

Harel Simon, D.M.D.

16-1155

Oct 11, 2016

To: Honorable Members of the City Council
City Hall Office
200 N. Spring St.
Los Angeles, CA 90012

Via Hand Delivery to:
Ms. Sharon Dickinson, Legislative Assistant
Office of the City Clerk
200 N. Spring St., Room 395
Los Angeles, CA 90012
213-978-1074

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Re: **APPEAL of Board file 160040**
11600 West Dunstan Way Haul Route

Dear Honorable Members of the City Council:

My neighbors and I respectfully file a formal appeal regarding the decision of the Board of Building and Safety Commissioners (BBSC) on October 4, 2016 to approve the Haul Route for the export of 33,120 cubic yards of earth from the project site and the approval of the associated Mitigated Negative Declaration ENV-2016-0457-MND (MND).

We believe an error was made due to the limited time to discuss this which did not allow full exposure of the facts and complete review of the flaws of the MND report. Some of the issues presented were disconcerting to a point that one board member suggested to file a law suit about it.

We urge the City Council to deny the Haul Route unless it can be modified to protect the public health, safety and welfare.

The basis for this Appeal is as follows:

1a. Project and Haul Route is unsafe for cars, pedestrians, and animals

Dunstan is a narrow private alleyway with no sidewalk, serving five small buildings as an access to the main street, S Barrington. This is the **only way** residents have available to get to and from their home by foot or by car. This is also the only way emergency fire and police forces can use in case of an emergency. The alleyway measuring approximately 20ft wide, is already **over capacity** and can barely accommodate 2-way traffic of cars alongside pedestrians. The massive increase in number of cars over the generations since this road has been established and the recent exponential increase in online

ordering and daily presence of multiple commercial delivery trucks bringing goods to our homes has changed the reality and use of this driveway. This new reality of traffic congestion on a narrow alleyway with no sidewalk is putting **pedestrians' lives at risk** whenever they walk out or towards their home; this can be several minutes of unsafe walking per trip. Senior citizens and people with disabilities are helpless in front of this danger day and night. Pet owners, needing to walk their dogs 2-3 times a day, have no choice but to use Dunstan Way.

Recently, a serious accident between a vehicle and a pedestrian occurred: a leashed dog was hit and **killed** instantly by a car. This could have easily been a mother holding her daughter's hand.

This **project will exacerbate** this problem by allowing **trucks** and heavy machinery on this narrow alleyway and will ultimately increase the number of cars on the proposed property from 44 (existing parking spots) to 198 (per permit application– Appendix 2c) – an increase of 154 cars which is more than double the existing users of this alley! This is a threat to public health and safety and the residents of this community know firsthand that this danger is real!

Current **infrastructure** cannot support a large construction project (Appendix 1):

- Narrow alleyway with no sidewalks.
- The road is physically damaged with cracks and pot holes.
- No proper emergency evacuation for cars or people.
- Inability to do a U-turn on the street even with a compact size car let alone large trucks. Since a standard U-turn cannot be accomplished, one alternative is to do a "3-point turn" which compact cars can do using multiple back and forth reverse maneuvers in order to turn around. Trucks however, are too large to perform these maneuvers and typically need to do a risky reverse all the way back to the main street. All this is done while pedestrians are walking around these **hazardous maneuvers** attempting to dodge this **danger** with no sidewalk to shield them.
- Improper maneuverability for construction trucks and heavy machinery.
- Improper maneuverability for fire trucks: Bordering VA forestland of wild Eucalyptus trees can easily catch fire, especially during drought, hence putting the entire community at risk. This alleyway is the only access to the property and bordering forestland.
- Improper maneuverability for everyday trucks such as: tenants' moving trucks, USPS, FEDEX, UPS, AMAZON, Garbage, Recycling, service trucks and others.

1b. Project and haul route could be safe with the following modification

The haul route and project of this size may be done safely under certain conditions: It should be done only when there is **direct access to Barrington** so that there is access to a real street during construction and after. Responsible developers in our area have followed this exact model successfully (see 441 S Barrington, 417 S Barrington, 550 S Barrington/Casa Granada and more). The current project is planned on an unsafe substandard alleyway infrastructure and unless stopped, it is a threat to public health and safety.

In order to create a safe development project, a building bordering Barrington should be included in the development. There are currently 8 options of adjacent buildings available; some of which are in a need for development. This will not only allow the proposed property direct access to Barrington but will also create a circular traffic pattern with 2 entrance and exit routes which are more appropriate for a project this size, and will resolve the hazardous no-U-turn situation. Once direct access is established from the property to Barrington, a safer environment will be established.

2. Dunstan way is a private street with no provision for a *for-profit* use

The street is owned by 514-520 S. Barrington with easement agreement for personal use of this private road dated back 60 years ago (City file PS-172). The proposed *for-profit* project exceeds the scope of the easement.

- The easement agreement allowed ingress and egress for **personal** use of the property and **not for a profit** use.
- In addition, having massive trucks and machinery on the road in the described substandard conditions will **obstruct and violate** the current owners/residents from their right for free and clear ingress and egress (Appendix 1 demonstrates obstruction by truck).
- The conditions currently presented are in contrast to the agreement drafted 60 years ago, and since the **conditions have substantially changed** (massive construction, excessive number of cars, no direct access to Barrington), this agreement needs to be re-negotiated if there is a request to use this road for any purpose other than that intended.
- The “staff report” issued by BBSC dated Aug 25, 2016 discussing the application on page 4 item B-18 and stating: “This approval pertains only to the City of Los Angeles Streets”. It is therefore essential to have a separate discussion pertaining approval for the portion of this project attempting to use a private road.
- The project is likely to cause irreversible **damage** to an old and already deteriorated road. An optimistic estimate of the project time from start to completion is 2-3 years. There was no specific mitigation proposed in the MND report to address whether the proposed Haul Route would result in substantial adverse physical impacts with the need to provide provision for fire protection while maintaining acceptable service ratios and response time. What is the mitigation measure to ensure that **fire protection service ratios, response times** or other performance objectives are not diminished during the years of this ongoing project?

3. Multiple simultaneous constructions on Barrington clogging a major connector to 405 freeway

Barrington Ave (the main road leading to the proposed project) serves as a major connector of Santa Monica and Brentwood to the 405 freeway through Sunset Blvd. This route is already clogged with unbearable traffic which both residents and commuters are pleading the city to resolve.

There are currently multiple construction projects on Barrington Ave in different stages. While any construction project using this street may individually impose a traffic burden, the existence of multiple simultaneous construction projects on this street is causing **unacceptable and unsafe** conditions for commuters and residents. Each project will further create long term congestion once construction projects are completed.

Construction traffic emanating from proposed development at 11600 W Dunstan Way will greatly exacerbate the congestion resulting from the simultaneous construction projects. Looking at the totality of all of these projects combined, however equates to an **exponentially extensive traffic nightmare** for daily users of Barrington - from buses, to schools to residents, to commuters, to **emergency vehicles** - during construction phases and thereafter.

Example of **11 current simultaneous construction** projects (some of these are massive constructions) impacting a less than one mile stretch of South Barrington Avenue include the following:

- 11600 W Dunstan Way (4 story, 54 units, 2 level subterranean parking)
- Archer School on S. Barrington (5 story large scale expansion project)
- Brentwood School on S. Barrington (large scale expansion project)
- 417 S Barrington (4 story, 34 units, subterranean parking)
- 625 S Barrington (4 story, 46 units, subterranean parking)
- 11745 W Chenault (side street leading to S. Barrington)
- 11750 W Chenault
- 11768 W Chenault
- 11775 W Chenault
- 11780 W Chenault
- 11791 W Chenault
- And more.

4. The property is not a legal parcel

The lots of this property have not been subdivided properly. They need a certificate of compliance pursuant to subdivision map act (lot line adjustment). Since they were **subdivided illegally** this is not a legal parcel (Note Arb on Zimas). This needs to take place prior to any step.

5. The MND Report (ENV-2016-457-MND) exhibits multiple flaws

Reviewing the report thoroughly reveals that the report was probably constructed from a template that did not consistently correspond to this project as it features multiple errors.

Some items are reported incorrectly as “no impact” (see examples below). In addition, the report identifies several issues that have a **significant impact**, and suggests that with mitigation it will be less

than significant. However, reading the text carefully reveals that many of these items contain a repetitive text pattern stating: “these potential impacts will be mitigated to a less than significant level through compliance with the **above mitigation**” while there is **no actual mitigation provided in the report (!)** It appears as if the report was glanced at and checked off, however, once it is being read word for word, one would clearly see that there are many unmitigated issues that are passed as having mitigation.

These flaws need to be addressed, and the MND report needs to be fundamentally revised.

Below are a few examples:

I Aesthetics a,b,c (p10) : items marked as “no impact” .

This project will remove 15 trees and will block the scenic view of VA forestland trees. Heavy machinery will be introduced to the area. The aesthetic rustic character of the community is going to be negatively altered. Appendix 1 captures incidentally a small part of the scenic view of trees as seen from Dunstan way. This is only part of the green forest view. The statement “no impact” is undeniably incorrect. This is just one example in which the MND Report contains incorrect information and questions the validity of the report as a whole.

IV Biological resources a,d (p10): items marked “less than significant impact with mitigation and less than significant impact”, respectively.

These item conflict and contradict each other. The long term residents and neighbors very well know and have documented over the years that the property features owls and hawks among other species of **endangered and protected animals** which will be significantly impacted by the harmful biological consequences of the project, including excavation of 33,120 cubic yards of earth. Therefore, “less than significant impact” for item IV d is incorrect.

VIII Hazards and Hazardous Materials b,c,e (p11): items marked “less than significant and no impact”.

The report admits that **asbestos and lead paint** are likely to be found on property and toxic material will be released to the air. The report further states that “construction activities have the potential to result in the release, emission, handling, and disposal hazardous material **within a quarter of a mile of an existing school.**” The report claims that the Brentwood School East Campus is located 0.7 miles from the construction site. However, the southeast part of the school including the soccer field is within **0.2miles** of the project. This is less than ¼ mile and not 0.7 miles as the report incorrectly states. Therefore, “less than significant impact” for item VIII c is incorrect.

VIII e : Safety near airport. The report claims no airport within 2 miles and therefore no hazard and “no impact”. However, the project is located near an active **federal heliport** with continuous air traffic unlike what the report incorrectly stated. Therefore, “no impact” for item VIIIe is definitely incorrect.

X Land use and planning a (p12): item marked “no impact”.

The report claims the project will not physically divide an established community. However, the project will **block** easement to the end of Dunstan Way along with access to a vista point of VA forestland that

the neighbors frequent and enjoy. This will cause a **divide** between the west and east part of the community. Therefore, “no impact” for item X a is incorrect.

XII Noise d (p12): item marked “less than significant impact”.

The report is questioning whether there will be “no temporary or periodic increase in ambient **noise level** in the project vicinity **above levels existing without the project**”. This is incorrect. Demolition and excavation of over 30,000 cubic yards will cause significant noise above level of ambient noise without project. Therefore, “Less than significant impact” for item XII d is incorrect.

XII Noise e : item marked “no impact”

“for a project located ... within two miles of a public airport” Stating there will be no exposure of people residing or working in the area to excessive noise level. This is incorrect. A federal Heliport with continuous air traffic is located within two miles and will affect the noise level. Therefore, “no impact” for item XII e is incorrect.

XIII Population and Housing c (p13): item marked “less than significant impact”.

Stating there will be no displacement of substantial numbers of people. This is incorrect as there will be displacement of approximately 70 people residing in 35 dwelling units in the buildings to be demolished. These are **rent control** tenants (some residing there for over 20 years) who will be displaced and once they are out of the rent control contract, **will not be able to afford housing** in the new project or **elsewhere in the city**. It is evident that since the developer bought the property, its maintenance deteriorated significantly causing residents to feel indirectly pressured to leave the property they called home for many years.

In addition, the undesired nature of this project has pushed multiple homeowners from 514 S Barrington to contact their real estate agents and explore the possibility of **leaving**, selling or renting out their condos due to this project. Similarly, the rent control tenants from 11620 Dunstan Way have unanimously expressed their desire to leave if this project takes place. The neighboring residents feel strongly that this project will adversely affect their **quality of life** (see detail below) and while some feel helpless and depressed in front of this undesired project, others respond with panic. However, the majority feel bullied by a stronger entity that they cannot afford to fight. The **stealth operation** of this project (discussed under the subtitle “Project has been illegally hidden from the public” and “Notices of hearing were inaccurate and did not reach 300ft radius residents” in this document) significantly contributed to the sensation of being bullied.

Therefore, “no impact” for item XIII c is incorrect.

Adversely affect quality of life of existing neighbors

The following issues have not been satisfactorily mitigated in the MND report and represent the true environmental impact on the quality of life of neighboring residents:

- Loss of 15 large trees – esthetics and air quality.
- Less trees and more machines and synthetic structures = more pollution.
- Construction planned is taller than existing residence.

- Construction project harmful effects and toxicity located only 15ft from the windows of adjacent neighbors (514 S Barrington and 11620 Dunstan Way).
- Blocked fresh air flow to residential units.
- Blocked sun light to residential units.
- Loss of view: trees, sky, open space to all area residents walking or driving on Dunstan and to residents enjoying open space view from their units bordering with the project.
- Increased noise level – more cars, people, pool, guests. Bouncing sound from concrete walls.
- Increased time to enter/exit Dunstan way due to congestion (increased commute time and gas).
- Decreased privacy: more eyes looking into residents' units and balconies. Need to close blinds day and night – further reduce natural light – further reduce fresh air.
- **Increase in electricity** consumption (during and after project) – During the project there will be dust, noise, toxic debris such as asbestos and lead. This will require complete shutdown of all windows and shutters. Upon completion of the project there will be building proximity, reduced air flow and reduced natural light. In both situations there will be an excessive increase in the use of electricity for light and air conditioning for all properties involved.
- Reduced exposure to sun and natural light has been shown to be correlated to vitamin D deficiency and associated with depression.
- Changing the character of the immediate community of old rustic Brentwood, historical residence and blocking access to VA forestland and wildlife habitat vista point.
- Massive rental property signage will alter the private home nature of the community.

Reduced property value

As the quality of life of the current residents decreases due to the issues mentioned above, so does the desirability of the property in the eyes of prospective buyers and therefore property value will diminish. The increase in number of renters in the community is known to affect neighboring real estate. Residents bordering with the development will have **severe obstruction** of view and privacy and a massive loss of value of their property.

XVI Transportation/Traffic a (p13): item marked “less than significant impact”.

DOT looked at the number of increased units (+19) to assess the traffic burden. However, this assumption is incorrect in this situation. The project proposes an increase from existing **44 parking** spots to **198** (as stated in the permit application – Appendix 2c). These parking spots are needed for 1-3 bedroom units planned which may house from 2-6 roommates each with his/her individual car. This will result in **154 additional cars** on Dunstan Way (equivalent to approximately +70 units). Therefore, “Less than significant impact” for item XVI a is incorrect.

XVI f: item marked “no impact”.

“conflict with ...bicycle, or pedestrian facility, or otherwise decrease the performance or safety of such facilities”. This is clearly incorrect as the project will directly conflict with pedestrians and bicycle attempting to maneuver around construction trucks with no sidewalk to shield them from danger. Once the project is completed, the addition of 154 cars to property will double the number of existing cars on

Dunstan which will reach a total of 300 cars. This will definitely impact pedestrians and bicycle. Therefore, “no impact” for item XVI f is incorrect.

XVIII Mandatory Findings of Significance a (p14): item marked “less than significant impact”. “reduce the number or restrict the range of rare or endangered plant or animal”. The property and surrounding forestland is a habitat for owls and hawks which are endangered and protected animals. The noise, vibration, pollution, toxicity level and removal of 15 trees will adversely affect these species. Therefore “less than significant impact” for item XVIII a is incorrect.

XVIII b, c: items marked “less than significant with mitigation”. The mitigation text XVIII-10, XVIII-20, XVIII-30 (p4) acknowledges the significant cumulative environmental impacts on human beings. However, instead of an actual mitigation proposal, a repetitive text appears: “these potential impacts will be mitigated to a less than significant level through compliance with the **above mitigation measures**”. These are empty mitigation promises – **no actual mitigation is proposed above or below these repetitive sentences.**

6a. Project has been illegally hidden from the public

Permits for this project have been filed under a **fictitious address: 11600 W Barrington**. The correct project address is 11600 W Dunstan Way. The property is not situated on Barrington but on Dunstan. The street number 11600 does not exist on Barrington. In fact, the street “W Barrington” itself does not exist. Furthermore, Dunstan Way is situated between 514 S Barrington and 530 S Barrington. Therefore, even if 11600 Barrington existed, it would have not been anywhere near the project site.

- This fact kept this project hidden from the public and **violated the residents’ essential right** for public information (Appendix 2a,b,c):
- Knowledge about the project was not available. Searches for permit applications on 11600 W Dunstan Way or neighboring properties generated **false information** of “no permit” application; thus misleading the public regarding events which significantly affect their lives.
- **Property buyers** obtained false information in their due diligence. Adjacent property buyers who made their purchase after researching the neighboring properties have done so with the understanding that there is no construction planned in this area. This project was hidden and could have not been reasonably found. Prospective buyers would have not bought their properties for the agreed amount knowing that this project exists. If this project comes to fruition, it will result in **extensive financial damages** to numerous property owners who will inevitably seek **liability** as allowed by law.
- Even direct inquires at LADBS and the Department of City Planning about 11600 W Dunstan Way resulted with a reply that there are no permits and no projects planned at this address. **City employees were not able to locate this project** under the 11600 W Dunstan Way address.

6b. Notices of hearing were inaccurate and did not reach 300ft radius residents

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Notices of hearing letters did not reach all residents within 300ft radius as required by law (see Appendix 2: map of adjacent properties). This has been confirmed with residents at 500,514, 530,550 S Barrington addresses. A resident in 514 S Barrington who received the notice, reported that it appeared like “junk mail” and not like an official city letter. When an official city letter is being sent, such as property taxes or parking violation, there is no doubt that this is an official letter. Why is the notice being sent as a cheap tri-fold thin paper resembling “junk mail”?

Posting was not done at all for the first hearing and was later done 8 days prior to the second hearing (even though the developer was notified 30 days in advance). This did not allow enough time for the public to arrange for the hearing.

Information on the hearing posting was incorrect. The owner name and address were written as “Jeanne Robinson, 3404 Merrmac Rd” instead of “11601 Dunstan Partners LP C/O Moss and Co. 15300 Ventura Blvd.” This is yet another example of misleading information provided to the public.

The second hearing was scheduled on the most important Jewish holiday – the Jewish new year (Rosh Hashanah). Since Brentwood is a home to a large Jewish community, this date precluded a significant group from attending the hearing.

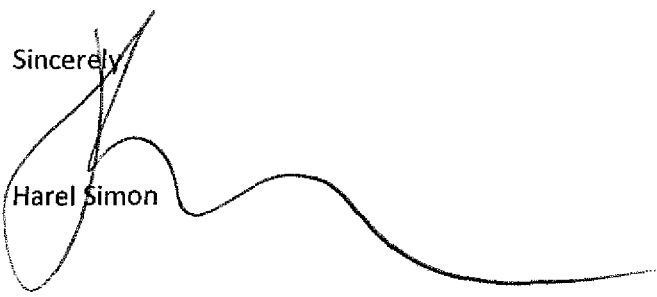
The Posting was done only on private property and not in a public place. Therefore it was not visible to neighbors residing within 300ft radius as required by law. The posting and mailings have not reached the **VA residence** and **VA hospital** which property is directly bordering with the development.

When the developer was confronted with some of these “inaccuracies” at the hearing and outside, the answer was simply: “the city did not tell us we needed to post” or “the city made a mistake on the application”. The cumulative number of “mistakes” and omissions in this case, all of which result with unidirectional damages to the neighbors and public, makes it hard to believe that the hard working employees of the city are alone responsible for this.

We hope that the City Council will give serious consideration to our concerns and protect the public health, safety and welfare while enforcing protocols as required by law.

Sincerely,

Harel Simon



Harel Simon, D.M.D.

Appendix 1: Trucks on Dunstan Way: no safe room for cars or pedestrians

(Notice trees in background will be eliminated by development)



514 S. Barrington Ave, Apt 303, Los Angeles, CA 90049 | T 310-869-6020 | harel@simonDMD.com

Appendix 2a: No permit application on 11600 Dunstan

The following information was found based on your search criteria. Expand the sections and select the specific information for further detail.

11600 W DUNSTAN WAY

<input checked="" type="checkbox"/> Parcel Profile Report:	1
<input type="checkbox"/> Permit Information found:	0
No Permit Information was found for this Address	
<input checked="" type="checkbox"/> Code Enforcement Information:	0
<input checked="" type="checkbox"/> Certificate of Occupancy Information:	0
<input checked="" type="checkbox"/> Soft-story Retrofit Program Information:	1

[Back](#)

Appendix 2b: Permit application on fictitious address "11600 W Barrington"

The following information was found based on your search criteria. Expand the sections and select the specific information for further detail.

11600 W BARRINGTON AVE

<input checked="" type="checkbox"/> Parcel Profile Report:	1
<input type="checkbox"/> Permit Information found:	1
<input checked="" type="checkbox"/> 11600 W BARRINGTON AVE 90049	
<input checked="" type="checkbox"/> Code Enforcement Information:	0
<input checked="" type="checkbox"/> Certificate of Occupancy Information:	0
<input checked="" type="checkbox"/> Soft-story Retrofit Program Information:	1

[Back](#)

Harel Simon, D.M.D.

Appendix 2c: Permit application on fictitious address "11600 W Barrington"
198 car parking is applied for

Los Angeles Department of Building and Safety

Certificate Information: 11600 W BARRINGTON AVE 90049

Application / Permit	13010-10000-04660
Plan Check / Job No.	613LA16571
Group	Building
Type	Bldg-New
Sub-Type	Apartment
Primary Use	(5) Apartment
Work Description	New 4-level, 54-unit Type V-A apartment complex over a 2-level 198-car Type IA subterranean parking structure with 12000sf courtyard on 43,920sf site. 75% PDPP (portion of Zoning & fire life safety, portion of disabled access, portion of Green, portion of Structural). GRADING BOND \$900,000
Permit Issued	No
Current Status	Verifications in Progress on 3/23/2016

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Appendix 3: The proposed project and adjacent properties within 300ft radius



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Appendix 4: Notice of hearing with wrong owner information

BOARD OF
BUILDING AND SAFETY
COMMISSIONERS

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MAYOR

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

FRANK BUSH
GENERAL MANAGER

**NOTICE OF PUBLIC HEARING TO PROPERTY OWNERS
WITHIN A 300-FOOT RADIUS OF GRADING SITE**

BOARD FILE NO. 160040
C.D.11 (Councilmember M. Bonin)

PROJECT ADDRESS: 11600 WEST DUNSTAN WAY
DATE OF HEARING: October 4th, 2016
TIME OF HEARING: 9:30 a.m.
PLACE OF HEARING: Room 900 (9th Floor), 201 North Figueroa Street, Los Angeles

OWNER: Jeanne Robinson
3404 Merrimac Road
Los Angeles, CA 90049

The Board of Building and Safety Commissioners of the City of Los Angeles will conduct a public hearing during which you may be present and speak regarding an application to haul earth material. The owner proposes to export 33,120 cubic yards of earth from the project site.

At the public hearing, the Board will be considering views of concerned parties regarding the proposed hauling operations and environmental review under the California Environmental Quality Act (CEQA). All problems of drainage, erosion and land stability on site are resolved as part of the grading plan check process prior to the issuance of the grading permit. Extensive soils engineering and geologic studies are commonly required for any substantial grading on hillside sites as part of obtaining the grading permit.

If you are unable to attend the hearing, you may submit your comments in writing prior to the date of the hearing. Comments should be addressed to the Board of Building and Safety Commissioners, Room 1080, 201 North Figueroa Street, Los Angeles, CA 90012. The City Departments of Building and Safety, Public Works and Transportation will submit recommendations to the Board for any controls they find are necessary to protect the interest of public health, safety and welfare during the hauling operation. A copy of the combined recommendations will be available at least two days before the hearing. Should you have specific questions regarding the proposed hauling operations, you may contact Jason Healey, Staff Engineer, at (213) 482-0466.

Agendas may be accessed through the City website at www.lacity.org "City Meetings and Agendas".

NOTE TO OWNER:
Failure of the owner or owner's representative(s) to appear at the hearing may result in a denial of the proposed haul route.

WORKSHEET P11160040

Notes & Attachments