



**January 19, 2021**

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Re: Berggruen Institute Project, Case No. ENV-2019-4565-EIR

Dear Mr. Como and Councilmember Bonin:

The Sierra Club, founded in 1892, is the nation's oldest and largest environmental and conservation organization, with over two million members and supporters, of whom 150,000 reside in California. The Santa Monica Mountains Task Force (hereinafter "SMMTF") was created in 1972 to work for preservation of open-space and precious biological resources in the largest intra-urban mountain range in the United States. Among our goals is the promotion and protection of wilderness open space, access to trails, and the flora and fauna of the Santa Monica Mountains.

The Sierra Club has been following this project closely, and with concern, for many years; in fact, since before Nicolas Berggruen even purchased the subject property from Castle & Cooke. As is evident from the Scoping Meeting in December, this hotly controversial project implicates a myriad of complex legal, land-use, environmental and CEQA issues.

## I. INTRODUCTION

At the outset, and before I turn to the granular issues and questions of most interest to the Sierra Club, we think it needs to be said forcefully and explicitly in the DEIR – which the Initial Study (“IS”) does not – that the project described in the IS is blatantly illegal and cannot be built under existing law. It violates numerous City of Los Angeles laws, including the General Plan, the Brentwood-Pacific Palisades Community Plan, the City’s Zoning Laws (as in, spot-zoning), and the Municipal Code’s definition of “Educational Institution,” which the City Attorney has already ruled dooms the project for a CUP exemption.

Billionaire Nicolas Berggruen’s (“Berggruen”) only hope to build this exorbitant vanity project is to have the City Council pass an exemption from the laws that apply to you, me, and everyone else – the so-called “Berggruen Institute Specific Plan” – just for him. It is not clear to me why we are all expending time and resources under CEQA evaluating this project, before he accomplishes that glaring prerequisite.

The City’s requirements for a Specific Plan include that it “shall provide for public needs, convenience, and general welfare.” This spot-zoning will provide for no such public needs or general welfare – other than Berggruen’s. It will set a precedent and open the floodgates to every developer who seeks approval of his or her illegal pet project in the Santa Monica Mountains by invoking the Specific Plan process.

Mr. Berggruen is the kind of person who rarely, if ever, hears the word “no.” It is said he has had great success developing similar projects in other countries by allegedly lobbying and remunerating local officials and decision-makers to approve them. Whether those reports are true or not, it should not happen here, in a society built upon equality and the rule of law. We respectfully submit that Mr. Berggruen should obey the same land-use and zoning laws that apply to everyone else.

It should also be emphasized more explicitly in the DEIR, that the existing zoning and entitlements for the property are for 28 (originally 29) single-family homes – not a massive Getty Center-scale project towering 90 feet or more in the air. Mr. Berggruen knew this when he purchased the property from Castle & Cooke in 2014, along with preexisting binding covenants with Mountaingate Open Space Maintenance Association (MOSMA). The Getty Center and Skirball Cultural Center are, at least, open to the public and confer some public benefit. Mr. Berggruen’s project is not, and will not. It should also be said that Berggruen explicitly adopted and agreed to the 28-home entitlement before the City Council in or about 2019, while secretly intending to exceed it. Such a masquerade seems to be pursuing a project in bad faith and under false pretenses. His previous two forays with this project invaded public open-space and trail easements held by the Mountains Recreation and Conservation Authority (MRCA), until that agency scolded him and threatened litigation.

## II. TRAILS AND PUBLIC ACCESS:

The first issue of interest to the SMMTF involves trails, trail access, and public access to areas of the property now enjoyed by our members, both individually and as part of our popular Outings program. There are at least three such trails (not two, as erroneously stated in the IS at page 62). The IS is woefully superficial, deficient or dismissive in analyzing this topic, and the City has many questions to answer in the DEIR. Of paramount preliminary concern to the Sierra Club is Nicolas Berggruen’s video statement, played for the public at the 2018 mass-meeting at the Skirball Center, in which he vows to keep the public off his property. This is contradictory to statements on pages 60-61 of the IS in which he states the property will be interlaced with “public trails” open to the public including Sierra Club hikers. An explanation of this contradiction, and his true intentions, is required.

### (A) The Mount Saint Mary's Fire Road

There is a locked gate at the southern end of Stoney Hill Road in Mountaingate. Therefore, the public cannot access the MRCA's open space conservation easement and trails from that portal. Indeed, Berggruen has stipulated that he and his invitees have no access to the project at all from Stoney Hill Road. (Although he is now attempting to disavow that covenant in litigation filed in Los Angeles Superior Court, contested by MOSMA.)

So how, then, is the public supposed to gain access to the "public trails" mentioned in the IS? From what portal? Sepulveda Boulevard? Where on the "Serpentine Road" (currently unbuilt) will there be a guard-gate? Will the guard's mission be to keep out the public?

That leaves the Mount Saint Mary's Fire Road as the sole and only public access. Mount Saint Mary's College ("MSM") in Brentwood off Chalon Road does have some public parking, but also has its own guard-gate designed to keep out uninvited outsiders. The guard frequently turns away visitors seeking to hike on the Fire Road. The college, a Catholic girls school, is not open to the public and has no obligation to allow in hikers. Berggruen has no authority to force the college to do anything.

About a mile up the MSM Fire Road is a gate and chain-link fence located at the southern boundary of Berggruen's property. It is flanked by razor-wire. For the last few years the gate has been open, and hikers lucky enough to be granted access to Mount Saint Mary's college can pass through (northbound), into his property and up to the Riordan Trailhead (see below). But there have been many times when the gate was locked.

So after this billionaire receives his approvals and entitlements, will the gate down to (or up from) the college be open or locked? Assuming for the sake of argument, and for these proceedings, he says "open," what prevents him from breaching that promise? We already have him on record, on video, vowing to keep out the public. What are the penalties? A City enforcement proceeding – always exhausting and usually inconclusive or futile for the petitioner? A costly lawsuit in Superior Court? Who will pay for these? We all know that immensely rich scofflaw developers (e.g., Mohammed Hadid) disregard, and openly mock, City enforcement and penalties.

As can be seen, there are many, many critical questions the City must answer in connection with Sections XV(d) and XVI of the deficient IS.

### (B) The Riordan Trail

In or about 2010, the Riordan Trail, named for former Los Angeles Mayor Dick Riordan and his late wife Nancy, was dedicated. The dedication was a much-publicized event, featuring numerous elected officials and officials of the Santa Monica Mountains Conservancy (SMMC) and Mountains Recreation and Conservation Authority (MRCA). The trail was planned and aligned by officials of the MRCA and the Sierra Club (including this letter's author), and paid for by Castle & Cooke as part of the MRCA's open-space easement over the vast majority of Berggruen's property.

The trail, with trailheads on both Ridge 1 and Ridge 2, features MRCA's hallmark brown signs. Starting from Ridge 1, it switchbacks steeply down the western face of the ridge, into Bundy Canyon, a riparian woodland of native oaks, black maples and sycamores, and a seasonal blue-line stream. The next northerly stretch of the trail is heavily wooded, leading to the base of Ridge 2. From there, the trail climbs steeply up to the top of the ridge, and onto the northern paved extension of Canyonback Road near the LADWP water tank.

The trail came into existence as follows. In or about 2004, Castle & Cooke, the developer of the Mountaingate community generally and of the proposed 28 homes in question, unilaterally cut off public

access over the Mount Saint Mary's Fire Road over the property. At the time it was heavily used by hikers and mountain-bikers. A coalition of community groups joined in by the SMMTF, objected to this cut-off. When Castle & Cooke ignored our objections, in 2006, the plaintiffs filed suit in Superior Court.

The litigation was hotly contested, and expensive. The outcome was a settlement, negotiated and signed (including by this author) at City Hall. In exchange for closing the northernmost extent of the MSM Fire Road in what is now Berggruen's property, Castle & Cooke agreed to pay for a new trail, allowing substitute access to Ridge 2, as well as the large MRCA open-space easement. I collaborated with MRCA in designing and aligning the new Riordan Trail.

According to the IS, the Berggruen project will impact or supposedly "improve" or "modify" this trail in some unknown way. It proposes that at the western end of the Riordan Trail, there will be three new so-called "Scholars Villages" of 10,000 square feet each. These lay astride Canyonback Road, which in this Very High Fire Hazard Severity Zone is required to be at least 26 feet wide. As other objectors to this project, including the SMMC have noted, the maximum width proposed by the IS is 20 feet. It can't be wider.

According to the first page of the IS, "Within the Open Space Sub-Area, portions of two existing trails that pass through the Project Site would be improved and available for public use . . ." Page 61 (Article XVI(a)) states: "The improvement and completion of the on-site portions of the Canyonback Trail and Riordan/Sycamore Valley Trail [presumably, this is the Riordan Trail] (as well as additional trail improvements) could result in increased public use of adjacent trails and park facilities." Article XVI(a) and (b) candidly mark this as a "Potentially Significant Impact."

We want to know, precisely how and in what way does the Applicant propose to modify or "improve" the Riordan Trail? How do we know Berggruen does not really intend to cut off the trail, as he promised in the video? Has Berggruen even consulted with the MRCA, the owner and builder of the trail, about his plans?

The Sierra Club and other community groups worked very hard, and spent a great deal of money, to get the Riordan Trail built. The City needs to answer our questions precisely and in detail, not vaguely or superficially. There need to be detailed maps, architectural renderings of what is proposed, supported by graphs by qualified expert trail-builders.

### (C) The "Canyonback Trail"

The third important trail impacted by this project is the so-called Canyonback Trail. See Article XV(d), at pages 59 and 61.

This terminology is in itself ambiguous and confusing, and we object to it. There are a number of "Canyonback Trails." The Kenter Canyonback Fire Road begins at the northern terminus of Kenter Avenue in Brentwood, and then continues several miles north to Dirt Mulholland Drive in MRCA's "Big Wild." It branches off and rejoins in numerous places. One of the most beloved destinations for hikers in the mountains is the "Prajna Tree," a lone oak at the junction of the Tigertail and Canyonback trails close to the subject property. Other branches go down the Hollyhock Trail, and another to Merrimac Road, and Mandeville Canyon Road. About a half-mile of the "trail" is not a trail at all, but a public street in the Mountaingate community.

This is one of the most popular and heavily-used trails in the Santa Monica Mountains, by hikers, runners, dog-walkers and picnickers. Below a different lone oak, someone has built a swing and bench for the public to gaze out at vistas of Santa Monica Bay.

It appears Berggruen's Ridge 2 plans butt into the Kenter-Canyonback Fire Road, especially if he has his security guards and kiosk patrolling and limiting access. The presence and proximity of three 10,000 foot structures to the Fire Road and trail will dramatically degrade the environmental experience. All of this needs to be analyzed as a Significant Impact.

One of the most ambiguous and quixotic references in the IS is the reference in Article XV(d) to "improvement" of the Canyonback Trail that passes through the Project Site "*including completion of a trail between Ridges I and II.*" What exactly does this mean? Is Berggruen going to improve and pay for a new trail between practically inaccessible Ridges 1 and 2? Or does the IS mean he is going to use the existing Riordan Trail? Which he has no right to use for commercial or institutional purposes without permission of the MRCA?

This is not an insignificant question for the City to answer precisely and non-evasively. One of the most absurd aspects of this project is the fact that there is no road connection between the two portions of it. In order to drive a vehicle from Ridge 1 to Ridge 2, one must drive down the Serpentine Road all the way to the base of the Sepulveda Pass and Sepulveda Boulevard, then north to Mountaingate Drive (note that this implicates traffic issues that must be analyzed under Article XVII), then up to the top of Canyonback Road, then past the locked metal barrier onto the LADWP utility road, then south to Berggruen's guard kiosk. A distance of several miles, not a few hundred yards as the crow flies. The idea that there can be any connection between the two ridges or portions of this proposed project is a hoax and a farce.

These and other factors compel the conclusion that the DEIR should be required to analyze a Project Alternative of *no development* on Ridge 2. The roadway is too close to the trail, probably cannot be built, and there are bound to be conflicts between cars and hikers.

Incidentally, who will pay to maintain and curate all these trails? Who will perform the annual Los Angeles Fire Department-mandated brush clearance? How will payments be collected, and by whom? Castle & Cooke was notoriously in breach of its covenants to perform these obligations, and MRCA expended significant resources trying to get that company to perform. What reason do we have to believe Berggruen will be any more conscientious?

Before leaving the subject of trails, there is one important issue that must be analyzed in the DEIR, and it also segues into issues of transportation. It is well known that Berggruen's board includes many celebrities and current and former world leaders, many of them controversial. It is to be expected that many of these celebrities will be visitors at the Berggruen campus, and occupy the attention of Berggruen's security forces. The question arises, how will these security forces interact with hikers and motorists? We know that when the wife of the president of China visited some years ago, a massive security cordon was called out, public streets were closed, and sharpshooters posted on roofs. We know that some of Berggruen's guests will likewise attract public protests and controversy.

This raises many questions that must be analyzed. How frequently will such celebrities visit? How many visits annually? Will it be a one-night speaking engagement, or will the celebrity be "in residence"? For how long? Will public streets be closed for all or any portion of that time? Will hikers be kept off the trails or arrested as "trespassers" by Berggruen's security forces, even if they are inside the MRCA's protected open space?

It should go without saying that Berggruen has absolutely no right to do any of these things. He has no right to disrupt hikers, motorists or any other members of the public, solely in order to flatter and indulge his appetite to rub shoulders with the world's rich and famous. As regards trails, the vast majority of the MSM Fire Road, the Kenter-Canyonback and Riordan trails lie outside Berggruen's property. Will all, or any portion, of those trails nonetheless be closed to the public? For how long?

### III. WILDLIFE

As stated above, the Sierra Club SMMTF is concerned with preservation of wildlife, flora and fauna in the Santa Monica Mountains, including especially the Sepulveda Pass. Although we advocate for all species, we are especially mindful of the lynchpin ecological importance of apex predators such as the mountain lion, and the flow-on destructive effects to the entire ecosystem when such species are negatively impacted or lost.

This project will help undo the SMMTF's work over many decades preserving necessary habitat connectivity for mountain lions and other animals. Maintaining habitat connectivity supports safe breeding, and protects such animals from the crowding which leads to inbreeding and, ultimately, an extinction spiral.

This project will help undo the SMMTF's work over many decades preserving necessary habitat connectivity for mountain lions and other animals allowing safe breeding, and avoidance of crowding leading to inbreeding and death. As stated succinctly in the Santa Monica Mountains Conservancy's objection to this project, "both the design and footprint" of the proposed project "does not go far enough to protect the biological, recreational and visual resource values of the 20,000-acre Big Wild habitat area." The staff letter notes that the "subject property is the primary habitat linkage that leads to the Bel Air undercrossing under the 405 freeway. This is the only viable freeway under-crossing."

It has been well documented that the cougars who inhabit the Mountains need to cross the 405 in order to reach other breeding grounds. The famous P-22 traveled from the Santa Monicas, crossing the 405 freeway to make his way to Griffith Park. In 2019, a cougar, P-61, was less lucky; he was struck and killed on the 405 in the Sepulveda Pass between Bel Air Crest Road and the Sepulveda Boulevard underpass. At least six bobcats were struck and killed by vehicles in the Santa Monica Mountains in 2019. In 2011, P-18 was hit and killed by a vehicle, and in 2009, an uncollared lion met the same fate attempting to cross the 405. By limiting connectivity routes, one study suggests that the lions will be extinct within 50 years due to lack of breeding partners, the result of geographically-forced inbreeding among the current population.

Intensification of development, night-lighting, noise and intensification of traffic (as acknowledged in the IS) will impede the ability of cougars, coyotes, bobcats and other apex predators to cross over or under the 405 at Bel Air Crest Road, and migrate to easterly regions. The City has many questions to answer on this topic for this inappropriate, and inappropriately-located, project.

### IV. WILDFIRES

One of the most destructive things that can happen to the Mountains ecosystem we strive to protect is fire. As we all know, it wipes out the flora and fauna in its path. Often, as have seen so often, wind and smoke conditions prevent LAFD aircraft from being able to fight the fire.

We are concerned about the propensity of this project to increase fire danger. That concern is not abstract or speculative: the last fire, the Getty Fire, burned the Berggruen property, the MRCA's open space easement, Bundy Canyon and the Riordan Trail. To this day, sycamores and oaks in Bundy Canyon have a red tint from the fire retardant.

As we careen towards a climate disaster, our community is reminded daily of the ever-growing risk of wildfires in the Santa Monica Mountains. Overdevelopment of this area presents significant and immediate threats to our communities and their wildlife and native habitat, including the coyotes, great horned owl, quail, deer, mountain lions, and many others. We have already lived through multiple fires. Most recently, in the 2019 Getty Fire, 11 homes were destroyed, and an estimated 10,000 people were evacuated. I and my family were one of them. Precious habitat was lost, while, in 2020, the state

endured the largest and most destructive wildfire season in California history with more than 4 million acres burned.

This Project will only add to the risk of more human ignited fires by bringing hundreds of people, including staff and visitors, into the immediate area daily, and up to 400 guests for special events -- a direct slap in the face to protecting our hillsides and wildlife from more fires. To say nothing of sparks from construction activity, and even from weed-whacking activity for required brush clearance. Such fires have happened in our community.

We've put our heads, hands, and hearts together with public officials to secure and protect more land. This includes discussions of open spaces, trails, and conserving important regions like watersheds, viewsheds, riparian areas, and wildlife corridors.

## V. CONCLUSION

This project will undo much of the work our Sierra Club Task Force has accomplished since 1972. Putting our limited resources towards fighting a billionaire's vanity project should not be our priority in a time when climate change is already ravaging much of our precious lands.

The City should set forth a Project Alternative in an alternative location in an underserved community in Los Angeles that could benefit from such a Project, providing jobs and economic stimulus, including improvements to local infrastructure. That would be the most politically prudent and environmentally conscious step the Berggruen Institute could take.

Please contact the undersigned at (310) 709-9268 or [lahasa@aol.com](mailto:lahasa@aol.com) with any comments or questions.

Sincerely,

*Eric Edmunds*

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