

Clerk, Los Angeles City Council
File No. 11-1734
Agenda Item #13
November 29, 2011

The La Brea Willoughby Coalition strongly supports the well judged initial ZA determination-- through clear prudent legal and zoning codes, as well as facts, such as long term consequences of this wrong-attempt at spot zoning of the subject property.

Several Issues were significant at the November 15, 2011, PLUM Committee to demonstrate the "shadow planning process" driven by politics, regardless of bright light law, and why so many City decisions result in citizen litigation.

In the PLUM hearing recording, starting at 2h 18m, the Chair stated, *"Findings...can we make a case for the recommendation for the council office?" Then at 2h 21m, "... I'm having a hard time with this one... we have an analysis from the planning staff where they can show us on map a corridor that is basically M-1 and it's basically on that corridor on that side of the street*

Yet on other hand the council office has shown there is a whole range of uses from a school to residential to retail to commercial on that same corridor where it is supposed to be all M-1. So the purpose of that zone in its consistency has been blown out of the water--it's just not there.

What we see on the map versus what we see in reality is two-different things. ...get us out of this tight spots given these legal proceedings and inconsistencies on the maps. We support the council office."

As citizen appellants were not allowed rebuttal to gross misstatements at PLUM and the Full Council hearing is closed to public comment, further evidence must be brought to the Council's attention.

The PLUM Members voted with the respective Council Member and Neighborhood Council, with no note to

- the Council Member's representative cited "neighboring zones" without clarifying those zones were different from the one in the case at issue;

- the PLUM Chair repeatedly referred to the zone as "M-1" not the correct "MR-1," Restricted Industrial Zone with its appropriate uses, and

- the "certified Neighborhood Council" representative did not clarify he is a professional development expeditor who has been challenged on conflict of interest actions numerous times in the NC.

There was reckless disregard to statements of uses in zoning when it was apparent the PLUM Committee Members--and perhaps even the speakers had no true knowledge of the facts. And certainly have not read the appellants documentation of zoning, including maps, photos uses, and [lack of] vacancies. Or it is surrounded by industrially zoned land and a variance would constitute "spot zoning" fly in the face of the City's Industrial Land Use Study/Report to preserve and protect industrial lands and better paying jobs.

The Council Member's representative gave "neighboring zones" of "commercial nature" of "surrounding uses" without clarifying definitions, dimensions, nor with clarifying questions from the PLUM Committee on the following points indicated by ZIMAS map ("Z"), page 4, and photos, pages 5-7:

- "commercial" pronouncements given of a 99 Cents Store (852, Z #1, photo p6), and "a School" (801, Z #2, photo p6), are in a commercial zone. They are clearly not, as the subject property is in MR-1, restricted industrial zone;
- the [Mole Richardson] "Studio Depot" (900-32- and 925-North La Brea, the entire 900-Sycamore block and the private La Brea-Sycamore alley and 7029-Willoughby, Z #3, photos p7) is a manufacturer/rental supplier strictly of entertainment/industrial movie business and is in the properly zoned corridor;
- La Brea Gateway, the residential project (915, Z #4) on the block was rezoned by zone change, not variance;
- the Target/Best Buy is in the City of West Hollywood, (Z #5) outside this industrial zone and outside the city boundaries, and
- Pacific Radio (969, photo p5) was incorrectly described as a "concrete-front" building. It clearly has full front and all across the upper/mezzanine windows.

The previous variance was granted to the underlying zone, specifying industrial/entertainment use (note the Pacific Radio sign photo, p5) --not general retail. MR-1 permits C uses to directly support Industry, per Section 12.71.5 B 9. Pacific Radio selling to industry was in compliance, but not a mattress store selling to residences. Sections 12.17.S and 12.24 do not permit use or conditional use on this MR-I property as a mattress store selling for residential uses.

Stolman prohibits comparing out-of-zone and area properties, which applies to other zoned properties south of Willoughby and properties in West Hollywood.

Cow Hollow, quoted with approval by both *Broadway*, *Laguna* and *Topanga* in Supreme Court, notes relation to the same law constraints on review as in the Charter and the LAMC, namely the Council here sitting as an administrator cannot legislate (not go outside the law pertaining to its review).

Cow Hollow also says, like *Broadway*, mere statements regarding potential rental paucity counts for nothing per law, and recalls the owner paid a pittance for the property so gets a substantial return on investment when leasing it at the industrial rate instead of the higher commercial rate.

It also says comparison with properties which were lawfully nonconforming cannot be used for comparison, but only lawfully conforming properties may be legally compared; otherwise the concept of zoning is rendered inapplicable.

It is no surprise the expeditors of this industrial property prefer to bolster higher priced rents in lower paying retail store. They did not answer the legal points on variances with the rationale of "economic" benefits. Presumed vacancy is not an "economic hardship."

The applicant attempted to justify use as a mattress store with alleged claims industrial lessee could not be found. But in *Cow Hollow*, the Court said, "Mere allegation of difficulty of leasing [to industry] is not legally sufficient to prove leasing per law is not possible." Nothing in the facts presented by applicant proves the property is not legally leasable. In fact, the ZA did not find the applicant's allegation to be credible. Moreover, applicant's cost basis in the property is such that assuredly if an industrial-sized lease is offered the owner will get a handsome return. Failure to lease implies pricing was far higher than comparable industrial rent levels, as there are no vacancies in that block.

Honey Springs presents a good analysis of speculation regarding "future use of land". The argument in 969 heavily depended on various statements the area was changing and eventually the "C" zone use would be good because of what may be done in the new Hollywood Plan. *Honey Springs* prohibits such reasoning.

Honey Springs also stated if land is reserved for a protection it should not be allowed to evade the reserve. That applies directly to 969 and its MR-1 reserve status as well as the urgent and critical need to protect and preserve the meager industrially zoned areas as supported by the City's Industrial Land Use Report/Study. The City has the right to re-zone for the good of the City, and nonconforming properties have the right to stay as-is only as long as that particular use continues.

The LWC also asserts the CEQA analysis of CE is not appropriate, as the proposed zone variance will certainly significantly change impacts.

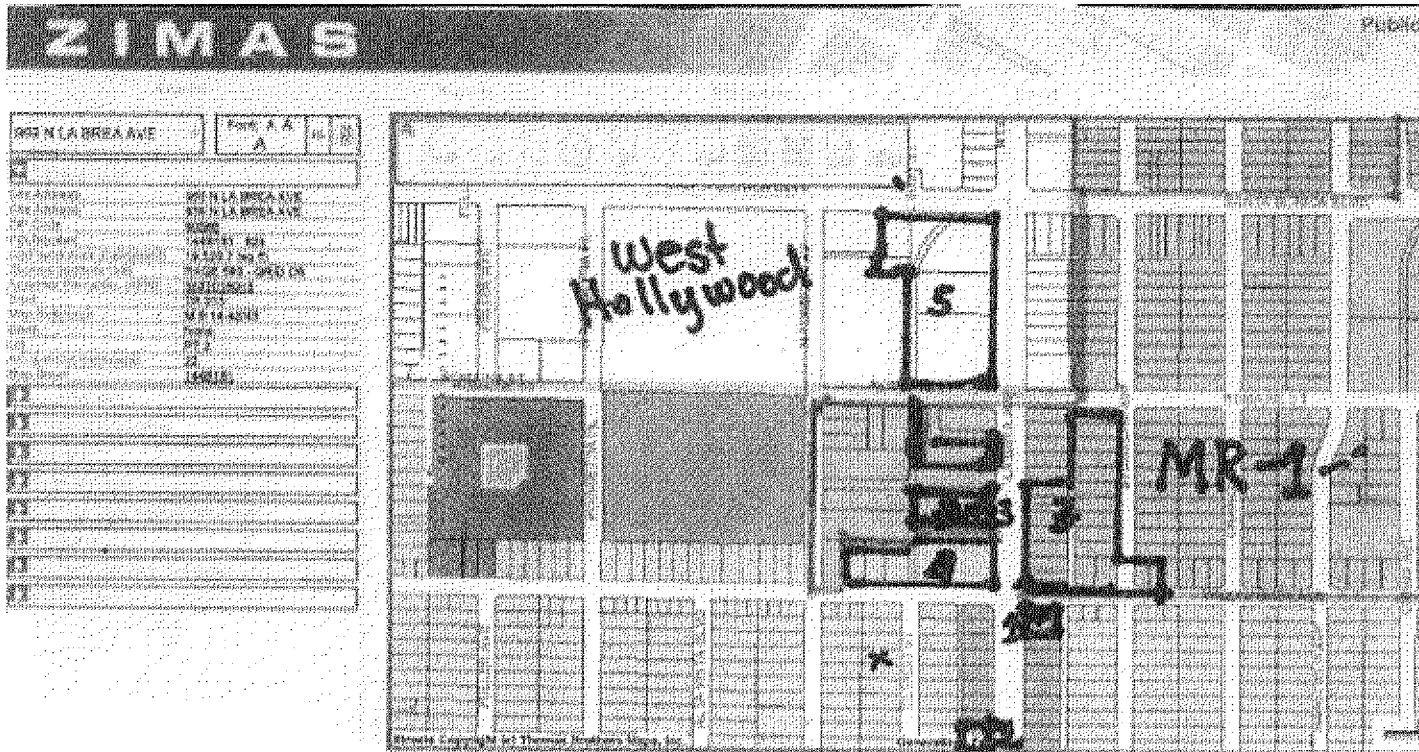
The Mid City West NC does not present this neighborhood's true interests--by it's only concession of "street trees" and "improved facade" illustrates its lack of legal criteria in its support of this zoning variance.

Finally, as a variance cannot be issued as justification was not met in accordance with LAMC Section 12.27 D, we ask the Full Council

- *not to set precedent to others to pursue zone variances for profits and
- *not to provide "special privileges" to Sit n Sleep through "spot zoning."

We request this appeal be granted to support the ZA decision and to deny the CAPC appeal.

Lucille Saunders



MR-1, Restricted Industrial Zone, in blue. Gower, east to Formosa, west City of West Hollywood, in pink

Sit n Sleep (969, photo p5) subject property surrounded by MR-1 zone, in red was incorrectly described as a “concrete-front” building clearly has front and all across the upper/mezzanine windows.

Properties cited by Council Member’s representative as “neighboring,” in black below

- 1) 99 Cents Store (852, photo p6), and 2) “a School” (801, photo p6), are in commercial zone, clearly not, as the subject property is in MR-1, restricted industrial zone;
- 3) [Mole Richardson] Studio Depot (900-32- and 925-North La Brea, the entire 900-, Sycamore block and private La Brea-Sycamore alley and 7029-Willoughby, photos p7) is a manufacturer/rental supplier strictly of entertainment/industrial movie business and is in the properly zoned corridor;
- 4) La Brea Gateway, the residential project (915) on the block was rezoned by zone change, not variance, and
- 5) Target/Best Buy is in the City of West Hollywood, outside this industrial zone and outside the city boundaries

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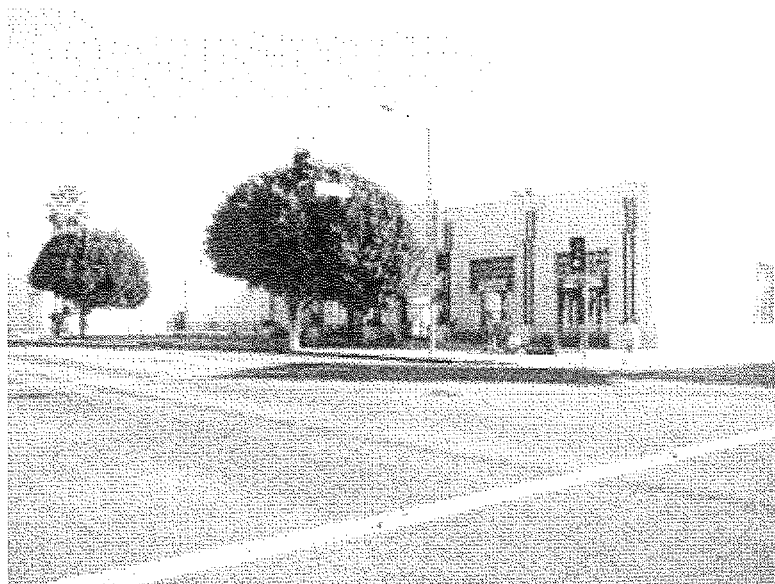
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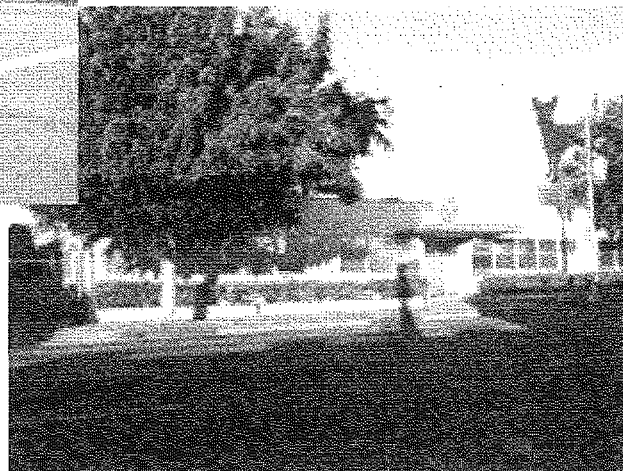
Above: 99 Cents Store (852 La Brea), and Below: “a School” (801 La Brea), are in commercial zone, clearly not, as the subject property is in MR-1, restricted industrial zone



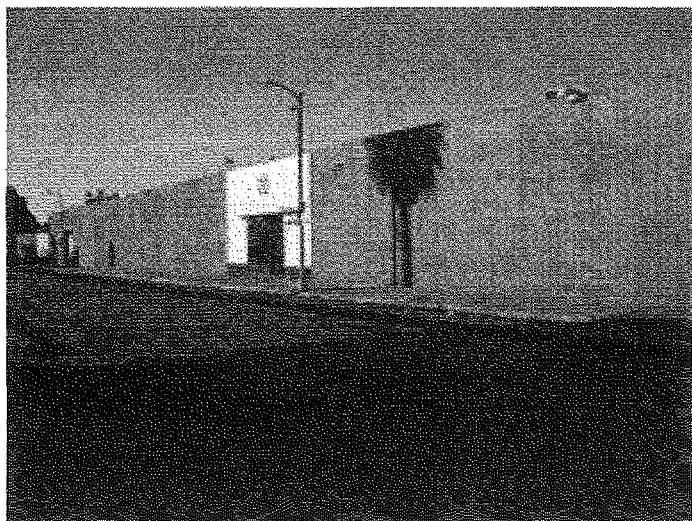
[Mole Richardson] "Studio Depot" (900-32- and 925-North La Brea, the entire 900-, Sycamore block with private La Brea-Sycamore alley and 7029-Willoughby), a manufacturer/rental supplier strictly of entertainment/industrial movie business and is in the properly zoned corridor;



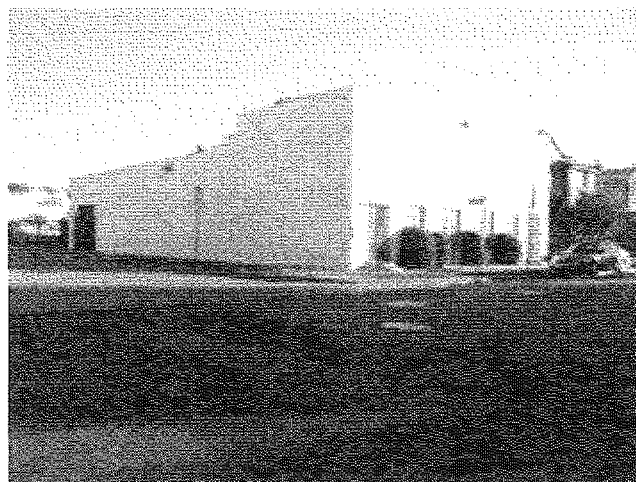
Mole Richardson 800-832 La Brea



Mole Richardson 825 La Brea



Mole Richardson entire 900 Sycamore block



Mole Richardson 7209 Willoughby