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Diana Kitching
Los Angeles Department of City Planning
200 N. Spring Street, Room 750
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March 21, 2016

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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.
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Tarzana Property Owners Assn.
Torreyson Flynn Assn.
Upper Mandeville Canyon
Upper Nichols Canyon NA
Whitley Heights Civic Assn.

Re: ENV 2013-0150-EIR
Harvard-Westlake School Parking Improvement Plan

Dear Ms. Kitching:

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.

This letter supplements the Federation's letters of August 16, 2013 and December 10, 2013 regarding the original Draft Environmental Impact Report (DEIR), and our letter of November 9, 2015 to the City's Street Vacation Investigation Section (attached).

The Federation considered the Recirculated DEIR (RDEIR) of the Harvard-Westlake parking expansion plan at its February 2016 meeting and voted to send this comment letter based on the following: (1) the astonishing number of exceptions to statutory Hillside protections and the City's Baseline Hillside Ordinance, (2) the scale of such a project in an open-space hillside area, and (3) new information in the RDEIR regarding significant negative impacts to the hillside oak and walnut woodland, protected trees, and sensitive species.

Harvard-Westlake's Vesting Conditional Use Permit application proposes a number of far-reaching exceptions to the City's zoning code, including:

- A 90-foot 5-inch tall retaining wall, in lieu of 30-foot height limit otherwise required;
- Zero foot setbacks, in lieu of 17-foot side yard setbacks otherwise required;
- Grading export of 2,500 cubic yards in a Hillside Area, in lieu of the ordinary 1,600 cubic yard limit;
- Residential Floor Area of approximately 79,261 square feet, in lieu of the maximum residential floor area limits otherwise required by the BHO;
- Vacation of paper street West Hacienda Drive, the granting of which serves no public purpose and forever removes land from the public.

With respect to the grading export of 2,500 cubic yards in lieu of 1,600 cubic yards permitted, the application request should be for the actual export of 137,000 cubic yards required for the project. Based on a very dubious reading of the applicable Baseline Hillside Ordinance (BHO) provision, the applicant claims that 134,500 cubic yards of grading export are entirely exempt from the strict limitations of the municipal code.

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The relevant BHO language, in its entirety, states:

“Cut and/or Fill underneath the footprint of a Structure(s) (such as foundations, understructures including Basements or other completely subterranean spaces), as well as for water storage tanks, required stormwater retention improvements, and required animal keeping site development *that do not involve the construction of any freestanding retaining walls.*”

LAMC § 12.21.C.10(f)(3)(i) (emphasis added).

The applicant apparently seeks to invoke a rule of statutory interpretation known as the “last antecedent rule,” to suggest that the final clause of the subdivision (“that do not involve the construction of any freestanding retaining walls”) applies only to the previous clause (“required animal keeping site development”) but not to the other structures listed. Read in this limited way the parking garage structure would be almost entirely exempt from grading limitations. But such an interpretation is absurd and would do great violence to the meaning of the ordinance. The California Supreme Court has identified exceptions to the last antecedent rule. “One provides that when several words are followed by a clause that applies as much to the first and other words as to the last, the natural construction of the language demands that the clause be read as applicable to all. Another provides that when the sense of the entire act requires that a qualifying word or phrase apply to several preceding words, its application will not be restricted to the last. This is, of course, but another way of stating the fundamental rule that *a court is to construe a statute so as to effectuate the purpose of the law.*” *Renee J. v. Superior Court* (2001) 26 Cal. 4th 735 (internal citations and quotation marks omitted, emphasis added).

The correct interpretation of the BHO, and the only interpretation that makes sense in the context of the entire legislative scheme, that “effectuate[s] the purpose of the law,” is that because freestanding retaining walls are necessary for this project (indeed, the proposed retaining walls themselves require outrageous deviations from ordinary maximum height restrictions) the parking garage structure is *not* exempt from the grading limitations of the BHO.

Properly interpreted, the cited exemption clearly does not apply to the proposed project. The Harvard-Westlake garage proposal is, in fact, precisely the type of massive project that the Baseline Hillside Ordinance was intended to restrict. In order to build this project the applicant must apply for and receive a variance from the BHO, along with the other required entitlements.

The scale and scope of the project do not belong in a hillside open-space area.

The Hillside Federation’s previous letters contend that the proposed parking structure and athletic field are “grossly out of character with the natural hillside environment” and that the pedestrian bridge would “destroy the character of the hillside environment.” The bridge will have a “substantial adverse urbanizing impact of the natural hillside environment and the scenic vista at all times of the day and night.” Nothing about the revised project improves this analysis. Indeed, even higher retaining walls and deeper cuts into the hillside are now proposed.

The Federation remains concerned about the precedent-setting nature of a private pedestrian bridge over Coldwater Canyon, a designated scenic highway. Such a bridge would set a dangerous precedent that other institutions are likely to rely on to seek approval of similar structures across scenic roadways within the Santa Monica Mountains. The precedential impact must be considered as part of the project’s cumulative impact analysis.

The RDEIR dismisses the possibility of parking demand reduction and satellite parking for major school events, even though other schools have successfully instituted such programs. The neighboring Buckley School, for example, recently abandoned its parking expansion plans and instead successfully reduced demand and uses satellite parking for major events. The applicant’s inexcusable dismissal of viable parking alternatives means that it has failed to substantiate the need for its massive and impactful project.

The proposed project has unacceptable unmitigated significant biological impacts.

The RDEIR admits a significant negative impact to the oak/walnut woodland located at the proposed project site. The RDEIR still discounts the loss of habitat to the numerous sensitive species of birds found at the site, including many that are “threatened and declining” and “range restricted,” including the Oak Titmouse, the Rufous Hummingbird, the Nuttall’s Woodpecker, and Cooper’s Hawk. (RDEIR Sec. 3.3 pp. 7-8). The RDEIR’s ultimate

conclusion regarding the breadth of the “significant” impact on wildlife is inconsistent with the underlying data. *Compare* RDEIR sec. 3.3 pp. 7-8 *with* sec. 3.3 pp. 22-23.

The RDEIR acknowledges that an increased number of protected trees are impacted. The tally of impacted trees is now 65 Coast Live Oaks and 273 California Black Walnut trees. The RDEIR also exaggerates the poor state of the protected trees—only 15 of the 147 trees the school is proposing to destroy are F rated. But even D-rated trees “support partial foliage” and although not all may survive for the average species life-span, some “are expected to survive in a reduced state over the long term.” RDEIR Appendix D.3, p.16.

The Federation disagrees with the RDEIR’s characterization of the wildlife corridor at the site. The RDEIR discounts the project’s negative impact to wildlife movement, stating that “the Project is on the periphery of an open space area; substantial interference with wildlife movement/migration corridors to the extent that the project would diminish the chances for long-term survival of any sensitive species is not anticipated because the Development Site is located at the east edge of the northern end of a finger or peninsula of open space within surrounding suburban development . . . This impact is not considered significant.” RDEIR Sec. 3.3 p. 21.

Yet the RDEIR admits that “[t]he southern 3/4 of the Development Site is within the ‘Desirable Open Space Special Boundary’ [internal citation] and the Development Site is immediately adjacent to land owned by the Santa Monica Mountains Conservancy. The Project’s impact to oak/walnut woodland and associated sensitive species (primarily birds) that forage therein are considered to be cumulatively considerable contributions to significant impacts on 1) the sensitive oak-walnut woodland habitat and 2) associated sensitive species. RDEIR 3.3 p.23. Further, the RDEIR acknowledges that even with proposed mitigations, “*impacts to coastal western whiptail and San Bernardino ringneck snake and cumulative impacts to oak/walnut woodland would remain significant.*” *Id.* (emphasis added).

Based on review of the Recirculated Draft EIR, the Hillside Federation still comes to the inescapable conclusion that the proposed three-story, 750-car parking structure with an illuminated fenced-in athletic field and pedestrian bridge across the scenic corridor are grossly out of character with the natural hillside environment, and their approval would destroy the character of the hillside. We renew our strong opposition to the project, which would set a dangerous and unwelcome precedent that places the natural integrity of hillside areas throughout the Santa Monica Mountains at risk.

The Hillside Federation urges the City to consider alternatives only on the east side of Coldwater Canyon. The City must consider feasible project alternatives that would be less impactful to the environment and character of the hillsides, which would also be more likely to conform to the requirements of the municipal code.

Sincerely,

Marian Dodge
Marian Dodge

cc: Mayor Eric Garcetti
Councilmember Paul Krekorian, CD 2
Councilmember David Ryu, CD 4
Studio City Neighborhood Council
Studio City Residents Association
Santa Monica Mountains Conservancy