

Communication from Public

Name: POWER & Citizens Preserving Venice
Date Submitted: 05/31/2021 10:01 PM
Council File No: 21-0013
Comments for Public Posting: PLUM City Clerk, Please provide this letter to PLUM for the June 1st Agenda, Item 12. Thank you. Appellants POWER & Citizens Preserving Venice Attachment--letter from Venskus & Associates and California Women's Law Center--is included in the appellant's May 27th submission in this Council File 21-0013.

From: Robin Rudisill wildrudi@mac.com
Subject: PLUM June 1, 2021, Item 12--CPC-2019-2282-CDP-MEL-SPP-DB-CUB-1A
Date: May 31, 2021 at 9:54 PM



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PLUM City Clerk,

Please provide this letter to PLUM for the June 1st Agenda, Item 12.

Thank you.

To: City of Los Angeles Planning and Land Use Management Committee

Fr: Appellants POWER and Citizens Preserving Venice

Re. Our appeal of CPC-2019-2282-CDP-MEL-SPP-DB-CUB-1A
811-815 Ocean Front Walk

We provide the following rebuttal to the City and Applicant rebuttals of our appeal:

1. Demo/Conversion for purposes of a mixed use project is not authorized

City Planning states that they did not err re. the Mello Act prohibition of conversions/demolitions of residential structures for purposes of a mixed use project. However, the City is "in denial," as the evidence has been provided by the Appellant that shows that the Mello Act and the IAP (which both state that the conversion or demolition of any residential structure for purposes of a nonresidential use shall not be authorized) are very clear that demolitions/conversions for purposes of a nonresidential, mixed use project are not allowed.

The City's response is nonsensical. First, they provide definitions of "coastal-dependent non-residential use" and "residential unit" and "new housing development," all of which are irrelevant to the mixed use issue. They argue that because the new units meet the IAP's definition of residential units that the project is not a nonresidential structure. That is not the question. The fact is that the existing structures would be demolished for purposes of a mixed use project. That mixed use project has two components, residential and commercial. The existing structures are being demolished for purposes of the total project, for purposes of both the residential and commercial components of the mixed use project and not just for purposes of the residential component.

In addition, the Planner errs in making the point that the proposed project does not result in a nonresidential structure. However, whether the City considers the resulting mixed use structure residential or nonresidential/commercial is irrelevant. The question is not what kind of structure results but rather what kind of use: "...demolition of any residential structure for purposes of a nonresidential use...shall not be authorized."

Also, the applicant errs in making the assertion that the Mello Act only prohibits replacement of residential structures with entirely non-residential uses. The Mello Act and the IAP say that residential structures cannot be replaced with non-residential uses and has no provision for a partial residential, partial commercial (a mixed use project) exception!

A mixed use project is a nonresidential use. The project cannot be allowed under the Mello Act as it would entail a demolition of a residential structure for purposes of a nonresidential use/project. The project must conform to both the Mello Act state law and the Coastal Act state law. In addition, neither the Coastal Act nor its certified Land Use Plan guidance require that the project be a mixed use project in this coastal land use designation; rather, the certified Land Use Plan guidance only encourages the development of mixed use structures. A residential use is allowed in the zone, which results in a mix of uses in that zone as opposed to a mix of uses on the site.

A 100% residential project can conform to both the Mello Act and the Coastal Act. Thus the use must remain residential.

2. Prior Coastal Commission decisions

The Coastal Commissioners made it clear in the hearing for the 3011 Ocean Front Walk project that a mixed use project was not required. Because the certified Land Use Plan guidance only encourages a mixed use project in the land use designation, and because the Coastal Commission did not require a mixed use project for 3011 Ocean Front Walk, there is no basis for the Coastal Commission to find issue with the project if it is residential and not mixed use.

3. City's prior actions/proposed Mello Act ordinance

We acknowledge that City Planning has supported demolitions or conversions of 100% structures for purposes of some mixed use projects in the past and also that City Planning has put a provision in the draft Mello Act Ordinance in that regard. However, the City is in error on this point and we the undersigned have challenged such projects as well as the mixed use provision of the draft Mello Act Ordinance. See attached letter from Venskus and Associates and California Women's Law Center for details of our legal challenge. The City has a pattern and practice of approving such projects in violation of the Mello Act state law. Until this mixed use issue is decided by the City Council, and ultimately by a court of law if necessary, the City and applicant cannot conclude that the City's actions in this regard, which are undergoing a serious legal challenge (including this appeal as a pattern and practice of violating the Mello Act along with other similar projects) are a basis to support the proposed project.

It should be noted that the City also violated the Mello Act and IAP for several years with a pattern and practice of approving Mello Act Compliance Determinations using the VSO ministerial permit process. The VSO procedure was not a discretionary action and it was not appealable and thus these City actions violated the state Mello Act law and the IAP. The undersigned fought this practice and the City eventually made the necessary corrections to the process in order to end these ongoing violations.

And finally, the City also violated the Mello Act in the 90's, resulting in the 2000 Settlement Agreement between the City of L.A. and the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, and Carol Berman Concerning Implementation of the Mello Act in the Coastal Zone Portions of the City of L.A.

As you can see, the City has violated the Mello Act many times over the past decades and it is known for its long-standing illegal practices with respect to the Mello Act. It has been necessary for citizen groups, such as ours and such as the Venice Town Council and Barton Hill Neighborhood Organization, to fight and work to get the City's illegal practices corrected. This mixed use issue is no different.

4. Environmental Justice provisions of the Coastal Act

City Planning indicates that it does not believe that the Environmental Justice provisions of the Coastal Act apply to a Venice Coastal Zone project. They are mistaken. The entire Coastal Act is the standard of review for a Venice Coastal Zone project. It is erroneous for the City to say that the state Coastal Act law does not apply until the LCP is approved, particularly since the LCP has been delayed by the City itself for many decades now. Not finalizing the LCP does not enable the City to evade any provisions of the state Coastal Act law, including the Environmental Justice provisions. The relevant Coastal Act provisions do entail judgements/discretionary decisions; however, the City errs in that it has not even considered the provisions.

5. HCID affordable units determination

The HCID affordable units determination dated July 14, 2015 concluding that there are no replacement affordable units on the project site is in error and thus the Mello Act Compliance Determination must be corrected. HCID must correct it's 2015 analysis of replacement affordable units because according to community testimony during the 811-815 Ocean Front Walk hearings and as per evidence provided by the undersigned (see 811-815 Ocean Front Walk case files), including 2014 utility bills and photos showing occupants in the structures during the review period--June 2012 to June 2015--the units were being occupied/rented at well below market rents. Also, there was an unpermitted commercial use during that time. Under Mello, the unpermitted commercial use cannot be acknowledged/rewarded by being used as an exemption from replacing RSO affordable units.

In addition, as pertains to mention of the AB 2556 affordable replacement units, this is, again, irrelevant as it relates to density bonus requirements, which do not replace the Mello requirements.

The Mello Act Compliance Determination is in error as it does not provide for the units qualifying as replacement affordable from the review period, June 2012 - June 2015.

It should be noted that the one low income affordable unit proposed to be provided is being used to qualify for the Density Bonus incentives.

As explained above, this project would violate the Mello Act. Please uphold the appeal and require a 100% residential project.

*For the Love of Los Angeles
and our precious Coast,*

Robin Rudisill
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