Communication from Public

Name:	Citizens Preserving Venice
Date Submitted:	06/06/2022 12:07 PM
Council File No:	21-1478
Comments for Public Posting:	Honorable PLUM Councilmembers and Staff, The L.A. Housing and Planning Departments must not be allowed to violate the laws protecting affordable housing in order to facilitate a developer's violation of its responsibility to provide affordable housing. Please carefully read the attached before tomorrow's PLUM meeting and come prepared to take the necessary steps to protect housing and affordable housing by upholding the appeal.

Citizens Preserving Venice

June 5, 2022

EXTRA, EXTRA!
Read All About It!
City of L.A. Planning and Housing Departments
Collude with Developers to Evade State Law Protecting Housing
During Severe Housing Crisis!

Los Angeles City Council
Planning and Land Use Management Committee
City Hall
Los Angeles, California 90012

Re. PLUM Committee meeting June 7, 2022, Item 8
Council File No. 21-1478
CEQA appeal of ENV-2020-5333-CE-1A
ZA-2015-1155-SPP-CDP-MEL-ZV-1A
1301-1303 Abbot Kinney Blvd, Venice

Honorable PLUM Councilmembers,

We have reviewed both the applicant representative's appeal response letter and the City's response letter and the following is in response to both. Please be aware that some important appeal points were ignored in their responses, obviously because they could not effectively rebut them.

Councilmembers, you cannot look the other way when there are major violations of state law by your Housing and Planning departments, as detailed below.

IT IS AN ERROR TO APPROVE A CATEGORIAL EXEMPTION AS THERE IS SUBSTANTIAL EVIDENCE THAT A CEQA ANALYSIS IS REQUIRED

The reason that CEQA is being violated and it is an error to issue a Categorical Exemption is very simple: the project is not consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations. We have provided extensive substantial evidence to prove that in our appeal application and herein.

The Planning department makes a mockery of the entire process by stating throughout their June 2nd letter rebutting the appeal that "the appellant has not provided any evidence to support its implied claim that the City has erred or abused its discretion by

making this determination." The City makes this simple statement no matter how much substantial evidence is provided. In fact, the City has a pattern and practice of saying this, whether there is truly no substantial evidence provided or whether there is extensive substantial evidence provided. That is because the City believes the risk of being sued and being forced to handle CEQA correctly is low. It's a "catch us if you can" approach that results in a significant number of erroneous Categorical Exemptions and therefore violations of CEQA.

THE "SIMILAR PROJECTS" REFERENCED BY THE CITY ARE NOT SIMILAR AT ALL

None of the similar projects listed in the City's letter are for demolition of a residential structure(s), replacing them with a mixed-use project. None of them use commercial rents to determine whether existing residential units are affordable. Rather, the project at 1525 Abbot Kinney Blvd. involves building a new structure on a vacant lot, the project at 825 Hampton Drive involves demolition of an existing commercial structure for purposes of a mixed-use project, which does not violate the Mello law, and the project at 1808 Lincoln Blvd. is not even in the Coastal Zone!

THE CITY STATES THERE ARE SPECIAL CIRCUMSTANCES FOR PURPOSES OF THE ZONE VARIANCE BUT THAT THERE ARE NOT UNUSUAL CIRCUMSTANCES FOR A CEQA EXCEPTION TO THE CATEGORICAL EXEMPTION

For purposes of the zone variance findings, Planning finds that there are special circumstances applicable to the subject property that do not apply to other property in the same zone and vicinity (LOD F-22, Finding 12). At the same time, City Planning finds that there is nothing about the property that would differentiate it from other Class 32 infill developments that would create a significant effect (LOD F-15). These two conclusions are conflicting and thus either the Zone Variance findings or the CEQA findings are incorrect, or possibly both.

For purposes of the Zone Variance, finding 12 is erroneous as it is not correct that the subject site is unique as compared to other properties in the same zone or vicinity. It is virtually the same as the surrounding properties, with no differences as to size, shape, topography, location or surroundings from other property in the same zone and vicinity. Thus, because one of the required findings cannot be made, the Zone Variance cannot be approved.

WEST L.A. AREA PLANNING COMMISSION DECISIONS ARE OVERTURNED 72% OF THE TIME

The research shows that for 18 out of 25 appeals that the West L.A. Area Planning Commission (APC) denied over the past six years since Mike Newhouse joined the

APC, the Coastal Commission has overridden those decisions and upheld the appeals. That means that 72% of the time your Planning department and its APC erred in their determinations, according to the California state Coastal Commission, the agency that has jurisdiction over the Coastal Act, the standard of review for a coastal development permit.

You should care very much about that. **Not only do your staff's errors cause a terrible waste of resources, but it's also extremely unfair to the applicants**.

THE MELLO PROCESS BETWEEN HOUSING AND PLANNING IS BROKEN

The IAP states that Housing has the sole responsibility for determining whether any existing residential units are affordable (IAP page 13). But that does not mean that Housing can indiscriminately violate the law.

Planning is essentially saying that if the Housing department issues an affordable unit determination letter that violates both the letter and intent of the Mello Act law, there's nothing they can do, and they approve the Mello Act Compliance Review determination anyway. That is nonsense.

This case was yet another error and abuse of discretion by the Planning department and the APC.

It's no wonder we are hemorrhaging affordable housing, and lower income Angelenos losing their homes is a chronic and terrible problem.

THE HOUSING DEPARTMENT IS FACILITATING DOUBLE VIOLATIONS OF STATE LAW MEANT TO PROTECT AFFORDABLE HOUSING

It's unconscionable that the Housing department is concluding that there are no existing affordable units because the applicant has had an unpermitted commercial use operating in the residential structures. See Attachment for their affordable housing determination letter. Because the applicant is violating the Mello law by operating a commercial use where there is a certificate of occupancy for a residential use, the Housing department is allowing them to violate the law a second time by basing their analysis of housing cost on the commercial rent for an unpermitted non-residential use, resulting in no affordable housing units to be replaced. To add insult to injury, the existing three units are covered by the Rent Stabilization Ordinance.

Not only is the commercial use unpermitted, as the certificate of occupancy is for residential use, but the Mello Act state law does not allow conversion of residential structures to non-residential use. The Housing department is allowing a violation of the law to be used to evade another section of the same law! That is preposterous!

Councilmembers, we hope you are shocked that your Housing department is doing this! It's no wonder we have an affordable housing crisis! Do not let them continue this malpractice!

This is also a violation of the settlement agreement between the City of Los Angeles 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 (Settlement Agreement). The City's Interim Administrative Procedures for complying with the Mello Act (IAP) is based on the Settlement Agreement and the IAP is being violated. Thus, this is a violation of the Settlement Agreement as this decision by the City would make the IAP less protective by allowing conversions of 100% residential structures to mixed use commercial uses if the number of units remains the same.

As noted above, this is headline news. And it shows how very broken our City is when our own Housing department facilitates an applicant in violating a state law, on multiple counts, that is meant to protect housing and affordable housing.

The IAP specifically requires that the Housing department determine monthly housing cost and does not allow using any other non-housing related rent paid to be used in determining whether the units are affordable. In this case, the only possible correct answer is that all three existing residential units are affordable as the "housing cost" is zero.

It's clear to see that with this erroneous precedent other owners will prepare for future projects where there is affordable housing with a plan to first change to commercial uses illegally in their residential structures in order to evade replacing affordable housing.

You must let your Housing department know that you will not tolerate this type of work around to help applicants evade their responsibilities for affordable housing. It is shameful that the City's Housing department is doing this.

THE CITY EXCEEDS ITS JURISDICTION BY ALLOWING CONVERSION OF RESIDENTIAL STRUCTURES TO A MIXED-USE PROJECT, WHICH IS SPECIFICALLY PROHIBITED BY THE MELLO ACT STATE LAW

The City fails to address the appeal point related to piecemealing the Mello review to only consider the residential portion of the new mixed-use project. This is an error of omission. The City cannot exceed its jurisdiction by changing the wording and meaning of the Mello Act in order to provide for Mixed Uses replacing 100% residential structures. One of the three main goals of the state Mello Act is to protect all housing, both affordable and market rate, from conversion to non-residential use (IAP 1.3 Rule

1.). Even if the residential units or use is maintained by replacing the same number of units, a 100% residential structure is being demolished for purposes of a nonresidential use, which is explicitly not allowed.

THE CITY SHOULD FIX THIS ERROR, NOT THE COURTS

This project plainly violates the law. Ann Sewell, General Manager, Los Angeles Housing Department, should be instructed to correct the housing determination to show that the applicant must provide three affordable units. Housing must not assist the applicant in evading that responsibility by violating the Mello law by operating unpermitted commercial businesses in these housing units, resulting in a pass for the developer's legal responsibility to replace the affordable units.

In addition, City Planner Juliet Oh, the Mello Act Coordinator, should be instructed that it is her responsibility to assure that such errors by the Housing department are not tolerated.

IN ADDITION TO ASSURING THE LAW IS FOLLOWED, CITY COUNCIL MEMBERS HAVE AN ETHICAL AND MORAL RESPONSIBILITY TO PROTECT HOUSING IN THIS CITY

It should be noted that the denial of the appeal of this project at the APC was a very close 3-2 vote. The two voting against denying the appeal knew very well there were errors. The three voting to deny the appeal also knew that but they are the commissioners who usually vote to help the developer despite any errors or abuses of discretion by Planning. This is unacceptable, especially on an issue regarding protection of housing, in the face of the housing and homelessness crises.

This project fails to protect housing for four main reasons:

- The project decreases density as it goes from three residential units to two residential units and an ADU. The Coastal Commission has made it clear, in numerous decisions, that this entails a decrease in density and is unacceptable. The APC has also previously found, in the appeal hearing for 426-428 Grand Blvd, that an ADU is not the same as a multi-family residential rental unit and does not preserve density (see Exhibit B to the appeal).
- The project converts the residential structures on a lot into a commercial/non-residential use, which is in violation of the Mello Act.
- The project does not protect affordable housing.
- The City has knowingly allowed a commercial use in these residential structures for at least the past six years, which has taken away housing at a time when there is a housing crisis.

Councilmembers, you cannot look the other way when there are major ongoing violations of law that rob the public of housing, violations that your Housing and Planning departments are facilitating.

Stop allowing the corruption! If you do not stop it, you are complicit.

You have an ethical and moral responsibility to protect housing in this City and must not allow these violations of the law.

Please send this project back to the Housing and Planning departments and tell them to correct their mistakes and follow the law. Do not allow this fraud against the public and, frankly, you.

Again, the project is not consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations and therefore does not qualify for a CEQA Categorical Exemption. We have provided extensive substantial evidence to prove that in our appeal application and herein.

Lastly, we incorporate the letters opposing the ordinance's mixed-use provision in the Council File for the Mello Act Ordinance, CF 15-0129-S1, by reference, in support of the appeal points for this case related to the violations of the Mello Act, Settlement Agreement and IAP.

Sincerely,

Sue Kaplan

Sue Kaplan,
President, Citizens Preserving Venice

Robin Rudisill

Robin Rudisill
Treasurer, Citizens Preserving Venice

ATTACHMENT—HCID DETERMINATION OF AFFORDABLE UNITS:

Los Angeles
HOUSING+COMMUNITY
Investment Department

Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

DATE: September 13, 2016

TO: Jae H. Kim, Senior City Planner
City Planning Department

FROM: Robert Manford, Environmental Affairs Officer
Los Angeles Housing and Community Investment Department

SUBJECT: **Mello Act Determination for**
1301- 1303 South Abbot Kinney Boulevard, Venice, CA 90291
490 Santa Clara Boulevard, Venice, CA 90291

Planning Case #: ZA-2015-1155-CDP-SPP-MEL

Based on information provided by the owner, Huron Drive, LLC, the Los Angeles Housing and Community Investment Department (HCIDLA) has determination that no affordable unit exists at 1301 - 1303 South Abbot Kinney Boulevard, Venice, CA 90291 and 490 Santa Clara Boulevard, Venice, CA 90291.

The property consists of a triplex multi-family unit of which comprises of three (3) bedroom units. Per the statement on the application, owner is proposing to demolish the existing triplex multi-family unit and construct two (2) live-work units. On December 13, 2013, Huron Drive, LLC, purchased the property from Noriyuki Masaki. Owner has not filed for a building or demolition permit.

Section 4.4.3 of the Interim Administrative Procedures for Complying with the Mello Act requires that HCIDLA collect monthly housing cost data for at least the previous three (3) years. The owner's Mello application statement was received by HCIDLA on July 11, 2016. HCIDLA must collect data from: July 2013 through July 2016.

Owner provided commercial lease agreements for all units commencing on July 14, 2013 to August 5, 2016 in which the monthly rental checks provided averaged above the moderate level of Schedule VII. From April 2015 to January 2016, the single family dwelling was vacant according to owner. Owner provided the Department of Water and Power utility bills for the single family dwelling which shows that the utility usage was near zero for this time period. Under the City of Los Angeles Department of Planning Parcel Profile Report (ZIMAS) database, the property is zoned as a C2 – Commercial. Under the Code, Compliance and Rent Information System (CRIS), inspectors' attempts to inspect the property on July 9, 2008 and July 27, 2012, but each time the inspector determined that the property was used as a business instead of a residential property based on their visual inspection.

Based on the information provided by the owner, the residential property was used as a commercial property and the monthly rental amount collected was above the moderate of schedule VII making the units not affordable.

cc: Los Angeles Housing and Community Investment Department File
Huron Drive, LLC, a California limited liability company, Owner
Richard A. Rothschild, Western Center on Law and Poverty, Inc.
Susanne Browne, Legal Aid Foundation of L.A.
Juliet Oh, City Planning Department

RM:IP:MAC:wj
HIMS: 16-123168

Communication from Public

Name:	Joe Catlin
Date Submitted:	06/06/2022 12:44 PM
Council File No:	21-1478
Comments for Public Posting:	As President of the Barton Hill Neighborhood Organization, I'm asking you to uphold this appeal. The protection of our lower income residents from displacement is so important that I'm willing to take the steps to assure this type of project does not go forward. See attached letter.

June 6, 2022

City of Los Angeles
Planning, Land Use Management committee

Re. CEQA appeal of 1301-1303 Abbot Kinney, Venice
ENV-2020-5333-CE (ZA-2015-1155-SPP-CDP-MEL-ZV-1A)
PLUM Committee meeting June 7, 2022, Item 8
CF 21-1478

Recommendation: Uphold the appeal

Dear Councilmembers,

My name is Joe Gatlin and I am the President of the Barton Hill Neighborhood Organization.

I was involved in the year 2000 Settlement Agreement regarding the Mello Act between the City of Los Angeles and The Venice Town Council, Inc., The Barton Hill Neighborhood Organization, and Carol Berman.

Demolition or conversion of residential structures for purposes of mixed-use projects, as is the case for the subject project, violates both the letter and the spirit of the Mello Act state law, and, if approved, this project WILL constitute a breach of the Settlement Agreement. In addition, the project violates the IAP, violates the Coastal Act, and it does not meet all of the findings for a zone variance. Therefore, it does not qualify for a CEQA Categorical Exemption.

The practice of demolishing residential structures for purposes of mixed-use projects must be clearly prohibited ***in order to prevent increased displacement of what is most often our lower income and racially diverse residents.***

In particular, the Housing Department's practice in this case and a few others of determining no existing affordable units based on the rent paid by an existing unpermitted commercial use is a clear Mello Act violation and the City must get to the bottom of why its own Housing Department would commit such a violation.

As President of the Barton Hill Neighborhood Organization, I'm asking you to uphold this appeal. The protection of our lower income residents from displacement is so important that I'm willing to take the steps to assure this type of project does not go forward.

It would be a shame to have to request enforcement of the Settlement Agreement after all these years, and especially regarding such a basic and clear provision of the Mello Act that clearly does not allow demolition or conversion of residential structures for purposes of nonresidential uses unless the use is coastal dependent, a very narrow exception.

It is incumbent on you to protect not only affordable housing but also all housing in our coastal zones.

I'm also concerned that there has been no end of tricks and loopholes allowed by this City over these past two decades, resulting in the loss of a significant amount of replacement affordable housing, affordable housing that we expected would be protected by the Settlement Agreement. I'm not sure how that was allowed to happen, but it's high time that the Settlement Agreement and Mello Act be strictly followed and that the City take steps to protect our affordable coastal housing as well as our coastal housing stock, the legislative purposes of the Mello Act.

Sincerely,

Joe Catlin
President, Barton Hill Neighborhood Organization