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August 6, 2024

Via E-Mail (abaldwin@planning.lacounty.gov)

Ms. Alejandrina Baldwin
Los Angeles County Regional Planning Commission
320 W. Temple St.
Los Angeles, CA 90012

RE: **Notice of Objections and Opposition to 10-Home McMansion Project known as “Barrera Hacienda Heights”** (the “Project”)
Project No. 04-035-(1), Tentative Tract Map No. 060973, CUP No. RCUP-200800169
Project Address: 2027 Vallecito Drive, Hacienda Heights, CA 91745

Dear Ms. Baldwin:

This office represents Dr. Francine Rippey, who resides at 1841 Vallecito Drive, Hacienda Heights, CA 91745, directly adjacent to and downhill from the Project. I am writing to strongly object to the Project and urge the Commissioners to deny the CUP and reject the Project. The Project approvals violate due process notice consideration, is not entitled to vested rights as the Staff Report proposes. The Project is too big and too dense on a fragile hillside, will result in significant impacts on potential habitat for protected and threatened species, and will exacerbate flooding and runoff concerns that currently affect my client.

The Project Violates Due Process Notice Provisions

Notice of the hearing and deadlines for submission of comments have been so confusing and contradictory as to violate basic principles of due process in providing the community a fair opportunity to review and comment on the Project. In various notices provided to the community, the public review process has been stated to last from July 1 to July 30, or from July 8 through August 6, 2024. The public hearing date has been scheduled simultaneously for both August 7 and August 8. The deadline to submit written comments has been set at July 30, August 6, and at the hearing on either August 7 or August 8.

Such contradictory information leads to widespread distrust in the system and cannot be remedied by merely accepting comments on the “last date” provided. Individuals who receive notice of incorrect deadlines late in the process, for any reason, may give up on writing any objection at all, thinking that they have already missed the deadlines, when the truth is that had they known then that the deadline was later, they would have submitted objections. Those who see the date of

“Wednesday, August 8” cannot be blamed for assuming the hearing is set for August 8, even though that’s a Thursday. The only remedy for such a confusing and contradictory series of notices is to start over, explain that the process is being conducted from scratch, that all previous deadlines are revoked, and set deadlines for public comment that are consistent and clear.

The Project is Not Entitled to Vested Rights

The Staff Report indicates that the Project “was deemed complete on January 11, 2011,” and therefore “the Project is subject to the land use and policies outlined within the 1978 Hacienda Heights Community Plan (“1978 Community Plan”) then in effect on January 11, 2011.”

This conclusion wrongly states the law, and grants to the Project benefits and exemptions which are only accorded to projects whose rights have vested in reliance on a lawfully issued building permit or which have locked in applicable laws in time through a duly negotiated, bargained for, and approved Development Agreement.

“Deeming” a project “complete” is an important milestone for determining compliance with the Permit Streamlining Act, but plays no role in vesting rights or locking in applicable laws. In this case, the Staff Report seeks to freeze in time and apply the standards of a wholly outdated, nearly 50 year old Community Plan because the Project’s Application had at one point almost 15 years ago been “deemed complete”. The law grants no such vested rights to a project applicant. In fact, the Staff Report concludes that the Housing Accountability Act, whose regulations were adopted only in 2020, strictly applies to the Project, yet somehow the County is powerless to apply the standards from the East San Gabriel Valley Area Plan which is effective June 20, 2024 and affects every other development coming up for hearing. The Project must comply with all standards in effect at the time of project approval.

Nor is this project a ministerial project where the County exercises no discretion and must approve the project if it meets certain standards. This Project requires a Conditional Use Permit and other discretionary actions, and the County has the authority to deny the Project if it does not meet modern standards applicable to other projects which are similarly situated and come up for hearing at the same time.

Nor does the Staff Report provide any evidence whatsoever as to how the Project maintained its “deemed complete” status for nearly 15 years with no building activity whatsoever. The Staff Report skips from a March 13, 2013 hearing to the present day without any showing as to the Project’s continued viability during the interim.

Biological Impacts Would Be Significant and Unmitigatable

The Biological Resources section of the Mitigated Negative Declaration (“MND”) lacks evidence to support its findings and recommends mitigation measures which are wholly inadequate.

The MND states that it relies on a habitat assessment conducted by Golden State Land & Tree in 2021 (“GSL&T”). This assessment is already out of date and must be re-done to include updated findings. Even so, in its discussion of Sensitive Plant Species, the MND arbitrarily downgrades the “Potential to Occur Onsite” from “Low to Moderate” to “Absent” or “None”, and from “Low” to “None”, for several species, thereby limiting species with “Low to Moderate” potential to only the outer edges of the Project. These findings are arbitrary and not supported by evidence. For example, the reason the GSL&T Assessment gave a low potential to occur onsite was because of a “lack of suitable habitat onsite”. The MND simply revised this “low” potential to “none” **because of the same reason**: “the site does not provide suitable habitat.” No evidence or even coherent reasoning supports this arbitrary downgrading of potential. These downgrades significantly affect the mitigation measures required.

In fact, the GSL&T Assessment identifies two species with moderate potential to occur onsite: the Burrowing Owl and Least Bell’s Vireo. However, the mitigation measures are wholly inadequate, essentially boiling down to doing studies prior to grading activities, then avoiding any nests found. Yet, if nests are found, that is evidence that other nests are also in the area (though not yet found), and only stopping the Project altogether will mitigate the significant impact. Another mitigation measure given is simply to evict the birds, capture and move them! That is not mitigation, but surrender.

The Project contemplates “open space” preserved among the 10 lots, yet that is not how “open space” works. An “open space” is a separately preserved, individual parcel, that allows for endangered and threatened species to live and thrive. “Open space” is not achieved by joining together portions of 10 parcels with an invisible boundary. There is no prohibition in the Project keeping the lot owners from building fences and other obstructions that will decimate the habitat.

The Project Does Not Address and Will Exacerbate Flooding and RunOff

Dr. Rippey and her neighbors have experienced flooding at their respective houses when it rains. The Hydrology Report concedes in its Executive Summary, “Cross-lot drainage towards offsite properties will continue along the boundary of the project that, because of terrain limitations.” While this sentence is non-sensical and indicative of shoddy draftsmanship and analysis, the basic point is clear – ***“Cross-lot drainage towards offsite properties will continue.”***

In fact, flooding and run-off will get worse for Dr. Rippey and her neighbors. Runoff from rooftops and greatly expanded impervious area will flood these properties even worse. The Hydrology Report minimizes these significant impacts, and addresses them with the half-measure of “small-scale Best Management Practices”, which it describes as “planter-box BMPs”.

A handful of front yard planter-boxes – which are not even guaranteed to be maintained – will hardly contain the atmospheric rivers that have pounded the region in recent years. The new homes

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must provide state-of-the-art rain-collection systems, and severely reduce the impervious areas created. Without calling out the runoff as a significant impact, and imposing true and effective mitigation measures, the Project will only make flooding worse for all of the downstream property owners.

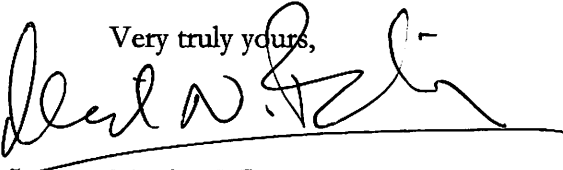
Similarly, the Project contemplates retaining walls of up to 15 feet high. Dr. Rippy remembers that six foot retaining walls have been constructed within the Project area in the past, which suffered severe erosion. Any mention of these former retaining walls is completely missing from the Geotechnical discussion in the MND, and Dr. Rippy expects that even higher, 15 foot retaining walls will suffer a similar fate without further analysis.

Additional Concerns of Legal Compliance

The Staff Report is ambiguous in its description of the two current houses on the Project property. Were these homes built with all permits? Were no oak trees already unlawfully removed from the Project property? Were the septic systems constructed with all permits and without impacts to the geology of the Project site? There is no mention of the permit status or impact of these homes and their related infrastructure.

If it turns out the applicant did not follow the rules, the County has no business rewarding the applicant with approvals of this application. The applicant must address all existing violations first before the County even considers its requested approvals. And certainly the County should be granting the applicant no discretionary approvals if the applicant has not complied with legal standards in the past.

The Project suffers from due process concerns, is not entitled to vested rights, will significantly impact protected species, and will cause further damage to downstream, off-site homes. The MND suffers from various other defects as well. We urge the Commission to reject this Project decisively.

Very truly yours,

Martin N. Burton