

## Communication from Public

**Name:** Sheri Bonstelle  
**Date Submitted:** 09/27/2022 07:45 AM  
**Council File No:** 22-0499  
**Comments for Public Posting:** Our firm represents Gaspar Obando, V&G Development LLC, the Applicant for the single family residence project at 2669 N. Bronholly Drive. Please see the attached letter to the City Council Public Works Committee.

Sheri L. Bonstelle  
sbonstelle@jmbm.com

1900 Avenue of the Stars, 7th Floor  
Los Angeles, California 90067-4308  
(310) 203-8080 (310) 203-0567 Fax  
www.jmbm.com

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**BY EMAIL**

Public Works Committee  
200 N. Spring Street, Room 1010  
Los Angeles, CA 90012  
E-Mail: [michael.espinosa@lacity.org](mailto:michael.espinosa@lacity.org)  
[LACouncilComment.com](http://LACouncilComment.com)

Re: 2669 N. Bronholly Drive (Council File 22-0499)  
CEQA Appeal  
Hearing Date: September 28, 2022 Item: 1

Dear Honorable Chair Blumenfield and Members of the Public Works Committee:

We represent Gaspar Obando, V&G Development LLC, the Applicant for the single family residence project at 2669 N. Bronholly Drive (the "**Project**"). On August 18, 2022, we submitted a letter to the Public Works Committee confirming that the Applicant withdrew the approval of the Tree Removal Permit and a CEQA exemption for the Project. (See **Exhibit A, and Staff Report TR7**) The City approved the Tree Removal Permit and a CEQA Class 3 and Class 32 exemption on March 16, 2022, and issued a Notice of Exemption on April 22, 2022; the Appellants had appealed the CEQA exemption to City Council. In response, the Applicant redesigned the Project so the Toyon Shrub and off-site Coast Live Oak tree could be preserved in place without impact, and therefore no discretionary action or protected Tree Removal Permit was necessary. ("**Revised Project**") The Applicant submitted the drawings for the Revised Project and revised Tree Report to the City. Therefore, this appeal is now void as a matter of law should be dismissed by the Public Works Committee and the City Council.

The building permit for the original Project was issued by the City on March 15, 2022. (15010-20000-03424) (See **Exhibit C**) The Applicant submitted a supplemental building permit application for the Revised Project on August 3, 2022, (See **Exhibits D, F**) and the Department of Building and Safety ("LADBS") submitted comments on the revised design on September 7, 2022. (See **Exhibit E**) The City staff confirmed that there were no longer any comments regarding the Toyon Shrub or the off-site Coast Live Oak tree. The Applicant is now submitting the Revised Project drawings to the Planning Department, which occurs after receiving LADBS comments.

Even if the requested entitlement had not been withdrawn by the Applicant, pursuant to the Los Angeles Municipal Code 197.01 ("**LAMC**") and the continuation by the Public

Works Committee, the last day to act on this matter was September 23, 2022. The City Council failed to act, and the time to act was not extended, therefore the appeal has expired. Once the appeal expired, the City Council lost jurisdiction and may not retroactively extend the time to act.

As submitted, the Revised Project includes the construction of a small single family dwelling and an accessory structure on a 4,190 square foot undeveloped lot. As set forth in the revised Protected Tree Report by Lisa Smith (the "Tree Report", see **Exhibit B**), dated September 6, 2022, the Revised Project includes one protected Toyon Shrub (#OS1) and one off-site protected Coast Live Oak tree, which was studied to determine whether it would be impacted by the Revised Project. As stated in the City staff report, dated September 28, 2022 ("**Staff Report**"), the original Project required removal of the protected Toyon Shrub and proposed mitigation. However, the Applicant has redesigned the Project to no longer require removal of the protected Toyon Shrub, and submitted revised drawings and a revised Tree Report to Streets LA and LADBS. As stated in the revised Tree Report, the Toyon Shrub (#OS1) is located at the base of the slope and will be retained; grading will occur 1.4' horizontal and 1.9' above the Toyon Shrub, and will be graded by hand around the tree to avoid any impact. (p.11) The Coast live oak tree (#OS2) is located off-site in the public right of way, and grading will occur approximately 5 feet above the Oak trunk, and a 12" wall will keep out sediment. A curb will be installed at the base of the tree, and if roots are encountered, a shallow curb will be installed instead so the tree is retained and protected in place. (p. 12) There was an exploratory trench on June 2, 2022, to the depth of the proposed curb performed by Felipe Flores and Lisa Smith, both Certified Arborists, and provided video and photos to UFD to certify the road widening with a regular curb would not hurt the tree. 'The exploratory trenching revealed no significant roots. This tree will be retained and protected in place.' (p. 13)

The City Staff Report acknowledged that the Applicant had submitted a letter to the Public Works Committee withdrawing the Tree Removal Permit and CEQA Exemption and submitted updated drawings for the Revised Project to StreetsLA, but states "*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.*" (p.2) This statement is inaccurate. First, the Applicant specifically withdrew his approval of the Tree Removal Permit and CEQA exemption, and filed for a supplement building permit for the Revised Project in August 3, 2022. As the City staff knows, LADBS staff has already provided comments on the Revised Project and is proceeding to complete the plan check and issue the building permit without requiring the Tree Removal Permit.

The Staff Report then recommends approval of the appeal of the CEQA exemption without making any findings to justify rescinding the CEQA exemption. The Appeal is based solely on a claim that the street widening will cause the Oak tree to die, and that there is wildlife habitat linkage in the area. The Applicant submitted evidence confirming that the off-site Oak tree would be preserved, and will submit a Declaration of No Known Biological Resources Letter by South Environmental showing that no known biological resources exist on the Property prior to City Council action. (See **Exhibit G**) The Letter from the Santa Monica Conservancy, dated May

6, 2022, ("**Conservancy Letter**") is no longer applicable, as it comments on the original Project and not the Revised Project. The Conservancy Letter states that the grading would occur two feet from the Oak tree, and should be altered to better buffer the Oak trees support system and protect the integrity of the adjacent MRCA land (p. 6). In fact, the Revised Project moves the grading at least five feet from the Oak truck, and has designed a 12" wall to keep out sediment and shallow curb to protect any roots. Therefore, the Oak tree will not be impacted, and a Tree Removal Permit and CEQA exemption is no longer required for the Revised Project.

As stated, the City Council has lost jurisdiction and can no longer act on the appeal. If the City Council acts despite loss of jurisdiction, we request that the Public Works Committee dismiss the appeal, and acknowledge that the approved Tree Removal Permit and CEQA Exemption have been withdrawn by the Applicant.

Very truly yours,



SHERI L. BONSTELLE for  
Jeffer Mangels Butler & Mitchell LLP

SLB

Encl.: Exhibit A – Letter to Public Works Committee, dated August 18, 2022  
Exhibit B – Tree Report by Lisa Smith, dated September 8, 2022  
Exhibit C – Original Building Permit, dated March 16, 2022  
Exhibit D – Revised Project LADBS Submittal, dated August 3, 2022  
Exhibit E – LADBS Plan Check comments, dated September 9, 2022  
Exhibit F – Survey, M&G Civil Engineering and Land Surveying, dated June 27, 2022  
Exhibit G - No Known Biological Resources Letter by South Environmental

cc: Councilmember Nithya Raman, Council District ([contactcd4@lacity.org](mailto:contactcd4@lacity.org))  
Mashaël Majid, Planning Director ([mashaël.majid@lacity.org](mailto:mashaël.majid@lacity.org))  
Bryan Ramirez, Street Tree Superintendent, Urban Forestry Division  
([bryan.ramirez@lacity.org](mailto:bryan.ramirez@lacity.org))  
Emma Taylor, CD4 District Director ([emma.taylor@lacity.org](mailto:emma.taylor@lacity.org))  
Armida Reyes, CD4 District Liason ([contactCD4@lacity.org](mailto:contactCD4@lacity.org))  
Likú Abera, City Planning ([liku.abera@lacity.org](mailto:liku.abera@lacity.org))  
Robert Mahlowitz ([robert.mahlowitz@lacity.org](mailto:robert.mahlowitz@lacity.org))  
Ted Jordan ([ted.jordan@lacity.org](mailto:ted.jordan@lacity.org))  
Terry Kaufman-Macias ([Terry.Kaufman-Macias@lacity.org](mailto:Terry.Kaufman-Macias@lacity.org))