

January 19, 2021

**Via Email and U.S. Mail**

Councilmember Mike Bonin  
Los Angeles City Hall  
200 N. Spring Street, Room 475  
Los Angeles, CA 90012  
Email: councilmember.bonin@lacity.org

Alan Como  
City of Los Angeles  
Department of City Planning  
221 North Figueroa Street, Suite 1350  
Los Angeles, CA 90012  
Email: alan.como@lacity.org

Re: **Response to Notice of Preparation-Berggruen Institute Project at 1901  
North Sepulveda Boulevard and 2100-2187 North Canyonback Road;  
EIR No. ENV-2019-4565-EIR**

Dear Councilman Bonin and Mr. Como:

This letter is submitted on behalf of Canyon Back Alliance (CBA) in opposition to the proposed Berggruen Institute project because the proposed institutional use would degrade the natural integrity of the historic public trails winding through the project site--significantly impairing the public interest.

As a preliminary matter, the City should summarily reject the application because it is based on a classic request for illegal “spot zoning”—“the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners.” (Anderson’s American Law of Zoning (4th ed. 1995) § 5.12.). The institutional up-zoning that Berggruen seeks for *its singular benefit* is not only *detrimental* to its *residentially-zoned neighbors*, it is also contrary to *the broader public interest* because it will degrade the natural and scenic qualities of the historic public trails passing through the project site. The Berggruen Institute can pursue its mission without impairing the public interest in the historic trails or its neighbors’ interests in residential zoning limitations by siting the facility in an area zoned for its institutional use.

But if the City nevertheless allows the project to proceed, the Draft EIR must consider the project’s potentially significant adverse impacts on the public use and enjoyment of the Canyonback Trail and the trail referred to in the Initial Study as the Riordan/Sycamore Valley Trail (the “Riordan Trail”). The Initial Study, however, fails to describe the Berggruen project’s most significant likely adverse impacts on public enjoyment of the trails. The Berggruen Institute’s commercializing invasion of the open space and residential

neighborhood threatens to limit public access to the trails and degrade the natural trail experience. The Initial Study implies that there is no conceivable concern about public access to the trails because the developer asserts that “trail improvements” would “allow continued public trail access.” (Initial Study, § 3.3.3, p. 22.)

The Initial Study, however, does not describe what it means by allowing trail access—a concept that has historically been the source of sharp conflict between developers of the *same property*, the city and the general public seeking to protect unfettered trail access and maintain the natural integrity of the trail experience. Indeed, meaningful environmental review of the project’s potential impacts on the public trails requires consideration of how the same trail access and quality issues were previously resolved. This history reveals how such a development might threaten to impair public access and trail quality and how to avoid or at least mitigate such adverse impacts.

The history of the Canyonback and Riordan Trails, and predecessor trails, and the community’s herculean efforts to preserve them reveals what the Initial Study conceals—the public interest in protecting trail users from potential access conflicts with private landowners and their security forces and the potential degradation of the trails from a commercializing development inconsistent with the natural trail experience.

### **1. CBA’s Prior Work in Protecting Public Access to, and the Scenic Integrity of the Canyonback and Mount St. Mary’s Trails**

CBA is a nonprofit public benefit corporation dedicated to maintaining unobstructed public access to trails in the Santa Monica Mountains National Recreation Area and its environs. It was initially formed in July 2004 to protect the public’s interests in the trails passing through this very project site.

CBA, joined by other community and public interest groups and individuals, objected to then-owner Castle & Cooke’s residential development project. CBA objected that the project would (1) degrade the scenic and natural quality of the historic Canyonback Trail by realigning the trail off the scenic ridgeline and through a road within a portion of the proposed residential development and (2) restrict unfettered public access to the trail—initially by a plan to gate a portion of the trail to limit public access to daylight hours and later by a revised plan to force trail users to pass through the proposed development where private security forces could deter trail use. CBA also objected that the project would completely eliminate public access to the historic Mount St. Mary’s Trail—connecting the Mount St. Mary’s campus to the Canyonback Trail.

Councilmember Mike Bonin  
Alan Como  
January 19, 2021  
Page 3

CBA filed extensive letters during the environmental review process,<sup>1</sup> filed a lawsuit against the City of Los Angeles<sup>2</sup> and a lawsuit against Castle & Cooke<sup>3</sup> in CBA's *successful* effort to protect the public's interest in these two historic trails.

## **2. The 2006 Settlement Secured by Recorded Easements the Public's Interest in the Recreational Trails and Open Space within the Project Area**

The history of the Castle & Cooke dispute makes clear the precise nature of the potentially significant impacts of development within the boundaries of these public trails.

The City faced an onslaught of public opposition to the development project based *solely* on the potential impact on the recreational trails. Hundreds of protest letters were sent to the Planning Department. (*See* May 17, 2005 letter, pp. 1-2, fn. 1.) Eventually, Bill Rosendahl, City Council member for the area at the time, spearheaded settlement negotiations to resolve the dispute over the project's impact on the trails. CBA and the other community groups opposing the project (collectively, the "Trail Advocates") made clear that the public interest would only be served by a settlement that **(1)** maintained the existing, unrestricted 24/7 public access to the trails and **(2)** maintained the natural trail experience—or created an even better trail experience. (See letters linked in footnote 1.)

With those negotiation parameters established, the parties entered into written settlement agreements in July 2006 (collectively, the "2006 Settlement"). The most critical features of the settlement were the *recorded* easements designed to achieve both unrestricted 24/7 trail access and maximization of the natural trail experience. The easements were granted to the Mountains Recreation and Conservation Authority, a public entity established by the joint

---

<sup>1</sup> CBA submitted lengthy letters (with evidence) in opposition to the Castle & Cooke project (ENV-1999-3251-EIR). (See letters dated April 7, 2005, April 15, 2005, May 17, 2005, and June 17, 2005, and CBA's October 31, 2005, appeal of the Planning Commission's determination, all of which are posted at [http://www.canyonback.org/The\\_Law.htm](http://www.canyonback.org/The_Law.htm).

<sup>2</sup> *Canyon Back Alliance v. City of Los Angeles, et al.*, LA Superior Court Case No. BS 101787, which is posted at [http://www.canyonback.org/index\\_files/Ammended%20Verified%20Petition%20for%20Writ%20of%20Mandate.pdf](http://www.canyonback.org/index_files/Ammended%20Verified%20Petition%20for%20Writ%20of%20Mandate.pdf).

<sup>3</sup> *Canyon Back Alliance and Save Our Mountains, Inc. v. Castle & Cooke California, Inc. et al.*, which is posted at [http://www.canyonback.org/canyonback/index\\_files/Second%20Complaint%20%20May%207,%202006.pdf](http://www.canyonback.org/canyonback/index_files/Second%20Complaint%20%20May%207,%202006.pdf).

Councilmember Mike Bonin  
Alan Como  
January 19, 2021  
Page 4

exercise of powers agreement between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District (the “MRCA”) for the benefit of the general public.

**Canyonback Trail.** The 2006 Settlement required Castle & Cooke to record a public easement for the Canyonback Trail.<sup>4</sup> The Canyonback Trail Easement protected the public’s interest in maintaining the existing unrestricted trail access on a recreational trail (not a road that would accommodate vehicular traffic) that remained ungated and completely outside the bounds of the proposed residential development. By contrast, the Berggruen Initial Study simply states in a conclusory manner that the project “would allow for continued public trail access”—without explaining the extent or quality of public trail access or providing any information on maximizing the natural quality of the trail experience. (Initial Study, § 3.3.3, p. 22.)

The extent and quality of trail access was a major issue during the Castle & Cooke negotiations. The developer’s initial proposal was to merge Canyonback Trail with a road to be built within the Canyonback Ridge portion of the proposed development and make the road/trail accessible to the public through a security gate during daylight hours. Trail Advocates objected that (1) Canyonback Trail was open to the public on a 24/7 basis, so a restriction to daylight hours would be a significant adverse impact on public trail use and (2) forcing trail users to pass through the private residential development (whether gated or not) would put trail users in conflict with the residents and their private security guards—an objection that was supported by evidence from the MRCA that private security forces inevitably prevent or deter public use of *public trails* passing through private enclaves, despite the absence of any right to prevent or deter trail access.

The aesthetic quality of the trail was also critical. Trail Advocates objected that Castle & Cooke planned to *realign* the Canyonback Trail in a manner that degraded the natural and aesthetic qualities of the existing trail experience. Its plans called for several homes to be located at the edge of the Canyonback ridgeline, degrading the existing scenic trail view, while moving Canyonback Trail onto a paved road within the residential development. Trail Advocates objected that, although Castle & Cooke’s plans called for public access to

---

<sup>4</sup> Link to Canyonback Trail Easement:  
[http://www.canyonback.org/canyonback/index\\_files/Doc3%20-%20Canyonback%20Trail%20Easement.PDF](http://www.canyonback.org/canyonback/index_files/Doc3%20-%20Canyonback%20Trail%20Easement.PDF).

Councilmember Mike Bonin  
Alan Como  
January 19, 2021  
Page 5

Canyonback Trail—just as Berggruen’s plans do—the quality of both trail access and the natural trail experience were significantly degraded.

Because Castle & Cooke *disclosed* the details on the interface between Canyonback Trail and the proposed development, the Trail Advocates were able to explain how the project would significantly degrade public access and enjoyment of the trail. That led to a settlement during the environmental review process that protected the public’s interest in the trail. Under the Canyonback Trail Easement, the trail maintains its historic ridgeline alignment and the homes initially planned for the ridgeline were moved to preserve the trail’s scenic overview.<sup>5</sup> And the road within the new development was kept separate from the trail so trail users did not have to go through the private enclave and confront residents (or their private security forces) or share the trail with vehicles within the residential community.

Here, the Berggruen Initial Study fails to provide the information necessary to determine whether the Berggruen project would degrade the quality of trail access or the natural trail experience along the Canyonback Trail.



*View from Canyonback Trail*

**Riordan Trail.** The same type of details are necessary to assess whether the Berggruen project will adversely impact the trail experience on the Riordan/Sycamore Valley Trail (the “Riordan Trail”). The public interest in the Riordan Trail, and the risks posed by the

---

<sup>5</sup> Link to Canyonback Trail Easement, Ex. B  
[http://www.canyonback.org/index\\_files/Doc4%20-%20B.PDF](http://www.canyonback.org/index_files/Doc4%20-%20B.PDF) and Ex. D  
[http://www.canyonback.org/canyonback/index\\_files/Doc5%20-%20D.PDF](http://www.canyonback.org/canyonback/index_files/Doc5%20-%20D.PDF).

Councilmember Mike Bonin  
Alan Como  
January 19, 2021  
Page 6

Berggruen project, is likewise demonstrated by the 2006 Settlement, which resulted in the recording of the Riordan Trail Easement (which is referred to as the “Scenic Trail” in the recorded document).<sup>6</sup>

The Castle & Cooke project was designed to eliminate the Mount St. Mary’s Trail, which ran down the middle of the proposed development on the Stoney Hill Ridge. The Trail Advocates argued that to avoid a significant adverse impact, Castle & Cooke would have to replace the Mount St. Mary’s Trail with a new trail that provided a better trail experience. The parties agreed on the Riordan Trail because—as made clear in the recorded easement—the new trail connects the Mount St. Mary’s campus with the Canyonback Trail through an alignment that provides a much richer natural experience than the existing trail. While the existing Mount St. Mary’s Trail required trail users to pass through the Stoney Hill community, the Riordan Trail would *bypass* both the new development and the existing Stoney Hill community. Moreover, the new alignment would descend into Bundy Canyon for a unique trail experience in an environment much different than along other public trails in the area.<sup>7</sup>



*Ocean View from Scenic Trail*

---

<sup>6</sup> Link to the Scenic Trail Easement:  
[http://www.canyonback.org/canyonback/index\\_files/Doc6%20-%20MSM%20Trail%20Easement.PDF](http://www.canyonback.org/canyonback/index_files/Doc6%20-%20MSM%20Trail%20Easement.PDF).

<sup>7</sup> Link to Scenic Trail Easement, Ex. B  
[http://www.canyonback.org/canyonback/index\\_files/Doc7%20-%20B.PDF](http://www.canyonback.org/canyonback/index_files/Doc7%20-%20B.PDF) and Ex. D  
[http://www.canyonback.org/canyonback/index\\_files/Doc8%20-%20D.PDF](http://www.canyonback.org/canyonback/index_files/Doc8%20-%20D.PDF).



*The Scenic Trail winding through Bundy Canyon*

The Riordan Trail was designed to provide trail users with a qualitatively superior trail experience—outside the new development and the existing community—minimizing trail users’ views of development and providing the special feature of a canyon-bottom excursion.

The natural quality of the Riordan Trail was assured by the other critical element of the 2006 Settlement, the “Open Space Easement.”<sup>8</sup> The Riordan Trail was carefully designed within the bounds of the open space protected area to minimize views of the planned and existing homes in the Mountaingate community.

**Public Support for the Canyonback and Riordan Trails.** The 2006 Settlement, featuring the trail and open space easements, was widely celebrated by the general public and state and local public officials. On October 31, 2006, the City passed a motion to request that the MRCA officially name the “Scenic Trail” as the “Nancy and Dick Riordan Trail.” (Counsel File: 06-2679.) The motion was based on the City’s recognition that the trails protected under the 2006 Settlement were of great benefit to the general public (and Dick Riordan’s role in bringing the parties to the settlement table):

The Santa Monica Mountains offer clean air, natural wilderness and breathtaking views of the Pacific Ocean. The terrain attracts both people looking for a peaceful place to live and people looking for recreation. The same open space that buffers residents from the chaos of the City also

---

<sup>8</sup> Link to Open Space Easement:  
[http://www.canyonback.org/canyonback/index\\_files/Doc9%20-%20Open%20Space%20Easement.PDF](http://www.canyonback.org/canyonback/index_files/Doc9%20-%20Open%20Space%20Easement.PDF); Link to Easement Ex. B  
[http://www.canyonback.org/canyonback/index\\_files/Doc10%20-%20B.PDF](http://www.canyonback.org/canyonback/index_files/Doc10%20-%20B.PDF).

provides hikers and mountain bikers with ample trails to explore. While both groups prize the open space, their differing interests can cause tension. Recently, a new trail was created that connects the Mount Saint Mary's Fire Road to the Canyonback Trail around the Mountaingate community. The agreement that created this trail is remarkable in that it was able to bring together groups with differing interests towards a common goal. This agreement never would have come about without an independent broker who was respected by all sides and who has the credibility and authority to foster the trust needed for the agreement. When the developer, homeowners and the trail users seemed destined for litigation, their representatives met at the home of Nancy and Dick Riordan where the road led from conflict to resolution.

On April 19, 2007, the MRCA held a public event celebrating the results of the 2006 Settlement and officially naming the Nancy and Dick Riordan Trail.

### **3. Meaningful Environmental Review is Impossible Absent a Detailed Description of How the Project Will Interface With the Trails and Open Space**

The Berggruen Initial Study fails to provide details about the project's interface and potential impact on the Canyonback and Riordan Trails. As the history of the Castle & Cooke review process demonstrates, there can be no meaningful environmental review of the project's impact on the public trails without *mapping the trails* through the proposed development and providing the details necessary to determine whether the *quality* of public trail access is maintained as well as the natural and scenic integrity of the trails. No such details have been provided to date.

**Preliminary Questions.** Before reciting particular questions about the project's impact on the trails, a few preliminary questions are necessary to assessing the project's potentially significant impacts. (1) Does Berggruen acknowledge that it is bound by the terms of the Canyonback Trail Easement? (2) Under the Berggruen proposal, is Canyonback Trail aligned within the contours of the easement? (3) Does Berggruen acknowledge that it is bound by the terms of the Riordan ("Scenic") Trail Easement? (4) Does Berggruen acknowledge that the *current* alignment of the Riordan Trail is only *temporarily authorized* and is not a substitute for the *permanent* alignment mandated under the Riordan Trail Easement? (5) Does Berggruen acknowledge that compliance with the permanent alignment is not possible under its current project plans without substantial earthwork not specified in Initial Study? (6) Does Berggruen acknowledge that any alignment *other than the permanent alignment* specified under the easement must be agreed to by MRCA and recorded to protect the public interest in the trail?



**Canyonback Trail Questions.** (1) Precisely where will Canyonback Trail run within the project site? (Please depict on a map of the Canyonback Ridge section of the development.) (2) Will Canyonback Trail retain the alignment set forth in (and mandated by) the Canyonback Trail Easement? (3) Will any portion of Canyonback Trail be used for vehicular access to or from the development? (4) Will any gates, fences or any other impediments to public access be installed on or across Canyonback Trail? (5) Will any portion of the Canyonback Trail be part of or within a road providing access to the development? (Please depict on the map of the Canyonback Ridge section of the development both the Canyonback Trail and any road within the development with sufficient particularity to illustrate the physical relationship between the trail and any road.) (6) Does the project call for any “improvements” of Canyonback Trail? If so, what are those improvements? Are they authorized under the Canyonback Trail Easement? What will MRCA’s role be with respect to approval of any such improvements? (7) Will public access to Canyonback Trail remain under the exclusive control of MRCA, without any control over public access being exercised by Berggruen—as required under the Canyonback Trail Easement? (8) Will the developed portion of the Berggruen project on Canyonback Ridge be visible from any portion of Canyonback Trail and precisely what will be visible? (9) Will sound within that developed portion be audible from the trail? (10) Will light emanating from the developed portion intrude upon the trail? (11) Will light emanating from the developed portion be visible from the trail? (12) Will there be any physical separation between any portion of the Canyonback Trail and the development—such as a wall or line of trees, shrubs or other plantings? If so, what will MRCA’s role be in approving any such separation between the trail and development?

**Riordan Trail Questions.** (1) Precisely where will the Riordan Trail run within the project site? (Please depict the course of the Riordan Trail as planned on a map with sufficient particularity to assess its relationship to the development.) (2) Where will the proposed Riordan Trail run in relation to the permanent alignment under the easement and the alignment temporarily authorized under the easement? (Please include lines depicting both the permanent and temporary alignments in the map requested above.) (3) Does the project call for any “improvements” of the Riordan Trail? If so, what are those improvements? Are they authorized under the Scenic Trail Easement? What will MRCA’s role be with respect to approval of any such improvements? (4) Will public access to the Riordan Trail remain under the exclusive control of MRCA, without any control over public access being exercised by Berggruen—as required under the Scenic Trail Easement? (5) Will any of the developed portions of the Berggruen project be visible from any part of the Riordan Trail and precisely what will be visible? (6) Will sound within the developed portion be audible from the trail? Will light emanating from the developed portion intrude upon the trail? (7)

Councilmember Mike Bonin  
Alan Como  
January 19, 2021  
Page 10

Will light emanating from the developed portion be visible from the trail? (8) Will there be any physical separation between any portion of the Riordan Trail and the development—such as a door, gate, wall or plantings? If so, what will MRCA’s role be in approving any such separation between the trail and development?

**4. The Foreseeable Risk of Trail Closures Whenever the Berggruen Institute Hosts Guests Requiring Security Protections**

It is highly foreseeable that the Berggruen Institute will host past and present government officials and political figures who will require heightened security. The Berggruen Institute will (in many situations) have no control over the governmental entities providing the security. **Question:** How will Berggruen prevent and minimize the risk of security-based trail closures and mitigate the public harm due to such closures?

\* \* \* \*

Canyon Back Alliance opposes the Berggruen project and ask that it be summarily denied. But if the project is not summarily denied, we look forward to receiving (1) much greater detail in describing the project’s interface with and foreseeable impacts on the trails and open space and (2) comprehensive responses to our questions.

Sincerely,



Thomas R. Freeman