

CANYON BACK ALLIANCE

A NON-PROFIT PUBLIC BENEFIT CORPORATION

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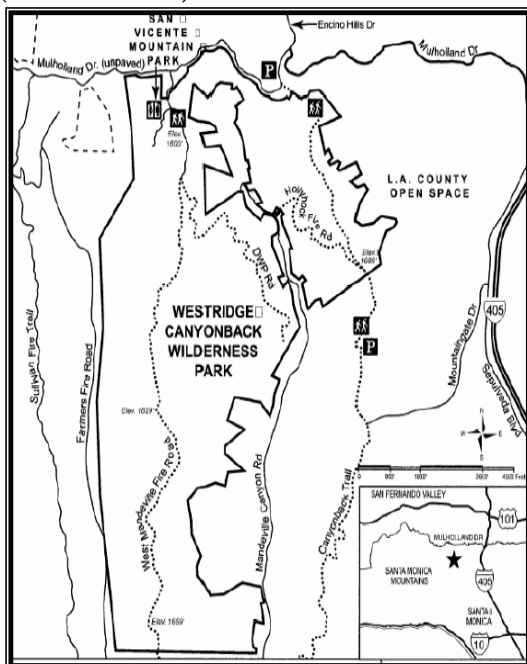
March 20, 2006

Re: Final EIR No. ENV-1999-3251-EIR
Project Title: Mountaingate Project, CD-11
State Clearinghouse No. 2003071197
Testing Tentative Tract Map No. 53072

Hon. Ed Reyes, CD-1
Chairman,
Planning and Land Use Management Committee
City of Los Angeles
200 N. Spring Street, Rm 410
Los Angeles, CA 90012

Dear Councilman Reyes and Members of the PLUM Committee:

Canyon Back Alliance is a non-profit public-benefit corporation dedicated to protecting and maintaining recreational trails in the Santa Monica Mountains. Although Canyon Back Alliance has appealed the Planning Commission's approval of the Mountaingate project, it does not oppose the development project. Canyon Back Alliance opposes only the project's significant, adverse impact on recreational trail use – adverse environmental impacts that can easily be mitigated if the City imposes the conditions necessary for preserving the public's right of access to two historic Santa Monica Mountains trails – Canyonback Trail and Mt. St. Mary's Trail ("MSM Trail").

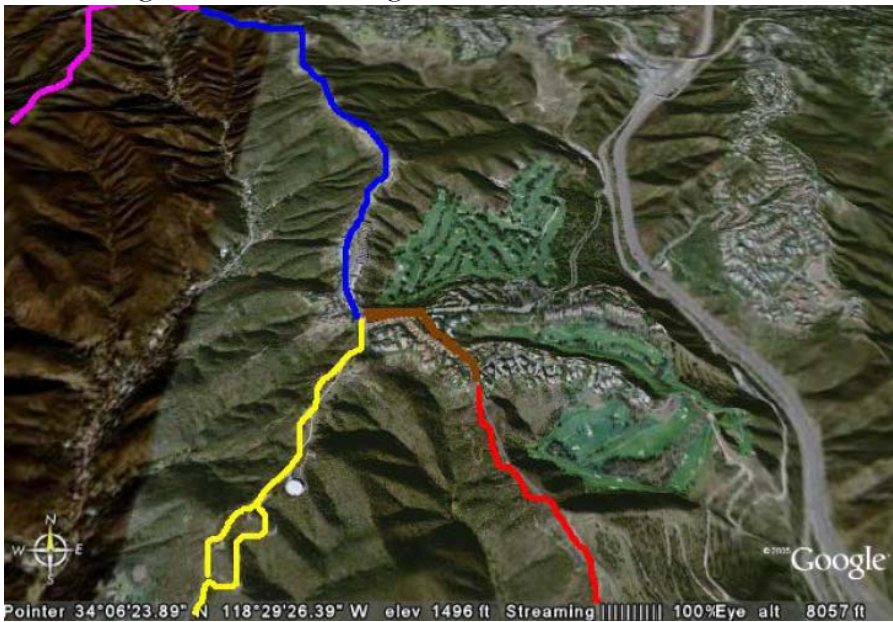


The Mountaingate project is situated along Canyonback Trail, at the Bulls-eye of the Westridge-Canyon Back Wilderness Park, which is depicted to the left. The Westridge-Canyon Back Wilderness Park features some of the regions most popular, scenic and accessible parkland trails. It is easily accessible to residents throughout Los Angeles and visitors from Mountaingate Drive off the 405 Freeway or Sepulveda Boulevard – as well as by many other access points in the Valley and on the Westside.



from left to right: Sullivan’s Canyon Trail (**green**); Westridge Trail (**pink**); Lower Canyonback Trail (aka “Lower Kenter Trail”) (**yellow**); Upper Canyonback Trail (aka “Upper Kenter Trail”) (**blue**); **Top:** Mulholland Scenic Corridor (white).

The Westridge-Canyon Back Wilderness Park trails connect with the “Big Wild” trail network, which covers more than 21,000 acres of protected urban wilderness land within the Santa Monica Mountains, stretching from the historic Mt. St. Mary’s College campus, to the Mulholland Scenic Corridor, which links the Valley to the Westside, to Sullivan’s Canyon and onto the Big Wild trails leading to the Pacific Ocean north of Malibu and the Backbone Trail.



Mountaingate lies at the intersection of Upper and Lower Canyonback Trails (*blue and yellow lines*) and the MSM Trail (*red*), which connects to Canyonback Trail via *public streets* Mountaingate Drive and Stoney Hill Road (*brown*).

A. The Mountaingate Project Will Degrade Recreational Access On The Canyonback Trail *Unless* Advisory Agency Condition 93 Is Modified.

Canyon Back Alliance asks the City to condition the proposed Canyonback Ridge development by (1) imposing Condition 93 from the Advisory Agency’s Report, which requires the developer to dedicate a public recreational easement along the Canyonback Trail, and(2)supplementing Condition 93 by specifying that the Canyonback Trail retain as much as feasible its historic ridgeline alignment – and expressly requiring that the trail/easement be aligned to the *west* of Lots 23-28 (but not 29).

Canyon Back Alliance’s request is supported by The Center for Law in the Public Interest, the Santa Monica Mountains Conservancy, the City of Los Angeles’ Bicycle Advisory Committee, the Santa Monica Mountains Task Force (of the Sierra Club), the Concerned Off-Road Bicyclists Association (“CORBA”), the Brentwood Community Council, the Pacific Palisades Community Council, the Federation of Hillside and Canyon Associations, the Upper Mandeville Canyon Property Owners’ Association, the Brentwood Hills Homeowners Association, the Residents of Beverly Glen, and hundreds of individuals who sent letters protesting the failure to preserve the integrity of Canyonback Trail along scenic Canyonback Ridge.



View from hilltop above Canyonback Trail at Canyonback Ridge.

1. The Advisory Agency's Recommended Condition 93.

Condition 93 of the Deputy Advisory Agency (Gabel-Luddy) Report requires the developer to dedicate a 10-foot wide easement along Canyonback Ridge in order to protect the public's use of Canyonback Trail, which is depicted as a trail corridor on the Brentwood Pacific Palisades Community Plan. While the proposed 10-foot easement is substantially narrower than the existing 20-foot trail, it is sufficient to provide adequate trail access.

Condition 93 is designed to protect public recreational use of Canyonback Trail, which would otherwise be threatened by the development project. The developer is seeking various zoning changes and other discretionary approvals that, if granted, would impair public use of Canyonback Trail. To mitigate the adverse environmental impact that would otherwise result from the requested zoning changes and Tract Map approval, the Advisory Report proposed Condition 93, which would require the developer to "dedicate a permanent trail easement for public recreational purposes, implementing the spirit and intent of the community plan."

The Advisory Agency's recommended Condition 93 provides as follows:

"93. A minimum 10-foot wide easement shall be dedicated for public recreational purposes adjacent to and parallel with the Canyonback Road extension (private street) from the terminus of the public portion of Canyonback Road to the southerly most boundary of the subject tract. The public easement shall be shown on the final map.

- a. The easement shall be in addition to the private street and any sidewalks.
- b. The subdivider shall consult with the Santa Monica Mountains Conservancy on materials and surfacing.
- c. The subdivider shall improve the public easement.
- d. Canyonback Trail shall remain ungated so as to allow 24-hour unimpeded public access."

2. Condition 93 Must Also Preserve The Historic Ridgeline Alignment.

Condition 93 is designed to protect the integrity of Canyonback Trail from degradations likely to occur upon approval of the zoning change and Tract Map. It generally accomplishes that purpose – with one caveat. While subpart (a) makes clear that the easement must remain separate and apart from the proposed private street/sidewalk, there is no express requirement that the easement maintain its historic ridgeline alignment. The Community Plan depicts the trail along the scenic ridgeline, which also comports with the record evidence of the trail's historic alignment.

To make this requirement clear and unambiguous, however, an additional subpart (e) must be added: ***"Canyonback Trail shall retain its historic ridgeline alignment to the fullest extent possible, which shall require (at a minimum) that it be aligned parallel to the ridge and west of Lots 23-28."***

3. The Advisory Agency’s Findings Support Condition 93 (e).

The same factual findings supporting Condition 93 as recommended by the Advisory Agency are sufficient to support the recommended subpart (e).

4. Condition 93 and (e) Are Necessary To Prevent A Significant, Adverse Environmental Impact That Was Not Analyzed In The EIR.

Under CEQA, the City cannot approve a project that would have a significant, adverse environmental impact that was not analyzed in the EIR. *Pocket Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 936-937 (2004) (citing Pub. Res. Code § 21001(b)). The Mountaingate EIR did not analyze the project's adverse impact on the public's recreational use of Canyonback Trail. The undisputed evidence demonstrates that the ridgeline section of Canyonback Trail passing through the developer’s property has been continuously enjoyed by the public without restriction for recreational purposes on a *daily basis* since the 1940’s.

The Advisory Report expressly recognized that degradation of Canyonback Trail would violate the Community Plan: “The 1977 adopted Brentwood Pacific Palisades Community Plan map, and all subsequent updates and amendments, clearly identifies a trail corridor along Canyonback ridge. Therefore, a separate public easement will be required on the extension of Canyonback Road to the southerly boundary of the property ownership to implement the City policy.”

Condition 93 was therefore crafted to preserve the public’s long-standing recreational use of Canyonback Trail, as reflected in the Community Plan. The further modification of proposed subpart (e) is necessary to maintain the public’s recreational use without degradation.

5. The Planning Commission’s Ruling Violated CEQA By Adversely Impacting The Environment Without EIR Analysis.

The Planning Commission “modified” Condition 93 in a manner that would significantly and adversely impact recreational use of Canyonback Trail – despite the absence of any EIR analysis. The Commission, per former Chair David Burg, rerouted the trail off the ridgeline and through the street/sidewalk of the planned Canyonback Ridge development. By doing so, the Commission effectively eviscerated Condition 93(a) by merging Canyonback Trail onto the private sidewalk/street as it passes through the proposed community. This action would impair the Trail’s long-enjoyed aesthetic quality.

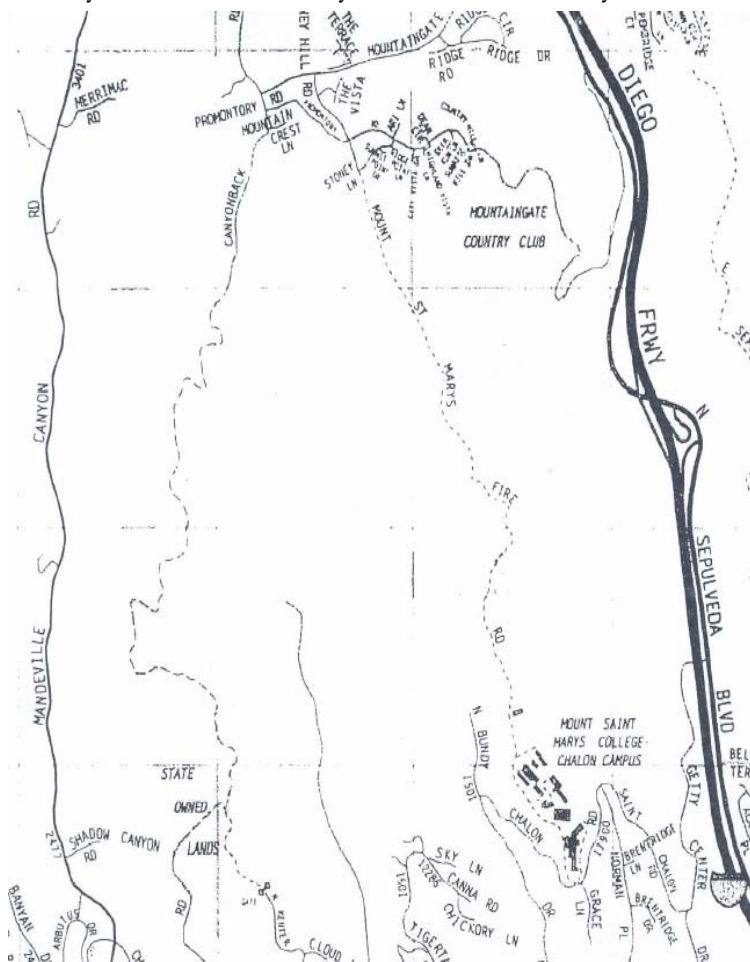
Also, by pushing trail-users inside the proposed private/gated community, the proposal degrades the trail by creating a likelihood of future hostilities between trail-users and future residents. Residents living in the private/gated community will inevitably try to force trail-users out, restrict their access, or inhibit them from using the trail. That is precisely what occurred in 2004 at the northern end of Canyonback Road, where residents illegally sought to restrict trail use on that dedicated public street. The Millard Canyon fiasco in Altadena (now in litigation) is another recent example of residents seeking to privatize public parkland trails.

The Commission’s ruling would also degrade the trail by allowing the developer to narrow the 10-foot wide easement to just 5 useable feet along a steep section of the trail. Bikers, joggers, walkers, strollers, and families will all be squeezed through a substantially narrowed path or pushed into the private street – creating safety risks and interfering with the common enjoyment of the multiple use trail. Paul Edelman of the Santa Monica Mountains Conservancy, who has obvious expertise in such matters, testified at the October 20, 2005, that a 5-foot trail would be inadequate for recreational use.

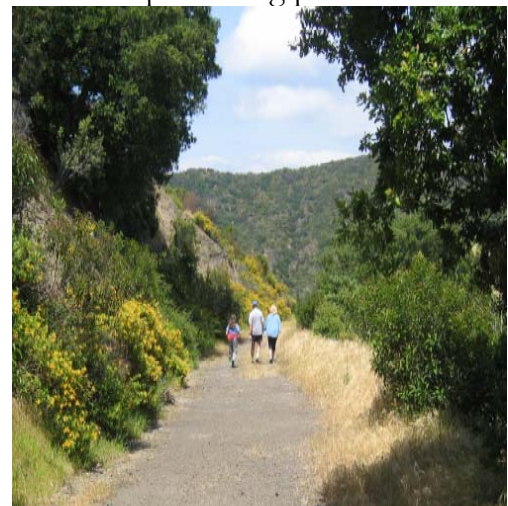
There is *no EIR analysis* supporting or otherwise explaining the justification or necessity for this adverse impact on recreational trail use. The City must therefore [1] adopt Condition No. 93 as supplemented with subpart (e) or [2] require full EIR analysis of the project’s adverse impact on trail use through a Supplemental EIR. Otherwise, the development project will adversely impact recreational use of the Trail without the necessary EIR analysis. Canyon Back Alliance will file a lawsuit if that occurs.

B. The Project Proposal To Terminate Public Access On The MSM Trail Violates CEQA.

The *Stoney Hill* section of the development project is located at the southern terminus of existing Stoney Hill Road, directly *on* the Mt. St. Mary’s Fire Road trail.



The project would terminate public access on the Mt. St. Mary’s Trail, despite the absence of *any* EIR disclosure, analysis or mitigation. The City cannot lawfully approve the project unless and until a Supplemental EIR addressing this adverse impact is completed or the City conditions project approval on the dedication of a recreational easement preserving public access.



The MSM Trail.

1. Terminating Access Would Violate The Community Plan.

A project's significant adverse impact on recreational or aesthetic enjoyment cannot be approved without adequate EIR analysis. *Pocket Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 936-937 (2004) (citing Pub. Res. Code § 21001(b)).

The Stoney Hill section of the Mountaingate project would terminate public access on the MSM Trail – precluding recreational and aesthetic enjoyment of the trail, including access between the MSM Trail and the “Big Wild” trail network (via the Canyonback Trail). This adverse environmental impact violates the Brentwood Pacific Palisades Community Plan, which specifies that preservation of recreational Mountain trails is a Community Plan Objective.

The Community Plan provides as follows:

“GOAL 4 *A COMMUNITY WITH SUFFICIENT OPEN SPACE IN BALANCE WITH DEVELOPMENT TO SERVE THE RECREATIONAL, ENVIRONMENTAL, HEALTH AND SAFETY NEEDS OF THE COMMUNITY AND TO PROTECT ENVIRONMENTAL AND AESTHETIC RESOURCES.*”

Objective 4-1: To protect the resources of the Plan area for the benefit of the residents and of the region *by preserving existing open space and, where possible, acquiring new open space.*

Policy 4-1.1: Natural resources should be conserved on privately-owned land of open space quality and preserved on state parkland. City parks should be further developed as appropriate.

Program: The Plan map designates area for Open Space and desirable Open Space.

Policy 4-1.2: Accommodate active and passive parklands, and other open space uses in areas designated and zoned Open Space.

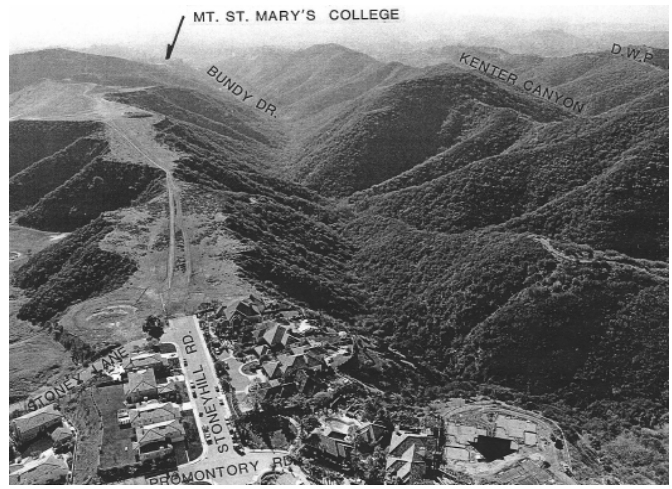
Program: The Plan Map designates lands for open space uses.

Policy 4-1.4: Open Space land in the plan area should be utilized to provide camping and picnicking, hiking, bicycling and equestrian trails; golf courses, sport fields and other active recreational uses for residents of the Los Angeles region.

Program: Establish a coordinating body among Federal, State, County and City of Los Angeles to put their resources together and maximize the recreational potentials in the Plan Area for regional benefit.

Policy 4-1.5: Provide access to and facilities for equestrian, hiking and cycling trails.

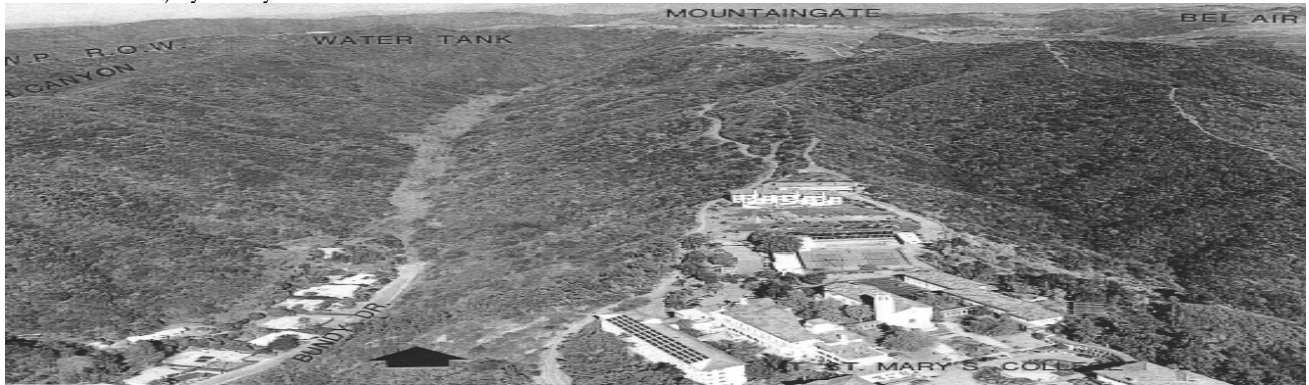
Program: Conform to the standards set forth in the Major Equestrian and Hiking Trails element and the Bicycle Plan Element of the General Plan. **All major parks and open space areas should ultimately be connected with the Mulholland Scenic Parkway system, with trails provided wherever possible.”**



The MSM Trail, above Bundy Canyon.

2. The Project Would End 50+ Years of MSM Trail Use.

The Record is replete with undisputed evidence that the MSM Trail has been enjoyed by the public for recreational and educational purposes for more than 50 years. Canyon Back Alliance further supplements the record with additional declarations (attached) establishing that the trail has been enjoyed by a substantial number of diverse recreational users since the 1950's.



The MSM Trail is above Mt. St. Mary's College (right) and overlooks Bundy Canyon (to the left).



A dirt path connected Canyonback and MSM trails before Mountaingate was constructed (above). They are now connected by public streets, Mountaingate Drive and Stoney Hill Road (see photo at p.10).

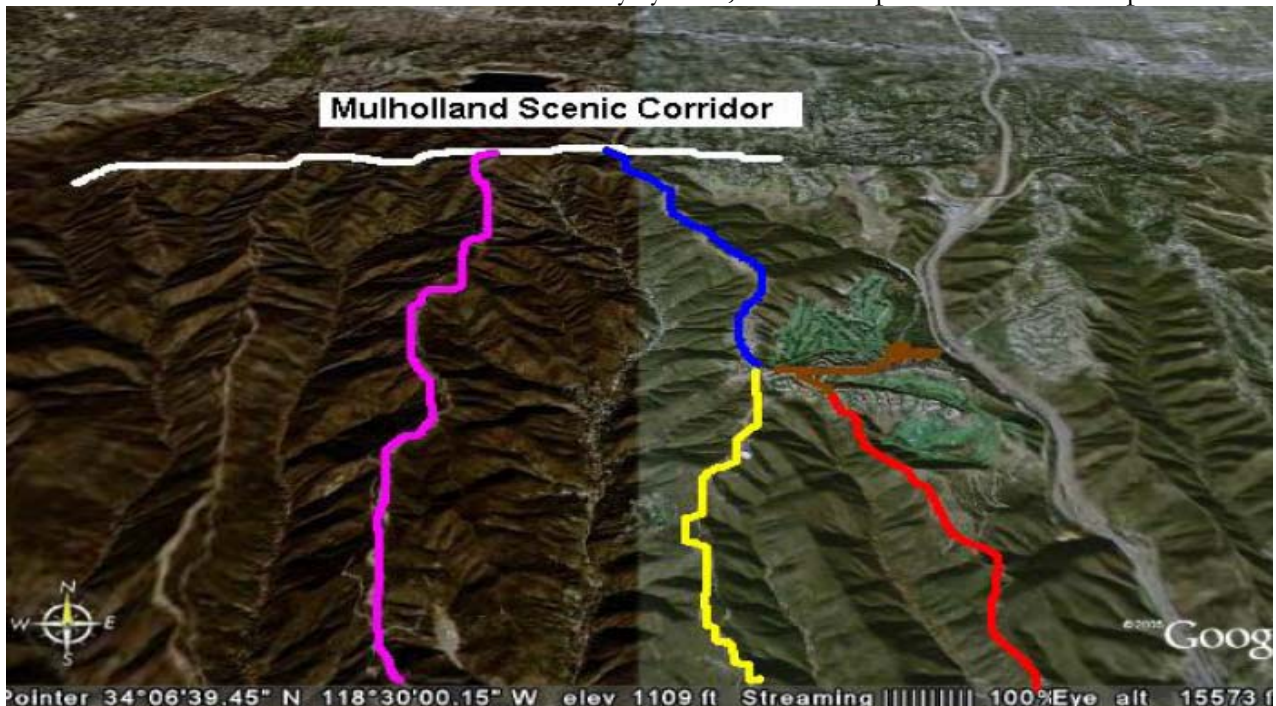
3. The Project Violates Community Plan Objectives.

The EIR asserts that a major offsetting benefit of the project is the dedication of Open Space land. That benefit is claimed to offset the project's plan to fill Bundy Canyon with dirt removed from the project's construction sites – which will bury natural streams, impair wildlife habitats, and destroy beautiful Sycamore Trees. The *filled* Bundy Canyon is part of the Open Space dedication purported to serve as a “benefit” of the project.

Remarkably, however, the public will have scant opportunity to enjoy this dedicated (and degraded) Open Space property because the MSM Trail overlooking the Open Space will not be accessible due to the proposed truncating and severance of the MSM Trail from Canyonback Trail. This not only diminishes the “benefit” of the proposed Open Space dedication – it violates a primary objective of the Brentwood Pacific Palisades Community Plan.

The Community Plan provides that “all major parks and open space areas should ultimately be connected with the Mulholland Scenic Parkway system, with trails provided wherever possible.” The MSM Trail has historically connected to the Mulholland Scenic Parkway system – and the Big Wild trail network – *via* Canyonback Trail.

Today, the MSM Trail links to Canyonback Trail – gateway to the Mulholland Scenic Corridor and the Big Wild trails network – via Stoney Hill Road and Mountaingate Drive, which are public streets. The project, however, calls for a private and gated community along the southerly extension of Stoney Hill Road – on top of the MSM Trail. Gating-off the community's street will forever sever the MSM Trail from the trail network in violation of the Community Plan objective -- “all major parks and open space areas should ultimately be connected with the Mulholland Scenic Parkway system, with trails provided wherever possible.”



MSM Trail (red) links to Upper Canyonback (blue) and Mulholland Scenic Corridor (white) via public streets (brown).

4. Proposed Condition: Easement To Preserve The MSM Trail.

The project's significant adverse environmental impact on recreational use and enjoyment of the MSM Trail can only be averted if the following condition is imposed:

“An easement shall be dedicated for public recreational purposes (the “MSM Trail Easement”). The MSM Trail Easement shall be shown on the final map.

- a. The MSM Trail Easement shall be in addition to the private street and any sidewalks.
- b. The subdivider shall consult with the Santa Monica Mountains Conservancy (the “Conservancy”) on materials and surfacing.
- c. The subdivider shall improve the MSM Trail Easement.
- d. The MSM Trail Easement shall remain ungated so as to allow 24-hour unimpeded public access.
- e. The MSM Trail Easement shall be aligned in conformity with its historic alignment, subject to deviation from such historical alignment as agreed to by the developer and the Conservancy, provided that any such deviation preserves unrestricted access between Canyonback Trail and the MSM Trail.”

5. The Supplemental EIR Option.


The EIR grossly violates CEQA by failing to analyze the developer's plan to gate-off the MSM Trail, which will have a significant, adverse environmental impact. If the City does not condition its project approval upon dedication of a recreational easement, then it must prepare and circulate a *Supplemental EIR* addressing the project's adverse impact on public recreational use of the MSM Trail – including a thorough analysis of mitigation options and feasibility. *Pocket Protectors*, 124 Cal. App. 4th at 936-937.


The City has the opportunity to mitigate the project's significant adverse impact on the public's long-standing recreational use of the Canyonback and Mt. St. Mary's trails by adopting Canyon Back Alliance's two proposed conditions. Otherwise, the City *must* prepare a Supplemental EIR addressing the project's adverse effects on recreational trail use – a subject improperly ignored in the Mountaingate EIR.

Respectfully,

CENTER FOR LAW IN THE PUBLIC
INTEREST

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Hon. Jose Huizar, CD-14 (PLUM Committee)
Hon. Bill Rosendahl, CD-11

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c/o Sue Chang, Senior City Planner
Environmental Review Section
Department of City Planning