



128 N. Swall Drive, #304 Los Angeles, CA 90048 www.LAneighbors.org

March 30, 2011

June Lagmay
City Clerk
City of Los Angeles
City Hall - Room 395
200 N. Spring Street
Los Angeles, CA 90012

CC: The Honorable Ed Reyes, Chairman, Planning and Land Use Management Committee,
Los Angeles City Council
Michael LoGrande, Director, Los Angeles Department of City Planning
Mary Decker, Deputy City Attorney, Los Angeles City Attorney's Office

RE: Council File No. 10-1353, CPC-2009-3955-CA and ENV-2009-3956-ND, Otherwise
Known as Ordinance to Amend Conditional Use Permit Regulations for Floor Area Ratio
Averaging to Allow for Density Transfers in Mixed-Use Unified Developments

Related to:

CPC-2010-1572-CA and ENV-2010-1573-ND, Otherwise Known as Core Findings
Ordinance

Council File No. 09-2199, CPC-2009-437-CA and ENV-2009-438-ND, Otherwise
Known as Community Plan Implementation Overlay Districts Ordinance (Ordinance No.
181,412)

Honorable City Officials:

On March 14, 2011, LA Neighbors United submitted comments and a series of exhibits on the aforementioned ordinances. In that submission we inadvertently neglected to call out one additional code study that also is part of this project: The forthcoming code amendments on "Calculation and Measurement," including calculating residential density and floor area ratio (FAR) as well as measuring building height. These code amendments are listed in the Department of City Planning's Staff Reports to the City Planning Commission dated September 11, 2008 (attached) and June 10, 2010 (previously submitted).

Clearly, on its own and in combination with the aforementioned ordinances, which also directly and indirectly relate to residential density, FAR and building height, the forthcoming ordinance on "Calculation and Measurement" has the potential to produce significant cumulative impacts

as defined under the California Environmental Quality Act (CEQA). The cumulative impacts of these ordinances need to be identified, analyzed and, to the extent necessary, mitigated through a programmatic environmental review. Piecemeal review of these individual ordinances is inadequate.

The California Environmental Quality Act requires an EIR whenever a project *may* have a significant adverse impact on the environment. (California Public Resources Code § 21151.) “If there is substantial evidence of a significant environmental impact, evidence to the contrary does not dispense with the need for an EIR when it can still be ‘fairly argued’ that the project may have a significant impact.” (*Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1001.)

The zoning code project, including but not limited to the four aforementioned ordinances, clearly represents the most massive rewrite of the City’s zoning code since 1946. An EIR for the entire zoning code project, rather than piecemeal review of each individual component, is required to proceed.

Thank you for your consideration.

Sincerely,



Cary Brazeman
Founder, LA Neighbors United

Former Managing Director, CB Richard Ellis Group, Inc.*
Member, Urban Land Institute – Los Angeles District Council*
Member, Los Angeles Area Chamber of Commerce*
Member, Board of Directors, Mid City West Community Council*

*Titles for Identification Purposes Only

cc: Douglas Carstens, Esq.
Daniel Wright, Esq.

Attachments

- Department of City Planning Director’s Report on Zoning Code Update, September 11, 2008
- LA Neighbors United Comments on Core Findings Ordinance Supplemental Recommendation Report, January 11, 2011

March 30, 2011

- “Core Findings Analysis” by Jack Allen, Esq., January 4, 2011
- “PropX: Inventing the Next LA,” cityLAB-UCLA, 2007
- New York Times article, “The Supersizer of Brooklyn,” March 20, 2011
- LA Neighbors United Conceptual Alternative to Community Plan Implementation Overlay Districts Ordinance, March 23, 2011

**LOS ANGELES DEPARTMENT OF CITY PLANNING
DIRECTOR'S REPORT**

CITY PLANNING COMMISSION

DATE: September 11, 2008*
TIME: After 8:30 AM*
PLACE: 200 N. Spring St.
City Hall, Room 1010
Los Angeles, CA 90012

LOCATION:
COUNCIL DISTRICTS:
PLAN AREAS:

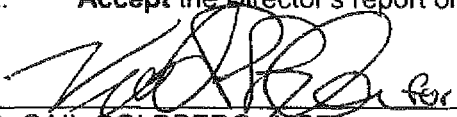
Citywide
All
All

NO PUBLIC HEARING REQUIRED


SUMMARY: Pursuant to Los Angeles Municipal Code Section 12.32-A, the Director of Planning has launched an initiative to complete nine code studies and amendments to rewrite selected provisions of the city's zoning ordinance. The purpose of this initiative (within the Planning Department's time, budget and staffing constraints) is to update and streamline a document in urgent need of simplification. The initiative is also intended to implement key components of the Planning Department's strategic plan and the City Planning Commission's statement of policy priorities, "Do Real Planning". The nine selected code studies and amendments address administrative exceptions, calculation and measurement, commercial development standards and neighborhood protection, core findings, multiple approvals, open space and setback standards, plan approvals, planned unit developments and site plan review.

RECOMMENDED ACTIONS:

1. **Refer** the initiated code studies and amendments to the Development Reform Subcommittee for follow-up discussion with staff.
2. **Accept** the Director's report on updating the zoning code as its report on the matter



S. GAIL GOLDBERG, AICP
Director of Planning



VINCENT P. BERTONI, AICP
Deputy Director of Planning



MICHAEL LOGRANDE
Chief Zoning Administrator



ALAN BELL, AICP, Senior City Planner
(213) 978-1322

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, 200 North Spring Street, Room 532, Los Angeles, CA 90012* (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

SUMMARY

Pursuant to Los Angeles Municipal Code Section 12.32-A, the Director of Planning has launched an initiative to rewrite selected provisions of the zoning code.

Among the development community, professional planning staff, and lay users alike, there is general agreement that Los Angeles's zoning code is in urgent need of simplification. In recent years other cities faced with a similar predicament, such as Denver, Chicago and Philadelphia, have embarked on ambitious efforts to rewrite their zoning regulations. In Los Angeles, given the city's budgetary limitations, such a comprehensive revision cannot be accomplished at this time. In lieu of a complete rewrite of the entire zoning ordinance, the Director's initiative instead targets the most problematic provisions for updating.

To help the Director identify the most critical projects to undertake, the Code Studies Unit consulted with key informers and stakeholders in the development and design communities as well as a citywide coalition of neighborhood councils. The unit also conducted a series of internal meetings with other Planning Department staff and met with the City Attorney's land use lawyers.

After considering all of the input received and weighing the options the following nine code studies and amendments were identified as being among the most beneficial and doable. Accordingly, the Director decided to add them to the Department's master work program.

- *Administrative Exceptions* – provide an abbreviated review process for minor deviations from the zoning code.
- *Calculation and Measurement* – define a consistent and appropriate method for calculating residential density and floor area ratio and measuring height.
- *Commercial Development Standards and Neighborhood Protection* – provide basic standards for commercial development and expand existing protections for residential neighborhoods from incompatible land uses.
- *Core Findings* – eliminate redundancy and update core findings to provide a better framework for analyzing the merits of proposed development projects.
- *Multiple Approvals* – synchronize the expiration periods for projects with two or more discretionary land use approvals.
- *Open Space and Setback Standards* – modernize the code's residential open space and setback standards based on best practices to create more livable urban environments.

- *Plan Approvals* – consolidate and make procedures for reviewing proposed modifications to existing projects clear and consistent.
- *Planned Unit Developments* – provide opportunities for innovative, high quality master planned projects.
- *Site Plan Review* – reduce complexity and redundancy but also strengthen the site plan review function within the city's land use regulatory system.

Staff's goal is to schedule all of the necessary draft ordinances for the City Planning Commission's consideration within two years. Implementing a focused project now to simplify and clarify the most problematic parts of the code is intended to pave the way for a future rewrite of the entire zoning ordinance.

STAFF REPORT

Background

Los Angeles was one of the first cities in the nation to adopt laws regulating the use of land. In 1904, the city adopted an ordinance prohibiting industrial uses in residential districts. In 1911, a citywide height limit of 150 feet was established. In 1921, five zoning districts were established: "A" for single-family; "B" for multi-family; "C" for business; "D" for light industrial; and "E" for heavy industrial. In 1930, a new zoning classification system was introduced, as well as procedures for processing zone changes and variances. New residential density requirements and the city's first automobile parking requirement, for the R3 and R4 zones, were also adopted in 1930.

By mid-century, the city had enacted eleven separate zoning regulations. Considered opinion at the time was that these regulations should be consolidated into a single ordinance – to "reduce much confusion," as it was explained at the time. Accordingly, on June 1, 1946, the city's first ever comprehensive zoning ordinance went into effect.

In the 62 years since then, the city's zoning ordinance has been amended so many times that its length has grown from 84 to well over 600 pages. Today, there seems to be universal agreement that the city's zoning regulations have become too unwieldy, that they are too difficult to understand and use and are inadequate to respond to the land use challenges facing Los Angeles in the 21st century. To address this situation the Director of Planning instructed the Code Studies Unit to develop a work program of targeted code amendments that would achieve the aim of zoning code reform and simplification, but without having to rewrite the entire document from "A to Z."

Public Participation

To assist the Director in identifying the most critical code studies and amendments to initiate, the Code Studies Unit hosted five workshops:

- 11/16/07 key informer/stakeholder workshop for developers, land use attorneys, consultants and others with special expertise in using the zoning code – 35 attended.
- 3/11/08 key informer/stakeholder workshop for developers, land use attorneys, consultants and others with special expertise in using the zoning code – 27 attended.
- 3/18/08 urban design committee/Los Angeles Chapter of the American Institute of Architects – 12 attended.
- 4/16/08 Central City Association presentation and discussion – 25 attended.
- 5/3/08 citywide neighborhood councils forum – 53 attended.

Over the next two years, staff will continue to host public workshops and consult with key informers, stakeholders, and neighborhood councils as the general concepts discussed in this staff report are refined into draft ordinances for the City Planning Commission's review and consideration.

Strategic Directions

The Director's zoning code initiative is intended to implement critical components of the Planning Department's strategic plan and the City Planning Commission's statement of policy priorities, "Do Real Planning."

Strategic Plan

- integrate urban design
- further streamline discretionary actions
- provide predictability for department applications through clear, simple and consistent processes
- develop the methodology to process the project, not the individual entitlement
- simplify the code
- create and simplify Department-wide standardized permit procedures
- eliminate duplicate processes

“Do Real Planning”

- demand a walkable city
- offer basic design standards
- eliminate department bottlenecks
- landscape in abundance

The balance of this staff report describes the background, issues and general direction for each of the nine, selected code studies and amendments.

1. Administrative Exceptions

Code Sections 12.26-B - Yard Area Modifications
 12.26-C - Parking Facility Modifications
 12.28 - Adjustments and Slight Modifications

Background and Issues

Since the zoning code does not distinguish between major and minor deviations, there is no expeditious procedure for considering requests that rarely generate controversy, are almost always approved, and, when approved, are almost never appealed. Insignificant deviations from the code’s yard, area, building line, and sometimes height requirements fall into this category. Such minor deviations, most often requested by homeowners and small businesses pursuing remodeling and minor expansion projects, are subject to virtually the same application, notification, public hearing, and appeal procedures as requests for major deviations. As a consequence, these projects are sometimes delayed by up to one year.

Many other cities have established streamlined processes to review requests for minor deviations. The challenge is to permit abbreviated review while protecting the integrity of the zoning code and preserving due process. Different cities have adopted a variety of approaches to this issue. What unites them is a desire to reduce the time and cost that lengthy and complex reviews of minor requests place on both local government and the public.

General Direction

This code study and amendment will define “minor deviations” and identify an appropriate procedure for considering requests for them. Among the questions that will be addressed are: Which components of the zoning code should be folded into the new procedure? Which should not? How much of a percentage deviation should be considered “minor”? Should a decision be rendered “over-the counter”? Who should be the decision-maker? Should a public hearing be required? To pursue answers to these questions staff will

survey the best practices of other cities that have developed “administrative exceptions” ordinances. We will review the pros and cons of the various approaches and recommend how these can best be implemented in Los Angeles.

2. Calculation and Measurement

Code Sections 12.03, Definitions
 12.21.1, Height of Building or Structures
 12.37, Highway and Collector Street Dedication and
 Improvement

Background and Issues

The zoning code’s procedures for calculating residential density, calculating floor area ratio, and measuring height include some inconsistencies or could otherwise be improved.

Residential density. Apartment density is calculated before any required dedications for public improvements are taken, while condominium density is calculated after. The result is that greater density is generally allowed when apartments are built.

Floor area ratio. The code’s definitions and procedures for calculating floor area ratio need some cleaning up. For example, Section 12.21.1-A, 5 excludes “outdoor eating areas of ground floor restaurants” from the definition of floor area, while Section 12.03 does not.

Height. The current procedure for measuring height on sloping lots may have some unintended consequences, unnecessarily restricting height upslope, but allowing much bulkier massing downslope.

General Direction

This code study and amendment aims to bring consistency to the calculation of residential density and floor area. With respect to height, staff’s aim is to improve the way it is measured. One promising proposal that staff has been studying is the “parallel plane” method. Many other cities use this approach, which allows structures to conform more closely to natural grade, thus allowing them to integrate better with their surroundings.

3. Commercial Development Standards and Neighborhood Protection

<i>Code Sections</i>	12.22-A, 23 - Commercial Corner Developments and Mini-Shopping Centers - Development Standards
	12.24-W, 27 - Commercial Corner Developments and Mini-Shopping Centers - Conditional Use Permit

Background and Issues

In the late 1980s, the city adopted landmark regulations imposing development standards on commercial corner developments and mini-shopping centers. The regulations were intended to ensure that such projects provided adequate landscaping and complied with basic development standards such as street-facing windows, no tandem parking, and enclosure of trash storage areas.

In addition to improving the appearance of such projects, the regulations were also intended to protect residential neighborhoods from potentially incompatible land uses. Under these provisions, car washes, 24-hour businesses, and certain amusement enterprises require a conditional use permit if they are located on a commercial corner or in a mini-shopping center that is near a residential neighborhood.

Staff's review of these regulations has identified a number of issues. Any project deviating from the ordinance's basic development standards – no matter how minor the deviation – must file for a conditional use permit, with a mandatory public hearing. Also, the regulations only impose development standards on a limited number of projects in the city, specifically those projects that meet the code's definition of a "commercial corner development" or a "mini-shopping center." As a result, whole sections of the city's commercial boulevards are not subject to basic development standards.

The issue of limited scope also applies to neighborhood protection. Unless a residential neighborhood just happens to be adjacent to a commercial corner development or a mini-shopping center, it does not benefit from the protection provided by a conditional use permit when a potentially incompatible land use is proposed next door or across the street.

General Direction

In a joint venture with the Urban Design Studio, this code study and amendment will examine ways to ensure that all new commercial uses in the city meet basic development standards. Staff will recommend standards that are broadly applicable, enforceable, and support the more detailed standards and urban design guidelines that the new community planning program will implement. In addition, staff will recommend a streamlined procedure – short of a full conditional use permit process – to review requests to deviate from any basic development standards that are ultimately adopted. Staff will also study alternative approaches to protecting a greater number of residential neighborhoods from potentially incompatible land uses.

4. Core Findings

<i>Code Sections</i>	11.5.7 - Specific Plan Procedures
	12.24 - Conditional Use Permits and Other Similar Quasi-Judicial Approvals
	12.28 - Adjustments and Slight Modifications
	12.32 - Land Use Legislative Actions
	16.05 - Site Plan Review

Background and Issues

Quasi-judicial approvals and land use legislative actions typically require the decision-maker to make "core" findings and, when applicable, "application-specific" findings. For example, a conditional use permit for a drive-through fast-food establishment can only be approved when the four "core" findings required of all conditional use permits and the three "application-specific" findings for drive-through fast-food establishments are all made in the affirmative.

Core findings typically address such overarching issues as the relationship of a proposed project to the general plan and the public welfare and convenience. They are defined for broad entitlement categories, including variances, conditional uses, adjustments, specific plan project permits, tract maps and site plan review.

Despite the fact that the code's core findings all address the same basic set of issues there are inconsistencies in their wording. Consequently, if a project applicant files for two or more land use approvals, each requiring its own set of findings, the total number of required findings can quickly multiply.

General Direction

This code study and amendment seeks to create a single set of core findings across the zoning code. (The variance and subdivision findings would not be addressed, since the charter and state subdivision map act, respectively, set the precise wording for these findings.) By creating common core findings much unnecessary repetition could be eliminated, leading to clearer and shorter staff reports.

Promoting administrative efficiency is not the sole intent of this code study and amendment, however. A more important aim is to improve the quality of development citywide by providing a better framework for analyzing the merits of proposed projects. Accordingly, staff will recommend stronger, more focused core findings that better track the goals of the general plan and the Planning Department's and the City Planning Commission's new strategic directions.

5. Multiple Approvals

Code Section 12.36 - Procedures for Multiple Approvals

Background and Issues

Section 12.36 of the zoning code assigns the decision-maker when a single project requires multiple discretionary land use approvals. For example, if a project requires a conditional use permit, decided by the City Planning Commission, and also a Zoning Administrator's adjustment, Section 12.36 assigns responsibility to decide both requests to the "higher-order" decision-maker -- in this case, the City Planning Commission.

For a variety of reasons, developers of most complex projects recently proposed in Los Angeles have requested numerous entitlements. The sheer volume of entitlements requested for these projects is one reason why case numbers often include, it seems, as many letters as there are in the alphabet.

While Section 12.36 assigns the decision-maker for projects requesting multiple entitlements, it does not address the expiration periods for those entitlements when they conflict. For variances and conditional use permits, the expiration period is two years with a one year extension. For site plan review, the expiration period is three years with no extension. A tract map has a life of three years but can be extended for an additional five. Generally, all conditions must be met within six years before a zone change takes effect.

As a consequence, a single project with multiple entitlements with variable expiration periods can run into problems if a project manager is not careful. What happens to a project when one of its entitlements is about to expire but the time limits for the others have not? The whole viability of the project may be thrown into question. Given the time, effort and expense required to secure entitlements, disabling a project based on a zoning code technicality only serves to discourage the investment the city needs to shore up its economic base and provide needed jobs and housing.

General Direction

This code study and amendment will examine alternative approaches to synchronizing the expiration periods for multiple entitlements granted to a single project. One approach may be to allow the decision-maker to approve a phasing plan, with milestones. So long as each milestone is met, within a set time frame, all of the project's entitlements remain secure. Another approach may be to tie the expiration periods for all of a project's entitlements to the entitlement with the longest life.

6. *Open Space and Setback Standards*

<i>Code Sections</i>	12.12.2-C – Area Regulations for the CR Limited Commercial Zone
	12.13-C – Area Regulations for the C1.5 Limited Commercial Zone
	12.14-C – Area Regulations of the C2 Commercial Zone
	12.16-C – Area Regulations of the C4 Commercial Zone
	12.17.1 – Area Regulations of the CM Commercial Manufacturing Zone
	12.21-C - Citywide Area Regulations
	12.21-G - Open Space Requirement for Six or More Residential Units
	12.22-A, 18 - Developments Combining Residential and Commercial Uses
	12.22-C - Exceptions to Citywide Area Regulations
	Multiple Other Code Sections

Background and Issues

Residential developments are required to comply with various open space and setback standards, including building “passageway” requirements. The requirements are intended to create desirable living environments by increasing natural light and ventilation, providing adequate separations between structures, and ensuring opportunities for on-site landscaping. More than any other parts of the code, these standards determine the look and feel of the city’s residential neighborhoods, particularly its multi-family districts.

Because they were incrementally developed and adopted over a period of decades, these standards have never been systematically evaluated as elements of a single system. According to many of the stakeholders staff have consulted with, such an evaluation is urgently needed to determine if there are any conflicts among these standards and if they are working as intended.

General Direction

In a joint venture with the Urban Design Studio, this code study and amendment seeks to update the code’s open space and setback standards, drawing upon the best practices of other cities, to determine how more livable and sustainable urban environments can be fostered in Los Angeles. One focus of the study will be mixed-use and high-rise development. The code’s current approach is “one size fits all.” Are different standards needed for these development prototypes, especially in commercial zones?

7. Plan Approvals

<i>Code Sections</i>	12.24-M - Development of Uses
	12.27-U - Plan Approvals
	12.28-E - Adjustment -Plan Approvals

Background and Issues

Requests to enlarge existing buildings or construct new ones on sites entitled through either a variance or a conditional use must be submitted as a "plan approval." Unlike a full variance or conditional use, which requires that all property owners within a 500-foot radius be notified when a public hearing is scheduled, notification for plan approvals is limited to adjacent and adjoining property owners.

Staff's review of the code's plan approval procedures shows that the thresholds for when a variance plan approval or a conditional use plan approval may be submitted are inconsistent. For variance plan approvals, the increase in size or bulk of buildings that may be approved is limited to 20 percent. Any request above this threshold requires a new variance. For conditional use plan approvals, any percentage increase is technically allowed, although in practice the Planning Department typically requires increases beyond 20 percent to be filed as a new conditional use.

A further issue concerns conditions imposed as part of the original approval. Specifically, a property owner or a developer may not request that these conditions be modified. This restriction applies no matter how minor or inconsequential the request is, or if the originally imposed conditions are outmoded, no longer relevant or needed, or should be amended or deleted due to changed circumstances.

General Direction

This code study and amendment will look at consolidating and making consistent the plan approval procedures for conditional uses and variances. Staff will propose clear and consistent criteria for determining when an application for a plan approval may be filed, or when an application for a new conditional use or variance must be filed. Staff will also investigate the feasibility of amending the plan approval procedures to allow modification of the terms and conditions of an already approved entitlement.

8. Planned Unit Developments

<i>Code Section</i>	13.04 - "RPD" Residential Planned Development Districts
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Background and Issues

In the 1960s and 1970s, most cities in the country adopted "planned unit development" or "PUD" regulations. A PUD is a custom zone, typically applied to large projects, that allows consideration of innovative proposals that might otherwise conflict with the strict

requirements of the zoning ordinance. In exchange for allowing greater flexibility, a local government will typically require higher quality. For example, a PUD for a large subdivision might allow smaller lot sizes in exchange for a greater amount of common area open space. A PUD may be used for many different types of developments, ranging from small mixed use and residential projects; single use non-residential projects such as office, commercial or industrial developments; or larger, master planned communities. Each PUD is adopted by a separate ordinance. Depending on the size, complexity and time to build out, the PUD may also require a development agreement.

The zoning code's PUD regulations were developed in 1971 and are termed "Residential Planned Developments" or "RPDs." As defined in the code, RPDs are "supplemental use districts" and intended only for 100 percent residential developments, primarily on large plots of vacant land.

Enacted almost 40 years ago, these regulations have not been amended to keep pace with contemporary real estate development practices and their emphasis on compact, mixed use projects on urban infill sites. As a result, this zoning tool is rarely used in Los Angeles. Currently, there are only three development sites in the city zoned "RPD" – all subdivisions of single-family homes.

General Direction

In a joint venture with the Urban Design Studio, this code study and amendment will provide the city with an enhanced tool for promoting quality and innovation consistent with the general plan's key land use policies. Specifically, the PUD ordinance will be updated to apply to mixed use, multi-family residential, and nonresidential development projects.

9. Site Plan Review

Code Section 12.24-U, 14 - Major Development Projects Conditional Use
 16.05 - Site Plan Review

Background and Issues

The city's site plan review ordinance applies to projects that will create 50 or more dwelling units or 50,000 square feet or more of nonresidential floor area. To grant site plan review approval, the Director of Planning must make six findings.

The site plan review ordinance is similar to the major projects conditional use ordinance, which applies to projects that will create 250,000 square feet or more of warehouse floor area, 250 or more hotel/motel guest rooms, or 100,000 square feet of other nonresidential or non-warehouse floor area. To approve a major projects conditional use, the City Planning Commission must make findings that are essentially the same as the findings the Director must make for site plan review.

The purpose of both ordinances is to provide a "safety valve" – to ensure that projects with potentially significant impacts that would otherwise be permitted by right are subjected to discretionary review. It is during discretionary review that environmental mitigation measures and other appropriate conditions can be imposed.

Given the complexity of the city's land use regulatory system, however, many projects subject to these ordinances also file for other discretionary land use approvals. Each approval requires its own separate set of findings, further contributing to unnecessarily lengthy Planning Department staff reports.

If this complexity and redundancy served some larger purpose it might conceivably be justified. But the requirement in both the site plan review and major projects conditional use ordinances to actually review site plans is relatively weak. The only requirement of the decision-maker is to make the following "neighborhood compatibility" finding:

"The project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, which is or will be compatible with existing and future development on neighboring properties."

Unfortunately, the code provides little guidance to staff or the decision-maker on how to apply this finding, or how to go about the business of reviewing a site plan.

General Direction

In a joint venture with the Urban Design Studio, this code study and amendment will focus on reducing unnecessary complexity and redundancy while at the same time strengthening the site plan review function within the city's overall, land use regulatory system.

To accomplish the first purpose, staff will look at restructuring the site plan review and major projects conditional use ordinances so that they serve their original purpose – namely, to function as a "safety valve". Under this approach it may be possible that applications for these entitlements would never be combined with applications for other discretionary entitlements but would always stand alone.

To accomplish the second purpose, staff will focus on the neighborhood compatibility finding. One option may be to replace this finding with a requirement that a project conform with the current "walkability checklist" or some other appropriate set of urban design principles and guidelines – which the City Planning Commission could adopt and amend from time to time, as appropriate. The next question would be, Which class of projects should be reviewed for conformance with these urban design principles and guidelines? The current class of projects subject to the site plan review and major projects conditional use ordinances? A broader class of projects? A narrower class? Staff will analyze the feasibility of these options and report back to the Commission.

CONCLUSION

A limited but targeted series of code amendments, carried out over the next two years, provides a unique opportunity to reinvent the zoning ordinance so that it becomes a stronger, more dynamic tool for implementing the general plan and carrying out the new initiatives set forth in the Planning Department's strategic plan and the City Planning Commission's statement of policy priorities, "Do Real Planning." The purpose of this initiative is not just to streamline cumbersome project review procedures but to reorient them so as to fulfill the Department's mission to create a more livable, sustainable, and walkable Los Angeles. More than any other plan implementation tool the zoning code – last comprehensively revised more than 60 years ago – shapes the city's future growth and development. The Director of Planning's initiative is intended to creatively revise the zoning code to ensure that this growth and development meets the needs of Los Angeles's diverse communities and neighborhoods.

LA NEIGHBORS UNITED

128 N. Swall Drive, #304 Los Angeles, CA 90048 www.LAneighbors.org

January 11, 2011

Los Angeles City Planning Commission
Los Angeles City Hall
Room 532
200 N. Spring Street
Los Angeles, CA 90012

CC: Tom Rothmann, Los Angeles Department of City Planning

RE: Department of City Planning Supplemental Recommendation Report on CPC-2010-1572-CA and ENV-2010-1573-ND, Otherwise Known as "Core Findings Ordinance"

Dear Planning Commissioners:

Following review of the Department's Supplemental Recommendation Report on the Core Findings Ordinance ("CFO") issued on December 22, 2010, we are pleased to provide these specific comments and recommendations intended to help improve the proposed ordinance, streamline the Los Angeles City Zoning Code and eliminate or mitigate any potentially significant negative environmental impacts.

The Los Angeles Department of City Planning processes more than 2,000 entitlement applications annually, according to the Department, including applications for about 70 conditional uses. Each of these applications requires that land use findings be met. Over time, these findings will affect thousands (if not tens of thousands) of buildings and uses.

In the main, we will discuss four key issues relative to the CFO:

- Project Design Core Finding
- Findings for Approval of Adjustments
- General Plan Core Finding
- Site Plan Review

We also will discuss the likely impacts of these changes in conjunction with the Community Plan Implementation Overlay ("CPIO") districts ordinance (Council File 09-2199, ENV-2009-438-ND, CPC-2009-437-CA), which was adopted by the Los Angeles City Council on November 10, 2010, and soon after signed into law by the Mayor. The four issues we raise straddle both ordinances, the CFO and the CPIO. Notably, we have challenged the adoption of the CPIO on the basis of a faulty environmental clearance; we ask that the CPIO not be implemented unless or until a full Environmental Impact Report is completed.

To be clear, however, even alone the CFO requires preparation of an EIR to comply with the California Environmental Quality Act ("CEQA"). The need for the EIR becomes even more pressing because the CFO acts in combination with the CPIO and the other nine code studies (ordinances) that are forthcoming.

We welcome the opportunity to participate in further revision of the proposed CFO to address community concerns, minimize and mitigate potentially significant environmental impacts, and strengthen the overall zoning code. If we can answer any questions about our recommendations or analysis, please don't hesitate to call on us.

Key Issue #1: Project Design Core Finding

The Project Design Core Finding relates to a project's spatial arrangement, including height, massing and setbacks. This finding is applicable to major development projects, mixed-use commercial/residential developments, storage buildings and other conditional uses in Commercial and Manufacturing zones. Thus, this finding, particularly relative to height and open space, is of significant importance. It will affect thousands of buildings over time.

The City proposes the following Project Design Core Finding as the basis for project suitability:

That the project provides for an arrangement of uses, buildings, structures, open space and other private and public improvements that are compatible with the scale and character of the surrounding neighborhood.

Where this proposed finding says "surrounding neighborhood," the current code says "neighboring properties."

The City has declined to define what is meant by "surrounding neighborhood." We understand "surrounding neighborhood" to be vague and open to wide interpretation. For example, we believe some project applicants will rationalize that proposed projects are compatible relative to existing structures and land uses a quarter-mile or more away from a proposed project site, even if a proposed project is not necessarily compatible with structures or land uses in the immediate vicinity.

We recommended in earlier comments that the word "adjacent" be added to the proposed finding. The City declined our recommendation.

Absent a clear definition of “surrounding neighborhood,” we recommend that the proposed Project Design Core Finding maintain language from the current code, and be revised as such:

That the project provides for an arrangement of uses, buildings, structures, open space and other private and public improvements that are compatible with the scale and character of neighboring properties.

Or, simply:

That the project provides for an arrangement of uses, buildings, structures, open space and other private and public improvements that are compatible with neighboring properties.

By our analysis, the shift in language from “neighboring properties” to “surrounding neighborhood” represents a significant weakening of a finding that will apply to thousands of buildings over time.

The location of these buildings potentially cuts across all 35 Community Plan areas, all 46 Specific Plan areas and, we anticipate, new Community Plan Implementation Overlay districts.

By weakening the finding to allow for design compatibility on the basis of buildings in an expanded geographic area, the result will be a proliferation of taller, more massive buildings (likely with higher density and reduced open and green space) in close proximity to smaller-scale properties that may be adjacent or nearby. (See attached photograph as an example)

The environmental impacts, including the ecological impacts, of this policy change have not been recognized by the City in its Negative Declaration. In discussion below, we will elaborate on the potential significant impacts of this change and the others.

With this proposed change the City has made no effort to target or otherwise encourage intensified development, including conditional uses subject to this finding, in locations that may be best suited to absorb the impacts of such development, such as around fixed transit locations or public parks. More massively sized buildings would be allowable everywhere within the City, potentially contributing to dysfunctional density versus planned, managed growth.

We emphasize that projects within new Community Plan Implementation Overlay districts will be subject to this finding as well. In those districts, applicants will be entitled to 20 percent development bonuses in the form of adjustments available via an administrative clearance process. The collective impacts of this proposed finding in conjunction with the CPIO, which also allows districts to be created with higher density, lower parking requirements and reduced open space, have not been analyzed by the City.

Further, relative to the design of major development projects and mixed-use projects within CPIO districts, some of those projects will be subject to additional development incentives, beyond the 20 percent allowable adjustments. As a result, as one example, we expect more larger projects that wrap around boulevards onto side streets, including more alley vacations.

Having a strong Project Design Core Finding in place will help assure that negative impacts on adjacent properties within a CPIO district, and just outside the boundaries of a CPIO district, are minimized. Conversely, a weaker finding essentially deprives adjacent and nearby properties of transitional zoning protection, and risks dividing established neighborhoods.

Key Issue #2: Findings for Approval of Adjustments

The revised proposed Core Findings Ordinance significantly alters, and weakens, the findings necessary for the approval of adjustments under Los Angeles Municipal Code § 12.28.

We should note that the code currently considers adjustments to be mini-variances subject to a finding of impracticality or infeasibility. The City's proposed changes would treat adjustments more like slight modifications, which are subject to a weaker standard of review.

Adjustments relate to a wide variety of building characteristics, including height, floor area ratio, setbacks, yards and open space. To lower the threshold for adjustments is to lower the threshold for "more," as in more taller, massive buildings (commercial and residential) with less open space and reduced setbacks and yards. We will discuss the impacts of more massive buildings below.

The City has proposed to modify the adjustment findings as such:

Before granting an application for an adjustment, the Zoning Administrator shall make the following findings in writing:

- (a) That the granting of the adjustment recognizes that while site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible, the project conforms with the intent of those regulations.*
- (b) That the project's location, size, height, operations and other significant features shall be compatible with and shall not adversely affect or further degrade adjacent properties, the surrounding neighborhood, and the public health, welfare, and safety; and*
- (c) That the project is in substantial conformance with the purpose, intent and provisions of the General Plan and community plan.*

The code currently requires the following findings:

- (a) That the granting of an adjustment will result in development compatible and consistent with the surrounding uses.*
- (b) That the granting of an adjustment will be in conformance with the intent and purpose of the General Plan of the City.*
- (c) That the granting of an adjustment is in conformance with the spirit and intent of the Planning and Zoning Code of the City.*
- (d) That there are no adverse impacts from the proposed adjustment or any adverse impacts have been mitigated.*
- (e) That the site and/or existing improvements make strict adherence to zoning regulations impractical or infeasible.*

As noted, the most significant change to the findings is the removal of the explicit requirement (paragraph (e)) that a finding of impracticality or infeasibility be made before granting an adjustment.

Instead, the decisionmaker must merely “recognize” (which could mean the decisionmaker will presume) the impracticality or infeasibility of strict adherence to the code and grant a requested adjustment on the basis of its conformity with the “intent of [zoning] regulations.” We are not sure what “recognize” means in this context, and we observe that conforming with the “intent” of zoning regulations, versus with the *actual* regulations, grants an awful lot of discretion to the decisionmaker.

We also note that in the proposed paragraph (c), the language of the current code has been changed from “conformance” to “substantial conformance,” a further weakening of the findings.

We chuckle about this finding in the context of code simplification, because the proposed new finding, in addition to being substantially weaker, is anything but simpler, given the uncertainty surrounding the meaning of “recognizes,” the notion of the “intent” of regulations and the combination of “conformance” and “substantial conformance” in the same set of findings. Far from simplified, this language is tortured and convoluted.

While our preference is to maintain the current code language to assure that adjustments continue to be treated as mini-variances, in the interest of being constructive we suggest the following approach, which retains the current code requirement for a finding of impracticality or infeasibility. We believe this alternative approach is strong and straightforward:

Before granting an application for an adjustment, the Zoning Administrator shall make the following findings in writing:

- ~~*(a) That the granting of the adjustment recognizes that while site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible, the project conforms with the intent of those regulations.—That the site and/or existing improvements make strict adherence to zoning regulations impractical or infeasible.*~~
- (b) That the project's location, size, height, operations and other significant features shall be compatible with and shall not adversely affect or further degrade adjacent properties, the surrounding neighborhood, and the public health, welfare, and safety; and*
- (c) That the project is in substantial conformance with the purpose, intent and provisions of the General Plan and community plan.*

We note that the current code allows for adjustments of between 10 and 20 percent under certain circumstances; as an example, residential floor area adjustments are limited to 10 percent. While the CFO lowers the threshold to get more, the CPIO establishes an administrative clearance for applications for up to 20 percent more: More height, more floor area, less open space, reduced setbacks, whatever is requested.

The collective impacts of these two changes have not been analyzed by the City.

Also on this subject we should note the following issues and concerns:

- When a proposed CPIO district undergoes initial environmental review prior to being established, will the review assume that most if not all of the projects to be built in the CPIO district will receive administrative clearances for 20 percent development bonuses? If not, how will CPIO districts be monitored to ensure that there is sufficient capacity on an ongoing basis to support intensified development without generating potentially significant negative impacts? The City has not answered these questions.
- The findings for the approval of adjustments apply to residential neighborhoods as well as mixed-use and commercial districts. What will be the impact of allowing 20 percent development bonuses on residential lots in CPIO districts that are established to allow higher densities, reduced open space and lower parking requirements than the underlying zoning (which is allowable under the CPIO districts ordinance)?

By our analysis, the potential for single-family lots to be further subdivided will be increased, and there will be the potential for larger accessory dwelling units on single-family lots in Residential zones. What will be the impacts of these outcomes? We don't know, because the City has not identified and analyzed them. We also don't know if these two ordinances, individually and collectively, are consistent with the City's General Plan relative to protecting residential neighborhoods as set forth in the City's various community plans. No such finding of consistency has been made by the City.

Key Issue #3: Proposed General Plan Core Finding

The General Plan Core Finding applies to conditional uses, including major development projects, mixed-use projects and mini-shopping centers. The revised proposed Core Findings Ordinance modifies, and weakens, the existing General Plan Core Finding (including its equivalents throughout the code) by substituting "substantial conformance" for "conforms." The new finding is proposed as such:

That the project is in substantial conformance with the purpose, intent and provisions of the General Plan and applicable community plan.

As a result of defining down the standard from plan conformance to substantial conformance, there will be different project outcomes than there are now, with the potential for significant environmental impacts.

There also are unanswered questions. In a specific plan area with a height limit of 35 feet, for example, what will it mean to allow buildings that *substantially conform* with the specific plan? It is not clear. It's also not clear, as another example, how hillsides and scenic viewsheds in protected specific plan areas may be impacted by allowing mini-shopping centers that only substantially conform with specific plans. The City has not analyzed these potential impacts.

Specific plans are subject to the City's new CPIO districts ordinance. Specific plans and CPIOs can interrelate in these ways:

- A CPIO district can overlay a specific plan area. Within a CPIO district, projects qualify for 20 percent development bonuses in the form of adjustments provided via administrative clearance. Adjustments can be for a variety of building characteristics, including height, mass and setbacks. These adjustments can effectively override specific plan regulations, even if the CPIO overlay were originally established with some slightly more restrictive regulations than the underlying zoning allows.
- A CPIO district can be established with higher density and reduced open space and parking requirements than underlying zoning allows.

- While a CPIO district is supposed to be established with “more restrictive” regulations than underlying zoning relative to height and floor area ratio specifically, this requirement becomes irrelevant in many situations. For example, many sites don’t have height limits per se; thus, requiring a *more restrictive height* simply becomes a matter of imposing a height limit that is less than *unlimited height* ... that’s a mighty big allowance with the potential for considerable impacts. As an example, consider a neighborhood where the generally prevailing building height is 45 feet, and where there is no height limit per se. A CPIO could establish a height limit in significant excess of 45 feet in compliance with the CPIO district ordinance, notwithstanding the prevailing building height in the neighborhood. Requiring a more restrictive floor area ratio in a CPIO district that might overlay a specific plan area also becomes irrelevant when 20 percent development bonuses are easily available via adjustments granted through the new administrative clearance process for CPIO district projects.

The City has not analyzed the potential environmental impacts of weakening the General Plan Core Finding in conjunction with implementing new CPIO districts across community plan areas including specific plan areas.

Key Issue #4: Site Plan Review

As noted in our earlier comments, the proposed Core Findings Ordinance will eliminate the currently required finding for Site Plan Review that mitigation measures and monitoring be incorporated into a project to mitigate negative environmental impacts. (Los Angeles Municipal Code § 16.05(F).) The claimed purpose of removing this required finding is to eliminate a redundancy with the California Environmental Quality Act. However, there are many instances where Site Plan Review may be exempt from CEQA review (in particular under a Class 32 infill exemption), but up until now the City has had the ability to mitigate any impacts under City code requirements. This change will eliminate the City’s ability to mitigate the negative impacts of projects subject to site plan review, which include projects that add 50 or more residential units or 50,000 square feet of building space, or generate 1,000 or more average daily trips.

Specifically, 16.05 is proposed to be weakened by substituting “substantial conformance” for code and plan compliance, elimination of the General Plan consistency finding, and deletion of the mitigation measures requirement.

Additionally, the proposed ordinance will limit the City’s ability to impose mitigating conditions on projects requiring conditional use permits. The existing code section provides that the decisionmaker can impose conditions deemed to be necessary to protect the best interest of the surrounding property or neighborhood, and to ensure compatibility. Under the proposed ordinance, conditions could only be imposed based on the new core findings which, as discussed, will permit much more impactful projects.

Mitigation requirements should be maintained, especially since they apply to major development projects.

In addition to weakening the core findings to permit much more impactful projects, the new CPIO districts ordinance also will permit and is likely to produce much more impactful projects.

The City has not analyzed the potential environmental impacts of concurrently weakening the General Plan Core Finding and implementing the CPIO districts ordinance while at the same time reducing Site Plan Review requirements, including mitigation measures incorporation.

Potentially Significant Environmental Impacts

The adoption of Negative Declarations relative to the CFO and the CPIO is grossly insufficient. Relative to the Core Findings Ordinance, the Negative Declaration is flawed in at least the following specific areas:

- Hydrology/water quality. The Negative Declaration states “no impact” without taking into account density increases that may occur as more intensified and/or larger developments are approved.
- Potential conflicts with any applicable land use policy. The Negative Declaration states “no impact” despite required specific findings in the General Plan with regard to maintaining residential neighborhoods. (The City has made no such findings.)
- Population and housing. The Negative Declaration states “no impact” in contradiction to the fact that the City itself has said that the zoning code project is intended to enable infill development, in particular housing development and mixed-use projects.
- Public services. The Negative Declaration states “no impact.” It is clear that no such finding can be made.
- Transportation/circulation. The Negative Declaration states “no impact.” Intensifying development across the entire City, with no targeting relative to transportation infrastructure, will indeed create impacts.
- Cumulative impacts. The Negative Declaration states “less than significant impact.” Considered on its own due to its broad scope, and in combination with the CPIO, it is clear that no such finding can be made relative to the Core Findings Ordinance.

We reference the attached analysis from Land Protection Partners (“Comments on Proposed Core Findings Ordinance, City of Los Angeles,” January 7, 2011), which addresses environmental impacts, including potential ecological impacts, of the CFO and the CPIO. By allowing increased development intensity including densification, these ordinances could have a range of adverse impacts that have not been disclosed at all. These include a decrease in total tree canopy in the City and an increase in impervious surfaces, a process that is already occurring through mansionization and densification of single-family neighborhoods.

The California Environmental Quality Act requires an EIR whenever a project *may* have a significant adverse impact on the environment. (California Public Resources Code § 21151.) “If there is substantial evidence of a significant environmental impact, evidence to the contrary does not dispense with the need for an EIR when it can still be ‘fairly argued’ that the project may have a significant impact.” (*Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1001.)

The zoning code project, including the 10 code studies and the CPIO, clearly represents the most massive rewrite of the City’s zoning code since 1946. An EIR is required to proceed.

OTHER ISSUES

Additional Comments on Core Findings Ordinance

We’ve discussed four key issues relative to the CFO, but there are other important issues addressed by the ordinance with potentially significant environmental impacts. The attached analysis by Jack Allen, Esq., the former City Attorney of Beverly Hills who specialized in land use and environmental law and litigation for more than 40 years, outlines concerns with, among other issues, the siting of wireless telecommunications facilities. He also further elaborates on some of the issues we’ve raised, including the impact of the Core Findings Ordinance on specific plan areas.

Ten Planned Code Studies

The City now plans 10 code studies (up from nine) as part of its zoning code simplification project, per a June 10, 2010 Planning Director’s report to the City Planning Commission. The City considers the code studies and the Community Plan Implementation Overlay districts ordinance part of the same project, per the December 7, 2010 “Myths and Facts” document published by the Department of City Planning. (Both documents are attached to this comment letter.)

We continue to object to the improper piecemealing of the City’s environmental impacts analysis relative to this project.

Specific Plan Exceptions Thresholds

We duly note the changes to the revised proposed Core Findings Ordinance relative to Los Angeles Municipal Code § 11.05.07, but we remain mindful that the problematic issues may arise again in a subsequent code study.

We continue to object to the improper piecemealing of the City's environmental impacts analysis relative to this project.

Applicability of Core Findings Ordinance to Hillside Areas, Including Conflicts with Baseline Hillside (Mansionization) Ordinance

We duly note the changes to the revised proposed Core Findings Ordinance, and are hopeful the Baseline Hillside Ordinance will be implemented sooner rather than later to lock in the much-anticipated hillside protections.

We continue to object to the improper piecemealing of the City's environmental impacts analysis relative to this project.

Planned Unit Development Code Study

This study was discussed at the recent Planning Department workshops on the CFO. We are generally supportive of the initiative as it might apply to projects of five acres or more. We attach the City's "Questions and Answers" document and "Feedback Form" relative to this code study.

We continue to object to the improper piecemealing of the City's environmental impacts analysis relative to this project.

Multiple Approvals Code Study

This study was discussed at the recent Planning Department workshops on the CFO. We are generally supportive of the initiative to synchronize project approvals and expirations of related entitlements, probably with the exception of conditional use permits, the potential impacts of which may be difficult to foresee over an extended period of time. We attach the City's "Questions and Answers" document and "Feedback Form" relative to this code study.

We continue to object to the improper piecemealing of the City's environmental impacts analysis relative to this project.

“PropX: Inventing the Next LA”

Attached is a 2007 city planning manifesto (“PropX: Inventing the Next LA”) conceived under the auspices of cityLAB-UCLA. The document, produced by a panel of experts including former Department of City Planning Director Gail Goldberg and generally endorsed by City Council President Eric Garcetti, provides a road map for many of the planning policy changes the City has been considering. As noted above, it is necessary to analyze the environmental impacts of these policies to assure compliance with CEQA and other applicable laws and regulations. Also attached is a 2006 document produced by cityLAB that provides a philosophical framework for the conception of the 2007 document.

Thank you for your consideration.

Sincerely,



Cary Brazeman
Founder, LA Neighbors United

Former Managing Director, CB Richard Ellis Group, Inc.*
Member, Urban Land Institute – Los Angeles District Council*
Member, Los Angeles Area Chamber of Commerce*
Member, Board of Directors, Mid City West Community Council*

*Titles for Identification Purposes Only

cc: Douglas Carstens, Esq.
Daniel Wright, Esq.

Attachments

- “Core Findings Analysis” by Jack Allen, Esq., January 4, 2011
- “Comments on Proposed Core Findings Ordinance, City of Los Angeles,” Land Protection Partners, January 7, 2011
- Department of City Planning Recommendation Report on Core Findings Ordinance (Appendix B) for January 13, 2011 City Planning Commission Meeting
- Department of City Planning Director’s Report on Zoning Code Update for June 10, 2010 City Planning Commission Meeting
- “A group called L.A. Neighbors United ...,” California Planning & Development Report, December 15, 2010
- “L.A. May Say Good-bye to EIRs and public notice,” LA Weekly, November 18, 2010

- “PropX: Inventing the Next LA,” cityLAB-UCLA, 2007
- “O-Z.LA,” cityLAB-UCLA, 2006
- “Summary of Conditional Use Permits and Other Similar Quasi-Judicial Approvals,” Department of City Planning
- Letter from Mid City West Community Council to Los Angeles City Planning Commission Regarding “Code Simplification and Proposed Core Findings Ordinance,” October 14, 2010
- “Myths and Facts About the Planning Department’s Recent Initiatives,” Department of City Planning, December 7, 2010
- “Questions & Answers: Planned Unit Development,” Department of City Planning, 2010
- “Feedback Form: Planned Unit Development,” Department of City Planning, 2010
- “Questions & Answers: Multiple Approvals,” Department of City Planning, 2010
- “Feedback Form: Multiple Approvals,” Department of City Planning, 2010
- Bungalow/Condominium Photo and Bullet Points

CORE FINDINGS ANALYSIS

Rev. January 4, 2011

by
Jack Allen ¹

SUMMARY

This is a revised Core Findings Analysis based on the most recent City Planning Recommendation Report. There have been substantial revisions in the September Report, a number of which are not mentioned or discussed in the Staff Report attached to the Recommendation Report.² Primarily sections that required applications to comply with Specific Plans have been removed but not entirely.³ The reason given by Staff that is that these concerns will be addressed in upcoming ordinances streamlining Specific Plan and Supplemental Use Districts. Perhaps but the fact that the most controversial part of the Core Findings Ordinance involved Specific Plans. Thus, removal of these sections eliminated the most controversial parts of the ordinance which may help get the ordinance passed.

In the original analysis, the author opined that the Core Findings did nothing to enhance the Zoning Regulations. Even though two of the unnecessary Core Findings have been deleted and the remaining four Core Findings improved, the proposed Core Findings need further revision in order to sufficiently protect neighborhoods. The following are proposed revisions:

1. The Neighborhood Enhancement Core Finding - revised

_____ That the project *shall* enhance the *built* environment in the **adjacent and** surrounding neighborhood or ~~will~~**shall** perform a function or provide a service that is essential or beneficial to the community, city, or region.⁴

2. The Project Compatibility Core Finding - revised

"That the projects location, size, *height*, operations, **uses**, and other significant features *shall* be compatible with **the scale and character** and shall not adversely affect or further degrade *adjacent properties*, the surrounding neighborhood, *and the public*

¹ The author is the former City Attorney of Beverly Hills who specialized in Land Use and Environmental Law and litigation for over 40 years.

² See page 7, Other Revisions to the October 14, 2011 ordinance: Some omissions include the fact that ten Sections have been removed from the original proposal and that additional language has been deleted from some sections that was in the original ordinance. See Sec. 13 **Wireless Communications Facilities**.

³ The elimination of the requirement in the General Plan Core Finding that applications comply with the Specific Plans is controversial because until the proposed revised Specific Plan Ordinance is adopted, there will be no requirement that applications comply with the Specific Plan.

⁴ The italics reflect the Staff revisions and the bold type is the recommended added revision.

health, welfare, and safety and physical environment . "

3. The General Plan Core Finding - revised

"That the project ~~is in substantial conformance~~ **complies** with the purpose, intent, and provisions of the General Plan and applicable community plan **and specific plan.**"

"5. The Project Design Core Finding - revised

"That the project provides for an arrangement of uses, buildings, structures, open spaces and other private and public improvements that are compatible with the scale and character of the **adjacent and** surrounding neighborhood."

The revised Housing Element Core Finding is satisfactory. Other recommendations are:

Transparency. That each section contain the following heading:

"In addition to the findings set forth in Section 12.24.E, the Zoning Administrator shall also find:"

Define What a Project Is. The word "project" is used throughout the Core Findings but it is not defined anywhere in the Municipal Code.

Eliminate the Word "Intent" from all Findings. An unnecessary word which in law can only be used to assist in defining an ambiguous provision and should be left up to attorneys and not to planners and zoning administrators.

Attached hereto is an eight page Detailed Analysis which expands on the points above. In addition an eight page Analysis of Particular Amendments of Findings and Recommendations which addresses how the Core Findings will specifically effect 13 proposed modifications of specific sections if they are amended.

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CORE FINDINGS ANALYSIS

Rev. January 4, 2011

by
Jack Allen

Background. The City Planning Department is currently in the process of revising the Zoning Code which has not revised since 1946.⁵ Considering that most cities revise their municipal codes every 10 to 20 years, the code revision is long overdue. While much of the Municipal Code has not suffered that badly from the neglect, the Zoning Code has become an almost indecipherable mess, much like a Rube Goldberg contraption. It is badly disjointed and is just piled together so that to many who need to use it, it is their worst nightmare.

For example, a property owner wants to find what the parking requirements are for a lot zoned R-1. The information is not located in Article 12.08 R-1 Single Family. Instead the property owner is referred to Section 12.21A which is part of Article 12.21 "General Provisions." Section 12.21A includes several items including a large number of sub-sections relating to Parking Requirements. If the Code was properly organized it would have a separate article on Parking which would make it much easier to find.

Undoubtedly, the worst situation is Article 12.24 regarding Conditional Use Permits. It goes from Section A to Section AA. Numbering under the Sections goes as high as number 52. The further division into subsections is inconsistent. Some will divide into 12.24.W.49.(e)(1). Others will divide into 12.24.X.11.(4)(a) or 12.24.X.12.(a).(I). Currently, it is so badly organized that it is difficult to locate information regarding a particular use.

Therefore, any effort to revise the Zoning Code is welcome. The plan is to do it in six parts. For some reason it was decided to begin by revising the findings. That is the least of the problems with the Code. It would seem that the first priority would be to revise the structure which makes the Zoning Code so difficult to use. As a priority, revising the findings should be the last priority since the current findings are more than adequate for the purposes that they fulfil. Moreover, until the other portions of the Zoning Code are revised, it is difficult to determine whether the proposed Core findings are still relevant. It appears that the Planning Department has got the cart before the horse.

The importance of Findings.

Zoning Codes consist of two parts. First, there are the "by right" provisions which set forth specific standards which if a property owner complies with, only a building permit is required. No findings are necessary to issue a permit.

The second part consists of permits, licenses, variance, and exceptions for a property. To obtain one, the owner must prove that the proposed project complies with all the standards

⁵ "Zoning Code" refers to Chapter 1 of the Los Angeles Municipal Code. There is no separate zoning code.

set forth to obtain a permit, license, variance, or exception. This is known as a *discretionary* permit because the issuing authority has the authority to either grant or deny the permit etc. depending on whether the applicant has satisfied the legal requirements necessary for the issuance of the permit etc.⁶

California law and the Los Angeles City Charter require that quasi-judicial proceedings, including public hearings, be conducted before an application for a discretionary permit is granted or denied.⁷ The zoning ordinance must provide and establish criteria for determining whether an application for a discretionary permit should be approved.⁸ Usually required standards are set for the issuance of a discretionary permit by the ordinance creating the permit (except for variances in which the required standards are prescribed in the Government Code or in the City of Los Angeles, by the Charter.⁹).

The agency making the decision as to whether to grant or deny the application is required to make findings as to whether the standards for the granting of the application have been complied with. Standards for issuing conditional use permits which, under the ordinances of California cities, vary from general to specific, have almost uniformly been judicially approved.

A. General Findings.

General findings are often called "generic" findings. An example of such general findings is the findings set forth in the City Charter for granting a variance. These findings do not apply to any specific use or project but to any application for a deviation from the applicable zoning requirements. An example of general findings in the Zoning Code can be found in Sub-section 12.24.E of the Zoning Code which states that for the approval of any conditional use permit the decision-maker must find that (1) the proposed location will be desirable to the public convenience or welfare, (2) is proper in relation to adjacent uses or the development of the community, (3) will not be materially detrimental to the character of development in the immediate neighborhood, and (4) be in harmony with the various elements and objectives of the General Plan.¹⁰

B. Specific Findings.

Specific findings however, address particular problems and impacts that may occur with certain uses if they are allowed. For example, conditional use permits "permit the inclusion in

⁶*Stoddard v. Edelman* (1970) 4 Cal.App.3d 544 , 548

⁷ LA City Charter §§562-565. The California Government Code requirements do not apply to charter cities.

⁸ Govt. Code §65901.(a)

⁹ §562

¹⁰ The Planning Dept. proposes to replace these findings with three core findings.

the zoning pattern of uses considered by the legislative body to be essentially desirable to the community, but which because of the nature thereof or their concomitants (noise, traffic, congestion, effect on values, etc.), militate against their existence in every location in a zone, or in any location without restrictions tailored to fit the special problems which the uses present."¹¹ CUPs should be limited to those uses only for which it is difficult to specify adequate conditions in advance.

Although good zoning practice dictates that specific findings should be required for certain uses, licenses, and land use projects, neither California law nor courts require specific findings be included for the issuance of permits, licenses, variances, or other quasi-judicial actions. If only general findings are required to obtain a permit, license, etc. and the record contains substantial evidence that supports the findings, the courts will not overturn the approval or denial of the permit, license, etc.

The courts give great latitude to the fact finder in making findings. However, the less specific a required finding is, the easier it is to make the finding. It is easier for a court to determine that there is sufficient evidence to support a general finding than it is for a specific finding. Another consideration is that the more findings that are necessary for the granting of a permit, the easier it is to deny the approval because if the applicant fails to prove that the criteria for any one finding are satisfied, the permit must be denied unless additional conditions are imposed that will mitigate or eliminate the potential impacts of the use or project.

Although the knife can cut both ways, generally developers prefer loose general findings because such findings give the City much more latitude to approve permits.

Core Findings.

The Planning Dept. is recommending the use of five "core findings" to replace many of the existing findings in the Zoning Code including both general and specific findings. The proposed core findings are general findings because none of them address the specific concerns of any particular permit, use, etc.

In actuality only three of the findings are used as general findings. The remaining four are replacements for other specific findings. The three core findings that are general are contained in Sec. 5 of the proposed ordinance. They replace the general findings set forth above in Sub-section 12.24.E. The first of the core findings is:

1. The Neighborhood Enhancement Core Finding - revised

_____ That the project *shall* enhance the *built* environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region.

¹¹*People v. Perez*, (1963) 214 Cal.App.2d Supp. 881, 885

This replaces the current finding:

"the proposed location will be desirable to the public convenience or welfare,"

The current finding is fairly standard as a required finding in most ordinances in California and has been well regarded by the courts. However, the proposed core finding is more specific and clearer than the current finding. But it is not as strong as it should be. It would be more protective of the neighborhoods if it is revised as follows:

"1. That the project shall enhance the built environment in the adjacent and surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region."

Whether it is an acceptable replacement for similar findings in sections regarding specific uses has to be determined section by section.

The second proposed core finding is:

2. The Project Compatibility Core Finding - revised

"That the projects location, size, height, operations and other significant features shall be compatible with and shall not adversely affect or further degrade adjacent properties, the surrounding neighborhood, and the public health, welfare, and safety."

This will replace the current finding:

"will not be materially detrimental to the character of development in the immediate neighborhood."

Like proposed core finding No. 1, the current finding is fairly standard as a required finding in most ordinances in California and has been well regarded by the courts. However, the proposed core finding is more specific and clearer than the current finding. It too, it is not as strong as it should be. It would be more protective of the neighborhoods if it is revised as follows:

"That the projects location, size, height, operations and other significant features shall be compatible with *the scale and character* and shall not adversely affect or further degrade adjacent properties, the surrounding neighborhood, and the public health, welfare, and safety *and physical environment*."

Whether it is an acceptable replacement for similar findings in sections regarding specific uses has to be determined section by section.

The third proposed core finding is:

3. The General Plan Core Finding - *revised*

"That the project is in substantial conformance with the purpose, intent, and provisions of the General Plan and applicable community plan ~~and specific plan.~~"

It replaces the current finding:

"be in harmony with the various elements and objectives of the General Plan."

The current finding has also survived court tests. Being in harmony is a term used in the General Plan Framework itself:

1. The General Plan Framework Element and Its Relationship to the General Plan
The Framework Element is a special purpose element of the City of Los Angeles General Plan that establishes the vision for the future of the City of Los Angeles and the direction by which the citywide elements and the community plans shall be comprehensively updated in *harmony with that vision.*"

a. Substantial conformance.

The term "substantial conformance" is subject to broad interpretation. It is not ambiguous as some have complained. Nevertheless, it has not been legally defined when used in zoning ordinances and could be construed to give broad discretion to decision makers. However, the term "substantial **compliance**" has been defined by the courts in land use law cases as:

"Substantial compliance, as the phrase is used in the decisions, means actual compliance in respect to the substance essential to every reasonable objective of the statute, as distinguished from mere technical imperfections of form."¹²

While it would be more appropriate to use the word "compliance" in place of the word "conformance," the term "consistent" as a matter of law, means the same as "substantially complies" so therefore, just use one word rather than two.

In a discussion I had with the Planning Associate at a Workshop, he agreed that because the holdings by the courts, that the use of the term "substantial compliance" would satisfy Staff's concerns that it was too strict a standard and that he agreed to substitute that phrase for the term "substantial conformance." Apparently, that promise has been forgotten.

¹² *Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2004)126 Cal.App.4th 1180, 1195 (Elements deemed consistent with General Plan because they substantially complied with the requirements of the Govt. Code sections 65300 to 65307). Gov. Code, § 65751.) "Substantial compliance ... means actual compliance in respect to the substance essential to every reasonable objective of the statute,' as distinguished from 'mere technical imperfections of form.'"

b. Intent.

The term "intent" also is wide open to interpretation. The intent of the General Plan is not expressed anywhere. At best, the only intent expressed that might be relevant is contained in the Land Use Element. It states that "it is the intent of the Land Use policy to encourage a re-direction of the City's growth in a manner such that the significant impacts that would result from the continued implementation of adopted community plans and zoning can be reduced or avoided. This will provide for the protection of the City's important neighborhoods and districts, reduce vehicular trips and air emissions, and encourage economic opportunities, affordable housing, and an improved quality of life."

That statement provides no guidance to the decision makers in determining whether or not a particular project is in conformance with the General Plan, a Community Plan, a Specific Plan or an ordinance. ¹³

Govt. Code §§65860.(a) states that:

" A zoning ordinance shall be consistent with a city or county general plan only if both of the following conditions are met:

.....

(2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan."

The word "intent" is not included. Planning staff has insisted on including "intent" because it is used in Charter Section 562 regarding the issuance of variances, in which it is not used as part of a required finding to obtain a variance but that if granted with conditions, the condition must "assure compliance with ...the purpose and intent of the zoning ordinances." Even in this context, intent is only relevant if the zoning ordinance is ambiguous.

The problem with the use of the word "intent" is that except for the above statement of "intent" in the Land Use Element, "intent" is not used in any other part of the General Plan, community plans, specific plans, or in any zoning ordinance. Therefore, no one can point to a specific provision which sets forth the "intent" of the action involved. It is wide open to interpretation. On the other hand, the General Plan, community plans, and specific plans are filled with Purpose statements and Objectives which can be used to determine whether or not a proposed action is consistent with that particular plan or ordinance.

¹³The case of *Cossack v. City of Los Angeles*, (1974) 11 Cal.3d 726, cited by those who think that "intent" is properly used in the core finding, involved the issue of whether the definition of "pin game" contained in section 43.05.1 of the Los Angeles Municipal Code, included coin-operated amusement games, which if were considered "pin games" were banned. Further, intent is only relevant if there are the issues involve questions of statutory interpretation. *Fernandez v. California Dept. of Pesticide Regulation* (2008)164 Cal.App.4th 1214, 1228.

Staff states that it has deleted the "the Specific Plan" from the proposed ordinance because the subject will be considered in a future ordinance. However, there is no certainty that the future ordinance will ever be adopted or that the subject will be dealt with. If this ordinance is enacted prior to the future ordinance, then there will be a period of time when Specific Plans are omitted. That is an important reason why all the ordinances should be enacted at the same time to ensure all bases are covered and that they are consistent with each other.

The current finding is adequate as a general finding for the approval of Conditional Use Permits although it should be revised to include applicable community and specific plans. However, if there is insistence on abandoning the current finding, it is recommended it be re-written to state as follows:

"That the project complies with the purposes, objectives, and provisions of the General Plan and any applicable community and specific plan."

c. Lastly, the proposed core finding omits one of the current findings:

"is proper in relation to adjacent uses or the development of the community,"

This finding is not clearly embraced in the proposed three core findings and it should not be deleted.

Moreover, as will be discussed under *Impacts on Specific Plans*, the proposed "core" finding poses a threat to the integrity of Specific Plans.

Other "Core" Findings.

These two proposed "core" findings are not general but revise existing findings.

The next "core" finding is:

"5. The Project Design Core Finding - revised

"That the project provides for an arrangement of uses, buildings, structures, open spaces and other private and public improvements that are compatible with the scale and character of the surrounding neighborhood."

It replaces "neighboring properties" from the current finding and substitutes "surrounding neighborhood." It has been argued that the change weakens the finding because it enlarges the neighborhood, which has never been defined. If the words "and adjacent properties" were added to the finding, it would probably eliminate concerns. The reason for adding "adjacent properties" is that the term "surrounding neighborhood" can be interpreted to mean an area several blocks in depth where the term "adjacent neighborhood" or "adjacent properties" refers specifically to those properties next to the proposed project. A proposed

project may have little or no impact on properties a block or more from the project site but it may have detrimental impacts on the properties immediately adjacent to the project.

The last proposed "core" finding is:

"7. The Housing Element Core Finding - revised

"That the project is consistent with and implements the affordable housing provisions of the Housing Element of the General Plan."

There is no objection to this proposed finding.

Redundancy Is Desirable.

While a finding may be redundant in the sense that it can also be found in other Zoning Code sections, that does not mean that it should be deleted. It is a reminder to all that read it, that it is a required finding. It doesn't impose any additional work for the decision maker because that person or commission has to make the finding anyway. It improves the transparency of the Zoning Code.

Project Not Defined..

The term "project," which is not defined, is used frequently to replace a description of the specific approval. For example the language "that the vehicular traffic associated with the building or structure" is replaced by the term "project" even though project does not describe the condition being addressed by the finding. The reason for the use of the term "project" is because the core finding has to address different situations. However, it makes the core finding ambiguous and does not address the specific issue requiring the finding.

CEQA Findings Should Remain..

Three findings are deleted because the Staff states that they are redundant of CEQA. The Staff argument that the requirement that a project incorporates mitigation measures, etc. is duplicative or redundant of the California Environmental Quality Act (CEQA) findings, is not justification for deleting them as a specific finding. The Staff fails to state where in CEQA are the findings stated. In fact, State Guidelines §§15091 and 15903 which state what findings are required under CEQA are not as specific as are the findings the Staff want to delete. The findings that the Staff propose to delete are much more specific and should be maintained.

Lack of Transparency.

One of the problems with the current Zoning Code provisions regarding particularly Sections 12.24E, is that when a person looks for what is required to obtain a permit for a particular use, often the only criterion is that a person usually finds are those stated in the Code section regarding that particular use. There is no reference to any other applicable

findings. Then in some sections it is stated: "In addition to the findings otherwise required by this section, the Zoning Administrator will also find": This statement gives a reader a signal that there are other findings but unless the reader is intimately familiar with the Code, the reader will have a hard time finding the other findings which in most cases are in §§12.24.E. It is not recommended that the statement "In addition to the findings otherwise required by this section, the Zoning Administrator shall also find:" not only remain in every sub-section that it is now located but that it be inserted in every sub-section that has additional findings and that it read as follows:

~~"In addition to the findings otherwise required by this section~~ *set forth in Section 12.24.E*, the Zoning Administrator shall also find:"

This will make the regulations regarding conditional use permits easier to use, have greater transparency, and less confusing. The proposed ordinance has similar language in Section 28 regarding the required findings in Sub-section 12.28.C.4 for granting adjustments.

It was the understanding of the participants in the Planning Workshops that this would be done.

Negative Impact on Specific Plans.

The proposed "core" finding Nos 3.(General Plan), can adversely impact Specific Plans. No. 3 will have the potential to impact Specific Plans because it leaves considerable discretion to the decision maker to approve projects which strictly do not conform to the Specific Plan. Only "substantial" conformance is required and the intent provision leaves the interpretation of the Specific Plan to manipulation.

Policies.

The Los Angeles Planning Commission Chair asked speakers to identify ways that substituting the Core Findings for existing findings changed policy. The issue then is what is the policy. The policy supporting findings is to:

- (1) Ensure that the proposed entitlement or use is consistent with the General Plan and any applicable community plan, specific plan, and redevelopment plan.
- (2) Address any specific adverse impacts that any proposed entitlement or use may have on adjacent or surrounding neighborhoods and the community and ensure that those impacts either will not result or are eliminated.
- (3) Ensure that any entitlement or use is compatible with the adjacent and surrounding commercial or other non-residential uses.

Therefore, the manner in which each of the proposed "core" findings may impact the any of the above policies for a specific use or entitlement will be discussed as follows

ANALYSIS OF PARTICULAR AMENDMENTS OF FINDINGS AND RECOMMENDATIONS

Section 2: Amendments to Subsection E of Section 12.24 Findings for Approval of Conditional Use Permits and Other Quasi-Judicial Approvals.

As discussed in the *Core Findings* of the Core Finding Analysis, the proposed amendments to Subsection E of Section 12.24 replace the current four required findings for the Approval of Conditional Use Permits and Other Quasi-Judicial Approvals with three Core Findings.

Recommendation. For the reasons given in the Core Finding Analysis it is recommended that if Subsection E of Section 12.24 is to be amended, that the required findings read as follows:

1. That the project shall enhance the built environment in the adjacent and surrounding neighborhood or shall perform a function or provide a service that is essential or beneficial to the community, city or region.
2. That the project's location, size, height, operations, use and other significant features shall be compatible with and not adversely affect or further degrade the adjacent and surrounding neighborhood or the health, welfare, safety or environment.
3. That the project is consistent with the purpose, objectives, language, and provisions of the General Plan and applicable community and specific plan, and
4. That the proposed location *shall be necessary for the convenience of the public or welfare.*

Section 4: Modifying 12.24.U.14(b) Findings for Approval of Major Development Projects.

The City Planning Commission is required to make certain findings in approving a Major Development Project. The proposed ordinance would modify his findings.

- a. Initially it modifies introductory section which states as follows:

“In addition to the other findings required by this section, the City Planning Commission shall make the following findings:”

and replaces it with the following language:

“The City Planning Commission shall find:”

The problem is that by deleting the language requiring the Planning Commission to

make other findings that are required by this section (and there are other findings required by this section) the Commission could overlook those additional findings because not required that they make them.

b. The proposed ordinance then deletes the first finding which is:

“ (1) the Major Development Project conforms with any applicable specific and/or redevelopment plan;”

The Staff justifies us by stating that the deletion will be consistent with the new core “General Plan” core finding. However, the “General Plan” core finding does not require that a Major Development Project conform with an applicable “redevelopment plan”.

c. The proposed ordinance then deletes the original second required finding which states:

“(2) the Major Development Project provides a compatible arrangement of uses, buildings, structures, and improvements in relation to neighboring properties;”

and then substitutes the following language:

“That the project provides for an arrangement of uses, buildings, structures, open spaces and other private and public improvements that are compatible with the surrounding neighborhood.”

The original language is more concise and to the point than the proposed core finding. This is a waste of staff time.

d. The proposed ordinance then deletes the following finding:

_____ “ (3) the Major Development Project complies with the height and area regulations of the zone in which it is located;”

The Staff justification for the deletion of this subsection is that it is redundant. However others would disagree because it’s specific.

e. The proposed ordinance then deletes the final required finding which is:

“(5) the Major Development Project would have no material adverse impact on properties, improvements or uses, including commercial uses, in the surrounding neighborhood.”

The Staff justification is that the deletion is consistent with the new core “Compatibility” finding which states:

"That the project's location, size, operations and other significant features will be compatible with and will not adversely affect or further degrade the surrounding neighborhood."

The Core finding does not include "uses" within its parameters which the current finding does. The current finding is more inclusive. The Core finding leaves more area for discretion by the decision maker.

Recommendation: This is a section that addresses a specific type of Plan and therefore, requires more specific findings than are provided by the Core findings. Therefore, the existing findings either should remain or if Core findings are substituted, then they should be modified to include the specific concerns that are addressed in the current findings.

Section 8: Modifying 12.24.V.2, Findings for Approval of Mixed Commercial/Residential Use Development.

a. A proposed ordinance would modify the findings required for the approval of a Mixed Commercial/Residential Use Development by an Area Planning Commission. It is proposed that the following language:

"(a) Prior to approving a development pursuant to this section, the Area Planning Commission shall make all of the following findings:"

be amended to read as follows:

"(a) Prior to approving a development pursuant to this section, the Area Planning Commission shall make all of the following findings in addition to the findings set forth in 12.24.E:"

The Staff does not justify this this amendment. The language "Prior to approving a development pursuant to this section..." sets a precondition to approval meaning that the Commission must make its findings before and not after approval of the project. The original language is correct.

b. Then the proposed ordinance deletes the original subsection (1) which read as follows:

" (1) that the proposed development is consistent with the purposes and intent of the Housing Element of the General Plan and will provide needed lower income housing units in keeping with the goals of the plan; and"

and revised it to read:

"That the project implements the affordable housing provisions of the Housing Element of the General Plan;"

By omitting the language “will provide needed lower income housing units” removes the condition of approval because the housing proposed for approval may not be lower income housing units. The Staff justifies the change because it is consistent with the new core “Housing Element” finding. The problem is that the core finding does not really fit the situation.

Recommendation: Since none of the Core findings adequately replace the current findings, the current findings should remain.

Section 10: Modifying 12.24.W.27(b), Findings for Approval of Mini-Shopping Centers

The proposed ordinance amends the findings for the approval of Mini-Shopping Centers essentially the same way the ordinance proposes to amend the Automobile Use regulations. As above, and amends the initial findings requirement which stated:

The proposed ordinance deletes subsection (4) which read:

“ (4) that the Mini-Shopping Center or Commercial Corner Development is not located in an identified pedestrian oriented, commercial and artcraft, community design overlay, historic preservation overlay, or transit-oriented district, area or zone, or, if the lot or lots are located in the identified district, area or zone, that the Mini-Shopping Center or Commercial Corner Development would be consistent with the district, area or zone.”

Staff justifies this deletion in order to remove zoning redundancy. Staff does not explain how this section is redundant. It seems to make sense to have this finding.

Recommendation: That the current Finding (4) not be deleted.

Section 11: Modifying 12.24.W.28, Findings for Approval of a Mixed Use Project.

The proposed ordinance would amend the findings required for approval of a Mixed Use Project in a Mixed Use District. The proposed ordinance would delete the following language:

“(b) The Project conforms with any applicable specific and redevelopment plans.”

This is a necessary finding however Staff justifies this deletion as consistent with new core “General Plan” finding however, the Core finding does not require conformance with either the Specific or the redevelopment plans.

Recommendation: That the current finding remain because it specifically requires conformance with the redevelopment plans. Because the Core finding is a required finding in Sub-section E, it will apply also.

Section 13: Modifying 12.24.W.49.(e), Findings for Approval of Wireless Telecommunications Facilities.

Since the July proposed Ordinance, Staff has further modified Section 12.24.W.49.(e) to delete the requirement in sub-section (e) (1) that the Zoning Administrator find that the "project" "meets the Approval Criteria of Section 12.21.A.20.(c) of this Code". Those who have experience with applications for approval of Wireless facilities know that this is a critical finding.

While the Section requires that the Zoning Administrator find that the application be consistent with the general requirements of the Wireless Telecommunications Facilities Standards in 12.21.A.20, those requirements are set forth in sub-section (a) therein and do not apply to the specific approval requirement in sub-section (c).

Recommendation: That the current findings in 12.24.W.49.(e) be retained..

Section 14: Modifying 12.24.W.50, Findings for Approval of storage buildings for household goods and truck rentals.

Subdivision 50 now reads as follows:

“ 50. Storage buildings for household goods, including truck rentals, in the C2, C5 and CM Zones; and in the M1, M2 and M3 Zones when within 500 or fewer feet from an A or R Zone or residential use, as measured from the lot lines. In addition to the required findings, the Zoning Administrator shall also find that the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other similar pertinent improvements, which is or will be compatible with existing and future development on neighboring properties. “

The proposed ordinance would amend the section to read as follows:

“ 50. Storage buildings for household goods, including truck rentals, in the C2, C5 and CM Zones; and in the M1, M2 and M3 Zones when within 500 or fewer feet from an A or R Zone or residential use, as measured from the lot lines. In addition to the required findings, the Zoning Administrator shall also find that the project *provides foreign arrangement of uses, buildings, structures, open spaces and other private and public improvements that are compatible with the surrounding neighborhood.* ”

Again the Staff justifies this amendment so as to be consistent with the new core “Project Design” finding. The problem with the core finding is that it lacks the specificity necessary to regulate these types of uses. The core finding is just too general.

Recommendation. The current finding should be retained.

Section 16: Modifying 12.24.X.2.b, Approval of a Restaurant to Serve Alcohol.

a. The proposed ordinance will amend the findings from approval of a restaurant to serve alcohol significantly. The proposed ordinance deletes the following subsection (4):

“ (4) that parking is provided at the rate of at least one space per 500 square feet of gross floor area, except when located in the Downtown Business District as delineated in Section 12.21 A.4.(i). When located in the Downtown Business District, parking shall be provided as required by Section 12.21 A.4.(i)(3);”

Staff justifies this deletion as being redundant. While that may be so it is very helpful to anyone attempting to get a CUP to find these requirements in this subsection. They may never be able to find them otherwise.

Recommendation. The current finding should be retained.

Section 17: Modifying 12.24.X.6, Approval of Farmers Markets

The current regulations regarding Farmers Markets requires that the following findings be made:

“ (e) Findings. In addition to the findings otherwise required by this section, a Zoning Administrator shall find that the proposed location of a certified farmer’s market will not have a significant adverse effect on adjoining properties or on the immediate neighborhood by reason of noise and traffic congestion.”

The proposed ordinance eliminates the requirement for these findings. The staff justification is that the deletion is to be consistent with the new core “Project Compatibility” finding. The Core finding is not specific as to this type of project in that it does not also specify the noise and traffic congestion which are specific concerns relating to farmer's markets and these impacts are common to farmer's markets even when they were approved by the Zoning Administrator,

Recommendation. The current finding should be retained.

Section 21: Modifying 12.24.X.23(a), Findings for Approval of Adjustments.

The proposed ordinance substantially amends the existing requirements for an approval of an adjustment. To begin with, adjustments violate the Los Angeles City Charter requirements for the issuance of a variance. A rose is a rose no matter what you call it. An adjustment is a variance regardless and the findings for a variance should be the same findings for an adjustment.

The proposed revised language is very weak compared to the original language,

“Before granting an application for an adjustment the Zoning Administrator shall make the findings in section 12.24E of this Code and also find that the granting of the adjustment recognizes that while site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible, the project conforms with the intent of those regulations.”

Again, intent is irrelevant in granting relief.

Recommendation. Delete this Section.

Section 22: Modifying 13.03.G, Findings for Surface Mining Operations.

a. Subsection 8. currently reads:

It has been revised to read as follows:

The revised finding does nothing to protect the public health, safety, and welfare. The revised finding should be combined with the original finding to read as follows:

“ 8. The vehicular access plan is adequate to protect the public health, safety, and welfare and that it will not create an adverse impact on street access or circulation in the surrounding neighborhood.”

The Staff justification is that the deletion is to be consistent with the new core “Project Compatibility” finding. This is one of the exceptions in which the revision includes a core finding. However the core finding does not include the elements necessary to the original finding.

b. In subsection 11., Subsection (b) thereof is deleted. It read as follows:

“ (b) The Reclamation plan has been reviewed pursuant to CEQA and the City’s CEQA Guidelines, and all significant adverse impacts from Reclamation of Surface Mining Operations are mitigated to the maximum extent feasible;”

The Staff justifies the deletion on the basis that it is redundant of CEQA. As discussed previously, it is not redundant.

The Staff also revises subsection (d) which reads:

c. “(d) The Reclamation plan provides for one or more beneficial uses or alternate uses of the land which are not detrimental to the public health, safety, and welfare;”

and revises it to read as follows:

“The project’s location, size, height, operation in other significant features will be

compatible with and will not adversely affect or further degrade the surrounding neighborhood:"

The Staff justification is that the deletion is to be consistent with the new core "Project Compatibility" finding. The problem is that the original finding related to the Reclamation plan and it required the provision of one or more beneficial uses or alternate uses of the land. Again the proposed core finding does not address the issues set forth in the original finding. Both the original finding and the core finding should be included.

d. Subsection (f) now reads:

"(f) The Reclamation plan will restore the Mined Lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan; in particular, the open space and conservation elements."

The proposed ordinance revises the subsection to read as follows:

"the Reclamation plan will restore the Mine Lands to a usable condition which is readily adaptable for alternative land uses that are in substantial conformance with the purposes, intent and provisions of the Open Space and Conservation Elements of the General Plan."

The Staff justifies this change as consistent with the new core "General Plan" finding. The finding includes "intent". Further, the Core finding being general omits a a specific requirement in the original finding relating to the "applicable resource plan".

Recommendation. The current finding should be retained.

Section 24: Modifying 14.3.1.E, Findings for Eldercare Facilities.

Subsection (4) now reads:

"4. Consists of an arrangement of buildings and structures (including height, bulk, and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other pertinent improvements, which is or will be compatible with existing and planned future development on neighboring properties; "

The proposed ordinance revises the subsection to read:

"That the project provides for an arrangement of uses, buildings, structures, open spaces and other private and public improvements that are compatible with the surrounding neighborhood:"

Again a core finding is used to replace the original finding. The core finding does not addresses specific concerns detailed in the original finding. Nor does the core finding address

in a planned future development on the neighboring properties.

Recommendation: The current finding be retained.

Section 24: Modifying 16.05.F, Findings for Site Plan Review.

a. Subsection 1. reads as follows:

"1. That the project complies with all applicable provisions of this Code and any applicable Specific Plan."

The proposed ordinance replaces the language in subsection 1 with the following core finding :

"That the project is in substantial conformance with the purposes, intent and provisions of the General Plan and applicable community and specific plan;"

The original finding required complete compliance with all applicable provisions of the Zoning Code whereas the revised finding only requires "substantial conformance" with the General Plan. It is much weaker than the original.

b. The proposed ordinance deletes subsection 3. which reads:

" 3. That the project is consistent with any applicable adopted Redevelopment Plan."

The reason given by Staff is that it is a zoning redundancy. Why it is redundant is not explained and it appears to be an appropriate finding for a Site Plan Review.

c. The proposed ordinance also deletes subsection 5. which reads :

"5. That the project incorporates feasible mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would substantially lessen the significant environmental effects of the project, and/or any additional findings as may be required by CEQA."

As previously stated, this is not redundant.

Recommendation: The current finding be retained.

Prepared by Jack Allen
Revised January 5, 2011



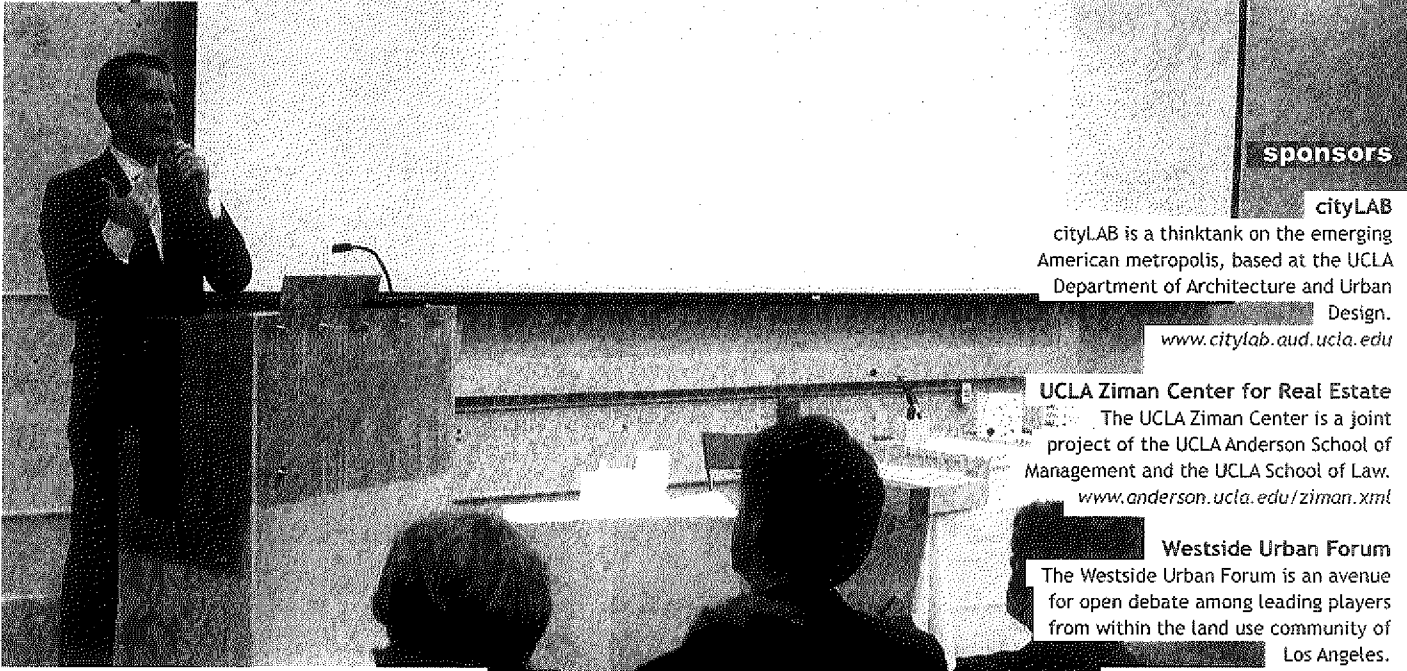
PropX
inventing the next LA

lessons learned

*edited by Dana Cuff, Roger Sherman,
Mott Smith and Bianca Siegl*

*published by cityLAB at UCLA
in conjunction with the Westside Urban Forum
and the UCLA Ziman Center for Real Estate
February, 2007*

PropX



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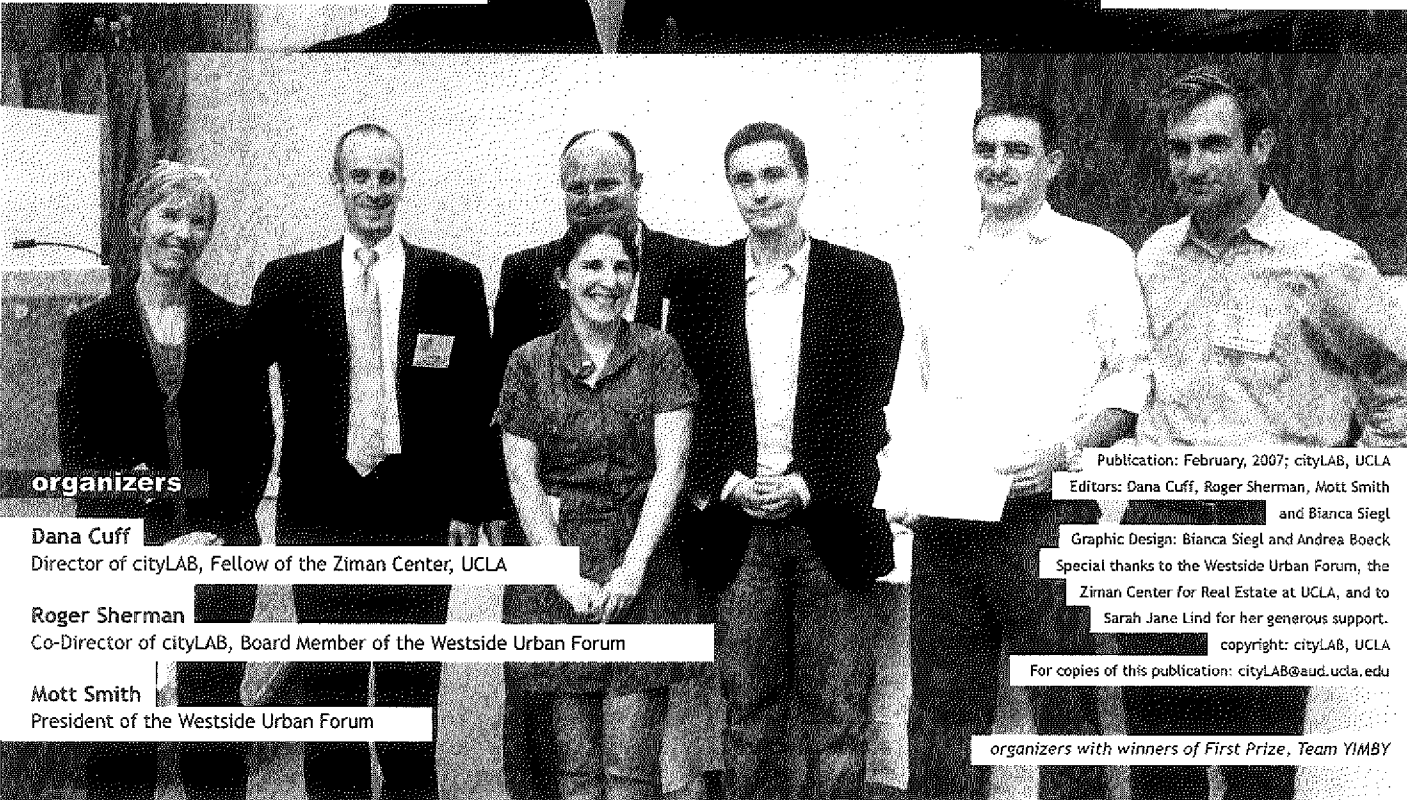
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organizers

Dana Cuff

Director of cityLAB, Fellow of the Ziman Center, UCLA

Roger Sherman

Co-Director of cityLAB, Board Member of the Westside Urban Forum

Mott Smith

President of the Westside Urban Forum

Publication: February, 2007; cityLAB, UCLA

Editors: Dana Cuff, Roger Sherman, Mott Smith and Bianca Siegl

Graphic Design: Bianca Siegl and Andrea Boeck

Special thanks to the Westside Urban Forum, the Ziman Center for Real Estate at UCLA, and to Sarah Jane Lind for her generous support.

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Eric Garcetti LA City Council President

Throughout its history, Los Angeles has been defined by a native courage that other places lack. Cutting forward to today, we can see the importance of a project like PropX in relation to our recent crisis of confidence. In a city once defined by its optimism, we feel a change in tone. Our dinner-table conversations or the way we speak to our neighbors have begun to reflect a feeling that we cannot really solve the problems that this city faces.

At the same time, we can see a restored capability of success in Los Angeles. We have more of the necessary ingredients than almost any other city in the world. We combine the wealth of the developed world with the growth rate of the developing world. These two things together give us the ability to think and to plan in a way that we haven't before.

I submit that we are suffering the effects of a failure of imagination. We have failed to imagine what can be, what will be and what we, commonly, can work upon together. We've tested slow-growth, we've tested no-growth, and we've tested low-growth. The traffic hasn't gotten any better. The air hasn't improved. Our quality of life is markedly worse. So now, let's try a different thesis. Let's re-imagine what we can do with creative regulation. Let's use small-lot ordinances. Let's use adaptive re-use. Let's use the PropX proposals! Some of these projects will become legislation in this city, because we are crying out for exactly what they represent. And let us ask the question: Can we step up? Can we imagine, can we plan, and most of all, can we execute?

jurors

Neil Denari

Principal
Neil M. Denari Architects

Gail Goldberg

Director
LA Dept. of City Planning

Christopher Hawthorne

Architecture Critic
Los Angeles Times

Harlan Lee

Founder + Chairman
Lee Homes

Richard G. Little

Director
Keston Institute for Infrastructure,
USC

Tibby Rothman

Publisher
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professional advisors

Andrew Adelman, LA Dept. of
Building & Safety

Charmaine Atherton, Bank of America

Jane Blumenfeld, LA Dept. of City
Planning

Jim Brock, Environmental Planning
Associates

John Chase, City of West Hollywood

Robert De Forest, Phoenix Realty

Liz Falletta, USC School of Architecture/
Developer

Andrew Garsten, Greater Echo Park
Elysian Neighborhood Council

Ken Gill, LA Dept. of Building &
Safety

Maricela Gomez, Playa Vista

Matthew Haas, Bank of America

Steve Ikkanda, LA Dept. of Building &
Safety

Randy Johnson, Playa Vista

Tom Jones, Playa Vista

Brian Lane, Koning Eizenberg
Architecture

Jon Lonner, The Lee Group

Julianne Maurseth, Sunland-Tujunga
Community

Robin Mears, Sunland-Tujunga
Community

Simon Pastucha, LA Dept. of City
Planning

Ruben Perez, LA Dept. of Building &
Safety

David Reddy, R&D Architects

Jim Ries, Craig Lawson & Associates

Paul Rohrer, Munger, Tolles & Olson

Alex Saunders, Phoenix Realty

Renata Simril, Forest City

Steve Soboroff, Playa Vista

Dalila Sotelo, McCormack Baron
Salazar

Jay Stark, Phoenix Realty

Dale Thrush, Office of Councilmember

Wendy Greuel

Patrick Tooley, Tooley Interests

Lisa Trifiletti, Office of Councilmember

Jack Weiss

Richard Weinstein, UCLA Department of
Architecture

The teams did an excellent job of creating very big ideas that are both pragmatic and possible. For me, this distinguishes PropX from many competitions and exercises. As a policy maker, I always want to find the best solutions to problems, but sometimes there are simple and elegant solutions that intelligent, fresh eyes can see best. If we have open minds and are willing to move in new directions, the PropX teams have shown us that we can find entirely new, and perhaps better, approaches to complex urban problems.

-Jane Blumenfeld
Citywide Planning Manager
LA Dept. of City Planning

Los Angeles, along with many American cities, stands at the edge of the next wave of city building. The second-generation growth in this coming era will not be located on vacant sites, as in the past, but situated on property previously occupied or currently in use. With a number of extra-large projects in the making and many more small and medium-sized projects underway across the basin, the question is how to best guide this development so that LA becomes a better city as a result. Grand, visionary planning has proven incapable of contending with the messiness of urban growth, but adequate alternatives have yet to replace it. PropX is an experiment into better ways to move our cities into the future.

The X in Proposition X stands for innovative regulation that will trigger the kind of design and development that will make LA a leader in 21st century city-making. Two fundamental assumptions underlie the PropX proposals in the following pages. First, planning must be more agile—responsive, flexible, dynamic, and incremental, in contrast to utopian master planning models. Agile planning requires an emergent vision of the city. And second, to solve big urban problems design professionals must work in constructive collaboration. Homelessness, traffic, environmental degradation, affordable housing—these issues are not owned by any single discipline. Planning, architecture, policy, and real estate development must be braided together in order to create necessarily innovative, viable solutions.

In the summer of 2006, over forty young professionals working in five cross-disciplinary teams were competitively selected to undertake the PropX experiment. They were guided by three dozen professional advisors from across the Los Angeles building industry. The summer-long competition required teams to think creatively and pragmatically, at both small and extra-large scales, seeking feasible outside-the-box solutions to one of LA's greatest challenges: how to provide more affordable, market-rate housing.

Los Angeles is home to a widely acknowledged housing crisis, stemming from an undersupply of moderately priced for-sale housing. Statistics show that only 15% of those who

want to become homeowners in Los Angeles can reasonably afford to do so. The five PropX proposals integrate policy, development, and design with the goal of stimulating more and better affordable housing without public subsidy. The most convincing projects are replicable on numerous sites in the city, well-designed, and profitable. In addition, the best PropX proposals accomplish related goals as they produce entry-level housing. They demonstrate multiple positive effects on the quality of urban life: reduction in traffic congestion, more pedestrian-oriented experiences, more usable open space, increased economic vitality, and the ability to respond to neighborhood concerns.

The book in your hands is organized around what was learned from all five PropX projects and the conversation they generated. Those lessons, highlighted in magenta on the following pages, are our conclusions. The projects illustrate those lessons, but they can also stand on their own. Whether focusing on the wasted space of surface parking or the underutilized backyards in the suburbs, participants sought to infill new housing amid old on a specific demonstration site. Moreover, each solution could be applied to any number of similar sites throughout Los Angeles.

PropX considers X in the mathematical sense of an unknown, as in "let X equal some value." It stands for the idea that we must implement creative planning ideas if we are to find new ways to address the housing crisis in our city. The projects in the following pages have solved for X. They suggest a range of approaches, from tinkering with the planning process in ways that might have tremendous implications for encouraging small housing developments, to redesigning oversized boulevards so that high-density housing could be sited alongside them in the space created by removing median strips. But beyond the models of regulation and site-specific projects, the PropX proposals outline a new form of planning—one that is more agile yet still guided by a vision of a better Los Angeles, one that is not undertaken by planners alone, but by all of us within the building industry thinking creatively about our common goals of a more beautiful, more affordable, more sustainable Los Angeles.

- Dana Cuff

PropX proposals

Each of the five teams took up the PropX challenge in a specific proposal that could be replicated on numerous sites across the city. Here, team concepts are summarized, and their case study projects are located on the map of LA. These projects are illustrated in the following pages. The color assigned each team below remains consistent throughout this book.

YIMBY

Everyone agrees. Los Angeles is in the midst of a severe housing crisis that seriously threatens its economy and future. But where to put that new housing the city so desperately needs? YIMBY looks at the single family neighborhood—the site of greatest opposition to densification but also the greatest opportunity for new housing.

The challenges are creating housing that incorporates those qualities residents of these neighborhoods value most while still generating the needed new units. But one must also tackle LA's permitting and zoning regulations, designed for a time where land was limitless and individual projects created new neighborhoods. In the current LA, those sites no longer exist, and the future of densification is the scattered, infill development and the accessory dwelling unit. YIMBY proposes small changes in current regulations and practices to achieve big results in these project types.

Shorter, more regular periods of permitting. Tweaking zoning codes to allow innovative design on small lots. It is these small, incremental changes that will spark LA's housing revolution. And it is revolution that is needed if LA is to house its ever-growing population. *pp 10, 11, 20, 21*

Los Angeles' ubiquitous commercially zoned surface parking lots represent an excess of underutilized land. We propose to increase the supply of moderately affordable housing in the city by providing incentives for the construction of residential housing on these sites, while maintaining most or all of the existing uses.

Specifically, we propose the following: (1) By-right development of multi-family residential housing on any C-zoned parking lot; (2) a height limit on said development of 75 feet; (3) no change in FAR, but a provision that FAR may be calculated using the square footage of the entire parcel prior to any subsequent subdivision for use under the Parking Lot Redevelopment Ordinance; (4) no additional statutory parking requirement beyond that which is already on the site.

As the costs of further outward expansion become too great, Los Angeles must look inward and reexamine old land use and development choices. Only repurposed land in the urban centers can provide the space for the next generation of inevitable growth. Fortunately, the city was built in such a sprawling manner that opportunities for creative infill abound. *pp 12, 13, 26, 27*

Excess LA

Los Angeles is a city of excess. This observation may seem to contradict the commonly held notion that Los Angeles is running out of space. We suggest that the conditions needed to increase density in Los Angeles have always been present; it exists in the excess.

We propose to streamline the city by utilizing this waste and allowing Los Angeles to reach its fully planned potential. Unlike density transfers in which buildable square footage is bought and sold, we propose that the difference between the actual parcel area and the required minimum area per dwelling unit be made available to increase density on any parcel within a specified collection zone.

pp 8, 9, 18, 19

SuperUSE

To address growth pressures facing the city, Team SuperUSE created the Street Median Reclamation Program (SMRP), which reconfigures large swaths of otherwise underutilized land along transit corridors.

Through integration of land use and transportation patterns, the Program enables increased density, improved housing affordability, and the creation of vibrant, mixed-use, linear villages. Corridors meeting established criteria may be reconfigured to fuse underutilized land (e.g., medians and on-street parking) into buildable parcels for development independently or in combination with adjacent parcels. These areas will be rezoned as medium density mixed-use and will be subject to the development standards and design guidelines set forth in the Program ordinance. The Program is capable of producing up to 1,425 dwelling units per mile of roadway and over 60,000 units across the city that will provide diverse, new infill housing opportunities.

pp 16-19

P.A.D.

PAD (Points Allocated Development) makes for-sale housing in Los Angeles more affordable by increasing the potential supply of housing units and lowering the cost of development. Through a performative and incentive-based system, points are allocated to projects based on distance from amenities, provision of a mix of uses, general design criteria and community endorsement of benefits. Developers use points to reduce parking, increase FAR, and modify other factors that contribute to an individual project's feasibility. The PAD system directs development to parcels with latent potential for densification and "pads" existing zoning through incremental increases. *pp 22-25*



residential zoning must evolve

**agile planning shifts the focus
from project impacts to new
forms of infrastructure**

density is not enough

CityLink

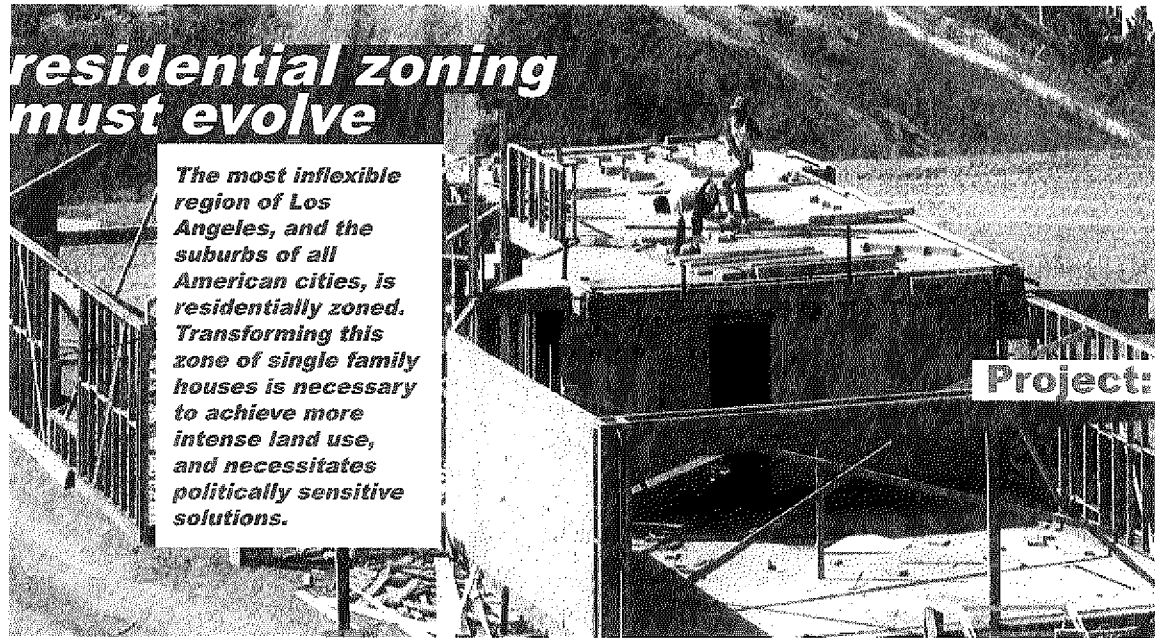
process: one size does not fit all

**existing conditions
offer radical solutions**

**new ideas must confront old
boundaries**

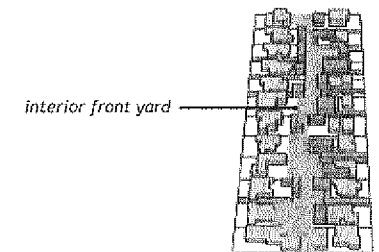
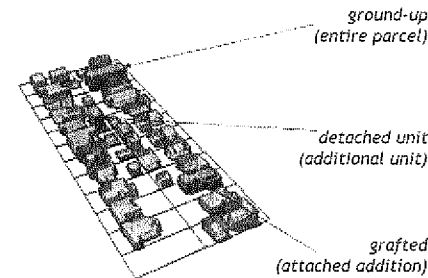
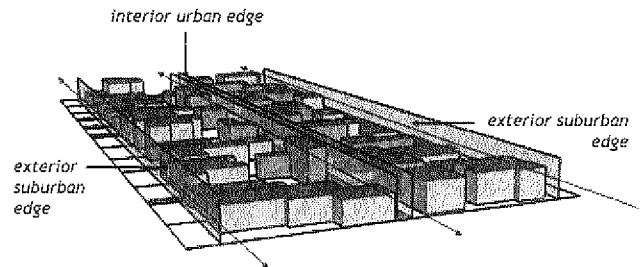
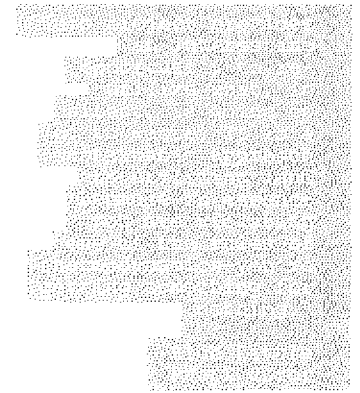
residential zoning must evolve

The most inflexible region of Los Angeles, and the suburbs of all American cities, is residentially zoned. Transforming this zone of single family houses is necessary to achieve more intense land use, and necessitates politically sensitive solutions.



Project: Excess LA

Excess LA explores underutilized residential sites, where lot size almost allows additional units, but not quite. It collects that "excess density potential" to add housing, block by block, without increasing the current allowable density. It massages the current zoning, rather than changing it.

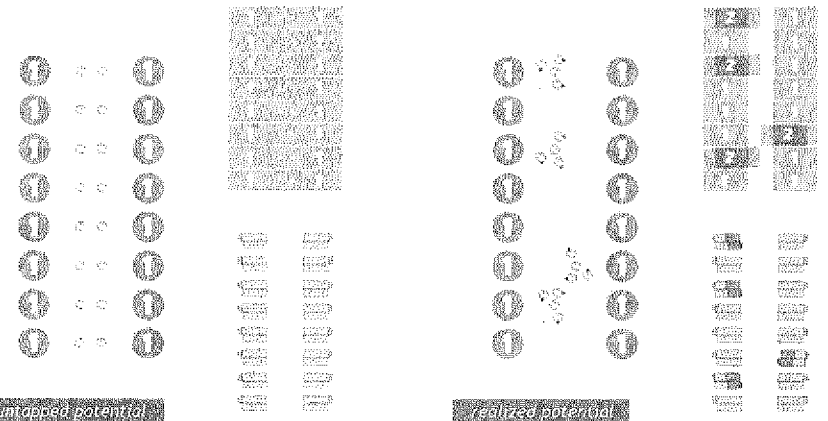


Adam Sinclair
PAD team member

Current residential zoning promotes a luxury model. For multifamily housing, limits to the number of units that can be put in the allowed building envelope (e.g., to satisfy on-site parking requirements) have encouraged developers to build large, expensive condominium units or to not build at all (because only luxury units will "pencil"). This luxury model is out of touch with the changing tastes of Angelenos. People are willing to give up their cars, commutes, and parking spaces if they can walk to quality public transportation and places to work/eat/play. A zoning model that is more friendly to density will present the option to choose smaller, less expensive units in the city. It will encourage better public transit, less traffic, and more healthy, walkable communities.

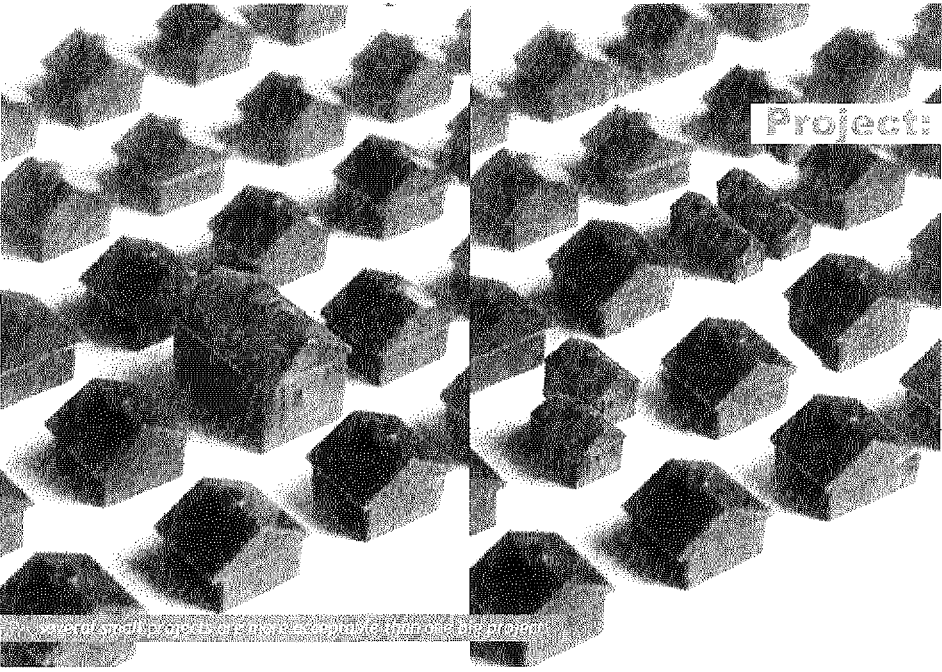
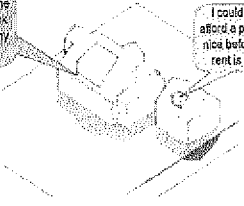
Valery Augustin
Excess LA team member

Residential zoning must become more flexible. The crises facing Los Angeles—rapid population growth, shifting job centers, traffic congestion and skyrocketing housing costs, are exacerbated by current zoning laws that essentially function solely to restrict change in the residential sector. The strategy of restricting change through increasingly prescriptive zoning is flawed because changes are often unpredictable and history has proven that cities that do not accommodate change are doomed to fail. Residential zoning codes must evolve in pace with the unpredictable nature of the Los Angeles, the 21st Century metropolis.



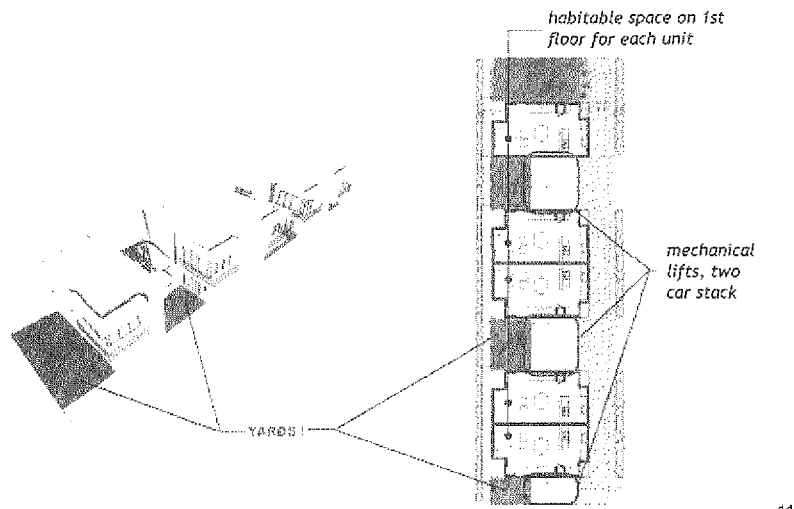
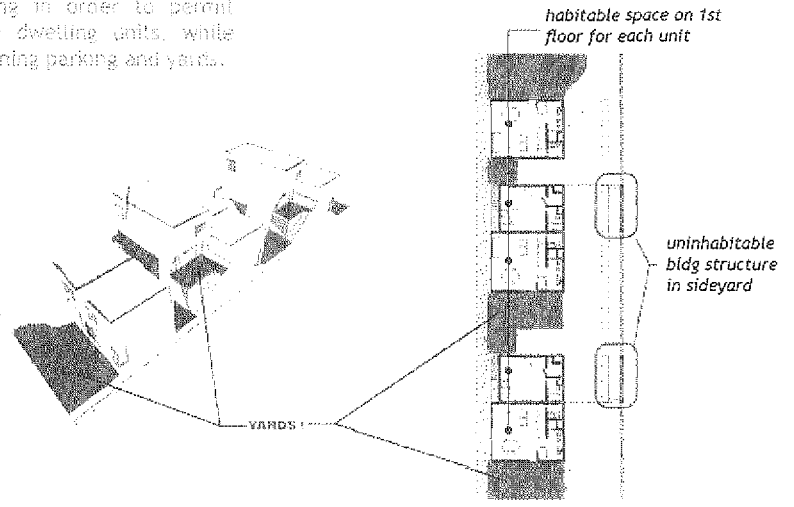
The rent from the ADU is the exact price I'd pay my mortgage.

I could never afford a place this nice before. The rent is great!



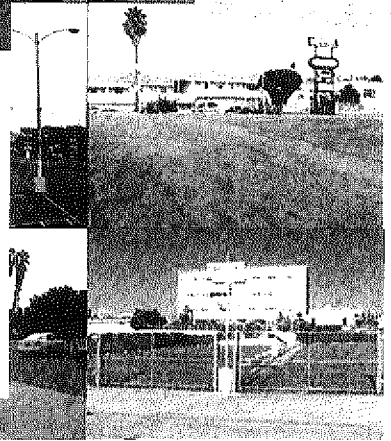
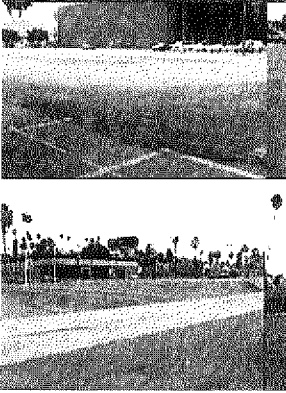
Project: YIMBY

This project transforms current R-1 zoning in order to permit accessory dwelling units, while still retaining parking and yards.



agile planning shifts the focus from project impacts to new forms of infrastructure

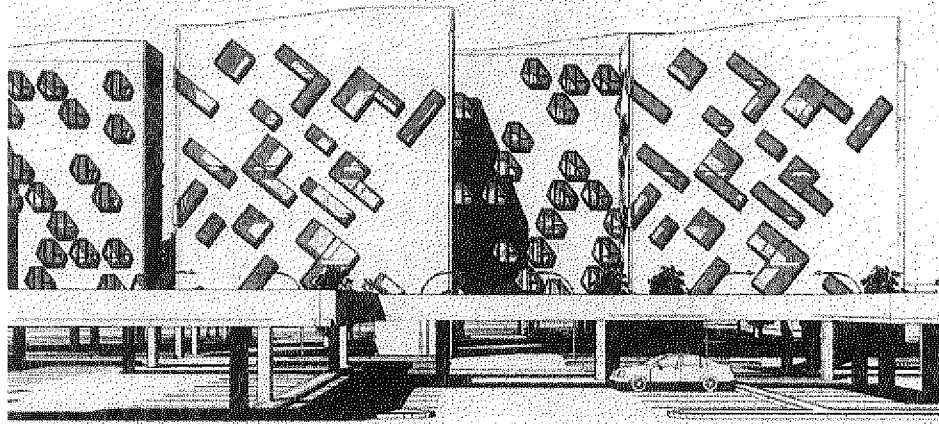
Thinking about the city's future without grand, visionary schemes of infrastructure to serve as the backbone for subsequent development. Along with transit systems and zoning codes, both traditional forms of infrastructure, we need ideas like parking lots and median strips that double as housing sites, and planning processes that vary by the scale of the project.



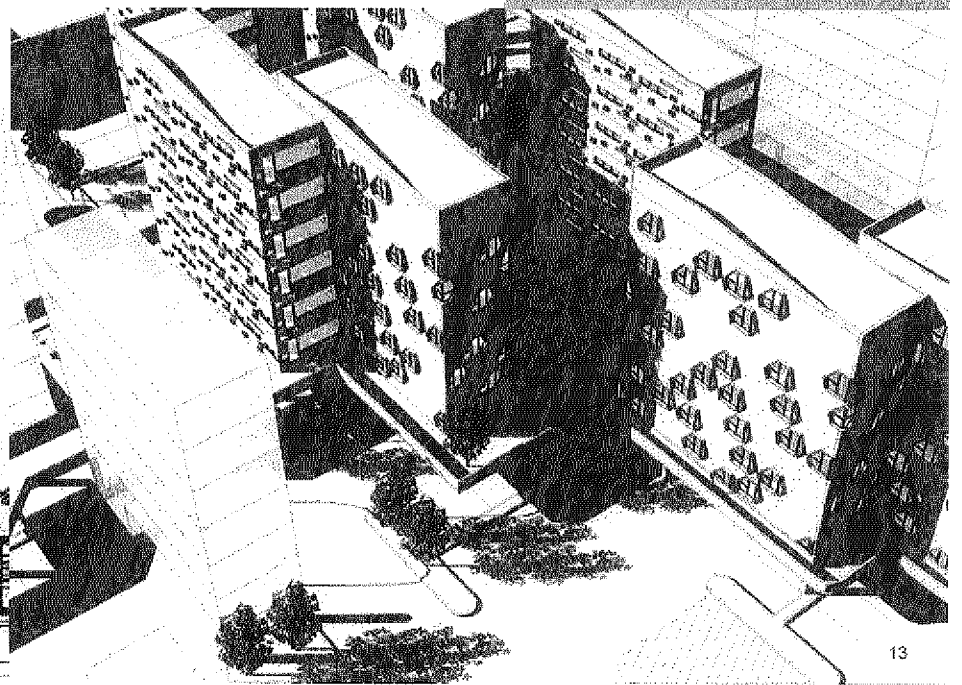
Jennifer Wolch
Director
USC Sustainable Cities Program

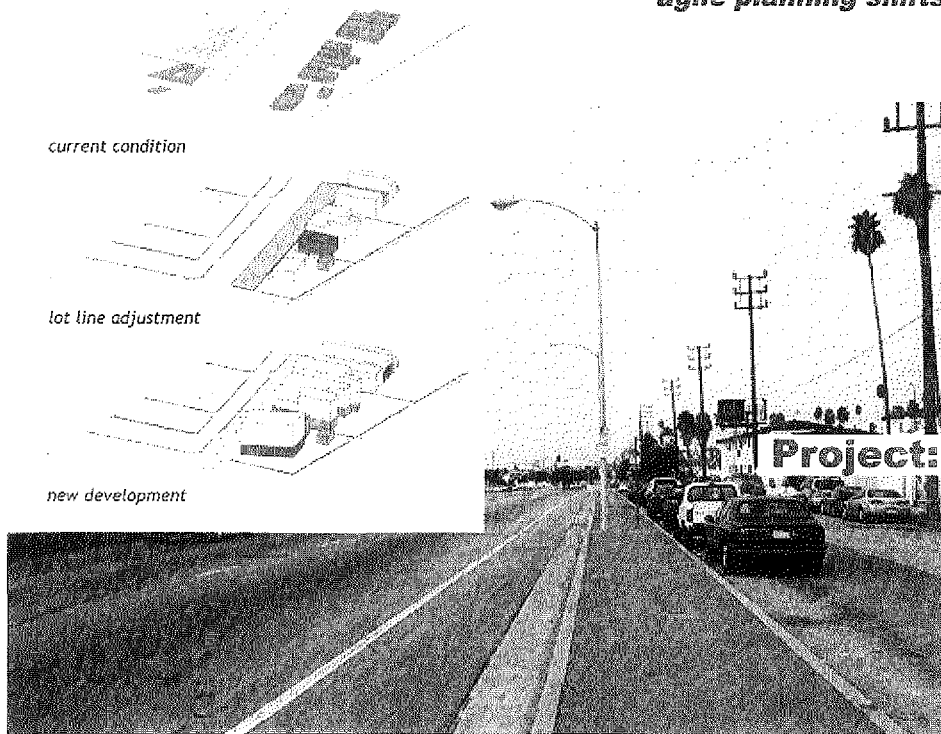
Imagined differently, urban infrastructure offers a multitude of unique opportunities. Existing urban infrastructure typically involves lots of concrete and impermeable surfaces. If these paved spaces can be thought of as potential green infrastructure, we can see how green

systems could be introduced even in high-density urban spaces. For example, there are 900 miles of alleys in Los Angeles. If we instead converted these asphalt paths into permeable, planted surfaces, we could weave a significant green matrix throughout the city.



infill housing over existing parking at 75 ft height

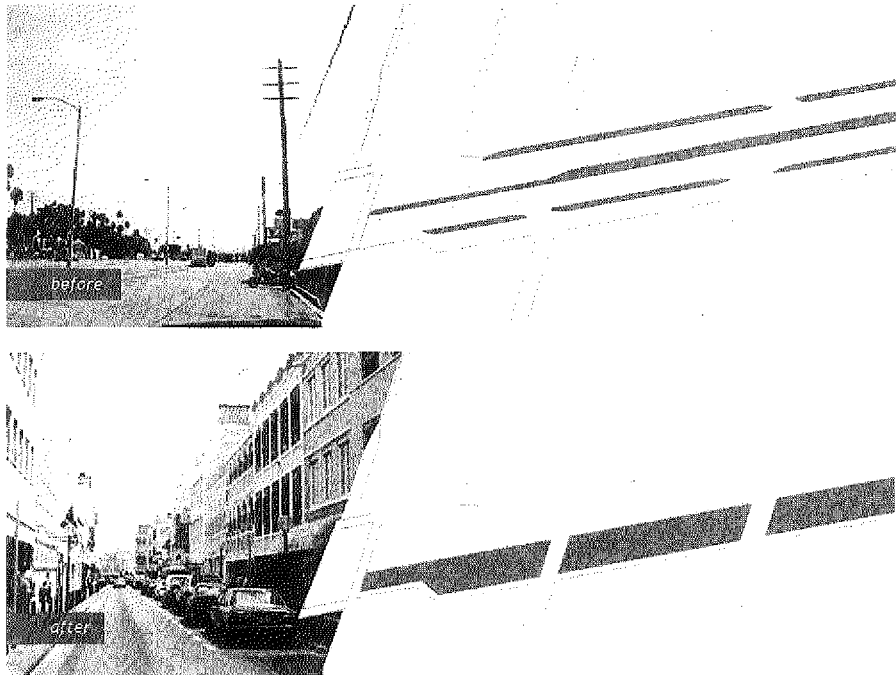




artery (major class II)
 arteries similar to test site (divided major class II lined with commercial)
 test site (Venice Blvd. between Genesee & San Vicente)

Project: SuperUSE

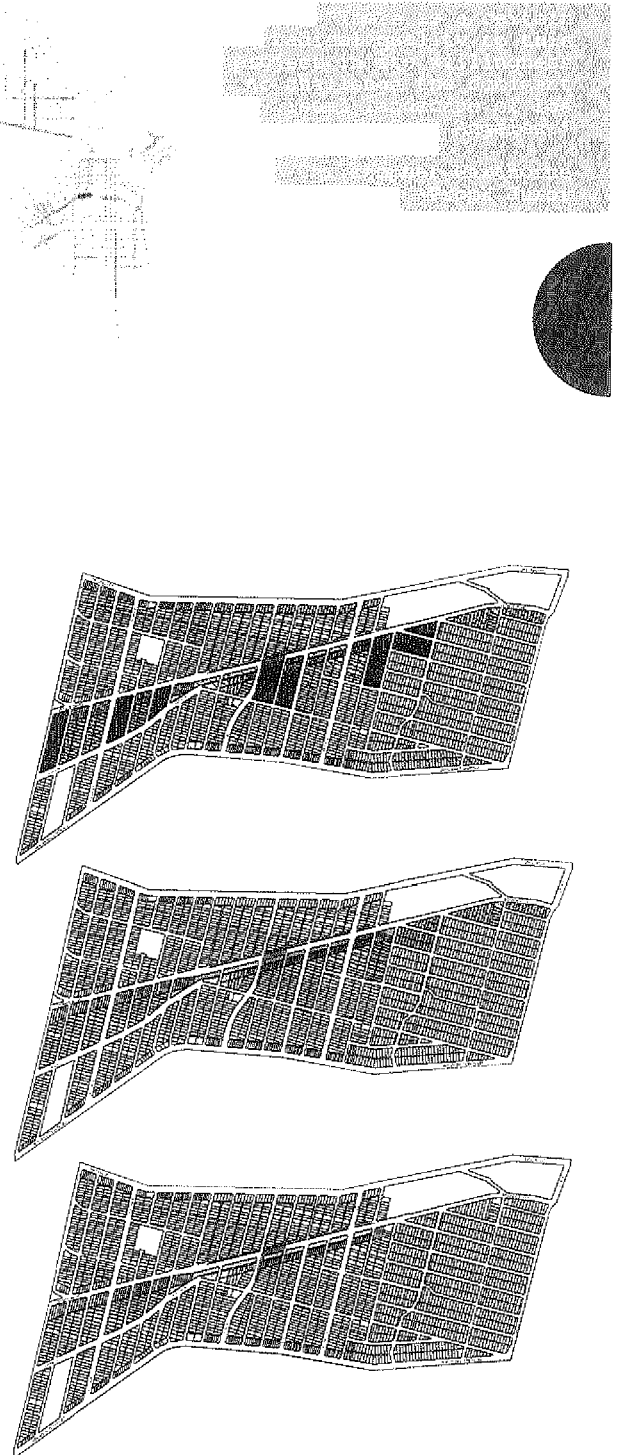
On excessively wide streets across the city, the SuperUse team reclaims and batches together existing median strips to form housing sites. This linear zone constitutes a new form of street-oriented, mixed-use urban infrastructure.



25 years:
 live/work/visit community
 development buildout
 intensity-specific venues

15 years:
 secondary development
 relocate existing development
 land sales finalized

10 years:
 boulevard reclamation
 street retrofit
 small increases in density

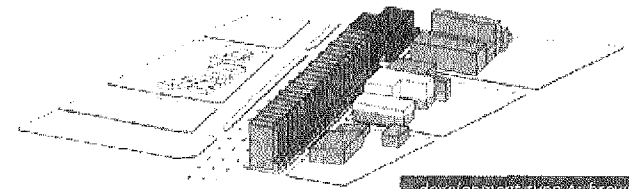


density is not enough

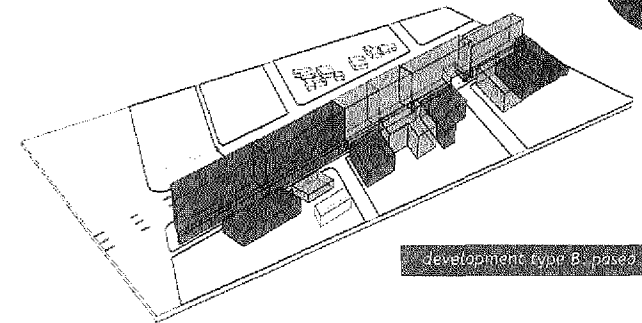
While increased density is necessary to building more affordable, market-rate housing, it is not a solution. Density does not stand alone, but must be creatively distributed and designed.

Project: SuperUSE

The SuperUse idea of adding linear housing along existing, extra-wide boulevards requires careful phasing and design of the added density, in order to address adjacencies to heavily trafficked streets, and to older, existing commercial uses. Prototypes of the paseo and the brownstone are two possible models.



development type A: brownstone



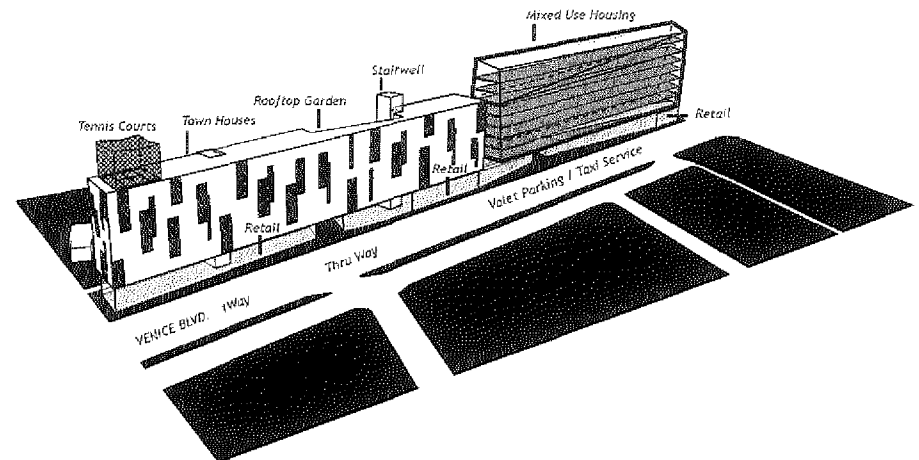
development type B: paseo

John Chase
Urban Designer
City of West Hollywood

Los Angeles isn't as dense as its going to have to be in order for all the people that are already here to have decent housing, let alone housing for all of the people who will be born or move here in coming years. Given a city that already stretches from Indio to Ventura, the ecological and social cost of sprawl—of separating housing from work—and the ecological cost of paving over more wilderness and farmland, the central task for planners, architects, developers and elected officials is how to fit more people into the same cityscape in a way that creates the most benefit for the most people. Many citizens fear change, believing that increased density means less vegetation, less sunlight, more unwanted building bulk, more traffic and a loss of familiar landmarks and institutions. Any solutions that accommodate density have to be both ingenious and politically acceptable, or else they simply won't happen.

David Freeland
PAD team member

The challenge of densifying the urban fabric of Los Angeles derives from the promise that formed the city itself, that each family should have its own house on a generous plot of land. It is both an issue of subdivision, parsing out each property to more families, but also one of social practice requiring a profound revaluing of living space in the city. Essentially, it is growing a new urban condition out of a suburban ideal. The City, understood as a porous collection of communities, holds great potential for spawning a new urbanity from within that is related neither to conventional center-edge cities or new sprawling megaburbs, but is instead constantly plugging its own holes in a successive (what is next?) evolution towards density. A planning strategy crafted in this environment must be responsive to existing conditions while maintaining openness to new urban situations and housing typologies that make density desirable.

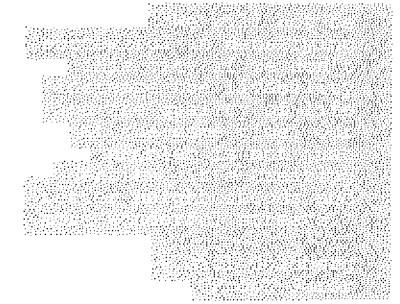


$$\left(\text{Map of LA} \times \text{Density} \right) = \text{469,137,808 SQFT EDP}$$

$$\left(\text{469,137,808 SQFT EDP} \div \text{274,427} \right) = \text{174,427 SURPLUS OR 34\% SURPLUS}$$

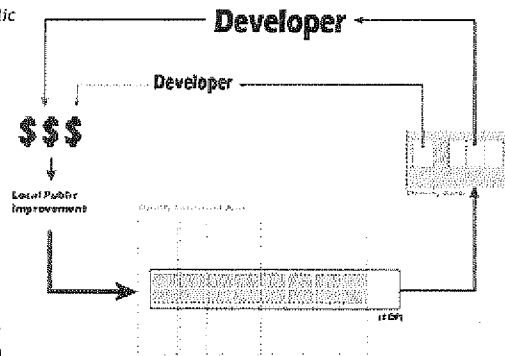
Project: Excess LA

In this project, when "excess density" is transferred, it is reinserted in the residential fabric in compatible ways in terms of massing and siting as the three test sites demonstrate.



4. The funds generated by the sale of the EDP units go directly to the neighborhood council where the funds are used to pay for desired public improvements.

3. The developer purchases EDP from the pool to be used locally for density increasing development.



2. EDP is placed in pool and made available for purchase.

5. The neighborhood is the beneficiary of both increased density and much needed public improvements.

1. Excess Density Potential of the neighborhood is calculated.

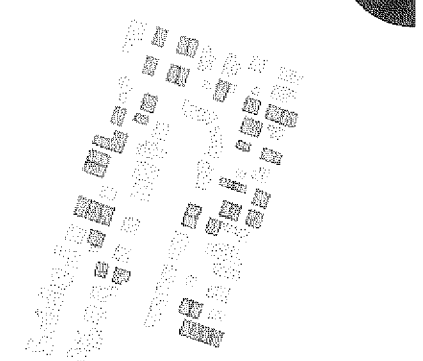
Test Site: Van Noy

Zone: R1-1
 No. of parcels: 22
 Existing dwelling units: 22
 Total square footage: 156,334 sf
 Specified square footage per zoning: 110,000 sf
 Excess density potential: 46,334 sf
 Maximum dwelling units gained: 9
 Density Increase: 41%
 Public improvement fund: \$241,670



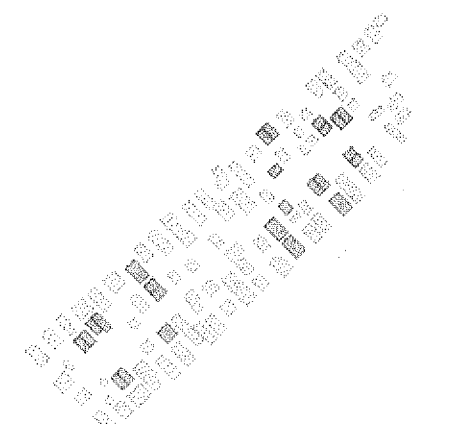
Test Site: Cheviot Hills

Zone: R1-1
 No. of parcels: 48
 Existing dwelling units: 48
 Total square footage: 337,930 sf
 Specified square footage per zoning: 240,000 sf
 Excess density potential: 97,930 sf
 Maximum dwelling units gained: 20
 Density increase: 41%
 Public improvement fund: \$485,150



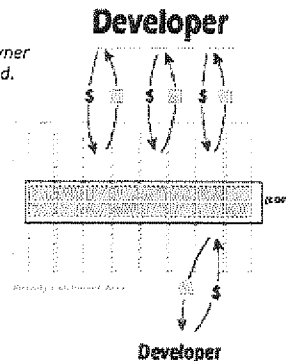
Test Site: Approval/Sequoia

Zone: RD2-1
 No. of parcels: 43
 Existing dwelling units: 130
 Total square footage: 325,717 sf
 Specified square footage per zoning: 215,000 sf
 Excess density potential: 110,717 sf
 Maximum dwelling units gained: 55
 Density increase: 41%
 Public improvement fund: \$553,585



excess density transfer protocol for R-1 and R-2 zones

3. Payment is given directly to the owner of the lot from which it was purchased.



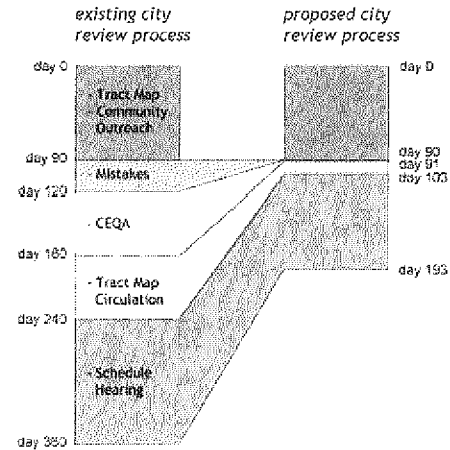
2. The developer purchases EDP from specific lots to be used locally for density increasing development.

1. Excess Density Potential of the neighborhood is calculated.

excess density transfer protocol for R-3 and R-3.5 zones

process: one size does not fit all

Some important barriers to more affordable housing lie in the planning process, which is particularly problematic for smaller developments. The scale of the process for review and approval of housing projects should match the scale of the projects themselves.



Project: YIMBY

Small scale infill housing can be encouraged by simplifying and redefining the city review process in order to substantially reduce the time to construction, which in turn yields significant financial benefits.

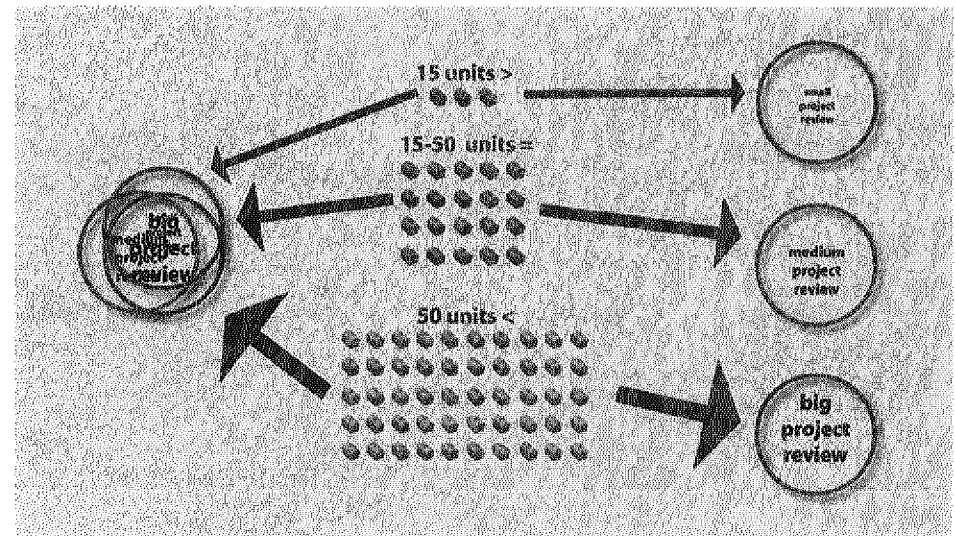
Michael Piper

YIMBY team member

Los Angeles was built with precisely the mentality that one size does fit all. It's a well-known process that uses phrases such as 'cookie cutter' and 'tract home'. Los Angeles' building and zoning codes were designed to make this house-stamping process a piece of cake. Indeed the process worked so well that the codes and regulations that made it possible are still proudly in place today; the only problem is, the huge tracts aren't. What is left, in scattered abundance, are infill parcels, an untapped real estate resource whose small scale and wide differentiation render them unfeasible for profit seeking developers. This is due in large part to our City's building and zoning regulations that are scripted for a tract development Los Angeles of old. To bring these small sites on to the development radar we'd do well to learn this simple lesson: Los Angeles needs regulations that fit today's infill development.

YIMBY's 5 steps to increasing housing opportunities in LA:

1. Size-based project reviews
2. Batch permit processing
3. Neighborhood involvement
4. Regulation modifications
5. Constituent-requested zoning changes



Mott Smith
*PropX Summit Chair and
 Immediate Past President, Westside Urban Forum*

The title of this section should come as no surprise, but oddly enough the planning tools we use to shape existing cities like Los Angeles are nearly identical to those we use in new towns like the Inland Empire and Santa Clarita, as distinct as these places actually are. By State law, California municipalities, whether old or new, produce General Plans that standardize zoning designations. Then, when more granular detail is needed to address areas within a city, Specific Plans, Community Plans and Overlay Zones are drafted and implemented.

In new growth communities, these tools seem to work just fine. Typically, one master developer creates the zones that constrain future use of the virgin land, then subdivides the land into parcels that it sells to builders who construct the houses. In these instances, master planning and zoning succeed in producing a community with a consistent appearance and tight land-use controls across multiple builders.

By contrast, master planning and zoning typically fail to introduce such consistency of appearance and use in existing urban areas without urban-renewal-style land clearance. Monolithic zoning is too blunt an instrument to control new growth and simultaneously knit it skillfully into a more organic in-place context. Moreover, the sort of consistency that master planning and zoning create in new growth communities stands in stark opposition to the vibrancy—the brilliant messiness—that defines the granular cities we love. As a result, the building professions are hungry for new tools that will succeed in guiding growth while fostering this sort of natural emergence.

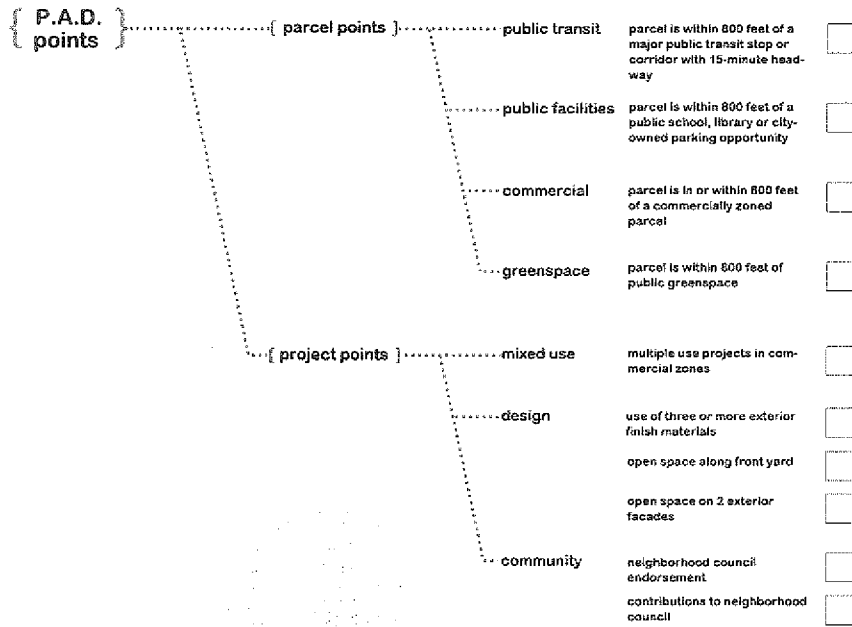
We are faced with the realization that urban planning's primary tools have worked against its most basic goals for the last half-century, and one may be tempted to give up on planning entirely. Alternatively, and more hopefully, one could engage a lesson learned from PropX: By introducing appropriate scale to the entitlements process and by building flexibility into land-use regulation, we open

the door to far more affordable, modestly-scaled, and contextually-sensitive projects than we have seen for years.

The PropX team YIMBY shows us how L.A.'s one-size-fits-all entitlements process treats two-unit projects almost the same as 2,000-unit projects, thus killing modestly-scaled, moderately-priced projects that would otherwise be feasible to build. YIMBY proposes new small- and medium-sized entitlements processes to go along with the current large-sized one that are right-sized for the projects they address. YIMBY demonstrates how this simple change could increase the returns on such neighborhood-scaled projects so that countless new affordable units could be developed around L.A. without public subsidy.

PAD shows us how our current, rigid menu of zoning options fails to offer planners the tools necessary to define an appropriate envelope for every parcel in a neighborhood. The result is that many projects—including ones community members and planners consider appropriate—require some level of discretionary approval, rendering zoning less relevant and moderately-priced projects harder to finance. PAD's solution provides a systematic way to blur the current hard lines between zones and provide a predictable (i.e., non-discretionary) means of increasing density close to transit and other infrastructure, gradually tapering it off as you move further into residential neighborhoods.

The last generation of suburban land-use professionals had the luxury of creating new communities on vacant sites with single developer-owners. For these efforts, traditional master planning and zoning were excellent tools. But as the next generation of land-use professionals sets out to lay the foundation of our city's future, it must undoubtedly embrace new tools like those proposed by YIMBY and PAD—ones that respect the complexity and emergent qualities of urban places. The alternative is to wish away the natural, human qualities of the places we love.



Reward	Benefit to Project Feasibility
Lower Parking Requirements	<ul style="list-style-type: none"> Lifts constraints on # of units Reduces need to build expensive subterranean parking
Increased Building Envelope	<ul style="list-style-type: none"> Enables more saleable square feet, to offset costs of construction
Expedited Entitlement Process	<ul style="list-style-type: none"> Less Carrying Cost of Land
Flexibility	<ul style="list-style-type: none"> Allows a project to adapt to the individual contingencies and needs of a parcel whether those be nimby issues, site constraints, or the current housing market.

PAD's rewards enable the developer to profitably build housing units on sites which would not be redeveloped without PAD.

Project: P.A.D.

This team invents a point system to incentivize projects that incorporate desired qualities like mixed-use, high-quality design, on parcels that have specific characteristics such as proximity to public transit or green space.

existing conditions offer radical solutions

Urban solutions are homeopathic; that is, the answers to urban problems must be found within the DNA of the context. Rather than imposing visionary, external plans, we opt for emergent solutions, radical incrementalism, and visionary ideas built upon existing urban genetics.

Project: P.A.D.

In response to the specific, existing conditions surrounding every site, a rewards system is created that pushes individual projects in a generally desired direction. This replaces “blanket zoning” with an uneven yet tailored set of development opportunities—a kind of topographic zoning.

existing commercial zone redeveloped as mixed use P.A.D.

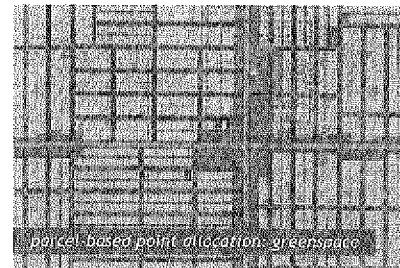
(e) residential zone

Liz Faletta
PropX Advisor

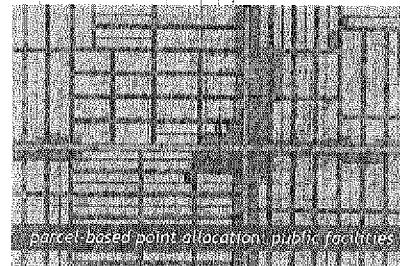
The Points Allocated Development (PAD) proposal begins to create a market for good design by crafting a system of points that rewards conscientious design and development decisions with greater development rights. This approach suggests other market-based solutions that could balance the true value of good design against the true costs of inferior methods. Turning the PAD proposal on its head, what if developers were required to “buy down” from elevated expectations of city design and development rather than “buy up” from the lowest common denominator currently described in planning and zoning codes? “Bad Design” credits, modeled after pollution credits, could be purchased to give a developer the right to do the minimum in terms design quality, more accurately reflecting the true cost of such a bare bones approach and the negative externalities it creates. As long as there were less credits than bad design potential, these credits could be traded from those who develop more cost effective quality design solutions to those who cannot afford to do so, thus encouraging good design by arbitraging bad.

John Kenyon
CityCraft team member

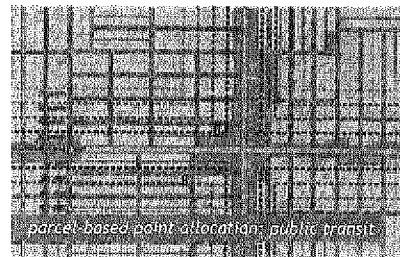
One of the most important lessons of planning is that everything has a history. Things that seem intractable or permanent in our cities are, in reality, fleeting. The dominance of the surface parking lot in the urban form of Los Angeles is on the wane, doomed by ever-increasing land prices. In the not-too-distant future people will look at images of today’s supermarkets and shopping centers and marvel at the amount of real estate we use just for cars. The task for planners today is to foresee this and other changes ahead and to leverage the power of the market so that the results improve rather than degrade our city.



parcel-based point allocation: green space



parcel-based point allocation: public facilities



parcel-based point allocation: public transit



parcel-based point allocation: commercial

Acreage

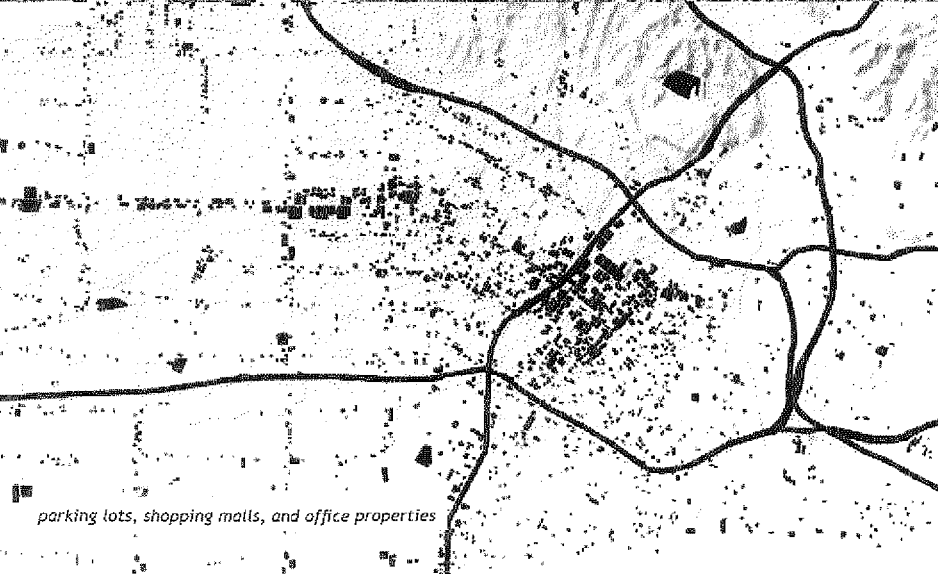
Parking 1,007
 Shopping Centers 1,667
 Offices 2,745

Number of Potentail Units

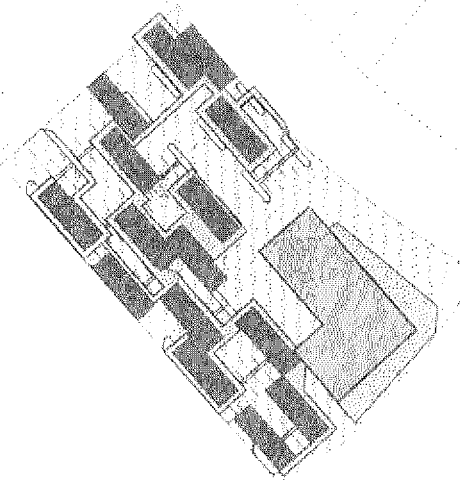
Total Acreage 5,419
 Assumed % Developable 10%
 Assumed Density 30 du/acre

Total 5,419

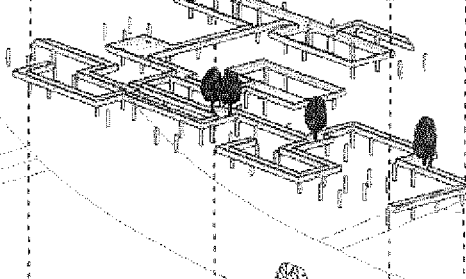
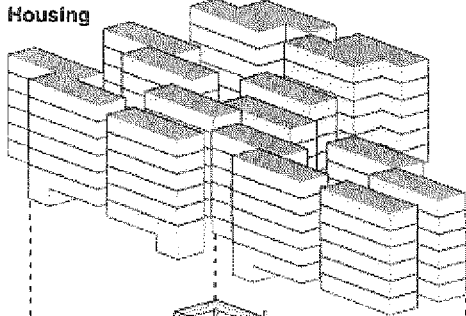
Total 16,257 units



parking lots, shopping malls, and office properties



Housing



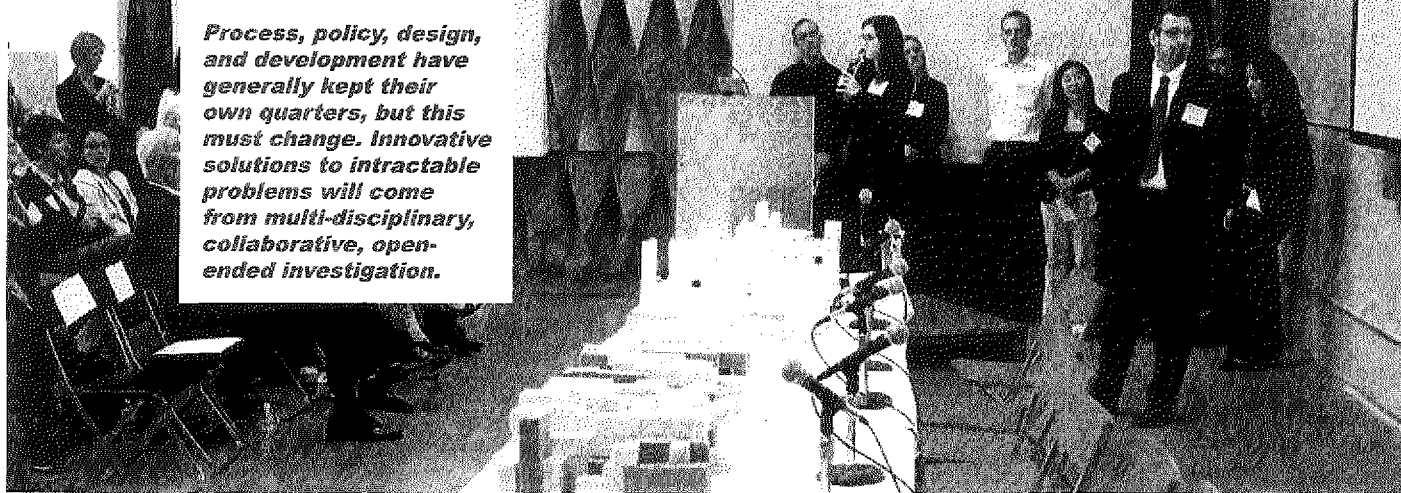
Office

parking lot redevelopment ordinance

- *by-right multi-family development on any C-zoned parking lot*
- *75 foot height limit*
- *no change in FAR, but FAR may be calculated using the square footage of the entire parcel, prior to subdivision*
- *no additional parking requirement beyond that which is already on the site*

new ideas must confront old boundaries

Process, policy, design, and development have generally kept their own quarters, but this must change. Innovative solutions to intractable problems will come from multi-disciplinary, collaborative, open-ended investigation.



John Chase
Urban Designer
City of West Hollywood

A competition like PropX is about allowing ingenuity to flourish, free for the moment of political constraints. Each of the teams had a different take on slipping more population into the city fabric. CityCraft zeroed in on the heinous waste of space that surface parking lots constitute, analyzing strategies that would allow this land to be much more fully used. Excess LA took a more abstract approach, noting that most lots are bigger than the minimum and the “extra” square footage beyond the minimum in those lots could be added up and sprinkled around the neighborhood in order to permit more units. SuperUSE ingeniously found land where others might not have noticed there was such, namely wide streets with medians like Venice Boulevard, and introduced greater density at a minimum cost. For the YIMBY team, small is beautiful. They focused on the political and contextual advantage that small, scattered developments offer, proposing incentives and improvements to existing zoning, process and regulations that affect these projects. The brilliant thesis behind the PAD team was devising a point system, based on a series of easily defensible social beliefs and city building philosophy that deflects controversy and confusion from decision-making over individual projects and replaces it with sound policy making on a general basis. The point system is a way to pump up the number and increase the breadth of policy objectives that an individual development serves. It rewards good projects by literally making more of them, something that is simply not possible in the same way now.

Experimental Collaborations

Rebecca Lyn Cooper
cityLAB Research Associate

Contemporary urban planning has shifted from the heroic to the pragmatic; from an obsession with the aesthetic perfection of the city plan imposed all at once on a tabularasa, to an understanding of the city as a living organism, experienced primarily from within the labyrinth of its streets. Alongside this transition has come a corresponding shift in the understanding of the image of the planner. The five teams assembled for this competition present an illuminating case study of this shift and their struggle to collaborate across a variety of disciplines.

The competition required that every team be multidisciplinary, including not only architects and developers but also lawyers, urban designers, and individuals trained in public policy and business. It was left to the teams to decide how precisely they would manage the efforts of individuals with divergent and often competing ideas about the task in front of them. This was, in fact the first and in many ways most difficult of the design tasks faced by the teams during the competition.

The most successful collaborations maintained a fluid equilibrium between team

members, a shifting hierarchy in which the team representative from a particular discipline who had most to offer at a given moment was allowed to step in and guide the process. Unlike more traditional professional relationships, with a defined hierarchy between team members, this more fluid structure allowed the team to function effectively, and most importantly allowed the projects to develop as a part of an ongoing conversation. Instead of being developed within the protective enclosure of a particular set of disciplinary practices before being passed on, these projects were forced into tension between disciplinary positions, a productive tension which allowed the teams to be simultaneously more daring about their proposals while at the same time grounding even the most startling choices in a realistic series of steps.

Though it raised logistical challenges, this looseness of fit between disciplines allowed team members to constantly challenge each others' biases and expectations. The promise of interdisciplinary work is that immersion within a ‘foreign’ discipline can help to unsettle standard practices and foster innovation by widening the range of choices available to the design team. The more successful teams made use of this process of alienation, with each team member free to

challenge the others to seek creative answers to the problems posed by the contemporary urban environment, but also, and perhaps more importantly, this process of speculative experimentation allowed the teams to work together to find concrete ways that even their most imaginative proposals could be seeded into the planning and development process in order to bring about positive change.

Adam Sinclair
PAD Team Member

Boundaries are big in LA. Angelinos move from the bubble of their house to the bubble of their car to their bubble at work, safe from having to come into contact with too many people different from themselves. It is striking to me whenever I visit other cities, how much more one naturally interacts with people of different races, ages, and socioeconomic backgrounds when they have access to quality public transportation, great public spaces, and walkable communities. Times have changed. People have changed. Angelinos are ready and willing to mix. Even Beverly Hills now supports a subway system with stops in its neighborhood. It is time to break Angelinos out of their bubbles and let them interact. They might find that they actually like each other.

If, Then

Roger Sherman
Co-Director, cityLAB

Urban design and planning are practiced today in an environment characterized by rapid change. Cultural, political and economic circumstances fluctuate so much that by the time a plan is realized (if it is at all), it is already obsolete; a mere election can radically alter the viability of a master plan. Rather than assuming stability and explaining change, PropX argues that our plans need to assume change and explain stability. Only those that harness rather constrain the highly unpredictable evolution of the contemporary city will ultimately prove of long-term value.

These agile strategies, as Dana Cuff calls them, hinge on their ability to operate at the cusp between control and disorganization. PropX was conceived in order to explore strategies by which the former, top-down model might engage the tendencies of the latter, with the goal of producing new, unforeseeable urban futures. Heretofore, design professionals have tended to dichotomize these two modalities of city-making, precluding the exploration of looser, more synthetic, emergent planning approaches. As Mott Smith points out in this volume, most zoning ordinances are conceived with this bias (so-called “form-based zoning” is merely the latest version), deploying a “one size fits all” approach that fails to allow for the “brilliant messiness” that characterizes vibrant cities.

Cities, however, are not infinitely complex; their ability to adapt to change is related to simplified, self-enforced rules that already effectively define a plan—albeit de facto. Like medical or scientific experiments (and in many ways the city is not unlike an ongoing experiment), these protocols are sufficiently open as to be contingent upon the feedback/outcome of each stage of implementation. Long before planning existed as a profession, these unofficial rules, or norms—“Retail will only survive on streets where there is sufficient traffic”, or “There is an accrued benefit to locating near others whose businesses complement, and even compete with, one’s own.”—guided the world’s greatest cities as they adapted to ever-changing economic or social conditions.

In contrast to the planning profession’s characteristic “command-and-control” approach, the PropX proposals begin by identifying a specific change-inducing factor, and then

link its cause-and-effect interconnections to other factors. As such, each of the proposals is less about a specific outcome—unlike master plans, which try to shape the future toward a foregone conclusion—than it is a framework of behavior modification which engages the forces of urban development through gaming. Strategically conceived and tested incentives and disincentives are employed as a means of loosely predicting and shaping the density-dependent, use-driven process of neighborhood change. One of them, for instance (ExcessLA), explores how a neighborhood’s willingness to grant surplus development rights might be exchanged for a community amenity (e.g. a children’s playground, or pocket park). In another (PAD), the desirability gradient of urban lots is fundamentally altered by encouraging density around institutions and facilities that would reciprocally benefit from the additional population. In both instances, a local change is introduced anticipating that it might proliferate across the larger city, one project at a

time, in a non-uniform, uncontrollable ripple effect—“radical incrementalism”.

Rather than having to choose between, on one hand, containing the future, and on the other, continuously revising the zoning code project by project, planning is best employed as a means by which to instigate and harness change that is waiting to be unleashed. Rather than being defensively positioned against a feared unknown, PropX-style planning takes advantage of the constructive role that change can play in reinventing the city. Like any good player in a game that deals with probability, planners and architects alike need to be more opportunistic, tilting the odds through code as a form of “bait”—specific incentives or deterrents that sow the seeds for a variety of future development options in a non-prescriptive way. Like the children’s game of Chutes and Ladders, the best plan is less a template based upon past experience than a valve-like diagram of countless possible choices.



the Rx of PropX

Dana Cuff
Director, cityLAB

A standing-room-only crowd attended the PropX Summit at UCLA in September of 2006 to hear Council President Eric Garcetti’s plea for expansive optimism as we plan LA’s future, and Planning Director Gail Goldberg’s call for innovative thinking. They also came to actively engage the proposals presented in this book. But the Summit was not the end of PropX. Instead, the proposals have sparked ongoing conversations and brought about pilot projects that will have a real influence in Los Angeles. The PropX experiment produced specific proposals for encouraging more affordable, well-designed, market-rate housing. At the same time, PropX generated broader remedies to urban disorders in Los Angeles and beyond.

The six lessons learned from PropX deserve restatement:

- Residential zoning must evolve.
- Agile planning shifts the focus from project impacts to new forms of infrastructure.
- Density is not enough.
- Process: One size does not fit all.
- Existing conditions offer radical solutions.
- New ideas must confront old boundaries.

These maxims comprise the more general medicine that PropX prescribes: abandon old forms of master planning; adopt dynamic, responsive, and collaborative planning strategies in order to invent the next Los Angeles. The proposals flesh out this prescription, to demonstrate that good design, planning, and development together can devise original solutions to established—even seemingly intractable—problems.

We need not be utopians to believe that our cities can grow more vibrant, more sustainable, more beautiful, and more affordable. Radical incrementalism can replace visionary idealism. Nor do we need to rely solely on public subsidy or public policy to move development in a beneficial direction. New infrastructure and flexible incentives can seed ingenious opportunities for well-designed urban growth. To heal urban ills, these principles must begin to seep into the very pores of the land-use and building industry, to transform city-making one project at a time. This is the Rx of PropX.

design teams

CityCraft

Olivia Chao
Will Cipes
N. Dubrenak
Amanda Gehrke
John Kenyon
Andy Ku
Kam Ky
Jim Kumon
Alissa Marquez
Christine Safriet
Model Builders:
Lionel Lambourn
Richard Yoo
Jun H. Doe
Kentaro Yamada

superUSE

Eric Bono
Christian Chaudhari
Megan Cummings
Pria Hidisyan
Jeffrey Johnston
Kevin Rodin
Lauren Siniawer
Jakub Tejchman
Michael Vanderbeek
Joshua Williams

Excess LA

Valery Augustin
Mark Bittoni
Adina Ringler
John Schafer
Benjamin Saltsman
Michael Leaveck

Gail Goldberg

Director

LA Dept. of City Planning

The conversation generated by PropX has caused me to think about how it is in this city that we can try new things. It is such a big city and as we talked about each of the proposals, we could imagine wonderful places where they could work really well, but we thought of places where they might not work as well. I think that's the challenge of Los Angeles: trying to come up with things that fit everywhere.

One of the issues that I would really like the Planning Department to think about is that because of the size of the city and its diversity, it would seem that there are a lot of opportunities for us to selectively try new ideas, to be more experimental, to test things in pilot projects in communities that might embrace the opportunity to try something new. In each of the proposals, I found the grains of potential pilot projects. And I would hope that all of us would embrace a bit of experimentation in this city so that we are not following all the time but really providing leadership and solutions. If we can figure out how to take the auto city of the country and turn it into a wonderful, livable, walkable city, it can be a model for cities throughout the world.

P.A.D.

Ashley Atkinson
Michael Fernandez
David Freeland
Sandra Goff
Sing-Yee Lucy Lin
Sung Jin Park
Adam Sinclair
Aaron Whelton
Li Wu

Modeling/Rendering:
Michael Macdonald

Test Site Model Design:
3rd year studios, Woodbury University

Special Thanks:
John Southern

YIMBY

Jerome Chou
Andrew Glazier
Jenifer Kaminsky
Michael Piper
Frank Ruchala, Jr.
Gordon Stott
Kelly VanOteghem



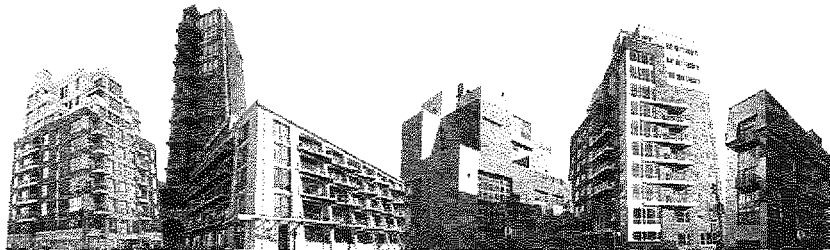
cityLAB

University of California, Los Angeles
Dept. of Architecture and Urban Design
Box 951467
Los Angeles, CA 90095-1467
citylab@aud.ucla.edu

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The Supersizer of Brooklyn



Photographs by Gabrielle Plucknette for The New York Times

By ANDREW RICE
Published: March 18, 2011

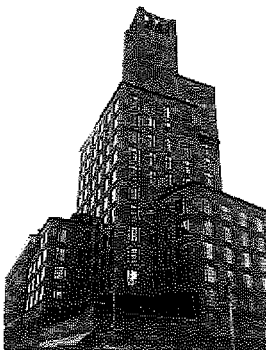
Let's begin with the mystery of the hidden bathroom.

Enlarge This Image



Gabrielle Plucknette for The New York Times
The architect Robert Scarano.

Enlarge This Image



Gabrielle Plucknette for The New York Times
4 East Third Street: Scarano's original plan was for a 16-story residential condominium tower. Under zoning regulations in the neighborhood at the time, residential developments were only allowed a floor-area ratio (FAR) of 3.44, while developments with a "community use" could have a FAR of 6.5. Scarano and the developer claimed the units were to be college housing, which would allow him to build using the more generous

It's the summer of 2008. A young couple decides to buy an 800-square-foot apartment in a new condo building on the gentrifying outer edge of a fashionable Brooklyn neighborhood. The buyers go to close on the place, and as they're signing away half a million dollars, the building's developer, keeping a wary eye on the hovering lawyers, leans over and whispers something. There's a second bathroom in the apartment, he says, one that does not appear on the floor plan — its doorway is concealed behind an inconspicuous layer of drywall. At first, the buyers think the developer is kidding. This is before the crash, near the peak of the market, and no one's giving away a square inch. But the developer says no, he's dead serious, just look. So a few days after they buy the place, the couple takes a sledgehammer to their wall.

This building was the handiwork of the architect Robert Scarano.

I first heard this particular Scarano story — one of many in a genre — from a friend, an architect, over beers at our neighborhood bar in Brooklyn. She told it the way a stockbroker might relate the misdeeds of Bernie Madoff, her professional disapproval commingled with a distinct sense of wonderment at the things the guy got away with, at least for a while. Through the mid-2000s, a period roughly coinciding with the real estate bubble, Scarano was one of

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William Cronon and the American Thought Police



First Four to Final Four: V.C.U. Stuns Kansas



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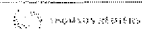
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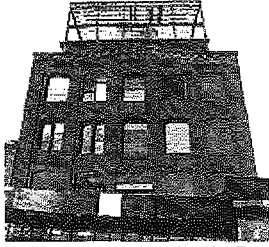
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community standard — at the time a widespread and notorious dodge. Complaints were filed with the Department of Buildings. The original developer then sold the tower to a group that decided to convert it to the Bowery Hotel, which, as a commercial use, was permitted a more generous FAR.

Enlarge This Image



Gabrielle Plucknette for The New York Times
 333 Carroll Street: Scarano tried to build a two-story addition to the roof of this old warehouse by transferring floor area from the building's lowest level, which he planned to convert to parking, to the top of the roof. But the zoning code distinguished between a basement (which is partly above ground, defined as habitable, and therefore counted toward the floor-area ratio) and a cellar (which is underground and uninhabitable). Opponents accused Scarano of trying to finesse the difference, and eventually the Department of Buildings declared the space a cellar. New height limits have been established in the neighborhood, and the partly built addition is coming down.

the city's most productive architects, and certainly its most controversial, an omnipresent force in the outer-borough building boom that transformed row-house streets and industrial districts into colonies of stucco and sake bars. Working on hundreds of projects, many of them small-scale buildings that could be constructed quickly, without the rigmarole of public hearings, he remolded entire neighborhoods in his steely, angular, brash — some would say garish — style.

It wasn't aesthetics, though, that made Scarano the defining draftsman of that brief and ultimately delusional moment. It was the way he created room. In a city of cramped living, where space is guarded as jealously as Bedouin water, Scarano's buildings were designed to stimulate a primal pleasure center. They were loftlike, with soaring ceilings that drove their heights above the roofline and their prices to levels unheard of in formerly marginal neighborhoods. Enemies of overdevelopment protested that his towering designs were ugly and out of context, while other architects grouched that he was circumventing the constraints of the zoning code. Scarano countered that his competitors just weren't creative enough, that he thought in cubic feet, not square, delivering more light, more air and more space to an eager buying public. And, not incidentally, more profit to his clients.

A hidden room, though, added another dimension — one that couldn't be explained by craft or capitalism. Why wall off such precious space? My architect friend contacted the condo's owner, a relative, and he agreed to show me his

apartment, on the condition that I not reveal its location or his name. (He's still uncertain of all the legalities.) On a weekend afternoon, I found the owner watching basketball in his living room, beneath a 15-foot ceiling, with the afternoon sun streaming in through a window almost as tall. Up a steep set of metal stairs, above an open kitchen, was a mezzanine loft — Scarano's signature design element — where the man kept an office. In the loft's far corner, next to a washer-dryer, was the beige-tiled second bathroom. A contractor had finished the door, but otherwise, it was exactly as the couple had found it behind the drywall. "There were a couple of dust bunnies," he said, "but other than that it was a brand new shower, brand new sink, the light bulbs worked, the toilet flushed."

The owner wasn't sure what had happened. He knew about Scarano's very public fall, amid myriad claims of malpractice, lawsuits and tabloid headlines that branded him a "Building Blockhead" and "Architect of Ruin?" But he had no complaints; he was happy with his surprise gift. "It was the most amazing thing," he said. "It was like an oasis of a bathroom."

Still, the question remained, what was it doing behind a wall?

This, to me, is what it's about," Robert Scarano said. "The feeling of space when you're in the room." On an unseasonably lovely February day, the architect, dressed in a charcoal-colored pinstriped suit, strode through an apartment in Vere 26, a high-rise building in Long Island City. A pair of sunglasses was perched on his wavy mane of hair, which matched the shade of the stainless-steel kitchen. Scarano waved his hand across the skyline of Manhattan, which embraced the room through floor-to-ceiling glass.

Along the vista, old oaks like the Empire State Building and the U.N. headquarters stood amid the fresh shoots of the last decade. It was, in fact, a period of architectural flowering. "A lot of people over the years said that New York doesn't have a lot of good architecture," Scarano said. Critics used to wonder aloud about the city's lost spirit of innovation and bemoan decades of monolithic blandness — but then, around 2000, tastes changed. Or, to be more precise, developers figured out that their buildings would be more popular and profitable if they were presented as the work of great artists: "starchitects," the marketers

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called them. And so, eminent names like [Norman Foster](#), [Renzo Piano](#) and [Frank Gehry](#) were invited to leave their mark on the skyline.

Scarano had offered to meet me at Vere 26, after a long period of litigation-related silence, in order to make a categorical point: that in his own scaled-down, pragmatic, outer-borough way, he, too, deserved to be counted as an artist. For this building, set on an elongated corner lot, he was forced to grapple with zoning rules that appeared to mandate a ponderous, blocky structure. He worked around the restrictions by surrounding the building with a decorative lattice — “a sprightly frame of white painted steel,” as it was described in an approving write-up in the latest edition of the A.I.A. Guide to New York City, a canonical volume. The guide’s authors had given much fainter praise to several other Scarano buildings, but the architect seized on his very mention as a vindication. The book appeared as his business was reeling and the city government, claiming misconduct, was fighting to ban him from practicing his profession.

“People ask me why I didn’t just fold up my tent and move,” Scarano said. “We stood there under the microscope, with 10,000 watts of light on us . . . because it’s easy to stand there when you believe in what you do.”

Scarano is stubborn and pugnacious by nature, a defiant son of Brooklyn. He lives in Gravesend, in a colonial that his grandfather used to own, to which he recently added an enormous A-framed front window. In a highly stratified profession, divided between a name-brand elite of “design architects” and a vastly larger population of “developers’ architects,” who work with more mundane budgets and expectations, Scarano represents an odd amalgam. He’s a speculator’s auteur. “We were trying to really raise the bar,” he said, “for those people who were typically not as concerned about doing projects of an aesthetic note.” Whatever his buildings lack, it isn’t ambition — they’re always more than they have to be, which is precisely the trouble.

Scarano’s father was a mechanical engineer, who sent his son to City College with the intent of bringing him into the trade. Although the younger Scarano diverged from that plan, he has always prided himself on his mastery of gritty practicalities: permits, zoning, the trade in air rights, which allow building density to be transferred from one property to another. Setting up his practice in Brooklyn, Scarano developed a reputation as someone who brought an element of flair to even modest projects. He was well positioned when, in the early 2000s, affluent professionals began their mass migration across the East River. “He has an extreme talent when it comes to designing a unique piece of property,” says Elan Padeh, founder of a consulting firm called the Developers Group, which spearheaded the gentrification in neighborhoods like Williamsburg. “Zoning is a complicated process, and he was definitely a great teacher.”

Padeh and others like him acted as intermediaries between property owners — oftentimes, in Williamsburg and elsewhere, members of Brooklyn’s insular Orthodox Jewish communities — and a worldly new buyer, who might not have money for [Richard Meier](#) but still wanted a modernist habitat. Scarano began producing designs to meet this market’s demand. “His architecture attracts the eye, and there is something to be said for how that radiates to the sale side,” Padeh said. “When developers saw that, they decided that they wanted to work with Robert.” By 2004, Scarano was collaborating with the Developers Group’s clients on dozens of projects. Over the next few years, he submitted plans for nearly 250 new buildings and many more renovations.

In the space of just a few years, Scarano’s practice more than tripled in size, to 55 architects and design professionals. His business was headquartered on the top floor of a converted warehouse building, flush against the Manhattan Bridge. When the firm outgrew its space, he built an addition on the building’s roof, a geometrical riot topped by triangular trusses that were lighted in many colors at night. It was a jaw-dropping sight from the bridge.

“There’s an overriding theme in a lot of our work, which I would call this Mondrianic composition in terms of the materials,” Scarano told me. The 5,000-square-foot addition also functioned as a prominent advertisement for his theories about living large. “The volume of space and the way people feel in spaces that are more grandiose is quite different, and it affects the psyche,” Scarano said. “The idea that the zoning could be used

to help create space, interesting spaces, I think was something that wasn't really being explored."

The purpose of zoning is to provide for restrained development. But in Scarano's view, the city's code was a Talmudic document, open to endless avenues of interpretation. Through a variety of arcane strategies, he could literally pull additional real estate out of the air. In the high-ceilinged warehouses of SoHo and TriBeCa, for instance, an earlier generation of gentrifiers had increased their living space by constructing mezzanines, creating the loft look that so many buyers were now after. "The population of factory buildings was unfortunately being used up," Scarano said. "So what did we do? We created the factory aesthetic in new construction." And he didn't just take the aesthetic — he also adapted the zoning rules that applied to warehouse conversions. Under certain circumstances, the code classified loft mezzanines as storage space, not floor area, and Scarano assured developers their new building plans could slip through this loophole. Effectively, he said, he could fashion double-decker apartments, in buildings that were four stories for legal purposes and eight stories for marketing.

"That was the line: Go to Bob, he'll get you a bigger building than anyone else," says the Brooklyn architect John Hatheway, who helped lead a successful campaign for new height restrictions in his neighborhood, inspired by various projects, including Scarano's. Developers began demanding more from their architects, or else they would just seek an audience with Scarano, who always seemed to find ways to magically enlarge a competitor's plan. "We would see people lining up, sitting down, waiting in the waiting room to see him," said Samy Brahimi, a developer who had been visiting Scarano's office for years. "It was a little baffling."

Few clients delved into the secrets of Scarano's legerdemain. "I assumed it was some combination of expertise, knowledge of the code and relationships" at the Department of Buildings, said a developer who, like many other former Scarano clients, asked not to be named because he no longer wants his buildings associated with the architect. "If people are delivering good things, you don't want to ask questions."

Scarano, like many in his voluble profession, has strong opinions about other architects. He appreciates Jean Nouvel for his visionary use of glass; he's not a fan of Meier, whose work, he once said, is characterized by "a tremendous slavery to Modernism." One building that he's particularly fond of is the Porter House, a Meatpacking District renovation, where SHoP Architects added a zinc-paneled four-story addition to an existing Renaissance Revival warehouse. So Scarano said he was excited when, one day in 2005, "a job walks into my office that's almost a twin of that building."

A developer named Isaac Fischman had acquired a redbrick warehouse on Carroll Street in Brooklyn, a block from the Gowanus Canal. Over the decades, the industrial site was connected to a jute mill, a light-bulb manufacturer and a lunch-cart business, but the brownstone blocks just to the north and west were now some of the most desirable in the city. "It's historical, it's a three-story building, it has a lot of air rights and potential, and an unusual addition could be put on it," Scarano said. "Well, again, what was a really cool addition to us was not a really cool addition to a lot of other people."

In 2005, a framework of steel began to go up on top of the warehouse — and up, and up, until the cubic structure was nearly as tall as the original building. Chris McVoy watched the progress with mounting annoyance from his town house down the block. He thought the warehouse addition was grossly out of proportion, and as an experienced architect himself, he was suspicious. "I know the floor-area ratios in the neighborhood," he said. "There was no way they could be putting that much area on that site. There was something wrong."

McVoy wasn't the only one who was incredulous. "It was this monstrous cage on top of a beautiful old manufacturing building," Katia Kelly, a community blogger, said. "And on top of it, the name Scarano." The architect's popularity with developers had met with an equal and opposite reaction from Kelly's crowd, which considered him a crass enabler of greed. Complaints about the Carroll Street project soon flooded the buildings department, which

briefly halted it. In late 2006, though, construction restarted, and McVoy decided to examine Scarano's plans himself.

McVoy quickly identified what he described as several "pretty glaringly wrong" floor-area calculations, in part related to mezzanines, and concluded that the building under construction was nearly 8,000 square feet too large. He took his analysis to a buildings-department official. Scarano had come up with a complex justification that involved placing parking on the basement level, but that didn't make sense to McVoy, either. He eventually discovered that Scarano's survey of the existing building made a key misstatement about its dimensions. (Sidebar, right.) "It's very hard for me to believe that it was an accidental error," McVoy said. (Scarano says that the plans were accepted by the buildings department; a spokesman for the department said that happened only after major revisions.)

Scarano boasted that he knew every nook and cranny of the zoning code, and few thought to question his expertise. He had a genial relationship with the buildings department, and he usually submitted his designs under the city's self-certification program, an honor system instituted to save money during the Giuliani administration. This meant that, in the vast majority of cases, buildings were being constructed with the go-ahead from just one person: Robert Scarano. In neighborhoods all over the city, though, concerned citizens began to throw up obstacles.

A few, like McVoy, had the specialized knowledge necessary to scrutinize Scarano's fine print. In Manhattan, Kevin Shea, a lawyer specializing in building-code work, grew curious about a new building on the Bowery that he walked by every day — it just looked too tall. When Shea checked, he discovered that the 16-story Bowery Tower development was being constructed under an allowance for college housing, even though no school was involved with the project. After protesters complained that the tower was clearly meant to be apartments, the project stalled, and it was taken over by new developers, who replaced Scarano, refaced the exterior with traditional brick and opened the chic Bowery Hotel. Scarano takes credit for the acclaimed result.

"Even though I was in the industry," Shea said, "it had never occurred to me that you could put up a building in Manhattan without getting an approval of some kind. The further I looked into it, the more crazy it looked."

Elsewhere, others were hit with similar realizations, and the opposition came together in a loose-knit network. There was another proposed 16-story tower in Williamsburg, nicknamed "The Finger," because neighbors said that was what Scarano was giving them. There, the architect met zoning requirements by proposing a shared outdoor deck — on the roof of a neighboring property. The owner, who sued, claimed the architect and developer had conspired to defraud him out of the rights to the space. (Scarano denied wrongdoing, and the case has been settled.) In the neighborhood around Greenwood Cemetery, a graphic designer named Aaron Brashear rallied opposition to a number of Scarano's buildings, including one that would have blocked a hilltop view of the [Statue of Liberty](#). Critics began to question how Scarano was counting his mezzanines as storage, when the spaces were being marketed as bedrooms, sometimes with adjoining baths.

Scarano vigorously defended himself, saying he was merely "pushing the envelope" of the zoning code's established interpretation. The controversies over his designs made irresistible material for a multiplying chorus of boom-time news organs devoted to real estate. "Blogs tend to have these heroes and villains," said Lockhart Steele, founder of the Web site Curbed, who gleefully cast Scarano in the villainous category. "It was like this slowly dawning realization, that all these things we found distasteful were all the work of one man." Scarano was more than willing to mix it up with opponents. Some received furious ALL CAPS e-mails, others plaintive or ominous phone messages. On the blog Brownstoner, among others, Scarano often posted taunting comments: "Happy to see that all my good friends and critics from the crazy house are still out there" and "Ah, the wild imagination of those who are not in the know. Its [sic] fantastic to read. Get a life!"

Scarano made such comments under his own name — "who wants to go through life being anonymous?" he wrote — but ultimately, his high profile was his undoing. All the

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complaints and negative press roused the buildings department, which began auditing his projects. Elan Padeh quietly warned his clients that his favored architect had become a liability, and some builders began re-examining their plans.

In 2008, Isaac Fischman removed Scarano from the Carroll Street warehouse project, after the buildings department ordered the developer to stop work. For the last three years, Scarano's skeletal addition has loomed over the area, symbolic and unfinished. "They got greedy," McVoy says. "If they had just renovated in that time and not tried to get around zoning, the irony is they would have been done before the crash." Fischman recently announced that all the steel will come back down, and he will convert the building to apartments while maintaining its existing dimensions. Fischman told me he lost "a serious amount of money" to Scarano-related delays. "I was one of his victims," he said.

Scarano scoffs at the notion that any developer, Fischman included, was duped into accepting his designs. Architecture "is not so dissimilar from the accounting profession," he said, dropping all Mondrianic pretense. "When someone goes to their tax accountant . . . they don't tell the fellow to figure out how to not have the most deductions." Everyone was happy until the auditors arrived, and then came recriminations. Over the past few years, numerous developers have sued Scarano, claiming he prepared faulty plans, while he has countersued to recover hundreds of thousands in unpaid fees.

In early 2006, after a meticulous review, the city filed a series of civil charges against Scarano in an administrative court, among other things claiming that he "made false or misleading statements" in submissions for 25 self-certified projects. Most of the violations concerned mezzanines. The buildings department had just promulgated new guidelines, holding that if the mezzanines had more than five feet of headroom, they could not count as storage space. A few months after the case was filed, the city settled the charges in return for Scarano's giving up his right to self-certify. "I believe strongly and until today that my interpretations and my decisions were founded on things that were permissible," Scarano says, contending that many of his audited buildings were eventually cleared by examiners.

Some wonder, if what he was doing was so blatantly illegal, why Scarano met with approval for so long. Robert LiMandri, the commissioner of the buildings department, said he had "no information that indicates that there was any sort of corruption" and that no employees were disciplined. Rather, he contended, the department was overwhelmed by a "frenzy" of building activity, and it relied on Scarano's representations, which were often voluminous and confusing. At the time, the department had no way to punish him for lying. In 2007, though, state legislators, inspired by complaints about scofflaw architects, passed a law that allowed tough sanctions. "We really needed this stick to be able to say to people, look, there are no more cat-and-mouse games," LiMandri said. The department created a new Special Enforcement Unit, focusing on Scarano as an initial target.

The city brought a new prosecution, a complicated case involving adjoining properties and supposed double counting of zoning rights, but then, in late 2008, a seemingly unambiguous bit of trickery dropped into investigators' laps. Scarano was seeking a routine approval for a commercial building, which could not be occupied as long as an electrical pole was sitting in the middle of a new driveway. The architect submitted a curious photo of the building: shot from an off-center angle, it gave the appearance that the driveway was no longer obstructed. When the city sent an inspector to the site, he saw the pole hadn't actually been moved. An excited buildings official e-mailed a colleague: "It is a smoking peashooter."

At trial, Scarano testified that he tried to get his "knucklehead" client to deal with the obstructing pole, and his lawyer called the city's repeated investigations a "vendetta." Last March, though, the judge found that Scarano had engaged in "deliberate subterfuge" and actions "so deceptive that they call to mind out-and-out fraud." He was given the maximum punishment -- a total ban on filing any documents with the city. The sanction is currently stayed while Scarano fights it in a state appeals court, but if it's upheld, the architect says he could be put out of business.

Many architects who know Scarano were mystified. "He's the guy that they're out to get, and when it comes down to charging him with something, they charge him with such a minor thing," said Donald Weston, head of the urban-design committee of the A.I.A.'s Brooklyn chapter. To some, Scarano looks like a scapegoat for the city's inconsistency and winking enforcement. But other architects view his violations as egregious. "I think you can't legislate aesthetics," said Chris McVoy, but he added, "there's a certain public trust in these regulations whether you agree with them or not."

Scarano's firm has been devastated by the scandal and the housing bust. His fabulous office is now occupied by just 20 employees, he said, and even appreciative clients are reluctant to give him business, lest his name attract unwanted scrutiny. But he is hardly the only one who has suffered. Some residents of his lofts, who bought believing a broker's assurance that they were two-bedrooms, have since learned that they count as one-bedrooms for appraisal, while others complain of faulty construction. "I am only the architect," Scarano replies, saying he never had any control over how developers built or marketed his designs.

Scarano maintains that his reputation will ultimately rest on how his buildings hold up in the eyes of the public and critics. He revels in his inclusion in the A.I.A. Guide: if the mentions weren't always positive, they did prove he mattered. Fran Leadon, the volume's co-author and a City College professor, told me he struggled with how to describe Scarano's unquestionable contributions to the cityscape. "I felt like it was a challenge to talk of them as being symptomatic of the extreme end of the building boom," he said. "Not caring about history on a certain site, not really caring about the context, but caring very much about maximizing square footage and very much about buildings as commodities."

Visiting Scarano's Brooklyn projects today is like reliving the bubble's deflation in a series of freeze-frame photos. There are completed high-rises along Fourth Avenue and a creamy white building in Bedford-Stuyvesant, where giant windows gave me a glimpse of a Saturday afternoon open house. Other buildings appeared to be ready but empty, or moldering unfinished. On the plywood that fenced in one forlorn Fort Greene construction site, a graffiti artist had spray-painted a frowning face and the word "Help."

"A lot of people got destroyed," said Alan Messner, a developer who built three Scarano buildings. Standing on a Williamsburg street corner, admiring the wood-paneled exterior of a condominium building called the Artisan, Messner told me he barely managed to survive after a lengthy buildings-department audit, which he credited Scarano for working through.

Messner's building looked great, but many other projects managed to pass the review process only after extensive alterations and downsizing. Developers claim that the buildings department imposed its new standards arbitrarily. In some buildings, they were allowed to cut their mezzanines' headroom to five feet by constructing flimsy wood platforms. (When my wife and I visited a Scarano building's open house in 2009, a broker was quick to mention how easily such a platform could be removed.) Elsewhere, inspectors apparently accepted a veneer of plausible deniability. A mezzanine could still be a storage space, it seems, if it didn't have a bathroom.

Hence, a builder might erect a mysterious wall.

Of course, in New York, space seldom goes to waste or waits long for rediscovery. Last year, Cody Brown and Kate Ray, recent [New York University](#) graduates and partners in a Web start-up, happened to find a rental in a Bushwick building by looking for the keyword "sunny" on [Craigslist](#). It was maximalist Scarano: a three-story triplex with a mezzanine and several outdoor terraces. "It's designed to make yuppies smile," Brown told me when I visited recently. Originally conceived by the developer as luxury condos, the building was briefly leased to an ex-con who ran it as a halfway house, but the neighborhood protested, and now Brown and Ray were dividing the triplex with three other roommates, exploiting every bit of space. They were young and thrilled with the rent, and they weren't sweating the details. "It's like, beautiful things," Ray said. "And then you start pulling the doorknob too hard, and it comes off."

"There's a secret room," Brown told me, conspiratorially. Up on the mezzanine level, next to a pair of D.J.'s turntables, he knocked on a wall. It sounded hollow. I recounted the story of the hidden bathroom and left them to consider their options.

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Down eight flights of stairs — no elevator — I walked past another building resident, a young guy in a hoodie, chatting up some women on the sidewalk. He was going to give a party, he said, and as they walked off, he shouted out how to find it: "I live in the penthouse!"

A version of this article appeared in print on March 20, 2011, on page MM68 of the Sunday Magazine.

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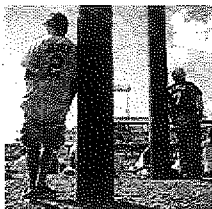
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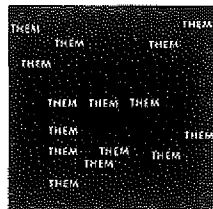
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COMMUNITY PLAN OVERLAY DISTRICTS ORDINANCE:
DISCUSSION & CONCEPTUAL ALTERNATIVE

March 23, 2011

Background on Community Plans and Community Plan Overlay Districts in the City of Los Angeles

As the Los Angeles Department of City Planning website states: “California State Law requires every city and county to adopt a comprehensive General Plan to guide its future development. The General Plan essentially serves as a ‘constitution for development’ ... the foundation for all land use decisions

“The City’s 35 community plans collectively comprise the Land Use Element of the General Plan.”

So here we are ... a city with a General Plan, 35 community plans and 46 specific plan areas. Comprehensive community plans help ensure that population, land uses, zoning, infrastructure (including transportation) and amenities are sufficient and aligned. That is the good news.

The bad news is that the City of Los Angeles is woefully behind in the process of updating community plans, many of which are a generation or more old. Worse news, the cynics say, is that the City has no interest in updating community plans in a comprehensive way, because it would require a high level of community engagement and a clear recognition of growth impacts, including the state of local infrastructure.

Thus, the City has chosen to create Community Plan Implementation Overlay Districts (CPIOs).

The Dangerous Ordinance with the Innocuous Name

The innocuous-sounding and misleading ordinance name belies the fact that these districts can override all 35 of the City’s community plan areas and all 46 of the City’s specific plan areas ... and that the districts can “implement” policy that doesn’t exist in the actual community plans. For example, the City can enable more people to live in a CPIO than the underlying zoning or the community plan area allows. Or the City can reduce open space requirements or parking requirements in direct conflict with underlying zoning. These changes can be made with limited due process and environmental review. In other words, with these overlay districts, the City can slice and dice community plan areas into hundreds of bite-sized districts for spot-upzoning without ever having to recognize the cumulative impacts of their creation. Notably, CPIOs can feature:

- Higher density
- Reduced open space
- Reduced parking
- Significantly taller buildings
- No minimum and no maximum district size

- No specific community noticing requirements to establish districts
- No variances required for nonconforming projects
- Spot zoning
- Noncontiguous properties
- “Administrative Clearances” for even larger projects
- Across all 469 miles of Los Angeles, with no targeting such as around transit or in blighted areas

The CPIO Ordinance (Los Angeles City Ordinance No. 181,412) was passed by the City Council in November 2010. The ordinance is sweeping, with potentially very significant negative impacts that were never identified and analyzed by the City prior to its passage. In December we filed suit to halt its implementation based on a grossly insufficient environmental clearance. Our lawsuit seeks an honest accounting of the direct and indirect impacts of the new ordinance.

CPIOs are not necessary to effect meaningful planning in Los Angeles. There is no assurance of community involvement to establish them. They threaten transitional zoning. They are likely to induce growth in a way that exacerbates the region’s dysfunctional density. All of the good things that their proponents say they will do can be done other ways, including through community plan updates, plan amendments, design districts and standards, and Q conditions. The ordinance directly conflicts with prevailing policies including the City’s General Plan Framework and California SB 375.

There’s No Substitute for Comprehensive Community Plan Updates

LA Neighbors United soon will offer a “Roadmap for Neighborhood Protection, Planning and Development Reform in the City of Los Angeles.” First among our recommendations will be to commit the City to a 10-year cycle of comprehensive community plan updates, with a fully staffed Department of City Planning leading the way.

While moving towards this goal, and while our lawsuit plays out, the fact is the CPIO Ordinance is on the City’s books. So the question remains: How can the City minimize the potential for significant negative impacts resulting from broad application of the CPIO Ordinance?

The surest way is simply to avoid relying on the ordinance; in other words, don’t use it.

As we suggested before the City Council’s Planning and Land Use Management Committee last fall, the best approach would be to update community plans in an order that logically addresses Citywide planning priorities, such as accommodating fixed-rail and bus transit, to facilitate development of the Los Angeles River greenway, and to address blight. The community plan areas that include existing and planned fixed transit nodes, the Los Angeles River greenway and substantial concentrations of blight could be revisited first. This is an obviously simple and straightforward approach to address Citywide planning priorities through comprehensive community planning.

In the absence of this step, there is another alternative, which we outline below. It entails rescinding the CPIO Ordinance and designating three new Supplemental Use Districts to address Citywide planning priorities.

To be sure, there are other important issues that should be addressed in the interest of advancing Citywide planning priorities, including boulevard revitalization, safe streets, retail revitalization and mixed-use development. We will address these issues in our Roadmap.

We welcome a conversation with City policymakers and the community about this alternative to the Community Plan Overlay Districts Ordinance. But we reiterate our core belief: Neither the CPIO nor the alternative outlined below is necessary. The best answer is to commit the City to a cycle of regular community plan updates, and to address key planning priorities and other issues in the context of comprehensive plans.

Our City's future is as an even better version of its past and present, with plans that preserve and enhance the unique characteristics of LA neighborhoods and the natural environment, while targeting growth where it is supportable by infrastructure and public services, where it would enhance neighborhoods, and where it would help create great places within our glorious city.

Alternative Approach to the CPIO to Focus Citywide Planning In the Absence of Comprehensive Community Plan Updates

1. Rescind the Community Plan Overlay Districts Ordinance
2. Establish three new Supplemental Use District designations (further defined below):
 - Transit Overlay District
 - River Overlay District
 - Neighborhood Revitalization District
3. New districts would allow and/or require:
 - Reconsideration of underlying zoning, including building characteristics, uses and parking requirements
 - Conformance with the standard community plan project permit regime (Project Permit Compliance – Project Permit Adjustment – Zoning Variance) in the interest of encouraging comprehensive planning and assuring predictability for applicants and neighbors (in contrast to CPIOs)
 - Minimum and maximum district sizes (in contrast to CPIOs)
 - Strong community noticing requirements, including opportunities for community engagement (in contrast to CPIOs)
 - Regular monitoring and mitigation of environmental impacts, and plan updates (in contrast to CPIOs)

4. New districts would prohibit:

- Single parcel district designations, also known as spot zoning (in contrast to CPIOs)
- Inclusion of noncontiguous properties, the impacts of which can be difficult at best to track (in contrast to CPIOs)
- Project Permit Exceptions (in contrast to CPIOs)
- Administrative Clearances for Project Permit Adjustments (in contrast to CPIOs)

This component of the CPIO is a development incentive, not a planning tool; it should be decoupled from these supplemental districts in the interest of assuring sound planning, managed growth and sufficient environmental review. The fact is, if development reform is done right, all entitlement applications, be they for by-right project permits or administrative adjustments, should be processed efficiently and expeditiously.

In our forthcoming Roadmap, we will separately address the issue of development incentives.

General Characteristics of New Supplemental Use Districts

1. Transit Overlay District

- Encompasses area up to one-quarter-mile radius of fixed transit node (fixed bus or rail stations)
- Intended to facilitate planned, managed growth, including appropriate density
- Intended to assure sufficient infrastructure to support current population and businesses, in addition to future growth (For example, a district plan might require the complete build-out of sidewalk infrastructure within the plan area before higher-density projects are enabled to come on line)
- Intended to provide strong transitional zoning to protect existing neighborhoods, businesses
- Intended to assure that existing neighborhoods are not physically divided by new development
- Intended to enhance character of existing neighborhoods

2. River Overlay District

- Encompasses area up to one-quarter-mile from Los Angeles River
- Intended to facilitate implementation of Los Angeles River Revitalization Master Plan, including continuous 32-mile River greenway and bike paths, with dedicated open space and conservation easements, potentially also including additional River restoration improvements (District plans would require the build-out of greenway and park space as a prerequisite for new development in plan areas)
- Intended to facilitate planned, managed growth, including appropriate density along the waterway
- Intended to facilitate district design
- Intended to provide strong transitional zoning to protect existing neighborhoods, businesses
- Intended to enhance character of existing neighborhoods

3. Neighborhood Revitalization District

- Intended to encourage revitalization of blighted areas through the power of planning and zoning, including infrastructure development and maintenance
- Would require a finding of blight to establish
- Would disallow tax-increment financing and takings through eminent domain
- Intended to facilitate planned, managed growth, including appropriate density
- Intended to facilitate strong transitional zoning to protect existing neighborhoods, businesses
- Intended to enhance character of existing neighborhoods