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Street Vacation
Investigation Section
201 N. Figueroa St. Suite 200
Los Angeles, CA 90012
Attn: Edmond Yew, Manager

November 9, 2015

Beachwood Canyon Neighborhood
Bel-Air Association
Bel Air Knolls Property Owners
Bel Air Skycrest Property Owners
Benedict Canyon Association
Brentwood Hills Homeowners
Brentwood Residents Coalition
Cahuenga Pass Property Owners
Canyon Back Alliance
CASM-SFV
Crests Neighborhood Assn.
Franklin Ave./Hollywood Bl. West
Franklin Hills Residents Assn.
Highlands Owners Assn.
Hollywood Dell Civic Assn.
Hollywood Heights Assn.
Hollywoodland Homeowners
Holmby Hills Homeowners Assn.
Kagel Canyon Civic Assn.
Lake Hollywood HOA
Laurel Canyon Assn.
Lookout Mountain Alliance
Los Feliz Improvement Assn.
Mt. Olympus Property Owners
Mt. Washington Homeowners All.
Nichols Canyon Assn.
N. Beverly Dr./Franklin Canyon
Oak Forest Canyon Assn.
Oaks Homeowners Assn.
Outpost Estates Homeowners
Rancho Verdugo Estates
Residents of Beverly Glen
Roscomare Valley Assn.
Save Coldwater Canyon!
Save Sunset Blvd.
Shadow Hills Property Owners
Sherman Oaks HO Assn.
Silver Lake Heritage Trust
Studio City Residents Assn.
Sunset Hills Homeowners Assn.
Tarzana Property Owners Assn.
Torreyson Flynn Assn.
Upper Mandeville Canyon
Upper Nichols Canyon NA
Whitley Heights Civic Assn.

**Re: Vacation of Hacienda Drive (West) / Airspace Vacation over Coldwater Canyon
VAC-E 14012373, ENV 2013-0150-EIR**

Dear Mr. Yew:

The Federation of Hillside and Canyon Associations, Inc., founded in 1952, represents 45 homeowner and resident associations spanning the Santa Monica Mountains, from Pacific Palisades to Mt. Washington. The Federation's mission is to protect the property and quality of life of its over 200,000 constituents and to conserve the natural habitat and appearance of the hillside and mountain areas in which they live.

The Federation considered the Harvard-Westlake School's proposed vacations at its October 2015 meeting and voted to oppose the proposed air rights and street vacations based on the following: 1) the unwelcome precedent created by an approval for a private bridge over a designated scenic highway, especially one in the foothills of the Santa Monica Mountains; 2) the applicant's failure to follow the required multiple approvals process in the City's municipal code; 3) the street vacation for private use not considering present and future public uses; and 4) the fact that the requested pedestrian bridge is not necessarily adequate to resolve the safety concerns that the garage project itself creates.

The proposed vacations are clearly part of the "Parking Improvement" Plan proposed by the Harvard-Westlake school in the 5.5 acres of hillside west of Coldwater and south of Ventura. The airspace vacation over Coldwater is for the proposed pedestrian bridge (163-ft long and for the exclusive use of the school), and the street vacation for the Hacienda Drive right of way, which is either to allow the applicant to meet setback requirements or to allow construction of the southernmost 20-60 ft. high retaining wall.¹

Approval of an airspace vacation creates an unwelcome and ill-advised precedent on a scenic highway located in the Santa Monica Mountain foothills.

The Federation is not aware of any location in the City of Los Angeles where a private bridge has been allowed over a public roadway that is in the hillside of a designated scenic highway.

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¹ It is unclear from the various drawings/renderings submitted to the City as part of the DEIR.

All approved bridges spanning public roads have been in commercial areas or on large boulevards, not on scenic canyon roadways. This airspace vacation would create an unwelcome and dangerous precedent, which would threaten similar hillside canyon roads with future urbanizing development.

The photo below depicts the view looking south on Coldwater Canyon where the bridge would be constructed. The proposed bridge would destroy the bucolic canyon aesthetic.



Photograph by Kathryn Donohew, October 2015

The Hacienda Drive vacation violates the City’s multiple approvals process and likely constitutes piecemealing under CEQA.

The DEIR does not reference the Hacienda Drive west right-of-way request as part of the discretionary actions for this parking project. The DEIR does mention the southern area and southwesterly areas of the proposed project as "encroaching" or having less than allowed setbacks (zero, as opposed to the 17 ft required). Yet this right-of-way request was not included as part of the multiple-approvals.

Section 12.36.B of the Municipal Code provides that “[a]pplicants shall file applications at the same time for all approvals reasonably related to complete the project.” The Federation objects to the City separately considering this right-of-way vacation from the other required components of the project. Such an approval would likely constitute piecemealing under longstanding state law. *See, e.g., Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora*, 155 Cal. App. 4th 1214 (2007).

The present and potential future public uses of Hacienda Drive foreclose its vacation for private use.

The City does not own and therefore cannot give away property held in trust for the public benefit. Per the Streets & Highways Code sec 8324(b), the City would need to find that the street is unnecessary for present or future public use.

Hacienda Drive has many present and future uses other than as a locus for a massive retaining wall and/or setback for a 3-story parking garage. Granting this part of Hacienda Drive to the school for its private use would not result in any public use or benefit. In fact, vacation would permanently and irrevocably

preclude any public use of a future roadway for access to the hillside west of Coldwater. Future potential uses include improved access for fire safety for residents who live on Potosi Avenue (which dead-ends above the paper road). Even if not paved, it could be used for emergency evacuation of Potosi residents, brush clearance and trailhead access to Santa Monica Mountains Conservancy lands, as well as access to the other parcels of land that Harvard-Westlake owns.

State law protects the public's right of equal access to public streets, and precludes municipalities from impeding such access. "The streets of a city belong to the people of the state, and every citizen of the state has a right to the use thereof..." *Rumford*, 31 Cal.3d at 499 (quoting *Ex Parte Daniel*, 183 Cal. 636, 639 (1920)).

Vacation is proper only "if the controlling purpose was the convenience of the general public," such as for reasons of general public safety. *Constantine v City of Sunnyvale*, 91 Cal. App. 2d 278, 282 (1949). In this case, safety issues necessitate the public's access to this roadway land.

Furthermore, the Court in *Whitley Heights* noted, "a street may not be vacated for exclusive private use." *Whitley Heights*, 23 Cal. App. 4th at 820 (quoting *Constantine*, 91 Cal. App. 2s at 282). That is exactly what the School intends with this right of way request.

The airspace vacation creates foreseeable safety hazards.

Without the bridge and parking structure on the west of Coldwater there are no safety issues for students and visitors accessing the campus, since there is no need to cross the street near a blind curve in the road that has no traffic control devices. However, a three-story parking structure (accommodating 750 cars) and bridge would require hundreds of students and campus visitors to cross Coldwater Canyon. There are numerous foreseeable dangers caused by this arrangement, including students dashing across Coldwater when late for class or for a campus event, when the bridge is crowded or backed up, as well as the possibility of the bridge failing in an earthquake or significant seismic event. These scenarios were outlined in two expert reports submitted to the City as part of the DEIR in Nov 2013. According to Brohard and Associates Report, "Physically preventing at-grade pedestrian crossings of Coldwater Canyon Avenue from the parking structure to the campus and vice-versa is not possible." (p.8). Additionally, "The potentially significant difference in foundation properties [of the ground soil on each side of Coldwater] could cause each side of the bridge to react differently during a moderate to large earthquake...potentially causing the bridge to fail on to Coldwater Canyon Avenue." (Wilson Geosciences Report, p.2) These foreseeable scenarios are a danger both to the school community and the public, and are self-imposed by the applicant.

Based on the above, the Federation urges the Bureau of Engineering to deny both the vacation of public airspace and vacation of a public roadway for private use.

Sincerely,

Wendy-Sue Rosen

Wendy-Sue Rosen, Vice President

cc:

Mayor Eric Garcetti
Councilmember Paul Krekorian, CD-2
Phillip Martinez, Bureau of Engineering
Dale Williams, Bureau of Engineering
Diana Kitching, City Planning