

THE TAYLOR GROUP

October 17th, 2014

Los Angeles City Council
Los Angeles City Hall
200 North Spring Street
Los Angeles California 90012

RE: APPEAL OF HAUL ROUTE APPROVAL BY BOARD OF BUILDING AND SAFETY COMMISSIONERS

JOB ADDRESS: 9120 ORIOLE WAY

TRACT: PM 1904; LOTS A & B (ARB 2)

Honorable Council Members,

I am writing on behalf of our client, Mike and Korky Stoller (residents at 9100 Oriole way), to appeal the decision made during the Board of Building and Safety Commissioners Hearing held on Tuesday, October 7, 2014, regarding Board File 140048, approval of application by Thomas DuMary III to export 2,528 cubic yards of earth as a part of the construction of a new home to be located at 9120 Oriole Way, Los Angeles, CA 90069.

The chief concern of our appeal is the cumulative impact of 15 simultaneous construction projects that may potentially be or have already been approved in the immediate neighborhood of the subject project site. This includes well over 20,000 cubic yards of earth to be removed by haul routes simultaneously, with 8,000 cubic yards created by three projects in the immediate area of Oriole Way, Oriole Drive and Thrasher Dr alone.

Assuming approximately 6 10-wheeled trucks on each of approximately 15 sites moving along the proposed haul routes each week day in the 60 day construction period, the cumulative number of trucks in the area will be approximately 90 per day. Anything even approaching this number will result in a traffic nightmare for this neighborhood.

Our specific concerns are that the cumulative impact of the simultaneous haul routes will significantly impact the following:

1. Residential traffic to and from the 150-200 homes in the area primarily accessible via the intersection of Doheny and Sunset Boulevard, the main entrance and exit point for haul route vehicles to all 15 proposed construction sites;
2. Parking for residents, their guests and home personnel, and parking for construction site workers, city employees and all other personnel associated with the construction projects. Parking is already extremely limited on the narrow streets surrounding the proposed construction site, and the parking issues will be aggravated well beyond reason by the cumulative impact of 15 potential simultaneous construction sites;
3. A potentially disastrous effect on emergency vehicle accessibility to and from the 150-200 homes in the neighborhood. The neighborhood houses a large population of senior citizens who

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may require significant emergency vehicle access in the event of health emergencies. As proposed, the cumulative impact on traffic caused by all 15 simultaneous construction sites poses a significant hazard to public welfare and safety in the neighboring community

The Board did not address specific conditions addressing the cumulative impact of all fifteen simultaneous haul route projects and the related hauling of over 20,000 cubic yards of dirt during the hearing held on October 7th, 2014. While Board members acknowledged that this was a problem, the board approved the Haul Route for this project without specifically addressing or taking any action with respect to this acknowledged and very serious problem.

The Mitigated Negative Declaration ENV-2014-1055-MND issued by City Planning in association with this case includes the following Potential Environmental Impact that acknowledges the cumulative impact of all haul routes in the neighborhood. The proposed mitigation measures do not provide adequate measures to mitigate the cumulative impact of all 15 simultaneous projects. This item was amended by Item 3.b. in the Department of Building and Safety Board of Commissioner's determination letter (attached) with a plan to monitor the cumulative impact, however the item as stated is not reasonably sufficient to actually mitigate the issue to a "Level of Insignificance" as required by CEQA and therefore does not adequately resolve the problem:

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 probably future projects. However, these cumulative impacts will be mitigated to a less than significant level through compliance with the above mitigation measures.

While this Mitigated negative Declaration, including the above mitigation measure, was adopted by the Board, there were not sufficient mitigation measures imposed to mitigate the total cumulative impact. Without additional specific measures being considered and included by the City to mitigate the potential impact of all projects, the Mitigated Negative declaration cannot be adopted. The Board's response to this issue raised at the Haul Route Hearing was to impose an additional condition:

b. 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 condition provides no specific guidelines for monitoring and controlling the hauling traffic, construction parking or parking limitations on the residents during this period of ultimate disruption to the neighborhood. It simply seems to say, on behalf of the City, "Oh, we will take care of it, don't worry." That is certainly not sufficient to protect our neighborhood.

Coincidentally, on October 4th, 2014, there was an accident involving a large delivery truck that could not navigate the narrow street Oriole Way without hitting a parked car. The street was completely blocked until the accident was cleared. Not only could residents not get in or out, emergency vehicles would have been unable to get through should a medical emergency have occurred in the area.

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Thankfully there was no emergency during this time, however next time the neighborhood may not be so lucky.

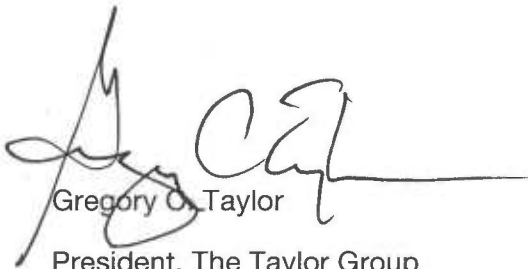
We request that all construction projects must not take place simultaneously under any circumstances, since there are no imaginable conditions under which the cumulative impact of these simultaneous projects would not significantly negatively impact normal quality of life for residents of the neighborhood. One suggestion would be to stagger the schedule of construction projects such that only 3-5 happen in the neighborhood simultaneously and to impose mitigating conditions addressing the cumulative impact of all concurrent project sites in addition to individual projects. At a minimum, a specific schedule reviewing and considering all projects with their timing and hauling quantities should be prepared by the Department of Building and Safety. This should be provided to the residents so that they may review and if necessary provide input. This process should be fully transparent so that all the affected residents may review and, if necessary, raise additional concerns that may not have been considered by the City in their review.

Please note that our client does not take issue with the construction of new homes in the area. Our client does, however, object to the operational impact of 15 simultaneous projects as described above. This is a serious issue that will unreasonably affect welfare and safety of our client and all residents of the surrounding neighborhood.

We would like to think that this appeal will provide an opportunity for the City to look at this situation in its' totality and provide the opportunity to impose the necessary restrictions and conditions to protect our neighborhood in connection with this construction and minimize, to the extent feasible, the extremely serious ramifications of simultaneous hauling and construction in our neighborhood. It seems to us that the cumulative impact of all projects in a circumstance like this should be appropriately addressed as standard procedure in the course of applying for a haul route project with the Department of Building and Safety.

Thank you for any assistance you may be able to provide in our efforts to minimize the impact of this on our neighborhood. We look forward to your response.

Sincerely,



Gregory O. Taylor

President, The Taylor Group

Representative for and on behalf of Mike and Korky Stoller

9100 Oriole Way, Los Angeles, CA, 90069

CITY OF LOS ANGELES

CALIFORNIA



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MAYOR

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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: 140048

C.D.: 4

9120 Oriole Way, LLC
c/o Thomas DuMary III
10960 Wilshire Blvd., Suite 1510
Los Angeles, CA 90024

JOB ADDRESS: 9120 WEST ORIOLE WAY
TRACT: PM 1904; LOTS A & B (Arb 2)

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 2,528 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-2014-1055-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.8 shall be amended as follows:

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. The "No Parking" signs shall only be placed on one side of the street along the haul route.

- b. 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.

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Job Address: 9120 WEST ORIOLE WAY

Board File: 140048

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.

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

Action By
the BOARD OF BUILDING AND SAFETY
COMMISSIONERS on
October 7, 2014

NOT VALID WITHOUT STAMP AND SIGNATURE

CJ:mct

140048.FAL

- c: Sr. Grading Inspector P. Mischlich
- Jonathan Brand
- C. Stoller
- Howard Smuckler
- John Fiedler
- Jason Somers

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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. 140048
C.D.:4 (Councilmember T. LaBonge)

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

APPLICATION TO EXPORT 2528 CUBIC YARDS OF EARTH

PROJECT LOCATION: 9120 WEST ORIOLE WAY

TRACT: PM 1904

BLOCK: NONE

LOT: A & B(Arb 2)

OWNER:

9120 Oriole Way, LLC
14 Todd Road
Katonah, NY 10536

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 2,528 cubic yards of material moved 6.5 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 \$788,500.00 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 (e) (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 60 hauling days.
3. Staging: Staging is allowed on site only.
4. The approved haul vehicles are 10 wheel dump trucks.
5. Total amount of dirt to be hauled shall not exceed 2,528 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 Oriole Way in advance of Oriole Drive.
 - B. Two on Thrasher Avenue in advance of Oriole Drive.
 - C. Two on Doheny Drive in advance of Oriole Drive.
 - D. One on Bluebird Avenue in advance of Doheny Drive.

7. Five 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. The intersection of Oriole Way and Oriole Drive.
 - C. The northern intersection of Oriole Drive and Thrasher Avenue.
 - D. The intersection of Doheny Drive and Oriole Drive.
 - E. 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 Oriole Way, Oriole Drive, and Doheny Drive 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 Oriole Way, 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.