



**City of South Pasadena  
Planning and Community  
Development Department**

# Memo

**Date:** February 23, 2021

**To:** Chair and Members of the Planning Commission

**From:** Joanna Hankamer, Planning & Community Development Director

**Re:** Additional Document No. 3: General Public Comments

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One (1) written public comment was received under General Public Comments on a matter that is not listed on the agenda from the following and is attached to this document:

- Josh Albrektson

An audio comment was also received from Josh Albrektson on this item and could be heard by clicking [here](#). This verbal message will be played at the meeting under General Comments.

## Elizabeth Bar-EI

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**From:** Josh Albrektson <joshraymd@gmail.com>  
**Sent:** Monday, February 22, 2021 4:54 AM  
**To:** PlanningComments  
**Subject:** Item 1, planning commission meeting Feb 23rd

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

One of the main laws you are getting a presentation on is SB 330. Planning in the Inclusionary Housing Ordinance presented to you had a completely illegal section where they stated they would apply the IHO to projects with submitted applications and back date it.

This is explicitly outlawed by SB 330 and I am surprised that planning didn't know the law, but I am even more surprised that the City attorney signed off on it. This is literally one of the main points of this Bill.

Here is the exact words from the cover page of SB 330 but bolded and big font:

**This bill, until January 1, 2025 .... require that a housing development project **only be subject to the ordinances, policies, and standards adopted and in effect when a preliminary application is submitted**, except as specified.**

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB330](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330)

Paragraph 6

It is also listed at the top of the HCD website for laws relating to what a city can do to limit development:

<https://www.hcd.ca.gov/community-development/accountability-enforcement/statutory-determinations.shtml>

## Preliminary Application for Development

To accelerate housing production, SB 330 (Statutes of 2019) makes changes to land use and zoning law to remove barriers and impediments to building new housing in urban areas of the state. To increase transparency and certainty in the development application process, SB 330 allows a housing developer to submit a "preliminary application" to a local agency for a housing development project. Submittal of a pre-application allows a developer to provide a specific subset of information on the proposed housing development ahead of providing the full amount of information required by the local government for a housing development application. **Upon submittal of an application and a payment of the permit processing fee, a housing developer is allowed to "freeze" the applicable fees and development standards that apply to their project while they assemble the rest of the material necessary for a full application submittal.**

This is what planning proposed in the Inclusionary Housing Ordinance and apparently was approved by the City Attorney (page 31)

The first category of exemption addresses projects already in the pipeline. The “pipeline” refers to a range of projects in process: entitled projects that have not been issued building permits, applications that have not yet been acted upon, or even projects in development for which an application has not yet been received. **After considering the options, it is proposed to address pipeline projects by exempting those projects that have been deemed complete by December 31, 2020. Back-dating the exemption serves to avert a rush to submit projects and avoid the requirement,** but recognizes that applications that have been deemed complete relied on the current Zoning Code without the inclusionary requirements. There are very few projects for which this would be applicable. The Seven Patios project, approved recently by the commission and called up to Council for review, would be exempt as it was deemed complete prior to this date.

This is utterly and completely illegal and the exact reason this law was created and passed. ANY application that is turned in has the zoning and rules SET the second it is turned in. It doesn't matter if it was acted on or not. And the entire backdating of an ordinance is illegal. The ordinance is not enforceable until the day it is passed.

So to repeat, in bold words. **YOU CANNOT APPLY A NEW ORDINANCE TO A PROJECT WITH A SUBMITTED APPLICATION AND YOU CANNOT "BACK DATE" AN ORDINANCE.** That is expressly outlawed by SB

330. I'm shocked that Planning was not aware of this major piece of legislation, but even more shocked that the City Attorney signed off saying she reviewed it.

Madam mayor, you should really ask how this happened.

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Josh Albrektson MD  
Neuroradiologist by night  
Crime fighter by day