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February 9, 2015

VIA EMAIL to Sharon Gin,
Legislative Assistant, Office of City Clerk

Los Angeles City Council
Planning and Land Use Management Committee
Councilmember Jose Huizar, Chair
Councilmember Gilbert A. Cedillo
Councilmember Mitchell Englander

Re: 5131 Cartwright Ave., Los Angeles
Council file No. 15-0102

Honorable Councilmembers:

Our law firm represents the Cartwright Avenue Neighbors ("Neighbors"), residents and owners of properties in the neighborhood impacted by the proposed small lot subdivision and Vesting Tract Map No. 72782-SL at 5131 N. Cartwright Avenue ("Project") and the adoption of the Mitigated Negative Declaration pursuant to ENV-2014-880-MND ("the MND").

At the outset, we are mindful that CEQA appeals are routinely denied by the City Council based upon your reliance on information provided to you by Planning Department staff and in some cases, the City Attorney's office.

The reality is that every CEQA case the City has lost in Court has been a case where you were advised by the Planning Department, and in some cases the City Attorney's office, that the CEQA review was proper. Based thereon, we ask you to use your independent judgment in determining the adequacy of the MND in this case.

The legal standard here is actually quite simple. It is whether the Neighbors have made a "fair argument" supported by credible evidence that there are potential adverse impacts not fully mitigated.

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California law supports the strong presumption in favor of requiring preparation of an Environmental Impact Report ("EIR") based on the "fair argument" standard. Simply stated, whenever the record contains substantial evidence that a project may have a significant effect on the environment, there is a presumption that an EIR should be required. *Laurel Heights Improvement Assn v. Regents of University of California* (1993) 6 Cal.4th, 112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.

The "fair argument" standard is a **low threshold standard** and reflects the **strong public policy interest for resolving doubts in favor of a thorough environmental review**. Where based on observation, the opinions and testimony from local residents are relevant to impacts such as aesthetics and traffic and constitute substantial evidence in support of a "fair argument" for an EIR. *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 355-356; *Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 402; *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322.

Here a "fair argument" clearly exists that the Project will have potential significant adverse impacts:

A. Aesthetics

The Project consists of the construction of eight, two and three story dwellings, in a neighborhood where the immediately adjacent homes are one-story. The MND fails to consider and adequately mitigate these impacts. The only proposed mitigation measures to provide a landscaping plan *in the future* and to keep the property in "good" condition are boilerplate and circular. They in no way address the issues of massing, height or lack of open space, all of which are proper aesthetic impacts. Furthermore, no landscaping plan has been provided to address any such adverse impacts, and it is difficult to imagine what type of landscaping could be completed where there is zero separation between the dwelling units.

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B. Biological Resources

The only mitigation measure provided by the MND to address the “loss of significant trees on the site” is to replace such trees by a 1:1 ratio. However, without requiring the applicant to submit a landscaping plan demonstrating the ability to meet this condition and to actually mitigate the “significant loss of trees” prior to certification of the MND, the mitigation measure is nothing more than a circular, inadequate and unfulfillable statement.

The Project, as proposed, contains zero separation between dwelling units. Where does the City propose that such “replacement” of trees will take place?

Furthermore, the MND fails to identify and set forth mitigation for the loss of the old, native trees on site, including 4 palm trees.

C. Land Use

The Applicant has failed to set forth any findings, nor can such findings be made with supporting substantial evidence, that the Project is consistent with the City’s General Plan (including the Community Plan).

The North Hollywood-Valley Village Community Plan encourages the preservation of low density single-family residential areas and the conservation of open space lands [Chapter III, Policies]. The Plan encourages the rehabilitation and/or rebuilding of deteriorated single-family areas for the same use [Chapter III, Policies].

As proposed, the Project would be the only building that has three stories in height¹ on this entire block within an established, low-rise neighborhood. Additionally, it is greatly over-massed on this one lot. As such, the Project is not in substantial conformance with these aspects of the North Hollywood – Valley Village Community Plan.

¹ The Area Planning Commission reduced the height of some portions of the Project to two stories.

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D. Noise

The MND acknowledges that the Project **will result in a substantial permanent increase in ambient noise levels**, yet the only condition proposed as mitigation is a masonry wall “if no such wall exists”. This is clearly boilerplate and inadequate. In order to adequately mitigate the substantial permanent increase in ambient levels of noise created by eight dwelling units as opposed to the existing one, the permanent impacts on noise must be further explained, analyzed and evaluated in an EIR.

E. Traffic

The MND fails to consider traffic impacts at all. The amount of vehicular traffic created by eight dwelling units as opposed to the existing one unit is a potential significant impact on the neighborhood *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322²

For all the reasons set forth above, the Neighbors have presented sufficient evidence to support a “fair argument” of potential significant adverse impacts from the Project that requires further environmental review. Based thereon, the Neighbors’ appeal should be granted.

Thank you for your consideration.

Very truly yours,

LUNA & GLUSHON



ROBERT L. GLUSHON

² Neighbors’ testimony constitutes evidence that supports “fair argument” which was relied on by the Courts in *Mejia* to overturn the City’s adoption of an MND for a residential subdivision.