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May 26, 2021

Los Angeles City Council  
c/o Office of the City Clerk  
City Hall, Room 395  
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**APPEAL OF CASE NO. CPC-2019-2282-CDP-MEL-SPP-DB-CUB AND ENV-2019-2284-CE,  
FOR PROPERTY LOCATED AT 811 AND 815 SOUTH OCEAN FRONT WALK; CF 21-0013**

The project involves the demolition of nine existing residential dwelling units within three buildings and the construction, use and maintenance of a three-story, 13,412 square foot mixed-use building with nine dwelling units, setting aside one dwelling unit for Low Income Households, and a 1,568 square foot ground floor restaurant providing 574 square feet of Service Floor area and 50 seats requesting on-site sale of a full line of alcohol beverages, and 30 parking spaces on the ground floor and one subterranean level.

On December 3, 2020, the Los Angeles City Planning Commission approved Case No. CPC-2019-2282-CDP-MEL-SPP-DB-CUB, and determined, under Environmental Case No. ENV-2019-2284-CE that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Section 15332 (Class 32), and that there is no substantial evidence demonstrating that an exception to a categorical exemption, pursuant to Section 15300.2, applies. a Determination Letter was issued on December 15, 2020.

On December 30, 2020, an appeal was filed by one aggrieved party (POWER, Citizens Preserving Venice, Lydia Ponce, Margaret Molloy, and Robin Rudisill; "Appellant") to the City Council (Case No. CPC-2019-2282-CDP-MEL-SPP-DB-CUB-1A and ENV-2019-2284-CE-1A). The appeal in its entirety is located within Council File 21-0013. Below is a summary of the appeal points with a staff response to each point.

**Appeal Analysis**

**Appeal Point No. 1.** *Approval of this project would prejudice the pending Mello Act Ordinance.*

**Staff Response:**

The proposed Mello Act Ordinance is a draft ordinance that has not been adopted by the City Council. Therefore, projects in the City of Los Angeles Coastal Zone that are subject to the

provisions of the Mello Act are reviewed for compliance with the Interim Administrative Procedures for Complying with the Mello Act (IAP). As provided in Finding No. 5 of the Determination Letter, the proposed project was adequately reviewed for compliance with the provisions of the IAP.

**Appeal Point No. 2.** *The proposed project violates the Mello Act and IAP. This project proposes the demolition of a 100% residential structure for purposes of a nonresidential (mixed-use commercial) development in the Coastal Zone. The IAP does not provide any indication that a mixed-use development is considered a residential use, and the prohibition on conversion to non-residential use is unequivocal.*

**Staff Response:**

The Appellant does not provide substantial evidence to support their claim that the City Planning Commission erred or abused its discretion and substantial evidence supports the Mello Act Compliance Review findings.

As discussed in Finding No. 5 of the Determination Letter, the project is consistent with the applicable provisions of the Mello Act and IAP.

The IAP provides the following questions and procedures:

**4.1 Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?**

*The Mello Act states that the Demolition of Conversion of residential structures for 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.*

The IAP provides the following definitions:

**"Coastal-Dependent Non-Residential Use"** *means any non-residential development or use which requires .a site on, or adjacent to, the sea to be able to function at all.*

**"Residential Unit"** *means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobile home lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.*

Further, the IAP does not define residential structures, but the IAP does provide a definition for New Housing Development, which states:

**"New Housing Development"** *means the development of one or more Residential Units for rent or sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures.*

The proposed Project includes the demolition of nine existing dwelling units within three residential structures, and the construction, use, and maintenance of a three-story, 13,412 square foot, mixed-use building containing a 1,568 square-foot ground level restaurant, two upper residential levels with nine new dwelling units. The dwelling units meet the IAP's definition of Residential Unit. As such, the proposed project does not result in a nonresidential structure, but

rather a mixed use structure comprised of commercial uses and residential uses that meet the definition of "Residential Unit" under the IAP.

**Appeal Point No. 3.** *A new project must conform to both the Mello Act and Coastal Act. The requirement is not to harmonize the two laws, as with the Density Bonus Act and Coastal Act, but rather both the Mello Act and the Coastal Act requirements must be followed.*

**Staff Response:**

The Appellant does not provide substantial evidence to support their claim that the City Planning Commission erred or abused its discretion and substantial evidence supports the Mello Act Compliance Review and Coastal Development Permit findings. The project is consistent with the requirements of the Coastal Act and Mello Act. As discussed in Finding Nos. 1 and 5 of the Determination Letter, the necessary findings were made to approve a Coastal Development Permit pursuant to LAMC Section 12.20.2-G and to approve a Mello Act Compliance Review pursuant to the IAP.

**Appeal Point No. 4.** *Character and housing opportunities for housing in the area must be retained. A change from a 100% residential structure to mixed use commercial would significantly change the character of the property and the surrounding area.*

**Staff Response:**

The Appellant does not provide substantial evidence to support their claim. As discussed in Finding No. 1 of the Determination Letter, the project is consistent with the community character in the surrounding area.

Finding No. 1.a. (Coastal Development Permit) states:

*The subject property is zoned for commercial uses on property which fronts on a public right-of-way (Ocean Front Walk) that directly serves a beach. The project proposes a ground-level, 50-seat restaurant with nine dwelling units above. This portion of Ocean Front Walk is developed with a mixture of tourist-serving commercial retail uses and residential uses. The property is not located in an area suitable for an agriculture use, nor to directly support recreational boating uses.*

*There are multiple mixed-use projects and multifamily residential projects along Ocean Front Walk dating from 1910 to 2007. These buildings range in height between 30 feet and 76 feet and vary between three stories and six stories. Along Ocean Front Walk, there are seven buildings that vary between four stories and six stories and 13 three-story buildings between Rose Avenue and 17th Avenue.*

*The subject property is located along a commercial strip fronting on Ocean Front Walk, a pedestrian walkway that fronts on Venice Beach. This commercial strip is part of the larger Venice Boardwalk, which is a regional and international tourist attraction. Surrounding properties include a mix of residential and commercial uses. The northwestern adjoining property, fronting on Ocean Front Walk, Speedway, and Park Avenue, is zoned C1-1 and developed with a one- and two-story multi-tenant commercial retail building. The northeastern and eastern adjoining properties, across Speedway, are zoned RD1.5, and developed with a two- and three-story residential duplex and a three-story single-family dwelling. The southeastern adjoining property, fronting Ocean Front Walk, Speedway, and Brooks Avenue is zoned C1-1 and developed with a two-story-over-garage multi-unit residential building fronting on Speedway and Brooks Avenue and a one-story multi-tenant commercial building fronting on Ocean Front Walk.*

The proposed project is located in an area developed with mixed-use structures. Furthermore, the certified Venice Land Use Plan (LUP) includes policies that encourage the development of mixed-use structures in the commercial land use designation. The site is designated Community Commercial Land Use.

The Venice LUP provides the following policy:

**Policy I. B. 6. Community Commercial Land Use.** *The areas designated as Community Commercial on the Land Use Policy Map (Exhibits 9 through 12) will accommodate the development of community-serving commercial uses and services, with a mix of residential dwelling units and visitor-serving uses. The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses. They differ from Neighborhood Commercial areas in their size and intensity of business and social activities. The existing community centers in Venice are most consistent with, and should be developed as, mixed-use centers that encourage the development of housing in concert with multi-use commercial uses. The integration and mixing of uses will increase opportunities for employees to live near jobs and residents to live near shopping. Overnight visitor-serving uses, such as hotels and youth hostels, are preferred uses in the Community Commercial land use category.*

*Uses/Density: Community commercial uses shall accommodate neighborhood and visitor-serving commercial and personal service uses, emphasizing retail and restaurants; and mixed residential/commercial use with retail on the ground floor and personal services and residential uses on upper floors. Drive-thru facilities and billboards shall be prohibited in the Community Commercial land use category. On a commercial lot, residential uses shall not exceed one unit per 800-1200 square feet of lot area.*

As previously discussed, the proposed mixed-use development will demolish nine dwelling units, but will construct nine dwelling units in the new mixed-use structure. The project complies with the policies of the LUP and is consistent with the character of the area, as outlined in Finding Nos. 1 and 4 of the Determination Letter.

**Appeal Point No. 5.** *The HCID Mello determination of affordable units must be corrected and reissued. The proposed project also has numerous issues with the determination of previously existing affordable housing that must be replaced. HCID found that, because the units had been vacant for 365 days at the time of their review, no affordable units existed. However, substantial community testimony contradicts this.*

**Staff Response:**

The Appellant does not provide substantial evidence to support their claim. As discussed in Finding No. 5 of the Determination Letter, the number of Existing Affordable Residential Units were adequately analyzed.

Finding No. 5.a. (Mello Act Compliance Review) states:

*A Determination issued by the Los Angeles Housing and Community Investment Department (HCIDLA) dated July 14, 2015 concluded that no affordable units exist at the project site. HCIDLA reviewed data from June 2012 to June 2015.*

*On May 10, 2007, a Notice of Intent to Withdraw Units (Ellis Act) from Rental Housing Use was filed with the Los Angeles County Recorder's Office and was granted by HCIDLA on September 24, 2009. On February 2008 and July 2012, the HCIDLA Enforcement*

*inspectors noted the subject property was vacant and boarded up. In addition, the owner provided a security contract and billing statements for 24-hour security patrol for the period from April 2013 to April 2016. The Notice of Intent to Withdraw Units, Security contract/billing statements and HCIDLA database indicate the property has been vacant for more than 365 days and therefore shall not be classified as an affordable unit. As such, there is no requirement to replace any Affordable Dwelling Units in conjunction with this project.*

Furthermore in the determination letter issued on August 19, 2020, an Affordable Unit Determination pursuant to AB 2556, HCIDLA concluded no Affordable Replacement Units are required. The AB 2556 Affordable Unit Determination provided a 5-year look-back period from January 2020 to January 2015. In assessing the vacancy of the subject site, the applicant provided Department of Water and Power (DWP) and Southern California Gas usage data.

As stated in the AB 2556 Affordable Unit Determination:

*DWP information shows that 815 S. Ocean Front Walk, #5 (aka 815 ½ S. Ocean Front Walk, #5) had little to no electricity and water usage for the period of January 2015 through January 2020. DWP confirmed that the remaining seven (7) residential units located at 815 – 815 ½ S. Ocean Front Walk had no utility usage for the period of January 2015 through January 2020. SoCal Gas confirmed that the gas meters were removed and service was abandoned for all eight (8) residential units from at least December 2007 through January 2020. Based on the information provided, the owner has shown that the eight (8) residential units located at 815 – 815 ½ S. Ocean Front Walk were vacant from January 2015 through January 2020, and therefore no units are subject to replacement under AB 2556.*

**Appeal Point No. 6.** *The City Planning Commission is not the appropriate body to review Mello Act determinations*

**Staff Response:**

The Appellant does not provide substantial evidence to support their claim. The procedures for a Mello Act Compliance Review are not outlined in the Municipal Code. Part 6.0 of the IAP provides that, "For Discretionary Applications, the decision-maker shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file created for the underlying case." The underlying case for this application is Case No. CPC-2019-2282-CDP-MEL-SPP-DB-CUB and is subject to the procedures outlined in LAMC Section 12.36 for projects requiring multiple approvals. LAMC Section 12.36-C.1 provides that if a project requires an approval by the City Planning Commission, the Commission shall have initial decision-making authority for all of the approvals. The project included a request for Waivers of Development Standards (Density Bonus Affordable Housing Incentives) under LAMC Section 12.22-A.25(g)(3), which requires the approval of the City Planning Commission. As such, the City Planning Commission is the initial decision-maker for the requested actions, including the Mello Act Compliance Review.

**Appeal Point No. 7.** *The DCP delays in implementation of City Council's request for a permanent Mello Act implementation ordinance. The permanent Mello Act ordinance must be expedited.*

**Staff Response:**

The Appellant does not provide substantial evidence to support their claim. Regardless of the work program timeline for the permanent Mello Act Ordinance, the Mello Act Compliance Review determination was based on the existing IAP and there is ample evidence to support that determination. Please see Finding No. 5 in the Determination Letter and the response to Appeal Point Nos. 1, 2 and 3 for further discussion.

**Appeal Point No. 8.** *In using its discretion DCP is grossly inconsistent and also fails to adhere to the purpose, intent and spirit of the Mello Act. For five years, the DCP has continued to abuse its discretion and violate the spirit and intent of the Mello Act in producing determinations favorable to gentrifying development, in direct contradiction to the purpose, intent and spirit of the Mello Act and IAP, even as many of those determinations are regularly overturned by local and state Commissions; while at the same time DCP is moving at a snail's pace to actually update a Mello policy, while affordable housing in Venice dies a death from 1,000 cuts.*

**Staff Response:**

The Appellant does not provide substantial evidence to support their claim that the City Planning Commission erred or abused its discretion. Substantial evidence supports the Mello Act Compliance Review findings. As provided in Findings No. 5 in the Decision Letter, the procedures for implementing the Mello Act, as outlined in the IAP, were strictly followed.

**Appeal Point No. 9.** *Coastal Act Provisions, including the Environmental Justice provisions and the Coastal Commission's Environmental Justice Policy, must be considered.*

**Staff Response:**

The Coastal Commission adopted an Environmental Justice Policy on March 8, 2019, which states the Commission will work with local governments to adopt local coastal program policies that allow for a broad range of housing types including affordable housing, ADUs, transitional/supportive housing, homeless shelters, residential density bonuses, farmworker housing, and workforce/employee housing, in a manner that protects coastal resources consistent with Chapter 3 of the Coastal Act. The Department is in the process of preparing a Local Coastal Program for the Venice Coastal Zone. Consistent with the guidance provided in the Commission's Policy, the City will work with Coastal Commission staff to incorporate within the LCP policies consistent with the Environmental Justice Policy.

The Appellant does not provide substantial evidence to support their claim. As provided in Finding No. 1 of the Determination Letter, the required findings were made to approve a Coastal Development Permit. Finding No. 1.d. further discusses that the decision was guided by applicable decisions by the California Coastal Commission. The proposed mixed-use development maintains the existing density of nine dwelling units, setting aside one Low-Income Affordable Housing Unit. The proposed project provides much needed affordable housing in the Coastal Zone and is consistent with the applicable policies of the Coastal Act and certified Venice LUP.

**Recommendation**

Upon careful consideration of the Appellant's points, the Appellant has failed to meet its burden as there is no evidence in the record to conclude that the City erred or abused its discretion. No new substantial evidence was presented showing that the City Planning Commission has erred in its actions relative to the Determination and Categorical Exemption. Argument, speculation, unsubstantiated opinion, or narrative does not constitute substantial evidence. Therefore, based on the above, in consideration of the appeal for the project located at 811 and 815 South Ocean

Front Walk, the Department of City Planning recommends that the PLUM Committee recommend for City Council to deny the appeal and determine, based on the whole of the administrative record, the project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Sincerely,

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Director of Planning

  
Juliet Oh  
Senior City Planner

VPB:FR:JO:EG:IB