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October 16, 2014

Appeal from the Board of Building and Safety Commissioners
to the Los Angeles City Council

Case No.: Board File Number 140059, ENV-2014-2105-MND

Project Address: 1540 N. Skylark Lane

TYPE OF APPEAL: Appeal of entire Board of Building & Safety
Commissioners determination, pursuant to *Los Angeles
Municipal Code* Section 91.7006.7.4 and of the
adoption of a Mitigated Negative Declaration under
the California Environmental Quality Act

APPELLANT INFORMATION

Name: Warren J. Kessler and Joan B. Kessler, neighboring property owners
aggrieved by the determination of the Board of Building and Safety
Commissioners
Address: 1501 Skylark Lane, Los Angeles, CA 90069
Tel. Number: 310-344-6766
Email: skessler@kesslerandkessler.com; jkessler@kesslerandkessler.com

REPRESENTATIVE INFORMATION

Name: Robert L. Glushon, Esq.
Address: 16255 Ventura Blvd., Suite 1016, Encino, CA 91436
Tel. Number: 818-907-8755
Email: rglushon@lunaglushon.com

Final Date to Appeal: October 17, 2014

JUSTIFICATION/REASON FOR APPEALING

This appeal challenges the October 7, 2014 determination of the Board of Building & Safety Commissioners (“BBSC”) to approve a haul route to export 2,087 cubic yards of earth from 1540 N. Skylark Lane (“the Project”), and the proposed Mitigated Negative Declaration (ENV-2014-2105-MND) (the “MND”). Appellants Warren J. Kessler and Joan B. Kessler, who reside at 1501 Skylark Lane, immediately downslope from the Project, are directly affected by the serious potential and actual impacts of the Project.

The BBSC determination is in error for the following reasons:

1. The Proposed MND is Deficient and Inadequate

I. Impacts on Geology and Soils are not properly evaluated or mitigated

The Initial Study to the MND identifies the Project as located within the Hollywood Fault Zone, a landslide zone and on lots prone to landslide, lateral spreading, subsidence, liquefaction and collapse with significant differentials in elevation and topography which can result in destabilization of slopes and loss of topsoil. Yet, the measures imposed to mitigate these impacts are boilerplate: conformance with the California Building Code and standards of the Department of Building and Safety (VI-10); the *future* submission of a geological reports and further plans (VI-20; VI-50; VI-60); and conformance with a Geology and Soils Report which, as set forth below, is inadequate itself (VI-20; VI-50; VI-60). Boilerplate mitigation measures are not legally defensible. Likewise, mitigation measures which require the future review of impacts are contrary to law. *Sundstrom v. County of Medocino* (1988) 202 Cal.App.3d 296.

Moreover, the impacts on Geology and Soils are largely based upon an **outdated 2006 Geology & Soils Report**. In 2006, when the Geology & Soils Report was prepared, the single family residence proposed in connection with the Project (a haul route) was approximately 25% smaller than is being proposed. Furthermore, it could not and did not take into consideration the construction of four retaining walls at 1540 N. Skylark Lane in 2007. The report is outdated and cannot be the basis for a 2014 approval of the Project, especially in an area determined to be geologically unstable. Further review is necessary to accurately evaluate the geological impacts of the Project.

II. Impacts on Aesthetics are not property mitigated

Although the MND identifies potential significant impacts on aesthetics of the existing and natural terrain, it imposes nothing more than non-specific and boilerplate mitigation measures: grading to be kept to a “minimum” (what is a minimum?); natural features to be preserved (which ones?); and compliance with development guidelines (I-30). Again, such mitigation measures are boilerplate and not adequate as a matter of law.

III. Impacts on Hazards and Hazardous Material and Traffic are not properly mitigated

The mitigation measures imposed to mitigate the impairment of Skylark Lane and interference with emergency access include requirements to submit a future Construction Staging and Parking Plan (VIII-40); a future emergency response plan (VIII-70); and a future parking and driveway plan (XVI-50).

Again, mitigation measures which require the future review of impacts are contrary to law as they fail to incorporate meaningful mitigation measures only available through public review which is the reason for public hearings under the *California Environmental Quality Act*. As such, the mitigation measures are inadequate.

IV. Impacts on Noise are not property mitigated

Although the MND identifies potential significant impact the increase on noise levels, it imposes nothing more than boilerplate conditions requiring compliance with a noise ordinance and scheduling to avoid operating several pieces of equipment simultaneously (XII-20). Such boilerplate mitigation measures are not adequate as a matter of law. Detailed construction schedules are the only way to meaningfully mitigate the increased noise levels.

2. The Board violated the Los Angeles Municipal Code

Pursuant to *Los Angeles Municipal Code Section 97.7006.7.5.5*, the BBSC must deny a haul route application where such will “endanger the public health, safety and welfare”.

As set forth above, the conditions of approval of the haul route are based upon a deficient MND and an outdated 2006 Geology & Soils Report. Here, the Project is located within the Hollywood Fault Zone; a landslide zone; and on lots prone to landslide, lateral spreading, subsidence, liquefaction and collapse with

significant differentials in elevation and topography which can result in destabilization of slopes and loss of topsoil, the approval of the haul route will not endanger the public health, safety and welfare. Based thereon, there are significant potential impacts from the Project and which would in fact endanger the public, especially Appellants Warren J. Kessler and Joan B. Kessler, who reside at 1501 Skylark Lane, immediately downslope from the Project.

Appellants further contend that the adoption of the MND did not comply with all procedural requirements under the *California Environmental Quality Act*.

I certify that the statements set forth above in support of this appeal are true and correct.

Very truly yours,

LUNA & GLUSHON

A handwritten signature in black ink, reading "Robert L. Glushon". The signature is written in a cursive style with a large, stylized initial "R".

ROBERT L. GLUSHON

CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI
MAYOR

BOARD OF
BUILDING AND SAFETY
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PRESIDENT

E. FELICIA BRANNON
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JOSELYN GEAGA-ROSENTHAL
GEORGE HOVAGUIMIAN
JAVIER NUNEZ

DEPARTMENT OF
BUILDING AND SAFETY
201 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

RAYMOND S. CHAN, C.E., S.E.
GENERAL MANAGER

FRANK BUSH
EXECUTIVE OFFICER

October 15, 2014

BOARD FILE: 140059
C.D.: 4

Jason Rubin
1540 Skylark
West Hollywood, CA 90069

JOB ADDRESS: 1540 NORTH SKYLARK LANE
TRACT: 10416; LOT 2 (Arb 5)

The Board of Building and Safety Commissioners, at its meeting of October 7, 2014, gave consideration to the application by Thomas DuMary III, to export 2,087 cubic yards of earth, from the above-referenced property.

The Board took the following actions:

1. FIND that with the imposition of the mitigation measures described in the MND, and incorporated herein as project conditions, there is no substantial evidence that the proposed project will have a significant effect on the environment, pursuant to the City's Environmental Guidelines and is in compliance with the California Environmental quality Act;
2. ADOPT the Mitigated Negative Declaration ENV-2014-2105-MND; and
3. APPROVE the application subject to all conditions specified in the Department's report dated September 24, 2014 with the following condition:
 - a. Item C.13 shall be added as follows:

An oversight committee consisting of LADBS inspection shall monitor the hauling activity in the area of the subject property on a daily basis.

This action becomes effective and final when ten calendar days have elapsed from the date of the Board's action, unless an appeal is filed to the City Council pursuant to Section 91.7006.7.4 of the Los Angeles Municipal Code.

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Job Address: 1540 NORTH SKYLARK LANE

Board File: 140059

When a proposed Negative or Mitigated Negative Declaration has been approved, Public Resources Code Section 21152(a) requires that a Notice of Determination ("NOD") be filed within five working days after the effective date of the decision. The filing of the NOD with the County Clerk starts a 30-day statute of limitations on court challenges to the approval of the project pursuant to Public Resources Code Section 21167. Failure to file the notice results in the statute of limitations being extended to 180 days.



Van Ambatielos, President

BOARD OF BUILDING AND SAFETY COMMISSIONERS

NOT VALID WITHOUT STAMP AND SIGNATURE

CJ:mct

140059.FAL

c: Sr. Grading Inspector P. Mischlich
Jonathan Brand
Warren J. Kessler
Howard Smuckler
John Fiedler
Jason Somers
June Solnit Sale
Beth Fogarty

APPROVED BY
THE BOARD OF BUILDING AND SAFETY
COMMISSIONERS ON

October 7, 2014

BOARD OF
BUILDING AND SAFETY
COMMISSIONERS

VAN AMBATIELOS
PRESIDENT

E. FELICIA BRANNON
VICE PRESIDENT

JOSELYN GEAGA-ROSENTHAL
GEORGE HOVAGUIMIAN
JAVIER NUNEZ

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

DEPARTMENT OF
BUILDING AND SAFETY
201 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

RAYMOND S. CHAN, C.E., S.E.
GENERAL MANAGER

FRANK BUSH
EXECUTIVE OFFICER

September 24, 2014

BOARD FILE NO. 140059
C.D.:4 (Councilmember T. LaBonge)

Board of Building and Safety Commissioners
Room 1080, 201 North Figueroa Street

APPLICATION TO EXPORT 2,087 CUBIC YARDS OF EARTH

PROJECT LOCATION: 1540 NORTH SKYLARK LANE

TRACT: TR 10416

BLOCK: NONE

LOTS: 2 (Arb 5)

OWNER:

Jason Rubin
1540 Skylark Lane
West Hollywood, CA 90069

APPLICANT:

Thomas DuMary III
10960 Wilshire Blvd., Suite 1510
Los Angeles, CA 90024

The Department of Transportation (DOT) and the Department of Public Works (DPW) have reviewed the subject haul route application and have forwarded the following recommendations to be considered by the Board of Building and Safety Commissioners (Board) in order to protect the public health, safety and welfare.

CONDITIONS OF APPROVAL

Additions or modifications to the following conditions may be made on-site at the discretion of the Grading Inspector, if deemed necessary to protect the health, safety, and welfare of the general public along the haul route.

Failure to comply with any conditions specified in this report may void the Board's action. If the hauling operations are not in accordance with the Board's approval, The Department of Building and Safety (DBS) shall list the specific conditions in violation and shall notify the applicant that immediate compliance is required. If the violations are not corrected or if a second notice is issued by DBS for violations of any of the conditions upon which the approval was granted, said approval shall be void. Inasmuch as Board approval of the import-export operations is a condition precedent to issuing a grading permit in a "hillside" designated area, violation of this condition may result in the revocation of the grading permit issued in reliance of this approval.

A. PERMITS AND BONDS REQUIRED BY THE DEPARTMENT OF PUBLIC WORKS:

PERMIT FEE MUST BE PAID BEFORE THE DEPARTMENT OF BUILDING AND SAFETY WILL ISSUE A GRADING PERMIT.

1. Under the provisions of Section 62.201 of the Los Angeles Municipal Code, the following permit fee shall be required:
 - a) A total of 2,087 cubic yards of material moved 5.4 miles within the hillside area at a rate of \$0.29 per cubic yard per mile results in a fee of \$3,000.00.
2. The required permit fee shall be paid at the Street Services Investigation and Enforcement Division office, 1149 South Broadway, Suite 350, Los Angeles, California, 90015, telephone (213) 847-6000.
3. Under the provisions of Section 62.202 of the Los Angeles Municipal Code, a cash bond or surety bond in the amount of \$788,000.00 shall be required from the property owner to cover any road damage and any street cleaning costs resulting from the hauling activity.
4. Forms for the bond will be issued by Susan Sugay, Bond Processor, Bureau of Engineering Valley District Office, 6262 Van Nuys Boulevard, Suite 351, Van Nuys, CA 91401; telephone (818) 374-5082.

B. GENERAL CONDITIONS:

1. The owner or contractor shall keep the construction area sufficiently dampened to control dust caused by grading and hauling, and at all times shall provide reasonable control of dust caused by wind, at the sole discretion of the grading inspector.

2. Hauling and grading equipment shall be kept in good operating condition and muffled as required by law.
3. The Traffic Coordinating Section of the Los Angeles Police Department shall be notified at least 24 hours prior to the start of hauling, (213) 486-0688/486-0690.
4. Loads shall be secured by trimming or watering or may be covered to prevent the spilling or blowing of the earth material. If the load, where it contacts the sides, front, and back of the truck cargo container area, remains six inches from the upper edge of the container area, and if the load does not extend, at its peak, above any part of the upper edge of the cargo container area, the load is not required to be covered, pursuant to California Vehicle Code Section 23114 (c) (4).
5. Trucks and loads are to be watered at the export site to prevent blowing dirt and are to be cleaned of loose earth at the export site to prevent spilling.
6. Streets shall be cleaned of spilled materials during grading and hauling, and at the termination of each workday.
7. The owner/contractor shall be in conformance with the State of California, Department of Transportation policy regarding movements of reducible loads.
8. The owner/contractor shall comply with all regulations set forth by the State of California Department of Motor Vehicles pertaining to the hauling of earth.
9. A copy of the approval letter from the City, the approved haul route and the approved grading plans shall be available on the job site at all times.
10. The owner/contractor shall notify the Street Services Investigation and Enforcement Division, (213) 847-6000, at least 72 hours prior to the beginning of hauling operations and shall also notify the Division immediately upon completion of hauling operations. Any change to the prescribed routes, staging and/or hours of operation must be approved by the concerned governmental agencies. Contact the Street Services Investigation and Enforcement Division prior to effecting any change.
11. No person shall perform any grading within areas designated "hillside" unless a copy of the permit is in the possession of a responsible person and available at the site for display upon request.
12. A copy of this report, the approval letter from the Board and the approved grading plans shall be available on the job site at all times. A request to modify or change the approved routes must be approved by the Board of Building and Safety Commissioners before the change takes place.
13. The grading permit for the project shall be obtained within twelve months from the date of action of the Board. If the grading permit is not obtained within the specified time, re-application for a public hearing through the Grading Division will be required.

14. A log noting the dates of hauling and the number of trips (i.e. trucks) per day shall be available on the job site at all times.
15. This approval pertains only to the City of Los Angeles streets. Those segments of the haul route outside the jurisdiction of the City of Los Angeles may be subject to permit requirements and to the approval of other municipal or governmental agencies and appropriate clearances or permits is the responsibility of the contractor.
16. **The applicant shall defend, indemnify and hold harmless the City of Los Angeles (City), its agents, officers, or employees, from any claim, action, or proceeding against the City to attack, set aside, void or annul this approval, which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.**
17. **A copy of the first page of this approval and all Conditions and/or any subsequent appeal of this approval and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the City's Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.**

C. SPECIFIC CONDITIONS

An authorized Public Officer may make additions to, or modifications of, the following conditions if necessary to protect the health, safety, and welfare of the general public.

1. The hauling operations are restricted to the hours between 9:00 a.m. and 3:00 p.m. on Mondays through Fridays. No hauling allowed on Saturdays, Sundays or holidays. Haul vehicles may not arrive at the site before the designated start time.
2. Hauling of earth shall be completed within the maximum time limit of 47 hauling days.
3. Staging: Staging is allowed on site and a maximum of 1 truck on Skylark Lane in front of the project site.
4. The approved haul vehicles are 10 wheel dump trucks.
5. Total amount of dirt to be hauled shall not exceed 2,087 cubic yards.

6. "Truck Crossing" warning signs shall be placed 300 feet in advance of the exit in each direction. Seven additional signs will be placed at the following locations:
 - A. Two on Thrasher Avenue in advance of Skylark Lane.
 - B. Two on Oriole Drive in advance of Thrasher Avenue.
 - C. Two on Doheny Drive in advance of Oriole Drive.
 - D. One on Bluebird Avenue in advance of Doheny Drive.

7. Six flag attendants, each with two-way radios, will be required during hauling hours to assist with staging and getting trucks in and out of the project area. One flag attendant will be placed at the following locations:
 - A. The entrance of the project site.
 - B. On Skylark Lane near 1525 Skylark Lane.
 - C. The intersection of Skylark Lane and Thrasher Avenue.
 - D. The intersection of Thrasher Avenue and Oriole Drive.
 - E. The intersection of Doheny Drive and Oriole Drive.
 - F. The intersection of Doheny Drive and Bluebird Avenue.

Flag persons and warning signs shall be in compliance with Part II of the latest Edition of "Work Area Traffic Control Handbook."

(The intent of two-way radio communication is to permit the flag attendants to be able to sequence the haul vehicles so no trucks will by-pass on the same section of Skylark Lane, Thrasher Avenue, Oriole Drive, and Doheny Dr. They will have the ability to temporarily cease hauling to allow emergency or utility vehicles safe access.)

8. The City of Los Angeles, Department of Transportation, telephone (213) 485-2298, shall be notified 72 hours prior to beginning operations in order to have temporary "No Parking" signs posted along streets in haul route.

9. The City of Los Angeles, Department of Transportation, telephone (213) 485-2298, shall be notified four days prior to beginning operations in order to have "Temporary Tow Away No Stopping" signs posted along Skylark Lane, adjacent to the jobsite.

10. Prior to hauling, the applicant shall provide the following information to Los Angeles Fire Department Station #41 located at 1439 N. Gardner Street, Los Angeles, CA 90046; telephone (213) 485-6241:
 - A. Contact information for the construction superintendent or contractor.
 - B. A copy of this approved staff report.
 - C. A map clearly illustrating the approved hauling route and involved street names.
 - D. The approved hauling hours.
 - E. The estimated completion date of hauling.

11. The recommended route is as follows:

LOADED TRUCKS:

Exit project site southbound on Skylark Lane, turn west (right) on Thrasher Avenue, north (right) on Oriole Drive, south (left) on Doheny Drive, east (left) on Sunset Boulevard, north (left) on Highland Avenue, east (right) on Odin Street, north (left) on Cahuenga Boulevard East, enter northbound US-101 Freeway, transition northbound US-170 Freeway, transition northbound I-5 Freeway and continue to the disposal site north of the city.

EMPTY TRUCKS:

From the disposal site, travel southbound on I-5 Freeway, transition southbound US-170, transition southbound US-101 Freeway, exit Highland Ave southbound, turn west (right) on Sunset Boulevard, north (right) on Doheny Drive, south (right) on Oriole Drive, east (left) on Thrasher Avenue, north (left) on Skylark Lane and continue to the project site.

12. The applicant shall provide a staked sign at the site containing the contact information for the Senior Street Services Investigator (Department of Public Works), the Senior Grading Inspector (LADBS) and the hauling or general contractor. The letters shall be a minimum of 3 inches in height.

D. ENVIRONMENTAL CONDITIONS

A Mitigated Negative Declaration (MND) was prepared for this project by the Department of City Planning (ENV-2014-2105-MND). Each mitigation measure identified in the MND is incorporated herein by reference as though fully set forth, and compliance with each is expressly made a condition of this project approval.

E. MANDATORY FINDINGS AND RECOMMENDED ACTIONS

1. On August 21, 2014, the Department of City Planning issued the above described MND No. (ENV-2014-2105-MND).
2. FIND that this project will not have a significant effect on the environment under the above described MND No. (ENV-2014-2105-MND) because on the basis of the whole of the record before the Lead Agency, including any comments received, the Lead Agency FINDS that with the imposition of the mitigation measures described in the MND, and incorporated herein as project conditions, there is no substantial evidence that the proposed project will have a significant effect on the environment, pursuant to the City's Environmental Guidelines and is in compliance with the California Environmental quality Act; that the MND reflects the independent judgment of the lead agency, the City of Los Angeles; that the documents constituting the record of proceedings in this matter are located in the files of the Department of City Planning, Environmental Review Section, and the Los Angeles Department of Building and Safety Commission Office.
3. ADOPT the Mitigated Negative Declaration (ENV-2014-2105-MND).

CODE:

SEC. 91.7006. CONDITIONS PRECEDENT TO ISSUING A GRADING PERMIT.

Section 91.7006.7. Limitation of Export and Import

5. At the public hearing, the Board of Building and Safety Commissioners shall consider the views of the applicant and all other affected persons. The board shall then grant or conditionally grant approval of export and import operations or, in the event it determines that the grading activity, including the hauling operation, will endanger the public health, safety and welfare, it shall deny the request. Where conditions of the permit are recommended by the Department of Public Works, including the condition that a bond be posted pursuant to Section 62.202 of the Los Angeles Municipal Code, such conditions shall be made a part of any permit which may be issued. The decision of the board shall not be effective until 10 calendar days have elapsed from the date of the board's decision.

6. Any affected person, including the applicant, who is dissatisfied with the decision of the board, may appeal the board decision within 10 days to the City Council by filing an appeal with the city clerk on forms which the city clerk provides. The City Council shall hear and make its determination on the appeal not later than the 30th day after the appeal has been filed. The decision of the City Council on the matter shall be final. If the City Council fails to act on any appeal within the time limit specified in this section, the action of the board on the matter shall be final.

RAYMOND S. CHAN, C.E., S.E.
General Manager

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BY BOARD OF BUILDING AND ZONING
COMMISSIONERS OF
October 7, 2014


Jason Healey
Staff Engineer, Commission Office

CITY OF LOS ANGELES
OFFICE OF THE CITY CLERK
ROOM 395, CITY HALL
LOS ANGELES, CALIFORNIA 90012
CALIFORNIA ENVIRONMENTAL QUALITY ACT
PROPOSED MITIGATED NEGATIVE DECLARATION

LEAD CITY AGENCY
City of Los Angeles

COUNCIL DISTRICT
CD 4 - TOM LABONGE

PROJECT TITLE
ENV-2014-2105-MND

CASE NO.

PROJECT LOCATION
1540 N SKYLARK LANE

PROJECT DESCRIPTION

The proposed project consists of the demolition of an existing 3,126 square foot, 53-year old, single family dwelling and pool; and the construction of a 3,700 square foot single family dwelling, pool, garage, and retaining walls with 5 parking spaces, on a lot with an area of 29,306 square feet. There are 10 existing trees currently on site, 1 will be removed.

As proposed, the project requires an approval of a haul route to permit the importing/exporting of 2,087 cubic yards of soil.

NAME AND ADDRESS OF APPLICANT IF OTHER THAN CITY AGENCY

Thomas Dumary III
10960 Wilshire Blvd., Suite 1510
Los Angeles, CA 90024

FINDING:

The City Planning Department of the City of Los Angeles has Proposed that a mitigated negative declaration be adopted for this project because the mitigation measure(s) outlined on the attached page(s) will reduce any potential significant adverse effects to a level of insignificance

(CONTINUED ON PAGE 2)

SEE ATTACHED SHEET(S) FOR ANY MITIGATION MEASURES IMPOSED.

Any written comments received during the public review period are attached together with the response of the Lead City Agency. The project decision-maker may adopt the mitigated negative declaration, amend it, or require preparation of an EIR. Any changes made should be supported by substantial evidence in the record and appropriate findings made.

THE INITIAL STUDY PREPARED FOR THIS PROJECT IS ATTACHED.

NAME OF PERSON PREPARING THIS FORM

TITLE

TELEPHONE NUMBER

NICOLE SANCHEZ

Planning Assistant

(213) 978-3034

ADDRESS

SIGNATURE (Official)

DATE

200 N. SPRING STREET, 7th FLOOR
LOS ANGELES, CA. 90012



08/21/14

MITIGATED NEGATIVE DECLARATION
ENV-2014-2105-MND

- I-30. **Aesthetics (Hillside Site Design, Undeveloped Site)**
- Environmental impacts, such as alteration of existing or natural terrain may result from project implementation. However, these impacts will be mitigated to a less than significant level by the following measures:
 - Grading shall be kept to a minimum.
 - Natural features, such as prominent knolls or ridge lines, shall be preserved.
 - The project shall comply with the City's Hillside Development Guidelines.
- I-120. **Aesthetics (Light)**
- Environmental impacts to the adjacent residential properties may result due to excessive illumination on the project site. However, the potential impacts will be mitigated to a less than significant level by the following measure:
 - Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way.
- I-130. **Aesthetics (Glare)**
- Environmental impacts to adjacent residential properties may result from glare from the proposed project. However, the potential impacts will be mitigated to a less than significant level by the following measure:
 - The exterior of the proposed structure shall be constructed of materials such as, but not limited to, high-performance and/or non-reflective tinted glass (no mirror-like tints or films) and pre-cast concrete or fabricated wall surfaces to minimize glare and reflected heat.
- III-10. **Air Pollution (Demolition, Grading, and Construction Activities)**
- - All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
 - The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
 - All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
 - All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
 - All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
 - General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
 - Trucks having no current hauling activity shall not idle but be turned off.
- IV-70. **Tree Removal (Non-Protected Trees)**
- Environmental impacts from project implementation may result due to the loss of significant trees on the site. However, the potential impacts will be mitigated to a less than significant level by the following measures:
 - Prior to the issuance of any permit, a plot plan shall be prepared indicating the location, size, type, and general condition of all existing trees on the site and within the adjacent public right(s)-of-way.
 - All significant (8-inch or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 inches above the ground) non-protected trees on the site proposed for removal shall be replaced at a 1:1 ratio with a minimum 24-inch box tree. Net, new trees, located within the parkway of the adjacent public right(s)-of-way, may be counted toward replacement tree requirements.
 - Removal or planting of any tree in the public right-of-way requires approval of the Board of Public Works. Contact Urban Forestry Division at: 213-847-3077. All trees in the public right-of-way shall be provided per the current standards of the Urban Forestry Division the Department of Public Works, Bureau of Street Services.
- IV-80. **Tree Removal (Locally Protected Species)**
- Environmental impacts may result due to the loss of protected trees on the site. However, these potential impacts will be mitigated to less than significant level by the following measures:
 - All protected tree removals require approval from the Board of Public Works.
 - A Tree Report shall be submitted to the Urban Forestry Division of the Bureau of Street Services, Department of Public Works, for review and approval (213-847-3077), prior to implementation of the Report's recommended measures.

MITIGATED NEGATIVE DECLARATION
ENV-2014-2105-MND

- A minimum of two trees (a minimum of 48-inch box in size if available) shall be planted for each protected tree that is removed. The canopy of the replacement trees, at the time they are planted, shall be in proportion to the canopies of the protected tree(s) removed and shall be to the satisfaction of the Urban Forestry Division.
- The location of trees planted for the purposes of replacing a removed protected tree shall be clearly indicated on the required landscape plan, which shall also indicate the replacement tree species and further contain the phrase "Replacement Tree" in its description.
- Bonding (Tree Survival):
- a. The applicant shall post a cash bond or other assurances acceptable to the Bureau of Engineering in consultation with the Urban Forestry Division and the decision maker guaranteeing the survival of trees required to be maintained, replaced or relocated in such a fashion as to assure the existence of continuously living trees for a minimum of three years from the date that the bond is posted or from the date such trees are replaced or relocated, whichever is longer. Any change of ownership shall require that the new owner post a new oak tree bond to the satisfaction of the Bureau of Engineering. Subsequently, the original owner's oak tree bond may be exonerated.
- b. The City Engineer shall use the provisions of Section 17.08 as its procedural guide in satisfaction of said bond requirements and processing. Prior to exoneration of the bond, the owner of the property shall provide evidence satisfactory to the City Engineer and Urban Forestry Division that the oak trees were properly replaced, the date of the replacement and the survival of the replacement trees for a period of three years.

V-20. Cultural Resources (Archaeological)

- Environmental impacts may result from project implementation due to discovery of unrecorded archaeological resources. However, the potential impacts will be mitigated to a less than significant level by the following measures:
- If any archaeological materials are encountered during the course of project development, all further development activity shall halt and:
- The services of an archaeologist shall then be secured by contacting the South Central Coastal Information Center (657-278-5395) located at California State University Fullerton, or a member of the Society of Professional Archaeologist (SOPA) or a SOPA-qualified archaeologist, who shall assess the discovered material(s) and prepare a survey, study or report evaluating the impact.
- The archaeologist's survey, study or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource.
- The applicant shall comply with the recommendations of the evaluating archaeologist, as contained in the survey, study or report.
- Project development activities may resume once copies of the archaeological survey, study or report are submitted to: SCCIC Department of Anthropology, McCarthy Hall 477, CSU Fullerton, 800 North State College Boulevard, Fullerton, CA 92834.
- Prior to the issuance of any building permit, the applicant shall submit a letter to the case file indicating what, if any, archaeological reports have been submitted, or a statement indicating that no material was discovered.
- A covenant and agreement binding the applicant to this condition shall be recorded prior to issuance of a grading permit.

V-30. Cultural Resources (Paleontological)

- Environmental impacts may result from project implementation due to discovery of unrecorded paleontological resources. However, the potential impacts will be mitigated to a less than significant level by the following measures:
- If any paleontological materials are encountered during the course of project development, all further development activities shall halt and:
- a. The services of a paleontologist shall then be secured by contacting the Center for Public Paleontology - USC, UCLA, California State University Los Angeles, California State University Long Beach, or the Los Angeles County Natural History Museum - who shall assess the discovered material(s) and prepare a survey, study or report evaluating the impact.
- b. The paleontologist's survey, study or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource.
- c. The applicant shall comply with the recommendations of the evaluating paleontologist, as contained in the survey, study or report.
- d. Project development activities may resume once copies of the paleontological survey, study or report are submitted to the Los Angeles County Natural History Museum.
- Prior to the issuance of any building permit, the applicant shall submit a letter to the case file indicating what, if any, paleontological reports have been submitted, or a statement indicating that no material was discovered.

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- A covenant and agreement binding the applicant to this condition shall be recorded prior to issuance of a grading permit.

V-40. Cultural Resources (Human Remains)

- Environmental impacts may result from project implementation due to discovery of unrecorded human remains.
- In the event that human remains are discovered during excavation activities, the following procedure shall be observed:
 - a. Stop immediately and contact the County Coroner: 1104 N. Mission Road, Los Angeles, CA 90033. 323-343-0512 (8 a.m. to 5 p.m. Monday through Friday) or 323-343-0714 (After Hours, Saturday, Sunday, and Holidays)
 - b. The coroner has two working days to examine human remains after being notified by the responsible person. If the remains are Native American, the Coroner has 24 hours to notify the Native American Heritage Commission.
 - c. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendent of the deceased Native American.
 - d. The most likely descendent has 48 hours to make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the human remains and grave goods.
 - e. If the descendent does not make recommendations within 48 hours the owner shall reinter the remains in an area of the property secure from further disturbance, or;
 - f. If the owner does not accept the descendant's recommendations, the owner or the descendent may request mediation by the Native American Heritage Commission.
- *Discuss and confer* means the meaningful and timely discussion careful consideration of the views of each party.

VI-10. Seismic

- Environmental impacts to the safety of future occupants may result due to the project's location in an area of potential seismic activity. However, this potential impact will be mitigated to a less than significant level by the following measure:
 - The design and construction of the project shall conform to the California Building Code seismic standards as approved by the Department of Building and Safety.

VI-20. Erosion/Grading/Short-Term Construction Impacts

- Short-term erosion impacts may result from the construction of the proposed project. However, these impacts can be mitigated to a less than significant level by the following measures:
 - The applicant shall provide a staked signage at the site with a minimum of 3-inch lettering containing contact information for the Senior Street Use Inspector (Department of Public Works), the Senior Grading Inspector (LADBS) and the hauling or general contractor.
 - Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. All grading activities require grading permits from the Department of Building and Safety. Additional provisions are required for grading activities within Hillside areas. The application of BMPs includes but is not limited to the following mitigation measures:
 - a. Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), diversion dikes shall be constructed to channel runoff around the site. Channels shall be lined with grass or roughened pavement to reduce runoff velocity.
 - b. Stockpiles, excavated, and exposed soil shall be covered with secured tarps, plastic sheeting, erosion control fabrics, or treated with a bio-degradable soil stabilizer.

VI-50. Geotechnical Report

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- Prior to the issuance of grading or building permits, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologist, to the Department of Building and Safety, for review and approval. The geotechnical report shall assess potential consequences of any soil strength loss, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include, but are not limited to: ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements or any combination of these measures.
- The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project, and as it may be subsequently amended or modified.

VI-60. Landslide Area

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- Environmental impacts may result due to the proposed project's location in an area with landslide potential. However, these potential impacts will be mitigated to a less than significant level by the following measures:
- Prior to the issuance of grading or building permits, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologist, to the Department of Building and Safety, for review and approval. The geotechnical report shall assess potential consequences of any landslide and soil displacement, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include, but are not limited to: ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements or any combination of these measures.
- The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project, and as it may be subsequently amended or modified.

VII-10. Green House Gas Emissions

- The project will result in impacts resulting in increased green house gas emissions. However, the impact can be reduced to a less than significant level though compliance with the following measure(s):
- Only low- and non-VOC-containing paints, sealants, adhesives, and solvents shall be utilized in the construction of the project.

VIII-10. Explosion/Release (Existing Toxic/Hazardous Construction Materials)

- Due to the age of the building(s) being demolished, toxic and/or hazardous construction materials may be located in the structure(s). Exposure to such materials during demolition or construction activities could be hazardous to the health of the demolition workers, as well as area residents, employees, and future occupants. However, these impacts can be mitigated to a less than significant level by the following measure:
- **(Asbestos)** Prior to the issuance of any permit for the demolition or alteration of the existing structure(s), the applicant shall provide a letter to the Department of Building and Safety from a qualified asbestos abatement consultant indicating that no Asbestos-Containing Materials (ACM) are present in the building. If ACMs are found to be present, it will need to be abated in compliance with the South Coast Air Quality Management District's Rule 1403 as well as all other applicable State and Federal rules and regulations.
- **(Lead Paint)** Prior to issuance of any permit for the demolition or alteration of the existing structure(s), a lead-based paint survey shall be performed to the written satisfaction of the Department of Building and Safety. Should lead-based paint materials be identified, standard handling and disposal practices shall be implemented pursuant to OSHA regulations.
- **(Polychlorinated Biphenyl – Commercial and Industrial Buildings)** Prior to issuance of a demolition permit, a polychlorinated biphenyl (PCB) abatement contractor shall conduct a survey of the project site to identify and assist with compliance with applicable state and federal rules and regulation governing PCB removal and disposal.

VIII-40. Hillside Construction Staging and Parking Plan

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- Prior to the issuance of a grading or building permit, the applicant shall submit a Construction Staging and Parking Plan to the Department of Building and Safety and the Fire Department for review and approval. The plan shall identify where all construction materials, equipment, and vehicles will be stored through the construction phase of the project, as well as where contractor, subcontractor, and laborers will park their vehicles so as to prevent blockage of two-way traffic on streets in the vicinity of the construction site. The Construction Staging and Parking Plan shall include, but not be limited to, the following:
- No construction equipment or material shall be permitted to be stored within the public right-of-way.
- If the property fronts on a designated Red Flag Street, on noticed "Red Flag" days, all the workers shall be shuttled from an off-site area, located on a non-Red Flag Street, to and from the site in order to keep roads open on Red Flag days.
- During the Excavation and Grading phases, only one truck hauler shall be allowed on the site at any one time. The drivers shall be required to follow the designated travel plan or approved Haul Route.
- Truck traffic directed to the project site for the purpose of delivering materials, construction-machinery, or removal of graded soil shall be limited to off-peak traffic hours, Monday through Friday only. No truck deliveries shall be permitted on Saturdays or Sundays.
- All deliveries during construction shall be coordinated so that only one vendor/delivery vehicle is at the site at one time, and that a construction supervisor is present at such time.
- A radio operator shall be on-site to coordinate the movement of material and personnel, in order to keep the roads open for emergency vehicles, their apparatus, and neighbors.

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- During all phases of construction, all construction vehicle parking and queuing related to the project shall be as required to the satisfaction of the Department of Building and Safety, and in substantial compliance with the Construction Staging and Parking Plan, except as may be modified by the Department of Building and Safety or the Fire Department.

VIII-70. Emergency Evacuation Plan

- Environmental impacts may result from project implementation due to possible interference with an emergency response plan. However, these potential impacts will be mitigated to a less than significant level by the following measure:
- Prior to the issuance of a building permit, the applicant shall develop an emergency response plan in consultation with the Fire Department. The emergency response plan shall include but not be limited to the following: mapping of emergency exits, evacuation routes for vehicles and pedestrians, location of nearest hospitals, and fire departments.

IX-20. Stormwater Pollution (Demolition, Grading, and Construction Activities)

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- Sediment carries with it other work-site pollutants such as pesticides, cleaning solvents, cement wash, asphalt, and car fluids that are toxic to sea life.
- Leaks, drips and spills shall be cleaned up immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.
- All vehicle/equipment maintenance, repair, and washing shall be conducted away from storm drains. All major repairs shall be conducted off-site. Drip pans or drop clothes shall be used to catch drips and spills.
- Pavement shall not be hosed down at material spills. Dry cleanup methods shall be used whenever possible.
- Dumpsters shall be covered and maintained. Uncovered dumpsters shall be placed under a roof or be covered with tarps or plastic sheeting.

XII-20. Increased Noise Levels (Demolition, Grading, and Construction Activities)

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- The project shall comply with the City of Los Angeles Noise Ordinance No. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
- Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday.
- Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
- The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.

XVI-30. Transportation (Haul Route)

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- The developer shall install appropriate traffic signs around the site to ensure pedestrian and vehicle safety.
- **(Non-Hillside):** Projects involving the import/export of 20,000 cubic yards or more of dirt shall obtain haul route approval by the Department of Building and Safety.
- **(Hillside and Subdivisions):** Projects involving the import/export of 1,000 cubic yards or more of dirt shall obtain haul route approval by the Department of Building and Safety.
- **(Hillside Projects):**
- All haul route hours shall be limited to off-peak hours as determined by Board of Building and Safety Commissioners.
- The Department of Transportation shall recommend to the Building and Safety Commission Office the appropriate size of trucks allowed for hauling, best route of travel, the appropriate number of flag people.
- The Department of Building and Safety shall stagger haul trucks based upon a specific area's capacity, as determined by the Department of Transportation, and the amount of soil proposed to be hauled to minimize cumulative traffic and congestion impacts.
- The applicant shall be limited to no more than two trucks at any given time within the site's staging area.

XVI-50. Inadequate Emergency Access

- Environmental impacts may result from project implementation due to inadequate emergency access. However, these impacts can be mitigated to a less than significant level by the following measure:
- The applicant shall submit a parking and driveway plan to the Bureau of Engineering and the Department of Transportation for approval that provides code-required emergency access.

XVII-10. Utilities (Local Water Supplies - Landscaping)

- Environmental impacts may result from project implementation due to the cumulative increase in demand on the City's water supplies. However, this potential impact will be mitigated to a less than significant level by the following measures:
- The project shall comply with Ordinance No. 170,978 (Water Management Ordinance), which imposes numerous water conservation measures in landscape, installation, and maintenance (e.g. use drip irrigation and soak hoses in lieu of sprinklers to lower the amount of water lost to evaporation and overspray, set automatic sprinkler systems to irrigate during the early morning or evening hours to minimize water loss due to evaporation, and water less in the cooler months and during the rainy season).
- In addition to the requirements of the Landscape Ordinance, the landscape plan shall incorporate the following:
 - Weather-based irrigation controller with rain shutoff
 - Matched precipitation (flow) rates for sprinkler heads
 - Drip/microspray/subsurface irrigation where appropriate
 - Minimum irrigation system distribution uniformity of 75 percent
 - Proper hydro-zoning, turf minimization and use of native/drought tolerant plan materials
 - Use of landscape contouring to minimize precipitation runoff
- A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for existing and expanded irrigated landscape areas totaling 5,000 sf. and greater.

XVII-90. Utilities (Solid Waste Recycling)

- Environmental impacts may result from project implementation due to the creation of additional solid waste. However, this potential impact will be mitigated to a less than significant level by the following measure:
- **(Operational)** Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material. These bins shall be emptied and recycled accordingly as a part of the project's regular solid waste disposal program.
- **(Construction/Demolition)** Prior to the issuance of any demolition or construction permit, the applicant shall provide a copy of the receipt or contract from a waste disposal company providing services to the project, specifying recycled waste service(s), to the satisfaction of the Department of Building and Safety. The demolition and construction contractor(s) shall only contract for waste disposal services with a company that recycles demolition and/or construction-related wastes.
- **(Construction/Demolition)** To facilitate on-site separation and recycling of demolition- and construction-related wastes, the contractor(s) shall provide temporary waste separation bins on-site during demolition and construction. These bins shall be emptied and the contents recycled accordingly as a part of the project's regular solid waste disposal program.

XVII-100. Utilities (Solid Waste Disposal)

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- All waste shall be disposed of properly. Use appropriately labeled recycling bins to recycle demolition and construction materials including: solvents, water-based paints, vehicle fluids, broken asphalt and concrete, bricks, metals, wood, and vegetation. Non recyclable materials/wastes shall be taken to an appropriate landfill. Toxic wastes must be discarded at a licensed regulated disposal site.

XVIII-10. Cumulative Impacts

- There may be environmental impacts which are individually limited, but significant when viewed in connection with the effects of past projects, other current projects, and probable future projects. However, these cumulative impacts will be mitigated to a less than significant level through compliance with the above mitigation measures.