



Additional Documents List

Regular City Council Meeting

April 7, 2021

(Uploaded Online on 04/07/2021 @ 4:25 p.m.)

Item No.	Agenda Item Description	Distributor	Document
2	Introduction of Ordinance Adding a New Division 36.375 (Inclusionary Housing) to Chapter 36 (Zoning) of the South Pasadena Municipal Code; Adoption of Urgency Ordinance Pursuant to Government Code Section 36937(b), Amending the City of South Pasadena Municipal Code to Add a New Division 36.375 (Inclusionary Housing) to Chapter 36 (Zoning)	<p>Joanna Hankamer, Planning and Community Development Director</p> <p>Elizabeth Bar-El, AICP, Interim Manager for Long Range Planning & Economic Development</p>	Memo adding Staff Powerpoint presentation.
2	Introduction of Ordinance Adding a New Division 36.375 (Inclusionary Housing) to Chapter 36 (Zoning) of the South Pasadena Municipal Code; Adoption of Urgency Ordinance Pursuant to Government Code Section 36937(b), Amending the City of South Pasadena Municipal Code to Add a New Division 36.375 (Inclusionary Housing) to Chapter 36 (Zoning)	<p>Joanna Hankamer, Planning and Community Development Director</p> <p>Elizabeth Bar-El, AICP, Interim Manager for Long Range Planning & Economic Development</p>	Memo updating Staff Recommendation
PC	Emailed Public Comment for: Regular Session Agenda Item Nos. #1, 2, 5, 6	Maria E. Ayala, Chief City Clerk	Emailed Public Comments



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

Memo

Date: April 5, 2021

To: Mayor and Members of the City Council

From: Sean Joyce, Interim City Manager

Prepared By: Joanna Hankamer, Planning and Community Development Director
Elizabeth Bar-El, AICP, Interim Manager for Long Range Planning & Economic Development

Re: Additional Document for **Item No. 2** – Inclusionary Housing Ordinance

The staff presentation for Item No. 2, Introduction of Ordinance Adding a New Division 36.375 (Inclusionary Housing) to Chapter 36 (Zoning) of the South Pasadena Municipal Code; Adoption of Urgency Ordinance Pursuant to Government Code Section 36937(b), Amending the City of South Pasadena Municipal Code to Add a New Division 36.375 (Inclusionary Housing).

Item 3: Inclusionary Housing Ordinance

South Pasadena City Council Meeting
April 7, 2021

Adoption Hearing for SPMC Division 36.375:
First Reading and Urgency Ordinance



Joanna Hankamer, *Director*
Elizabeth Bar-EI, AICP
*Interim Long Range Planning &
Economic Development Manager*



Inclusionary Housing Ordinance

Proposed as Zoning Code Division 36.375:

Requires housing projects to include a % of affordable units, to be deed-restricted for a set period of time for occupancy by eligible low-income households at affordable rent or purchase levels.

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Why Adopt an Inclusionary Ordinance?

- ▶ To address the need for affordable housing in order to be inclusive of all members of the community.
 - ▶ To ensure that the city's limited land resources are developed with housing that includes a share of affordable units.
- ▶ For the 2021-2029 Housing Element Regional Housing Needs Assessment (RHNA)
 - ▶ 2,067 Total Units (1,489 affordable to VL, L, Mod households)
 - ▶ Suitable sites and programs are needed to show potential to comply.
 - ▶ Inclusionary housing is the most effective way to ensure affordable units are built.
- ▶ To ensure a more substantial portion of affordable units in State Density Bonus projects
- ▶ To become a State-recognized "Prohousing" city and retain local control over local development approval processes



Background: Preparation Timeline

- March 21, 2018: Keyser Marston report to Council; Council directs staff to research IH options
- January 28, 2019: Planning Commission directs community outreach for developing an IHO.
- February 6, 2019: Update report to Council
- September 2019: First housing workshops with community
- May-September 2020: Virtual Housing Workshops
- August 11, 2020: Planning Commission Study session
- December 15, 2020 - Planning Commission Study Session
- December 2020-March 2021 PC Affordable Housing sub-committee meetings:
- January 25: Workshop with Housing Rights Center



Planning Commission Action

- ▶ PC Recommendation hearings:
 - ▶ January 26, 2021
 - ▶ March 9, 2021
- ▶ On March 9, 2021, the Planning Commission recommended adoption of the inclusionary housing ordinance by a vote of 4-1.



Key Provisions

Inclusionary Housing Ordinance

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Applicability (36.375.020)

- Applies to all projects with 3 or more residential units
 - Residential Only
 - Mixed-use projects

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Exemptions (36.375.030)

- Projects deemed complete prior to effective date of ordinance
- Residential units within designated landmark buildings (adaptive reuse)
- 100% affordable housing projects
- ADUs/JADUs



Definitions (36.375.040)

- Defines terms specifically used in this division
 - Affordability levels for households
 - Extremely Low Income
 - Very Low Income
 - Low Income
 - Moderate Income
 - Inclusionary units



Inclusionary Unit Requirement (36.375.050)

- 20% of base project units
- Replacement of any existing deed-restricted units
- **Affordability Levels for units:**
 - Options for 10 or fewer units with balance
 - 11+ units - 50-50 extremely/very low and low
 - Ownership units: must be moderate or provided for rental

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Alternatives to Onsite provision (36.375.060)

- **In-lieu fee option** for 3 or 4-unit projects, ownership projects, or fractional units:
 - Council to determine fee amount by resolution
- **Other options** for all projects:
 - Build off-site units,
 - Rehabilitate existing units
 - Donate land (with Council decision to accept offer)



Standards governing inclusionary units (36.375.070)

- Units must be **distributed** throughout the project
- **Comparable size and type** to market rate
- **Comparable quality and materials**
- **Equal access** to project amenities, maintenance
- Director-approved **marketing plan with preferential leasing** to SoPas residents and employees
- **Constructed concurrently** with project
 - Proportional development with phased project
- Rental projects → affordable rental units
- Ownership projects → affordable rental or ownership units
- Affordable Units to be **deed-restricted for 55 years**

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Streamlined State Density Bonus Review (36.375.080)

- Residential and Mixed Use projects Eligible
- **The Requirements:** *To demonstrate that the project supports a clear and consistent architectural design*
 - Upper floor stepbacks
 - Balcony/terrace design that is protective of adjacent single-family uses
 - 360-degree architectural design
 - Signature architectural element
 - Ground floor street-friendly design

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Streamlined State Density Bonus Review (36.375.080)

- The Incentives: *Project is pre-approved for the following:*
 - Height increase and height averaging. May exceed underlying zoning by an *average* of:
 - Mission Street: 5'
 - Other Mixed Use: 15'
 - Multi-family: 10'
 - *Highest point*: $\leq 5'$ above bonus average max for district
 - Parking: .5 spaces per bedroom (studios also .5; fractions rounded up)
 - Affordable units may be up to 10% smaller than MR

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Applications (36.375.090)

- Application must demonstrate compliance with inclusionary housing requirements to be deemed complete
- Describes minimal application contents

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Conditions of Approval (36.375.100)

- Standard conditions for all on-site projects
- Deed restriction to be recorded prior to building permit issuance
 - Defines general required contents for deed restriction
 - Includes specific conditions for either rental or for-sale units
- Off-site units: Schedule required for development at same time as main project



In-lieu Fee Payment and Administration (36.375.110)

- Council to establish in-lieu fee by resolution
- Fee shall be equivalent to cost of providing a comparable unit in project
- Interim: Planning Commission may approve project fee payment on a case-by-case basis
- Administration details:
 - Reserve fund for affordable housing production
 - City may administer or transfer to the San Gabriel Valley Housing Trust (SoPas is a member)



Implementation

- ▶ Update application materials
- ▶ Council resolution to adopt an in-lieu fee provision



Recommendation

- ▶ 1) Introduce for First Reading by title only an Ordinance Amending the South Pasadena Municipal Code by Adding Division 36.375 (Inclusionary Housing) to Chapter 36 (Zoning) and waive first reading; and
- ▶ 2) Adopt an Urgency Ordinance pursuant to Government Code Section 36937(b) Amending the South Pasadena Municipal Code by Adding Division 36.375 (Inclusionary Housing) to Chapter 36 (Zoning) to take effect immediately.





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

Memo

Date: April 7, 2021

To: Mayor and Members of the City Council

From: Sean Joyce, Interim City Manager

Prepared By: Joanna Hankamer, Planning and Community Development Director
Elizabeth Bar-El, AICP, Principal Long Range Planning Management Analyst

Re: **Additional Document 2 for Regular Session Item No. 2 – Recommendation addition**

Staff has been made aware of an inadvertent error in the draft ordinance in Subsection 36.375.100.B.1. (Conditions of approval, For-sale units). The recommended ordinance (Subsection 36.375.050.C) requires for-sale units to be provided for Moderate Income households. This recommendation evolved during Planning Commission review, and the language in the referenced Conditions section was not updated for consistency. Therefore, staff now incorporates the following revision into the recommendation:

B. For-sale housing units. In the case of for-sale housing developments in which the applicant opts to provide the affordable unit(s) as for-sale unit(s), in addition to the requirements of subsection 36.375.100A above, the deed restriction shall provide for the following conditions governing the initial sale and use of affordable units during the applicable use restriction period:

- “1. Affordable units shall, upon initial sale, be sold to eligible ~~extremely low, very low or lower moderate~~ income households at an affordable housing cost;”

Staff will present a slide with the proposed addition to the recommendation and a revised motion for the Council’s consideration at the meeting.

Regular City Council Meeting
E-mail Public Comment 04/07/2021

AGENDA ITEM NO. 1
General Public Comment

1. Bianca Richards
2. William Kelly

From: Bianca Richards <[REDACTED]>
Sent: Monday, April 5, 2021 11:06 AM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: General Public Comment for April 7, 2021

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.

To: Sean Joyce-City Manager and Honorable Mayor Mahmud,

In honor of 2021 National Library Week (April 4-10th) and National Library Workers Day (April 6) I want to give a shout out to the South Pasadena Public Library and all the staff for their valuable contributions. I truly love the library and appreciate everyone who makes it possible to access books, technology, and organize arts and educational programs.

Our library is not only located in the heart of the city. It is the heart of the city!

Bianca Richards

President, Library Board of Trustees

From: William Kelly <[REDACTED]>
Sent: Monday, April 5, 2021 5:45 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Public Comment for April 7 City Council Meeting

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.

For the general comment item:

South Pasadena needs a robust community-based budget process for fiscal year 2021-22 that enables the voices of community groups and all residents to fully be heard. This is particularly important as the city emerges from the pandemic after a year of cuts and program slowdowns, yet at the same time suddenly finds itself in a financial position to expand and improve services, programs, and facilities for residents.

Contrary to expectations, sales and property tax revenues are exceeding even pre-pandemic projections. In addition, the city will benefit from about \$9 million of one-time revenue from a recent cell phone tower lease and an infusion of federal funds under the recently enacted American Rescue Plan Act. All told, over the coming year, general fund revenue will have swelled to almost \$40 million, after spending just \$28 million this fiscal year, which ends on June 30.

In the meantime, the pandemic has taken an incalculable toll on the economic well-being of low-income and middle-income people. Prior to the pandemic, low- and middle-income people already had been struggling with growing income inequality, stagnant wages, and higher costs of living.

- Eviction moratoria have stalled rent payments for those who have suffered COVID-related economic losses, but a tidal wave of evictions is anticipated when tenants' accumulated back rent comes due.
- Many people in South Pasadena are housing insecure. One-third of the city's renters are rent-burdened, meaning they spend over a third of their household income on rent. Of this, about 1,000 households, or 20% of renters, are severely rent burdened, spending over half their income on rent. Renters make up 53% of our city. Meanwhile, between 2000 and 2018, median home sales prices in South Pasadena increased 223%, averaging \$1.1 million per new home.^[1]
- The pandemic is expected to substantially increase the number of people experiencing homelessness in Los Angeles County.^[2] By 2023, the Economic Roundtable estimates 52,000 *more* working-age adults will be homeless in L.A. County—nearly double the most recent estimate of approximately 66,000 unhoused people.^[3]
- The pandemic dealt a severe blow to women in the workforce—particularly Black and Latinx women—as sources of child care evaporated.
- Students have suffered isolation and depression at unprecedented levels during distance learning.

In short, there is an unprecedented need for community-level investments to address the fallout from the pandemic.

It is simply imperative that residents have a meaningful voice in setting priorities for how the city's revenue should be spent and that those priorities be reflected in the final budget. It would be irresponsible for the city to handle public participation in the budget process the way it did leading up to the current fiscal year with virtually no face-to-face dialogue and a lack of opportunity for meaningful public input. Ironically, though, the Finance Commission has endorsed a similar process for the upcoming budget, with no meetings or initial open-ended discussion. This is unacceptable.

Accordingly, we call on the city to conduct public meetings in April and early May that foster genuine dialogue with residents and community groups to think expansively and creatively about our city's budget. Tightly managed meetings in which discussion is stilted and a fully formulated budget is presented as a foregone conclusion late in the game will not suffice. After years of discussing municipal financial sustainability, South Pasadena has a golden opportunity to advance equity measures that will improve our lives presently and in years to come. These measures include improved social services, enhanced pedestrian safety and traffic management, implementation of the city's Green and Climate Action Plans, affordable housing, and redress for the city's racist policies that have excluded non-white people from living and participating in South Pasadena. Public involvement must be integral to developing this upcoming fiscal blueprint.

Care First South Pasadena
BLM
Anti-Racism Committee of South Pasadena
Transition South Pasadena
South Pasadena Tenants Union

^[1] SCAG, Pre-Certified Local Housing Data for the City of South Pasadena, pp. 4, 12, 14 (Aug. 2020), https://scag.ca.gov/sites/main/files/file-attachments/southpasadena_he_0920.pdf?1603172968.

^[2] Fleming, Daniel, et al. Locked Out: Unemployment and Homelessness in the COVID Economy. Economic Roundtable, January 11, 2021. Available online at <https://economicrt.org/publication/locked-out/>

^[3] Smith, Doug, LOS ANGELES TIMES, January 12, 2021, "COVID-19 job losses will worsen L.A. homelessness by 2023, new report says." Available online at <https://www.latimes.com/california/story/2021-01-12/new-report-foresees-tens-of-thousands-losing-homes-by-2023>

Submitted by Bill Kelly for Care First and the Others

██████████ (phone)

██████████

Regular City Council Meeting
E-mail Public Comment 04/07/2021

AGENDA ITEM NO. 2

**Introduction of Ordinance Adding a New Division
36.375 (Inclusionary Housing) to Chapter 36 (Zoning)
of the South Pasadena Municipal Code; Adoption of
Urgency Ordinance Pursuant to Government Code
Section 36937(b), Amending the City of South Pasadena
Municipal Code to Add a New Division 36.375
(Inclusionary Housing) to Chapter 36 (Zoning)**

1. Jason Mak
2. Doug Smith
3. Ella Hushagen
4. Victor Tang
5. Gail Maltun

From: Jason Mak <[REDACTED]>

Sent: Monday, April 5, 2021 3:49 PM

To: Kanika Kith <kkith@southpasadenaca.gov>; Malinda Lim <mlim@southpasadenaca.gov>

Subject: Letter for City Council Hearing - Inclusionary Housing Ordinance

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.

Hi Kanika and Malinda

I have drafted the letter to be included in the public comments section of the April 7th, 2021 City council meeting where they discuss Inclusionary Housing Ordinance.

Thanks,

Jason

815 Fremont LLC
1000 El Centro St., #122
South Pasadena, CA 91030

April 7 2021

South Pasadena City Council
1414 Mission Street
South Pasadena, CA 91030

Public Comment regarding Inclusionary Housing Requirement

Dear City Council,

As many of you may know, I am currently developing the site at 815 Fremont Ave. where there will be affordable units offered at the very low income level. Affordable housing is crucial to our city and our region's fight against the housing crisis. However, the Inclusionary Housing Ordinance proposed to you tonight will make projects such as 815 Fremont and similar projects unfeasible to develop and unintendedly curtail affordable housing development.

As drafted, the inclusionary ordinance requires larger projects to set aside 20% units as affordable housing of which 10% is at the very low income level - this will deter developers from developing larger projects and consequently prevent any meaningful number of affordable housing units to be built in the city at all. Each affordable unit can cost a project up to \$500,000 in development cost not including land costs in some cases. While South Pasadena housing prices continue to increase, so do construction and development costs.

Comparing South Pasadena's inclusionary housing ordinance to those of other cities such as Pasadena, Santa Monica, Culver City, and West Hollywood is inherently flawed. Those cities have much different development standards and financial economics than we do including parking, density, and design. Developers that would be able to pencil out a project in these communities under their Inclusionary Housing requirements would likely build projects that are of lower quality standards than what is expected by the South Pasadena community.

Under AB1505, a local inclusionary ordinance that require more than 15% of units to be affordable would pre-empt the Department of Housing and Community Development to request a an economic feasibility study to ensure that the ordinance "does not unduly constrain the production of housing" – this has not been done but could nullify all our efforts and resources in drafting this ordinance thus far.

Finally, the ordinance is being recommended to be adopted under a Urgency Ordinance designed to protect the immediate public safety, health, and welfare of the community. The inclusionary housing ordinance has been in discussions since 2019 and any project that would

be affected by the ordinance would not likely be occupied until 2023. I'm not aware of a large pipeline of projects being submitted right now so I question the purpose of adopting the ordinance under and Urgency Ordinance just to shorten the adoption date by 30 days?

Affordable housing should certainly be important and mandated for new developments, however the current ordinance as drafted would substantially constrain new development – in order for this not to happen – please consider an ordinance with affordable housing thresholds at are in-line with state density bonus as those have been proven to be financially feasible for developers.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Mak', written in a cursive style.

Jason Mak
815 Fremont LLC

From: Doug Smith <[REDACTED]>
Sent: Wednesday, April 7, 2021 9:51 AM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Agenda Item 2 - Inclusionary Housing Ordinance SUPPORT

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.

Dear honorable Councilmembers,

Please find the attached letter from Public Counsel in support of the Inclusionary Housing Ordinance, submitted as public comment for Item 2 on the April 7, 2021 City Council meeting regular agenda.

Thank you for your consideration.

Sincerely,

Doug Smith (he, him, his)
Supervising Senior Staff Attorney | Community Development Project

Public Counsel
610 South Ardmore Avenue | Los Angeles, CA 90005
T [REDACTED] | F [REDACTED]
[REDACTED] | www.publiccounsel.org

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South Pasadena City Council
1424 Mission Street
South Pasadena, CA 91030

Delivered via electronic mail.

April 7, 2021

RE: SUPPORT – Inclusionary Housing Ordinance (Agenda Item 2)

Dear honorable members of the City Council,

We write in support of the Inclusionary Housing Ordinance (IHO), and we urge the Council to adopt the IHO as an urgency ordinance. As outlined below, we support the the proposed 20% affordability standard for mid-size and larger projects, the carefully crafted standards to prioritize mixed-income development with on-site affordable units, and prioritization of Very Low- and Extremely Low-Income units.

Public Counsel is the nation's largest pro bono public interest law firm, and the Southern California affiliate of the Lawyers Committee for Civil Rights Under Law. Our Community Development Project maintains a specific focus on producing and preserving affordable housing. In this capacity, we have been deeply involved in the development of state and local policy aimed at advancing mixed-income development, including but not limited to state density bonus law, the City of Los Angeles Measure JJJ and TOC Program, and the Los Angeles County Inclusionary Housing ordinance.

Inclusionary housing is an important tool to create much-needed affordable housing. Along with strong tenant protections, affordable housing preservation policies, and alternative social housing and community-ownership models, inclusionary housing is an important piece of a comprehensive housing justice framework. Building market-rate housing, alone, will not create housing opportunities for the City's Low, Very Low, and Extremely Low Income residents. As noted in the Staff Report, South Pasadena more than tripled its above-moderate RHNA goals, but fell short of the affordable housing goals. A well-crafted inclusionary housing program will create mixed-income development that better reflects the needs of residents in South Pasadena and opens up opportunity for inclusive and equitable community growth.

We applaud the Planning Department for producing a very thoughtful and comprehensive ordinance. We have reviewed many inclusionary housing policies across California, and the South Pasadena IHO stands out as uniquely balanced. In particular, we strongly support and encourage the Council to retain the following important provisions.

- **Require 20% affordable housing for larger projects.** We support the requirement that projects with 26 or more units include 20% affordability. We would like to clarify some questions about state law raised by other commenters at the Planning Commission. State law permits, *but does not require*, HCD to review rental housing inclusionary ordinances adopted or amended after September 15, 2017, but only if: (1) the ordinance requires more than 15% of the units to be affordable to lower income households, **and** (2) the locality has either: (a) failed to meet 75% of its share of the above moderate income RHNA prorated over five years, or (b) failed to submit its annual housing element report for the last two years.¹ According to the Staff Report, South Pasadena has exceeded its above moderate income RHNA, and has submitted timely housing element annual reports.² State law does not prevent South Pasadena from adopting a 20% inclusionary standard in its effort to meet the affordable housing needs of its residents.
- **Require a mix of Low and Very Low Income Units in all projects over 10 units.** The IHO simplifies the inclusionary requirement across all project with 11 or more units, and requires a 50/50 split between Low and Very Low Income units. This is a very important improvement over the previous draft IHO, which skewed the incentive in a way that would have likely only resulted in the provision of LI units in 26-50 unit projects. A uniform application of the Low and Very Low Income Unit mix will open up housing opportunities for VLI households across all project types.
- **Create affordable housing in small projects.** The IHO will produce affordability in small and large projects alike. We support the application of affordability standards in small projects between 4 to 10 units.
- **Encourage deeply affordable housing.** The IHO prioritizes the creation of deeply affordable housing by including an Extremely Low Income (ELI) set-aside option, and by limiting the provision of Moderate Income units only to smaller projects and For-Sale projects.
- **Prioritize on-site affordable housing.** The IHO also includes carefully crafted standards for off-site units and, very importantly, limits in-lieu fees to small projects. While in-lieu fees can help generate funding for affordable housing, they often undermine goals of inclusive mixed-income development. By prioritizing on-site affordable housing, limiting in-lieu fees to only small projects and fractional units, and allowing only off-site construction with strong fair housing standards, the City will help create new housing for all incomes and promote equitable community growth.

¹ Cal. Gov't Code §65850.01(a). See also, Public Interest Law Project, "INCLUSIONARY ZONING REVITALIZED" <http://www.pilpca.org/wp-content/uploads/2018/01/Inclusionary-Zoning-Revitalized-AB-1505-2018.pdf>

² Staff Report, p.2. See Also, <https://cahed.maps.arcgis.com/apps/View/index.html?appid=8ea29422525e4d4c96d52235772596a3>

The success of the IHO will depend on effective implementation. We encourage the Council to consider the following guidance and standards for program implementation.

- **Ensure that off-site units affirmatively further fair housing.** The IHO requires that off-site units be "located on a property within 1,500 feet of the proposed project, or in a comparable neighborhood as determined by the planning commission." We strongly support the 1,500 foot proximity standard, in order to prevent off-site housing units from contributing to income-segregated housing patterns. To further strengthen this important fair housing objective, we recommend providing guidance to the Planning Commission to consider the obligation to affirmatively further fair housing when evaluating the "comparable neighborhood" option.
- **Invest in monitoring and enforcement.** We strongly encourage the Council to allocate resources sufficient to fully fund and staff the monitoring and enforcement of IHO standards.
- **Maximize the length of affordable housing covenants.** In order to maximize the life of affordable units created through this ordinance, we recommend that covenants be affordable for *99 years or the life of the project*, whichever is longer. This will prevent expiring covenants when a residential building is still in operation.

Thank you for considering these comments and recommendations. Please feel free to reach out with any questions.

Sincerely,



Doug Smith
Supervising Senior Staff Attorney



From: Ella Hushagen <[REDACTED]>

Sent: Wednesday, April 7, 2021 11:41 AM

To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>

Cc: John Srebalus <[REDACTED]>; Helen Tran <[REDACTED]>; Anne Bagasao <[REDACTED]>

Subject: Public Comment, Regular Meeting, Agenda Item 2

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.

Hello,

Please include the attached comment in the agenda packet for the regular meeting tonight, agenda item 2, Inclusionary Housing Ordinance.

Thanks.

Ella



April 7, 2021

Public Comment Regarding Agenda No. 2, Inclusionary Housing Ordinance

The South Pasadena Tenants Union (SPTU) supports the City Council's adoption of the Inclusionary Housing Ordinance (IHO). We encourage the Planning Commission and City Council to consider additional provisions to enhance the ordinance's effectiveness. And we urge you to keep a close watch on the IHO's impact on fair housing and existing affordable housing stock.

There is strong support in the community for key provisions of the IHO: 1) a robust 20% set aside for deeply affordable units, and 2) the requirement that all but the smallest projects must develop on-site units rather than pay in-lieu-of fees. (March 3, 2021 public comment).

The SPTU was not pleased with the amendment to the IHO to calculate the affordability set-aside on the number of units at baseline, rather than the baseline units plus density bonus units—resulting in an affordability set-aside lower than 20% whenever developers pursue density bonus units. (March 9, 2021 SPTU public comment). Having listened to the discussion at the Planning Commission on March 9, we appreciate the competing interests and concerns. **The IHO is strong, and we urge the Council to pass it tonight.**

That said, certain outstanding issues concern us. Planning Commissioners Lesak and Padilla noted at the March 9 meeting that the zoning code should be a living document, subject to change when problems arise. We agree. We encourage the Planning Commissioners and Councilmembers to consider the following.

1) **Provide for implementation and monitoring.** The SPTU is concerned that if the city does not allocate any resources to implement and monitor compliance with the IHO, the ordinance will be ineffective. Without enforcement, affordable units may sit empty or be filled by tenants who are not income-qualified. SPTU urges the city to fund at least one position that will oversee the IHO, among other affordable housing issues and tenants' rights.

2) **Ensure fair housing.**

a. The IHO contains a provision requiring developers to submit a marketing plan that gives preference to residents and employees of South Pasadena in the tenant selection process. What effect will this provision have on fair housing principles? Black and Latinx people are in the minority in South Pasadena due to decades of redlining. We think it is critical for the Planning Department to survey property managers about the impact of the IHO's preference for South Pasadena residents and employees. The Planning Department should track

and publicly report on an annual basis the racial and ethnic make-up of deed-restricted affordable units in the city.

b. Where developers exercise their option to develop off-site affordable units within 1500' of the primary development in a comparable neighborhood, it will be critical for the Planning Commission to take into account the city's affirmative obligation to further fair housing.

3) **Maintain existing affordable units.** The IHO requires developers to replace existing units that are deed-restricted affordable units. It is silent on the replacement of existing units that are de facto affordable. SPTU urges the city to expand the requirement to require a 1:1 replacement requirement, so that if a development demolishes any existing affordable housing, those units will be replaced. Without such a requirement, certain developments will result in a net loss of affordable units.

Thank you for your consideration.

Anne Bagasao
Ella Hushagen
John Srebalus
Helen Tran

March 3, 2021
General Public Comment, Open Session

We heartily applaud South Pasadena’s Planning Department for proposing an inclusionary zoning ordinance. We are asking the Councilmembers to endorse key components of the draft ordinance, and instruct the Planning Commission to move swiftly to finalize its recommendation.

The Planning Department’s ordinance will maximize affordable housing development in the city. New housing developments with more than 10 units will be required to include between 15% to 20% affordable units, and developments with more than 25 units will have to build 20% affordable units. These robust requirements for affordable development are on par with what the city of Pasadena requires. Pasadena has observed no disincentive to development since strengthening its inclusionary zoning ordinance.¹

We support the Planning Department’s decision to allow developments with three or fewer units to pay in-lieu of fees rather than develop affordable units. This provision will optimize South Pasadena’s development of affordable housing by not taking smaller developments with four or more units off the table. In-lieu of fees are generally ineffective. Small cities face special challenges in collecting and leveraging such fees to develop affordable housing.

It is imperative for South Pasadena to adopt an aggressive ordinance, and quickly. First, and most critically, your constituents in South Pasadena support development of affordable housing. The pandemic has illustrated the grave public health crisis caused by a lack of affordable housing in our broader community: people forced to crowd into apartments and houses to make the rent are infected with and die from COVID-19 at significantly higher rates than people who do not live in overcrowded housing.² COVID-19 deaths in our greater Los Angeles County are disproportionately impacting Black and Latinx households—increasing by 1000% from November to January—due largely to overcrowded housing and the lack of affordable housing which increases the spread of the virus.³ This is neither the first nor last public health crisis we will face. The city’s moral responsibility to build affordable housing has never been more stark.

Second, the city has fallen far behind in the production of affordable housing. ***In six years, from 2013-2019, the city produced merely 10 affordable units*** out of 93 total units. The city has approved a number of developments in the heart of downtown that contain zero affordable units, like Mission Bell and Seven Patios. The ordinance is designed to make up ground on this disappointing record.

¹ PASADENA NOW, January 25, 2021, “Developers Not Discouraged by Inclusionary Housing Ordinance Amendment.” Available online at <https://www.pasadenanow.com/main/developers-not-discouraged-by-inclusionary-housing-ordinance-amendment/>

² Mejia, Brittny, LOS ANGELES TIMES, January 29, 2021, “When coronavirus invaded their small apartment, children desperately tried to protect dad.” Available online at <https://www.latimes.com/california/story/2021-01-29/how-overcrowded-housing-led-to-covid-death-la-family>

³ Lin, Rong-Gong & Money, Luke, LOS ANGELES TIMES, January 30, 2021, “Latino COVID-19 deaths hit ‘horrifying’ levels, up 1,000% since November in L.A. County.” Available online at <https://www.latimes.com/california/story/2021-01-29/la-latino-covid-19-deaths-up-1000-percent-since-november>

Finally, South Pasadena appealed its RHNA allocation on the basis that the city is built out and no room remains for new construction. The appeal was unsuccessful; the city would be prudent to operate as though the RHNA allocation will stand. If space is a precious commodity, South Pasadena must optimize remaining sites to develop 1,151 affordable units required by state law.

At the Planning Commission meeting, a number of the commissioners expressed concern that the ordinance seemed rushed. It is not. Inclusionary zoning has been on the city's agenda since 2018. There have been multiple stakeholder meetings about it. The commissioners have previously lamented their inability to require developers to build affordable units without an inclusionary zoning ordinance.

We agree with Commissioner Padilla, who appealed to her colleagues that, "speaking from [her] heart," the inclusionary zoning ordinance is the most critical work the Planning Commission has before it. Commissioner Padilla urged her colleagues to be bold. She cast doubt on fears that the ordinance will deter developers from building in South Pasadena. After all, South Pasadena has the trifecta of outstanding schools, metro access, and walkable streets.

We ask the Council to direct the Planning Commission to recommend the Planning Department's inclusionary zoning ordinance at its next upcoming meeting, and send it to the City Council for first reading by **March 17, 2021**.

Signed,

- | | |
|---------------------------|--------------------------|
| 1. Sean Abajian | 24. Stephanie Ehrlich |
| 2. Alexander Aquino | 25. Betty Emirharian |
| 3. Ahilan Arulanantham | 26. Sarah Erlich |
| 4. Kiera Atkinson | 27. Margaret Farrand |
| 5. Anne Bagasao | 28. Tzung-lin Fu |
| 6. Kerrie Barbato | 29. Will Hoadley-Brill |
| 7. Matthew Barbato | 30. Laboni Hoq |
| 8. Chris Becker | 31. Che Hurley |
| 9. Robin Becker | 32. Ella Hushagen |
| 10. Sierra Betinis | 33. Phung Huynh |
| 11. Katrina Bleckley | 34. Amy Davis Jones |
| 12. Felicie Borredon | 35. Mariana Huerta Jones |
| 13. Laurent Borredon | 36. Amber Jaeger |
| 14. Anny Celsi | 37. Sam Jaeger |
| 15. Amber Chen | 38. Cassandra Kaldor |
| 16. Janna Conner-Niclaes | 39. William Kelly |
| 17. Frederick Eberhardt | 40. Afshin Ketabi |
| 18. Jonathan M. Eisenberg | 41. Caroline Kimbel |
| 19. Barbara Eisenstein | 42. Kristen Kuhlman |
| 20. Richard Elbaum | 43. Caitlin Lainoff |
| 21. Owen Ellickson | 44. Alexandria Levitt |
| 22. Alan Ehrlich | 45. Jacinta Linke |
| 23. Justin Ehrlich | 46. Tony Lockhart |

47. Sofia Lopez
48. Tiana Lopez
49. Elena Mann
50. Ian Marshall
51. Jan Marshall
52. Richard Marshall
53. Robin Meyer
54. Abby McCrate
55. Jenny Munninopas
56. Adam Murray
57. Ayaka Nakaji
58. Raf Niclaes
59. Joanne Nuckols
60. Carla Obert
61. Gayle Oswald
62. John Oswald
63. Victoria Patterson
64. Noah Perez-Silverman
65. Sarah Perez-Silverman
66. Myron Dean Quon

67. Alexandra Ramirez
68. Minoli Ratnatunga
69. Courtney Rojas
70. Allie Schreiner
71. Barrett Schreiner
72. Andrea Seigel
73. Delaine Shane
74. Alexandra Shannon
75. Sean Singleton
76. Allison Smith
77. Christopher Smith
78. John Srebalus
79. Levi Srebalus
80. Kathleen Telser
81. Andrew Terhune
82. Casssandra Terhune
83. Amy Turk
84. Helen Tran
85. Roya Yasharpour
86. Jean Yu

From: Victor Tang <[REDACTED]>
Sent: Wednesday, April 7, 2021 12:06 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Cc: Elizabeth Bar-El <lbarel@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>
Subject: Public comments on Agenda item#2, Inclusive Housing Ordinance

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Dear mayor and city council members,

I am a developer and my investment group just purchased a vacant land in South Pasadena to develop 15-20 townhomes with size between 1300sf and 1700sf. For the new Inclusive House Ordinance, I did a financial study to see how it will impact us financially and I would like to share my concerns with you.

Based on the Inclusive Ordinance, we need to build 4 moderate for-sale units and get 3 bonus units. The cost to build one unit is around \$700k, which includes land cost, soft cost and hard construction cost. The sale price for a market rate unit is \$950k. The next step is to determine the sale price for an affordable unit. California Health code 50052.5 has the following language:

For moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 35 percent of the gross income of the household.

Based on the above, a moderate income (120% AMI Area Medium Income for a county) household can spend as low as 33.6% AMI for housing expense and as high as 42% AMI. The housing expense includes mortgage, property tax, insurance, HOA and utilities. Based on 5% down payment and 3.5% mortgage interest rate, here are the estimated affordable housing sale prices for a two-bedroom unit with 1300sf:

3-person household at 33.6% AMI: \$271,700

3-person household at 42% AMI: \$347,200

4-person household at 33.6% AMI: \$298,800

4-person household at 42% AMI: \$407,700

Average price: \$331,300

With 5% selling cost for each unit, the developer's loss from four affordable units at \$331,300 sale price is \$1,540,800 and the developer's gain from three bonus units is \$607,500. The total developer loss is \$933,300.

Developers use investors' money and investors chase returns. Here are some areas that the city council can mitigate developer loss:

1. Impact fee reduction. City of Pasadena reduces 30% impact fees for market rate units for projects with affordable units. State law doesn't allow impact fees for affordable units and bonus units.
2. In-lieu fee payment schedule. Section 36.375.110 (D) requests in-lieu fee to be paid in full prior to issuance of building permits. Developers have to borrow money to pay this fee. City of Pasadena allows 50% in-lieu fee to be paid later prior to issuance of Certificate of Occupancy.
3. A citywide guideline for affordable units and waiting list. Section 36.375.070 (H) requests a developer to market affordable units. This is unnecessary. Due to the big price difference between a market rate unit and an affordable unit (more than \$600k in my case), there is a high demand. Many cities have affordable for sale guidelines and citywide waiting lists.
4. A high housing expense ratio for affordable unit buyers. From my calculation of the affordable sale price above, the price ranges from \$271,700 to \$407,700. A high ratio will reduce developer loss. City of Pasadena uses 44% AMI ratio in its in-lieu fee study. (I don't know why it is over 42% per Health Code).
5. Streamlined State Density Bonus Review. It is an interesting idea. I am afraid it is not very practical as the menu of incentives is limited. Due to higher density, developers will seek setback reduction, landscape area reduction, high lot coverage, high FAR, etc. I hope the city can have an affordable housing concession application in place as soon as possible. This kind of application is treated as a minor variance in City of Pasadena.
6. Entitlement process. South Pasadena has a bad reputation among developers and architects. Longer time means lower investor returns. Several architects told me it would take at least three years for entitlement. I am glad to know that the planning department is under new leadership and new process is in place to speed up the process. But the residents are still hostile to development and will delay projects as long as they can. I hope the planning commission and city council will resist resident pressures if the planning department recommends approval for a project.

Best regards,

Victor Tang

Broker (BRE# 01925236), Ph.D. CS

SoCal Realty & Investment, Inc.



Tel: 

From: Gail Maltun <[REDACTED]>
Sent: Wednesday, April 7, 2021 1:38 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Inclusionary Housing Ordinance: Agenda Item 2

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April 7, 2021

Re: Agenda Item 2, Inclusionary Housing Ordinance

From: Gail Maltun, 2056 Fletcher Avenue

To the Council:

Thank you for the opportunity to comment on this Ordinance, which may have counter-productive, and perhaps unintended, impacts on the future shape of South Pasadena. I think South Pasadena would benefit from additional well-designed multifamily and mixed use projects, particularly in our city center. Replacing empty lots, blighted or obsolete buildings, and parking lots (I'm thinking here about the District headquarters) with good developments will make our City a more vibrant and livable place, enhancing the things that make South Pasadena special.

I am glad that Planning is addressing the issue of Inclusionary Housing. Housing in our region is increasingly scarce and unaffordable. South Pasadena is not a self-enclosed bubble, a sweet "Mayberry", although we often think, and act, as if it is. South Pasadena is part of a large metropolis and needs to recognize its role in the larger community of which we are a part, while protecting what makes this town special and beloved.

However, I think that the specific details of the Ordinance that you are considering tonight need to be modified before passage. The numbers and percentages of low and extremely low income units in this Ordinance are among the most stringent and draconian in the State. They are stringent even compared to West Hollywood, Santa Monica, and San Francisco— cities that are much larger, world-famous places with tremendous draw, where developers are eager to build. We are a small town in the San Gabriel Valley. Our numbers should be comparable to those of our suburban neighbors. A developer faced with untenable requirements, that make their project impossible to "pencil", will just build elsewhere.

In addition, South Pasadena has standards regarding height (45'), design and other features that make a project in South Pasadena more expensive from the get-go than many other cities. While I personally think that we could ease up on the 45' limit in some locations, I am really glad that we have design standards that have brought us beautiful mixed use and multifamily projects such as Mission Meridian and the proposed Seven Patios, and prevented the kind of anodyne, cookie cutter multifamily projects seen almost everywhere else these days. I don't think we can have it both ways. If we have extreme requirements for Inclusionary Housing, while maintaining, as we should, our design standards, the result is likely to be that nothing will be built.

There are also details in this Ordinance that seem a bit silly. It states that the affordable units included in a development shall have "comparable quality". This would suggest that a luxury

complex with units fitted out with Viking appliances, marble bathrooms and French oak floors would have to have the same fittings in its low-income units. Is this really reasonable?

If the intention of this Ordinance is to prevent any attractive new projects from going forward, then this Ordinance will likely have its desired effect. But I doubt that kind of cynicism is at play here. I'm puzzled by the numbers and percentages in this Ordinance. Where did they come from? They are far higher than what was discussed in public meetings on the subject.

We have a long history in South Pasadena of preventing good development —often, with the very best of intentions. Perhaps 30 years ago, a theater operator wanted to upgrade the Rialto, by turning it into a multiple screen theater with small screens in the balcony. That was shot down. We know the result. We all remember when Decoma tried to create Downtown South Pasadena, which would have beautified and reinvigorated a key section of Fair Oaks. We allowed that to die a death by a thousand cuts, and then bewailed the “massage parlors” that moved into a moribund district. I fear that this Inclusionary Housing Ordinance with its untenable numbers, will be yet another thing that prevents good development from coming to South Pasadena, while encouraging the kind of development that few of us want to see. I urge the Council to send this Ordinance back to Planning for modification.

Sincerely,
Gail Maltun

Regular City Council Meeting
E-mail Public Comment 04/07/2021

AGENDA ITEM NO. 5

**Request For Review of Project No. 2238-COA –
Modification of Certificate of Appropriateness
for 1030 Brent Avenue
(Assessor’s Parcel Number: 5318-015-019)**

1. Nichole Dunville
2. Christopher Sutton

From: Nichole [REDACTED] >
Sent: Wednesday, April 7, 2021 2:08 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Cc: City Council <CityCouncil@southpasadenaca.gov>
Subject: Item #5 Project Number 2238-Request For Review

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Item 5. Request For Review of Project No. 2238-COA – Modification of Certificate of Appropriateness for 1030 Brent Avenue (Assessor’s Parcel Number: 5318-015-019)

Council Members,

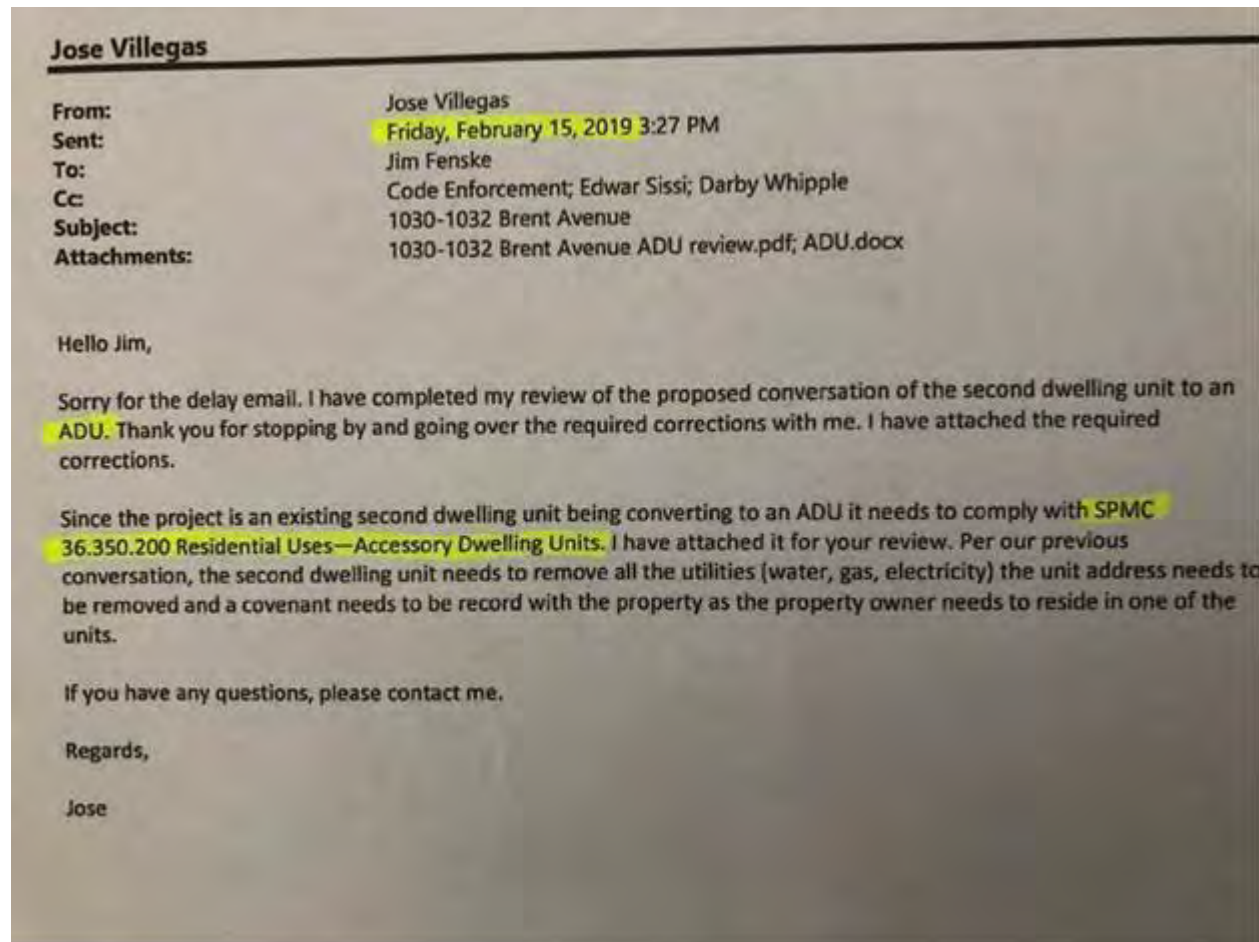
Attached are supporting documents in regards to the code violation at 1030/1032 Brent Ave. The first is an email sent to the city council for the first council review. The next is an email my husband sent to Michael Cacciotti last night regarding the three public records requests we submitted over the last two years. The last is my email I sent to the CHC for the last review. I asked many questions in that email and not one was asked during the CHC meeting.

Nobody seems to want to review what actually happened over the last 3 years of this investigation as it could take a long time. Tonight is the night to take care of this. I’m requesting that you start with the questions I provided to the CHC. While this process might take a while, the 36 months of investigation and misrepresenting can only be cleared up when everyone knows the correct information. Maybe this will need to be postponed until all parties can review.

As for the design, the CHC stated "it's weird, it's just weird" "I'm concerned with the measurements, floorplan, walls not to code" "there are so many discrepancies" "it's hard to believe what I'm seeing here" "did we really approve this?" "was I even here" "if we approve the demo, do we have to approve the design?" and on and on. One commissioner went on the record and said it was indefensible for the owner/ contractor who knows the rules and likened this to a plea bargain, the owner offering to pay a larger fine so as to not have to tear down the illegal structure. The structure is not in proportion with the house or property. It is designed to be tall enough that the interior closet can be turned into a staircase into the attic so the attic space can be finished off at a later time. The structure is a shell and there are no plans to finish it off inside from the owners comments at the CHC meeting.

You can end this investigation tonight just by reviewing the parking compliance alone. The original approval required two parking spaces and after the owner was caught building illegally, he came to the city with the idea of making this an ADU conversion. California law and the South Pasadena ordinance were very clear that the state did not have a lot size requirement, but council members Mahmud and Cacciotti approved the ADU ordinance in 2016 that included lot sizes for ADUs of 12,500. The email from Jose Villegas stating he completed his review, but he did not follow the city ordinance, see photo below. Jose stated, “Since the property is an existing second dwelling being converted, it needs to comply with SPMC 36.350.200 Residential Uses—Accessory Dwelling Units.” Below Jose’s email, you will see the South Pasadena matching ordinance stating it can only be approved on a parcel of 12,500 square feet or larger. If the city attorney tries to say the state law changed in 2020, that is correct. This

still doesn't qualify as an ADU since it is not adding additional housing. Please see the email from Greg Nickless from the California Housing and Community Development that my husband provided.



36.350.200 Residential Uses—Accessory Dwelling Units. SHARE

A. Applicability. The standards and criteria in this section apply to properties containing single-family residences within the RE, RS, and RM zoning districts. These standards are in addition to all other applicable standards found in this Zoning Code. Pursuant to Government Code Section 65852.2, applications for second dwelling units shall be considered ministerially, without discretionary review or a hearing.

B. Minimum lot area. An accessory dwelling unit may be approved only on a parcel of 12,500 square feet or larger.

Travis-

ADU law addresses the creation of additional dwelling units, not an addition to existing living units. Parking requirements, and exemptions, are related directly to the creation of additional units. Generally, if the proposed improvements are not related to the creation of an ADU, the local agency's development standards, or zoning code, would apply.

-Greg



Greg Nickless

Housing Policy Specialist

Housing & Community Development

2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833

Phone: 916.274.6244

Tonight please deny this project and follow the city ordinance for misrepresentation for a COA approval or for demo and construction without a COA. The code is clear that that no permits shall be issued for 5 years. If you think this is harsh, I suggest you look at a smaller timeline of 36 months as a compromise. This will allow the owners a chance to get their plans in order to comply with future codes. Then there would be no need to review the design, as an approval today would expire prior to permits being issued in 3 to 5 years.

Nichole Dunville

From: Travis D <[REDACTED]>
Sent: Wednesday, April 7, 2021 10:32 AM
To: CCO <cco@southpasadenaca.gov>; City Council <CityCouncil@southpasadenaca.gov>
Cc: Sean Joyce <sjoyce@southpasadenaca.gov>
Subject: Fwd: Project Number 2238-Request For Review

Council Members,

I'm forwarding an email I sent in September to the previous council members during the first review. Some it is similar to what was briefly discussed in the email the city clerk's office forwarded to you last night.

I have also copied Sean Joyce on this email to help him get up to speed. Sean has just gotten involved to do a deeper dive in the last 60 days.

Please reach out if you have any questions.

Kind regards,
Travis Dunville
[REDACTED]

----- Forwarded message -----

From: Travis D <[REDACTED]>
Date: Wed, Sep 16, 2020 at 8:46 AM
Subject: Project Number 2238-Request For Review
To: Robert Joe <rjoe@southpasadenaca.gov>, <rossi@southpasadenaca.gov>, Michael Cacciotti <mcacciotti@southpasadenaca.gov>, <dmahmud@southpasadenaca.gov>, <[REDACTED]>

To the City Council,

While you should be able to use the information in my COA letter I sent to the city to make your decision, I want to make sure that upon your review of the COA, you have all the answers you need to make an informed decision. This email is just a small portion. I am stating this because this process has dragged on over 5 years, including over 2 ½ years of investigating and compiling information and another additional 2 ½ years of construction of an unpermitted patio without a COA. If staffers followed the codes and the architect and owner provided correct documentation, this process would have been handled within a few months.

Because the city presentation contradicted their own supporting documents in the CHC meeting, and after reading the City Council agenda packet for City Council meeting Wednesday, I realized there are still items that have errors and are being misrepresented or flat out ignored. I realize that this is probably because the staffers piecing this together were not involved with most of this code violation and have no institutional knowledge. This process has not been fair or transparent which is all we asked for.

Stephanie DeWolfe was personally involved in this investigation she stated "I have now personally delved into the history of this project at your request and have found the issues to be complex. Having the files spread out on my desk, I understand your frustration with the process." DeWolfe may have

influenced city staffers to follow her lead in delaying, misrepresenting, or ignoring my wife and me. Or, maybe staffers were trying to cover the errors they had previously made and as a result are no longer with the city. There are no supporting documents that show David Watkins or David Bergman were aware of this code violation. Watkins was around for 6 months before retiring and Bergman was around for about 5 months and knew nothing about it until my wife and I brought it to his attention on January 31, 2019. This is the same day we walked in and saw Jose, Fenske and Gallatin signing the minor design review.

DeWolfe and the city attorney were on every email that I included the City Council members on since February 2019. While Bergman had notified the Public Works department about the removal of the tree in February 2019, no action was taken until 10/10/19. The city arborist was sent aerial photos of the tree but could not determine the size or species of the tree. The arborist asked for any ground view pictures. Staffers stated there were none. There were in the original plans from 2007 and you can also do a Google street view around the property. During the CHC meeting, Mark Gallatin read the response from the arborist about not being able to tell, this is very different from what DeWolfe stated a few hours later in her response to the tree and the rest of the investigation. She stated "In March of 2019, the Public Works Department was informed of a possible illegal tree removal and oak tree trimming. Based on the Public Works Department's investigation the removed tree was less than 12-inches in diameter and did not require a tree removal permit." See the attachment **DeWolfe letter 10-10-19**. There is no support for this claim and why did she not state the same thing the arborist did? I emailed DeWolfe and informed her that the tree was a multi trunk tree and who, when and how did this get investigated. Not knowing it just happened that day. I also commented and asked more questions about the inaccuracies in the rest of her statement. She never replied. Seven months later we received a copy of the email from the arborist and realized why she did not respond. It was only investigated that day. Attached is **Email back to DeWolfe** to see the rest of the comments and questions regarding the inaccuracies.

Because the City Clerk's department is the messenger, the data they provided is only as good as what is provided to them. That department had to be followed up numerous times with two staffers who are no longer here. Our Public Record Request was never completed. The second PRR that I sent on July 13th prior to the CHC meeting was based on the CHC agenda and presentation. I was provided a thank you message confirmation it was sent, and I took a screenshot and provided this to Maria Ayala. Maria stated they never received it and IT would check on it. I never heard back from Maria about IT. The city stated in the first PRR that there were hundreds of emails and they would need to be sent out but would be done on a weekly basis. When this did not happen, I followed up with emails for about 2 months with no response, I was told my emails went to spam. Keep in mind that none of my previous emails to the city ever had any issues being received. I was then asked by the City Clerk what I specifically needed, even though the City Manager mentioned that they had everything and just needed to sort them for duplicates. Why ask me again what I needed if it was already done? Those hundreds of emails turned out to be 17 emails that I waited for, for over a year, but still not all the docs. While the City Clerk mentioned in her last email that we had everything we requested, she was incorrect and here is why.

The inspector came to our house to take pictures next door in February 2018. This was the very first thing the city did. They sent a certified letter to the homeowner per the city timeline and the homeowner responded. Thirty months later we still have not received copies of those documents. Jose

Villegas showed them to my wife and to me on 1/31/2019 at the counter and I asked to make a copy. Jose stated that I needed to request a PRR. This is what I did a few days later in the first PRR in February 2018. Those pictures, letters and stop work order have never been provided to me or my wife. This was brought up many times to Bergman, City Manager and Director of Planning and Building (Joanna Hankamer). DeWolfe and Hankamer stated there is no such file. Maria also mentioned that a city employee was no longer working at the city. The insinuation is that maybe there is not a file since the employee is no longer working for the city. Jose Villegas is still working for the city and he had the file. I asked Joanna to specifically go to Gus (inspector) and Jose to ask what happened to those documents in an email sent in March 2020 (see attached **Reply to Hankamer**). My email was never returned. The stop work order, letter to the owner and pictures are the first items we should have received. This is important because after 19 months, we have still not received these documents. Only now in the City Council meeting scheduled this week have those documents finally appeared under **16. Staff Report** in attachment 8 from 16-378 to 16-386. **These pictures and documents are extremely important.** You will see that the city inspector's stop work order that states the unpermitted construction is visible from the street. The city inspector also provided pictures from the street in 2018. This is critical when reviewing the city staff PowerPoint presentation. In the presentation you will see zoomed in pictures constructing their own narrative, that you can barely see it. One reason is that it no longer has 12 doors installed and it is only the post and beam. I also have a toyon tree growing to help block the view. If any of our California native plants were to be removed or cut way back, you would be able to see this project from all angles on Brent and Oxley. Please review the pictures I took between January 28-30, 2019 before the Gallatin 1/31/19 approval in 16-42 to 16-47. If you look closely, you can see I took the pictures from across the street to give some perspective on the project. When you look at 16-45 to 16-47, you will see the post and beam and see that in 16-47 that I am in the Wells Fargo parking lot deep behind the brick wall. Remember that the owner did not know that I had reported the violation and I did not want to take pictures right in front of their house. A minor design review states no visibility from the street. The inspector's photos show that.

When Maria mentioned in her last email that the city would not provide redacted email from my verbal request, this was not a first request. Maria had previously mentioned in an email that she would have some information to me by the end of the week. That week came and went, and she never followed up. The verbal request was when she asked me again what I needed in the first PRR. The email that corresponds to the comment made by Maria Ayala is attached **Maria Ayala Dunville PRA**.

Kanika Kith was the presenter at the CHC meeting. I have not had any dealings with her regarding this project except for requesting by email for a review of COA approval and if the city would reconsider the statements made for the approval. Kanika never replied to my email nor did anyone else reach out from the city. This is when I reached out to Council member Cacciotti.

Jose Villegas stated on January 28, 2019 that the plans had been approved in August 2018. But when I asked to see the approved plans, he was unable to locate them. He emailed the architect a few hours later and stated he needed to set up a meeting and it was a high priority. The rest of the week Jose never contacted me to review the plans. It was only a few days later that on 1/31/19 that my wife and I walked into the city office to find Jose, Jim Fenske and Mark Gallatin signing off on the "minor" design review for the COA 1101. Keep in mind it states that "First review was with Jim Fenske was on 8/24/18 approved by chairman Mark Gallatin". The size of the project alone would not qualify this project for a

minor review, neither would the increase in height, coving up of an original window, or the expanded footprint. Why don't the copies have the CHC approval too?

Under the CHC guidelines, this violation should have been brought to the CHC or City Council members when there appeared to be possible misrepresentation for a prior COA 1101 approval. The city could have also complied with the 18-month nuisance ordinance, which we are now at 30 months. It did neither.

It does not matter who left the city willingly or not or how busy the staff is. Council member Cacciotti stated staff could be reallocated to assist in helping. Michael Cacciotti thanked us many times for being so patient with this process. We have continued to follow up and given plenty of response time to either be ignored or provided false information. The responsibility falls on the owner to comply and follow up if there were any delays. The truth is that the city knew about this issue and failed in managing it correctly. They failed to follow their own municipal and CHC codes, not to mention the PRR errors.

Everything I have ever stated in any of my emails can be verified by supporting docs. I hope that with the background of this issue, that the city staffers would be held to the same standard since there are numerous instances that show the city manipulating the truth and not having supporting documentation. Please do not rely on the words of the city employees unless they can back them up with support documents.

The city will probably try to paint a picture of this is just a small addition that can barely be seen from the street, will add value to the community and is entitled. They may even ask for an exemption in one or more sections of the code. This project needs to be rejected based on the facts. I am continuing to ask for the structure to be torn down and a 5-year moratorium for the owner to request any new building permits for an addition to the property. The City Council and CHC have the authority to authorize this. Mark Gallatin stated this in the CHC meeting. This seems appropriate since construction started in the summer of 2015 and lasted 2 ½ years until 12 doors were installed and the project was enclosed, and then the additional 2 ½ year of trying to comply. The owner is a licensed contractor and has been one for 40 years and knew what he was doing. He can come back in 5 years and submit corrected plans that meet city and state codes. Voting to reject this COA approval by using the facts will restore our faith in South Pasadena. It will also satisfy the surrounding neighbors who opposed the project and followed the ordinances when they built additions to their property.

We are asking the City Council to think about what went on here for the last 5 years. The quality of life for our family life has been impacted by the prolonged construction, the eyesore and nuisance while the owner has benefited from using his illegally constructed patio for 5 years. This should not happen to anyone in our city. It has impacted the surrounding homeowners too. There was 100% opposition for this project in the June and July CHC minutes. All the homeowners who border this property wrote to oppose this project. Most have done some type of construction and worked with the city. Nobody wants two sets of rules for building, one for contractors in the know with ties to the city and one for regular citizens.

The city is the gatekeeper of information and unfortunately, the city staffers appear to have not been forthcoming with the information that was requested. This may have come from DeWolfe and the City Attorney and at no fault of staff. In either case, the damage was done. We did not ask for much, just answers to questions when the owner and city were not following the codes, and transparency. While there are still some unanswered questions, the information that we have provided should be enough

information to decline with ease. A vote to decline based on the codes will send a message that this type of construction will not be tolerated in the city. We wish for a unanimous vote tonight.

Kind regards,

Travis And Nichole Dunville

Below, in red are our responses to the CHC and city staff Executive Summary

CHC asked: Was the detached unit that was converted into an accessory dwelling unit (ADU) permitted?

City Staff Response: Yes. The building records for the property were attached to the July 16, 2020 CHC staff report and show that both units were permitted in the early 1920s.

As mentioned in the CHC staff report, one of the duplex units was converted into an ADU to alleviate the requirement of a required covered parking space. This determination was made by the previous Planning Director. *If this was originally permitted, then this is a legal structure and does not create new additional housing which is the purpose of ADUs. Please see my email from the Greg Nickless of the California Department of Housing and Community Development confirming this in your packet. The city and state ordinances are clear about accessory structures. Remember the City Council approved ADUs with a minimum of a 12,500 sq/ft lot and that was in effect during 2018 and 2019. The Director did not have the authority to approve this and I have not seen any supporting documents. While in 2020 the state ordinance supersedes and does not require a minimum lot size in 2020, the legal duplex does not meet the criteria for “converting” into an ADU.*

- In a public comment from Mr. Dunville regarding the July 16, 2020 CHC meeting, he states that two trees were removed from the property without permits.

Response: As stated in the July 16, 2020 staff report, the Public Works Department investigated the complaint of an unpermitted tree removal and found that it was unclear if a tree removal permit would have been required. *And the City Manager stated something different which I provided previously in this email the CHC may not have known since she stated it was less than 12 inches.*

The Commissioners heard the concern and included a requirement that the property owner plant a tree as stated below:

A minimum 24-inch box tree listed on the City’s protected tree species list shall be planted on site. Note that I had previously mentioned in an email to DeWolfe in November that the owner is a General Contractor and, in the code, it states General Contractors are responsible for knowing the policy and yet he did nothing to document it. The trunk was large enough that the gardeners used a stump grinder to remove the trunks.

- What was the delay for Code Enforcement in resolving the code citations on the property?

Response: The code compliance was addressed in two parts, first the ADU conversion (approved on March 4, 2019) and then the unpermitted patio cover (the subject of the CHC approval being reviewed). The resolution of the unpermitted patio went through a few design iterations before Staff could support a compliant resolution. Given staff turnover during these design iterations, current staff needed time to understand the history of the project approvals and code violations in order to pursue an appropriate solution for compliance. In **Attachment 9**, Mr. Robert Roybal provided a timeline from March 2018 of when the first correction notice was issued to present time (stop work order was issued to August 2020). Under the original COA the project that was approved on 6/19/08, it states "Single story addition has to match the CHC/DRB single story addition" There is no mention of removing the carport. See new CHC/DRB approval of 2008. The very next day the owner was issued a permit for a single-story addition with required carport.

- Can the proposed addition be denied by the Commission?

Response: Staff explained that the Commission cannot deny the proposed addition if the design has been determined to meet the development standards in the Zoning Code and the design standards in the CHC ordinance, which the ordinance requires consistency with the Secretary of the Interior's standards. Staff also explained that the Commission can deny the conversion of the illegal patio by requiring the applicant to demolish the existing patio before the applicant applies for a building permit for the proposed addition. Staff did not recommend demolishing the existing patio cover because staff was concerned about construction delay that could affect Mr. Dunville. The CHC can deny if it didn't meet the CHC ordinance. The lot size confirms this for 2018 and 2019 and the state also confirms that ADUs are to be created from my previous letter from the state and not converted. This entire process was based on the original COA 1101. This does not follow the CHC rules and the structure can be torn down because the owner did not have a COA for a covered patio. More importantly, are the misrepresentations on the original plans that have been dismissed by staff. When the architect was asked about the misrepresentations, he did not answer the questions I sent in on the June CHC scheduled meeting, he only referenced his errors and omission insurance.

Instead, Staff recommended the conditions listed below as a penalty to the applicant:

1. A recorded covenant requiring the removal of the unpermitted patio cover if the proposed addition is not built, and the proposed addition to be completed in 18 months from date of COA approval.
2. Restricting the issuance of building permits for renovation or addition for 5 years.

3. Doubling of the cost of the building permit for the inspection fee. **When General Contractors break the rules, they weigh the cost. Doubling of the permit fees is minimal when it comes to construction costs of \$200-\$300 per sq/ft and of selling in South Pasadena of \$800-\$1000 per sq/ft. The owner/GC has complained about the cost he has incurred, but he brought them on himself with the illegal construction.**

For the project history, staff report, and comments received for CHC meeting, see **Attachments 4 and 5.**

Discussion

The SPMC Section 2.65(e)(10) includes mandatory and project-specific findings which the CHC must make in order to approve the Certificate of Appropriateness. The Request for Review is confined to the denial of the Certificate of Appropriateness on the grounds that there was inaccurate information presented to the CHC in the staff report. Accordingly, this staff report addresses only Mr. Dunville's claims of inaccurate information.

Issues Raised by Mr. Travis Dunville

Mr. Dunville provided the below list of staff statements that he states are incorrect. Below each statement from Mr. Dunville are Staff's responses.

1. Staff stated in June 2008, Planning & Building staff approved the 400 square-foot carport removal.

There are no documents showing the removal of the 400 sq/ft carport, but there is a permit signed by the owner the day after approval for a single story with 400 sq/ft carport. A refund letter request shows the owner requesting the refund for fees for the single-story addition and 400 sq/ft carport.

Staff Response: The Planning Division staff approved a proposed change to the first Certificate of Appropriateness that removed only the proposed second story addition (and not the carport) on June 19, 2008. A copy of those plans are included as **Attachment 6**. **So, staff in the CHC meeting stated that the carport was eliminated in the 2008 approval. Now staff is stating it wasn't eliminated, but in the WHEREAS, on June 19, 2008, the Planning Division staff approved a proposed change to the project that removed the proposed second story addition and the 400 square-foot carport. The revised project would construct only the 293 square-foot single story addition, which was determined to be consistent with the previous CHC and DRB approvals; and**

Staff incorrectly reported in the CHC presentation that the carport was no longer needed as part of the single-story CHC approval. See the attached 2009 Single Story doc. Confirming this and the previous permit and refund letter in the CHC agenda.

2. Staff stated a correction notice was issued in March of 2018.

I ordered in a Public Records Request in February 2019 with all correspondences. No copy has ever been provided and a second request was ordered on July 13th, 2020. At the writing of this letter on July 29th, the city has not provided any information on the July 13th PRR. Critical to what the owner agreed to for complying.

Staff Response: A correction notice was issued on March 13, 2018 after Code Enforcement received and verified a complaint of an unpermitted structure built in the backyard and other possible construction occurring without the proper approvals and permits. A stop work order letter was provided to the Roybals on April 9, 2018 as a follow-up to stop the work on the unpermitted

construction. See **Attachment 8** for a copy of both documents. *These are the documents we requested in our PRR in February 2019. These documents were never provided to us and are only showing up now in the Council meeting. Although we requested in writing, many times, from Bergman, Dewolfe and Hankamer. DeWolfe and Hankamer stated there was no file. After emailing Hankamer in March asking her to speak with Gus and Jose about the file, we received no reply back. See attached Reply to Hankamer. What is interesting is that the inspector came into our house and took pictures from our kitchen window in the first week of February 2018. We believe this may have been a contracted inspector from another city as his business card was generic with no name. It took another 40 days until March 13th to send out another inspector for the stop work order. It appears that Watkins and Bergman were unaware of this violation until we brought it up to Bergman on 1/31/2019. Ten days later we met with Bergman and asked if he had seen the file with the pictures he said no and told us to file a complaint. We told him we already had, one year prior in February 2018 and he was shocked. They are in attachment 8 and it took 17 months to finally get these. It makes us wonder what else we don't have, besides the Roybals replies back to the city.*

3. Staff's statement that the CHC Chairman approved the minor modifications to the plans on August 24, 2018.

The CHC Chair stated that he never approved the plans. This would make sense since the city does not have a record of the original 8/24/18 signed by CHC Gallatin. I inquired on January 28th, 2019 about the approved plans and the city staffer could not find them. A few hours later the same city staffer emailed the architect and stated he found copies of the approved plans and needed to meet. The city staffer never contacted me. My wife and I walked into the city office three days later January 31, 2019 and found the city staffer, architect and CHC chair Gallatin signing off on a 1/31/2019 approval that was based on the 8/24/18 review. There is no evidence that the CHC chair ever approved the 8/24/18 plans and he is stating he did not. If there was a review and it is based on the 1/31/2019 signature, the size alone would disqualify it from a minor review. Besides that, items changed were

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for larger footprint, structure moved south more than 3ft covering the original bedroom window, raising the roof and adding multiple doors. All these falls under a Major Design Review and do not fall under a minor review.

In either case if there was never an approval, then the COA 1101 was never amended and has not expired. If there was an approval, it is based on a major design changed that would have required notice to the surrounding properties and would also make the COA still valid. If there is validity to the 1/31/19 CHC approval and the items do fall into a minor review, then the 18 months have not expired. It would seem like a good idea to get this clarified.

Staff Response: The property owners (Mr. and Mrs. Roybal) stated that they were not able to make the improvements to their property as approved by the Cultural Heritage Commission (CHC) on November 15, 2007 due to financial hardships. The approval includes a 293 square-foot addition on the first floor, a new 555 square-foot second story addition, and a new 400 square-foot carport.

Therefore, in January 2019, they submitted revised plans for a design change to only include the 293 square-foot addition on the first floor (same size as original CHC approval). **Under the original COA 1101 that the Roybals submitted revised plans, the carport was a requirement for the originally approved project. Under that same COA, no changes could be made as to eliminating the carport. This would have been a new project and a new COA. The entire process has been about the original COA 1101. The city timeline shows that Mark Gallatin was in contact numerous times in 2018 about minor design reviews. The city stated that Mark signed off on 8/24/2019. This is important for the clarification from Mark Gallatin. There is no record of an 8/24/2019 approval, except for the city's timeline. The record never shows that the owner submitted a covered patio for approval. The 1/31/19 plans do show a CHC approval that appears to be signed by Mark Gallatin. The other portions states "First review by Chairman Mark Gallatin" in another handwriting. See attached Mark Gallatin. There is a lot of confusion around these approvals. Later, the owner continues to come back and makes more changes to expand it and then make it smaller again as I pointed out the errors to city staffer. At that time, staff determined that the design change was within the review authority of the Chair of the CHC under SPMC Section 2.65(e)(4)(E) for Minor Project Review. This section states the following:**

"...minor changes to a previously approved certificate; or any other undertaking determined by the director or his/her designee to not materially alter the features or have an adverse effect on the integrity of a cultural resource."

When you can see the project from the street, it is not a minor design review. When the size of the project is more than 200 sq/ft it is not a minor design review. When you increase the height of the roof, width of the footprint, increase doors and cover up an original window not previously approved, those are not part of a minor design review.

The revised design was approved on January 31, 2019 by the Chair of the CHC (see **Attachment 7**).

The Chair did not approve the illegal patio cover. **No record of the owner submitting patio cover details.**

The property owners have the right to seek a new entitlement for various reasons and Mr. and Mrs.

Roybal did receive the proper approvals as permitted in the CHC ordinance. **The owners did not get not get the proper approval on 1/31/19 because the changes they wanted to make are not consistence with a minor design review. The addition is visible from the street and is over 200 sf. Increased in height, width, additional door, moving of the doors and covering an additional original window not previously approved.**

4. Staff's statement that the owner applied for a building permit in June 2019 based on the 8/24/18 CHC Chair approval but was found to be inconsistent. Then stated, based on all the changes from the originally approved COA, a new COA would be needed.

Why did the owner and or architect submit different plans in the permit process if they were already approved in 8/24/18? How did the owner make the changes to those plans? Keep in mind the staffer stated it was found out in the permit process that the plans changed. That was me going into the office and reviewing the update. I was told it was in the permit process. Then I pointed out the inconsistencies with the plans to the city staffer and then emailed David Bergman.

Staff Response: As stated in the staff response above for Comment No. 3, the revised design was approved by the CHC Chair on January 31, 2019 and it was for a 293 square-foot addition on the first floor in which case, it falls under the approval authority of the CHC Chair under SPMC Section 2.65(e)(4)(E). After receiving approval from the Chair, the property owners submitted a construction drawing set to the Building Division for a building permit. The construction drawing set submitted was not consistent with the revised design that was approved by the CHC Chair because it showed a 329 square-foot addition on the first floor, which is 36 square feet larger than the Chair approval. Staff reviewed the revised design and determined that a new Certificate of Appropriateness is needed by the

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entire CHC because the project had evolved significantly from the original approval by the CHC in November 2007. I was the one who pointed out the inconsistency to the staff when the plans went to permit approval. There was one set of plans that was “approved” on 1/31/19 but a different set of plans was submitted in the permit/structural approval. If I had not gone to the counter again to review the plans his new and different set of plans would have gone through without anyone from the city noticing. How did the new plans get through without anyone from Planning and Building noticing the changes? Now one year later staff is stating that they need a new COA. In the CHC staff presentation, staff stated that the COA expired and that is why they needed a new COA. The owner was issued a stop work order and told to comply in 30 days in March of 2018. It has been 2 ½ years.

5. Staff's statement that there were 4 code issues with this property and 3 resolved without mentioning how they were resolved. Staffer stated while a single story was approved by CHC, the CHC chair stated he did not approve. The other single-story approval in 2008 by staffers.

As previously stated, this seems very important to clarify the approval. There is an approval in 2008 for forgoing with the construction of the second story addition and just doing the single-story addition, but no mention of eliminating the carport. The permit for the single story and the refund show a carport.

Staff Response: The 2008 approval by the Planning Staff involved only the elimination of the second story addition from the original approval by the CHC, and therefore, was found to be consistent with the CHC's original approval for the COA in November 2007. When the carport proposal was eliminated and the property owners were only requesting for the 293 square-foot addition on the first floor, in which case, falls under the approval authority of the CHC Chair under SPMC Section 2.65(e)(4)(E). Staff stated in the CHC presentation that the carport was eliminated from the 2009 CHC review. Now they are stating something different. This was still required because I pointed out the permit and refund letter. Staffers again are changing their story.

The July 16, 2020 CHC staff report provided brief summaries of the code enforcement issues on the property site and how they were addressed to be in compliance. Staffers never addressed the errors in the original COA 1101, except for a job site visit to measure. This was something I asked for in the second PRR in July 2020. I had already hired a surveyor in December of 2019 after meeting with Hankamer and the surveyor confirmed the measurements to be off. These were not just property line errors. These were simple tape measuring errors and the omission of two trees and a utility pole. The building separation was less than 10ft. See attached Building Separation. See two city staffers measuring the building separation with the owner in the black sweatshirt. Attached Staffer Measurements.

The refund identified by Mr. Dunville was for the fee paid for the original building permit which included the second-story addition and carport. The refund was requested because the property owners were no longer pursuing those improvements. Staffers originally stated that the owners started construction with the permits, and it was in the city timeline. DeWolfe also mentioned that in her

10/10/2019 response. I want to clarify why refunds were given after construction started. I also want to know if there were any other refunds issued. City of S.P does not allow refunds after construction starts.

6. Staff's statement that the proposed would not be visible from the street.

Attached are pictures from north and south elevation on Brent from the Wells Fargo parking lot and NW corner of Brent/Oxley in January 28, 2019 before the 1/31/19 approval. I have included panned out and zoomed in. I have planted trees to cover as much as I can. The structure can also be seen from Park Ave as well. These pictures show the roof line. The proposed roof line is proposed to be 6 feet taller.

Figure 1: Photos of Unpermitted Patio Cover From Street

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Staff Response: Mr. Dunville is correct that portions of the proposed rear addition would be visible from the street. As the images above show, it appears that portions of the unpermitted patio cover are currently visible from the street, and therefore, the proposed addition would also be visible from the street. These images were provided by Mr. Dunville show the existing unpermitted patio is visible from Brent Avenue after zooming in. **Please see pictures 16-45 to 16-47 for non-zoomed in pictures from across the street at Wells Fargo and on the west side of Brent Ave.**

While the July 16, 2020 staff report stated that the addition would not be visible from the street, staff still supports the approval of the project because the proposed addition will match the roof and building materials and colors of the existing house. The addition will replace the visible portion of the existing patio cover, which was not designed to blend with the existing house.

The rear addition approved by the CHC on July 16, 2020 has been designed to retain and preserve the character-defining features with matching materials and colors to the existing residence, including wood French doors, wood siding, and composition shingle roofing. A wooden gable vent and outriggers/knee braces for the gable wall will match the existing architectural features of the home. The existing river rock veneer over concrete along the sides of the home will continue along the base of the proposed addition. The proposed design changes would remove the existing patio cover and

replace it with an addition that would complement the architectural style of the existing house.

Therefore, the images above will be replaced with an addition that will blend in with the existing house and would not stand out to people walking on the street. I have never opposed any designs that my neighbors have submitted and built. This include designs from the architect of record, Jim Fenske. This is about the process of obtaining approvals based on numerous errors presented to the original DRB/CHC and the current CHC with no true recourse after this was presented to the city.

7. Staff's figure of the existing site plan outlined in blue.

The existing layout is still incorrect as it currently mirrors the red proposed. The existing building separation from unpermitted construction and the duplex is still under 10ft, which was on the original plans. Existing show 10'2". A PRR was requested on July 13, 2020 for the city staff measurements. This is not a surveyor issue since they are landmark measurements (driveway and fence). It should also be noted that the existing plan still shows the back patio that was already torn down. If you remember, the owner, city staffer and architect stated that the owner was building a covered patio. The owner did not have COA approval for a covered patio, it was for a first and second story addition. This itself can be reason for tearing down the structure and a 5-year moratorium for building.

Staff Response: Below is the figure Mr. Dunville is referring to. This was Figure 3 from the July 16, 2020 CHC staff report.

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Figure 2: Figure 3 From July 16, 2020 CHC Staff Report

The site survey that was conducted included property line and setbacks but did not include the distance measurement between the existing ADU and unpermitted patio cover. The measurements of existing building locations, including the distance between the ADU and the unpermitted patio cover, were provided by the architect. However, even if the architect's dimension is incorrect regarding the separation of the ADU and unpermitted patio cover, the proposed addition that will replace the unpermitted patio cover will be plan checked and inspected to meet current codes, including building separation distances. After 2 ½ years, the architect cannot provide accurate drawings even though this has been brought up numerous times. In previous email, I shared how the duplex has a bump out towards the back and the architect had it reversed to show more room for a building separation. I also shared this with Hankamer in an email. See attached **Building Separation less than 10ft**. Staffers did measure the distance, and this is something I asked for in my July 2020 PRR. Here is an image of two

city staffers holding the tape measurer at the beginning of the tape and the owner near the end of the tape between the duplex and illegal construction on January 9, 2020.

In the July 16, 2020 CHC staff report, it was stated clearly that the existing patio cover is unpermitted and

is the subject of the active code enforcement case for unpermitted construction. With all the unapproved

and unpermitted demolition and construction causing a public nuisance to the surrounding neighbors, the

CHC approved the project with the following conditions to ensure that the proposed project is completed

within the time allotted for a Certificate of Appropriateness:

- *Within 30 days of approval of a Certificate of Appropriateness, the property owner shall execute and record a covenant for removal of the unpermitted patio cover and the proposed addition to be completed within 18 months from the date of approval of the Certificate of Appropriateness.*
 - o *If the owner refuses to execute and record such covenant, then the City shall remove the patio cover and restore the original house, and the owner shall reimburse the City for all costs incurred in doing the work. The cost of the work performed by the City shall constitute a lien against the property on which the work is performed.*
 - o *Upon application to the Commission, the time may be extended on a covenant if the owner shows that the work cannot reasonably be performed within 18 months.*

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- *The covenant shall also include no building or construction-related permits which change the architectural or character-defining features of the home, or expansion of the home, shall be issued for a period of five years following the date of demolition of the unpermitted patio cover or completion of the proposed addition pursuant to South Pasadena Municipal Code Section 2.67c. Permits which are necessary for public safety or welfare in the opinion of the Planning Director may be issued.*
- *The construction of this project shall be subjected to an inspection fee which doubles the amount*

of the building permit.

In addition to the statements listed above involving Staff, Mr. Dunville also had responses to the comments

the Commissioners and the Applicant's representative made during the July 16, 2020 CHC meeting. The details can be viewed starting in the middle of page 2 of **Attachment 3**. Staff is unable to respond on behalf of the Commission.

As staff has mentioned to the CHC, the original COA that was approved in 2007 did not have an expiration

date under the Cultural Heritage Ordinance in place at that time but when the property owners came in with a revised project in 2019, it was subjected to the current Cultural Heritage Ordinance which had an 18 month expiration date on the approvals. **Mark Gallatin's approval on January 31, 2019 falls within the 18 month expiration date for the CHC meeting in July 2020. In fact, the owners could have asked for an extension of 12 months any time prior to 18 months which was the end of July. Approvals are based on the final date of approval. More importantly, regarding deadlines, is the fact that it has taken 2 ½ years for the owner to comply, but he is still unable to.**

Conclusion

As discussed above, the information staff presented to the CHC for consideration of the project on July 16, 2020 was correct according to City records. Therefore, Staff recommends that the City Council uphold

the decision by the CHC for approval of the project subject to conditions of approval. **I hope based on my records and the inconsistencies from staffers, you find that the information presented was not correct.**

Legal Review

This report was reviewed by the City Attorney.

Environmental Analysis

This item is exempt from any California Environmental Quality Act (CEQA) analysis based on State CEQA Guidelines Section 15331, Class 31 Historical Resource Restoration/Rehabilitation and 15301, Class 1 Existing Facilities. Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner

consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995),

Weeks and Grimmer. Class 1 exemption includes additions to existing structures provided that the addition

will not result in an increase of more than 10,000 square feet in which the project site is in an area where

all public facilities are available and is not located in an environmentally sensitive area.

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Required Cultural Heritage Findings

Based on the discussions above, Staff recommends that the City Council make the findings as provided in

more detail in the Resolution, included as **Attachment 1**, pursuant to South Pasadena Municipal Code (SPMC) Section 36.410.040(l), mandatory findings, and project-specific findings. A brief summary of the findings for the COA is provided below.

Design Review

- 1. Is consistent with the General Plan, any adopted design guidelines and any applicable design criteria for specialized areas (e.g., designated historic or other special districts, plan developments, or specific plans);*
- 2. Will adequately accommodate the functions and activities proposed for the site, will not unreasonably interfere with the use and enjoyment of neighboring, existing, or future developments, and will not create adverse pedestrian or traffic hazards;*
- 3. Is compatible with the existing character of the surrounding neighborhood and that all reasonable design efforts have been made to maintain the attractive, harmonious, and orderly development contemplated by this Section, and the General Plan;*
- 4. Would provide a desirable environment for its occupants and neighbors, and is aesthetically of good composition, materials, and texture that would remain aesthetically appealing with a reasonable level of maintenance and upkeep.*

Mandatory Findings

The City Council shall make **all** of the required findings listed below:

1. *The project is consistent with the goals and policies of the General Plan. Not the case with the ADU.*
2. *The project is consistent with the goals and policies of Article IVH – Cultural Heritage Too many to list, but they have been mentioned previously in this email.*

Commission Ordinance – of Chapter 2 of the South Pasadena Municipal Code.

3. *The project is consistent with the applicable criteria identified in Section 2.65(e)(8) which the Commission applies to Alterations, Demolitions, and relocation requests. This is was pointed out that from the original approval, the size of the project increase by width and height. It also covered up an original window and the building separation is under 10ft. The addition of more doors to mimic what was built illegally.*

Project-Specific Findings-None of this matters if the original COA was based on errors and misrepresentations.

The City Council shall make at least **three (3)** of the findings listed below:

1. *The project removes inappropriate Alterations of the past;*
2. *The project is appropriate to the size, massing, and design context of the historic neighborhood; (Staff Recommendation)*
3. *In the case of an addition or enlargement, the project provides a clear distinction between the new and historic elements of the Cultural Resource or Improvement; (Staff Recommendation)*

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4. *The project restores original historic features in accordance with the Secretary of the Interior Standards for the Treatment of Historic Properties;*
5. *The project adds substantial new living space (for example: a second story toward the rear of a residence) while preserving the single story [architectural style or building type] character of the streetscape;*
6. *The project enhances the appearance of the residence without adversely affecting its original design, character, or heritage;*
7. *The project will not adversely affect the character of the Historic District in which the property is located; and/or;*
8. *The project will be compatible with the appearance of existing Improvements on the Site and the*

new work will be compatible with the massing, size, scale, and Character-Defining Features to protect the Historic Integrity of the property and its environment;

9. The Project is consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties, and is therefore exempt from CEQA under Class 31, which applies to “projects limited to Maintenance, Repair, stabilization, rehabilitation, restoration, Preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstruction Historic Buildings (1995), Weeks and Grimmer.” (CEQA Guideline [Cal. Code Regs. Title 14] § 15331). (Staff Recommendation)

10. Relocation as an alternative to Demolition of the Cultural Resource is appropriate because of the following: CEQA analysis has been conducted and the owner has provided substantial evidence, as defined in CEQA (Public Resources Code § 21080(e)), demonstrating that no feasible alternative exists that would avoid a significant adverse impact on the resource; Relocation is required to prevent destruction of the resource at its current location; the new location is compatible with the Cultural Resources original character and use; upon relocation, the resource retains its historic features and compatibility in orientation, setting, and general environment; if re-located within the City of South Pasadena, the receiving location is appropriately zoned; the relocation is part of a definitive series of actions that will assure Preservation of the Cultural Resource.

11. Demolition of the Cultural Resources is appropriate because of one or all of the following:

i. CEQA analysis has been conducted and the owner has provided substantial evidence, as defined in CEQA (Public Resources Code § 21080(e)), demonstrating that no feasible alternative exists that would avoid a significant adverse impact on the resource;

ii. The owner is approved for a Certificate of Economic Hardship;

iii. The size, massing and scale of the proposed replacement structure is harmonious with other improvements and natural features that contribute to the Historic District, or the neighborhood character; and

16 - 10

CC Agenda 1030 Brent Avenue

iv. The proposed replacement structure contributes to the integrity of the Historic District or neighborhood.

12. In the case of a structure that poses an Imminent Threat and is unsafe to occupy, the Commission shall make one or all of the following findings to approve a Demolition of a Cultural Resource:

i. The building has experienced several structural damage and there is substantial evidence to support this conclusion from at least two sources (e.g., Structural Engineer, Civil Engineer, or Architect); or

ii. No economically reasonable, practical, or viable measures could be taken to adaptively use, rehabilitate, or restore the building or structure on its existing site and there is substantial evidence to support this conclusion from at least two sources (e.g., Structural Engineer, Civil Engineer, or Architect); or

iii. A compelling public interest justifies demolition.

Alternatives to Consider

If the City Council does not agree with staff's recommendation, the following options are available:

1. The City Council can Approve with additional condition(s) added (e.g. removal of the existing patio cover before submitting a building permit for the proposed addition); or
2. The City Council can send the project back to the CHC for reconsideration; or
3. The City Council can Deny the project, if it cannot make the required findings for approval.

THIS CERTIFIES THAT THESE PLANS HAVE BEEN CHECKED FOR SUBSTANTIAL COMPLIANCE WITH APPLICABLE CODES. PLANS ARE SUBJECT TO FURTHER REVIEW, AND CORRECTIONS, NEITHER CERTIFICATION NOR ISSUANCE OF A PERMIT SHALL BE CONSTRUED AS APPROVAL OF CODE VIOLATIONS NOR PREVENT THE BUILDING OFFICIAL FROM HEREINAFTER REQUIRING CORRECTION OF CODE VIOLATIONS, WHETHER SHOWN ON THE PLANS OR NOT.

PLANNER: JOSE F. VILLEGAS / JOHN MAYER

DATE: 6/19/08

NOTES: CHANGE FROM CHC/DRO PLANS

Jfenske architecture

SINGLE STORY ADDITION HAS TO MATCH THE CHC/DRO SINGLE STORY ADDITION.

111 Peterson Ave.
South Pasadena, California 91030
TEL: (323) 257-8727
FAX: (323) 257-0508

THIS CERTIFIES THAT THESE PLANS HAVE BEEN CHECKED FOR SUBSTANTIAL COMPLIANCE WITH APPLICABLE CODES. PLANS ARE SUBJECT TO FURTHER REVIEW, AND CORRECTIONS, NEITHER CERTIFICATION NOR ISSUANCE OF A PERMIT SHALL BE CONSTRUED AS APPROVAL OF CODE VIOLATIONS NOR PREVENT THE BUILDING OFFICIAL FROM HEREINAFTER REQUIRING CORRECTION OF CODE VIOLATIONS, WHETHER SHOWN ON THE PLANS OR NOT.

~~PLANNER: _____~~
~~DATE: _____~~
~~NOTES: _____~~

RECEIVED

JUN 18 2008

Roybal
CA. 91030

CA 91030

and add to an
room.

documents wherein
Administrative Code,
be submitted to
before proceeding

e Plans

Jose Villegas

From: David Watkins
Sent: Friday, June 5, 2009 1:04 PM
To: Jose Villegas
Subject: RE: 1030 Brent Ave

Follow Up Flag: Follow up
Flag Status: Flagged

That's right – CHC approvals have no expiration, so he can submit directly to building with the CHC approved changes. No need to go back to CHC, and no trip is necessary to the DRB anymore.

From: Jose Villegas
Sent: Friday, June 05, 2009 1:03 PM
To: David Watkins
Subject: 1030 Brent Ave

Dave,

I was wondering how the Planning Department should handle expired CHC projects?

██████████ for 1030 Brent Ave came in today to cancel his building permits. He can not afford what was approved by the CHC/DRB. His cancellation of the building permits will automatically cause the expiration of the DRB approval, but there is no expiration on the CHC approval per our zoning code. I mentioned that the, "CHC approval has no expiration date," so if he submits exactly what was approved by the CHC to the building department at a later time, he may not need to go through the CHC process again. Is this correct?

Jose



A.D. - 71

From: Nichole <dunvillefisk@earthlink.net>
Sent: Sunday, September 13, 2020 3:09 PM
To: 'Travis D' <travisdunville@gmail.com>
Subject: FW: Unpermitted Construction 1030 & 1032

From: Nichole <[REDACTED]>
Sent: Sunday, November 17, 2019 11:09 PM
To: 'Tamara Binns' <tbinns@southpasadenaca.gov>; 'Teresa Highsmith' <thighsmith@chwlaw.us>; 'Lucy Demirjian' <ldemirjian@southpasadenaca.gov>; 'Dr. Richard Schneider - Personal' <[REDACTED]>; 'City Clerk's Division' <CityClerk@southpasadenaca.gov>; 'Robert Joe' <rjoe@southpasadenaca.gov>; 'mkhubesran@southpasadenaca.gov' <mkhubesran@southpasadenaca.gov>; 'Michael Cacciotti - Personal' <[REDACTED]>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>; 'Diana Mahmud' <[REDACTED]>; 'jhankamer@southpasadenaca.gov' <jhankamer@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Stephanie, thank you for your response and willingness to look deeper into this project. However, we do not understand why the City continues to ignore its own ordinances. Planning and Building seems to be going out of its way to find loopholes to allow this homeowner to continue adding onto his unpermitted addition and circumvent required parking. As a General Contractor, he is aware of the ordinances and the required processes. The relationships that exist between Planning and Building staff, the homeowner, the architect for this project and the Chair appear to be very chummy with emails that demonstrate willingness to do favors for each other while ignoring city ordinances. And the city has yet to fulfill our request for public documents from February 2019.

Here is a summary: Our neighbor, who is a general contractor, had an addition conditionally approved in 2007. The conditional approval was based upon the addition of covered parking on the property. In 2009 he changed his mind and requested a refund for the fees he'd paid. No construction was ever started. Years later, in 2015 he started building a patio with a concrete foundation and a flat roof attached to his house. He cut down a tree and tore off the back porch, none of this was approved or permitted. After almost 3 years of construction, in 2018, he installed 12 doors vertically and horizontally to enclose the patio/addition. We went to the city to see the permits but there were none.

As a City Manager, we knew it would be difficult to understand the history since you are using the same incorrect information from the timeline David Bergman's staff created and only referencing items from February 1, 2019 - present day. Since the city inspector came to our house to look at the addition through our windows the first week in February 2018, until our email to Michael Cacciotti a year later in February 2019, no one from the City ever was proactive and reached out to us for one update or asked any questions after that visit. During that period, we called and went into the office asking for updates. We met with the interim director David Bergman but he was unwilling to hear our complaints

or even look at our documents. There were specific questions that you and David still have not answered and maybe we will get the responses once our public document request is complete. Below is information regarding ADUs, COAs, Major vs. Minor Reviews, Code Enforcement, tree removal and trimming, property lines and setbacks that may help you reevaluate your assumptions.

- Converting to an ADU only to circumvent parking requirements
- ADU only allowed on lots 12,500 sq/ft per 2016 SPMC which is current. This property is 7,500 sq/ft
- Property Lines and setbacks written incorrectly on blueprints
- Illegal tree removal and illegal trimming of Oak Tree
- Unpermitted driveway

To City Council-

If you read the email thread that started on February 1, 2019, thank you. We realized that you have not received any other supporting documentation, so we thought it would be best to include it in our response to Stephanie DeWolfe's most recent email to us.

If you haven't read it, we understand and ask that you please review the patio images in this email. This is what we currently see from our bedroom, bathroom, kitchen, laundry room and backyard every day since construction started in the summer of **2015**. The one at night shows the patio enclosed with glass doors. We will also share the timeline of construction per Google Earth and street view.

If Stephanie Dewolfe is still not concerned about what really happened, we ask you this; if you do think there are items that concern you, please let her know. We have tried to get this unpermitted construction to stopped, but you will see our concerns were ignored when valid points were brought up and not followed through. City Council has the power to revoke the COA. We ask that you consider revoking the COA.

This us what we look at every day from our bedroom, kitchen, bathroom, laundry and backyard.









Verizon

12:19 PM

45%



February 9, 2018
9:04 PM

Edit



Below is the construction timeline from Google Earth from the original approval in 2007-2019.



2007 with two trees in the backyard circled in red and the required trellis area in yellow for parking.



November 2009- Two trees in the backyard and no construction.



March 2011- Two trees and no construction



April 2013- Two trees and no construction



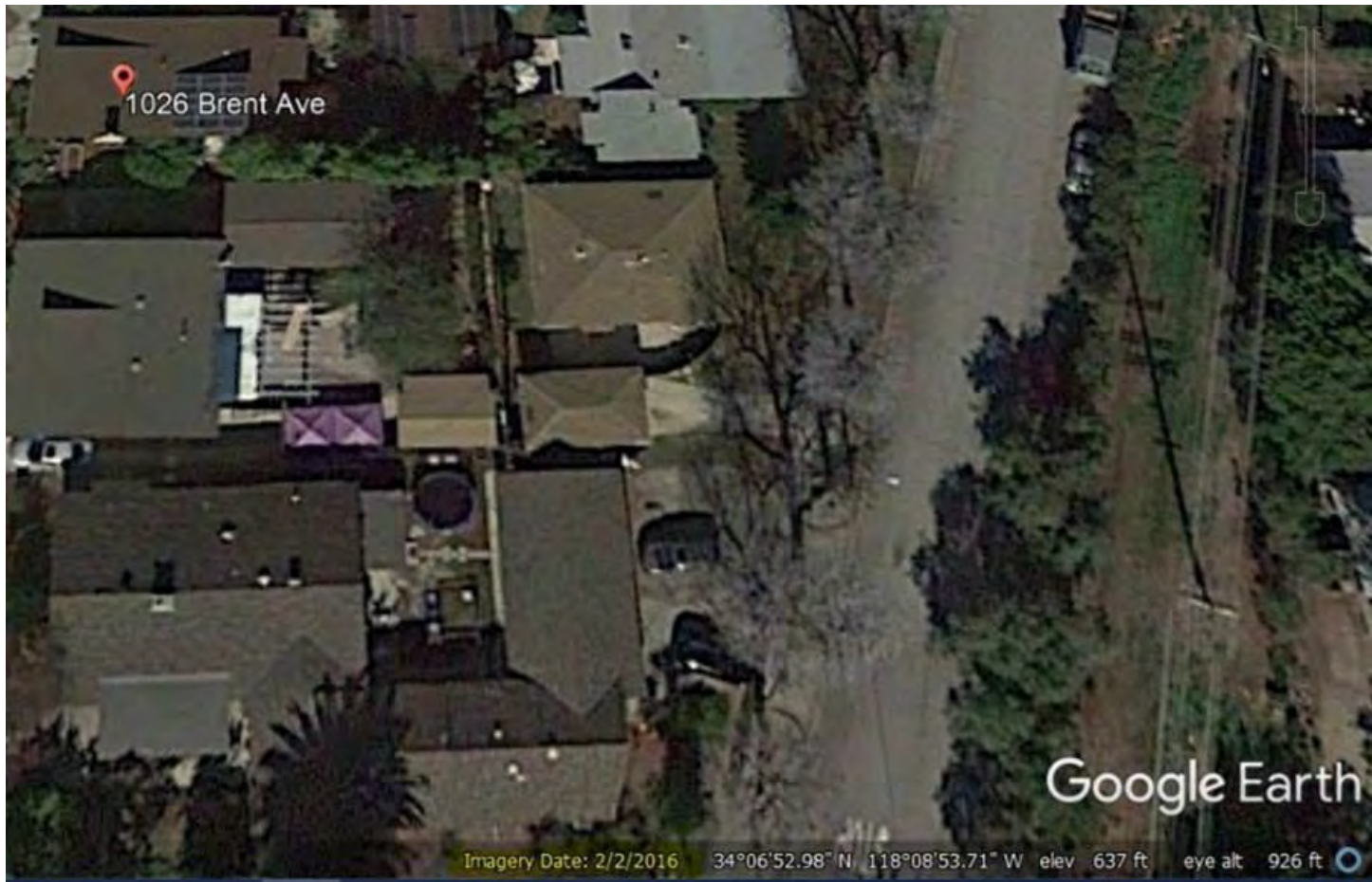
April 2014- two trees and no construction



March 2015- two trees and no construction



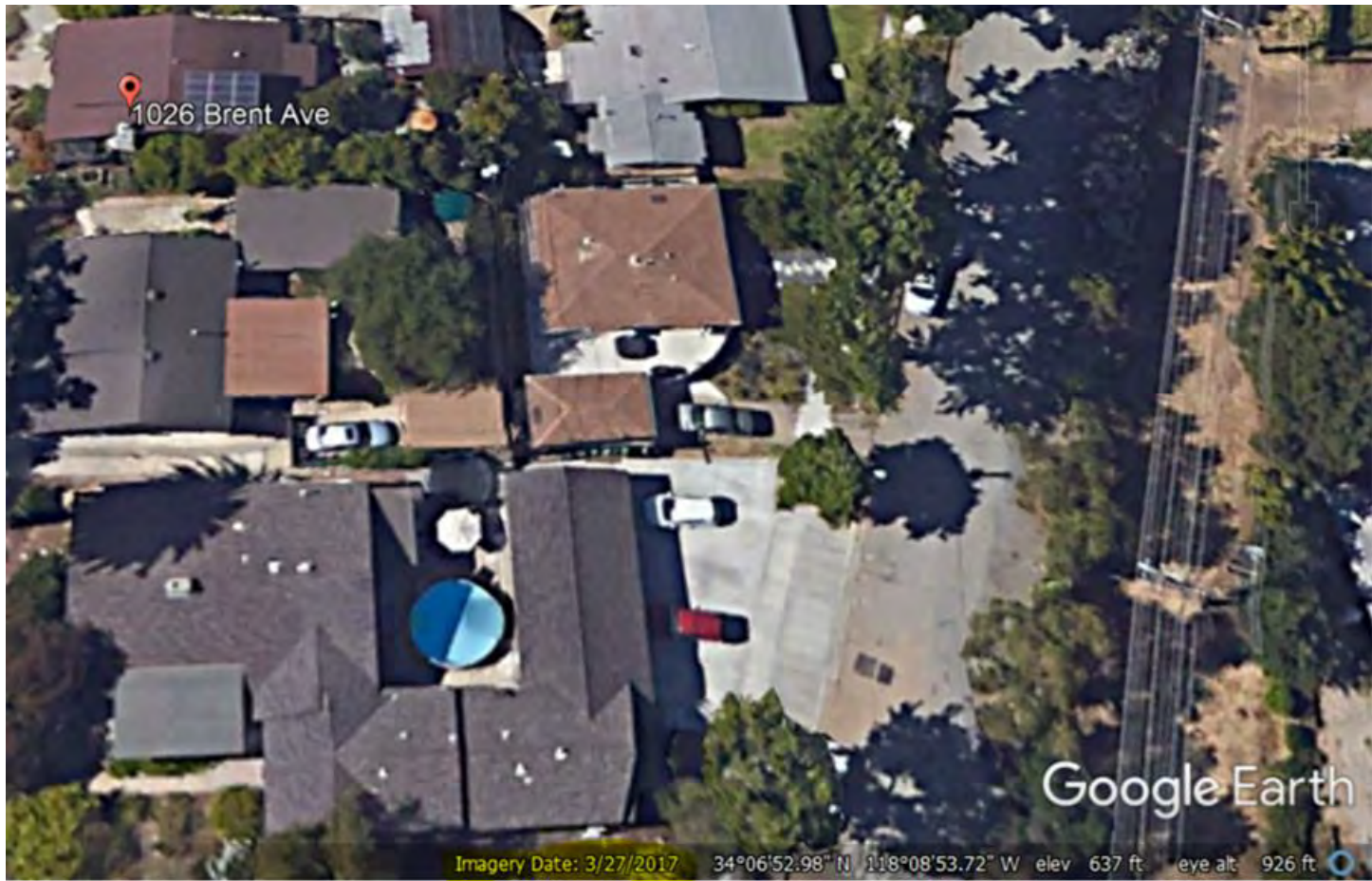
December 2015-Tree removed and framing started in the summer of 2015. **6 months** of construction.



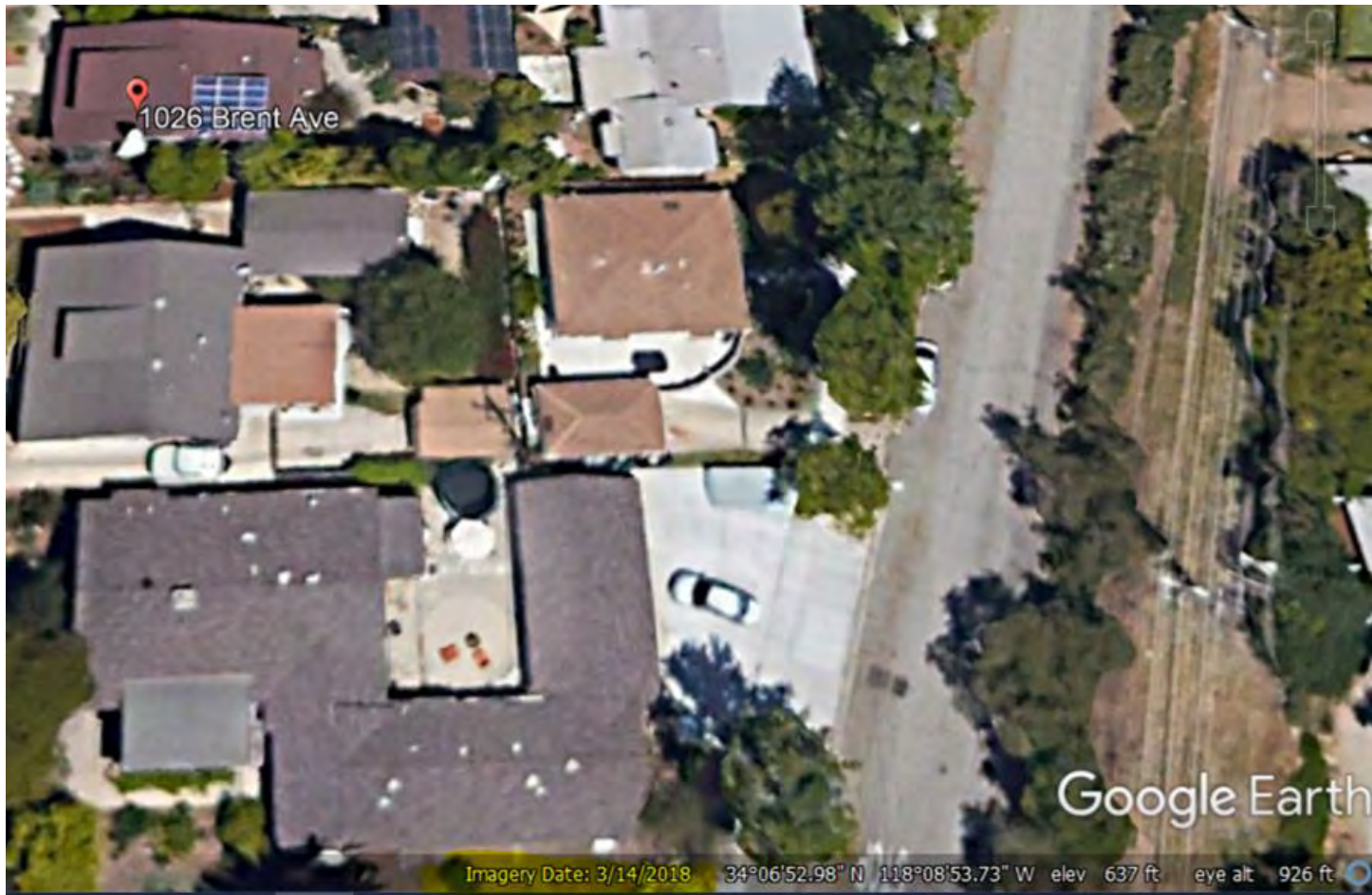
February 2016 Framing and no concrete. **7 months** of construction.



October 2016- flat roof is on and no concrete. **15 months** of construction.



March 2017-Roof on and no concrete. **20 months** of construction.



March 2018 concrete has been poured and visible from the south and east roofline. **2 years 8 months** of construction.

Below is our response to Stephanie DeWolfe's email.

For clarification:

Black-Stephanie DeWolfe quoting our email

Red-Stephani DeWolfe's response to us (SD)

Black-Our response to her

Conflicting information regarding the project status in February 2019: 1. "Building and Planning said that it had to be torn down..." 2. "...had to be turned into an ADU..." 3. "...illegal addition was approved by the Chair..." 4. "...told it had not been approved." 5. "show a new set of drawings that had been approved and signed..."

SD: To clarify the Project status, here is a timeline of the Project. The original Project was submitted in 2007 and included an addition to the rear of the primary residence and a second story addition. The proposed Project was approved by the Cultural Heritage Commission on November 15, 2009 (2007). Permits were pulled and construction began soon after the approval, but was later halted and permits withdrawn by the property-owner.

At no time did **any** construction start on this project and the approval was in 2007 not 2009. The homeowner requested a refund of fees paid in 2009 and was granted the refund. A City staffer confirmed this with us but would not tell us the amount refunded or provide a copy. This is a public record that we would like to see and should have received on our original public records request. Construction started in 2015 with the removal of a tree and porch on the back of the house.

You stated construction began soon after. Can you please elaborate on why you believe this to be true? Who told you this and what construction began soon after? The more details the better and any supporting documents would be helpful. We have been told many things from City Staffers that we later discover to be untrue. Jose was the only employee around at that time, so we assume it is him.

SD: In March of 2018, it was brought to the City's attention that there was unpermitted construction of a covered patio adjoining the primary residence. On April 9, 2018, City Staff issued a Correction Notice to the property-owner and Notice to Stop Work.

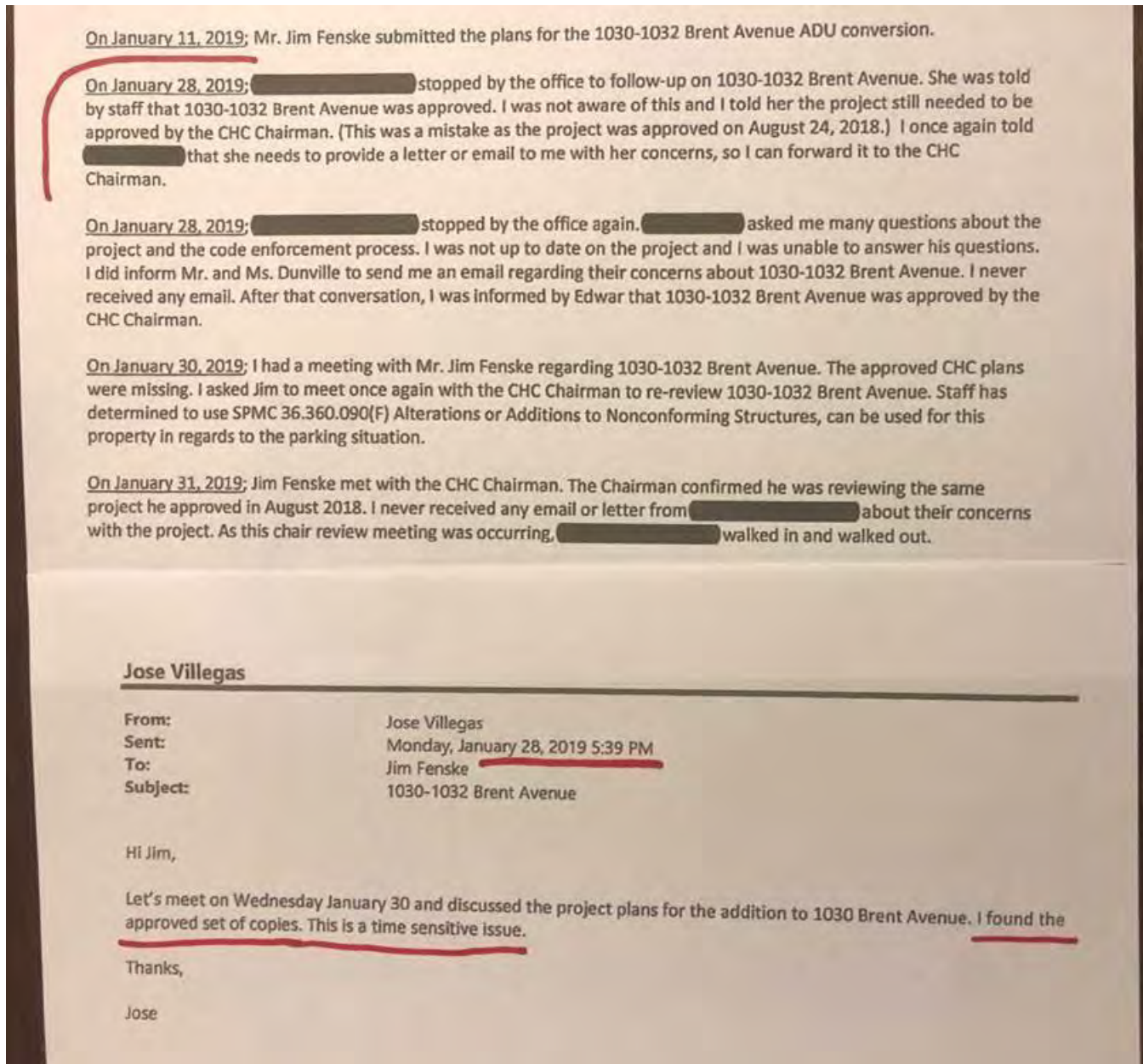
This issue was actually brought to the attention of Edwar Sissi who recently left the City and is now employed with the City of Pasadena and Jose Villegas in 2017 with anonymous calls until we actually came into the office. We encouraged Edwar and Jose to view it from our property, view from the sidewalk or look via Google Earth. Finally, we requested the City Code Enforcement Officer to investigate. He came into our house the first week of February 2018, so the City actually knew prior to March of 2018 as you stated in your response. We never found out why it took over 60 days for the City to issue a correction letter from the initial pictures that were taken. We requested a copy of this too, but Jose Villegas stated we needed to get it through public records. We never received a copy of this in our public records request.

SD: In January of 2019, the property-owner returned with minor changes and reduced the project to a 293 sq. ft. single-story addition, including revised design of windows and doors, to replace the unpermitted covered patio. The Commission approvals were still in effect and staff approved the reduced scale of the Project as being in compliance with prior approvals. These changes were approved by the Commission Chair, as required by ordinance.

SD: On July 10, 2019, the property-owner requested a Chair Review to add approximately 36 sq. ft. to the first-floor addition that was previously approved. The 329 sq. ft. addition is pending review.

You mention the owner returned with minor changes and reduced the project to 293 sq. ft to comply with prior approvals. Why would they come back and ask the City to consider an increase in square footage 7 months later in July 2019? The only reason the owner requested the extra 36 sq/ft is because his structure is already built, the concrete is poured and he wants to use the footprint he has already built and not the originally approved footprint. We thought the Chair "approved" these drawings in August 2018. Why are there more changes? We brought this up to David Bergman in our February 11th meeting and in the emails and have yet to receive an answer. Also in the afternoon on January 28th, 2019 we came into the office and wanted to see the approved plans(see the City timeline). Jose was unable to locate them. About two hours later Jose was able to find them, but neglected to contact

us. Instead he emailed the Jim Fenske the architect and stated "Let's meet on Wednesday January 30 and discuss the project plans for the addition of 1030 Brent Ave. I found the approved set of copies. **This is a time sensitive issue.**"



Here are more problems with this project approval process.

Original DRB approval- All work needs to conform to stamped approved plans, this does not. Planning approval from DRB is valid for one year. This expired in **2008**.

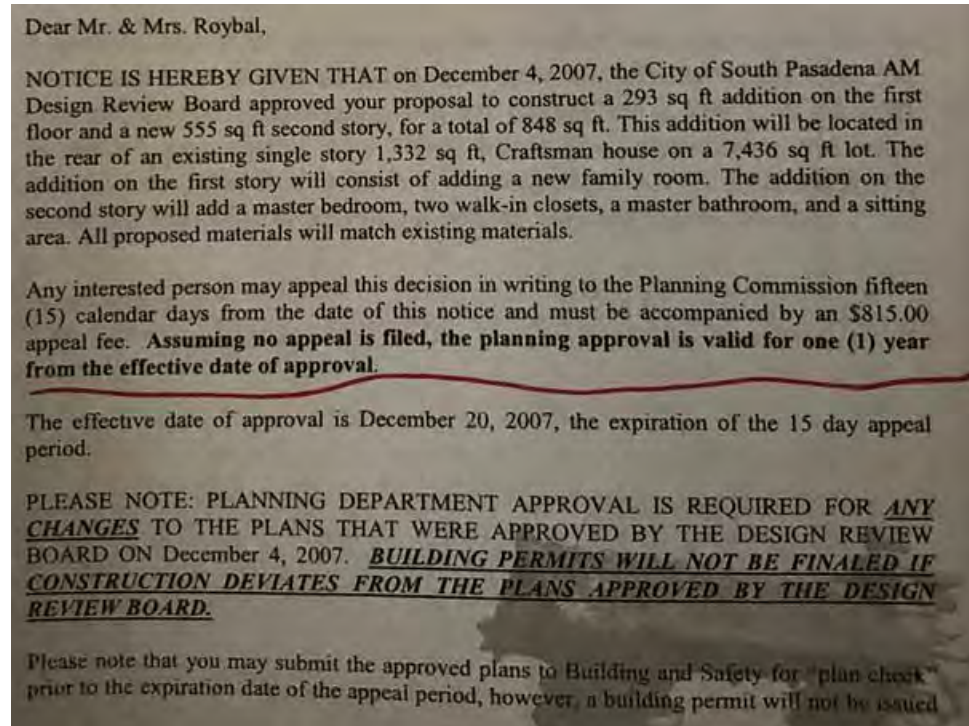
Here are some issues with the changes from the original design.

South: Single door changed to a set of French doors and the room is expanded and now covers a window on the east side of the house.

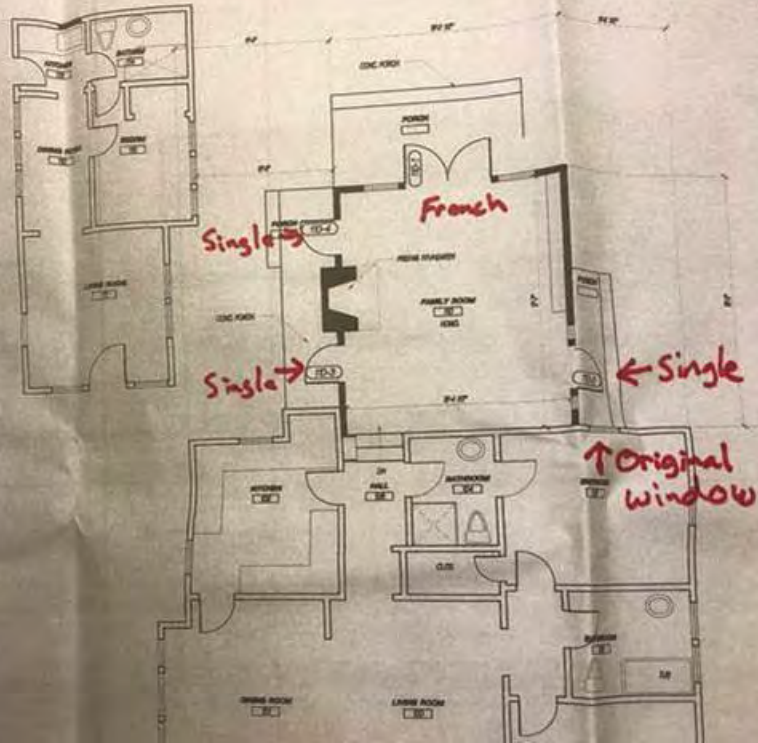
East: French door changed to two sets of French doors.

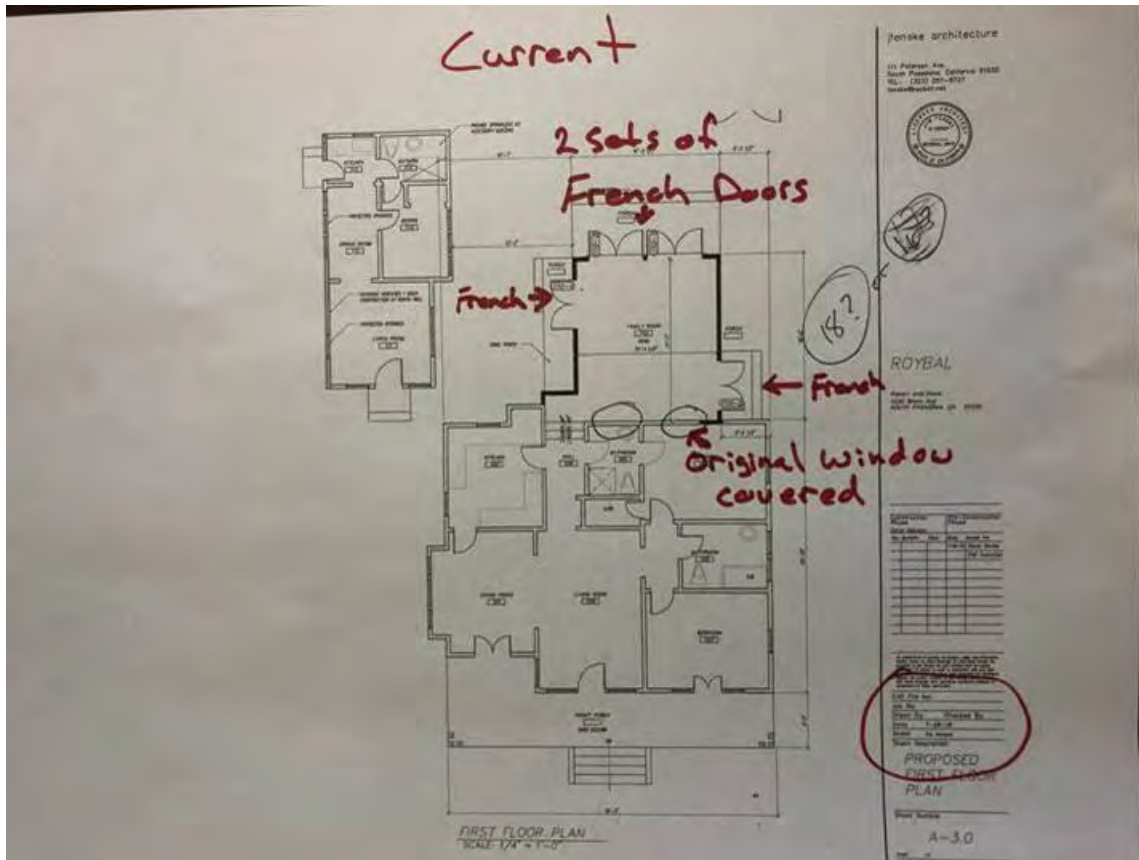
North: Single door, Chimney, Single door changed to a set of French doors without a chimney.

The layout is almost exactly what the owner was caught with in February 2018.



2007





There are several reasons why this cannot qualify for a Minor Project review. A Minor Project review does not include structures over 200sq/ft, an increase in the height of the roof from 14ft 11" to 16ft 2", covering of an original window that was not originally approved, moving the entire footprint south more than 3ft while being visible from the public right-of-way on Brent Ave and Park Ave. These would require a Major Review with notification to the neighbors, which was not done.



Inventory and the provisions of Section 2.65(E), the Procedures for a Certificate of Appropriateness, shall apply to the proposed demolition. If any such resources are potentially affected by a project, the City shall require preparation of the appropriate CEQA documentation.

4. Minor Project Review. A Certificate of Appropriateness may be obtained by going through a minor project review if it involves: Demolition or relocation of non-Character-Defining Features; non-contributing additions, garages, accessory structures or incompatible and previously replaced windows, doors or siding material; ~~any~~ undertaking that does not change exterior features such as re-roofing if the proposed roofing material is comparable in appearance, color and profile to the existing or original roofing material; replacement of windows and doors if the proposed replacements are of the same materials, form, color, and location as the existing or original windows and doors; ~~an~~ addition of less than 200 square feet proposed for the side or rear elevations (not visible from the public right-of-way) and does not materially alter the features or have an adverse effect on the Historic Integrity of a Cultural Resource; minor changes to a previously approved Certificate; or any other undertaking determined by the Director or his/her designee to not materially alter the features or have an adverse effect on the integrity of a Cultural Resource.
- a. **Requirements.** The required application materials for minor project review shall include, without limitation: a written narrative of the proposed project, a

4. Minor Project Review. A Certificate of Appropriateness may be obtained by going through a minor project review if it involves: Demolition or relocation of non-Character-Defining Features; non-contributing additions, garages, accessory structures or incompatible and previously replaced windows, doors or siding material; **any undertaking that does not change exterior features** such as re-roofing if the proposed roofing material is comparable in appearance, color and profile to the existing or original roofing material; replacement of windows and doors if the proposed replacements are of the same materials, form, color, and **location** as the existing or original windows and doors; **an addition of less than 200 square feet** proposed for the side or **rear elevations** (not visible from the public right-of-way) and does not materially alter the features or have an adverse effect on the Historic Integrity of a Cultural Resource; minor changes to a previously approved Certificate; or any other undertaking determined by the Director or his/her designee to not materially alter the features or have an adverse effect on the integrity of a Cultural Resource.

SD: Is there an ADA concern here that I missed?

No, we are unaware of an ADA issue.

SD: In January of 2019, the property-owner submitted plans to convert the second unit into an Accessory Dwelling Unit (ADU). The conversion would require the removal of the electrical and gas meters. On March 4, 2019 the plans were reviewed by staff for Zoning Code compliance and approved. On July 11, 2019, the property-owner pulled electrical permits to remove the electrical meter and on October 1, 2019, the property-owner pulled plumbing permits to remove the gas line to duplex.

Would you not agree that the intent of an ADU is to create new housing in California? David Bergman agreed with this when he spoke with The California Department of Housing and Community Development (CDHC). Give them a call and have a discussion with them. They will also say that if the duplex were to be expanded, that too does not justify creation of an ADU. A duplex just isn't an ADU.

Jose recommended two options to bypass the parking requirements that were **originally a condition** of the original project. Either demolish the unpermitted construction or convert the duplex to an ADU.

Jose Villegas stated convert to ADU(aka SPMC 36.350.200) or SPMC 36.360.090(F). Below is the email and images of both codes. The owner's property does not comply with either. SPMC 36.360.090(F) doesn't work because the CHC already approved the parking under the trellis.

The current SPMC 36.350.200 was passed in 2016 and signed by Michael Cacciotti and Terri Highsmith and requires an ADU to meet a minimum lot size of 12,500sq.ft. for an approval and not be visible from the street. The owner's lot is less than 7500sq.ft and the duplex is visible from the street, even with the new tree they planted. Why would the City ignore its own ordinance? At that time, Jose's second option would be to it tear down.

While we know that new legislation for ADUs lot sizes will change in 2020, we want to make sure everyone is aware that in **April of 2018** the City was having discussions with the owner about converting this into an ADU and state legislation was not introduced until **2019**. In **August of 2018** there was discussions of bypassing the parking. Everyone on that email was in agreement that there is **really no change to the structure**. In the emails below dated February 8th and 15th of **2019**, you will see what transpired. At that time, Jose's option to demolish would have been appropriate and would still be appropriate today. Please note that we met with David Bergman on February 11th with this concern and he ignored us.

February 8, 2019, Jose emailed David explaining "what was holding up this project" which he stated was the original parking requirement from the original COA, DRB that was a conditional requirement for approval. Jose failed to address the previous years' worth of information that we brought up as our concerns then and now. Why didn't David Bergman know about this issue?

February 11, 2019, we met with David Bergman to ask questions and find out why the project was moving forward. We tried to explain the history of the ongoing construction but he refused to even look at our pictures and documents. We now know that he did not have the entire story and why he was so confused in our meeting.

February 15, 2019, Jose reviewed and approved the ADU conversion 4 days after our meeting with David to avoid the original parking requirements of the COA, DRB and CHC requirements. It doesn't appear as if there was any actual follow through after our meeting with David.

David and Jose ignored the SP Code and waived the parking requirements on an unpermitted addition. This just doesn't make sense. The property is one block from Fair Oaks, between Mission and Monterey. Parking in the area is impacted by Blaze Pizza and Mosaic Church. Employees and customers from the stores on Fair Oaks that don't have parking lots, use Brent for parking. It is shortsighted on the part of Planning and Building to allow a homeowner to add onto their house and remove parking requirements from the COA, DRB and CHC from 2007. In this area there are some homes and many apartments that do not have onsite parking so they park on the street. With the housing shortage and increase in rents, there are more occupants per unit now than in 2007, making street parking more impacted than it was 12 years ago. Why would Planning and Building overlook this detail?

Jose Villegas

From: Jose Villegas
Sent: Friday, February 8, 2019 1:57 PM
To: David Bergman
Cc: Edwar Sissi; Building Inspector; Darby Whipple
Subject: RE: 1030-1032 Brent Avenue

Hi David,

What has kept this project from getting resolved is the required parking; 4 covered parking spaces with 1 guest parking.

There are two solutions to address this requirement; converting the existing second unit into an ADU or using SPMC 36.360.090(F) Alterations or Additions to Nonconforming Structures.

The property owner and project architect have been working on converting second unit into an ADU. The plans for the ADU were submitted on January 11, 2019. However, on January 30, 2019 I met with the project architect and informed him that this project might be able to have the required four covered parking spaces and the one guest parking space, waived through SPMC 36.360.090(F). This will require the CHC to make the required finds to waive the required four cover parking spaces and the guest parking. (February 6, 2019). A COA modification will be required.

The property owner also wants to keep and use some of the existing construction from the unpermitted addition. The unpermitted construction will have to be reviewed by a Plan Checker and with inspections from the Building Inspector. The Building Dept. will ensure the construction complies with the current building codes.

The property owner can also decide to completely demolish the unpermitted addition construction.

Once we get a chance to discuss this, I can call the property owner and find out how he would like to proceed with this project. I can also provide him with a deadline. Please let me know if you have any questions.

Jose

F. Residential off-street parking.

1. If the work is in connection with a residential unit that is listed on the City's Cultural Heritage Inventory (hereinafter "cultural resource") and is nonconforming due to an insufficient number of covered parking spaces, the Director may waive the requirement for two covered spaces if as part of a Certificate of Appropriateness, the Cultural Heritage Commission first determines that either of the following circumstances apply:

- a. Providing the two covered parking spaces would otherwise result in a substantial adverse change in the historic significance of a cultural resource; or
- b. Providing the two covered parking spaces would jeopardize the integrity of the cultural resource (as defined in National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation).

In determining whether to waive the requirement for two covered parking spaces in connection with work to a cultural resource, all of the following conditions shall exist:

- c. The existing garage contributes to the historic significance of the cultural resource. Supporting documentation shall be provided to show that the existing garage was constructed during the period of significance of the cultural resource.
- d. The existing garage space can accommodate at least one vehicle.
- e. The historic garage shall be structurally sound or, if deteriorated, the Cultural Heritage Commission approves a rehabilitation plan for the historic garage as part of the Certificate of Appropriateness approval.
- f. The second (required) parking space can be accommodated outside of the existing covered parking space within an existing legal driveway, tandem space, carport, etc.
- g. Increases in square footage to the cultural resource would not exceed 50 percent of the square footage of the floor area within the structure that legally existed as of the date of adoption of the ordinance codified in this Section, including any detached accessory buildings and/or guest house.
- h. The proposed work is not associated with the addition of a second residential unit as authorized in SPMC Section 36.350.200, or is not associated with an increase in the number of dwelling units on land zoned for multi-family uses.

(Ord. No. 2108 § 4; Ord. No. 2183 § 17, 2009; Ord. No. 2243 § 4, 2012.)

Jose Villegas

From: Jose Villegas
Sent: Friday, February 15, 2019 3:27 PM
To: Jim Fenske
Cc: Code Enforcement; Edwar Sissi; Darby Whipple
Subject: 1030-1032 Brent Avenue
Attachments: 1030-1032 Brent Avenue ADU review.pdf; ADU.docx

Hello Jim,

Sorry for the delay email. I have completed my review of the proposed conversion of the second dwelling unit to an ADU. Thank you for stopping by and going over the required corrections with me. I have attached the required corrections.

Since the project is an existing second dwelling unit being converting to an ADU it needs to comply with SPMC 36.350.200 Residential Uses—Accessory Dwelling Units. I have attached it for your review. Per our previous conversation, the second dwelling unit needs to remove all the utilities (water, gas, electricity) the unit address needs to be removed and a covenant needs to be record with the property as the property owner needs to reside in one of the units.

If you have any questions, please contact me.

Regards,

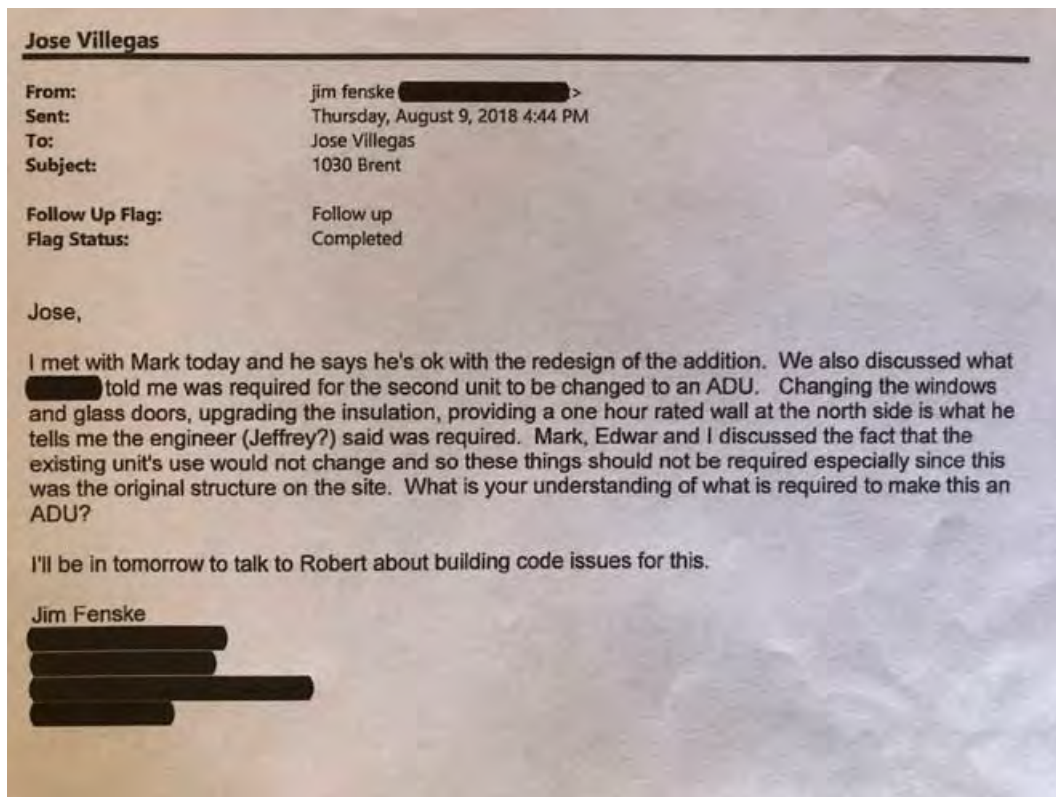
Jose

36.350.200 Residential Uses—Accessory Dwelling Units.

SHARE

- A. **Applicability.** The standards and criteria in this section apply to properties containing single-family residences within the RE, RS, and RM zoning districts. These standards are in addition to all other applicable standards found in this Zoning Code. Pursuant to Government Code Section 65852.2, applications for second dwelling units shall be considered ministerially, without discretionary review or a hearing.
- B. **Minimum lot area.** An accessory dwelling unit may be approved only on a parcel of 12,500 square feet or larger.

Whose name is redacted below? That person told Jim Fenske what was required for the ADU in August of 2018. You'll see the owner's name (Robert) is in the next paragraph, so we assume it's not him. This shouldn't be redacted since there doesn't appear to be any privilege. Can you please let us know who assisted in the ADU conversion discussion? You will also see that Mark, Edwar and Jim discussed the fact that the existing unit's use would not change.



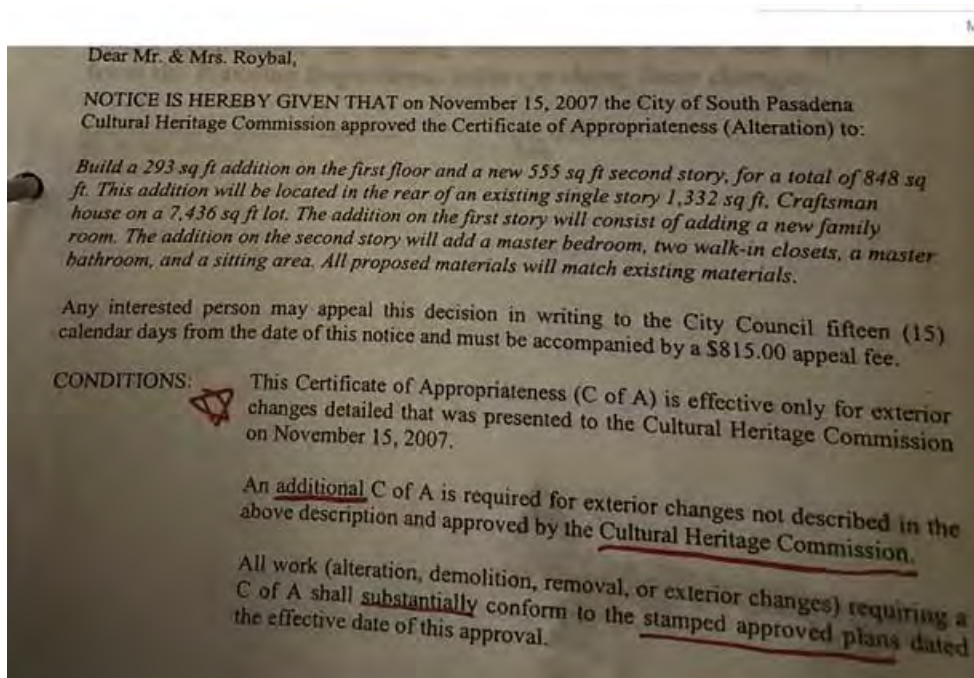
Expiration of the original Certificate of Appropriateness

SD: The previous code section regarding the Certificate of Appropriate (COA) did not establish an expiration date for COAs. On July 19, 2017, Ordinance No. 2315 was adopted to repeal and replace

Article IVH (Cultural Heritage Commission) of Chapter 2 (Administration) of the South Pasadena Municipal Code (Code) which established an eighteen-month expiration date for COAs. This Code section does not apply to the Project since the original approval of the COA preceded the adoption of the ordinance in July 2017. Consequently, the original COA does not have an expiration date.

Since you mentioned that the COA is based on the project, you should have reviewed the conditions for getting permits on the original approval. The DRB approval was only valid for 1 year which expired on December 20, 2008. See image below. This is almost 11 years later. Why is the city using this project as the bases to get everything approved?

Even if the COA was still good, which we think is debatable, an additional COA is required for exterior changes not described in the above description and approved by CHC. The COA needs to conform to the stamped approved drawings. See the images below.



Dear Mr. & Mrs. Roybal,

NOTICE IS HEREBY GIVEN THAT on December 4, 2007, the City of South Pasadena AM Design Review Board approved your proposal to construct a 293 sq ft addition on the first floor and a new 555 sq ft second story, for a total of 848 sq ft. This addition will be located in the rear of an existing single story 1,332 sq ft, Craftsman house on a 7,436 sq ft lot. The addition on the first story will consist of adding a new family room. The addition on the second story will add a master bedroom, two walk-in closets, a master bathroom, and a sitting area. All proposed materials will match existing materials.

Any interested person may appeal this decision in writing to the Planning Commission fifteen (15) calendar days from the date of this notice and must be accompanied by an \$815.00 appeal fee. **Assuming no appeal is filed, the planning approval is valid for one (1) year from the effective date of approval.**

The effective date of approval is December 20, 2007, the expiration of the 15 day appeal period.

PLEASE NOTE: PLANNING DEPARTMENT APPROVAL IS REQUIRED FOR ANY CHANGES TO THE PLANS THAT WERE APPROVED BY THE DESIGN REVIEW BOARD ON December 4, 2007. **BUILDING PERMITS WILL NOT BE FINALED IF CONSTRUCTION DEVIATES FROM THE PLANS APPROVED BY THE DESIGN REVIEW BOARD.**

Please note that you may submit the approved plans to Building and Safety for "plan check" prior to the expiration date of the appeal period, however, a building permit will not be issued

Authorization for a Chair Review and difference between a Major and Minor Project Review and request for a copy of the Chair Review Application

SD: The modifications to the previously approved Project plans were considered minor and therefore were subject to a Minor Project Review. Chapter 2, Article IVH, Section 2.65 (Certificate of Appropriateness – Alteration and Demolition) establishes that a Minor Project Review may be conducted if it involves "replacement of windows and doors if the proposed replacements are of the same material, form, color, and location..." or "minor changes to a previously approved certificate..." As defined by the Code a Chair Review was appropriate for the review and approval of those changes. Currently, there is no formal application for a Chair Review. Project applicants that are subject to a Chair Review are requested to visit City Hall to meet with the Chair to discuss their projects. Moving forward, the City will create a more defined process for Chair Reviews.

We understand that minor changes could be acceptable, but these are not minor changes. The structure is over 200 sqft, the elevation of the roof and the entire structure has increased in size and the structure has been moved to the south. The height has increased from 14' 11" originally to 16' 2" on the new details. The structure now covers an original window on the house that was not covered in the original approval. The doors and windows have also moved. The chimney has been removed.

If there were minor changes to the plans, why has it taken over 20 months to get this approved and why do they keep coming back for more changes? Please see the previous images regarding this section.

Code Enforcement actions and remedies

SD: As previously noted, Code Enforcement issued a Correction Notice and Notice to Stop Work in March of 2018. Once issued, the property-owner had 30-days to report to City Hall to work with City to remedy the issue. Currently, City policy establishes that as long as the property-owner demonstrates good faith to work with the City, Code Enforcement does not issue any citations. If no remedies are provided Code Enforcement may move forward with the issuance of a citation. However, the property-owner was responsive to the March 2018 notices and has been working with the City to bring the unpermitted construction into compliance with City code. Therefore, no citations have been issued at this time.

You claim the owner was responsive, but only after the 30-day deadline from the City letter. These are document we've requested but have yet to receive copies of those notices, letters or responses in our request for public documents. You mention this demonstrates good faith and compliance with the City code. He is and has been a general contractor for 40 years and knows the City ordinances. Why does Planning and Building continue to assist him in ignoring the ordinances and finding loopholes to build what he wants without public approval from neighbors? What he intends to build is different from what was conditionally approved 11 years ago and is almost identical to what he built illegally.

Illegal tree removal and oak tree trimming investigation

SD: In March of 2019, the Public Works Department was informed of a possible illegal tree removal and oak tree trimming. Based on the Public Works Department's investigation the removed tree was less than 12-inches in diameter and did not require a tree removal permit.

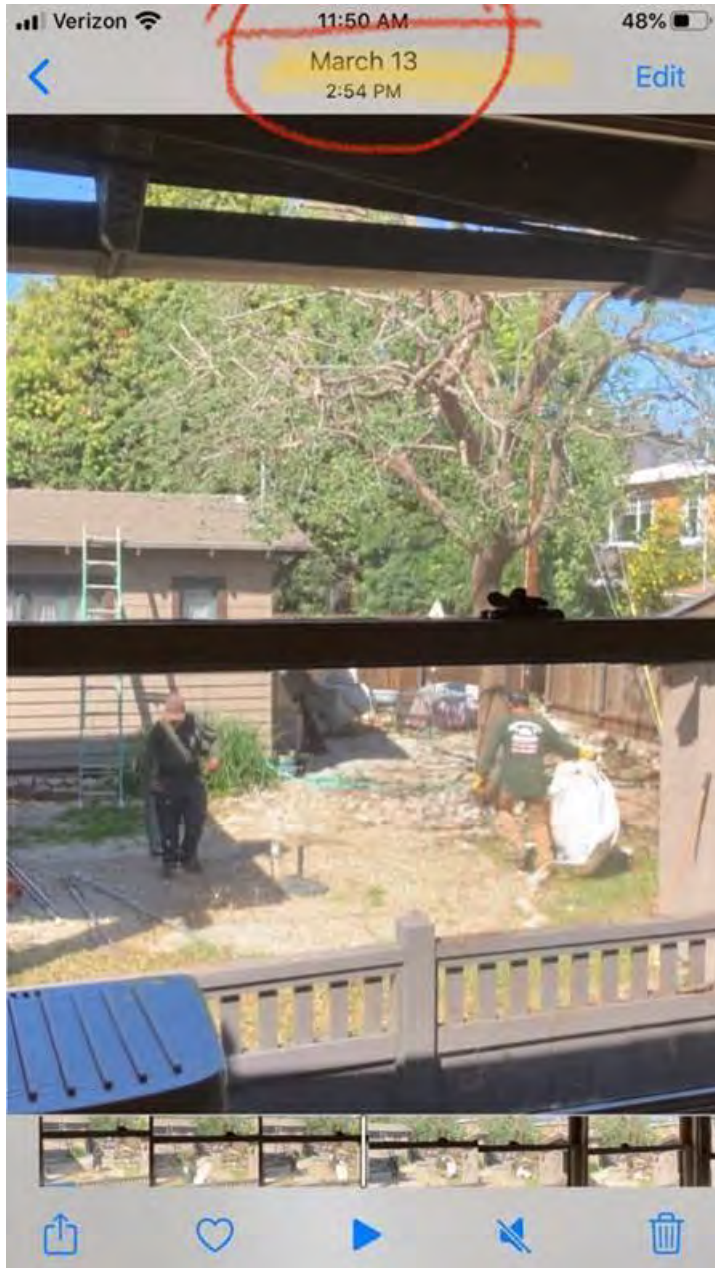
Edwar and Jose were notified about the tree removal when we first started this process in 2018. The timeline fails to address this. At no time did either of them state we should go to the Public Works and report it when a quick Google search could confirm. We discussed this at the February 11th meeting with David Bergman. If there was an investigation on the removal of the tree, why not investigate the oak tree at the same time? We contacted Public works twice by phone on the day of the cutting of the Oak and confirmed there was no permit. After numerous reminders, nothing appears to have been done on this. Below are pictures in January 2019 and March 2019 of the oak tree that was trimmed out of season. You didn't actually respond to this issue.



January 28
3:12 PM

Edit





Regarding the tree that the Public Works Department's did investigate, you stated it was less than 12-inches in diameter and did not require a tree removal permit. This is the first that we have heard of an investigation. Can you elaborate on this and include the public records that we've requested previously? Who investigated this and who did they speak with? Was it the owner who is a General Contractor? Are you aware that this was a multi trunk tree? You can see in the first picture from **2007** below that the tree was already well established and taller than the house roof line. Please see the second picture from July 2007 prior to approvals in November 2007. The red markings show the two trees in the Google street view. The picture below also shows the original porch that was torn down.





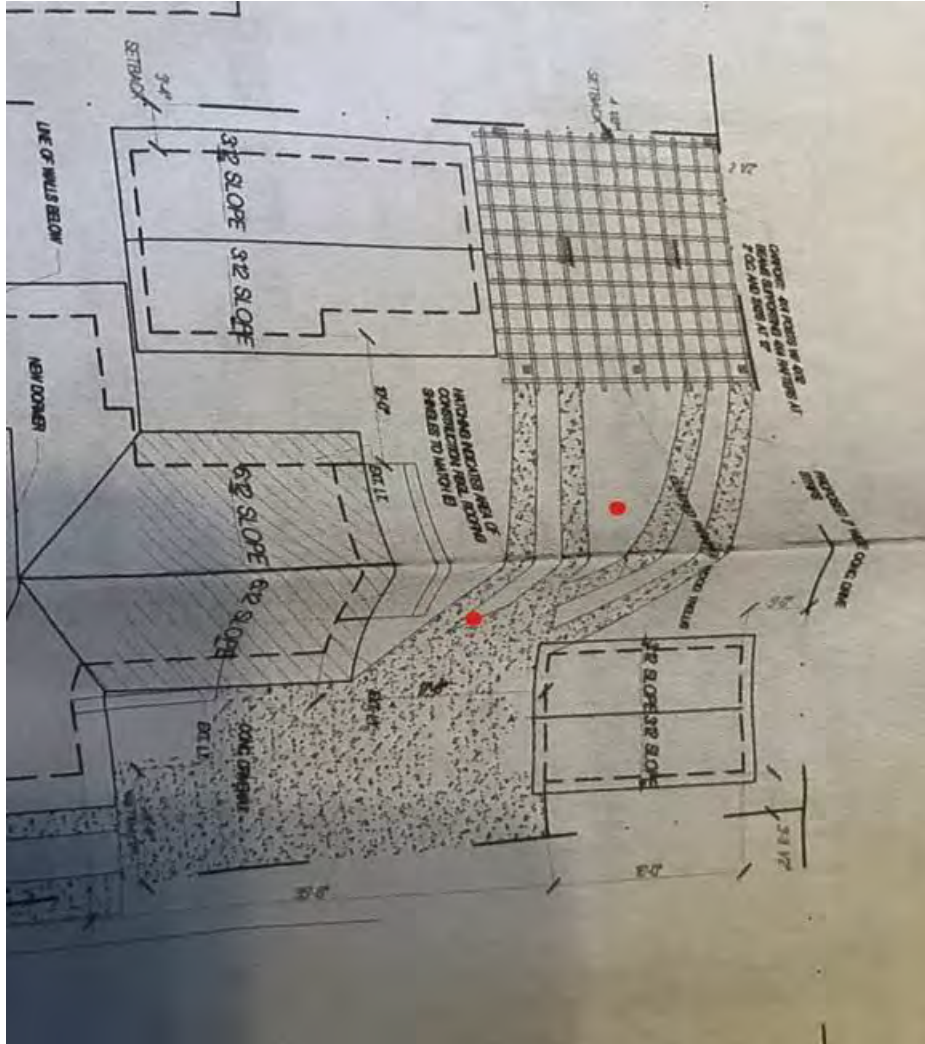
This is important because it shows that the owner knew that they could not conform to the parking that was a condition of the original approval. See how the pathway crosses where the tree was cut down and the Oak tree. See the November 2017 conditional approval plan and **no trees to be cut or trimmed**. We added the red dots to show the placement of the trees in the drawing below. The lower left dot was the multi-truck tree that was cut down and the upper right is the oak that sits in the middle of the path to the carport that was supposed to be built if they wanted to build the addition.

Narrative for 1030 Brent Avenue

Diane and Robert Roybal would like to add a second floor to their existing one story bungalow as well as add a one story family room at the rear yard. On the back yard side of the existing roof they would also like to add a dormer to get more ceiling height in the second floor addition. The downstairs family room will have three small concrete patios off of the east, south and north elevations and will also have a fireplace and chimney on the northerly wall. In order to satisfy the parking requirement a two car trellis will be erected in the north east corner, to the east (behind) the existing efficiency unit.

- There will be no trees trimmed or cut. The new windows, doors, roofing, paint and sidewall materials will match the existing conditions.

2007 Narrative



How was the tree that was cut down investigated? Since the tree was removed 4 years ago, how does the investigator know the diameter of the tree? Did you know this was a **multi-trunk tree** and one would need to measure the circumference of each trunk at 4 ft from the ground and add them together? An established tree planted before **2007** and cut down **8 years later in 2015** could reasonably be presumed that the multi trunk tree did meet the tree ordinance minimums with just 3 or 4 trunks. Because the trunks of the tree were so large, a stump grinder was needed to remove the stumps. You could also call the tree a shrub, the pictures clearly show it towers over 16 ft. Since the owner is a licensed General Contractor, please note the Intentional violation in the SPMC.

- (r) "Protected shrub" means a woody plant that is over sixteen feet in height, which has one or more trunk(s) equal to or greater than a four inch diameter.

- (l) "Intentional violation" means a violation of this Chapter 34 (Trees and Shrubs) that is committed by any person or entity who has actual or presumed knowledge of, or who has previously violated, its provisions. A commercial certified arborist/tree trimmer, a real estate developer, a general contractor, or anyone who has previously filed an application for a tree trimming or tree removal permit in the city shall be presumed to know the provisions of this Chapter 34.

Property line dispute and setback concerns

SD: Property line disputes are a civil matter and are not addressed by the City. If there are concerns regarding the property line and setbacks that were used in the Project plans, a surveyor would need to be retained to determine the exact location of the property lines.

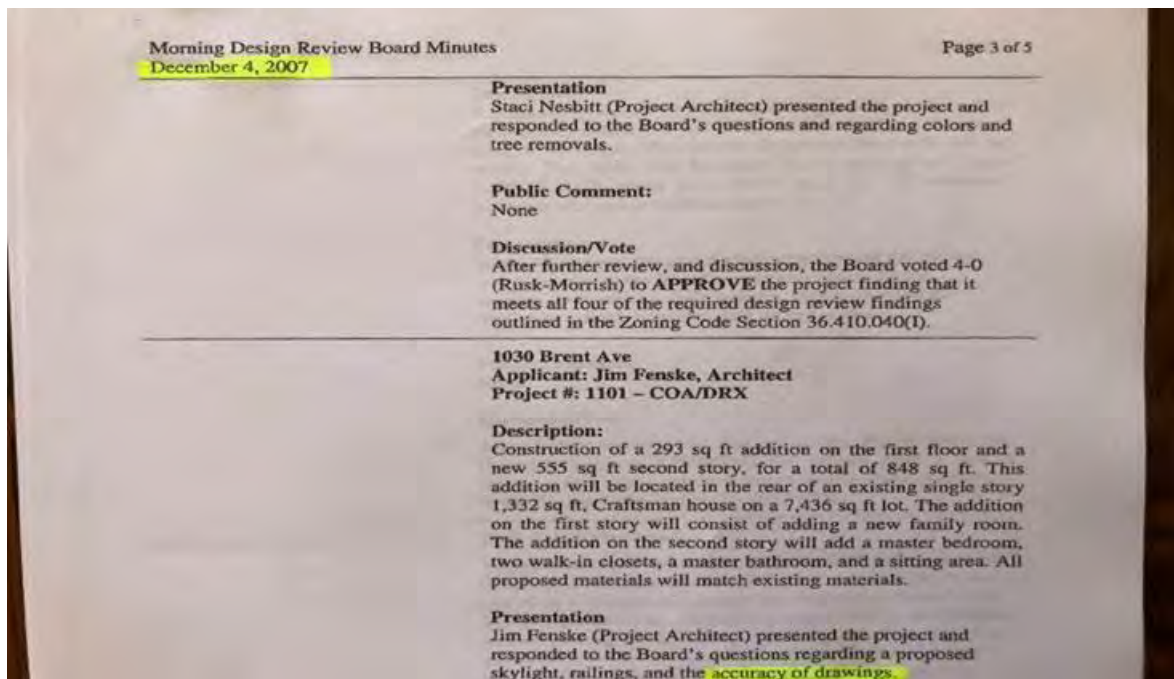
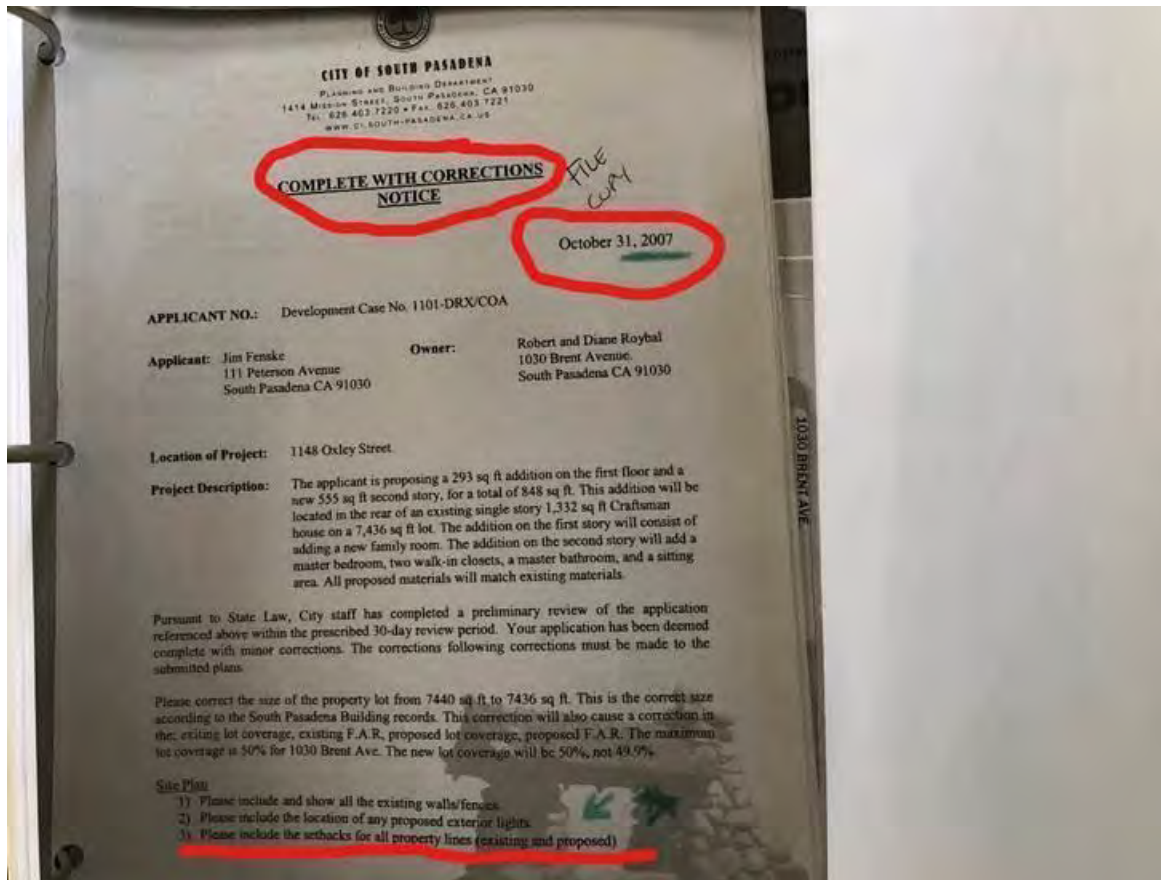
This is not a civil matter as there is clearly fraud in the misrepresentation of the current and 2007 documents provided to the City. John Pope was recently quoted in the South Pasadena Review stating "The City has little choice but to respond when the facts are ignored or misrepresented as they have been....."

We aren't talking about leaves falling on our property or even disputing inches. This is clearly a big discrepancy and we've taken pictures to help you understand. Keep in mind that the owner approached us to acquire a 2 ft swath of land for about \$12k along the length of their driveway during the process of getting this project approved in 2007. So even then he knew he did not have enough space to build what he wanted. In the pictures below, you can see the owner had trouble complying with a correction notice that included **setbacks in 2007** when the architect was asked to clarify unclear property lines and setbacks even in **2007** and it clearly shows they put down what was needed to get approved.

The original plans and the new plans show a setback of **5ft** at the back of the property which isn't even our property, but another neighbor's. It doesn't take a surveyor to see in the pictures below that the fence line is at **2ft 9 inches**, not **5 feet** like the plans show. If it's true that they have a 5ft setback, it would be just under their neighbor's gutter on the back of the neighbor's garage.

You'll see in pink below that we measured the driveway in numerous sections and marked them accordingly on the owners site plan which don't conform. We even took a picture of their driveway showing **6 ft** in one section when their site plans clearly shows nothing smaller than **8ft 6 inches** at the top of the driveway. The image with the red tape measurer shows the actual location at 8' 6". Because of the confusion of the setbacks on the driveway and back of garage, the owner needs to have the property surveyed. See the text images from the owner in **February 2019** when he acknowledges that the City may require a survey and thinks it's a good idea since he mentions he's probably encroaching and states that the City may require verification of property lines. Then deciding that he doesn't want to disclose it to the new owners if/when he sells as his plans are to move on and not even live in the property.

Neither you nor David ever responded to the driveway that was poured without a permit. It's time to correct this issue once and for all and require a survey from the property owner.





None of the drawings and specifications is to be construed as a contract. The contractor shall be responsible for obtaining all necessary permits and for complying with all applicable laws, codes, and regulations. The contractor shall be responsible for obtaining all necessary permits and for complying with all applicable laws, codes, and regulations. The contractor shall be responsible for obtaining all necessary permits and for complying with all applicable laws, codes, and regulations.

Intent of Documents

ARCHITECTURAL	
A-101	Title Sheet/Sheet Index/Utility Map/Site Plan
A-102	Door and Window Sched./Details
A-21	Existing Floor/Demo Plans
A-22	Proposed Floor
A-31	Existing & Proposed Elevations
A-32	Existing & Proposed Elevations
A-4	Sections

Sheet Index

Sprinklers:	None Required
Type of Construction:	V-N
Number of Stories:	Two (2)
City Zoning:	RS APN: 5318-015-015
Occupancy:	House in R-3; Garage
F.A.R.	Site Area: 7.4
Existing Floor Area:	
First Floor:	1332 s.f.
Efficiency Unit:	625 s.f.
Total:	1957 s.f.
Proposed:	
First Floor:	2250 s.f.
Second Floor:	555 s.f.
Total:	2805 s.f.
(a) FAR = 1957/7436 = 26.4%	
FAR = 2805/7436 = 37.8%	

Lot Coverage

Main Structure:	1332
(E) Covered Porch:	254
Garage Footprint:	203
Efficiency Unit:	625
Total:	2414
(a) Lot Coverage: 2414/7436 = 32.5%	
First Floor:	2250 s.f.
(E) Covered Porch:	254
Garage Footprint:	203
Efficiency Unit:	625
2 Car Garage:	578
Total:	3710 s.f.
Lot Coverage: 3710/7436 = 50%	

Set Backs

(C) Front Yard Set Back:	27'-9"
EXISTING NO CHANGE	
Side Yard Set Back - East (12'):	EXISTING NO CHANGE
EXISTING NO CHANGE	
Rear Yard Set Back:	40'-8"
Max Ht. of Building:	22'-6" (Max)

Project Data







2ft 9 inches at the back yard fence.



5ft at the section in the neighbor's backyard and just at the edge of the other neighbor's gutter.



Bob >

Fri, Feb 15, 1:43 PM

Talking to our architect today and looking like a major room addition will take place. We are in the process of converting the Cottage from a duplex designation to an ADU. I will continue to Keep your view into our backyard as presentable as possible. We can do plantings if you desire

Also, city may require verification of property lines which would probably be a good idea anyway. I'll let you know.

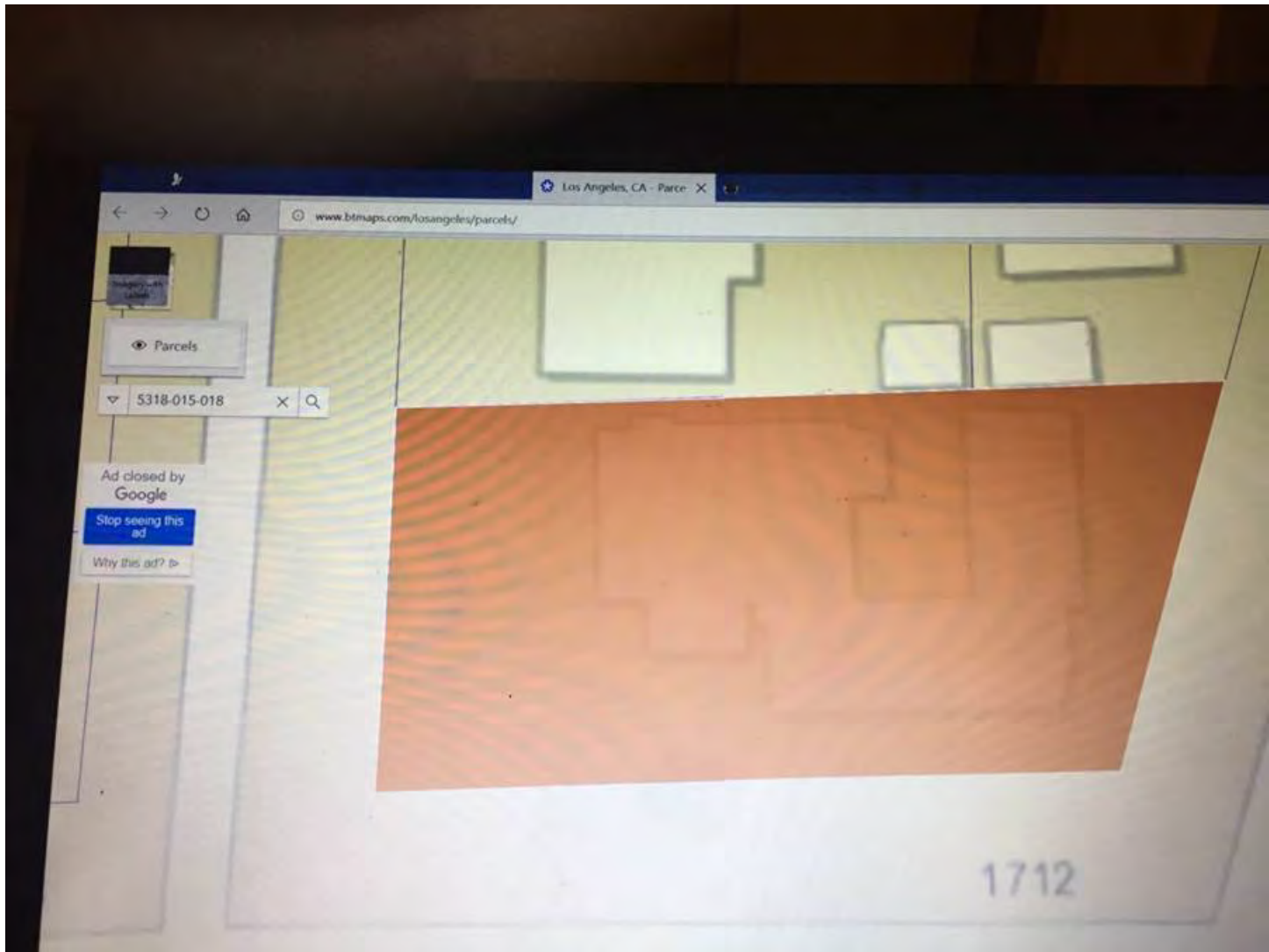
Sat, Feb 16, 11:01 PM

Travis, just to let you know that, as per our conversation, our intention is to complete this process and either sell or rent and move on. We have really appreciated you all as neighbors and will leave with having increased the value of all are properties. I thank you for your patience. Bob



iMessage







Bob >

Thu, Feb 21, 10:03 AM

Hi Travis, still waiting on city to process our intentions. Also, I obtained an aerial picture of our property showing property lines and setbacks. Although, these views are only prospective, they do indicate non conformity and encroachment . I will not call for a survey right now because we might sell and then I would have to declare it any new buyers. I will wait on that . Again, we appreciate your help.

Thu, Feb 28, 3:03 PM

Hi Travis, New Report. I just received a call from the new city code enforcement officer Gus. The original complaint from last April regarding my patio addition just arrived at his desk. He knows nothing about it. Fortunately I have detailed documentation of my responses and compliance to all their requests and requirements. He



iMessage



We also requested the documents and responses the owner is referring to in those texts in our request for public documents, but those too have not been provided.

Public Records Request

SD: The City Clerk's Office is responsible for Public Records Request and is currently looking into the request.

Unfortunately, this too has been mishandled. The first request was marked complete by J. Equivalls and when you review that information, he only provided 9 emails from the 2018 calendar year. Of those 9, one was a duplicate and all were generated in August, just two hours after we visited the planning desk for an update. We know there were communications throughout 2018 and not just August. We will need the City Clerk's Office to go back from 2018 to present day correspondences.

After our initial request in February 2019 with minimal results, Juan reached out in April and asked us to clarify what we needed. We were very clear and he never provided us with any documents. In June, Miriam Ferrel followed up and provided a copy of the ordinance 2004 which is not valid anymore. We appreciated that, but she too needed us to clarify what we needed. After several follow ups with her over the next 2 months, she too provided us with nothing. Now, Maria Ayala is also requesting clarification. She states "With respect to the role of the City Clerk's Office, we are looking to fulfill your request for subject emails to your request. I believe City Manager DeWolfe along with other Planning personnel will be working to provide you with other records" We have been clear from the first request and are still asking the same questions. Besides that, you stated the City Clerk's Office is responsible for the Public Records Request, but Maria is only looking to provide emails. Please confirm who will provide the documents that are not in email form and when we can expect them. Since we are now at 9 months and three employees later and have yet to receive the information we've requested, we'd like the City to clarify the email retention policy. We want to make sure that everyone is clear that no emails or documents shall be deleted, trashed, disposed of or purged from the network or backup drives. We have more pictures, documents and notes to support our story and can share as soon as we get the documents we have requested.

Stephanie and City Council, after seeing more information about these problems and actual support documentation and not hearsay, we hope that you are able to clearly see through this facade of misrepresentation from the owner and architect. Compliance with manipulation, misrepresentation and fraud give you the right to step in and revoke the COA. Remember, John Pope stated "The city has little choice but to respond when the facts are ignored or misrepresented as they have been in regard to the Drive property. And the community has expressed an interest in hearing the city's side of the story," spokesman John Pope said in a prepared statement during the gathering, which also included Mayor Marina Khubesrian, City Attorney Teresa Highsmith and, by telephone, City Manager Stephanie DeWolfe. Clearly the facts have been ignored and misrepresented in this case. It's time for the City and the City Council to acknowledge that the

Owner/GC, Architect, City staffers, and Design Review failed in their due diligence regarding 1030 Brent Ave over the last 21 months and failed to respond appropriately. We ask again that all movement for this project stop and the COA be revoked.

Travis & Nichole Dunville

From: Tamara Binns <tbinns@southpasadenaca.gov>
Sent: Thursday, October 10, 2019 3:26 PM
To: Teresa Highsmith <thighsmith@chwlaw.us>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>;
Dr. Richard Schneider - Personal <[REDACTED]>; City Clerk's Division
<CityClerk@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>;
mkhubesran@southpasadenaca.gov; Michael Cacciotti - Personal <[REDACTED]>; Stephanie
DeWolfe <sdewolfe@southpasadenaca.gov>; Diana Mahmud <[REDACTED]>; Nichole
<[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032
Importance: High

Mr. and Mrs. Dunville,

Please see the attached letter answering your questions about the construction at 1030 and 1032 Brent Avenue.

If you have further questions, please feel free to contact our new Planning Director, Joanna Hankamer at jhankamer@southpasadenaca.gov or (626) 403-7222.

From: Stephanie DeWolfe
Sent: Wednesday, October 02, 2019 6:18 PM
To: Nichole; Teresa Highsmith; Maria Ayala; Tamara Binns; Miriam Ferrel; Lucy Demirjian; Dr. Richard Schneider - Personal; City Clerk's Division; Diana Mahmud; Robert Joe;
mkhubesran@southpasadenaca.gov; Michael Cacciotti - Personal
Subject: RE: Unpermitted Construction 1030 & 1032

Mr. and Mrs. Dunville –

Thank you for sharing your concerns regarding the construction activities at this site. I apologize that you did not receive a timely and appropriate response from City staff in regard to your concerns. I know you had received several responses from David Bergman and it was my understanding that he was appropriately handling the issue. I'm sorry I did not realize that you had not received an appropriate response.

I have now personally delved into the history of this project at your request and have found the issues to be complex. Having the files spread out on my desk, I understand your frustration with the process. While I had hoped to have a complete response for you by today, I have not been able to complete my review due to the complexity and lengthy history of interrelated issues. Please know however, that this has my full attention and I am personally looking into each of the concerns you raised. I anticipate I will be able to provide you with a complete response next week.

I apologize again for the City's failure to respond in a timely manner and appreciate your patience. Please let me know if you have additional concerns in the meantime.

Sincerely,

Stephanie DeWolfe

City Manager

City of South Pasadena

1414 Mission Street

South Pasadena, CA 91030

www.southpasadenaca.gov

626.403.7210



From: Nichole <[REDACTED]>
Sent: Wednesday, September 25, 2019 10:05 AM
To: Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; Tamara Binns <tbinns@southpasadenaca.gov>; Miriam Ferrel <mferrel@southpasadenaca.gov>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>; Dr. Richard Schneider - Personal <[REDACTED]>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; mkhubesran@southpasadenaca.gov; Michael Cacciotti - Personal <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

Another month has gone by and we still have not received a response from the city staff. On August 27th you asked Stephanie DeWolfe to have the staff provide an estimate as to when they would be able to respond to our requests. Is there a reason no one is responding? Is the city manager or city attorney concerned about liability? They both have been included on this thread since February.

In the last 9 months the City Clerk has failed to provide the public records we've requested, even after multiple requests and reminders. In the last 18 months, the Planning/Building Department started and failed to complete two investigations, first under David Watkins and then again under David Bergman. Also, Public Works and city staffers in Building & Planning have known about the unpermitted tree removal for the unpermitted construction and promised to look into it and as far as we know, they still have not. Two months into the investigation, Planning and Building knew that this addition deviated from the expired plans the homeowners had from 2007. Since then, Planning and Building has done nothing except help the homeowner who is acting as his own contractor, continue what is clearly an unpermitted addition, blatantly ignoring city ordinances.

We reported the unpermitted construction in 2017, wishing to remain anonymous. This is extremely frustrating. Please review the email thread below. The entire City Council needs to be aware of the unprofessionalism of city staff and management.

Kind regards,

Nichole and Travis Dunville

From: Nichole <[REDACTED]>
Sent: Monday, September 9, 2019 8:41 PM
To: 'Michael Cacciotti' <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

This is a follow up on your last email to Stephanie DeWolfe. After watching this video of the most recent Planning Commission meeting, we have a better understanding of what's going on. Between the antiquated analogue system and the lack of staff, Planning and Building appears to be off the rails! Now we understand how plans were lost and files were unavailable and changes were able to happen at the desk without any record or documentation. If you haven't seen this yet, we suggest a quick review of Councilmen Richard Schneider's comments at the 21:40-22:34 mark, Commissioner Braun from 24:00-25:45 and David Bergman from 30:00-37:30

http://www.spectrumstream.com/streaming/south_pasadena_pc/2019_08_13.cfm

We understand that City Council doesn't handle every single issue in the city, but with all of the vacancies in Planning and Building we have nowhere else to turn. It's been 4 years and 2 months since the start of the unpermitted construction going on next door and 19 months since a code enforcement officer was in our house and took pictures of it. No investigation has ever been completed and our requests for public records have been ignored. David Bergman claimed to be overworked and was either unwilling or unable to follow up on the investigation or answer our emails. When you came over to our house you mentioned setting up a meeting. With the departure of David Bergman we think it's time to set up a day and time to finally take care of this issue with a decision maker who has authority to put an end to this illegal construction.

As always, we thank you for your time and service to our city!

Travis and Nichole Dunville

From: Michael Cacciotti <[REDACTED]>
Sent: Tuesday, August 27, 2019 6:15 PM
To: Nichole <[REDACTED]>
Cc: sdewolfe@southpasadenaca.gov; Teresa L. Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; tbinns@southpasadenaca.gov; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; Lucy Kbjian <LKbjian@ci.south-pasadena.ca.us>; richard schneider

<[REDACTED]>; cityclerk@southpasadenaca.gov

Subject: Re: Unpermitted Construction 1030 & 1032

Hi Nichole,

I have not received a response from Staff from my email last week. I will check on the status of your request.

Hi Stephanie,

Would you please have our staff provide Nichole and Travis with an estimate as to when staff will be able to respond to their request. They have been very patient up to this point.

Thanks

Michael

Sent from my iPhone

On Aug 27, 2019, at 9:26 AM, Nichole <[REDACTED]> wrote:

Hi Michael,

Wanted to know if you've heard anything regarding this, because we haven't. Thanks for following up with this!

Kind regards,

Nichole and Travis

From: Michael Cacciotti <[REDACTED]>

Sent: Monday, August 19, 2019 9:11 AM

To: dbergman@southpasadenaca.gov

Cc: sdewolfe@southpasadenaca.gov; Teresa L. Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; tbinns@southpasadenaca.gov; LDemirjian@SouthPasadenaCA.gov; [REDACTED];

richard schneider <[REDACTED]>; [REDACTED];

Subject: Fwd: Unpermitted Construction 1030 & 1032

Good morning David,

Just wanted to follow up on my email from two weeks ago about the above mentioned issue on Brent Ave. Please have staff provide us a response later this week as Travis and Nichole have been patiently waiting a response.

If for some reason we are not able to provide a response, please let them know when a response will be provided.

Thanks

Michael

Sent from my iPhone

Begin forwarded message:

From: "Nichole" <[REDACTED]>
Date: August 19, 2019 at 8:35:13 AM PDT
To: "'Michael Cacciotti'" <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

We appreciate your email two week ago. Have you had any contact or conversations regarding this issue since you sent the email? The reason we ask is that we still haven't heard anything.

Thanks,

Travis and Nichole

From: Michael Cacciotti <[REDACTED]>
Sent: Sunday, August 4, 2019 6:27 PM
To: dbergman@southpasadenaca.gov
Cc: sdewolfe@southpasadenaca.gov; tbinns@southpasadenaca.gov; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; Maria Ayala <mayala@southpasadenaca.gov>; Teresa L. Highsmith <thighsmith@chwlaw.us>; [REDACTED]; Lucy Kbjian <LKbjian@ci.south-pasadena.ca.us>
Subject: Fwd: Unpermitted Construction 1030 & 1032

Hi David

Good to see you at city Hall last week.

I wanted to follow up with Travis and Nichole's request for assistance (see emails below) on the alleged unpermitted construction occurring at the above location at 1030 and 1032 Brent Ave, just north of Oxley (which is adjacent to and north of their home).

When I met with Travis and Nichole today, they mentioned that they had requested some documents back in June 2019 from the city, but had not received everything they had requested in their Public Records Request. They are also concerned because construction continues intermittently at the location, which they believe is not consistent with plans and/or permits approved by the city.

I know we have had substantial turnover in your department and the city clerk's office, but please, at your earliest available opportunity, this week, work with the city clerks office to provide any documents that are responsive to their request and are not privileged, etc. Also, please work with staff to address and respond to their concerns about this project including permitting, alleged deviations from approved plans, ongoing construction activities, etc.

Thanks for your hard work!

Michael

Sent from my iPhone

Begin forwarded message:

From: "Nichole" <[REDACTED]>
Date: August 1, 2019 at 11:25:05 PM PDT
To: "'Michael Cacciotti'" <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

You're welcome to come over to our house. It's 1036 Brent Ave.

From: Michael Cacciotti <[REDACTED]>
Sent: Thursday, August 1, 2019 11:16 PM
To: Nichole <[REDACTED]>
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Travis and Nichole

I can meet at 2 pm. on this Sunday. - Where you want to meet?

Thanks

Michael

Sent from my iPhone

On Aug 1, 2019, at 4:06 PM, Nichole <[REDACTED]> wrote:

Hi Michael,

Thank very much for responding so quickly! We are available anytime Sunday afternoon. Would that work?

Nichole and Travis

626-627-1010

From: Michael Cacciotti <[REDACTED]>
Sent: Tuesday, July 30, 2019 11:59 PM
To: Nichole <[REDACTED]>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Travis and Nichole,

I am usually CC'd on the email communications between our city staff and you.

I would be happy to meet. Are you available to meet this weekend in the afternoon?

Thanks

Michael

Sent from my iPhone

On Jul 30, 2019, at 3:48 PM, Nichole <[REDACTED]> wrote:

Hi Michael,

Hope you're enjoying your summer. You may remember that we reached out to you 6 months ago regarding the unpermitted construction at 1030/1032 Brent. In that email, we were clear that we wanted honesty, transparency and oversight. As of today, we have not received answers to our questions about how this project was investigated and how it keeps moving forward when there are so many problems that have not been addressed. We were very specific in our questions and have yet to receive answers. In your reply to us on February 5, you mentioned that you wanted the staff to keep you informed on how they are working to resolve this issue. Besides the below thread, has the staff informed you of anything else? We ask because in the attached email thread, we requested specific documents with repeated follow ups with no response.

It's now been over 4 years since the start of construction and 18 months since the city inspector took pictures of the unpermitted structure. This is unacceptable. We would like to have a conversation with you when you are available.

Regards,

Travis & Nichole Dunville

From: Nichole <[REDACTED]>
Sent: Monday, June 17, 2019 8:25 AM
To: 'David Bergman' <dbergman@southpasadenaca.gov>; 'Teresa Highsmith' <thighsmith@chwlaw.us>
Cc: 'Michael Cacciotti' <[REDACTED]>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>; 'Code Enforcement' <CodeEnforcement@southpasadenaca.gov>; 'Alex Chou' <achou@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

David,

We reviewed the plans at the counter on Friday, June 14th. Once again we are getting conflicting answers and there are still many errors that have not been addressed. The plans

dated 7/28/2018 but are different from the Roybal's plans they provided us this year that are also dated 7/28/2018. It appears that the architect continues to make changes to the plans, that were not part of the original approvals, without properly notating them on the plans. When we were in on Friday, Jose mentioned that everything has been corrected and permits are ready to be issued and paid for. While there are many errors in the plans, we pointed out just a couple of inaccuracies in the plans and stated it may be better to wait for you to come back on Monday before issuing anything and Jose agreed. The Roybals want an addition that is based on what they have already constructed illegally. These are some of the items that are different from the original approval: the pitch of the roof has increased in height, the width of the structure has increased, the footprint has moved 3ft south and every elevation has changed from what was originally approved. The original plans were conditionally approved with the addition of additional parking on the property. The approval was based on a duplex, not an ADU. Everything about this project is different than the original plans. We would expect the planning and building department to notice these changes as we have mentioned them in person and in emails.

Also, the drawings have inaccurate setback measurements that we have discussed with you and your staff. One example is the setback behind the garage. We've attached a picture of the

garage setback that shows 5ft on both the original and new plans from 7/28/19. You'll see in the picture the setback is actually only 2 feet 9 inches. Besides the owner sending us a text stating that he believes he's encroaching our property with their driveway, he also poured a new wider driveway to possibly meet the minimum requirements for new construction and parking on the original approval. You may want to look at their permits and see if they have one for the driveway and if the driveway is even wide enough to meet the minimum parking requirements for the original approval.

On February 11th we requested all public documents. We received a few select items, but not what we originally requested. After our second request to Juan on April 30th, we received an email from Miriam stating Juan is no longer working for the City on June 3rd. We sent her an email on Friday to request an update as to when we may expect those documents. We believe that the City should not move forward on this project and issue any permits until all issues have been resolved. If you disagree, please let us know.

You stated in your April 18th email that public works is in charge of the tree trimming and removal. A tree, that was never notated on any of the drawings, was cut down in 2015 to build the existing unpermitted structure and then another tree, an oak, was trimmed in March of this year without a permit and

out of season. Public works was notified twice on the day in March. It's now been two months and nobody from public works has followed up.

It has now been 16 months since the city inspector took pictures of this nuisance and 4 years since tree removal, demolition of the original back porch and construction of the eyesore started. As residents of this city for 25 years, we expect more. Regarding our other concerns in our previous emails, you have not responded to our specific questions about the approval process and how Mark G ignored the South Pasadena major review process. Will you or the City Attorney be addressing this issue?

Finally the new ordinance from 2017 repeals and replaces the previous ordinance. It appears that the city is choosing to ignore this. Why would the city choose to use the old ordinance 2315, from 1992 and not the current ordinance from July 2017?

Sincerely,

Travis and Nichole Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Monday, June 3, 2019 8:55 AM
To: Nichole <[REDACTED]@net>; Teresa Highsmith <thighsmith@chwlaw.us>
Cc: Michael Cacciotti <[REDACTED]>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Code Enforcement <CodeEnforcement@southpasadenaca.gov>; Alex Chou <achou@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr and Ms. Dunville:

The development application has been reviewed by the City's Public Works Department and returned to the applicant with requests for corrections. The property has been issued a notice to correct unpermitted construction.

Please let me know if you have any additional questions.

Best

David Bergman

From: Nichole <[REDACTED]>
Sent: Sunday, June 2, 2019 11:27 AM
To: David Bergman <dbergman@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr. Bergman,

We are following up on our previous email from April 29th. Can you please update us regarding 1030/1032 Brent Ave.?

Sincerely,

Travis and Nichole Dunville

From: Nichole <[REDACTED]>
Sent: Monday, April 29, 2019 10:45 PM
To: 'David Bergman' <dbergman@southpasadenaca.gov>; 'thighsmith@chwlaw.us' <thighsmith@chwlaw.us>
Cc: 'Michael Cacciotti' <mcacciotti@southpasadenaca.gov>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Mr. Bergman,

While we are glad to see you mentioned the structure will be removed, this is only part of the problem. If building permits are issued and the structure is torn down, whatever the City has approved could be rebuilt. Rebuilding the new structure is our concern since the City did not follow the ordinance and municipal code. Let's start with the investigation that originated on February 3rd or 4th of 2018. Over a year later, we receive a text from Bob Roybal on February 28th, 2019 that states:

"Hi Travis, New Report. I just received a call from the new City Code Enforcement Officer Gus. The original complaint from last April regarding my patio addition just arrived at his desk. He knows nothing about it. Fortunately, I have detailed documentation on my responses and compliance to all their requests and requirements. He indicated that he would find out the present status of the matter and inform me. I also notified my architect. He replied that he is current and awaiting direction. I am pulling my hair out at this point and thinking about lighting matches! Thanks, hope we can get this done soon."

As for the COA still being valid, we would like the City Attorney to state why she believes that the COA is grandfathered in, as the new ordinance specifically states that the CHC of the South Pasadena Municipal Code is hereby repealed in its entirety and replaced with the following new CHC. We would like the City Attorney to explain directly so it doesn't get misinterpreted. Perhaps the City Attorney can explain how the Roybals will be able to get building permits without the COA and Design Review Board (DRB) certificate as well. The original COA and Design Review Board(DRB) certificates were needed to acquire building permits under that approval. The original COA is based on the approved details. The COA then goes on to state an additional COA is required for exterior changes not described in the above description and approved by the CHC. All work (alteration, demolition or exterior changes) requiring a COA shall substantially conform to the stamped approved plans dated the effective date of this approval.

As we've previously mentioned to City staffers, and to you, on our February 11th meeting and in the previous emails, we still haven't been told how the Chair was able to "approve" the updated drawings. The original approval specifically states on the certificates and stamped approved drawings that it needs to be built exactly as CHC and DRB approved. This included the addition of 2 covered parking spots. The City staffer's own timeline states on April 16, 2018 that the owner called in and spoke to a plan checker

and stated that the project plans have diverted from the original plans. At that time staffers should of stated these are considered new plans and will need to be resubmitted as a new project. There is a process that needed to take place and the former Director did not follow that process. Even if the Director did approve, which he did not, the Chair would have then needed to decide if this was a Major or Minor review. Clearly this procedure was overlooked. It would have been a good idea to include the other committee member of the CHC since this was unpermitted construction that was under investigation and diverted from the original approvals. Please let us know in as much detail as you can why the Major review was not followed or the rest of the CHC involved.

The next concern is the property line. You might remember that we mentioned the setbacks on the original plan and the current site plan were incorrect and you would investigate it. What did you find? On February 15th, 2019 Bob Roybal stated in a text:

“Also, City may require verification of property lines which would probably be a good idea anyway. I’ll let you know.”

Then the next day on February 16th, 2019 Bob Roybal texted:

“ Travis, just to let you know that, as per our conversation, our intention is to complete this process and either sell or rent and move on. We have really appreciated you all as neighbors and will leave with having increased the value of all our properties. I thank you for your patience.”

Then on February 21st, 2019 Bob Roybal texted:

“Hi Travis, still waiting on the City to process our intentions. Also, I obtained an aerial picture of our property showing property lines and setbacks. Although, these views are only prospective, they do indicate non conformity and encroachment. I will not call for a survey right now because we might sell and then I would have to declare it to any new buyers. I will wait on that. Again, we appreciate your help.”

This is making more sense to us now because when the Roybals were getting the original plans approved in 2007, they wanted to purchase a 12 inch strip of our property along the North elevation of our property. We declined the offer. Looking back, they probably didn’t have the minimum requirements for the driveway. The Roybals need to confirm their property lines.

There is no consideration of neighbors who were not living here in 2007/2008 when this was originally approved. Specifically, the owners directly behind who can see into the backyard at 1033 Park Ave. and 1029 Park. who are currently under construction and can see the addition from their property as well. Both neighbors were appalled at the process and construction of the structure. Two doors from them are more new owners. It keeps on going around the block and at least 40% of the homeowners are new to the area since the original approvals. Maybe these neighbors should have had a chance to know what is going on as well.

We are demanding transparency. We do not want a structure to be built next door to us that has not gone through the correct approval process. If they want to build a structure, they need to go through the process and let the neighbors within a 300 foot radius know what is being built. We look forward to hearing from you and the city attorney.

Regards,

Travis and Nichole Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Thursday, April 18, 2019 5:22 PM
To: Nichole <[REDACTED]>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Dear Mr. and Ms. Dunville:

Thank you for contacting me with your concerns about 1030 and 1032 Brent St. I wanted to provide you with an update on the status of the project. As I mentioned in our correspondence on April 2nd the property owner is in the process of submitting plans for new construction that will remove the unpermitted conditions. The plans for this project have been reviewed by the Planning Department for conformance with the project's conditions of approval and with the City's development codes. The City's Public Works Department received the plans for their review on April 17th. They are currently in the process of checking the plan for conformance with their conditions of approval. After they have completed their review, which is expected to occur by April 26th, the City's Fire Department will review the plans. Assuming that no major revisions are required, the property owner should be able to receive building permits for the project that will remove the unpermitted construction in the first half of May.

As I mentioned previously, as a matter of policy, the City does not move forward with code enforcement on a property when it is being reviewed for approvals that would remediate unpermitted conditions. However, once the permits have been approved, we will begin code the enforcement process as an incentive for the property owner to begin work within 30 days after the clearance of the project for building permits.

As to your other concerns, please note the following:

- 1) I have reached out to the Deputy City Clerk regarding items missing from your initial Public Records Request. He should be able to work with you to determine if any disclosable public records were not included in your request. He should be able to engage with you to discuss other records that may be relevant to your inquiry. I have asked him to reach out to you on this matter.
- 2) I have contacted our City's Public Works Department regarding the unpermitted tree trimming and removal. This department's staff manages the City's tree program and they should be able to give you the correct information on the status of the trees at the property. I have asked them to respond directly to you.
- 3) I reviewed your concerns about the Certificate of Appropriateness with the City Attorney. The City's historic preservation ordinance has been amended to include an 18 month expiration date on certificates of appropriateness. This is a change from the previous ordinance that did not have any time limit for these approvals. Because the certificate of appropriateness for this project was issued prior to the revision, it does not expire. If you have questions about the timing of the revisions of this ordinance I'd encourage you to reach out to the City Clerk's office for assistance.

City staff is engaged on this application and aware of the need for the property owner at 1030 and 1032 Brent to remediate any unpermitted construction. I will instruct our staff to inform me when the project has cleared its review for building permits.

Please let me know if you have additional questions or concerns.

Yours,

David Bergman

David Bergman

Interim Director

Planning and Building Dept.

City of South Pasadena

Wk: 626-403-7223

Fax: 626-403-7221

<image001.jpg>

*Help us shape the future of South Pasadena by getting involved in the General Plan and Mission Street Specific Plan updates. **Click the logo to see how!***

From: Nichole [REDACTED] >
Sent: Wednesday, April 17, 2019 10:58 PM
To: David Bergman <dbergman@southpasadenaca.gov>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

Thank you for the update. We still have concerns that have not been addressed. We have made our position very clear; we want this addition torn down. This project has been under construction since 2015 and now we look out at an ugly plywood structure. Since they were cited building illegally, the Roybals have told us they want to rebuild it to their old plans but with many significant changes, including making the addition taller and closer to our property. We don't understand why the city would continue to ignore the municipal code and continue to assist a general contractor to build without a permit or a Certificate of Appropriateness. We requested all public documents on February 11, 2019. While we have received some documents, we have received no emails, letters or documents between June 5, 2009 and August 7, 2018. In your timeline you stated there are correspondences between the Roybals and the City during this time period. The Roybals have the certified letter dated March 13, 2018 from the City to correct the unpermitted construction. Jose Villegas showed the letter to us on January 31, 2019. When we asked him for copies of the letter and the investigation file, he stated that we would need to make a public file request. We were surprised that this letter was not in the public document file we requested; it makes us wonder what else we were not given.

We still don't understand how this process has gone on for over a year since the Roybals received their non-compliance letter and why the City did not follow the rules set in place for this type of situation. After telling you and your staff that the COA does expire and providing a copy of the ordinance in the last email, you still stated they do not expire. We'd like to point you to the municipal

code that states Certificates of Appropriateness do indeed expire. Please review City Code 2.65 (11) Expiration of Certificate of Appropriateness. A certificate of appropriateness shall lapse and become void 18 months (or shorter period if specified as a condition of approval) from the date of final approval, unless a building permit (if required) has been issued and the work authorized by the certificate has commenced prior to such expiration date and is diligently pursued to completion. Upon application by the property owner before the expiration of a certificate of appropriateness, the commission may extend the expiration date of the certificate for an additional period of up to 12 months. The commission may approve, approve with conditions, or deny any request for extension. Not only do the COAs expire, the Roybals COA had conditions to it. Their certificate stated: "This certificate of Appropriateness (C of A) is effective only for exterior changes detailed that was presented to the Cultural Heritage Commission on November 15, 2007. An additional C of A is required for changes not described in the above description and approved by the Cultural Heritage Commission." Not only did the C of A expire, so did the Design Review Board (DRB). The letter to the Roybals dated December 12, 2007 states in bold: "Assuming no appeal is filed, the planning approval is valid for one (1) year from the effective date of approval." Because the effective date was December 20, 2007, this expired over ten (10) years ago. Not only did everything expire, the Roybals requested a refund and they were refunded fees spent on this project in 2009.

Besides the expirations, we also asked about the about how the Chair "approved" this project in our February 11th meeting with you, and again in our email. You stated you would find out what happened. After six weeks, all you state is that "On August 24th, 2018 the CHC Chairman approved the revisions to the approved COA for this project." We stated that the owners didn't file for a new COA and the Chair has no authority to approve a major design review. The only item that has a mention of approval from public documents was when architect Jim Fenske tells Jose, "Mark is good with it". On August 24th Jose emailed Mark Gallatin and Mark only responds the "the site plan looks fine". Is this how plans are approved?

Early February 2018 the illegal construction was reported to the City. From the beginning of the investigation in early Feb 2018, the first email we received in the public documents we requested was from Aug 7, 2018. This is the same day we inquired about the status of the property. A few hours later Jose emailed Jim, "I was wondering if you had an update on 1030 Brent St? Can you please let me know what is going on with this project? Thanks Jose" Jim replied "I'd like to meet with Marky G. on Thursday to see what changes were made to the approved design." On August 9, 2018 Jim writes back to Jose, "I met with Mark today and he says he's ok with the redesign of the addition." On August 24, 2018 Jim sent Jose the plans for the project. Minutes later Jose writes to Mark and says, "Jim mentioned he met with you about two weeks ago and that you were ok with this project. However, a site plan should be provided because it was missing." A few minutes later Mark replies by email, "The site plan looks fine." There were no more emails until five months later on January 28th, 2019, when we went in the office at about 2pm to ask the status again. On that day we requested to see the approved plans and Jose was unable to find them and he said the architect did not have copies either. Then that evening at 5:39, Jose emailed Jim, "Let's meet on Wed, January 30 and discuss the project plans for the addition to 1030 Brent Ave. I found the approved set of copies. This is a time sensitive issue." We find it curious that neither the City nor the architect had the approved plans. It was only after we would visit the planning and building office and ask questions that emails would start up again. And why would staff from planning building reach out to an architect of a current code enforcement case? But none of this actually matters since the COA expired years ago and a minor or major project review cannot happen

without a COA. The changes that the Roybals and the architect have made to the plans would cause this to fall under a Major Project Review.

At the end of our meeting on February 11th, we talked about the tree that was cut down to build this unpermitted structure. You mentioned you would look into that. What were your findings? A search with Google Earth Pro shows the tree prior to the structure being constructed. The reason we bring this up is that on March 13, 2019, the Roybals had the oak tree in their backyard trimmed. Per the City staffers, this tree was cut out of season and without a permit. We believe this continues to show a pattern of the Roybals ignoring City regulations.

Thank you for the offer to review the submitted plans, but we already have copies of the originals from 2007 and the plans that were submitted dated July 26, 2018. That is how we know that there are changes to all of the elevations including the amount of doors, the increase in height and placement of the structure closer to our property. On February 11, 2019 we left the meeting with you feeling confident that you would investigate what actually happened, or didn't happen. So far, this is not the transparency we were expecting. We have CC'd Michael Cacciotti to assist in a resolution before this moves any further.

Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Tuesday, April 2, 2019 9:50 AM
To: Nichole <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr. and Ms. Dunville

I wanted to provide you with an update on the status of the application for development at 1030/ 1032 Brent. The property owner has been working with an architect and our staff to bring the property in to compliance with all applicable planning requirements and building codes. Please note the following:

- 1) The owner has submitted plans for the property that are currently waiting for Fire Dept. and Public Works Dept. review and approvals.
- 2) The property owner has been issued a notice to correct the unpermitted conditions at the property. As a general rule unless there is an immediate life safety issue the City does not move forward on enforcement of conditions where the property owner has applied for permits to

correct the cited conditions. No building permits can be issued until the Fire Dept. and the Public Works Dept. have completed their review of the project. Building Dept. plan check and Planning Dept. plan check will proceed, once Fire Dept. and Public Works Dept. conditions are approved.

- 3) No building inspections have been done on this property as no building permits have been issued.
- 4) The Certificate of Appropriateness (COA) was issued at the November 15, 2007 CHC meeting, unlike building permits COA's do not have an expiration date. On August 24, 2018 the CHC Chairman approved the revisions to the approved COA for this project.

We are continuing to work with the property owner to ensure that the conditions on the site are brought in to conformance with the City's municipal code and that all reviews occur as specified in the City's approval process. I'd encourage you to come to the Planning Department to review the development plans that have been submitted. I will follow up with staff to investigate that any issues regarding incorrectly designated set backs are being addressed under the proposed development application.

Please let me know if you have any further questions and thank you for your patience as we work with the property owner to remediate the issues at the property.

Yours,

David Bergman

From: Nichole <[REDACTED]>
Sent: Friday, March 29, 2019 8:33 AM
To: David Bergman <dbergman@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

We received the records we requested on March 4. We've reviewed the records, time line and codes, comparing them with our own notes and timeline. We wanted to wait to give you time to review the records as well. In our conversation on Feb. 11 you stated that you were going to review the code

enforcement investigation. Has that been completed? And what are your findings? We still have yet to receive any public records regarding the code enforcement violation. Based on what we received, the South Pasadena Municipal Code (SPMC) has not been followed.

In our review of the records and time line there are several big red flags.

1. There is no current certificate of appropriateness.
2. This project does not fall under minor project review.
3. The setbacks are incorrect.
4. There is no reason to waive the parking requirement.

1. In reviewing the public records there is no current certificate of appropriateness. The owner/builder cannot get a building permit until he has a Certificate of Appropriateness. The first step after being caught building illegally, according to the SPMC, would be to apply for a certificate of appropriateness. The owner would have had to apply for this within 30 days of being notified by the city. It's been over one year, and there is still no public record of a certificate of appropriateness application. This is a very experienced General Contractor who knows exactly what he's doing. He cut down a tree without a permit to begin building, demolished an existing back porch, built an unpermitted addition, claiming it's a patio, and spent three years on construction. After three years of construction, he was notified by the city to stop construction, another year has passed and it's been a total of four years since this project began. After he was told to stop he brought in his old plans from 2007 with an expired certificate of appropriateness from 2008. It is not our job to enforce the city of South Pasadena's municipal codes. We rely on code enforcement and the building and planning office to do this job. When the codes are violated, the city has the obligation to investigate and follow the proper procedures, see below.

2.67 Enforcement and penalties. [Source](#)

(a) Unpermitted Work without a Certificate. Demolition, relocation, alteration or removal of any improvement, site or natural feature subject to the provisions of this article without obtaining a certificate of appropriateness is a misdemeanor and is further hereby expressly declared to be a nuisance.

(b) Obligations and Consequences upon Failure to Obtain a Certificate of Appropriateness. Unpermitted work, without the approval of a certificate of appropriateness pursuant to the requirements of this article, shall be addressed as follows:

(1) The director or his/her designee shall give notice to the owner of record by certified or registered mail of the specific demolition or alteration work that was made without first obtaining a certificate of appropriateness. The owner or person in charge of the structure shall apply within 30 days for a certificate of appropriateness.

(2) In reviewing the unpermitted alterations, demolition, relocation, or removal, the commission shall either:

(A) Approve the certificate of appropriateness pursuant to the criteria specified in SPMC [2.65](#); or

(B) Deny the certificate of appropriateness and require that the inappropriate alteration(s) or demolition be abated pursuant to subsection (c) of this section.

(3) If the property owner fails to apply for a certificate of appropriateness or abatement of the public nuisance pursuant to subsection (c) of this section is not possible, the matter shall be referred to the city prosecutor for further action.

(c) Abatement of Nuisance. Any work undertaken for which a certificate of appropriateness is required but was not obtained shall be deemed a nuisance. Such nuisance shall be abated by reconstructing or restoring the property to its original condition prior to the performance of work in violation of this article in the following manner:

(1) Covenant to Reconstruct Within One Year. Within 30 days of the effective date of the commission's denial of a certificate of appropriateness, the owner of the property shall execute and record a covenant in favor of the city to do such reconstruction or restoration within one year of the effective date of the commission's decision to deny a certificate of appropriateness. The form of the covenant shall be subject to approval by the city attorney, and shall run with the land.

(2) Time Extension on Covenant. Upon application to the commission, the time may be extended on a covenant to reconstruct if the owner shows the work cannot reasonably be performed within one year.

(3) City Action. If the owner refuses to execute and record such covenant, then the city may cause such reconstruction or restoration to be done, and the owner shall reimburse the city for all costs incurred in doing the work. The cost of the work performed by the city shall constitute a lien against the property on which the work is performed. Restoration or reconstruction may only be required when plans or other evidence is available to affect the reconstruction or restoration to the satisfaction of the director.

2. This project does not qualify for a minor project review. According to the SPMC, a project that qualifies for a minor review does not change exterior features and is fewer than 200 square feet. This is an entirely new project that is well over 200 square feet and dramatically changes the exterior of the house and has shifted to the south and is visible from the street. The proposed addition is completely different than the 2007 project on all elevations, including the height and pitch of the roof.

- The north elevation called for a single door, exterior wall chimney in between, and another single door. Now, there is no chimney and one set of French doors. The north elevation is moved south more than three feet.
- The east elevation originally called for a set of French doors with glass panel/lights on each side. Now, the east elevation has two sets of French doors. The height of the roof was 14'11", it has been changed to 16'2".
- The south elevation was a single door with glass panel/lights on each side. The new plans call for a set of French doors. The south wall is moved over more than 3 feet to the south, covering an existing bedroom window.

This addition is a major project review. See SPMC below.

(4) Minor Project Review. A certificate of appropriateness may be obtained by going through a minor project review if it involves: demolition or relocation of non-character-defining features; noncontributing additions, garages, accessory structures or incompatible and previously replaced windows, doors or siding material; any undertaking that does not change exterior features such as re-roofing if the proposed roofing material is comparable in appearance, color and profile to the existing or original roofing material; replacement of windows and doors if the proposed replacements are of the same materials, form, color, and location as the existing or original windows and doors; an addition of less than 200 square feet proposed for the side or rear elevations (not visible from the public right-of-way) and does not materially alter the features or have an adverse effect on the historic integrity of a cultural resource; minor changes to a previously approved certificate; or any other undertaking determined by the director or his/her designee to not materially alter the features or have an adverse effect on the integrity of a cultural resource.

(A) Requirements. The required application materials for minor project review shall include, without limitation: a written narrative of the proposed project, a vicinity map, a site plan, exterior elevations drawn to scale, a window and door schedule, and photographs of the structure and the neighborhood.

(B) Review Process. After the certificate of appropriateness application for minor project review is deemed complete by the director or his/her designee, the commission's chairperson (the "chair"), or his/her designee, shall evaluate the

application to determine its eligibility for minor project review. If the proposed project meets the eligibility criteria for minor project review, the commission's chairperson, or his/her designee, may elect to do one of the following:

- (i) Approve the Certificate of Appropriateness. If the proposed minor project is deemed consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city of South Pasadena's adopted design guidelines, the commission's chairperson or his/her designee may approve the proposed project;
- (ii) Consent Calendar. If the chair, or his/her designee, determines that the proposed minor project needs additional review by the commission, he or she may elect to place it on the commission's next meeting agenda. Such project shall be noticed pursuant to subsection (e)(7) of this section, Public Notice Requirements, as a consent calendar item on that agenda; or
- (iii) Deny the Certificate of Appropriateness. If the proposed minor project is deemed to be inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city's adopted design guidelines, the chair or his/her designee may elect to refer the proposed project to the entire commission through the certificate of appropriateness (major project review) procedure pursuant to subsection (e)(5) of this section.

Major Project Review. The certificate of appropriateness application must be accompanied by any fee as required by the city of South Pasadena and documentation as the commission shall require, including without limitation:

- (A) Written Narrative. A written narrative of the project indicating the manner and the extent in which the proposed project is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city of South Pasadena's adopted design guidelines.
- (B) Landscaping Plan. A plan that accurately and clearly displays the following: existing trees on the project site that are subject to this city's adopted tree ordinance as set forth in Chapter 34 SPMC; species of all trees and their appropriate trunk diameter, height, and condition; proposed final disposition of all existing trees; the extent and location of all proposed vegetation; species and planting sizes of all proposed landscaping along with the provisions for irrigation and ongoing maintenance; an irrigation plan; and indication of all hardscape along with the exterior of all structures and amenities, including colors and materials keyed to a materials and colors board as appropriate.
- (C) Site of Plot Plan. A site or plot plan drawn at an appropriate scale that reflects the proposed project including: areas of alteration and/or demolition, property lines, and all recorded or proposed easements and public rights-of-way. The site plan shall also indicate the footprint of buildings on adjacent properties.
- (D) Floor Plan. Building floor plans and building sections at a scale of at least one-eighth inch equals one foot.
- (E) Elevations. Exterior elevations specifying all exterior materials with critical dimensions and existing character-defining features clearly indicated.
- (F) Exterior Finishes. Materials, colors, and finishes clearly indicated on elevation drawings and keyed to a materials and colors board including light reflectance values, a clear indication of the appearance, location, and light effects of all exterior lighting fixtures, and a two-point perspective rendering showing proposed structures with profile drawings of the adjoining structures from an eye-level elevation.
- (G) Window and Door Schedule. All doors and windows labeled with symbols that correspond to the labeling on the floor plans and elevations. The door and window schedule is a table containing the following information: existing and new window and door sizes, window and door manufacturer information, exterior finish, fabrication material, operational type, glazing information, divided lite details, and window muntins details when applicable.
- (H) Photographs. Photographs of the site and its surroundings to document the existing conditions and provide a complete understanding of the property and its neighborhood context. This includes photographs of the site and adjacent properties for a distance of 300 feet from each end of the principal street frontage, as well as properties opposite the subject and adjacent properties. The photos shall be mounted color prints, supplied from continuous views along the principal streets, along with a key map provided indicating the relationship of all views to the parcels, streets, and related features.
- (I) Other Documentation. Documentation as may be required to understand the history of previous construction on the property including but not limited to: a series of site plans illustrating the chronological order of construction of permitted and nonpermitted work, the construction or removal of character-defining features, or building permits.

(J) Scale Model. Although not a mandatory requirement, a three-dimensional scale model, a perspective view, or other similar types of graphic information may be recommended for a complete understanding of a proposed project.

3. The setbacks on the drawings are incorrect. It is our understanding that no one on the staff has been to the jobsite to verify any information. The setbacks on the plans on the south state “varies”. The owner believes that he is encroaching on our property and told us that the city will require property line verification. On Feb. 21, 2019 the owner wrote to us and said “Hi Travis, still waiting on city to process our intentions. Also, I obtained aerial picture of our property showing property lines and setbacks. Although, these views are only prospective, they do indicate nonconformity and encroachment. I will not call for a survey right now because we might sell and then I would have to declare it to any new buyers.”

4. The approval of this project in 2008 required the addition of covered parking. There have been conversations about converting the duplex into an ADU to skirt the parking requirements. The parking requirements for this project should not be waived. We are one block away from Fair Oaks and our street parking has been impacted by Mosaic and Blaze. The Blaze parking lot is almost always full and spills onto Oxley and Brent. With the addition of Burger Time, next door to Blaze, parking will even be more impacted. If Wells Fargo or Rite Aid were to sell or develop their parking lots, parking on Brent would be even worse. With rising cost of housing most of the apartments in our neighborhood are inhabited by couples or families as opposed to several years ago when many of the apartments were occupied by single people. The additional residents in apartments that do not have off street parking impact our street parking even more. Waiving a parking requirement for a property on a busy street is short sighted.

Every day when we look out the windows on the north side of our house, over the past four years, we are faced with a huge structure that has been illegally added and is out of proportion with the house (see attached picture). The noisy construction has been a nuisance and the addition is an eyesore. The uncertainty and duration of the project and the tension it has created between the neighbors and us is causing us physical and emotional stress. We feel uncomfortable being in our backyard and along the north side of our house. The time we have spent researching municipal codes, going into the planning and building office and documenting the situation is taking time up too much time. We have been lied to by the neighbor who told us he was building a patio, now that he has been caught -over a year ago- and is being forced to comply with the building codes, he is trying to tweak his design on the same footprint which would allow him to build a bigger structure, that is higher and wider, and more than 3 feet closer to our property that what he originally had planned back in 2008. We are asking the city to do its job and protect the integrity of its historic resources and neighborhoods. We request that this structure to be removed, with the possibility of additional penalty.

d) Additional Penalty. With respect to a violation of this article on a landmark or an improvement within a historic district, or a on a building or structure listed on the inventory of cultural resources, no building or construction-related permits shall be issued for a period of five years following the date of demolition or complete reconstruction pursuant to subsection (c) of this section, whichever occurs last, for property on which demolition has been done in violation of this article. No permits or use of the property as a parking area shall be allowed during the five years if plans or other evidence for

reconstruction or restoration of a demolished structure do not exist, or if the reconstruction or restoration is not completed for any reason. Permits which are necessary for public safety or welfare in the opinion of the director may be issued.

We look forward to hearing from you soon.

Regards,

Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>

Sent: Tuesday, February 19, 2019 10:59 AM

To: [REDACTED]

Subject: RE: Unpermitted Construction 1030 & 1032

Mr. and Ms. Dunville

Please see the attached chronology. The property owner has been contacted about existing unpermitted construction.

On November 15, 2007; the CHC approved the “293 sq. ft. addition on the first floor and a new 555 sq. ft. second story, for a total of 848 sq. ft. This addition will be located in the rear of an existing single story 1,332 sq. ft. Craftsman house on a 7,436 sq. ft. lot. The addition on the first story will consist of adding a new family room. The addition on the second story will add a master bedroom, two walk-in closets, a master bathroom, and a sitting area. All proposed materials will match existing materials.”

On December 4, 2007: the DRB approved the “293 sq. ft. addition on the first floor and a new 555 sq. ft. second story, for a total of 848 sq. ft. This addition will be located in the rear of an existing single story 1,332 sq. ft., Craftsman house on a 7,436 sq. ft. lot. The addition on the first story will consist of adding a new family room. The addition on the second story will add a master bedroom, two walk-in closets, a master bathroom, and a sitting area. All proposed materials will match existing materials.

On March 13, 2018; the Building Inspector did an investigation inspection in regards to the unpermitted construction taking place at 1030-1032 Brent Avenue. Staff received an anonymous call from a concerned resident reporting the unpermitted construction. A correction noticed was left with the property owner, informing him of the violation and to contact the Planning and Building Dept.

On April 9, 2018; the Community Improvement Coordinator, Marlon Ramirez sent the property owner a letter with options on how to resolved the unpermitted construction.

On April 16, 2018 Property owner contacted the City stating his intention to comply with notice of correction. He had a conversation with the plan checker, project plans have diverted from the original approved plans. The project did not comply with the required parking four cover parking spaces and one guest parking.

On April 16, 2018 Community Improvement Coordinator received a second call for the same violation.

On April 27, 2018; property owner met with the CHC Chairman Mr. Gallatin regarding his proposal for the 293 sq. ft. single story addition. The CHC approved project was revised to only include the single story addition only. Property owner stated that he was doing the designs drawings himself.

May 3, 2018; property owner met with the CHC Chairman again, and provided a revised set of plans that included the required covered parking. Four covered parking spaces and one guest parking.

On May 9, 2018; Property owner wrote a letter replying to Mr. Ramirez (received on May 14, 2018) confirming all unpermitted construction has stopped, and plans for an ADU have been submitted. Property owner wanted to confirm the deadline has been extended as he has been working to resolve this situation.

On May 18, 2018; Property owner wrote another letter to Mr. Ramirez (received on May 21, 2018). After speaking with the Plan Checker, additional information will be required to convert the existing second unit to an ADU.

On August 24, 2018; the CHC Chairman approved the proposed change to the 2007 CHC project. A 293 sq. ft. single story addition with exterior materials to match the existing was approved.

On January 11, 2019; Mr. Jim Fenske submitted the plans for the 1030-1032 Brent Avenue ADU conversion.

On January 31, 2019; Jim Fenske met with the CHC Chairman. The Chairman confirmed he was reviewing the same project he approved in August 2018.

From: [REDACTED] <[REDACTED]>
Sent: Tuesday, February 19, 2019 9:58 AM
To: David Bergman <dbergman@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

We appreciate the time you took to meet with us last week, on Feb. 11 regarding the illegal construction taking place at 1030 and 1032 Brent. Directly after our meeting, as you suggested, we requested copies of the public records pertaining to 1030 and 1032 Brent. We would like to know what steps the Planning and Building Department have taken and are taking in the investigation of illegal construction at 1030 and 1032 Brent between February 2018 – February 2019. We would also like to request a copy of the chronology and review your staff prepared that you referred to in the previous email. Over the weekend the owner notified us in writing that it's "looking like a major room addition will take place" and "our intention is to complete this process and either sell or rent and move on." We request that this project not move forward until a thorough investigation has taken place.

We thank you for your attention to this matter.

Regards,

Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>

Sent: Tuesday, February 5, 2019 10:27 AM

To: Michael Cacciotti - Personal <[REDACTED]>; [REDACTED]

Cc: Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>;

Lucy Demirjian <ldemirjian@southpasadenaca.gov>

Subject: Re: Unpermitted Construction

Hello Council Member Cacciotti:

Thank you for bringing this matter to my attention. Other than the request for an appointment next Monday this is the first I have heard about this matter. Although I'm not in the office today I have requested that my staff prepare a chronology and review of what has happened. I will brief you and Stephanie as soon as I am able to.

Best

David Bergman

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On Tue, Feb 5, 2019 at 10:13 AM -0800, "Michael Cacciotti" <[REDACTED]> wrote:

Hi Nichole and Travis,

Wow, sorry for the inconvenience,frustration and uncertainty this project has caused you.

Since this issue/home construction project seems to be somewhat complicated by its history and city code's involved, my best recommendation is to provide our staff with the background information you have provided so Mr. Bergman is informed when he meets with you next Monday 2/11/19.

Consequently, I am including Mr. Bergman, the city manager and City attorney on this email so that they are aware of this issue and can work with Mr. Bergman and our Planning and Building Department to properly assess all the facts and determine how we can best assist you with your request.

I am also asking staff to keep me informed of how we are working to resolve this issue.

Thanks

Michael

Sent from my iPhone

On Feb 1, 2019, at 1:11 PM, <[REDACTED]> <[REDACTED]> wrote:

Hi Michael,

Hope all is well with you. We're enjoying the open space on Park Ave. and are looking forward to working on tree and shrub planting with my friend from Edison very soon.

We have a separate issue that we thought you might be able to advise us on since we noticed that you are the city council liaison for the Cultural Heritage Commission. Our neighbor went through the process to build an addition to their house in 2007. The additional square footage was contingent on them adding covered parking spaces in their backyard. They decided to not go through with the addition and got a refund for the plan check in 2009.

In 2015, the neighbor, who is also general contractor, started building the addition himself, working on it part-time. After three years of intermittent construction, something very different than the original plans has emerged. An inspector issued a stop work order in Feb 2018 since the work was unpermitted. We've followed up with Building and Planning and talked to the owners but have not been able to get a straight answer about the future of the unfinished addition. First, Building and Planning said that it had to be torn down, then we were told that the city said the neighbor's duplex had to be turned into an ADU to avoid the city's additional parking requirements, then we were told that the illegal addition was approved by the Chairman since they had already gone through CHC and DRB in 2007. On Tuesday 1/29/19 we went into Building and Planning and were told it had not been approved. We went back Thursday 1/31/19 and were shown a new set of drawings that had been approved and signed shortly before we arrived. Building and Planning insisted that the plans had actually been approved in August of 2018 but the Building and Planning office lost the signed and stamped plans and the architect had lost his signed and stamped set as well. Our next step is to talk to the new Interim Director of Planning and Building, David Bergman. We are meeting with him Monday February 11th, his first available appointment time.

The frustrating part of this process has been living next to unfinished construction since 2015, not knowing when it will be finished and what it will ultimately look like. It's been a nuisance. Right now there is a large 20' by 20' flat roofed structure with plywood siding and no windows or doors in the openings. The neighbor/builder even recently called it a monstrosity that he said he built on a whim. As much as we value the friendly relationship we have with our neighbors, our patience with this project is wearing thin. We have made many trips into Building and Planning to ask about the status, and the latest seems to be that the neighbor will be able to keep the structure, with modifications to the elevation plans that allow it to be wider, closer to our property, cover existing windows and 15% higher. We're surprised at the Building and Planning office's eagerness to approve this addition.

We're asking for honesty, transparency and oversight. The city has taken great care and time in developing codes and ordinances to keep people safe and maintain the historical integrity of South Pasadena homes. We would like the addition either removed or rebuilt adhering to the size and details of the original plans of the first story addition.

We appreciate all you do for the city and want to thank you in advance for your advice.

Sincerely,

Nichole & Travis Dunville

<mime-attachment>

Dear City Staffers & CHC members,

I am asking for reconsideration of the approval of COA #2238 because of the following inaccurate information that was provided to the commission by staff and the owners representative that were imperative for this project to be approved.

Staff report:

Staff stated in June 2008 Planning & Building staff approved of the 400 sq/ft carport removal.

There are no documents showing the removal of the 400 sq/ft carport, but there is a permit signed by the owner the day after approval for a single story with 400 sq/ft carport. A refund letter requests shows the owner requesting the refund for fees for the single-story addition and 400 sq/ft carport.

Staff stated a correction notice was issued in March of 2018.

I ordered in a Public Records Request in February 2019 with all correspondences. No copy has ever been provided and a second request was ordered on July 13th, 2020. At the writing of this letter on July 29th, the city has not provided any information on the July 13th PRR. Critical to what the owner agreed to for complying.

Staff stated that on 8/24/2018 the CHC Chair approved the minor modifications to the plans.

The CHC Chair stated that he never approved the plans. This would make sense since the city does not have a record of the original 8/24/18 signed by CHC Gallatin. I inquired on January 28th, 2019 about the approved plans and the city staffer could not find them. A few hours later the same city staffer emailed the architect and stated he found copies of the approved plans and needed to meet. The city staffer never contacted me. My wife and I walked into the city office three days later January 31, 2019 and found the city staffer, architect and CHC chair Gallatin signing off on a 1/31/2019 approval that was based on the 8/24/18 review. There is no evidence that the CHC chair ever approved the 8/24/18 plans and he is stating he did not. If there was a review and it is based on the 1/31/2019 signature, the size alone would disqualify it from a minor review. Besides that, items changed were for larger footprint, structure moved south more than 3ft covering the original bedroom window, raising the roof and adding multiple doors. All these falls under a Major Design Review and do not fall under a minor review.

In either case if there was never an approval, then the COA 1101 was never amended and has not expired. If there was an approval, it is based on a major design changed that would have required notice to the surrounding properties and would also make the COA still valid. If there is validity to the 1/31/19 CHC approval and the items do fall into a minor review, then the 18 months have not expired. It would seem like a good idea to get this clarified.

Staffer stated that the owner applied for a building permit in June 2019 based on the approval of the 8/24/18 CHC Chair approval but was found to be inconsistent. Then stated, based on all the changes from the originally approved COA, a new COA would be needed.

Why did the owner and or architect submit different plans in the permit process if they were already approved in 8/24/18? How did the owner make the changes to those plans? Keep in mind the staffer stated it was found out in the permit process that the plans changed. That was me going into the office and reviewing the update. I was told it was in the permit process. The then pointed out the inconsistencies with the plans to the city staffer and then emailed David Bergman.

Staff stated there were 4 code issues with this property and 3 resolved without mentioning how they were resolved. Staffer stated while a single story was approved by CHC, the CHC chair stated he did not approve. The other single-story approval in 2008 by staffers.

As previously stated, this seems very important to clarify the approval. There is an approval in 2008 for forgoing with the construction of the second story addition and just doing the single-story addition, but no mention of eliminating the carport. The permit for the single story and refund show carport.

Staff stated the proposed would not be visible from the street.

Attached are pictures from north and south elevation on Brent from the Wells Fargo parking lot and NW corner of Brent/Oxley in January 28, 2019 before the 1/31/19 approval. I have included panned out and zoomed in. I have planted trees to cover as much as I can. The structure can also be seen from Park Ave as well. These pictures show the roof line. The proposed roof line is proposed to be 6 feet taller.

Staff showed the existing site plan in blue.

The existing layout is still incorrect as it currently mirrors the red proposed. The existing building separation from unpermitted construction and the duplex is still under 10ft, which was on the original plans. Existing show 10'2". A PRR was requested on July 13, 2020 for the city staff measurements. This is not a surveyor issue since they are landmark measurements (driveway and fence). It should also be noted that the existing plan still shows the back patio that was already torn down. If you remember, the owner, city staffer and architect stated that the owner was building a covered patio. The owner did not have COA approval for a covered patio, it was for a first and second story addition. This itself can be reason for tearing down the structure and a 5-year moratorium for building.

Question for staff from the commission:

Commissioner Cross asked about the history and permits of the backhouse. Then asked if the accessor building description slips show that structure on the property.

Staffer said it was converted to and ADU and was originally a duplex. Staff then stated it needs to investigate the permits but stated that it is a legal non-conforming structure. Then stated because of the non-conforming setbacks it could be converted to an ADU.

First, It has not been converted to an ADU. While utilities have recently been altered to eliminate an electric meter, this is not a requirement for an ADU. An ADU would not have been approved in 2018 when the owner proposed it based on lot size. Nor could it in 2019. This was brought to the attention of staffers in 2018 and 2019 in person and email. Even in 2020 when state law changed on lot size requirements, it is clear that an ADU is intended to add new housing with new construction or a conversion of an Accessory Structure which is incidental to the primary residence like a garage, carport or covered parking. Not a legal duplex with setbacks from the early 1900's. The California Department of Housing and Community Development are very clear about this with the state code.

"Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement off street parking spaces cannot be required by the local agency.

Staffer said because of it is a legal unit that is non-conforming it could be converted. In 2008, the CHC approved the parking behind the duplex to meet this requirement, so there is no issue why the parking could not have been established. You can see that neither apply to the owner's duplex.

*I have had a handful of conversations with Greg Nickless at the California Department of Housing and Community Development. This week he emailed and stated "Travis-ADU law addresses **the creation of additional dwelling units, not an addition to existing living units. Parking requirements, and exemptions, are related directly to the creation of additional units.** Generally, if the proposed improvements are not related to the **creation of an ADU**, the local agency's development standards, or zoning code, would apply." Please see the attached email.*

Commissioner Gallatin asked, does this owner have a valid COA?

Staffer stated that when the original COA was approved, it did not have an expiration date. Because it was amended and approved by CHC in 2018, it has now expired. Please remember, the CHC Chair mentioned that he did not approved the CHC plans. With no approval, this COA has not expired. The city has no record of the original plans that show a CHC

approval in 2018 that was signed off by CHC Chair Gallatin. In the staffers report, it was stated that because there were so many changes, staff **recommended** a new COA, not that it was **expired**. There are two versions for the COA.

There is a CHC approval from 1/31/2019 signed by Commissioner Gallatin. The remarks state it is based on the 2018 approval when signed off on 1/31/2019. Please keep in mind that I requested to look at the 2018 approved plans just a few days earlier and was told by city staffer that they could not find the approved plans. A few hours later that same staffer emailed the architect for a meeting. This is provided in a letter from the original PRR.

While the owner could have asked for a 12-month extension (if there is an approval), this process was under investigation which would allow the owner to be discussing the misrepresentation of the original COA. It would benefit the owner to delay this process. It was brought up later that over last 3 years the Planning and Building has had issues "off the rails". It was the owner's responsibility to comply and they failed. After 18 months of the city knowing about this nuisance, the city failed to comply which would have required the owner to tear down. Why is the city picking and choosing the rules it wants to follow?

Gallatin asked about the removal of the tree.

This is not about one tree being cut down illegally. More important is that there were two trees at the time of the original COA approval. They were in the proposed driveway area to the required carport and the project stated no trees to be trimmed or cut. The site plan stated no trees to be trimmed, cut, or removed. The trees were not added to the site plan which was critical to the CHC to approve the original COA. This was a question for the architect that he failed to address. In fact, he did not address any of the items that were grossly misrepresented and were in the June 2020 meeting notes and the July agenda. Instead he stated errors and omissions (insurance) and was happy to have a survey of the property. Keep in mind that the architect used landmarks which are implied markers regardless of the actual property line. Not one measurement really needed a surveyor to survey the property. It only confirmed the misrepresentations.

Staff Public Comments.

While it was mentioned that there were 7 in opposition, staffers forgot to include the ones from the June meeting. There were three including mine. Resident Lisa Chin sent a reply on time for the June meeting, but it did not make the meeting notes. It appears she followed up and it was then added in the July agenda. It should be noted that all four owner that border this property opposed the project. Two of them do not know the Roybals and have never even met them. There were no residents in favor of this project.

In the meeting notes, it is stated that there is a comment from the applicant's representative, Jim Fenske; these comments are attached. There was no attached comment from Jim Fenske. The owner or rep failed to meet the 48-hour deadline for submitting a presentation. Following the COVID guidelines all items needed to be emailed by specific deadlines. While none of my neighbors or myself who opposed the project were able to speak or read the prepared statements, later in the evening these privileges were given to another agenda item. The agenda item could have been continued. While I think it would be fine to have the owner's rep discuss the project, he was given the opportunity to explain the misrepresentations. I stated earlier that he did not answer one. Instead we went on and stated that the owner has been working "Over a decade to resolve". Let me be clear, he quit and asked for refund of permit fees in 2009. Then in 2015 he started tearing down the back porch and cut a tree. He then took 2 ½ years to construct the covered patio. Now he has been trying to comply for 2 ½ years. Jim Fenske stated it would be loud to tear down the structure. The demo could be completed in less than a week. This would be less noise than the construction schedule over the next year. While not a factor in the CHC process, kids start school in two weeks and parents still working from home. The Roybal's tenant in the duplex is a teacher and will be teaching from home. I too have a tenant that will be teaching from home.

Jim Fenske stated "they required us that we make that an ADU. Who are they? Bob Roybal started this in 2018 and stated in a letter what was required to convert the duplex into an ADU.

Question for Fenske.

Commissioner Thompson: Asked about convoluted timeline and so many lag times.

Fenske stated that the owner responded to the city for anything they asked for. First, it is the owner responsibility to comply with the stop work order. Any delay from the city should have continued follow ups with the city. This is what I did. Based on emails from a PRR, there were times where I would go into the city and inquire on the status and the same or next day, emails would be send to the architect from a city staffer asking the architect what the status was.

Fenske stated at some point they said let's do an ADU. In the middle of all of this ...2018 Let's not do the carport. We won't have to do the carport anymore... But you have to get that done first...eventually got that done... It has been pointed out that this is not an ADU.

Fenske "Set backs don't make any difference". Actually, they do. The approved trellis carport needed the required setback and with landmark measurements are clear that the project could not comply.

Thompson: Looking at the facts and dimensions were curious.

Fenske: "Resolved that with a licensed surveyor"

All the survey did is confirm Jim Fenske's measurements were grossly off. The surveyor was not needed for the SE corner of the house to the edge of the driveway. The driveway never conformed and is why the owner tried to purchase the strip of land from me to conform. That did not need a survey. The missing trees did not need a survey. The building separation from the duplex to the patio cover that is built to plans is off by 1ft and still off on the details submitted for the meeting did not need a survey. He made the back of the duplex smaller that the front of the duplex when the back gets larger and cannot conform to the 10ft code. That did not need a survey. The measurement from the back of the duplex to the fence measurement could not conform and that did not need a survey. The utility pole that was not on the site plan and didn't need a survey. The garage set back to the fence had an overage of 2ft 9 inches past the fence and into the neighbor's yard. This did not need a survey either when it was based off the fence landmark.

Thompson: Ticked off and vindictive.

This was a description of me. In reading the emails, they might "sound" like I am coming on strong. Keep in mind that this was one of the hardest things that I have ever had to do. It took a long time and I tried to remain anonymous and give the city all the information they needed. I have been neighbors with the Roybals for 18 years and we have never had any issues. I think you would be pleasantly surprised about our relationship if you knew me and my family. Beside the Roybal's illegal construction, there has never been any type of dispute between the Roybals and me or my family.

I did not oppose any of Fenske's projects on Brent Ave. I did not oppose the construction two doors up on Park Ave, who did oppose the Roybal's project. I am not a NIMBY. In fact, I have spent 22 years at the same company in the building industry working with contractors and architects daily. All I asked for was transparency from the beginning. They city failed and if the issues I brought up during this process were addressed, the story would not be so convoluted.

It should be noted that on July 20th, the owner moved forward with construction on the unpermitted patio and was issued another stop work order. Please review the information I provided and make sure the record is corrected. If the city is unable to correct the record and revoke the COA decision and the CHC commission chooses not to review the corrected information, I'm asking for two members of the Council to review the Commission's decision and file with the City clerk's office.

Kind regards,

Travis Dunville

From: Nichole <[REDACTED]@net>
Sent: Wednesday, June 24, 2020 7:15 PM
To: 'Travis D' <[REDACTED]>
Subject: FW: Dunville PRA: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Wednesday, June 24, 2020 7:00 PM
To: Nichole <[REDACTED]>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: RE: Dunville PRA: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Dear Mr. and Mrs. Dunville,

The City has fully complied with your Public Records Act requests for copies of all documents pertaining to code enforcement activities regarding the property located at 1030/1032 Brent Avenue. According to our records, you have made the same or similar requests for documents pertaining to all code enforcement activities and permitting activities regarding 1030/1032 Brent Avenue numerous times during 2019 and 2020, and the City has responded to all of these requests, on the following dates: March 4, 2019, June 3, 2019, October 3, 2019, March 26, 2020, March 31, 2020, April 1, 2020, April 21, 2020.

You were also provided with all documents pertaining to any complaints, inspections and actions regarding any tree removals on the Brent Avenue property, on May 4, 2020.

Your recent oral request of June 8, 2020, for redacted copies of communications with the City Attorney's office is denied, as all attorney-client privileged documents are exempt from disclosure under Government Code Section 6254(k), and Evidence Code Section 954.

In spite of the City's numerous searches for records and disclosures to you, you continue to assert that the City has not provided you everything. This is not the case. While you have asserted that the City Manager has an investigation file regarding this matter, in fact any documents that were ever provided to the City Manager for background information regarding your dispute with the property located at 1030/1032 Brent Avenue have all be provided to you through your numerous requests for records.

Finally, you have also asserted that you saw a code enforcement file held by a former employee when you came into City Hall on or about 2/11/2019, which you believe contained photos and additional documents other than the ones you have received. Planning Director Joanna Hankamer has personally searched the Planning Department offices for any such file, and it simply does not exist. Accordingly, the City asserts that it has provided you with all documents it possesses regarding any code enforcement activities regarding the property located at 1030/1032 Brent Avenue. The majority of these documents (including emails) are actually your own emails and photographs asserting various code violations on the 1030/1032 Brent Ave. property. For avoidance of doubt, we have uploaded all our responses, with attached documents, into a City dropbox, which you may access at: https://www.dropbox.com/sh/j5qnpghxoqa1f62/AACs5jUIgAE_kGaAcEqVfjVba?dl=0. Please be advised that these are '.msg' files (emails). You will need to download the file in order to be able to view the

contents. If you have difficulties accessing the drop box, please contact the Chief City Clerk, Maria Ayala at mayala@southpasadenaca.gov or (626) 403-7232 for assistance.

This concludes our response to your Public Records Act request(s).

Maria E. Ayala
Chief City Clerk

City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
mayala@southpasadenaca.gov
CityClerk@southpasadenaca.gov

****Effective Friday March 20th all City facilities are temporarily closed until further notice to prevent the spread of Coronavirus. We appreciate your patience at this time. For full details on the closures please visit our City website at www.SouthPasadenaCA.gov ****

From: Nichole <[REDACTED]>
Sent: Wednesday, June 24, 2020 4:35 PM
To: Maria Ayala <mayala@southpasadenaca.gov>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

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.

Hi Maria,
Are there any updates on our PRR?
Thanks,
Travis and Nichole Dunville

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Monday, June 8, 2020 11:04 AM
To: Nichole <[REDACTED]>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Good morning Mr. and Mrs. Dunville.

Mrs. Dunville, thank you again for taking the time to speak with me this morning. As I mentioned in our conversation, I would be following up our phone call with an email to summarize our conversation, and continue to make sure we are on the same page.

Off the top of your head, these are the points that we touched on in regards to the items that may still be outstanding/incomplete from your public records request:

- You have not yet received any public records that haven't been emails

- Letters (correspondence) from owner to the City (not in email form)
 - Correspondence from City to owner (not in email form)
 - Copy of City issued “stop order” to owner
 - Copy of owner’s response to the City issued “stop order”
 - Copies of permits that the owner had applied for and copies of refunds issued to the owner on those permits
 - Copy of the “tree removal investigation file” (copies of all documentation)
 - You would also like copies of any privileged emails that were exempt in redacted form
- Additionally, you indicated that most of the above has been listed in prior requests to the City.

As I indicated in our phone call, we are absolutely committed to ensuring that all aspects of your requests are responded to, even those that may not have responsive records. The above are only those items that came to mind for the moment, understandably if you or Mr. Dunville think of something else, please do not hesitate to contact me so that we can continue to work together on your item.

In the meantime, I will work and coordinate with other department staff accordingly to look into the items above so that we may respond in an expeditious manner.

You will definitely hear from me this week.

Thank you so much.

~Maria

Maria E. Ayala
Chief City Clerk
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
626.403.7230
mayala@southpasadenaca.gov
CityClerk@southpasadenaca.gov

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From: Maria Ayala
Sent: Monday, May 4, 2020 10:38 AM
To: 'Nichole' <[REDACTED]>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>; Kristine Courdy <kcourdy@southpasadenaca.gov>; Shahid Abbas <sabbas@southpasadenaca.gov>; Leaonna Dewitt <ldewitt@southpasadenaca.gov>
Subject: COMPLETE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Mr. Dunville.

After a diligent search, please be advised that we have no records of any tree permit ever having been issued and no records of any inspection in response to allegations of illegal tree removal. The attached are emails of what we have. It appears that there was insufficient evidence after the fact to enable the City's arborist to determine whether there was any unlawful tree removal.

This completes our records response to your request.

I am looping in our Public Works Department (Shahid Abbas, Director and Kristine Courdy, Deputy Director) so that they may better address your questions (**highlighted** below).

Maria E. Ayala
Chief City Clerk

City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
mayala@southpasadenaca.gov
CityClerk@southpasadenaca.gov

****Effective Friday March 20th all City facilities are temporarily closed until further notice to prevent the spread of Coronavirus. We appreciate your patience at this time. For full details on the closures please visit our City website at www.SouthPasadenaCA.gov ****

From: Nichole <[REDACTED]>
Sent: Tuesday, April 28, 2020 6:36 PM
To: Maria Ayala <mayala@southpasadenaca.gov>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

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.

Maria,
You mentioned you would have an update at the end of last week. Can you please give me an update on either the Public Works or privileged emails?

Kind regards,
Travis Dunville

From: Nichole <[REDACTED]>
Sent: Tuesday, April 21, 2020 4:29 PM
To: 'Maria Ayala' <mayala@southpasadenaca.gov>

Cc: 'City Clerk's Division' <CityClerk@southpasadenaca.gov>

Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Hello Maria,
Thank you for the update.

Per your comments for 1 and 2, please note that Stephanie stated the following below. I am aware that there were no permits pulled for the tree removal or the tree trimming of the Oak tree that was out of season and I confirmed via phone call to Public Works that there was no permit. While the Tree Appointment Calendar doesn't go back very far, Stephanie was informed that an investigation was done in March of 2019. Was this a physical paper report or an email report that was or was this a verbal from Public Works off of memory? These are two separate issues and should be two separate investigations. Were there any subsequent follow ups done? Any fines assessed? I am requesting copies of any emails, paper documents and/or handwritten notes regarding these 2 tree issues.

1. The PWD confirmed their "Tree Appointment Calendar" does not go very far back, and they do not show anything listed for the subject property.
2. There is no documentation of a tree removal permit for the subject property.

As for the Public Works info, Stephanie stated in her response on October 10th that "In March of 2019, the Public Works Department was informed of a possible illegal tree removal and oak tree trimming. Based on the Public Works Department's investigation the removed tree was less than 12-inches in diameter and did not require a tree removal permit." On November 19th we replied back with the following below and Stephanie never replied back to this or the other questions we had for her in the same email.

Illegal tree removal and oak tree trimming investigation

SD: In March of 2019, the Public Works Department was informed of a possible illegal tree removal and oak tree trimming. Based on the Public Works Department's investigation the removed tree was less than 12-inches in diameter and did not require a tree removal permit.

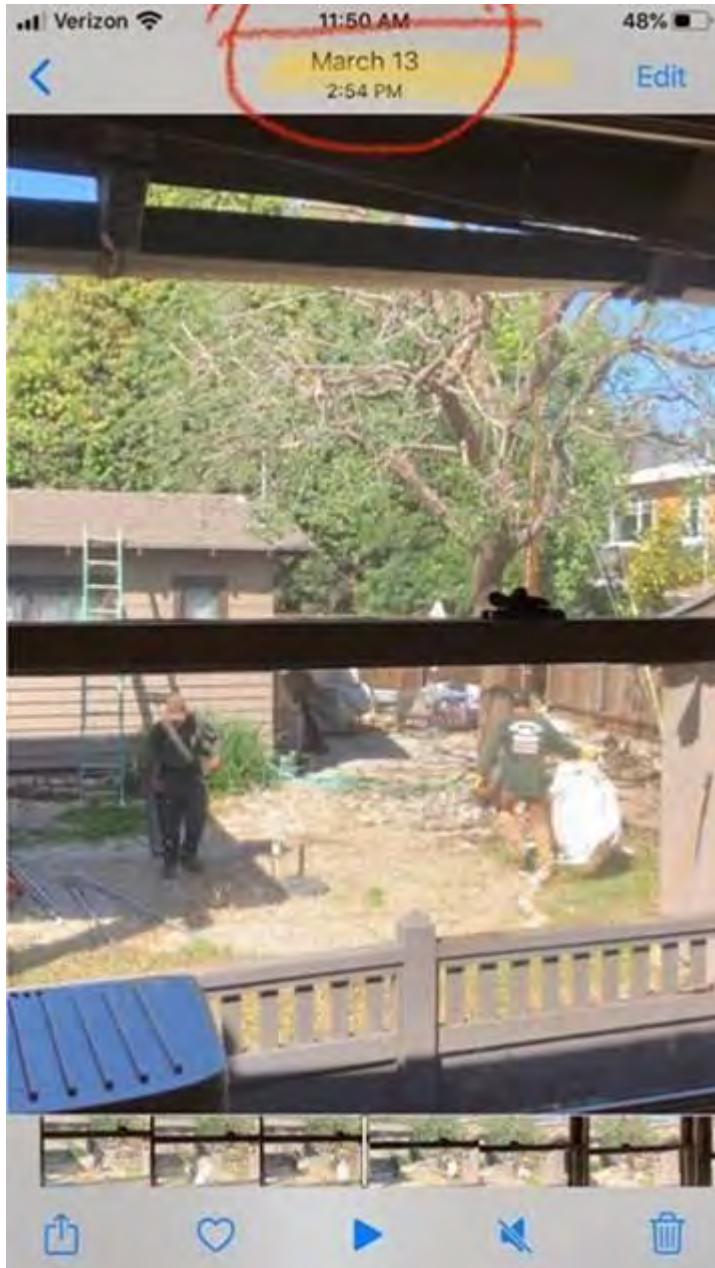
Edwar and Jose were notified about the tree removal when we first started this process in 2018. The timeline fails to address this. At no time did either of them state we should go to the Public Works and report it when a quick Google search could confirm. We discussed this at the February 11th meeting with David Bergman. If there was an investigation on the removal of the tree, why not investigate the oak tree at the same time? We contacted Public works twice by phone on the day of the cutting of the Oak and confirmed there was no permit. After numerous reminders, nothing appears to have been done on this. Below are pictures in January 2019 and March 2019 of the oak tree that was trimmed out of season. You didn't actually respond to this issue.



January 28
3:12 PM

Edit





Regarding the tree that the Public Works Department's did investigate, you stated it was less than 12-inches in diameter and did not require a tree removal permit. This is the first that we have heard of an investigation. Can you elaborate on this and include the public records that we've requested previously? Who investigated this and who did they speak with? Was it the owner who is a General Contractor? Are you aware that this was a multi trunk tree? You can see in the first picture from **2007** below that the tree was already well established and taller than the house roof line. Please see the second picture from July 2007 prior to approvals in November 2007. The red markings show the two trees in the Google street view. The picture below also shows the original porch that was torn down.





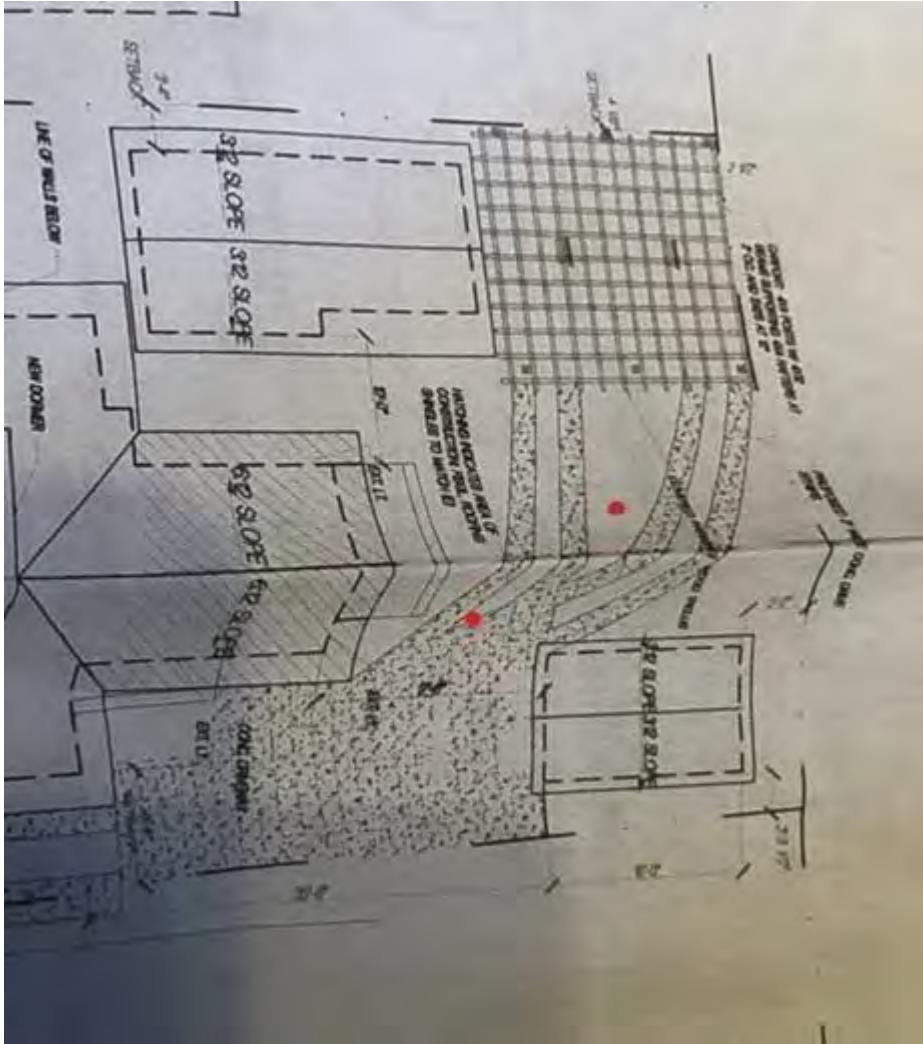
This is important because it shows that the owner knew that they could not conform to the parking that was a condition of the original approval. See how the pathway crosses where the tree was cut down and the Oak tree. See the November 2017 conditional approval plan and **no trees to be cut or trimmed**. We added the red dots to show the placement of the trees in the drawing below. The lower left dot was the multi-truck tree that was cut down and the upper right is the oak that sits in the middle of the path to the carport that was supposed to be built if they wanted to build the addition.

Narrative for 1030 Brent Avenue

Diane and Robert Roybal would like to add a second floor to their existing one story bungalow as well as add a one story family room at the rear yard. On the back yard side of the existing roof they would also like to add a dormer to get more ceiling height in the second floor addition. The downstairs family room will have three small concrete patios off of the east, south and north elevations and will also have a fireplace and chimney on the northerly wall. In order to satisfy the parking requirement a two car trellis will be erected in the north east corner, to the east (behind) the existing efficiency unit.

- There will be **no trees trimmed or cut**. The new windows, doors, roofing, paint and sidewall materials will match the existing conditions.

2007 Narrative



How was the tree that was cut down investigated? Since the tree was removed 4 years ago, how does the investigator know the diameter of the tree? Did you know this was a **multi-trunk tree** and one would need to measure the circumference of each trunk at 4 ft from the ground and add them together? An established tree planted before **2007** and cut down **8 years later in 2015** could reasonably be presumed that the multi trunk tree did meet the tree ordinance minimums with just 3 or 4 trunks. Because the trunks of the tree were so large, a stump grinder was needed to remove the stumps. You could also call the tree a shrub, the pictures clearly show it towers over 16 ft. Since the owner is a licensed General Contractor, please note the Intentional violation in the SPMC.

- (r) "Protected shrub" means a woody plant that is over sixteen feet in height, which has one or more trunk(s) equal to or greater than a four inch diameter.

(l) "Intentional violation" means a violation of this Chapter 34 (Trees and Shrubs) that is committed by any person or entity who has actual or presumed knowledge of, or who has previously violated, its provisions. A commercial certified arborist/tree trimmer, a real estate developer, a general contractor, or anyone who has previously filed an application for a tree trimming or tree removal permit in the city shall be presumed to know the provisions of this Chapter 34.

Kind regards,
Travis Dunville

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Tuesday, April 21, 2020 10:27 AM
To: Nichole <[REDACTED]>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Hello Mr. Dunville.
I will confirm with our City Attorney on emails exempt from disclosure.

As for the Public Works Department and the tree removal:

1. The PWD confirmed their "Tree Appointment Calendar" does not go very far back, and they do not show anything listed for the subject property.
2. There is no documentation of a tree removal permit for the subject property.

I will provide you with an update by end of the week.

Thank you.
~Maria

From: Nichole <[REDACTED]>
Sent: Thursday, April 16, 2020 9:46 AM
To: Maria Ayala <mayala@southpasadenaca.gov>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

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Hello Maria,
We received the 17 emails you sent, thank you. Can you confirm if any emails were held back because of privilege? If so, can you let us know any specifics?
Has Public Works responded to you in regards to our request for documentation of the tree removal and unpermitted tree trimming investigations? If so, can you let us know the update?

Thank you,

Travis Dunville

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Friday, March 27, 2020 7:16 AM
To: Nichole <[REDACTED]>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: Re: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Good morning Mr. Dunville.
I won't forget. I'll make sure that is covered as well.

Thank you.

~Maria

Get [Outlook for iOS](#)

From: Nichole <[REDACTED]>
Sent: Friday, March 27, 2020 7:10 AM
To: 'Maria Ayala'
Cc: 'City Clerk's Division'
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

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Maria,
Please don't forget about the tree removal and the oak tree that was trimmed out of season without a permit. I'm not sure who is in the public works department, but you should probably reach out to them as well. All documents regarding both issues.
Thanks,
Travis Dunville

From: Nichole <[REDACTED]>
Sent: Thursday, March 26, 2020 6:06 PM
To: 'Maria Ayala' <mayala@southpasadenaca.gov>
Cc: 'City Clerk's Division' <CityClerk@southpasadenaca.gov>; 'Joanna Hankamer' <jhankamer@southpasadenaca.gov>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Hello Maria,
I noticed that Bob Roybal uses [REDACTED] as well as the gmail account. Please include that email too. When I called you the other day, I did not have my computer to confirm you information. I was calling about the hard copies.

Do to my work schedule, I was unable to give Joanna a call today, but I did send an email with a CC to you.

I'll assume that is the only section regarding the email retention policy for the city. Looks like nothing should have been deleted since the investigation is ongoing.

Thanks,
Travis Dunville

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Thursday, March 26, 2020 4:59 PM
To: Nichole <[REDACTED]>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Good afternoon Mr. Dunville.
Hope you are well.

I wanted to check in with you and provide you with an update.

The IT search is complete with the redefined scope as we last discussed. At the moment the results are being reviewed for any potential redactions or exemptions.

With respect to physical copies of public records, Director Joanna Hankamer reached out to you to further discuss this aspect of your pending request. I'm hoping you had an opportunity to speak with her, so I will follow-up with her as well.

You had previously asked about the City's email retention. The below is a copy of the City's retention page that includes "e-mail".

Thank you for your patience.

~Maria

Maria E. Ayala
Chief City Clerk
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
mayala@southpasadenaca.gov
CityClerk@southpasadenaca.gov

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Office of Record	Retention No.	Records Description	Retention / Disposition						
			Active (in office)	Inactive (Records Center)	Total Retention	Vital?	Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?
(OFR)									
<i>Retentions apply to the department that is NOT the Office of Record (OFR), or the "Lead Department". If you are the OFR, refer to your department retention schedule.</i>									
<i>Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder.</i>									
<i>Litigation, claims, complaints, audits, public records act requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i>									
Dept that Authors Document or Receives the City's Original Document	CW-028	<p>Correspondence - TRANSITORY / PRELIMINARY DRAFTS, Interagency and Intraagency Memoranda not retained in the ordinary course of business</p> <p>(e.g. calendars, checklists, e-mail or social media posting that does not have a material impact on the conduct of business, instant messaging, inventories, invitations, logs, mailing lists, meeting room registrations, speaker slips, supply inventories, telephone messages, transmittal letters, thank yous, requests from other cities, undeliverable envelopes, visitors logs, voice mails, webpages, etc.)</p>	When No Longer Required		When No Longer Required			Mag, Ppr	

From: Nichole <[REDACTED]>
 Sent: Wednesday, March 18, 2020 12:15 PM
 To: Maria Ayala <mayala@southpasadenaca.gov>; Michael Cacciotti <[REDACTED]>
 Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Tamara Binns <tbinns@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Robert Joe <rjoe@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>; Kenia Lopez <klopez@southpasadenaca.gov>; Joe Ortiz <jortiz@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; 'Aleks R. Giragosian' <agiragosian@chwlaw.us>; 'Evelyn K. Scott' <escott@chwlaw.us>
 Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

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Michael,
 I need to reach out because nobody in the city is doing anything about our public records request.

Please note that I sent an email last week to help staffers save time and just come into the office to review the investigation files. After getting no response, I called on Tuesday March 10th at 5:30pm and spoke to Maria. She stated my email went to junk mail again. This is the third email that this has

happened. She quickly started to ask me about my search criteria for the emails request even though I was inquiring about the hard copies of the investigation files for Planning and Public Works. I stopped her and asked what IT actually did. She stated they did a search. This is exactly what they did in 5 months ago and still nothing. Maria continued to ask about the criteria search and I explained I was not in front of my computer, but it is in this email thread. She then stated that Stephanie is not onsite and she'll need to get with her. Please remember that in October, Stephanie stated in her email that the City Clerk's office would provide the documents we requested. Maria then did a follow up email with me and started a new thread. See the attached email. Unfortunately, you were not included in that email. I'd prefer to stay on this email thread to keep everyone in the loop.

I do understand that health and safety is the number one priority right now. As I'm working from home and not having face to face contact with the public, I am able to get some administrative items taken care of. I would think the same might be true for city staffers if they are still in the office. Would you agree that it would be reasonable for the investigation files under Watkins and Bergman to be scanned and emailed to me by the end of business tomorrow(not the architectural plans)? It would be great to have the Public Works investigation of the tree removal and unpermitted trimming out of season files too. I can't imagine that those should take a lot of time to send over.

Because you'll see both Stephanie and Maria at the City Council meeting tonight, maybe you can all agree on an action plan with some deadlines.

Travis Dunville

From: Nichole <[REDACTED]>
Sent: Monday, March 9, 2020 7:32 AM
To: 'Maria Ayala' <mayala@southpasadenaca.gov>
Cc: 'Michael Cacciotti' <mcacciotti@southpasadenaca.gov>; 'Tamara Binns' <tbinns@southpasadenaca.gov>; 'City Clerk's Division' <CityClerk@southpasadenaca.gov>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>; 'Teresa Highsmith' <thighsmith@chwlaw.us>; 'Robert Joe' <rjoe@southpasadenaca.gov>; 'Kanika Kith' <kkith@southpasadenaca.gov>; 'Jose Villegas' <jvillegas@southpasadenaca.gov>; 'Joanna Hankamer' <jhankamer@southpasadenaca.gov>; 'Kenia Lopez' <klopez@southpasadenaca.gov>; 'Joe Ortiz' <jortiz@southpasadenaca.gov>; 'Diana Mahmud' <dmahmud@southpasadenaca.gov>; 'Marina Khubesrian' <mkhubesrian@southpasadenaca.gov>; 'Aleks R. Giragosian' <agiragosian@chwlaw.us>; 'Evelyn K. Scott' <escott@chwlaw.us>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Maria,

Last week in your email below, you said you would circle back with us to confirm when the records would be ready. We did not hear back from you. Do you have an update?

In our email on December 16th, we asked what the email retention policy is for the city. We never got an answer. Can you provide this information?

On Wednesday March 11th at 3pm, we would like to come in to the counter to review the hard copy files (non-digital). There is no need to make copies as we just want to review. Can you arrange this?

Nichole and Travis

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Tuesday, March 3, 2020 9:06 AM
To: Nichole <[REDACTED]>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Tamara Binns <tbinns@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Robert Joe <rjoe@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>; Kenia Lopez <klopez@southpasadenaca.gov>; Joe Ortiz <jortiz@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; 'Aleks R. Giragosian' <agiragosian@chwlaw.us>; 'Evelyn K. Scott' <escott@chwlaw.us>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent (2019-019)

Ms. Dunville,
IT has completed pulling up the original search for communications.
I will circle back with you this week to confirm when the production of responsive records will be ready.
Thank you for your patience.
~Maria

From: Nichole <dunvillefisk@earthlink.net>
Sent: Monday, March 2, 2020 8:17 AM
To: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Tamara Binns <tbinns@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Robert Joe <rjoe@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Maria Ayala <mayala@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>; Kenia Lopez <klopez@southpasadenaca.gov>; Joe Ortiz <jortiz@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; 'Aleks R. Giragosian' <agiragosian@chwlaw.us>; 'Evelyn K. Scott' <escott@chwlaw.us>
Subject: FW: PUBLIC DOCUMENT REQUEST 1030/1032 Brent

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Michael,
You might remember that we reached out to you three weeks ago regarding our Public Records Request. You asked staffers to keep you updated and told us to wait since Stephanie DeWolfe was out of town. Email thread below is what we have received from staffers in the last three weeks.

In October 2019, Stephanie DeWolfe stated "I have now personally delved into the history of this project at your request and have found the issues to be complex. Having the files spread out on my desk, I understand your frustration with the process. " Why don't we have copies of these files? Please make copies of all correspondence between the city and the Roybals, paper and digital, the top priority.

Nichole & Travis

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Tuesday, February 11, 2020 6:55 PM
To: Nichole <[REDACTED]>
Cc: Tamara Binns <tbinns@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Richard D. Schneider <rschneider@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Aleks R. Giragosian <agiragosian@chwlaw.us>; Evelyn K. Scott <escott@chwlaw.us>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent

Ms. Dunville.

I'm currently searching for the responsive emails for this request. Our IT department did conduct a search. And a review of those potentially responsive emails was conducted. Unfortunately, however, I was not able to provide you with a complete response by COB today. I will continue working on this item tomorrow.

~Maria

From: Maria Ayala
Sent: Tuesday, February 11, 2020 11:18 AM
To: 'Nichole' <[REDACTED]>
Cc: Tamara Binns <tbinns@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Richard D. Schneider <rschneider@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: RE: PUBLIC DOCUMENT REQUEST 1030/1032 Brent
Importance: High

Hello Ms. Dunville.

It looks like these email went to my junk folder for some reason (not sure why, but I'll talk to our IT and make sure any future emails are not missed).

I will touch base with our Planning and Building Department staff today about pending items on your request. I will also look through our records regarding the pending emails.

We do apologize that this item has been delayed.

I'll provide an update by COB today.

~Maria

From: Nichole <[REDACTED]>
Sent: Monday, February 10, 2020 8:16 PM
To: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Cc: Tamara Binns <tbinns@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Richard D. Schneider <rschneider@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Maria Ayala <mayala@southpasadenaca.gov>
Subject: PUBLIC DOCUMENT REQUEST 1030/1032 Brent

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.

Hi Michael,

You may remember that over one year ago we first reached out to you regarding our neighbor's unpermitted construction. The investigation has now gone on for over two years and continues to this day with no end in sight. After a year of repeated requests, we originally made the first written request on February 11, 2019, we have not been able to get the City to provide us the public documents we have requested. Stephanie DeWolf mentioned in October 2019 through email that the City Clerk's office would handle this request. Please see email requests in the thread below. In that same month, the City Clerk stated in a different email that they would roll out the emails to us, but this never happened. **"I can assure you that it is of the utmost importance to the City that your request be handled in the most expeditious manner possible. We will work to commit weekly staff time to reviewing the potentially responsive emails, and produce them on a rolling basis every week, until this item is completed."** In December 2019 we emailed the City Clerk with everyone on this email thread for an update and received no response. We waited 30 days and sent another email in January 2020 to the City Clerk asking to receive what they had so far. Again, no response. It was now been another 25 days and no response. This is unacceptable and you need to know that the City is not cooperating. You asked your staffers a year ago to keep you up updated on this issue. We have been overly patient with the City and there is no excuse for not providing us these documents.

We have asked for transparency. By denying us access to the public documents, it leads us to believe that errors, whether international coverups or mismanagement, were made by city staff and there is a reason the city is purposefully ignoring our request. We have waited far too long, we absolutely demand all public documents regarding this unpermitted construction now.

Nichole and Travis Dunville

From: Nichole <[REDACTED]>
Sent: Thursday, January 16, 2020 2:41 PM
To: 'Maria Ayala' <mayala@southpasadenaca.gov>
Cc: 'Tamara Binns' <tbinns@southpasadenaca.gov>; 'City Clerk's Division' <CityClerk@southpasadenaca.gov>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>; 'Teresa

Highsmith' <thighsmith@chwlaw.us>; 'Richard D. Schneider' <rschneider@southpasadenaca.gov>;
'Diana Mahmud' <dmahmud@southpasadenaca.gov>; 'Robert Joe' <rjoe@southpasadenaca.gov>;
'Marina Khubesrian' <mkhubesrian@southpasadenaca.gov>; 'Kanika Kith'
<kkith@southpasadenaca.gov>; 'Jose Villegas' <jvillegas@southpasadenaca.gov>; 'Michael Cacciotti'
<mcacciotti@southpasadenaca.gov>

Subject: RE: Update @ 10/03/2019: Unpermitted Construction 1030 & 1032

Hello Maria,

On December 16th, one month ago we wrote to you regarding the status of our public document request from February 11, 2019. It has been nearly one year and we have still have not received the documents requested.

In your last email to us from October 3, 2019 you said "We will work to commit weekly staff time to reviewing the potentially responsive emails, and produce them on a rolling basis every week, until this item is completed."

The investigation began in February of 2018 and there are still written communication occurring between the Roybals and the city as recently as last week. We request copies of all of the most current correspondences as well.

If staff has worked on this please send what they have today and we hope to see the rest of the relevant documents within the next 10 days.

Regards,
Nichole and Travis Dunville

From: Nichole <[REDACTED]>

Sent: Monday, December 16, 2019 9:43 AM

To: 'Maria Ayala' <mayala@southpasadenaca.gov>

Cc: 'Tamara Binns' <tbinns@southpasadenaca.gov>; 'City Clerk's Division' <CityClerk@southpasadenaca.gov>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>; 'Teresa Highsmith' <thighsmith@chwlaw.us>; 'Richard D. Schneider' <rschneider@southpasadenaca.gov>; 'Diana Mahmud' <dmahmud@southpasadenaca.gov>; 'Robert Joe' <rjoe@southpasadenaca.gov>; 'Marina Khubesrian' <mkhubesrian@southpasadenaca.gov>; 'Kanika Kith' <kkith@southpasadenaca.gov>; 'Jose Villegas' <jvillegas@southpasadenaca.gov>; 'Michael Cacciotti' <mcacciotti@southpasadenaca.gov>

Subject: RE: Update @ 10/03/2019: Unpermitted Construction 1030 & 1032

Good morning Maria,

We are following up on the status of our public records request from February 11, 2019. Can you give us an update as to when we will start receiving this information? You may want to reach out to Miriam Ferrel as well, since we corresponded with her this summer. It was similar to the previous requests to Jose.

Tamara Bins sent an email out on October 10th with Stephanie DeWolf's responses. The City Clerk's office was on that email. You will see she states the City Clerk's office will be supplying other non-email docs. These would include:

- Refunds given to the Roybals for fees paid to Planning and Building
- Investigation from February 2018 including pictures, notes, letters and correspondences
- Investigation from February 2019 when Gus investigated
- Public Works investigation on tree that was cut and removed
- Public Works investigation on the Oak Tree cut out of season and without permit
- Chair notes regarding the property
- Any notes for any and all approvals and revisions

We also need to know what the City email retention policy is.

Kindly,
Nichole and Travis Dunville

From: Maria Ayala <mayala@southpasadenaca.gov>
Sent: Thursday, October 3, 2019 6:24 PM
To: Nichole <dunvillefisk@earthlink.net>
Cc: Tamara Binns <tbinns@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Richard D. Schneider <rschneider@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: RE: Update @ 10/03/2019: Unpermitted Construction 1030 & 1032

Good afternoon Mr. & Mrs. Dunville.
Thank you, again, for your continued patience.

At this time, I want to provide an update on your request, and kindly ask that you please clarify a few things for me to ensure that we fulfill this request in the most efficient way possible. I have combed through the last emails and pulled some information to better analyze where we are with the request and how best to proceed.

With respect to the role of the City Clerk's Office, we are looking to fulfill your request for **subject emails to your request**. I believe City Manager DeWolfe along with other Planning personnel will be working to provide you with other records.

1. I have attached "J. Esquivel Communications, 03-04-19". This is the last public records act request this office provided. The internal file shows this particular request as having been completed.
2. I have attached "J. Esquivel Communications, 05-30-19". This file shows the request that was subsequent to the email sent on 03/04/19. The last communication, 05/03/19, states:

"..We are looking for transparency in the investigation of the unpermitted construction and the approval process of the new structure. This would include documents, emails, notes or correspondences regarding the property, property lines and site plans, but would also include the investigation, major review, minor review, accessory dwelling unit(ADU), CHC review, Ordinance 2315(new and old) DRB, etc. Of course, there could be other keywords to add to this list. We believe the people below have been involved in this process. We understand that there has been some turn over in the city staff and this list may not be complete. You or other staffers might know more. Thank you very much for your attention to this."

I requested that an electronic search be conducted by our IT department for responsive emails to this latest request.

We utilized the following parameters:

- Keywords: "1030 Brent" and "1032 Brent"
- Date Range: February 1, 2019 – April 30, 2019
- Mailboxes:
- Building Inspector
- Building Official (plan checker)
- Code Enforcement (CIC Coordinator)
- Darby Whipple
- David Berman
- David Watkins
- Edwar Sissi
- Jose Villegas
- Marlon Ramirez (old CIC Coordinator)
- Stephanie DeWolfe

The following individuals did (do) not have City-issued mailboxes:

- Bob or Robert Roybal [REDACTED]
- Dianne Roybal [REDACTED]
- Jim Fenske [REDACTED]
- Mark Gallatin [REDACTED]
- Terri Highsmith

The search has been completed and produced hundreds of potentially responsive emails. These emails will need to be reviewed for relevancy, potential redactions, potential disclosure exemptions, etc.

I can assure you that it is of the utmost importance to the City that your request be handled in the most expeditious manner possible. We will work to commit weekly staff time to reviewing the potentially responsive emails, and produce them on a rolling basis every week, until this item is completed.

In the meantime, I kindly ask that you please take a look at my attachments. If, for some reason, you find that we are not working with your latest request, please clarify and let me know as soon as possible so that we can make sure we are on the right track and on the same page.

Please feel free to contact me directly with any questions. You may reach me at (626) 403-7230 or via email.

Thank you so much.
~Maria

Maria E. Ayala, MPA, MMC
Chief City Clerk

City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
(626) 403-7230
mayala@southpasadenaca.gov
CityClerk@southpasadenaca.gov



From: Tamara Binns <tbinns@southpasadenaca.gov>
Sent: Thursday, September 26, 2019 4:05 PM
To: Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; Miriam Ferrel <mferrel@southpasadenaca.gov>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>; Dr. Richard Schneider - Personal <Rdschneider0@yahoo.com>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Diana Mahmud <[REDACTED]>; Robert Joe <rjoe@southpasadenaca.gov>; Marina Khubesrian <mkhubesrian@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>; Jose Villegas <jvillegas@southpasadenaca.gov>; Nichole <[REDACTED]>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: Update 09/26/2019: Unpermitted Construction 1030 & 1032

Travis and Nichole Dunville,

Thank you for your continued patience as the City works to resolve this issue.

The City Manager is drafting a response to the ongoing issues of unpermitted Construction 1030 & 1032. Ms. DeWolfe sincerely appreciates you following up on this issue.

Staff met to review and discuss the issues this afternoon and we will be updating you on the status no later than close of business Wednesday October 2, 2019.

City Clerk, Maria E. Ayala, will send a separate communication to all on distribution detailing where we are with production of responsive email communications.

An update will be provided by the Clerk's Office next week.

Tamara Binns
Executive Assistant to the City Manager
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
(626) 403-7203
tbinns@southpasadenaca.gov



From: Tamara Binns
Sent: Thursday, September 26, 2019 1:04 PM
To: 'Nichole'; Stephanie DeWolfe; Teresa Highsmith; Maria Ayala; Miriam Ferrel; Lucy Demirjian; Dr. Richard Schneider - Personal; City Clerk's Division; Diana Mahmud; Robert Joe; Michael Cacciotti - Personal; Marina Khubesrian
Subject: RE: Unpermitted Construction 1030 & 1032

Nichole thank you for the email and attachment.

I'll include this correspondence for the staff meeting scheduled for this afternoon.

From: Nichole [<mailto:>]
Sent: Thursday, September 26, 2019 12:50 PM
To: Stephanie DeWolfe; Teresa Highsmith; Maria Ayala; Tamara Binns; Miriam Ferrel; Lucy Demirjian; Dr. Richard Schneider - Personal; City Clerk's Division; Diana Mahmud; Robert Joe; Michael Cacciotti - Personal; Marina Khubesrian
Subject: RE: Unpermitted Construction 1030 & 1032

To whom it may concern:

This morning we saw Michael and he told us that a meeting was planned for later today regarding the unpermitted construction at 1030/1032 Brent. We'd like you to know that the timeline created by staff for David Bergman was full of inaccuracies and omissions. We've kept notes of our conversations along with photos, blueprints, emails, text messages, the city ordinances, etc. in a binder. We've also attached another email thread with regards to our follow ups for the records. Everyone from planning is now gone, except for Jose Villegas. While Mark Gallatin is not a South Pasadena employee, he is the Chair of the Cultural Heritage Commission. Mark ignored the South Pasadena Municipal Code for a Major Design Review on this property. This is surprising to us as Mark is a Planning Manager at the city of San Gabriel.

Because we've taken time to review the original project that was approved in 2007, we were able to find errors and omissions that appear to be a misrepresentations or fraud. A COA can be revoked for these actions. Ordinance 2315 from 2017 supersedes the original ordinance that was repealed and replaced. This itself should be enough to shut down this project.

While the new "patio" as we were told when they started the project dragged on for 2 years, you'll be able to review from google earth pro the progress of this project. It will start with the removal of the back porch and tree. In the end, you'll see the about 8-9 cubic yards of concrete that were poured after everything else was in place, just outside the roofline. This owner never had intentions of making this a patio.

We've asked numerous times for any and all construction to stop until the investigation could be completed. These requests were ignored and work continues today to convert the duplex into an Accessory Dwelling Unit(ADU). The intent of an ADU is to construct new affordable housing. This duplex has been in South Pasadena for 100 years and does not add new or affordable housing. The ADU was an afterthought to circumvent the required parking spaces that was a condition of original 2007 approval.

We request that the unpermitted structure be torn down and a 5-year moratorium on any permits for an addition be allowed from the time of completion of demolition and reconstruction of the back porch. The city has the authority to enforce this. After the moratorium time, the owner can submit new plans and get approval through the proper channels.

Kind Regards,

Travis and Nichole Dunville

From: Nichole <[REDACTED]>

Sent: Wednesday, September 25, 2019 10:05 AM

To: 'sdewolfe@southpasadenaca.gov' <sdewolfe@southpasadenaca.gov>; 'Teresa L. Highsmith' <thighsmith@chwlaw.us>; 'Maria Ayala' <mayala@southpasadenaca.gov>; 'tbinns@southpasadenaca.gov' <tbinns@southpasadenaca.gov>; 'Marc Donahue Miriam Ferrel' <mferrel@southpasadenaca.gov>; 'Lucy Kbjian' <LKbjian@ci.south-pasadena.ca.us>; 'richard schneider' <[REDACTED]>; 'cityclerk@southpasadenaca.gov' <cityclerk@southpasadenaca.gov>; 'dmahmud@southpasadenaca.gov' <dmahmud@southpasadenaca.gov>; 'rjoe@southpasadenaca.gov' <rjoe@southpasadenaca.gov>; 'mkhubesran@southpasadenaca.gov' <mkhubesran@southpasadenaca.gov>; 'Michael Cacciotti' <[REDACTED]>

Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

Another month has gone by and we still have not received a response from the city staff. On August 27th you asked Stephanie DeWolfe to have the staff provide an estimate as to when they would be able to respond to our requests. Is there a reason no one is responding? Is the city manager or city attorney concerned about liability? They both have been included on this thread since February.

In the last 9 months the City Clerk has failed to provide the public records we've requested, even after multiple requests and reminders. In the last 18 months, the Planning/Building Department started and failed to complete two investigations, first under David Watkins and then again under David Bergman. Also, Public Works and city staffers in Building & Planning have known about the unpermitted tree removal for the unpermitted construction and promised to look into it and as far as we know, they still have not. Two months into the investigation, Planning and Building knew that this addition deviated from the expired plans the homeowners had from 2007. Since then, Planning and Building has done nothing except help the homeowner who is acting as his own contractor, continue what is clearly an unpermitted addition, blatantly ignoring city ordinances.

We reported the unpermitted construction in 2017, wishing to remain anonymous. This is extremely frustrating. Please review the email thread below. The entire City Council needs to be aware of the unprofessionalism of city staff and management.

Kind regards,

Nichole and Travis Dunville

From: Nichole <[REDACTED]>
Sent: Monday, September 9, 2019 8:41 PM
To: 'Michael Cacciotti' <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

This is a follow up on your last email to Stephanie DeWolfe. After watching this video of the most recent Planning Commission meeting, we have a better understanding of what's going on. Between the antiquated analogue system and the lack of staff, Planning and Building appears to be off the rails! Now we understand how plans were lost and files were unavailable and changes were able to happen at the desk without any record or documentation. If you haven't seen this yet, we suggest a quick review of Councilmen Richard Schneider's comments at the 21:40-22:34 mark, Commissioner Braun from 24:00-25:45 and David Bergman from 30:00-37:30

http://www.spectrumstream.com/streaming/south_pasadena_pc/2019_08_13.cfm

We understand that City Council doesn't handle every single issue in the city, but with all of the vacancies in Planning and Building we have nowhere else to turn. It's been 4 years and 2 months since the start of the unpermitted construction going on next door and 19 months since a code enforcement officer was in our house and took pictures of it. No investigation has ever been completed and our requests for public records have been ignored. David Bergman claimed to be overworked and was either unwilling or unable to follow up on the investigation or answer our emails. When you came over to our house you mentioned setting up a meeting. With the departure of David Bergman we think it's time to set up a day and time to finally take care of this issue with a decision maker who has authority to put an end to this illegal construction.

As always, we thank you for your time and service to our city!

Travis and Nichole Dunville

From: Michael Cacciotti <[REDACTED]>
Sent: Tuesday, August 27, 2019 6:15 PM
To: Nichole <[REDACTED]>
Cc: sdewolfe@southpasadenaca.gov; Teresa L. Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; tbinns@southpasadenaca.gov; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; Lucy Kbjian <LKbjian@ci.south-pasadena.ca.us>; richard schneider <[REDACTED]>; cityclerk@southpasadenaca.gov
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Nichole,

I have not received a response from Staff from my email last week. I will check on the status of your request.

Hi Stephanie,

Would you please have our staff provide Nichole and Travis with an estimate as to when staff will be able to respond to their request. They have been very patient up to this point.

Thanks
Michael

Sent from my iPhone

On Aug 27, 2019, at 9:26 AM, Nichole <[REDACTED]> wrote:

Hi Michael,
Wanted to know if you've heard anything regarding this, because we haven't. Thanks for following up with this!

Kind regards,
Nichole and Travis

From: Michael Cacciotti <[REDACTED]>
Sent: Monday, August 19, 2019 9:11 AM
To: dbergman@southpasadenaca.gov
Cc: sdewolfe@southpasadenaca.gov; Teresa L. Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; tbinns@southpasadenaca.gov; LDemirjian@SouthPasadenaCA.gov; RSchneider@SouthPasadenaCA.gov; richard schneider <[REDACTED]>; [REDACTED]
Subject: Fwd: Unpermitted Construction 1030 & 1032

Good morning David,

Just wanted to follow up on my email from two weeks ago about the above mentioned issue on Brent Ave. Please have staff provide us a response later this week as Travis and Nichole have been patiently waiting a response.

If for some reason we are not able to provide a response, please let them know when a response will be provided.

Thanks
Michael

Sent from my iPhone

Begin forwarded message:

From: "Nichole" <[REDACTED]>
Date: August 19, 2019 at 8:35:13 AM PDT
To: "'Michael Cacciotti'" <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

We appreciate your email two week ago. Have you had any contact or conversations regarding this issue since you sent the email? The reason we ask is that we still haven't heard anything.

Thanks,
Travis and Nichole

From: Michael Cacciotti <[REDACTED]>
Sent: Sunday, August 4, 2019 6:27 PM
To: dbergman@southpasadenaca.gov
Cc: sdewolfe@southpasadenaca.gov; tbinns@southpasadenaca.gov; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; Maria Ayala <mayala@southpasadenaca.gov>; Teresa L. Highsmith <thighsmith@chwlaw.us>; [REDACTED]; Lucy Kbjian <LKbjian@ci.south-pasadena.ca.us>
Subject: Fwd: Unpermitted Construction 1030 & 1032

Hi David

Good to see you at city Hall last week.

I wanted to follow up with Travis and Nichole's request for assistance (see emails below) on the alleged unpermitted construction occurring at the above location at 1030 and 1032 Brent Ave, just north of Oxley (which is adjacent to and north of their home).

When I met with Travis and Nichole today, they mentioned that they had requested some documents back in June 2019 from the city, but had not received everything they had requested in their Public Records Request. They are also concerned because construction continues intermittently at the location, which they believe is not consistent with plans and/or permits approved by the city.

I know we have had substantial turnover in your department and the city clerk's office, but please, at your earliest available opportunity, this week, work with the city clerks office to provide any documents that are responsive to their request and are not privileged, etc. Also, please work with staff to address and respond to their concerns about this project including permitting, alleged deviations from approved plans, ongoing construction activities, etc.

Thanks for your hard work!
Michael
Sent from my iPhone

Begin forwarded message:

From: "Nichole" <[REDACTED]>
Date: August 1, 2019 at 11:25:05 PM PDT
To: "'Michael Cacciotti'" <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

You're welcome to come over to our house. It's 1036 Brent Ave.

From: Michael Cacciotti <[REDACTED]>
Sent: Thursday, August 1, 2019 11:16 PM
To: Nichole <[REDACTED]>
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Travis and Nichole
I can meet at 2 pm. on this Sunday. - Where you want to meet?
Thanks
Michael

Sent from my iPhone

On Aug 1, 2019, at 4:06 PM, Nichole <[REDACTED]> wrote:

Hi Michael,
Thank very much for responding so quickly! We are available anytime Sunday afternoon. Would that work?

Nichole and Travis
[REDACTED]

From: Michael Cacciotti <[REDACTED]>
Sent: Tuesday, July 30, 2019 11:59 PM
To: Nichole <[REDACTED]>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Travis and Nichole,

I am usually CC'd on the email communications between our city staff and you.

I would be happy to meet. Are you available to meet this weekend in the afternoon?
Thanks
Michael

Sent from my iPhone

On Jul 30, 2019, at 3:48 PM, Nichole <[REDACTED]> wrote:

Hi Michael,

Hope you're enjoying your summer. You may remember that we reached out to you 6 months ago regarding the unpermitted construction at 1030/1032 Brent. In that email, we were clear that we wanted honesty, transparency and oversight. As of today, we have not received answers to our questions about how this project was investigated and how it keeps moving forward when there are so many problems that have not been addressed. We were very specific in our questions and have yet to receive answers. In your reply to us on February 5, you mentioned that you wanted the staff to keep you informed on how they are working to resolve this issue. Besides the below thread, has the staff informed you of anything else? We ask because in the attached email thread, we requested specific documents with repeated follow ups with no response.

It's now been over 4 years since the start of construction and 18 months since the city inspector took pictures of the unpermitted structure. This is unacceptable. We would like to have a conversation with you when you are available.

Regards,

Travis & Nichole Dunville

From: Nichole <[REDACTED]>

Sent: Monday, June 17, 2019 8:25 AM

To: 'David Bergman' <dbergman@southpasadenaca.gov>; 'Teresa Highsmith' <thighsmith@chwlaw.us>

Cc: 'Michael Cacciotti' <mcacciotti@southpasadenaca.gov>; 'Stephanie DeWolfe'

<sdewolfe@southpasadenaca.gov>; 'Code Enforcement' <CodeEnforcement@southpasadenaca.gov>;

'Alex Chou' <achou@southpasadenaca.gov>

Subject: RE: Unpermitted Construction 1030 & 1032

David,

We reviewed the plans at the counter on Friday, June 14th. Once again we are getting conflicting answers and there are still many errors that have not been addressed. The plans dated 7/28/2018 but are different from the Roybal's plans they provided us this year that are also dated 7/28/2018. It appears that the architect continues to make changes to the plans, that were not part of the original approvals, without properly

notating them on the plans. When we were in on Friday, Jose mentioned that everything has been corrected and permits are ready to be issued and paid for. While there are many errors in the plans, we pointed out just a couple of inaccuracies in the plans and stated it may be better to wait for you to come back on Monday before issuing anything and Jose agreed. The Roybals want an addition that is based on what they have already constructed illegally. These are some of the items that are different from the original approval: the pitch of the roof has increased in height, the width of the structure has increased, the footprint has moved 3ft south and every elevation has changed from what was originally approved. The original plans were conditionally approved with the addition of additional parking on the property. The approval was based on a duplex, not an ADU. Everything about this project is different than the original plans. We would expect the planning and building department to notice these changes as we have mentioned them in person and in emails.

Also, the drawings have inaccurate setback measurements that we have discussed with you and your staff. One example is the setback behind the garage. We've attached a picture of the garage setback that shows 5ft on both the original and new plans from 7/28/19. You'll see in the picture the setback is actually only 2 feet 9 inches. Besides the owner sending us a text stating that he believes he's encroaching our property with their driveway, he also poured a new wider driveway to possibly meet the minimum requirements for new construction and parking on the original approval. You may want to look at

their permits and see if they have one for the driveway and if the driveway is even wide enough to meet the minimum parking requirements for the original approval.

On February 11th we requested all public documents. We received a few select items, but not what we originally requested. After our second request to Juan on April 30th , we received an email from Miriam stating Juan is no longer working for the City on June 3rd. We sent her an email on Friday to request an update as to when we may expect those documents. We believe that the City should not move forward on this project and issue any permits until all issues have been resolved. If you disagree, please let us know.

You stated in your April 18th email that public works is in charge of the tree trimming and removal. A tree, that was never notated on any of the drawings, was cut down in 2015 to build the existing unpermitted structure and then another tree, an oak, was trimmed in March of this year without a permit and out of season. Public works was notified twice on the day in March. It's now been two months and nobody from public works has followed up.

It has now been 16 months since the city inspector took pictures of this nuisance and 4 years since tree removal, demolition of the original back porch and construction of the eyesore started. As residents of this city for 25 years, we expect more. Regarding our other concerns in our previous emails, you have not responded to our specific questions about

the approval process and how Mark G ignored the South Pasadena major review process. Will you or the City Attorney be addressing this issue?

Finally the new ordinance from 2017 repeals and replaces the previous ordinance. It appears that the city is choosing to ignore this. Why would the city choose to use the old ordinance 2315, from 1992 and not the current ordinance from July 2017?

Sincerely,
Travis and Nichole Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Monday, June 3, 2019 8:55 AM
To: Nichole <[REDACTED]>; Teresa Highsmith <thighsmith@chwlaw.us>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Code Enforcement <CodeEnforcement@southpasadenaca.gov>; Alex Chou <achou@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr and Ms. Dunville:

The development application has been reviewed by the City's Public Works Department and returned to the applicant with requests for corrections. The property has been issued a notice to correct unpermitted construction.

Please let me know if you have any additional questions.

Best

David Bergman

From: Nichole <[REDACTED]>
Sent: Sunday, June 2, 2019 11:27 AM
To: David Bergman <dbergman@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr. Bergman,

We are following up on our previous email from April 29th. Can you please update us regarding 1030/1032 Brent Ave.?

Sincerely,

Travis and Nichole Dunville

From: Nichole <[REDACTED]>

Sent: Monday, April 29, 2019 10:45 PM

To: 'David Bergman' <dbergman@southpasadenaca.gov>; 'thighsmith@chwlaw.us' <thighsmith@chwlaw.us>

Cc: 'Michael Cacciotti' <mcacciotti@southpasadenaca.gov>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>

Subject: RE: Unpermitted Construction 1030 & 1032

Mr. Bergman,

While we are glad to see you mentioned the structure will be removed, this is only part of the problem. If building permits are issued and the structure is torn down, whatever the City has approved could be rebuilt. Rebuilding the new structure is our concern since the City did not follow the ordinance and municipal code. Let's start with the investigation that originated on February 3rd or 4th of 2018. Over a year later, we receive a text from Bob Roybal on February 28th, 2019 that states: "Hi Travis, New Report. I just received a call from the new City Code Enforcement Officer Gus. The original complaint from last April regarding my patio addition just arrived at his desk. He knows nothing about it. Fortunately, I have detailed documentation on my responses and compliance to all their requests and requirements. He indicated that he would find out the present status of the matter and inform me. I also notified my architect. He replied that he is current and awaiting direction. I am pulling my hair out at this point and thinking about lighting matches! Thanks, hope we can get this done soon."

As for the COA still being valid, we would like the City Attorney to state why she believes that the COA is grandfathered in, as the new ordinance specifically states that the CHC of the South Pasadena Municipal Code is hereby repealed in its entirety and replaced with the following new CHC. We would like the City Attorney to explain directly so it doesn't get misinterpreted. Perhaps the City Attorney can explain how the Roybals will be able to get building permits without the COA and Design Review Board (DRB) certificate as well. The original COA and Design Review Board(DRB) certificates were needed to acquire building permits under that approval. The original COA is based on the approved details. The COA then goes on to state an additional COA is required for exterior changes not described in the above description and approved by the CHC. All work (alteration, demolition or exterior changes) requiring a COA shall substantially conform to the stamped approved plans dated the effective date of this approval.

As we've previously mentioned to City staffers, and to you, on our February 11th meeting and in the previous emails, we still haven't been told how the Chair was able to "approve" the updated drawings. The original approval specifically states on the certificates and stamped approved drawings that it needs to be built exactly as CHC and DRB approved. This included the addition of 2 covered parking spots. The City staffer's own timeline states on April 16, 2018 that the owner called in and spoke to a plan checker and stated that the project plans have diverted from the original plans. At that time staffers should of

stated these are considered new plans and will need to be resubmitted as a new project. There is a process that needed to take place and the former Director did not follow that process. Even if the Director did approve, which he did not, the Chair would have then needed to decide if this was a Major or Minor review. Clearly this procedure was overlooked. It would have been a good idea to include the other committee member of the CHC since this was unpermitted construction that was under investigation and diverted from the original approvals. Please let us know in as much detail as you can why the Major review was not followed or the rest of the CHC involved.

The next concern is the property line. You might remember that we mentioned the setbacks on the original plan and the current site plan were incorrect and you would investigate it. What did you find? On February 15th, 2019 Bob Roybal stated in a text:

“Also, City may require verification of property lines which would probably be a good idea anyway. I’ll let you know.”

Then the next day on February 16th, 2019 Bob Roybal texted:

“ Travis, just to let you know that, as per our conversation, our intention is to complete this process and either sell or rent and move on. We have really appreciated you all as neighbors and will leave with having increased the value of all our properties. I thank you for your patience.”

Then on February 21st, 2019 Bob Roybal texted:

“Hi Travis, still waiting on the City to process our intentions. Also, I obtained an aerial picture of our property showing property lines and setbacks. Although, these views are only prospective, they do indicate non conformity and encroachment. I will not call for a survey right now because we might sell and then I would have to declare it to any new buyers. I will wait on that. Again, we appreciate your help.”

This is making more sense to us now because when the Roybals were getting the original plans approved in 2007, they wanted to purchase a 12 inch strip of our property along the North elevation of our property. We declined the offer. Looking back, they probably didn’t have the minimum requirements for the driveway. The Roybals need to confirm their property lines.

There is no consideration of neighbors who were not living here in 2007/2008 when this was originally approved. Specifically, the owners directly behind who can see into the backyard at 1033 Park Ave. and 1029 Park. who are currently under construction and can see the addition from their property as well. Both neighbors were appalled at the process and construction of the structure. Two doors from them are more new owners. It keeps on going around the block and at least 40% of the homeowners are new to the area since the original approvals. Maybe these neighbors should have had a chance to know what is going on as well.

We are demanding transparency. We do not want a structure to be built next door to us that has not gone through the correct approval process. If they want to build a structure, they need to go through the process and let the neighbors within a 300 foot radius know what is being built. We look forward to hearing from you and the city attorney.

Regards,
Travis and Nichole Dunville

From: David Bergman <dbergman@southpasadenaca.gov>

Sent: Thursday, April 18, 2019 5:22 PM

To: Nichole <[REDACTED]>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Dear Mr. and Ms. Dunville:

Thank you for contacting me with your concerns about 1030 and 1032 Brent St. I wanted to provide you with an update on the status of the project. As I mentioned in our correspondence on April 2nd the property owner is in the process of submitting plans for new construction that will remove the unpermitted conditions. The plans for this project have been reviewed by the Planning Department for conformance with the project's conditions of approval and with the City's development codes. The City's Public Works Department received the plans for their review on April 17th. They are currently in the process of checking the plan for conformance with their conditions of approval. After they have completed their review, which is expected to occur by April 26th, the City's Fire Department will review the plans. Assuming that no major revisions are required, the property owner should be able to receive building permits for the project that will remove the unpermitted construction in the first half of May.

As I mentioned previously, as a matter of policy, the City does not move forward with code enforcement on a property when it is being reviewed for approvals that would remediate unpermitted conditions. However, once the permits have been approved, we will begin code the enforcement process as an incentive for the property owner to begin work within 30 days after the clearance of the project for building permits.

As to your other concerns, please note the following:

1. I have reached out to the Deputy City Clerk regarding items missing from your initial Public Records Request. He should be able to work with you to determine if any disclosable public records were not included in your request. He should be able to engage with you to discuss other records that may be relevant to your inquiry. I have asked him to reach out to you on this matter.
2. I have contacted our City's Public Works Department regarding the unpermitted tree trimming and removal. This department's staff manages the City's tree program and they should be able to give you the correct information on the status of the trees at the property. I have asked them to respond directly to you.
3. I reviewed your concerns about the Certificate of Appropriateness with the City Attorney. The City's historic preservation ordinance has been amended to include an 18 month expiration date on certificates of appropriateness. This is a change from the previous ordinance that did not have any time limit for these approvals. Because the certificate of appropriateness for this project was issued prior to the revision, it does not expire. If you have questions about the timing of the revisions of this ordinance I'd encourage you to reach out to the City Clerk's office for assistance.

City staff is engaged on this application and aware of the need for the property owner at 1030 and 1032 Brent to remediate any unpermitted construction. I will instruct our staff to inform me when the project has cleared its review for building permits.

Please let me know if you have additional questions or concerns.

Yours,

David Bergman

David Bergman

Interim Director

Planning and Building Dept.

City of South Pasadena

Wk: 626-403-7223

Fax: 626-403-7221

<image001.jpg>

*Help us shape the future of South Pasadena by getting involved in the General Plan and Mission Street Specific Plan updates. **Click the logo to see how!***

From: Nichole <[REDACTED]>
Sent: Wednesday, April 17, 2019 10:58 PM
To: David Bergman <dbergman@southpasadenaca.gov>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

Thank you for the update. We still have concerns that have not been addressed. We have made our position very clear; we want this addition torn down. This project has been under construction since 2015 and now we look out at an ugly plywood structure. Since they were cited building illegally, the Roybals have told us they want to rebuild it to their old plans but with many significant changes, including making the addition taller and closer to our property. We don't understand why the city would continue to ignore the municipal code and continue to assist a general contractor to build without a permit or a Certificate of Appropriateness. We requested all public documents on February 11, 2019. While we have received some documents, we have received no emails, letters or documents between June 5, 2009 and August 7, 2018. In your timeline you stated there are correspondences between the Roybals and the City during this time period. The Roybals have the certified letter dated March 13, 2018 from the City to correct the unpermitted construction. Jose Villegas showed the letter to us on January 31, 2019. When we asked him for copies of the letter and the investigation file, he stated that we would need to make a public file request. We were surprised that this letter was not in the public document file we requested; it makes us wonder what else we were not given.

We still don't understand how this process has gone on for over a year since the Roybals received their non-compliance letter and why the City did not follow the rules set in place for this type of situation. After telling you and your staff that the COA does expire and providing a copy of the ordinance in the last email, you still stated they do not expire. We'd like to point you to the municipal

code that states Certificates of Appropriateness do indeed expire. Please review City Code 2.65 (11) Expiration of Certificate of Appropriateness. A certificate of appropriateness shall lapse and become void 18 months (or shorter period if specified as a condition of approval) from the date of final approval, unless a building permit (if required) has been issued and the work authorized by the certificate has commenced prior to such expiration date and is diligently pursued to completion. Upon application by the property owner before the expiration of a certificate of appropriateness, the commission may extend the expiration date of the certificate for an additional period of up to 12 months. The commission may approve, approve with conditions, or deny any request for extension. Not only do the COAs expire, the Roybals COA had conditions to it. Their certificate stated: "This certificate of Appropriateness (C of A) is effective only for exterior changes detailed that was presented to the Cultural Heritage Commission on November 15, 2007. An additional C of A is required for changes not described in the above description and approved by the Cultural Heritage Commission." Not only did the C of A expire, so did the Design Review Board (DRB). The letter to the Roybals dated December 12, 2007 states in bold: "Assuming no appeal is filed, the planning approval is valid for one (1) year from the effective date of approval." Because the effective date was December 20, 2007, this expired over ten (10) years ago. Not only did everything expire, the Roybals requested a refund and they were refunded fees spent on this project in 2009.

Besides the expirations, we also asked about the about how the Chair "approved" this project in our February 11th meeting with you, and again in our email. You stated you would find out what happened. After six weeks, all you state is that "On August 24th, 2018 the CHC Chairman approved the revisions to the approved COA for this project." We stated that the owners didn't file for a new COA and the Chair has no authority to approve a major design review. The only item that has a mention of approval from public documents was when architect Jim Fenske tells Jose, "Mark is good with it". On August 24th Jose emailed Mark Gallatin and Mark only responds the "the site plan looks fine". Is this how plans are approved?

Early February 2018 the illegal construction was reported to the City. From the beginning of the investigation in early Feb 2018, the first email we received in the public documents we requested was from Aug 7, 2018. This is the same day we inquired about the status of the property. A few hours later Jose emailed Jim, "I was wondering if you had an update on 1030 Brent St? Can you please let me know what is going on with this project? Thanks Jose" Jim replied "I'd like to meet with Marky G. on Thursday to see what changes were made to the approved design." On August 9, 2018 Jim writes back to Jose, "I met with Mark today and he says he's ok with the redesign of the addition." On August 24, 2018 Jim sent Jose the plans for the project. Minutes later Jose writes to Mark and says, "Jim mentioned he met with you about two weeks ago and that you were ok with this project. However, a site plan should be provided because it was missing." A few minutes later Mark replies by email, "The site plan looks fine." There were no more emails until five months later on January 28th, 2019, when we went in the office at about 2pm to ask the status again. On that day we requested to see the approved plans and Jose was unable to find them and he said the architect did not have copies either. Then that evening at 5:39, Jose emailed Jim, "Let's meet on Wed, January 30 and discuss the project plans for the addition to 1030 Brent Ave. I found the approved set of copies. This is a time sensitive issue." We find it curious that neither the City nor the architect had the approved plans. It was only after we would visit the planning and building office and ask questions that emails would start up again. And why would staff from planning building reach out to an architect of a current code enforcement case? But none of this actually matters since the COA expired years ago and a minor or major project review cannot happen

without a COA. The changes that the Roybals and the architect have made to the plans would cause this to fall under a Major Project Review.

At the end of our meeting on February 11th, we talked about the tree that was cut down to build this unpermitted structure. You mentioned you would look into that. What were your findings? A search with Google Earth Pro shows the tree prior to the structure being constructed. The reason we bring this up is that on March 13, 2019, the Roybals had the oak tree in their backyard trimmed. Per the City staffers, this tree was cut out of season and without a permit. We believe this continues to show a pattern of the Roybals ignoring City regulations.

Thank you for the offer to review the submitted plans, but we already have copies of the originals from 2007 and the plans that were submitted dated July 26, 2018. That is how we know that there are changes to all of the elevations including the amount of doors, the increase in height and placement of the structure closer to our property. On February 11, 2019 we left the meeting with you feeling confident that you would investigate what actually happened, or didn't happen. So far, this is not the transparency we were expecting. We have CC'd Michael Cacciotti to assist in a resolution before this moves any further.

Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>

Sent: Tuesday, April 2, 2019 9:50 AM

To: Nichole <[REDACTED]>

Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr. and Ms. Dunville

I wanted to provide you with an update on the status of the application for development at 1030/ 1032 Brent. The property owner has been working with an architect and our staff to bring the property in to compliance with all applicable planning requirements and building codes. Please note the following:

1. The owner has submitted plans for the property that are currently waiting for Fire Dept. and Public Works Dept. review and approvals.
2. The property owner has been issued a notice to correct the unpermitted conditions at the property. As a general rule unless there is an immediate life safety issue the City does not move forward on enforcement of conditions where the property owner has applied for permits to correct the cited conditions. No building permits can be issued until the Fire Dept. and the Public Works Dept. have completed their review of the project. Building Dept. plan check and Planning Dept. plan check will proceed, once Fire Dept. and Public Works Dept. conditions are approved.
3. No building inspections have been done on this property as no building permits have been issued.

4. The Certificate of Appropriateness (COA) was issued at the November 15, 2007 CHC meeting, unlike building permits COA's do not have an expiration date. On August 24, 2018 the CHC Chairman approved the revisions to the approved COA for this project.

We are continuing to work with the property owner to ensure that the conditions on the site are brought in to conformance with the City's municipal code and that all reviews occur as specified in the City's approval process. I'd encourage you to come to the Planning Department to review the development plans that have been submitted. I will follow up with staff to investigate that any issues regarding incorrectly designated set backs are being addressed under the proposed development application.

Please let me know if you have any further questions and thank you for your patience as we work with the property owner to remediate the issues at the property.

Yours,

David Bergman

From: Nichole <[REDACTED]>
Sent: Friday, March 29, 2019 8:33 AM
To: David Bergman <dbergman@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

We received the records we requested on March 4. We've reviewed the records, time line and codes, comparing them with our own notes and timeline. We wanted to wait to give you time to review the records as well. In our conversation on Feb. 11 you stated that you were going to review the code enforcement investigation. Has that been completed? And what are your findings? We still have yet to receive any public records regarding the code enforcement violation. Based on what we received, the South Pasadena Municipal Code (SPMC) has not been followed.

In our review of the records and time line there are several big red flags.

1. There is no current certificate of appropriateness.
2. This project does not fall under minor project review.
3. The setbacks are incorrect.
4. There is no reason to waive the parking requirement.

1. In reviewing the public records there is no current certificate of appropriateness. The owner/builder cannot get a building permit until he has a Certificate of Appropriateness. The first step after being caught building illegally, according to the SPMC, would be to apply for a certificate of appropriateness. The owner would have had to apply for this within 30 days of being notified by the city. It's been over one year, and there is still no public record of a certificate of appropriateness application. This is a very experienced General Contractor who knows exactly what he's doing. He cut down a tree without a permit to begin building, demolished an existing back porch, built an unpermitted addition, claiming it's a patio, and spent three years on construction. After three years of construction, he was notified by the city to stop construction, another year has passed and it's been a total of four

years since this project began. After he was told to stop he brought in his old plans from 2007 with an expired certificate of appropriateness from 2008. It is not our job to enforce the city of South Pasadena's municipal codes. We rely on code enforcement and the building and planning office to do this job. When the codes are violated, the city has the obligation to investigate and follow the proper procedures, see below.

2.67 Enforcement and penalties. [Source](#)

(a) Unpermitted Work without a Certificate. Demolition, relocation, alteration or removal of any improvement, site or natural feature subject to the provisions of this article without obtaining a certificate of appropriateness is a misdemeanor and is further hereby expressly declared to be a nuisance.

(b) Obligations and Consequences upon Failure to Obtain a Certificate of Appropriateness. Unpermitted work, without the approval of a certificate of appropriateness pursuant to the requirements of this article, shall be addressed as follows:

(1) The director or his/her designee shall give notice to the owner of record by certified or registered mail of the specific demolition or alteration work that was made without first obtaining a certificate of appropriateness. The owner or person in charge of the structure shall apply within 30 days for a certificate of appropriateness.

(2) In reviewing the unpermitted alterations, demolition, relocation, or removal, the commission shall either:

(A) Approve the certificate of appropriateness pursuant to the criteria specified in SPMC [2.65](#); or

(B) Deny the certificate of appropriateness and require that the inappropriate alteration(s) or demolition be abated pursuant to subsection (c) of this section.

(3) If the property owner fails to apply for a certificate of appropriateness or abatement of the public nuisance pursuant to subsection (c) of this section is not possible, the matter shall be referred to the city prosecutor for further action.

(c) Abatement of Nuisance. Any work undertaken for which a certificate of appropriateness is required but was not obtained shall be deemed a nuisance. Such nuisance shall be abated by reconstructing or restoring the property to its original condition prior to the performance of work in violation of this article in the following manner:

(1) Covenant to Reconstruct Within One Year. Within 30 days of the effective date of the commission's denial of a certificate of appropriateness, the owner of the property shall execute and record a covenant in favor of the city to do such reconstruction or restoration within one year of the effective date of the commission's decision to deny a certificate of appropriateness. The form of the covenant shall be subject to approval by the city attorney, and shall run with the land.

(2) Time Extension on Covenant. Upon application to the commission, the time may be extended on a covenant to reconstruct if the owner shows the work cannot reasonably be performed within one year.

(3) City Action. If the owner refuses to execute and record such covenant, then the city may cause such reconstruction or restoration to be done, and the owner shall reimburse the city for all costs incurred in doing the work. The cost of the work performed by the city shall constitute a lien against the property on which the work is performed. Restoration or reconstruction may only be required when plans or other evidence is available to affect the reconstruction or restoration to the satisfaction of the director.

2. This project does not qualify for a minor project review. According to the SPMC, a project that qualifies for a minor review does not change exterior features and is fewer than 200 square feet. This is an entirely new project that is well over 200 square feet and dramatically changes the exterior of the house and has shifted to the south and is visible from the street. The proposed addition is completely different than the 2007 project on all elevations, including the height and pitch of the roof.

- The north elevation called for a single door, exterior wall chimney in between, and another single door. Now, there is no chimney and one set of French doors. The north elevation is moved south more than three feet.
- The east elevation originally called for a set of French doors with glass panel/lights on each side. Now, the east elevation has two sets of French doors. The height of the roof was 14'11", it has been changed to 16'2".

- The south elevation was a single door with glass panel/lights on each side. The new plans call for a set of French doors. The south wall is moved over more than 3 feet to the south, covering an existing bedroom window.

This addition is a major project review. See SPMC below.

(4) Minor Project Review. A certificate of appropriateness may be obtained by going through a minor project review if it involves: demolition or relocation of non-character-defining features; noncontributing additions, garages, accessory structures or incompatible and previously replaced windows, doors or siding material; any undertaking that does not change exterior features such as re-roofing if the proposed roofing material is comparable in appearance, color and profile to the existing or original roofing material; replacement of windows and doors if the proposed replacements are of the same materials, form, color, and location as the existing or original windows and doors; an addition of less than 200 square feet proposed for the side or rear elevations (not visible from the public right-of-way) and does not materially alter the features or have an adverse effect on the historic integrity of a cultural resource; minor changes to a previously approved certificate; or any other undertaking determined by the director or his/her designee to not materially alter the features or have an adverse effect on the integrity of a cultural resource.

(A) Requirements. The required application materials for minor project review shall include, without limitation: a written narrative of the proposed project, a vicinity map, a site plan, exterior elevations drawn to scale, a window and door schedule, and photographs of the structure and the neighborhood.

(B) Review Process. After the certificate of appropriateness application for minor project review is deemed complete by the director or his/her designee, the commission's chairperson (the "chair"), or his/her designee, shall evaluate the application to determine its eligibility for minor project review. If the proposed project meets the eligibility criteria for minor project review, the commission's chairperson, or his/her designee, may elect to do one of the following:

(i) Approve the Certificate of Appropriateness. If the proposed minor project is deemed consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city of South Pasadena's adopted design guidelines, the commission's chairperson or his/her designee may approve the proposed project;

(ii) Consent Calendar. If the chair, or his/her designee, determines that the proposed minor project needs additional review by the commission, he or she may elect to place it on the commission's next meeting agenda. Such project shall be noticed pursuant to subsection (e)(7) of this section, Public Notice Requirements, as a consent calendar item on that agenda; or

(iii) Deny the Certificate of Appropriateness. If the proposed minor project is deemed to be inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city's adopted design guidelines, the chair or his/her designee may elect to refer the proposed project to the entire commission through the certificate of appropriateness (major project review) procedure pursuant to subsection (e)(5) of this section.

Major Project Review. The certificate of appropriateness application must be accompanied by any fee as required by the city of South Pasadena and documentation as the commission shall require, including without limitation:

(A) Written Narrative. A written narrative of the project indicating the manner and the extent in which the proposed project is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city of South Pasadena's adopted design guidelines.

(B) Landscaping Plan. A plan that accurately and clearly displays the following: existing trees on the project site that are subject to this city's adopted tree ordinance as set forth in Chapter 34 SPMC; species of all trees and their appropriate trunk diameter, height, and condition; proposed final disposition of all existing trees; the extent and location of all proposed vegetation; species and planting sizes of all proposed landscaping along with the provisions for irrigation and ongoing maintenance; an irrigation plan; and indication of all hardscape along with the exterior of all structures and amenities, including colors and materials keyed to a materials and colors board as appropriate.

(C) Site of Plot Plan. A site or plot plan drawn at an appropriate scale that reflects the proposed project including: areas of alteration and/or demolition, property lines, and all recorded or proposed easements and public rights-of-way. The site plan shall also indicate the footprint of buildings on adjacent properties.

(D) Floor Plan. Building floor plans and building sections at a scale of at least one-eighth inch equals one foot.

(E) Elevations. Exterior elevations specifying all exterior materials with critical dimensions and existing character-defining features clearly indicated.

(F) Exterior Finishes. Materials, colors, and finishes clearly indicated on elevation drawings and keyed to a materials and colors board including light reflectance values, a clear indication of the appearance, location, and light effects of all exterior lighting fixtures, and a two-point perspective rendering showing proposed structures with profile drawings of the adjoining structures from an eye-level elevation.

(G) Window and Door Schedule. All doors and windows labeled with symbols that correspond to the labeling on the floor plans and elevations. The door and window schedule is a table containing the following information: existing and new window and door sizes, window and door manufacturer information, exterior finish, fabrication material, operational type, glazing information, divided lite details, and window muntins details when applicable.

(H) Photographs. Photographs of the site and its surroundings to document the existing conditions and provide a complete understanding of the property and its neighborhood context. This includes photographs of the site and adjacent properties for a distance of 300 feet from each end of the principal street frontage, as well as properties opposite the subject and adjacent properties. The photos shall be mounted color prints, supplied from continuous views along the principal streets, along with a key map provided indicating the relationship of all views to the parcels, streets, and related features.

(I) Other Documentation. Documentation as may be required to understand the history of previous construction on the property including but not limited to: a series of site plans illustrating the chronological order of construction of permitted and nonpermitted work, the construction or removal of character-defining features, or building permits.

(J) Scale Model. Although not a mandatory requirement, a three-dimensional scale model, a perspective view, or other similar types of graphic information may be recommended for a complete understanding of a proposed project.

3. The setbacks on the drawings are incorrect. It is our understanding that no one on the staff has been to the jobsite to verify any information. The setbacks on the plans on the south state "varies". The owner believes that he is encroaching on our property and told us that the city will require property line verification. On Feb. 21, 2019 the owner wrote to us and said "Hi Travis, still waiting on city to process our intentions. Also, I obtained aerial picture of our property showing property lines and setbacks. Although, these views are only prospective, they do indicate nonconformity and encroachment. I will not call for a survey right now because we might sell and then I would have to declare it to any new buyers."

4. The approval of this project in 2008 required the addition of covered parking. There have been conversations about converting the duplex into an ADU to skirt the parking requirements. The parking requirements for this project should not be waived. We are one block away from Fair Oaks and our street parking has been impacted by Mosaic and Blaze. The Blaze parking lot is almost always full and spills onto Oxley and Brent. With the addition of Burger Time, next door to Blaze, parking will even be more impacted. If Wells Fargo or Rite Aid were to sell or develop their parking lots, parking on Brent would be even worse. With rising cost of housing most of the apartments in our neighborhood are inhabited by couples or families as opposed to several years ago when many of the apartments were occupied by single people. The additional residents in apartments that do not have off street parking impact our street parking even more. Waiving a parking requirement for a property on a busy street is short sighted.

Every day when we look out the windows on the north side of our house, over the past four years, we are faced with a huge structure that has been illegally added and is out of proportion with the house (see attached picture). The noisy construction has been a nuisance and the addition is an eyesore. The uncertainty and duration of the project and the tension it has created between the neighbors and us is causing us physical and emotional stress. We feel uncomfortable being in our backyard and along the north side of our house. The time we have spent researching municipal codes, going into the planning and building office and documenting the situation is taking time up too much time. We have been lied to by the neighbor who told us he was building a patio, now that he has been caught -over a year ago- and

is being forced to comply with the building codes, he is trying to tweak his design on the same footprint which would allow him to build a bigger structure, that is higher and wider, and more than 3 feet closer to our property than what he originally had planned back in 2008. We are asking the city to do its job and protect the integrity of its historic resources and neighborhoods. We request that this structure be removed, with the possibility of additional penalty.

d) Additional Penalty. With respect to a violation of this article on a landmark or an improvement within a historic district, or on a building or structure listed on the inventory of cultural resources, no building or construction-related permits shall be issued for a period of five years following the date of demolition or complete reconstruction pursuant to subsection (c) of this section, whichever occurs last, for property on which demolition has been done in violation of this article. No permits or use of the property as a parking area shall be allowed during the five years if plans or other evidence for reconstruction or restoration of a demolished structure do not exist, or if the reconstruction or restoration is not completed for any reason. Permits which are necessary for public safety or welfare in the opinion of the director may be issued.

We look forward to hearing from you soon.

Regards,

Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>

Sent: Tuesday, February 19, 2019 10:59 AM

To: [REDACTED]

Subject: RE: Unpermitted Construction 1030 & 1032

Mr. and Ms. Dunville

Please see the attached chronology [The property owner has been contacted about existing unpermitted construction](#)

On November 15, 2007; the CHC approved the “293 sq. ft. addition on the first floor and a new 555 sq. ft. second story, for a total of 848 sq. ft. This addition will be located in the rear of an existing single story 1,332 sq. ft. Craftsman house on a 7,436 sq. ft. lot. The addition on the first story will consist of adding a new family room. The addition on the second story will add a master bedroom, two walk-in closets, a master bathroom, and a sitting area. All proposed materials will match existing materials.”

On December 4, 2007: the DRB approved the “293 sq. ft. addition on the first floor and a new 555 sq. ft. second story, for a total of 848 sq. ft. This addition will be located in the rear of an existing single story 1,332 sq. ft., Craftsman house on a 7,436 sq. ft. lot. The addition on the first story will consist of adding a new family room. The addition on the second story will add a master bedroom, two walk-in closets, a master bathroom, and a sitting area. All proposed materials will match existing materials.

On March 13, 2018; the Building Inspector did an investigation inspection in regards to the unpermitted construction taking place at 1030-1032 Brent Avenue. Staff received an anonymous call from a concerned resident reporting the unpermitted construction. A correction noticed was left with the property owner, informing him of the violation and to contact the Planning and Building Dept.

On April 9, 2018; the Community Improvement Coordinator, Marlon Ramirez sent the property owner a letter with options on how to resolved the unpermitted construction.

On April 16, 2018 Property owner contacted the City stating his intention to comply with notice of correction. He had a conversation with the plan checker, project plans have diverted from the original approved plans. The project did not comply with the required parking four cover parking spaces and one guest parking.

On April 16, 2018 Community Improvement Coordinator received a second call for the same violation.

On April 27, 2018; property owner met with the CHC Chairman Mr. Gallatin regarding his proposal for the 293 sq. ft. single story addition. The CHC approved project was revised to only include the single story addition only. Property owner stated that he was doing the designs drawings himself.

May 3, 2018; property owner met with the CHC Chairman again, and provided a revised set of plans that included the required covered parking. Four covered parking spaces and one guest parking.

On May 9, 2018; Property owner wrote a letter replying to Mr. Ramirez (received on May 14, 2018) confirming all unpermitted construction has stopped, and plans for an ADU have been submitted. Property owner wanted to confirm the deadline has been extended as he has been working to resolve this situation.

On May 18, 2018; Property owner wrote another letter to Mr. Ramirez (received on May 21, 2018). After speaking with the Plan Checker, additional information will be required to convert the existing second unit to an ADU.

On August 24, 2018; the CHC Chairman approved the proposed change to the 2007 CHC project. A 293 sq. ft. single story addition with exterior materials to match the existing was approved.

On January 11, 2019; Mr. Jim Fenske submitted the plans for the 1030-1032 Brent Avenue ADU conversion.

On January 31, 2019; Jim Fenske met with the CHC Chairman. The Chairman confirmed he was reviewing the same project he approved in August 2018.

From: dunvillefisk@earthlink.net <dunvillefisk@earthlink.net>

Sent: Tuesday, February 19, 2019 9:58 AM

To: David Bergman <dbergman@southpasadenaca.gov>

Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

We appreciate the time you took to meet with us last week, on Feb. 11 regarding the illegal construction taking place at 1030 and 1032 Brent. Directly after our meeting, as you suggested, we requested copies of the public records pertaining to 1030 and 1032 Brent. We would like to know what steps the Planning and Building Department have taken and are taking in the investigation of illegal construction at 1030 and 1032 Brent between February 2018 – February 2019. We would also like to request a copy of the chronology and review your staff prepared that you referred to in the previous email. Over the weekend the owner notified us in writing that it's "looking like a major room addition will take place" and "our intention is to complete this process and either sell or rent and move on." We request that this project not move forward until a thorough investigation has taken place.

We thank you for your attention to this matter.

Regards,
Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Tuesday, February 5, 2019 10:27 AM
To: Michael Cacciotti - Personal <[REDACTED]>; [REDACTED]
Cc: Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>
Subject: Re: Unpermitted Construction

Hello Council Member Cacciotti:

Thank you for bringing this matter to my attention. Other than the request for an appointment next Monday this is the first I have heard about this matter. Although I'm not in the office today I have requested that my staff prepare a chronology and review of what has happened. I will brief you and Stephanie as soon as I am able to.

Best

David Bergman

Get [Outlook for iOS](#)

On Tue, Feb 5, 2019 at 10:13 AM -0800, "Michael Cacciotti" <macacciotti@yahoo.com> wrote:

Hi Nichole and Travis,

Wow, sorry for the inconvenience,frustration and uncertainty this project has caused you.

Since this issue/home construction project seems to be somewhat complicated by its history and city code's involved, my best recommendation is to provide our staff with the background information you have provided so Mr. Bergman is informed when he meets with you next Monday 2/11/19.

Consequently, I am including Mr. Bergman, the city manager and City attorney on this email so that they are aware of this issue and can work with Mr. Bergman and our Planning and Building Department to properly assess all the facts and determine how we can best assist you with your request.

I am also asking staff to keep me informed of how we are working to resolve this issue.

Thanks

Michael

Sent from my iPhone

On Feb 1, 2019, at 1:11 PM, <dunvillefisk@earthlink.net> <dunvillefisk@earthlink.net> wrote:

Hi Michael,

Hope all is well with you. We're enjoying the open space on Park Ave. and are looking forward to working on tree and shrub planting with my friend from Edison very soon.

We have a separate issue that we thought you might be able to advise us on since we noticed that you are the city council liaison for the Cultural Heritage Commission. Our neighbor went through the process to build an addition to their house in 2007. The additional square footage was contingent on them adding covered parking spaces in their backyard. They decided to not go through with the addition and got a refund for the plan check in 2009.

In 2015, the neighbor, who is also general contractor, started building the addition himself, working on it part-time. After three years of intermittent construction, something very different than the original plans has emerged. An inspector issued a stop work order in Feb 2018 since the work was unpermitted. We've followed up with Building and Planning and talked to the owners but have not been able to get a straight answer about the future of the unfinished addition. First, Building and Planning said that it had to be torn down, then we were told that the city said the neighbor's duplex had to be turned into an ADU to avoid the city's additional parking requirements, then we were told that the illegal addition was approved by the Chairman since they had already gone through CHC and DRB in 2007. On Tuesday 1/29/19 we went into Building and Planning and were told it had not been approved. We went back Thursday 1/31/19 and were shown a new set of drawings that had been approved and signed shortly before we arrived. Building and Planning insisted that the plans had actually been approved in August of 2018 but the Building and Planning office lost the signed and stamped plans and the architect had lost his signed and stamped set as well. Our next step is to talk to the new Interim Director of Planning and Building, David Bergman. We are meeting with him Monday February 11th, his first available appointment time.

The frustrating part of this process has been living next to unfinished construction since 2015, not knowing when it will be finished and what it will ultimately look like. It's been a nuisance. Right now there is a large 20' by 20' flat roofed structure with plywood siding and no windows or doors in the openings. The neighbor/builder even recently called it a monstrosity that he said he built on a whim. As much as we value the friendly relationship we have with our neighbors, our patience with this project is wearing thin. We have made many trips into Building and Planning to ask about the status, and the latest seems to be that the neighbor will be able to keep the structure, with modifications to the elevation plans that allow it to be wider, closer to our property, cover existing windows and 15% higher. We're surprised at the Building and Planning office's eagerness to approve this addition.

We're asking for honesty, transparency and oversight. The city has taken great care and time in developing codes and ordinances to keep people safe and maintain the historical integrity of South Pasadena homes. We would like the addition either removed or rebuilt adhering to the size and details of the original plans of the first story addition.

We appreciate all you do for the city and want to thank you in advance for your advice.

Sincerely,

Nichole & Travis Dunville

<mime-attachment>

From: Nichole <[REDACTED]@net>
Sent: Thursday, December 5, 2019 2:46 PM
To: 'Joanna Hankamer' <jhankamer@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Dear Joanna,

Thank you for the taking time last week to meet with us. Because an hour and fifteen minutes flew by, we really just scratched the surface of this complaint. We understand that you are still reading and digesting our email thread and have not been able to review any other documents so far.

In our meeting, you mentioned looking into bringing the structure into compliance and said you would need to see what they could legally build, but we think the City needs to address the bigger issues first. Misrepresentation and fraud were committed to get the original project conditionally approved. And the ongoing and unfinished project we have had to live next door to continues to be a nuisance. This needs to be addressed. Below is a list of the fraudulent measurements and misrepresentations on the original approval:

- Misrepresented the space between their house and the property line on the south driveway side (They knew they needed more space because they tried to buy land from us to increase this area).
- They claimed to have enough space to build a carport that was required for the addition and lied about the size of the space of this area. The necessary easement would never allow the proper carport size for the conditional parking.
- Neglected to include existing trees on the plans that were in the direct path of the carport parking.
- Cutting down a mature tree and lying to the City about the size of the tree in the investigation when the narrative and site plan stated no trees to be cut, trimmed or removed.
- Changing the dimensions of the duplex to create the appearance of more clearance to fit a car through to the carport.
- Design Review Board accuracy of drawings. The owner was given a correction notice after submitting his plans on October 31, 2007 and on Dec. 4, 2007 in the Design review minutes, Fenske responded to the Board's questions about the accuracy of drawings. Even after he was asked about the accuracy of the drawings, he still did not correct the measurements.
- Required 10ft minimum between structures. See attached picture. Duplex and illegal structure are 8ft apart. We didn't get a chance to talk about this detail when we met, but you will see in the attached picture that between the illegal addition and the duplex, there are 7 ft between structures. It may be 8ft if accounting for the eaves and overhang. The City's minimum between structures is 10ft and Jim Fenske detailed on the plans 10ft. The illegal addition was built on the same footprint as the as the original plans and neither are 10ft away from the existing duplex.

All of these details were measured by the architect by hand and if all these items were on the site plan correctly to begin with, this project would not have been approved. This is critical since the owner and architect misrepresented the measurements to meet minimum setbacks and easements, even after he tried to acquire extra land and proceeded to use measurements that would make their property look like it was in compliance to the reviewing committees. Since the addition is based on the original 2007 approval and COA and obvious fraud was committed, the City has the authority to revoke the COA and stop this from continuing. A Certificate of Appropriateness may be revoked or modified for any of the following reasons:

A. Non-compliance with any terms or conditions of the certificate.

- B. Non-compliance with any revision of this article; or
- C. A finding of fraud or misrepresentation used in the process of obtaining the certificate.

We know the City does not have the bandwidth to handle every possible building infraction, but when South Pasadena resident and licensed architect, Jim Fenske, who has served on the Design Review Board and knows the workings of Planning and Building intimately, intentionally misrepresented the measurements, and was then asked in a second correction letter to correct these items and still proceeded with the same information, this should be cause for serious concern.

Kind regards,
Nichole Dunville

From: Joanna Hankamer <jhankamer@southpasadenaca.gov>
Sent: Tuesday, December 3, 2019 2:44 PM
To: Nichole Dunville <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Nichole,

Thank you and Travis again for taking the time to meet with me, and to review again the details of the code compliance complaints you've submitted to the City. We will be better able to pursue compliance because of the overview you provided.

Please feel free to reach out to me in a few weeks regarding the status of your complaint.

Joanna Hankamer
Director of Planning & Community Development
City of South Pasadena

From: Nichole Dunville <[REDACTED]>
Sent: Thursday, November 21, 2019 3:58 PM
To: Joanna Hankamer <jhankamer@southpasadenaca.gov>
Subject: Re: Unpermitted Construction 1030 & 1032

Thanks, yes Tuesday the 26th at 5:00 works for us. Thank you very much! We look forward to meeting you.

Nichole

On Nov 21, 2019, at 2:13 PM, Joanna Hankamer <jhankamer@southpasadenaca.gov> wrote:

Hello again. I just realized that Tuesday is the 26th (not 27th). Does Tuesday work for you?
-Joanna

Sent from my iPhone

On Nov 21, 2019, at 2:11 PM, jhankamer@southpasadenaca.gov wrote:

Hello Nichole,
How about 5pm Tuesday? We can meet in my office on the first floor.
-Joanna

Sent from my iPhone

On Nov 21, 2019, at 1:42 PM, Nichole Dunville <[REDACTED]> wrote:

Hi Joanna,
Thank you for your response. We're available on Tuesday the 27th, either in the morning anytime before 12:30 or in the afternoon after 4:00. Let me know if there's a time in there that works for you.
Thanks!

Nichole

On Nov 21, 2019, at 11:33 AM, Joanna Hankamer <jhankamer@southpasadenaca.gov> wrote:

Hello Nicole,
I left a message for you yesterday morning and am following up to ask if you would like to meet in person to review your complaints.
Thank you,

Joanna Hankamer
Director of Planning & Community Development
City of South Pasadena

From: Nichole <[REDACTED]>

Sent: Sunday, November 17, 2019 11:09 PM

To: Tamara Binns <tbinns@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>; Dr. Richard Schneider - Personal <[REDACTED]>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; mkhubesran@southpasadenaca.gov; Michael Cacciotti - Personal <[REDACTED]>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Diana Mahmud <[REDACTED]>; Joanna Hankamer <jhankamer@southpasadenaca.gov>

Subject: RE: Unpermitted Construction 1030 & 1032

Stephanie, thank you for your response and willingness to look deeper into this project. However, we do not understand why the City continues to ignore its own ordinances. Planning and Building seems to be going out of its way to find loopholes to allow this homeowner to continue adding onto his unpermitted addition and circumvent required parking. As a General Contractor, he is aware of the ordinances and the required processes. The relationships that exist between Planning and Building staff, the homeowner, the architect for this project and the Chair appear to be very chummy with emails that

demonstrate willingness to do favors for each other while ignoring city ordinances. And the city has yet to fulfill our request for public documents from February 2019.

Here is a summary: Our neighbor, who is a general contractor, had an addition conditionally approved in 2007. The conditional approval was based upon the addition of covered parking on the property. In 2009 he changed his mind and requested a refund for the fees he'd paid. No construction was ever started. Years later, in 2015 he started building a patio with a concrete foundation and a flat roof attached to his house. He cut down a tree and tore off the back porch, none of this was approved or permitted. After almost 3 years of construction, in 2018, he installed 12 doors vertically and horizontally to enclose the patio/addition. We went to the city to see the permits but there were none.

As a City Manager, we knew it would be difficult to understand the history since you are using the same incorrect information from the timeline David Bergman's staff created and only referencing items from February 1, 2019 - present day. Since the city inspector came to our house to look at the addition through our windows the first week in February 2018, until our email to Michael Cacciotti a year later in February 2019, no one from the City ever was proactive and reached out to us for one update or asked any questions after that visit. During that period, we called and went into the office asking for updates. We met with the interim director David Bergman but he was unwilling to hear our complaints or even look at our documents. There were specific questions that you and David still have not answered and maybe we will get the responses once our public document request is complete. Below is information regarding ADUs, COAs, Major vs. Minor Reviews, Code Enforcement, tree removal and trimming, property lines and setbacks that may help you reevaluate your assumptions.

- Converting to an ADU only to circumvent parking requirements
- ADU only allowed on lots 12,500 sq/ft per 2016 SPMC which is current. This property is 7,500 sq/ft
- Property Lines and setbacks written incorrectly on blueprints
- Illegal tree removal and illegal trimming of Oak Tree
- Unpermitted driveway

To City Council-

If you read the email thread that started on February 1, 2019, thank you. We realized that you have not received any other supporting documentation, so we thought it would be best to include it in our response to Stephanie DeWolfe's most recent email to us.

If you haven't read it, we understand and ask that you please review the patio images in this email. This is what we currently see from our bedroom, bathroom, kitchen, laundry room and backyard every day since construction started in the summer of **2015**. The one at night shows the patio enclosed with glass doors. We will also share the timeline of construction per Google Earth and street view.

If Stephanie Dewolfe is still not concerned about what really happened, we ask you this; if you do think there are items that concern you, please let her know. We have tried to get this unpermitted construction to stopped, but you will see our concerns were ignored when valid points were brought up and not followed through. City Council has the power to revoke the COA. We ask that you consider revoking the COA.

This us what we look at every day from our bedroom, kitchen, bathroom, laundry and backyard.

<image001.jpg>

<image002.jpg>

<image004.jpg>

<image006.jpg>

<image008.jpg>

Below is the construction timeline from Google Earth from the original approval in 2007-2019.

<image010.jpg>

2007 with two trees in the backyard circled in red and the required trellis area in yellow for parking.

<image012.jpg>

November 2009- Two trees in the backyard and no construction.

<image014.jpg>

March 2011- Two trees and no construction

<image016.jpg>

April 2013- Two trees and no construction

<image018.jpg>

April 2014- two trees and no construction

<image020.jpg>

March 2015- two trees and no construction

<image022.jpg>

December 2015-Tree removed and framing started in the summer of 2015. **6 months** of construction.

<image024.jpg>

February 2016 Framing and no concrete. **7 months** of construction.

<image026.jpg>

October 2016- flat roof is on and no concrete. **15 months** of construction.

<image028.png>

March 2017-Roof on and no concrete. **20 months** of construction.

<image030.png>

March 2018 concrete has been poured and visible from the south and east roofline. **2 years 8 months** of construction.

Below is our response to Stephanie DeWolfe's email.

For clarification:

Black-Stephanie DeWolfe quoting our email

Red-Stephani DeWolfe's response to us (SD)

Black-Our response to her

Conflicting information regarding the project status in February 2019: 1. "Building and Planning said that it had to be torn down..." 2. "...had to be turned into an ADU..." 3. "...illegal addition was approved by the Chair..." 4. "...told it had not been approved." 5. "show a new set of drawings that had been approved and signed..."

SD: To clarify the Project status, here is a timeline of the Project. The original Project was submitted in 2007 and included an addition to the rear of the primary residence and a second story addition. The proposed Project was approved by the Cultural Heritage Commission on November 15, 2009 (2007). Permits were pulled and construction began soon after the approval, but was later halted and permits withdrawn by the property-owner.

At no time did **any** construction start on this project and the approval was in 2007 not 2009. The homeowner requested a refund of fees paid in 2009 and was granted the refund. A City staffer confirmed this with us but would not tell us the amount refunded or provide a copy. This is a public record that we would like to see and should have received on our original public records request. Construction started in 2015 with the removal of a tree and porch on the back of the house.

You stated construction began soon after. Can you please elaborate on why you believe this to be true? Who told you this and what construction began soon after? The more details the better and any supporting documents would be helpful. We have been told many things from City Staffers that we later discover to be untrue. Jose was the only employee around at that time, so we assume it is him.

SD: In March of 2018, it was brought to the City's attention that there was unpermitted construction of a covered patio adjoining the primary residence. On April 9, 2018, City Staff issued a Correction Notice to the property-owner and Notice to Stop Work.

This issue was actually brought to the attention of Edwar Sissi who recently left the City and is now employed with the City of Pasadena and Jose Villegas in **2017** with anonymous calls until we actually came into the office. We encouraged Edwar and Jose to view it from our property, view from the sidewalk or look via Google Earth. Finally, we requested the City Code Enforcement Officer to investigate. He came into our house the first week of February 2018, so the City actually knew prior to March of 2018 as you stated in your response. We never found out why it took over 60 days for the City to issue a correction letter from the initial pictures that were taken. We requested a copy of this too, but Jose Villegas stated we needed to get it through public records. We never received a copy of this in our public records request.

SD: In January of 2019, the property-owner returned with minor changes and reduced the project to a 293 sq. ft. single-story addition, including revised design of windows and doors, to replace the unpermitted covered patio. The Commission approvals were still in effect and staff approved the reduced scale of the Project as being in compliance with prior approvals. These changes were approved by the Commission Chair, as required by ordinance.

SD: On July 10, 2019, the property-owner requested a Chair Review to add approximately 36 sq. ft. to the first-floor addition that was previously approved. The 329 sq. ft. addition is pending review.

You mention the owner returned with minor changes and reduced the project to 293 sq. ft to comply with prior approvals. Why would they come back and ask the City to consider an increase in square footage 7 months later in July 2019? The only reason the owner requested the extra 36 sq/ft is because his structure is already built, the concrete is poured and he wants to use the footprint he has already built and not the originally approved footprint. We thought the Chair "approved" these drawings in August 2018. Why are there more changes? We brought this up to David Bergman in our February 11th meeting and in the emails and have yet to receive an answer. Also in the afternoon on January 28th, 2019 we came into the office and wanted to see the approved plans(see the City timeline). Jose was unable to locate them. About two hours later Jose was able to find them, but neglected to contact us. Instead he emailed the Jim Fenske the architect and stated "Let's meet on Wednesday January 30 and discuss the project plans for the addition of 1030 Brent Ave. I found the approved set of copies. This is a time sensitive issue."

<image032.jpg>

Here are more problems with this project approval process.

Original DRB approval- All work needs to conform to stamped approved plans, this does not. Planning approval from DRB is valid for one year. This expired in **2008**.

Here are some issues with the changes from the original design.

South: Single door changed to a set of French doors and the room is expanded and now covers a window on the east side of the house.

East: French door changed to two sets of French doors.

North: Single door, Chimney, Single door changed to a set of French doors without a chimney.

The layout is almost exactly what the owner was caught with in February 2018.

<image034.jpg>

<image036.jpg>

<image038.jpg>

There are several reasons why this cannot qualify for a Minor Project review. A Minor Project review does not include structures over 200sq/ft, an increase in the height of the roof from 14ft 11" to 16ft 2", covering of an original window that was not originally approved, moving the entire footprint south more than 3ft while being visible from the public right-of-way on Brent Ave and Park Ave. These would require a Major Review with notification to the neighbors, which was not done.

<image040.jpg>

<image042.jpg>

<image044.jpg>

SD: Is there an ADA concern here that I missed?

No, we are unaware of an ADA issue.

SD: In January of 2019, the property-owner submitted plans to convert the second unit into an Accessory Dwelling Unit (ADU). The conversion would require the removal of the electrical and gas meters. On March 4, 2019 the plans were reviewed by staff for Zoning Code compliance and approved. On July 11, 2019, the property-owner pulled electrical permits to remove the electrical meter and on October 1, 2019, the property-owner pulled plumbing permits to remove the gas line to duplex.

Would you not agree that the intent of an ADU is to create new housing in California? David Bergman agreed with this when he spoke with The California Department of Housing and Community Development (CDHC). Give them a call and have a discussion with them. They will also say that if the duplex were to be expanded, that too does not justify creation of an ADU. A duplex just isn't an ADU.

Jose recommended two options to bypass the parking requirements that were **originally a condition** of the original project. Either demolish the unpermitted construction or convert the duplex to an ADU.

Jose Villegas stated convert to ADU(aka SPMC 36.350.200) or SPMC 36.360.090(F). Below is the email and images of both codes. The owner's property does not comply with either. SPMC 36.360.090(F) doesn't work because the CHC already approved the parking under the trellis.

The current SPMC 36.350.200 was passed in 2016 and signed by Michael Cacciotti and Terri Highsmith and requires an ADU to meet a minimum lot size of 12,500sq.ft. for an approval and not be visible from the street. The owner's lot is less than 7500sq.ft and the duplex is visible from the street, even with the new tree they planted. Why would the City ignore its own ordinance? At that time, Jose's second option would be to it tear down.

While we know that new legislation for ADUs lot sizes will change in 2020, we want to make sure everyone is aware that in **April of 2018** the City was having discussions with the owner about converting this into an ADU and state legislation was not introduced until **2019**. In **August of 2018** there were discussions of bypassing the parking. Everyone on that email was in agreement that there is **really no change to the structure**. In the emails below dated February 8th and 15th of **2019**, you will see what transpired. At that time, Jose's option to demolish would have been appropriate and would still be appropriate today. Please note that we met with David Bergman on February 11th with this concern and he ignored us.

February 8, 2019, Jose emailed David explaining "what was holding up this project" which he stated was the original parking requirement from the original COA, DRB that was a conditional requirement for approval. Jose failed to address the previous years' worth of information that we brought up as our concerns then and now. Why didn't David Bergman know about this issue?

February 11, 2019, we met with David Bergman to ask questions and find out why the project was moving forward. We tried to explain the history of the ongoing construction but he refused to even look at our pictures and documents. We now know that he did not have the entire story and why he was so confused in our meeting.

February 15, 2019, Jose reviewed and approved the ADU conversion 4 days after our meeting with David to avoid the original parking requirements of the COA, DRB and CHC requirements. It doesn't appear as if there was any actual follow through after our meeting with David.

David and Jose ignored the SP Code and waived the parking requirements on an unpermitted addition. This just doesn't make sense. The property is one block from Fair Oaks, between Mission and Monterey. Parking in the area is impacted by Blaze Pizza and Mosaic Church. Employees and customers from the stores on Fair Oaks that don't have parking lots, use Brent for parking. It is shortsighted on the part of Planning and Building to allow a homeowner to add onto their house and remove parking requirements from the COA, DRB and CHC from 2007. In this area there are some homes and many apartments that do not have onsite parking so they park on the street. With the housing shortage and increase in rents, there are more occupants per unit now than in 2007, making street parking more impacted than it was 12 years ago. Why would Planning and Building overlook this detail?

<image046.jpg>

<image048.jpg>

<image050.jpg>

<image052.jpg>

Whose name is redacted below? That person told Jim Fenske what was required for the ADU in August of 2018. You'll see the owner's name (Robert) is in the next paragraph, so we assume it's not him. This shouldn't be redacted since there doesn't appear to be any privilege. Can you please let us know who assisted in the ADU conversion discussion? You will also see that Mark, Edwar and Jim discussed the fact that the existing unit's use would not change.

<image054.jpg>

Expiration of the original Certificate of Appropriateness

SD: The previous code section regarding the Certificate of Appropriate (COA) did not establish an expiration date for COAs. On July 19, 2017, Ordinance No. 2315 was adopted to repeal and replace Article IVH (Cultural Heritage Commission) of Chapter 2 (Administration) of the South Pasadena Municipal Code (Code) which established an eighteen-month expiration date for COAs. This Code section does not apply to the Project since the original approval of the COA preceded the adoption of the ordinance in July 2017. Consequently, the original COA does not have an expiration date.

Since you mentioned that the COA is based on the project, you should have reviewed the conditions for getting permits on the original approval. The DRB approval was only valid for 1 year which expired on December 20, 2008. See image below. This is almost 11 years later. Why is the city using this project as the bases to get everything approved?

Even if the COA was still good, which we think is debatable, an additional COA is required for exterior changes not described in the above description and approved by CHC. The COA needs to conform to the stamped approved drawings. See the images below.

<image056.jpg>

<image058.jpg>

Authorization for a Chair Review and difference between a Major and Minor Project Review and request for a copy of the Chair Review Application

SD: The modifications to the previously approved Project plans were considered minor and therefore were subject to a Minor Project Review. Chapter 2, Article IVH, Section 2.65 (Certificate of Appropriateness – Alteration and Demolition) establishes that a Minor Project Review may be conducted if it involves “replacement of windows and doors if the proposed replacements are of the same material, form, color, and location...” or “minor changes to a previously approved certificate...” As defined by the Code a Chair Review was appropriate for the review and approval of those changes. Currently, there is no formal application for a Chair Review. Project applicants that are subject to a Chair Review are requested to visit City Hall to meet with the Chair to discuss their projects. Moving forward, the City will create a more defined process for Chair Reviews.

We understand that minor changes could be acceptable, but these are not minor changes. The structure is over 200 sqft, the elevation of the roof and the entire structure has increased in size and the structure

has been moved to the south. The height has increased from 14' 11" originally to 16' 2" on the new details. The structure now covers an original window on the house that was not covered in the original approval. The doors and windows have also moved. The chimney has been removed.

If there were minor changes to the plans, why has it taken over 20 months to get this approved and why do they keep coming back for more changes? Please see the previous images regarding this section.

Code Enforcement actions and remedies

SD: As previously noted, Code Enforcement issued a Correction Notice and Notice to Stop Work in March of 2018. Once issued, the property-owner had 30-days to report to City Hall to work with City to remedy the issue. Currently, City policy establishes that as long as the property-owner demonstrates good faith to work with the City, Code Enforcement does not issue any citations. If no remedies are provided Code Enforcement may move forward with the issuance of a citation. However, the property-owner was responsive to the March 2018 notices and has been working with the City to bring the unpermitted construction into compliance with City code. Therefore, no citations have been issued at this time.

You claim the owner was responsive, but only after the 30-day deadline from the City letter. These are document we've requested but have yet to receive copies of those notices, letters or responses in our request for public documents. You mention this demonstrates good faith and compliance with the City code. He is and has been a general contractor for 40 years and knows the City ordinances. Why does Planning and Building continue to assist him in ignoring the ordinances and finding loopholes to build what he wants without public approval from neighbors? What he intends to build is different from what was conditionally approved 11 years ago and is almost identical to what he built illegally.

Illegal tree removal and oak tree trimming investigation

SD: In March of 2019, the Public Works Department was informed of a possible illegal tree removal and oak tree trimming. Based on the Public Works Department's investigation the removed tree was less than 12-inches in diameter and did not require a tree removal permit.

Edwar and Jose were notified about the tree removal when we first started this process in 2018. The timeline fails to address this. At no time did either of them state we should go to the Public Works and report it when a quick Google search could confirm. We discussed this at the February 11th meeting with David Bergman. If there was an investigation on the removal of the tree, why not investigate the oak tree at the same time? We contacted Public works twice by phone on the day of the cutting of the Oak and confirmed there was no permit. After numerous reminders, nothing appears to have been done on this. Below are pictures in January 2019 and March 2019 of the oak tree that was trimmed out of season. You didn't actually respond to this issue.

<image060.jpg>

<image062.jpg>

Regarding the tree that the Public Works Department's did investigate, you stated it was less than 12-inches in diameter and did not require a tree removal permit. This is the first that we have heard of an investigation. Can you elaborate on this and include the public records that we've requested previously? Who investigated this and who did they speak with? Was it the owner who is a General Contractor? Are you aware that this was a multi trunk tree? You can see in the first picture from **2007** below that the tree was already well established and taller than the house roof line. Please see the second picture from July 2007 prior to approvals in November 2007. The red markings show the two trees in the Google street view. The picture below also shows the original porch that was torn down.

<image064.jpg>

<image066.jpg>

<image068.jpg>

This is important because it shows that the owner knew that they could not conform to the parking that was a condition of the original approval. See how the pathway crosses where the tree was cut down and the Oak tree. See the November 2017 conditional approval plan and **no trees to be cut or trimmed**. We added the red dots to show the placement of the trees in the drawing below. The lower left dot was the multi-trunk tree that was cut down and the upper right is the oak that sits in the middle of the path to the carport that was supposed to be built if they wanted to build the addition.

<image070.jpg>

2007 Narrative

<image072.jpg>

How was the tree that was cut down investigated? Since the tree was removed 4 years ago, how does the investigator know the diameter of the tree? Did you know this was a **multi-trunk tree** and one would need to measure the circumference of each trunks at 4 ft from the ground and add them together? An established tree planted before **2007** and cut down **8 years later in 2015** could reasonably be presumed that the multi trunk tree did meet the tree ordinance minimums with just 3 or 4 trunks. Because the trunks of the tree were so large, a stump grinder was needed to remove the stumps. You could also call the tree a shrub, the pictures clearly show it towers over 16 ft. Since the owner is a licensed General Contractor, please note the Intentional violation in the SPMC.

<image074.png>

<image076.png>

Property line dispute and setback concerns

SD: Property line disputes are a civil matter and are not addressed by the City. If there are concerns regarding the property line and setbacks that were used in the Project plans, a surveyor would need to be retained to determine the exact location of the property lines.

This is not a civil matter as there is clearly fraud in the misrepresentation of the current and 2007 documents provided to the City. John Pope was recently quoted in the South Pasadena Review stating [“The City has little choice but to respond when the facts are ignored or misrepresented as they have been.....”](#)

We aren't talking about leaves falling on our property or even disputing inches. This is clearly a big discrepancy and we've taken pictures to help you understand. Keep in mind that the owner approached us to acquire a 2 ft swath of land for about \$12k along the length of their driveway during the process of getting this project approved in 2007. So even then he knew he did not have enough space to build what he wanted. In the pictures below, you can see the owner had trouble complying with a correction notice that included **setbacks in 2007** when the architect was asked to clarify unclear property lines and setbacks even in **2007** and it clearly shows they put down what was needed to get approved.

The original plans and the new plans show a setback of **5ft** at the back of the property which isn't even our property, but another neighbor's. It doesn't take a surveyor to see in the pictures below that the fence line is at **2ft 9 inches**, not **5 feet** like the plans show. If it's true that they have a 5ft setback, it would be just under their neighbor's gutter on the back of the neighbor's garage.

You'll see in pink below that we measured the driveway in numerous sections and marked them accordingly on the owners site plan which don't conform. We even took a picture of their driveway showing **6 ft** in one section when their site plans clearly shows nothing smaller than **8ft 6 inches** at the top of the driveway. The image with the red tape measurer shows the actual location at 8' 6". Because of the confusion of the setbacks on the driveway and back of garage, the owner needs to have the property surveyed. See the text images from the owner in **February 2019** when he acknowledges that the City may require a survey and thinks it's a good idea since he mentions he's probably encroaching and states that the City may require verification of property lines. Then deciding that he doesn't want to disclose it to the new owners if/when he sells as his plans are to move on and not even live in the property.

Neither you nor David ever responded to the driveway that was poured without a permit. It's time to correct this issue once and for all and require a survey from the property owner.

<image078.jpg>

<image080.jpg>
<image082.png>

<image084.jpg>

<image086.jpg>

<image088.jpg>

<image090.jpg>

2ft 9 inches at the back yard fence.

<image092.jpg>

5ft at the section in the neighbor's backyard and just at the edge of the other neighbor's gutter.

<image093.png>

<image094.jpg>

<image096.png>

<image098.png>

<image100.png>

<image102.png>

We also requested the documents and responses the owner is referring to in those texts in our request for public documents, but those too have not been provided.

Public Records Request

SD: The City Clerk's Office is responsible for Public Records Request and is currently looking into the request.

Unfortunately, this too has been mishandled. The first request was marked complete by J. Equivalls and when you review that information, he only provided 9 emails from the 2018 calendar year. Of those 9, one was a duplicate and all were generated in August, just two hours after we visited the planning desk for an update. We know there were communications throughout 2018 and not just August. We will need the City Clerk's Office to go back from 2018 to present day correspondences.

After our initial request in February 2019 with minimal results, Juan reached out in April and asked us to clarify what we needed. We were very clear and he never provided us with any documents. In June, Miriam Ferrel followed up and provided a copy of the ordinance 2004 which is not valid anymore. We appreciated that, but she too needed us to clarify what we needed. After several follow ups with her over the next 2 months, she too provided us with nothing. Now, Maria Ayala is also requesting clarification. She states "With respect to the role of the City Clerk's Office, we are looking to fulfill your request for **subject emails to your request**. I believe City Manager DeWolfe along with other Planning personnel will be working to provide you with other records" We have been clear from the first request and are still asking the same questions. Besides that, you stated the City Clerk's Office is responsible for the Public Records Request, but Maria is only looking to provide emails. Please confirm who will provide the documents that are not in email form and when we can expect them. Since we are now at 9 months and three employees later and have yet to receive the information we've requested, we'd like the City to clarify the email retention policy. We want to make sure that everyone is clear that no emails or documents shall be deleted, trashed, disposed of or purged from the network or backup drives. We have more pictures, documents and notes to support our story and can share as soon as we get the documents we have requested.

Stephanie and City Council, after seeing more information about these problems and actual support documentation and not hearsay, we hope that you are able to clearly see through this facade of misrepresentation from the owner and architect. Compliance with manipulation, misrepresentation and fraud give you the right to step in and revoke the COA. Remember, John Pope stated "The city has little choice but to respond when the facts are ignored or misrepresented as they have been in regard to the Drive property. And the community has expressed an interest in hearing the city's side of the story," spokesman John Pope said in a prepared statement during the gathering, which also included Mayor Marina Khubesrian, City Attorney Teresa Highsmith and, by telephone, City Manager Stephanie DeWolfe. Clearly the facts have been ignored and misrepresented in this case. It's time for the City and the City Council to acknowledge that the Owner/GC, Architect, City staffers, and Design Review failed in their due diligence regarding 1030 Brent Ave over the last 21 months and failed to respond appropriately. We ask again that all movement for this project stop and the COA be revoked.

Travis & Nichole Dunville

From: Tamara Binns <tbinns@southpasadenaca.gov>
Sent: Thursday, October 10, 2019 3:26 PM
To: Teresa Highsmith <thighsmith@chwlaw.us>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>; Dr. Richard Schneider - Personal <[REDACTED]>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; mkhubesran@southpasadenaca.gov; Michael Cacciotti - Personal <[REDACTED]>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Diana Mahmud <[REDACTED]>; Nichole <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032
Importance: High

Mr. and Mrs. Dunville,

Please see the attached letter answering your questions about the construction at 1030 and 1032 Brent Avenue.

If you have further questions, please feel free to contact our new Planning Director, Joanna Hankamer at jhankamer@southpasadenaca.gov or (626) 403-7222.

From: Stephanie DeWolfe
Sent: Wednesday, October 02, 2019 6:18 PM
To: Nichole; Teresa Highsmith; Maria Ayala; Tamara Binns; Miriam Ferrel; Lucy Demirjian; Dr. Richard Schneider - Personal; City Clerk's Division; Diana Mahmud; Robert Joe; mkhubesran@southpasadenaca.gov; Michael Cacciotti - Personal
Subject: RE: Unpermitted Construction 1030 & 1032

Mr. and Mrs. Dunville –

Thank you for sharing your concerns regarding the construction activities at this site. I apologize that you did not receive a timely and appropriate response from City staff in regard to your concerns. I know you had received several responses from David Bergman and it was my understanding that he was appropriately handling the issue. I'm sorry I did not realize that you had not received an appropriate response.

I have now personally delved into the history of this project at your request and have found the issues to be complex. Having the files spread out on my desk, I understand your frustration with the process. While I had hoped to have a complete response for you by today, I have not been able to complete my review due to the complexity and lengthy history of interrelated issues. Please know however, that this has my full attention and I am personally looking into each of the concerns you raised. I anticipate I will be able to provide you with a complete response next week.

I apologize again for the City's failure to respond in a timely manner and appreciate your patience. Please let me know if you have additional concerns in the meantime.

Sincerely,

Stephanie DeWolfe

City Manager
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
www.southpasadenaca.gov
626.403.7210

<image104.png>

From: Nichole <[REDACTED]>
Sent: Wednesday, September 25, 2019 10:05 AM
To: Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; Tamara Binns <tbinns@southpasadenaca.gov>; Miriam Ferrel <mferrel@southpasadenaca.gov>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>; Dr. Richard Schneider - Personal <[REDACTED]>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>; Robert Joe <rjoe@southpasadenaca.gov>; mkhubesran@southpasadenaca.gov; Michael Cacciotti - Personal <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

Another month has gone by and we still have not received a response from the city staff. On August 27th you asked Stephanie DeWolfe to have the staff provide an estimate as to when they would be able to

respond to our requests. Is there a reason no one is responding? Is the city manager or city attorney concerned about liability? They both have been included on this thread since February.

In the last 9 months the City Clerk has failed to provide the public records we've requested, even after multiple requests and reminders. In the last 18 months, the Planning/Building Department started and failed to complete two investigations, first under David Watkins and then again under David Bergman. Also, Public Works and city staffers in Building & Planning have known about the unpermitted tree removal for the unpermitted construction and promised to look into it and as far as we know, they still have not. Two months into the investigation, Planning and Building knew that this addition deviated from the expired plans the homeowners had from 2007. Since then, Planning and Building has done nothing except help the homeowner who is acting as his own contractor, continue what is clearly an unpermitted addition, blatantly ignoring city ordinances.

We reported the unpermitted construction in 2017, wishing to remain anonymous. This is extremely frustrating. Please review the email thread below. The entire City Council needs to be aware of the unprofessionalism of city staff and management.

Kind regards,

Nichole and Travis Dunville

From: Nichole <[REDACTED]>
Sent: Monday, September 9, 2019 8:41 PM
To: 'Michael Cacciotti' <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

This is a follow up on your last email to Stephanie DeWolfe. After watching this video of the most recent Planning Commission meeting, we have a better understanding of what's going on. Between the antiquated analogue system and the lack of staff, Planning and Building appears to be off the rails! Now we understand how plans were lost and files were unavailable and changes were able to happen at the desk without any record or documentation. If you haven't seen this yet, we suggest a quick review of Councilmen Richard Schneider's comments at the 21:40-22:34 mark, Commissioner Braun from 24:00-25:45 and David Bergman from 30:00-37:30

http://www.spectrumstream.com/streaming/south_pasadena_pc/2019_08_13.cfm

We understand that City Council doesn't handle every single issue in the city, but with all of the vacancies in Planning and Building we have nowhere else to turn. It's been 4 years and 2 months since the start of the unpermitted construction going on next door and 19 months since a code enforcement officer was in our house and took pictures of it. No investigation has ever been completed and our requests for public records have been ignored. David Bergman claimed to be overworked and was either unwilling or unable to follow up on the investigation or answer our emails. When you came over to our house you mentioned setting up a meeting. With the departure of David Bergman we think it's time to set up a day and time to finally take care of this issue with a decision maker who has authority to put an end to this illegal construction.

As always, we thank you for your time and service to our city!

Travis and Nichole Dunville

From: Michael Cacciotti <[REDACTED]>
Sent: Tuesday, August 27, 2019 6:15 PM
To: Nichole <[REDACTED]>
Cc: sdewolfe@southpasadenaca.gov; Teresa L. Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; tbinns@southpasadenaca.gov; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; Lucy Kbjian <LKbjian@ci.south-pasadena.ca.us>; richard schneider <[REDACTED]>; cityclerk@southpasadenaca.gov
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Nichole,

I have not received a response from Staff from my email last week. I will check on the status of your request.

Hi Stephanie,

Would you please have our staff provide Nichole and Travis with an estimate as to when staff will be able to respond to their request. They have been very patient up to this point.

Thanks
Michael

Sent from my iPhone

On Aug 27, 2019, at 9:26 AM, Nichole <[REDACTED]> wrote:

Hi Michael,
Wanted to know if you've heard anything regarding this, because we haven't. Thanks for following up with this!

Kind regards,
Nichole and Travis

From: Michael Cacciotti <[REDACTED]>
Sent: Monday, August 19, 2019 9:11 AM
To: dbergman@southpasadenaca.gov
Cc: sdewolfe@southpasadenaca.gov; Teresa L. Highsmith <thighsmith@chwlaw.us>; Maria Ayala <mayala@southpasadenaca.gov>; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; tbinns@southpasadenaca.gov; LDemirjian@SouthPasadenaCA.gov; RSchneider@SouthPasadenaCA.gov; richard schneider <[REDACTED]>; [REDACTED]
Subject: Fwd: Unpermitted Construction 1030 & 1032

Good morning David,

Just wanted to follow up on my email from two weeks ago about the above mentioned issue on Brent Ave. Please have staff provide us a response later this week as Travis and Nichole have been patiently waiting a response.

If for some reason we are not able to provide a response, please let them know when a response will be provided.

Thanks
Michael

Sent from my iPhone

Begin forwarded message:

From: "Nichole" <[REDACTED]>
Date: August 19, 2019 at 8:35:13 AM PDT
To: "'Michael Cacciotti'" <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hi Michael,

We appreciate your email two week ago. Have you had any contact or conversations regarding this issue since you sent the email? The reason we ask is that we still haven't heard anything.

Thanks,
Travis and Nichole

From: Michael Cacciotti <[REDACTED]>
Sent: Sunday, August 4, 2019 6:27 PM
To: dbergman@southpasadenaca.gov
Cc: sdewolfe@southpasadenaca.gov; tbinns@southpasadenaca.gov; Marc Donahue Miriam Ferrel <mferrel@southpasadenaca.gov>; Maria Ayala <mayala@southpasadenaca.gov>; Teresa L. Highsmith <thighsmith@chwlaw.us>; [REDACTED] <[REDACTED]@net>; Lucy Kbjian <LKbjian@ci.south-pasadena.ca.us>
Subject: Fwd: Unpermitted Construction 1030 & 1032

Hi David

Good to see you at city Hall last week.

I wanted to follow up with Travis and Nichole's request for assistance (see emails below) on the alleged unpermitted construction occurring at the above location at 1030 and 1032 Brent Ave, just north of Oxley (which is adjacent to and north of their home).

When I met with Travis and Nichole today, they mentioned that they had requested some documents back in June 2019 from the city, but had not received everything they had requested in their Public Records Request. They are also concerned because construction continues intermittently at the location, which they believe is not consistent with plans and/or permits approved by the city.

I know we have had substantial turnover in your department and the city clerk's office, but please, at your earliest available opportunity, this week, work with the city clerks office to provide any documents

that are responsive to their request and are not privileged, etc. Also, please work with staff to address and respond to their concerns about this project including permitting, alleged deviations from approved plans, ongoing construction activities, etc.

Thanks for your hard work!
Michael
Sent from my iPhone

Begin forwarded message:

From: "Nichole" <[REDACTED]>
Date: August 1, 2019 at 11:25:05 PM PDT
To: "'Michael Cacciotti'" <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

You're welcome to come over to our house. It's 1036 Brent Ave.

From: Michael Cacciotti <[REDACTED]>
Sent: Thursday, August 1, 2019 11:16 PM
To: Nichole <[REDACTED]>
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Travis and Nichole
I can meet at 2 pm. on this Sunday. - Where you want to meet?
Thanks
Michael

Sent from my iPhone

On Aug 1, 2019, at 4:06 PM, Nichole <[REDACTED]> wrote:

Hi Michael,
Thank very much for responding so quickly! We are available anytime Sunday afternoon. Would that work?

Nichole and Travis
[REDACTED]

From: Michael Cacciotti <[REDACTED]>
Sent: Tuesday, July 30, 2019 11:59 PM
To: Nichole <[REDACTED]>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: Re: Unpermitted Construction 1030 & 1032

Hi Travis and Nichole,

I am usually CC'd on the email communications between our city staff and you.

I would be happy to meet. Are you available to meet this weekend in the afternoon?

Thanks
Michael

Sent from my iPhone

On Jul 30, 2019, at 3:48 PM, Nichole <[REDACTED]> wrote:

Hi Michael,

Hope you're enjoying your summer. You may remember that we reached out to you 6 months ago regarding the unpermitted construction at 1030/1032 Brent. In that email, we were clear that we wanted honesty, transparency and oversight. As of today, we have not received answers to our questions about how this project was investigated and how it keeps moving forward when there are so many problems that have not been addressed. We were very specific in our questions and have yet to receive answers. In your reply to us on February 5, you mentioned that you wanted the staff to keep you informed on how they are working to resolve this issue. Besides the below thread, has the staff informed you of anything else? We ask because in the attached email thread, we requested specific documents with repeated follow ups with no response.

It's now been over 4 years since the start of construction and 18 months since the city inspector took pictures of the unpermitted structure. This is unacceptable. We would like to have a conversation with you when you are available.

Regards,
Travis & Nichole Dunville

From: Nichole <[REDACTED]>

Sent: Monday, June 17, 2019 8:25 AM

To: 'David Bergman' <dbergman@southpasadenaca.gov>; 'Teresa Highsmith' <thighsmith@chwlaw.us>

Cc: 'Michael Cacciotti' <mcacciotti@southpasadenaca.gov>; 'Stephanie DeWolfe'

<sdewolfe@southpasadenaca.gov>; 'Code Enforcement' <CodeEnforcement@southpasadenaca.gov>;

'Alex Chou' <achou@southpasadenaca.gov>

Subject: RE: Unpermitted Construction 1030 & 1032

David,

We reviewed the plans at the counter on Friday, June 14th. Once again we are getting conflicting answers and there are still many errors that have not been addressed. The plans dated 7/28/2018 but are different from the Roybal's plans they provided us this year that are also dated 7/28/2018. It appears

that the architect continues to make changes to the plans, that were not part of the original approvals, without properly notating them on the plans. When we were in on Friday, Jose mentioned that everything has been corrected and permits are ready to be issued and paid for. While there are many errors in the plans, we pointed out just a couple of inaccuracies in the plans and stated it may be better to wait for you to come back on Monday before issuing anything and Jose agreed. The Roybals want an addition that is based on what they have already constructed illegally. These are some of the items that are different from the original approval: the pitch of the roof has increased in height, the width of the structure has increased, the footprint has moved 3ft south and every elevation has changed from what was originally approved. The original plans were conditionally approved with the addition of additional parking on the property. The approval was based on a duplex, not an ADU. Everything about this project is different than the original plans. We would expect the planning and building department to notice these changes as we have mentioned them in person and in emails.

Also, the drawings have inaccurate setback measurements that we have discussed with you and your staff. One example is the setback behind the garage. We've attached a picture of the garage setback that shows 5ft on both the original and new plans from 7/28/19. You'll see in the picture the setback is actually only 2 feet 9 inches. Besides the owner sending us a text stating that he believes he's encroaching our property with their driveway, he also poured a new wider driveway to

possibly meet the minimum requirements for new construction and parking on the original approval. You may want to look at their permits and see if they have one for the driveway and if the driveway is even wide enough to meet the minimum parking requirements for the original approval.

On February 11th we requested all public documents. We received a few select items, but not what we originally requested. After our second request to Juan on April 30th , we received an email from Miriam stating Juan is no longer working for the City on June 3rd. We sent her an email on Friday to request an update as to when we may expect those documents. We believe that the City should not move forward on this project and issue any permits until all issues have been resolved. If you disagree, please let us know.

You stated in your April 18th email that public works is in charge of the tree trimming and removal. A tree, that was never notated on any of the drawings, was cut down in 2015 to build the existing unpermitted structure and then another tree, an oak, was trimmed in March of this year without a permit and out of season. Public works was notified twice on the day in March. It's now been two months and nobody from public works has followed up.

It has now been 16 months since the city inspector took pictures of this nuisance and 4 years since tree removal, demolition of the original back porch and construction of the eyesore started. As residents of this city for 25 years, we

expect more. Regarding our other concerns in our previous emails, you have not responded to our specific questions about the approval process and how Mark G ignored the South Pasadena major review process. Will you or the City Attorney be addressing this issue?

Finally the new ordinance from 2017 repeals and replaces the previous ordinance. It appears that the city is choosing to ignore this. Why would the city choose to use the old ordinance 2315, from 1992 and not the current ordinance from July 2017?

Sincerely,
Travis and Nichole Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Monday, June 3, 2019 8:55 AM
To: Nichole <[REDACTED]>; Teresa Highsmith <thighsmith@chwlaw.us>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Code Enforcement <CodeEnforcement@southpasadenaca.gov>; Alex Chou <achou@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr and Ms. Dunville:

The development application has been reviewed by the City's Public Works Department and returned to the applicant with requests for corrections. The property has been issued a notice to correct unpermitted construction.

Please let me know if you have any additional questions.

Best

David Bergman

From: Nichole <[REDACTED]>
Sent: Sunday, June 2, 2019 11:27 AM
To: David Bergman <dbergman@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>

Cc: Michael Cacciotti <[REDACTED]@southpasadenaca.gov>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>

Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr. Bergman,

We are following up on our previous email from April 29th. Can you please update us regarding 1030/1032 Brent Ave.?

Sincerely,

Travis and Nichole Dunville

From: Nichole <[REDACTED]>

Sent: Monday, April 29, 2019 10:45 PM

To: 'David Bergman' <dbergman@southpasadenaca.gov>; 'thighsmith@chwlaw.us' <thighsmith@chwlaw.us>

Cc: 'Michael Cacciotti' <mcacciotti@southpasadenaca.gov>; 'Stephanie DeWolfe' <sdewolfe@southpasadenaca.gov>

Subject: RE: Unpermitted Construction 1030 & 1032

Mr. Bergman,

While we are glad to see you mentioned the structure will be removed, this is only part of the problem. If building permits are issued and the structure is torn down, whatever the City has approved could be rebuilt. Rebuilding the new structure is our concern since the City did not follow the ordinance and municipal code. Let's start with the investigation that originated on February 3rd or 4th of 2018. Over a year later, we receive a text from Bob Roybal on February 28th, 2019 that states: "Hi Travis, New Report. I just received a call from the new City Code Enforcement Officer Gus. The original complaint from last April regarding my patio addition just arrived at his desk. He knows nothing about it. Fortunately, I have detailed documentation on my responses and compliance to all their requests and requirements. He indicated that he would find out the present status of the matter and inform me. I also notified my architect. He replied that he is current and awaiting direction. I am pulling my hair out at this point and thinking about lighting matches! Thanks, hope we can get this done soon."

As for the COA still being valid, we would like the City Attorney to state why she believes that the COA is grandfathered in, as the new ordinance specifically states that the CHC of the South Pasadena Municipal Code is hereby repealed in its entirety and replaced with the following new CHC. We would like the City Attorney to explain directly so it doesn't get misinterpreted. Perhaps the City Attorney can explain how the Roybals will be able to get building permits without the COA and Design Review Board (DRB) certificate as well. The original COA and Design Review Board (DRB) certificates were needed to acquire building permits under that approval. The original COA is based on the approved details. The COA then goes on to state an additional COA is required for exterior changes not described in the above description and approved by the CHC. All work (alteration, demolition or exterior changes) requiring a COA shall substantially conform to the stamped approved plans dated the effective date of this approval.

As we've previously mentioned to City staffers, and to you, on our February 11th meeting and in the previous emails, we still haven't been told how the Chair was able to "approve" the updated drawings. The original approval specifically states on the certificates and stamped approved drawings that it needs

to be built exactly as CHC and DRB approved. This included the addition of 2 covered parking spots. The City staffer's own timeline states on April 16, 2018 that the owner called in and spoke to a plan checker and stated that the project plans have diverted from the original plans. At that time staffers should of stated these are considered new plans and will need to be resubmitted as a new project. There is a process that needed to take place and the former Director did not follow that process. Even if the Director did approve, which he did not, the Chair would have then needed to decide if this was a Major or Minor review. Clearly this procedure was overlooked. It would have been a good idea to include the other committee member of the CHC since this was unpermitted construction that was under investigation and diverted from the original approvals. Please let us know in as much detail as you can why the Major review was not followed or the rest of the CHC involved.

The next concern is the property line. You might remember that we mentioned the setbacks on the original plan and the current site plan were incorrect and you would investigate it. What did you find? On February 15th, 2019 Bob Roybal stated in a text:

"Also, City may require verification of property lines which would probably be a good idea anyway. I'll let you know."

Then the next day on February 16th, 2019 Bob Roybal texted:

"Travis, just to let you know that, as per our conversation, our intention is to complete this process and either sell or rent and move on. We have really appreciated you all as neighbors and will leave with having increased the value of all our properties. I thank you for your patience."

Then on February 21st, 2019 Bob Roybal texted:

"Hi Travis, still waiting on the City to process our intentions. Also, I obtained an aerial picture of our property showing property lines and setbacks. Although, these views are only prospective, they do indicate non conformity and encroachment. I will not call for a survey right now because we might sell and then I would have to declare it to any new buyers. I will wait on that. Again, we appreciate your help."

This is making more sense to us now because when the Roybals were getting the original plans approved in 2007, they wanted to purchase a 12 inch strip of our property along the North elevation of our property. We declined the offer. Looking back, they probably didn't have the minimum requirements for the driveway. The Roybals need to confirm their property lines.

There is no consideration of neighbors who were not living here in 2007/2008 when this was originally approved. Specifically, the owners directly behind who can see into the backyard at 1033 Park Ave. and 1029 Park. who are currently under construction and can see the addition from their property as well. Both neighbors were appalled at the process and construction of the structure. Two doors from them are more new owners. It keeps on going around the block and at least 40% of the homeowners are new to the area since the original approvals. Maybe these neighbors should have had a chance to know what is going on as well.

We are demanding transparency. We do not want a structure to be built next door to us that has not gone through the correct approval process. If they want to build a structure, they need to go through the process and let the neighbors within a 300 foot radius know what is being built. We look forward to hearing from you and the city attorney.

Regards,
Travis and Nichole Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Thursday, April 18, 2019 5:22 PM
To: Nichole <[REDACTED]@net>
Cc: Michael Cacciotti <[REDACTED]>; Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Dear Mr. and Ms. Dunville:

Thank you for contacting me with your concerns about 1030 and 1032 Brent St. I wanted to provide you with an update on the status of the project. As I mentioned in our correspondence on April 2nd the property owner is in the process of submitting plans for new construction that will remove the unpermitted conditions. The plans for this project have been reviewed by the Planning Department for conformance with the project's conditions of approval and with the City's development codes. The City's Public Works Department received the plans for their review on April 17th. They are currently in the process of checking the plan for conformance with their conditions of approval. After they have completed their review, which is expected to occur by April 26th, the City's Fire Department will review the plans. Assuming that no major revisions are required, the property owner should be able to receive building permits for the project that will remove the unpermitted construction in the first half of May.

As I mentioned previously, as a matter of policy, the City does not move forward with code enforcement on a property when it is being reviewed for approvals that would remediate unpermitted conditions. However, once the permits have been approved, we will begin code the enforcement process as an incentive for the property owner to begin work within 30 days after the clearance of the project for building permits.

As to your other concerns, please note the following:

- 1) I have reached out to the Deputy City Clerk regarding items missing from your initial Public Records Request. He should be able to work with you to determine if any disclosable public records were not included in your request. He should be able to engage with you to discuss other records that may be relevant to your inquiry. I have asked him to reach out to you on this matter.
- 2) I have contacted our City's Public Works Department regarding the unpermitted tree trimming and removal. This department's staff manages the City's tree program and they should be able to give you the correct information on the status of the trees at the property. I have asked them to respond directly to you.
- 3) I reviewed your concerns about the Certificate of Appropriateness with the City Attorney. The City's historic preservation ordinance has been amended to include an 18 month expiration date on certificates of appropriateness. This is a change from the previous ordinance that did not have any time limit for these approvals. Because the certificate of appropriateness for this project was issued prior to the revision, it does not expire. If you have questions about the timing of the revisions of this ordinance I'd encourage you to reach out to the City Clerk's office for assistance.

City staff is engaged on this application and aware of the need for the property owner at 1030 and 1032 Brent to remediate any unpermitted construction. I will instruct our staff to inform me when the project has cleared its review for building permits.

Please let me know if you have additional questions or concerns.

Yours,

David Bergman

David Bergman

Interim Director

Planning and Building Dept.

City of South Pasadena

Wk: 626-403-7223

Fax: 626-403-7221

<image001.jpg>

*Help us shape the future of South Pasadena by getting involved in the General Plan and Mission Street Specific Plan updates. **Click the logo to see how!***

From: Nichole <[REDACTED]>
Sent: Wednesday, April 17, 2019 10:58 PM
To: David Bergman <dbergman@southpasadenaca.gov>
Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

Thank you for the update. We still have concerns that have not been addressed. We have made our position very clear; we want this addition torn down. This project has been under construction since 2015 and now we look out at an ugly plywood structure. Since they were cited building illegally, the Roybals have told us they want to rebuild it to their old plans but with many significant changes, including making the addition taller and closer to our property. We don't understand why the city would continue to ignore the municipal code and continue to assist a general contractor to build without a permit or a Certificate of Appropriateness. We requested all public documents on February 11, 2019. While we have received some documents, we have received no emails, letters or documents between June 5, 2009 and August 7, 2018. In your timeline you stated there are correspondences between the Roybals and the City during this time period. The Roybals have the certified letter dated March 13, 2018 from the City to correct the unpermitted construction. Jose Villegas showed the letter to us on January 31, 2019. When we asked him for copies of the letter and the investigation file, he stated that we would need to make a public file request. We were surprised that this letter was not in the public document file we requested; it makes us wonder what else we were not given.

We still don't understand how this process has gone on for over a year since the Roybals received their non-compliance letter and why the City did not follow the rules set in place for this type of situation. After telling you and your staff that the COA does expire and providing a copy of the ordinance in the last email, you still stated they do not expire. We'd like to point you to the municipal code that states Certificates of Appropriateness do indeed expire. Please review City Code 2.65 (11) Expiration of Certificate of Appropriateness. A certificate of appropriateness shall lapse and become void 18 months (or shorter period if specified as a condition of approval) from the date of final approval, unless a building permit (if required) has been issued and the work authorized by the certificate has commenced prior to such expiration date and is diligently pursued to completion. Upon application by the property owner before the expiration of a certificate of appropriateness, the commission may extend the expiration date of the certificate for an additional period of up to 12 months. The commission may approve, approve with conditions, or deny any request for extension. Not only do the COAs expire, the Roybals COA had conditions to it. Their certificate stated: "This certificate of Appropriateness (C of A) is effective only for exterior changes detailed that was presented to the Cultural Heritage Commission on November 15, 2007. An additional C of A is required for changes not described in the above description and approved by the Cultural Heritage Commission." Not only did the C of A expire, so did the Design Review Board (DRB). The letter to the Roybals dated December 12, 2007 states in bold: "Assuming no appeal is filed, the planning approval is valid for one (1) year from the effective date of approval." Because the effective date was December 20, 2007, this expired over ten (10) years ago. Not only did everything expire, the Roybals requested a refund and they were refunded fees spent on this project in 2009.

Besides the expirations, we also asked about the about how the Chair "approved" this project in our February 11th meeting with you, and again in our email. You stated you would find out what happened. After six weeks, all you state is that "On August 24th, 2018 the CHC Chairman approved the revisions to the approved COA for this project." We stated that the owners didn't file for a new COA and the Chair has no authority to approve a major design review. The only item that has a mention of approval from public documents was when architect Jim Fenske tells Jose, "Mark is good with it". On August 24th Jose emailed Mark Gallatin and Mark only responds the "the site plan looks fine". Is this how plans are approved?

Early February 2018 the illegal construction was reported to the City. From the beginning of the investigation in early Feb 2018, the first email we received in the public documents we requested was from Aug 7, 2018. This is the same day we inquired about the status of the property. A few hours later Jose emailed Jim, "I was wondering if you had an update on 1030 Brent St? Can you please let me know what is going on with this project? Thanks Jose" Jim replied "I'd like to meet with Marky G. on Thursday to see what changes were made to the approved design." On August 9, 2018 Jim writes back to Jose, "I met with Mark today and he says he's ok with the redesign of the addition." On August 24, 2018 Jim sent Jose the plans for the project. Minutes later Jose writes to Mark and says, "Jim mentioned he met with you about two weeks ago and that you were ok with this project. However, a site plan should be provided because it was missing." A few minutes later Mark replies by email, "The site plan looks fine." There were no more emails until five months later on January 28th, 2019, when we went in the office at about 2pm to ask the status again. On that day we requested to see the approved plans and Jose was unable to find them and he said the architect did not have copies either. Then that evening at 5:39, Jose emailed Jim, "Let's meet on Wed, January 30 and discuss the project plans for the addition to 1030 Brent Ave. I found the approved set of copies. This is a time sensitive issue." We find it curious that neither the City nor the architect had the approved plans. It was only after we would visit the planning

and building office and ask questions that emails would start up again. And why would staff from planning building reach out to an architect of a current code enforcement case? But none of this actually matters since the COA expired years ago and a minor or major project review cannot happen without a COA. The changes that the Roybals and the architect have made to the plans would cause this to fall under a Major Project Review.

At the end of our meeting on February 11th, we talked about the tree that was cut down to build this unpermitted structure. You mentioned you would look into that. What were your findings? A search with Google Earth Pro shows the tree prior to the structure being constructed. The reason we bring this up is that on March 13, 2019, the Roybals had the oak tree in their backyard trimmed. Per the City staffers, this tree was cut out of season and without a permit. We believe this continues to show a pattern of the Roybals ignoring City regulations.

Thank you for the offer to review the submitted plans, but we already have copies of the originals from 2007 and the plans that were submitted dated July 26, 2018. That is how we know that there are changes to all of the elevations including the amount of doors, the increase in height and placement of the structure closer to our property. On February 11, 2019 we left the meeting with you feeling confident that you would investigate what actually happened, or didn't happen. So far, this is not the transparency we were expecting. We have CC'd Michael Cacciotti to assist in a resolution before this moves any further.

Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>
Sent: Tuesday, April 2, 2019 9:50 AM
To: Nichole <[REDACTED]>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello Mr. and Ms. Dunville

I wanted to provide you with an update on the status of the application for development at 1030/ 1032 Brent. The property owner has been working with an architect and our staff to bring the property in to compliance with all applicable planning requirements and building codes. Please note the following:

- 1) The owner has submitted plans for the property that are currently waiting for Fire Dept. and Public Works Dept. review and approvals.
- 2) The property owner has been issued a notice to correct the unpermitted conditions at the property. As a general rule unless there is an immediate life safety issue the City does not move forward on enforcement of conditions where the property owner has applied for permits to correct the cited conditions. No building permits can be issued until the Fire Dept. and the Public Works Dept. have completed their review of the project. Building Dept. plan check and Planning Dept. plan check will proceed, once Fire Dept. and Public Works Dept. conditions are approved.

- 3) No building inspections have been done on this property as no building permits have been issued.
- 4) The Certificate of Appropriateness (COA) was issued at the November 15, 2007 CHC meeting, unlike building permits COA's do not have an expiration date. On August 24, 2018 the CHC Chairman approved the revisions to the approved COA for this project.

We are continuing to work with the property owner to ensure that the conditions on the site are brought in to conformance with the City's municipal code and that all reviews occur as specified in the City's approval process. I'd encourage you to come to the Planning Department to review the development plans that have been submitted. I will follow up with staff to investigate that any issues regarding incorrectly designated set backs are being addressed under the proposed development application.

Please let me know if you have any further questions and thank you for your patience as we work with the property owner to remediate the issues at the property.

Yours,

David Bergman

From: Nichole [REDACTED] >
Sent: Friday, March 29, 2019 8:33 AM
To: David Bergman <dbergman@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

We received the records we requested on March 4. We've reviewed the records, time line and codes, comparing them with our own notes and timeline. We wanted to wait to give you time to review the records as well. In our conversation on Feb. 11 you stated that you were going to review the code enforcement investigation. Has that been completed? And what are your findings? We still have yet to receive any public records regarding the code enforcement violation. Based on what we received, the South Pasadena Municipal Code (SPMC) has not been followed.

In our review of the records and time line there are several big red flags.

1. There is no current certificate of appropriateness.
2. This project does not fall under minor project review.
3. The setbacks are incorrect.
4. There is no reason to waive the parking requirement.

1. In reviewing the public records there is no current certificate of appropriateness. The owner/builder cannot get a building permit until he has a Certificate of Appropriateness. The first step after being caught building illegally, according to the SPMC, would be to apply for a certificate of appropriateness. The owner would have had to apply for this within 30 days of being notified by the city. It's been over one year, and there is still no public record of a certificate of appropriateness application. This is a very experienced General Contractor who knows exactly what he's doing. He cut down a tree without a permit to begin building, demolished an existing back porch, built an unpermitted

addition, claiming it's a patio, and spent three years on construction. After three years of construction, he was notified by the city to stop construction, another year has passed and it's been a total of four years since this project began. After he was told to stop he brought in his old plans from 2007 with an expired certificate of appropriateness from 2008. It is not our job to enforce the city of South Pasadena's municipal codes. We rely on code enforcement and the building and planning office to do this job. When the codes are violated, the city has the obligation to investigate and follow the proper procedures, see below.

2.67 Enforcement and penalties. [Source](#)

(a) Unpermitted Work without a Certificate. Demolition, relocation, alteration or removal of any improvement, site or natural feature subject to the provisions of this article without obtaining a certificate of appropriateness is a misdemeanor and is further hereby expressly declared to be a nuisance.

(b) Obligations and Consequences upon Failure to Obtain a Certificate of Appropriateness. Unpermitted work, without the approval of a certificate of appropriateness pursuant to the requirements of this article, shall be addressed as follows:

(1) The director or his/her designee shall give notice to the owner of record by certified or registered mail of the specific demolition or alteration work that was made without first obtaining a certificate of appropriateness. The owner or person in charge of the structure shall apply within 30 days for a certificate of appropriateness.

(2) In reviewing the unpermitted alterations, demolition, relocation, or removal, the commission shall either:

(A) Approve the certificate of appropriateness pursuant to the criteria specified in SPMC 2.65; or

(B) Deny the certificate of appropriateness and require that the inappropriate alteration(s) or demolition be abated pursuant to subsection (c) of this section.

(3) If the property owner fails to apply for a certificate of appropriateness or abatement of the public nuisance pursuant to subsection (c) of this section is not possible, the matter shall be referred to the city prosecutor for further action.

(c) Abatement of Nuisance. Any work undertaken for which a certificate of appropriateness is required but was not obtained shall be deemed a nuisance. Such nuisance shall be abated by reconstructing or restoring the property to its original condition prior to the performance of work in violation of this article in the following manner:

(1) Covenant to Reconstruct Within One Year. Within 30 days of the effective date of the commission's denial of a certificate of appropriateness, the owner of the property shall execute and record a covenant in favor of the city to do such reconstruction or restoration within one year of the effective date of the commission's decision to deny a certificate of appropriateness. The form of the covenant shall be subject to approval by the city attorney, and shall run with the land.

(2) Time Extension on Covenant. Upon application to the commission, the time may be extended on a covenant to reconstruct if the owner shows the work cannot reasonably be performed within one year.

(3) City Action. If the owner refuses to execute and record such covenant, then the city may cause such reconstruction or restoration to be done, and the owner shall reimburse the city for all costs incurred in doing the work. The cost of the work performed by the city shall constitute a lien against the property on which the work is performed. Restoration or reconstruction may only be required when plans or other evidence is available to affect the reconstruction or restoration to the satisfaction of the director.

2. This project does not qualify for a minor project review. According to the SPMC, a project that qualifies for a minor review does not change exterior features and is fewer than 200 square feet. This is an entirely new project that is well over 200 square feet and dramatically changes the exterior of the house and has shifted to the south and is visible from the street. The proposed addition is completely different than the 2007 project on all elevations, including the height and pitch of the roof.

- The north elevation called for a single door, exterior wall chimney in between, and another single door. Now, there is no chimney and one set of French doors. The north elevation is moved south more than three feet.

- The east elevation originally called for a set of French doors with glass panel/lights on each side. Now, the east elevation has two sets of French doors. The height of the roof was 14'11", it has been changed to 16'2".
- The south elevation was a single door with glass panel/lights on each side. The new plans call for a set of French doors. The south wall is moved over more than 3 feet to the south, covering an existing bedroom window.

This addition is a major project review. See SMPC below.

(4) Minor Project Review. A certificate of appropriateness may be obtained by going through a minor project review if it involves: demolition or relocation of non-character-defining features; noncontributing additions, garages, accessory structures or incompatible and previously replaced windows, doors or siding material; any undertaking that does not change exterior features such as re-roofing if the proposed roofing material is comparable in appearance, color and profile to the existing or original roofing material; replacement of windows and doors if the proposed replacements are of the same materials, form, color, and location as the existing or original windows and doors; an addition of less than 200 square feet proposed for the side or rear elevations (not visible from the public right-of-way) and does not materially alter the features or have an adverse effect on the historic integrity of a cultural resource; minor changes to a previously approved certificate; or any other undertaking determined by the director or his/her designee to not materially alter the features or have an adverse effect on the integrity of a cultural resource.

(A) Requirements. The required application materials for minor project review shall include, without limitation: a written narrative of the proposed project, a vicinity map, a site plan, exterior elevations drawn to scale, a window and door schedule, and photographs of the structure and the neighborhood.

(B) Review Process. After the certificate of appropriateness application for minor project review is deemed complete by the director or his/her designee, the commission's chairperson (the "chair"), or his/her designee, shall evaluate the application to determine its eligibility for minor project review. If the proposed project meets the eligibility criteria for minor project review, the commission's chairperson, or his/her designee, may elect to do one of the following:

(i) Approve the Certificate of Appropriateness. If the proposed minor project is deemed consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city of South Pasadena's adopted design guidelines, the commission's chairperson or his/her designee may approve the proposed project;

(ii) Consent Calendar. If the chair, or his/her designee, determines that the proposed minor project needs additional review by the commission, he or she may elect to place it on the commission's next meeting agenda. Such project shall be noticed pursuant to subsection (e)(7) of this section, Public Notice Requirements, as a consent calendar item on that agenda; or

(iii) Deny the Certificate of Appropriateness. If the proposed minor project is deemed to be inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city's adopted design guidelines, the chair or his/her designee may elect to refer the proposed project to the entire commission through the certificate of appropriateness (major project review) procedure pursuant to subsection (e)(5) of this section.

Major Project Review. The certificate of appropriateness application must be accompanied by any fee as required by the city of South Pasadena and documentation as the commission shall require, including without limitation:

(A) Written Narrative. A written narrative of the project indicating the manner and the extent in which the proposed project is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the city of South Pasadena's adopted design guidelines.

(B) Landscaping Plan. A plan that accurately and clearly displays the following: existing trees on the project site that are subject to this city's adopted tree ordinance as set forth in Chapter 34 SPMC; species of all trees and their appropriate trunk diameter, height, and condition; proposed final disposition of all existing trees; the extent and location of all proposed vegetation; species and planting sizes of all proposed landscaping along with the provisions for irrigation and ongoing maintenance; an irrigation plan; and indication of all hardscape along with the exterior of all structures and amenities, including colors and materials keyed to a materials and colors board as appropriate.

(C) Site of Plot Plan. A site or plot plan drawn at an appropriate scale that reflects the proposed project including: areas of alteration and/or demolition, property lines, and all recorded or proposed easements and public rights-of-way. The site plan shall also indicate the footprint of buildings on adjacent properties.

(D) Floor Plan. Building floor plans and building sections at a scale of at least one-eighth inch equals one foot.

(E) Elevations. Exterior elevations specifying all exterior materials with critical dimensions and existing character-defining features clearly indicated.

(F) Exterior Finishes. Materials, colors, and finishes clearly indicated on elevation drawings and keyed to a materials and colors board including light reflectance values, a clear indication of the appearance, location, and light effects of all exterior lighting fixtures, and a two-point perspective rendering showing proposed structures with profile drawings of the adjoining structures from an eye-level elevation.

(G) Window and Door Schedule. All doors and windows labeled with symbols that correspond to the labeling on the floor plans and elevations. The door and window schedule is a table containing the following information: existing and new window and door sizes, window and door manufacturer information, exterior finish, fabrication material, operational type, glazing information, divided lite details, and window muntins details when applicable.

(H) Photographs. Photographs of the site and its surroundings to document the existing conditions and provide a complete understanding of the property and its neighborhood context. This includes photographs of the site and adjacent properties for a distance of 300 feet from each end of the principal street frontage, as well as properties opposite the subject and adjacent properties. The photos shall be mounted color prints, supplied from continuous views along the principal streets, along with a key map provided indicating the relationship of all views to the parcels, streets, and related features.

(I) Other Documentation. Documentation as may be required to understand the history of previous construction on the property including but not limited to: a series of site plans illustrating the chronological order of construction of permitted and nonpermitted work, the construction or removal of character-defining features, or building permits.

(J) Scale Model. Although not a mandatory requirement, a three-dimensional scale model, a perspective view, or other similar types of graphic information may be recommended for a complete understanding of a proposed project.

3. The setbacks on the drawings are incorrect. It is our understanding that no one on the staff has been to the jobsite to verify any information. The setbacks on the plans on the south state "varies". The owner believes that he is encroaching on our property and told us that the city will require property line verification. On Feb. 21, 2019 the owner wrote to us and said "Hi Travis, still waiting on city to process our intentions. Also, I obtained aerial picture of our property showing property lines and setbacks. Although, these views are only prospective, they do indicate nonconformity and encroachment. I will not call for a survey right now because we might sell and then I would have to declare it to any new buyers."

4. The approval of this project in 2008 required the addition of covered parking. There have been conversations about converting the duplex into an ADU to skirt the parking requirements. The parking requirements for this project should not be waived. We are one block away from Fair Oaks and our street parking has been impacted by Mosaic and Blaze. The Blaze parking lot is almost always full and spills onto Oxley and Brent. With the addition of Burger Time, next door to Blaze, parking will even be more impacted. If Wells Fargo or Rite Aid were to sell or develop their parking lots, parking on Brent would be even worse. With rising cost of housing most of the apartments in our neighborhood are inhabited by couples or families as opposed to several years ago when many of the apartments were occupied by single people. The additional residents in apartments that do not have off street parking impact our street parking even more. Waiving a parking requirement for a property on a busy street is short sighted.

Every day when we look out the windows on the north side of our house, over the past four years, we are faced with a huge structure that has been illegally added and is out of proportion with the house (see attached picture). The noisy construction has been a nuisance and the addition is an eyesore. The uncertainty and duration of the project and the tension it has created between the neighbors and us is causing us physical and emotional stress. We feel uncomfortable being in our backyard and along the north side of our house. The time we have spent researching municipal codes, going into the planning

and building office and documenting the situation is taking time up too much time. We have been lied to by the neighbor who told us he was building a patio, now that he has been caught -over a year ago- and is being forced to comply with the building codes, he is trying to tweak his design on the same footprint which would allow him to build a bigger structure, that is higher and wider, and more than 3 feet closer to our property than what he originally had planned back in 2008. We are asking the city to do its job and protect the integrity of its historic resources and neighborhoods. We request that this structure to be removed, with the possibility of additional penalty.

d) Additional Penalty. With respect to a violation of this article on a landmark or an improvement within a historic district, or a building or structure listed on the inventory of cultural resources, no building or construction-related permits shall be issued for a period of five years following the date of demolition or complete reconstruction pursuant to subsection (c) of this section, whichever occurs last, for property on which demolition has been done in violation of this article. No permits or use of the property as a parking area shall be allowed during the five years if plans or other evidence for reconstruction or restoration of a demolished structure do not exist, or if the reconstruction or restoration is not completed for any reason. Permits which are necessary for public safety or welfare in the opinion of the director may be issued.

We look forward to hearing from you soon.

Regards,

Nichole and Travis Dunville

From: David Bergman <dbergman@southpasadenaca.gov>

Sent: Tuesday, February 19, 2019 10:59 AM

To: [REDACTED]

Subject: RE: Unpermitted Construction 1030 & 1032

Mr. and Ms. Dunville

Please see the attached chronology [The property owner has been contacted about existing unpermitted construction](#)

On November 15, 2007; the CHC approved the “293 sq. ft. addition on the first floor and a new 555 sq. ft. second story, for a total of 848 sq. ft. This addition will be located in the rear of an existing single story 1,332 sq. ft. Craftsman house on a 7,436 sq. ft. lot. The addition on the first story will consist of adding a new family room. The addition on the second story will add a master bedroom, two walk-in closets, a master bathroom, and a sitting area. All proposed materials will match existing materials.”

On December 4, 2007: the DRB approved the “293 sq. ft. addition on the first floor and a new 555 sq. ft. second story, for a total of 848 sq. ft. This addition will be located in the rear of an existing single story 1,332 sq. ft., Craftsman house on a 7,436 sq. ft. lot. The addition on the first story will consist of adding a new family room. The addition on the second story will add a master bedroom, two walk-in closets, a master bathroom, and a sitting area. All proposed materials will match existing materials.

On March 13, 2018; the Building Inspector did an investigation inspection in regards to the unpermitted construction taking place at 1030-1032 Brent Avenue. Staff received an anonymous call from a concerned resident reporting the unpermitted construction. A correction noticed was left with the property owner, informing him of the violation and to contact the Planning and Building Dept.

On April 9, 2018; the Community Improvement Coordinator, Marlon Ramirez sent the property owner a letter with options on how to resolved the unpermitted construction.

On April 16, 2018 Property owner contacted the City stating his intention to comply with notice of correction. He had a conversation with the plan checker, project plans have diverted from the original approved plans. The project did not comply with the required parking four cover parking spaces and one guest parking.

On April 16, 2018 Community Improvement Coordinator received a second call for the same violation.

On April 27, 2018; property owner met with the CHC Chairman Mr. Gallatin regarding his proposal for the 293 sq. ft. single story addition. The CHC approved project was revised to only include the single story addition only. Property owner stated that he was doing the designs drawings himself.

May 3, 2018; property owner met with the CHC Chairman again, and provided a revised set of plans that included the required covered parking. Four covered parking spaces and one guest parking.

On May 9, 2018; Property owner wrote a letter replying to Mr. Ramirez (received on May 14, 2018) confirming all unpermitted construction has stopped, and plans for an ADU have been submitted. Property owner wanted to confirm the deadline has been extended as he has been working to resolve this situation.

On May 18, 2018; Property owner wrote another letter to Mr. Ramirez (received on May 21, 2018). After speaking with the Plan Checker, additional information will be required to convert the existing second unit to an ADU.

On August 24, 2018; the CHC Chairman approved the proposed change to the 2007 CHC project. A 293 sq. ft. single story addition with exterior materials to match the existing was approved.

On January 11, 2019; Mr. Jim Fenske submitted the plans for the 1030-1032 Brent Avenue ADU conversion.

On January 31, 2019; Jim Fenske met with the CHC Chairman. The Chairman confirmed he was reviewing the same project he approved in August 2018.

From: [REDACTED] <[REDACTED]>
Sent: Tuesday, February 19, 2019 9:58 AM
To: David Bergman <dbergman@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Hello David,

We appreciate the time you took to meet with us last week, on Feb. 11 regarding the illegal construction taking place at 1030 and 1032 Brent. Directly after our meeting, as you suggested, we requested copies of the public records pertaining to 1030 and 1032 Brent. We would like to know what steps the Planning and Building Department have taken and are taking in the investigation of illegal construction at 1030 and 1032 Brent between February 2018 – February 2019. We would also like to request a copy of the chronology and review your staff prepared that you referred to in the previous email. Over the weekend the owner notified us in writing that it's "looking like a major room addition will take place" and "our intention is to complete this process and either sell or rent and move on." We request that this project not move forward until a thorough investigation has taken place.

We thank you for your attention to this matter.

Regards,
Nichole and Travis Dunville

From: David Bergman [REDACTED] >
Sent: Tuesday, February 5, 2019 10:27 AM
To: Michael Cacciotti - Personal <[REDACTED]>; [REDACTED]
Cc: Stephanie DeWolfe <sdewolfe@southpasadenaca.gov>; Teresa Highsmith <highsmith@chwlaw.us>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>
Subject: Re: Unpermitted Construction

Hello Council Member Cacciotti:

Thank you for bringing this matter to my attention. Other than the request for an appointment next Monday this is the first I have heard about this matter. Although I'm not in the office today I have requested that my staff prepare a chronology and review of what has happened. I will brief you and Stephanie as soon as I am able to.

Best

David Bergman

Get [Outlook for iOS](#)

On Tue, Feb 5, 2019 at 10:13 AM -0800, "Michael Cacciotti" <[REDACTED]> wrote:

Hi Nichole and Travis,

Wow, sorry for the inconvenience, frustration and uncertainty this project has caused you.

Since this issue/home construction project seems to be somewhat complicated by its history and city code's involved, my best recommendation is to provide our staff with the background information you have provided so Mr. Bergman is informed when he meets with you next Monday 2/11/19.

Consequently, I am including Mr. Bergman, the city manager and City attorney on this email so that they are aware of this issue and can work with Mr. Bergman and our Planning and Building Department to properly assess all the facts and determine how we can best assist you with your request.

I am also asking staff to keep me informed of how we are working to resolve this issue.

Thanks

Michael

Sent from my iPhone

On Feb 1, 2019, at 1:11 PM, <[REDACTED]> <[REDACTED]> wrote:

Hi Michael,

Hope all is well with you. We're enjoying the open space on Park Ave. and are looking forward to working on tree and shrub planting with my friend from Edison very soon.

We have a separate issue that we thought you might be able to advise us on since we noticed that you are the city council liaison for the Cultural Heritage Commission. Our neighbor went through the process to build an addition to their house in 2007. The additional square footage was contingent on them adding covered parking spaces in their backyard. They decided to not go through with the addition and got a refund for the plan check in 2009.

In 2015, the neighbor, who is also general contractor, started building the addition himself, working on it part-time. After three years of intermittent construction, something very different than the original plans has emerged. An inspector issued a stop work order in Feb 2018 since the work was unpermitted. We've followed up with Building and Planning and talked to the owners but have not been able to get a straight answer about the future of the unfinished addition. First, Building and Planning said that it had to be torn down, then we were told that the city said the neighbor's duplex had to be turned into an ADU to avoid the city's additional parking requirements, then we were told that the illegal addition was approved by the Chairman since they had already gone through CHC and DRB in 2007. On Tuesday 1/29/19 we went into Building and Planning and were told it had not been approved. We went back Thursday 1/31/19 and were shown a new set of drawings that had been approved and signed shortly before we arrived. Building and Planning insisted that the plans had actually been approved in August of 2018 but the Building and Planning office lost the signed and stamped plans and the architect had lost his signed and stamped set as well. Our next step is to talk to the new Interim Director of Planning and Building, David Bergman. We are meeting with him Monday February 11th, his first available appointment time.

The frustrating part of this process has been living next to unfinished construction since 2015, not knowing when it will be finished and what it will ultimately look like. It's been a nuisance. Right now there is a large 20' by 20' flat roofed structure with plywood siding and no windows or doors in the openings. The neighbor/builder even recently called it a monstrosity that he said he built on a whim. As much as we value the friendly relationship we have with our neighbors, our patience with this project is wearing thin. We have made many trips into Building and Planning to ask about the status, and the latest seems to be that the neighbor will be able to keep the structure, with modifications to the elevation plans that allow it to be wider, closer to our property, cover existing windows and 15% higher. We're surprised at the Building and Planning office's eagerness to approve this addition.

We're asking for honesty, transparency and oversight. The city has taken great care and time in developing codes and ordinances to keep people safe and maintain the historical integrity of South Pasadena homes. We would like the addition either removed or rebuilt adhering to the size and details of the original plans of the first story addition.

We appreciate all you do for the city and want to thank you in advance for your advice.

Sincerely,

Nichole & Travis Dunville

<mime-attachment>

Ruler

Line Path Polygon Circle 3D path 3D poly

Measure the distance between two points on the ground

Map Length: 6.90 Feet

Ground Length: 6.91

Heading: 3.94 degrees

Mouse Navigation

Save Clear

1032 Brent Ave



CITY OF SOUTH PASADENA

PLANNING AND BUILDING DEPARTMENT
1414 MISSION, SOUTH PASADENA, CA 91030
TEL: 626.403.7220 ▪ FAX: 626.403-7221
WWW.SOUTHPASADENACA.GOV

October 10, 2019

Travis and Nichole Dunville
1036 Brent Avenue
South Pasadena, CA 91030

Subject: 1030-1032 Brent Avenue (1101-COA/DRX, 19-20 Chair Review, 19-01 ADU)

Dear Mr. and Mrs. Dunville:

Thank you for sharing your concerns regarding the construction activities at 1030-1032 Brent Avenue (Project). I apologize for the delayed response. As you are aware this is an extremely complex project with a significant amount of history to sort through. Per the e-mail correspondences that I was provided (starting from February 1, 2019), here is a list of the concerns that have been raised and the associated responses:

Concern	Response
<p>Conflicting information regarding the project status in February 2019:</p> <ol style="list-style-type: none"><li data-bbox="240 1150 581 1276">1. "Building and Planning said that it had to be torn down..."<li data-bbox="240 1285 581 1339">2. "...had to be turned into an ADU..."<li data-bbox="240 1348 581 1444">3. "...illegal addition was approved by the Chair..."<li data-bbox="240 1453 581 1507">4. "...told it had not been approved."<li data-bbox="240 1516 581 1633">5. "show a new set of drawings that had been approved and signed..."	<p>First, I apologize for the disjointed responses that were provided by the Planning and Building Department (Department). This issue has been addressed with the Department and they will be taking steps to improve interdepartmental coordination and communication to avoid future miscommunication.</p> <p>To clarify the Project status here is a timeline of the Project. The original Project was submitted in 2007 and included an addition to the rear of the primary residence and a second story addition. The proposed Project was approved by the Cultural Heritage Commission on November 15, 2009. Permits were pulled and construction began soon after the approval, but was later halted and permits withdrawn by the property-owner.</p> <p>In March of 2018, it was brought to the City's attention that there was unpermitted construction of a covered patio adjoining the primary residence. On April 9, 2018, City Staff issued a Correction Notice to the property-owner and Notice To Stop Work.</p> <p>In January of 2019, the property-owner returned with minor changes and reduced the project to a 293 sq. ft. single-story addition, including revised design of windows and doors, to replace the unpermitted covered patio. The Commission approvals were still in effect and staff approved the reduced scale of the Project as being in compliance with prior approvals. These changes were approved by the Commission Chair, as</p>

Concern	Response
	<p>required by ordinance.</p> <p>On July 10, 2019, the property-owner requested a Chair Review to add approximately 36 sq. ft. to the first floor addition that was previously approved. The 329 sq. ft. addition is pending review.</p> <p>In January of 2019, the property-owner submitted plans to convert the second unit into an Accessory Dwelling Unit (ADU). The conversion would require the removal of the electrical and gas meters. On March 4, 2019 the plans were reviewed by staff for Zoning Code compliance and approved. On July 11, 2019, the property-owner pulled electrical permits to remove the electrical meter and on October 1, 2019, the property-owner pulled plumbing permits to remove the gas line to duplex.</p>
<p>Expiration of the original Certificate of Appropriateness</p>	<p>The previous code section regarding the Certificate of Appropriateness (COA) did not establish an expiration date for COAs. On July 19, 2017, Ordinance No. 2315 was adopted to repeal and replace Article IVH (Cultural Heritage Commission) of Chapter 2 (Administration) of the South Pasadena Municipal Code (Code) which established an eighteen month expiration date for COAs. This Code section does not apply to the Project since the original approval of the COA preceded the adoption of the ordinance in July 2017. Consequently, the original COA does not have an expiration date.</p>
<p>Authorization for a Chair Review and difference between a Major and Minor Project Review and request for a copy of the Chair Review Application</p>	<p>The modifications to the previously approved Project plans were considered minor and therefore were subject to a Minor Project Review. Chapter 2, Article IVH, Section 2.65 (Certificate of Appropriateness – Alteration and Demolition) establishes that a Minor Project Review may be conducted if it involves “replacement of windows and doors if the proposed replacements are of the same material, form, color, and location...” or “minor changes to a previously approved certificate...” As defined by the Code a Chair Review was appropriate for the review and approval of those changes. Currently, there is no formal application for a Chair Review. Project applicants that are subject to a Chair Review are requested to visit City Hall to meet with the Chair to discuss their projects. Moving forward, the City will create a more defined process for Chair Reviews.</p>
<p>Code Enforcement actions and remedies</p>	<p>As previously noted, Code Enforcement issued a Correction Notice and Notice To Stop Work in March of 2018. Once issued, the property-owner has 30-days to report to City Hall to work with City to remedy the issue. Currently, City policy establishes that as long as the property-owner demonstrates good faith to work with the City, Code Enforcement does not issue any citations. If no remedies are provided Code Enforcement may move forward with the issuance of a citation. However, the property-owner was responsive to the March 2018 notices and</p>

Concern	Response
	has been working with the City to bring the unpermitted construction into compliance with City code. Therefore, no citations have been issued at this time.
Illegal tree removal and oak tree trimming investigation	In March of 2019, the Public Works Department was informed of a possible illegal tree removal and oak tree trimming. Based on the Public Works Department's investigation the removed tree was less than 12-inches in diameter and did not require a tree removal permit.
Property line dispute and setback concerns	Property line disputes are a civil matter and are not addressed by the City. If there are concerns regarding the property line and setbacks that were used in the Project plans, a surveyor would need to be retained to determine the exact location of the property lines.
Public Records Request	The City Clerk's Office is responsible for Public Records Request and is currently looking into the request.

Next Steps

The property-owner will finalize the conversion of the the duplex into an ADU by removing the electrical and gas connections. Once completed, a Final Inspection will be conducted to ensure code compliance.

The property-owner would also like to move forward with the 329 sq. ft. addition to replace the covered patio. The revised Project will be subject to review and approval by the Chair of the Cultural Heritage Commission; this action is currently pending. Upon approval, the Project will need to be submitted to plan check and building permits will need to be obtained before any construction can be initiated.

If you have further questions, please feel free to contact our new Planning Director, Joanna Hankamer at JHankamer@SouthPasadenaCA.gov or (626) 403-7222.

Sincerely,

Stephanie DeWolfe
City Manager



cc: City Council



From: Travis D <[REDACTED]>
Sent: Thursday, March 26, 2020 5:40 PM
To: Joanna Hankamer <jhankamer@southpasadenaca.gov>
Cc: Maria Ayala <mayala@southpasadenaca.gov>; Nichole <[REDACTED]>
Subject: Re: Public Records Request

Joanna,

I'm unavailable for a call today, but I'm referring to the investigation file that Stephanie said was on her desk in October 2019. Neither Nichole nor I have ever met with Stephanie, the only reason we know the file was on her desk was because she told us she was working on it in an email she sent to us on Oct. 2, 2019, here is what she said:

Thank you for sharing your concerns regarding the construction activities at this site. I apologize that you did not receive a timely and appropriate response from City staff in regard concerns. I know you had received several responses from David Bergman and it was my understanding that he was appropriately handling the issue. I'm sorry I did not realize that you had not received an appropriate response. I have now personally delved into the history of this project at your request and have found the issues to be complex. Having the files spread out on my desk, I understand your frustration with the process. While I had hoped to have a complete response for you by today, I have not been able to complete my review due to the complexity and lengthy history of interrelated issues. Please know however, that this has my full attention and I am personally looking into each of the concerns you raised. I anticipate I will be able to provide you with a complete response next week. I apologize again for the City's failure to respond in a timely manner and appreciate your patience.

After 5 months of knowing about this investigation, your comments about not having an investigation file is disconcerting. Besides the email I provided with my concerns, what have you used in determining what happened in the 18 months prior to your arrival at the city? Wouldn't this be important in making a sound decision about what the owner/GC, architect, commissioner Gallatin, Jose and other staffers were doing and will be allowed to continue to do?

I would ask Stephanie what she actually did in trying to figure out what was so complex and where she put the files. And I would ask staffer Jose since he has been involved since the start. He had the investigation folder in his hand on January 31st 2019 when Nichole and I went in to make an appointment with David Bergman. I asked if I could take pictures of the file and he stated no, that I needed to request the PRR. I filled out the PRR in Feb. 2019 and over a year later I'm still waiting for my request to be fulfilled. See text below from Bob Roybal from February 28, 2019. Ask Gus the Code Enforcement Officer for the file. Please note that you and Jose have both been on the email thread and neither of you have assisted. Am I to assume the city has destroyed the investigation file/s?

Travis Dunville

On Thu, Mar 26, 2020 at 10:58 AM Joanna Hankamer <jhankamer@southpasadenaca.gov> wrote:

Hello Travis,

My staff and I have been asked to locate files that you noted were on Stephanie's desk when you met with her in 2019. Are you available to talk with me by phone so I can better understand what you are looking for? We have not found any such files, so it may be more helpful if I can talk with you by phone..

Are you available today (Thursday) after 3pm?

Thanks,

Joanna Hankamer

Director of Planning & Community Development

City of South Pasadena



Bob >

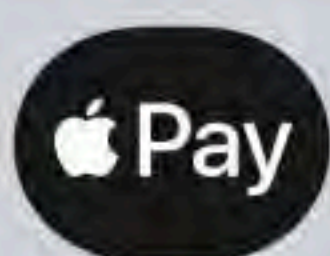
survey right now because we might sell and then I would have to declare it any new buyers. I will wait on that . Again, we appreciate your help.

Thu, Feb 28, 3:03 PM

Hi Travis, New Report. I just received a call from the new city code enforcement officer Gus. The original complaint from last April regarding my patio addition just arrived at his desk. He knows nothing about it. Fortunately I have detailed documentation of my responses and compliance to all their requests and requirements. He indicated that he would find out the present status of the matter and inform me. I Also notified my architect . He replied that he is current and awaiting their direction. I am pulling my hair out at this point and thinking about lighting matches! Thanks, hope we can get this done soon. Bob



iMessage



From: Nichole <[REDACTED]>
Sent: Thursday, February 18, 2021 10:41 AM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Cc: 'Nichole' <[REDACTED]>
Subject: CHC Meeting Item #1 1030 Brent

Commissioners,

The city investigated this project over 3 years ago and the current and proposed site plan are still misrepresenting the current and proposed views. The architect presentation tonight includes inaccuracies and still leaves many unanswered questions. Because staffers presented inaccurate information to the CHC in July, City Council reviewed the inaccuracies presented. Seven months later the incorrect plans are still being presented to you. The legal duplex cannot be converted to an ADU and the plans showing existing details are still inaccurate. The original COA was conditional upon building a two-car carport that would not fit on the property. The new COA is based upon converting the legal duplex into an ADU, which is not allowed per state and city ordinances, to circumvent the parking requirement. This is still under investigation because this project has never been able to comply.

The architect is requesting on behalf of the owner, who is a general contractor of more than 40 years, to just pay a fine instead. The owner can disassemble and donate material for reuse. More than 90% of the material can be recycled, or repurposed and there are plenty of resources available. Carbon should not be a reason to keep the structure and fines are not the message that should be sent to the community. This also goes against the ordinance set in place for this type of action. When misrepresentation is used to receive approval of a COA and/or building illegally without a valid COA; structures are to be torn down and no construction may take place for five year. Mark Gallatin confirmed this in the July meeting. The original COA was for a family room. There were major misrepresentations in the plans on setbacks, building separation, omitted trees and large errors in simple landmark measurements. The architect was given the chance to explain the measurement misrepresentations, but stated he had Errors & Omissions insurance, then skipped answering the specific questions sent in to the commission. The owner is trying to say this construction was just a patio. He never had a valid COA for the patio. City staffers should have recommended tearing down the structure and placing a five-year ban on any construction, not allowing more building and then a five-year ban.

Please review the packet in the link below with the answers provided by the city and compare them to the records and codes. Please note the pictures and stop work order.

<https://www.southpasadenaca.gov/home/showpublisheddocument?id=24035>

In addition, I have had 3 separate public record requests that have not been completed, I would like the commission to ask these questions so the record is clear. After three years, the city should know the answers to the following questions.

Respectfully,

Nichole Dunville

Did David Watkins have any involvement or knowledge of this violation?

Did David Bergman have any knowledge of this violation before January 31st, 2019?

In the afternoon on January 28th 2019, the city timeline states both Mr. & Mrs. Dunville came into the office and were told the plans were approved. They asked for the plans, but Jose Villejas could not find them. A few hours later Jose emailed the architect and said "Let's meet on Wednesday January 30 and discuss(ed) the project plans for the addition to 1030 Brent Ave. I found the approved set of copies. This is a time sensitive issue." Why didn't Jose contact the Dunvilles to review the plans that they had just requested to review?

Why did Jose need to meet with the Architect to discuss the project if the plans were already approved?

Why did Mark Gallatin get called in on January 31st 2019 to sign off on more plans if they were already approved?

Why did Jose sign off on another set of plans that are stamped 1/31/2019 if he had the copies?

The original COA was conditionally approved with required parking. Why did the city ignore this condition?

Tell us how a property can have a minor design review approved when the ordinance is specific about the size of the project being fewer than 200 square feet and visible from the street? In addition to that, the structure moved, height increased, original window was covered up, etc....

Why did the city allow the multiple changes when it was a conditional approval?

Based on the city measurements, could this property have complied and received a COA in 2007?

What evidence is there that David Bergman approved the ADU in March 2019?

There are emails that say Jose Villegas reviewed and approved the ADU based on 36.350.200 which refers to single family residences. Is 1030/1032 a single family residence or two-unit property?

Did the property meet the minimum size of 12,500 sq/ft for ADU approval in 2018 or 2019?

Does the backhouse have a street facing entrance?

Can an ADU be approved in 2018, 2019 or even today if the entrance is street facing?

Is a legal backhouse considered an accessory structure?

Does the legal backhouse create any new housing?

Would you agree with Greg Nickless at the California Department of Housing and Community Development when he emailed the Mr. Dunville "ADU law addresses the creation of additional dwelling units, not an addition to existing living units. Parking requirements, and exemptions, are related directly to the creation of additional units. Generally, if the proposed improvements are not related to the creation of an ADU, the local agency's development standards, or zoning code, would apply."

When the owners brought plans in based on the original COA, why did the city not tell the owners that the COA could not be changed based on the conditional approval?

What is the minimum width requirement for the driveway to comply with the original COA? Does it comply?

What is the measurement between the illegal building and the backhouse? Does it comply?

What are the parking measurements for the required parking behind the back house to the fence?

Does it comply with the setbacks for the utility pole and fence in the original COA?

The original site plan stated no trees would be cut, trimmed, or removed. The narrative stated no trees will be trimmed or cut. Why were the trees on the site plan not included on the original plans?

On October 31, 2007 a "Complete with Correction Notice" was issued for the site plan. Item number 3 states, please include the setbacks for all the property lines (existing and proposed). Did the architect correct that correction notice?

An image behind the garage shows a landmark measurement of 2ft 9 inches. The plans show 5ft? in 2007, was there 5 ft of setback?

In the required parking area, there is a utility pole. Was that pole there in 2007?

In the required parking area, is there the required space for two cars, with the proper setback to comply?

Is the separation between the backhouse and the structure built less than 10ft?

In the Design Review Board meeting on December 4th, 2007 the notes indicate that you presented the project and responded to the board's questions about the accuracy of the drawings. Can the architect go into some detail about the DRB comments?

How are the driveway measurements off by 1ft based on landmark measurements?

Why isn't the utility pole on the site plan?

Why aren't the trees in the pathway to the required parking shown on the original site plan?

The back house has a bump out in the back, but the drawings show the opposite to make it look like there is enough space between structure and backyard. Why is it that way on the site plan, but different in other details?

Once the city knew about a violation and the issue was not resolved in 18 months, does the city consider it a nuisance and required to be torn down?

Why did code enforcement give up on the enforcement of this violation and allow it to continue for 3 years?

Could this project have been approved in 2007 based on the inaccurate information we know of today?

Could it have been approved in 2018, 2019, 2020 or even today, based on the information we know today?

What does the code state when misrepresentation is found in getting a COA approval?

Per code, what actions are to be taken regarding building an illegal structure without a valid COA?

Why is the city recommending tearing down the illegal structure, then allowing a new structure to be built, that cannot comply, and then placing a five-year moratorium for issuing any permits? Is this recommendation based on the code?

From: Travis D <[REDACTED]>

Sent: Tuesday, April 6, 2021 6:37 PM

To: Michael Cacciotti - Personal <[REDACTED]>

Cc: Maria Ayala <mayala@southpasadenaca.gov>; Sean Joyce <sjoyce@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Teresa Highsmith <thighsmith@chwlaw.us>; CCO <cco@southpasadenaca.gov>

Subject: Re: COMPLETE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

Michael,

One month ago you asked Joanna to have staff promptly provide the documents we requested. The city has not provided any new information since your email. This is a public records request from September 2020. While items were still pending, the day after the CHC meeting, the city sent an email to close out the PRR when it wasn't completed. Six times in the last six month I've asked the city to provide me with the city staff measurements from January 2020, each time they have given me items I didn't ask for. You can see my wife's email after our meeting with Johanna in 2019 that we were concerned with specific measurements (Director of Planning attached). You might remember that prior to the July CHC meeting, there were errors in the agenda packet, so I specifically addressed those items with my second public records request. Two weeks later, I followed up and was told the city never received my request, even though I received a confirmation (PRR July 13th confirmation attached). Our original request was in February 2019 and took 17 months to complete, but only partially. After multiple city staffers tried to process our request, the same questions kept coming up. What do you need? On January 31, 2019 Jose showed us the stop work order and the pictures, when we asked for copies, Jose stated we needed to make a public records request. The pictures from the inspector were from when he came into our house to take pictures on February 1st, 2019. We requested these many times, only to be told by Joanna and Stephanie that there were no such files. I finally sent an email directly to Joanna and said ask Jose and the city inspector as one of them has them. While the city never provided them to me, they showed up, on around page 380, in the first city council review, 17 months after the first request. At no time has the city been transparent about this code violation

Tomorrow, you and the rest of the city council will be reviewing this issue. In the city council agenda packet you will see more false information that the city has already admitted to being incorrect. This is a packet that was reviewed by the city attorney. Let's just take one issue. In the July CHC agenda packet there is a permit for a single story addition and carport and then the refund request letter for the permit fees for the room addition and carport from the owners (permit and refund attached). Staffers had said the single story was approved without the required parking. This is clearly untrue, but in the timeline, it still shows that the project was approved without the parking. Time after time, I have shown that this project has never been able to comply and it still can't comply today. This process has been watered down at every discussion and review. For example, the plan to convert the backhouse "duplex" that the owner brought to the city in 2018. At that time I told Jose it couldn't comply. In 2016, Mayor Mahmud and Mayor Pro Tem Cacciotti and the previous

council at that time approved the ADU ordinance to comply with state law and no ADUs could be constructed or built on lots less than 12,500 sq/ft and no front facing entrances to the street. This back house faces the street and is on a lot size of less than 7900 sq/ft. Staffers stated that David Bergman approved the ADU on March 4th, but they could not provide one document backing up that statement in the public records request. I do have an email where Jose states he reviewed and approved the ADU. Nobody has addressed this issue, even though Mayor Mahmud inquired about the legality of the ADU in the first city council review. The city attorney stated that some people are using the ADU to bypass parking, while not addressing this specific parcel. How could this have been approved March 4th 2019? In 2020, the state law did eliminate the lot size requirement of not having a front door facing the street was still in effect and it could not comply. More importantly, the back house is a legal duplex that is permitted for living and financed accordingly (legal duplex attached). The city has confirmed this is a legal duplex. To eliminate the parking with an ADU, you would need to "construct" new housing or convert an "accessory structure" to create new housing. An accessory structure is defined as an incidental structure like a garage, carport, arbor or some structure that is converted into additional living space. Both houses on the property have been legal and livable for over 100 year and it does not create any new additional housing. In fact, Greg Nickless from the Housing and Community Development(HCD) stated in an email to me that "ADU law addresses the creation of additional dwelling units, not an addition to existing living units. Parking requirements, and exemptions, are related directly to the creation of additional units. Generally, if the proposed improvements are not related to the creation of an ADU, the local agency's development standards, or zoning code, would apply." See the email thread in (HCD ADU.msg attached) or just a screenshot of his email (HCD ADU screenshot.jpg). This one item alone disqualifies the property from being approved but continues to be ignored.

Specific questions need to be asked; like why did the minor design review that was "approved" in August 2019 never get signed? If there is no signature, how do we know what was approved? What Mark Gallatin did sign off on January 31, 2019 needed to be done in a major design review based on size alone. This would be taking it back to the commission for review. The City wants to push this through and ignore my records request, ignore the ordinances set in place, ignore the fact that different plans were submitted in plan check than the ones signed off on 1/31/19 by Mark Gallatin. My wife submitted questions (professional memo attached) to the CHC and not one question was read because the city attorney said nothing prior mattered. I disagree, if this goes much further, everything will matter.

Remember this was a code violation that should have corrected in 30 days, not 36 months. The city states they tend to work with these types of violations. How is it acceptable to misrepresent measurements in 2007 and continue to use the same details and original COA approval for a new structure? And then wait an entire year to state the COA is no longer valid in the July CHC meeting, even though it was and could have even been extended by 12 months? When in reality, the original approval was never signed and the city stated they didn't even have a record of an approval. Then in

the city council review staff stated there were so many changes they needed a new COA. For three years the owner has never submitted corrected drawings in two CHC meetings and one city council review.

As for the design, the CHC stated "it's weird, it's just weird" "I'm concerned with the measurements, floorplan, walls not to code" "there are so many discrepancies" "it's hard to believe what I'm seeing here" "did we really approve this" "was I even here" "if we approve the demo, do we have to approve the design" and on and on. One commissioner went on the record and said it was indefensible for the owner/ contractor who knows the rules and likened this to a plea bargain, offering to pay a larger fine so as to not have to tear down the illegal structure. The structure is not in proportion with the house or property. It is designed to be tall enough that the interior closet can be turned into a staircase into the attic so the attic space can be finished off at a later time. The structure is a shell and there are no plans to finish it off inside from the owners comments at the CHC meeting. It will house their washer, dryer and freezer. Those items were already outside. The owner is a GC and has four licenses that were confirmed from CHC. This was not the first offence for the owner. In the records request, there was another stop work order in the early 2002-2004 for construction of multiple items.

How can the council reasonably make decisions on an item when city staffers continue to provide false information to the CHC, council members and even the general public in agenda packets? All four neighbors that border the owners property wrote in to oppose the project (CHC public comments attached). We are all tired of this eyesore. We want the structure town down and slab taken away. City staffers are still recommending tearing down the structure and building the shell of a structure and then imposing the 5 year moratorium for building permits. When you misrepresent information to get approval of a COA, the city ordinance states "no building or construction-related permits shall be issued for a period of five years following the date of demolition." It also states if you construct without a COA, this too will result in a 5 year moratorium of issuance of a building permit. When you review the case, the owner did both.

As this started out as a follow up to a public records request, I felt the need to provide new city council members a little bit of background from my perspective. This only skimmed the surface and if any council member has questions, feel free to call or send me an email prior to the meeting.

Kind regards,
Travis Dunville

██████████

On Thu, Mar 4, 2021 at 7:40 AM michael cacciotti <██████████> wrote:
Good morning Maria,

Thanks for your efforts in assisting the Dunville's on their public records requests.

Looks like you did not get much sleep after last night's late city council meeting.

Joanna,

Please have staff promptly provide all the documents requested by the Dunville's as required by the CA Public Records Act.

Hope everyone has a great day!

Michael

Sent from my iPhone

On Mar 4, 2021, at 6:52 AM, Maria Ayala <mayala@southpasadenaca.gov> wrote:

Mr. Dunville,

I will work with our Planning Department on your email below.

Thank you.

-Maria

From: Travis D <[REDACTED]>
Sent: Wednesday, March 3, 2021 9:06:21 PM
To: Michael Cacciotti <[REDACTED]>
Cc: Maria Ayala <mayala@southpasadenaca.gov>; Sean Joyce <sjoyce@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: Fwd: COMPLETE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

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Michael,

I just replied all to Maria's email and your email bounced. Just want you to be included for any future emails in this thread as the Planning Department is having trouble providing the staff measurements to Maria.

Travis Dunville

----- Forwarded message -----

From: Travis D <[REDACTED]>
Date: Wed, Mar 3, 2021 at 8:59 PM
Subject: Re: COMPLETE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

To: Maria Ayala <mayala@southpasadenaca.gov>
Cc: Sean Joyce <sjoyce@southpasadenaca.gov>, mcacciotti@southpasadena.gov
<mcacciotti@southpasadena.gov>, City Clerk's Division <CityClerk@southpasadenaca.gov>,
Joanna Hankamer <jhankamer@southpasadenaca.gov>

Maria,

The only reason for comments and questions are because the city has failed to provide the documents I requested 5 months ago. Please look at this one example about the measurements and pictures attached in my original request. I stated "Please provide all pictures and all measurements from the staff visit to the Roybal's property on 1/9/2020." Your initial response was to see the survey and you provided no pictures. I then needed to explain the difference between the surveyor's measurements and the city staff measurements. You then sent three pictures and no measurements. Again, I needed to provide comments and questions for the same request to finally receive most of the pictures and still no measurements.

The city staff did not go out and measure just the one area between the illegal construction and the back house. I have city staffers on video with the different areas they measured. I have Jose on a recording telling the owner that he thinks all the measurements are good except the building separation, but it is ultimately up to the Director of Planning(Johanna).

As the city staffers change their stories between CHC and City Council meetings, it's hard to stay on top of all the misinformation that the city continues to put out there. Public records requests are the only way to get the partial truth.

How do you propose I get a copy of all the measurements from the city staff's visit?

Sean, Michael, Johanna, what do you propose?

Travis Dunville

On Wed, Mar 3, 2021 at 4:33 PM Maria Ayala <mayala@southpasadenaca.gov> wrote:

Good afternoon Mr. Dunville.

Attached please find the City's response to your email dated March 1.

Thank you.

~Maria

From: Maria Ayala <mayala@southpasadenaca.gov>

Sent: Monday, March 1, 2021 9:26 AM

To: Travis D <[REDACTED]>

Cc: Sean Joyce <sjoyce@southpasadenaca.gov>; mcacciotti@southpasadena.gov; City Clerk's Division <CityClerk@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>
Subject: RE: COMPLETE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

Thank you Mr. Dunville.

I will confirm with our Planning Department on this matter.

~Maria

From: Travis D <[REDACTED]>
Sent: Monday, March 1, 2021 9:12 AM
To: Maria Ayala <mayala@southpasadenaca.gov>
Cc: Sean Joyce <sjoyce@southpasadenaca.gov>; mcacciotti@southpasadena.gov; City Clerk's Division <CityClerk@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>
Subject: Re: COMPLETE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

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Hello Maria,

You have marked this request completed, but you show pending items in the dropbox that you sent on February 16. Will you be completing these items?

Also, the comments you provided below to my January 21st email contradict previous statements made by city staffers at CHC and City Council meetings. Please see my comments and questions below in yellow.

Please provide the records I've requested.

Travis Dunville

On Fri, Feb 19, 2021 at 6:37 AM Maria Ayala <mayala@southpasadenaca.gov> wrote:

Mr. Dunville,

The city has completed reviews of responsive emails to your request. All responsive items have been placed in a DropBox at the below link.

This completes the city's response to this request.

Thank you.

Maria

Dropbox for info 2-18-

21: <https://www.dropbox.com/sh/gp7p40pd23ntczk/AADDGSsxA5dkH8r0o7ktlfECa?dl=0>

From: Travis D <[REDACTED]>

Sent: Thursday, January 21, 2021 7:42 PM

To: Maria Ayala <mayala@southpasadenaca.gov>

Cc: Michael Cacciotti <mcacciotti@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>; Sean Joyce <sjoyce@southpasadenaca.gov>

Subject: Fwd: UPDATE 2: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

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Maria,

I'm following up on my public records request from September. Do you have an update for us?

While I know you are not actually doing the research, I want to make it clear that the information you have provided is not what I requested. My first request was for the signature from Mark Gallatin regarding the August 2018 approval staffers have stated happened. This was verbally in the office and in emails. Your initial response was- it's in the agenda packet. This was not correct, as there was no signature. The second follow up you mentioned, there was never an approval, even though the staffer's document clearly stated it was approved. Is it the city's position that there was never an approval in August 2018?

In reviewing the records provided, Chair approval which included emails from August 2018 and stamped plan in Jan 2019 were provided. The confusion here is, the Chair conducted an in-person Chair Review in August 2018 and did not stamp the plans at that meeting. So staff sent an email to the architect, Jim Fenske, to provide electronic version of the plans for another Chair review (see email from Jose Villegas dated Friday, August 24, 2018 3:14:00 PM). That same day, the Chair replied and informed staff that "The site plan looks fine." (see email from Mark Gallatin dated Friday, August 24, 2018 4:24:47 PM). No stamped plan of approval was provided. This email chain was provided to Mr. Dunville in the document titled "Email Set 2 – 03312020"

First, there is no record of what the Chair approved and only a statement from Jose stating that Jim mentioned you are good with the plans and a site plan needed to be approved. There is no mention of forgetting to sign off on the plans. Five months later when my wife and I went to follow up, only then did Jose reach out to the architect to meet. The signature on those plans do not comply with a Minor Design Review. If the structure is visible from the street and over 200 sq/ft. This was proven with the pictures and stop work order that were never included in my first Public Records Request in February 2019 and never provided to us and only included in the City Council meeting 17 months later. We do know the Chair approved a site plan that has been proven to be riddled with numerous errors that the Chair was not aware of.

In Jan 2019, the Chair reviewed a printed set of plans, approved, and stamped the plans. This plans set approved by the Chair was included in the City Council agenda packet September 16, 2020 as Attachment 7.

It should be noted that two separate sets of plans were stamped on January 2019 and they were not copies.

The next issue is the approval of an ADU by David Bergman. I was clear that I did not need any architectural plans. Staffer stated that David Bergman approved an ADU on March 6th, 2019. Is

there anything that supports this claim? An architectural stamp does not confirm any approvals. Maybe it was the Plans to City Transmittal under plan check #43801 staffers think is an approval? This is not an approval from David Bergman. You also mentioned twice that you cannot provide the architectural plans. While I never ask for them, I would like a copy of the architectural stamp approving the ADU. Copyright law allows for snips of such documents. I also want to be clear, you already provided me with architectural plans in the February 2019 public records request. If staffers claim something, I would like the supporting documents that show how David Bergman made such approval. How are staffers able to claim David Bergman approved an ADU when they have no supporting documents? Please provide me with these docs. If you cannot prove that David Bergman legally approved this ADU, then please state you have no such supporting docs.

Approval of the conversion of the second dwelling unit to an ADU is in an email from Jose Villegas dated Monday, March 4, 2019 4:17 PM. This email is included in the dropbox link titled "CE-6 Email from Jose for ADU approval 3-4-19.pdf." To perform the conversion, the property owner was required to remove the utility meters.

My previous request was support docs that David Bergman approved the ADU on March 4th based on the information provided to the CHC and City Council members. I did not ask for the stamp in January, I requested the March 4th stamp. Jose's email states he reviewed and approved the ADU and not David Bergman. Jose's e-mails are clear when we states others have approved or he needs to check with the Director of Planning. Do you have any supporting documents that David approved the ADU as previously stated and will you provide the stamp on March 4th?

I asked for all measurements and pictures that staffers took when visiting the property. Your first response was to tell me to look at the survey, which is not what I requested. Then you only sent 3 pictures. Of the three images, two of the images have the same jpg number. There appears to be a gap in images from 7891-7916. Clearly not all images were sent. I asked for measurements twice and have still not received any measurements. Measurements and photos were taken all over the property and recorded by three staffers. Staffer's landmark measurements are what I need. Staffers measured on the north side of the back house. They measured the back of the back house to the fence, the back of the garage to the fence, the south side of the front house to the driveway and they needed a longer tape measurer that the owner lent them and offered it to them as they left. Jose is heard telling the owner that he thinks all the measurements are fine except the building separation between the illegal construction and the side of the back house, but ultimately it is up to the Director(Joanna). If you need video of them measuring the area, I can provide that for you as well to make sure they provide all measurements. It is a very large file.

Measurements from structures to property lines are in the survey provided in "Email Set 1 – 04012020"-I never asked for survey measurements

Measurement between the unpermitted patio cover and the back house was shown in the photographs provided in an email in December 2020. All photographs from that site visit are in the dropbox link titled as "1030-1032 Brent Avenue inspection 1-9-20" I asked for all pictures and measurements staffers took. It took three requests and 5 months for all pictures and now a fourth request for all staff measurements. Is there a reason the city is choosing to ignore this request and provide other information that I didn't request? Please provide all measurements for all areas measured. This city requested a site visit to measure all the areas of concern we brought up to Joanna and not just the building separation.

The owner made many claims in their timeline and we need those supporting documents. Please provide any that staffer have worked on up to this time and let us know when we will get the rest.

Supporting documents found for the timeline are provided in the dropbox link. Attached is the timeline with notes referencing documents to review for the records found. Items still show pending. Will these be completed?

Dropbox link: https://www.dropbox.com/sh/qkvdzje96w3cfe3/AACFFPp6AXM5PycM_IOR63via?dl=0

Kind regards,

Travis Dunville

On Tue, Dec 8, 2020 at 8:15 PM Maria Ayala <mayala@southpasadenaca.gov> wrote:

Good evening Mr. Dunville.

Following is the City's latest update to your outstanding PRA request:

In further response to your supplemental questions regarding the City's October 8, 2020, response to your Public Records Act request, I repeat your questions and

the City's response, your supplemental question, and the City's supplemental response (in yellow highlight below):

(1) Please provide all supporting documentation that staff states the ADU conversion was approved on March 4th based on the information below.

CITY'S RESPONSE: At this time, the City cannot reproduce the architectural plans for the ADU without the express permission of the architect, and is therefore exempt from disclosure under the Public Records Act pursuant to Government Code Section 6254(k). This completes the City's response to this portion of your request.

SUPPLEMENTAL QUESTION FROM DUNVILLE: *I am not requesting or in need of the architectural plans. Staff stated that the previous Director (David Bergman) approved the ADU conversion on March 4th. How did the Director make the approval and on what basis? This might include a signature or email from David Bergman to city staff, architect, or homeowner. Based on state laws and city ordinances on March 4, 2019, it appears that the Director had no authority for such approval. I am requesting any supporting documentation that supports this claim. Can the city provide any support documents for this approval?*

CITY RESPONSE TO SUPPLEMENTAL QUESTION: Approval of the ADU was documented through a stamped approval of the architectural plans set for the ADU. Without express authorization from the Architect, we are not able to release the ADU plans set. Please contact Mr. Jim Fenske to receive authorization to release the stamped approval of the architectural plans set for the ADU.

(2) Please provide the signature of the approval from Mark Gallatin from the 8/24/2018 minor design review and any plans attached to that signature. Staff previously used 8/24/2018 in the July CHC meeting as an approval as to why the COA had expired and the 1/31/2019 was just a confirmation of that previous review. Now staff is stating the review was on 1/31/2019.

SUPPLEMENTAL QUESTION FROM DUNVILLE: *There is no signature from Mark Gallatin on 8/24/2018 for a CHC approval in the 9/16/2020 City Council Agenda Packet, Item #16. Staffers stated in the CHC meeting that the original COA expired. An approval on 1/31/2019 would not have expired at the time of the CHC meeting. The only document is a 1/31/2019 signature based on an 8/24/2018 review. Was this just a review and never an approval? Can the city support the claim that there was ever an approval from Mark Gallatin on 8/24/2018 CHC minor design review? I don't need the plans but, does the city have the original or copies of the plans that are required when*

submitting for an approval with an 8/24/2018 approval from Mark Gallatin. Please provide any support documents supporting this claim.

CITY RESPONSE TO SUPPLEMENTAL QUESTION: Mark Gallatin did not approve the Chair Review on 8/24/2018. The Chair approval was on 1/31/2019 for the revised design. This information was corrected verbally at the CHC meeting of 8/20/2020 and in the staff report provided to the City Council of 9/16/2020 meeting. The plans approved by the Chair on 1/31/2019 was included in the 9/16/20 city council agenda packet. Please be advised that responsive records to your request, approved plans, are already in the public record. These can be accessed through the 9/16/2020 City Council Agenda Packet, Item #16 (<https://www.southpasadenaca.gov/home/showdocument?id=24035>).

(3) Please provide all pictures and all measurements from the staff visit to the Roybal's property on 1/9/2020.

SUPPLEMENTAL QUESTION FROM DUNVILLE: My request was for all pictures and all measurements from the staff that visited the Roybal's property on 1/9/2020 and not the survey. Staffers took pictures and measured other areas not represented on the survey that are critical for the misrepresentation and investigation. One example is the building separation staffers measured. Please see the attached picture that I took showing two sets of hands holding the tape measure on the duplex and Mr. Roybal at the end of the tape measure of the illegal construction. Please send all pictures and measurements from my original request and not just this one example.

CITY RESPONSE TO SUPPLEMENTAL QUESTION: Attached are photographs from the site visit on 1/9/20. Photo "IMG_7891" shows the space between the patio cover and ADU, photo "IMG_7897" is the view of the ADU and patio cover from driveway, and photo "IMG_7916" shows the measurement between the ADU and patio cover.

This completes our response to your Public Records Act supplemental question as indicated above.

(4) Please provide all correspondence to and from the Roybals based on their timeline in the City Council Attachment 9 Roybal's Timeline of Events for Property.

CITY'S RESPONSE: Staff continues to work on this portion of your request, will need additional time.

Thank you,

Maria Ayala

Chief City Clerk

From: Travis D <[REDACTED]>
Sent: Sunday, December 6, 2020 6:57 PM
To: Michael Cacciotti - Personal <[REDACTED]>
Cc: Maria Ayala <mayala@southpasadenaca.gov>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>; City Clerk's Division <CityClerk@southpasadenaca.gov>; Sean Joyce <sjoyce@southpasadenaca.gov>; Joanna Hankamer <jhankamer@southpasadenaca.gov>; Kanika Kith <kkith@southpasadenaca.gov>
Subject: Re: UPDATE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

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Michael,

Thank you for your response. I'm glad the council has approved more staffing for the Planning and Building department. Unfortunately, It has now been another three weeks since your reply and we still don't have any of the records we requested, a date for the CHC meeting or even an acknowledgement from anyone in the city regarding your reply. It is critical that the city gets the 1030 Brent issue on the December CHC meeting as this will be Mark Gallitin's last meeting as a commissioner. It is important that Mark be able to answer any questions as city staffers have stated that he approved the COA under a minor design review, even though he couldn't based on the changes to the property. The owner brought up the possibility of converting his legal second unit into an ADU in 2018 to circumvent the parking requirements of the original

COA that had required parking conditions. The CHC ordinance on ADUs, which the city council approved and you and the city attorney signed, prohibit this property from adding an ADU in 2018 and 2019. Staffers stated that David Bergman approved the ADU in March 2019, but there is no indication on how this was approved. The state did change the law in 2020 with respect to lot sizes which would override the city ordinance, but the complaint was from 2018, and this is for adding new housing stock with new construction or a conversion of an "accessory structure" to alleviate the housing crisis, not a swap out of a legal house to an ADU. Accessory Structure is clearly defined in the city and state ordinances. This was confirmed with the California Department of Housing and Community Development.

As for the CHC meetings, there were only three items in November and four in October. This is not a lot on the agenda, considering some of those items have already been proposed to be moved to the next meeting.

Sean,

Here is a link to a small portion of this issue that has been investigated for over 2 1/2 years with construction starting 5 years ago: <https://www.southpasadenaca.gov/home/showdocument?id=24035> . Plenty of neighbors wrote in and opposed the illegal construction, including every neighbor that borders the property. The owners misrepresented the original drawings to get an approval of a COA. It's clear what the architect and owner did, even though they were asked to go back and double check all of their original measurements. The owner's representative submitted a different set of plans that were never approved for permit review that had a 20% larger footprint. Michael Cacciotti was outraged in the city council meeting about the 20% increase and these plans were never approved. This is something I discovered and had to bring to David Bergman's attention, which he never came back with an explanation on how or why this was done. Neither Watkins or Bergman were aware of this issue until I brought it up to Bergman on 1/31/2019. This was one year after the investigator came to our house to take pictures of the 1030 Brent from our property. There is evidence of former City Manager Stephanie Dewolfe stating the tree that was removed illegally was determined to be less than 12 inches in diameter. On the same day, a few hours prior, the city arborist stated in an email to DeWolfe she couldn't tell from google images the type or size of the tree. I can go on and about more issues with the owner, architect and city staffers, but what is interesting is that I have the documents to prove the misrepresentation from the owner, architect and even the city employees who tried to cover up their errors. Nobody has taken ownership of this issue and the city has even ignored its own nuisance ordinance of 18 months when knowing about this issue.

City staffers and the CHC have already agreed in the July CHC meeting for the structure to be torn down, but then approved a new drawing based on false information from city staffers

that then needed to be corrected for the record in the city council meeting for review. Some CHC members were unaware that this project warrants a 5 year moratorium for any building permits because of misrepresentation in a COA and or building without a COA. The homeowner did both, and Mark Gallitin confirmed this in that meeting. The architect ignored any of the questions about misrepresentation of his plans that were submitted to the CHC and instead just said he had "errors and omissions insurance". I asked for a review because staffers gave inaccurate information to the CHC for their decision. This has been a documented pattern from the beginning. The same staffers had to retract their statements they made at the CHC meeting when presenting to the city council. Not only did they retract their statement, they made more incorrect statements that I will share and correct at the upcoming CHC meeting. The owners have chosen not to speak at the CHC meeting or when called up to the city council meeting for review.

This structure took 2 1/2 years to build and an additional 2 1/2 years to investigate. On February 1, 2021 the investigation will have been going on for 3 years. A 5 year moratorium is appropriate and the city should recommend this to the CHC when it goes back for review. Once this is done, we can close this chapter and the owner can come back in 5 years with corrected drawings that meet the current building code and local ordinances. We need some action items with deadlines with some priority or otherwise this will continue into 2021. After you review, please reach out so I can clarify and answer any questions you may have.

Kind regards,

Travis and Nichole Dunville

[REDACTED]

On Sun, Nov 15, 2020 at 5:49 PM michael cacciotti <[REDACTED]> wrote:

Hi Travis,

Sorry you are not getting what you have requested. Let's see if I can help...

I have added interim City Manager, Sean Joyce, Joanna Hankamer, Planning Director, and the city attorney to the recipients of this email. I have also proposed and the city council has

approved more staffing in our Building and Planning department to assist with their unsustainable workload and to also address public records requests such as yours.

Hi Maria,

Please work with Joanna and the city attorney to ensure the Dunville's receive the public records requested in accordance with the CPRA. They have been patient for many months.

I know you are overwhelmed with staffing issues so please let me know how we can assist in responding to these PRA's.

Joanna,

I know our CHC is also overwhelmed with so many historic home remodeling projects, etc., Would you please let the Dunville's know when 1030 Brent Ave project will be brought before the CHC?

Thank you all for your dedication and hard work and please keep me in the loop on our response.

Thanks

Michael

Sent from my iPhone

On Nov 13, 2020, at 10:16 AM, Travis D <[REDACTED]> wrote:

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.

Michael,

I am reaching out for some assistance in trying to get the public records I requested in September. This is in regards to the illegal construction at 1030 Brent Ave that the City Council addressed in the September council meeting. Staffers replied with information that I did not ask for and incorrectly stated to review the packet of information that did not include the information I requested. This is from the staffers in the Planning Department that had to correct their statements that they gave in the July presentation at the CHC meeting. This is also the same department that took over 17 months to provide us with information in the original public records request and never completed it. Some of the items like the photos and the original stop work order from the city inspector were held back when we specifically asked for it for over 17 months. This was fully documented with Johanna Hankamer and Stephanie DeWolfe stating there was no such file with those documents. That department finally slipped those items we requested into the September City Council packet without ever providing to us directly. Our second request in July through the City portal thanked me for my submission of the request and I took a screenshot of it, only later to be told the city never received it. I'm looking for the facts in this case. Can you please have staffers provide the status of our request for each item and not just a generalization of all items for this department?

Also, In the September 16th City Council meeting, the council voted unanimously to send the review back to the CHC. It was not on the October or November agenda. Can you also find out why this has been held up and not brought to the CHC?

Kind regards,

Travis & Nichole Dunville

On Fri, Nov 6, 2020 at 10:33 AM Maria Ayala <mayala@southpasadenaca.gov> wrote:

Hello Mr. Dunville.

I have followed up with out Planning Department (yesterday).

I hope to receive an update Monday.

-Maria

Get [Outlook for iOS](#)

From: Travis D <[REDACTED]>
Sent: Thursday, November 5, 2020 4:43:47 PM

To: Maria Ayala <mayala@southpasadenaca.gov>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: Re: UPDATE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

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.

Maria,

You mentioned you would circle back with me on Tuesday. Can you provide me with any updates?

Travis Dunville

On Tue, Nov 3, 2020 at 8:39 AM Maria Ayala <mayala@southpasadenaca.gov> wrote:

Good morning Mr. Dunville.

I will check back in with them, sir.

I will circle back with you later today.

~Maria

From: Travis D <[REDACTED]>
Sent: Monday, November 2, 2020 10:03 PM
To: Maria Ayala <mayala@southpasadenaca.gov>
Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>
Subject: Re: UPDATE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

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.

Maria,

Has the Planning Department responded to any of the my requests? Any updates would be appreciated.

Thank you,

Travis

On Wed, Oct 14, 2020 at 9:14 AM Maria Ayala <mayala@southpasadenaca.gov> wrote:

Thank you Mr. Dunville.

I will make communicate your comments to our Planning Department.

~Maria

From: Travis D <[REDACTED]>

Sent: Friday, October 9, 2020 10:50 AM

To: Maria Ayala <mayala@southpasadenaca.gov>

Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>

Subject: Re: UPDATE: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

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.

Hi Maria,

Thank you for your email on the initial response for my request.

There are some things that appear to be overlooked. I have written some specifics below the City's Responses. If you or any staffer are still unclear of my requests, please let me know.

Kind regards,

Travis Dunville

On Thu, Oct 8, 2020 at 8:21 PM Maria Ayala <mayala@southpasadenaca.gov> wrote:

Good afternoon Mr. Dunville.

We are providing an initial response and update to your recent PRA request (attached).

As best we could, we have outlined the specific requests from your letter. Please feel free to let us know if we have inadvertently overlooked something.

(1) Please provide all supporting documentation that staff states the ADU conversion was approved on March 4th based on the information below.

Staff Response: The code compliance was addressed in two parts, first the ADU conversion (approved on March 4, 2019) and then the unpermitted patio cover (the subject of the CHC approval being reviewed). The resolution of the unpermitted patio went through a few design iterations before Staff could support a compliant resolution.

CITY'S RESPONSE: At this time, the City cannot reproduce the architectural plans for the ADU without the express permission of the architect, and is therefore exempt from disclosure under the Public Records Act pursuant to Government Code Section 6254(k). This completes the City's response to this portion of your request.

I am not requesting or in need of the architectural plans. Staff stated that the previous Director (David Bergman) approved the ADU conversion on March 4th. How did the Director make the approval and on what basis? This might include a signature or email from David Bergman to city staff, architect, or homeowner. Based on state laws and city ordinances on March 4, 2019, it appears that the Director had no authority for such approval. I am requesting any supporting documentation that supports this claim. Can the city provide any support documents for this approval?

(2) Please provide the signature of the approval from Mark Gallatin from the 8/24/2018 minor design review and any plans attached to that signature. Staff previously used 8/24/2018 in the July CHC meeting as an approval as to why the COA had expired and the 1/31/2019 was just a confirmation of that previous review. Now staff is stating the review was on 1/31/2019.

Staff Response: The property owners (Mr. and Mrs. Roybal) stated that they were not able to make the improvements to their property as approved by the Cultural Heritage Commission (CHC) on November 15, 2007 due to financial hardships. The approval includes a 293 square-foot addition on the first floor, a new 555 square-foot second story addition, and a new 400 square-foot carport. Therefore, in January 2019, they submitted revised plans for a design change to only include the 293 square-foot addition on the first floor (same size as original CHC approval). At that time, staff determined that the design change was within the review authority of the Chair of the CHC under SPMC Section 2.65(e)(4)(E) for Minor Project Review. This section states the following: "...minor changes to a previously approved certificate; or any other undertaking determined by the director or his/her designee to not materially alter the features or have an adverse effect on the integrity of a cultural resource." The revised design was approved on January 31, 2019 by the Chair of the CHC (see Attachment 7). The Chair did not approve the illegal patio cover.

There is no signature from Mark Gallatin on 8/24/2018 for a CHC approval in the 9/16/2020 City Council Agenda Packet, Item #16. Staffers stated in the CHC meeting that the original COA expired. An approval on 1/31/2019 would not have expired at the time of the CHC meeting. The only document is a 1/31/2019 signature based on an 8/24/2018 review. Was this just a review and never an approval? Can the city support the claim that there was ever an approval from Mark Gallatin on 8/24/2018 CHC minor design review? I don't need the plans but, does the city have the original or copies of the plans that are required when submitting for an

approval with an 8/24/2018 approval from Mark Gallatin. Please provide any support documents supporting this claim.

CITY'S RESPONSE: Please be advised that responsive records to your request, approved plans, are already in the public record. These can be accessed through the 9/16/2020 City Council Agenda Packet, Item #16 (<https://www.southpasadenaca.gov/home/showdocument?id=24035>). This completes the City's response to this portion of your request.

(3) Please provide all pictures and all measurements from the staff visit to the Roybal's property on 1/9/2020.

CITY'S RESPONSE: Please review the survey plan in the 9/16/2020 City Council Agenda Packet, Item #16 (link above). This completes the City's response to this portion of your request.

My request was for all pictures and all measurements from the staff that visited the Roybal's property on 1/9/2020 and not the survey. Staffers took pictures and measured other areas not represented on the survey that are critical for the misrepresentation and investigation. One example is the building separation staffers measured. Please see the attached picture that I took showing two sets of hands holding the tape measure on the duplex and Mr. Roybal at the end of the tape measure of the illegal construction. Please send all pictures and measurements from my original request and not just this one example.

(4) Please provide all correspondence to and from the Roybals based on their timeline in the City Council Attachment 9 Roybal's Timeline of Events for Property.

CITY'S RESPONSE: Staff is currently working on this portion of your request and will need additional time.

Maria E. Ayala

Chief City Clerk

City of South Pasadena

[1414 Mission Street](#)

[South Pasadena, CA 91030](#)

mayala@southpasadenaca.gov

CityClerk@southpasadenaca.gov

****Effective Friday March 20th all City facilities are temporarily closed until further notice to prevent the spread of Coronavirus. We appreciate your patience at this time. For full details on the closures please visit our City website at www.SouthPasadenaCA.gov ****

From: Maria Ayala

Sent: Monday, September 28, 2020 2:51 PM

To: 'Travis D' <[REDACTED]>

Cc: City Clerk's Division <CityClerk@southpasadenaca.gov>

Subject: RECEIVED: PRA 2020-200, 09/28/20: T. Dunville Re. ADU Conversion Approval

Importance: High

Good afternoon Mr. Dunville.

Thank you for your Public Records Act request. This is a confirmation that your PRA has been received and will be processed accordingly.

Please always feel free to include cityclerk@southpasadenaca.gov in your emails to me (that way my Deputy City Clerk sees them as well – just in case I'm not available).

Thank you so much.

~Maria

Maria E. Ayala

Chief City Clerk

City of South Pasadena

[1414 Mission Street](#)

[South Pasadena, CA 91030](#)

mayala@southpasadenaca.gov

CityClerk@southpasadenaca.gov

****Effective Friday March 20th all City facilities are temporarily closed until further notice to prevent the spread of Coronavirus. We appreciate your patience at this time. For full details on the closures please visit our City website at www.SouthPasadenaCA.gov ****

From: Travis D <[REDACTED]>
Sent: Monday, September 28, 2020 1:46 PM
To: Maria Ayala <mayala@southpasadenaca.gov>
Subject: Public Records Request 9-28-2020

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.

Hi Maria,

Because of the problems with the city system in receiving my previous public records request, I'm emailing you the request. If you need it to come through the city website, please let me know and I will submit it that way.

In either case, please confirm you have received this email.

Kind regards,

Travis Dunville

COVID-19/CORONAVIRUS UPDATE:

The City of South Pasadena's top priority is the health and safety of our community as the situation around the coronavirus continues to evolve. For facility closures, event cancellations, and more information, [click here](#)

City of SOUTH PASADENA

I WANT TO...

RESIDENTS

BUSINESSES

VISITORS

GOVERNMENT

Search...



- Departments
- + Management Services
- City Clerk
 - Advisory Body Application
 - Appeal Procedures and Form
 - Ceremonial Document Guidelines
 - City Records Program

Thank you for your submission.

From: Nichole <[REDACTED]>
Sent: Thursday, December 5, 2019 2:46 PM
To: 'Joanna Hankamer' <jhankamer@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Dear Joanna,

Thank you for the taking time last week to meet with us. Because an hour and fifteen minutes flew by, we really just scratched the surface of this complaint. We understand that you are still reading and digesting our email thread and have not been able to review any other documents so far.

In our meeting, you mentioned looking into bringing the structure into compliance and said you would need to see what they could legally build, but we think the City needs to address the bigger issues first. Misrepresentation and fraud were committed to get the original project conditionally approved. And the ongoing and unfinished project we have had to live next door to continues to be a nuisance. This needs to be addressed. Below is a list of the fraudulent measurements and misrepresentations on the original approval:

- Misrepresented the space between their house and the property line on the south driveway side (They knew they needed more space because they tried to buy land from us to increase this area).
- They claimed to have enough space to build a carport that was required for the addition and lied about the size of the space of this area. The necessary easement would never allow the proper carport size for the conditional parking.
- Neglected to include existing trees on the plans that were in the direct path of the carport parking.
- Cutting down a mature tree and lying to the City about the size of the tree in the investigation when the narrative and site plan stated no trees to be cut, trimmed or removed.
- Changing the dimensions of the duplex to create the appearance of more clearance to fit a car through to the carport.
- Design Review Board accuracy of drawings. The owner was given a correction notice after submitting his plans on October 31, 2007 and on Dec. 4, 2007 in the Design review minutes, Fenske responded to the Board's questions about the accuracy of drawings. Even after he was asked about the accuracy of the drawings, he still did not correct the measurements.
- Required 10ft minimum between structures. See attached picture. Duplex and illegal structure are 8ft apart. We didn't get a chance to talk about this detail when we met, but you will see in the attached picture that between the illegal addition and the duplex, there are 7 ft between structures. It may be 8ft if accounting for the eaves and overhang. The City's minimum between structures is 10ft and Jim Fenske detailed on the plans 10ft. The illegal addition was built on the same footprint as the as the original plans and neither are 10ft away from the existing duplex.

All of these details were measured by the architect by hand and if all these items were on the site plan correctly to begin with, this project would not have been approved. This is critical since the owner and architect misrepresented the measurements to meet minimum setbacks and easements, even after he tried to acquire extra land and proceeded to use measurements that would make their property look like it was in compliance to the reviewing committees. Since the addition is based on the original 2007 approval and COA and obvious fraud was committed, the City has the authority to revoke the COA and stop this from continuing. A Certificate of Appropriateness may be revoked or modified for any of the following reasons:

- A. Non-compliance with any terms or conditions of the certificate.
- B. Non-compliance with any revision of this article; or
- C. A finding of fraud or misrepresentation used in the process of obtaining the certificate.

We know the City does not have the bandwidth to handle every possible building infraction, but when South Pasadena resident and licensed architect, Jim Fenske, who has served on the Design Review Board and knows the workings of Planning and Building intimately, intentionally misrepresented the measurements, and was then asked in a second correction letter to correct these items and still proceeded with the same information, this should be cause for serious concern.

Kind regards,
Nichole Dunville

A.D. - 279

[EXTERNAL] RE: ADU



Nickless, Greg@HCD <Greg.Nickless@hcd.ca.gov>

To Dunville, Travis

 You replied to this message on 7/27/2020 11:18 AM.

 Reply  Reply All  Forward 

Mon 7/27/2020 11:12 AM

Travis-

ADU law addresses the creation of additional dwelling units, not an addition to existing living units. Parking requirements, and exemptions, are related directly to the creation of additional units. Generally, if the proposed improvements are not related to the creation of an ADU, the local agency's development standards, or zoning code, would apply.

-Greg



Greg Nickless

Housing Policy Specialist

Housing & Community Development

[2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833](https://www.hcd.ca.gov/2020-W-El-Camino-Avenue-Suite-500-Sacramento-CA-95833)

Phone: 916.274.6244

A.D. - 280

Property Information

Assessor's ID No:	5318-015-019
Address:	1030 BRENT AVE SOUTH PASADENA CA 91030
Property Type:	Multi-Family Residential
Region / Cluster:	A.D. - 281 05 / 05412
Tax Rate Area (TRA):	09030

Robert and Dianne Roybal
1032 Brent Ave.
South Pasadena, CA 91030

June 5, 2009

To: City of South Pasadena
Planning and Building Department
1414 Mission Street
South Pasadena, CA 91030

Re: Notice of abandonment of project

This letter is to notify your offices that the room addition and carport project that was permitted on June 30, 2008 will not be started. No demolition or any other work has been performed on this project. Our permit # is 23034.

Please cancel our permit and return any monies due back to us on this project.

Thank you,



Robert Roybal



Dianne Roybal



City of South Pasadena
 1414 Mission Street
 South Pasadena, CA 91030
 Office Hrs: 7:30 am to 5:00 pm, M-Th
 7:30 am to 4:00 Friday
 Phone Number (626) 403-7220
 Insp. Request (626) 403-7226

BUILDING PERMIT APPLICATION

OWNER-BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractor's License Law for the following reason (Section 7031.5 of the Business and Professions Code):

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Section 7044 of the Business and Professions Code).

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Section 7044 of the Business and Professions Code).

I am exempt under Section _____ Business and Professions Code for the following reason: _____

Signature: [Signature] Date: 6/20/08

LICENSED CONTRACTOR'S DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

Signature: _____ Date: _____

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are listed in the left column of this application.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and I agree that if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Signature: [Signature] Date: 6/20/08

CONSTRUCTION LENDING AGENCY

See the back of this form for required statement

AUTHORIZATION OF ENTRY

I certify that I have read this application and state that the information given is correct. I agree to comply with all federal and state laws and city ordinances relating to building construction, and I authorize a representative of this City to enter upon the property for which I have applied for this permit for the purpose of making inspections.

Signature: [Signature] Date: 6/20/08

SITE ADDRESS 1032 BRENT		
ASSESSOR PARCEL NUMBER		
BOOK	PAGE	PARCEL
ADDITIONAL INFORMATION / LEGAL DESCRIPTION		
OWNER'S NAME BOB & DIANE ROYBAL		
STREET ADDRESS 1032 BRENT		
CITY SO. PAS.	STATE CA.	ZIP CODE 91030
PHONE NUMBER 626 399 2174		
PRINCIPAL DESIGNER'S NAME Jim Fenske		LICENSE NO. C25524
STREET ADDRESS 111 Peterson		
CITY SO. PAS.	STATE CA.	ZIP CODE 91030
PHONE NUMBER 626 399 2174		
CONTACT PERSON Jim Fenske		
PHONE NUMBER 626 399 2174		
CONTRACTOR'S NAME DIVERSIFIED INSURERS		
STREET ADDRESS 1032 BRENT AVE		
CITY SO. PAS.	STATE CA.	ZIP CODE 91030
LICENSE CLASS B	LICENSE NUMBER 1362602	EXPIRATION DATE 12/31/08
PHONE NUMBER (818) 599-3283		
WORKER'S COMPENSATION INSURANCE COMPANY NAME STATE FUND		
WORKER'S COMP. INSURANCE POLICY NUMBER		EXPIRATION DATE

1032 BRENT
Item No. 2

DESCRIPTION OF WORK ADD FAMILY RM. TO BACK OF EXIST'G HOME; ADD 400 SF CARPORT		
OCCUPANCY GROUP RES. R	TYPE OF CONSTRUCTION VN	AREA 293
OCCUPANCY GROUP U	TYPE OF CONSTRUCTION VN	AREA 400
NUMBER OF STORIES 1	FIRE SPRINKLERS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	CODE IN EFFECT LAC0UBC 2007
STATISTICAL CLASSIFICATION NO: _____ UNITS: _____		PLANNING FILE NO.
INITIAL VALUATION 15,000		REVISED VALUATION
PLAN CHECK FEE		245.53
ADDITIONAL PLAN CHECK FEE F.D. Plan Fee		50.00
PLAN CHECK NUMBER 023032	INITIALS [Signature]	DATE 6/20/08
ADDITIONAL PLAN CHECK NUMBER 023033	INITIALS [Signature]	DATE 6/20/08
<input type="checkbox"/> SCHOOL FEES PAID	<input type="checkbox"/> SCAQMD	
<input type="checkbox"/> SANITATION DIST. PAID	<input type="checkbox"/> INDUSTRIAL WASTE APPROVAL	
<input type="checkbox"/> HEALTH DEPT. APPROVAL	<input type="checkbox"/> OSHA PERMIT OBTAINED	
<input checked="" type="checkbox"/> FIRE DEPT. APPROVAL	<input type="checkbox"/> PUBLIC WORKS FEES PAID	
BUILDING PERMIT FEE	\$ 288.86	
ISSUANCE FEE	\$ 25.30	
SMIP FEE	\$ 1.50	
Paul Impact Fee	\$ 17.20	
Growth Fee	\$ 480.52	
General Plan Fee	\$ 28.89	
# 196407	TOTAL	\$ 314.16
PERMIT NUMBER 023034	INITIALS [Signature]	DATE 6/24/08
DATE OF FINAL 7/8/09		
FINAL BY CANCELLED AT THE REQUEST OF THE APPLICANT		

\$815.47 FEE REFUNDED ON 6/8/09

From: Nickless, Greg@HCD <Greg.Nickless@hcd.ca.gov>
Sent: Monday, July 27, 2020 11:12 AM
To: Dunville, Travis <TDunville@usg.com>
Subject: [EXTERNAL] RE: ADU

Travis-

ADU law addresses the creation of additional dwelling units, not an addition to existing living units. Parking requirements, and exemptions, are related directly to the creation of additional units. Generally, if the proposed improvements are not related to the creation of an ADU, the local agency's development standards, or zoning code, would apply.

-Greg



Greg Nickless

Housing Policy Specialist
Housing & Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Phone: 916.274.6244

From: Dunville, Travis <[REDACTED]>
Sent: Sunday, July 26, 2020 11:16 AM
To: Nickless, Greg@HCD <Greg.Nickless@hcd.ca.gov>
Subject: RE: ADU

Greg,

We've had a few conversations about ADUs in South Pasadena, CA. I see the Technical Assistance Booklet is under construction to include the current 2020 law. Because this is not ready, I am hoping you might be able to assist in a letter regarding ADU conversions. In case you forgot, South Pasadena has a project that has a single family home with a legal duplex that is occupied by a tenant. The project is adding about 300 sq/ft to the existing single family home and nothing to the duplex. With the proposed addition they cannot meet the parking requirements. They are using the "conversion" of the legal duplex as a basis for eliminating the required parking. In our previous conversations, you mention that the intent to construct or convert an ADU is to provide housing because of the shortage of inventory in California. This does not assist in additional inventory. You also mentioned that even if they chose to add on to the duplex, it would not be considered an ADU (nothing is being added). The state and South Pasadena codes are clear about the conversion of an "Accessory Structure" into an ADU. Your memorandum dated June 10, 2020 defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU.

I need to submit something to the city by Thursday this week. Please feel free to call me so I can answer any specific questions you may have.

Kind regards,
Travis Dunville
[REDACTED]

From: Dunville, Travis
Sent: Monday, October 21, 2019 10:00 AM
To: Nickless, Greg@HCD <Greg.Nickless@hcd.ca.gov>
Subject: RE: ADU

Greg,
I got your out of office message Friday and thought I would check in again today to see if you have a few minutes. Darby Whipple and David Bergman had been working with Paul and maybe yourself on suggestions to the South Pasadena ADU ordinance form the HDC website. Both of them are no longer employed with the City of South Pasadena. Because I see that you are heavily involved in ADU and look to be a keynote speaker as well, I assume you will understand my questions and concerns.

Than you in advance for your consideration.

Travis Dunville
[REDACTED]

From: Dunville, Travis
Sent: Friday, October 18, 2019 12:01 PM
To: Nickless, Greg@HCD <Greg.Nickless@hcd.ca.gov>
Subject: FW: ADU

Greg,
You were kind enough to get the attached letter updated on your website and provide me a copy. Would you have time for a 3-6minute call today to answer 1 or 2 questions for me?
Thanks,

Travis Dunville
[REDACTED]

From: Nickless, Greg@HCD <Greg.Nickless@hcd.ca.gov>
Sent: Tuesday, July 30, 2019 3:12 PM
To: Dunville, Travis [REDACTED] >
Subject: [EXTERNAL] ADU



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

Memo

Date: July 16, 2020

To: Chair and Members of the Cultural Heritage Commission

From: Joanna Hankamer, Planning and Community Development Director
Kanika Kith, Planning Manager

Prepared By: Malinda Lim, Associate Planner

Re: Additional Document for **Item No. 2** –1030 Brent Avenue (Project No. 2238-COA)

Staff received seven (7) written public comments in opposition of the project from the following people:

- Kate Hetu
- Catherin Douvan
- Travis Dunville
- Leticia Cheng
- Michael and Barbara McLendon
- Jessica and Romulo Salazar
- Brenda Blatt

and a comment from the applicant's representative, Jim Fenske; these comments are attached. These comments were not included in the Cultural Heritage Commission agenda packet because the comments were received after the posting of the agenda packet.

Attachments:

1. Written Public Comments

ATTACHMENT 1
Written Public Comments

From: Kate Hetu [REDACTED]
Sent: Tuesday, July 14, 2020 8:14 PM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Subject: Opposition of Project 2238-CAO: The Addition to 1030 Brent Avenue

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.

Kate Hetu
[REDACTED]

Agenda Item 2: Project Number: 2238-COA

Dear Board Members,

I writing to oppose the 1030 Brent Avenue Project 2238-CAO. The owners did not adhere to the Cultural Heritage Commission guidelines when they began the work on an addition to their property many years ago. This project has been going on for too long and has been an inconvenience for existing neighbors. As a resident of South Pasadena and a neighboring citizen of this property, I feel it is imperative that all community members follow the South Pasadena municipal codes to ensure that the homes in this city maintain their historical value and meet the guidelines provided by the Cultural Heritage Commission. Please consider denying the proposed additions and having the owners remove the unauthorized patio.

Thank you for your consideration.

Kind Regards,
Kate Hetu

From: Kate Douvan [REDACTED]
Sent: Wednesday, July 15, 2020 1:00 PM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Cc: Travis D [REDACTED]
Subject: Project Number: 2238-COA Address: 1030 Brent Avenue

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.

Project Number: 2238-COA Address: 1030 Brent Avenue

I oppose granting a Certificate of Appropriateness to convert an unpermitted patio at 1030 Brent Avenue into a habitable space.

The owner of this property is a Licensed Contractor and he knowingly built an un-permitted structure on his property. If the Cultural Heritage Commission and Planning Department allow his project to go forward, they will be condoning the way the 1030 Brent owners have circumvented city planning and have avoided the permitting process.

There cannot be two construction standards in our town. One for regular residents who are required to follow planning /permit procedures. And another laxer route for those in the construction business.

Sincerely,
Catherin Douvan
Owner: [REDACTED]

From: Travis D [REDACTED]
Sent: Wednesday, July 15, 2020 11:39 AM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Cc: mcacciotti@southpasadena.gov; Nichole [REDACTED]
Subject: Project Number 2238-COA

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.

Dear Commissioners,

I previously sent an email for the June meeting with my concerns and opposition to this project. My questions were to the architect for clarification. As of the writing of this email, the deadline for the owner presentation has expired. It appears no owner or architect will be able to answer any of the questions. After reading the CHC July 16th Agenda packet, I have more comments and questions regarding the staff presentation and recommendation. My replies go with the timeline of staff comments and the Ongoing Enforcement 1-4, in addition to supplemental comments.

I see this is not the first time the GC/Owner has received a stop work order for his home. It appears that he was issued a stop work order in 2002 for interior demolition and re-roofing. While it looks like some permits were pulled, they appear to have expired with only the electrical panel finalized (Edison had to sign off). While we are not looking into that, it does show a pattern of ignoring the code as a GC/Owner.

On agenda packet page 2-2 a timeline of events from the city staffers appear to have inaccurate and incomplete information.

June 19, 2008 states that the Planning staff approved the removal of the proposed second story addition and the 400 square foot carport. There is no documentation of the removal of the carport for approval. In fact, permit #023034 was issued the next day June 20th, 2008 and states in the description of work "Add Family RM. To Back Of Existing Home; 400SQ/ft carport." This is signed by the owner. If you scroll to 2-65, you can see a year later on June 5th, 2009 that both Dianne and Robert Roybal submitted a letter for a refund of permit # 23034 that they state was for the room addition and carport project that was permitted in June 30, 2008 (actually June 20th). If there was approval to eliminate the carport, why mention the carport in the permit and the refund? I would also ask if parking was not an issue, why did staffers state in 2019 to David Bergman that parking was holding this project up (see previous emails)?

March 13th, 2018 Planning was notified of unpermitted construction. The inspector came into our house 40 days earlier on February 1, 2018 and took pictures. The City has failed to provide us with copies of those pictures after numerous requests. They have not provided the stop work order and correspondences from the owner to comply. The pictures show 12 doors that were installed vertically and horizontally. We have one picture from our kitchen at night (in the agenda packet). If you look, you can see the two doors installed next to each other with another above, horizontally.

CHC chair review was done on August 24th, 2018 and it was determined to be consistent with the previous approval and approved minor modifications. Please see the previous documents as they show the footprint shifted, the height of the

structure increased and the addition of more doors. These changes were not minor per SPMC that has previously been mentioned (see previous emails), they required a major design review.

A year later in 2019 the same plans were submitted and now staffers in their current CHC presentation are stating that the plans are inconsistent. It was discovered that they were not consistent with the CHC chair approval. What happened in the year of complying? It has been 2 ½ years and they still are unable to comply.

Staff states that with all the changes, the project now requires a new COA? The new design is a hybrid of the original approval, so why not use the original COA#1101 with a modification to approve, deny or revoke? Because the information originally provided to DRB and CHC confirms to be false and falls under misrepresentation and fraud in approval of a COA and that needs to be enforced. See the site plan approval of 2007 vs. 2020.

Ongoing Code Enforcement 1-4

- 1.
2. Incorrect measurements?
3. Simple tape measurements were able confirm the numerous errors on the original site plan. With or without a surveyor, the measurement errors were in feet and not inches. The site plan in this agenda packet still has errors on the building separation from
4. the duplex to unpermitted construction. It shows 10ft 2 inches in an existing site plan. After meeting with the Director of Planning in November, we followed up with a letter and image to the Director of Planning showing the measurement of about 7 ft (see
5. both below). We acknowledged that the rafter areas need to be considered in the measurement, but both are small. When staffers measured the property by tape measure, city staffer (Jose) stated to Robert Roybal (owner) that he thought all the measurements
6. were good except the building separation. A visit to the property by CHC and councilmember Cacciotti to confirm this error would be great. We have requested a PRR for the measurements from the January 9th
7. staffers site visit. Don't forget the carport area that measures 20ft and needed additional space for the required setback, nor could it have been constructed with the items behind the duplex (see image below). There is also a utility pole in that area that
8. we asked the Director of Planning about in our one and only meeting in November 2019 that was not included in the original plans. It too requires an additional setback. Director of planning never got back to us.
- 9.

- 2.
3. Construction or conversion
4. to an ADU. Since 2016, the City of South Pasadena has had a minimum lot size for ADUs. This owner's lot did not meet the requirement and there was not a state law that overrode it. The owner in a 2018 letter told the city what could be built to eliminate
5. the carport (see emails). The city was made aware of this numerous times in 2018, 2019 and 2020 but never formally addressed it. Only in 2020 did the state requirement change that did not require a minimum lot size for ADUs to be
6. **constructed**
7. or **converted**

8. from an Accessory Structure. This is a legal duplex and the state and city websites are clear that a duplex is not considered an Accessory Structure (i.e. garage, carport, pool house, incidental). In February 2019 this was brought up with David Bergman and
9. at the same time, Bergman was in contact with the California Department of Housing and Community Development (CDHCD) regarding ADUs. Bergman could not provide any support docs on a conversion. In November 2019, we brought this up to the Director of Planning,
10. but she never got back to us. I contacted the California Department of Housing and Community Development regarding this issue early on in this process and a follow up in 2020 and they confirmed a duplex is not an Accessory Structure. The CDHCD can set up
11. a Webex or conference call to confirm this information, but it is in the code.
- 12.

- 3.
4. This was brought up informally
5. with city staffer prior to the investigation. Formally we brought it up with Interim Planning Director David Bergman in February 2019. After numerous requests, City Manager emailed us on October 10, 2019 that "Based on the Public Works investigation the
6. removed tree was less than 12-inches in diameter and did not require a tree removal permit." When we emailed back providing pictures and stated that the tree was multi trunk and required a stump grinder and who and how did they investigate, there was no reply.
7. After part of the Public Records Request was provided to us in May 2020, Public Works stated that they never investigated the tree removal. Now city staffers are stating it was investigated with aerial views and unable to determine. In a PRR we found that
8. on October 10th,
9. 2019 the city arborist was sent pictures of the aerial views and could not determine. The arborist asked for any ground pictures. No other follow up was done on this request from any city staffers. There are now three versions of this story. It appears
10. the homeowner was never questioned or asked to provide any support documentation about the tree removal. Neither tree was ever listed on the original COA approval. You can use Google Earth and the Los Angeles County Assessor maps for measurements. You can
11. also request receipts and cancelled checks to confirm what work was performed. An arborist can also estimate the size of the multi trunk trees based on the tree that is visual in Google images from at least 2006 and cut down in 2015. (To date, the city never
12. followed up with the oak tree that was cut out of season without a permit)
- 13.

- 4.
5. When you look at the original
6. COA #1101 which never expired (according to Bergman April 2019 & Stephanie DeWolfe October 2019, see emails) and the new design, there is no need for a new COA. The designs are very similar. This would fall under a Major Design Review under the original
7. COA #1101. When misrepresentation or fraud occurs in the approval process, the SP municipal code allows revocation of the COA and for the project to be torn down and no permits issued for 5 years under this behavior. The owner and architect did exactly that.
8. They used fraudulent measurements and misrepresented the site plan to the CHC and DRB (which originally included Morrish) on the original DRB approval. To get around this, staffers are recommending a new COA.

9.

In the staff presentation slides, there are still mistakes I would like to point out. Remember, the owner and architect have had 2 ½ years to fix these items and it appears that they continue to misrepresent the project to the residents of SP and CHC.

Slide 6:

The original, existing, and proposed site plans have never shown the utility pole in the back of the duplex. The pole has been there since before they owned the property. This was brought to the Director of Planning, but she never followed up with a CPU set back requirement. See the picture of guide wire below in front of the fence.

The carport area behind the duplex measures 20.89 or about 20ft 10inches. Different from the original measurements used for approval. The carport they were required to build would have never been able to fit there and comply with the electrical panel, washer, dryer, garden window and water heater. In a conversation with the owners in January 2019, the owners told us that they knew all along that the carport would have never fit. See the picture below.

The existing blue line goes completely to the house and is tied into the roof like the proposed red. The blue line makes it look like it is open (see previous email pictures). In either case, they are both wrong. The “existing” is not what is built. What is built looks like the red “proposed”. It is a square box. In the existing, it also shows the stairs in the unpermitted patio running north and south. This is not the case. They come straight off the door and down in a west/east direction.

The existing blue shows building separation is 10’ 2”. This is not the case as it measures 8 to 9ft. We have requested a PRR for the field measurements from the city site visit in January 2020. The existing also is misrepresented in scale. It is built like the red proposed. The only bump out is underneath the rafters that extend out about a foot. The large blue area that extends out in the existing is the original porch that was torn down in 2015 or 2016 when unpermitted construction started. See the picture below. Why are there still errors after all the previous notifications?

On the interior, it is unclear if the existing proposed hallway area between the master bathroom and closet will be taken down. Rafters were modified in the attic to allow plenty of clearance to walk around and a ladder or steep staircase was installed. I would suggest a site visit or lots of pictures or video provided to you via the owner for a better explanation. Based on previous details, it appears that this project is being constructed with the intent to add a staircase and possibly finish the attic like the original COA#1101 approval since the roof line has increased to 17’ 10”. The centerline of the roof pitch goes right to the top of the master closet. Compare to the original COA#1101 (see previous emails)

Slide 9:

Existing makes it appear like it is an open patio, but it has vertical wood 8-10 tall (see previous emails for picture)

The height of the new roof appears to be 17ft 10 which also appears to be tall enough for clearance into the attic. Like the original approval with the staircase into the closet and a slight turn inches that appears to be high enough that a dormer would not be needed.

Slide 10:

North elevation existing appears to be open but is installed with OSB plywood. See picture below.

Slide 11:

East elevation shows the existing master bedroom window but fails to show the bathroom window or the exterior door into the unpermitted construction. See picture below.

Slide 12:

Staff recommended a new COA when comparing the original approval to the new design because there are so many changes. When you look at slide 6, it is almost the same footprint, but a little wider which would require a Major Design Review.

Parking requirements were lied about in measurements in the original approval in the carport section and the driveway width. Now staffers are stating that the CHC approved in 2008 a single-story addition with no carport. The permit and refund letter from the owners do not confirm that (see agenda packet).

CHC spends lots of volunteer hours on all types of projects to ensure compliance in the city. Send the message and deny this COA and revoke COA 1101 based on fraud and misrepresentation. Only then will the residents of South Pasadena know they can be granted a fair approval process with the CHC.

From: Nishole <bnishole@comcast.net>
Sent: Thursday, December 5, 2019 2:45 PM
To: Joanna Markamer <jmarkamer@southpasadenaca.gov>
Subject: RE: Unpermitted Construction 1030 & 1032

Dear Joanna,

Thank you for the taking time last week to meet with us. Because an hour and fifteen minutes flew by, we really just scratched the surface of this complaint. We understand that you are still reading and digesting our email thread and have not been able to review any other documents so far.

In our meeting, you mentioned looking into bringing the structure into compliance and said you would need to see what they could legally build, but we think the City needs to address the bigger issues first. Misrepresentation and fraud were committed to get the original project conditionally approved. And the ongoing and unfinished project we have had to live next door to continues to be a nuisance. This needs to be addressed. Below is a list of the fraudulent measurements and misrepresentations on the original approval:

- Misrepresented the space between their house and the property line on the south driveway side (They knew they needed more space because they tried to buy land from us to increase this area).
- They claimed to have enough space to build a carport that was required for the addition and lied about the size of the space of this area. The necessary easement would never allow the proper carport size for the conditional parking.
- Neglected to include existing trees on the plans that were in the direct path of the carport parking.
- Cutting down a mature tree and lying to the City about the size of the tree in the investigation when the narrative and site plan stated no trees to be cut, trimmed or removed.
- Changing the dimensions of the duplex to create the appearance of more clearance to fit a car through to the carport.
- Design Review Board accuracy of drawings. The owner was given a correction notice after submitting his plans on October 31, 2007 and on Dec. 4, 2007 in the Design review minutes. Fenske responded to the Board's questions about the accuracy of drawings. Even after he was asked about the accuracy of the drawings, he still did not correct the measurements.
- Required 10ft minimum between structures. See attached picture. Duplex and illegal structure are 6ft apart. We didn't get a chance to talk about this detail when we met, but you will see in the attached picture that between the illegal addition and the duplex, there are 7 ft between structures. It may be 8ft if accounting for the eaves and overhang. The City's minimum between structures is 10ft and Jim Fenske detailed on the plans 10ft. The illegal addition was built on the same footprint as the original plans and neither are 10ft away from the existing duplex.

All of these details were measured by the architect by hand and if all these items were on the site plan correctly to begin with, this project would not have been approved. This is critical since the owner and architect misrepresented the measurements to meet minimum setbacks and easements, even after he tried to acquire extra land and proceeded to use measurements that would make their property look like it was in compliance to the reviewing committees. Since the addition is based on the original 2007 approval and COA and obvious fraud was committed, the City has the authority to revoke the COA and stop this from continuing. A Certificate of Appropriateness may be revoked or modified for any of the following reasons:

- A. Non-compliance with any terms or conditions of the certificate;
- B. Non-compliance with any revision of this article; or
- C. A finding of fraud or misrepresentation used in the process of obtaining the certificate.

We know the City does not have the bandwidth to handle every possible building infraction, but when South Pasadena resident and licensed architect, Jim Fenske, who has served on the Design Review Board and knows the workings of Planning and Building intimately, intentionally misrepresented the measurements, and was then asked to correct these items and still proceeded with the same information, this should be cause for serious concern.

Kind regards,

Nichole Dunville

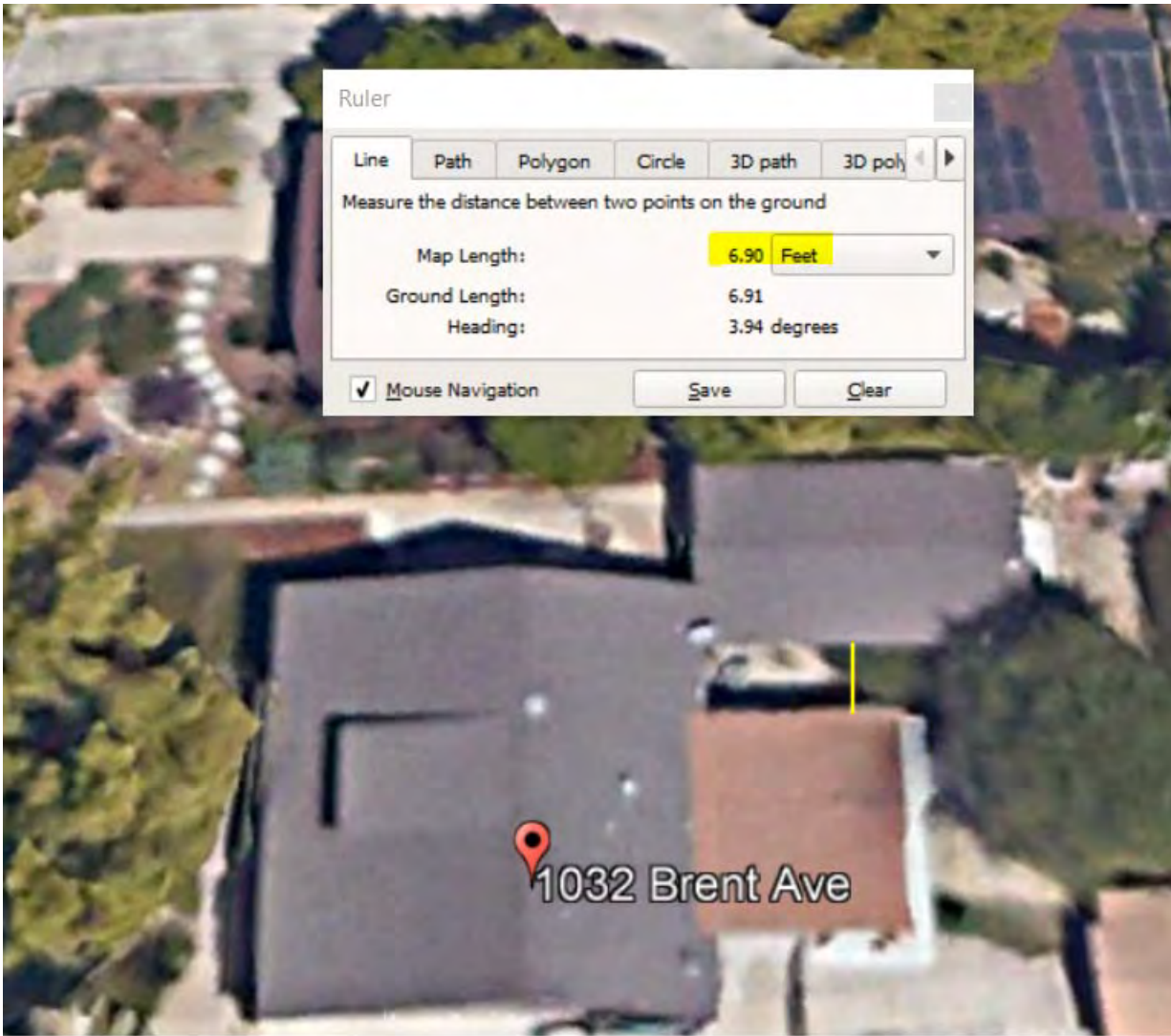
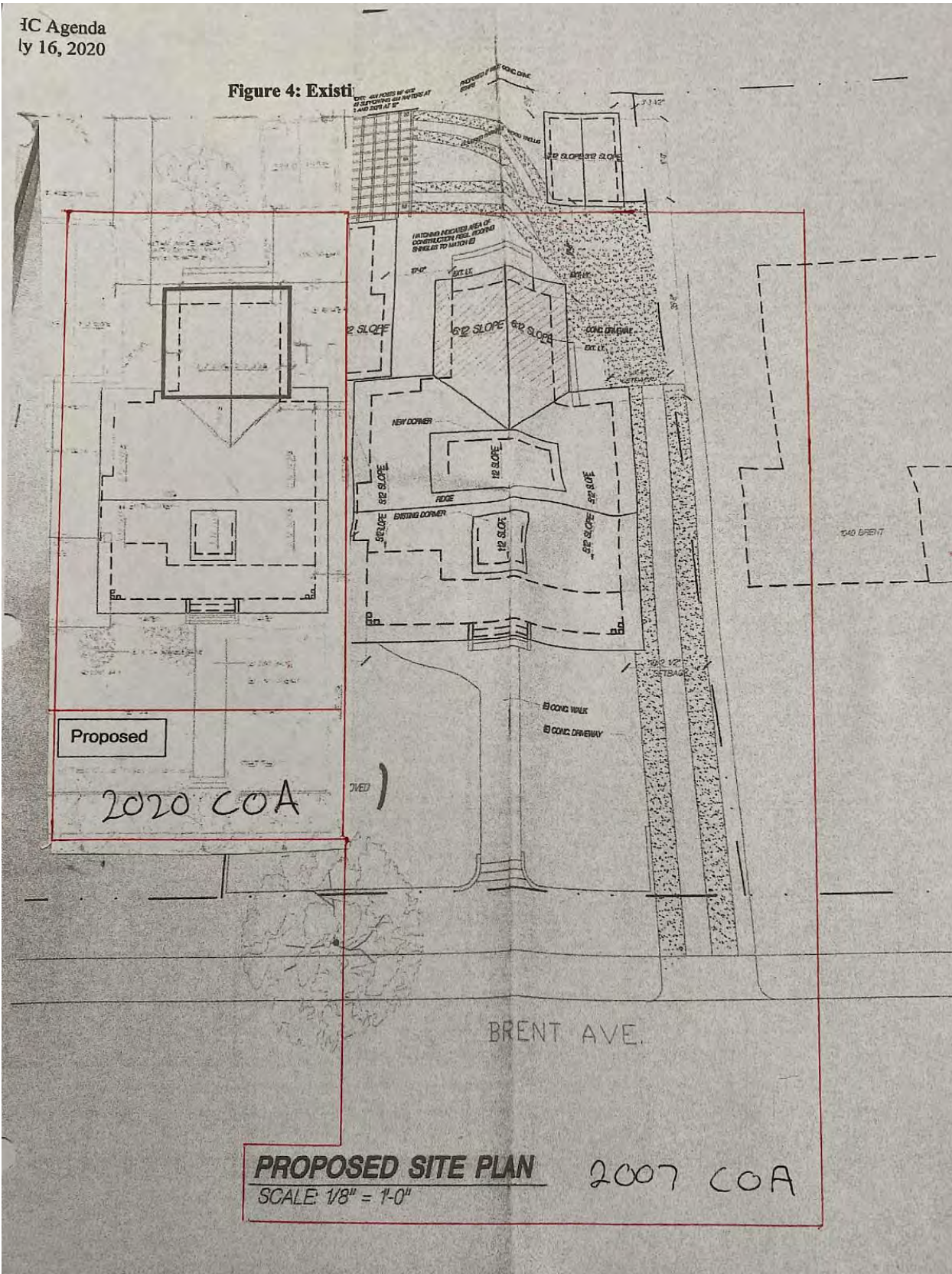






Figure 4: Existi



Kind regards,
Travis Dunville

From: Leticia Cheng [REDACTED]
Sent: Wednesday, July 15, 2020 3:55 PM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Subject: Item 2 - 1030 Brent Avenue - 07/16/2020 Meeting

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.

Hello,

Although the permitting process is laborious, it's a necessary step to ensure that building and safety codes are met and historical structures preserved. Further, it is unfair to homeowners who take the time to apply for permits for their own construction projects. Please deny the project, especially as stop order has previously been issued.

Leticia Cheng
1033 Park Avenue
[REDACTED]

From: Barbra McLendon [REDACTED]
Sent: Thursday, July 16, 2020 11:38 AM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Subject: Item #2 Project No. 2238-COA

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.

Dear Members of the Cultural Heritage Commission,

We urge the Commission members to ensure that all projects carried out in South Pasadena are held to the same standards and that all residents are treated fairly. Given how challenging it can be to navigate all of the rules and regulations when undertaking a home renovation, residents should at least be able to draw some comfort in knowing that everyone has to adhere to the same rules.

The project being considered today certainly seems to have been handled in ways that are outside the norm. We hope the decisions made today will reflect a commitment to ensuring these past deviations will not be perpetuated.

Sincerely,

Michael and Barbra McLendon
[REDACTED]

From: Romulo Salazar [REDACTED]
Sent: Thursday, July 16, 2020 7:57 AM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Subject: Project Number: 2238-COA, 1030 Brent Ave

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.

To Whom It May Concern,

Regarding the project at 1030 Brent Ave, municipal codes need to be enforced. The current unpermitted structure must be approved by the city and meet current building and planning codes or be torn down before approval for the addition can be granted. Approval of this project in its current state is a public circumvention of state and municipal building and planning codes meant to protect the character of the city and significantly reduces the power of this department to enforce building and planning codes in the future.

Had the unpermitted patio been constructed prior to the properties designation as historic we would have been more understanding, as the historic structure of the home would have been maintained. Construction of the unpermitted patio, however, commenced in February of 2016 per Google Earth (see attached image). Therefore, the patio should have gone through, and should still go through, the required historic and building and planning review.

Please note, we are not asking the owners at 1030 Brent Ave, to jump through unnecessary hoops to complete their project. We understand the challenges of remodeling a historic home in South Pasadena, having completed our addition in August of last year. We simply ask that they follow and adhere to the same rules and guidelines as other residents within our city.

Sincerely,
Jessica & Romulo Salazar
[REDACTED]

Search

1030 brent ave, south Search

ex: Restaurants
Get Directions History

1030 Brent Ave

Share Print Close

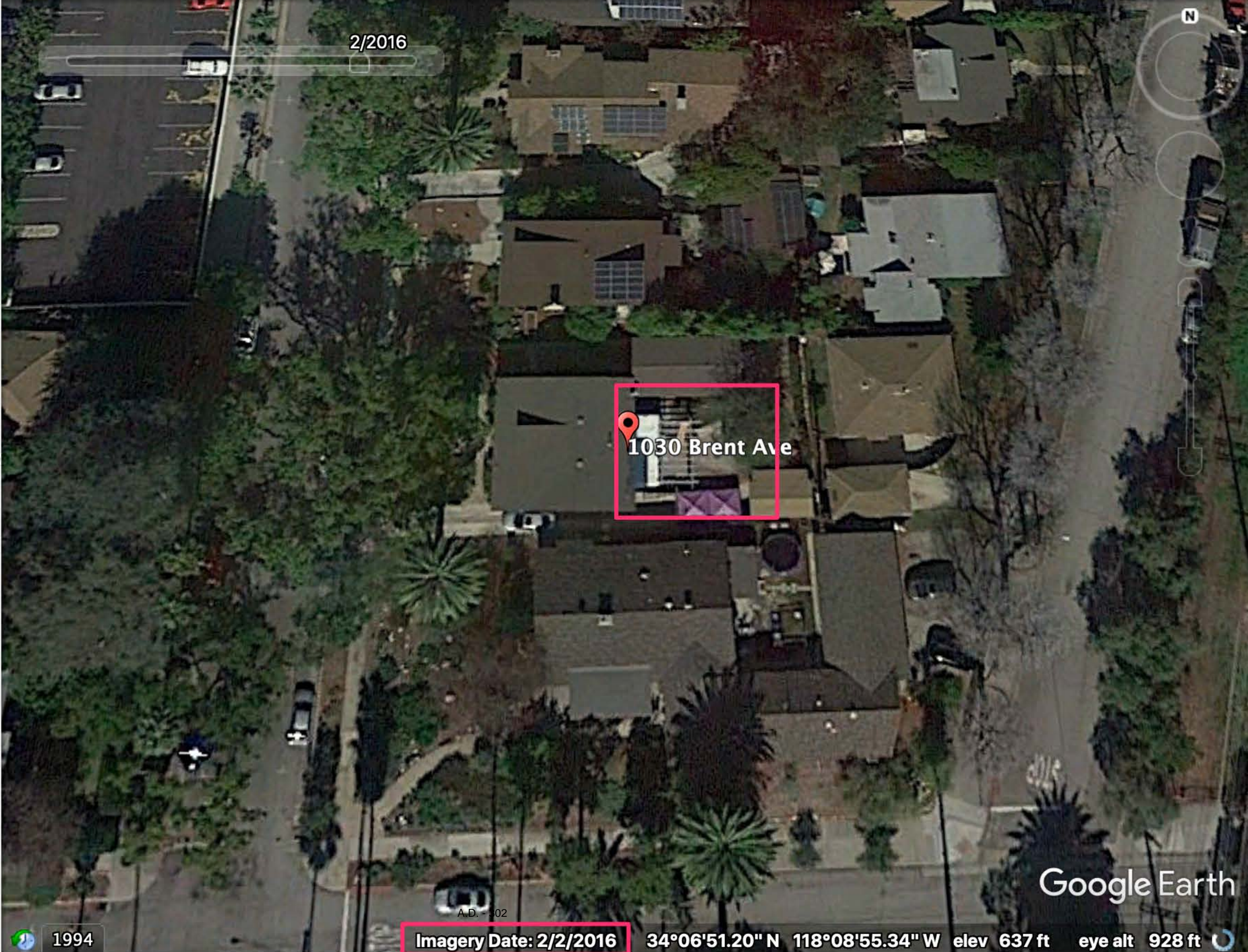
Places

- My Places
 - Sightseeing Tour
 - Make sure 3D Buildings
 - Temporary Places

Search Home Up Down Home

Layers

- Primary Database
 - Announcements
 - Borders and Lab...
 - Places
 - Photos
 - Roads
 - 3D Buildings



2/2016

1030 Brent Ave

1994

Imagery Date: 2/2/2016

34°06'51.20" N 118°08'55.34" W elev 637 ft eye alt 928 ft

Search

1030 brent ave, south Search

ex: Restaurants

Get Directions History

1030 Brent Ave

Share Print Close

Places

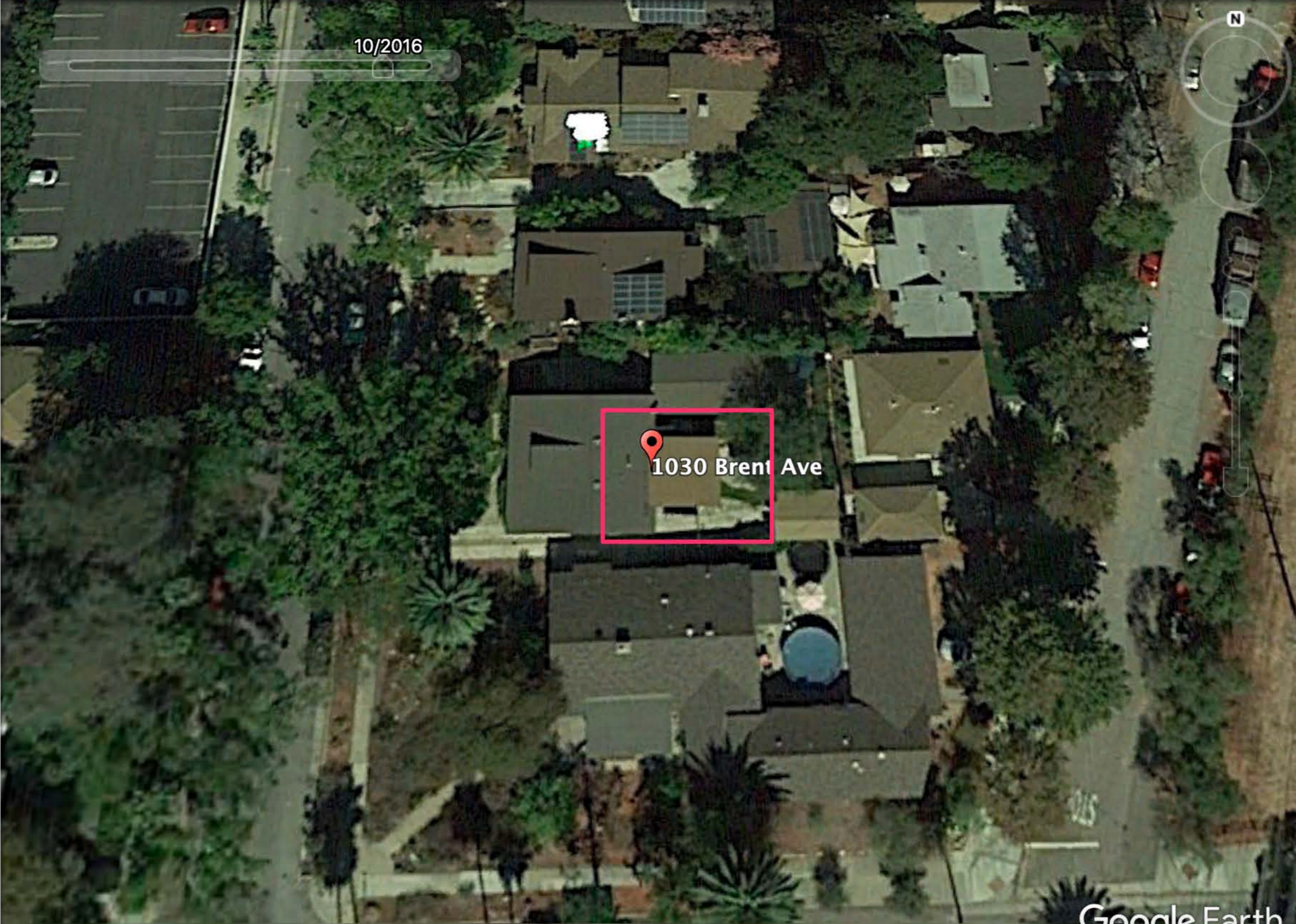
- My Places
 - Sightseeing Tour
 - Make sure 3D Buildings
 - Temporary Places

Navigation controls

Layers

- Primary Database
 - Announcements
 - Borders and Lab...
 - Places
 - Photos
 - Roads
 - 3D Buildings

Google Earth Pro toolbar with icons for Home, Location, 3D Buildings, Street View, History, Time, Sun, Moon, Earth, and other navigation tools.



10/2016

1030 Brent Ave

1994

Imagery Date: 10/18/2016

34°06'51.20" N 118°08'55.34" W elev 637 ft eye alt 928 ft

-----Original Message-----

From: Brenda Blatt [REDACTED]
Sent: Thursday, July 16, 2020 12:01 PM
To: PlanningComments <PlanningComments@southpasadenaca.gov>
Subject: 1030 Brent Avenue Project-COA

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.

Chair and members of the Cultural Heritage Commission,

As a neighbor on Brent Avenue I have concerns about the way the city has handled the requests for documents that have been submitted multiple times over several years. The fact that David Bergman was unwilling to even look at documents provided by the Dunvilles is unacceptable. Then instead of giving them the documents requested (stating they couldn't be found) Jose called the architect and alerted him but never did forward the documents to the party requesting them.

Based on what I have read Code Enforcement no longer seems to be a priority for the City.

This is a mess. As far as I can see the city has neglected to serve either party in this situation. Both of my neighbors have suffered the inadequacy of our current City government, and I think this issue needs to be given the attention it deserves before anything goes forward.

Sincerely,

Brenda Blatt
[REDACTED]

From: Christopher Sutton <[REDACTED]>
Sent: Wednesday, April 7, 2021 2:17 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Cc: Robert Roybal <[REDACTED]>; Dianne Roybal <[REDACTED]>
Subject: 4-7-2021 Council Agenda Item 5 -- 1030-2032 Brent Avenue

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.

Dear City Clerk and City Council Members:

Please enter the attached letter into the record for the City Council meeting on 4-7-2021 regarding 1030-1032 Brent Avenue, Project Nos. 2238 COA & 015-019.

Please **make my email address publicly available** so that witnesses of the City's potential due process violations may contact me directly. Do not delete my email address from copies of this email posted as documents for the City Council meeting.

For ease of distribution the text of my letter is also included below:

**LAW OFFICE OF
CHRISTOPHER SUTTON**

[REDACTED]

[REDACTED]

TELEPHONE ([REDACTED]) ... **FACSIMILE** ([REDACTED])
email: christophersutton.law@gmail.com

Wednesday, April 7, 2021
sent by email to ccpubliccomment@southpasadenaca.gov

South Pasadena City Council
c/o South Pasadena City Clerk
1424 Mission Street
South Pasadena, California 91030

Re: April 7, 2021, Council Agenda Item 5; 1030-1032 Brent Ave., Project Nos. 2238 COA & 015-019

Dear City Council Members:

This office represents Robert Roybal and Dianne Roybal owners of the property at 1030-1032 Brent Avenue, South Pasadena. Parcel number 5318-015-019. This project was at the Council on September 16, 2020, and the Cultural Heritage Commission on February 18, 2021 and July 16, 2020. On February 18th the CHC adopted twenty-four (24) findings in support of project approval and imposed twenty-five (25) conditions of approval. There is nothing more to be done. The CHC decision should be affirmed.

The property has had two dwelling units since before 1913. In 2019, one pre-existing second unit was approved as an Accessory Dwelling Unit. The owners have agreed to resolve all prior code issues and demolish the un-permitted patio cover and its foundation. The owners did not appeal the CHC decision, including its 24 findings and 25 conditions of approval, and they are ready to proceed with the project.

The City's Council ongoing covid-19 procedures potentially deny due process. The rules allow last minute false evidence, but then prevent any rebuttal evidence. This occurred at the Council hearing in September 2020 when a false assertion "blocked views" was made. The small proposed addition is located behind front house and south of the rear house. There is no possible risk of "blocking views." Should the Council decide to overturn the CHC based on late evidence, the hearing should be continued to allow my clients to offer rebuttal evidence, since rebuttals are not permitted by the City's covid-19 rules. Given the loss of the property interests at stake, due process would require a continuance for rebuttal. One opponent of the project has implied that this review process should motivate my clients to sell to their home to that opponent. The City should not allow a review process to be used for coercive purposes or as part of a personal harassment campaign. In the past, former South Pasadena City officials have allowed review proceedings on Hanscom Drive and Fremont Avenue to become part of personal disputes between neighbors. There is no evidentiary or legal basis to overturn or deviate from the CHC approval of this project. As recommended by your staff, the CHC decision should be affirmed. My clients should be allowed their small home addition.

Sincerely,

Christopher Sutton
Attorney for Robert Roybal and Dianne Roybal

LAW OFFICE OF
CHRISTOPHER SUTTON
586 LA LOMA ROAD
PASADENA, CALIFORNIA 91105-2443
TELEPHONE (626) 683-2500 ... FACSIMILE (626) 405-9843
email: christophersutton.law@gmail.com

Wednesday, April 7, 2021
sent by email to

South Pasadena City Council
c/o South Pasadena City Clerk
1424 Mission Street
South Pasadena, California 91030

Re: April 7, 2021, Council Agenda Item 5; 1030-1032 Brent Ave., Project Nos. 2238 COA & 015-019

Dear City Council Members:

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Sincerely,



Christopher Sutton
Attorney for Robert Roybal and Dianne Roybal

Regular City Council Meeting
E-mail Public Comment 04/07/2021

AGENDA ITEM NO. 6

**Approve City-Sponsorship of Legislation (SB 381) with
Amendments Proposed Through Community Input**

1. Bert DeMars
2. Linda Esposito
3. Josh Albrektson
4. Sally Takeda
5. Mary Farley
6. Ron Rosen
7. Charles Loveman
8. Gilbert Saucedo
9. Timothy Ivison

From: Bert DeMars <[REDACTED]>
Sent: Monday, April 5, 2021 6:51 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Council agenda Item #6 - Portantino Bill SB 381 - Wednesday, 4/7/2021 ...

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.

City Council members,

There are all kinds of rumors flying around about the vacant Caltrans properties on Fairview Ave., south of Columbia St. This area is zoned Residential Estate. We neighbors are most concerned about the vacant double wide lot at 215 Fairview Ave. We are worried about its disposition after purchase by the city under the SB 381 bill. Homes in this area sell for \$1.5 to \$3.5 million.

Please give a detailed explanation of the city's intentions for disposition of this site should SB 381 pass.

Thank you for your time and attention.

Bert DeMars
[REDACTED]
[REDACTED]

From: L Esposito [REDACTED] >
Sent: Wednesday, April 7, 2021 9:42 AM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Agenda Item #6 (SB 381)

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.

Good morning,

This letter pertains to Agenda Item #6:

6. Approve City-Sponsorship of Legislation (SB 381) with Amendments Proposed Through Community Input Recommendation On behalf of the Ad Hoc Caltrans Housing Subcommittee and staff, it is recommended that the City Council approve the suggested amendments (listed below, 1-7) to the version of SB 381 that was previously presented, incorporating several suggestions presented by members of the community since it was presented on March 17, 2021.

How many Bonita Drive, Meridian Avenue and Valley View Road residents are members of the Ad Hoc CalTrans Housing Subcommittee? Or is it comprised of staff and City government exclusively?

When was a Needs Assessment conducted with District 2 residents about our views on SB 381?

According to the Centers for Disease Control (CDC):

How to plan for a community needs assessment by:

- Identifying a community team
- Describing the scope of the assessment
- Listing the questions to ask
- Selecting sites
- Determining data collection methods or sources
- Identifying key informants

Review and rate data collected from a community needs assessment.

—Summarize data by creating sector data grids.
—Develop and prioritize strategies for improvement.
—Create a community action plan that includes:

- Project period objective
- Annual objective(s)
- Activities needed to complete the objectives

- Persons responsible for completing the activities, and
- Estimated completion time

From the information available to the public, it appears a few members of City government, including our Mayor, and Senator Portantino and non-District 2 residents are pushing an agenda that will negatively affect our neighborhood. The language included in SB 381 is unclear and unnecessarily heady.

We do not want the vacant CalTrans properties rented out for a minimum of 55 years. What is the difference between SB 381 and the current agreement between CalTrans and the long-term tenants living in dilapidated structures which create more urban blight for South Pasadena?

Why doesn't the City purchase the homes from CalTrans and contract with a developer who has a team of workers, equipment and supplies to build these homes to code and habitability? The developers and the City would profit from the sale of said homes, and property tax revenue would be gained. Individuals and families who want to live here and contribute to the community creates a win-win situation.

District 2 does not benefit in any way from more low-income residents moving in and renting long-term.

The negative impact to our area's infrastructure, including sewage, street repair and restricted parking on Bonita Drive has apparently been ignored by the City and SB 381.

Lastly, what would happen if home owners fed up by unilateral decision-making stopped paying property taxes?

Sincerely,
—Linda Esposito

From: Josh Albrektson <[REDACTED]>
Sent: Wednesday, April 7, 2021 10:50 AM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Item 6, 7:30 PM City Council Meeting

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.

I just want to voice my strong support for SB 381. When I first started listening to the City Council Meetings one of the biggest subjects that came up over and over and over is abandoned CalTrans Homes. This bill would finally solve that problem and put the homes that the current occupants don't buy into South Pasadena's hands.

There are some people complaining because they would rather have empty homes next to them than have people at affordable income levels live there. Or they are scared that apartments will go there (Oh the humanity)

This bill allows South Pasadena to sell the homes at market rate as long as the money goes to affordable housing. I think it would be great for South Pasadena to sell these homes to people who will take care of them, and use the millions to build affordable housing apartments for our teachers and firefighters so they can live in the community they serve.

--

Josh Albrektson MD
Neuroradiologist by night
Crime fighter by day

From: Sally Takeda <[REDACTED]>
Sent: Wednesday, April 7, 2021 12:33 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Cc: Jon Primuth <jprimuth@southpasadenaca.gov>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Jack Donovan <jdonovan@southpasadenaca.gov>; Bob Joe <[REDACTED]>; Joanne Nuckols <[REDACTED]>; Delaine Shane <[REDACTED]>; Wende Lee <[REDACTED]>; Sean Teer <[REDACTED]>; Kim Carlson <[REDACTED]>; Susan Sulsky <[REDACTED]>; Emily Beaghan <[REDACTED]>; Kit Bellamy <[REDACTED]>; Bonnie Kingry <[REDACTED]>; Dawndave <[REDACTED]>; L. Esposito <[REDACTED]>; [REDACTED]; Jon Healey <[REDACTED]>; Denise Philley <[REDACTED]>; Ronald Rosen <[REDACTED]>; Julie Stern <[REDACTED]>
Subject: City council meeting: Agenda Item #6

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.

Name: Sally Takeda
Agenda Item #6:
Approve City-Sponsorship of Legislation (SB 381) with Amendments Proposed Through Community Input

Hello City Councilmembers,

On March 29th, I emailed my questions and concerns to the city about SB381, where the City hosted a community forum to "explain SB381 and answer questions from the community". During that meeting, my questions were not answered. **I can not be in favor of this and would like to request the city council to table this agenda until further discussion from the community.** The SPPF proposal is a much better working document to work from than SB381.

In particular:

1) How does allowing a Housing Related Entity ("HRE") bring additional property tax revenue to South Pasadena if it's rented to occupants for a minimum of 55 years? Property tax revenue is the city's largest revenue stream. The real estate market is extremely robust, with multiple offers on homes which are listed in South Pasadena. Adding property tax revenue is an obvious win for the city. Creating homeownership will widen our tax base and was it not the original purpose of the Roberti bill, to create an avenue for homeownership while restoring neighborhoods?

2) How will the city or a HRE provide active oversight of the management of CT properties if it is transferred from CalTrans? Already, there is a history of the city "looking the other way" with these properties. (How are they going to manage a HRE who could possibly be a similar landlord as CT? We see how the city continues to tell us their hands are tied about the Meridian Avenue hoarder, Mr. Peters.) Why would my

neighbors and I think it would look any different under the city or HRE's leadership. Senator Portantino mentioned at the community forum that the language of leasing for 55 years is imbedded in the law. If that is the case, sale of these properties, whether they are to current, occupied tenants or buyers who are able to rehabilitate and renovate these properties is the only course to take.

3) Is there also a consideration to demolish these properties and build multi-unit housing? If this is the case, there absolutely needs to be strict language in the permitting process where these properties do not receive any special "variance" in order to skirt existing building restrictions. In my neighborhood, with the exception of one CT property, the lot sizes are relatively small. Building a multi-family property with no area to park on the lot is not allowable. And, currently, very few homeowners can expand their footprint of their home due to their lot size AND because they are not able to add parking spaces onto their lot.

4) I am extremely concerned about the impact this will have in my neighborhood. Already, we are "busting out of our seams" in my neighborhood. Lot sizes are very small in my neighborhood, usually less than 5k square feet OR if it's on a larger lot size, much of it is located on unusable hillside land to develop. This is not a NIMBY issue as we already have several multi-unit properties. This is NOT an affordable housing issue with the CT properties. It's a matter of being able to live comfortably and safely in my neighborhood. Adding housing units, cars parked on the street, wear and tear on the roads and sewer line systems (that are not kept up by the city) is a burden to my neighborhood. This puts an overburden on an neighborhood that is already so tight with space.

I continue to have serious concerns about SB381 and the negative impact it will have on my neighborhood. I continue to have serious concerns that my District Councilmember does not advocate, meet or listen to my neighbors and I continue to have serious concerns about Mayor Mahmud's agenda about these CT properties.

Thank you,

Sally Takeda

████████████████████

From: MARY FARLEY <[REDACTED]>
Sent: Wednesday, April 7, 2021 12:48 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Agenda Item # 6

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.

As a resident of Bonita Drive for thirty five years, I have frequently contacted Caltrans regarding deterioration and mismanagement of adjacent housing. I have filled large holes in their lawns when my gardener almost stumbled into one. I have contacted the South Pasadena Fire Department to force them to remove a dense forest of thick-stemmed weeds that was higher than my head, and ranged to within three feet of my bedroom window. One property has been vacant for twenty years due to what Caltrans cited as a weak foundation; apparently the idea of replacing it and paying for the repair with subsequent rents occurred to no one.

South Pasadena lacks affordable housing, but residents have no reason to trust government entities with the care of these homes. Sale to motivated owners who could not otherwise afford to live here should certainly be explored.

Sent from my iPad

From: Ron Rosen <[REDACTED]>
Sent: Wednesday, April 7, 2021 1:25 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>; Jon Primuth <jprimuth@southpasadenaca.gov>; Michael Cacciotti <mcacciotti@southpasadenaca.gov>; Jack Donovan <jdonovan@southpasadenaca.gov>; Evelyn Zneimer <ezneimer@southpasadenaca.gov>; Diana Mahmud <dmahmud@southpasadenaca.gov>
Cc: Bob Joe <[REDACTED]>; Joanne Nuckols <[REDACTED]>; Delaine Shane <[REDACTED]>; Wende Lee <[REDACTED]>; Sean Teer <[REDACTED]>; Kim Carlson <[REDACTED]>; Susan Sulsky <[REDACTED]>; Emily Beaghan <emilybeaghan@gmail.com>; Kit Bellamy <keb@thornton.usc.edu>; Bonnie Kingry <[REDACTED]>; Dawndave <[REDACTED]>; L. Esposito <[REDACTED]>; barbarasutton704@gmail.com; Jon Healey <jcahealey@gmail.com>; Denise Philley <[REDACTED]>; Julie Stern <[REDACTED]>; Sally Takeda <[REDACTED]>
Subject: City council meeting: Agenda Item #6

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.

Name: Ron Rosen
Agenda Item #6
Approve City-Sponsorship of Legislation (SB 381) with Amendments Proposed Through Community Input

I agree with the comments made by Sally Takeda in the email below. I'm also very concerned about the process used in developing Items 6 and 7 on the agenda and why the recommendations of the South Pasadena Preservation Foundation have been ignored. Item number 6 should be tabled for further public discussion and development.

On Apr 7, 2021, at 12:33 PM, Sally Takeda <[REDACTED]> wrote:

Name: Sally Takeda
Agenda Item #6:
Approve City-Sponsorship of Legislation (SB 381) with Amendments Proposed Through Community Input

Hello City Councilmembers,

On March 29th, I emailed my questions and concerns to the city about SB381, where the City hosted a community forum to "explain SB381 and answer questions from the community". During that meeting, my questions were not answered. I can not be in favor of this and would like to request the city council to table this agenda until further discussion from the community. The SPPF proposal is a much better working document to work from than SB381.

In particular:

1) How does allowing a Housing Related Entity ("HRE") bring additional property tax revenue to South Pasadena if it's rented to occupants for a minimum of 55 years? Property tax revenue is the city's

largest revenue stream. The real estate market is extremely robust, with multiple offers on homes which are listed in South Pasadena. Adding property tax revenue is an obvious win for the city. Creating homeownership will widen our tax base and was it not the original purpose of the Roberti bill, to create an avenue for homeownership while restoring neighborhoods?

2) How will the city or a HRE provide active oversight of the management of CT properties if it is transferred from CalTrans? Already, there is a history of the city "looking the other way" with these properties. (How are they going to manage a HRE who could possibly be a similar landlord as CT? We see how the city continues to tell us their hands are tied about the Meridian Avenue hoarder, Mr. Peters.) Why would my neighbors and I think it would look any different under the city or HRE's leadership. Senator Portantino mentioned at the community forum that the language of leasing for 55 years is imbedded in the law. If that is the case, sale of these properties, whether they are to current, occupied tenants or buyers who are able to rehabilitate and renovate these properties is the only course to take.

3) Is there also a consideration to demolish these properties and build multi-unit housing? If this is the case, there absolutely needs to be strict language in the permitting process where these properties do not receive any special "variance" in order to skirt existing building restrictions. In my neighborhood, with the exception of one CT property, the lot sizes are relatively small. Building a multi-family property with no area to park on the lot is not allowable. And, currently, very few homeowners can expand their footprint of their home due to their lot size AND because they are not able to add parking spaces onto their lot.

4) I am extremely concerned about the impact this will have in my neighborhood. Already, we are "busting out of our seams" in my neighborhood. Lot sizes are very small in my neighborhood, usually less than 5k square feet OR if it's on a larger lot size, much of it is located on unusable hillside land to develop. This is not a NIMBY issue as we already have several multi-unit properties. This is NOT an affordable housing issue with the CT properties. It's a matter of being able to live comfortably and safely in my neighborhood. Adding housing units, cars parked on the street, wear and tear on the roads and sewer line systems (that are not kept up by the city) is a burden to my neighborhood. This puts an overburden on an neighborhood that is already so tight with space.

I continue to have serious concerns about SB381 and the negative impact it will have on my neighborhood. I continue to have serious concerns that my District Councilmember does not advocate, meet or listen to my neighbors and I continue to have serious concerns about Mayor Mahmud's agenda about these CT properties.

Thank you,

Sally Takeda

██████████

From: Loveman, Charles [REDACTED] org>
Sent: Wednesday, April 7, 2021 1:31 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Cc: Adam Eliason <adam@civicstone.com>
Subject: Comments re SB 381

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.

To Whom It May Concern: I attended the City meeting on Monday, 3/29/21 regarding the particulars of Sen. Portantino's proposed legislation SB 381, and I have read the staff report regarding the City Council's consideration of this matter at their regular meeting on 4/7/21.

In summary, I support the overall purpose and intent of SB 381, while acknowledging that there are still many details to be worked out.

My support is based on the overall goal of having the City of South Pasadena be in a position to make acquisition and disposition decisions regarding the inventory of Caltrans-owned properties in the City. I believe having the City make those decisions is far better than having Caltrans make those decisions. I am aware that as proposed, the City would have a new position in the Roberti "waterfall" after that of the existing Caltrans tenants; I appreciate that the rights of the existing tenants with respect to purchasing or renting their units are basically unchanged under SB 381.

I like adding an alternative form of common interest development, in addition to the limited equity cooperative, for existing tenants of multi-family properties. I also like the proposed clarifications to the "net equity" rules, including allowing market-rate unit sales to existing over-income tenants, provided that the net proceeds from such sales are used solely to assist income-qualified tenants with the purchase or rental of occupied or vacant units at affordable sales prices or rents.

I am aware of concerns about the land use and development outcomes resulting from the City's acquisition of Caltrans-owned properties. Such decisions appropriately will receive considerable scrutiny from the community, and are sometimes controversial. But I believe that it is far better to debate those land use and development decisions when the City is in charge of the disposition process, the City gets to select their development partner, and the City gets to define the scope and scale of development, versus having Caltrans make those decisions.

Thank you for the opportunity to provide my comments.

From: Gilbert Saucedo <[REDACTED]@net>
Sent: Wednesday, April 7, 2021 1:53 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: Public Comment for Open Session on Item 6 – City-Sponsorship of Legislation (SB 381)

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.

My name is Gilbert Saucedo. As an attorney, I represent the United Caltrans Tenants, an association of families living in the 450+ residential properties owned by the California Department of Transportation (“Caltrans”) in South Pasadena, Pasadena, and the El Sereno neighborhood of the City of Los Angeles. I oppose SB-381 and urge you to vote no on Item 6 of today’s agenda because taking a “my district” approach to a historic corridor-wide issue is dangerous and sets a possible violation of the fair housing act.

Recently, I wrote a letter to the State Legislative Counsel opposing Senator Durazo’s bill (SB-51) for similar reasons (see letter attached). Although the Portantino Bill is better than the Durazo Bill, applying special treatment to a particular district (the “my district” approach) when the problem applies equally to the whole Route 710 corridor.

Cordially,

Gilbert Saucedo, Esq.

LAW OFFICE OF GILBERT SAUCEDO

714 West Olympic Blvd., Suite 450 • Los Angeles, CA 90015

February 18, 2021

SENT VIA U.S. MAIL & EMAIL (cara.jenkins@legislativecounsel.ca.gov)

Cara L. Jenkins, Esq.
State Legislative Counsel
California State Capitol
1315 10th Street, Room 3021
Sacramento, CA 95814

Re: SB51 (2021 - Durazo) - Possible Violation of U.S. and State Fair Housing Laws and California Constitution Article IV section 16 (Prohibited Special Local Legislation)

Dear Office of Legislative Counsel:

This office represents the **UNITED CALTRANS TENANTS**, an association of families living in the 450+ residential properties owned by the Department of Transportation (“Caltrans”) located in the cities of Pasadena, South Pasadena, and the El Sereno neighborhood of the City of Los Angeles, zip codes 91105, 91030, and 90032. These 450+ homes were acquired by Caltrans beginning in the 1960's for a Route 710 freeway extension. In 2019, two laws halted this freeway extension. Stats 2019 ch 835 (SB7 - Portantino) and Stats 12019 ch 791 (SB29 -Holden).

Between 1973 and 1999 federal court orders under the National Environmental Protection Act (“NEPA”) and the U.S. Historic Preservation Act which stopped construction on this extension. See, City of South Pasadena v. Slater (C.D. Calif. 1999) 56 F.Supp.2d 1106; City of South Pasadena v. Volpe (C.D. Calif. 1976) 418 F.Supp, 854, and El Sereno Organizing Committee v. California Transportation Commission (C.D. Calif. 1995) xxx F.Supp. xxx. The last property was acquired in 1997. Until 1999, the court orders had required all properties to be occupied. In 1999, Caltrans’ lawyers convinced the court to omit this requirement from that order, and soon Caltrans began to de-populate the corridor and engage in abusive landlord policies. Since the rents were paid to the State Highway, the L.A. Caltrans received none, and it had a strong local economic incentive to create permanent vacant homes as being less costly to manage and repair.

This letter concerns pending Senate Bill 51 (2021 - Durazo). It proposes to amend the 1979 Roberti Law, Government Code §§ 54235 through 54238.8, which grants affordable purchase rights to Caltrans residential tenants having ***up to 150% of area median income***. Non-profits and businesses who occupy Caltrans properties as tenants have different purchase rights. SB51 proposes to create a new set of marketing and purchase rules for Caltrans properties ***only in El Sereno (90032)***. It does not change purchase rights in Pasadena or South Pasadena. We request the Office of Legislative Counsel consider the different treatment under SB51 between El Sereno and Pasadena/South Pasadena as to housing marketing and purchases. Is this distinction proper under state and U.S. fair housing laws (42 U.S.C. §§ 2000d-1, 3601-3619, and 5309, and California Government Code §§ 12900-12996) and under California’s Constitution’s prohibition on special local legislation in Article IV section 16? See detailed analysis below on each point.

GILBERT SAUCEDO • ATTORNEY AT LAW

Page 1 of 4
Telephone: (213) 748-0808 • Fax: (213) 493-6575 • gs.law@att.net

SB51's Housing Discrimination Violates U.S. and California Fair Housing Laws.

Since 1979, the Roberti Law has treated tenant purchase rights equally without regard to their address, providing all working income tenants a pathway to home ownership, including the right to form residential rental cooperatives to purchase multi-family properties. Since 1979, there have been many amendments to the Roberti Law. But no prior amendment sought to treat different local areas under different rules.

El Sereno today has a largely Latinx population. Pasadena and South Pasadena have more diverse populations. SB51 has an adverse impact on people of a Latinx background living in Caltrans properties in El Sereno. It denies them the right to purchase properties from Caltrans using tenant-formed residential rental co-ops. This tenant co-op purchase right was used in the Echo Park and Silver Lake areas of Los Angeles in the early 1980's when the Route 2 Freeway was halted by statute. Just five of these tenant rental co-ops provided *permanent affordable rental housing* under the Roberti Law as it is now written:

1.	Marathon Cooperative, Inc.	Properties: 31	Dwelling Units: 73
2.	Silverlake Cooperative, Inc.	Properties: 15	Dwelling Units: 45
3.	Alexandria Cooperative, Inc.	Properties: 6	Dwelling Units: 42
4.	Route 2 Imogene Housing, Inc.	Properties: 1	Dwelling Units: 16
5.	4-Streets Co-op of Rte 2, Inc.	Properties: 23	Dwelling Units: 116
		-----	-----
	Total	Properties: 76	Dwelling Units: 292

All of these are former Caltrans properties sold under the tenant co-op rights provided by the Roberti Law. All five tenant rental co-ops *also are located in Senator Durazo's district*. It is unclear whether any of the five tenant rental co-ops have been consulted on the impacts of SB51 on their operations on former Caltrans properties. Denying the right to use a tenant rental co-op to purchase property in the same Senate District is a form of discrimination in violation of state and federal fair housing laws. This same irrational discrimination would be enacted by SB51 as between El Sereno, Pasadena, and South Pasadena. The stated rationale that one State Senator personally wishes to impose different rules for areas in her district is not legally recognized as a valid reason for violating state and federal fair housing laws. It is arbitrary and capricious.

As recipients of funds from the U.S. government, the State of California in general, and Caltrans in particular, are barred from engaging the type of housing discrimination now proposed by SB51. *See*, U.S. Fair Housing Act (42 U.S.C. §§ 3601 to 3619), Title VI of the U.S. Civil Rights Act of 1964 (42 U.S.C. § 2000d-1), and Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5309). *See also*, Presidential Executive Orders No. 11063 (11-20-1962 by Kennedy), No. 12892 (1-17-1994 by Clinton), No. 12898 (2-11-1994 by Clinton), and No. 13166 (8-11-2000, by Clinton). *See also*, Federal Regulations: 24 C.F.R. parts 108, 110, 200 subpart M, and §203.12(b)(3) (Requiring Fair Housing Marketing), 24 C.F.R. §§ 5.150 – 5.168 (Duty of Public Agencies to Affirmatively Further Fair Housing), 24 C.F.R. part 115 (State and Local Fair Housing Enforcement), 24 C.F.R. part 100 (Types of Discriminatory Conduct Under the Fair Housing Act); and 24 C.F.R. § 5.105 and § 5.106 (Required Equal Access to Housing).

The Office of Legislative Counsel needs to advise the Legislature on the propriety of SB51 under state and federal fair housing laws.

SB51 Denies Tenant Residential Rental Cooperatives ONLY in El Sereno.

SB51 (2021 - Durazo) eliminates a priority for tenant residential rental cooperatives now found at Government Code § 54237(d)(1)(B) and in Regulations at 21 C.C.R. §§ 1476(r) & (t), 1477(a)(3), and 1478(c)(1). But SB51 does so *only for the El Sereno area of Los Angeles (zip code 90032)*. Caltrans tenants in Pasadena and South Pasadena would retain the coop purchase rights. Other parts of Senator Durazo's district have many existing tenant rental co-ops operating since 1982 as permanent rental housing on former Caltrans properties. See above list.

SB51 seeks to changed the goal of the Robeti Law from ownership by Caltrans tenants to ownership by outside groups, known as "housing related entities." SB51 imposed income limits on the future occupants of such housing at or below 120% of area median income. Existing Roberti Law provides purchase rights to tenants at or below 150% of area median income. Thus, SB51 poses a risk that some existing tenants will not qualify to participate in the proposed SB51 rental program based on slightly higher income, but only if they reside in El Sereno. SB51's new lower income limits would not apply to tenants residing in Pasadena or South Pasadena. Nor would the lower income limits apply to tenants now residing in the five tenant rental co-ops elsewhere in Senator Durazo's district. These distinctions appear to be arbitrary and capricious.

These proposed SB51 different housing marketing and purchasing standards would harm residents of El Sereno, who are overwhelmingly Latinx, while Pasadena and South Pasadena residents are not. All these areas are in the 710 Corridor. These different treatments of housing marketing and purchase rules would harm Latinx El Sereno residents, denying them the existing right to purchase via tenant residential rental cooperative under the Roberti Law. SB51 imposes lower income restrictions on participation in the SB51 rental programs compared to participation in the ownership program in the Roberti Law: 120% versus 150% of area median income (current Government Code section 54237 versus proposed SB 51).

These artificial discriminations in a state housing program likely violate the U.S. Fair Housing Act (42 U.S.C. §§ 2000d-1, 3601-3619, and 5309, and California Government Code §§ 12900-12996), similar California fair housing laws (Government Code §§ 12900 to 12996), and violate the California's prohibition on special local legislation. We request that the Office Legislative Counsel advise the California Legislature of the risks that would attend passage of SB51 due to a likely violation of U.S. and California fair housing laws.

SB51 Violation California Constitution Article IV Section 16 - Local Legislation.

California Constitution Article IV section 16 prohibits legislation that is not of statewide applicability or is of a purely local focus. In 2010, a version of SB9 (Durazo) was amended to avoided this prohibition on special local legislation, apparently at the request of the Governor, and perhaps Legislative Counsel in 2020 advised Senator Durazo on this issues. Such special local legislation is only permitted upon proof of a unique facts that justify the special local legislation. There must be a nexus between the unique facts and the terms in the legislation. None of these requirements of Article IV section 16 are present for SB51.

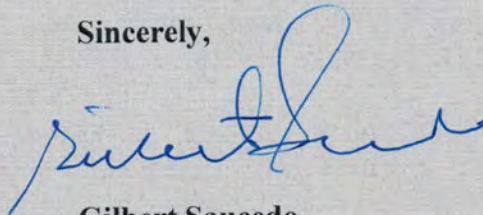
There is no basis to treat properties and residents in El Sereno different from properties and residents in Pasadena and South Pasadena within the same Route 710 corridor, or to treat them differently from tenant rental co-op properties in Echo Park and Silver Lake in the same State Senate District. While SB51 makes a finding seeking to justify this different treatment, the finding is facially false and not supported by any evidence or facts. No facts or evidence are recited to explain the differential treatment of El Sereno properties and tenants from Pasadena and South Pasadena properties and tenants, or from properties and tenants in Echo Park and Silver Lake where tenant-controlled residential coops have operated 292 affordable rental units since the early 1980's and continue to do so on former Caltrans properties.

Besides all the problems with this bill, it is totally unnecessary legislation because the properties can be sold under the existing Roberti Law and regulations. There is no point in passing legislation that does not accomplish anything new of value, and will likely violate state and federal fair housing laws, as well as the California Constitution.

We request that the Office Legislative Counsel advise the California Legislature of the risks that would attend passage of SB51 due to a likely violation of California Constitution Article IV section 16 as special local legislation unjustified by actual facts.

Also, we request that the Office Legislative Counsel advise the California Legislature of the risks that would attend passage of SB51 due to likely violation of state and federal fair housing laws.

Sincerely,



Gilbert Saucedo
Attorney for United Caltrans Tenants

cc: Governor Gavin Newsom (governor@governor.ca.gov)
David Kim, CalSTA Secretary (contact.us@calsta.ca.gov)
California Transportation Commission (ctc@catc.ca.gov)
Paul Golaszewski, CTC Deputy Director-Legislation (Paul.Golaszewski@catc.ca.gov)

From: timothy ivison [REDACTED] >
Sent: Wednesday, April 7, 2021 3:20 PM
To: City Council Public Comment <ccpubliccomment@southpasadenaca.gov>
Subject: RE: Agenda Item #6 City Council Meeting 4/7/2021

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.

Dear Clerk,
Please see attached letter and related documentation.
This is for Agenda Item 6

Thank you,
Tim Ivison

4/7/2021

Timothy Ivison, PhD

RE: Agenda Item #6 City Council Meeting 4/7/2021

To the Esteemed South Pasadena City Council and Mayor,

In consideration of the legislation being reviewed today by the City Council (SB381) I urge you to recognize the urgency with which Caltrans tenants have been trying to stop this legislation and its cynical progenitor, SB51. Either through carelessness, or conceit, both of these bills enshrine a longstanding form of abuse and economic expropriation that need to be stopped in its tracks. Just listen to what tenants have been saying. If you can't do that, *just listen to what other legislators, other state agencies, and legal experts have been saying for decades.*

Attached to this public comment are a set of articles that I have collected regarding Caltrans Right of Way practices of the last 30+ years. It didn't take long. The documentation is copious. And the answer before you is obvious: the cities must take control of the Caltrans 710 Sales Corridor. Caltrans has proven that they are unable to complete the necessary sales efficiently, and unwilling to do so in a just and equitable manner. Caltrans tenants demand that the agency's accounting records are suspended upon transfer of the property to local control, and that any sales program is executed across the entire corridor (Pasadena, South Pasadena, El Sereno) with support of a planning aid program (what other tenants have called a 'tri-city housing authority').

The City of South Pasadena, and the California Legislature must recognize the fact that Caltrans has been engaging in the same destructive, unjust, and aggressive housing practices for decades. This history of abuse has been experienced environmentally, physically, and psychologically by your constituents: Caltrans tenants, their families, and neighbors. The very idea that a fair, orderly process will proceed by simply getting a better deal for city purchases only demonstrates that lessons have not been learned.

In 1983, Caltrans tenants in Hayward California reported that they faced unfair evictions because the state was changing the regulations governing home sales right before a decision was to be reached on the fate of Route 238. Sound familiar? What has Caltrans been saying all of 2020? That the 710 Corridor Sales Program was being delayed by the need to draft new regulations. Tenants have always been able to see through these bureaucratic tactics:

“Robert Swanson Jr. a Caltrans tenant on Gary Drive in Castro Valley, maintains the state is trying to get rid of its low-income tenants to avoid selling houses at cut-rate prices.” [South County, The Daily Review, June 17, 1981, “Rent hikes may doom home hopes”]

In 1984, These same tenants (organized as the Caltrans Tenants Organization) fought against the repeal of the Roberti Act in their district, an action which they understood to be **“a rip off that benefits wealthy developers.”** [California Lawyer, December 1984 "Highways and low rents"]. Today, when we speak of amending the Roberti bill, we can't help but notice the same silent

beneficiaries lurking in the fine print: housing related entities, property developers, private equity, and market rate sales made possible by expropriation from tenants deemed not “in good standing.”

Let’s be clear: we are asking for our cities, the county, and the CTC to protect us from Caltrans: **"This agency destroys housing and displaces people” says William D Powers of Western States Legal Foundation in Sacramento. "The state has said low and moderate is a priority, but Cal Trans doesn't feel they have any responsibility to that priority.”** [California Lawyer, December 1984 "Highways and low rents"]

““The Caltrans people are slumlords,’ said Joan Culver, who lives next door to the vacant Douglas Street home. ‘I’m from Chicago and I know what a slumlord is. That is exactly what they are doing.” [THE DAILY REVIEW Monday, June 25, 1990, “Caltrans criticized as a poor landlord”]

For thirty years, Caltrans has been claiming that it is going to reform its practices. For thirty years or more, Caltrans tenants have been experiencing this failure of reform. Remember what the Director of Caltrans said in 1995?

“Caltrans Director James van Loben Sels told The Times last week that he is dissatisfied with management at the Los Angeles office and would like to see the agency get out of the housing business.” [Los Angeles Times, April 26, 1995, "Homes Owned by Caltrans Not Kept Up, Records Show"]

Every Director of Caltrans has made this claim! Every director has failed! We are asking you to step up and take responsibility for your tenants and your community. Do not trust Caltrans. Do not “do business” with Caltrans. Make a political decision on behalf of your city, go to the CTC and demand they GIVE the houses to the cities to complete the 710 Sales Program. We’ve seen it all before! No amount of indirect regulation will solve the problem.

In 2003, Assemblymember Carol Liu commented on her own attempts to legislate Caltrans: **““We wrote this bill out of frustration,’ Liu said. ‘We ask Caltrans for information and they stonewall us. Regardless of where this bill goes, there is a movement to take these properties from Caltrans’ control and let the housing department or someone else manage them. I want to give them the benefit of the doubt, but they haven’t shown too much ability managing their property. It’s shameful.”** [Pasadena Weekly, 5/8/2003, "No Exit"]

AND YET we continue to trust Caltrans as a fair and principled partner in the 710 Corridor Sales Program. We continue to write legislation *as if* Caltrans simply needs to do its job and follow the law, *as if* past transgressions have no bearing on the present crisis. Decades of failure have shown us: we cannot trust Caltrans’ accounting. We cannot trust their parcel records. We cannot trust their contracts or their appraisals. The process must be expropriated.

Three years after Liu tried to solve the problem, journalist Kimberly Kindy observed that **“Since the early 1970s, state auditors and watchdog committees have repeatedly criticized Caltrans. Each time the department promised reforms, but there has been little or no change. Instead, the most serious problems have worsened.”** [Orange County Register, October 16, 2006, "Dodging reform"]

Kindy then quotes ANOTHER former Caltrans Director, this time Leo J. Trombotore on the subject of reform: **“Trombotore believes Caltrans needs outside oversight from a state**

organization that has the authority to force staff to follow through, long after directors have departed.” [Orange County Register, October 16, 2006, "Dodging reform"]

She also writes this deeply depressing passage, which is a warning to us all as we embark on this awful task:

“The department's record keeping, meanwhile, is so shoddy that when asked, Caltrans officials couldn't estimate the value of its land. Its antiquated databases make it next to impossible to pinpoint how much land Caltrans actually owns. ‘It's a disgrace,’ said former state Sen. Ross Johnson, who represented Orange County for 24 years and repeatedly tried to get Caltrans to sell unused land. ‘It's an understatement to say they've done a very poor job managing their assets. Their abuse of power adds up to real money that could be used for a lot better purposes than maintaining ownership over a slum.’”

And then, just to add insult to injury, YET ANOTHER Caltrans Director claims that reform is just around the corner:

“Caltrans Director Will Kempton acknowledged that his department has been overzealous in its land purchases in the past. Kempton, who was appointed two years ago by Schwarzenegger, said Caltrans sometimes ran roughshod over communities instead of working with them. He said that strong-arm approach has already changed and must continue to change. ‘The old thinking just won't work anymore. I preach customer service,’ Kempton said. ‘We have to work with communities now - they are our partners - and we must find solutions together.’ Kempton also said Caltrans lacks the expertise to manage its properties. He hopes to hand off the job, possibly to another state department that has a better track record as a landlord. We have to recognize this isn't something we are particularly good at,’ Kempton said.” [Orange County Register, October 15, 2006 “Highway Robbery”]

This was fifteen years ago! How can you not be outraged by this? Everyone in the 710 corridor is being humiliated by this ongoing crisis. It was fifteen years ago that Orange County Supervisor Chris Norby is quoted as saying: **"We need to unite," [...] "We need to embarrass them into change."** [Orange County Register, October 16, 2006, “Local Control Sought”]

Fifteen years ago, in the same article, Caltrans tenants were calling for the cities to step up: **"The cities could do a much better job of managing these properties," said Lynn Bryan, a Caltrans tenant and board member of the Caltrans Tenants of the 710 Corridor. "They are in their communities and I believe they would care more."** [Orange County Register, October 16, 2006, “Local Control Sought”]

Well, do you? We believe in a political process, whether legislative or otherwise, that can protect tenants and the city’s interests. Please reconsider the path of SB381 and acknowledge the fundamental need for justice, reparations, and the mitigation of the long-standing negative impacts of Caltrans in our communities.



Timothy Ivison

The History of Caltrans Tenants on Route 238 as told by the Press June 17, 1981

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South County

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Rent hikes may doom home hopes



Sai Bromberger — staff photographer

Bob Swanson faces rent hike at his Castro Valley home owned by Caltrans.

By Jayne Garrison
Staff writer

HAYWARD - A new state rental policy could force some South County tenants out of their homes just months before they might have the option of buying them at cut-rate prices.

The California Department of Transportation is raising rents on more than 500 Hayward and Castro Valley homes purchased in the last two decades for the right-of-way of the

proposed state Route 238 expansion. Statewide, the policy will affect more than 3,000 Caltrans-owned houses. Rent hikes are scheduled for December.

Although Caltrans officials insist the policy was "specifically designed to accommodate lower-income families," several South County tenants say they may end up losing the one chance they have to buy a house at affordable prices.

Here's how the policy works:

- Families earning \$28,100 or less a year and living in a house valued below \$585 in monthly rent will only have to pay 25 percent of their gross income for rent.
- Families earning more than \$28,100 will receive a 25 percent rent increase each year until rents reach fair market value. Caltrans officials said they are simply trying to get a fair return on their property.
- The catch is in the third clause. Families earning less than \$28,100 - but living in a house that could be rented for more than \$585 a month - may be relocated to other "affordable" housing in the area, according to Caltrans spokesman Bob Halligan.

This would eliminate their option to buy the Caltrans home if development of Route 238 is rescinded by the state Transportation Commission in April 1982.

The commission last year placed a two-year moratorium on Route 238, but insiders give at least 50 percent odds that the route will be rescinded.

If construction plans are dropped, Caltrans would sell its houses along the right-of-way route and low-income tenants would have the option to buy their rented home at a price within their income range.

That option is mandated by Senate Bill 86, adopted in 1979. Under the bill, local housing authorities have first option to the houses, original tenants have second rights and current tenants have third rights.

Robert Swanson Jr., a Caltrans tenant on Gary Drive in Castro Valley, maintains the state is trying to get rid of its low-income tenants to avoid selling houses at cut-rate prices.

The independent dairyman pays \$395 a month for his three-bedroom house today. Although the fair market rent for his area has not yet been established by Caltrans, a right-of-way agent last week told him the rate might exceed \$585.

"When I moved in (in 1977) it was almost uninhabitable," said Swanson. "Then last year Caltrans comes in and dumps \$13,000 into our house fixing it up."

He maintained that renovation is the only reason the house may be rented for more than \$585.

"They're just trying to get us out so they won't have to sell to us under SB86," charged Swanson, who, with his neighbors Carol and Jerry Perkins, is calling lawmakers and urging a review of the policy. The Perkins are also fighting eviction July 23 for allegedly allowing their yard to become overgrown.

The couple, who just put in a sod lawn, will appeal their case before Caltrans officials Friday.

Another Caltrans tenant who rents a Victorian home on C Street said the agency spent \$14,000 on her house this past winter.

"We asked if this was going to raise the rents and they said no," stated the woman, who did not want to be identified.

Caltrans denied the charges.

Harry Kagan, chief of the agency's Right-of-Way Division, said renovation was carried out as part of Gov. Brown's urban strategy program.

He noted that Caltrans has raised rents no more than 10 percent a year in the past and specifically wrote its new policy to help out lower-income tenants.

Speaking from his Sacramento office, Kagan said he doubted many, if any, tenants will be relocated because the state-owned houses in this area aren't worth more than \$585 a month in rent.

But his opinion was contradicted by local Caltrans officials.

With the Bay Area's rental shortage, spokesman Halligan said he has been told many houses could be rented for more than \$585. However, he cautioned that the appraisals are not complete and the relocation policy would apply only to tenants earning \$28,100 or less a year.

Halligan said he does not know how many tenants would fall into the relocation clause.

Swanson contends the number is high.

Many low-income families, including his own, waited months to get into a Caltrans home specifically because of the lower rents, he said.

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Daily Review
May 17, 1982

Bypass project at critical juncture



By Rich Riggs
Staff writer

HAYWARD - Two events crucial to the fate of a Highway 238 downtown bypass planned for the last 23 years will occur in the coming two weeks.

The first will be a vote planned for Thursday in the state Senate, which will determine whether a plan to finance a scaled-down version of the freeway can go forward this year.

The second event is a hearing next week in San Francisco before the California Transportation Commission, in which the city hopes to convince the commission to endorse

its novel financing plan, which involves using proceeds from the sale of freeway right-of-way and from redevelopment along the freeway corridor to build the bypass, which city officials are now calling the "Foothill Parkway."

The commission hearing may occur on either May 26, 27, or 28, according to Martin Storm of the city planning department. The exact date and time, will be fixed later this week.

If the commission rejects Hayward's plan, it will mean that the freeway route will be officially abandoned by the state, the right-of-way sold, and the money spent on highway projects throughout the state.

Meanwhile, the Senate on Thursday will reconsider Sen. John W. Holmdahl's SB 1711, which failed to get a needed two-thirds majority to pass an urgency measure last Thursday.

Holmdahl said he plans to bring the measure back for another vote Thursday, and he is confident that it will win. He may, however, decide not to tag it as an urgency measure this time.

The bill would allow \$30 million from the sale of right-of-way purchased for the Foothill Freeway to go toward financing the downscaled "Foothill Parkway," four lane, divided, landscaped arterial.

The street would run from Interstate 580 south through the Hayward hills to connect with Industrial Parkway.

The bill would have needed 27 votes to pass out of the Senate as an urgency measure last week. It only got 23. There were six votes against the measure.

Holmdahl said 20 senators actually supported the bill last Thursday. Another three joined in the voting even though they will oppose the measure - as a legislative courtesy so that Holmdahl would have a chance to ask for reconsideration.

"Thirteen members were not on the floor," Holmdahl said, "I should be able to get seven of those 13 to vote for the bill as an urgency measure."

It takes 27 votes -- a two-thirds majority of the 40 member Senate pass anything as an urgency measures. Urgency measures become law as soon as they are signed by the governor.

But it would only take a simple majority - 21 votes to pass the bill as a non-urgency measure. Holmdahl said there is no question at all that the bill will have the backing of a simple majority. If passed as a non-urgency bill, the measure would become effective Jan. 1, 1983.

Holmdahl said he is considering bringing the bill back Thursday as a non-urgency measure. "That would be the safer way and the only difference is the date of effectiveness," Holmdahl said.

Even, if the Senate passed the bill as an urgency measure, the governor -- if the Assembly also passed the bill - would not get it until June or early July.

If Holmdahl tries to pass the bill as an urgency measure and it fails in either the Senate or Assembly, it can't be brought back for another vote until next year.

Holmdahl said the bill could run into troubles in the Assembly, but the sheer numbers appear to be on the bill's side.

"The problem is, there are six counties that could benefit from the bill (six counties that have freeway rights-of-way that could be sold and which could retain the money for their own projects under the measure) but there are 52 which would not benefit from it," Holmdahl said.

However, the six counties that would benefit Alameda, Contra Costa, Santa Clara, Los Angeles, Ventura and Riverside ;represent a majority of seats in the Legislature.

Twenty-six of the 40 senators have constituents in those six counties and 47 of the 80 assemblymen also have constituents in the benefiting counties.

Holmdahl said that does not guarantee that they will all vote for his, measure but added, "There are significant counties on our side that will potentially benefit."

But he cautioned that, even though passage seems assured in the Senate, that's not often an indication of what the lower house will do: "You can't mechanically assume that what happens in one house will happen in the other," he said.

City plans for the parkway cannot be financed without Holmdahl's bill. But that bill could be revived next year even if it is defeated this session.

The city next week must convince the commission that its plan - which involves combining the money from right-of-way sale with some \$10 million revenue from the development of 1,500 to 2,000 housing units along unused freeway right-of-way to finance the entire project – is practical.

If the commission decides otherwise, it is expected to recommend that all the right-of-way be sold and the money put into a central kitty for road projects throughout the state - a move that would forever kill the chances for the bypass.

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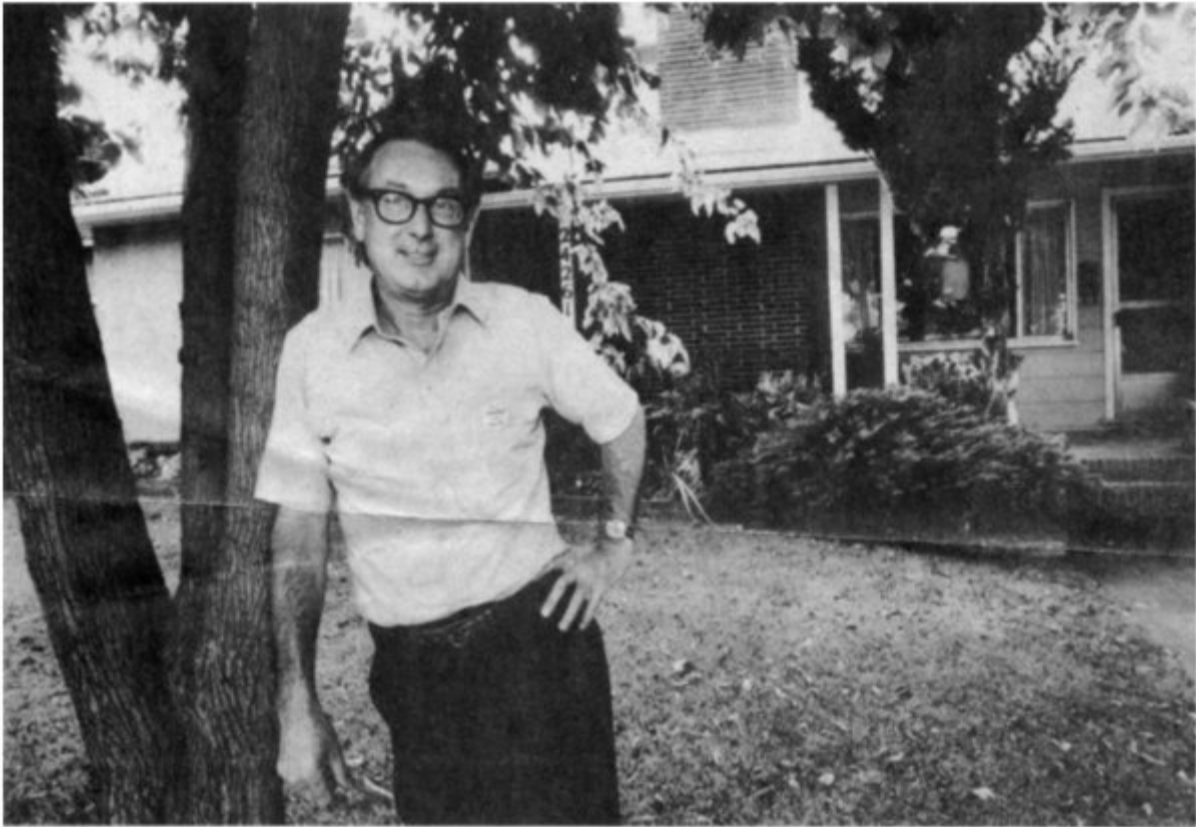
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State renters rally for homes



By Rich Riggs
Staff writer

HAYWARD - Fearful of losing their homes to a Hayward expressway project, people who are renting homes from the California Department of Transportation on freeway right-of-way are forming a tenants' organization. A.D. - 332



Spence Kerrigan stands in front of the Second Street house he rents from Caltrans.

Rob Lindquist — staff photo

One of the organizers, Spence Kerrigan, who lives in a Caltrans house on Second Street, said the tenants are concerned about the loss of an opportunity they once banked on: the ability to purchase at affordable prices the homes they are renting.

Kerrigan also said tenants are concerned with other issues, including shoddy workmanship in connection with a \$2.2 million rehabilitation job completed on 200 of the 350 Hayward homes, which sit on right-of-way for the long-planned Foothill Freeway.

The freeway, planned for 20 years, would have run through the East Bay hills from Interstate 580 north of Hayward to Interstate 680 in Fremont.

But, due to lack of funds, the state was about to abandon plans for the freeway when Hayward came up with a scheme to fund a smaller project, a four-lane parkway or expressway that would run from Interstate 580 south to Industrial Parkway in Hayward.

The governor has signed a bill, SB 1711 by Sen. John Holmdahl, D-San Leandro, which will allow proceeds from the sale of unneeded freeway land to partially fund the expressway, to the tune of \$30 million.

Only about 100 homes will be razed for the expressway, but the remainder of the property will be sold to developers who will build 1,500 to 2,000 housing units probably condominiums and apartments.

The problem with this, Kerrigan said, is that Holmdahl's bill cancels an earlier measure that would have let tenants buy the homes they live in at below-market prices.

That bill, SB 86 by Sen. David Roberti, D-Los Angeles, allowed low- and moderate-income families - those making less than \$28,000 for a family of four to purchase homes not

needed for freeways at a price somewhere between current market rates and the prices Caltrans paid for the land more than 10 years ago.

Holmdahl's bill says all the land must be sold at current fair market rates, as determined by an appraisal. .

"We are concerned with the tenants' loss of rights to purchase their units under the Roberti bill," Kerrigan explained.

"And we also just want to help tenants in any areas where they express an interest or a need for help," Kerrigan said.

Kerrigan said the tenants' organization is being launched by himself; Scott Hickman, who lives in a Caltrans house on C Street; Bob Swanson, tenant of a Caltrans home on Gary Drive in Castro Valley; and Howard Kerrigan, Spence Kerrigan's uncle, who lives next door on Second Street.

Howard Kerrigan complained about another problem: poor workmanship by Caltrans contractors.

In a \$2.2 million program to bring the homes up to code, Caltrans hired private contractors on a competitive bid basis to renovate 200 Hayward homes, according to Ron Foote, manager of the rehabilitation program.

A visual inspection of Howard Kerrigan's home showed paint flaking off a ceiling, a rickety outdoor stair railing, misfitted kitchen fixtures and other problems.

Foote acknowledged that the workmanship was poor. "We released the contractor from that job and are denying him a \$1,100 payment," Foote said.

Foote explained that since the bidding is competitive, Caltrans can't be picky about who does the work.

"We've had some good contractors and we've had some bad ones," he said. "We have penalized contractors and we have had all sorts of grief. But we have done some major improvements, and we have taken homes that were ready to be demolished and made them habitable," Foote said.

As to loss of Roberti bill rights to purchase units at bargain prices, Hayward city officials say that everybody who is displaced will get some help from the city.

Low-income families will get rent subsidies to help them pay for units comparable to the ones they are forced out of, according to Martin Storm of the city Planning Department.

And everybody - rich or poor - will be given moving expenses and relocation advice, Storm said.

He said that is a better deal than many tenants would have gotten under the Roberti bill. The Roberti bill only governed units on land not needed for a highway. Those in the path of a freeway - in homes that would have to be razed to accommodate the road - would have gotten no assistance at all, Storm said.

"All, they would have gotten was a notice saying they'd have to leave in 30 days," he said. "We feel that the program under the Holmdahl bill is far more equitable and will work much less of a hardship on tenants than the Roberti bill program, since we will take care of all the people and not just those living on surplus properties."

Spence Kerrigan said the tenants' group, the "Caltrans Tenants Organization," is now circulating questionnaires polling Caltrans renters about the loss of the Roberti bill rights to purchase, the service provided by Caltrans and the quality of workmanship on rehabilitation jobs.

Caltrans tenants interested in the organization can contact Spence Kerrigan at 538-5318.

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The Daily Review, Thursday, September 30, 1982

State poor landlord, tenants tell council



By Rich Riggs
Staff writer

HAYWARD - People who live in houses owned by Caltrans in a freeway right-of-way say they'll be back before the City Council Tuesday with more "horror stories" about shoddy repair work and rude property managers.

Angry representatives of the tenants appeared before the City Council Tuesday to also complain about the loss of the right to purchase rented homes at bargain rates, which ended under terms of legislation aimed at funding a Hayward expressway project.

Mayor Alex Giuliani promised to set up a meeting between the tenants and Assemblyman Gib Marguth, R-Livermore, to discuss the problems. Bob Swanson, one of the tenants' representatives, agreed to such a meeting.

Councilman Michael Sweeney added, "The bottom line is that the state owns the property, but we will do what we can to bring Caltrans into line."

The tenants said they would be back next week to give the council the results of a survey of 150 Caltrans tenants said to be unhappy with the state's management of their rented units.

"Most tenants feel Caltrans is the worst possible landlord," said Spence Kerrigan of the Caltrans Tenants Organization. "Their rental agents are unprofessional, unbusinesslike and abusive. . . Tenants who had their homes repaired under Caltrans rehabilitation program are unanimous about the poor quality of materials and workmanship received for the \$2.2 million Caltrans people claim to have spent."

Kerrigan was referring to the renovation of 200 Hayward homes accomplished during the last year by private contractors hired by the California Department of Transportation to bring the structures up to code.

A Caltrans official, Ron Foote, manager of the rehabilitation program, has blamed the faulty work on incompetent contractors. However, he maintains many of the properties were repaired correctly.

Swanson, who rents a Caltrans house on Gary Drive in Castro Valley, charged that he has received the runaround from Caltrans officials.

He said he has yet to recover a \$50 deposit he put down on a Caltrans house five years ago. The house was rented to another family before he could move into it.

Eventually, he said, Caltrans rented him the house on Gary Drive, but Swanson said it was poorly maintained. "It was a dump and it smelled like vomit," he said.

He said Caltrans hired someone to restore the house for \$12,000. "They spent \$12,000 and basically all they did was paint it and fix my shower," he said.

Swanson said he has put a good bit of money into maintaining and repairing the house himself, and that he would now like to buy it.

He said, however, that he probably won't be able to afford it, because of the provisions of SB 1711 by Sen. John Holmdahl, D-San Leandro.

That bill, passed by the Legislature this summer, will enable proceeds from the sale of Hayward freeway right-of-way to go toward construction of a Hayward downtown bypass, the "Foothill Parkway."

The parkway is to run from Interstate 580 through the Hayward hills to Mission Boulevard and Industrial Parkway.

Under the Holmdahl bill, the land must be sold at "fair market value."

Holmdahl's bill effectively cancels an earlier measure, SB 86 by Sen. David Roberti, D-Los Angeles.

That measure, approved earlier by the Legislature, would have allowed poor and middle-income tenants to buy their surplus Caltrans homes at prices below fair market value.

Swanson said he went to a legislative committee meeting where the Holmdahl bill was up for consideration and waited nine hours, but was not given a chance to speak.

He said he was appalled by the conduct of lawmakers, who he said largely ignored people trying to present testimony. "They were throwing paper airplanes and candy wrappers," he said. "Caltrans tenants have never been heard on this (cancellation of the Roberti bill's rights to purchase)."

"I would like to see SB 86 rights restored. The loss of funds will be negligible," Swanson said.

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Angry Caltrans tenants air gripes

By Patricia Yollin

Staff writer

HAYWARD - Tales of abusive rental agents, incompetent contractors and unkept promises tumbled out Saturday as more than 300 Caltrans tenants packed City Council chambers to tell state Sen. Bill Lockyer their problems with a landlord who, in this case, happens to be the state.

Lockyer, D-San Leandro, called the meeting so aggrieved tenants could air their complaints about the state Department of Transportation. And air they did, grousing for almost four hours about everything from leaky roofs and lack of building inspections to the pain of living in "constant fear of eviction."

Anticipating a deluge of problems, Lockyer opened the afternoon meeting by reeling off a string of sore points: loss of tenants' purchase rights under a new state Senate bill, housing relocation, rehabilitation, rent calculation and allegations of Caltrans' insensitivity to tenant problems.

"Is that a pretty good list of what the issues are?" he asked.

"It's a start," someone shouted.

As it turned out, it was only a start. Many people wanted to discuss an issue Mayor Alex Giuliani had already deemed "not discussible" - whether the \$30 million "Foothill Parkway," proposed for 300 acres of freeway right-of-way occupied by 350 Caltrans tenants - should even be built.

"We have to start with a sense of what's 'doable' and what isn't," Lockyer told the tenants before they even brought the subject up. "Thinking of making it go away is in the category of impossible."

Not so, argued Harold Van Buren of Hayward. "From your viewpoint, you're saying it's cut and dried, and it isn't."

Lockyer, who had said earlier the 24-year-old project "had been decided for years and years," conceded it still needed state approval. Giuliani said it would take the city a year to decide if the expressway is even feasible.

"It should go to a vote of the people of Hayward to decide," said tenant Jim Davis of Hayward to rousing applause. "It shouldn't go to the mayor and the City Council."

"I campaigned on a promise to revive the expressway," Giuliani said.

"Well, I'm one of the people who backed you and I think you're wrong," Davis retorted.

Bob Swanson, an activist with the Caltrans Tenants Organization, argued that the project would aggravate rather than allay traffic congestion and said its real purpose was to provide road access to aid Walpert Ridge development.

"Caltrans wants taxpayers to pay for a land developers' road," he said. "It's not to benefit the city of Hayward. Do you think Fairway Park wants traffic dumped down there from high-density condominiums?"

Lockyer eventually succeeded in steering conversation away from the freeway itself to other issues, which were not in short supply.

"I've been living in my house for 11 years," said Nancy Gallagher of Hayward. "After nine years, they tacked a public auction notice on the house - without even a phone call, asking if I'd like to bid on it. The notice was May 1 and the auction was May 11."

Mrs. Gallagher sued Caltrans and is still involved in litigation.

"We have put out \$10,000 for the right to buy our house," she said.

An elderly woman reported that she called Caltrans early last year to fix some leaks in her home. "They said they'd be right out, and that party has never gotten there yet. And I live right across the street from the Hayward office," she said as other tenants let out knowing laughs.

"There's water seepage in my downstairs bedroom," said Yolanda Flores of Hayward. "The rental agent said it would take seven months. Do I have to wait that long?"

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Highways and low rents



The state Department of Transportation has sold 467 units in the last four years-real estate that became "surplus" when highway projects were canceled. The property was worth \$21 million, but Cal Trans sold it for \$7 million.

Citing these lost revenues, the California Transportation Commission this year convinced the Legislature to limit future application of the Roberti Act, which requires Cal Trans to sell surplus property at an "affordable price" to benefit low income tenants or homeowners. Meanwhile, a lawsuit filed by the Pacific Legal Foundation says the act (Govt. C §54235 et seq) was never constitutional to being with, and tenants' groups say its prospective repeal by SB 1702 (John F. Foran, D-Daly City) is "a rip-off" that benefits wealthy developers.

Responding to the criticism that highway projects were destroying homes while there was an urgent need for low-income housing, Senator David A. Roberti (D-Holly--
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Keeping Ahead

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wood) in 1979 proposed that the state turn its surplus property into low-income housing stock. Confronted with article 19 of the state constitution, which says that the gas tax funds Cal Trans uses to buy property may be used only for research, planning or maintenance of road projects or mitigating their environmental effects, the Roberti Act simply declared the loss of low-income housing to be a significant environmental effect.

This bit of legislative footwork did not impress attorney Robin D. Rivett of the Pacific Legal Foundation in Sacramento, who says you cannot circumvent the constitution by redefining words. Article 19 was approved by the voters specifically to keep gas tax money from being used for anything but building roads, says Rivett, who has brought two lawsuits asking that the Roberti Act be declared unconstitutional. After losing the first of those cases in Los Angeles in 1982 (*Stone v State* (LA Super Ct, No. C294212)), Rivett brought another action in Sacramento (*Heberer v State* (Sac Super Ct, No. 302181)). Rivett says he thinks the Third District Court of Appeal will provide a more favorable forum for his argument than the second district would have if he had appealed the Stone case.

Whatever the outcome of Heberer, it is unlikely the Roberti Act formula will be used for selling much more surplus property in California. Senate Bill 1702 repeals the act with respect to any highway projects canceled after January 1, 1984. Roberti went along with the change, says his consultant Christine Minnehan, because the bill creates an exception for Route 7 in Long Beach—the only current Cal Trans project that might be cancelled—and provides extensive relocation assistance for displaced residents. "There is also more protection coming from other sectors now," Minnehan adds. "Local communities have developed a greater sophistication in terms of protecting their housing stock."

The people who live in what is now Cal Trans property disagree saying the Roberti Act remains a necessary protection for them. "This agency destroys housing and displaces people" says William D Powers of Western States Legal Foundation in Sacramento. "The state has said low and moderate is a priority, but Cal Trans doesn't feel they have any responsibility to that priority."

The department still has a responsibility to provide relocation assistance to the people displaced notes Howard Posner, a legislative representative for Cal Trans. More importantly, he says, the people covered by the Roberti Act are not the original homeowners but tenants who came along later and had no reason to expect to stay long. "They move in with the express knowledge that we are building a freeway," Posner says. "When that doesn't happen, why should they benefit?"

Robert E. Swanson of Castro Valley, one of the founders of the Cal Trans Tenants' Organization, says the people who will benefit when a future project is canceled are real estate developers. The state never gets full market value for property sold at public auction, Swanson says. Consequently, although they will pay more than the Roberti Act's "affordable price," developers will be getting state-owned land at a discount. "It's a matter of who's going to get it cheap: a rich land developer or a low- or moderate-income individual," Swanson says.

Paul E. Smith of Oakland, who used to be attorney for the Eden Council for Hope and Opportunity in Hayward, says the Transportation Commission's attempt to save money ironically may cost the taxpayer more. "They didn't lose \$14 million," Smith says. "They spent it to provide low-income housing in a very cost-effective way." Rivett does not agree with Smith's point, but adds that what is cost-effective is not always constitutional. "You can't take funds intended for one purpose and use them for another." he says.

-Clyde Leland
December 1984

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May 7, 1986

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The Tribune
1986

Wednesday, May 7,

*SC Section B.

LOCAL

1,000 could lose homes to foothill freeway



By Michael Collier
TM Tribune

HAYWARD - An unusual environmental concern was debated in closed session last night by city council members discussing revived plans for an expressway traversing Hayward's foothills.

The concern: People, About 1,000 of them.

That's how many residents would be displaced by the six-lane expressway, which council members hope will be under construction in 1990 and eventually provide major relief from traffic congestion throughout the city.

But according to terms of a 1971 federal court injunction granted against the city when the route was first proposed, it can't be approved unless residents are relocated and fully compensated for moving costs.

The council last night agreed to continue negotiating terms of the relocation plan with an attorney from the Alameda County Legal Aid Society who represents the foothill residents.

And a public meeting will be held sometime later this month to inform Foothill residents of a tentative relocation plan. A final date for the plan's approval has not been determined.

City Attorney Alice Graff called the negotiations "extremely friendly."

And City Manager Don Blubaugh said the city has already set aside \$4.6 million - or about \$13,000 per family - for the relocation.

Blubaugh declined to disclose details of the tentative relocation plan.

Hayward city officials got into hot water back in 1971 because the relocation of people forced to move because of the proposed Route 238 connecting Interstate 580 with I-680 in Fremont was never considered.

A group of Union City residents, calling themselves La Raza Unida, sued the city and the federal transportation secretary on those grounds and won an injunction from a federal judge.

By the time the injunction was granted, state funding for the eight-lane freeway had all but dried up, and the project was dropped.

Hayward council members revived the foothill freeway idea a couple years ago as a means of alleviating near gridlock in town.

The current plan calls for a 5.4-mile road from I-580 south to Industrial Parkway in South Hayward. The project's cost is estimated at about \$64 million.

Alternative housing for residents to be displaced by the road would likely need to be built using city funds.

The city's rental housing market remains tight, with a vacancy rate near 1 percent.

Without a relocation plan, the 1,000 people to be displaced by the road could become "a whole tribe of street people," said Bob Swanson, representing a group called the Caltrans Tenants.

May 29, 1986

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The Daily Review Thursday, May 29, 1986

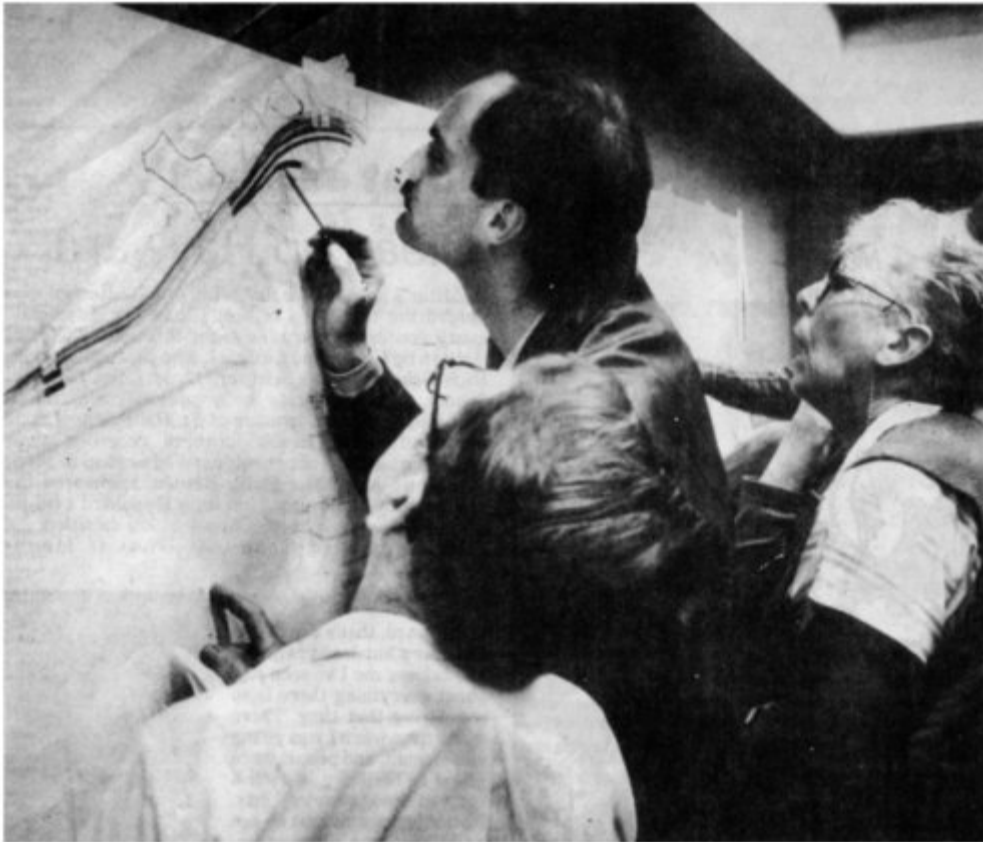
Caltrans, city OK deal for tenants



By Karen Holzmeister
Staff writer

HAYWARD - State Department of Transportation tenants, whose homes would be eliminated by the proposed State Route 238 Parkway, would receive relocation and moving expenses of \$4,500 per unit under a tentative settlement unveiled Wednesday.

About 160 people, mostly Caltrans renters, crowded into a Centennial Hall meeting room to learn about the settlement, which would cost the city at least \$4.6 million. Most greeted the news with a mixture of muted curiosity and a request for information that city and state



Ron Hart, center, and other Caltrans renters check the proposed parkway route Dino Vournas — staff photo

representatives couldn't provide.

The 348 units, including single-family homes, apartments and commercial properties, are on 340 acres along rights of way for the proposed alignment of the parkway. The parkway would run from Interstate 580 south along the Hayward hills to Mission Boulevard just north of Industrial Parkway.

No final official decision has been made on whether the parkway will be built, pending completion of an environmental impact report, probably at the end of 1987.

Caltrans could begin disbursing relocation grants immediately to tenants in 20 units who were occupants of their homes or businesses before Caltrans bought the property.

While there are provisions for the city to bank the \$4.6 million within the next month, and to begin helping all tenants find new homes, the formal settlement probably won't be in effect for a couple of years, pending completion of the environmental report and approval by a federal court, state agencies and the City Council.

See Parkway, back of section

Parkway

Continued from page 1

"The plan is kind of new to all of us and we are going to have to digest it," said Bob Swanson, a founder of the Caltrans Tenants Organization.

"We have concerns that Caltrans will have a real outreach program to the tenants who couldn't come tonight, the elderly and handicapped. They will need to be handled carefully."

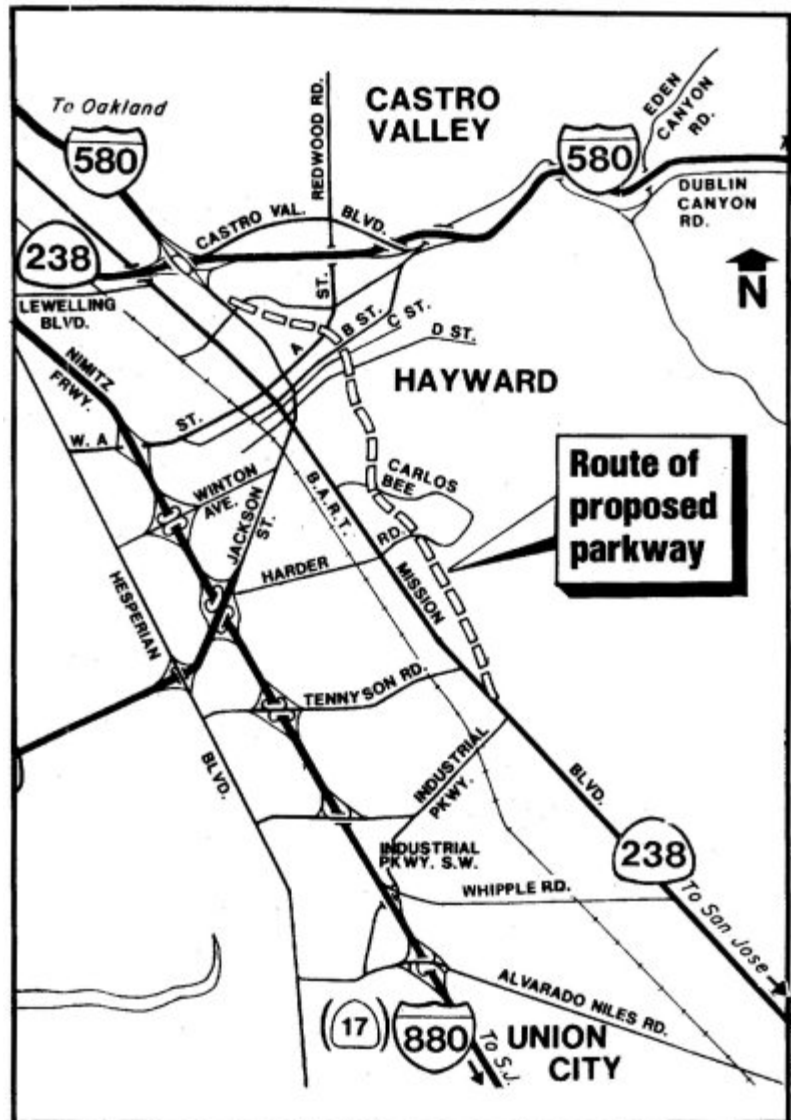
Pending a survey of all Caltrans property, not all of the 348 units

The plan is kind of new to all of us.

may be removed for the parkway. Units to be retained will be sold, with the first purchase rights going to the occupants, then other Caltrans tenants and, finally, to the general public. The \$4,500 could be applied to the down payment on a home. No unit survey has been done yet to determine which units will be exempted from demolition.

The proposed assistance includes a flat payment of \$500 for moving expenses and \$4,000 in lieu of a rent differential payment of down payment contribution.

Under the plan, commercial occupants would receive a payment of up to \$10,000 for loss of business, if experienced, costs to find a new location and actual moving expenses.



June 25, 1990

[June 17, 81](#) | [May 17, 82](#) | [Sept. 23, 82](#) | [Sept.30, 82](#) | [Jan.30, 83](#) | [Dec. 84](#) | [May 7, 86](#) | [May 29, 86](#)
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THE DAILY REVIEW

Monday, June 25, 1990

Caltrans criticized as a poor landlord



By Dennis J. Oliver
STAFF WRITER



JAY SOLMONSON — Staff

Weedy land offends neighbor Joan Culver.

HAYWARD - For rent: Two-story, three-bedroom home in quiet neighborhood with little traffic. Reasonable rate. Vacant since January. Crawling With weeds, debris, garbage and rodents.

The home, at the top of Douglas Street in the Hayward hills, also sits in the path of the proposed Foothill Freeway. Once construction begins, it will be leveled by a wrecking crew.

It is one of 350 houses in the city owned by the state Department of Transportation that transit officials have said they would rent to low-income families and keep in decent shape until the time comes to put a roadway through.

But homeowners who live in parts of Hayward

See Caltrans, back of section

Caltrans: Officials say they try to find qualified renters

Continued from section front

where state-owned property remains complain that Some houses remain vacant for unreasonable periods of time and many are unkempt.

"The Caltrans people are slumlords," said Joan Culver, who lives next door to the vacant Douglas Street home. "I'm from Chicago and I know what a slumlord is. That is exactly what they are doing."

Caltrans officials say only 15 of the 350 homes are vacant and that they are actively looking for qualified tenants. A handful of the houses are not rentable because they have been damaged by fires or earthquakes.

"We will rent those (undamaged houses)," said Caltrans spokeswoman Lisa Murphy. "We just need to interview prospective tenants."

Caltrans officials deny that maintenance on the buildings and yards has been lax and that some houses that could be rented have remained vacant for long periods of time.

But Bob Swanson, head of the Caltrans Tenants Organization, said he knew of a number of houses that had remained vacant for months between tenants. He also has heard complaints of state property being neglected.

CTO is a coalition of Caltrans tenants who have banded together to help ensure that they will be given relocation assistance once the time comes to demolish the state-owned property where they live.

At the Douglas Street house, garbage is piled near a side door, not far from a collection of weeds that stand 8 feet high. The front yard is a jungle of tall grass strewn with debris. Rodents scurry through empty rooms.

Another house on Broadway Street a block away has remained vacant for 18 months, according to neighbors. It, too, is in need of a weed-pulling, lawn mowing overhaul.

"Caltrans was supposed to keep these houses in good repair and rent to people, particularly people who are low-income," said Swanson. "The houses seem to stay empty for a while."

"When these places remain empty, it opens things up to all kinds of possibilities," said Swanson.

One Caltrans tenant said he has been trying to get the state to conduct general maintenance on his home for two years without success. He attributed the delay to a staff shortage.

Caltrans spokesman Greg Bayol said the state's property management department, which oversees maintenance and occupancy of the houses, does not have staffing shortages but that normal problems occasionally do arise.

"I think anybody who rents would have problems with their landlord from time to time," said Bayol. "I suppose there always is the possibility of poor response."

Excerpts From Route 238 Final Environmental Impact Statement

Route 238 Foothill Parkway Final Environmental Impact Statement

"Social and Economic - The major socio-economic impacts of the Preferred Alternative would include the direct displacement of 219 single-family residences 17 duplexes, 5 condominiums and 22 multi-family residences. The majority of the requisite properties were acquired between 1965 and 1971 during the early development of the project. An estimated 112 units are still in private ownership. The project would require the displacement of 17 businesses, two of which are non-profit organizations. There are an additional 142 housing units and six business units, currently owned by the State, in areas that are no longer needed for the project and will be declared excess. This extensive displacement constitutes a major socio-economic impact. However, the State and the City of Hayward relocation assistance and replenishment housing programs will mitigate this impact. All tenants displaced by the Preferred Alternative will receive relocation assistance. Relocation assistance will be provided to pre-acquisition occupants (original occupants before State acquisition of the right-of-way) pursuant to Federal and State Uniform Relocation Assistance Acts and to post-acquisition tenants (tenants who rented after State acquisition of the right-of-way) under the Consent Decree Relocation Plan and special legislation for the Local Alternative Transportation Improvement Program

HOUSING REPLENISHMENT AND RELOCATION

The City and the State are to comply with the Federal Uniform Relocation Assistance and Real Properties Acquisitions Policies Act of 1970 and any other applicable federal or State laws.

1. The City is responsible for implementing the Relocation Plan for tenants who moved into property within the corridor after it was acquired by the State or the City or who did not know the property was owned by the State at the time they moved into the property ("post-acquisition occupants") Residential occupants residing in the property at the time of the Notice of Entitlement to Relocation Benefits are entitled to either a moving expense payment of \$500 and a rental differential payment of \$5,250, or a down payment contribution of \$5,750. Commercial occupants are eligible to receive a moving expense payment of \$500 and a business relocation payment of \$5,250. Hardship relocation may also be provided on a case-by-case basis.

2. The State is responsible for providing relocation assistance, including relocation benefits to residential occupants whose property was acquired by the State at the time of their occupancy or ownership, who presently occupy or own parcels in the corridor that have not yet been acquired by the State or the city, who moved into the corridor after acquisition by the State and who did not have knowledge of the State acquisition, or who otherwise have eligibility for relocation benefits under the State's rules and regulations (hereinafter referred to as "pre-acquisition occupants").

3. The State shall provide pre-acquisition commercial occupants with actual, reasonable and necessary moving costs, certain related expenses, search costs not to exceed \$1,000 in finding a new business location for certain eligible tenants and in-lieu payments for those unable to stay in business for certain eligible tenants of up to \$10,000.

4. The City is responsible for implementing the Replenishment Housing Program and ensuring the initial availability of 247 affordable replenishment housing units for low income households, at least 111 of which shall be affordable for very low income households, 101 affordable replenishment housing units for moderate income households, and 101 additional replenishment housing units (48 of which shall be affordable by low income households and 53 affordable by moderate income households) if the freeway alternative is adopted as the Approved Transportation Program and subject to the City's acquisition from State of certain properties listed in Exhibit "E" to the Consent Decree (Revised). The above listed replenishment unit obligation will be credited for existing housing units that are within the right-of-way corridor which are not needed for construction and whose use is restricted to housing for low and moderate income households for 15 years.

5. The City shall also maintain the Housing and Relocation Fund. The Fund shall be maintained so as to reserve the amount estimated to be necessary for payment of relocation benefits and moving expenses to

post-acquisition occupants and certain pre-acquisition occupants as referred to above." (Final Environmental Impact Statement)

Settlement Agreement Has Been Reached

There have been ongoing negotiations on the Route 238 Bypass lawsuit involving the City of Hayward, CalTrans and the tenants in the CalTrans properties. A draft Settlement Agreement was presented to a meeting of the CalTrans tenants on September 28th (with Assemblywoman Mary Hayashi and Senator Ellen Corbett in attendance) and was approved by the Hayward City Council on October 6th. Documents below:

September 28, 2009 - [Material from City of Hayward and CalTrans Community Meeting of 238 Corridor Residential Tenants](#)

December 14, 2009 - [Alameda County Staff Report, Update on 238 Corridor presented to the Castro Valley Municipal Advisory Council](#)

[Map of Route 238 Bypass Land Use Study Area](#)



Homes Owned by Caltrans Not Kept Up, Records Show : Blight: About 100 acquired for freeway extension aren't in shape to be rented. Agency defends maintenance.

By CHIP JACOBS AND RICHARD WINTON

APRIL 26, 1995 12 AM PT



SPECIAL TO THE TIMES

As the fight over the Long Beach Freeway extension drags into its fourth decade, scores of homes the state has acquired in the road's pathway have been allowed to degenerate, fall vacant and become vandalized, records show.

Despite legal provisions requiring the state to maintain its properties, The Times found that more than 100 homes, including many valuable landmark houses, are so decrepit they can no longer be rented out, blighting what were once well-kept neighborhoods and depriving government coffers of rental income and property tax revenue.

Many of the more than 600 houses the state has accumulated are now surplus due to a change in the freeway route years ago. Their total value is about \$27 million, but state officials have taken no steps to sell them.

Eventually, the state needs to acquire about 1,000 more properties in the path of the 6.2-mile freeway spur running from Alhambra to the Foothill Freeway in Pasadena. The \$1.4-billion construction job is not expected to begin for at least another decade.

Top officials at the state Department of Transportation who manage the housing say they are doing a good job, despite a lean budget.

“Basically the homes that we own are in pretty good condition . . . compared to our neighbors,” said Jack Hallin, interim director of the Caltrans office in Los Angeles. But others at the agency disagree.

“Negligence, ignorance and wastefulness” have characterized the agency’s care of historic homes, one planner wrote last year.

In frustration, some neighbors have dug into their own pockets to make repairs after Caltrans failed to renovate uninhabitable houses that attract vagrants and crime. Tenants have sometimes sued. One collected \$15,000 after she was injured when a waterlogged ceiling that she had complained about crashed down on her head.

“They are worse than slumlords,” said attorney Chris Sutton, who represents several tenants who have sued Caltrans.

A Times review of agency records and property files shows that:

* Nearly a quarter of the Caltrans houses are uninhabitable or vacant, in spite of a 1973 federal court order requiring the state to make its “best efforts” to maintain the properties.

* Caltrans has failed to sell off 110 homes that have been surplus, in most cases since 1986, even though state law requires the agency to sell excess land. State highway funds are now so tight that Caltrans is planning to lay off about 300 employees here.

* Despite strict national guidelines requiring that historic landmarks be carefully preserved, many of the agency’s 69 vintage homes have deteriorated badly. More than a dozen are rotting and vacant.

* The agency has poorly managed its maintenance budget and hired firms accused of overbilling and shoddy repair work.

* Five Caltrans employees and three other state workers rent freeway houses, with some of them often delinquent in paying rent. Three relatives of ex-local Caltrans director Jerry Baxter have also lived in or tried to rent houses. One property rented by a Baxter relative received about \$28,000 in repairs, while other nearby homes deteriorated.

Baxter, who left the agency last year for a top post at the Metropolitan Transportation Authority, declined to be interviewed. Auditors reported preliminarily that his relatives received no special treatment, but the matter remains under review. Officials said privacy rules barred them from disclosing the state employees' rental arrangements.

Caltrans Director James van Loben Sels told The Times last week that he is dissatisfied with management at the Los Angeles office and would like to see the agency get out of the housing business.

In Los Angeles, Hallin and his aides acknowledged that some historic homes have decayed and promised to pump \$3.5 million into renovations soon. They said that scores of the 610 Caltrans homes are unoccupied and need repairs, but that no laws had been broken.

Critics argue that the agency's substandard properties violate a 1973 court order requiring Caltrans to use its "best efforts" to maintain its properties and rent them out to "prevent vacant structures from becoming public health and safety hazards." The injunction was secured by South Pasadena and public interest groups trying to stop freeway construction and impose stronger environmental controls.

Antonio Rossmann, legal counsel for South Pasadena, said the pattern of neglect documented by The Times shows that the agency has breached the court order. "That Caltrans has systematically broken the injunction transcends legal compliance, it becomes a public disgrace," he said.

Caltrans collects millions of dollars a year by renting the houses for \$300 to \$2,300 a month. Most of this money has been plowed into other Caltrans operations, officials said. While \$5 million was collected by Caltrans from homes in Los Angeles and Ventura counties last year, only about \$1.8 million was allocated for their maintenance.

Along the proposed Long Beach Freeway extension, no rent was collected on a quarter of the Caltrans properties because they are vacant. Records show that 106 of the 157 vacant homes are uninhabitable.

Two boarded-up houses in the 2000 block of Berkshire Avenue in South Pasadena have long been community eyesores and together need \$125,000 in repairs, according to Caltrans' estimate last year.

One is a Spanish-style bungalow--with buckled floors, collapsed ceiling and blistering paint--that has been empty for a decade. Arson fires have hit twice during the 17 years Caltrans has owned it, records show. The other house, vacant at least seven years, is riddled by dry rot and termites.

Typically, complaints to local health and building officials go nowhere, because Caltrans, like other state agencies, is exempt from compliance with local regulations.

If Caltrans' properties were not exempt, "they'd have bundles of violations," South Pasadena City Manager Kenneth Farfsing said.

There has been a smattering of violations issued against Caltrans' properties for various problems such as sewage backups and fire dangers, records show.

Generally, unhappy citizens have just one place to turn--Caltrans.

Neighbors, city officials and the local assemblyman have written at least 14 letters since 1990 beseeching Caltrans to restore the Berkshire Avenue houses.

The agency agreed a year ago to begin major repairs soon. But the houses remain untouched.

Joe Boyd, Caltrans deputy director in Los Angeles, told The Times that work would not begin until next month. “Some of the things we said were going to come true, didn’t,” he said.

Fed up with the state’s inaction, neighbors in some cases made repairs on their own. South Pasadena resident Philip Stocker said he spent \$6,000 fixing up a neighboring Caltrans home. “I gave up on complaining,” he said.

In Pasadena, homeowner associations and preservationists have battled nearly 25 years to force Caltrans to maintain its vintage houses located just a block away from upscale Orange Grove Boulevard, documents show.

“Their record is deplorable,” said Claire Bogaard, former director of Pasadena Heritage. “Year after year, they’ve promised action and yet they’ve done nothing.”

Caltrans owns 69 homes that are listed with the National Register of Historic Places or are candidates for landmark status because of their age and design significance. Federal and state laws prohibit neglect of these properties and require that repairs meet strict guidelines.

Once architectural gems, many houses are now empty caverns with rotting wood, buckling floors, waterlogged plaster, rat infestations and scattered trash. Fifteen are unrentable, records show. Some have been vacant for almost a decade.

In one Craftsman-style home in Pasadena, the front door is unlocked. Vagrants, using candles for light, have left burn spots on the floors and fouled toilets that are not working.

A few doors away on St. John Avenue, a vacant 98-year-old house with a weather-beaten facade and shattered windows has been stripped of its antique hardware and fixtures.

Caltrans environmental planner Ronald Kosinski last year itemized extensive repairs needed at the eight historic homes most heavily damaged by the agency's neglect, vandalism or careless workers. He warned colleagues to rethink their "penny-wise, pounds-foolish" policy that has "alienated . . . communities and put Caltrans on the defensive."

Upon learning of the decay, Elizabeth Merritt at the National Trust for Historic Preservation, said, "I'm really appalled. We knew there was a problem, but nothing this bad."

Meanwhile, residents in working-class El Sereno have been complaining since the 1980s about uneven upkeep of Caltrans property, rent hikes, pest infestations and empty houses.

In the 3000 block of Sheffield Avenue, 10 Caltrans homes recently were either boarded up or vacant. One was a crash pad, with gang tags adorning the walls. The air reeked of refuse and urine. Out back, mattresses were piled high in an open garage with exposed electrical wires.

Caltrans officials said most of their homes are in good repair and tenants overall are satisfied. But they said budgetary constraints limit the repairs they can undertake.

"The (historic) houses are older. They really need a lot of work," said Caltrans property chief Theo Walker in Los Angeles. "But if you have X dollars in your budget, you can only do certain things."

Records show that the agency is sitting on \$27-million worth of homes that became surplus years ago when the proposed freeway was rerouted to spare downtown South

Pasadena and other historic enclaves. Yet a state law passed in 1979 requires the state to sell off excess residential property.

“They should sell the excess homes and pour the money into the remaining ones,” Pasadena activist Lorna Moore said.

Caltrans officials said it is premature to sell them because the proposed freeway route has not yet won federal approval. They said the old path, which the state transportation commission has officially rescinded, might be resurrected someday. They also noted that sale proceeds would go to the state general fund, and not necessarily into renovations.

The Times reviewed hundreds of internal Caltrans records showing that officials often have been slow to make repairs, paid uneven attention to properties and made questionable expenditures on certain homes.

Boyd said there may be an occasional expenditure that “didn’t make sense,” but said that overall the maintenance program is managed wisely.

In several instances, The Times visited vacant and deteriorated homes with crystal-clear swimming pools that had been regularly maintained. In another case, records show the agency paid a contractor an hourly rate of \$23.50 to water a lawn.

Instead of repairing or replacing the roof on an El Sereno property recently, Caltrans paid more than \$800 both in 1993 and 1994 to cover it with a tarp, records show.

Meanwhile, Eustace Cox, a disabled engineer, said a plastic tarp has covered his leaky roof in Pasadena for the last two years because Caltrans officials told him that there was no money for non-emergency repairs. “They said all the homes will be refurbished (someday), but they’ve said that for years,” Cox said.

While many homes have decayed, records show that Caltrans invested nearly \$28,000 in one Pasadena house during a three-year period, including almost \$15,000 for interior paint and floor refinishing. Caltrans auditors found that one of the tenants was a relative of Baxter, the former Caltrans official.

Auditors concluded that Baxter's relative received no special treatment, nor did his children who lived in or tried to rent freeway houses on two other occasions.

Baxter's daughter briefly rented a home a decade ago. Last year, Baxter personally asked for a list of vacant Caltrans homes in Pasadena and went with his son to pick out a place. When he discovered that the only one he wanted was claimed, Baxter was agitated, recalled Caltrans rental agent Billye Tate.

Jim Drago, Caltrans chief spokesman, said he believed that Baxter's efforts on his son's behalf were ill-advised but not illegal. "It's fair to say it's inappropriate," he said.

Criticism has been leveled against other Caltrans officials directly in charge of maintaining the freeway homes, according to audit reports.

Acting on allegations from a whistle-blower in 1991, auditors concluded that officials overpaid contractors doing yard and lot cleanup work, approved checks for repairs before the jobs were started, and paid for work that had to be redone.

They overspent their budget by about 25% three years in a row, for a total of \$3 million in overruns, records show. Part of this was caused by a \$600,000 expenditure to re-sod lawns--a job that auditors determined was not properly supervised and was awarded without competitive bidding.

In another matter, auditors are reviewing the bills that Vipel Construction of Buena Park has submitted to Caltrans during the last three years to determine if the company

“submitted altered receipts to support their invoices,” according to an auditor’s confidential report.

Vipul President Joseph Thankachen said he was unaware of any review and said there are no billing improprieties.

Caltrans officials acknowledged some oversight troubles, and said a new computer system has helped correct billing and scheduling problems.

Auditors also have investigated allegations that some contractors curried favor with Caltrans property officials or received favorable treatment.

Auditors inquiring into accusations that Caltrans employees had received “gifts and services” from contractors were not able to substantiate that any presents had changed hands. Sources, however, told The Times that they have seen colleagues accept gift baskets, food, alcohol and a watch.

Caltrans rental agent Daniel Soroky recalled that he was offered a gold coin several years ago by an executive of a company that contracts with Caltrans.

“I was flabbergasted. It was the size of a quarter,” said Soroky, who did not accept the coin. “I didn’t think it was appropriate.”

For tenants, the quality of repair jobs by Caltrans contractors has sparked many complaints, records and interviews show.

Doug Hoover, a former Caltrans rental agent who was transferred two years ago to another division, recalled phone calls from numerous tenants upset by shabby or incomplete repairs.

“You could tell many of the contractors didn’t have the faintest idea what they were doing,” Hoover said. “But the ones that got all the complaints kept being invited to bid again. . . . What makes me so frustrated was that this was our tax dollars going down the drain.”

Lyn Miller, who rents a historic house in Pasadena, complained in a letter to Caltrans about an electrician who knocked out electrical service to half of the house, as well as another repair firm that installed an unvented water heater that emitted “lethal fumes.”

Another tenant, Harry Nickelson, is suing Caltrans for \$512,000 in damages, alleging that contractors Caltrans hired in 1993 improperly removed his apartment’s asbestos-containing flooring and contaminated his possessions.

The South Coast Air Quality Management District has slapped Caltrans and two of its contractors with notices of violation for failure to follow state regulations for handling and disposing of asbestos in this case.

The asbestos incident was not Nickelson’s only brush with botched repair work.

Exterminators hired to eliminate rats from his current rental used poison and traps that killed the rats inside the walls but left a horrible stench, he said.

Then, during the storms this winter, he said the roof leaked so much that a 6-by-8-foot swath of plaster came loose from the living room ceiling.

Looking at the bright side, Nickelson noted that Caltrans did dispatch a plumber to fix a few things.

“They fixed the faucet drips and my dishwasher while the roof was leaking like a sieve,” he said. “When I take people into the house, I have to apologize.”

Times staff writers Virginia Ellis and Rick Holguin contributed to this story.

(BEGIN TEXT OF INFOBOX / INFOGRAPHIC)

Along the Route

The Long Beach Freeway extension, planned and debated since 1964, is lined with scores of houses acquired by Caltrans that have fallen vacant and been vandalized, despite legal requirements that they be maintained and rented. The state has acquired about 610 homes and expects to purchase another 1,000 before construction of the \$1.4-billion spur is to begin about a decade from now.

The Numbers

Nearly one-quarter of the houses Caltrans owns are unoccupied. Records show: *
Rented: 453 * Rentable but vacant: 51 * Uninhabitable: 106



Richard Winton

[Twitter](#) [Instagram](#) [Email](#) [Facebook](#)

Richard Winton is an investigative crime writer for the Los Angeles Times and part of the team that won the Pulitzer Prize for public service in 2011. Known as [@lacrimes](#) on Twitter, during 25 years at The Times he also has been part of the breaking news staff that won Pulitzers in 1998, 2004 and 2016.

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No Exit

Once stately properties that Caltrans bought 30 years ago to complete the still unfinished Long Beach Freeway stand as a testament of neglect by one of the most powerful agencies in California.

Despite repeated calls for it to either repair its properties or unload them, Caltrans has continued to allow many of its rental homes along the un-built Long Beach (710) Freeway extension to wither into battered, mothballed shells that draw crime and a slum-like aura to their neighborhoods.

People renting state-owned housing face pest infestations, corroded plumbing, leaky roofs, rotted floors, exposure to mold, and possibly lead paint, among other defects. Scores of renters complain their houses are unsafe and blame it on either slapdash repairs or California Department of Transportation claims it exhausted its maintenance budget.

Altogether, about a quarter of the parcels the department owns along the corridor remain so dilapidated they can't be leased or languish as empty lots, depriving local government of several millions of dollars worth of yearly rental income, property taxes or badly needed affordable housing, records show.

Forty or more Caltrans dwellings stand vacant in Pasadena alone, the majority of them with landmark status within blocks of pricey Orange Grove Boulevard. Often poorly secured, the houses have been vandalized by indigents, would-be squatters, contractors, even devil worshippers, according to neighbors and police.

Meanwhile, some historic homes that have undergone \$500,000-plus renovations are still faulty, so they are boarded up and left unoccupied.

From grand Victorians and Spanish-style bungalows to nondescript apartment buildings, the dwellings are part of 587 units that Caltrans owns through Pasadena, South Pasadena and the northeastern Los Angeles enclave of El Sereno. The department acquired the bulk of them from their original owners decades ago in anticipation that the extension between the Long Beach (710) and Foothill (210) freeways would be constructed, but fierce opposition, particularly from the city of South Pasadena, has stretched it out into a heavily litigated, 40-year fight. Trapped in limbo, all the state can do with the units is lease them.

Still in Caltrans' possession are 21 homes valued at \$5.7 million that the agency formally declared outside the proposed spur's footprint in 1995 but have yet to sell, as state law requires. A number of groups, including Pasadena City Hall, contend the number of "surplus" houses or potentially unneeded ones may be dramatically higher.

John DeSoto, a Caltrans tenant from El Sereno and that community's former honorary mayor, believes legal action is long overdue.

"At my house, I have faulty electrical connections, plumbing that doesn't work, drains that spill out into the carpet and mold on my walls," he said. "You slide the windows and they fall out. Caltrans attitude is, 'If you don't like it, move!' Bitching won't make them fix it until we can get them into court as slumlords, and that's what they are."

A New Look

A number of tenants praised their rental agents as hardworking, resourceful public servants who are often frustrated themselves by management decisions. The *Weekly*, for example, found one case where a renter evicted from her Caltrans home for allowing drug-dealing there was awarded nearly \$200,000 in relocation benefits.

State upkeep of its real estate is etched into the law. The July 1999 federal injunction won by South Pasadena halting significant freeway work requires that Caltrans maintain their properties in "conditions of good repair." It also exhorts the department to keep them rented to preserve "community standards" and deter vandalism.

The Federal Highway Administration's "Record of Decision," a capstone document that spells out the \$1 billion extension's exact 4.5-mile route and how it will be trenched to soften community damage, says the state must "properly maintain" its homes.

Eight years ago, after a *Los Angeles Times* expose on Caltrans property lapses, local elected officials and activists implored the department to tend to its shoddiest places or turn them over to someone who would. Since then, the state's progress doing that has been spotty at best. The biggest improvements appear to be some new paint jobs, locks, and freshly mowed lawns.

Plenty have been critical of the agency's perpetual neglect. Caltrans executives have been ripped in two state audits, one that concluded they bumbled a \$20-million renovation job of their historic houses that overhauled only 39 of 92 dwellings. An agency-issued survey of its own renters found 170 tenants responding they had maintenance issues, and 27 who didn't.

Caltrans has also been tagged with health code violations in spite of the department's staunch immunity assertions. Pasadena code inspectors, for example, cited eight Caltrans' houses for problems that included leaks, vermin, inadequate water pressure, overgrown vegetation, missing smoke detectors and exposed basement asbestos, records show. The eight cases, five of them deemed major violations, have since been resolved.

Some critics, including Pasadena-based attorney Chris Sutton, believe the department would have "hundreds" of health and building-code violations if cities got aggressive about prosecuting them.

Just this spring the department was sued by a renter who claimed she developed acute asthma and other ailments as a result of being exposed to "extensive mold growth" and other toxins at her Pasadena Avenue rental. Lizz Wolf contended in her Los Angeles Superior Court suit that she pleaded with Caltrans to remove the growths in August 2001 but the agency responded weakly or not at all. Caltrans officials say they don't comment on pending litigation.

One South Pasadena tenant who previously won a judgment against the department for wrecking her possessions with dripping hot tar during a re-roofing job has been living for four months with improperly draining toilets as well as a hungry rat on the loose.

Tired of the agency's excuses, she finally called the county Department of Health Services. It has issued Caltrans a notice of violation for plumbing, cracked surfaces and rodent abatement.

"We respond to all complaints concerning residential sanitation," said Terrance Powell, the county's chief environmental health specialist. "It doesn't matter who the landlord is."

Douglas Failing, Caltrans' top official in the corridor, acknowledged improvements needed to be made when he took over the post about seven months ago. Under his guidance, he said, maintenance has been bolstered to ensure the houses are "safe and sanitary."

“I think we are getting to be a better landlord,” Failing said. “There were predecessors before me that weren’t as focused, and didn’t have staff as focused. ... That’s why we are spending as much as we can.”

The majority of the renters’ complaints, he said, do not involve habitability issues. His staff responded to about 4,500 repair orders last year.

Exit strategy

Newly obtained records are shedding light on Caltrans’ real estate finances. In 2001 and 2002 it took in \$7.9 million in rent from its 710-extension tenants, plowing back \$4.49 million on maintenance such as plumbing, carpentry and flooring. This year Caltrans is on track to earn a record amount of rent. The differential between revenues and expenditures is returned to state and local government coffers.

Historically, many longtime tenants have lived with the problems, spending as much as \$10,000 of their own money on repairs, because their rents were priced in the affordable range. Some hoped to purchase the houses at steep discounts under state law giving them that option if their place was declared surplus or the entire project was scotched.

But when Caltrans decided to raise those rents to fair-market levels, in some cases increasing them 25 percent a year, howls of protest arose. Tenant activists accused the agency of employing a ham-handed eviction strategy to “depopulate” the area so the houses would command higher sales prices. Caltrans, they said, tried justifying their new rents by comparing them with housing costs from upscale neighborhoods without their chronic traffic, crime and upkeep issues.

Failing countered that the department was only doing along the corridor what it had done throughout California: charge market rates to achieve neighborhood parity. For reasons he wouldn’t elaborate on, Failing said his district “fell behind” in implementing that policy, and said even with the hike, more than half the houses would remain in the affordable category.

Ironically, tenants’ dreams of buying their houses — affectionately known as “the promise” in the tenants’ lexicon — may be closer to pay dirt than it ever has been.

Caltrans executives have drafted a document called the “exit strategy” that outlines abandoning the roadway for more feasible alternatives, be it the recently proposed tunnel concept under the same route or a series of street-level traffic-softening

measures, multiple sources have told the *Weekly*. Agency managers are purportedly waiting for the green light from Gov. Gray Davis and Caltrans Director Jeff Morales to announce what would amount to a delirious liberation day for many and a betrayal to others.

Why the change? Years of bitter wrangling, lawsuits, the prospect of having to acquire another 500-plus homes and the uncertainty of securing a huge amount of money for such a controversial spur in a lean, post 9-11 federal funding climate have congealed into a potent deterrent.

“I had a conversation with Jeff Morales and he said let’s either find a way to move forward or drop it ...” said Mark Pisano, executive director of the Southern California Association of Governments. And “I have heard the rumor about the exit strategy. Have I been able to substantiate it? No.”

Pisano cautioned that the 710-extension remains the number one unfinished transportation project in the SCAG clean-air plan, and doing nothing about north-south traffic and a resurgent smog problem is a nonstarter.

Whatever the catalyst, Pasadena officials have been maneuvering to buy some of the Caltrans properties within city boundaries.

Just shameful

Pasadena Mayor Bill Bogaard, City Manager Cynthia Kurtz, Planning and Development Director Richard Bruckner and the city’s lobbyist, Ken Emanuels, met in Sacramento in July with state housing officials and a lawyer from the advocate group, the Western Center on Law and Poverty, documents show.

The city was testing the waters about modifying the landmark 1979 Roberti Act, which governs the sale of state property no longer needed for highway construction projects to low- and moderate-income tenants. By amending that law so they moved ahead of other potential buyers, Pasadena officials hoped to purchase 41 homes from Caltrans at their original price, relocate tenants from any occupied dwellings in that batch, and then sell the houses at market rates. Proceeds estimated at \$12 million would have then seeded an affordable-housing trust fund.

Notified of that bid, Assemblywoman Carol Liu, D-La Canada Flintridge, and tenants contested it. Pasadena officials have since promised not to undercut the rights of existing renters — unless they reside in large homes the city says would saddle new owners with burdensome upkeep payments.

Besides the 41 targeted homes, there was some nervousness that Pasadena actually coveted all 145 Caltrans homes, and there are indications that was in the city's plans. The city last December, for instance, packaged a glossy binder with digital pictures and basic information for every Caltrans property within city limits. A city real estate agent has also been lurking about.

"I think Caltrans acknowledges they are a terrible landlord," Bogaard said in an interview. "I'd hope something could be done to move the houses out from their ownership. Some will choose to buy. Some of those houses are suitable for affordable housing." But, he said, "I'd be hesitant to offer a 5,000-square-foot house to someone of modest means."

The tenants were so rattled by the city's actions it hired the law's author, former California Senate President Pro Tem David Roberti, to represent them. Roberti is now in private legal practice.

"A lot have suffered through Caltrans ownership," Roberti said. "This problem has to be solved by the city as a whole, and not finding a group of victims and achieving affordable housing on their backs."

Bird-dogged by Liu, Caltrans agreed to extend a rent freeze until July but haven't participated in a rent task force because of disagreement over its mission. Since then, Liu and fellow Assembly member Jackie Goldberg, D-Los Angeles, have kept pushing on the rent issue.

In October they received an opinion from the state's legislative counsel that concluded the agency has the discretion but not the obligation to charge market rent for the homes in question.

Liu, unable to extract property information from the agency, also introduced legislation, Assembly Bill 21, to put a moratorium on the rent increases and evictions until 2005 and establish a task force to hash out the situation.

"We wrote this bill out of frustration," Liu said. "We ask Caltrans for information and they stonewall us. Regardless of where this bill goes, there is a movement to take these properties from Caltrans' control and let the housing department or someone else manage them. I want to give them the benefit of the doubt, but they haven't shown too much ability managing their property. It's shameful."

Down for the count

On an otherwise picturesque block of million-dollar homes, the deserted structures on the eastern flank of Pasadena's Wigmore Drive have seen better days.

A vacuum cleaner extension hose serves as a makeshift downspout at one ranch-style house and a palm tree grows between the steps of a splintering porch with boot-sized holes in it. At least the front lawn has a purpose: a city garbage truck makes U-turns on it.

Next door another empty Caltrans house shows the scorch marks under the roofline from a 1997 fire — one of about a handful of blazes that started at 710-properties. Out back, the overgrown yard is peppered with old shoes and cast-off piping.

On the north side of Wigmore, a 1924-circa abode designed by respected architect Wallace Neff isn't the showpiece it once was. The windows are boarded up. The paint is chipped. Water is pooling on the floor. A former tenant says intruders have trashed the place repeatedly.

Nestled up against the Neff house is another empty Caltrans house. Years after the police staged a drug bust there, a vagrant once took up residence in a garden shed piled high with dank clothes and rubbish. Within reach were the carcass of an old BMW and some chemicals. (Caltrans cleaned up the yard between the *Weekly's* visits there.)

South Pasadena, where officials say they have forced Caltrans to better manage its homes, is hardly immune. A white Fairview Avenue house with boarded French windows and dangling wires features a wide-open back door. A Glendon Way house with peeling front steps has an easily accessible backyard and a pool whose bottom stagnates with brackish water.

The state-owned homes a few miles south in El Sereno are a mélange of contrasts. Most are densely packed Spanish-stucco homes that outwardly appear tidy. Drive around, though, and there are blue tarps covering damaged roofs, a soda machine propped on a lawn and the hulks of dead cars tamping down tawny weeds.

There are also seemingly habitable properties that sit idle. A ground-floor unit of a two-story apartment on Lowell Avenue has fresh paint, newer carpeting, yet no renter. A tenant at the complex there said it's been empty for years.

On nearby Maycrest Avenue, Caltrans' eight-bungalow complex has slid from being vacant to being brazenly vandalized in the years since the tenants left. Gang markings adorn the sides of the houses, and someone has sliced a hole in the chain-

link fence. As with other Caltrans homes, the plywood boards nailed over the windows haven't repelled visitors.

One bungalow decimated by fallen stucco, a putrid toilet, reeking junk and heroin paraphernalia was someone's flophouse. A dazed homeless man with some of his family was recently living in another unit.

By Caltrans' tabulations, it owns 59 "non-rentable vacant properties" like these, a decrease from 133 uninhabitable units in late 2000, according to a report US District Judge Dean Pregerson requires the agency to submit every six months. (The department was late filing the last report.)

Asked to explain the drop in vacancies, Caltrans spokeswoman Deborah Harris said a number of historic houses and apartments have been fixed up and leased. The agency has a marketing program to get other homes rented, as well, she said.

'It's not safe.'

From trespassing and drug-use to gang parties and religious rituals, unoccupied state-owned houses act as crime magnets. Some renters have grown so frustrated about it they have written fact-chalked letters, called the police themselves, shot videos and spoken at public hearings to get attention.

Pasadena Police responded to 296 incidents at agency houses during a 39-month stretch ending in December of last year, records show. Many of the calls were for false alarms or suspicious circumstances that never merited an arrest. Still, one empty house in the 600 block of St. John Avenue drew officers 24 times in 2001 alone.

Acting Police Chief Wayne Hiltz disputed some tenants' characterization of the properties as a "high crime area," but acknowledged empty houses invite troublemaking. "Any time you have vacant properties," he said, "they are potentially used for inappropriate activities, and it doesn't matter if it's a Caltrans property or another. The fact there are a number in a close proximity compounds it."

Where the Foothill Freeway dead-ends at California Boulevard has been a particular hotspot. Tenants have witnessed pie-eyed teenagers, prostitutes, runaways and homeless staying in the empty houses or garages. One pony-tailed indigent who locals call "Freeway Bob" because he panhandles near off-ramps was blatant about his comings and goings into one of the historic houses.

Pasadena police in January 2002 apprehended a man and his newlywed bride who had their own keys to a Caltrans duplex on the south side of California Boulevard. Neighbors said the couple had moved in their furniture, staying there unnoticed by authorities for months, under the belief they could attain squatter's rights.

When the police arrested them for trespassing, they turned up a shotgun, shotgun shells, ammunition for a .45-caliber handgun and a knife, said police Commander Marilyn Diaz. She said it appeared they were in legal possession of the weapons, adding that Caltrans gave the couple a week to move out.

John Kvammen, a leader in the tenant group and a Caltrans renter for 30 years, said one house near his dwelling on St. John had vagrants living there for two years despite his insistence the agency oust them. Before they left, they created waist-high trash, did hard drugs, shattered an antique mirror, among other damage.

Kvammen recalled stopping a homeless man in the late 1990s after the man had tossed a chair through the living room plate-glass window of the property, which has since been rehabbed and rented.

“My son and I told him we were calling the police and the guy dropped his pants and crapped on the sidewalk — it was an unexpected reaction,” he said. “There are all kinds of seedy characters around here. It’s not safe.”

Drive-thru pharmacy

Close to his rental is a vaulting, historic three-story Craftsman that has been vacant since March 1990. For years it was known among neighbors as the “devil house” because the nine in the facade-displayed street address number had capsized to make it read “666.” Adding to its legend, a band of youths a few years ago gained entry. Inside they did drugs, lit candles and performed demonic rites, numerous people recall.

Caltrans officials could not confirm that report. The agency has spent \$608,000 repairing that four-bedroom house and plans on trying to rent it this month.

“I remember being in there and being alarmed about the nature of the graffiti because there were satanic images,” said Sue Mossman, executive director of the preservationist group Pasadena Heritage.

“The intruders had [also] pulled out a bathtub and thrown it down the stairs. Our fear is that after millions of dollars have been spent in these historic houses, if they are vacant all that mayhem could happen again,” Mossman said.

Trespassers last fall snuck into the childhood home of famed chef Julia Child by crawling through a small entry. California Highway Patrol officers called to the scene never arrested anyone but believe the entrants were in the elegant brown manse for a while.

Caltrans officials say they have hired a private security to watch over the empty residences. Until recently, the agency did not prosecute trespassers.

On Pasadena’s Hurlbut Street, a two-bedroom Craftsman built in 1911 and unoccupied for years sports a tangled yard, paint-splattered hardwood floors and a dicey history. The woman who sold it to Caltrans later rented it back from the agency. By the late 1990s, Pasadena police knew it well. They responded four times for outstanding warrants, public intoxication and a domestic dispute.

In June 1998, armed with a search warrant, police launched a SWAT-style raid, arresting the mother, one of her sons and another person for selling methamphetamines, among other charges, Commander Diaz said. One source said residents there used to sell narcotics out the side window like a drive-thru fast-food restaurant until the arrests.

Citing that incident, Caltrans evicted the woman from the property. However, because she’d been renting prior to 1981, she was entitled to relocation benefits for homeowners displaced as a result of federal projects that benefit the public. The woman, whose name the *Weekly* agreed not to reveal, received \$195,967 — the difference between what she originally sold her house for and what it would cost for her to buy a replacement in the market at the time of the eviction.

A neighbor who had previously complained to Caltrans about the drug pushing there, as well as an earlier shooting he claimed was “hush-hush,” said the state slapped a new roof on that house before the woman left. His house, meantime, has been bedeviled by poor water pressure, a multiple-layer roof cracking the walls and a wood-rotted back porch his wife’s foot recently fell through. In his years there, this tenant said he has stomped out two fires set by vagrants at nearby Caltrans properties, chased away scores of rats and witnessed a series of “Mickey-Moused” repairs, including one where rain-gutter downspouts were installed upside-down so they splashed anyone sitting on his back porch during rains.

“The problem is that Caltrans’ management is inept,” said the tenant, who spoke on the condition his name not be used because he feared possible retaliation by the agency. “It seems every time you get a decent right of way agent, they’re promoted or moved to another department and replaced by somebody who doesn’t know what they’re doing or doesn’t seem to care. Nothing that is important seems to get done. What can you do? The state is the landlord.”

A re-emerging issue is whether that landlord is sitting on property it doesn’t need anymore to build the extension. Selling unneeded land was supposed to be a priority. A May 9, 1995 directive from former Caltrans Director James W. Van Loben Sels obtained by the *Weekly* said: “It is imperative that Caltrans divest itself of any property not absolutely required. We should be looking at reasons to dispose, rather than retain property.”

But how many can be disposed? Caltrans itself has conflicting data depicting between 21 to 38 unneeded properties, including four houses on Pasadena Avenue that were supposed to be relocated during construction that are now up for sale, freshly released records show. A reason for the variation could be the compression and slight shifting of the freeway footprint that the agency agreed to in the Record of Decision. Unchanged by that, though, are three Caltrans houses north of California Boulevard in Pasadena that appear outside the pathway. The agency asserts those structures will be demolished for a realigned access road should the spur go through, but the maps don’t signal that.

State law requires that Caltrans offer properties for sale within a year of the time they are declared surplus; of the 56 parcels they announced in 1995 weren’t needed anymore, 35 have been sold. Assemblywoman Liu and others have grumbled agency officials have dragged their feet selling what they must.

The Pasadena Weekly published a nearly identical version of this story, the first in a three-part installment called “Corridor of Shame.” Jacobs and Richard Winton co-wrote that L.A. Times story mentioned above. Copyright Chip Jacobs

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**The Untouchables-Corridor of Shame
Slumlord Caltrans uses legal immunity to hold tenants and city at bay as
long-needed repairs to homes the agency owns along the proposed 710
Freeway route drag on**

A few years ago, a group of West Pasadena tenants exasperated with its landlord's cut-rate maintenance figured it needed to summon some rulebook muscle to its side. So, the renters started phoning the city's code-enforcement czar and instigated the unorthodox. They begged local authorities for inspections.

Dispatched to the properties, the code officers saw the tenants' complaints about health and safety hazards had merit to them. At least eight houses were written up, five of them for "major violations" such as illegal wiring, sagging and unsanitary floors, poor water pressure, improper heating ducts, mold, exposed asbestos and a leaking sewer drain, records show. A single house on Madeline Drive had 16 items needing correction.

Spotting the flaws, however, was easier than working with the landlord on the repairs, all of which have been completed. The California Department of Transportation owns the homes, and Caltrans has long asserted its residences are exempt from municipal building and safety statutes. While department officials say their houses "conform" with those codes, they claim state sovereignty renders compliance optional — a power that stunned many renters.

Immunity has been a formidable shield. Caltrans has hoisted it in its refusal to quickly attend a slew of problematic houses, among them a mold-pocked property on St. John Avenue that Pasadena officials wanted addressed five years ago, documents indicate. Even today, the agency continues to balk at offers to have their rehabbed houses in Pasadena formally inspected and issued occupancy certificates before they are leased out.

California's highway agency is no small-time landlord. It owns 587 parcels along the un-built Long Beach (710) Freeway extension through Pasadena, South Pasadena and the northeastern Los Angeles enclave of El Sereno. The department acquired most of the dwellings in the 1960s and 1970s expecting they would demolish or relocate them once construction revved up. But legal challenges, particularly from the city of South Pasadena, which worries about being split in two by the spur, have turned it into a 40-year stalemate.

Most cities have traditionally accepted Caltrans' immunity argument out of self-interest. City officials, for example, often crave freeway improvements that the department controls and prioritizes, or thinks big picture; Los Angeles, for instance, is pro-710-freeway extension, which put Caltrans in the housing-rental game in the first place. These same officials are also aware that enforcement actions against large public entities can be fratricidal and costly.

This hands-off attitude has often left renters in a regulatory netherworld. They receive threatening letters from Caltrans if they don't mow their lawns while termites munch their walls and their heaters conk out. They want help, but don't know what entity will listen. If one does, they fear their house might be yellow-tagged as uninhabitable.

Marie Salas, a tenant and activist from El Sereno, said she feels isolated. When she objected to cheap, aluminum windows that leaked into her house during rains, chilling her and her kids, her Caltrans rental agent advised her to "wear more sweaters."

As the Weekly reported last week, the department has allowed dozens of its 710-houses to become unsafe or slum-like, even as it mulls over an "exit strategy" to abandon the roadway for more palatable alternatives. A quarter of all its parcels are either so run-down they cannot be rented or sit as empty lots. Homeless and criminals have plundered the unoccupied dwellings, and Caltrans has yet to sell at least 21 homes no longer needed to build the \$1 billion-extension. One renter recently filed a lawsuit claiming the department failed to remove toxic mold that made her seriously ill. In another case, the agency paid a tenant nearly \$200,000 in relocation benefits even after they evicted her for condoning drug trafficking at the residence.

'They are bullies'

Lynn Bryan, a retired political consultant who rents a turn-of-the-century Victorian, was one of those requesting a city inspection that unearthed problems. Caltrans spent roughly \$600,000 rehabilitating the structure, but you wouldn't know it. Upon move-in, Bryan found the roof leaked, the toilets backed up, the circuits tripped easily and hot water was nonexistent, court records show. While those defects were fixed, the house's second floor still lacks heat because no unit was installed there as specified in the design plans.

Three years ago she considered relocating to her previous rental and requested a city inspection there. Hearing that, her Caltrans rental agent laid down the non-law:

“He said, ‘The city can’t put one foot in the house!’ That’s when it hit me I didn’t have the same rights as every other citizen,” said Bryan, now a leader in the tenants association. “Not only was I hostage to Caltrans, the city was too.”

Nancy Webster and her family received their own taste of Caltrans sovereignty when they tried finishing what the department apparently couldn’t afford. Forced to relocate from a house Caltrans slated for rehab, they decamped into a four-bedroom Mediterranean in spring of 1999. The rental lacked fences, a concern for their four kids given the 25,000 cars coursing past their front window on Pasadena Avenue daily, but was pleasant enough.

Pleasant and odd. An upstairs suite at the back end of the house had been sealed off. There was no stairway up and, Webster said, no explanation of what was inside. Webster had asked the city about the legality of cloistering off part of an occupied house and was told by a code enforcement officer that Caltrans can do whatever it wants. Curious and concerned, figuring they were paying rent on this banished suite, the family pried off the nailed boards and were aghast. There were feces in a squalid toilet, holes in the wall and decaying junk spread about.

“We were pretty grossed out,” Webster said. “We felt this was bad for our health to have a sealed-off area. God forbid a fire started without anyway to stop it.” The family took action. With roughly \$2,000 out of their own wallets, they put in a dropdown staircase, installed drywall, scrubbed the bathroom and did other work. Webster said it was after Caltrans officials spotted them laying a perimeter cinderblock wall — fencing she said the agency had promised to erect in but never did — that regional real estate service manager Carol Devorkin lost it.

“She swore like a sailor, screaming at the top of her lungs in our driveway and throwing her papers to the ground in front of our 6-year-old son,” Webster recounted. “She was saying, ‘How can these people do this?’ At some point, they became aware of the work we did upstairs. They sent us a letter saying take down the wall, close up the upstairs or you are out ... They are bullies with no compassion for their tenants.”

Caltrans spokeswoman Deborah Harris said avoiding the cordoned-off area was in the rental agreement the family signed. She also said that by removing the fence between the house and garage, they damaged historic structures. Devorkin, who declined comment for this story, acted professionally, Harris said. Doug Failing, who oversees the Caltrans district containing the 710 properties, said in general the houses are well maintained, and getting better under his regimen.

“Even though we aren’t subject to local codes, we think we are doing our best to meet them,” he said. “Decent safety and sanity is a main concern, and rats and leaking roofs are things we should be addressing.”

Caltrans records for 2001 and 2002 show that it generated roughly \$7.9 million in rents for these homes and plowed back \$4.5 million on basic maintenance. The balance is returned to state and local governments. Asked why so many tenants and others say the houses are in disrepair, Failing did not refer to tight state budgets hamstringing repairs as other agency staffers have.

“Many of the issues we are seeing,” he said “aren’t habitability issues.” Queried repeatedly why they assert code immunity, Caltrans officials did not respond.

Too tough

A 2000 state audit critical of Caltrans and the California Department of General Services for a \$20-million rehabilitation job of historic homes along the corridor highlighted confusion about the code issue. (Because of what auditors called a “hasty” and “piecemeal” strategy, just 39 of the 92 houses were repaired at \$500,000 apiece.) First Caltrans officials told auditors that local codes didn’t apply: only state preservation standards did. Then they said codes in force at the time they bought the houses were in effect. Ditching that line, officials contended that new codes trumped those older ones.

Last month, Caltrans Director Jeff Morales weighed in on the subject. Writing to Assemblywoman Carol Liu, D-La Cañada Flintridge, Morales argued all the 710 properties were code-compliant except those in conflict with historic standards. Liu, a Caltrans critic who has legislation pending that would freeze rent increases and evictions at the houses until 2005, doesn’t believe the dwellings are up to code based on evidence her office has seen, Lius’s chief of staff Suzanne Reed said.

Pasadena Attorney Chris Sutton, who labels Caltrans “the biggest slumlord in the area,” argues that the agency is vulnerable to prosecution. For years, Sutton has badgered Pasadena officials to enforce the California health and safety code section mandating that public entities maintain the residential properties to habitable standards. That language echoes various federal court orders requiring Caltrans to keep its structures in “good repair.”

“It’s the knife through the sovereign power,” Sutton said. “The city can seize rents, prosecute. But no one has put the resources into taking Caltrans to task. Everybody is more afraid of Caltrans than they really should be. In all three cities they clearly

have hundreds of violations. And the conditions are worse in El Sereno.” Caltrans own right-of-way manual, publicly available on the Internet, references the same state code sections that Sutton has agitated about. According to that manual, the properties “shall be maintained in a safe and hazard-free condition.” Un-rented homes,” the manual states, should be kept “in a manner that will reflect credit on the state and preserve local community value.”

No shirking

Pasadena, after promising and then failing to crack down on Caltrans in the mid-1990s, did bare its teeth three years ago. Alarmed about the violations they uncovered at those solicited inspections, and Caltrans lawyers’ refusal to answer questions about them, City Manager Cynthia Kurtz and code chief George Chapjian convened a meeting. The site was at a Caltrans rental still occupied by General Services, which managed the rehab.

Chapjian recalled the meeting atmosphere as “tense” with each side firm about its position. He had already tried to get one particular dilapidated property repaired and was told by Caltrans he had no jurisdiction.

Out of the meeting came a grudging compromise: The city would send out inspectors in response to complaints involving “key health and safety issues” such as hazardous wiring and lead paint. All other grievances would be referred for Caltrans to resolve within 30 to 45 days before the city jumped in.

Caltrans didn’t volunteer the change. The department wanted Pasadena City Hall’s political backing for their request to the California Transportation Commission for an additional \$22 million to overhaul the historic houses they failed to renovate before, one source confirmed. Pasadena, though, threatened to withhold that support unless Caltrans accepted the code deal. (Citing the botched rehabs, the CTC denied Caltrans’ funding request, as did the county Metropolitan Transportation Authority.)

Kurtz reiterated the city would not back down and the pressure has improved conditions some. “There is this belief we won’t respond” to complaints, she said. “But we have to enforce safe, habitable housing and we won’t shirk from it.”

It’s not that simple in the other two cities that Caltrans’ houses snakes through. South Pasadena City Hall only regulates property exteriors. Some time ago, the city started pressuring Caltrans to tend to empty houses with vandalized facades, it did produce some improvements, said Assistant City Manager Gay Forbes. Today,

there are eight empty houses in South Pasadena and an inkling of cooperation between the city and Caltrans.

(South Pasadena officials last year swapped a piece of land that Caltrans wanted in exchange for a “trashed,” long-unoccupied house on Berkshire Avenue, Forbes said. The city subsequently turned the dwelling over to a private homeowner, who is rehabbing it.)

Because it lacks a health and safety division, South Pasadena refers those types of complaints from Caltrans tenants to the Los Angeles County Health Department.

“ We can’t pass judgment on whether they are good or bad landlords because we don’t live in the buildings,” Forbes added. “None of the cities’ codes have anything to do with the inside.” Still, she said, Caltrans isn’t “going to win any prizes for property management.”

For its part, the county Health Department doesn’t routinely inspect single-family dwellings with less than four units. It does respond to specific complaints and recently cited Caltrans for its neglect of a South Pasadena house with faulty plumbing, crumbling walls and a rat problem.

Caltrans renters in El Sereno have to turn to the city of Los Angeles, and it has a maze of housing and building department that often confuse people. The City Council has also approved a code enforcement exemption to government-run housing, meaning aggrieved renters have to call the county or state lawmakers if Caltrans won’t live up to its own rules.

Caltrans tenants in El Sereno have long complained about pest infestations, shoddy roofs and receiving less attention than other renters because many of them are lower income and predominantly Hispanic. Like elsewhere along the corridor, empty Caltrans homes there are temptations for gangs and vagrants. An eight-bungalow complex visited by the Weekly on Maycrest Avenue is a well-trespassed hellhole. A supposedly vacated house on Kendall Avenue has people brazenly living in it with houseplants and a dog.

“We have absolutely no jurisdiction,” said Bob Steinbach, chief inspector for the Los Angeles Building and Safety Department. “It’s no different than schools, trailer parks and hospitals where the state has” control.

Calls to Sarah Dusseault, the assistant deputy mayor for housing to Los Angeles Mayor James Hahn, went unreturned.

Call somebody

Longtime Caltrans tenant Anne Alderson, figuring no one else would help her, wrote all the way to Gov. Gray Davis about the abuse she allegedly endured trying to get her dated bathroom repaired with new tiles, cabinets and a tub. The trouble started, Alderson said, when property manager Linda Wilford switched contractors and a procession of Caltrans officials trooped in and out of her powder room documenting the job with cameras and notes. Wilford then nixed the tub from the to-do list.

Repairs commenced in February, and Alderson said she quickly realized the young men performing them were illegal immigrants from Mexico with minimal understanding of the language or job at hand. She said they admitted to her that the contractor had hired them at a Glendale street corner. Alderson complained to Wilford about this, as well as Caltrans' practice of entering her house for inspections without notifying her first. On Feb. 20, dissatisfied with crooked tiles being installed and the contractors' attitude about it, Alderson called Wilford. She drove out and, according to Alderson's correspondence, began insulting her, reducing her to tears. Alderson's son overheard the tirade and told Wilford not to speak to his mother like that, but she continued anyway.

Failing wrote back to Alderson saying his staff was researching her "concerns." He said Caltrans investigated the claim about the contractor's use of undocumented workers and no labor laws were broken. He told the Weekly only one complaint about similar allegations had been lodged. "It's not been the most cooperative relationship with" Alderson, Failing said, adding he was pleased with Wilford's overall performance.

Caltrans spokeswoman Harris said Wilford declined comment and that the charges against her were "unfounded."

Today, Alderson's bathroom stands only partly renovated. Since the construction, rats unloosed by a hole in the wall the contractor didn't patch have been scampering through her kitchen. She called Pasadena officials, who in turn alerted Caltrans.

Week 1: Corridor of Shame—No Exit

Week 3: Tunnel Visions—Corridor of Shame

Week 4: Legislature Needs to Take Control of Caltrans

Week 5: No Place Like These Homes—Corridor of Shame

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HIGHWAY ROBBERY

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Author: KIMBERLY KINDY and NATALYA SHULYAKOVSKAYA | Section: News | 3628 Words

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Sidney Stone's dream home is rotting.

Weeds as tall as children choke the yard. Plywood seals the windows. Inside, in the cool dark, graffiti scars the bedroom walls.

Stone stands in the back yard, remembering the day in 1961 when he pulled his Dodge onto this hillside in Hayward - then an empty lot with sweeping views of the San Francisco Bay.

On this spot the retired Baptist pastor started planning the home where his wife, weakened with multiple sclerosis, could move about with greater ease and his two children could play amid bay breezes.

And he remembers another day, nine years later, when a state highway agent told him his custom-built home was in the path of an eight-lane highway project. He would have to sell to the California Department of Transportation.

Like more than 1,000 others in the area, the Stones packed their things and said goodbye. That was 1970.

"They made it sound urgent, like they were going to start construction any day," Stone said.

Today Stone's former home still stands, mildewed, disfigured, crumbling.

The highway was never built.

An Orange County Register investigation found that Caltrans has repeatedly displaced property owners for highway projects that went nowhere - from the abandoned widening of Pacific Coast Highway through Orange County to Hayward's failed freeway loop near the San Francisco Bay.

Along the way, Caltrans used eminent domain to buy thousands of homes and businesses it didn't need, holding onto them for decades.

Caltrans is now a landlord to residents and workers in more than 1,300 homes and businesses - a job it was not created to do.

This is a story about how the nation's largest freeway builder neglected its massive land holdings, creating blight and despair. It's about how Caltrans kept properties off the tax rolls, draining county coffers of tens of millions of dollars in lost revenues. It's about abuse of power.

A Register analysis of the department's databases, thousands of pages of documents and hundreds of interviews show:

The department has become one of California's worst slumlords and property managers, owning over time hundreds of abandoned homes and businesses that have served as temporary drug dens, crash pads for teenage vandals, community dumps and homeless encampments.

Caltrans doesn't have to obey local laws that apply to slumlords, allowing the department to neglect its land holdings and get away with it. No local authority has been able to force the department to clean up its land or repair its homes.

Under the most conservative estimates, the department's large portfolio of unused land has deprived counties of at least \$78 million in lost property tax revenues. Money that could have gone toward schools or hiring police has vanished. The actual loss may be closer to \$300 million when you factor in the strength of California's real estate market.

When Caltrans does part with unused land, it has fared poorly. Almost half the time, the department sold properties for less than the state paid for it - on average 60 percent less.

The Register's analysis found that aside from freeways and highways, the department owns more than 12,000 acres - roughly the size of Garden Grove. At least one-third of the department's land was bought more than three decades ago.

Its land holdings are so vast, Caltrans has trouble accounting for it all. Until this summer, the department didn't know about a Laguna Beach day-labor site on land it has owned since the 1950s. And 14 months passed before Caltrans workers discovered an illegal skateboard park in Oakland near a freeway overpass.

The department's record keeping, meanwhile, is so shoddy that when asked, Caltrans officials couldn't estimate the value of its land. Its antiquated databases make it next to impossible to pinpoint how much land Caltrans actually owns.

"It's a disgrace," said former state Sen. Ross Johnson, who represented Orange County for 24 years and repeatedly tried to get Caltrans to sell unused land. "It's an understatement to say they've done a very poor job managing their assets. Their abuse of power adds up to real money that could be used for a lot better purposes than maintaining ownership over a slum."

In an interview, Gov. Arnold Schwarzenegger criticized the department but said his efforts to fix the problem have been thwarted.

"They have this mentality of not ever thinking about that the property exists," Schwarzenegger said of

Caltrans. "But then when you want to sell it, then they think about it day and night. And then fight it."

Caltrans Director Will Kempton acknowledged that his department has been overzealous in its land purchases in the past.

Kempton, who was appointed two years ago by Schwarzenegger, said Caltrans sometimes ran roughshod over communities instead of working with them. He said that strong-arm approach has already changed and must continue to change.

"The old thinking just won't work anymore. I preach customer service," Kempton said. "We have to work with communities now - they are our partners - and we must find solutions together."

Kempton also said Caltrans lacks the expertise to manage its properties. He hopes to hand off the job, possibly to another state department that has a better track record as a landlord.

"We have to recognize this isn't something we are particularly good at," Kempton said.

BROKEN PROMISES

In the early 20th century, when the Golden State couldn't grow fast enough, Californians loved their highway builders.

"We were saving people's lives. Saving them time," said Douglas Failing, director of Caltrans' Los Angeles division. "Everyone who was building was a hero."

During that era, lax laws and the unwavering faith of the highway-craving masses allowed the state to buy whatever land it wanted at bargain-basement prices.

It didn't need detailed project plans, environmental studies or public notice. The Division of Highways - now Caltrans - bought homes, businesses and farms, hoping the state would use the land for a future highway.

The state scooped up tens of thousands of acres of land in the 1950s, 1960s and into the 1970s - dazzled by dreams of building more than 70,000 miles of highway to connect people in every part of the state.

About 45,000 miles - enough to circle the globe nearly two times- were actually built.

The freeway system became a cornerstone of the California economy. Commuters were able to zip between cities at record speed. Businesses flourished as trucks quickly delivered products to their doors.

Then, Californians began to see a dark side to the freeway-building boom.

Families and businesses were unnecessarily displaced. Asphalt lanes divided communities. Overpasses darkened neighborhoods where families once held picnics.

Engineers sat in their Sacramento offices designing the highway system without consulting communities that they were about to alter forever. Agents were dispatched to buy land that would allow construction of every conceivable path.

"It was a steamroller approach. Get out of our way, we are coming through," said Mike Montgomery, who worked as a Caltrans attorney in the 1960s and now fights his former employer in court. "The attitude was, and is, if people get hurt and it's for the greater good - then it's fine."

Things began to change in the 1970s. Freeway fighters organized from Newport Beach to San Francisco. An ailing economy drained construction budgets. State and federal laws were adopted, demanding a more careful study of projects before land could be bought or highways could be built.

The combination of events forced Caltrans to curtail its massive land-buying. But the department held onto most of its land.

Reform efforts have failed in part because the department's directors didn't stick around. In the past 30 years, Caltrans had 11 directors, each lasting an average of 2.7 years.

Former lawmakers like Johnson believe it is the long-serving bureaucrats who call the shots, resulting in a status quo that keeps the department awash in assets and jobs.

The way Caltrans gobbled up land - and then mismanaged it - serves as a lesson today for cities, counties and states across the nation at a time when eminent domain has become an explosive issue.

A U.S. Supreme Court ruling last year raised the stakes. The high court made it even easier for governments to buy private property. Proposition 90, which attempts to block these new powers in California, goes before voters next month.

The state department's track record also is of particular significance to Californians now because of another November ballot initiative.

Schwarzenegger and the Legislature are asking voters to approve a \$19.9 billion transportation bond, about half of which would expand and upgrade the state's 45,000 miles of highway, providing a huge infusion that could bring back the glory days of the highway builders.

SPREADING BLIGHT

The residents at Casa Sandoval in Hayward knew the state's land management had gotten out of hand when homeless people camping in the department's abandoned property nearby began making daylight raids on the upscale retirement home, stealing food off their plates.

The retirement home is in the middle of one of the state's largest failed projects.

In Hayward and the neighboring unincorporated area of Castro Valley, Caltrans owns 366 rental properties and dozens of vacant homes - a total of 470 acres.

It bought the properties decades ago along the footprint of a 15-mile expressway that was supposed to hopscotch the grassy hilltops and speed motorists to cities throughout the south bay.

The freeway loop was never built. First, construction funds dried up. Next, community opposition mounted, and then a lawsuit prevailed. Through all of this, Caltrans decided to hold onto the homes.

"Look at what a mess it is. Can you believe it? It's obvious no one is monitoring it," said Barbara Lee, who was forced to sell her home on Tamalpais Place in 1970. "There are two ways to look at it: You can either be upset because you were told you had to sell and were ripped off, or be glad you didn't get stuck in that mess they've made."

As decades passed, the homes became community scars, a dramatic contrast with surrounding, privately held properties tucked among lush gardens. Today the neighborhood serves as a dramatic example of how property deteriorates in the state's hands.

For more than a decade, a broken balcony dangled from the rear of a brown and beige home on Palisade Street, five doors from Lee's former home, which Caltrans bulldozed shortly after buying it. A locked door was the only thing separating tenants from a 20-foot drop to a gully.

One mile away, a charred, crumbling home marred a major thoroughfare less than a mile from Hayward City Hall. The home burned in 2002, killing a tenant, but Caltrans left the scarred building standing.

Several blocks away, Valerie Vardanega gathers with neighbors, putting on thick gloves to pick up hypodermic needles discarded by drug users who break into another empty Caltrans-owned home on Crescent Avenue just over the Hayward border in Castro Valley.

Fed up with incursions by homeless people, Casa Sandoval fortified an outdoor patio next to its dining room with a 6-foot wrought-iron fence three years ago. The owners spent tens of thousands of dollars on the fence, security cameras and motion-sensing lights.

Living next to that kind of blight, according to real estate experts, can dramatically devalue a person's home. They estimate that an owner might see values drop 10 percent to 50 percent, depending on the severity and proximity of the tattered neighboring property.

"People will obviously pay more to live in neighborhoods without obnoxious houses or derelict buildings," said John Wallace, a real estate expert and formereconomist at the Stanford Research Institute.

The head of Caltrans' property maintenance division for the region acknowledged his department's blemished record as a landlord.

"We try to keep up with the vandalism and the homeless, but we can't," said Monico Corral, the maintenance division leader. "As soon as you have a vacant house, the homeless find out. ... You can't believe how fast the destruction can happen."

Corral and his team of six agents say they spend more than 100 days a year driving the old path of the never-built 238 bypass. However, Corral could not explain how his team repeatedly missed so many eyesores.

After the Register made inquiries earlier this year, Caltrans finally demolished two fire-ravaged houses in Hayward, removed the broken balcony on Palisade Street and rented goats from a local company to chew away the weeds.

Kempton, the Caltrans director, said the department plans to get out of the property management business in Hayward but said the process could take years before the first parcel is sold.

That leaves Sidney Stone wondering what will happen to his former dream home.

"They got it for \$36,000, and I should be allowed to buy it back for that," said Stone of his home, now worth between \$700,000 and \$800,000.

TENS OF MILLIONS OF DOLLARS

In Hayward, the erosion of properties was blamed on the state's failure to fund repairs.

But in Pasadena - where a 4.5 mile extension of the Long Beach (I-710) Freeway has stalled - Caltrans spent tens of millions of dollars over the past decade and still managed to bungle repairs repeatedly.

Caltrans reached its low point as a landlord in the region in the mid-1990s. At the time, one-quarter of Pasadena's Caltrans-owned homes were boarded up and abandoned. Trees and vines grew thick and uncontrolled, making the cent8ury-old Arts and Crafts mansions appear haunted.

"Watching these homes fall apart, it was just criminal. It's been one disaster after another," said Susan Mossman, executive director of Pasadena Heritage, a nonprofit historic preservation group.

The I-710 extension was intended to connect the San Bernardino (I-10) Freeway to the Foothill I-210)

Freeway. But residents opposed the project, believing it would ruin their quiet suburban neighborhood.

Caltrans engineers believed they'd eventually get their way and repeatedly reconfigured the highway, taking more and more land. The historic homes were treated as short-term nuisances, not worthy of much attention.

"I think there was this belief in the department, however false, that at any moment the highway project was going to move forward," said Linda Wilford, who nearly four years ago began managing properties for Caltrans along the stalled freeway corridor.

Finally, in the mid-1990s, community, city and federal leaders pushed Caltrans to invest in the properties - with special emphasis placed on 92 historic homes.

Over the next 10 years, Caltrans spent more than \$30 million to repair hundreds of homes in the corridor. But state records and visits to the homes show the efforts have been troubled by cost overruns, unfinished work and shoddy craftsmanship.

Four historic homes that Caltrans described as "museum-quality restorations" best illustrate the problems.

Beyond the fresh coat of paint, three of the homes were left in various states of disrepair and, in one case, a home was quickly wrecked after the work was complete in the late 1990s, records show.

Mold damage was so severe in one of the houses that Caltrans had to pay tens of thousands of dollars to do additional repairs, replace damaged belongings and pay for a hotel for the displaced renters. In another home, the restoration was not finished. Two bedrooms remain boarded shut.

A third home was left vacant, drawing vandals who trashed it and drove a car through the detached garage.

In 2001, Caltrans finally conceded that the rehabilitation program - which specifically targeted the 92 historic homes - had failed.

The way Wilford, the Caltrans manager, has spent the repair money continues to draw criticism from tenants.

Most recently, Wilford picked four vacant historic homes to restore, spending more than \$1 million in taxpayer money on carpet, roofs, plumbing, resurfaced hardwood floors and fresh paint. Wilford called them "gems" and hoped to bring \$3,000 to \$4,000 in monthly rents.

Six months later, two of the four sit vacant, with potential tenants discouraged by the high rent.

Renters in other nearby Caltrans-owned homes watched the restorations in frustration. They live in some of the lower-rent properties and have been asking for repairs for years. But Caltrans has put most of its efforts into homes that command higher rents.

John Kvammen, who lives in one of the reduced-rate homes, begged Caltrans to fix window and roof leaks, peeling plaster, burgeoning mold and mildew problems, a rat infestation and a garage door attached by a single hinge.

After 18 months of unanswered requests, Kvammen began carbon-copying the Register in his complaint letters to Caltrans. The major repairs were taken care of several months later.

"The whole thing is infuriating," Kvammen said.

Kvammen's repair list is common. The Register found over the past decade that 40 percent of the department's rentals had faulty plumbing, 20 percent had leaky roofs and six percent experienced rodent infestation. Since Caltrans only logs completed repairs, the list of problems could be much longer.

The department's involvement in Pasadena won't end anytime soon.

The Los Angeles County Metropolitan Transportation Authority just completed a multi-million dollar study looking at the state's latest alternative: An underground freeway tunnel that would require buying perhaps dozens, if not hundreds, of additional properties. Not knowing where it must tunnel, the department plans to hold onto most of its current properties indefinitely.

"Caltrans needs to stop the occupation - and that's what it is - and sell these homes so this place can be a community again," said Mossman, of the Pasadena preservation group.

LOST FUNDS

The department's ownership put a squeeze on the flow of tax revenues into counties across California.

Government agencies are exempt from paying property taxes, so wide swaths of land taken over by Caltrans have not been generating taxes for Hayward, Pasadena, Newport Beach and other communities.

Statewide, according to the Register's most conservative estimate, counties lost at least \$78 million in taxes because of the department's practice of holding onto properties for decades even after a project clearly had reached a dead end.

But the lost revenue is likely much higher.

Using a second method, the Register determined that \$297 million may have been withheld from local

governments. The higher figure assumed that the property in private hands had appreciated at the same pace as the rest of California's real estate market.

That's enough money to build 20 elementary schools, hire 200 police officers and repair 55 miles of Southern California's worst roads.

"It's outrageous," said state Sen. Tom McClintock, a Republican from Thousand Oaks. "The financial harm is real."

McClintock wrote legislation this year that called for returning eminent-domain-claimed property to original owners if it had not been used within five years. The bill died.

"It's an absolute tragedy when a planned highway goes through someone's living room," McClintock said. "But what I've seen with Caltrans is they seize homes ... and then sit on them."

Lawmakers and local authorities have tried to reverse the trend for decades.

In the 1930s, the California Legislature passed a law requiring that 24 percent of all collected rents on Caltrans properties be paid to counties. The payment was intended to ease the pain of lost taxes.

However, only 15 percent of land owned by Caltrans generates income that is shared with counties, according to the Register's analysis.

In the 1960s, the Legislature passed a second law designed to help local governments reclaim lost revenue.

This one requires Caltrans to pay back taxes to counties when it finally sells land if none of it was used for the highway project.

But Caltrans has interpreted this law so narrowly that payments have never been made. In response to questions from the Register, Orange County officials say they plan to launch their own investigation into the hundreds of properties Caltrans has sold locally to see if the county is owed back taxes.

"Caltrans seems to have damaged the taxpayers of Orange County twice, once in the taking and then again in the failure to pay tax," said Chriss Street, Orange County's treasurer-tax collector elect.

"Caltrans may have robbed this county of millions of dollars."

FEELING VICTIMIZED

There's a long list of people who feel robbed by the state's handling of eminent domain.

Becky McKenzie is one of them.

McKenzie is no freeway fighter. She always thought Caltrans would need her Santa Ana home for the I-5 widening in Santa Ana. That's why in 1987, when she and her husband, Mac, were thinking about remodeling their cottage-style home, she first called Caltrans.

Would they need it? No, she was told. She asked if they might need some of her expansive back yard. Again, the answer was no. So the couple secured an equity loan and started scraping and painting - replacing everything from the kitchen cabinets to the outside stucco.

Four years later, Caltrans demolished her home. They ultimately used a fraction of the yard, which was about half the size of a football field.

She gladly would have stayed and sold Caltrans the piece of land. But that was never an option. Caltrans paid the couple \$195,000.

"It was heartbreaking," said McKenzie, who now lives in Orange. "We got none of that sweat, effort or money back."

After the McKenzies moved, Caltrans turned around and sold it at a 60 percent loss - for \$77,000. The size of the parcel had been reduced six percent.

It wasn't the first time the state lost money on property it no longer needed.

Caltrans sold at a loss 83 parcels bought through eminent domain, according to the Register's analysis of 185 properties for which complete information is available. Although the state used some slivers of the land before selling, the vast majority was not needed.

"You wonder how often does this happen to people?" McKenzie asked. "How many people come back to their old homes and see they could still be living there?"

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Dodging reform

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For more than three decades, the California Department of Transportation has dodged efforts to reform its controversial land-management practices.

An Orange County Register investigation on Sunday showed how the department's appetite for property acquisition has turned neighborhoods into eyesores and deprived local government of millions of dollars in property taxes.

Since the early 1970s, state auditors and watchdog committees have repeatedly criticized Caltrans.

Each time the department promised reforms, but there has been little or no change.

Instead, the most serious problems have worsened. Caltrans continues to buy unneeded land, takes poor care of stockpiled properties, fails to properly track land holdings, resists the sale of unused land, and loses money when the land is sold.

Interviews with current and former state officials indicate the department's civil servants have operated largely unchecked because their tenures span decades, while reform-minded lawmakers, governors and departmental directors quickly come and go.

The Little Hoover Commission first zeroed in on Caltrans land management in 1972. Since that time, Caltrans has cycled through 11 directors with an average tenure of 2.7 years.

Caltrans bureaucrats, on the other hand, often stay for 20 years or more and successfully "wait out" elected and appointed officials.

Former Senate Pro Tem David Roberti recalled a letter he sent to Caltrans during his successful efforts to halt Route 2 through Silver Lake in the 1970s. The letter was returned to him from Caltrans with an obscenity scrawled across the top and this note: "The road goes through."

The letter is now lost among Roberti's archived papers, but two former staffers recalled their boss waving it in the air, complaining about the "culture" of the department.

The cultural attitude Roberti spoke of was apparent to state Sen. Ross Johnson during his long fight to get Caltrans to sell an unused 15.5-acre parcel in Newport Beach.

The department bought the land 50 years ago to widen Pacific Coast Highway, a project abandoned in

the 1970s, and finally agreed to sell it to Newport Beach on Wednesday.

The city's fight for the land lasted 15 years, with Johnson stepping in at one point to help. The Register began asking Caltrans six months ago why the land was still in its portfolio.

"The attitude of unelected civil servants is that this is their domain and they aren't going to give up power or perceived power," said Johnson. "They can outlast you, and they do."

Former Caltrans directors agree that reforms have tapered off or even died after their champions leave office.

Leo J. Trombatore, who was director of Caltrans from 1983 to 1987, agrees there's a problem.

Trombatore said he pushed through some fixes that temporarily accelerated property sales. He also pushed the department to improve computer tracking of properties.

However, employees have done an uneven job of filling out the required information fields, or have put in erroneous figures, the Register found. Those databases are now outdated.

Trombatore believes Caltrans needs outside oversight from a state organization that has the authority to force staff to follow through, long after directors have departed.

The Bureau of State Audits and the Little Hoover Commission have the power to expose and recommend change, but cannot order state departments or agencies to do anything or punish them if they fail to fix things. The California Transportation Commission, which has the authority to approve or reject transportation construction projects for Caltrans, has no power to hire or fire staff.

"The department should be staffed and organized so that when the director comes and goes, it doesn't matter. The average amount of time for a highway project, from beginning to end, is 15 years," Trombatore said. "There is no director who is there for that long. Some structure needs to be in place that lasts for more than a few years."

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Local control sought - NEWS 3

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A group of Orange County government officials said Sunday that this week they will begin seeking authority to force the California Department of Transportation to clean up and sell properties it owns in their communities.

The leaders want to form local committees that will meet with Caltrans officials to troubleshoot problems uncovered in a Sunday Orange County Register investigation.

The story showed Caltrans bought homes and businesses it didn't need for dozens of highway projects that were never built. Former property owners have watched as freeway projects died and their homes and businesses fell apart during decades of neglect in state's hands. By holding onto unused land, Caltrans has deprived local governments of as much as \$300 million in taxes.

City officials and neighboring landowners have grown frustrated with their inability to get Caltrans to fix the statewide blight.

"We must determine how we can have more oversight," said Yorba Linda Mayor Michael Duvall, who sits on the Orange County Transportation Authority board. "I plan to bring this up at the next (OCTA) meeting. We must sit down with them and figure out how we get a voice in this."

Duvall, chairman of the transportation board's finance committee, which is scheduled to meet Oct. 25. Duvall, who is running for Assembly, said he will seek an official deadline for how long Caltrans has to fix properties. After that, he wants cities, counties and local transportation agencies to have the power to make repairs, do clean up, and then charge Caltrans for the work.

Orange County Supervisor Chris Norby agrees, but he doesn't want to wait until something formal is established. He said one of the problems is most cities and counties stopped issuing code violation citations years ago because Caltrans ignores them.

He will now work to organize local governments, he said, and ask that they begin issuing citations and fines again but coordinate with one another to calculate the volume of problems.

"We need to unite," Norby said. "We need to embarrass them into change."

On Sunday, the Business, Transportation and Housing Agency, which oversees Caltrans, released a statement saying the department is "working hard" to correct problems and that a lot of progress has

been made over the past three years.

Caltrans Director Will Kempton was not available for comment Sunday but has already announced a number of reform efforts. In previous interviews, he said he wants to work as "partners" with local governments, and concedes that this has not been the department's traditional approach.

He has already taken some steps to change that. For example, in August, after Register inquiries about unused land in the Bay Area, Kempton scheduled a meeting with Hayward city officials. Together they toured the area, discussing how the department could work with them to sell off about 470 acres of land.

Kempton has also said the department should get out of the property management business by either selling off land or having someone else care for the property until a project is built. He hopes to hand the job over to another state department that has greater expertise in the area.

However, Caltrans' tenants said they like the idea of local control better.

"The cities could do a much better job of managing these properties," said Lynn Bryan, a Caltrans tenant and board member of the Caltrans Tenants of the 710 Corridor. "They are in their communities and I believe they would care more."

Bryan also said that prior to the Register's investigation she thought Pasadena was the only community experiencing landlord problems with Caltrans.

"It was absolutely frightening to think we are not the only people – that this is a statewide problem of an agency out of control," Bryan said. "We thought the worst treatment was on the 710, and obviously, that isn't true."

PROMISES: But results elusive

for Caltrans.

AGENCY:

Caltrans defended. News 5

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and NATALYA SHULYAKOVSKAYATHE ORANGE COUNTY REGISTER, KIMBERLY KINDY. "Local control sought - NEWS 3." *Orange County Register, The (Santa Ana, CA)*, October 16, 2006: Cover_A. *NewsBank: Access World News.*

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p=AWNB&docref=news/114D1717A93076D0.](http://haproxy.newsbank.com:11021:11021/apps/news/document-view?p=AWNB&docref=news/114D1717A93076D0)

O.C. tells state to pay

October 17, 2006 | Orange County Register, The (Santa Ana, CA)

Author: KIMBERLY KINDYThe Orange County Register | Section: Local | 642 Words

Page: Cover_B

[OpenURL Link](#)

Orange County's treasurer-tax collector put Caltrans on notice Monday that he will seek 10 years of back taxes on properties bought and sold in the county, and began to rally other counties to join him.

Chriss Street, county treasurer-tax collector-elect, says he has reviewed a state law that requires tax payments under certain circumstances and believes Caltrans has made a mistake by not paying.

The letter to Caltrans comes two days after an Orange County Register investigation revealed that the department's practice of holding onto unused land may have cost counties as much as \$300 million in lost property tax revenues.

"I think the proper thing to do is to give them an opportunity to correct the situation," said Street, who is heading up the effort in his office. "It's been fun to have a free ride this far, but now it's time to meet their responsibilities."

The letter, signed by county Treasurer-Tax Collector John Moorlach, was sent directly to Caltrans Director Will Kempton. Caltrans spokesman Mark DeSio said Kempton had not yet read the letter but "is going to review it and he looks forward to working with the treasurer-tax collector to address his concerns."

The letter gives Caltrans until Nov. 1 to pay up.

The dispute is over the department's interpretation and handling of a 1960s law that requires payment of back taxes if Caltrans buys and sells unused land taken under eminent domain. The law says, however, that the department does not have to pay if any piece of the property was used for the project, even if it's a tiny sliver.

The department acknowledges it has never made a single payment but says a regulation that it adopted – which spells out how it implements the law – has meant no circumstance ever occurred where any back taxes should be paid.

A second challenge in the letter seeks payment of a share of lease and rent proceeds on land Caltrans manages. A state law says counties are entitled to 24 percent of those funds. Caltrans says it has always made these payments. A Register analysis shows 15 percent of its properties generate revenue from paying tenants.

Street has also contacted every tax collector in the state through the California Association of County

Treasurers and Tax Collectors. He sent members an e-mail Monday, asking them to join with him in asking Caltrans to review its stance on the law.

Street has already prepared a request with the California Office of Administrative Law that it will mail today, asking that its lawyers review Caltrans' regulation on the issue.

Street and Newport Beach attorney Phillip Greer, who is advising the tax collector's office, both believe the regulation or rule is illegal.

The Office of Administrative Law reviews and issues rulings on complaints of alleged "underground" regulations – rules a department uses that should have gone through a routine public review process. State departments and agencies typically submit proposed regulations to this office for this review before they are adopted.

Caltrans did not do this. DeSio said the department was able to pass the regulation on its own because of another state law that expressly exempts the review when "a regulation ... relates only to the internal management of the state agency."

If the administrative law office rules in the tax collector's favor, Caltrans could appeal in court. If it rules for Caltrans, the regulation will have formal approval from the office.

Similar cases have come before the courts in recent years. Since the 1980s, state departments and agencies have lost at least four court battles when they argued their regulations were exempt because they applied only to issues relating to internal management, said Debra Cornez, assistant chief counsel for the Office of Administrative Law.

"This regulation has nothing to do with internal management of Caltrans employees," Greer said. "It has to do with the county governments and money that is owned to them."

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Hearing set on Caltrans land policy

October 18, 2006 | Orange County Register, The (Santa Ana, CA)

Author: KIMBERLY KINDYThe Orange County Register | Section: News | 484 Words

Page: Ca_A

[OpenURL Link](#)

An Orange County assemblyman Tuesday scheduled a three-hour public hearing on the California Department of Transportation's land-management policies, saying he wants to hear from people who may have been harmed.

The hearing is a response to an Orange County Register investigation that exposed widespread problems in the way Caltrans handles land it acquired through eminent domain. The Register found that the department has amassed a large land portfolio for freeway projects that were never built.

Assemblyman Todd Spitzer, R-Orange, said the hearing will be an opportunity for residents to talk about their experiences from several perspectives: as Caltrans renters; property owners who live near Caltrans-owned property; and as people forced to sell to Caltrans under eminent domain.

Spitzer, who is organizing the Nov. 14 hearing with county Supervisor Chris Norby, said he doesn't have faith in the department to fix its own problems. He plans to use the information he gleans from the hearing to put together a package of legislation he will introduce during next year's session if he is re-elected.

"They've demonstrated a pattern of abuse," Spitzer said. "Caltrans has consistently mishandled its oversight function. Caltrans is ripe for a complete overhaul."

Norby said he has the same goal as Spitzer: to use public exposure of Caltrans' practices to persuade those in power in the Capitol to force change.

Caltrans has successfully dodged most past reform efforts but Norby said he believes this time will be different because of the public exposure from the Register investigation – and because he and Spitzer are determined to stay focused on the issue until problems are resolved.

"Staff rarely has the time to do the digging, the work that has already been done for us," said Norby. "We have a lot of information already to work with. And Todd and I are tenacious. We aren't going to let this go."

Spitzer said that after the hearing he may also ask Gov. Arnold Schwarzenegger to deal with some problems through executive orders that have the power to enact immediate policy changes.

His staff invited a member of Schwarzenegger's Cabinet, the secretary of business, transportation and housing, to speak at the hearing. Secretary Sunne Wright McPeak, whose agency oversees Caltrans,

has already committed to testifying.

A request for comment from McPeak was declined.

Spitzer and Norby have also invited Chriss Street, the county's treasurer-tax collector elect, to testify.

On Monday, Street gave Caltrans a 45-day notice to pay any back taxes owed to the county. Street is fighting the department's interpretation of a law that requires payment of back taxes when land, bought under eminent domain, is not used for a project. The law requires payment at the time of sale.

Spitzer is running for re-election in the 71st District. Spitzer's challenger is Irene "Charlie" LaChance . The Register left voice mail and an e-mail message seeking comment on the Caltrans issue from LaChance, but had not received a response by late Tuesday.

Contact Kindy at 916-449-6685 or kkindy@ocregister.com

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Caltrans property management gets hearing

November 14, 2006 | Orange County Register, The (Santa Ana, CA)

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Page: County_B

[OpenURL Link](#)

Republican state lawmakers and an Orange County supervisor will ask highway officials today to explain why they have failed to keep decades of promises to become better landlords, sell unused land and improve tracking of properties.

The three-hour public hearing will be held in Santa Ana with Assemblyman Todd Spitzer, R-Orange, leading the inquiry.

The hearing was called in response to an Orange County Register investigation into the California Department of Transportation's property management problems. The story ran in October.

Spitzer said he is searching for ways to force Caltrans to fix its practice of holding onto land and then neglecting it. He also said he remains skeptical of new reform promises made by Director Will Kempton.

"The fundamental question I have is, after decades of promises and nothing happening, after decades of dragging their feet, why should I think this is any different?" Spitzer said.

Caltrans' spokesman Mark DeSio said, "There have been many examples of insufficient past actions on the part of Caltrans. ... During the discussion, Director Kempton hopes to focus on the improvements Caltrans is and has been taking to correct these problems."

Spitzer is threatening to hold up Caltrans' budget if he does not quickly see improvements. The state budget will come up for a vote in the Legislature in six months. To pass, it needs six Republican votes.

"I think my caucus will have no problem supporting this kind of disciplinary action," Spitzer said. "It's the power we have and I think it's time to exercise it."

The hearing will start with a presentation by Kempton and Sunne McPeak, secretary of the Business, Housing and Transportation Agency, which oversees Caltrans.

The schedule then calls for other local and state officials to testify, followed by over a dozen people who are Caltrans' tenants, who live next to Caltrans properties or have sold property to Caltrans under eminent domain.

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Caltrans vows to get up to code

November 15, 2006 | Orange County Register, The (Santa Ana, CA)

Author: KIMBERLY KINDYThe Orange County Register | Section: News | 683 Words

Page: Cover_A

[OpenURL Link](#)

SANTA ANA Code-enforcement officials – who go after slumlords with fines and jail sentences – will be allowed to inspect the state Department of Transportation's massive land holdings beginning in January, Director Will Kempton promised Tuesday.

"You will see us open the doors to access to make sure we are following those codes. ... I do not like the tag of slumlord," Kempton said during a four-hour public hearing. "This is not where I want this department to be positioned."

Kempton committed to work with Assemblyman Todd Spitzer, R-Orange, on legislation that would require Caltrans to pay penalties and fines imposed by code enforcers.

The department is now exempt from such laws.

The hearing was organized by state lawmakers and county supervisors in response to an Orange County Register investigation that showed how Caltrans bought hundreds of acres it did not need for highway projects it did not build.

The department has held onto the land and neglected it for decades. The result is that the nation's largest highway builder has become one of the state's biggest slumlords.

The most emotional part of the hearing came during the last hour when nearly a dozen Caltrans renters and neighbors of department-owned land told lawmakers about the conditions they've lived with.

They said their calls to correct problems – which included rat infestations, mold and mildew, and leaking roofs – have been repeatedly ignored by Caltrans.

"The smell coming through my bathroom walls ... it was rats. I cannot tell you what I've been though. ... I have health problems," said Pasadena renter Anne Alderson, sobbing.

Midway through citizens' testimony, Spitzer called Kempton back before the panel of lawmakers, rebuking him for failing to make immediate repairs to properties like Alderson's.

"The state is not treating these people with any humanity whatsoever. This is horrible," Spitzer told

Kempton before a group of about 50 people who'd come to testify or support friends who testified.

"You may be in violation of state law right now. Why can't we go tomorrow to get the governor to sign an emergency order or declaration to get the funds to take care of this? I think we are supposed to make sure as public stewards that people are being protected."

Kempton said he will work with Spitzer on changes – among them, asking the Legislature for more repair funds and ways to cut through red tape on government contracts.

Kempton promised to move more quickly on items over which he has some control.

For example, he also promised that Caltrans will sell 1,140 unused parcels – purchased under eminent domain but not used for highway projects – by the end of next year.

That would more than double the department's average number of sales in recent years.

Also, the 12 Caltrans district offices will be required, beginning Jan. 1, to provide monthly reports to Kempton on the progress of property sales.

Assemblyman Chuck DeVore, R-Irvine, asked Caltrans to pay taxes on its holdings, as do some other state departments and agencies. DeVore said he thought it might encourage better behavior.

Kempton said he would support such a legislative proposal.

"I would say for properties where we hold onto them long term, that might be an incentive ... to move more rapidly to dispose of these properties," Kempton said.

The director also promised to provide detailed annual reports on Caltrans land holdings to the Department of General Services – a legal requirement for every other state department and agency, but Caltrans is exempt from such oversight.

Throughout the hearing, lawmakers criticized the department's inconsistent record keeping.

Computerized property lists provided before the hearing frequently did not have assessed property values or the size of the property.

When compared with a second list provided by the California Transportation Commission, the data was at times incomplete or contradictory.

The commission approves projects and land sales proposed by Caltrans.

"I remain very concerned about the record keeping," said county Supervisor Chris Norby. "Clearly this is

time to stop rearranging the deck chairs and begin fundamental reform."

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Caltrans: Southern California's Slumlord

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FRUSTRATED EL SERENO RESIDENTS CLAIM THEY HAVE BEEN FORCED TO LIVE IN "SLUM LIKE CONDITIONS" BECAUSE OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND NOW THEIR RENTS ARE INCREASING 10% EVERY SIX MONTHS.

By Brian Hews

The California Department of Transportation (Caltrans) is known for its' meticulous maintenance of the state's highways, bridges and roads managing more than 50,000 miles of California's highway and freeway lanes, but that is not the case in the tiny neighborhood of El Sereno, where residents contend that Caltrans, who owns many of the houses in their area, is treating them like a slumlord.

Last week Hews Media Group-Community News, State Assemblyman Jimmy Gomez, and State Senator Ed Hernandez got a firsthand look at the "slum like conditions" that an estimated 4,000 to 5,000 residents have been forced to live in at the end of the Long Beach 710 Freeway for more than a generation now.

A tightly bonded group of residents who call themselves the "United Caltrans Tenants," took the group on a walking tour of their hillside neighborhood to see firsthand how they have been neglected and forced to live in "substandard living conditions" by their "landlord," Caltrans.

The group visited around a half dozen homes in the pathway of the freeway showing a wide range of problems that residents claim were "directly caused by Caltrans workers."



Broken pipes create backyard "Jacuzzi"-
Assemblyman Jimmy Gomez [left] and State Senator Roger Hernandez [second from left] inspect the backyard of a home owned by Caltrans where a broken pipe has created what area neighbors refer to as the "Jacuzzi." Randy Economy Photo.

Some of the homes had several gaping holes in their walls, cracked or totally broken windows, uprooted sidewalks, cracked foundations, garage doors that could not be opened, and broken water pipes. One house even had a hole in their living room where you could see dirt from the ground below.

Resident Carlene Ward held her newborn child of less than eight weeks in a blanket and told the group, "I am a breast cancer survivor and I have lived here for 17 years, and my house is in shambles.

My plumbing never works properly. I would be more than happy to make the improvements myself, but we are not allowed to do any repairs or alterations without having Caltrans do them for us."



Cracked doors and leaky plumbing-
Resident Carlene Ward shows Hernandez her cracked doors and walls and the substandard plumbing that Caltrans will not let her fix.
Photos by Randy Economy.

And now the residents face the ultimate insult by Caltrans; they were officially notified recently that their rent would increase an unheard of 10% every six months.

For Ward and other residents who live in the impacted El Sereno community, the rent increases are “the final straw” in their battle with state officials.

“Caltrans stole our homes, and now they are going to rob us blind on top of it,” said Don Jones, a community activist and area resident who has been an outspoken opponent of Caltrans for just about half of his adult life.

Jones directly blasted California Governor Jerry Brown during the tour by calling him “a crack addict who is out of control.”

“When does humanity come into play Governor Brown,” Jones said while wearing cowboy hat and with a “United Caltrans Tenants” button on his lapel.

Jones said his wife passed away recently and that he had to spend her final days “fighting with Caltrans.”

“Jerry Brown lied to us when he said he cared about our community here, shame on him and his administration for continuing to put us through this living hell,” Jones said.

The tour also stopped in front of a fenced off group of three to five small bungalow style units that residents claim have been empty for at least twenty years. The off yellow units are covered with gang graffiti and are used as “shooting galleries” for drug users. The windows are nailed shut with plywood, the doors are sealed off, and the roofs are falling apart.



House in shambles-
This boarded up house owned by Caltrans has sat vacant for more than 20 years. Residents are frustrated with state officials about the “slum” conditions they have been forced to endure in their community at “the end of the 710 Freeway.”

“This area is not safe for the children who have to live here,” said Janice Dotson, another longtime opponent and vocal critic on how Caltrans has conducted business with this project.

“It is time to start facing facts. The 710 Freeway is never, ever going to be expanded and someone needs to fix this once and for all,” Dotson said.

Retaliation

Mike Rivera, who has lived in one of the homes in the path of the freeway said he was concerned about “retaliation” from Caltrans officials for “speaking the truth about just how bad and corrupt” this situation has become.

“We don’t want to be retaliated against by Caltrans, we want to be educated and told the truth,” said Rivera.

At the time of the gathering, at least two cars marked with Caltrans logos drove by without stopping or acknowledging those present.

“Look, see for yourself, these Caltrans workers could care less about our concerns. We could stand in front of their moving cars here on our street and they would probably run us over if they had the chance,” said one resident who did not want to be named.

Assemblyman Gomez, who is in the middle of his first two-year term in the State Assembly, has been on record in the past as opposing the 710 Freeway expansion.

“I have consistently opposed the extension of the 710 freeway via a surface route or a tunnel. The proposed ‘solutions’ do nothing to solve our long-term regional transportation problem,” Gomez said.

Gomez was more than “alarmed” from what he witnessed.

“I had no idea the conditions were so bad here,” he said.

“We have a problem here that has gone on for far too long, and now someone at Caltrans has got to be held accountable,” Gomez told residents who stood in a circle around both him and Hernandez during the tour.

Hernandez has represented the area in the State Senate for the past six years, and even he admitted to HMG-CN that the neighborhood is in “substandard condition.”

“This is unacceptable conditions,” Hernandez said.

“It troubles me to see what I am looking at today,” Hernandez said. “I had no idea it was like this.”

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Robert Vega-Perez

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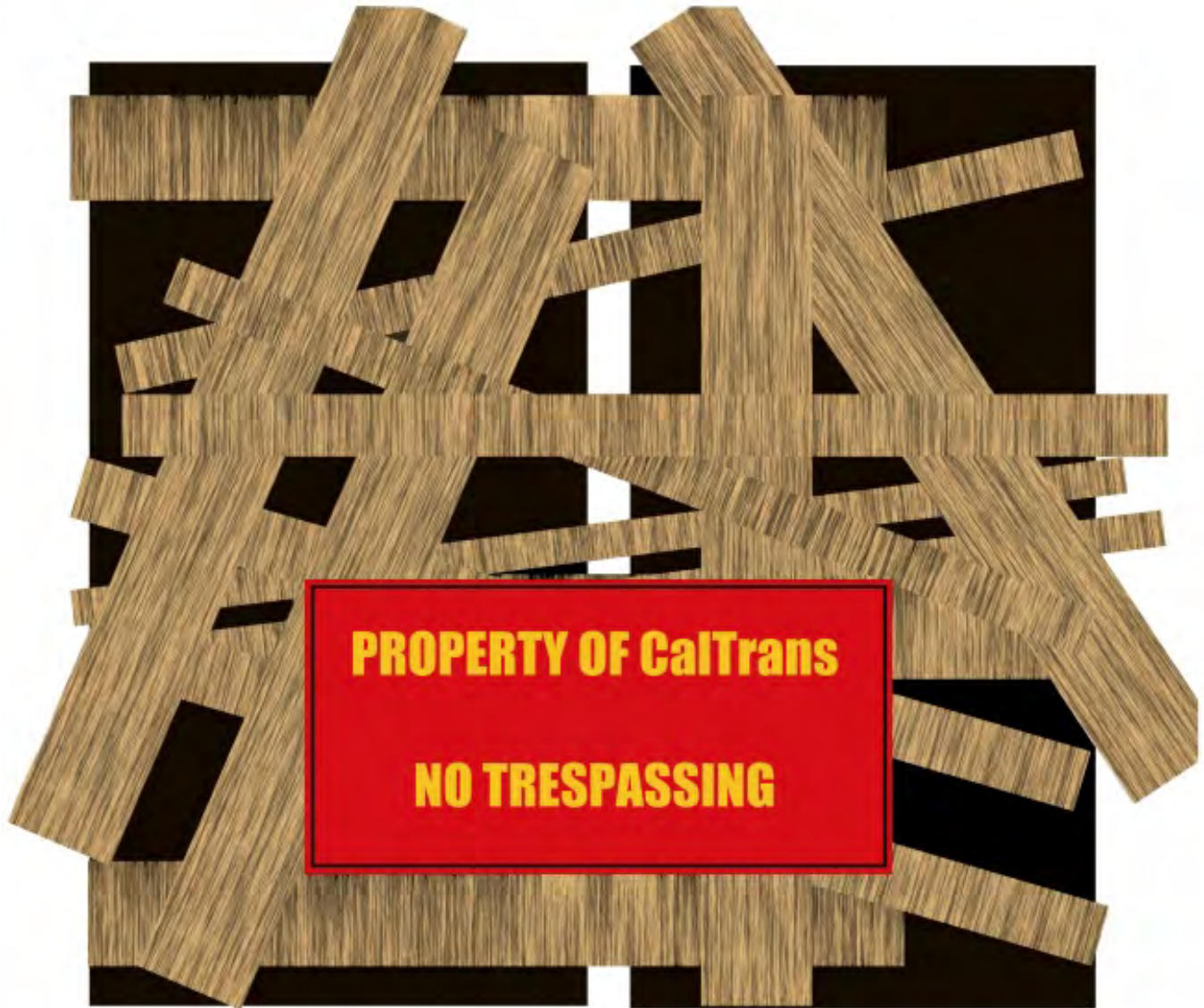


Illustration by Jamie Morton

Failed Caltrans Freeway Looms Over Bay Area Renters

A.D. - 406

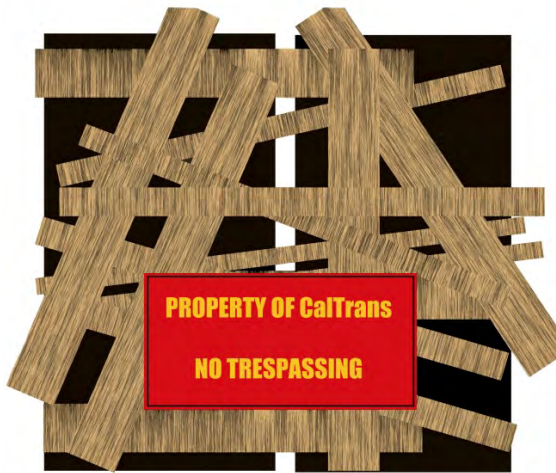


Illustration by Jamie Morton

Leo Herbert, a lively and outspoken man in his mid seventies, still remembers April 21, 1971, the day he received a letter from the California Department of Transportation (Caltrans) that said it needed to purchase the rights to his property.

Herbert's home, located in the foothills of Hayward, California, 15 minutes south of Oakland, sat in the middle of a 10-mile corridor of land where Caltrans planned to develop a freeway that would link I-580 in Castro Valley with I-680 in Fremont.

"They said, 'We need your house for a freeway, so [if] you go out and find a house that you want, then we will give you a fair price,'" said Herbert from his back patio, motioning to the vacant field behind his home where

Caltrans planned to build the freeway.

In preparation for the construction of the "Foothill Freeway," in some instances Caltrans utilized eminent domain, the process by which the state seizes private property, to purchase 620 parcels of land in the Hayward area during the late 1960s and early 1970s.

Herbert was not threatened by eminent domain. He resisted the demands of Caltrans while others in the area were bought out by the agency, which then began to rent out the newly acquired property to tenants while freeway plans stalled.

During the next three decades, a series of lawsuits were filed against Caltrans by local environmental organizations and tenants, stymieing Caltrans' freeway plans in Alameda County courts until the project was abandoned completely in the mid-2000s.

While freeway plans languished, Caltrans became one of the largest landlords in the Hayward area, amassing several hundred properties in a corridor from the Hayward foothills and Mission Boulevard east to the west, and north to south from unincorporated Alameda County to Industrial Boulevard in south Hayward.

Caltrans' takeover of properties has had a lasting impact on neighborhoods like Herbert's, which sits on the edge of the Hayward foothills, just east of downtown.

"That little house across the road was immaculate. You know what they use that for now? Storage," said Herbert, pointing to the boarded-up home opposite his that was owned by his neighbor prior to the Caltrans buyout in 1971. "It's a shame. They could have rented it out to so many people, people wanted to buy it, but they wouldn't sell. It's just a shed now."

As of late, the proposed sale of these vacant Caltrans properties, along with hundreds of other occupied residencies owned by the state, has drawn controversy. Some long-term tenants who have lived in the constant shadow of the proposed freeway are unable to purchase the Caltrans residences they have come to call home.

“We have been given no definite time of when we have to be out, but it’s still annoying that we’re going to get a letter from Caltrans saying, ‘OK, it’s time to move,’” said Shannon Stewart, a Hayward Caltrans tenant who resides just east of downtown Hayward.

In 1970, La Raza Unida, an organization composed of predominantly low-income Hayward residents, brought a suit against the state of California which called for the blocking of the freeway proposal on the grounds that the project violated local environmental standards.

By the mid-1970s, plans to connect I-580 in Castro Valley with I-680 in Fremont were abandoned by the state, and an alternative plan dubbed the “Hayward Bypass” was implemented. The plan proposed the connection of I-580 in Castro Valley with Industrial Boulevard in South Hayward by means of a 5.3-mile corridor that would run through the Hayward foothills.

Sherman Lewis, who founded the Hayward Area Planning Association (HAPA) in 1978, has spent three decades fighting this proposal.

As he sat in the basement of his Hayward home surrounded by boxes and file cabinets full of research pertaining to the proposed freeway construction, Lewis recalled some of the factors that drove him to take a stand against the project.

“I was involved because I was pissed off, and you don’t want to piss off intellectuals,” Lewis said. “This was an extremely destructive project in many ways, they were subsidizing driving, and as a result destroying the environment.”

In 2001, HAPA and Citizens for Alternative Transportation (CATs) won a case against the state, which banned use of a half-cent sales tax titled Measure B, which was implemented in 1986 to fund the “Hayward Bypass” project.

According to Lewis, during the late 1990s, city leaders had performed what he called a “bait and switch” on the ballot, which lead voters to believe that Measure B funds were used to fund an alternative transportation project through Hayward, not the bypass project. He said the local government knew voters would not have approved due to its intended route through the Hayward foothills.

In 2004, “Hayward Bypass” project plans were all but ended for good by judges in an Alameda County appeals court.

By December 2009, after it became known Caltrans was planning to begin the sale of the properties, a settlement between Caltrans, the city of Hayward and Caltrans tenants was reached, designating which of a selected 193 Caltrans homes located in the corridor would qualify for purchase by tenants.

According to the settlement, structures that do not conform to single-family residence zoning qualifications are deemed ineligible for purchase.

The settlement also provides relocation assistance in the form of lump sum stipends for tenants unable to purchase their Caltrans homes, which is calculated according to the number bedrooms and income level of single family residences. For example, a three-bedroom single family residence occupied by a low-income family would receive \$22,310, which could be then used for moving expenses and relocation costs.

Caltrans, deeming some homes ineligible to be purchased, leave some Hayward neighborhoods littered with vacant houses

Stacy Sorensen, who works for the City of Hayward as the 238 Caltrans project manager, will monitor the sale process of the 107 Caltrans homes deemed eligible for purchase by the settlement.

“We work as the facilitator, the administrative piece to the pie, we work with tenants on receiving stipend amounts and work with tenants on purchasing their home or another home if they so choose,” Sorensen said. “We are looking forward to helping tenants make the best decision for them and their family both emotionally and financially, if you will.”

Since the 2009 settlement, nearly 50 Caltrans tenants have opted into the Opportunity to Purchase Program (OPP), which allows to buy their Caltrans homes if they qualify for purchase.

According to Sorensen, residents eligible to purchase their homes and have taken stipend checks, awarded to tenants in January of 2010, have until July 6th, 2012 to opt back into the program.

Although no Caltrans homes have been sold to tenants as of yet, Sorensen remains hopeful that in the coming months the first homes will be sold.

“We have a couple that are close, but as of today none have been sold,” Sorensen said. “There have been eight properties approved by Caltrans that are now ready to be purchased.”

Marilyn Batler, a long-term Caltrans tenant and Hayward resident, lives in one of the 45 homes deemed ineligible for purchase.

Batler said unless her house is declared a historical landmark, she will have to accept relocation assistance provided by the settlement and move elsewhere.

“They told me I would have to move in three months because of the freeway construction plans and I said ‘OK, whatever,’” said Batler, recalling when she began renting her Hayward Caltrans home in 1981. “If that would have happened back then it would have been alright, but after 30 years you kind of make a place your home.”

Batler's home doesn't meet single-family residence requirements zoning qualifications, and is not eligible for purchase.

"The way I saw it, they picked and chose the properties that they wanted for themselves. In my case they rezoned it from single-family residence to high density, then they turned around and said it is ineligible to purchase because the zoning didn't conform," said Batler, whose home and accompanying land was appraised at around \$225,000.

While the 2009 settlement provided relocation assistance on behalf of the city of Hayward, Batler has developed a strong connection to her home and is fighting for the right to buy her property.

"Caltrans said, 'We will offer you another house on the corner.' No, I want the house that I have lived in for 30 years, I don't want to move," Batler said. "I have lived here half my life. You think I want to pack up and go?"

Some tenants who do have the option to purchase the homes they rent do not see this as a wise investment, largely due to the poor condition of the structures.

"The appraiser basically told me that I could never get a loan on my house, the retaining wall is falling back, looks like there is water leaking in through the foundation, there is a sink hole in the back yard that is falling in because Cal Trans didn't put a replacement on leaking gutters," said Bob Swanson, a longtime Caltrans tenant who lived in unincorporated Alameda County.

Swanson feels years of property neglect on behalf of Caltrans created an unrealistic purchasing scenario, and took the lump sum stipend provided through the 2009 settlement.

"There is no chance for me here, so I took my stipend and bought a house in Castro Valley and I am very happy with it," Swanson said. "The cost to bring the Caltrans house up to code would be an incredible amount of money, and if I can't get a loan on it then I can't buy, so I bought a house that's in way better shape and it works for me."

Shannon Stewart, a Caltrans tenant for nearly two decades, lives on a stretch of Fourth Street just east of downtown Hayward, where nearly 10 Caltrans houses sit vacant.

Stewart, whose home is surrounded on three sides by vacant Caltrans properties, claims the local Caltrans agent evicted several tenants more than five years ago, and the houses were never rented again due to plans to begin to sell off properties.

Some long-term tenants who have lived with the Caltrans freeway project for years are unable to purchase the residences they have come to call home.

Although Caltrans public affairs spokesperson Tracy Brews acknowledged that most recently some Caltrans properties have been offered for sale, no timeline could be provided on when vacant houses like those in Stewart's neighborhood would be sold.

"We are in a real dead spot," Stewart said. "I keep my Christmas lights on year-round because the street is so dark. We petitioned the city of Hayward to put up another street light, but we got turned down."

Stewart, who is upset with both state and city responses to the problem, said vacant homes attract suspicious activity to the neighborhood.

"We have people walking down our driveway all the time — it's actually kind of scary," said Stewart while, motioning down to the pathway which runs past her door and leads to a vacant home sitting virtually right behind her home.

Stewart also claims that Caltrans and police are largely unresponsive to the problems of trespassers. As of press time, Caltrans could not be reached for comment regarding this matter.

"We call the police [and] they don't care; we call Caltrans they don't care either," Stewart said. "We have actually told them 'There are people in the house right now, we have just watched them walk in and they are squatting on state property.' But this is Hayward, they have real crime to fight."

Stewart, who is not eligible to purchase her house due to its location on a land parcel with three other homes, plans to take her lump sum stipend and move.

According to City Project Manager Stacy Sorensen, the fate of Caltrans properties ineligible for purchase by tenants is still up in the air.

"Caltrans may sell them at auction, they may demolish them, they may leave them as they are, they may have the developer come in and take over," Sorensen said.

Bunker Hill, which sits below Cal State East Bay, is unique in that it contains a substantial amount of the 41 homes labeled 'unclassified' by the September 2009 settlement. This means there has not yet been a decision on whether the homes will be made eligible for sale to tenants or sold to a private developer.

According to Lewis, longtime anti-Caltrans freeway activist, much of this decision rests on prospective development plans and the infrastructure of Bunker Hill, as much of area requires road widening and the installation of new sewage systems.

"One of the issues up there is that they need lot line adjustments, so determining the boundaries is one of the things we need to move forward with," Sorensen said. "We are still talking with Caltrans about what that process looks like, then we can do a proper appraisal of properties."

This could be a lengthy process, one that Melanie Cedeno, a seven-year resident of the neighborhood, believes may not be worth the wait, especially in light of the current state of her home.

“Up here, the biggest issue is retaining walls — the dirt is falling and they don’t do that stuff,” Cedeno said. “If they did a few things, with the foundation or any of the few things that need to be fixed before you a buy a home, I really would like to buy it, because it is really nice up here.”

While Cedeno and other tenants no longer live in the shadow of the proposed construction of a phantom freeway, uncertainty surrounding future living arrangements looms as they wait for a decision on when Caltrans will begin to sell off more property.

For tenants like Stewart, Caltrans’ mismanagement of a once well kept neighborhood has had such an effect that moving on will not seem as difficult a task a initially conceived.

“If the condition of the neighborhood was kept up I would have liked to stay,” Stewart said. “But it’s just no fun living in a dead zone.”

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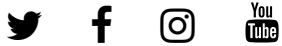
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City on a Hill Press is produced by and for UCSC students. Our primary goal is to report and analyze issues affecting the student population and the Santa Cruz community.

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NEVER IS A LONG TIME

Posted by Pasadena Weekly Staff | Oct 24, 2013 |

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There are some things that people have come to expect to never happen in their lifetime, such as erasing the line that divides North and South Korea and peace in the Middle East.

Until two weeks ago, another was Caltrans relinquishing control of the 587 homes it owns in Pasadena, South Pasadena and the Los Angeles neighborhood of El Sereno, which sit directly in the path laid out for a nearly five-mile road to connect



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the Long Beach (710) Freeway with the Foothill (210) Freeway.

But, kind of like the Berlin Wall, a symbol of the Cold War which was somewhat unexpectedly torn down after 28 years in 1989, that's exactly what has occurred with the freeway connector project. After five decades, the state transit agency is now being directed by the Legislature to sell the homes in the so-called 710 Corridor, once dubbed the "Corridor of Shame" by this newspaper for the shoddy way Caltrans has historically handled its duties as landlords, or, more accurately, slumlords. This dramatic change occurred with Gov. Jerry Brown signing Senate Bill 416. Authored by state Sen. Carol Liu (D-La Canada Flintridge), and co-authored by Democratic Assembly members Chris Holden of Pasadena and Mike Gatto of Glendale, SB416 allows Caltrans to sell the homes "as is," without making any repairs.

This is a significant difference from requirements spelled out in the Roberti Act, so named for former Democratic state Sen. David Roberti, which mandated repairs be made before a sale. However, like Roberti's legislation, the new law, which passed the Assembly by a vote of 77-0 and the Senate by a 38-0 margin, gives current and former tenants in good standing the first right of refusal to purchase their homes at fair market value. And, under Liu's legislation, Caltrans still must make repairs required by lenders or government assistance programs or provide the occupants with a replacement.

Yet, questions remain. Liu's law requires that all single-family residences be offered at an affordable price to present occupants who fall into either low- or moderate-income categories. But, says Joe Cano, a longtime Caltrans tenant and a member of the No 710 Coalition, "This is a quandary." "Do these people really have the money to fix the houses? Would these houses qualify for a mortgage, or are they in such ill repair that the banks won't even touch them?" he recently asked

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the Pasadena Weekly's Justin Chapman. Presently, 400 of the homes in the 710 Corridor are occupied. The rest are vacant or too dilapidated to live in.

Liu's law "still puts the tenants between a rock and a hard place," Cano said. "Either way, they're being mistreated. It's a real complex situation."

The law goes into effect on Jan. 1, but there is no set time line for Caltrans to begin selling the homes, which the agency seems to be in no hurry to do.

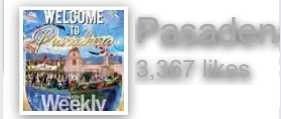
If a past audit of Caltrans' property management is any indicator, it's not likely that the agency will be much better in the home sales department when the time finally comes.

The California State Auditor last year found that between July 2007 and December 2011 Caltrans, which did not verify the eligibility of tenants to be charged below-market rate rents, collected \$12.8 million in rent but lost \$22 million due to underpayment by ineligible tenants. During most of that period, Caltrans reportedly paid out another \$22.5 million for questionable repairs.

The audit also found that Caltrans spent an average of \$6.4 million per year on property repairs but could not demonstrate that repairs for 18 of the 30 projects reviewed by auditors were reasonable or even necessary. The agency authorized repairs that far exceeded the potential rental income of the property. For 20 of the 30 properties reviewed, Caltrans authorized repairs for which it will take more than three years worth of rental income to recover the costs, according to the report.

In addition to that, the audit found that Caltrans estimated that the market value of all the parcels was \$279 million, when the actual sale price for many or potentially all of the residential parcels could be roughly 80 percent less than the estimated market value, in part because of restrictions contained in the Roberti Act.

Making matters even worse for tenants is Caltrans' assertions that it cannot put the homes up for sale



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until 2015, when an alternative connector is chosen from five options, one of them construction of a massive tunnel underneath the land where the surface connector was set to go.

With all the planning that's already been done on the proposed tunnel plan, which is almost universally opposed by people living in Pasadena and South Pasadena, Caltrans should already know which properties would be affected by tunnel construction. It's hard to imagine why another two years is needed to make that determination.

Perhaps now might be the time to get the transit agency out of the real estate business altogether and turn over responsibility for these properties to people who know what they are doing.

We believe a board of concerned citizens, and perhaps already sitting elected officials from the three affected communities, should be formed to work with Caltrans in order to ensure the state transit agency expeditiously does what it's been told by the Legislature to do with those homes and does not screw people out of their rights.

Just as it still remains unlikely that we'll ever see a united Korea or a Middle East without war, the evidence tells us that without supervision and vigilant monitoring, Caltrans will more than likely not do the right thing when it comes to selling those properties.

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BUGGING OUT

Posted by [Pasadena Weekly Staff](#) | Apr 11, 2013 | [0](#) |

By Andre Coleman



After being criticized for plans to build a tunnel to connect the Long Beach (710) and Foothill (210) freeways, as well as a failure to effectively manage more than 500 properties seized through eminent domain nearly five decades ago to make way for what back then was planned as an overland link of the two roads, Caltrans is once again under fire.

Only this time, critics are the tenants of some of those homes, which are now rental properties, who claim the state transportation agency is being hostile toward renters who complain about such things as insect infestation and being charged late fees, even when those payments are made on time.

Today, with the overland connection plan all but dead, and the tunnel project far from approved, one legislator has introduced a bill to get Caltrans out of the real estate business altogether by declaring the so-called 710 Corridor properties surplus. Senate Bill 416, authored by Sen. Carol Liu, D-Glendale, would allow the agency to sell the properties at fair market value.

In August, an independent audit took Caltrans to task for its shoddy management of the properties, and recommended that they be taken over and sold by a joint power authority formed between the cities of Pasadena, South Pasadena and Los Angeles.

There is just one problem: The Roberti Bill.

Authored in the 1980s by former Senate President Pro Tem David Roberti, the bill gives people living in homes for two or more years, and are low- to moderate-income, the chance to buy the property below market value, but for no less than what Caltrans paid for it. And if a person has lived in a Caltrans home for five or more years and their household income does not exceed 150 percent of the county's median income, they would be offered the house "at an affordable price." Former owners who are still living there would get a chance to buy at fair market value, but if they are living there and happen to also be low-income, they too could qualify for an affordable rate.

With the value of those homes now totaling more than \$500 million, it's easy to see why Caltrans would want longtime tenants to get out now.

"Caltrans is going to tenants and telling them they have accumulated a number of late rental fees," said Joe Cano, a resident of El Sereno and an organizer with the group No on 710, who also said Caltrans refuses to provide proof that rents are being paid late. Caltrans also has ignored complaints about the decrepit conditions of some of the aging properties, some of which are run down and infested with bugs and rats.

"Let's face it," Cano said, "if you don't know about this and all of a sudden they come at you with \$500 in late fees, the people being charged late fees can't handle it and the eviction process starts."

In a letter Cano provided to the Weekly, a tenant said that Caltrans does not always properly record the date on which rents are received then refuses to provide proof when late fees are imposed, Cano said.

“Whether your rent is considered late or on-time is not based on a Post Office postmark, but instead on a timestamp, as received by Caltrans’ cashier office in Sacramento,” said tenant Roberto Flores. “If the clerk is absent or overburdened, we are out of luck. If your check is stamped after the 10th [of each month], it is late. Every time we are late, we are charged a \$50 fee. The policy leaves it completely up to Caltrans to decide when they received it. When asked to verify that it was stamped late, Caltrans again refuses to provide evidence. ... The whole process is based on Caltrans practicing good faith, respect for their honor, being professional and efficient. These are all attributes in which we all know Caltrans is challenged and rarely practices. It seems to many that Caltrans is continuing and perhaps even increasing a campaign of harassment as one of many ploys to depopulate the corridor.”

Cano recently shot a video of one home in El Sereno in which bugs and rats can be seen crawling on the floor and kitchen cabinets. He posted the video on YouTube.

“Caltrans would come out and spray and then accuse her of living dirty,” Cano said of the tenant, who he did not name. “She repeatedly requested fumigation and relocation. About 80 percent of her body was covered with bug bites.”

Officials with Caltrans did not return phone calls seeking comment for this story.

In the 1950s and ’60s, Caltrans seized hundreds of properties in Pasadena, South Pasadena and the El Sereno neighborhood of Los Angeles through eminent domain in order to connect the freeways. But three years ago, the overland route was pretty much shelved, due to lack of federal funding. At the time, regional transit officials conceived a 4.5-mile-long tunnel to run underneath South Pasadena and Pasadena as part of a longer route connecting the two freeways.

Last summer, Caltrans and the Los Angeles County Metropolitan Transportation Authority (Metro) came under attack after residents living in West Pasadena learned of plans to connect the two freeways by building the tunnel underneath Avenue 64, which runs through the San Rafael neighborhood of Pasadena. An alternative plan would turn two-lane

Avenue 64 into a six-lane highway from where the 710 ends at Valley Boulevard in Alhambra to the Ventura (134) Freeway.

Last week, LA County Supervisor Michael Antonovich, who is also president of the Metro Board of Directors, told residents during a Pasadena City Council meeting that the proposal to build the tunnel would remain on the table until all studies were completed, despite calls by District 6 City Councilman Steve Madison and several residents to forget about the tunnel option.

In August, the Bureau of State Audits found that between July 2007 and December 2011, Caltrans — which did not verify the eligibility of tenants to be charged below-market rate rents — collected \$12.8 million in rent but lost \$22 million due to underpayment by ineligible tenants. During most of that period, Caltrans reportedly paid out another \$22.5 million for questionable repairs, the audit found.

“They want to run people out and sell at market value,” said Flores. “Sometimes people get a written notice when they are late. One time I got a phone call and one time I got a letter. They add it to the next month’s rent, and if you can’t pay it the next month, they add an additional \$50, so it just keeps building up. I have been in a situation in which I was told I was late and I forced them to admit they had waited a couple of days before they stamped the rent.”

According to Liu’s bill, Caltrans could sell the homes at face value without making any repairs, as was previously required by the Roberti Bill. However, SB416 would give tenants in good standing the first right of refusal to purchase their homes at fair-market value.

“We need to get Caltrans out of the rental housing business and sell off these properties,” said Liu, who sits on the Senate Transportation and Housing Committee. “Real estate management is not part of the department’s mission.”

DOUBLE TROUBLE

Posted by [Pasadena Weekly Staff](#) | Feb 19, 2009 | [0](#) |

By Kevin Uhrich



Pasadena Superior Court Judge Gus Gomez, who at first ruled against one attempt by Caltrans to evict a controversial renter of one of its nearly 500 homes in the so-called footprint of the proposed Long Beach (710) Freeway extension, has sided with the state's second effort to toss out the tenant and his family.

Now, said Don Jones, a longtime social activist and lawyer, the agency's case against him is headed to trial, with attorneys for Caltrans currently scheduling times to inspect his property and take depositions.

"How I interpreted [Gomez's ruling] is he wants to have others consider it," meaning taking the case to trial, said Jones. "So we have to get geared up for a trial, which, of course, means more expense for them; same for me."

Jones is accused of being abusive to a state contractor who did glaringly shoddy work on the roof of his Madeline Drive home nearly three years ago. Jones, however, believes the agency is really trying to oust him and his family because of his involvement in a class-action lawsuit against Caltrans in 1995, his advocacy for other renters and his well-known efforts at organizing other residents to stop plans to bulldoze a path for the proposed 4.5 mile freeway extension from Alhambra north through El Sereno, a

working-class neighborhood of Los Angeles, South Pasadena and the southwest portion of the city of Pasadena.

Because the transit agency accepted rent from Jones soon after he was served with his first eviction notice in July, the state's case was tossed out of court in a mid-October hearing. But days after that, Caltrans again filed paperwork to evict Jones, only to again accept rent in December — this time for nearly \$4,700 — from Jones and his wife, Gloria Lucio. Although records indicate the state tried to return the funds, a notice that the money was being returned was faxed to the wrong number, and consequently Jones' money was in the hands of Caltrans for more than a month-and-a-half.

In his brief and narrow ruling, Gomez, a former Glendale City Councilman who approved the first ruling against Caltrans, said this time the state agency acted properly by rejecting the rent payment made by Jones, even if the state did not immediately notify Jones that the payment was refused.

While Jones' Pasadena attorney, Chris Sutton, who has battled Caltrans over a number of tenant disputes over the years, said many of the facts of the second Jones case were different enough from the first one for Gomez to uphold the eviction, Sutton believes that other issues remain unexamined.

The original attorney in the case, Amanda DeJesus, changed her original complaint about Jones in a declaration for the court. In that declaration, DeJesus added the inflammatory words "threatening" and "harassing" to the initial charges against Jones, who admits telling an allegedly abrasive state contract worker to "get the fuck out of my house."

Also, the second eviction notice, or unlawful detainer, was improperly served by Caltrans, said Sutton and Jones. The copy received by Jones did not have a court filing number or a court stamp, as the law required, Sutton pointed out.

And perhaps most important, a number of US Supreme Court rulings have held that it is not illegal to swear at government employees.

"They basically admitted that they evicted [Jones] for First Amendment reasons. They've been trying to do this stuff for years," said Sutton. "You have the right to swear at the government," he continued. "It's

rude and it's uncouth, but it's not illegal. The government can't control what we say to each other. ... Caltrans managers are deaf to their constitutional responsibilities."

The case against Jones, Sutton said, "is clearly First Amendment-based. Caltrans wants to silence all its critics." At trial, Sutton hopes to call dozens of tenants who have similar problems with Caltrans to demonstrate that the case against Jones is a "politically based prosecution."

One fellow Caltrans tenant, who is currently embroiled in a separate lawsuit with the agency that is set for trial in June, flatly stated that Caltrans is the worst slumlord she has ever encountered — always promising but rarely delivering on desperately needed repairs. Jones, she said, has every right to be angry about the work done on the roof, which has not been repaired in the three years since the incident, with water still seeping through the cracks, warping the wood.

"I feel terrible that Don is in this situation," said Lizz Wolf, a film-industry costume designer who has been battling Caltrans for nearly eight years over mold growing in her home and other unaddressed problems. "I know Don has suffered a lot at the hands of these people," Wolf said.

A few days after a story about Jones' case appeared in the Pasadena Weekly, and one week prior to the case being presented to Judge Gomez, Caltrans replaced DeJesus with attorney Paul Brown.

DeJesus declined to speak about the case, claiming that it was part of pending litigation. Brown did too. Caltrans spokeswoman Deborah Harris also declined to discuss the case, also citing pending litigation.

Jones' eviction by the state transportation agency — some of whose administrators over the years have admitted that the department is a poor landlord in managing its more than 18,000 parcels around the state — comes at a potentially opportune time for Caltrans.

The proposed freeway corridor through the three communities contains 486 Caltrans-owned homes — 122 of them in Pasadena, including Jones'. A total of 85 of all those structures, or 17.5 percent, sit vacant, some in such bad condition that they cannot be rented; others are refurbished but unrented.

Caltrans reports these high vacancy rates as state lawmakers struggle to find affordable homes for a growing number of low-income families and consider two alternate plans for the proceeds from the sale of those homes — one to help fund higher education, the other to underwrite plans between Caltrans and the MTA to build twin tunnels costing up to \$3 billion instead of the surface freeway, for which no funding is available.

Currently, those homes, all seized by eminent domain in the last 1960s and early '70s, can only be sold by Caltrans to eligible low-income renters or nonprofit organizations. After that, they could go to city housing agencies to be used for affordable housing stock.

Caltrans District 7 property manager Linda Wilford, who is responsible for handling tenant concerns in the 710 Corridor and evicting supposedly problem tenants, has refused to comment for this story. “It’s not cheap and it’s a ridiculous waste of resources, particularly since they don’t have a basis” for the eviction, Jones said. “The state is facing layoffs. Why do they want to spend thousands of dollars of taxpayer money to harass me?”

For the first time in decades, **Caltrans** has sent offer letters to tenants living in houses located along the defunct surface route of the north 710 Freeway extension.

Tenants living in 42 properties — mostly single-family homes — will have the option of buying the property from **Caltrans** after years of paying rent to the state agency.

Residents of the **Caltrans** homes along a narrow strip in South **Pasadena**, **Pasadena** and El Sereno, a neighborhood of Los Angeles, will have 120 days to answer. If they say yes, they will be directed to work with an independent real estate firm contracted by **Caltrans** to determine whether they qualify for the affordable price sales program or a fair market value purchase, **Caltrans** officials said Monday. To qualify for a reduced price, the resident must not own other property and have an income not more than 150 percent of the median income in Los Angeles County.

Other options include a third party, such as a city housing authority, buying the home or apartments and then renting at an affordable rate to the tenant. If a current tenant declines but a former tenant qualifies and buys the home, the tenant may be forced to move out, explained Zoltan Elo, manager with the District 7 Right of Way Division of **Caltrans** in Sacramento.

Caltrans, through its contractor, Veterans Realty Group of Corona, will help with finding a new place to live or with rental differential assistance. VRG, in partnership with **Caltrans**, are holding two homebuyer education classes for Phase 1 tenants, one on Jan. 7 at the El Sereno Branch Library and on Jan. 21 at South **Pasadena** Community Center.

“We are hopeful that every one (of the tenants) are able to purchase these properties and the neighborhoods would remain as similar as possible,” Elo said.

One tenant, Linda Krausen of South **Pasadena**, has reported receiving the letter on Friday and will most likely check the “yes” box on the response form, said Chris Sutton, attorney representing some of the tenants. “I believe she will qualify. She is on Social Security and retired,” he said.

Sutton said the movement from **Caltrans** to sell the surplus property as they promised in July and in late August is indeed in progress, but the complicated process to sell homes in an effort to supply housing to people of low and moderate incomes as per the so-called “Roberti Law” may be fraught with pitfalls.

Caltrans said they would like each buyer to finish the purchase in one year. Sutton said **Caltrans**’ restrictions can make finding a lender difficult. He said the last sale of about 46 properties mostly between 1996 and 1999 often resulted in confusion and some buyers needed two or three years to get a mortgage.

For example, to buy at the affordable price, if the owner wanted to sell, he or she is restricted from keeping the proceeds because a portion must be returned to Caltrans for five years. Buying the property "as is" has fewer restrictions, he said.

Nonetheless, the sale of homes on Prospect and Meridian avenues in South Pasadena and Waverly Drive in Pasadena, at the very least, signals the death knell for a surface route extension from Valley Boulevard in Alhambra through El Sereno, South Pasadena and Pasadena to the 210/134 junction.

Building a tunnel is still a possibility, but the \$3 billion to \$5 billion tunnel project was omitted from the list of rail and highway projects to be funded by Measure M, the half-cent sales tax approved by voters in Los Angeles County in November that will raise \$121 billion in four years for Metro.

"It is high time that Caltrans started disposing of these properties. It is first time that Caltrans has been forced to take a step back. I am encouraged," said state Sen. Anthony Portantino, D-Glendale. He and former state Sen. Carol Liu fought against the freeway extension and for decades lobbied to get Caltrans to sell the homes, many of which became empty and fell into disrepair.

"I'm very happy this day is here," Portantino said.

Sutton said he is not happy that Caltrans won't finish selling all 460 properties along the scuttled freeway route until around 2020 or later. Many residents and nonprofits are still waiting for their offer letters and will have to wait for the next rounds to start at the end of 2017, said Lauren Wonder, Caltrans spokesperson, in an emailed response.

"Now that it is a tunnel, all the properties are surplus and it should be done all at once," Sutton said. Wonder said the sale of all the properties depends on what happens with the project. Besides a tunnel, other alternatives include: a traffic management solution such as new surface roads, a dedicated bus line, a light-rail train or no-build.

sscauzillo@scng.com @stevscaz on Twitter

CITATION (CMS STYLE)

Scauzillo, Steve. "710 Freeway Tenants offered chance to buy homes from Caltrans." *Pasadena Star-News (CA)*, December 20, 2016: 1. *NewsBank: Access World News*. <https://infoweb-newsbank-com.ezproxy.lapl.org/apps/news/document-view?p=AWNB&docref=news/161643D0F43EF448>.

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Cities along the route of the defunct 710 Freeway north extension are seeing their alternative traffic-relief projects get funded after six decades of stalemate.

However, the sale of hundreds of surplus homes in the path of the extension has not moved ahead as quickly, with revenues barely trickling into Caltrans coffers for use in road and freeway improvements.

In the eventual sale of about 460 properties listed as surplus in El Sereno, South Pasadena and Pasadena, only 10 have been sold by Caltrans so far, said Abdollah Ansari, managing executive officer of the highway program for the Los Angeles County Metropolitan Transportation Authority, during an agency ad hoc meeting Wednesday on the 710 "gap" plans.

To complicate things further, seven tenants who have waited nearly all their lives to purchase their homes under a special state-enacted "affordable housing" law specifically written for their benefit, have sued Caltrans.

They say the state agency violated the law by charging an "inflation-adjusted price" that they say is illegal, egregious and may raise the purchase price between 500 percent and 600 percent.

"This will have drastic implications for tenants who qualify for the Affordable Sales Program," concluded a letter from the Caltrans Tenants Association to its members.

Roberti Bill

Several tenants asked for relief

in protest letters sent in the spring and summer but Caltrans held its ground, saying accounting for inflation was proper government procedure.

As a result, the tenants and the United Caltrans Tenants, another tenants' group, filed an updated lawsuit in Los Angeles Superior Court on Nov. 7.

They are asking Caltrans to sell the homes without any inflation adjustment, saying the added charge is a violation of a law that protects affordable housing sales of the 710 extension homes known as the Roberti Bill.

The seven plaintiffs are four tenants, two prospective buyers and one renter who has already settled with Caltrans.

They are represented by Christopher Sutton, a Pasadena attorney who has tangled with Caltrans on numerous occasions and is acquainted with the complicated laws surrounding the sale of these older, Craftsman-style bungalows located near Pasadena Avenue in Pasadena and along

Meridian Avenue and on various cross streets in South Pasadena and in El Sereno, a neighborhood of Los Angeles.

Sutton argues the Roberti Bill does not give Caltrans the authority to create an “inflation-adjusted price” on the sale of four surplus residences.

Instead, he called it an “underground” regulation imposed on tenants without warning, causing harm by charging a sales price that is “four to six times” the affordable value under the Roberti Bill, whose sole purpose was to protect affordable housing sales.

Unconstitutional?

In a response to a protest letter from Alexi Shatz, one of the original seven plaintiffs, Caltrans Deputy District Director Andrew Nierenberg defended the practice, saying any properties obtained using gas tax dollars are considered an investment.

“Caltrans must adjust the original acquisition price for inflation because to do otherwise would violate the public trust by not retaining the accretions and interest accumulated on the property. If Caltrans sold the property for less than its original purchasing power, Caltrans would then have used gas tax revenues for an unconstitutional purpose,” he wrote in a Feb. 27 letter.

The lawsuit argues Caltrans is reducing the equity in the home at the time of a future resale, a form of theft. Equity mostly would flow to an agency charged with building affordable housing, called the California Housing Finance Agency.

Sutton also says Caltrans cannot use opinions of its staff to override the Roberti Bill nor the state attorney general, who in 2009 was Jerry Brown.

Brown ruled the law was constitutional and useful in providing affordable housing to long-term tenants of surplus Caltrans houses.

“This is a form of administrative arrogance and a breakdown of the rule of law,” Sutton wrote in the lawsuit. He said the gas tax revenues are used to pay for highway improvements and also to help provide affordable housing, so there is no concern.

Nierenberg wrote that even with the inflationary adjustment, the homes “are being offered for sale at an affordable price that is well below the fair market value of the property.”

In the instance of tenant Priscela Izquierdo, the Roberti Bill affordable price is \$314,000 but the inflation-adjusted price is \$550,000.

The court has set a hearing for Dec. 21.

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Scauzillo, Steve. "housing Tenants sue Caltrans over sale prices - Renters in path of defunct 710 Freeway
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southern california - Vacant homes are called a - Orange County Register, The (Santa Ana, CA) - August 11, 2019 - page 8

August 11, 2019 | Orange County Register, The (Santa Ana, CA) | By Steve Scauzillo sscauzillo@scng.com @stevscaz on Twitter | Article | Page 8

With California mired in a housing shortage, a state agency is allowing hundreds of houses and surplus lots in the neighborhoods of El Sereno, South Pasadena and Pasadena to sit vacant — many for years — denying a potential source of housing for residents.

After a three-month investigation, Southern California News Group determined that the number of vacant homes — a portion of the 460 Caltrans bought during the 1950s, '60s and '70s to make way for an extension of the 710 Freeway that was canceled two years ago — has increased by 150% since November 2013.

Caltrans listed 65 vacant residences, many boarded up, in a document obtained by SCNG from sources close to the 710 corridor tenants, stamped "110513" or Nov. 5, 2013.

On July 29, Caltrans supplied an updated list showing 163 vacant dwelling units, mostly single-family homes with a few multifamily residences.

The document was provided in response to a state public records request for the latest number of vacant structures in the three-city freeway corridor.

In Pasadena, 50 units are vacant, including two apartment complexes, according to the updated Caltrans list. This represents about half of the properties owned by Caltrans in Pasadena.

"We are in the middle of a housing crisis, and you have a state agency intentionally leaving units vacant?" said Pasadena attorney Christopher Sutton, who has represented Caltrans tenants in court in the past several decades.

Caltrans officials responded to questions via email, saying the vacant homes would be sold according to laws allowing qualified tenants to buy the homes at affordable prices or others at market value. Caltrans did not say they would rent the vacant homes. No date was given for the sale of vacant homes.

In the fall of 2016, Caltrans announced it would begin offering 42 homes for sale, but so far, only 10 have been sold, Sutton said. Hundreds more are supposed to be sold by 2020. Although former tenants could be considered as potential buyers, many have died, missing out on the promised opportunity to buy the homes they lived in for decades.

Ghost towns

Resident Lisa Almeida, 67, walked Sheffield Street in El Sereno, a modest Los Angeles neighborhood just across the western border of Alhambra in the path of the defunct freeway, and counted vacant Caltrans homes. Just on her small block between Norwich Avenue and Allan

Street, eight homes were empty, and **Caltrans** had two lots for sale.

Further north on Sheffield, many more homes are boarded.

"I stopped counting after 35," she said. "And 35 is a big number. That's sad."

Almeida, who lives in a **Caltrans** home rented by her mom, Maria Almedia, 90, for 38 years, said some elderly residents died of lung cancer or heart attacks, but others were evicted by **Caltrans**. She wants to see **Caltrans** repopulate the vacant homes.

"Why are they hoarding these houses?" she asked. "Why don't they rent them?"

Last Tuesday, she passed a vacant lot at the end of her block with a **Caltrans** ownership sign. She fears it will be sold to a developer without any assurances to the low-income residents of El Sereno that a new home or a multifamily building built there will be affordable.

"Why not get Habitat For Humanity? They can build four tiny houses on this property," she said.

Pasadena rate high

The hodgepodge of vacant homes roughly align the path of the now defunct 710 Freeway extension, from El Sereno to South **Pasadena** and **Pasadena** on both sides of the 710 ditch between **Pasadena** Avenue and St. John Avenue.

Art Alcantara lives in a **Caltrans** home next door to 1141 **Pasadena** Ave., a vacant home owned by **Caltrans**. He remembers when his neighbor moved out shortly after her husband died.

"For three years, there's been no one there," he said, while working in his garage on Monday. "After the woman left, they (**Caltrans**) never rented it out anymore. I guess they are really not that interested."

On nearby State Street, at least four **Caltrans** homes stand vacant. At 237 State St., a two-story home with off-white stucco and green, wooden windows has sat empty for 16 years, Sutton said. This was after **Caltrans** invested money to restore this and other select homes.

The house was designed by famous 20th Century architect Frederick Louis Roehrig, often referred to as the millionaire's architect.

Many stately craftsman and midcentury modern homes along the freeway corridor are owned by **Caltrans**, according to Claire Bogaard, a member of the **Pasadena** Heritage board and chairman of the No 710 Action Committee. The committee worked to nullify plans for a freeway extension and now is concentrating on convincing **Caltrans** to sell or rent the surplus homes at affordable rates.

One of the most well-known is the childhood home of famous TV chef Julia Child. The 1911 house built by G. Lawrence Stimson is vacant and in disrepair. About seven years ago, Bogaard took a tour with **Caltrans** officials of the Roehrig house on State Street after the state transportation

agency had refurbished the home. She remembers a rope that released a secret stairway inside the home, what she called “a very elegant, beautiful house” with wood floors and twin fireplaces.

“That is one house they (Caltrans) could sell. But it just sits there, vacant,” she said, pleased at least some were repaired.

Left to rot

In a letter to Caltrans Director Laurie Berman dated May 29, sent on behalf of the No 710 Action Committee, Bogaard accuses the agency of leaving most of the nearly 500 homes to rot, saying the bulk are in “poor or deplorable condition due to lack of maintenance on the part of Caltrans.” She and letter co-author Janice SooHoo suggest Caltrans allow local real estate agents and/or nonprofit housing agencies to “assist with the affordable sales.” They urged Caltrans to expedite sales and rentals by working with the local cities.

They said although Caltrans claims it intends to sell the vacant homes and restore neighborhoods, “progress on this plan is almost non-existent.”

“With over 450 houses already planned for sale, which are suited to various levels of housing needs, Caltrans should help address this critical housing shortage by prioritizing the sales process of its real estate in the former 710 Corridor,” they wrote.

Forcing evictions?

In their letter, Soohoo and Bogaard also allege Caltrans is making it so difficult for tenants who participate in the affordable rent program that they become frustrated and leave — some into homelessness.

“Caltrans continues to raise rents and is forcing tenants out — sometimes by refusing to accept rent payments — and then leaving the property vacant and subject to vandalism, etc.” they wrote in their letter.

Lydia Sanchez, a renter living on a fixed income of Social Security and disability of \$1,200 a month, was paying about \$1,559 per month in rent because Caltrans said she failed to file the correct paperwork to qualify for the affordable rent program, said Roberto Flores, founder of United Caltrans Tenants, a support group for tenants in El Sereno. The group helped her file the correct forms, but it took almost six months, he said.

“They got so frustrated, they feel that have no way out except to move out,” he said.

Flores said it is a practice of Caltrans to stop accepting rent and then a year or two later, send a notice of back due rent with penalties. Sometimes the renters are faced with a bill of \$3,000 to \$4,000 and are unable to pay, so they are evicted, he said.

In an email, Caltrans said eight properties became vacant in 2018: Occupants of four moved out “on their own volition, two tenants passed away” and two were evicted. The agency said there are circumstances in which the agency does not accept rent, usually “when a tenant is involved in

litigation or other dispute with Caltrans.”

Flores believes Caltrans would rather see tenants leave so the state can sell the homes at market rates. “Caltrans intentionally has plans to depopulate the corridor, and they are pursuing those plans,” he said.

Caltrans denied it is trying to purposefully empty the homes. The agency said it works with tenants who cannot afford rent by starting a payment plan or working to put the tenant back into the affordable rent program. Flores and others want to see tenants buy homes at affordable rates sooner rather than later. “The mission of the state is to utilize everything possible to contribute to affordable housing and to provide more affordable housing, thereby putting a dent in the housing and homeless crisis in the state,” he said.

He and state Sen. Maria Elena Durazo, D-Los Angeles, sought to stop an auction of 710 corridor vacant lots that was set for Friday. “There should be no more sales to developers,” Flores said. “Because that will gentrify El Sereno.”

While the auction proceeded as planned, Caltrans’ 710 corridor properties were removed.

Meanwhile, Bogaard said she has not received a response to her letter.

CITATION (CMS STYLE)

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