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Save Westwood Village

A Business-Community Alliance Dedicated to Quality Revitalization

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The Hon. Ed Reyes, Chair , and Councilmembers Krekorian and Huizar
PLUM Committee
Los Angeles City Council

Date: 11-2-10
Submitted in PLUM Committee
Council File No: 09-2199
Item No.: 2
~~Deputy~~: Submitted by Public

RE: CF 09-2199, CPC 2009-437-CA
ENV-2009-438-ND
Community Plan Implementation Overlay Districts

Think of CPIO's as wannabe Specific Plans without teeth, spot zoning gifts to developers who plead self-imposed hardships in the privacy of the Planning Director's office, without public notice or comment. **The Q-Conditions of many specific plans are in fact environmental mitigation measures which cannot be overridden by CPIO's.**

CPIO's are not needed. Save limited staff resources to update Community and Specific Plans which are way overdue.

SUMMARY OF ORDINANCE DEFECTS

There are at least ten fatal flaws discussed in the testimony:

1. ***Denies the public due process for CPIO requests of less than 20 percent.***

2. ***Creates Spot Zoning***

3. ***Has a defective environmental clearance: a full EIR is required to analyze the indirect impacts of a 20 percent increase in the build out for Los Angeles.***

4. ***Increases authority of ZA and Planning Director to grant increased entitlements from ten to twenty percent***

5. ***Confers special privileges to those requesting less than twenty percent even if it is a self-imposed hardship.***

6. ***Creates an inconsistency between adopted Community and/or Specific Plans;***

7. ***Alters or overrides Q-Conditions that may be environmental mitigations for current Community and Specific Plans. A new EIR and a Plan Amendment is required when a mitigation in a certified EIR is altered or eliminated.***

8. ***May severely exceed the infrastructure capacity of the City of Los Angeles and thus violate the General Plan Framework Element mandating an Annual Infrastructure Capacity Reports.***

9. ***There are notice defects.***

10. ***Public outreach was inadequate and is not documented in the file.***

GOOD-BYE DUE PROCESS

This proposed ordinance throws due process under the"streamlining" bus. It is unacceptable to allow requests to be evaluated beyond public scrutiny.

- *There is no required posting, publication in a newspaper, mailed notice or public hearing for a CPIO application or Adjustment.*

- *It's just the developer and the Director of Planning or ZA who has never seen a project he did not support.*

If you lived next door to the applicant, or a block away, you'd want to know that additional height, FAR, or reduced setbacks, etc., have been requested. **With this proposal, you will not know.** And you'd want to have a voice in that decision. With this ordinance **the public will be excluded from the approval process.**

Without a community benefit, approving 20 percent increases (without notice or comment) the CPIO confers a grant of special privilege up to 20 percent, even when it is a self-imposed hardship.

- This ordinance seeks to supplant Specific Plans, but does not specify which ones (Page A-2: "and some specific plans....").

- It eliminates due process guaranteed by Specific Plan Exceptions for approvals

less than 20 percent by creating "a ministerial process" (page A-2).

- "If the project deviates by more than 20 percent from a given development regulation," p. A-3, a **CPIO Exception** would be required. A CPIO Exception would have public notice and comment, but the findings are weaker than Specific Plan Exceptions. **CPIO Exceptions can be granted for self-imposed hardships**, Specific Plan Exceptions cannot be granted for self-imposed hardships (Section 11.5.7.F(a)).

ZA/PLANNING DIRECTOR AUTHORITY INCREASES FROM TEN TO TWENTY PERCENT

This ordinance increases the Planning Director and ZA authority to grant ***from ten to 20 percent***. For example:

- **ADJUSTMENTS OF RESIDENTIAL FLOOR AREA** (Sec. 12.28.A): "The Zoning Administrator shall also have the authority to grant adjustments in residential floor area of no more than a ***ten percent increase*** beyond what is otherwise permitted by Chapter 1 of this Code." The ordinance would permit the ZA to grant a 20 percent increase.

- **SLIGHT MODIFICATIONS – DEVIATIONS OF RESIDENTIAL OF REQUIRED LOT AREA REGULATIONS** (Sec. 12.28.B.2): "Deviations of ***no more than ten percent*** from the required lot area regulations." The ordinance would permit 20 percent deviations.

- **PROJECT PERMIT ADJUSTMENTS** (Director of Planning, Section 11.5.7.E.2(a), Specific Plan Procedures): "Project Permit Adjustments shall be limited to: Adjustments permitting **project height to exceed the designated height limitation on the property involved by *less than ten percent***."

- **PARKING ADJUSTMENTS** (Director of Planning, Section 11.5.7.E.2(f): "Adjustments from the minimum or maximum number of required parking spaces associated with a project of ***less than ten percent***."

To call this ordinance a "hybrid tool" makes it sound benign. It does not "re-establish the importance of Community Plans" (Project Analysis, CPC 2009-437-CA, p. A-1) but instead, **sabotages** them by:

- ***Allowing spot zoning*** *(CPIO Draft Ordinance, Section 13.14.D, "Definitions": "Subareas may be contiguous or non-contiguous parcels characterized by common Community Plan goals, themes and policies and grouped by a common boundary" (Community Plan boundary).*

- *Overriding the protections of Community and Specific Plans* ***may be environmental mitigations for the Community or Specific Plan.***

- *Failing to require Community and Specific Plan Amendments so that the* ***CPIO is consistent with the land-use map of these plans; and***

- ***Limiting approval time to 75 days*** *– this does not take into account environmental clearance time.* The correct language should be to start the clock when the application is deemed to be complete – with its environmental clearance.

CONSIDER IMPACT ON THE CITY'S INFRASTRUCTURE

Our infrastructure is crumbling and yet this ordinance essentially proposes a 20 percent increase in development, citywide. Sinkholes, water rationing, gridlock, smog, longer emergency response times, fewer paramedics, are just a few examples of inadequate infrastructure and failed planning. Is there is available infrastructure to support an additional 20 percent build-out? In some communities, it is easy to predict the answer is no.

First things first. Update 20 year old Community Plans and prepare the General Plan Framework Infrastructure Report. Without this information, the city is flying blind and courting disaster. To approve this ordinance in the absence of an Infrastructure Study and an EIR **violates the General Plan, CEQA and requires amending all 35 Community Plans.**

For example, no statement of consistency with the Los Angeles General Plan or several Community Plans (including the West L.A. Community Plans) can be made at this time as the City has not completed its required Annual Report on Growth and Infrastructure. That Report was a specific and essential mitigation cited by the City as part of the General Plan Framework. The Report was to inform the city on all environmental approvals. The Statement of Overriding Consideration stated:

> "Absent the report and its findings on actual versus expected growth, actual versus expected infrastructure improvements and availability of infrastructure, the city cannot provide a statement of consistency with the General Plan, and depending on the area, the local Community Plan."

Most of the Community Plans in the City rely on the Report. Model language (taken from the West L.A. Community Plan) appears as follows:

> "Accordingly, the proposed Plan has three fundamental premises. First, is limiting residential densities in various neighborhoods to the prevailing density of development in these neighborhoods. Second, is the monitoring of population growth and infrastructure improvements through the City's Annual Report on Growth and Infrastructure with a report to the City Planning Commission every five years on the West Los Angeles Community following Plan adoption. Third, if this monitoring finds that population in the Plan area is occurring faster than projected; and, that infrastructure resource capacities are threatened, particularly critical ones such as water and sewerage; and, that there is not a clear commitment to at least begin the necessary improvements within twelve months; then building controls should be put into effect, for all or portions of the West Los Angeles Community, until land use designations for the Community Plan and corresponding zoning are revised to limit development."

Any projects which rely on a faulty statement of consistency or rely on growth estimates that are inconsistent with the clear intent of the General and Community Plans may be subject to future legal action. We reserve the right to challenge any faulty statements of consistency issued by the City, including all environmental clearances for this ordinance and all nine Code Revision Ordinances.

In the absence of the Infrastructure Capacity Report, the City has no idea if parts of the city can support a 20% increase in development. The cumulative, growth-inducing impacts of making intensification by-right are significant. **These 20 percent approvals will add up.**

The CPIO Ordinance demonstrates the City's abdication of its responsibility to safeguard the public welfare, safety. It is abusing the police power to give out gifts, regardless of the consequences to neighbors and communities. And it proposes to do this in secret.

If one-size-fit-all were true, then there be no need for a planning department. But there is a great need. **Each neighborhood has its own unique vision. This ordinance seeks to**

eliminate that vision and silence neighborhood voices.
Rather than spending staff time gutting planning, spend it the Annual Infrastructure Report mandated by the General Plan, and on updating Community Plans which are woefully behind schedule.

The irony is that big developers with massive controversial projects won't utilize this ordinance because they can get so much more through Community and Specific Plan Amendments, which are easier to obtain. **Plan Amendments are legislative** which require just eight votes in Council and attending a lot of fundraisers....

NOTICE INADEQUATE

In addition to the notice defect stated in the October 26, 2010 email sent to Patrice Lattimore, Clerk, PLUM Committee, I wish to add the additional notice defects:

- A Community Impact Statement was submitted by the Studio City NC on June 20, 2009 in opposition to the proposed ordinance. But **the PLUM Agenda states" "Community Impact Statement: None Submitted."** This is incorrect. A copy of the statement is attached.

- The Agenda fails to indicate the Environmental Clearance.

INADEQUATE EVIDENCE OF PLANNING DEPARTMENT OUTREACH

On Page P-1 of Exhibit A, the claim is made that a public workshop was held in City Hall on March 19, 2009 from 5:00-7:00 PM, and that 45 persons attended from NC's and the development community.

If this is true, where is the attendance list? Where are the mailing labels? There are only four names in the file, primarily from Studio City NC. How many NC's were invited, who were the representatives of the development community?

Based on only four mailing labels, and only one speaker's card, the CPC hearing was poorly attended and outreach was woefully inadequate and is not documented in the record.

ENVIRONMENTAL CLEARANCE INADEQUATE

The Negative Declaration fails to provide evidence in the record that there will be no adverse environmental impacts, including growth-inducing , cumulative and indirect impacts ("Evaluation of Environmental Impacts, 2, page 3, ENV-2009-438-ND).

An EIR is required because the ordinance would eliminate or alter Q Conditions by providing an over-the-counter approval process. **Those Q-Conditions are often required as mitigation measures in the Plan EIR and cannot be removed without a new EIR and a Plan Amendment.**

The inadequacy of this ND is compounded by the failure of the City Planning Department to provide an Annual Infrastructure Capacity Report. In the absence of this General Plan Framework Element requirement, there is no way to reach the conclusion that there is capacity to approve any intensification (e.g., 20 percent increases in height, density, FAR, etc.).

Thus there is no way to make the finding that this proposed ordinance is in conformance with the General Plan or will not have significant adverse impacts in some parts of the city. **CEQA review must be based on evidence in the record**. No such evidence has been provided. The remedy is twofold:

- *Provide the missing annual infrastructure reports since 1998, and*

- *Prepare an EIR for this ordinance (and the Core Findings and related Code Revisions).*

Then, and only then, can the City make a CEQA determination based on data and the Community Plans requirement to limit development if there is inadequate capacity. If this trigger mechanism is not enforced in the event that there is inadequate capacity, then all such approvals would be in violation of the General and Community Plans.

CONCLUSION

The proposed ordinance is not needed. Just update Community Plans and draft new Specific Plans for areas that have unique issues. Produce the Annual Infrastructure Capacity Reports as mandated by the General Plan Framework.

Do not discard due process, confer special privileges, create spot zoning, and pander to self-imposed hardships. Please remand this back to the Planning Commission for the preparation of a full EIR. Then, and only then, can you make an informed decision.

We incorporate by reference all testimony submitted to this file.

Respectfully,

Laura Lake

Laura Lake, Ph.D.
Co-President
SAVE WESTWOOD VILLAGE

cc: Hon. Paul Koretz, CD5
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