ENV-2015-2618-MND !

TO: SOUTH VALLEY AREA PLANNING COMMISSIONERS
RE: 5261, 5263, 5303, 5305 Hermitage Ave.,12300,12301,12302 Weddington St.

Dear Department of City Planning South Valley Planning Commissioners, My name is Sam Zeines, I live at 15250 McCormick St. Sherman Oaks CA 91401. I'm tired of seeing our neighborhoods destroyed in favor of big development.

I write this letter in strong opposition to the decision made by the Department. There are several reasons for this objection which I will describe just a few below:

**1. The proposed project is inappropriate and unsuitable for the site location.**

Hermitage Ave. consists of existing dwellings built between the 1930's and the 1970's.
It is this very character that identifies the neighborhood. Its unique characteristics are the elements that established Valley Village to begin with. Removing them is not a decision that is in the publics best interest as you have seen. Approving the project is serving needs of one individual against those of the community and the general public - this is against the General and Specific Plan.

**2. The proposed projects is a blatant destruction of neighborhood character.**

Hermitage Ave. / Weddington St. is the staple for neighborhood residents. The Valley Village Specific Plan was enacted to protect such locations from such proposals. For the Plan to be effective, it must be respected and followed. Small Lot Subdivisions such as the proposed are not compatible with existing neighborhood character and have no contributing factors justifying their approval. Neighborhood character has been jeopardized enough which has forced the community to endure enough negative impacts - as a result of poor planning decisions previously made.

**3. The proposed project removes affordable housing, removes a highly utilized public street, removes public sidewalks, open space, green space, parking and a community gathering corner.**

In the spirit of the General Plan and all its Elements, planners are directed to preserve affordable housing already in place. Here, affordable housing exists. Planners are directed to conserve valuable open space and natural resources. Here, the largest and last of its kind are threatened with extinction. Removing these features from the public use does not serve the public or the community. People ride their bicycles on this street, skateboarders, joggers, dog walkers, kids play ball on this street and neighbors gather on the corner for block events.

I respectfully urge the department to review the evidence submitted and listen to the public comments and letters.

Sincerely,

Sam Zeines

14250 McCormick St.

Sherman Oaks CA 91401

samzeines@gmail.com

TO: PLUM COMMITTEE
councilmember.huizar@lacity.org councilmember.harris-dawson@lacity.org
councilmember.cedillo@lacity.org councilmember.englander@lacity.org
councilmember.price@lacity.org
CC: Legislative Assistant Planning and Land Use Management Committee
sharon.dickinson@lacity.org
RE: VTT 73704 / ENV-2015-2618-MND

Plum Committee,

Public comments were sent to the Director when it became evident the Planner assigned to review this case for compliance was staff employee Courtney Shum. Ms Shum was registered as a paid lobbyist for a development company known as MAX DEVELOPMENT dba three6ixty, who has business relations with the applicants in this case.

To no surprise Ms Shum determined this proposal to be in compliance with the Valley Village Specific Plan; a plan which relies on its neighborhood preservation to be effective. Ms Shum provided no evidence, no findings, no grounds to approve such an inappropriate project that destroys this special and unique street.

Going further, city employee Courtney Shum was found to be part owner / shareholder to the same firm affiliated with the applicants. Not only is she affiliated with them, but advertises as such on their website.

This conflict of interest has gone unaddressed. The PLUM Committee needs to consider why this proposal has gotten as far as it has. It has nothing to do with compliance. It has everything to do with the corrupt planning process and back room deals made to keep the laws out and the special interests under wraps.

The Committee also needs to know that Steve Nazemi, partner to this proposal, has been THE ONLY appellant before the APC who has been granted an appeal. Since 2003 - 13 years ago - the Area Planning Commission has granted a total of 5 appeals out of several hundred that were denied. Nazemi's appeal was one of those 5.

The PLUM Committee has a duty to uphold this appeal for all these points you have in front of you.
If you haven't seen the harm this proposal has already caused so many people, I urge you to please look again.

Respectfully,
Xander
UCLA FILM DEPT

# Community Planning Referral Form

This form, completed and signed by appropriate Community Planning staff, must accompany any *Master Land Use Application* submitted at the Department of City Planning Public Counters regarding proposed projects located in Specific Plan areas, Historic Preservation Overlay Zones (HPOZs), Design Review Board (DRB) areas, Community Design Overlay (CDO) districts, Pedestrian Oriented Districts (PODs), Neighborhood Oriented Districts (NODs), or Sign Districts (SN).

**1. Name of Specific Plan, HPOZ, DRB, CDO, POD, NOD, or SN**
If this is a Density Bonus case, please write "Density Bonus" and the name of the Community Plan area

Valley Village Specific Plan

**1a. Sub-Area (if applicable)**

**2. Address of Proposed Project:**

5261 Hermitage, 5303 Hermitage, 12300 Weddington, 12301 Weddington, Valley Village, CA

**3. Description of Proposed Project:**

28 unit small lot subdivision and merger (as part of the tract map)

**Project Type:** ☒ New construction ☐ Addition ☐ Renovation ☐ Sign ☐ Change of use ☐ Grading

If change of use, what is existing use? _____ Proposed use? _____

**4. Note to Applicant:** Other Approvals

Applicant is advised to obtain a pre-plan check consultation with the Department of Building & Safety to determine any other necessary approvals from other City departments, including City Planning. Potential City Planning approvals in addition to Director's Determination are listed below. This list includes the most common approvals and is not exhaustive.

**Zoning Administration**
- Adjustment or Variance
- Conditional Use Permit (e.g. sale of alcohol)
- Coastal Development Permit
- Determination

**CPC/APC/Director**
- Site Plan Review
- Zone Change/General Plan Amendment
- Conditional Use Permit (e.g. educational institutions)
- Density Bonus

**Advisory Agency**
- Tract Map/Parcel Map
- Small Lot Subdivision

DIR - 2015 - 2697

City of Los Angeles Department of City Planning WEBSITE: www.cityplanning.lacity.org

DOWNTOWN OFFICE
City Hall - 200 N Spring St.
Rooms 621 & 667

VALLEY OFFICE
Marvin Braude Construction Center - 6262 Van Nuys Bl.
Rooms 351 & 430

Form 7812 Revised 10-16-09

**Questions 5 & 6 below to be filled out by Community Planner**

## 5. Approved Filing (check all that apply):

### Specific Plan/SN

- [X] Project Permit
  - ❑ **Minor** (3 signs or less OR change of use)
  - ❑ **Standard** (Remodel or renovation in which additions are no greater than 200sf., more than 3 signs, and/or wireless equipment)
  - [X] **Major** (All other projects, e.g. new buildings, remodels that include an addition of more than 200sf.)
- ❑ Modification
- ❑ Adjustment
- ❑ Exception
- ❑ Amendment
- ❑ Interpretation
- ❑ Other
- ❑ Not a project per Specific Plan or SN

### DRB

N/A ❑ Final Review ❑ Preliminary Review

### CDO/POD/NOD

- ❑ Discretionary Action
  - ❑ **Minor** (3 signs or less OR change of use)
  - ❑ **Standard** (Remodel or renovation in which additions are no greater than 200sf., more than 3 signs, and/or wireless equipment)
  - ❑ **Major** (All other projects, e.g. new buildings, remodels that include an addition of more than 200sf.)
- ❑ Sign-off only
- ❑ Not a project

N/A

### HPOZ

❑ COA ❑ CCMP ❑ Amendment ❑ Demolition ❑ Other

N/A Is the project located in a Federal District/ National Register Historic District or a California Register Historic District? ❑ Yes[1] ❑ No

Does the project involve demolition of a Contributing building or structure? ❑ Yes[1] ❑ No

1 Certificate of Appropriateness (COA) on properties located in Federal Districts/ Nation Register Historic Districts or in California Register Historic Districts do not qualify for Categorical Exemptions. Projects involving the demolition of Contributing buildings or Structures do not qualify for Categorical Exemptions. Check "Environmental Assessment Form," below and direct applicant to apply for an EAF.

### Density Bonus

N/A
- ❑ Density Bonus and/or parking reduction only
- ❑ Density Bonus Referral Form attached
  - ❑ On-menu incentives requested ❑ Off-menu incentives requested

### GPA and/or ZC

N/A ❑ Consultation completed

## 6. Environmental Clearance (check one):

- ❑ Categorical Exemption
  (Not for Specific Plan Exception cases, unless the project is a sign)
- [X] Environmental Assessment Form (EAF)
- ❑ Reconsideration of: _____
- ❑ Existing ENV Case Number: _____
- ❑ Public Counter to determine environmental clearance
- ❑ Other entitlements needed

| | |
|---|---|
| Community Planning Staff Signature: | Phone Number: (818)374-5058 |
| Print Name: Courtney Shum | Date: 7/9/15 |
| Base Fee (List each entitlement base fee separately): | DIR-2015-2697 |

# VTT-72899-SL-2A / 1146-1152 N. Beachwood Drive (CD 13)

1 message

**Dana Sayles** <dana@three6ixty.net> Thu, Dec 11, 2014 at 10:19 AM
To: "Sharon.Gin@lacity.org" <Sharon.Gin@lacity.org>
Cc: Heather Bleemers <heather.bleemers@lacity.org>, Gary Benjamin <gary.benjamin@lacity.org>, Marie Rumsey <marie.rumsey@lacity.org>, Raffi Shirinian <raffi@urban-blox.com>, Rebecca Duel <rebecca@urban-blox.com>, "Randa.hanna@lacity.org" <Randa.hanna@lacity.org>

Sharon,

Thanks for taking the time to speak with me. As we discussed, I represent the applicants for Case # VTT-72899-SL-2A, which was appealed to the City Council on December 1, 2014. We understand that the case has not yet been transmitted to you from the commission office, and thus the time to hear this case will expire by December 30, 2014, which unfortunately is over the Christmas Holidays and Council Recess.

As a result, my clients would like to request an extension to January 30, 2015 to allow this appeal to be heard in Council.

Please confirm that receipt of this email is sufficient notice of a time extension for this case.

Thank you,

Dana Sayles

three6ixty
Dana A. Sayles, AICP
4309 Overland Avenue
Culver City, California 90230
T (310) 204.3500 F 204.3505
dana@three6ixty.net

http://clkrep.lacity.org/onlinedocs/2014/14-1746_MISC_a_12-17-14.pdf

Ethics Commission
200 N Spring Street
City Hall - 24th Floor
Los Angeles, CA 90012
(213) 978-1960
ethics.lacity.org

# LOBBYIST REGISTRATION FORM

**Filer Information** **Amendment 1**

| | |
|---|---|
| NAME OF LOBBYIST<br>Courtney Shum | DATE QUALIFIED:<br>Mar 01, 2014 |
| BUSINESS ADDRESS<br>(street address redacted) | PHONE NUMBER<br>(310) 204-3500 |
| CITY, STATE, ZIP CODE:<br>Culver City, CA 90230 | FAX NUMBER<br>( ) |
| E-MAIL<br>courtney@three6ixty.net | |

**I. Lobbyist Affiliation**

[ ] I am a LOBBYIST SOLE PROPRIETOR - an independent contract (owner) lobbyist with one or more municipal lobbying clients.

[X] I am an owner, partner, shareholder, officer, or employee of a LOBBYING FIRM.

[ ] I am employed by a LOBBYIST EMPLOYER.

MAX DEVELOPMENT LLC dba three6ixty

Name of Lobbying Firm

**II. CITY AGENCIES AUTHORIZED TO LOBBY**

[X] I am authorized to lobby any City Agency

[ ] I am authorized to lobby **only** the agencies identified below:

**III. VERIFICATION**

I have used all reasonable diligence in preparing this form. I have reviewed the form and the Lobbyist Statement of Understanding (next page) and to the best of my knowledge the information contained herein is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

23-Apr-15 — Executed On: (Date)

Courtney Shum *(e-signed)* — By: (Signature of Lobbyist)

**Lobbyist Statement of Understanding**

I HAVE READ AND UNDERSTAND THE REQUIREMENTS OF THE PROVISIONS OF LOS ANGELES MUNICIPAL CODE (LAMC) SECTIONS 48.01 ET SEQ., AS AMENDED, LAMC SECTION.49.5.10, AND LOS ANGELES CITY CHARTER SECTION 470(c)11:

**LAMC Section 48.04.**
No lobbyist or lobbying firm subject to the requirements of the Article shall:

A. Do any act with the purpose and intent of placing any City official under personal obligation to the lobbyist, the lobbying firm, or to the lobbyist's or firm's employer or client.

B. Fraudulently deceive or attempt to deceive any City official with regard to any material fact pertinent to any pending or proposed municipal legislation.

C. Cause or influence the introduction of any municipal legislation for the purpose of thereafter being employed or retained to secure its passage or defeat.

D. Cause any communication to be sent to any City official in the name of any non- existent person or in the name of any existing person without the consent of such person.

E. Make or arrange for any payment to a City official, or act as an agent or intermediary in making such payments by any other person, if the arrangement or the payment would violate any provision of the City's Governmental Ethics Ordinance (L.A.M.C. Section 49.5.1 et seq.).

**LAMC Section 49.5.10(A)4.**
No lobbyist or lobbying firm shall make, and no City official shall accept, any gift from a lobbyist or a lobbying firm which is a restricted source as to that official.

**LAMC Section 49.5.10(A)5.**
No lobbyist or lobbying firm shall act as an agent or intermediary in the making of any gift by another person to any City official.

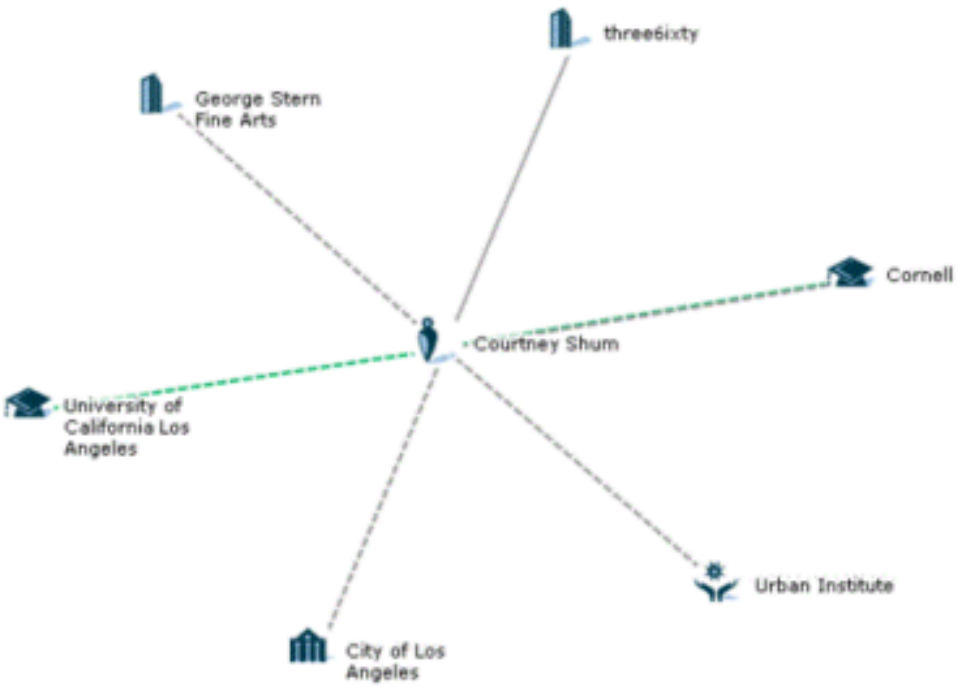
**Los Angeles Charter Section 470(c)11.**
No elective City officer or candidate for elective City office, nor any of his or her City controlled committees, shall solicit or accept any contribution to the officer or candidate, or to any of his or her City controlled committees, from any lobbyist or lobbying firm registered to lobby the City office for which the candidate is seeking election, or the current City office, commission, department, bureau or agency of the candidate or officer. No person required by ordinance to be registered as a lobbyist or lobbying firm shall make any contribution to an elective City officer or candidate for elective City office, or to any of his or her City controlled committees, if the lobbyist or lobbying firm is required by ordinance to be registered to lobby the City office for which the candidate is seeking election, or the current City office, commission, department, bureau or agency of the candidate or officer.

MarketVisual

My

Courtney Shum

# Courtney Shum




## Company Affiliations

Search:

| ✖ | Company | # of Roles |
|---|---|---|
| ☐ | three6ixty | 3 |
| ☐ | Cornell | 2 |
| ☐ | University of California los Angeles | 2 |
| ☐ | City of Los Angeles | 1 |
| ☐ | George Stern Fine Arts | 1 |
| ☐ | Urban Institute | 1 |

## Current Affiliations

| | |
|---|---|
| **General Employment** | ASSOCIATE at **three6ixty** |
| | ASSOCIATE at **three6ixty** |
| | PLANNER at **three6ixty** |

## Past Affiliations

ASSISTANT at **Cornell**
Planning Intern at **City of Los Angeles**
ADMINISTRATIVE ASSISTANT at **George Stern Fine Arts**
Academic Intern at **Urban Institute**

Master of Regional Planning at **Cornell**
B A at **University of California los**

**6. New Business (30 min):**

A. 3351-3361 S. Overland Avenue – Proposal to construct 38- unit apartment building including a 32.5% Density Bonus, including 10% Very Low Income Housing Units with 2 on-menu incentives.

**Presented by: Courtney Shum & Dana Sayles, Three6ixty** Robert Nolan, Randy Kirshner & Ken Kirshner, **developers**

http://www.marvista.org/files/PLUM-150217-Minutes-Draft.pdf

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**courtney-shum**.squarespace.com/blog/

courtney-shum.squarespace.com/

**Courtney Shum & Dana Sayles, Three6ixty.**

Our play on “360” derives from our ability to provide clients with a unique perspective, as we offer a full range of planning services, and a complete view of your project’s path to success. Utilizing a rigorous and thorough methodology, our style of planning and land use management allows you to realize your vision.

**GUIDANCE**

Follow the leader

PLANNING

Square the circle.

OUTREACH

Let's talk.

CLIENT PLUS

Reduce red tape.

OCTOBER 21, 2016

To the Planning and Land Use Committee, PLUM
via email: councilmember.huizar@lacity.org, councilmember.harris-dawson@lacity.org
councilmember.cedillo@lacity.org, councilmember.englander@lacity.org
councilmember.price@lacity.org, sharon.dickinson@lacity.org

Dear Members of the PLUM COMMITTEE,

Please see the below pages reflecting what our own City Councilmembers have had to say about what kind of impact small lot subdivisions have had.

Although completely silent with his voters, Paul Kerkorian himself puts his name on a motion instructing the Department to ensure neighborhood compatibility. Clearly stating they are NOT COMPATIBLE WITH NEARBY BUILDINGS AND DO NOT RELATE WELL TO THE STREET.

This does not mean you allow applicants to then remove the street they fail to be compatible with.

Steve Nazemi is no stranger to Council District 2 and certainly no stranger to Paul Kerkorian and the multiple private meetings that have been had here.

This proposal has been one of the most controversial I have seen.

What I haven't seen.. What none of my neighbors have seen; is our elected member of council give two cents about the people that got him where he is today.
Biggest mistake this district ever made and you can see why.

Huizar - Your committee has a responsibility to do what is best for the city. That means all districts. Just because Kerkorian got paid off to approve another out of scale development that is against the city's plan doesn't mean you have to. Break the pattern. Read the comments. Read the evidence. Try it.
From,
Hector V.

13-1478

PLANNING & LAND USE MANAGEMENT

# MOTION

The Small Lot Subdivision Ordinance was enacted by the City of Los Angeles in 2004. The Small Lot Subdivision Ordinance is an innovative zoning tool that allows development of townhouse style homes on urban infill lots with commercial or multi-family residential zoning. In most cases, the density of a Small Lot Subdivision is much less than what an apartment or condominium developer could build.

Despite its advantages, over the last nine years, problems in the implementation of the Small Lot Subdivision Ordinance have come to light. In many cases, Small Lot Subdivisions have disrupted the character of existing neighborhoods. They are not compatible with nearby buildings and do not relate well to the street.

To solve this problem, the Director of Planning should update and improve the Small Lot Subdivision Guidelines. They are out of date and must be amended to reflect the reality of the Small Lot Subdivisions being built today. In addition, the Small Lot Subdivision Ordinance should be evaluated and amended if necessary to see if it contains provisions that make it difficult for Small Lot Subdivisions to fit in with existing neighborhoods.

I THEREFORE MOVE that the Department of Planning be instructed to update and improve the Small Lot Subdivision Guidelines.

I FURTHER MOVE that the Department of City Planning, with the assistance of the City Attorney, be instructed to evaluate the Small Lot Subdivision Ordinance and prepare any changes to the Ordinance that are necessary to ensure that future Small Lot Subdivisions are compatible with the neighborhood.

PRESENTED BY: _____

Tom LaBonge
Councilmember, 4th District

SECONDED BY: _____

ORIGINAL

NOV 1 2013

# MOTION

PLANNING & LAND USE MANAGEMENT

The Small Lot Subdivision Ordinance was approved by the City of Los Angeles in 2005 to provide fee-simple home ownership opportunities in the City and to promote residential infill development in multifamily and commercial zones. After more than 10 years of implementation, the Small Lot Subdivision Ordinance has been used extensively in the City and no more so than in eclectic and historic neighborhoods including Echo Park, Silver Lake and Venice.

Originally proposed as an alternative means to encourage additional for-sale housing opportunities for the burgeoning first-time home-buying market, it has often resulted in the development of high-end, luxury townhomes rather than for-sale housing that is more affordable. These new homes often replace older bungalows and cottages that are themselves more affordable for those with low and moderate incomes, often resulting in projects that are out of scale and lacking in character in comparison to their surroundings.

While the ordinance has created a new urban homeownership alternative to the traditional single-family home, it also brings a new set of spacial complexities that should be addressed by the Planning Department. For instance, projects face challenges brought on by neighborhood context, and the proximity of adjacent structures requiring thoughtful consideration about massing, height, and transitional space from the adjacent properties.

Additionally, particularly where the preservation of neighborhood character is specifically mentioned in both the Small Lot Subdivision Guidelines and the community plans, designing and configuring new homes to be compatible with the existing neighborhood context is of utmost importance.

**I THEREFORE MOVE** that the Council instruct the Planning Department to report within 60 days regarding potential updates to the Small Lot Subdivision Ordinance and Guidelines.

**I FURTHER MOVE** that the Council instruct the Planning Department to report on adaptive reuse incentives that could apply to existing bungalow courtyards, adaptive reuse and/or preservation incentives that could apply to existing residences on multi-family lots that have room for additional infill, and preservation or other incentives that could also create new homeownership opportunities that incentivize the maintenance of existing structures while adding more units.

**I FURTHER MOVE** that the Council instruct the Planning Department, with the assistance of the City Attorney, to report on concerns that the Small Lot Subdivision Guidelines cannot be enforced and report on how best to codify Guideline requirements, including private on-site trash collection for projects of four or more units and on-site guest parking.

**I FURTHER MOVE** that the Council instruct the Planning Department to report on creating a unique set of requirements that apply to small lot projects of 20 or more units to ensure that larger subdivisions result in quality urban design and sufficient project open space.

**PRESENTED BY:** _____
**MITCH O'FARRELL**
**Councilmember, 13th District**

**PRESENTED BY:** _____
**MIKE BONIN**
**Councilmember, 11th District**

**SECONDED BY:** _____

JUL 1 2015

ORIGINAL

October 21, 2016

**TO:** PLUM COMMITTEE
CouncilMember Jose Huizar councilmember.huizar@lacity.org
CouncilMember Mitch Englander councilmember.englander@lacity.org
CouncilMember Marqueece Harris-Dawson councilmember.harris-dawson@lacity.org
CouncilMember Gil Cedilla councilmember.cedillo@lacity.org
CouncilMember Curren Price Jr. councilmember.price@lacity.org
**CC:** sharon.dickinson@lacity.org, etta.armstrong@lacity.org
**RE:** Hermitage and Weddington St. VTT 73704, ENV-2015-2618-MND COUNCIL FILE# 16-1048-S1

Dear Members of the PLUM COMMITTEE,

Please see the attached pages of what the city likes to call an "underutilized" street. Please consider my submission received as a SEVERE OBJECTION by a member of the community.

Bureau of Engineering LAND DEVELOPMENT Manual - Part D

**D 719 SUMMARY VACATION**

**Engineering should not recommend the Summary Vacation process if the request is controversial or objections from the community were received.**

**D 730 VACATION INVESTIGATION AND ANALYSIS**

**The Bureau of Engineering is responsible for the investigation of a vacation to determine if such substantial evidence exists to make a finding that the street is unnecessary for present or prospective public use.**

Sincerely,
Frederick Serrano
Resident of Bellingham Ave. in Valley Village


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07:54 OCT/18/2016


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