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September 4, 2014

By Hand Delivery

Sharon Gin
Office of City Clerk
City Hall
200 N. Spring Street, Room 395
Los Angeles, CA 90012

Re: 10697 and 10699 West Somma Way, Bel Air
Board of Building and Safety File Number: 140029
Project Title: ENV-2014-197-MND
Applicant: Shannon Nonn
Property Owner: WPG 10697 Somma Way LLC
Board Hearing: August 26, 2014 – Agenda Item B1
Appeal Deadline: September 5, 2014

Dear Ms. Gin:

Please find enclosed the following:

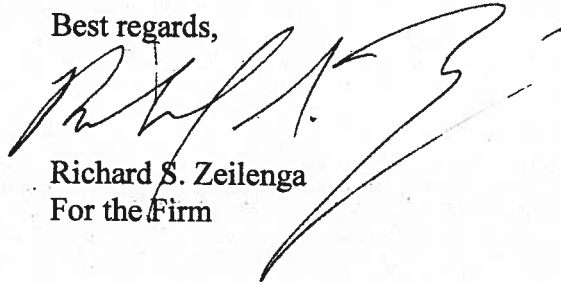
1. The original signed appeal on behalf of the Bel Air Homeowners Alliance, regarding the above referenced haul route permit;
2. Hard copies of Exhibits A through F, referenced in the Appeal;
3. A DVD containing items 1 and 2 above in electronic format;
4. A reduced-size copy of an exhibit board used at the Board of Building and Safety Commissioners August 26, 2014 hearing, estimating total cumulative haul route truck trips in Bel Air; and
5. A supplemental resident letter recently received from Ms. Jennifer Aniston and Mr. Justin Theroux, affected Bel Air residents.

Please sign a copy of this letter below, where indicated, or file stamp this letter with today's date, to reflect receipt by the City Clerk's office today.

Sharon Gin
Office of City Clerk
September 4, 2014
Page 2

Thank you for your very helpful assistance with regard to the filing of the appeal.

Best regards,



Richard S. Zeilenga
For the Firm

RSZ/ec
Encls.

Received by Sharon Gin on September 4, 2014.

Sharon Gin

cc: Honorable Eric Garcetti, Mayor
Honorable Councilman Paul Koretz, Council District 5
Mike Feuer, Esq., City Attorney, City Attorney's office
Joan Pelico, Chief of Staff, Council District 5
Shawn Bayliss, Director of Planning and Land Use, Council District 5
Noah Muhlstein, Planning Deputy, Council District 5
Michael LoGrande, Director of Planning, Department of City Planning
Gary Lee Moore, City Engineer, Department of Public Works
Seleta Reynolds, General Manager, Department of Transportation
Raymond Chan, General Manager, Department of Building and Safety
Jeff Napier, Department of Building and Safety
Bel Air/Beverly Crest Neighborhood Council
Bruce Lorman, Esq., Counsel for Property Owner (WPG 10697 Somma Way, LLC)
Cora Johnson, Board Secretary for the Board of Building and Safety Commissioners ("BBSC")
E. Felicia Brannon, Vice President BBSC
Joselyn Geaga-Rosenthal, Commissioner BBSC
Javier Nunez, Commissioner BBSC
Donna Wong, Deputy City Attorney

APPEAL FROM: Appeal from the Board of Building & Safety Commissioners

APPEAL TO: The City Council

REGARDING CASE NO: Board File Number 140029, ENV-2014-197-MND

PROJECT ADDRESS: 10697 West Somma Way

FINAL DATE TO APPEAL: September 5, 2014

TYPE OF APPEAL: Appeal of the entire Board decision, by an organization other than the project applicant/owner, claiming to be aggrieved by the Board's decision.

Appellant Information:

Name: The Bel Air Homeowners Alliance ("the Alliance"), filing for itself.

Address: 1527 Stone Canyon Blvd.

Telephone: 805-446-1496 (Phone number for legal counsel for the Appellant)

E-mail: rzeilenga@szrlaw.com (Legal counsel for the appellant)

Purpose of Appeal:

This appeal seeks to reverse the entire decision of the Board of Building and Safety Commissioners ("the Board"), Agenda Item B1, at the Board's hearing on August 26, 2014. This appeal pertains to the entire decision of the Board, including without limitation Board file number 140029, and Project Title ENV-2014-197-MND ("the Project"). The appeal is based primarily on the Board's improper approval of a Mitigated Negative Declaration (MND), rather than an Environmental Impact Report (EIR), to disclose and mitigate the Project's adverse environmental impacts.

Where, as here, Appellant presented several "fair arguments" that the Project may cause significant environmental impacts (regarding obstruction of emergency fire evacuation, local air quality impacts, truck traffic congestion impacts, and

noise impacts), and presented “substantial evidence” supporting those “fair arguments,” including several expert opinions/studies, the Board had no discretion to approve an MND for the Project. See California Public Resources Code section 21082.2(d) and 14 Cal. Code Regs section 15064(f) (1). See also Exhibit B hereto, Notebook of Argument and Evidence Presented to the Board.

This appeal is also based on the Board’s violation of City Municipal Ordinance Section 91.7006.7.4 (5), which states in relevant part that the Board “shall” deny approval of a haul route permit request, when approval would “endanger the public health, safety and welfare.”

Representative Information:

Name: Richard S. Zeilenga

Address: 4590 E. Thousand Oaks Blvd., suite 100, Westlake Village, CA 91362

Telephone: 805-446-1496

E-mail: rzeilenga@szrlaw.com

Attachments (or documents filed concurrently herewith):

Statement of Reasons for Appeal; Alliance Opposition Letter Submitted to the Board (Exhibit A); Notebook of Evidence Supporting Alliance’s Opposition letter (Exhibit B); the court reporters certified transcript of the Board’s August 26, 2014 hearing, regarding Board file number 140029 (Exhibit C); supplemental evidence regarding cumulative truck trips on the Project’s proposed Stone Canyon Road haul route (Exhibit D); the Board’s September 2, 2014 Final Determination letter (Exhibit E) and a live video of the Board’s August 26, 2014 hearing (Exhibit F).

I certify that the statements contained in this appeal application and all supporting exhibits are complete and true.

Appellant’s Representative:


Richard S. Zeilenga, Esq.

STATEMENT OF REASONS FOR APPEAL

Summary of Facts:

This appeal is submitted on behalf of the Bel Air Homeowners Alliance (“the Alliance”), a California public benefit corporation. The Alliance publicly advocates for sensible development in the Bel Air community, emphasizing the need to consider the health, safety and welfare of existing residents. Unfortunately, the Board of Building and Safety Commissioners (“the Board”) has repeatedly demonstrated that it does not share the Alliance’s concern for the health, safety and welfare of existing residents in the Bel Air Community. Rather, regrettably, the Board’s primary concern appears to be the financial welfare of speculative land investors, seeking unlimited haul route permits for the development of hotel- sized “single family homes” on Bel Air’s hillsides. These massive building sites, and their haul route permits, dump many thousands of truck trips onto Bel Air’s very narrow and already dangerous roads. The Board’s approval of a haul route permit for the 10697 West Somma Way Project (“the Somma Project”) is the latest example of the Board’s total disregard for the health, safety and welfare of Bel Air’s existing residents.

In this case, the Alliance appeals the August 26, 2014 decision of the Board, which approved a haul route permit for the property owner, WPG 10697 Somma Way LLC, for the export of 29,474 cubic yards of dirt from two residential lots located at 10697 and 10699 West Somma Way (“the Property”). The owner seeks the haul route permit as part of its development of a 40,000 square foot “single family home,” to replace a 3,799 square foot home. The owner and City Staff admitted that export of 29,474 cubic yards of dirt would involve at least 6,000 truck trips (in and out), over 180 days. Shockingly, as discussed below in section 3, the true volume of dirt export is approximately 50,000 cubic yards; including 19,634 cubic yards of dirt exported from drilling 270 cement solidier piles that City Staff did not disclose to the public in the MND. This additional dirt export will result in approximately 10,000 truck trips, for dirt hauling alone, not including thousands of truck trips for cement and delivery of wood and steel.

Grounds for Appeal:

The Alliance appeals the Board's decision, granting a haul route permit for the Somma Project, on the following grounds:

1. The Board Violated CEQA By Approving A Mitigated Negative Declaration.

The Board approved an MND for the Somma Project despite a wealth of "substantial evidence," supporting several "fair arguments," that significant environmental impacts would occur from the Somma Project adding 10,000 truck trips to Bel Air's very narrow roads, which are already beyond the breaking point. See Exhibit A hereto, the Alliance's opposition letter to the Board, and Exhibit B hereto, which is the Alliance's Supporting Notebook of Argument and Evidence. Exhibits A and B are filed concurrently with this appeal, and are incorporated herein by this reference.

The Alliance presented several "fair arguments," supported by expert opinions, expert studies, and sworn declarations, under penalty of perjury, demonstrating that the Somma Project would cause the following significant adverse impacts:

- a) The Somma Project's 10,000 truck trips will exacerbate obstructions to emergency fire access and evacuation. (See Exhibit B Notebook, exhibits G and H thereto, expert opinions of two wildlands fire evacuation experts).
- b) The Somma Way Project's massive hillside excavation will result in an exceedance of SCAQMD local air quality thresholds of significance. (See Exhibit B Notebook, at exhibit N thereto, expert opinion of Air Quality Dynamics).
- c) The Somma Project's 10,000 truck trips, added to many thousands of existing construction related truck trips, will result in an exceedance of applicable road standards, established by the Los Angeles Department of Transportation and Institute for Traffic Engineers, for the

proposed haul route roads, i.e. West Somma Way and Stone Canyon Road. (See Exhibit B Notebook, at exhibit J thereto, expert opinion and traffic study by RK Engineering Group).

- d) The Somma Project's 10,000 truck trips will exacerbate existing truck noise impacts along the entire haul route. (See Exhibit B Notebook, at exhibits B, E, F, I, L, M and P).
- e) The Somma Project will result in 10,000 plus truck trips, for dirt hauling alone, based on installation of 270 cement soldier piles to stabilize the landslide on the Project site, not 6,000 as claimed by the applicant and City Staff. (See Exhibit B Notebook, at exhibit D thereto).

Where members of the public present even one "fair argument," that a project may cause a significant environmental impact, and support that fair argument with any "substantial evidence," a public agency abuses its discretion if it proceeds to approve an MND, rather than an EIR. See Public Resources Code section 21082.2(d); and 14 Cal. Code Regs section 15064(f) (1). Expert opinion evidence is deemed by law to be "substantial evidence." See Public Resources Code section 21080(e); 21082.2(c) and 14 Cal. Code Regs section 15064(f) (5). The Alliance presented not one but seven expert opinions in support of its "fair arguments." (See Exhibit B hereto, Notebook of Evidence, at exhibits D, G, H, J, N, T and U.) The City can not possibly overcome so many separate "fair arguments" supported by so many highly qualified expert opinions, in attempting to resuscitate its legally dead MND. An EIR is now clearly required.

The applicable law in this regard was summarized for the Board in extensive detail. See Exhibit A, Alliance Opposition Letter, Section II, pages 3 through 7, which defines the operative legal terms: "fair argument," "substantial evidence" and "significant impact." If the Board read the Alliance's Opposition letter, there could be no possible ignorance of the controlling legal requirements, governing its approval of the proposed haul route permit, nor that the Alliance had more than

satisfied its burden to make at least one “fair argument,” supported by some “substantial evidence,” that the Somma Project may cause a significant adverse impact. Thus, by proceeding with the approval of the MND for the Somma Project, the Board acted in flagrant disregard of controlling state law, Public Resources Code section 21000 et. seq., and its decision must be reversed on appeal.

If the City Council does not correct the Board’s abuse of discretion, by granting this appeal, and voiding the approval of the Somma Project haul route permit, the Alliance will file a Writ of Mandate action in the Superior Court, seeking a judicial order voiding all of the entitlement approvals granted by the Board, including the MND, and seeking an order that an EIR be prepared for the proposed Somma Project. The Alliance will also seek recovery of its attorney’s fees, and an appropriate multiplier of the fee award as permitted by law, for conferring a public benefit upon the Bel Air community. See California Code of Civil Procedure (CCP) 1021.5 (Private Attorney General Statute).

2. The Board Fundamentally Misunderstood Its Role As A CEQA Lead Agency, Responsible For Determining Whether The Evidence Before It Permitted the Board’s Approval of An MND.

The Board’s Final Determination letter, Exhibit E hereto, asserts that “the MND reflects the independent judgment of the Lead Agency, the City of Los Angeles.” See Exhibit E, p. 1. That statement is belied by the court reporter’s official hearing transcript of the Board’s August 26, 2014 hearing. See Exhibit C hereto.

The court reporter’s transcript shows that one Commissioner erroneously believed she was “duty bound” to approve the MND, regardless of the evidence presented by the Alliance at the hearing, because it had been recommended for approval by the City Planning Department. (See e.g. Exhibit C hereto, Court Reporter’s Hearing Transcript, p. 44, l. 20 to p. 45, p. 1, and pages 31 to 33). In fact one commissioner, Commissioner Geaga-Rosenthal, initially voted “no,” regarding approval of the MND, because she said she did not have sufficient information concerning the environmental impacts identified by the Alliance’s

legal counsel, to make the required findings to approve the MND. See Exhibit C, p. 43, l.17 to p.44, l. 9.

Miraculously, a few minutes later, based upon misleading assurances from City Staff, the Board voted unanimously, 3-0, to approve the MND and Somma Project, totally abdicating its statutory role to consider all of the evidence of adverse environmental impacts, as the CEQA Lead Agency. (See e.g. Exhibit C, p. 44, ls. 17-18, statement of Board Secretary Cora Johnson, asserting that City Planning had already “approved” the MND; and Mr. Jason Healey, pp. 30, l. 20 to p. 33, l. 22, assuring the Board that City Planning had already “considered” all of the environmental issues in the MND Initial Study, that had been raised by the Alliance in its opposition). The Board proceeded to approve the MND, despite the Deputy City Attorney’s caution that the Board could not defer its statutory obligation to some other City commission, agency or department, to consider the evidence presented by the Alliance to the Board. (See Exhibit C hereto, p. 40, l. 19 to p. 42, l. 10). Yet that is precisely what the Board did in relying upon an outdated July 2, 2014 Planning Department recommendation to approve an MND.

The Board’s palpable confusion, with regard to its statutory role in “approving” the MND, can best be appreciated by reviewing the live video of the public hearing. See Exhibit F hereto (video of Board’s August 26, 2014 hearing).

Since the “fair arguments” and “substantial evidence” presented in the Alliance’s Notebook of argument and evidence, Exhibit B hereto, at exhibits A through V, had never been considered by the City Planning Department, in making its earlier July 2, 2014 recommendation to approve an MND, its recommendation was on its face entirely outdated, and thus irrelevant, to the Board’s decision on August 26, 2014. (See Exhibit B Notebook, at exhibit C). In between those two dates, the Alliance had received notice regarding the proposed haul route permit, and presented its evidence prior to the August 26, 2014 public hearing. See Exhibits A and B hereto. Thus, the Board’s exclusive reliance upon Planning Staff’s recommendation to absolve itself of considering Appellant’s arguments and evidence was prejudicial error, which must be reversed on appeal.

In the face of overwhelming “substantial evidence” supporting the Alliances “fair arguments,” that the Project will cause significant environmental impacts, thus prohibiting approval of an MND as a matter of law, the Board ignored the evidence and made the recommended findings to approve an MND. (See Exhibit C, Hearing Transcript, p. 42, l. 14 to p.49, l. 25). In doing so the Board demonstrated its rank bias in favor of granting unlimited haul route permits in the Bel Air hills, regardless of the number and magnitude of adverse impacts upon the Bel Air community’s existing residents. Commissioner’s Nunez’s rather cavalier comments in the face of so much evidence of potential public safety hazards, for example his statement: “Welcome to Bel Air,” is very telling of the lack of objective concern for the existing residents of the Bel Air community. See Hearing Transcript, p. 38, ls. 2-5.

3. The Board Failed To Consider the True Magnitude of the Somma Project’s Total Dirt Hauling Impacts.

The Alliance presented the Board with sworn declarations, under penalty of perjury, setting forth City staff’ admissions that the stated haul route permit volume of 29,474 cubic yards, did not include excavation and export of dirt for the drilling of 270 cement soldier piles, required to construct the proposed 40,000 square foot house. (See Exhibit A Alliance Opposition letter, p. 12, section IV A, Exhibit B Notebook, at exhibit A Fisk Decl. paras 6-7; at exhibit E Love Decl., paras 14-15 and at exhibit D, Leighton and Associates, expert report). The Leighton expert opinion report concludes that 270 soldier piles will require an additional 19,634 cubic yards of dirt export, for a total of almost 50,000 cubic yards of dirt export to build the Somma Project.

The Alliance repeated this argument at the Board’s August 26, 2014 public hearing. (See Hearing Transcript, Exhibit C hereto, legal counsel Richard Zeilenga’s arguments on behalf of the Alliance, at pp. 12-18.) Furthermore, the applicant’s geotechnical consultant **admitted** that the Somma Project would in fact require approximately 270 cement soldier piles to build the 40,000 square foot house. (See Exhibit C hereto, Fishburn testimony, p. 22, l. 19 to p.24, l. 20). No one, not

the applicant nor City Staff, denied that the permit application and MND do not accurately disclose the total volume of dirt export required to drill the 270 soldier piles, and thus that the figure of 29,474 cubic yards disclosed by the City in the MND grossly undercounts the total volume of dirt export and thus the total volume of corresponding truck trips necessary to build the Somma Project. See Exhibit A, Opposition Letter, p. 12, section IV A.

An admittedly flawed and misleading project description is a fatal procedural error under CEQA, requiring that the City Council set aside the Board's approval of the MND. See 14 Cal. Code Regs section 15378 (an MND must disclose the "whole of the action" necessary to build the project); *Nelson v. County of Kern* (2010) 190 Cal App. 4th 252, 267; and *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal. App. 4th 1214 (City MND violated CEQA by failing to include road re-alignment in project description, for one commercial building).

Consequently, the City Council should grant this appeal and order that the true scope of the project, approximately 50,000 cubic yards of export, including 19,634 cubic yards of export for drilling 270 soldier piles, be disclosed to the public and analyzed in an EIR, and the corresponding adverse impacts disclosed and mitigated.

4. The Board Approved A MND With Numerous Procedural Errors That Violate CEQA.

By this reference the Alliance incorporates sections IV B through IV F of its Opposition letter to the Board, filed concurrently herewith as Exhibit A. The court reporter's hearing transcript reflects that City Staff did not rebut or seek to correct any of these procedural errors in encouraging the Board to proceed with the approval of the MND and Somma Way Project. Compare Exhibit A hereto, Section IV, pp. 12 to 17, with oral City Staff report by Mr. Jason Healey and Mr. Jeff Napier, at Exhibit C hereto, pp. 4 to 10 and pp. 30 to 33.

5. City Staff Mislead the Board By Falsely Claiming That No Other Haul Route Permits Would Impact the Stone Canyon Haul Route.

The Alliance presented extensive evidence of potential cumulative truck impacts due to the past, present and probable future haul route permits approved or about to be approved by the Board. (See Alliance Opposition Letter, Exhibit A hereto, p. 15, section IV C, and supporting evidence in the Alliance's Notebook of Evidence, Exhibit B hereto, including the Daniel Love Decl., at exhibit E in the Notebook, paras. 5 through 13 (regarding cumulative haul route permit construction); the Jamie Meyer Decl., at exhibit F in the Notebook, paras. 6 through 10 (regarding other large construction sites not relying upon a haul route permit, but producing a large volume of truck trips)). See also Exhibit B hereto, Notebook of Evidence, at exhibit S, showing a cumulative project map and corresponding matrix of cumulative construction projects in the Bel Air hills.

City Staff, Mr. Jeff Napier, the Regional Manager for the Inspection Bureau, within the Department of Building and Safety, testified at the Board hearing that there are not –and will not be – any other construction projects contributing haul truck trips to the Somma Project's proposed haul route, i.e. Stone Canyon Road to Sunset Boulevard. Put more simply, Mr. Napier testified repeatedly that there would be no cumulative truck impacts from approving the Somma Project's 6,000 plus truck trips. (See Hearing Transcript, Exhibit C hereto, p. 7, l. 20 to p. 8, l. 25). Amazingly, Mr. Napier claimed that there were no "connecting" haul routes that would add truck trips to the Somma Project's haul route on Stone Canyon Road. (Exhibit C hereto, p. 39, ls. 9-12).

Mr. Napier's testimony was very important to the Board, as evidenced by the Commissioners' repeated requests that he confirm his assertion that there would be no cumulative truck trips, from the Somma Project plus other projects using Stone Canyon Road. (See Hearing Transcript, Exhibit C hereto, Commissioner Brannon question, at p. 39, ls. 13-19, regarding "connecting" haul routes).

Mr. Napier's testimony to the Board was inaccurate, internally contradictory, and extremely misleading, on several levels:

1. The evidence before the Board showed cumulative truck trips from other present and/or reasonably probable future projects using Stone Canyon Road for dirt export. See Exhibit B Notebook, at exhibit S thereto, showing proximity of Bel Air construction projects near the Somma Project, relying upon Stone Canyon Road for truck access.
2. The additional rebuttal evidence presented with this appeal further demonstrates that other haul route permits are or soon will use Stone Canyon Road as their haul route. See Exhibit D hereto, supplemental matrix and maps of Bel Air construction projects relying upon Stone Canyon Road for construction related truck access .
3. Mr. Napier admitted, elsewhere in his testimony to the Board, that other construction projects hauling dirt are currently using Stone Canyon Road for staging, prior to picking up a new load of dirt. See Napier testimony, in Hearing Transcript, Exhibit C hereto, p. 10, ls. 14 to 15, and compare to Mr. Napier statements that there would be no cumulative truck trip impacts on Stone Canyon Road, at Exhibit C hereto, pp. 7-10; and p. 38, l. 25 to p. 40, l. 15.
4. Mr. Napier's testimony did not address cumulative truck trips from very large building projects in Bel Air's hills that do not involve a haul route permit. (See Napier testimony, Exhibit C hereto, p. 7, l. 20 to p. 10, l. 24; and p.38, l. 25 to p. 40, l. 15. See also Richard Zeilenga rebuttal, at Exhibit C, p. 16, l. 2 to p.17, l. 21.) Ignoring truck trips associated with 40,000 to 100,000 square foot homes, built over a period of years, ignores a vast volume of existing and future heavy truck trips on Bel Air's narrow roads. The Jamie Meyer Decl., in the Alliance's note book of evidence,

does address non-haul route projects, producing construction related truck trips. (See Exhibit B hereto, at exhibit F, Meyer Decl. paras 6-10. See also, Exhibit D hereto, supplemental matrix and maps of cumulative truck trips on Stone Canyon Road.)

City Staff engaged in no such comprehensive cumulative truck trip analysis for the Bel Air community. In fact, the hearing transcript reveals that Mr. Napier tried to conduct his so called "cumulative trip analysis" shortly before the Board's August 26, 2014 hearing, describing it as his Department's "fresh start," long after the MND had been completed and released to the public. (See Exhibit C hereto, pp. 7 to 10.)

None of Mr. Napier's "cumulative truck trip analysis" was made available to the Alliance prior to the August 26, 2014 Board hearing, despite repeated written requests for it. See Exhibit B Notebook hereto, at exhibit K (Public Records Act Requests and follow up letter). In fact as of the filing of this appeal, on September 4, 2014, the only document received from the City is a copy of one power point slide Mr. Napier used at the August 26, 2014 Board hearing, which is nothing more than a map with some dots, without any backup data concerning each dot/construction site shown on the map.

In any event, Mr. Napier's 11th hour assertions are entirely refuted by the traffic study completed by RK Engineering Group that put down counting tapes at five separate locations in Bel Air, to obtain hard data on existing heavy truck trips, including on Stone Canyon. See Exhibit B Notebook, at exhibit J (RK Group Traffic Study). The counts showed significant heavy truck trips throughout Bel Air's narrow roads, including on Stone Canyon Road. City Staff have no rebuttal evidence of any kind to that hard data!

Unfortunately, Mr. Napier's testimony to the Board created the highly misleading impression that the Somma Project's 10,000 new truck trips would operate in a total vacuum, and not be added to existing truck trips for approved, or soon to be approved, major building projects. So, for example, Mr. Napier's assurances to the Board conveniently omitted a massive series of projects across from the Bel Air Hotel, on Tortuoso Way, involving three hotel-sized mega mansions. (See Opposition Notebook, Exhibit B hereto, at exhibit S (Matrix of Bel Air construction projects, Map ID numbers 3, 4 and 5. See also Exhibit D hereto, supplemental evidence re existing truck trips on Stone Canyon Road.)

The Board relied upon Mr. Napier's misleading testimony in deciding to approve the Somma Project, despite the adverse impacts identified by all seven of the experts providing evidence on behalf of the Alliance. See seven expert opinions in Alliance Notebook of Evidence, at exhibits D, G, H, J, N, T and U. The Board also disregarded the undisputed evidence that the Somma Project would actually produce 10,000 truck trips for dirt export alone, not the 6,000 claimed by the applicant and City Staff. See discussion above in section 3. As such, the Board based its decision on inaccurate and misleading staff testimony, and its decision should be reversed on appeal.

6. City Staff Improperly Changed the Somma Project Haul Route After Circulating the MND To The Public.

One of the fundamental purposes of CEQA is to disclose accurate information about the proposed project, so the public can review and comment prior to or at the public hearing. In that regard, CEQA requires an accurate, stable and finite project description, which does not shift during the CEQA review process. See *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185; and 14 Cal Code Regs section 15124.

Here, the Board held a public hearing on the Somma Project and MND on July 15, 2014, but continued the hearing for further comment on August 26, 2014. At the first hearing, City Staff disclosed that the haul route would terminate at the end of the Somma Way cul de sac, a public street. At the second continued

hearing, City Staff --without explanation -- changed the project description, announcing for the first time that the haul route would extend up a very narrow and steep private driveway, running past 3 homes, to access the Somma Project site. See Hearing Transcript, Exhibit C hereto (Jason Healey testimony), at p. 4, l. 6 to p.6, l. 25. In changing the project description at the final hearing, City Staff precluded the public from presenting evidence on the safety hazard associated with 10,000 ten wheel semi trucks using the steep private driveway, past three existing homes, to pick up and export dirt.

Thus the three homeowners accessing their properties by a shared private driveway had no knowledge that the Somma Project description had “morphed,” at the eleventh hour, into something far more devastating and dangerous for these three families. The MND Initial Study provided no disclosure, analysis or mitigation regarding the safety hazard presented by the expanded haul route, i.e. the steep grade of the private driveway, and its extremely narrow width, which must be ascended and descended by 10,000 ten wheel semi-trucks to export dirt from the Somma Project site. Rather, staff simply offered one more flag man, its solution for everything, as a new condition of approval. See Exhibit E hereto (Board’s Final Determination letter), p. 2, supplemental conditions.

Quite obviously a flag man can not level the very steep grade of the private driveway, or widen the very narrow width of the private driveway, to accommodate 10,000 large, and heavily loaded trucks hauling dirt. The squealing air brake noises alone, from trucks hauling dirt down the steep grade, assuming that the brakes work 100% of the time for 10,000 truck trips, will be constant and unbearable for the adjacent residents. See argument and evidence regarding truck noise impacts, at Exhibit A hereto, pp. 11-12, at section III D; and Exhibit B Notebook hereto, at exhibit B (Levinson Decl.); exhibit I (Hyman Decl.), and exhibit P (Kopald Decl.). The MND contains no analysis or mitigation for such truck noise impacts. Rather the MND only addresses noise from on-site construction. See Exhibit B Notebook hereto, at exhibit C (City’s MND), p. 7, section XII-20 (Noise mitigation measures).

7. By Approving The Project Haul Route Permit, Despite Evidence That The Project Will Endanger The Public Health, Safety And Welfare, The Board Violated City Municipal Code Section 91.7006.7.4 (5).

City Municipal Ordinance section 91.7006.7.4 (5) contains an express command that the Board “shall” not approve a haul route permit where the approved permit will endanger the public health, safety and welfare.” There is no discretion when such unrefuted evidence exists in the record.

The evidence in the Alliance’s Notebook of Evidence, Exhibit B hereto, contains expert opinion evidence, expert studies, and sworn declarations under penalty of perjury, that the proposed Somma Project will “endanger the public health, safety and welfare” of existing Bel Air residents, including:

- a) Emergency fire evacuation impacts, in an already extremely dangerous condition (See Exhibit B hereto, Notebook of Evidence, at exhibits G and H (expert opinions of two wildlands fire safety experts));
- b) Adverse air quality impacts violating existing air quality standards (See Exhibit B hereto, Notebook of Evidence, at exhibit N, Air Quality Dynamics study);
- c) Truck traffic congestion and safety impacts (See Exhibit B hereto, Notebook of Evidence, at exhibit J, RK Engineering Group traffic study; exhibit I, Hyman Decl.; and exhibit B, Levinson Decl.);
- d) Under-reporting of the true volume of dirt export from the Somma Project site (See Exhibit B, Notebook of Evidence, at exhibit D, Leighton and Associates expert report); and
- e) Noise impacts (See Exhibit B hereto, Notebook of Evidence, at exhibits B, I, L, M, P, Q and R).

Such evidence, along with the City’s admissions in its MND Initial Study, regarding each of the impacts listed above, required the Board to deny the haul route permit for the Somma Way Project. See City Municipal Code section 91.7006.7.4 (5). The Board abused its discretion by proceeding to approve the

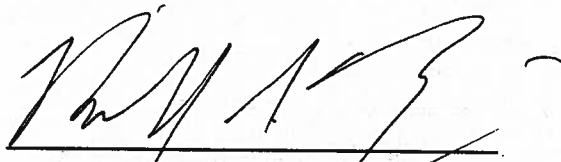
proposed haul route permit in the face of such substantial evidence, most of which was never disputed by City Staff or the applicant. Rather, both City Staff and the Board simply waived it off, as something "addressed" by the Planning Department in its perfunctory "check the box" initial study.

CONCLUSION

The Alliance respectfully requests that the City Council comply with State Law, and its own municipal ordinances, and reverse the Board's decision to approve the MND and issue the haul route permit for the Somma Project. In doing so, the City Council should use this Somma Project appeal as the beginning of its effort to insist upon more sensible regulations over the out of control export of Bel Air's hillsides. The City Council need look no further than its neighbor, Beverly Hills, for guidance, which has adopted a hillside ordinance limiting total dirt export to 3,000 cubic yards in any five year period. See Beverly Hills Code, Article 25.5, section 10-3-2521. Surely the City of Los Angeles can show similar concern for its hillside residents in the Bel Air Community. If not, why not?

The Alliance's representative certifies that the statements contained in this Statement of Reasons for Appeal are complete and true, as are the statements in the concurrently filed Exhibits in support of this Appeal.

Appellant's Representative:


Richard S. Zeilenga, Esq. for
Stowell, Zeilenga, Ruth, Vaughn
& Treiger, LLP

**CUMULATIVE DIRT
HAULING TRUCK IMPACTS**

Bel Air Sites Exporting Dirt:

**13 Construction Sites
(Approved/Pending/
Probable Future)**

Total Dirt Export:

168,939 Cubic Yards

Total Truck Trips to Export Dirt:

33,791 Truck Trips (In and Out)

08/29/2014

The Board of Building and Safety Commissioners

Room 1080,
201 North Figueroa,
Los Angeles, California.
90012.

Dear Commissioners

Living in Bel Air was an opportunity that allowed us to enjoy the peace, quiet and serenity of this unique and stunning residential environment – a place for us to enjoy our home and a private life away from a busy public life. Not a day passes whereby we are not grateful.

In principal and in practice, we are not against reasonable, tasteful renovation and development of private residential property. However, we would like to take a moment of your time to express our growing concern to you with regard the momentum that seems to be taking a foothold within our community that relates to the significant over-development of Bel-Air in particular, but more broadly in other Los Angeles hillside communities.

In recent months, we have become increasingly concerned that our way of life and that of our neighbor's, is being significantly infringed upon by unscrupulous developers who seek to build massive "spec" structures, far in excess of other home sizes in the comparable area. We are left bewildered at the ease of permit approvals and the seemingly cavalier way with which these structures are built and the significant lack of governmental and building department oversight.

The very idea that a building of 90,000 square feet can be called a home seems at the least a significant distortion of building codes and gives us great cause for concern that our elected City

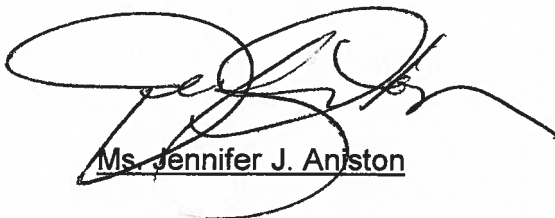
officials may be "asleep at the wheel" – It would seem, we would be justified in our concern given that a development of this size is being built on the cul-de-sac just North of our home.

We would hope and respectfully request that you do not turn a blind eye to these undertakings or worse - lack the foresight to evaluate and understand the significant, long term ramifications for the systematic destruction of the hillsides and remaining habitats within these beautiful areas.

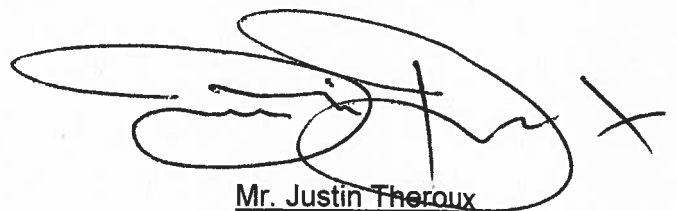
Finally, the continuing idea of, and lack of oversight on dump trucks, cement trucks and other work related to this and other projects within Bel Air; along with the collateral increase in noise, lack of street safety and environmental and air quality challenges, only brings added urgency to the task of reigning in this unnecessary and over-sized construction. We would ask that you consider, when appropriate, upgrading the building codes and other ordinances to reflect this changing developmental environment and the ever increasing demand and cost that it places on our civil infrastructure.

Thankyou for your time and consideration and we look forward to witnessing your urgent efforts at exercising increased responsibility and oversight in this area.

Respectfully



Ms. Jennifer J. Aniston



Mr. Justin Theroux