

Channel Law Group, LLP

8200 Wilshire Blvd.
Suite 300
Beverly Hills, CA 90211

Phone: (310) 347-0050
Fax: (323) 723-3960
www.channellawgroup.com

JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas

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VIA PERSONAL DELIVERY

City of Los Angeles
Office of the City Clerk
c/o Zina Cheng
3rd Floor, Room 395
Los Angeles, CA

BY
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CITY CLERK'S OFFICE

**Re: Appeal of Haul Route Permit and CEQA Environmental Determination for
8437 Carlton Way (Board File Number 170097; ENV 2017-1783-CE)**

Dear Honorable City Council Members:

This firm represents Doheny-Sunset Plaza Neighborhood Association, Inc. ("Association"). On or about December 12, 2017 the Board of Building and Safety Commissioners ("Board") approved the haul route permit for 8437 Carlton Way. The Board also determined that the project was exempt from the California Environmental Quality Act ("CEQA"). Pursuant to Los Angeles Municipal Code Section 91.7006.7.5 and Public Resources Code Section 21151(c), Doheny-Sunset Plaza Neighborhood Association, Inc. ("Appellant") appeals both the grant of the aforementioned haul route permit and the determination that the project was exempt from CEQA.

The Board erred in granting the haul route permits because the proposed grading activity will endanger the public health, safety and welfare and denial was therefore mandated pursuant to Los Angeles Municipal Code ("LCAMC") Section 91.7006.7.5. The Board also incorrectly determined that the project was exempt from CEQA. Because an additional discretionary permit is required for the Project (a Zoning Administrator's Determination due to the substandard road status of Carlton Way) and there are cumulative impacts that must be analyzed and mitigated, the haul route permit cannot be granted until proper environmental review has been completed.

I. The Project

The “Project” is described as follows in the Notice of Exemption (“NOE”) issued for the “Project.”

The Project is for two single-family dwellings being developed by the same property owner that are being constructed on separate parcels which share a common lot line. For the purposes of the following discussion, 8437 and 8441 West Carlton Way shall hereafter be referred to as the Project Site. The development at 8437 West Carlton Way includes the demolition of an existing single-family dwelling and the construction of a new 2,474 square-foot two-story single-family dwelling with three levels of basement and an attached garage, in conjunction with an application for a haul route for the export of approximately 2,500 cubic yards of earth. The development at 8441 West Carlton Way includes the demolition of an existing single-family dwelling and the construction of a new 4,283 square foot, two-story single-family dwelling with two levels of basement and an attached garage, in conjunction with an application for a haul route for the export of approximately 3,100 cubic yards of earth. As two single-family dwellings developed on an in-fill site, the Project qualifies for Class 3 Category 1 and Class 32 Categorical Exemptions.

The City has asserted in the NOE that the project qualifies for both a Class 3, Category 1 and Class 32 Categorical Exemption. The Class 3 exemption is for construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of this exemption include but are not limited to single family residences not built in conjunction with two or more units. In urbanized areas, up to three single family residences may be constructed under this exemption. *See* 14 Cal. Code Regs. section 15303.

The Class 32 exemption is reserved for certain types of “infill” projects. According to the State CEQA Guidelines, a project must meet the following conditions to qualify for this exemption:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

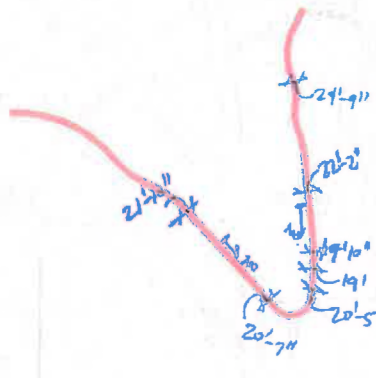
14 Cal. Code Regs. section 15332. *See* City of Los Angeles Pamphlet Entitled “Class 32 Categorical Exemption” available at https://planning.lacity.org/Forms_Procedures/7828.pdf

Notably, the City CEQA Guidelines indicates that categorical exemptions may **not** be used when the cumulative impact of successive projects of the same type in the same place may be significant.” Article III, section (4)(b) of City of Los Angeles CEQA Guidelines, p. 26.

II. Additional Entitled Needed – Substandard Status of Carlton Way

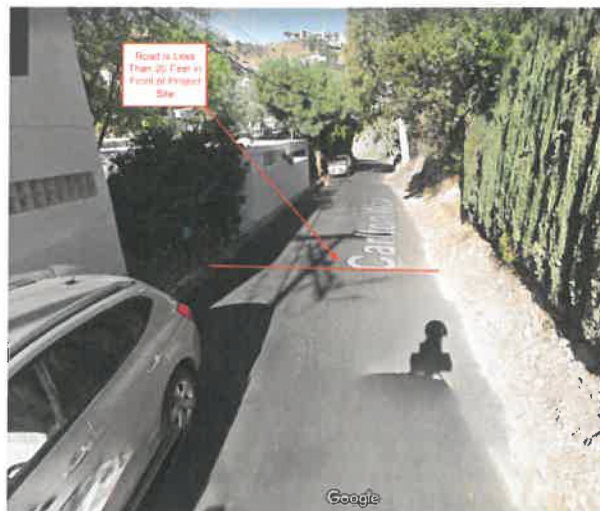
The City staff that prepared the NOE apparently did not know that Carlton Way is substandard in width (i.e. less than 20 feet in width) and therefore a Zoning Administrator's Determination ("ZAD") is required for the Project. Under the Los Angeles Municipal Code ("LAMC"), a project must have a continuous paved roadway of a minimum of 20 feet to the project site. If not, a ZAD must be obtained, which requires a public hearing and environmental review. At 8441 to 8442 Carlton Way, there is only a partial concrete curb made of unimproved asphalt (sometimes with a berm). The road is just 19 feet directly across the street from the Project.

Marked Up Map from Showing Where Road is Less than 20 Feet



City staff has admitted that their mapping system (NavigateLA) is not perfect and has inaccurately mapped certain roads. In this case, it simply cannot be disputed that Carlton Way is less than twenty feet in width. A picture of the road in front of the Project site is show below.

Street View of Road in Front of Project Site



III. The NOE Does Not Analyze Cumulative Impacts and Incorrectly Limits the Cumulative Impact Analysis to Those Projects that Require Haul Routes

The NOE indicates that there are no other haul routes within 500 feet besides those at 8441 Carlton Way and 8437 Carlton Way. The NOE then goes on to conclude that “no foreseeable cumulative impacts are expected.” This is not correct. There are no less than 6 projects on this tiny stretch of Carlton Way. They include the following:

1. 8441 Carlton Way (application at issue)
2. 8437 Carlton Way (same developer)
3. 8436 Carlton Way (across street)
4. 8451 Carlton Way (in same driveway)
5. 8428 Carlton Way (down the street)
6. 8401 Carlton Way (corner of Kings and Carlton Way)

Under CEQA, *the City cannot legally limit the cumulative impact analysis simply to those projects that require haul route permits.* Rather, the City must look at the “whole of an action” and consider all phases of a development project. CEQA Guidelines section 15378).

“CEQA broadly defines a ‘project’ as ‘an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and ... that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.’ [Citation.] The statutory definition is augmented by the [CEQA] Guidelines [Cal.Code Regs., tit. 14, § 15000 et seq.], which defines a ‘project’ as ‘*the whole of an action*, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...’” *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222, 66 Cal.Rptr.3d 645 (*Tuolumne County*). This includes all phases of a project that are reasonably foreseeable, and all related projects that are directly linked to the project. (CEQA Guidelines section 15378).

The development of six single family homes all within such close proximity to one another on a substandard road creates cumulative impacts which renders the use of the single family home exemption inapplicable.

IV. The Project Does Not Qualify for the Class 32 Exemption

As recognized in the NOE, there are five conditions which the project must meet in order to qualify for the Class 32 Categorical Exemption. The Project is not consistent with all applicable general plan policies. As noted in the NOE, a categorical exemption for infill development is not available where the project is not “consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.” 14 CCR § 15332(a). Here, there can be no finding that the Project is consistent with all relevant policies. For example, Policy 1.1.1 of the Safety Element requires coordination among agencies to promote safety. Unfortunately, there is very little coordination with enforcement authorities to ensure conditions are complied with. Residents have reported that they repeatedly need to call multiple different agencies when problems develop. Likewise, Policy 2.1.1. requires coordination with respect to emergency responses. Unfortunately, development in the Bird

Streets has been allowed without such coordination, so that emergency vehicle passage cannot be guaranteed. The disaster response policies of 3.1.1 and 3.1.2 are also compromised by further approval of haul routes, since the truck traffic may interfere with disaster recovery. The Project is also not consistent with policies of the Mobility Element of the General Plan.¹ See especially, Policy 1.7 (maintaining safe streets in good to excellent condition); 1.8 (ensuring that the movement of goods does not endanger residents); 2.3 (creating pedestrian infrastructure). The safety issues are heightened because the neighborhood does not have sidewalks, and pedestrians need to walk in the street, immediately adjacent to the construction trucks.

Further, the Class 32 exemption is not appropriate because of the Project's impacts on traffic and potential disruption to water service due to the existing of aging pipes in the neighborhood. A categorical exemption for in fill development is not appropriate if the developer cannot show that approval would not result in "any significant effects relating to traffic, noise, air quality, or water quality." 14 CCR § 15332(d). In this case, the neighborhood is already experiencing significant effects relating to traffic from other similar developments. City officials have stated to residents that there is a risk to water service due to the aging pipes in the area. The cumulative impacts associated with these six projects on Carlton Way result in significant effects related to traffic, noise, air quality and water quality.

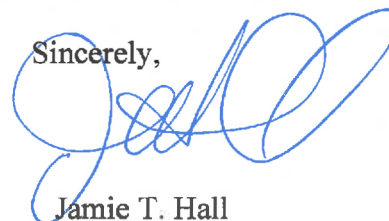
V. The City Must Deny a Haul Route When a Project Will Endanger the Public Health, Safety and Welfare Pursuant to Los Angeles Municipal Code ("LAMC") Section 91.7006.7.5

Section 91.7006.7.5 of the Los Angeles Municipal Code sets out the review process for haul route permits. This subsection states that the board shall deny the request [for a haul route permit] when it "determines that the grading activity, including the hauling operation, will endanger the public health, safety and welfare." Construction activity using substandard hillside roads is inherently dangerous, which is why the City Council adopted the ZAD requirement in the first place over 25 years ago. Meaningful analysis and the adoption of appropriate environmental mitigation measures is required in order to protect the public health, safety and welfare.

VI. Conclusion

The Association respectfully request that the City Council grant the appeal. The City has failed to analyze the environmental impacts of construction along a substandard hillside street (which requires a ZAD) as well as cumulative impacts. Moreover, the Project will endanger the public health, safety and welfare pursuant to LAMC 91.7006.7.5. Please note that Appellant reserve the right to supplement the justifications for appeal presented.

Sincerely,



Jamie T. Hall

¹ <http://planning.lacity.org/documents/policy/mobilityplnmemo.pdf>.