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February 3, 2022

VIA ELECTRONIC MAIL

Mayor Dr. Daniel Lee
Vice Mayor Albert Vera
Council Member Alex Fisch
Council Member Yasmine Imani McMorris
Council Member Goran Eriksson
City of Culver City - City Hall
9770 Culver Blvd.
Culver City, CA 90232

Re: proposed Jackson Gate

Dear Mayor Lee, Vice Mayor Vera, and Council Members Fisch, McMorris, and Eriksson:

This firm has been retained to represent certain owners of the properties near the proposed Jackson Gate, which City Council recently voted to open. Please direct all further communication to this office. Since the concerns of hundreds of residents have been summarily dismissed and/or flatly ignored, and since the City seemed to be intent on treating the BPAC as a rubber-stamping sub-committee *in direct violation of the Brown Act*, we are writing to you today as a last ditch effort to resolve this matter amicably, without resorting to litigation, and *before* harm befalls any residents of or visitors to Culver City.

With all due respect, our clients' requests for information have revealed that there has been frightfully little planning or thought put in to the opening of the Jackson Gate. We believe this is a dereliction of your duties and a failure of your obligations to your constituents. More concerning is that your failure to conduct an appropriate investigation or adopt reasonable safety measures in connection with the opening of the gate at Jackson Avenue will result in instances of bodily harm and/or property damage, and therefore liability on the part of the City. All the residents have been asking is that the bare minimum of investigation or thought be put into how the gate is opened and

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that some precautions be taken to minimize the risk of injury. That this very reasonable request has fallen on deaf ears is alarming. Indeed, not even Alta Planning, which the City hired for “community outreach” nor Mayor Sahil-Wells (who initially said would allow neighbors to submit survey questions but then ignored the submissions entirely) have engaged with those most impacted on these issues.

To wit, despite this matter being before you for *years*, it does not appear that anything at all has been done. In response to our requests for information, the City did not produce a single study regarding the safety of the opening of the gate at Jackson Avenue. To the contrary, it appears that the City affirmatively ignored warnings about safety. In a May 15, 2019 email from Officer Marissa Yabko to Allen Lulu, Officer Yabko warns Mr. Lulu that “it was brought to my attention that those specific gates you mentioned [Jackson/Sawtelle] were closed due to high criminal activity. The bike path is a major egress and ingress for criminals.” Despite this ominous warning, the City decided to open the Jackson Gate, and refused to conduct even the most limited of studies regarding how to safeguard the residents of Culver City, and the residents closest to the Jackson Gate. City Manager Charles Herbertson demonstrated a cavalier attitude at a meeting with neighbors, thumbing his nose at local residents’ concerns about safety. And at the most recent BPAC meeting, there was no discussion of safety, no consideration of preventive measures, no planning whatsoever – only a unilateral demand that the gate be opened immediately. This, despite an unhoused man firing multiple shots, in broad daylight (around 11am), at the Duquesne bike path entrance last Saturday. This is a dereliction of your duties and a disservice to the community.

There are already encampments throughout the creek. The police have been called on several occasions for both violent and not-yet-violent outbursts by those in the encampment. Incidents of package theft and property damage have increased. There have been intruders on and around the properties of homeowners adjacent to the Jackson Gate, including one who appeared to be casing the home.

Additionally, no documents were produced indicating that any consideration was given to the safety of those who enter or exit at this gate, even though there are a number of blind spots that have been pointed out to City Council. The City has no information concerning visibility issues that would ensure biker or driver safety. There is a meaningful risk of pedestrians or bikers being hit by vehicles coming out of their own driveways. Apparently, the City rejected the placement of wide angle mirrors because of concerns that it would be immediately covered by graffiti. The City did not explain why it was not concerned about graffiti on neighboring homes. There is no plan for lighting.

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The City did not produce a single study concerning impacts on traffic or on parking. No traffic flow analysis has been done. No precautions have been taken at all to ensure safety in traffic. The City has put no thought into the positioning of the gate, either. It may surprise you to learn that the gate currently looks directly into one neighbor's bedroom window. Surely this was not contemplated – and it certainly is not desirable for the homeowner or for those accessing the gate. The City has seemingly not even contemplated the parking challenges that might exist for the residents of Jackson Avenue or have a plan to address it, such as placing limits on how long visitors can park on the residential street or consider permit parking. No thought has been invested in figuring out how the various access points can work together.

Although the City admits that it expects the unhoused to take up residence in the access ways, and although the City is aware that sometimes the unhoused will light fires to remain warm during the chilly evening hours, the City did not produce a single document investigating the fire risk to neighboring homes or have a plan on how to address this, despite the devastation that such a fire would bring. There is no known study or investigation by the fire department regarding a fire prevention plan. It is unknown whether the fire department even has sufficient access to fight a fire through the Jackson Gate.

There are also a number of inconsistencies and incongruities surrounding City Council's knee-jerk reaction to open the gate at Jackson Avenue. City Council represented that they will add mitigation measures for shopping carts, yet no such plans have been announced. No documents have been produced by the City demonstrating what this plan might be. City Council has stated that they wish to open the gate for students to get to and from school, yet they have failed to explain why students need access through the gate 24 hour, 7 days a week. Even though emails produced by the City demonstrate that the City has the ability to lock the gates at night, no documents that were produced by the City address the problem, and City Council completely disregarded these facts when it rushed to vote to open the gate. City Council has also failed to address safety of students traveling to local elementary and middle schools through unmonitored areas.

Similarly, the City has ignored the still-in-effect City-Initiated General Plan Text Amendment Resolution 2004-R044, which provides as its Exhibit A that speaks directly to the opening of the Jackson Gate. Specifically, the Ballona Creek Focused Special Study specifically prohibits the construction or opening of access trails through residential neighborhoods, and disregard the policy set forth at OS-14 (Policy 2.G) of ensuring the safety and privacy of adjoining neighborhoods and of 10.C-19 (Policy 3.B) of limiting bike paths to arterial streets. A series of 2019 emails involving key staff members demonstrates that the City is well aware of this. The actions of City Council fly directly in the face of this Resolution and the Ballona Creek Focused Special Study.

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The City has not outlined anything beyond the mere opening of the Jackson Gate. And, from the documents that have been produced, it appears that the City has very actively placed its thumb on the scales when it came to the decision to open the access point. In short, City Council voted to open the gate and let the chips fall where they may, with no plans to even monitor the area. ***This is a dangerous proposition and your failure to conduct even the bare minimum of investigations presents a meaningful, and entirely foreseeable, risk of harm to the residents of and visitors to Culver City.***

Also notable is that heavy rains and storms turn the creek into an attractive nuisance. Because access was limited and there was no need for it, there are no safety barriers in place protecting children and adults alike from the rapidly increasing water levels or the swiftly moving water. No safety measures at all have been contemplated in the area between the access and the creek.

The opening of the gate at Jackson Avenue is, at this time, premature, ill timed, and dangerous. This spells liability on the part of the City, and this is bad news for everyone who lives here. While Mayor Fisch has been quoted that: “We can’t sit in ‘analysis paralysis’ and wait for another 15 studies of what may or may not happen,”¹ the reality is that the City did not even undertake a SINGLE study to better understand how to open the gate safely, and in a thoughtful manner. Respectfully, a representative’s duty is to undertake this examination, not to simply decide to take some action because it would be a bother to investigate whether doing so is safe. We urge you to consider precautions could help protect the residents you’re supposed to serve.

Although many pan Move Culver City for being poorly thought out, a waste of limited public resources, and generally falling flat, early indicators suggest that the opening of the gate without even the most minimal of safety, traffic, or other investigations will prove to be reckless and affirmatively dangerous, an abject failure. Fortunately for us all, there is still time to do this correctly.

At a minimum, we believe a safety study is warranted. Surely there are ways in which the gate at Jackson Avenue can be opened without unnecessary risk to the people who intend to use it or the people who live beside it. A traffic study and parking plan is also warranted at this time. We plead with you – on behalf of the students and others who could very easily be injured – please take some time to conduct this minimum of investigations. Let’s not wait until an elementary school kid is

¹ See Culver City Crossroads, Jackson Gate Will Open More Access to the Ballona Creek Bike Path, August 24, 2021, <https://culvercitycrossroads.com/2021/08/24/jackson-gate-will-open-more-access-to-the-ballona-creek-bike-path/>.



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inadvertently hit by a vehicle. Let's not force people to walk or run or bike through this access point in the dark. Let's not expose ourselves to unnecessary danger or allow our already high fire risk increase exponentially.

We trust that, in light of the above, you will put the safety of the residents of Culver City above your agenda and take these minimal steps before opening the Jackson Gate. If you should have any questions for us, or if we can be of service, please don't hesitate to contact the undersigned.

Very truly yours,
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cc: City Attorney Heather Baker city.attorney@culvercity.org
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