

RECOMMENDATION REPORT

Case File No.: 22-0499

Council Area: Council District 4 – Council Member Nithya Raman

Community Plan Area: Hollywood

Certified NC: Hollywood United

GPLU: Low II Residential

Zone: R1-1D

Owner/Applicant: Gaspar Obando/V&G Development LLC

Project Location: 2669 N. Bronholly Drive, Los Angeles, CA 90058

Project: A single family home requiring removal of one protected tree on an undeveloped lot.

Appellant: Bronholly & Carolus Residents Coalition (“Appellant”) submitted an appeal to the City on April 28, 2022 (Transmittal (“TR”) No. 1).

REQUESTED ACTION: Review of the City's compliance with the California Environmental Quality Act (CEQA), appealed pursuant to Public Resources Code 21151(c) and Los Angeles Municipal Code section 197.01 by Appellant, concerning the City's staff approval of the Project. Specifically, Appellant requests a March 16, 2022, CEQA Notice of Exemption (“NOE”) for the Project filed with the Los Angeles County Recorder's Office April 22, 2022, to be set aside.

RECOMMENDED ACTIONS:

1. **Grant** the appeal.
2. **Determine** based on the whole of the administrative record, that the record does not support a finding that no reasonable possibility exists that the Project will not have a significant effect on the environment due to unusual circumstances as required by CEQA Guideline section 15300.2(c). In particular, because no biologist's report was submitted by the Applicant, no evidence exists in the record of the Project's impacts to protected trees or protected wildlife that may be impacted by the Project. As a result, insufficient record evidence exists to support a finding that either categorical exemption identified by the NOE applies.
3. **Rescind** the NOE.
4. **Direct** the permit application be returned to the Bureau of Street Services (StreetsLA) for further consideration consistent with this Report and the Council's determination.

REPORT TRANSMITTAL ATTACHMENTS:

1. April 28, 2022, CEQA appeal.
2. Application for a Tree Removal Permit
3. March 16, 2022, CEQA Notice of Exemption
4. May 9, 2022, Appellant's CEQA appeal supplement
5. May 6, 2022, Santa Monica Mountains Conservancy letter
6. October 13, 2021, Protected Tree Report
7. August 18, 2022, Letter from Applicant's Attorney

PROJECT DESCRIPTION

BACKGROUND

The Project for which the CEQA determination on appeal was made is the construction of a 1,160 square foot multi-story residence with two basement levels and an accessory structure on a 4,190 square foot undeveloped lot on the east/northeast-facing slope that ascends steeply above Bronholly Drive in the Bronson Canyon area of Los Angeles. The Property is undeveloped land. As designed and proposed when the CEQA determination was made, the Project required removal of one native protected Toyon shrub.

PROJECT SUMMARY

On behalf of the Applicant, Lisa Smith (Registered Consulting Arborist) provided a Protected Tree Report assessing the Project's impact to Protected Trees. (TR 6.) StreetsLA reviewed the Protected Tree Report. The Protected Tree Report identified one protected Toyon Shrub as defined by Los Angeles Municipal Code Section 46 et. seq. The Protected Tree Report also identified an off-site protected Coast Live Oak tree which was studied to determine whether it would be impacted by the Project.

A StreetsLA arborist inspected the location on December 21, 2021, to verify the content of the Protected Tree Report and confirmed that one Toyon tree will need to be removed. The inspector determined that the removal of the one Toyon could be mitigated by planting four 24-inch Toyon trees on the Property. It was also determined that the impact to the Coast Live Oak would be minimal, and the Oak tree would likely survive the impacts of proposed construction. The Applicant submitted no biological assessment concerning the Project or other information that analyzed the site's value as habitat for endangered, rare, or threatened species, or the site's potential to serve as a wildlife movement corridor.

Subsequent to the CEQA appeal, on August 18, 2022, the Applicant's attorney sent a letter to the City withdrawing his tree removal permit application. (TR 7). The Applicant has also submitted new drawings and a tree report to StreetsLA, however there is no indication the Applicant has withdrawn his original Project for which he seeks approval from LADBS or the Planning Department. As a result, the Project for which the CEQA determination was made still requires removal of a protected tree.

PROCEDURAL SUMMARY

On October 26, 2021, Applicant submitted a permit request for removal of a protected tree. (TR 2.) Staff reviewed the application and on March 16, 2022, signed a CEQA Notice of Exemption (“NOE”) for the Project which was filed with the Los Angeles County Recorder’s Office April 22, 2022. (TR 3). The NOE was posted until May 23, 2022. (*Id.*)

The NOE states that the Project is exempt from CEQA review pursuant to CEQA Guideline Section 15303 (New Construction or Conversion of Small Structures) and Section 15032 (In-Fill Development Projects). The NOE does not state that the City considered whether any of the exceptions to use of a categorical exemption provided at CEQA Guideline Section 15300.2 apply.

On April 28, 2022, Appellant filed its appeal of the City’s CEQA determination pursuant to the requirements of Los Angeles Municipal Code section 197.01. (TR 1). On May 9, 2022, Appellant submitted another letter in support of its appeal. (TR 4). On May 6, 2022, Paul Edelman, Deputy Director for Natural Resources and Planning at the Santa Monica Mountains Conservancy (“SMMC”) submitted a letter in support of the appeal. (TR 5.)

Because the appeal was filed timely, Section 197.01(l) stayed issuance of any approved Project permits. Section 197.01 set an initial July 12, 2022, deadline for the City Council to decide the appeal. As allowed by Section 197, on June 22, 2022, the Public Works Committee found good cause to extend the deadline for the City Council to decide the appeal for an additional 75 days, to September 5, 2022.

RECOMMENDED CEQA FINDINGS

Upon this administrative appeal and following further review, City staff recommends the City Council find the administrative record is inadequate to show the Project is categorically exempt from the requirements of CEQA:

1. CEQA Guideline section 15300.2 subpart (c) states: “A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” The Project requires removal of a Toyon tree identified as a protected natural resource by the City of Los Angeles which qualifies as an unusual circumstance, however no record evidence exists concerning the environmental effect of the tree’s removal and replacement such as a report from a licensed arborist and a biologist. The record does not contain sufficient evidence to evaluate the Project’s potential impacts to protected trees or wildlife. As such, neither the Class 3 nor Class 32 CEQA exemptions can apply.
2. The Class 32 CEQA exemption (CEQA Guideline Section 15032) can only apply if the record demonstrates the project site has no value, as habitat for endangered, rare or threatened species. Because the record contains no report from a biologist

concerning the Project, the record is insufficient to support a finding that the Class 32 CEQA exemption applies.

3. Although Applicant's attorney has withdrawn the tree removal permit application (TR 7), the Applicant has not withdrawn its original project for City approval, thus, there remains an improperly supported CEQA determination for the project. Further, even if the Applicant were to withdraw the project for which the CEQA determination was issued, it would be appropriate to rescind the NOE as recommended to ensure there is no question that no CEQA determination has been made concerning any project at the project site.

APPELLANT ARGUMENTS

The initial April 28, 2022, appeal of the CEQA NOE (TR 1) and the May 9, 2022, letter (TR 4) make the following contentions:

- a) The City's review is incomplete because an off-site protected Coast Live Oak will be impacted by the Project but was not considered.
- b) A Class 3 Categorical Exemption cannot apply because the Project may impact an environmental resource of hazardous or critical concern that has been designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. (CEQA Guidelines §15300.2(a).)
- c) A Class 32 Categorical Exemption cannot apply because the record does not show any of the five requirements established by the Class 32 Exemption were considered.
- d) Use of a categorical exemption is improper because "there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines § 15300.2(c)).

Because Staff recommends this appeal be granted for the reasons stated above, the City Council need not resolve the arguments presented by Appellant.

SMMC ARGUMENTS

The May 6, 2022, letter from SMMC (TR 5) argued the appeal should be granted for the following reasons, for which the SMMC letter provides greater detail:

- a) "[T]here is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances including a habitat linkage choke point in an imperiled urban ecosystem of regional significance."

- b) The Project description is incomplete because it does not include direct impacts upon adjacent public parkland owned by the Mountains Recreation and Conservation Authority.
- c) "The project description is further deficient because it does not address the project being in an element of a State-adopted Natural Resource Protection Plan."
- d) "The project description is further deficient because it does not address the project being located within the habitat of a small sub-population of the State-listed candidate threatened southern California mountain lion."
- e) The Project description fails "to disclose proposed off site grading on other private property along the southwest property boundary related to a proposed accessory structure."
- f) The Project description fails to consider "the proposed rear-yard accessory structure and its related infrastructure on the submitted civil plans."
- g) "A Class 3 categorical exemption cannot be used to address impacts to an environmental resource of critical concern identified by a State resource agency. A Class 3 categorical exemption cannot be utilized where a project may impact on an environmental resource of critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies (in this case a State resource agency)."

Because Staff recommends this appeal be granted for the reasons stated above, the City Council need not resolve the arguments presented by the SMMC Letter.

CONCLUSION

Upon review and analysis of the CEQA determination appealed to the City Council by Appellant, Staff recommends the appeal of the CEQA NOE issued by Staff for the Project be granted, the NOE be set aside, and the Project's environmental determination be returned to staff for further consideration.

Respectfully Submitted,



David Miranda
Chief Forester, Urban Forestry Division, Bureau of Street Services