

Esparza, Patty

From: Fikes, Cathy
Sent: Tuesday, February 18, 2020 10:07 AM
To: Agenda Alerts
Subject: FW: Correspondence from Californians for Homeownership
Attachments: 2020-2-18 - Californians Letter to City Council.pdf

From: Matthew Gelfand <admin@caforhomes.org> **On Behalf Of** Matthew Gelfand
Sent: Tuesday, February 18, 2020 1:58 AM
To: Brenden, Patrick <Patrick.Brenden@surfcity-hb.org>; Carr, Kim <Kim.Carr@surfcity-hb.org>; Delgleize, Barbara <Barbara.Delgleize@surfcity-hb.org>; Hardy, Jill <Jill.Hardy@surfcity-hb.org>; Peterson, Erik <Erik.Peterson@surfcity-hb.org>; Posey, Mike <Mike.Posey@surfcity-hb.org>; Semeta, Lyn <Lyn.Semeta@surfcity-hb.org>; CITY COUNCIL <city.council@surfcity-hb.org>; Fikes, Cathy <CFikes@surfcity-hb.org>
Cc: Gates, Michael <Michael.Gates@surfcity-hb.org>; Luna-Reynosa, Ursula <ursula.luna-reynosa@surfcity-hb.org>; Chi, Oliver <oliver.chi@surfcity-hb.org>
Subject: Correspondence from Californians for Homeownership

To the City Council:

Please see the attached correspondence regarding Agenda Item 23 being discussed at your upcoming meeting. The attachments will follow in a separate email.

Sincerely,

Matthew Gelfand
matt@caforhomes.org

SUPPLEMENTAL COMMUNICATION

Meeting Date: 2-18-2020

Agenda Item No.: 23 (20-1393)



February 18, 2020

VIA EMAIL AND MESSENGER

City Council

City of Huntington Beach

2000 Main Street

Huntington Beach, CA 92648

Email: patrick.brenden@surfcity-hb.org; kim.carr@surfcity-hb.org; lyn.semeta@surfcity-hb.org;
jill.hardy@surfcity-hb.org; erik.peterson@surfcity-hb.org; mike.posey@surfcity-hb.org;
barbara.delgleize@surfcity-hb.org; city.council@surfcity-hb.org; cfikes@surfcity-hb.org

RE: February 18, 2020 City Council Meeting, Agenda Item 23.

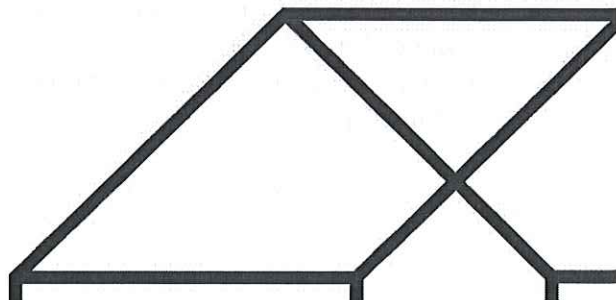
To the City Council:

Your February 18, 2020 meeting will mark a key landmark in what should have been a simple story. A city, hoping to meet its state-mandated affordable housing goals, designates a corridor for medium-density mixed-income development. A property owner on that corridor accepts the invitation and works for several years to design a project that complies with all of the city's standards, downsizing the project along the way. The applicant works closely with the city's professional staff, meeting all of their demands, addressing all of their concerns about traffic and fire safety, and earning their recommendation of approval.

That should have been the end of the story. This project is as much a product of City staff's input as the applicant's choices. The decisions about how to configure the building, where to locate various features, and what life safety features to include all reflect the direction of City staff. The City's elected officials should have accepted the professional judgment of their staff and approved this zoning-compliant project, as the law requires.

Instead, the City betrayed its own staff and rejected the project. So we sued the City to send a message to all of California's cities and counties: it is no longer acceptable to engage in this sort of bait-and-switch zoning.

Knowing that the City's earlier denial wouldn't hold up in Court, the City Attorney hired outside consultants to second-guess the conclusions of the City's own staff. Ultimately, it was all for naught. After months of review and untold thousands of dollars spent on consultants, the City has come up with nothing new, and its consultants have undermined even its weak arguments for rejecting the project.



The analysis of the traffic safety consultant, Mark H. Miller, focuses two concerns.

First, he discusses the risk of collisions at the Ellis/Patterson intersection, identifying two features of the intersection that he finds objectionable.¹ He confirms that both can be corrected through simple mitigation measures on the part of the City (adding red curbs and re-directing pedestrians to signalized intersections). The City should just make those improvements.

Along the way, he undermines three of the City's basic justifications for rejecting the project by confirming that the collision rates at the Ellis/Patterson intersection are "well below the State average . . . for similar types of intersections," that the project provides adequate fire department access as designed, and that it meets the City's bicycle access rules.

Second, Mr. Miller discusses congestion on Ellis Avenue, suggesting that congestion will lead to "driver frustration and impatience" and speculating that that could lead to unlawful behavior by drivers resulting in additional collisions. But he does not consider the level of projected traffic from the project, how that number compares to the total traffic on Ellis Avenue, or how it compares to the current use of the site as a carryout retail store with no turning restriction at its entrance. Indeed, his analysis of the impact of congestion ignores the nature of the use of the property altogether. He simply assumes that any use of the property will lead to conflicts with the existing congestion on Ellis Avenue. The exact same analysis could be used to reject the use of any property along Ellis Avenue (and many other streets in the City), for any purpose, in any ingress/egress configuration.

In any event, Mr. Miller's only support for the claim that congestion leads to collisions is a misleading citation to a AAA summary of decades-old "conventional wisdom" among planners. The AAA report does not endorse that "conventional wisdom," and modern research has suggested that the opposite is true for non-freeway congestion.² This makes sense, of course; slower-moving vehicles are easier to control and less capable of causing harm. Indeed, the only collision that Mr. Miller describes in detail happened outside of the high-congestion times identified in his report.

Just as interesting as what's in Mr. Miller's report is what's missing from it. He does not make any findings regarding the impact of the project after accounting for his proposed mitigations. Nor does he analyze any of the myriad other potential mitigations that would address the concerns he raises, such as prohibiting left turns and/or U-turns at the Ellis/Patterson intersection, signalizing the Ellis/Patterson intersection, using plastic bollards or channelizers to create a "porkchop" in the project's entrance, using plastic bollards or channelizers to separate Ellis Avenue, or applying traffic calming measures to Ellis Avenue.

¹ Mr. Miller's report does not discuss the risk of collisions at the Ellis/Beach intersection, presumably because the City has found that the Elon project had a significant positive effect on the safety of that intersection and a discussion of that intersection would not help the City's case.

² See, e.g., https://www.roads.maryland.gov/OPR_Research/MD-03-SP308B46-Congestion-Vs-Accidents-Report.pdf ("The estimation results, based on the available sample data, reveal that accident rates on local arterials tend to decrease with an increase in traffic volume.").

Nor does Mr. Miller attempt to quantify, in any way, the impact of the project on public health and safety. He provides no estimate of the number of additional collisions that would result from the project's development, or the number of injuries or amount of property damage that would arise relative to the current use of the property.

In sum, if Mr. Miller was hired to help the City justify its rejection of the project, the City Attorney should have hired someone else.

The "fire and life safety" report from James F. McMullen is even less helpful. Mr. McMullen concedes that he was given access to "minimal information," including only "incomplete" and "conceptual" plans for the project. Remarkably, although flying nearly blind, Mr. McMullen criticizes the results of the detailed fire department plan check performed by the City's own Steve Eros, a veteran fire safety professional and April 2018 winner of the Mayor's Award.³

Because he did not get complete information, Mr. McMullen's report is an exercise in blind speculation about how the project might be configured, what materials it might be constructed out of, and the like. It's not surprising, then, that it contains glaring inaccuracies. As an example, the report suggests that the applicant provided only one fire safety improvement to mitigate the long fire hose line distance required by the project's design, concluding (without explanation) that that single mitigation was inadequate. But at the September 3, 2019 City Council meeting, Mr. Eros explained that the applicant had agreed to four mitigation measures, and that he deemed them adequate in his professional judgment.⁴

Is the City Council really going to undo the results of the close consultation between the applicant and the City's professional fire staff based on Mr. McMullen's ill-informed and half-hearted criticisms?

Even putting aside all of the inadequacies described above, the City cannot legally reject the Ellis Avenue project based on these new reports, because doing so would violate the Housing Accountability Act. Indeed, the Act is designed to confront exactly this sort of pretextual anti-housing decision-making process.

Before the recent improvements to the Housing Accountability Act, the Legislature observed that cities were engaging in bait-and-switch zoning. Cities would satisfy their RHNA, Housing Element, and other state housing obligations by designating areas for higher-density residential development, just as Huntington Beach did with the Beach and Edinger Corridors Specific Plan. Landowners and developers would take those designations seriously, working with city staff to develop zoning-compliant projects, just as the applicant did here. But when those projects faced NIMBY opposition, the cities' elected officials would ignore their own land use rules and reject the projects based on vague and subjective findings and standards invented post-hoc. If the applicant came back with a new proposal that attempted to address the elected officials'

³ <https://www.huntingtonbeachca.gov/announcements/announcement.cfm?id=1207>

⁴ Sept. 3, 2019 City Council Meeting Video at 2:51–2:53.

concerns, the officials would simply come up with a new set of complaints. This process would repeat, ad infinitum, with the goalposts always moving out of reach.

So the Legislature developed and refined the Housing Accountability Act. Today, the Act forces elected officials to stick to their objective land use and health and safety standards, as they exist at the time a development is proposed. Elected officials can only reject a zoning-compliant housing development project if it would create a significant, quantifiable, direct, and unavoidable impact to public health and safety, based on objective, identified written public health or safety standards, policies, or conditions as they existed at the time of the development application. A standard is not objective unless it “involv[es] no personal or subjective judgment by a public official and [is] uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.”⁵

The analyses in the City’s consultant reports were not made public until a few days ago, so they cannot be used to justify the City’s findings under the Act. Nor can the City credibly claim that there exists any criteria “knowable by both the development applicant or proponent and the public official” that justifies rejecting this project, because its own staff could not identify any when they considered the project. The City’s attempt to create a post-hoc rationalization for its rejection of the project is exactly the sort of conduct the Act was designed to prohibit.

That the City might reject this project is particularly galling given the historic context. Just weeks ago, the City amended its Housing Element, again reiterating that it wants development on this corridor, at this density, on similarly sized and shaped lots. Is the City going to use these same justifications to bar development at the sites identified in its Housing Element amendment? The City cannot have its cake and eat it too. The City cannot repeatedly identify an area for housing development to satisfy its state housing obligations, and then use the state of its own infrastructure to justify denying development applications in that area.

If the traffic configuration in the area covered by the Beach and Edinger Corridors Specific Plan is broken, the City should fix it. In fact, the City expressly recognized the need to improve circulation at the Ellis/Beach intersection in the Beach and Edinger Corridors Specific Plan. *See* BECSP Section 3.1.2(6). Where is the City’s plan to improve circulation along Ellis Avenue? What has the City been doing with the thousands of dollars in circulation improvement impact fees it charges, if not using that money to improve circulation where it has identified a deficiency?

So once again, we find ourselves asking the City: what’s it going to be? Are you going to make the only lawful choice you can, and approve this project as proposed? Or are you going to again send the City into months or years of litigation, exposing the City to the risk of fines and liability for attorneys’ fees?

The rest of this letter sets forth the basis for our legal claims if you make the wrong choice.

⁵ Gov. Code § 65589.5(h)(8).

As part of the Legislature's effort to address California's housing crisis, the Housing Accountability Act places sharp restrictions on local land use decisions.

For several decades, California has experienced a significant housing access and affordability crisis. In recent years, this crisis has reached historic proportions. As a result of the housing affordability crisis, younger Californians are being denied the opportunities for homeownership and housing security that were afforded to previous generations. Many middle and lower income families devote more than half of their take-home pay to rent, leaving little money to pay for transportation, food, healthcare, and other necessities. Unable to set aside money for savings, these families are denied the opportunity to become homeowners, and are at grave risk of losing their housing in the event of a medical issue, car trouble, or other personal emergency. Indeed, housing insecurity in California has led to a mounting homelessness crisis. And the crisis has had a disproportionately harmful effect on historically disadvantaged communities, including individuals with physical and developmental disabilities and communities of color.

What's more, the housing crisis is having a severe impact on the environment, in California and beyond. When workers are denied housing opportunities near job centers, they are forced to commute long distances to find housing they can afford. This contributes to air pollution, greenhouse gas emissions, and traffic.

At the core of California's housing crisis is its failure to build enough new housing to meet the needs of its growing population. The Legislative Analyst's Office estimates that, from 1980 to 2010, the state should have been building approximately 210,000 units a year in major metropolitan areas to meet housing demand. Instead, it built approximately 120,000 units per year during that period. And the situation is getting worse: in the five-year period from 2013 to 2017 California issued building permits for less than half as many units as it did in 1985-1989. Today, California ranks 49th out of the 50 states in existing housing units per capita.

The legislature has recognized that the housing crisis is an emergency that requires immediate, proactive solutions: "The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives." Gov. Code § 65589.5(a)(2)(A). As part of its efforts to address the crisis in the 1980s, the legislature passed the Housing Accountability Act (often called the "anti-NIMBY law"), which limits the ability of localities—like Huntington Beach—to reject proposed housing development projects. In recent years, it has strengthened the law by adding additional penalties for non-compliance and providing a statutory right of action for housing organizations (like Californians for Homeownership) to sue to enforce the law.

The Housing Accountability Act generally requires the City to approve a housing development project if it complies with the City's applicable, objective development standards. Gov. Code § 65589.5(j)(1). If the City determines that a project is consistent with those standards, but nevertheless proposes to reject it, it must make written findings, supported by a preponderance

of the evidence, that the project would have a specific, unmitigable, adverse impact upon the public health or safety. Gov. Code § 65589.5(j)(1).

These provisions apply to all housing developments, including the development of market-rate housing. Gov. Code § 65589.5(h)(2); see *Honchariw v. Cty. of Stanislaus*, 200 Cal. App. 4th 1066, 1074-76 (2011). And the Legislature has directed that the Act be “interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” Gov. Code § 65589.5(a)(2)(L).

When a locality rejects a housing development project without complying with the rules described above, the action may be challenged in court in a writ under Code of Civil Procedure Section 1094.5. Gov. Code § 65589.5(m). The legislature has significantly reformed this process over the last few years in an effort to increase compliance. Today, a non-profit organization like Californians for Homeownership can sue without the involvement or approval of the project applicant, to protect the public’s interest in the development of new housing. A locality that is sued to enforce the Act must prepare the administrative record at its own expense, on an expedited basis. Gov. Code § 65589.5(m). The locality, not the plaintiff, bears the burden of proof in such a lawsuit. Gov. Code § 65589.6. And if an enforcement lawsuit brought by a non-profit organization is successful, the locality must pay the organization’s attorneys’ fees. Gov. Code § 65589.5(k)(2). In certain cases, a court can also impose fines that start at \$10,000 per proposed housing unit. Gov. Code § 65589.5(k)(1)(B)(i).

The Ellis Avenue project meets all of the City’s objective development standards.

Under the Housing Accountability Act, a housing development project must generally be approved if it meets the City’s “applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete.” Gov. Code § 65589.5(j)(1). The City cannot lawfully find that the Ellis Avenue project fails to meet its applicable, objective standards.

First, none of the development standards referenced in the City’s proposed Findings of Denial are objective. “Objective” means “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” Gov. Code § 65589.5(h)(8). The standards referenced by the City do not meet this high bar. As an example, there is no “external and uniform benchmark or criterion” that an applicant can use to determine whether its project is “of compatible proportion, scale and character to complement adjoining uses.” Indeed, that is exactly the sort of vague, subjective standard that the Housing Accountability Act was designed to prohibit. Of course, the City does have objective height and size standards, all of which the project meets.

Second, even if the City’s standards were objective, the City must find that the record evidence “would allow a reasonable person to conclude” that the project meets those standards, because that was the determination of its own professional staff. See Gov. Code § 65589.5(f)(4).

Third, some of the City's proposed findings are directly rebutted by the new reports from the City's consultants. For example, the City's proposed findings fault the project's bicycle infrastructure, but the report from Mark H. Miller indicates that the project complies with the City's bicycle infrastructure standards.

Fourth, the City's proposed findings are internally inconsistent. For example, the finding that the "project does not support the vibrant commercial corridor envisioned in the BECSP Five Points District because only one and a half percent (1.5%) of the total square footage of the project is allocated to commercial use" is inconsistent with the City's stated concerns about the project's traffic impacts. Commercial use is a more intensive form of use than residential use, leading to far greater traffic impacts. If the City is genuinely concerned about the traffic impacts of this project, why is it faulting the applicant for proposing a less intensive use?

The Ellis Avenue project will not cause public health and safety impacts that justify rejecting the project under the Housing Accountability Act.

To reject a project based on concerns about public health or safety, a city must find based on a preponderance of the evidence that the project would have a "specific, adverse impact upon the public health or safety," meaning that it would have "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." Gov. Code § 65589.5(j)(1)(A) (emphasis added).

We have provided a detailed discussion of the City's new consultant reports on pages 2–4 of this letter. For the reasons discussed above, the reports do not provide any factual support for the City's proposed findings regarding impacts to public health and safety. But even if they did, the findings would be legally insufficient to justify rejecting the project.

The fire and life safety impacts discussed in James F. McMullen's report are so non-substantive that it is impossible to meaningfully analyze them using the rubric mandated by the Housing Accountability Act. Mr. McMullen concedes that he was given "minimal information" about the project by the City Attorney. To the extent that Mr. McMullen cites any specific standards, the report just reflects his disagreement with the (much more detailed) fire department plan check performed by City staffer Steve Eros. As we explain above, Mr. McMullen's analysis of that issue is also factually incorrect. The rest of Mr. McMullen's report is just a vague list of issues that he would consider looking into if he had been given more information about the project.

As for the traffic-related impacts discussed by Mark H. Miller:

The traffic-related impacts referenced by Mr. Miller are not "quantifiable" or "significant." As we explain in greater detail above, Mr. Miller makes no attempt to quantify the actual health and safety impacts arising from the project. This is not a minor error. Because of this flaw, it is impossible to use his analysis to compare the level of harm that the project would

create as opposed to the current use of the property⁶ or any other use of the property. Or, for that matter, any use of any other property anywhere in the City. The same basic analysis could be used to justify rejecting any use of any land in the City.

The impacts referenced by Mr. Miller are not direct. Much of Mr. Miller's report is devoted to a discussion of the City's poor roadway design, traffic conflicts created by the Elon project, and the congested state of Ellis Avenue. He then suggests that, because these conditions exist, any use of the project site will result in potential additional traffic conflicts. But that is not this project's fault. If the problems identified in Mr. Miller's report exist, the City needs to address the issues giving rise to them, not use them as an excuse to prohibit new housing development.

The impacts referenced by Mr. Miller are not unavoidable. Mr. Miller discusses only two potential methods for mitigating the traffic impacts of the project. And he concludes that those methods will work! As we discuss in additional detail below, if the City has remaining concerns about traffic impacts after applying those two simple mitigation methods, there are myriad additional mitigations it must consider before rejecting the project.

The impacts referenced by Mr. Miller are not based on identified written public health or safety standards, policies, or conditions that existed on the date the application was deemed complete, that involve no personal or subjective judgment by a public official, and that are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. Mr. Miller only references two external benchmarks in his report. First, he compares the collision rate at the Ellis/Patterson intersection to state averages and concludes that the intersection is much less dangerous than the average. Second, he reviews the fire department turning radius standards and determines that the project, as designed, provides sufficient fire equipment access. Both of these comparisons with external benchmarks counsel in favor of approval of the project.

Even if the City's health and safety concerns could serve as a legal basis for rejecting the project, they are mitigable.

Even if a city identifies legally sufficient health and safety concerns about a project, it may only reject the project if it finds based on a preponderance of the evidence that "[t]here is no feasible method to satisfactorily mitigate or avoid the adverse impact . . . other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density." Gov. Code § 65589.5(j)(1)(B). Thus, before rejecting the project, the City must consider all reasonable measures that could be used to mitigate the impact at issue.

For the issues raised in James F. McMullen's report, the City already negotiated for and accepted a set of four mitigations. See Sept. 3, 2019 City Council Meeting Video at 2:51–2:53.

⁶ At your September 3, 2019 City Council meeting, City staff conceded that the City currently allows left turns out of the project site (despite the purported danger) and that it has not analyzed the impact of the project relative to the current use of the site. See Sept. 3, 2019 City Council Meeting Video at 2:49. Mr. Miller's analysis does nothing to remedy those deficiencies.

Even if the report raised issues that were not resolved through this prior agreement (it does not), the result would be the imposition of additional mitigation measures, not rejection of the project.

As for the traffic impacts discussed by Mark H. Miller, the City has made no meaningful attempt to discuss mitigation methods, save for one. The City has focused extensively on the possibility of adding a concrete “porkchop” to the entrance of the project. This is a strawman. Misunderstanding the Planning Commission’s pretextual denial as a genuine effort to engage in a productive dialog, the applicant proposed the porkchop design. The City seized on one version of that concept (made of concrete), found that the concrete version would impede fire access, and decided its work to consider potential mitigations was complete.

That is not the case. There are many other mitigations that the City needs to consider, including variations on the porkchop design that do not impede fire department access. Indeed, in the pre-litigation letter we sent you on September 16, 2019, we suggested the use of alternative materials, such as plastic bollards, for the porkchop. But to this day, the City has never addressed that possibility.

The following is a non-exhaustive list of traffic-related mitigation measures the City must consider (separately and in combination) before rejecting the project:⁷

Measures for increasing traffic safety at the project entrance

- *Reduce the risk of unlawful turns through the use of a “pork chop” made of plastic channelizers (see CA MUTCD⁸ Fig. 3H-101 (CA)).* Plastic channelizers do not limit fire department access because they can be safely overrun, but they do provide a strong disincentive to a driver considering an illegal turn.

- *Reduce the risk of unlawful turns through the use of a “pork chop” made of hollow plastic bollards.* Plastic bollards do not limit fire department access because they can be safely overrun or removed, but they do provide a strong disincentive to a driver considering an illegal turn.



- *Reduce the risk of unlawful turns through the use of a “pork chop” made of a low concrete curb.* A low concrete curb does not limit access to heavy duty vehicles like fire equipment or ambulances, but does provide a strong disincentive to a driver considering an illegal turn in a passenger automobile.

⁷ In this list, references and pictures are provided, as appropriate, solely for the purpose of identifying the type of roadway design feature or traffic control device being referenced. These references are not intended to provide detailed portrayals of the configurations being proposed.

⁸ California Manual on Uniform Traffic Control Devices, 2014 Edition, Rev. 4, available at <https://dot.ca.gov/programs/traffic-operations/camutcd/camutcd-rev4>.

- *Reduce the risk of unlawful turns through the use of a “pork chop” made of manually removable metal bollards or pop-up metal bollards that can be lowered using an emergency keybox (see Huntington Beach F.D.C.S. 403).* Metal bollards would render illegal turns impossible, and emergency access could be obtained through removal of the bollards or the use of a Knox Box or equivalent emergency keybox, just as emergency personnel use to access other restricted spaces.



- *Reduce unlawful turns by separating the roadway using plastic channelizers (see, e.g., CA MUTCD Fig. 3H-101 (CA)).* Plastic channelizers do not limit fire department access because they can be safely overrun, but they do provide a strong disincentive to a driver considering an illegal turn across the roadway centerline.

- *Reduce unlawful turns by separating the roadway using hollow plastic bollards.* Plastic bollards do not limit fire department access because they can be safely overrun or removed, but they do provide a strong disincentive to a driver considering an illegal turn across the roadway centerline.

- *Improve traffic control at the entrance through the addition of a stop sign on Ellis Avenue.* Adding a stop sign would significantly decrease the risk of traffic conflicts.

- *Improve traffic control at the entrance by signalizing the entrance.* Adding traffic signals would significantly decrease the risk of traffic conflicts.

- *Reduce traffic conflicts through additional signage about the requirement to keep the entrance area clear (see CA MUTCD Fig. 3B-18 (CA)).* Congestion immediately in front of the entrance can be reduced through signs and roadway markings requiring that the area be kept clear. This would reduce the frustration of drivers exiting the project.

- *Reduce risk of traffic conflicts by adding marked speed humps along Ellis Avenue before the entrance (see CA MUTCD Fig. 3B-29).* Speed humps reduce the speed of roadway users, decreasing the risk of conflicts with vehicles entering the roadway. Advance markings can be added for additional driver awareness (see CA MUTCD Fig. 3B-31).

- *Reduce risk of traffic conflicts by adding transverse rumble strips along Ellis Avenue before the entrance.* Transverse rumble strips reduce driver inattention, decreasing the risk of conflicts with vehicles entering the roadway.



Measures for increasing traffic safety at the Beach/Patterson intersection

- *Improve traffic control at the Ellis/Patterson intersection through signalization.* Adding traffic signals would significantly decrease the risk of traffic conflicts.

- *Improve traffic control at the Ellis/Patterson intersection through the use of stop signs.* Adding stop signs would significantly decrease the risk of traffic conflicts.
- *Improve traffic control at the Ellis/Patterson intersection through the use of a radar feedback speed limit sign.* Adding a radar feedback speed limit sign before the Ellis/Patterson intersection would reduce speeds and increase driver awareness, decreasing the risk of collisions.
- *Reduce the risk of traffic conflicts by prohibiting left turns and/or U-turns at the Patterson Lane intersection for traffic traveling along Ellis Avenue.* The City's concerns appear focused on the risk of conflicts with turning traffic at Patterson Lane. The City can eliminate those risks by prohibiting the vehicle movements the City finds problematic, and enforcing the restriction through signage, roadway markings, hard barriers (such as a median), or soft barriers (such as plastic channelizers).
- *Improve traffic control and pedestrian safety at the Ellis/Patterson intersection through the addition of marked crosswalks.* Currently, it is legal for pedestrians to cross Ellis Avenue at Patterson Lane, but there is no crosswalk. Adding a crosswalk would improve pedestrian safety and increase overall driver awareness in the vicinity of the project entrance. For added safety, the crosswalks could be enhanced with signage and roadway markings (see CA MUTCD Fig. 3B-17), a hybrid beacon system (see CA MUTCD Chapter 4F), a marked speed table (see CA MUTCD Fig. 3B-30) or in-roadway warning lights (see CA MUTCD Fig. 4N-101 (CA)).

Measures for increasing traffic safety at the Ellis/Beach intersection

- *Improve traffic control and pedestrian safety at the Ellis/Beach intersection through the use of a higher visibility crosswalk design (see CA MUTCD Fig. 3B-19 and 3B-19 (CA)).* The Ellis/Beach intersection is currently painted with standard crosswalk markings. To improve pedestrian safety and overall driver awareness, the crosswalks could be improved by using a higher-visibility design.
- *Improve pedestrian safety at the Ellis/Beach intersection through the use of an exclusive pedestrian phase or "Barnes Scramble" (see CA MUTCD Fig. 3B-20).* An exclusive pedestrian phase eliminates vehicular movement during pedestrian crossings, reducing the risk of collision with a pedestrian.
- *Improve pedestrian safety at the Ellis/Beach intersection through the use of a leading pedestrian interval.* A leading pedestrian interval reduces vehicular movement during pedestrian crossings, reducing the risk of collision with a pedestrian.
- *Improve driver awareness of traffic rules in Ellis/Beach intersection through the use of additional and higher-contrast line extensions (see CA MUTCD Fig. 3B-13).* The Ellis/Beach intersection currently only uses a few faint line extensions. Driver confusion and unlawful movements could be reduced by improving the line extensions.

- *Improve driver awareness of traffic rules in Ellis/Beach intersection through the use of larger and additional signage, advance signage, and additional roadway markings (see CA MUTCD Fig. 3B-27).* The Ellis/Beach intersection currently uses very limited signage and roadway markings. Driver confusion and unlawful movements could be reduced by improving the signs and markings.
- *Reduce intersection non-clearance through signage and roadway markings about the requirement to keep the intersection clear (see CA MUTCD Fig. 3B-18 (CA)).* It is unlawful for drivers to block the Ellis/Beach intersection by entering the intersection when it cannot clear. This behavior can be reduced through signs and roadway markings, reducing the risks created by intersection non-clearance.
- *Reduce intersection non-clearance through regular enforcement of the requirement to keep the intersection clear.* It is unlawful for drivers to block the Ellis/Beach intersection by entering the intersection when it cannot clear. This behavior can be reduced through regular and visible enforcement during peak hours, reducing the risks created through intersection non-clearance.
- *Reduce congestion through the adjustment of light timing at the Ellis/Beach intersection.* The back-up congestion and failure to clear at the Ellis/Beach intersection could be improved through adjustments to light timing and light cycles. Technologies including dynamic light timing and speed-dependent light timing could be employed.

Traffic calming measures for increasing safety along Ellis Avenue

Attached with the electronic version of this letter is a review of traffic calming measures that have been successfully applied to 25 streets across the United States, entitled *Rethinking Streets: An Evidence-Based Guide to 25 Complete Streets Transformations*. Traffic calming measures—even lane reductions—generally increase traffic safety and visual appeal without meaningfully reducing traffic throughput. The City should consider all of the traffic calming methods discussed in *Rethinking Streets*. Some examples are provided here for illustration:

- *Reduce the risk of traffic conflicts through the elimination of the continuous central turning lane and the addition of landscaped medians with discrete turning areas and gaps as needed.*
- *Reduce speeds and increase driver awareness through the elimination of one or more travel lanes on Ellis Avenue.*
- *Reduce speeds and increase driver awareness through the elimination of a travel lane and the creation of an angle-in parking zone along Ellis Avenue.*
- *Reduce speeds, increase driver awareness, and increase bicycle access through the replacement of a travel lane with a marking-delineated or bollard- or channelizer-separated bike lane.*
- *Decrease vehicle dependence, reduce congestion, increase driver awareness, and reduce speeds through the replacement of a travel lane with a dedicated bus lane.*

February 18, 2020

Page 13

- *Decrease vehicle dependence and reduce congestion by providing new or more frequent public transit service.*
- *Reduce speeds and increase driver awareness through the addition of street trees.*
- *Reduce speeds and increase driver awareness through a reduction in the width of the travel lanes.*
- *Reduce speeds and increase driver awareness by reducing the speed limit, using advisory speed limit signs, or using radar feedback speed limit signs.*

* * *

It is time for the City to end its quixotic effort to prohibit development at the Ellis Avenue site. Do the right thing and approve this project.

Sincerely,



Matthew Gelfand

cc: Michael Gates, Esq., City Attorney
By email to: michael.gates@surfcity-hb.org

Oliver Chi, City Manager
By email to: oliver.chi@surfcity-hb.org

Ursula Luna-Reynosa, Community Development Director
By email to: ursula.luna-reynosa@surfcity-hb.org

The following documents are attached to the electronic copy of this letter and are hereby incorporated in their entirety:

- A. October 28, 2019 Petition in O.C.S.C. Case No. 30-2019-01107760-CU-WM-CJC
(*Californians for Homeownership v. City of Huntington Beach*)
- B. *Rethinking Streets: An Evidence-Based Guide to 25 Complete Streets Transformations*

