



June 2, 2015

Dear Councilmember O'Brien,

The many hundreds of local builders, contractors, architects, and others in the real estate business are very appreciative that the City appears to finally have listened to the many issues we have raised about legislation proposed in 2014 to substantially reduce housing capacity in the city's low-rise zones. **Thank you!**

However, there are still serious issues left with the legislation that will have an adverse impact on what you and your colleagues say is your main interest in all housing legislation, affordability. As I said in public testimony, this legislation was unnecessary from the beginning, born mostly of red herrings from angry neighbors.

While there has been progress here (thanks in part to the delay created from our having filed an appeal of the original legislation which Councilmember Clark promised to pass in the first quarter of 2014), there is still frustration among our members about the fact that there are many elements here that still seem to ignore the principle of doing no harm to housing supply, choice, and opportunity.

If this legislation must go forward, please consider the following issues that remain with the current proposal:

- **Establish an upper-level setback on street-facing façades. The setback would be 16' at a height of 44' in a 40' zone, and 12' at a height of 34' feet in a 30' zone.**

It remains unclear exactly what the purpose of this is other than appeasing a hypothetical neighbor walking their dog in front of a building and not liking the fact that the building looks "too tall." While we appreciate that the 16' setback is departable through the design review process, this set back probably won't make that neighbor happy and will cost housing units that will cause rents in the project to be higher.

**Please eliminate this setback requirement and, instead, remind neighbors that the height in low-rise zones allows for more multifamily housing, a public benefit that you and your colleagues have said you are committed to. Each unit eliminated to improve a neighbor's view of a building is a person or family without a housing option.**

Director  
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- **Place limits on the use of [clerestories](#):**

Builders are not trying to build what you call a “de-facto extra story” with the use of clerestories. This, again, seems like a solution in search of a problem. Even if more units were being created through the use of clerestories, those additional units add to housing supply and are a good thing. The fact is that units with lofts create light and additional space for residents, a benefit to future residents that shouldn’t be eliminated unless there is a serious public benefit as an offset and there doesn’t seem to be one other than to make planners feel as though they aren’t being outsmarted by builders.

**Please consider eliminating the arbitrary percentage (which has no rationale) in favor of a more flexible design standard.**

- **Change rounding rules and density limits in LR1 zones:**

You say something in your memo that is pretty offensive: “developers have been gaming the rules in a couple of different ways in order to increase the number of units they can construct.”

**Notwithstanding the fact that we need more units of housing, nobody is gaming anything.** You and your colleagues created the code, and staff at the Department of Planning and Development (DPD) implemented that code. Are you suggesting that buildings they approved are illegal? Are you implying that the staff at DPD misinterpreted the code? It would be appreciated if you’d make a public clarification of this at the next available opportunity.

Also, you and your colleagues continue to claim you care about housing affordability, however this element of the proposal would eliminate hundreds of potential units of housing for no apparent reason. You have not made any clear statement about why the public or anyone else benefits from reducing a project with 4 units of housing to a project with 3. The fact is there simply isn’t one.

**Please eliminate this change unless you can offer a rationale that benefits the public other than the false statement that anyone is gaming the system or failing to do their jobs.**

You call out the “practice that involves the building of two or more rowhouse units (which do not have a density limit) in front of two townhouse units on subdivided 5,000 square foot lots where only three townhouses would have otherwise been allowed.”

**Please eliminate this change since, again, you offer zero rationale about why eliminated potential units would benefit the public or housing affordability. Also what exactly is one house in a row? A rowhouse seems to presume a row of housing which means more than one house.**

- **Clarify rules about exterior hallways.**

As with the other elements of this legislation, we'd prioritize maintaining existing housing capacity over all other priorities. **Provided that City staff works with design professionals to ensure that clarification of this regulation doesn't result a significant impact on creation of additional units, we have no further comments at this time.**

- **Add design review threshold for LR2 zones.**

Design review is a process that is costly and the additional costs result in few changes that make neighbors who oppose a project in the first place. That means nobody is happy, builders who end up having to incur additional costs from time delays, renters who end up paying for those costs in the end, and neighbors who feel their time is wasted by a process that isn't responsive to what they want. This process needs an overhaul. The Mayor agrees with us as well, that requiring design review at this stage could add costs to housing and is inappropriate since DPD is developing changes to the design review program.

**Please eliminate this addition of these projects to design review as the Mayor and DPD have suggested.**

Again, we appreciate that your committee did what we explicitly asked you to do: allow the Mayor's Housing Affordability and Livability Agenda (HALA) Committee to review the original legislation and listen to their recommendations. We'd ask that you'd take that a step further and consider shelving this legislation or narrowing its scope to what everyone could agree would be clean ups and corrections, not significant policy changes.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Valdez'.

Roger Valdez