



● **McQUISTON ASSOCIATES**

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**CF11-1140**

**ITEM 1, PLUM 7/12/11**

M. Espinosa

**STATEMENT of J.H. McQUISTON on  
ORDINANCE AMENDMENTS**

Honorable Chairman and Members of the Committee:

**1. Not only does this Proposed Ordinance revise and consolidate appeal process, and limitation statutes, but it also substantially takes-away rights of adjacent property owners similarly-zoned.**

Only abutting property owners will necessarily be allowed to appeal. **Read it carefully.**

In *Philip Anaya v City of Los Angeles, et al*, the Superior Court enforced Section 1094.5, Calif CCP, which the California Supreme Court in *Topanga Assn v County of Los Angeles* is mandatory. *Topanga* said that **all property owners similarly-zoned in a local area are entitled to equal protection from variation from the established zoning.**

The State has stressed that low-income developments are almost a mandate on the City. My point is not to say such should be disputed by property owners, but instead **if any property owners in a zoning-block are allowed to appeal, then all must be allowed within that block, not just the properties abutting, etc as called-out.**

**2. The Ordinance's other great weakness is its laxity in enforcement, which has an underlying concern:**

**Zoning must have a nexus to public safety or well-being. If properties are allowed to languish as-is for up to eight years (as is possible), then the nexus is destroyed and the zoning allowance could be called a "taking" and require the City to pay therefor.**

**3. The Findings do not conform to the analysis and justification called-for in Section 1094.5 and *Topanga*.**

***It is time for the City to conform as imposed by Anaya.***

**This is not to say the progress toward simplification of process is not beneficial for all.**

Respectfully submitted,

J. H. McQuiston

c: Interested parties