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Appeal of Categorical Exemption to the Los Angeles City Council

Public Resources Code §21151(c)

Case No.: Board of Recreation and Park Commissioners File No. 15-223.

Project Address: 2000 N. Fuller Avenue, Runyon Canyon Park

TYPE OF APPEAL: Appeal of Categorical Exemption adopted under the
California Environmental Quality Act

APPELLANT INFORMATION

Name: Citizens Preserving Runyon, unincorporated association of citizens,
residents and taxpayers of the City of Los Angeles organized for
the purpose of protecting Runyon Canyon Park

REPRESENTATIVE INFORMATION

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JUSTIFICATION/REASON FOR APPEALING

This appeal challenges the November 4, 2015 determination by the Board of Recreation and Park Commissioners to find that construction of a basketball court at Runyon Canyon Park (“Project”) is exempt from CEQA pursuant to Article III, Section 1(y), Class 11, Categories 3 and 6 of the City’s CEQA Guidelines.

1. **Runyon Canyon Park is an Environmentally Sensitive, Wilderness Area with a 90-acre Off-Leash Dog Park**

Runyon Canyon Park is an un-staffed, 136.76 acre rural wilderness area with a 90 acre off-leash dog park, an open space turf-area, and hiking trails located in the Hollywood community. The Park is home to vast natural vegetation, principally wild chaparral interspersed with drought-resistant evergreen trees and shrubs; Southern California wildlife including flickers, bobcats, and coyotes; as well as numerous bird species including red crested woodpeckers, owls, and red tailed hawks.

The Park is zoned OS-1XL, for “Open Space Zone,” and is surrounded on all sides by residential properties the majority of which are zoned RE (“Residential Estate Zone”), and the remainder R3 (“Multiple Dwelling Zone”).

According to the City’s own records, the Park is an environmentally sensitive area. It is classified Forested/Shrub Riparian and potentially sensitive by the U. S. Fish & Wildlife Service.

Since 1986, development at the Park has been and continues to be guided by duly adopted Master Plan and Design Guidelines. The Master Plan acknowledges that though in the heart of Hollywood, one of the most densely populated neighborhoods in the City, the Park maintains its native ecology. The Master Plan provides that there will be *no exercise course* provided at the Park.

In 1999, the Board of Recreation and Park Commissioners approved an Off-Leash Dog Exercise Area Policy for the City’s Parks. This included, as anticipated by the Master Plan and Design Guidelines, a 90 acre Off-Leash Dog Exercise Area Policy at the Park, the largest off-leash dog park in Los Angeles. Since implementation of the Off-Leash Dog Exercise Area, thousands of members of the general public have used and continue to use the Off-Leash Dog Exercise Area.

The Park’s Off-Leash Dog Exercise Area is used in conjunction with the City’s Off-Leash Dog Exercise Area Guidelines which provide a basis for the development and operation of Off-Leash Exercise Areas in the City. Pursuant to

the Guidelines, off-leash dog exercise areas should be situated on property that is not developed for recreational use and/or in areas of parks that are not heavily used for other recreational activities to reduce the potential for conflict.

The Project, a recreational use, *the only recreational use*, is to be located within the existing Off-Leash Dog Exercise Area.

2. **Project Does Not Fit Within a Class 11 Exemption**

Class 11 exemptions, as a whole, apply only to the construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities. (CEQA Guidelines §15311). Class 11 exemptions are qualified by consideration of where the project is to be located. Furthermore, Class 11 exemptions may not be utilized where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, State or local agencies. (CEQA Guidelines §15300.2(a)).

The Project is located in a public park, zoned for “Open Space,” surrounded on all sides by residentially zoned properties and is not appurtenant to any existing commercial, industrial, or institutional facilities. The Project site is also specifically designated by the City to be in an environmentally sensitive area subject to Master Plan and Design Guidelines which provide that there will be no exercise course provided at the Park and the City’s Off-Leash Dog Exercise Area Guidelines which provide that off-leash dog exercise areas should be situated on property that is not developed for recreational use. Accordingly, Class 11 exemptions, in general, are inapplicable to may not be utilized for the Project.

A Class 11, Category 3 exemption is only applicable to game courts, play equipment, drinking fountains, restrooms, fences, walks, visuals screens, or single tennis courts *constructed in residential areas*. The Project is not proposed in a residential area or on residentially zoned land. Accordingly, a Class 11, Category 3 exemption cannot be relied upon.

A Class 11, Category 6 exemption is only applicable to construction or placement of minor structures *accessory to (appurtenant to) existing commercial, industrial or institutional facilities*. The Project is not appurtenant to any existing commercial, industrial, or institutional facilities, but rather only residential properties. Accordingly, a Class 11, Category 6 exemption cannot be relied upon.

3. Exceptions to a Categorical Exemption Apply

CEQA prohibits use of a categorical exemption when “there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (CEQA Guidelines § 15300.2(c)). The “unusual circumstances” exception is established without evidence of an environmental effect upon a showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location. *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086. In such a case, to render the exception applicable, the party need only show a reasonable possibility of a significant effect due to that unusual circumstance. *Id.* Alternatively, the “unusual circumstances” exception is established with evidence that the project will have a significant environmental effect. *Id.*

The typical use of a Class 11, Category 3 exemption is for residential properties (a home tennis court on a residential single family lot, for example, is the anticipated use of a Class 11, Category 3 exemption).

The typical use of a Class 11, Category 6 exemption is for is located on already existing commercial, industrial or institutional facilities (the addition of one basketball court on an existing institutional game court for example, is an anticipated use of a Class 11, Category 6 exemption).

Here, unlike the anticipated properties which qualify for a Class 11, Category 3 and 6 exemptions, the Project is located on property zoned “Open Space;” specifically designated by the City to be environmentally sensitive; and governed by the Master Plan and Design Guidelines which specifically provide that there will be no exercise course at the Park; and within an *active* 90 acre *off-leash* dog park for which the City’s Off-Leash Dog Exercise Area Guidelines provide should be situated on property *not* developed for recreational use. These features distinguish the Project from others in the exempt classes, establishing the “unusual circumstances” exception.

Due to such unusual circumstances, it is not just a reasonable possibility, but a hard fact that the Project will cause substantial adverse impacts on the Petitioners and the surrounding neighborhood. Currently, without any game courts, the use of the Park causes very little, if any, noise impacts on the surrounding neighborhood. With the Project, the sound impacts from bouncing basketballs and sports participants will not just impact adjacent neighbors and residents but also the public’s proper, lawful uses within the Park when hiking and using of the Off-Leash Dog Exercise Area, resulting in a substantial permanent increase in ambient noise levels at the Park and the surrounding neighborhood. Furthermore, there are also no “private company” logos or

corporate signs anywhere in the Park. The introduction of a **large pink dolphin logo, the only advertising display in the entire Park**, visible from the hiking trails and other areas of the wilderness park, will scar the otherwise natural, wild natural aesthetics of the Park causing a substantial adverse effect on scenic vistas and degrading the existing visual character of the Project site and the Park.

Additionally, there are numerous bird species, including red crested woodpeckers, owls, and red tailed hawks which live and nest in the immediate vicinity of the Project site. The introduction of the Project will adversely impact these species by interfering with their nursery sites and movement. The Project will also further increase the already congested transportation routes and parking insufficiencies surrounding the Park. The Park is an extremely popular tourist destination (Google lists it in its “top 10” things to do in Los Angeles), already causing traffic congestion and inadequate parking impacts. A basketball court would attract even more visitors, further exacerbating this existing problem.

Finally, it cannot be disputed that Project conflicts with the Master Plan and Design Guidelines and the City’s Off-Leash Dog Exercise Area Guidelines which provide that there will be no exercise course at the Park and that off-leash dog exercise areas should be situated on property not developed for recreational use. Putting the Project at the Park will change it from a wilderness area into a recreational area, altering its character and beginning a trend to transform the Park into a recreational one without off-leash dog use.

For these reasons, the “unusual circumstances” is further inapplicable because the project will have a significant environmental effect.

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

Very truly yours,

LUNA & GLUSHON



ROBERT L. GLUSHON