

Item # 16



Jeffer Mangels
Butler & Mitchell LLP

jmbm.com

Benjamin M. Reznik
Direct: (310) 201-3572
Fax: (310) 712-8572
bmr@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

January 13, 2017

VIA E-MAIL (brian.walters@lacity.org)

President Wesson and
Members of the Los Angeles City Council
Los Angeles City Hall
200 N. Spring Street, Room 340
Los Angeles, CA 90012
Attn: Brian Walters



Re: 1561 Blue Jay Way, Appeal of Haul Route Denial
Council File No.: 16-1469
Hearing Date: January 18, 2017

Dear President Wesson and Members of the Los Angeles City Council:

On January 18, 2017 the City Council will be asked to reach a final determination on our client's appeal of the Los Angeles Department of Building and Safety ("DBS") Commission's ("Commission") denial of a haul route; a denial based solely on undefined and unquantifiable claims concerning the "cumulative effect[s] of [] additional truck traffic." The requested route is required by the appellant to export 3,200 cubic yards of dirt for a new by-right single-family home project located along a standard hillside street. On January 9, 2017, the Planning Land Use and Management Committee ("PLUM Committee") heard the appeal and recommended denial of the appeal, notwithstanding:

- (a) DBS staff's original recommendation that the route be approved along a path that currently does not have any active hauling activity;
- (b) DBS's assertions that this would be an unprecedented denial;
- (c) the City Attorney's confirmation that the cumulative impact of appellant's project was already analyzed as part of the environmental review before the project was recommended for approval;
- (d) the absence of any evidence supporting a conclusion that the recommended route along standard hillside streets that are regularly and safely traveled by trucks on a daily basis is dangerous, and
- (e) a traffic expert's showing that not a single traffic accident occurred over the past 5 years in connection with hauling activities on the recommended route.

In fact, the evidence and testimony presented to the PLUM Committee overwhelmingly supported our appeal, and showed that notwithstanding the PLUM Committee's ultimate recommendation, the Commission could not possibly have made the finding that the route would "endanger[ed] the health, safety, and welfare of the public" as required by the Municipal Code. Ultimately, the hearing in front of the PLUM Committee only confirmed appellant's contention that this haul route was arbitrarily denied solely based on general community complaints over construction and traffic as well as the Council Office's request for a moratorium on hauling in the district.

In an effort to substantiate these general concerns over truck traffic in the area, the Council District 4 submitted a memorandum to the PLUM Committee that lists projects near appellant's proposed project. The memorandum only listed addresses and neither specified the status of each project listed nor the amount of hauling to be conducted for each project. This list of addresses, attached hereto as **Exhibit A**, was the only additional "evidence" submitted by the City to support the existence of a "cumulative effect" of truck traffic. This list, however, fails to accurately depict the situation. In fact, nearly all of the projects listed have already completed their hauling work and not a single one of the projects currently approved are actively hauling along appellant's route recommended by DBS. Indeed, most of the listed projects are currently in the framing stage of construction and many of these projects are days or weeks away from being issued Certificates of Occupancies. Accordingly, by omission, the memorandum misrepresents the existing volume of ongoing and approved hauling activity along appellant's haul route. The memorandum is equally irrelevant to the critical question of safety, given that it provides no evidence that appellant's haul route will create any identifiable safety concerns or problems.

Moreover, if safety was truly the basis for denying appellant's haul route, the city must and can impose additional measures that would mitigate such concerns (such as spacing of hauling activities, more flagmen, limited hours, etc.). Denial of the haul route means that the building permit will not issue and our client will shortly lose its property to a foreclosure. Our client has designed a home that is fully compliant with all hillside and zoning regulations, and yet it will not be able to build the home as a result of this unsupported denial. Not only is this a patently unfair act by the city, but it amounts to an unconstitutional taking of private property without compensation. Our client will seek relief from the courts and pursue its claim for damages against the city.

Finally, without restating all of the significant fairness and due process arguments raised in our appeal and during the PLUM Committee hearing, it is critical that the City Council consider the possible city-wide impact of this decision before adopting the PLUM Committee's recommendation. Given that no evidence was presented to show a risk of public endangerment from the proposed haul route, it is apparent that the denial was primarily the result of the Council Office's call for an ad-hoc moratorium on haul routes in Council District 4. This moratorium is illegal under both the municipal code and under state law. Further, this de facto moratorium completely disregards the city's departmental structure as well as the Mayor's exclusive oversight over the Department of Building and Safety. Lastly, a decision to deny appellant's haul route

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will create extreme uncertainty amongst hillside property owners as to whether their proposed haul routes, and in turn their projects, will be denied on the basis of an unacceptable "cumulative effect". Such uncertainty will result in more and more controversy in hillside areas across the city, with less and less certainty for builders and residents alike.

Given the serious implications of this unprecedented and unsupported haul route denial, we urge the City Council to support our appeal and overturn DBS's denial. Thank you in advance for your consideration.

Sincerely,



BENJAMIN M. REZNIK and
DANIEL F. FREEDMAN of
Jeffer Mangels Butler & Mitchell LLP

BMR:dff
Enclosure

CC Hon. Mike Feuer, City Attorney, City of Los Angeles
Terry Kaufman Macias; Supervising Attorney, Office of the City Attorney
Ana Guerrero, Chief of Staff, Office of Mayor Eric Garcetti
Nick Maricich, Director of Planning Policy, Office of Mayor Eric Garcetti
Ashley Atkinson, Senior Planning Manager, Office of Mayor Eric Garcetti
Kevin Keller, Deputy Director of Planning, Department of City Planning
Julia Duncan, Planning Deputy, Council District 4

EXHIBIT A

Council District 4, Councilmember David Ryu
PLUM: Item 10; 16-1469

Loaded Truck Route:

Exit Project Site South on Blue Jay Way
Left on Thrasher
Right on Rising Glen
Continue Straight to Sunset

Date: 1/10/17
Submitted in PLUM Committee
Council File No. 16-1469
Item No 10

~~Empty~~ Communication from CD4

Empty Trucks:

Off of Sunset Right on Sunset Plaza Drive
Straight on Rising Glen Road
Left on Thrasher
Right on Blue Jay Way

Key:

Cream: Large swaths of geography in the cream color indicate Earthquake Induced Landslide Areas

Green: routes indicate both empty and loaded Truck Haul Routes

Yellow: These dots are pending Haul Routes

Mauve: These dots indicate previously approved Haul Routes

Cumulative Impacts

Attached is a map which shows the condition of our water infrastructure in the Bird Streets area. All of the red lines on the map represent the worst pipes in the City, the pipes that the Department of Water and Power consider having a 'very high likelihood of failure.'

Given the high density of old water pipes within the bird street neighborhood, LADWP would advise against using these streets as haul routes for heavy trucks, as they may further compromise our water infrastructure.

The sheer quantity of projects is adversely affecting the infrastructure of this community, public safety, and quality of life.

(16 Total) Bird Street Projects with Approved Haul Routes/Status

- 1450 Blue Jay Way/Demo Complete
- 1514 Blue Jay Way/Framing
- 1536 Blue Jay Way/ Rough Grading; Piles

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- 1615 Blue Jay Way/Rough Grading; Piles
- 1627 Blue Jay Way/No current hauling
- 1301 Collingwood Pl./ Rough Grading
- 9137 Cordell Dr./ No current hauling
- 9366 W. Flicker Way/ Framing
- 1814 Marcheeta/ No current hauling
- 9211 Nightingale Dr./Rough Grading
- 9280 W. Nightingale Dr./Framing
- 9120 N. Oriole Way/Pre Demo
- 9265 W. Robin Dr./Pre Demo
- 9268 W. Robin/Pre Demo
- 1540 Skylark Ln/Roigh Grading
- 9255 Swallow Dr./Pre Demo

(22 Total) Current Construction in Bird Streets not requiring a Haul Route

- 1457 N. Blue Jay Way
- 1474 N. Blue Jay Way
- 1480 N. Blue Jay Way
- 1305 Collingwood Pl.
- 9116 Cordell Dr.
- 1150 Doheny Dr.
- 1387 N. Doheny Dr.
- 1677 N. Doheny Dr.
- 1706 N. Doheny Dr.
- 1814 N. Doheny Dr.
- 1825 N. Doheny Dr.
- 1822 N. Marcheeta Pl.
- 1517 N. Oriole Ln.
- 9259 W. Robin Drive
- 9272 W. Robin Dr.
- 9200 Swallow Dr.
- 1375 Doheny Dr.
- 9233 Swallow Dr.
- 1407 Tanager Way
- 8854 W. Thrasher Ave.
- 9199 W Thrasher Ave.
- 9277 W. Thrush Way

(8 Total) Projects With Pending Haul Routes

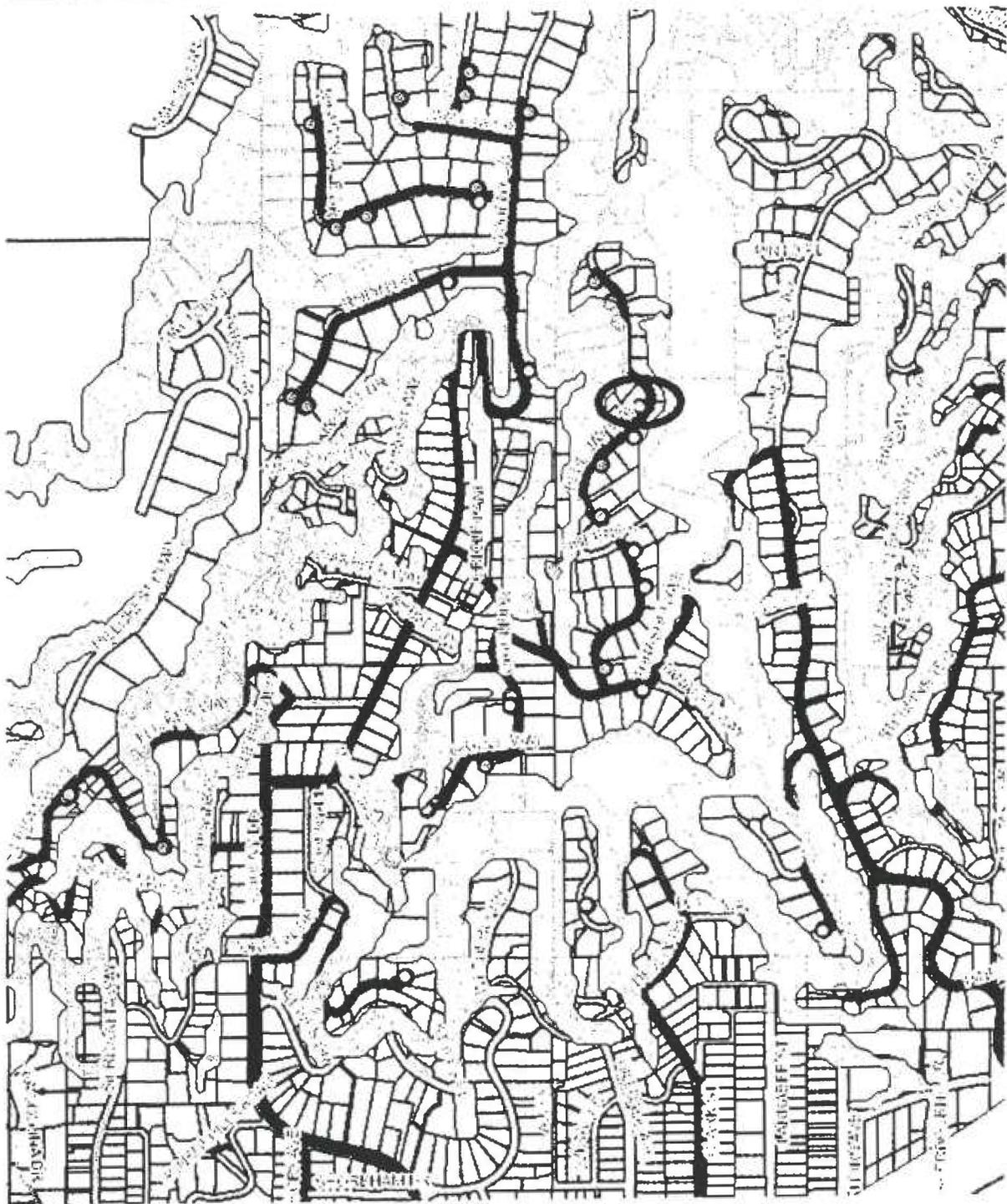
- 1635 Blue Jay Way
- 9126 Cordell Dr.

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- 1422 Devlin Dr.
- 9344 W. Nightingale Dr.
- 1401-1415 N. Oriole Dr.
- 1423 N. Oriole Dr.
- 8741 W. St. Ives Dr.
- 9416 Sierra Mar Pl.

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Existing Conditions





LADWP Water Infrastructure
Hollywood Hills



Proposed Haul Route in Bird
Streets Neighborhood

Legend

- F Grade Pipes
- DWP Pipes