

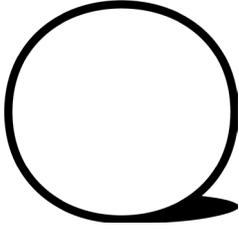
Communication from Public

Name: Alfred Fraijo

Date Submitted: 05/15/2023 12:20 PM

Council File No: 21-0777-S1

Comments for Public Posting: Dear Councilmember Krekorian and Honorable City Councilmembers, Attached please find our response to the May 3, 2023 letter from Mr. Gaines on behalf of Save Our Canyon (CF-21-0777-S1). Thank you, Alfred Fraijo



SOMOS
LAW GROUP

304 South Broadway, Suite 350
Los Angeles, CA 90013

May 15, 2023

VIA LACOUNCILCOMMENT.COM

Councilmember Paul Krekorian
President, Los Angeles City Council
200 N. Spring Street
Los Angeles CA, 90012
Email: Paul.Krekorian@lacity.org

Re: CF-21-0777-S1, – Response to May 3, 2023 Gaines Letter

Dear President Krekorian and Honorable City Councilmembers:

Our firm represents 9712 Oak Pass Road, LLC (the “Applicant”) in connection with the Bulgari Resort & Estates Los Angeles Project (the “Project”) in the City of Los Angeles (the “City”), Case Nos. CPC-2018-1506-GPA-VZC-SP-SPP-SPR, VTT-74908, ENV-2018-1509-EIR. On May 3, 2023, counsel for Save Our Canyon (“SOC”) submitted a letter (“Gaines Letter”) to City Council citing unsubstantiated allegations of “conflicts of interest, and procedural and ethical violations” relating to the General Plan Amendment (“GPA”) initiation for the Project. Such allegations of corruption play well in the imagination of the public and concerned leaders in Los Angeles but they must be rejected and not play a part in the evaluation process for the Project. The City process equally applies to all and forms the foundation of our government. It is geared to protect the public and private property interests. The allegations in the Gaines Letter are meritless, and more importantly, are not justification for the Motion because the requested action violates the City Charter, the Los Angeles Municipal Code (“LAMC”) and the Applicant’s due process rights.

On March 15, 2023, Councilmember Yaroslavsky proposed a Motion requesting the Director of Planning (“Director”) to “consider” rescinding the GPA for the Project (the “Motion”). On March 20 and March 21, 2023, our office submitted letters objecting to the Motion on the grounds that if implemented, the Motion would illegally terminate the vested and due process rights of the Applicant and violate the City Charter and LAMC. In addition, the Motion’s requested action is without precedent and represents a

substantial deviation from the City's policies and procedures. The Motion would also change the rules for evaluating GPAs as applied to one project. These letters are attached as Exhibit A and Exhibit B, respectively. On March 21, 2023, the Planning and Land Use Management Committee ("PLUM") considered the Motion, but were unable to reach a consensus on whether the Motion was appropriate after substantive questions by members of the Committee about its legal foundation and the impact it would have on planning and land use procedures in the City. The matter was referred without a recommendation to City Council.

The City considered, and ultimately did not support a nearly identical motion by Councilmember Koretz dated July 1, 2021. Again, the same project opponents attempt to circumvent the mandatory processes required by the LAMC, the City Charter and the Applicant's due process rights by terminating the Project outside of the appropriate review channels. Again, we write to respectfully urge you to uphold the mandatory review process for all projects that require GPAs.

The City, the City Attorney, and all concerned parties will have ample time to evaluate any additional unsubstantiated claims by SOC and its counsel during:

- a. The public review and comment period required by the California Environmental Quality Act ("CEQA");
- b. The mandatory hearing on the GPA and other requested entitlements for the Project before, at minimum, an Advisory Agency, and the City Planning Commission, as required by state law and the LAMC; and
- c. At the mandatory hearings on the GPA before this Council, as required by the LAMC.

The Applicant has been transparent with the City, the public, elected officials, and even with the opposition. The Applicant is committed to preserving this legacy of transparency and collaboration. Further, the Applicant remains committed to working alongside all divisions of local government and with the City Attorney to resolve any concerns. Accordingly, we respectfully request that City Council deny the Motion based on its inconsistency with state and local requirements, and the irrelevance of the evidence in the Gaines Letter to the present issue: whether the Motion is appropriate in light of state and local requirements that state clearly that the requested action is illegal.

1. SOC's Implication That The Applicant's 2016 Donations to Shawn Bayliss for his Senate Campaign Create a Conflict of Interest are Inaccurate and Misleading.

SOC references two donations to Shawn Bayliss' 2016 Campaign for a Seat in the California State Senate as evidence of a "conflict of interest" without a clear reference to the specific alleged violation. To clarify the facts on the record, the Applicant (listed as "9712 Oak Pass Road, LLC") made two donations of \$4,200 each to the Bayliss campaign on December 23, 2015, and January 22, 2016, for a total of

\$8,400. These donations are public information. The Applicant reported both donations in accordance with all applicable rules and regulations. The donations were also unrelated to the Project – they were in support of Mr. Bayliss’ Senate candidacy and aspirations for the District. At the time the donations were made, it was the Applicant’s understanding that Mr. Bayliss was no longer working in Councilmember Koretz’s office, and that he had ceased working for the Councilmember for the duration of the Senate campaign. When Mr. Bayliss ended his campaign after an unsuccessful primary election, he returned approximately half of the donation (\$4,200) to the Applicant. It is the Applicant’s understanding that Mr. Bayliss returned to work for Councilmember Koretz in mid-2016, and left less than one year later on May 12, 2017. Mr. Bayliss’s departure predates the GPA initiation by more than 5 months. SOC has provided no evidence that these donations were improper or connected in any way to the Project. For these reasons, the allegations regarding the alleged conflict of interest are meritless.

2. The Director Spent Months Reviewing the Project Prior to the GPA Initiation, and Acted Within the Scope of His Authority.

SOC’s contention that the Director initiated the GPA within 24 hours of receiving the application is also inaccurate and misleading – nothing could be further from the truth.

Since the Project’s inception in 2015, the Applicant, its consultants, and representatives have worked diligently with City staff, elected officials, planning professionals, design experts, lobbyists, and community organizations to create the best possible iteration of the Project before filing. At the Applicant’s invitation, the City Planning Director and other employees of the Planning Department toured the Project site on May 26, 2017. The visit was to allow for a better understanding of the site conditions and the proposed development as well as to learn more about the Project’s goal to build sensibly and responsibly.

The Applicant corresponded further with members of the Planning Department for another five months before the Director initiated the GPA in October, 2017. This five month examination and review period does not include additional meetings and correspondence about the Project conducted prior to the Director’s site visit. Though SOC insinuates a hasty decision by the Director in “less than twenty-four hours” – in truth, the Director’s GPA initiation in October, 2017 was the result of over a year of engagement with the Department of City Planning (the “Planning Department”) to introduce the Project and to ensure Project compliance with all applicable rules and regulations.

It bears noting that GPA initiations are governed by state and local law. The LAMC grants the Director discretion to initiate such potential amendment to the General Plan. However, the Director’s GPA initiation is an approval to consider revisions to the General Plan and does not commit the City to a specific legislative action. Also, the

Applicant's request for a GPA is not unique or infrequent. Based on data published by the Planning Department, the City, through its own initiatives or at the request of private parties, processed and approved approximately 30 GPAs between 2019 and 2021.¹

SOC's contention that the Director did not comply with pre-filing review requirements is inaccurate and misleading. The Director is specifically authorized to initiate a GPA pursuant to Sections 11.5.6. and 11.5.7.G of the LAMC and Section 555 of the City Charter upon a determination that the request for the GPA is "worth consideration and has the potential to comply with the required Findings."² We understand that the City did not publish the current GPA instructions SOC cites to until April, 2022 – well after the Director initiated the GPA in October, 2017.³ The GPA instructions, "Exhibit F" of the Gaines Letter does not provide a date or a City document number (i.e., CP-7723.1). Notwithstanding the publication date of the GPA instructions, the Applicant engaged in the pre-filing review process common for major projects to ensure project viability and to increase efficiencies during the project application phase. Given the Director's site visit and months-long consideration of the Project prior to the GPA initiation, SOC has provided no evidence that the Director's initiation was improper or inconsistent with the City policies and procedures for pre-filing review in effect at the time that the GPA was initiated.

3. This is not the Appropriate Forum to Consider a Conflict of Interest Claim. The Unsubstantiated Allegations in the Gaines Letter do not Support a Unilateral Rescission of the GPA.

There are more appropriate avenues for evaluating a conflict of interest claim. SOC cites no specific statute, code, regulation, or ordinance for the alleged conflict of interest violations. SOC's unsubstantiated allegations do not justify the Motion's requested action because the LAMC and the City Charter do not allow the Director to unilaterally rescind the GPA via a motion. Even assuming *arguendo* that the allegations in the Gaines Letter are supported by facts or evidence, these allegations would be evaluated by the City Attorney, with input from the Fair Political Practices Commission, and as necessary, the Office of the Attorney General. The Applicant would appreciate the opportunity to meet with the City to resolve any concerns the City may have regarding conflicts of interest, the appropriate channels through which these allegations should be resolved, or questions about the Project in general.

Because claims like the unsubstantiated allegations in the Gaines Letter should be evaluated during the mandatory review procedures for GPA initiations, the City will have many opportunities to verify that the allegations in the Gaines Letter are meritless

¹ Los Angeles Department of City Planning: *Los Angeles General Plan Progress Report, 2019-2020*, available [here](#); Los Angeles Department of City Planning: *Los Angeles General Plan Progress Report, 2021*, available [here](#).

² Los Angeles Department of City Planning: *Findings/Special Requirements, General Plan or Specific Plan Amendment*, available [here](#).

³ *Id.*

if City Council denies the Motion. The mandatory review procedure for GPAs is thorough, and involves multiple departments with multiple opportunities for public comment at noticed public hearings.

The GPA process provides that the matter is to be considered first by the Director.⁴ The Director is responsible for preparing a report on the proposed amendment recommending action for consideration by the City Planning Commission (“CPC”).⁵ The recommended action must be supplemented by the Director’s reasoning for the recommendation.⁶ The Director’s recommended action must be considered at a noticed, public hearing before CPC, at which any concerned members of the public are given an opportunity to speak.⁷ After receiving the report and after the close of the public hearing, the CPC must submit a recommendation to the Mayor’s office for approving or denying the proposed amendment.⁸ Within 30 days of receiving the report from CPC, the Mayor must make a recommendation to City Council on the proposed amendment.⁹ City Council then holds an additional public hearing to consider the Mayor’s recommendation.¹⁰ City Council must act within 75 days of receiving the Mayor’s recommendation, and may approve, deny, or revise the proposed amendment.¹¹

The Director has not yet completed the first step of this process (the report to CPC). The Environmental Impact Report has also not been published – at which point there will be further opportunities for public comment and review of the Project in its entirety, with the benefit of additional Project information included in technical reports prepared by industry experts. Given the Project’s position in the first step of the City’s review process, the Motion’s requested action is inappropriate. For these reasons, the City’s interests in preserving the law, protecting the Applicant’s due process rights, and resolving remaining concerns are best served by denying the Motion.

4. The Applicant’s Campaign Contributions and Retention of Registered Lobbyists Does not Create a Conflict of Interest.

The Gaines Letter attempts to discredit the work of professionals retained to assist with the Project by making unsupported claims of self-interest and self-dealing. In October of 2015, the Applicant engaged Gonzalez, Quintana & Hunter as the lobbyists for a conceptual hotel development known at the time as The Retreat at Benedict Canyon (now, Bulgari Resort Los Angeles). Stacey Brenner was an employee of the firm at the time. Brenner Consulting Group was not engaged until December 2017 – months after the Director initiated the GPA. The evaluation of the request to initiate the

⁴ LAMC § 11.5.6.B; City Charter § 555.

⁵ *Id.*

⁶ *Id.*

⁷ LAMC § 11.5.6.C.1.

⁸ LAMC § 11.5.6.C.2.

⁹ LAMC § 11.5.6.D.

¹⁰ LAMC § 11.5.6.E.

¹¹ *Id.*

GPA and subsequent discussions with the Planning Department were led at all times by the Applicant and land use legal counsel retained by the Applicant.

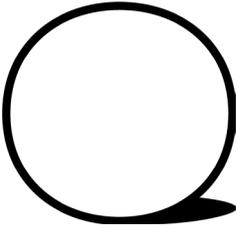
For these reasons, notwithstanding the unsubstantiated claims in the Gaines Letter, the LAMC, the City Charter, and the Applicant's due process rights require that Councilmember Yaroslavsky's Motion be denied, and that the GPA is evaluated on the facts in accordance with state and municipal laws.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'A' followed by a horizontal line that ends in a small hook.

Alfred Fraijo Jr.
Partner
213.592.2966 direct
alfred@somosgroup.org

EXHIBIT A



March 20, 2023

VIA ELECTRONIC MAIL AND LACOUNCILCOMMENT.COM

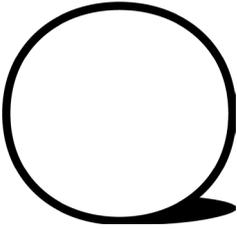
Planning and Land Use Management Committee
City of Los Angeles
200 N. Spring Street
Los Angeles, CA 90012

Re: CF-21-0777-S1, PLUM Agenda Item No. 14

Dear Chairman Harris-Dawson and Honorable Councilmembers:

Our firm represents 9712 Oak Pass Road, LLC (the “Applicant”) in connection with the Bulgari Resort & Estates Los Angeles Project (the “Project”) in the City of Los Angeles (the “City”), Case Nos. CPC-2018-1506-GPA-VZC-SP-SPP-SPR, VTT-74908, ENV-2018-1509-EIR. As you know, on March 15, 2023, Councilwoman Katy Yaroslavsky introduced a motion (the “Motion”) that if implemented would illegally terminate the vested and due process rights of the Applicant and violates the City’s rules that mandate the City complete consideration of the requested entitlements for the Project. To be clear, the Director of Planning has the discretion to recommend or not recommend approval of the proposed General Plan Amendment (“GPA”) when the Department of City Planning makes its recommendation to the City Planning Commission prior to a public hearing on the Project. However, the Motion is requesting that the process be terminated beforehand and therefore, if implemented, would be contrary to the due process rights afforded every applicant once an application has been deemed complete and the requested action vests. This incident marks the second time a sitting councilmember for Council District 5 has attempted to direct the Director of Planning to rescind the General Plan Initiation for the Project costing the Applicant excessive time and money and jeopardizing the Applicant’s partnership with hotel operator Bulgari Hotels. I previously addressed this issue with the City Attorney’s Office in a letter dated August 19, 2021, and in two letters addressed to the Planning and Land Use Management Committee (“PLUM”) dated October 18, 2021 and November 1, 2021. To summarize:

1. The Action Recommended in the Motion Violates the Los Angeles Municipal Code and Charter;
2. The Motion If Implemented Would Violate State Law Because the Project is Vested;

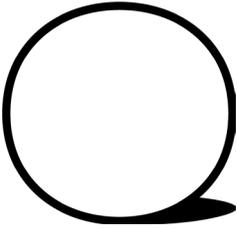


3. The Motion Makes Claims Unsupported by the Facts and that Contradict Expert Conclusions;
4. The Motion If Implemented Would Violate Common Law Rules of Fairness; and
5. The Motion by Councilwoman Yaroslavsky Demonstrates Her Bias Towards the Project and Thus City and State Rules Require She Recuse Herself from Deliberation on the Project.

I. Background

Prior to the Director’s signed and approved initiation of the General Plan Amendment (“GPA”) for the Project, the Applicant consulted and met with Director Vince Bertoni and his staff, as well as Council District 5 about the Project and its request for GPA initiation. On October 12, 2017, the Director conditionally approved initiation of the GPA, attached hereto as Exhibit 1, so long as “Project Alternatives to be evaluated include but are not limited to: A zoning compliant project; a reduced hotel project; and a 100 percent single-family residential project.” On March 16, 2018, the Applicant filed the Project application with the City in reliance on the Director’s signed and approved initiation of the GPA. The Project application, which includes a Vesting Zone Change and Vesting Tentative Tract Map, was deemed complete on May 1, 2020 and July 22, 2020, respectively, and the Applicant, in good faith, has pursued the Project in reliance on the Director’s authorization to do so and in full compliance with the applicable rules currently in effect. In fact, following the filing of the Project application, in consultation with City Planning and Council District 5 and as a result of initial community feedback, the Applicant agreed to reduce the Project scope from 99 to 58 hotel guest rooms – a substantial 41% reduction in density.

Both prior to and subsequent to the deemed complete date for the Project, the Applicant undertook comprehensive community engagement activities with stakeholders, as well as Council District 5. Such efforts included door-to-door canvassing in early Fall 2019 of neighbors within an approximately one mile radius of the Project site, resulting in hundreds of direct interactions. In addition, the Applicant met extensively with Council District 5 about the Project. Furthermore, the Applicant initiated scoping for the Draft Environmental Impact Report (the “DEIR”) pursuant to the California Environmental Quality Act (“CEQA”) on December 2, 2020 with over one hundred individuals in attendance, and continues to engage in scoping activities that exceed CEQA requirements. The City published the Notice of Preparation and Initial Study on November 10, 2020, upon which the Applicant received more than 500 comment letters. In response to concerns raised in the comment letters, the Applicant coordinated with City Planning and the environmental consultant to continue work on the DEIR to extensively address all comments raised.



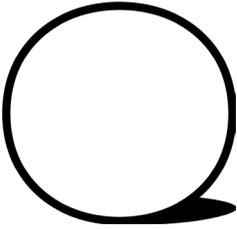
The Motion, attached hereto as Exhibit 2, expresses concerns relating to “strain[ed] infrastructure,” hillside topography, wildlife habitat, and wildfire risks. Each of these topics is under the City’s review through the CEQA process and is being addressed through technical study and appropriate mitigation that the Applicant is proposing. In addition, in close coordination and agreement with the City, the Applicant is engaged in consultation with the California Department of Fish and Wildlife regarding the Project to formulate acceptable mitigation. The environmental reports and analyses that are currently in process will afford City decisionmakers, including Council District 5, with a clear and accurate picture of potential project impacts upon which they may base their decision concerning the Project’s discretionary requests.

II. Arguments

A. The Action Recommended in the Motion Violates the Los Angeles Municipal Code and Charter.

The GPA was initiated by the Director of Planning, and therefore, the City Council cannot unilaterally rescind the GPA. Pursuant to City Charter Section 555 and Los Angeles Municipal Code (“LAMC”) Section 11.5.6, the Director-initiated GPA vested the Applicant’s right to process the GPA through completion in compliance with the City’s adopted procedural requirements. Specifically, City Charter Section 555 instructs that the “Director of Planning *shall* make a report and recommendation on all proposed amendments” to the General Plan. Further, “[p]rior to Council action, the proposed amendment *shall* be referred to the City Planning Commission for its recommendation and then to the Mayor for his or her recommendation.” LAMC Section 11.5.6.B reinforces the mandatory nature of this process: upon initiation of the GPA, “the Director *shall* prepare the amendment and a report recommending action by the City Planning Commission,” and “the Director *shall* transmit the file to the City Planning Commission for its action.” In short, the City’s adopted procedural requirements clearly mandate the process to be followed once a GPA is initiated, including Director, City Planning Commission, and mayoral recommendation, followed by City Council action. The City’s procedures offer no alternative once a GPA has been initiated, and the process cannot simply be cut short by the City Council. Since the Director conditionally approved the initiation of the Applicant’s GPA on October 12, 2017, the process must therefore continue per the City’s procedural requirements.

Further, the Motion asserts certain General Plan inconsistencies to substantiate its proposed rescission of the Director-initiated GPA; however, per Section 556 of the City Charter, such consistency findings are made when the proposed GPA is considered at a public hearing by the City Planning Commission and the City Council. In other words, the Motion is premature and attempts to circumvent the City’s codified procedures. Councilwoman Yaroslavsky would have



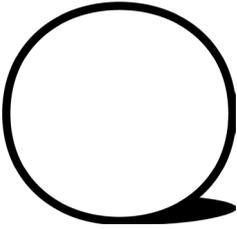
had an opportunity during the administrative process to consider such findings prior to any final action on the Project.

Relatedly, the Motion illegally circumvents the Applicant's ability to process the application through completion in violation of its due process rights. While it is true that the Applicant has no right to develop the Project in the absence of an approved GPA and other approvals, the Applicant has a legitimate claim of entitlement to the processing of the GPA request by operation of the October 12, 2017 GPA initiation approved by the Director and the mandatory procedures of the City Charter and LAMC and Applicant detrimentally relied on such procedure and spent millions of dollars in its pursuit of the DEIR. The City's procedural requirements are intended to operate as a "significant substantive restriction" on the City's consideration of Director-initiated GPAs. (*Parks v. Watson*, 716 F.2d 646, 657 (9th Cir. 1983)). The use of "shall" in City Charter Section 555 and LAMC Section 11.5.6 is the "explicitly mandatory language necessary to create an entitlement." (*Wedges/Ledges of California, Inc. v. City of Phoenix*, 24 F.3d 56, 63 (9th Cir. 1994)). The City Charter and LAMC contain mandatory language that restricts the discretion of the City Council to deny the procedural requirements to an applicant who meets the minimum eligibility requirement of a Director-initiated GPA.

Because the Applicant has a right to process the GPA through completion, any governmental interference with this process violates the Applicant's due process rights if the action is arbitrary or irrational. This is shown through an analysis of "the need for the governmental action in question, the relationship between the need and the action, the extent of harm inflicted, and whether the action was taken in good faith or for the purpose of causing harm." (*Sinaloa Lake Owners Ass'n v. City of Simi Valley*, 882 F.2d 1398, 1409 (9th Cir. 1989) (overruled on other grounds)). Here, the Motion's instruction to the Director to rescind the initiation of the GPA is not needed, as the GPA will ultimately be considered by the Director, City Planning Commission, Mayor, and City Council per the City's procedures; the harm inflicted on the Applicant, through considerable delay and additional expense, is significant; and the Motion was not made in good faith, as there are indications that Councilmember Yaroslavsky was reacting prematurely to erroneous claims made by groups opposed to the Project. For all of the above reasons, the Motion's impact on the Project is arbitrary and irrational and thus violates the Applicant's due process rights.

B. The Motion If Implemented Would Violate State Law Because the Project is Vested.

Because the Applicant filed a Vesting Zone Change and a Vesting Tentative Tract Map for the Project and its application has been deemed complete by City Planning, the Applicant has a vested right to proceed with development under the ordinances, policies, and standards in effect when the City accepted the Vesting Zone Change and Vesting Tentative Tract Map applications as complete. (LAMC Section 12.32.Q; Govt C §§66498.1(b), 66474.2). Local



regulations and policies adopted after the deemed complete date would not apply to the Project as a matter of law. Councilwoman Yaroslavsky attempts to enforce an unadopted ordinance as evidence for rescission of the Director-initiated GPA; however, the ordinance is not in effect and the Project is vested. Furthermore, as part of the CEQA process, Planning and the Applicant have studied impacts to biological resources and consulted with CDFW regarding appropriate mitigation measures to address potential impacts to the same. The councilmember and public will have an opportunity to review and comment on the adequacy of the analysis and proposed mitigation during the public comment period for the DEIR.

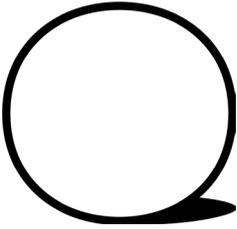
While the vested right is conferred to the Applicant upon *approval* of the Vesting Zone Change and Vesting Tentative Tract Map (*Id.*), the applicable GPA procedures in effect at the time the applications were deemed complete in 2020 nonetheless govern because Charter Section 555 and LAMC Section 11.5.6 control and any amendments to such procedures would require legislative approval.

C. The Motion Makes Claims Unsupported by the Facts and that Contradict Expert Conclusions.

The Motion asserts that the Project is inconsistent with the Updated Safety Element with respect to wildfire risk because the property should be maintained as low density residential and open space. The Motion further insinuates that the Project would disrupt wildlife habitat and exacerbate wildfire risk.

First, the GPA initiation was conditioned on the study of an all-residential alternative, which the DEIR would include. Therefore, Councilwoman Yaroslavsky would have had the opportunity to consider a low density residential scenario – however, the introduction of the Motion disqualifies the councilmember from considering the Project.

Second, the Project has been designed from the beginning to protect sensitive habitats and promote biodiversity. For example, the proposed land use mix was developed in order to minimize the extent of required grading. As concluded by technical experts, the mitigation being proposed through the DEIR would result in superior preservation and impact mitigation as compared to existing site conditions. In other words, the mitigated Project would improve regional wildlife conditions compared to the status quo. The Applicant is coordinating with California Department of Fish and Wildlife (“CDFW”) and complying with the City Tree Ordinance. While the Motion does not explicitly note any deviation from the proposed wildlife ordinance, there have been thorough wildlife movement studies performed and specific mountain lion reports prepared as well as mitigation recommendations that have been verified and guided by Dr. Winston Vickers. Additionally, initial mitigation agreements have been discussed and agreed to by CDFW through an exhaustive coordination process. Additional



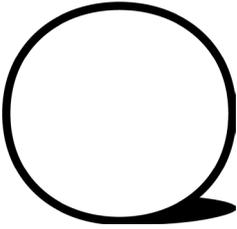
mitigation measures for oak trees have been provided not only to satisfy City Tree Ordinance but also Oak Woodland Community mitigation for CDFW sensitive communities. Mitigation for other CDFW sensitive communities have also been verified with CDFW prior to public review as requested by the City. Adequate mitigation for the Project is available and CDFW has agreed to acceptable mitigation measures suitable for thorough CEQA evaluation.

Third, the DEIR is also studying wildfire and fire protection impacts. In fact, the DEIR includes improvements such as fuel modification, irrigation, and roadway clearance beyond the requirements of Los Angeles Brush Clearance Ordinance to drastically enhance fire life safety in and around the Project and would also provide improved ingress and egress for emergency vehicular access. Should a wildfire exist that threatens the property or safety of people at the Project Site, the “Ready, Set, Go!” program developed by the International Association of Fire Chiefs, adopted by the City of Los Angeles, and identified in the Project Wildfire Evacuation/Shelter-in-Place Plan would be implemented. In addition, if evacuation is considered unsafe, shelter-in-place would be implemented as identified in the Project Wildfire Evacuation/Shelter-in-Place Plan. The Project includes three Type I (Fire Resistant) construction buildings designated for the shelter-in-place plan, which are designed to withstand high temperatures for a long time without the danger of collapsing. For purposes of the shelter-in-place plan, the three buildings could house up to 4,566 people, affording a large amount of excess space during a shelter-in-place event for the local community that is within walking distance. Accordingly, the Project would relieve pressure on the roadways in the canyon moving away from the Project vicinity. These measures were designed and endorsed by former Fire Chief of City of Los Angeles.

All of this information will be published by Planning for the City Council’s ultimate consideration. In accordance with City Charter Section 556, findings of consistency supported by evidence in the record will be made when the proposed GPA is heard by the City Planning Commission and the City Council. By purporting to make inconsistency findings in the preamble to the Motion, Councilwoman Yaroslavsky is attempting to circumvent the City’s codified procedures, is acting outside the scope of her role as a member of the City Council, and is presupposing legislative conclusions that are contrary to the facts that have been developed pursuant to the established administrative process.

D. The Motion If Implemented Would Violate Common Law Rules of Fairness.

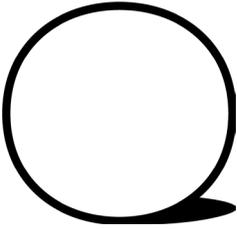
The rules cannot be unilaterally amended for a single project, to the exclusion of all others, resulting in disproportionate effects on that single applicant. The Charter and LAMC set forth a mandatory process for evaluating and deciding a Director-initiated GPA. See City Charter Section 555; LAMC Section 11.5.6. This process cannot be unilaterally amended for a single project. See *Woody’s Group, Inc. v. City of Newport Beach*, 233 Cal. App. 4th 1012, 1028 (2015)



(“changing the rules in the middle of the game does not accord with fundamentally fair process.”) Indeed, this is as basic a principle in California land use decisions as the principle that “[y]ou cannot be a judge in your own case.” (*Id.* at 1016). The idea is straightforward: a sudden change in the middle of the mandatory process, without amendment to the City Charter or LAMC, imposes a unique and inequitable burden on the Applicant as compared to other projects in the City, unfairly harming the Applicant. Councilwoman Yaroslavsky’s Motion requests the Director of Planning to deprive the Applicant of its due process rights by circumventing the mandatory review process described in the City Charter and the LAMC. The Applicant has spent years and millions of dollars to reach this scaled-down iteration of the Project based on feedback from the community and specifically from Council District 5. For example, the hotel component was reduced by nearly half – from 99 to 58 hotel units. In addition, the low profile of the bungalows and composition of Project structures were thoughtfully and painstakingly designed to integrate with the surrounding landscape and minimize visibility from surrounding streets based on feedback from the City and from the community.

Further, the opportunity for City evaluation and consideration of Councilwoman Yaroslavsky’s concerns will occur in due time during the City’s mandatory GPA initiation process. Planning is nearly done with its review of the DEIR, which has taken several years to complete. The Applicant has demonstrated its commitment to transparency, open communication, and meaningful multi-sector engagement with elected officials, interested members of the public, and with the surrounding community. The Applicant has gone above and beyond to ensure that there are ample opportunities for community engagement beyond statutory requirements, that the scaled-down version of the Project reflects the feedback received, and that the environmental analysis is comprehensive. The Project represents a collaborative, years-long effort by the Applicant and by the City, and deserves the same unbiased opportunity for consideration as other projects pursuant to the City’s administrative process.

As required by the City rules and as set forth by years of precedent, the City decisionmakers and the public will have ample opportunity to review the Project, participate in public hearings, and adequately evaluate the Project in proper channels after considering the facts. In light of the significant investment by both City and Applicant, rescinding the GPA at this stage would result in an unprecedented and illegal action resulting in an egregious injury to the Applicant and risk a chilling effect on all developments, including much-needed housing developments within the City of Los Angeles. Specifically, the City Council’s willingness to depart from City procedures in this one instance would raise concerns among other project applicants that they will be the next target.

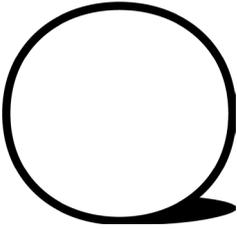


- E. The Motion by Councilwoman Yaroslavsky Demonstrates Her Bias Towards the Project and Thus City and State Rules Require that She Recuse Herself from Deliberation on the Project.
1. Councilwoman Yaroslavsky’s Bias Against the Project Creates a Conflict of Interest.

It is well established that elected officials must avoid actual and perceived conflicts of interest in order to provide fair and unbiased representation of their constituents. “To promote government decisions that are fair and accountable, City officials must avoid participating in actions that affect or appear to affect their private interests, both financial and non-financial.” (Ethics Commission, City Officials Handbook 2021, p. 12). Among the justifications for a conflict of interest is the City’s appearance standard that states that “it is ‘not in the public interest’ for you to act on a matter if you do not believe that you could act impartially or if the public might reasonably reach that conclusion. This can be true even when your interest in the matter is not financial. The City Attorney may decide, pursuant to City Charter Section 222, that the public interest prevents you from acting even when you would not be disqualified by state conflict of interest laws.” (*Id.* at 13). Similarly, state conflict of interest laws were designed to strike “not only ... at actual impropriety, but also to strike at the *appearance* of impropriety” in order to protect the public from impartial elected officials. *City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 197 (emphasis added); Gov. Code § 1090 *et. seq.* As there are no “cures” for, actual and perceived conflicts of interest (only limited exemptions and exemptions not applicable here), the elected official is required to recuse themselves from project deliberation. Violations of these provisions may result in substantial fines and/or prison time.

As described below, Councilwoman Yaroslavsky’s conduct demonstrates her bias and determination to prematurely evaluate the Project without consideration of the Project’s merits. First, Councilmember Yaroslavsky publicly admitted her opposition to the Project while campaigning to represent Council District 5. Yaroslavsky is credited with the following quote as published on a Project opponent’s website: “I STRONGLY OPPOSE THE PROPOSED BULGARI HOTEL PROJECT. I’M DEEPLY COMMITTED TO USING ALL THE TOOLS AND AUTHORITY AVAILABLE TO THE CITY COUNCILPERSON TO PROTECT OUR TREASURED MOUNTAINS.” (Save Our Canyon website: <https://saveourcanyon.la/home>). The statement was made prior to her taking office and demonstrates her longstanding bias against the Project.

Second, the Councilwoman has historically refused to meaningfully engage with Project supporters and with the Applicant. Councilwoman Yaroslavsky’s office has responded to constituents that she “is interested in hearing from the community about this project as it works through the review process.” However, on multiple occasions, the Applicant has invited Councilwoman Yaroslavsky to tour the property and to introduce her to the Project, yet she has

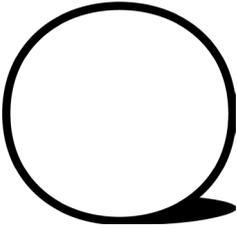


been unwilling to meet with the Applicant. Multiple constituents have reached out to Councilwoman to reiterate their support for the Project. Notwithstanding this outreach, her office has not provided genuine responses to Project supporters. As a council member, Councilwoman Yaroslavsky has a duty to represent all members of her constituency, not just those individuals opposed to the Project. Councilwoman Yaroslavsky has failed to act impartially during the ongoing administrative process.

Furthermore, Yaroslavsky's Motion is identical to previous demands made by specific Project opponents – implicating her ongoing animus and bias towards the Project and insinuating unlawful pre-hearing advocacy on behalf of Project opponents. The Motion requests the Director of Planning to rescind the GPA Initiation for the Project – circumventing the City's mandatory procedures without evaluation of the Project's merits. The Motion also reveals that Yaroslavsky's bias against the Project has not changed since her public opposition statement. Accordingly, Yaroslavsky must recuse herself from this matter because of her inability to be impartial during future Project deliberations.

2. The Councilwoman's Participation in the Hearing Will Result in an Unacceptable Probability of Actual Bias and Deprive the Applicant of a Fair and Impartial Hearing.

The law requires that the Project be considered on its merits after thoughtful and open deliberation by neutral and unbiased decisionmakers. Similar to state law requirements for conflicts of interest, "[t]he law does not require the ... applicant to prove actual bias. Rather, there must not be 'an unacceptable probability of actual bias'" on the part of a municipal decisionmaker. See *Woody's Group, Inc. v. City of Newport Beach*, 233 Cal. App. 4th 1012 - 1022 (2015). Based on evidence of bias, the Third District Court of Appeal recently held that an applicant for a gas station conditional use permit did not receive a fair hearing by the Sacramento City Council when the facts showed a councilmember's "prehearing commitment to achieving th[e] outcome" of a rejection of the permit. *Petrovich v. City of Sacramento*, 48 Cal. App. 5th 963, 974-76 (2020) ("*Petrovich*"). In determining bias, the court found significant: (i) evidence that the councilmember had likely corresponded with other councilmembers and the mayor to secure a majority position against the project; (ii) evidence that the councilmember had prepared "talking points" and other materials advocating against the project prior to the hearing; and (iii) similarities between the councilmember's talking points and advocacy group opposition letters, and other evidence indicating that the councilmember had been "coaching" the opposition in the weeks leading up to the hearing. (*Id.* at 975-76). The court held that based on this bias, the councilmember could not act as a "neutral and impartial decision maker, and should have recused himself from voting" at the appeal hearing. (*Id.* at 976).



Similarly here, Councilwoman Yaroslavsky openly opposed the Project prior to assuming office, thus establishing her public opposition of the Project early on. Since then, her behavior towards Project supporters and towards the Applicant remains unchanged, with all meaningful engagement reserved for Project opponents. As noted above, the Applicant's repeated requests to discuss the Project remain unanswered. Further, Councilwoman Yaroslavsky's Motion mirrors demands that have been made in the past by Project opponents – unequivocal evidence of her animus and bias towards the Project and her commitment to ongoing advocacy against the Project, even at this early stage. Based on this evidence, there is little question of Yaroslavsky's "prehearing commitment" to Project opposition, and relatedly, a demonstrable risk of bias if she participates in Project hearings. Thus, per *Petrovich*, Councilwoman Yaroslavsky must recuse herself from all hearings regarding the Project based on her inability to remain impartial.

In closing, and for the aforementioned reasons, we respectfully request that PLUM deny the Motion. Thank you for your consideration.

Sincerely,

Alfred Fraijo Jr.
Partner

213.592.2966 direct
alfred@somosgroup.org

Attachments: Exhibit 1 – October 12, 2017 GPA Initiation; Exhibit 2 – March 15, 2023 Motion

EXHIBIT 1



REQUEST FOR INITIATION OF AN AMENDMENT TO THE CITY'S GENERAL PLAN

By law, only the City may initiate an Amendment to the General Plan. Therefore you must request that the City initiate a Plan Amendment by completing the following:

I hereby request that the Director of Planning initiate a General Plan Amendment
from: Minimum Residential, Very Low I and Very Low II Residential
to: Specialized Hospitality and Residential
on property located at: See Exhibit "A"
within the: Council District 5/Bel-Air Beverly Crest District/Community Plan.

By my signature below, I request the aforementioned General Plan Amendment and affirm my understanding that to ensure a comprehensive review of the request and to avoid the introduction of any "spot" planned land use, staff may recommend initiating additional properties ("added areas") within the immediate area for a similar General Plan Amendment and that, if so, updated application materials, including but not limited to, the radius maps and an expanded notification list, will be required.

Stacy Burrus
(Signature) -Applicant -Representative

10/11/2017
Date

Section Below For Staff Use Only

CASE NUMBER: _____

Pursuant to the Los Angeles City Charter and the Municipal code, I hereby:

- Approve the initiation of the plan amendment(s) as requested by the Applicant/Representative
- Also initiate additional properties ("added areas") as recommended by staff within the immediate area for a similar change of the plan from _____
to _____
on the property(ies) located at: _____

Vincent P. Bertoni, AICP
DIRECTOR OF PLANNING

[Signature]

Signature

* Project alternatives to be evaluated include but are not limited to: A zoning compliant project; a reduced

10-12-17
Date

hotel project; and a 100 percent single-family residential project.

MOTION

Following the initiation of a General Plan Amendment to change the land use designation for properties located at 9704-9712 West Oak Pass Road, 9800, 9801-9815 West Wanda Park Drive, 2534 North Hutton Drive from Very Low I Residential, Very Low II Residential, and Minimum Residential to High-Medium Residential by the Director of Planning, in March 2018, the Applicant submitted case materials for the Retreat at Benedict Canyon Project (Project) (Case Nos. CPC-2018-1506-GPA-VZC-SP-SPP-SPR, CPC-2018-1507-DA, and VTT-74908). In November 2020, the Initial Study was released for the Project. The Initial Study found potentially significant impacts related to air quality, biological resources, cultural resources, energy, geology/soils, Greenhouse Gas emissions, land use / planning, noise, public services, transportation, tribal cultural resources, and wildfire as a result of the Project, and thus required an Environmental Impact Report (EIR).

The Project described in the Initial Study proposes a 59-room hotel and eight single-family homes on an approximately 32.67-acre property in Benedict Canyon. The hotel portion of the site would consist of a total of 18 hotel buildings, totaling 59 guest rooms, a standalone parking structure, a funicular railway, and a main hotel building including outdoor amenities, commercial space, and subterranean parking. The hotel use could include special events and would have approximately 90 full time equivalent staff. The residential portion of the site would contain eight single-family homes, ranging between 12,000 and 48,000 square feet of residential floor area with associated garage parking. Development of the overall site would also include the removal of existing trees (including protected trees) and vegetation and the installation of new landscaping, pathways, exterior decks, and other outdoor amenities. Preliminary site grading would require approximately 117,230 cubic yards of total grading and result in the off-site export of approximately 950 cubic yards of soil, while the remaining 116,280 cubic yards of cut would be balanced on-site. Maximum excavation depths would be approximately 62 feet below the existing grade. In addition to protected trees, the subject site is and has the potential to be habitat for candidate, sensitive, or special-status species, such as Braunton's milkvetch, coast live oak, and mountain lion, as identified by the California Department of Fish and Wildlife.

The discretionary entitlements, reviews, permits, and approvals required to implement the Project include the following: General Plan Amendment; Vesting Zone Change (VZC) to change the site zoning to the Benedict Canyon Specific Plan zone; Specific Plan to establish allowable uses, development standards, and design guidelines for the development of the hotel and residential uses on-site; Vesting Tentative Tract Map for the merger and subdivision of the site into nine lots; and other discretionary and ministerial permits and approvals that may be deemed necessary, including, but not limited to, temporary street closure permits, haul route, grading permits, excavation permits, foundation permits, building permits, and sign permits.

Since the General Plan Amendment initiation, case filing, and publishing of the Initial Study, details related to the project have been brought to the attention of the City Council. The proposed six-star hotel will strain infrastructure in a community otherwise planned and developed for low-density, single-family development. The City has sufficient lands zoned for hotels with adequate infrastructure within fully urbanized areas. The secluded hillside location is isolated from other business, public transportation, public services and other cultural amenities which underscores the unessential nature of the project as it relates to the community, city, and region. Due to the remote hillside location and other reasons mentioned above, the project will not enhance the built environment in the surrounding neighborhood or perform a function or provide a service that is essential or beneficial to the community, city, or region.

Events such as weddings, corporate functions, dinners, and film screenings are proposed as part of hotel operations. The scale of such events would be inconsistent with the typical overall intensity of activity in the surrounding community, degrading the community with additional noise from patrons and amplified music, automobile trips, and impacts commensurate with the service of alcoholic beverages and live entertainment. The

MAR 15 2023

unique geography and topography of the location will further challenge the operator to maintain compliance with the Los Angeles Municipal Code Citywide Noise Ordinance, and typical noise control measures within the property such as noise barriers, sound absorbers, and buffer zones will be less effective. As such, the project's hillside location, size, height, operations, and other significant features will not be compatible with and will adversely affect or further degrade adjacent properties, the surrounding neighborhood, and public health, welfare, and safety.

Since the Initial Study was released in 2020, major new reports have highlighted the importance of protecting wildlife habitat and open space. The City has also advanced significant policies to direct development away from hillsides and undeveloped properties. These policies further implement General Plan Framework Policies supporting conservation areas. In February 2021, the Department of City Planning published the Protection Areas for Wildlife (PAWs) evaluation to identify important habitats for sustaining wildlife and connectivity within the City. In June 2022, the Los Angeles Sanitation and Environment Department published the LA Biodiversity Index Baseline Report, which highlighted the key role Los Angeles' municipal government must play in preserving biodiversity and the critical importance of preserving LA's unique ecosystem and place within the California floristic province, one of only 36 globally-recognized biodiversity hotspots.

On November 22, 2022, the City Council adopted a resolution directing the City (i) to treat the Santa Monica Mountains Conservancy (SMMC) as a trustee agency for California Environmental Quality Act (CEQA) for any project within the Santa Monica Mountains Zone and (ii) the Planning Department and other City Departments to consider the SMMC Eastern Santa Monica Mountains Natural Resources Protection Plan, adopted in December of 2021, in future CEQA actions and work with SMMC on all future habitat maps.

On November 29, 2021, the City Council adopted an update to the Safety Element to address wildfire risk, among other State requirements. The update to the Safety Element found:

Due to climate change the region today is subject to more frequent and severe wildfires. As of 2020, eight of the ten largest fires in California history occurred during the past decade. The 2009 Station Fire is the largest wildfire on record in LA County, with 160,557 acres burned. The 2020 Bobcat Fire burned 115,796 acres and contributed to hazardous air quality across the region, a challenge compounded by the surging Covid-19 pandemic, which kept many from seeking relief in communal facilities.

Today the City's approach to preventing and mitigating wildfire risk includes building standards, brush clearance, roadway requirements, parking restrictions, zoning limitations, and many more interventions detailed below.

Among other policies, the Updated Safety Element added the following policy to reduce risks of wildfire:

1.1.8 Land Use. Consider hazard information and available mitigations when making decisions about future land use. Maintain existing low density and open space designations in Very High Fire Hazard Severity Zones. Ensure mitigations are incorporated for new development in hazard areas such as VFHISZs, landslide areas, flood zones and in other areas with limited adaptive capacity.

The Project is located in a Very High Fire Severity Zone. Wildfire risk is continually exacerbated by continuing and escalating climate change. The Project is not consistent with the Updated Safety Element to maintain existing low density residential and open space in such zones.

In December 2022, the City Planning Commission sent forward the Wildlife Ordinance to the City Council; upon adoption (expected shortly), this Ordinance will signal the strongest affirmation from the City that it is of the highest important to reduce cumulative development impacts on plants, animals and natural resources

while providing co-benefits related to climate resilience and public health. These significant new reports and policy changes, coupled with the continued prevalence of wildfires affecting communities at the wildland-urban interface (the 2018 Wolsey Fire, 2019 Getty Fire, and 2021 Palisades Fire to name a few), constitute substantial new evidence that must be considered by the Director of Planning as having some bearing on the General Plan Amendment initiation.

I THEREFORE MOVE that the Council request the Director of Planning to consider rescinding the initiation of a General Plan Amendment for the Retreat at Benedict Canyon Project, Case No. CPC-2018-1506-GPA-VZC-SP-SPP-SPR, located at 9704-9712 West Oak Pass Road, 9800, 9801-9815 West Wanda Park Drive, and 2534 North Hutton Drive, in the Bel Air-Beverly Crest Community Plan Area, inasmuch as the proposed amendment does not reflect the land use patterns, trends, uses, and environmental and safety concerns, and does not further the intent, purposes, and objectives of the General Plan, including the Community Plan, the Framework Element, and the Safety Element.

PRESENTED BY:


KATY YAROSLAVSKY
Councilwoman, 5th District

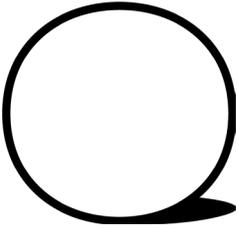
SECONDED BY:



ORIGINAL

8

EXHIBIT B



March 21, 2023

VIA LACOUNCILCOMMENT.COM

Planning and Land Use Management Committee
City of Los Angeles
200 N. Spring Street
Los Angeles, CA 90012

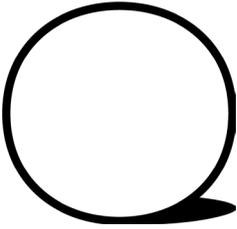
Re: CF-21-0777-S1, PLUM Agenda Item No. 14 – Response to Gaines Letter

Dear Honorable Chairman Harris-Dawson and Honorable Councilmembers:

Our firm represents 9712 Oak Pass Road, LLC (the “Applicant”) in connection with the Bulgari Resort & Estates Los Angeles Project (the “Project”) in the City of Los Angeles (the “City”), Case Nos. CPC-2018-1506-GPA-VZC-SP-SPP-SPR, VTT-74908, ENV-2018-1509-EIR. On March 20, 2023, counsel for Save Our Canyon submitted a letter (“Gaines Letter”) to this committee citing to a single case, *Las Lomas Land Co., LLC v. City of Los Angeles*, 177 Cal. App. 4th 837 (2009)(hereinafter, “*Los Lomas*”) as support for Councilwoman Yaroslavsky’s March 15, 2023 motion to rescind the General Plan Amendment Initiation for the Project (the “Motion”). As explained further below, the Gaines Letter misapplies *Los Lomas*, because it bears little relation to our present case in key, legally-operative respects.

In *Las Lomas*, the City terminated its environmental review of a proposed development project and rejected the project before the completion of a draft environmental impact report (EIR), and the applicant argued unsuccessfully that the city had a mandatory duty under CEQA to complete and consider an EIR before rejecting the project. We are not arguing that the City must complete an EIR in order to reject the Bulgari Project, but rather that Councilwoman Yaroslavsky’s Motion is a legally impermissible manner for the City to reject the project which violates City rules and deprives the applicant of rights. Thus, the *Las Lomas* case is of limited import with respect to the legal arguments in our March 20, 2023 letter (“Bulgari Letter”) to this committee.

First, the entitlements at issue in *Las Lomas* included annexation of the site, approval of a specific plan, zoning, and development entitlements. Here, we are dealing with, *inter alia*, a Planning Director-initiated General Plan Amendment (“GPA”) and a Vesting Tentative Tract



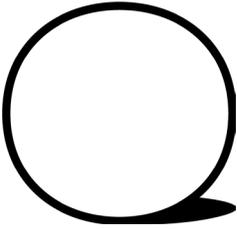
Map. Accordingly, our due process and vesting arguments supported by the City Charter, Los Angeles Municipal Code, and Subdivision Map Act are not implicated in the *Los Lomas* case.

The present case is more analogous to *Cohan v. City of Thousand Oaks*, 30 Cal. App. 4th 547 (1994), in which, after the planning commission approved a developer's proposed project, the city council appealed the approval to itself and reversed the commission's decision. The court determined the appeal violated the developer's procedural due process rights because it was not authorized by the city's own ordinances and rules. (*Id.* at p. 558-59.) Thus, unlike in *Los Lomas*, the city council had no discretion to take the action it did. The court explained, "Our holding should not be read as invalidating all appeals taken by a city council or other governing body to itself from a decision of a subordinate agency. We do emphasize, however, that if such a procedure is contemplated, it should be authorized by the ordinances or rules which govern appeals to such entity, and some direction should be given in such ordinances or rules concerning specification of grounds and appropriate burdens of proof." (*Id.* at p. 559.) The court's decision also emphasized the Councilperson's impermissible bias:

We agree that a trier of fact does not have to be completely indifferent to the general subject matter of the claim presented to be impartial. Nonetheless, a fair trial in a fair tribunal is a basic requirement of due process. A biased decisionmaker is constitutionally unacceptable. The right to a fair procedure includes the right to impartial adjudicators. (*Id.*, internal citations omitted.)

Similarly here, as explained further in the Bulgari Letter, the Motion is inappropriate because it requests the Director of Planning to rescind the GPA Initiation in violation of the processes and procedures identified in the City Charter and Municipal Code. Further, the Applicant's rights have vested pursuant to the Subdivision Map Act. In addition, the Bulgari Letter describes at length substantial evidence of Councilwoman Yaroslavky's bias against the Project, which would deny the Applicant of their due process rights if Councilwoman Yaroslavsky fails to recuse herself from further Project deliberations. Thus, using the same reasoning as the court in *Cohan*, the Motion must be denied in order to preserve the Applicant's due process rights under state and local laws.

Second, the causes of action at issue in *Las Lomas* are not the same as those which we would plead if Councilwoman Yaroslavsky's Motion were implemented. In *Las Lomas*, the aggrieved applicant contended (1) the city had a mandatory duty under CEQA to complete the EIR before rejecting the project; (2) the denial of procedural and substantive due process; and (3) the denial of equal protection. There were no allegations of application vesting nor procedural violation of the Los Angeles City Charter and Los Angeles Municipal Code. Citing *Las Lomas*, the court in *Ready v. City of Simi Valley* (Jan. 13, 2020, B288519) [nonpub. opn.]



specifically found that a City's resolution declaration that "[t]his approval does not constitute a vested entitlement or vesting of rights to construct..." undermined the applicant's allegation of "a legitimate claim of entitlement" to a hardship waiver. Here, we are dealing with a vesting zone change and vesting tentative tract map, which correspondingly support our contention of a legitimate claim of entitlement to application processing through to completion.

Third, in *Los Lomas*, the issues of promissory estoppel and inverse condemnation, and additional facts in support of the constitutional claims, were explicitly excluded on appeal because of the applicant's forfeiture of claim of error based on denial of leave to amend where the trial court offered to grant plaintiff the opportunity to amend the pleading but plaintiff expressly declined the court's offer. See *Thompson v. City of Petaluma*, 231 Cal. App. 4th 101, 109 n.5 (2014) (explaining the narrow holding in *Las Lomas*). Thus, *Las Lomas* says nothing about an applicant's ability to challenge a City's decision to arrest an application process midstream on these grounds.

Thus, the *Las Lomas* holding is really quite narrow that a City need not complete an EIR before disapproving a Project. (See *City etc. of San Francisco v. Superior Court* (Dec. 21, 2012, A133691) [nonpub. opn.] ("A public agency need not prepare an EIR for a project that it rejects. (*Las Lomas, supra*, 177 Cal.App.4th at p. 848, fn. omitted.") *Las Lomas* does not provide that a City may disapprove a project in violation of its own rules designed in part to protect applicants' rights on the basis of a clear manifestation of Council bias.

For these reasons, we respectfully request that PLUM consider the limited application of the *Los Lomas* case, the distinguishing facts of the present case, and the state laws vesting the Project application as compelling and established precedent for denying the Motion.

Sincerely,

Alfred Fraijo Jr.
Partner

213.592.2966 direct
alfred@somosgroup.org

Communication from Public

Name: stephanie pincetl

Date Submitted: 05/15/2023 01:21 PM

Council File No: 21-0777-S1

Comments for Public Posting: The proposal for the Bulgari Hotel as well as additional development for mega-mansions should be opposed. It is in contradiction to the city's efforts to ensure biodiversity is maintained, open space is preserved, and good land use planning. This is a huge project, moving thousands of cubic yards of soil and will continue to contribute to environmental impacts to the city and its populations. It is out of scale, will contribute to further air pollution and place additional burden on city infrastructure. As Los Angeles is attempting to move to 100% renewable energy, the energy demands of this development will contribute to the cost and challenge of achieving that goal in an affordable manner. The energy demands of the wealthy cascade through to the rest of us, but the fiscal system does not reflect that disproportionate impact. Further, the size of home is egregious and should be discourage generally. I strongly oppose this land development proposal. Los Angeles deserves better, land development that serves all its residents, not just the wealthy. The negative impacts will affect us all. thank you Stephanie Pincetl

Communication from Public

Name: David Scott Kadin

Date Submitted: 05/15/2023 02:47 PM

Council File No: 21-0777-S1

Comments for Public Posting: Members of the Los Angeles City Council, I urge you to support Katy Yaroslavsky's motion asking the Director of Planning to rescind his inappropriate commencement of the General Plan Amendment for a project that never should have started to begin with. Our community is deeply troubled by what appear to be clear Conflicts of Interests surrounding the acceptance of the Request to Initiate a General Plan Amendment to change our City's laws in order to allow an inappropriate commercial hotel in a residential area: 1. The fact that in 2016, the developer of the proposed hotel contributed \$8,400 to the State Senate campaign of Shawn Bayliss, CD5's Planning and Legislation Deputy. 2. The fact that at the start of 2017, Stacey Brenner, the wife of Shawn Bayliss, began lobbying for the hotel while her husband was one of the key City Officials related to the project is both alarming and outrageous. 3. The fact that lobbyist Brenner, wife of Paul Koretz's longtime Planning Deputy, was paid over \$174,000 to influence both City Council and City Planning creates the unsettling appearance of inappropriate Conflict of Interests. 4. The fact that the Request to Initiate an Amendment to the City's General Plan was signed by Stacey Brenner — then accepted by the Director of City Planning only 24 hours later. This contradicts the Department's own policies requiring in-house review (as confirmed by a Public Records Act request which produced no evidence of any deliberative process). This raises substantial and troubling questions about Ethics, the functioning of our City Government, and the Land Use Process in Los Angeles. Is this the way we conduct business in our city? Would you permit your senior Planning Deputy's wife to receive payments to influence you and City Planning for an inappropriate project in your district? Is this the process you choose to reward and perpetuate? At this time when so many LA public officials are being indicted, implicated and incarcerated, Los Angeles needs you to restore our faith in City Government. No more Conflicts of Interests! No more business as usual! Please vote to support Councilmember Yaroslavsky's motion 21-0777-S1. Sincerely, David and Ana Kadin 1611 San Ysidro Drive Beverly Hills, Ca 90210