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- **"Initial Submissions"**: Compliant submissions received no later than by end of day Monday of the week prior to the meeting, which are not integrated by reference or exhibit in the Staff Report, will be appended at the end of the Staff Report. The Staff Report is linked to the case number on the specific meeting agenda.

- **"Secondary Submissions"**: Submissions received after the Initial Submission deadline up to 48-hours prior to the Commission meeting are contained in this file and bookmarked by the case number.

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If you have any questions, please contact the Commission Office at (213) 978-1300.

SECONDARY SUBMISSIONS

Item No 6

Department of City Planning

City Hall, 200 North Spring Street, Room 272, Los Angeles, CA

May 11, 2021

TO: City Planning Commission

FROM: Jason McCrea, Planning Assistant

TECHNICAL MODIFICATIONS TO STAFF RECOMMENDATION REPORT FOR CASE NO. CPC-2017-3251-TDR-MCUP-SPR LOCATED AT 1033 – 1057 SOUTH OLIVE STREET

The following corrections/additions are to be incorporated into the Staff Recommendation Report to be considered at the City Planning Commission meeting of December 17, 2020, related to Item No. 6 on the meeting agenda. Deleted text is shown in ~~**strikethrough**~~ and added text is shown in **underline**.

Site Plan Review Conditions – Add new Condition 14

14. Electric Vehicle Parking. Electric vehicle parking shall be provided pursuant to the Municipal Code.

F-21 Site Plan Review Findings – modify the last sentence of the first paragraph:

As mentioned previously, through the project's **compliance with Site Plan Review Condition 14 requirements** ~~**Project Design Feature AQ-PDF-1**~~ a minimum of **30** ~~**20**~~ percent of the LAMC-required parking shall be pre-wired for the future installation of electric vehicle (EV) charging stations and ~~**five (5) percent**~~ **ten (10) percent** of the spaces are required to be equipped with EV charging stations.

F-28 Site Plan Review Finding – modify the second paragraph

As an ELDP project, the project would be required to provide sustainable features and service amenities for its residents and visitors such as achieving LEED Gold certification, maximizing transit friendly features (resulting in a minimum 15 percent greater transportation efficiency), and being 'Net-Zero' in GHG emissions. The project **also complies with Site Plan Review Condition 14 which** ~~**also includes a Project Design Feature (AQ-PDF-1) that**~~ would require the installation of wiring for the future installation of electric vehicle charging stations for **30**~~**20**~~ percent of the proposed parking, the immediate installation of electric vehicle charging stations for **ten (10) percent** ~~**five percent**~~ of the proposed parking spaces. The electric vehicle charging spaces and other sustainability features as an ELDP project will improve habitability for residents and neighboring properties by reducing the level of greenhouse gas emissions and fuel consumption from the project site, through encouraging the use of low or zero emission vehicles and public transit.

Item No. 8

Department of City Planning

City Hall, 200 N. Spring Street, Room 272, Los Angeles, CA 90012

May 11, 2021

TO: City Planning Commission

FROM: Oliver Netburn, City Planner

TECHNICAL MODIFICATION TO INCORPORATE A MITIGATION MONITORING PROGRAM WITH THE SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT FOR CASE NO. ENV-2020-6266-SCEA; 2217-2235 WEST SUNSET BOULEVARD; 2216-2218 WEST ELSINORE STREET; 1121 NORTH MOHAWK STREET

The following technical modification is to be incorporated into the Sustainable Communities Environmental Assessment to be considered at the City Planning Commission meeting of May 13, 2021, related to Item No. 8 on the meeting agenda.

This modification only adds the Mitigation Monitoring Program to Case No. ENV-2020-6266-SCEA and does not alter the analysis nor the mitigation measures that are provided in SCEA document.

MITIGATION AND MONITORING PROGRAM

1.1 INTRODUCTION

This Mitigation Monitoring Program (MMP) has been prepared pursuant to Public Resources Code Section 21081.6, which requires a Lead Agency to adopt a "reporting or monitoring program for changes to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." In addition, Section 15097(a) of the State CEQA Guidelines requires that a public agency adopt a program for monitoring or reporting mitigation measures and project revisions, which it has required to mitigate or avoid significant environmental effects. This MMP has been prepared in compliance with the requirements of CEQA, Public Resources Code Section 21081.6 and Section 15097 of the State CEQA Guidelines.

The City of Los Angeles (City) is the Lead Agency for the Project and therefore is responsible for administering and implementing the MMP. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity that accepts the delegation; however, until mitigation measures have been completed, the Lead Agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

A Sustainable Communities Environmental Assessment (SCEA) has been prepared to address the potential environmental impacts of the Project. Where appropriate, the SCEA identified mitigation measures to avoid or to reduce potentially significant environmental impacts of the Project. This MMP is designed to monitor implementation of the mitigation measures identified for the Project.

1.2 ORGANIZATION

As shown on the pages below, the mitigation measure(s) identified for the Project are listed and categorized by environmental impact area, with accompanying identification of the following:

- Enforcement Agency: the agency with the power to enforce the mitigation measure(s).
- Monitoring Agency: the agency to which reports involving feasibility, compliance, implementation, and development are made.
- Monitoring Phase: the phase of the Project during which the mitigation measure(s) shall be monitored.
- Monitoring Frequency : the frequency at which the mitigation measure(s) shall be monitored.
- Action Indicating Compliance: the action by which the Enforcement or Monitoring Agency indicates that compliance with the identified mitigation measure(s) has been implemented.

1.3 ADMINISTRATIVE PROCEDURES AND ENFORCEMENT

This MMP shall be enforced throughout all applicable phases of the Project. The Applicant shall be responsible for implementing the mitigation measure(s) and shall be obligated to provide certification to the appropriate monitoring and enforcement agencies that the mitigation measure(s) has been implemented. The Applicant shall maintain records demonstrating compliance with the mitigation measure(s). Such records shall be made available to the City on request.

During the construction phase and prior to the issuance of building permits, the Applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation any mitigation measure(s) identified for construction-related activities during construction, consistent with the monitoring phase and frequency set forth in this MMP.

The Construction Monitor shall also prepare documentation of the Applicant's compliance with the mitigation measure(s) during construction every 90 days (for construction activities lasting 90 days or longer) in a form satisfactory to the Department of City Planning. The documentation must be signed by the Applicant and Construction Monitor and be included as part of the Applicant's Compliance Report. The Construction Monitor shall be obligated to immediately report to the Enforcement Agency any non-compliance with the mitigation measure(s) within two businesses days if the Applicant does not correct the non-compliance within a reasonable time of notification to the Applicant by the monitor or if the non-compliance is repeated. Such non-compliance shall be appropriately addressed by the Enforcement Agency.

1.4 PROGRAM MODIFICATION

After review and approval of the final MMP by the Lead Agency, minor changes and modifications to the MMP are permitted, but can only be made subject to City approval. The Lead Agency, in conjunction with any appropriate agencies or departments, will determine the adequacy of any proposed change or modification. This flexibility is necessary in light of the nature of the MMP and the need to protect the environment. No changes will be permitted unless the MMP continues to satisfy the requirements of CEQA, as determined by the Lead Agency.

The Project shall be in substantial conformance with the mitigation measure(s) contained in this MMP. The enforcing departments or agencies may determine substantial conformance with mitigation measure(s) in this MMP in their reasonable discretion. If the department or agency cannot find substantial conformance, mitigation measure(s) may be modified or deleted as follows: the enforcing department or agency, or the decision maker for a subsequent discretionary project-related approval finds that the modification or deletion complies with CEQA, including CEQA Guidelines Sections 15162 and 15164, and could include the preparation of an addendum or subsequent environmental clearance, if necessary, to assess the impacts from the modifications to or deletion of mitigation measure(s). Any addendum or subsequent CEQA clearance shall explain why the mitigation measure(s) is no longer needed, not feasible, or other basis for modifying or deleting the mitigation measure(s), and that the modification will not result in a new significant impact consistent with the requirements of CEQA. Under this process, the modification or deletion of the mitigation measure(s) shall not in and of itself require a modification to any Project discretionary approval unless the Director of Planning also finds that the change to the mitigation measure(s) results in a substantial change to the Project or the non-environmental conditions of approval.

1.5 MITIGATION MONITORING PROGRAM

NOISE

PMM NOI-1: The Project shall incorporate the following applicable measures from the 2020-2045 RTP/SCS Mitigation Measure PMM Noise-1 to reduce the impact of construction-related noise on nearby sensitive receptors:

a) Install temporary noise barriers during construction. Temporary noise barriers shall be installed along the perimeter of the Project Site The barrier shall consist of K-rail with one-inch plywood fencing on top, at least 8 feet in height and not have any gaps or holes between the panels or at the bottom. The supporting structure shall be engineered and erected in order to comply with LAMC noise requirements, including those set forth in Chapter XI, Article 2 of the Los Angeles Municipal Code.

b) Schedule construction activities consistent with the allowable hours pursuant to the City of Los Angeles general plan noise element or noise ordinance

c) Post procedures and phone numbers at the construction site for notifying the Lead Agency staff, local Police Department, and construction contractor (during regular construction hours and off hours), along with permitted construction days and hours, complaint procedures, and who to notify in the event of a problem.

d) Notify neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of anticipated times when noise levels are expected to exceed limits established in the noise element of the general plan or noise ordinance.

e) Designate an on-site construction complaint and enforcement manager for the project.

f) Ensure that construction equipment are properly maintained per manufacturers' specifications and fitted with the best available noise suppression devices (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds silencers, wraps). All intake and exhaust ports on power equipment shall be muffled or shielded. Construction equipment shall comply with noise limits in LAMC Section 112.05.

g) Use hydraulically or electrically powered tools (e.g., jack hammers, pavement breakers, and rock drills) for project construction to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust should be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves should be used, if such jackets are commercially available, and this could achieve a further reduction of 5 dBA. Quieter procedures should be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures. Construction equipment shall comply with noise limits in LAMC Section 112.05.

h) Use equipment and trucks with the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible) for project construction. Construction equipment shall comply with noise limits in LAMC Section 112.05.

i) Stationary noise sources can and should be located as far from adjacent sensitive receptors as possible and they should be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the Lead Agency (or other appropriate government agency) to provide equivalent noise reduction. Construction equipment shall comply with noise limits in LAMC Section 112.05.

j) Use portable barriers in the vicinity of sensitive receptors during construction, if needed in addition to the temporary noise barriers.

k) Implement noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings (for instance by the use of sound blankets), and implement if such measures are feasible and would noticeably reduce noise impacts and are needed in addition to the use of temporary noise barriers.

Enforcement Agency: Los Angeles Department of Building and Safety
Monitoring Agency: Los Angeles Department of Building and Safety
Monitoring Phase: Construction
Monitoring Frequency: Ongoing throughout the construction phase, during field inspection
Action Indicating Compliance: Issuance of Certificate of Occupancy or Use of Land

Planning CPC <cpc@lacity.org>

public comments

Tom Jung <jungpartyoffour@gmail.com> Mon, Apr 26, 2021 at 8:26 AM
To: cpc@lacity.org

Hello, I have some public comments that I wish to be read @ CITY PLANNING COMMISSION REGULAR MEETING AGENDA

Unfortunately my internet is not capable of zoom meetings, it has not been reliable.

****

I am reaching out to the city council for assistance in holding the Olson Company responsible for the damages they caused from their development.
Their development at (Fig and Fifty) 118 S. Avenue 50, 90042 is next to my property. Olson Company had incorrect drainage plans and several design flaws. I have had to hire lawyers and engineers to make them aware of their issue. We have even convinced LADBS of the flaws and LADBS issued a correction order to the Olson Company. Gil Cedillo, Donna Choi, and Greg Shoop guaranteed the public that there were no negative impacts - we must hold them accountable.

Bottom line: I have had to absorb the cost of their development.
I have had to pay significant money to correct the issues caused by the Olson Company. As a rent controlled property owner I have no way to recover my costs.
I am urging you to put a hold / lien against the Olson Company Development at Expo Walk (2905W Exposition Pl, Los Angeles, CA 90018). We must hold these scrupulous developers responsible for their malicious behavior.

--
Tom - 310-991-2898

To Whom It May Concern,

We are Ruth and Avi Rokah, the tenants of 9218 W. Pico Blvd., immediately next door to Label's Table. We are the owners and the only two employees of our small family business, Rokah Karate, **which we have operated out of this location since 1998, for 23 years**. Prior to that, from 1990-1998, we were located just a few blocks away at 912 ½ S. Robertson Blvd.
We are renting two studios at our current location, a 2000 sq. ft. studio downstairs and a 1000 sq. ft. studio upstairs**. Resultant from the length of our tenure at this location, we do not have a need to invest capital into advertisements/promotions - we have been able to grow purely by word of mouth, foot traffic, and the communities knowledge of our location as the local Karate Dojo.**

We have four children whom we have raised in the Beverlywood community. They have attended the local Jewish schools, and our family has belonged to a few of the neighborhood synagogues. In other words, we are a well known and trusted family with a wide social net and deep roots in the Beverlywood community. **This is the reason we need to stay at our location or within a few blocks of it.**

In our local community we are well known as one of the go to places for exercise. First and foremost we are a Karate school, but over the years we have also offered, are offering, a wide variety of other fitness programs such as Gymnastics, Aerobics, Kickboxing, Jiu-jitsu, Yoga, Ballet, Hip-hop, Tap, Jazz, Private training, and classes for special needs children.

Many of the children at our school have physical or mental disorders that we work with through Karate. We have Doctors, Physical therapists, Psychologists, and Psychiatrists referring students to us. We have children with Autism, ADD, ADHD, Hyper Sensitivity, depression, anxiety, low muscle tone, muscle imbalance, etc. **Children in general, and students with special needs, in particular, have a difficult time focusing when exposed to any added sensory input. The additional noise and commotion your building project will pose will greatly impair all adult's and children's learning, but especially our most vulnerable members, our special needs children.**

Rokah Karate is the US and World headquarters for two nonprofit organizations, US Budo Karate (USBKA) and World Budo Karate Association (WBKA). **National teams and students from all over the world come to study at our Dojo and are well acquainted with our location.**

Currently we serve approximately 230 students. Our Dojo is an amazing community consisting of siblings, neighbors, cousines, classmates, grandparents,etc. We do not do any advertising since our business grows at a steady rate, simply by word of mouth and the natural flow of foot traffic in our business community. We have many parents that trained with us in their youth, who are now bringing their children to classes. We are a trusted business in our local community. **Everyone knows who we are, what we are about, and most importantly; where to find us.**

According to the city rules a school needs to have 10 parking spaces per 100 sq.feet. With our total of 3000 sq. feet this would mean 30 parking spaces for us. We have considered ourselves very lucky to rent this space, since it is grandfathered by the city with regards to parking. Prior to us "My Children's Gym" occupied our space, hence the grandfathered status. **It is very difficult to find another place that is big enough, has the required amount of parking spaces, and is affordable.**

The Pandemic has taken a great toll on many small, family owned businesses. Gyms have been hit extra hard in general, because of the extra social distancing that has been required with activities that lead to increased breathing. Martial Arts schools have been hit even harder in particular, because Martial Arts is a contact sport that normally requires you to work in close proximity with a partner. Four martial arts schools in our close vicinity have unfortunately been forced to close down during the Pandemic.

At the onset of the Pandemic we lost 100 students almost over night. We tried to negotiate a lowered rent with our landlord without success, and during all of last spring and early summer we were close to throwing in the towel. When we moved all our lessons to Zoom, in March 2020, we quickly discovered that learning Karate over Zoom only works well for some students. In order to save our business we began teaching private lessons to everyone of our students under 16, in their backyards or on their sidewalks, as a free compliment to their Zoom classes and in order not to lose more students. Some days we recorded up to 30, twenty minute-privates between the two of us, in addition to our 4 afternoon Zoom lessons. All this while paying full rent for two unused studios.

It made no sense to take the little money we made to pay almost $9000/month in rent for a space we did not use when we barely made ends meet to support our family of six, but there was one reason that kept us going. **That reason being that we could not afford to lose the place that we had worked 23 years to establish and that is "grandfathered" in regards to parking.** For months we scouted the entire neighborhood closely and with the help of real estate agents, to see if we could find a landlord that would be willing to share the blow of the Pandemic, but truth being, we did not find a single place that fit our use and parking situation.

Last summer when the city recommended gyms to move their business outdoors to parking lots if possible, we did. We struck a deal with our restaurant neighbor, Scnitzly, next door. They traded us their three parking spaces in the back in return for our sidewalk space in the front. We spent $10,000 building an outdoor gym on sports turf, covered with tarps. This 1000 sq. foot outdoor gym has saved our business, for now. It allowed us to stop driving to everyone's homes, and start teaching small group classes at our school with masks and social distancing rules in place. Prior to the Pandemic we packed 30 students into each class, but with the initially recommended 8-foot distance we had to cut our class size into a third. Most days that meant teaching nine classes instead of three. We have happily done so since it has kept us not only alive, but thriving.

We attribute our current success to a few things. First and foremost children have really suffered mentally, physically, and socially during the Pandemic. We have offered a safe outdoor space where they could exercise, learn an art, and be in a social setting. We have had many parents tell us that our classes have been life saving during the Pandmeic, especially for their children's mental well being. Secondly, we have played it very safe. We have followed all regulations and thankfully not had a single case of Covid spread. We have erred on the side of caution and thereby won the trust of our community. Finally, with most Martial Art schools in our close vicinity forced to shut down we have had an influx of new students.

A short while ago, we were shocked when we found the notice on our previous neighbors door stating the project that is about to take place right next to us. First of all it was deeply disturbing that no one had given us a written notice, or come to talk to us, about this planned development a long time ago. This is a big project that must have been in the plans for a long time. **Had we known we might have chosen to keep teaching privately in backyards and parks, and not paid 13 months rent, approximately $120,000 for renting an unusable space. A space that is now going to turn into a long term construction site.**

A construction site, where literally half a block is going to be torn down and a huge new complex erected, right next door to our business. **We fear that this project will ruin our business completely. This in turn would literally ruin our lives**. We are 52 (Ruth) and 60 (Avi) years old. Until now we have mainly worked to put our children through private Jewish schools and college and now, and in the coming ten years, is when we can really start saving to be able to safely retire. **A blow to our business, such as your project, would potentially devastate us.**

We have hundreds of people in our immediate community that would be affected by your planned project. We would like to know what you have in mind for us during your construction. How are you considering us, our needs, our livelihoods, our communities needs, and all of our mental and physical wellbeing and safety?

Concerns and ideas for solution

A) Temporary Relocation

A temporary, or permanent relocation, is obviously not ideal, since it has taken us 23 years to build our clientele and reputation at our location. Considering the circumstances, and depending upon your remediation plans for us, relocating might be our only viable option to continue a safe operation of our business. Should we be forced to relocate:

1) We need to stay very local since our clients mainly consist of Beverlywood families that are not willing to drive far.

2) We need a location where the parking issue described above will be worked out. There are three ways to deal with the parking issue as we see it:

- A location grandfathered as a school
- A place with enough parking
- An exemption to that rule worked out with the city.

B) Staying at our current location

We have many concerns that need to be addressed in order for us to feel safe staying at our current location. Below are those concerns and our suggestions for how to remediate them. By no means are we experts in this area and following are just suggestions that came to our mind. You are the professionals and we welcome your ideas.

1) Concern: Afternoon and evening noise
a) Avi has a permanently fractured cartilage in his voice box. Any additional sound disturbances might make it impossible for our students to hear his instructions.
b) Karate is a moving meditation and any sound is disturbing the focus required for a good practice.
c) As mentioned above we work together with parents, doctors, and physical therapists to help children with all sorts of disability. ADD, ADHD, and Autism being some of them. These children are very sensitive to sensory input, sound being a"biggy". All the additional noise and commotion your project will create on our block is the opposite of the environment we need to successfully work with these highly sensitive children and for all other children as well.

Suggestion: Stop all construction by 3:00 pm. The bulk of our classes happen from 3:30 and on.

2) Concern: Morning and daytime noise
a) Although the bulk of our lessons take place after 3:30 we do still conduct private lessons to special needs children, homeschoolers and adult students during the morning and daytime.
b) Sensei Avi is the president of International Traditional Karate Federation(ITKF) and the technical director of World Budo Karate Association(WBKA). Our Dojo, in its location, is the international headquarters for both these organisations. Being the technical director of the international governing body means that Sensei Avi is a highly sought after instructor worldwide. During the mornings he often teaches international Zoom seminars. Imagine Sensei Avi teaching a Zoom seminar with 200 Russian students while trying to overpower half a block being bulldozed down next door with his fractured vocal cartilage. Spells disaster!
c) When we are not teaching we are in the office working and talking on the phone. It is hard for people to understand Avi's voice on the phone already without noise. Between classes and office work Sensei Avi enjoys working on his books, *quietly* over a cup of morning coffee.
Suggestion: To reiterate, we are no experts, but is there a way to **fully soundproof our building** during the construction period to minimize daytime sound disturbances?

3) Concern: Debris, dirt and dust will fall into our outdoor gym.

We are concerned that debris, dirt, and dust will fall into our outdoor gym, pose danger of physical harm, and make our space dirty and unpleasant. We need our outdoor space to remain safe, clean, and fully operational.

Since last summer we have taught, and are still teaching, all our in person classes at our outdoor gym. Our livelihoods have 100% depended on this gym during Covid. Although Covid numbers are looking better at the moment we need to be ensured that we can safely operate outside should Covid numbers worsen again. With talks of new variants emerging daily and with the potential of future variants evading natural immunity and vaccines, we cannot take for granted that we can teach inside. This being especially true with the amount of vaccine hesitancy we are currently experiencing.

Suggestion: We suggest that you **build a very tall, soundproofed, wall** to shield our space from debris, dirt, and dust. This is another reason construction needs to end at 3:00pm daily to avoid a child getting a brick literally landing in their head.

4) Concern: Environmental toxins

We are concerned that toxins harbored in old buildings such as mold spores, lead, asbestos, etc. will land on our outdoor turf where we and the children train barefoot and do many exercises lying and sitting on the floor in white Karate uniforms.

Toxins flying through and lingering in the air and consequently settling into our turf floor, spells a very hazardous combination with children exercising on that turf and heavily breathing in that air. Ruth has Asthma and so do plenty of our students and that is just for starters of the trouble that potential toxins spell.

Suggestion:

a) We need to know how you will assure us that we are not training on or breathing in toxins while exercising in our outdoor gym.

b) How will you clean the toxins that will settle on our turf daily? Vacuum? Carpet cleaning? (Carpet cleaning adds its own set of chemicals and is therefore a problem in itself.)

c) We need help to understand what toxins are predicted to be released when half a block of old buildings are demolished. Please educate us on the research and any environmental studies that have been done on your particular project.

d) Toxins released are an additional reason we need you to finish construction by 3:00pm.

e) If we do not relocate during construction we will need a third party environmental company to regularly measure toxins in the air and on our floors, to ensure our continued safety.

5) Concern: Traffic congestion in the alley and on Pico

Our families drop off and pick up their children by pulling up in the alley where our outdoor gym is located. Their child hops in or out and off they go. Many of our families are Jewish families from the neighborhood with large families. They might leave five kids at home to drop one child

off. Being stuck 10 minutes in an alley is not going to work for our clients during homework and dinner time.
We are concerned that access to our business will be seriously compromised by bulldozers, trucks, cranes, tile busting nails, debris, dirt, etc.
Suggestion: Again, stop all construction by 3:00pm and make sure the alley is completely cleared and clean by 3:30pm.

6) Parking issues during construction
Many parents enjoy staying from time to time to watch their child's progress. We are worried that there won't be accessible parking for them if your workers are still at site when our afternoon program begins. Of course this is also a concern during the daytime for ourselves and our daytime students.
Suggestion: Stop construction at 3:00pm. Also, where are all the workers going to park during construction hours?

7) Concern: Congestion of our business neighborhood pre and post construction
Our block of Pico is at the heart of the jewish business community. Bringing in a huge residency right in the middle of it will clog up an already busy business area. Carpool time is already a sore issue for families in LA and this is definitely not helping the issue for our families.
Suggestion: Be sure to include ample (perhaps above and beyond the requirements of the building) parking for Residents and guests.

8) Concern: Changing our business district
Many of our clients over the past 23 years have circled "walk by" at their registration form where we ask how they heard about us. Your project will change the foot traffic on our block and interfere with our normal way to attract clients, which will negatively affect us financially. We built our business at this location for a reason, and that reason was definitely not to be in a residential area.
Suggestion: We haven't been able to think through an appropriate solution here - do you have any ideas?

9) Concern: The kind of residents you are bringing in and what they will mean for our community long term.
What kind of residents are you welcoming? We want to ensure that our 200+ young students are safe, and not in the vicinity of individuals with criminal history or sex offense records. Bringing in a large population of low income & mental capacity individuals could adversely affect the safety of our student body. We need to know that our children and teens are safe and feel comfortable accessing our building.

Suggestion:
- Are you going to guarantee us that none of the future residents have criminal history records?
- Are you going to guarantee us that none of them are registered sex offenders?
- Of concern is also the mere size of your building and the number of residents you are inviting.

Financial Impact of your project on our business

Your project is already affecting us financially and will most definitely continue to do so during construction, and for the unforeseeable future. Below we explain how it affects us pre construction, during construction, and post construction.

1) **Pre construction time:**
Not knowing if we can safely remain, and soundly operate our business alongside your project and future residency means that we can not make the necessary plans today, needed for a business like ours to be financially sound in the long-term. Being flexible and planning ahead is how we have survived during Covid **(see video 1 in pdf below)**. Not being able to plan at all, because we do not even know at this point if we can remain on location, has made our future very insecure and is already affecting us financially. For example;

a) Prior to Covid we subleased our upstairs studio to a Jewish congregation, the Happy Minyan, who left us at the onset of the Pandemic. We are in the works of turning that studio back into the dance school it used to be prior to subleasing to the Happy Minyan. We have already interviewed and found our team of dance instructors and planned the necessary remodeling. **Just as we were about to put in new windows, floors, light fixtures, and paint, we found your notice and because of it stopped short in our tracks. How can we invest more money into a place where we are not even sure that we can remain?** We had hoped to begin our dance program on June 1st. Not being able to start our dance school as planned will lose us lots of money.

b) We were also in the planning phase of a summer camp. For a camp we need the upstairs space, but cannot use it until it is remodeled. Again we cannot invest in remodeling if we are going to have to leave so our camp plans have therefore also been put on hold. This will definitely affect us financially, since summer is just around the corner.

2) **Actual construction time:**
Either we have to relocate, which will hurt any business, or our clients will have to deal with the environmental hazards, dirt, carpool issues, parking issue, noise, congestion and other disturbances that come with demolishing half a block and constructing a seven floor building as outlined above.

3) **Post construction time**:
The harm that adding six stories of residents next to our business will cause. The overcrowding, traffic congestion, altered demographic, lost foot traffic, etc.

How are you planning to compensate us for the financial loss this means for us now and in the future? For the insecurity, inconvenience, and anxiety it creates, the time we have already spent and will continue to spend dealing with all the issues this brings us (writing this letter, attending Zoom meetings, phone calls with the city, talking to friends and lawyers, calming anxious clients, etc.)

Following is a suggestion of compensation:

1) **If you decide to relocate us, kindly cover our rent during the relocation period.**
2) **If we stay during construction, please cover our rent during construction and make the accommodations requested above.**

We are not looking for any trouble. As mentioned above we are 52 and 60 years old and make every penny we earn with our bodies, student by student, class by class. We are simply afraid of how this project will affect us. It is causing us a lot of fear, anxiety, and worries for our business and future. We have worked very hard to build up our small family business to what it is today, and even harder to survive Covid. We need to know that in the next decade we can earn enough money to retire safely and at the moment your project feels like an immense threat to that.

We are hopeful that you will hear our concerns, compensate us properly, and that we will find solutions together that work for both parties.

Sincerely,
Ruth and Avi Rokah

Connect Create Collaborate

Planning CPC <cpc@lacity.org>

community comment regarding Zoning Application Case No. CPC-2020-0946-DB-MCUP-HCA

2 messages

Rebecca Klempner <beccaklempner@gmail.com> Wed, May 5, 2021 at 5:18 PM
To: cpc@lacity.org

Hello!

I live at 1415 Cardiff Ave, Los Angeles, CA 90035, and I'd like to submit a community comment regarding Zoning Application Case No. CPC-2020-0946-DB-MCUP-HCA.

The application proposes a mixed use building with plentiful parking intended to home adults with disabilities and to provide a place on-site for them to work and mingle with neighbors.

I am very enthusiastic about this project. We have little accessible housing for disabled people in our largely-Jewish neighborhood, and sending our adults with intellectual and developmental disabilities to homes outside the neighborhood deprives them of the ability to enjoy the company of their family members and friends, particularly on Jewish holidays, when many of us do not drive or ride public transit. The location right on Pico offers accessibility to grocery shopping, buses, synagogues, and places of employment, as well. While there are other homes for lease in this neighborhood, outrageous rents are prohibited for many disabled folks or their families.

Honestly, our family may directly benefit from this project.

We know the construction will be noisy -- we live half a block down, right on the alley -- and will last a while. We know there will likely be more foot traffic long term, as well as cars going in and out of the alley where we park our car. BUT WE REALLY NEED THIS PROJECT TO HAPPEN. It is worth any of those (or other) inconveniences.

Respectfully,
Rebecca Klempner

R. Klempner

writing, copyediting, and developmental editing

http://rebeccaklempner.com/

Rebecca's latest book, *Adina At Her Best*, came out
January 2019 from Menucha Publishers. Click here to learn more.

Planning CPC <cpc@lacity.org> Fri, May 7, 2021 at 8:30 AM
To: Rebecca Klempner <beccaklempner@gmail.com>

Hello,

Please note this submission has been received and it will be distributed to the City Planning Commission for the meeting of May 13, 2021.

Thank you.

LOS ANGELES CITY PLANNING

Cecilia Lamas
Commission Executive Assistant
Los Angeles City Planning
200 N. Spring St., Room 272
Los Angeles, CA. 90012
Planning4LA.org

[Quoted text hidden]

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May 11, 2021

VIA EMAIL

Samantha Millman, President
Honorable Commissioners
Los Angeles City Planning Commission
c/o Los Angeles Department of City Planning
200 North Spring Street
Los Angeles, CA 90012-2601

Re: 1045 Olive (May 13 Agenda; Case No. CPC-2017-3251-TDR-MCUP-SPR) – TFAR Contributions Potential to Support Affordable Housing

Dear Commission President Millman and Honorable Commissioners:

On behalf of Crescent Heights and 1045 Olive, LLC, this letter follows up on our previously-submitted correspondence to point out, as illustrated in the presentation we submitted yesterday, that the City can support multiple housing goals through approval of the Project and allocation of the Project's more than $21 million Public Benefits Payment associated with the requested Transfer of Floor Area Rights ("TFAR"). Of course, the Project will also add nearly 800 housing units, which will contribute to the City's required compliance with Regional Housing Needs Assessment targets.

In addition to options for allocation of the $10,849,255 half of the Public Benefits Payment available for Direct Benefits, the City has the discretion to allocate the remaining $10,849,255 of the Public Benefits Payment to support affordable housing. (LAMC § 14.5.9.B.)

Should the City elect to approve the staff recommendation for the Direct Benefits, after allocating $200,000 of the payment to the South Park Business Improvement District ("BID") to fund planned park projects, the remaining $10,649,255 would be allocated to the Citywide Affordable Housing Trust Fund. That funding can be used for gap payments and other purposes to help delivery of affordable housing projects which also have other funding sources. For example, the Mayor's office estimates that the average gap funding per unit for Measure HHH projects is $134,000 (*See* https://www.lamayor.org/summary-supportive-housing-pipeline); rounding up to $140,000 for a more conservative estimate, this amount could support the development of approximately 76 affordable housing units.

If on-site workforce affordable housing is preferred, after the same allocation to the South Park BID, the remaining $10,649,255 would be allocated to support the development of 24 on-site workforce housing units. Because the estimated subsidy to provide these 24 units at workforce housing rental levels would be approximately $12.4 million, for the on-site allocation

Crescent Heights would subsidize the estimated excess above the on-site allocation of the Direct Benefits payment.

Under both options, the City also has the discretion to program the additional 50% of the payment that goes directly to the City, a total of $10,849,255, to support affordable housing, for example by directing that the funds contributed to the TFAR Trust Fund be spent to support housing projects. That additional total using the $140,000 per unit gap amount could support another 77 housing units, such that available Public Benefits Payments ($21,498,510) could allow a total of 153 affordable units to receive gap funding. Other options include the use of these funds to extend expiring affordable housing covenants or otherwise fund affordable housing initiatives.

We look forward to your consideration of these creative approaches for the City to utilize the Project's TFAR payments for affordable housing purposes, such as the illustration above of the potential for the City to use the Project's TFAR contribution to assist the City's support of over 150 affordable units.

By approving this Project with its iconic design, the City will gain:

- nearly 800 housing units near transit for Downtown LA;
- a Project recognized by the State as an Environmental Leadership Development Project;
- good jobs with a prevailing wage commitment and strong building trades support;
- a Project with commitments to Net Zero GHG and LEED Gold; and
- a Project that complies with all applicable and objective City standards consistent with the Housing Accountability Act.

We look forward to your consideration of the Project and these Public Benefits Payment options for use of the TFAR contribution to support affordable housing, and respectfully request your approval of the remaining entitlements for this exciting new development.

Very truly yours,

Lucinda Starrett

Lucinda Starrett
of LATHAM & WATKINS LLP

cc: Bruce Menin, Crescent Heights
Elliott Kahn, Crescent Heights
Adam Tartakovsky, Crescent Heights
James L. Arnone
Lauren Glaser

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May 10, 2021

VIA EMAIL

Samantha Millman, President
Honorable Commissioners
Los Angeles City Planning Commission
c/o Los Angeles Department of City Planning
200 North Spring Street
Los Angeles, CA 90012-2601

Re: 1045 Olive (May 13 Agenda; Case No. CPC-2017-3251-TDR-MCUP-SPR)

Dear Commission President Millman and Honorable Commissioners:

On behalf of Crescent Heights and 1045 Olive, LLC, we look forward to your consideration of this architecturally significant 70-story mixed-use residential building in Downtown Los Angeles. As described in more detail in our other correspondence, the Project provides 794 new housing units on the transit-accessible corner of 11th Street and Olive Street, together with new retail and restaurant space in a landscaped pedestrian-oriented public plaza. We have also worked closely with Planning staff to refine the design of the Project's first few floors and look forward to your consideration of this exciting, transformative development.

Recognizing that these nearly 800 new housing units will be available on the City's rental housing market, including smaller units that will be "affordable by design" for downtown employees, we understand that questions about subsidized housing units sometimes arise in connection with market-rate projects like this. Accordingly, in advance of your scheduled hearing on May 13, this letter summarizes key legal principles in connection with your consideration of the Project, which complies with all applicable, objective General Plan and Zoning Code standards. As such, the Project is subject to the Housing Accountability Act ("HAA"). The HAA applies to all housing projects, not just those that provide on-site affordable housing. (*Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1075.)

The HAA limits local governments' ability to deny housing projects or reduce their proposed density. (Gov. Code §65589.5.) Accordingly, recognizing that the TFAR application utilizes objective criteria to achieve the Project's proposed density, and that failure to approve the Project because it does not include subsidized units would result in a disapproval, the following provision of the HAA is applicable. "When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density," the local agency cannot disapprove the project or reduce its density unless it can make two explicit findings. (Gov. Code § 65589.5(j)(1).)

First, the local agency must find that the project would have a "specific, adverse impact upon the public health or safety" unless the project is disapproved or developed at a lower density. (Gov. Code § 65589.5(j)(1).) "A 'specific, adverse impact' means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." (*Id.*)

Second, the local agency must find that there is no feasible method to mitigate or avoid the adverse impact identified other than disapproving the project or reducing its density. (Gov. Code § 65589.5(j)(1)(B).)

Further, the Project clearly complies with applicable, objective standards; a local agency must inform an applicant in writing that its proposed housing project is inconsistent with applicable, objective standards within 60 days after its application is deemed complete. (Gov. Code § 65589.5(j)(2)(B).) Failure to do so means "the housing development project shall be deemed consistent, compliant, and in conformity with applicable plan, program, policy, ordinance, standard, requirement, or other similar provision." (*Id.*) The Project's applications were deemed complete years ago with no such notice having been provided within 60 days following such submittals.

Here, the City has already found that (i) the Project complies with all objective development standards and (ii) that the Project has no public health or safety impacts. Therefore, the HAA applies and the Project must be approved.

<u>The Project is Consistent with All Objective Land Use Policies.</u> The City has confirmed at least three times with affirmative findings under the applicable objective land use policies that the Project is consistent, compliant, and in conformity with such policies. Moreover, as noted above, the City did not notify the applicant in writing of any inconsistencies within 60 days after the Project's applications were deemed complete; thus, as a matter of law, the Project is deemed consistent with all applicable plans, programs, and policies.

<u>First</u>, the City certified the Project's Environmental Impact Report (EIR-2016-4630; SCH No. 2017121047) and approved its Vesting Tentative Tract Map (VTT-74531) more than a year ago. No appeals were filed. Those decisions are now final. In approving the tract map, the City found that the Project complies with all objective General Plan and Zoning Code criteria. (Letter of Determination – VTT-74531, pp. 72-77.) Specifically, the City found the following:

- the Project is consistent "with the intent and purpose of the General Plan, with regard to lot size, height, density, and use" (Letter of Determination – VTT-74531, p. 72.);
- the "proposed density is consistent with general provisions and area requirements of the Planning and Zoning Code" (*Id.*);

- the "physical characteristics of the site and the proposed density of development are generally consistent with existing development and urban character of the surrounding community" (*Id.*); and
- "No adverse impacts to the public health or safety would occur as a result of the design and improvement of the site" (*Id.*, p. 76.)

Second, in certifying the Project's EIR, the City found, based on substantial evidence, that the Project is "consistent with City policies regarding development of the South Park District in the Central City Community Plan Area, without creating any long-term project-level significant impacts on the environment." (*Id.*, p. 67.)

Third, Planning staff's report to the City Planning Commission states that the Project "would be compatible with the site's Downtown Center designation from the General Plan Framework, High Residential Density land use designation of the Community Plan, and the policies of the General Plan." (May 13, 2021, Recommendation Report, p. A-21; December 17, 2020, Recommendation Report, p. A-21.) The staff report further states that the Project "would enhance the built environment through the unified development of the site and would include essential and beneficial uses through the synergetic balance of residential and commercial components, within the transit-rich area of downtown." (*Id.*) In recommending approval of the Project, staff notes that the "resulting mixed-use project and iconic tower design would support planning policies for development within the community, including policies for increased housing supply, job creation, and sustainability, while providing substantive community benefits." (*Id.*)

The Project Has No Public Health or Safety Impacts. Because the Project complies with all objective land use policies, the City could only disapprove the Project if it "would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density." (Gov. Code §65589.5(j)(1).) The City has already found that the Project does not have such an impact. Therefore, the HAA requires that the City approve the Project.

As noted above, in approving the Project's tract map and certifying the Project's EIR, the City found that "no adverse impacts to the public health or safety would occur as a result of the design and improvement of the site." (Letter of Determination – VTT-74531, p. 76.)

The City also found "that each of the Project's benefits…outweigh and override the significant and unavailable impacts relating to on-site construction noise." (*Id.*, p. 67.) On-site construction noise is the sole significant impact that could not be mitigated below the significance threshold. Such temporary construction noise impacts are common in urban settings and are not a specific adverse impact upon public health or safety, as the City has already found. Thus, it was not difficult for the City to find that the Project's many benefits substantially outweighed this lone temporary impact. For example, the City found that the "Project would substantially improve the existing conditions … by transforming the site into a mixed-use residential high-rise incorporating a pedestrian-oriented building design, providing a ground-level outdoor plaza and improved streetscape, increasing onsite landscaping, improving security and building lighting, and including architectural design that would enhance the aesthetic and character of the Project Site." (*Id.*, p. 68.) The City also found that "the Project provides a material benefit to the City accomplishing [its housing] goal by contributing 794 residential units." (*Id.*) The City added that, the "Project would provide over $800 million in economic investment, as well as numerous construction jobs at prevailing wages and new permanent jobs" and that the "Project incorporates sustainable and green building design and construction to promote resource conservation, including net-zero carbon and GHG emissions, electric-vehicle charging and water conservation measures." (*Id.*)

Because the Project is consistent with all objective land use policies and the Project has no public health or safety impacts, the HAA requires that the City approve it.

There Is No Affordable Housing Requirement Applicable to the Project. The Project's applications vested in 2017. That was before the City adopted the Transit Oriented Communities Affordable Housing Incentive Guidelines and before the phasing-in of the City's Linkage Fee. Further, the Project is not subject to Measure JJJ because no legislative approvals are requested.

As the Project is not proceeding under the TOC Guidelines or subject to Measure JJJ, the City may not impose an affordable housing requirement absent the applicant volunteering it. In a recently-decided lawsuit challenging the City's approval of a mixed-use development without conditioning it to include affordable housing, the court supported the City's actions and denied the lawsuit against the City, determining that the City did not err in refusing to apply Measure JJJ's affordable housing standards because the project's vesting tentative tract map and other entitlement applications were vested before the measure became effective. (*Chinatown Community for Equitable Development v. City of Los Angeles, et. al.*, LASC Case No. 19STCP01710 (June 16, 2020) [this case is pending on appeal].) The court held that the "City was not required to impose Measure JJJ conditions on the Project given [applicant's] Map application was deemed complete six months prior to Measure JJJ's effective date." (*Id.*)

Here, too, neither Measure JJJ, the TOC Guidelines, nor any other later-adopted law permits the City to require the Project to have on-site affordable housing in connection with the Project's TFAR, Site Plan Review, and Main Conditional Use Permit for alcohol sales.

The decision in *Chinatown Community* is consistent with City staff guidance. City staff recently advised in response to an appeal of a project with no affordable housing that "a Project cannot be denied for lack of affordable housing" and that the City "cannot require or compel an applicant to provide affordable housing as part of a development." (Appeal Recommendation Report – DIR-2018-2336, p. A-11 [21515 Vanowen Street Project].)

Similarly, in another case staff recently recommended that this Commission deny an appeal requesting that affordable housing be included in a project because "the Zoning Administrator had no authority to impose such a requirement." (Appeal Recommendation Report – ZA-2016-3908, p. A-26 [Promenade 2035 Project].)

Another recent court decision confirms that these prior staff recommendations are correct under the law. In the recent case *District Square, LLC v. City of Los Angeles*, ("*District Square*"), LASC Case No. 20STCP00654 (October 16, 2020), an Area Planning Commission disregarded staff's and the City Attorney's Office's advice that the HAA compelled the project approval. Instead, when that applicant declined to volunteer on-site affordable housing, the APC denied the project.

In *District Square*, City staff advised the decisionmaking body that "when a project that satisfies the zoning envelope and a project like this that satisfies the specific plan, the community plan, the general plan … Planning will not have any other alternative but just to look at this and make findings from the documents that are given to us." (APC Transcript, p. 56.) The City Attorney's Office also advised the Commission that "this project, it's within the zoning. There's no request for any exceptions or variances … they're not asking for an exception to any of the underlying rules" and so under the HAA it must be approved. (*Id.*, p. 10.) Nevertheless, the Commission voted to disapprove the project "because it doesn't provide affordable housing for residents." (*Id.*, p. 61.)

In reviewing the APC's action, the court held that the "Project was virtually a 'by right' project in which District Square was asking for no special incentives or variance." (Ruling, p. 19.) The court further held that in disapproving the project, the "individual commissioners ignored the Project's 'by right' lack of affordable housing and the HAA's requirements that the Project must be deemed to comply with all local standards." (*Id.,* p. 20.) Finally, the court held:

> It matters not that the APC believed it was acting in the community's best interest. The APC does not set policy and it does not create law; its obligation is to apply existing law to evaluation of a project. The Legislature concluded in the HAA that local governments are impeding housing development by imposing subjective policies that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing. §65589.5(a)(1)(B). That is exactly what the APC did by imposing its own views that gentrification is bad, displacement (even indirect displacement) must be accounted for, and the need for affordable housing trumps all. That is not the law, and there can be no legitimate dispute that the APC acted knowingly and deliberately to violate the law. (*Id.*)

We agree with City staff and the courts that the City may not require on-site affordable housing units absent a legislative mandate. This Project seeks no special incentives or variance triggering such a mandate.

<u>Crescent Heights Supports the City's Efforts to Build More Housing.</u> Crescent Heights strongly supports the City's goals to develop more housing generally and more affordable housing specifically. The Project's TFAR payment provides approximately $21 million that will primarily support affordable housing. Crescent Heights agrees with directing nearly all of the Public Benefits Payment Direct Provision to the Citywide Affordable Housing Trust Fund. In

LATHAM&WATKINS LLP

the alternative, the applicant has volunteered to provide 24 workforce housing units on-site, in lieu of the contribution of $10,649,255 into the Citywide Affordable Housing Trust Fund.

Thus, either through the Project's approximately $21 million in TFAR funds or through the volunteered on-site workforce housing units, the Project represents a significant contribution to the City's affordable housing goals. Additionally, by providing nearly 800 new homes, many of which will be affordable by design, the Project represents a substantial contribution to the City's housing stock.

* * * *

We look forward to your consideration of the Project at your May 13, hearing and respectfully request your approval of the remaining entitlements for this exciting new development.

Very truly yours,

James L. Arnone
of LATHAM & WATKINS LLP

cc: Terry Kaufmann Macias, City Attorney's Office
John Fox, City Attorney's Office
Amy Brothers, City Attorney's Office
Lucinda Starrett
Benjamin Hanelin
Lauren Glaser

CALIFORNIA WOMEN'S LAW CENTER

Venskus & Associates
A PROFESSIONAL LAW CORPORATION

May 4, 2021

CPC-2019-7393-CA
ENV-2019-7394-ND

Re: Mello Act Ordinance must not allow demolitions/conversion of residential structures for purposes of mixed-use projects

Dear Los Angeles City Planning Commissioners:

The California Women's Law Center ("CWLC") is a non-profit law and policy center whose mission is to create a more just and equitable society by breaking down barriers and advancing the potential of women and girls through transformative litigation, policy advocacy and education. We focus on addressing economic justice, gender discrimination, violence against women, and women's health.

Venskus & Associates, APC is a boutique law firm litigating in the areas of housing rights and environmental/land use. The law firm represents and advocates for traditionally under-represented plaintiffs, such as low-income tenants, community organizations and environmental groups.

We write to urge the Los Angeles City Planning Commission ("Planning Commission") to ensure that its proposed Mello Act Ordinance (CPC-2019-7393-CA) does not:

- exceed the City's jurisdiction by conflicting with, or changing the meaning of, state law;
- run afoul of the Settlement Agreement Concerning Implementation of the Mello Act in the Coastal Zones within the City of Los Angeles ("Settlement Agreement");
- establish a law that is weaker than the City of Los Angeles' ("City") Mello Act Interim Administrative Procedures ("IAP").

The Settlement Agreement provided that the City must adopt Interim and Permanent Ordinances to implement both the Mello Act and the provisions of the Agreement. In response, the City adopted the IAP in 2000. In 2015, the City Council requested that City Planning prepare a permanent ordinance, but one was not adopted at that time. In April 2019, the City Council directed the Planning and Housing Departments to prepare and present a permanent ordinance to implement the Mello Act. In December 2019, the City's proposed Mello Act Ordinance was released. On February 25, 2021, the Planning Commission reviewed the proposed ordinance, but the vote was continued to May 13, 2021.

Adopting a permanent ordinance is an important step to protect housing stock including, specifically, affordable and Rent Stabilized (RSO) housing in the City's coastal zones, and to prevent displacement of people and communities. The ordinance must be in accordance with controlling state law and the Settlement Agreement. As currently proposed, the Mello Act Ordinance is not in accordance with controlling authority and thus exceeds the City's jurisdiction.

I. The purpose of the Mello Act is to preserve residential structures in the coastal zone, to protect existing affordable housing, and to provide new affordable housing

As stated in the IAP, under the Mello Act each local jurisdiction shall enforce three basic rules—

1. maintain existing residential structures,
2. replace converted or demolished affordable units
3. provide inclusionary residential units in new housing developments.

However, by adding clause 12.21.H.c.7. Mixed Use in the draft Mello Act Ordinance, the City is not honoring the first requirement, which states:

> "Existing residential structures shall be maintained, unless the local jurisdiction finds that residential uses are no longer feasible." (IAP pg. 7.)

California courts also have made clear that the Mello Act's purpose is to preserve housing in the Coastal Zone. The Court of Appeal stated that the purpose of the Mello Act is:

> "to preserve residential units occupied by low or moderate-income persons or families in the coastal zone."[1]

The California Supreme Court similarly explained that:

> "[t]he Mello Act supplements the housing elements law, establishing minimum requirements for housing within the coastal zone for persons and families of low or moderate income."[2]

In fact, the Mello Act specifically mentions the housing elements state law, making it clear that the Mello Act is a law that protects housing for all income levels and certainly not one that would allow for non-residential uses. One of the main avenues the Mello Act proscribes for protecting residential housing is to limit the ability to convert existing residential structures to non-residential uses. To allow such conversions would not only violate both the letter and the spirit of the Mello Act, but it would plainly threaten housing, by allowing its destruction for purposes of a more lucrative commercial use, including mixed use projects, thus displacing families and damaging coastal communities that are already holding on by a thread—exactly what the Mello Act was intended to prevent.

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[1] *Venice Town Council v. City of L.A.*, 47 Cal. App. 4th 1547, 1552-53 (1996).

[2] *Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles*, 55 Cal. 4th 783, 798 (2012) (emphasis added).

The Mello Act states:

> "The conversion or demolition of any **residential structure** for purposes of a nonresidential use which is not 'coastal dependent,' as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location."

This language is repeated in IAP section 4.1 (also covered in the Settlement Agreement, section VI.C.1.):

> "The Mello Act states that the Demolition or Conversion of **residential structures** for the purposes of a non-Coastal-Dependent, non-residential use is prohibited, unless the local jurisdiction first finds that a residential use is no longer feasible at that location."

II. As proposed, the draft Mello Act Ordinance exceeds the City's jurisdiction and violates the Settlement Agreement

The draft Mello Act Ordinance exceeds the City's jurisdiction. Under article XI, section 7 of the California Constitution, "[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."[3] The Mello Act is a state statute; therefore, any attempt to enact an ordinance in conflict with it is in excess of the City's authority.

The City must also comply with the Settlement Agreement in enacting the Mello Act Ordinance. The permanent ordinance must be consistent with both the Mello Act and the provisions of the Settlement Agreement. Adopting an ordinance that is contrary to the provisions of the Settlement Agreement would be in violation of the Settlement Agreement itself.

III. Words have meaning: terminology in land use law is specific

The draft Mello Act Ordinance new proposed provision (LAMC 12.21H.c.7.) for conversion to mixed uses changes the meaning and application of the Mello Act by stating:

> "Mixed Use Development. A proposed mixed use development may not result in a net reduction in the total number of existing Residential Units unless a residential use is no longer feasible. A mix of uses is permitted, so long as the structure provides all required Replacement Affordable and Inclusionary Units."

This new provision would allow for the conversion of one hundred percent residential structures to non-residential mixed uses and by doing so, change the meaning, spirit, and purpose of the Mello Act. This change is in direct violation of the Mello Act and the Settlement Agreement, which explicitly forbid the conversion of a residential structure to a non-residential use.

---

[3] *Sherwin-Williams Co. v. City of L.A.*, 4 Cal. 4th 893, 897 (1993).

This new conversion provision included in the draft Mello Act Ordinance essentially changes the Mello Act, as follows:

> "Conversion or demolition of any ~~Residential Structure~~ **<u>residential unit or residential use</u>**, for purposes of a non-residential use that is not Coastal-Dependent, is prohibited, unless a residential use is no longer feasible at that location."

This new provision has the effect of replacing the word "structure," as used in the Mello Act, the Settlement Agreement and IAP, with "unit or use." The words "structure" and "unit" are not interchangeable. Nor are the words "unit" and "use." The word "structure" refers to an entire building as an entity, while the word "unit" refers to an individual dwelling, which may be one of many within a single structure. This is an important distinction, because the use of the word "structure" in both the Mello Act and the IAP intentionally protects the entire residential building.

The terminology used in land use law is specific and purposeful. The use of "unit" in the Mello Act pertains to sections of the law related to protecting existing affordable housing or providing inclusionary affordable housing, whereas "structure" relates to the protection of housing from the desires of developers for more lucrative commercial uses, including mixed use.

A residential structure in a commercial zone may also not be changed to a mixed use, as the Mello Act specifically protects housing regardless of zoning. Furthermore, the definition of a "residential structure" does not include "mixed use," which is considered a commercial use and is restricted to commercial zones. A "residential structure," on the other hand, is permitted in both residential and commercial zones. They are far from equivalent. Therefore, the substitution of "unit or use" in the proposed ordinance amounts to a sleight of hand, <u>*apparently to promote the substitution of mixed use structures in place of residential structures*</u>. This was clearly not the intent of the clear and carefully chosen language of the Mello Act, the Settlement Agreement and the IAP.

Municipalities are permitted to strengthen the local implementation of a statute, but not to weaken it. As per the Mello Act, Government Code Section 65590(k):

> …[t]his section establishes minimum requirements for housing within the coastal zone for persons and families of low or moderate income. It is not intended and shall not be construed as a limitation or constraint on the authority or ability of a local government, as may otherwise be provided by law, to require or provide low- or moderate-income housing within the coastal zone which is in addition to the requirements of this section.

The present use of the term, "residential structure" protects an entire building, whereas "residential unit or use" does not, necessarily. It would therefore weaken the implementation of the statute and is thus beyond the jurisdiction of the City.

IV. <u>Conversion to mixed use is used as loophole to allow unpermitted conversions to commercial uses</u>

The result of the change in terminology will destroy housing by allowing for conversion to commercial uses. Replacing the word "structure" with the words "unit" or "use" is beyond the jurisdiction of the City because it contradicts the Mello Act, a state law.

The City's Mello Act Ordinance must also comply with the Mello Act's intent. Since this new mixed use provision would effectively change the meaning, in direct contradiction to the Act's intent, the City would be acting in excess of its jurisdiction.

The harm from the City's attempt to exceed its jurisdiction by allowing conversion or demolition of residential structures for purposes of non-residential use is not just theoretical. Several recent projects have already seized on the current, draft language of the proposed Mello Act Ordinance, regarding "residential units" or "residential uses," to justify approval of the conversion of residential properties to mixed-use properties. Many of these properties have then illegally converted the entire structure to commercial, non-residential use, with no consequence.

Thus, already the use of "units or uses" rather than "structures" has created a loophole to allow developers to convert one hundred percent residential use structures to "mixed use" and then fail to actually maintain any residential uses, in violation of state law and the Settlement Agreement.

A. Example #1: 1214 Abbot Kinney Blvd.

First, for the property at 1214 Abbot Kinney Blvd., in 2014, the City approved a change of use from residential to mixed use, in violation of the Mello Act. Since then the property has been used illegally as commercial office use, even though it was only approved for conversion to "mixed use." Yet another example of ongoing use of residential structures for commercial use is 619-701 Ocean Front Walk, aka Thornton Lofts. When the tech industry moved in they took over residential structures for offices. There are numerous other similar examples of unpermitted mixed uses or full commercial uses where the structures are only permitted for residential use.

B. Examples #2 & #3: 811-815 Ocean Front Walk, and 1310 Abbot Kinney Blvd.

Other Coastal Zone projects are pending that would violate the Mello Act by allowing demolition of 100% residential structures for purposes of a mixed-use development. One example is the project at 811-815 Ocean Front Walk, which proposes the demolition of three residential structures for purposes of a mixed-use commercial development. Another example is the project proposed at 1301-1303 Abbot Kinney, which is requesting a change of use from a 100% residential triplex structure to two live/work mixed use units. The approvals of both of these projects have been appealed. If these projects are ultimately approved by the City it will be in clear violation of the state Mello Act and the Settlement Agreement. There are other examples where the City approved a residential structure to be replaced by "artist in residence" use, a mixed use, but they do not meet the code's definition of artist and thus the structures have become essentially all commercial use.

C. Example #4: 1047 Abbot Kinney Blvd.

One final example is the three bungalows at 1047 Abbot Kinney Blvd., which have certificates of occupancy as residential units but have for years been illegally used for a non-residential use. The City recently approved the demolition of those bungalows for purposes of the Venice Place mixed use project, for which they will be covered by the hotel's CUB, and they will be included in the hotel buildings, very likely losing their identity as housing.

These examples illustrate that because the as-now-proposed Mello Act Ordinance provisions regarding conversion to mixed use contradict the Mello Act's language and intent to protect housing, developers have exploited, are currently exploiting, and will likely continue to exploit this "mixed-use" loophole to effectively destroy residential housing, including and especially affordable housing for low-income residents and communities of color, thus causing a gross, unacceptable, adverse cumulative impact on housing, including affordable housing, in the Los Angeles Coastal Zones.

All of this is an unfortunate, perhaps unconscious, continuance of the City's practices of institutional racism.[4]

V. <u>If not amended, the draft Mello Act Ordinance will disproportionately harm low income communities of color in the Coastal Zone as new mixed use development will be encouraged</u>

The impact of the destruction of housing that has and will continue to result from the Mello Act Ordinance if the ability to convert residential structures to mixed uses is not eliminated, disproportionately harms communities of color. In 2017, California had nearly two million rent burdened households of color that spent more than thirty-percent of the household income on rent and utilities.[5] There were also 1.6 million extremely low-income renter households, two-thirds of which were households of color.[6] During the COVID-19 pandemic, there has been a disproportionate financial impact on populations of color, which has created even greater disparities.[7] All housing will be put in jeopardy in the Coastal Zone if the draft Mello Act Ordinance is not amended to prohibit demolition or conversion of residential structures for purposes of mixed use developments, and those who will be impacted most are low-income people and communities of color.

This is especially true because by allowing such mixed use developments to replace residential structures the current draft of the Ordinance actually encourages, rather than discourages,

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[4] On top of these egregious practices, the City has a pattern and practice of using the rent paid by existing unpermitted commercial uses (this was done for 1301-1303 Abbot Kinney and 1047 Abbot Kinney, among many others) to determine whether affordable housing must be replaced, a a gross double violation of the Mello Act and a practice that the City must never allow, and yet it openly does allow it.

[5] AMEE CHEW & CHIONE LUCINA MUÑOZ FLEGAL, POLICY LINK, FACING HISTORY, UPROOTING INEQUALITY: A PATH TO HOUSING JUSTICE IN CALIFORNIA 14 (2020), https://www.policylink.org/sites/default/files/pl_report_calif-housing_101420a.pdf.

[6] *Id.*

[7] *See* Kelly Anne Smith, *Covid and Race: Households of Color Suffer Most From Pandemic's Financial Consequences Despite Trillions in Aid*, FORBES (Sept. 17, 2020), https://www.forbes.com/advisor/personal-finance/covid-and-race-households-of-color-suffer-biggest-pandemic-consequences/.

displacement. With the "mixed use" loophole, developers are encouraged to demolish the building and erect a new building in its place, thus displacing families currently living in older housing stock which is always, by definition, more affordable than new units deemed "affordable" pursuant to federal and state law. It makes no sense for the City to encourage destruction of existing housing, including affordable housing, so that more lucrative commercial mixed use projects can be built in the Coastal Zone, especially when such a concept runs completely contrary to the Mello Act's intent. This would be a boon to developers and would cause a steady stream of property owners getting richer on the backs of our existing renters in the L.A. Coastal Zones as they will be displaced when mixed use projects replace residential structures.

VI. Conclusion

We understand that the City's priority is to increase housing, but it must be done within the confines of the law and not by allowing conversions of residential structures to mixed use, in violation of the Mello Act.

We too support mixed use developments, but only where they replace existing commercial uses and thus add housing.

The Mello Act's purpose is to protect all housing in the Coastal Zone, as well as to protect existing and provide for new affordable housing.

For the foregoing reasons, we respectfully urge you to eliminate any and all proposed Mello Act Ordinance language that would allow for demolition or conversion of residential structures for purposes of non-residential/commercial mixed use projects, in order to comply with state law and the Settlement Agreement and to ensure the City is acting within its jurisdiction.

Sincerely,

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25+ CONSTITUENTS SUBMITTED THE FOLLOWING STATEMENT FOR YOUR CONSIDERATION:

Subject: Case No. CPC-2019-7393-CA (Mello Act) — Public Comment

City Planning Commission,

I am writing to provide public comment on Case No. CPC-2019-7393-CA, the proposed permanent Mello Act Ordinance. The goal of the Mello Act is to create and preserve affordable housing within the Coastal Zone of the City of Los Angeles, and to prevent the gentrification of the Coastal Zone, and we need a permanent Mello Act Ordinance that will achieve its goals.

I support the changes proposed by the Legal Aid Foundation of Los Angeles. You should reincorporate the concepts from the draft of the ordinance that was presented to the community last year, and pass a Permanent Mello Act Ordinance that will be as aggressive in protecting and creating affordable housing as possible.

The City was forced to enforce the Mello Act in the first place because of a lawsuit that the community brought in order to force the City to protect low-income peoples' housing in the Coastal Zone, which it wasn't doing.

Over the past two decades, community members have continually had to fight for every low-income unit created and preserved within the Coastal Zone, costing the community and the Area Planning Commission significant time in reviewing Mello Act Enforcement when the City Departments failed to properly enforce the law, and when developers took advantage of loopholes in the Interim Administrative Procedures to get out of their affordable housing obligations.

Our recommendations are based on the experiences we have gained by working on enforcing the Mello Act on a case-by-case basis.

You must pass a Mello Act that does the following:

Create crystal-clear guidelines for reviewing the feasibility of projects, and ensure that the City, not the developers themselves, are reviewing the feasibility of projects that are required to contribute affordable housing.

Apply the Mello Act requirements to ALL projects. You must not only count “net new” units, and you must not exempt projects that are 1-4 units. The Mello Act must apply equally to all development in the Coastal Zone.

You must assume that all existing units with any form of rent or price controls are presumed to be existing affordable housing, and you must protect all units currently occupied by low and moderate-income families. You must also ensure that illegal short-term rental units are replaced with affordable units.

"Demolitions" must be expanded to include substantial renovation and serial development.

The policy must prioritize extremely-low, very-low and low income housing. Inclusionary housing requirements must secure as high a percentage of housing as possible, at the lowest income targeting possible.

Affordable housing covenants must be for the life of the project, or in perpetuity. No expiring covenants should be permitted.

Thank you for your consideration.

TO WHOM IT MAY CONCERN

Date: May 10, 2021
Attention: City Planning Commisison
Subject: Los Angeles Department of City Planning draft Mello Ordinance

MEMORANDUM

In 1982, the California Legislature passed the Mello Act[1] (Act) to protect residential housing, especially affordable housing, in the coastal zone.

In 1976, the Legislature approved the California Coastal Act[2] to manage development and protect sensitive coastal resources in the coastal zone[3], an area of up to five miles inland of California's 1,100 of coastline. The California Coastal Commission[4] (Commission) was created as the government agency to oversee implementation of the Coastal Act. The Mello Act took oversight of affordable housing in the coastal zone away from the commission and required local municipalities to implement this state law. The Commission has no authority to review Mello protests in coastal development permit planning appeals. No state agency enforces violations of the Mello Act. After an appeal at the local area planning commission, the only remedy an aggrieved party has is file a Writ of Mandamus. This is not a viable solution for low-income residents impacted by violations of the Mello Act.

FACTS

The Los Angeles Department of City Planning (DCP), Housing and Community Investment Department (HCID), and the Department of Building & Safety (LADBS) are responsible for the implementation of the Mello Act in the coastal zone areas of Los Angeles that include sections of Venice, San Pedro, and Pacific Palisades.

In 1998, Venice residents filed Venice Town Council v City of Los Angeles[5] for violation of the Mello Act. The subject of the lawsuit was DCP's approval of the conversion of three ground-floor apartments in a 24-unit apartment building in a C-1 zone (Limited Commercial, L.A.M.C. SEC. 12.13) on Ocean Front Walk to commercial use without requiring "mandatory" one to one replacement housing for persons of low and moderate income in the coastal zone. That lawsuit resulted in a Settlement Agreement[6] (Agreement) between the parties in 2000. In 2001, as a

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1. CHAPTER 3. Local Planning [65100 - 65763] ARTICLE 10.7. Low- and Moderate-Income Housing Within the Coastal Zone [65590 - 65590.1]
2. PRC Div. 20, California Coastal Act (2021) https://www.coastal.ca.gov/coastact.pdf.
3. PRC Sec. 30150-30174: Ch. 2.5. Revisions To The Coastal Zone Boundary
4. PRC Div. 20, California Coastal Commission
5. Venice Town Council, Inc. v. City of Los Angeles (1996) 47 Cal.App.4th 1547
6. Los Angeles City Council File: 98-0255 - Venice Town Council v. City of Los Angeles.

result of the Agreement, DCP approved the Interim Administrative Procedures for Complying with the Mello Act (IAP).[7] The Settlement had many conditions including requiring DCP to have a Mello Coordinator, maintain a Mello database, produce annual reports, create an in-lieu fee program, and an Affordable Housing Trust Fund, and develop a permanent Mello Ordinance. On March 9, 2001, Los Angeles City Council approved Ordinance No. 173815[8] (CF 98-0025)**:** An Ordinance adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund. To date, DCP created a Mello Coordinator position but not a Mello Database. DCP only produced an annual report between 2000 and 2005, and never created an in-lieu fee program or a Coastal Zone Affordable Housing Trust Fund. Additionally, Section 8 of the IAP states that all Mello Determinations are appealable. In 2004, DCP created the Venice Sign Off (VSO) single-page administrative planning approval for use in the coastal zone that requires no public notice and is non-appealable. Between 2004 and 2016, DCP attached Mello determinations to VSOs rendering them non-appealable in violation of the IAP.

In 2008, DCP developed a draft Mello Act Ordinance & Procedures, Council File 08-1151,[9] prepared with HR&A Advisors, Inc. The 174-page file includes a draft ordinance, findings, definitions, in-lieu fee assessment structure, and an Affordable Housing Trust Fund. There are revisions based on City inter-departmental exchanges, planning commission responses from public hearings, and suggestions by the Legal Aid Foundation of Los Angeles.

CPC-2005-8252-CA, Section 1(b): Definitions, Pg. 15 of 174.

> **Project** means any action requiring a building permit approved by LADBS or a discretionary land use approval approved by a decision-maker that:
>
> (1) removes one or more existing Residential Units through a change to a non-residential use - Change of Use;
>
> (2) converts one or more existing Residential Units to a condominium, cooperative, or similar form of ownership - Condominium Conversion;
>
> (3) removes one or more existing Residential Units through the complete or partial demolition of a building, or by combining two or more units to make a larger unit- Demolition; or
>
> (4) creates one or more new Residential Units for rent or for sale, either through new construction or the adaptive reuse of existing, non-residential buildings - New Housing.
>
> **Residential Unit** means a dwelling unit, efficiency dwelling unit, light housekeeping

7. Interim Administrative Procedures for Complying with the Mello Act https://dev.venicenc.org/wp-content/uploads/2014/09/MelloAdminProcedures.pdf.
8. Ordinance No. 173815 https://codelibrary.amlegal.com/codes/los_angeles/latest/laac/0-0-0-27136
9. Council File 08-1151 https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=08-1151

room, or joint living and work quarters, as defined in Section 12.03 of this Code; a mobile home, as defined in California Health and Safety Code Section 18008; a mobile home lot in a mobile home park, as defined in California Health and Safety Code Section 18214; or a guest room or efficiency unit in a residential hotel, as defined in California Health and Safety Code Section 50519 (b)(1).

CPC-2005-8252-CA – Pg. 18 of 174: Regulations.

2. **Change of Use and Demolition Projects**. *No Change of Use or Demolition* Project that *removes one or more existing Residential Units* (*including market-rate Residential Units*) for purposes of a *new non-residential use shall be approved unless the new non-residential use is a Coastal Dependent Use*. Examples of Coastal Dependent Uses include but are not limited to fisheries and boating and harbor facilities. Affordable Existing Residential Units that are removed must be replaced pursuant to Section 12.20.2.2 E 3 of this Code. (italics added.)

CPC-2005-8252-CA – Pg. 25-26 of 174:

H. **Alternative Compliance Proposals.** To apply for one or more deviations from the regulations set forth in Section 12.20.2.2 E of this Code the Project Applicant must submit an alternative compliance proposal by filing an appeal pursuant to Section 12.20.2.2 I of this Code. The appellate body shall have the authority to approve, approve with conditions, or deny an alternative compliance proposal. In reviewing alternative compliance proposals, the appellate body must comply with the following:

1. **Change of Use and Demolition Projects**. *The appellate body may approve a Change of Use or Demolition Project otherwise prohibited by Section 12.20.2.2 E 2 of this Code* ***only if*** *it first finds that a residential use is no longer Feasible at the Project site. If the appellate body approves the Change of Use or Demolition Project, then any Affordable Existing Residential Units that are removed* ***must be replaced*** *pursuant to Section 12.20.2.2 E 3 of this Code*. (italics added.)

HR&A's report included recommendations for the proposed Mello Act ordinance in-lieu fees, as recommended by and approved by the City Planning Commission on March 8, 2007, for FY 2008-09.

(b) In-Lieu Fee. If the appellate body finds that it is Infeasible for the Project Applicant to directly provide an Affordable Replacement Unit either on-site or off-site in the Coastal Zone or Extended Coastal Zone then it may permit payment of the following in-lieu fees:

Coastal Zone Subarea where Affordable Existing Residential Unit was Removed or Converted	Fee Per Required Affordable Replacement Unit
Pacific Palisades	$319,386
Venice-Playa Del Rey	$296,959
San Pedro-Harbor	$212,128

On March 8, 2007, the suggested in-lieu fee per unit in Venice was $296,959. Council File 08-1151 and the draft Mello Ordinance expired on September 19, 2011. Since the Agreement in 2000, many low-income units were lost in Venice, almost zero replacement affordable units or new inclusionary units were created, no in-lieu fees collected, and a Coastal Zone Affordable Housing Trust Fund was not created. The City's interpretation of the Mello Act and the IAP does not appear to comply with the court's interpretation of the Mello Act in Venice Town Council. State law prevails. *This must be the backdrop to the current draft Mello Ordinance.*

On February 3, 2015, Councilman Mike Bonin submitted Council File 15-0129[10], requesting DCP to again prepare a permanent Mello Ordinance. A Mello Ordinance working group met regularly but that effort expired on February 2, 2018. More than a year later, on April 16, 2019, Mr. Bonin submitted Council File 15-0129-S1[11]. That motion in 15-0129-S1 states in part:

> The *permanent Mello ordinance for the City of Los Angeles should be tougher and more comprehensive than the interim guidelines, doing even more to protect, preserve and promote affordable housing in the Coastal Zone*. A permanent ordinance should use the Interim Administrative Procedures as a *starting point* and a *baseline*, *and go further*, strengthening the current process, *closing loopholes that may exist*, and maximizing affordable housing preservation and creation In the Coastal Zone. A permanent ordinance should require all new housing developments that are subject to the Mello Act to provide affordable housing.

Finally, on February 25, 2021, a draft Mello Ordinance hearing took place at the City Planning Commission (CPC). DCP issued an updated draft Mello Ordinance[12] based on feedback from commissioners and the public in advance of a CPC hearing on May 13, 2021.

<u>MAIN ISSUES</u>

1. What was the intent of the Legislature in passing the Mello Act in 1982?
2. Does the state Mello Act allow conversion or demolition of 100% residential properties for a mixed-use development?
3. Does the City's use of Los Angeles Municipal Code (LAMC)[14] definitions and local zoning codes in implementing the IAP comply with the IAP, Mello Act, Housing Element, and the intent of the Legislator?
4. In cases where there is a conflict between: (a) state law and local ordinances or municipal laws, and (b) the definitions within those laws, what law dominates?

<u>ANSWERS</u>

1. The Mello Act is a housing element law. The Mello Act is Public Resources Code (PRC), Title 7, Planning and Land Use, Division 1, Chapter 3, Article 10.7, Low- and Moderate-

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10. Council File No. 15-0129 https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=15-0129
11. Council File No. 15-0129-S1 https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=15-0129-S1
12. Draft Mello Ordinance https://planning.lacity.org/odocument/5acf5c08-1656-41d5-862f-8805bf03649c/Mello_Act_Ordinance_(Revised).pdf

Income Housing Within the Coastal Zone [65590 - 65590.1]. The first line of the Mello Act incorporates Article 10.6, the Housing Element. Therefore, it is the intent of the Legislature that the Mello Act is a housing element law.

2. State law supersedes local municipal ordinances, municipal code and zoning. The Mello Act has an explicit prohibition on demolition or conversion of 100% residential properties in the coastal zone to other uses with narrow exceptions for a "coastal dependent" use or where a continued residential use is infeasible.
3. The IAP is an interim "guideline" adopted by DCP in 2001. DCP has violated the Mello Act, Agreement and the IAP in several ways, described below. DCP has allowed conversions of existing residential units to commercial uses and demolition of 100% residential units for construction of mixed-use development. DCP's draft Mello Ordinance proposes to allow demolition and conversion of existing 100% residential to mixed-use and 100% commercial use. This is not compliant with the Mello Act, Housing Element, Housing Accountability Act of 2018, Housing Crisis Act of 2019, or the intent of the Legislator. State law supersedes municipal ordinances and codes, and zoning.
4. The Mello Act states that where there is a conflict between the Mello Act and any local regulations, the regulation that results in the greatest number of housing units will prevail.

QUICK FACTS ABOUT VENICE

Venice - 3-Square Mile Area. Oakwood - 1-Square Mile Area.

Oakwood – First Intentional Black Coastal Enclave in California, founded in 1900, and still exists today.[15]

California has 1,100 miles of coastline. Venice has 1 mile of coastline.

Los Angeles is the most culturally diverse major city in the United States. Venice is the most diverse residential coastal community in California.

Venice is #1 public visitor destination in the California.

The historic Black community were limited by restrictive covenants to live in the ten-square block-area known today as Oakwood. Black families helped to build and maintain Abbot Kinney's Venice of America and Black pioneer Arthur Reese and his crew envisioned and created galas, festivities, events, and attractions that delighted visitors to Venice. The Black community were denied access to Venice's amenities including the beach and ocean.

Oakwood is an area of historic redlining.

First Baptist Church of Venice was founded in 1910 at 5th and San Juan Avenue. In 1927, architect Paul R. Williams designed their second home at 688 Westminster Avenue. As church membership grew, FBCV moved across the street to their third home at 685 Westminster Avenue. Seven hundred people attended the 1968 dedication ceremony.[16] Oakwood was subject to City of Los Angeles discriminatory programs targeting the Black community including PACE, REAP, Broken Windows and Code Enforcement. Between 1990 and 2020, Oakwood had two Gang Injunctions.[14]

The 1960 Census lists the Black population in Oakwood as 3,191, in 1970 as 2,290, in 1980 as 1,064, in 1990 as 2,022, and by 2010 the Black population in Oakwood was 821.

In 2015, Venice, including Oakwood, had the most expensive real estate in Los Angeles, highest concentration of short-term rentals, and most liquor licenses per census tract of any area of Los Angeles, all while Venice had two active gang injunctions.[17]

For the 2018-2019 school year, LAUSD statistics for Venice (determined by zip code) show that 86% of Westminster Elementary School students, 74%% of Mark Twain Middle School students, and 71% of Venice High School students qualified for Title 1 subsidies for low-income families.

In March 2019, the California Coastal Commission passed an Environmental Justice Policy aimed at restoring equity in access to the coast including housing access.

In 2020, Los Angeles gang injunctions were found to be unconstitutional and vacated.[18]

Issue 1

Is the Mello Act a housing element law?

Rule

The Mello Act is PRC Article 10.7. Low- and Moderate-Income Housing Within the Coastal Zone [65590 - 65590.1] The Mello Act incorporates Article 10.6. Housing Elements [65580 - 65589.11]. Both are state Housing Element laws.

Analysis

PRC Article 2. Declaration of State Policy and Legislative Intent [65030 - 65036.1]:[19]

> 'The Legislature finds and declares that California's land is an exhaustible resource, not just a commodity, and is essential to the economy, environment and general well-being of the people of California. It is the policy of the state and the intent of the Legislature to protect California's land resource, to insure its preservation and use in ways which are economically and socially desirable in an attempt to improve the quality of life in California."

PRC ARTICLE 10.6. Housing Elements [65580 - 65589.11] includes:

The Legislature finds and declares as follows:

> (a)The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.

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15. https://savevenice.ca
16. https://savevenice.ca/black-history/first-baptist-church-of-venice-75th-anniversary/
17. http://lapd-assets.lapdonline.org/assets/pdf/COLUMBUS%20STREET%20GI%20gang_injun_citywide_85x11.pdf
18. Youth Justice Coal. v. City of L.A.264 F. Supp. 3d 1057 (C.D. Cal. 2017)
19. https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65030.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

Section 65582:

(f) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

Article 10.7: Low- and Moderate-Income Housing Within the Coastal Zone, the Mello Act, incorporates Article 10.6 in its opening sentence, making clear the Legislator's intent that this is a housing Element law:

(a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirements of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

Article 10.7, 65590:

(a) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location.

Additionally, PRC Division 13. Environmental Quality, Chapter 1. 65030(g), Policy:[20]

It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.

Los Angeles, like many parts of the state, is in a housing crisis and an unhoused crisis. In response to this, the Legislator passed Senate Bill No. 167 in 2018, the Housing Accountability Act[21] and the Housing Crisis Act of 2019[22].

In 2020, and continuing today, Covid-19, a global pandemic caused an unforeseeable medical and financial crisis. Three million people have died worldwide to date. This catastrophe exacerbates the existing housing and unhoused crisis in California. The federal and state government have attempted to help people through the pandemic by providing emergency unemployment benefits, eviction moratoriums, and rent and mortgage forgiveness programs for qualifying households. But many people who lost employment due to the pandemic may be unable to repay their landlords when mandatory eviction moratoriums lift. Housing and tenant rights advocates in Los Angeles and throughout California fear a post-moratorium "tsunami" of evictions. It is in this light of these issues that the City of Los Angeles must contemplate an equitable Mello Ordinance.

Conclusion

The City of Los Angeles must comply with the Legislature's intent in the state's Housing Element laws including Article 10.6, and Article 10.7, the Mello Act, as a minimum baseline and exceed those requirements where possible in order to strengthen the supply of decent permanent housing available to people of all income levels in the coastal zone. In 2021, the City of Los Angeles is in an unprecedented housing crisis and unhoused crisis. The Mello Act has an explicit prohibition on demolition or conversion of 100% residential properties for other uses, with few exceptions. That is a plain reading of the language and intent of the Act. The City may go beyond the Act's provisions in order to increase the supply of residential housing, especially affordable housing, in the coastal zone, but the City must comply with Article 10.6 and Article 10.7 as a minimum baseline. State law prevails over any local ordinance, municipal code, or zoning.

ISSUE 2

Does the state Mello Act allow conversion or demolition of 100% residential properties for a mixed-use development?

Rule

The Mello Act incorporates the state Housing Elements. Article 10.7, 65590 (a):

> The *conversion or demolition* of any ***residential structure*** for purposes of a *nonresidential use which* is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, *shall not be authorized* unless the local government has first determined that a *residential use is no longer feasible* in that location. (italics added)

Analysis

The language of the Mello Act is not ambiguous. The Act has an explicit prohibition on conversion of 100% residential properties in the coastal zone to other uses with few exceptions. Since there is no ambiguity in the language, the Plain Meaning Rule applies. 10.7 states that local municipalities *must comply* with the minimum protections of the Act but may choose to exceed those standards. State law prevails where there is a conflict with local municipal ordinances, codes, or zoning.

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20. PRC Div. 13. Environmental Quality [21000 - 21189.70.10] *(Division 13 added by Stats. 1970, Ch. 1433.)*
21. Senate Bill No. 167 SB 167, Housing Accountability Act. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB167
22. Senate Bill No. 330 SB 330, Skinner. Housing Crisis Act of 2019. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330

IAP, Section 1.2.3 reiterates this:

> "In the case of conflict between the Interim Administrative Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement that results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply."

But the City has not always done so.

In Venice Town Council, the property owner claimed that continued residential use of three ground-floor apartments on Ocean Front Walk was infeasible. The City granted approval without requiring one-for-one replacement units in the coastal zone. Plaintiffs sued for breach of the mandatory one-for-one replacement requirement. The Court clarified that 10.6 states that,

> "the *conversion or demolition* of any *residential structure* for purposes of a *nonresidential use which* is not "coastal dependent", *shall not be authorized* unless the local government has first determined that a *residential use is no longer feasible* in that location." \

Now, the City must construct a narrow interpretation that stops the loss. Allowing mixed-use does not support the preservation of existing housing and creation of new housing. It is prohibited by the Mello Act and it would open a flood gate for developers who know that the City lacks enforcement capability.

Example Case – 2012-2841(CDP)(CU) (ZV)(MEL) – Venice Suites & BC 624350

In 2012-2841(CDP)(CU) (ZV)(MEL), DCP approved the conversion of an entire 32-unit RSO apartment building to a commercial use at 2 Breeze Avenue in violation of the Mello Act's explicit prohibition on conversion of existing residential units to non-residential uses.

> "a Coastal Development Permit and Mello Act Compliance review to allow a change of use from a 31-unit apartment building to a 31.-guestroomtransient occupancy residential structure on a property located in the C1-I Zone and within the Dual Permit Jurisdiction area of the Coastal Zone,"

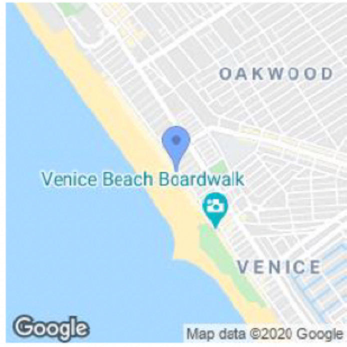
Owner Carl Lambert's California Regional Multiple Listing Services Inc. sales sheet for 2 Breeze (below) states: "Can be purchased with three other furnished rental buildings in Venice Beach (96 units total). Demand for extended stay is growing for economic business and pleasure travelers." "Listing Broker is the Owner" refers to Mr. Lambert's business Lambert Investments, Inc., BRE: 00860625.

The City must implement a permanent Mello Ordnance that supports equitable access to housing and when unavoidable, replacement affordable housing, in the coastal zone. No exceptions. No mixed use. Please consider this in your review of the draft Mello Ordinance on May 13, 2021.

Appreciatively, Margaret Molloy

2 BREEZE Ave, Venice 90291 STATUS: **Expired** LIST PRICE: **$14,950,000**

On the Venice Beach Boardwalk



\# OF UNITS TOTAL: **31**
SQFT(src): **15,408**
PRICE PER SQFT: **$970.28**
LOT(src): **4,399/0.101**
LEVELS: **Three Or More**
YEAR BLT(src): **1930**
DOM / CDOM: **49/49**
SLC: **Standard**
TOTAL OP. EXP: **$459,000.00**
NET OP. INCOME: **$641,000**
PARCEL #: **4226003001**
LISTING ID: **10470853**

Use PEAD in Glide During COVID-19

DESCRIPTION

Prime Venice Beach LOCATION, LOCATION! World Famous Venice Beach Boardwalk! Totally renovated in 2008, copper plumbing, new electrical, Ceasarstone countertops & much more. Rooftop deck with ocean views & most units have ocean views. Ocean view units will bring higher rents. Currently operating 29 units as monthly/weekly rentals most can be vacant at close of escrow. *Can be purchased with 3 other furnished rental buildings in Venice Beach (96 Total Units). Demand for Extended Stay is growing for economizing business & pleasure travelers. Venice Beach continues to be the second most visited destination in Southern California. Listing Broker is the Owner

EXCLUSIONS: INCLUSIONS:

AREA: **C11 - Venice**
SUBDIVISION: **/**
COUNTY: **Los Angeles**
55+: **No**
GROSS EQUITY:
PRESENT LOANS $:
HAVE:

LIST $ ORIG: **$14,950,000**
SUB TYPE:
CMN WALLS:
PARKING: **None**
\# OF BUILDINGS TOTAL: **1**
RENT CONTROL?:
PROPERTY ATTACHED?:

ROOM TYPE:
UTILITIES:
ELECTRIC:
WATER:

COOLING: **None**
HEATING: **See Remarks**
VIEW:
WATERFRONT:
LAUNDRY:
PROBATE AUTHORITY:

ANALYSIS

GROSS SCHEDULE INCOME:
VACANCY ALLOWANCE $/%: **/**
GROSS OPERATING INCOME: **$1,100,000**
NET OPERATING INCOME: **$641,000**
OPERATING EXPENSE $/%: **/**
LAND DOLLAR VALUE $/%: **$6,129,976/**

GROSS SPENDABLE INCOME:
LOAN PAYMENT(ANNUAL):
GROSS MULTIPLIER: **13.63**
CAP RATE: **0**
IMPROVEMENTS TOTAL $/%: **$1,535,333/**
PERSONAL PROPERTY $/%: **/**

INCOME

\# OF RENTED GARAGES:
GARAGE RENTAL RATE:
GARAGES RENTAL INCOME:
LAUNDRY INCOME:
LAUNDRY INC. OWN/LEASE?:

OTHER INCOME 1:
OTHER INCOME 2:
OTHER INC. DESCRIPTION:

ANNUAL EXPENSE

TOTAL OPERATING EXPENSE: **$459,000**
ELECTRIC:
GAS:
LICENSES:
NEW TAXES:

FURNITURE REPLACEMENT:
TRASH:
CABLE TV:
GARDENER:
INSURANCE:

MAINTENANCE:
WORKMAN'S COMP:
PROFESSIONAL MANAGEMENT:
WATER/SEWER:

OTHER EXPENSE:
OTHER EXPENSE DESCRIPTION:

TAX

TAX RATE: TAX YEAR: TAX ANNUAL AMT: TAX AREA:

UNIT INFORMATION

	UNITS	BEDS	BATHS	GARAGE	FURNISHED?	ACTUAL RENT	TOTAL RENT	PRO FORMA	# OF UNITS WITH
1:	4	1	1		Furnished	$0	$0	$4,300	
2:	27	0	1		Furnished	$0	$0	$3,200	
3:		0	0		Partially	$0			
4:		0	0		Partially	$0			

Carl Lambert converted 5 Rent Stabilized apartment buildings in Venice with long-term tenants into de-facto hotels.

417 Ocean Front Walk- 32 unit RSO apartments

25 unit RSO apartments- Mr Lambert sold this building recently but operated previously as Venice Admiral Suites

52 Paloma- 8 units RSO apartment- Mr Lambert recently sold this building but operated previously Paloma Suites.

2 Breeze- 31 unit RSO apartments

Waldorf- 32 unit RSO apartments

lambertinc.com

ROBERT BROWNING

Robert Browning

Chief Financial Officer

robert@Lambertinc.com
310.453.9656

LAMBERT INVESTMENTS INC.

LAMBERT INVESTMENTS, INC.
BRE: 00860625

2 BREEZE AVE., SUITE 101
VENICE, CA 90291

PHONE: (310) 453-9656
FAX: (310) 829-6288
info@Lambertinc.com

Robert has extensive experience in a wide range of leadership, management and advisory positions in the role of Chief Financial Officer for Lambert Investments. In his 10 years of service with Lambert Investments, Inc., Robert has provided leadership in development for the continuous evaluation of short and long term financial objectives.

- Certified Notary Public since 2005
- Increasing Revenue in Low Income Properties
- Tenant Management & Relations
- Low Vacancy Rate
- Effective in Problematic Tenant Evictions
- Employee Management
- Hotel Management

Robert is also responsible for planning, implementing, managing and controlling all financial related activities of 5 extended stay properties on the famous Venice Beach Boardwalk. He also is responsible for the overall management of 202 family dwelling units in the Venice Beach and Santa Monica area.

\

Created by Tieira Ryder 04/01/2021

To
Los Angeles City Planning Team
Councilman Mike Bonin district 11

Regarding

affordable housing, both rent and homeownership in Mar Vista and Venice, district 11

Locations

Ocean View Farms
Penmar Golf Course
https://www.golf.lacity.org/course_penmar/
https://www.oceanviewfarms.net/

For who

- **Residents** on the westside of Los Angeles, including but not limited to, the working class, seniors, students, those with low to no income, and any others in need of affordable housing. (priority for residents in District 11, Mar Vista and Venice where the proposed locations are)

Proposal Request

Ocean View Farms

- **Affordable homeownership;** townhomes for the working class; move garden spaces to rooftops or elsewhere that is appropriate.
- Affordable homeownership for suggested resident income range of $30,000-$150,000. ***(Could possibly consider some higher income earners to offset costs for city,state,federal)***
- **First time homeowners** that have been residents of Los Angeles for at least 10 years; priority for residents on the westside in district 11, Venice and Mar Vista.
- Requesting consideration of those from said marginalized communities that have been displaced on the westside, **specifically African American individuals and families.**
- Requesting consideration for the **millennial generation (all demographics)**, that currently own less than 18% of the homes in Los Angeles.

  (In regards to EQUITY and RESTORATIVE JUSTICE)
- Home prices should match that of the actual inflation rate of what a home should cost for the working class; city, state, federal with offset cost so that is possible.

Penmar Golf course

- Affordable duplexes, townhomes, and apartments for the working class, seniors, students, those with low to no income, and any others in need of such housing. ***Also consider tiny or small bungalow home placements within the potential community.***
- An open park space could be incorporated.

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How

- Public city owned bank for financing for the first time homeowners. (If necessary; residents could seek financing from elsewhere)
- An ***affordable rental housing trust fund*** that protects affordable rental housing for residents on the westside; specifically consider an affordable housing trust fund for district 11.
- For homes that can be purchased; affordability would likely also be protected with a trust and there likely would resell requirements. (EX: couldn't sell home for higher than 20% of purchase cost, couldn't resell for at least 5-10 years)

Opposition

- There may be plenty of opposition, likely from homeowners in surrounding neighborhoods but residents in need of affordable housing are not required to ask residents who own homes already for permission to build affordable housing that almost 60,000+ unhoused residents in LA County are in need of.

Funding

- American rescue plan and any other federal or state relief
- Create a city owned housing trust fund for residents in district 11

To our planning team and councilman Mike Bonin of District 11, I ask you to please consider this request for affordable housing on the westside of Los Angeles, for residents in District 11, Mar Vista and Venice. **Our right to safe, clean, and affordable housing is being denied!** As with the Santa Monica airport proposal that was sent earlier on, it is requested that the project begin by June 2021. Thank You for your time and effort in regards to housing that is desperately needed!

Created by Tieira Ryder 04/01/2021

(The creator of the proposal does not own the rights to all images that are seen below; rights to images belong to original owners. Images are that of duplexes, townhomes, apartments, tiny and small homes)

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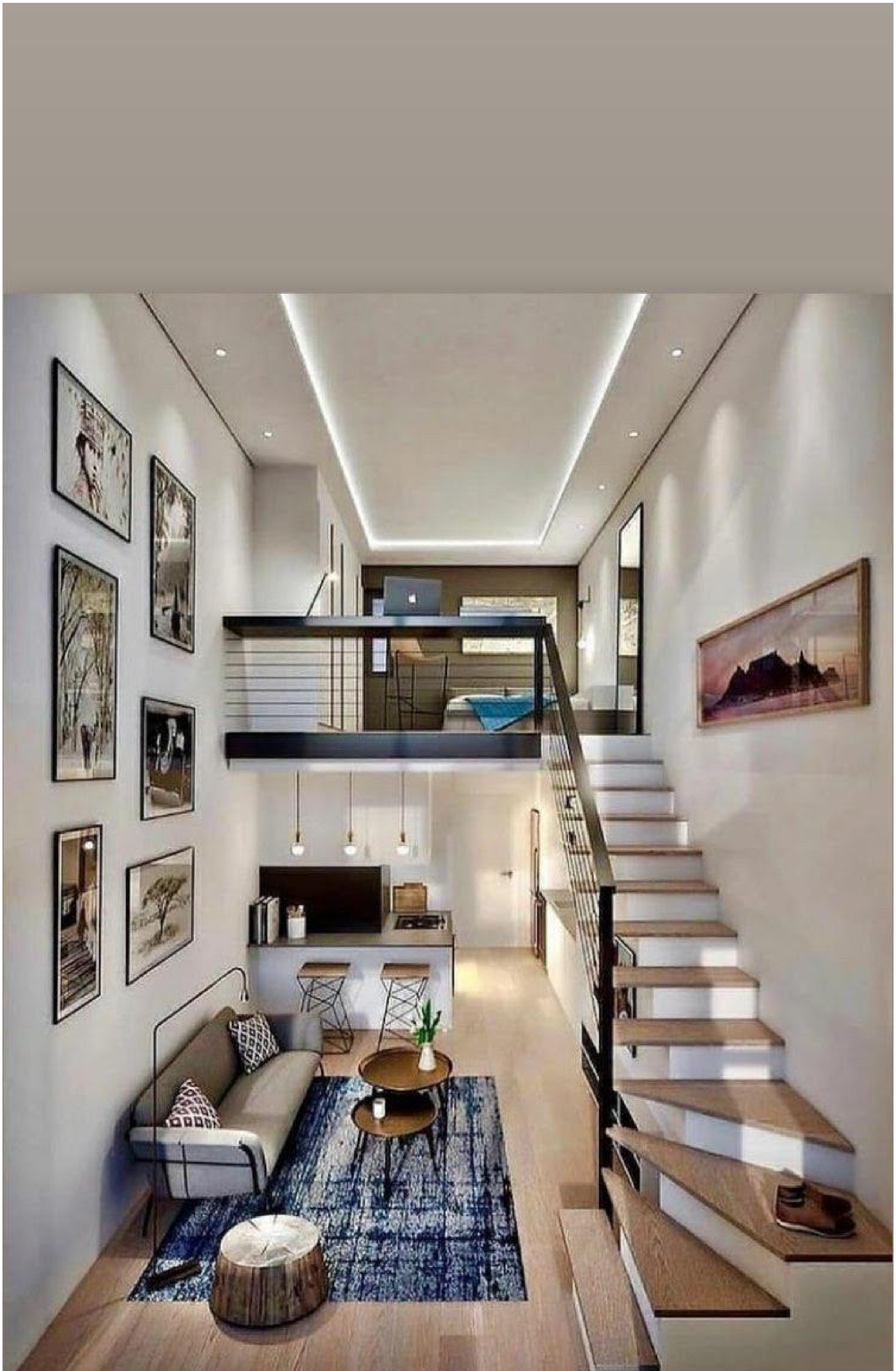
Created by Tieira Ryder 04/01/2021

Created by Tieira Ryder 04/01/2021

Created by Tieira Ryder 04/01/2021

Created by Tieira Ryder 04/01/2021



Created by Tieira Ryder 04/01/2021

Created by Tieira Ryder 04/01/2021

40+ CONSTITUENTS SUBMITTED THE FOLLOWING STATEMENT FOR YOUR CONSIDERATION:

Subject: Letter of Support for 623-671 South La Brea Ave.

Dear Honorable Councilmembers,

I would like to express my strong support for CGI's La Brea project located on 639 S. La Brea Ave. This project will benefit all of us who live and work in the Mid-City West Community by creating jobs, generating money for the local economy, and creating much-needed housing in Los Angeles.

639 S. La Brea Ave. is a new mixed-use commercial and residential building consisting of 121 residential units with 19 affordable units, 125 hotel rooms and 13,037 sf of commercial space. The project will bring crucially needed housing to Los Angeles, including affordable units and will activate the La Brea Corridor so close to the new Metro Purple Line Extension.

CGI's investment in the community will encourage transit use, generate new economic activity, promote smart growth and create a place that fits in well with our community.

I strongly support CGI's La Brea project located on 639 S. La Brea Ave. and respectfully urge your approval to continue this important housing project in my neighborhood.

FIX THE CITY

jim@FixTheCity.org, jamesos907@gmail.com Messages 213-840-0246

May 10, 20210
Via Email: CPC@lacity.org
The Hon. Samantha Millman, Chair
Los Angeles City Planning Commission
200 North Spring Street, LA, CA 90012

RE: CPC APPEAL: DIRECTOR'S LOD – 623-671 SOUTH LABREA AVE (CASE NO. ZA-2019-1744-CU-MCUP-SPR-TOC)

Dear CPC Commissioners:

Fix The City is deeply alarmed by the TOC process. This covert process where applications disappear into the bowels of the planning department never to be seen again until the Director makes a determination is undemocratic. That is bad enough but then the letter of determination (LOD) revealing the verdict that can affect entire neighborhoods is treated like a State secret. It can take months for a LOD to be posted on the planning website, which is long after the appeal process is over.

This secret process deprives the public of ***due process*** *and it is the antithesis of Measure JJJ which was about openness and transparency. When even the Council office cannot get a copy of the letter of determination, we must ask what the director or planning is afraid of?*

Fix The City also encourages a close reading of JJJ ***SECTION 6*** before you vote on May 13, 2021. The language is very clear. There is no authority to provide additional incentives, incentives combined with other incentive programs, nor is there authority to create the TOC **Tier system** as used on this and other projects. Section 6 is limited to the incentives **"herein"** of Section 6: (1) additional residential FAR, (2) additional density and (3) reduced parking.

TOC projects under JJJ Section 6 are intended to be ministerial and are not eligible for discretionary incentives absent voter approval**.**

The City Planning Commission must stay within the four corners of voter-approved JJJ **as written** which includes, but is not limited to require prevailing wages (Affordable Housing and Good Jobs) and limit incentives to those specified in Section 6, with incentives based on the underlying zone and not the Tiers as they were not in JJJ and have not been authorized by the voters.

Contrary to the express language of JJJ, The Director of Planning's Determination for this project approved additional incentives that were not included in JJJ Section 6. In approving the project, the Director acted in an arbitrary and capricious manner.

The "Additional" discretionary incentives unlawfully awarded to **THE PROJECT** can only be granted to projects under **JJJ Section 5(e),** not Section 6 projects.

There is no exemption from Prevailing Wage. This project has not agreed to the Labor Standard and therefore does not qualify for JJJ incentives. The City has failed to require the Labor Standard for this and virtually all other TOC projects. JJJ mandated prevailing wage for BOTH GPA's and TOC projects. The **"Findings"** for **JJJ Section 2** clearly state the purpose of the initiative. These findings are for both Section 5 (GPA's) and Section 6 (TOC) projects:

> "Now THEREFORE, based upon these findings the people declare that the City adopt the legislation contained herein in order to address our homeless and affordable housing crisis, ***while also*** creating good jobs with family-supporting wages." (Emphasis added.)

Finally, the implementation procedures for JJJ required and still require Council (legislative) approval under state law (California Govt. Code Section 65915(d)(3)).

VIOLATION OF MEASURE JJJ

1. This project violates Measure JJJ by granting incentives not authorized by Measure JJJ, including excessive increase in density, additional side yards (RAS), reduced open space, additional Floor Area Ratio (FAR), and elimination of residential parking.

a. The approval of an eighty percent (80%) increase in density is in violation of JJJ and California Govt. Code Section 65915.

b. Use of RAS yards combines a development standard bonus from another bonus program (RAS), in violation of JJJ and California Govt. Code Section 65915.

c. The request for a 25% reduction of required open space Is not an incentive authorized under JJJ Section 6 (LAMC 12.22.A.31)**.**

d. Granting a 4.25 to 1 Floor Area Ratio (FAR) for dwelling units in a C2-1 zone is not an incentive authorized under JJJ Section 6 (LAMC 12.22 A.31).

We incorporate by reference our lawsuit and testimony challenging 10400 Santa Monica Boulevard as well as 5891 West Olympic Boulevard, based on granting of incentives not authorized by JJJ Section 6 for that and other TOC projects and failure to adhere to the labor standard of JJJ. We also incorporate by reference our testimony submitted on 10306 Santa Monica Boulevard. We also include by reference our testimony submitted on 2301 Westwood Blvd.

NO COMPREHENSIVE ANALYSIS OF HOUSING AVAILABILITY AND MONITORING PROGRAM

Measure JJJ requires that before TOC Guidelines can be adopted, a comprehensive analysis of housing availability must be conducted in for EACH unique area (JJJ Section 4.A). JJJ requires a

> "program to create and monitor an inventory of units within the Community Plan Area that are: subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of Lower or Very Low Income; subject to City Rent Stabilization Ordinance; and/or occupied by Lower-Income or Very Low-Income households."

No such comprehensive study or monitoring program exists either for the Wilshire Community Plan Area or the TOC areas, despite JJJ and specific instructions to the Planning Department from the City Council (CF 2016-0684-S1). Therefore, the approval of TOC incentives for this project is *ultra vires*.

Instead, of following the Council's January 24, 2017 directive regarding preparation of the TOC Guidelines, CPC and the Director of Planning defied the clear mandate of the City Council. They never conducted a comprehensive study, failed to report back to the City Council regarding the formulation of the Guidelines, and they did not obtain legislative approval for the implementation of JJJ as required by Cal Govt. Code Section 65915(d)(3).[1]

This rejection of the need for Council approval is in contrast with the pattern and practice of the Planning Department in its implementation of SB 1818 and other affordable housing programs such as RAS3 and RAS4. In those cases, the implementation plan, including incentives, was adopted as an ordinance approved by the City Council. Public notice was provided and public hearings were conducted.

---

[1] This state affordable housing statute clearly states: "The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section." Thus, the TOC Guidelines required City Council approval. In the absence of City Council approval, approval of incentives unauthorized by the City Council is in violation of state law. This would be true even if they did not include "Additional" Incentives or Concessions in violation of the clear language and intent of JJJ Section 6 to limit TOC projects to increased FAR, density and reduced parking. The only projects eligible for additional incentives are projects described in JJJ Section 5(e).

FIX THE CITY

Note that the City Council instructed the Planning Department to prepare and present such a report to the City Council immediately after JJJ passed. A motion by Mitch O'Farrell (CF 16-0684-S1) on November 22, 2016, two weeks after JJJ was approved by the voters, also ordered "preparation of a new affordable housing incentive program for developments near major transit stops." It continued, "It is imperative that the implementation process of this ballot initiative be fully vetted and discussed by policy makers and all interested stakeholders."

The November 22, 2016 motion (CF 2016-0684-S1) stated:

> "**I THEREFORE MOVE** that the Council request the City Attorney, with the assistance of the Planning Department, and in consultation with the Bureau of Contract Administration, to prepare a report on the implementation, enforcement, resources needed, timeline to implement, and any other impacts of the *Affordable Housing and Labor Standards Related* to City Planning Initiative Ordinance JJJ (Council File No. 16-0684)."

CPC and the Director of Planning had ample time to follow the directive of the City Council motion, which was passed on January 24, 2017. *No material change in land use can occur until the completion of a comprehensive assessment of such proposed changes by the Planning Department*, as required by JJJ Section 4.A. The City Council merely repeated the mandate of JJJ. But CPC and the Planning Director chose to ignore both the Initiative and the City Council.

The incentives approved for this project, and for that matter, across the city, violate the clear language of JJJ and could not be approved until the comprehensive analysis and monitoring programs are established.

Sincerely:

James O'Sullivan
Vice President, Fix The City

Cc Michelle.carter@lacity.org

Cc Nithya.raman@lacity.org

DAY OF HEARING SUBMISSIONS

Via E-Mail

three6ixty

May 12, 2021

Ms. Samantha Millman, President
Members of the Los Angeles Planning Commission
c/o Cecilia Lamas
200 N. Spring Street
Los Angeles, California 90012
cpc@lacity.org

RE: Case No. CPC-2020-0946-DB-MCUP-HCA
Cornerstone Village
Agenda Item 5a

Dear President Millman:

I am writing on behalf of my client, Cornerstone Housing for Adults with Disabilities ("Applicant"), owner of the property located at 9224 W. Pico Boulevard and 1410 S. Glenville Drive ("Property"). The Applicant, a non-profit, proposes 64 units of housing for residents with Intellectual and Developmental Disabilities ("IDD") with onsite supportive and community services (the "Project").

Case No. CPC-2020-946-DB-MCUP-HCA was filed on February 11th, 2020 as an SB1818 Off-Menu Density Bonus case with numerous Off-Menu Incentives and Waivers of Development Standards to accommodate the unique program and building design necessary for the IDD population. The IDD population is comprised of adult, independent, local residents who may at times require additional services and assistance with meal preparation, educational services, job training, and other quality of life measures not available in a traditional mixed-income housing development. This program, including an entire floor dedicated to resident supporting amenities, is not currently contemplated under existing "by-right" or ministerial procedures, or any priority processing or streamlining provisions of the City or the State.

The Off-Menu Density Bonus, a time consuming planning process in the best of circumstances, was necessary as neither the State of California, nor the LAMC have procedures in place to streamline the entitlement and approval of IDD housing. IDD housing does not currently meet the existing definitions for other streamlined housing types in the State or City (e.g. Affordable Housing, Permanent Supportive Housing, Eldercare, etc) and as such is required to utilize onerous entitlement and CEQA procedures for approval of much needed housing for an overlooked population. As of the May 13th City Planning Commission for this Project, the case will have been processing with the City of Los Angeles for 15 months prior to approval, has cost the applicant hundreds of thousands of dollars in design, engineering, fees, representation, and land carry, and is still potentially subject to an onerous appeal process to the City Council.

This Project has received unanimous support from the South Robertson Neighborhoods Council Land Use Committee and full Board, has overwhelming support from Council District 5, local residents, stakeholders, and the County of Los Angeles Commission on Disability. The project is the first of its kind in the city of Los Angeles, and is designed as an inclusive housing Project for the benefit of the future residents and the community alike.

I urge the City Planning Commission to direct the Department of City Planning to prioritize under an urgency measure the development of a streamlining program including ministerial case filing and zoning code amendments dedicated to facilitating the production of housing for the IDD population similar to other affordable, supportive and senior housing projects. Such provisions need to recognize the unique design challenges necessary to support this community, and remove the barriers in City cost and processes that have resulted in a 15 month approval timeline for this groundbreaking Project.

Sincerely,

Dana Sayles

Dana Sayles, AICP
Three6ixty

cc: Councilmember Paul Koretz
Daniel Skolnick, CD 5

three6ixty

Planning CPC <cpc@lacity.org>

Mello Act Ordinance

Abigail Coleman <email4abbycoleman@gmail.com>
To: cpc@lacity.org

Thu, May 13, 2021 at 8:25 AM

Hi,

I'd like to add a comment on item 7 for today's City Planning Commission meeting (CPC-2019-7393-CA).

My comment is as follows:

> My name is Abigail Coleman and I'm a member of the Westside local of the LA Tenants' Union.
>
> Close any loopholes in the new, permanent Mello Act Ordinance. Specifically, whole in-lieu fees and off-site compliance (which were not included in LAFLA's original draft letter of the ordinance) should not be included in the final version of the Mello Act Ordinance.
>
> After decades of non-enforcement, developer loopholes, and unofficial "automatic exemptions" to the Mello Act, it is imperative that the final draft of the permanent ordinance is as anti-developer and anti-gentrification as possible.
>
> In 2019, LATU and Venice community member Patricia Sanchez was evicted from her home by her landlord, Tyler Wilson. Mrs. Sanchez and her family had lived in her rent-controlled home since 1996. She undoubtedly lived in affordable housing in the coastal zone. Now, her front yard serves as a dining patio, while the house sits empty. This ruling was directly against the Mello Act, the Housing Element, the Housing Accountability Act of 2018, and the Housing Crisis Act of 2019. This ruling clearly demonstrates the LA Department of City Planning is not responsible enough to be allowed any loopholes in the new Mello Act Ordinance.
>
> The Mello Act has an explicit prohibition on demolition or conversion of 100% residential properties in the coastal zone to other uses (with narrow exceptions for a "coastal depended" use or where a continued residential use is infeasible, which was undoubtedly not the case in Patricia Sanchez's eviction ruling).
>
> Close the loopholes in the Mello Act to prevent evictions like this from happening in the future. These evictions displace families and community members. Stop displacement in the coastal zone by removing in-lieu fees and off-site compliance from the new, permanent Mello Act Ordinance.

Thank you for adding my comment!

Abigail Coleman

Citizens Preserving Venice

May 12, 2021

Re. draft Mello Act Ordinance
Council File 15-0129-S1
PLEASE DO NOT ALLOW conversion of 100% residential structures to mixed use structures/projects

Los Angeles City Planning Commissioners,

Citizens Preserving Venice (CPV) is a community-based group dedicated to preserving and protecting the character and scale of Venice as a special coastal community, including its history, its social, cultural, racial and economic diversity and its housing.

We wrote to you before your February hearing with more detailed comments and hope you read that letter. But today we're writing with one purpose, to ask you to modify the draft Mello Act Ordinance to remove proposed section LAMC 12.21 H.c.7. Mixed Use (page 7), which states "A proposed mixed-use development may not result in a net reduction in the total number of existing Residential Units unless a residential use is no longer feasible. A mix of uses is permitted, so long as the structure provides all required Replacement Affordable and Inclusionary Units."

The issue is simple--the Mello Act is a law that protects housing, and the City must not use this law to provide for changes from 100% residential structures/housing to non-residential mixed-use projects!

Doing so not only violates the Mello Act and the Settlement Agreement, but it only enriches developers and speculators by allowing a more lucrative commercial use to replace a residential use and does nothing to protect housing or protect existing, and provide more, affordable housing.

As per the May 4, 2021 letter from California Women's Law Center and Venskus & Associates, allowing such mixed-use developments to replace residential structures actually encourages displacement, as with the "mixed use" loophole, developers are encouraged to demolish the building and erect a new one in its place, displacing the families living in older housing stock, which is always, by definition, more affordable than new units deemed "affordable" pursuant to federal and state law.

As per Government Code 65590, the Mello Act:

“The conversion or demolition of any residential <u>structure</u> for purposes of a non-residential use which is not coastal dependent … shall not be authorized….”

But the draft Mello Ordinance as is currently proposed essentially changes that clause to say: The conversion or demolition of any residential <u>unit or use</u> for purposes of a non-residential use which is not coastal dependent…shall not be authorized…

The City would exceed its jurisdiction by changing the wording and meaning of the Mello Act in this way. The City cannot read something into the statute’s language that is not there. Thus, this ability for a conversion to a non-residential mixed use if the number of units/uses remains the same must be eliminated from the ordinance and specifically prohibited. Residential structures must be protected, as very specifically required by the Mello Act. Words have meaning in law, which cannot be arbitrarily changed.

In addition, Venice’s housing has been harmed by the City allowing conversions of housing to non-residential use projects, such as 1214 Abbot Kinney (converted from a residential structure to mixed use retail but used as commercial office), 1301-1303 Abbot Kinney (residential structures now an unpermitted non-residential use and requesting a conversion to mixed use), 619-701 Ocean Front Walk (Thornton Lofts, residential structure used as commercial), 2 Breeze (was RSO residential structure, converted to a hotel), 1047 Abbot Kinney (conversion of residential structures for purposes of a mixed use hotel project), 811-815 Ocean Front Walk (requesting to convert 100% residential structures to a mixed use restaurant project), and several others.

Lastly, proposed zone changes from residential to any other zone must not be allowed by Planning, in order to protect the character and use of 100% residential structures. Please require a Mello Act Compliance Review for all zone changes in the Coastal Zone.

We cannot afford another forty years of Mello Act abuse, which has resulted in accelerating displacement of longtime residents, significant loss of affordable housing, and major impacts on the character of the Venice special coastal community – not the least of which impacts is a housing mix that has shifted away from affordable multi-family housing to a proliferation of McMansions.

Sincerely,

Sue Kaplan

Sue Kaplan, President
Citizens Preserving Venice

COASTAL SAN PEDRO NEIGHBORHOOD COUNCIL

Doug Epperhart
President

Dean Pentcheff
Vice President

Kathleen Martin
Secretary

Louis Dominguez
Treasurer

1840 S Gaffey St., Box 34 • San Pedro, CA 90731 • (310) 918-8650
cspnclive@gmail.com

April 27, 2021

To:

cpc@lacity.org
planning.mello@lacity.org
christine.saponara@lacity.org
haydee.urita-lopez@lacity.org
councilmember.buscaino@lacity.org

Re: **City Mello Act ordinance must not allow demolitions/conversion of 100% residential structures for purposes of mixed-use projects.**

The following resolution was passed at the April 2021 Coastal San Pedro Neighborhood Council Board meeting:

Whereas, **the Mello Act law was enacted by the State Legislature in 1982 in order to set forth requirements concerning the demolition, conversion and construction of housing within California's Coastal Zone.**

Whereas, **the Mello Act requires each Coastal Zone area to enforce three basic rules, including that existing residential structures shall be maintained as residential uses unless the local jurisdiction finds that residential uses are no longer feasible; the Act specifically states: "The conversion or demolition of any residential structure for purposes of a nonresidential use which is not 'coastal dependent…' shall not be authorized…"**

Whereas, **a mixed-use building is a non-residential use and that is clear throughout the Los Angeles Municipal Code (LAMC) and all coastal regulations.**

Whereas, **the City intends to exceed it jurisdiction by changing both the letter and the intent of the Mello Act law in order to allow conversion or demolition of 100% residential structures for the purpose of commercial mixed uses if the same number of units are maintained.**

Whereas, **there are 29 100% residential structures in Neighborhood Commercial zones in the San Pedro Coastal Zone, which contain 231 units, 164 of them protected by the City's Rent Stabilization Ordinance. See attached listing.**

Whereas, **changing 100% residential structures to mixed use projects would change the character of those buildings and the surrounding neighborhood to commercial in nature.**

Whereas, **there is a housing shortage and not a mixed use or commercial use shortage.**

Resolved, **the Coastal San Pedro Neighborhood Council insists the City Planning Department and the City Planning Commission assure the proposed Mello Act Ordinance does not allow conversions or demolitions of 100% residential structures in the Los Angeles Coastal Zones, whether commercial or residential zoning, for purposes of mixed-use projects.**

Please contact Robin Rudisill, Chair of the CSPNC Planning Committee, at 310-721-2343 should you have any questions related to this letter.

Sincerely,

Douglas Epperhart

Doug Epperhart, President
On behalf of the Coastal San Pedro Neighborhood Council Board

ATTACHMENT INCLUDED

cc:
apcwestla@lacity.org
apcharbor@lacity.org
councilmember.bonin@lacity.org
jason.p.douglas@lacity.org
aksel.palacios@lacity.org
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bill@power-la.org
venskus@lawsv.com
amy.poyer@cwlc.org
Sarah.Christie@coastal.ca.gov
Steve.Hudson@coastal.ca.gov

CPC February 25, 2021, Agenda Item 9. draft Mello Act Ordinance
Noel Gould, Coastal San Pedro Neighborhood Council
100% Residential Structures in Commercial Zones in the San Pedro Coastal Zone

ADDRESS	USE CODE	GPLU	CPIO -SUB AREA	RSO?	#UNI
3413 S PACIFIC AVE	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		1
3407 PACIFIC AVE	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		1
3337 PACIFIC AVE	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		1
3333 PACIFIC AVE	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		1
3329 PACIFIC AVE	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		1
2733 PACIFIC AVE	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		1
2729 PACIFIC AVE	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		1
2316 PACIFIC AVE	0400 RESIDENTIAL 4 UNITS ANY COMBO 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B	RSO	4
2300 PACIFIC AVE AND NORTH AND SOUTH ADJECENT PROPERTY	7500 INSTUTIONAL HOMES FOR AGED AND OTHERS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B	RSO	32
2226 1-3 PACIFIC AVE	0300 RESIDENTIAL 3 UNITS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B	RSO	3
2220 PACIFIC AVE	0400 RESIDENTIAL 4 UNITS ANY COMBO 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B	RSO	4
2110 PACIFIC AVE	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B	RSO	15
497 W 21ST STREET	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B	RSO	15
2040 PACIFIC AVE	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B	RSO	21
1704 PACIFIC AVE	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		15
485 W 17TH STREET	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	COASTAL COMMERCIAL B		15
302 W 16TH STREET	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	NONE		1
312 W 16TH STREET	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	NONE		1

CPC February 25, 2021, Agenda Item 9. draft Mello Act Ordinance
Noel Gould, Coastal San Pedro Neighborhood Council
100% Residential Structures in Commercial Zones in the San Pedro Coastal Zone

316 W 16TH STREET	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	NONE		1
1529 CENTRE STREET	0300 RESIDENTIAL 3 UNITS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	NONE	RSO	2
1523 CENTRE STREET	0100 RESIDENTIAL SINGLE FAMILY	NEIGHBORHOOD COMMERCIAL	NONE		1
287 W 15TH STREET	0200 RESIDENTIAL DOUBLE DUPLEX OR 2 UNIT 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	NONE	RSO	1
1312 PACIFIC AVE	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	COMMUNITY COMMERCIAL	COASTAL COMMERCIAL A	RSO	24
1226 PACIFIC AVE	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	CENTRAL COMMERCIAL B		30
124 W 11TH STREET	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	MILTI FAMILY RESIDENTIAL	RSO	15
1012 S PALOS VERDES STREET	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	NONE	RSO	12
125 W 10TH STREET	0500 RESIDENTIAL 5 OR MORE UNITS OR APARTMENTS 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	NONE	RSO	16
134 W 10TH STREET	0200 RESIDENTIAL DOUBLE DUPLEX OR 2 UNIT 4 STORIES OR LESS	NEIGHBORHOOD COMMERCIAL	NONE	RSO	1
939-915 S BEACON ST	7500 INSTUTIONAL HOMES FOR AGED AND OTHERS	NEIGHBORHOOD COMMERCIAL	NONE	RSO	0

231 UNITS TOTAL
164 RSO UNITS

The draft Mello Act Ordinance proposes to allow for conversions of residential structures to mixed use. Please do not allow the conversion of these 29 residential properties in San Pedro's Coastal Zone to mixed use. Not only is this not allowed by the Mello Act, but a change to mixed use would not conform with the Coastal Act, which requires the existing mix of uses to be maintained. It would lead to intensified commercial development in the area and chip away at the existing housing, which would change the character of the neighborhood.

Connect Create Collaborate

Planning CPC <cpc@lacity.org>

Mello implementation ordinance

David Ewing <seriousbus@aol.com> Thu, May 13, 2021 at 9:51 AM
To: cpc@lacity.org

Please distribute:

Begin forwarded message:

From: MAILER-DAEMON@aol.com
Subject: Failure Notice
Date: May 12, 2021 at 11:42:42 PM PDT
To: seriousbus@aol.com

Sorry, we were unable to deliver your message to the following address.

<planning.mello@lacity.or>:
No mx record found for domain=lacity.or

---------- Forwarded message ----------

From: David Ewing <seriousbus@aol.com>
Subject: Draft Mello Act Ordinance
Date: May 12, 2021 at 11:42:38 PM PDT
To: cpc@lacity.org
Cc: cecilia.lamas@lacity.org, planning.mello@lacity.or, "christine.saponara@lacity.org" <christine.saponara@lacity.org>

Case No.: CPC-2019-7393-CA
CEQA No.: ENV-2019-7394-ND

Dear Honorable Planning Commissioners:

Despite the good work done on this proposed ordinance, if conversion of structures from residential to mixed use, or demolition of residential structures and replacement by mixed use, is now to be allowed, even though neither is allowed in the clear language of both the Mello Act and the Interim Administrative Procedures, I don't believe you can justify the claim that "there is no substantial evidence that the Project will have a significant effect on the environment" and that therefor a Negative Declaration is sufficient.

Quite the contrary is true: in a community that's been undergoing intense gentrification and attendant commercialization, the ability to knock down housing and replace it with mixed use will provide a green light for exactly the kinds of change that impact the character of this coastal community in terms of who gets displaced, and in terms of accelerating the predominance of the kinds of commercial interests that further drive gentrification and displacement. You cannot look at the recent history of Venice and pretend that decisions such is this are having no environmental effects.

This is a major project across many communities in two council districts, with no independent studies to assess its impacts. If you're confident that there'll be no substantial CEQA or Coastal impacts, your confidence should be borne out by an independent study.

Furthermore, this mixed use loophole will have effects that will prejudice the adoption of a Local Coastal Program for Venice and likely the others, because it definitely permits and encourages changes in the intensity of use in Venice and perhaps all the City's coastal zones, as well. It therefor requires Coastal Commission clearance.

Unless you've been closely following Coastal Commission rulings, or have been briefed on an ongoing basis by Coastal staff, as the West Area Planning Commission has been, I do not believe this Commission has the necessary experience or knowledge to rule on that clearance. Coastal clearance may be the poor stepchild of City land use decisions, but it is every bit as important as the Mello Act you're hoping to independently implement.

Yours truly,

INNER CITY LAW CENTER

May 12, 2021

Los Angeles City Planning Commission
Department of City Planning
200 North Spring Street
Los Angeles, CA 90012
cpc@lacity.org

Re: Proposed Mello Act Ordinance (Case No. CPC-2019-7393-CA)

Dear Commissioners:

The Inner City Law Center writes to provide comments regarding the proposed Mello Act Ordinance (Case No. CPC-2019-7393-CA), which was revised following the prior City Planning Commission hearing held in February. ICLC continues to call for the changes requested by the Legal Aid Foundation of Los Angeles in a "red-lined" version of the Ordinance submitted in connection with the previous hearing, as outlined in our previous comments (enclosed).

The revised draft ordinance fails to reflect the lived experience of the community, the comments made at the prior hearing, or the lessons learned through administration of the IAP. With the addition of elements such as off-site and in-lieu compliance options, the ordinance has been inexplicably weakened and will perpetuate the challenges experienced with loopholes in the IAP.

Moreover, by making such changes which were neither called for nor supported by commissioners or members of the public weighing in, the city has squandered precious resources by needlessly causing all stakeholders to have to repeat the hearing and public comment process. We are poised at the edge of an eviction cliff created by our ongoing housing crisis and the COVID-19 pandemic; housing advocates and city staff are stretched thin responding to community needs and developing policies to mitigate the risk to our residents posed by these conditions, and the failure to advance a strong policy expeditiously has left us diverting time and energy to once again repeat our recommendations in connection with this ordinance. We can and must do better to quickly respond to the needs and concerns of vulnerable Angelenos in this critical time.

Sincerely,

Alexander Harnden
Public Policy Advocate
Inner City Law Center

INNER
CITY
LAW
CENTER

February 22, 2021

Los Angeles City Planning Commission
Department of City Planning
200 North Spring Street
Los Angeles, CA 90012
cpc@lacity.org

Re: Proposed Mello Act Ordinance (Case No. CPC-2019-7393-CA)

Dear Commissioners:

The Inner City Law Center writes to provide comments regarding the proposed Mello Act Ordinance (Case No. CPC-2019-7393-CA). The Inner City Law Center advocates for the provision of safe, affordable, healthy housing and for increased tenant's rights in the face of an intractable housing crisis – and in the face of a pandemic which has exacerbated that crisis. ICLC stands in support of the changes requested by the Legal Aid Foundation of Los Angeles, which together with many community members has been at the vanguard of ensuring the Mello Act produces and preserves local housing resources which are essential to combatting our housing affordability crisis. The requested changes will ensure that the City builds on its past success in implementing the Mello Act while improving procedures to better capture the affordable housing obligations generated by development in the Coastal Zone.

The Interim Administrative Procedures (IAP) for complying with the Mello Act have been critical to preserving and expanding affordable housing opportunities in the Coastal Zone when they have been properly administered and enforced. Unfortunately, the proposed Mello Act Ordinance has been substantially weakened in recent drafts, undermining its effectiveness in replicating the success of the IAP while tightening loopholes and remedying insufficiencies. In order to advance a policy which secures the promise of the Mello Act for Los Angeles residents, does not take us backwards in advancing our goals in the Coastal Zone, and addresses shortcomings of the existing policy, the proposed Ordinance must be modified to achieve the following:

- Revise definitions and close loopholes to capture serial development activities and substantial renovation which approximates a demolition to address attempts to avoid Mello Act compliance.
- Ensure determinations of residential development feasibility align with the Mello Act's prioritization of affordable housing in the Coastal Zone.
- Modify Inclusionary Housing requirements to capture partial unit obligations, reflect the true size of a development and ensure needed housing resources are not left on the table.

624 SOUTH GRAND AVE. SUITE 2510 • LOS ANGELES, CA 90017 • TEL: (213) 891-2880 • FAX: (213) 891-2888 • WWW.INNERCITYLAW.ORG

- Accurately capture existing housing resources to ensure all units occupied by or affordable to lower-income families are included in replacement obligations, and include a presumption of affordability to ensure units are captured.
- Ensure project-level feasibility assessments are based on a specified objective methodology to reduce the burden on staff, commissioners and community members to push back on illegitimate or inappropriate developer-driven feasibility studies.
- Maximize the benefits of the Ordinance for the community by requiring covenants to be recorded for the life of a development, commit to a concrete expenditure plan for in-lieu fees (including fractional) geared towards addressing our housing affordability crisis, and provide proper notifications to interested parties and the public to ensure community participation, which has been integral to the success of the IAP.

As an organization dedicated to advancing solutions to our housing crisis, the Inner City Law Center strongly supports the adoption of a Mello Act Ordinance which incorporates the above-listed changes, which will increase the ability of our communities to benefit from local development and will aid us all in working to solve our considerable housing challenges.

Sincerely,

Alexander Harnden
Public Policy Advocate
Inner City Law Center

Date: May 12, 2021
Subject: Urgent re draft Mello Ordinance & Mello Act Prohibition on Mixed-Use

Hello City Planning Commissioners,
The Mello Act, has an explicit prohibition on conversion of 100% to other uses, including Mixed-Use.

The draft Mello Ordinance purposes: 5C (5). Mixed Use Development.

> "A proposed mixed-use development may not result in a net reduction in the total number of existing Residential Units unless a residential use is no longer feasible. A mix of uses is permitted, so long as the structure provides all required Replacement Affordable units on site and Inclusionary Units."

Here, the draft ordinance proposes approval of mixed-use development. That is not consistent with Article 10.7, 65590(a) and the explicit prohibition on conversion. Mixed-use development is a change of use from 100% residential to a commercial use, that often has a residential component. The plain language of the Mello Act prohibits conversion. The City cannot exceed its authority. DCP recently approved multiple projects in the Venice coastal zone and more applications are in the pipeline that convert 100% residential to mixed-use in violation of the Mello Act and existing IAP. Several of these planning approvals show that the intent of the Legislature to protect housing is not being protected and the City is exceeding its authority.

Example Case - ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A – Venice Place
In 2020, DCP approved and WLAPC upheld ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A[1] at 1021-1051 Abbot Kinney, Venice Place for:

> the "construction, use, and maintenance of a 70,310 square foot, mixed-use development (including existing and new floor area). The mixed-use development is comprised of two existing restaurants and a new 3,810 square-foot hotel restaurant having 2,514 square-feet of Service Floor area, four dwelling units, 78 guest rooms within a hotel, 2,935 square-feet of Service Floor area, a 1,735 square-feet spa, and 2,027 square-feet of office use. feet if ground floor retail space including a market with 170 square-feet of Service Floor area, a 1,735 square-feet spa, and 2,027 square-feet of office use.

Three historic Rent Stabilized units are to be demolished as well as other structures. Other residential units within the proposed area were already demolished, piecemeal, including a single-family residence at 1033 Abbot Kinney, and are not calculated in required Mello findings.

DCP approved Venice Place using L.A.M.C. 13.09b to define mixed-use:

> **Mixed Use Project** means a Project which combines **one or more Commercial Uses** and **multiple dwelling units** in a single building or in a Unified Development and which provides the following:
> (1) a separate, Ground Floor entrance to the residential component, or a lobby that serves both the residential and Commercial Uses components; and
> (2) a pedestrian entrance to the Commercial Uses component that is directly accessible from a public street, and that is open during the normal business hours posted by the business.
> A minimum of 35 percent of the Ground Floor Building Frontage abutting a public commercially zoned street, excluding driveways or pedestrian entrances, must be designed to accommodate Commercial Uses to a minimum depth of 25 feet.

DCP approved a 1.5 Floor Area Ratio for Venice Place for a primarily "residential" project. The four "dwelling units" are under 2,500 square feet in a 70,310 square foot development. Three historical Rent Stabilized properties will be demolished. The Applicant claims to provide four "apartments" with a mix of commercial uses including a 78-room hotel. **DCP and HCID approved this interpretation of mixed-use** and the required Mello findings. But the four "apartments" are under the Venice Place's ABC Type 41 license and have in-room mini bars. These are not "residential units" or "replacement dwelling units" that comply with the intent of the Legislature in the Housing Element and Mello Act. The plain language of the Mello Act prohibits

1. ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A https://planning.lacity.org/pdiscaseinfo/search/encoded/MjM2ODg00

conversion. The City cannot exceed its authority.

The Applicant's PowerPoint Presentation for ZA-2012-3354-CUB-CU-CDP-MEL-WDI-SPP-SPR-1A:
4 Apartments, 3rd floor, Room service, in-room mini-bar.

Venice Place Master CUB Programming Matrix				
Usage Type	**Floor**	**Service Proposed**[a]	**Hours**[b]	**Entertainment Type**[c]
Commercial (Westminster)	**1st Floor**	Service & Consumption, Off Site Sale	9am-1am	Ambient Music
Lobby/Library/Courtyard	**1st Floor**	Consumption	9am-1am	Ambient Music, Live Entertainment
Hotel Restaurant and Bar	**1st Floor**	Service & Consumption	9am-1am	Ambient Music, Live Entertainment
Hotel Restaurant	**2nd Floor**	Service & Consumption	9am-1am	Ambient Music, Live Entertainment
Outdoor Deck	**2nd Floor**	Service & Consumption	9am-1am	Ambient Music
Hotel and Ancillary Uses[d]	**Subgrade, 1st, 2nd, 3rd Floor**	Room Service & Consumption	9am-1am	Ambient Music, Live Entertainment
Guest Rooms and Common Areas	**2nd and 3rd floor**	Room service, in-room mini-bar, consumption	9am-1am	N/A
Apartments	**3rd Floor**	Room service, in-room mini-bar, consumption	9am-1am	N/A
Pool, Pool Deck and Bar	**3rd Floor**	Service & Consumption	9am-1am Thurs-Sat 9am-12am Sun-Wed	Ambient Music, Live Entertainment
Roof Deck	**Roof**	Room Service & Consumption	9am-12am Thurs-Sat 9am-11 pm Sun-Wed	Ambient Music

[a] Consumption implies food and beverage

[b] Hours: 9am on weekdays if school is in session, 7am all other days.

[c] Unamplified live entertainment during NON-school hours only. All music must be inaudible to adjacent properties and will be decibel limited by conditions of approval

[d] Ancillary uses located at Subgrade, 1st, 2nd and 3rd Floor. Hotel guests rooms are located on the 2nd and 3rd Floors only

Operational Conditions

HOURS REVISED TO 9 am

The Mello Act's prohibits conversions with exceptions for a coastal dependent use or where residential housing is infeasible. Residential housing cannot be said to be infeasible in Venice, San Pedro, or Pacific Palisades. That cannot be construed to mean that the Mello Act allows conversion as long as the number of units remains the same. The conversion of 100% residential development to mixed-use is a change of use to a commercial use, changing the character of the community, intensifying the property use, and traffic, and undermining the housing element during a time of a housing crisis as well as an unhoused crisis.

In *Venice Town Council, the court said:*

> [W]e conclude the City's interpretation of its responsibilities under the Mello act is erroneous. The plain language of the statute imposes a mandatory duty on the City in certain circumstances to require replacement housing for low- or moderate-income persons or families where units occupied by qualifying persons are converted or destroyed. We further conclude the City has no discretion to allow a developer to escape the requirement of providing affordable replacement units whenever the City permits a noncoastal dependent **commercial structure** to replace existing affordable residential units. Because the trial court based its ruling on the City's erroneous interpretation of its duties under the Mello act, we reverse the judgment of dismissal with directions to overrule the demurrer.

The controversy in Venice Town Council was conversion of three ground floor apartments in a 100% residential 24-unit RSO building in a C-1, Community Commercial zone, to commercial use based on the property owners claim of infeasibility of continued residential use of those units, and without mandatory one-for one replacement units on site or in the coastal zone. Allowing mixed-use does not support the preservation of existing housing and creation of new housing. It is prohibited by the Mello Act and it would open a flood gate for developers who know that the City lacks enforcement capability.

Appreciatively, Margaret Molloy

May 12th, 2021 *Via E-Mail*

Ms. Samantha Millman, President
Members of the Los Angeles City Planning Commission
c/o Cecilia Lamas
200 N. Spring Street
Los Angeles, California 90012
cpc@lacity.org

RE: ZA-2019-1744-CU-MCUP-SPR-TOC-1A / VTT-82618-CN-1A
623-671 S. LA Brea Avenue – Agenda Items No. 9 & 10

Dear President Millman:

I am writing on behalf of my client, La Brea Bliss, LLC ("Applicant"), owner of the property located at 623-671 S. La Brea Avenue ("Property"). On October 20, 2020 the Advisory Agency approved Case No. VTT-82618-CN, and on January 15th, 2021, the Zoning Administrator ("ZA") issued a Letter of Determination, (collectively the "LODs"), for Case No. ZA-2019-1744-CU-MCUP-SPR-TOC, approving a mixed-use project consisting of a hotel, residential units, restaurants, and retail ("Project"). These LOD's were subsequently appealed, and are the subject of Items No. 9 and 10 on the May 13, 2021 Agenda. This Project will be a transformative addition to the neighborhood, providing much needed hotel rooms, reducing strain on illegal short term rentals, integrating a mix of uses into the existing neighborhood, and activating a currently underutilized portion of La Brea Avenue adjacent to the Metro Purple Line La Brea station. This case has been fully vetted in public hearing, has been supported by the Mid City West Community Council ("MCWCC"), and the local community.

Proposed Additional Conditions

Throughout Project design and refinement, the Applicant engaged with the MCWCC, Council District 4, and individual community stakeholders to better understand community concerns and needs. In addition to standard and Project tailored conditions issued in the January 15th ZA LOD, the Applicant is requesting that the following volunteered conditions be incorporated into the CPC's determination as specifically requested by the MCWCC on the project, and in response to agreements made with the community throughout many years of engagement and outreach.

1. Additional landscaping will be included along the public alley abutting the Project to the west, facilitating connections to the future Metro Station along Wilshire Boulevard, as shown in the Landscape Plans included in Exhibit "A".

2. The project shall include a minimum of one (1) on-site car share for residents and guests.

3. The project shall provide on-site ride share pick up and drop off space within the Porte-Cochere / valet parking area.

4. The project shall provide two (2) e-cargo bicycles for project residents and hotel guests.

5. Residents shall be provided a one-month introductory TAP card included upon lease execution for all residents to promote utilization of public transit.

6. All parking shall be unbundled, and managed by the on-site valet operator.

7. The driveway approach areas along La Brea Avenue shall include high visibility and material differentiation for pedestrian and vehicle "mixing zones" as a public safety measure, as reviewed and approved by the Bureau of Engineering.

8. Pedestrian path of travel shall be maintained along La Brea Avenue during construction. Should a closure be required, such closures will be limited to activities deemed necessary for construction and limited in time.

9. Green roofing, filtration, and other screening mechanisms shall be provided on the roof level.

10. Subject to the City of Los Angeles Urban Forestry Division requirements, Applicant shall seek to provide more than nine street trees along La Brea Avenue.

As the Project concept has been developed for almost three years, it has been the subject of extensive scrutiny by Los Angeles City Planning and the community. Given the comprehensiveness and obvious commitment to creating a community driven project, we request you deny the appeals to this Project and adopt the additional volunteered conditions herein.

Sincerely,
Three6ixty

Dana Sayles

Dana A. Sayles, AICP

cc: Michelle Carter, DCP
Oliver Netburn, DCP
Mashael Majid, CD 4
Meg Healy, CD 4

three6ixty

May 12, 2021

City Planning Commission
Regular Meeting Thursday 5/13/21 via teleconference, items 9 and 10
623 – 671 S. La Brea Avenue,
Case No. ZA-2019-1744-CU-MCUP-SPR-TOC & related VTT-82618-CN, ENV-2019-1736-SCPE

Honorable Commissioners:

I include by reference all objections raised by parties in the case file and in the CPC proceedings. I am co-President of the 6th Street Miracle Mile Neighborhood Association. Our neighborhood abuts the project. I represented the residents on Mid City West Community Council from 2019 - 2021. Hundreds of residents submitted opposition comments prior to the Determination.

City law requires permission to build a hotel within 500' of residential uses. This hotel would be built less than 50' from 100s of homes. The neighborhood strongly opposes the project. So-called letters of support were organized by the real estate lobbying group Abundant Housing See attached photos of the alley. The project's intended use of the alley will prevent resident access to their homes and small business customers from accessing the businesses.

This project routes 100% of its traffic through a narrow alley below Sixth St. which adjacent residents depend on to get home because Detroit is 1-way NB. About a hundred tenants' sole garage access is on this alley; they will be continually blocked by valet traffic and trucks queuing for the tiny loading dock. Hundreds more will be blocked from using the alley to navigate from Sixth to their homes on 1-way Detroit. Sixth Street and the intersection of Sixth/ La Brea will be permanently choked as trucks ongoingly paralyze traffic in all directions while trying to make the tight turn into the alley to reach the hotel. Emergency vehicles will be impeded getting to residents via the alley and won't be able to re-route to Detroit which has only 1 lane with angled parking preventing NB motorists from moving aside to let the emergency vehicle pass. Hundreds will have to move when the alley blockages interfere w/ access to their homes. Pedestrians trying to use the sidewalk across the mouth of the alley will be in harm's way continually due to the excessive volume of traffic associated with the hotel.

Our neighborhood sought advocacy from Mid City West Community Council in 2019 only to have the Planning Land Use chair later lie about never having met with us and instead engage in ex parte contact with the developer to secure the board's approval.

Please grant the appeals and require the developer to design his project holistically rather than an excruciating burden that destroys a rent stabilized affordable neighborhood and paralyzes the surrounding streets.

Attachments: Photographs of the subject alley abutting the proposed project

Sincerely,

6th Street Miracle Mile Neighborhood Association
Barbara Gallen, Co-President
(310) 490 07156thMMNA@gmail.com

Alley between La Brea and Detroit St. , looking north toward Sixth St., from proposed project site

Looking south into alley from Sixth St. A continual stream of commercial vehicles will be routed through this alley daily to service the luxury hotel. Sixth St. is only 1 lane in each direction during off peak times. Traffic on Sixth will be at a standstill while trucks queue to negotiate the tight turn and hundreds of residents will be prevented from coming and going from their homes on the 1-way NB Detroit Street while trucks try to make that precarious trip to the hotel through the alley. Pedestrians will be endangered trying to use the sidewalk across the mouth of the alley while truck drivers try to edge their way into (or out of) the alley.