



Armando Bencomo &lt;armando.bencomo@lacity.org&gt;

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## Public Comments Not Uploaded CF 21-0777 - PLUM Committee October 19, 2021 - Agenda Item No. 2 - Support for Motion

1 message

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**Fred Gaines** <fgaines@gaineslaw.com>  
Reply-To: clerk.plumcommittee@lacity.org  
To: "clerk.plumcommittee@lacity.org" <clerk.plumcommittee@lacity.org>  
Cc: Daniel Skolnick <daniel.skolnick@lacity.org>

Mon, Oct 18, 2021 at 2:17 PM

Dear Honorable PLUM Committee Members:

This law office represents Save Our Canyon. We urge your support for this Motion made by Councilmember Koretz and seconded by Councilmember Blumenfield to rescind the initiation of a General Plan Amendment for The Retreat at Benedict Canyon Project.

The Motion is based upon and supported by applicable legal precedent. In [Las Lomas Land Co., LLC v. City of Los Angeles](#) (Sept. 17, 2009, B213637) 177 Cal. App. 4th 837, the Court upheld the long standing rule that a discretionary application may be terminated, that CEQA does not apply to projects rejected or disapproved by a public agency, and that a public agency may reject a project before completing or considering the EIR. In *Las Lomas*, the Court of Appeals for the Second Appellate District made clear that a city may reject a discretionary application midstream without awaiting the completion of a final EIR. This holding allows the City to avoid wasting time and money on a dead-on-arrival project.

In May of 2002, Las Lomas Land Co., LLC ("Las Lomas") submitted an Environmental Assessment Form (EAF) for the development of a 555-acre site along the 5 Freeway North of Sylmar, in an area to be annexed into the City's sphere of influence. The City issued a notice of preparation of an EIR for the project, which included the annexation of the site, approval of a specific plan, zoning and development entitlements. Las Lomas submitted a draft specific plan and preliminary draft environmental studies to the City. City Councilmember Greig Smith opposed the project and asked the City to cease its work on it. The City Attorney advised that the City was required to continue processing and completing the EIR. Nonetheless, Councilmember Smith introduced a motion to suspend the review process until the City Council made "a policy decision" to resume the process. The City Council ultimately approved a modified motion which called for the City to cease work on the proposed project.

Las Lomas filed a combined petition for writ of mandate and complaint, alleging, among other arguments: 1) the City had no rational basis to stop processing the project application; 2) the City had a mandatory duty to complete its environmental review before making a decision on the project; 3) the failure to complete the environmental review denied Las Lomas procedural and substantive due process and equal protection; and 4) allowing the objecting council member to substitute a new motion for his original one without notice denied Los Lomas procedural due process rights. The Court rejected all of Las Lomas' claims.

It is clearly legal for the City to stop the processing of the General Plan Amendment for The Retreat given the Council Office's known opposition to the project. We request that the PLUM Committee recommend that the City Council adopt Councilman Koretz' Motion at the earliest possible date.

Thanks for your attention to this matter.

**Fred Gaines, Esq.**



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**\*Due to the current situation with Covid-19, we are working remotely and therefore ask that you please provide all correspondence by email including but not limited to letters, pleadings and documents. Thank you for your cooperation.\***

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1 message

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'Mark & Jen' via Clerk-PLUM-Committee <clerk.plumcommittee@lacity.org>

Mon, Oct 18, 2021 at 11:53 PM

Reply-To: clerk.plumcommittee@lacity.org

To: "clerk.plumcommittee@lacity.org" &lt;clerk.plumcommittee@lacity.org&gt;

Cc: Daniel Skolnick &lt;daniel.skolnick@lacity.org&gt;

Honorable Planning and Land Use Management Committee Members:

I write to you as President of Save Our Canyon, a non-profit dedicated to preserving the unique nature of the Santa Monica Mountains, in order to ask your support for [Motion CF 21-0777](#) filed by Councilmember Paul Koretz with regard to the proposed commercial hotel in an entirely residential hillside community in a environmentally sensitive area and high fire severity zone.

Save Our Canyon and more than [10,000 concerned citizens](#) vigorously oppose this attempt to seek a General Plan Amendment and zoning change to build this large scale commercial project. We ask that you support Councilmember Koretz's motion to direct the Director of Planning to rescind the initiation of a General Plan Amendment. [L T L L]  
[S E P I S E P]

In addition to our petition with over 10,000 signatures, our organization represents over 1,000 actively concerned and engaged neighbors, including virtually all of the directly impacted households. Our organization is also supported by the Santa Monica Mountains Conservancy, Tree People, Citizens for Los Angeles Wildlife, the Bel Air-Beverly Crest Neighborhood Council, the Benedict Canyon Association, and the Hillside Federation — along with nearly every leading environmental organization in the region.

Councilmember Koretz has made this Motion because he recognizes that this project is completely inappropriate for the community, for the City of Los Angeles and because it will set a dangerous precedent for commercialization of the Santa Monica Mountains. Councilmember Koretz has stated publicly that the proposed hotel project will create substantial life-safety hazards, increased fire danger, and it is an inappropriate commercial development in an area historically zoned for only residential properties. Councilmember Koretz has heard the voices of thousands of community members who have, in writing, stated their opposition to this project and he understands that the commercial hotel portion of this project must be stopped now, without further draining the limited resources of the City and the members of the surrounding community.

This Motion is fully supported by the decision of the [California Court of Appeal in Las Lomas Land Co. v. City of Los Angeles \(2009\)](#) 177 Cal.App.4th 837, where the Court upheld the City's denial of an application for a development while it was in the EIR review process. The Court noted that only the City and the community — but not the applicant — have the right to a full EIR process. When the City has the discretion to deny an application the City cannot be held liable for doing so prior to the completion of the EIR process. In this case, the simple fact is that the application for a change to the General Plan and a zone change can never be approved because the findings that are required under the Municipal Code can never be made. Given this fact, the commercial portion of the application should be brought to an end now.

We urge this Committee to vote in support of the Motion, to stand with the thousands of energized voters who oppose this project, to preserve the Santa Monica Mountains, and to protect the integrity of the planning process by ending this misguided commercial proposal without further proceedings.

Sincerely,

Mark Levin  
Board President, Save Our Canyon

cc: Save Our Canyon Board of Directors



**SOC Letter to PLUM Committee - Supporting Council File # 21-0777.pdf**

457K

# SAVE OUR CANYON

October 18, 2021

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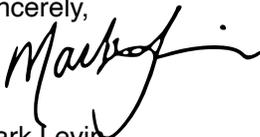
In addition to our petition with over 10,000 signatures, our organization represents over 1,000 actively concerned and engaged neighbors, including virtually all of the directly impacted households. Our organization is also supported by the Santa Monica Mountains Conservancy, Tree People, Citizens for Los Angeles Wildlife, the Bel Air-Beverly Crest Neighborhood Council, the Benedict Canyon Association, and the Hillside Federation — along with nearly every leading environmental organization in the region.

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Mark Levin  
Board President, Save Our Canyon

cc: Save Our Canyon Board of Directors