

**From:** Dhruv Khanna [<mailto:dhruvkhanna2002@yahoo.com>]

**Sent:** Wednesday, July 27, 2016 9:04 AM

**To:** Commission, Planning <[Planning.Commission@pln.sccgov.org](mailto:Planning.Commission@pln.sccgov.org)>

**Cc:** Wasserman, Mike <[Mike.Wasserman@bos.sccgov.org](mailto:Mike.Wasserman@bos.sccgov.org)>; Donohoe, Mike <[Mike.Donohoe@BOS.SCCGOV.ORG](mailto:Mike.Donohoe@BOS.SCCGOV.ORG)>; Chavez, Cindy <[Cindy.Chavez@bos.sccgov.org](mailto:Cindy.Chavez@bos.sccgov.org)>; Cortese, Dave <[Dave.Cortese@BOS.SCCGOV.ORG](mailto:Dave.Cortese@BOS.SCCGOV.ORG)>; Simitian, Joe <[Joe.Simitian@bos.sccgov.org](mailto:Joe.Simitian@bos.sccgov.org)>; Yeager, Ken <[Ken.Yeager@bos.sccgov.org](mailto:Ken.Yeager@bos.sccgov.org)>

**Subject:** Local Serving Use Ordinance Review

Dear Honorable Members of the Planning Commission, Santa Clara County:

I write to remind you that the Local Serving Use ordinance has plainly illegal antecedents -- as admitted by County Counsel, for the County. I write to remind you also that because the local serving use ordinance is based on data gathered under the era of an admittedly illegal ordinance, the current ordinance is accordingly and irreparably suffused with the same taint.

Even assuming the position of the proverbial ostrich and thus disregarding the illegal taint stated above, it is an inescapable fact that the demographic breakdown of Santa Clara County has changed dramatically in favor of more Asian Americans as a percentage of our County's total population. Asian Americans are inescapably more severely impacted by the local serving use provisions because these provisions fossilize pre-existing land uses. These local serving provisions are more restrictive than the requirements of CEQA, and thus have an independent impact on proposed new developments being sought by Asian Americans such as developments sought for Buddhist and Hindu temples.

In practice too, the local serving use provisions have been misused by County staff in at least two ways in recent months. First, the County effectively stole approximately 4,000 square feet of development rights from the MTT Buddhist temple (Tu Lam Pagoda) at the corner of Fisher Ave and Butterfield Blvd near Morgan Hill; County staff offered up this square footage at the 11th hour on the eve of Planning Commission's hearing on the long-fought-for Use Permit. Having endured years of County bullying and an exhaustion of its resources, the MTT temple did not accept the additional square footage because it would have meant a new set of architectural drawings, plan check, plan check comments etc etc. Second, the County Planning staff appears to be conflicted internally and may be seeking to apply the local serving restrictions to land uses that are not in fact subject to these restrictions. This internal conflict, under review for many months, remains unresolved even though the local serving use ordinance is plain on its face and applies to certain but not all proposed land uses. This now-typical regulatory obfuscation by Planning Department staff is a part of its longstanding bullying-culture and war-by-stealth-and-attribution strategy.\*

I routinely drive past the gorgeous and peaceful MTT temple on my way to Kirigin Cellars. That temple is now a lasting testament to the County's embrace and application of a blatantly racist ordinance: the latest incarnation of the local serving use ordinance. Accordingly, I respectfully submit that the local serving use restrictions should be deleted in their entirety because these restrictions reek of xenophobia and Trump-ism. They have no place in modern day Santa Clara County which benefits greatly from American Asians who help power innovation, economic growth, employment, and wealth-creation in the County, and contribute disproportionately to the County's own coffers. Thank you.

Respectfully submitted,

Dhruv Khanna, Owner Kirigin Cellars

\*Those of us who complain about County staff and the department's operations, failure to follow the County's own ordinances, over-billing practices etc. are now facing brazen threats from the top brass of the Planning Department. In response to my complaint that staff had sent me a bogus \$204 invoice, the department head on May 11, 2016 ominously and expressly in an email warned me (in clear retaliation)

that my complaints "may affect our ability to serve you." County staff obviously feels empowered by the County's now one-year old adoption of a blatantly racist ordinance -- the local serving uses ordinance -- to brazenly disenfranchise citizens who complain about official government policies, actions and practices.