

March 4, 2014

Councilmember Jose Huizar, Chair
Planning & Land Use Management Committee
200 North Spring Street
Los Angeles, CA 90012

Re: Development Services Reform (Council File 13-0046)

Dear Chairman Huizar,

Established in 1924, the Central City Association (CCA) is L.A.'s premier business advocacy organization with 450 members employing over 350,000 people in the Los Angeles region. CCA represents a broad swath of the businesses that drive the Los Angeles economy. Our members know firsthand how much of their own economic activity is driven by development, and therefore it is essential that we take this opportunity to achieve true progress.

So, we thank you for your thoughtful consideration and commitment to implement development reform across multiple departments. This is a step in the right direction to increase efficiency, accountability, transparency, and certainty in the City's development services functions.

We ask that the Planning & Land Use Management Committee consider the following when hearing the joint CAO/CLA report and deciding the next steps to implement a plan for development reform:

CAO/CLA Recommendation #1: Instruct General Managers to develop Memorandums of Agreements to grant authority to DBS over ministerial process, to Planning over discretionary process, and to Engineering over public improvement process.

1. **Authority Across Departments Necessary For General Managers**

In order to gain efficiencies among each process type (ministerial, discretionary, and public improvement), each General Manager must have authority and process ownership not just within his or her own department, but *across* departments.

2. **Use Case Planners For A "One Project, One Planner" Approach For Discretionary Projects**

Discretionary Projects require extensive coordination among several City departments. Currently, the City's system is so byzantine that developers are forced to expend great fortunes hiring niche experts. In order to address this, authority across departments should be extended to the case planners referenced in the new "one project, one planner" approach.¹ Using one point of contact under this approach would make the system user-friendly – for developers, business people, and homeowners, who are all City customers. Success requires that the case planners be proactive, responsive managers empowered to direct the complete portfolio of City staff involved in project planning, permitting, and construction.

3. **Eliminate "To The Satisfaction Of" Conditions**

While developing the role and responsibilities of the case planner² and standardized conditions of approval,³ one of the identified goals should be to eliminate conditions of approval that utilize the

¹ Matrix Recommendation #60.

² Matrix Recommendation #64.

³ Matrix Recommendation #85.

phrase “to the satisfaction of.”⁴ Instead, the case planner should obtain substantive comments from Departments early in the application submission and marshal conditions of approval that plainly communicate the applicant’s obligations.

4. **Eliminate Other Conditions Of Approval That Are Difficult, Or Impossible, To Satisfy**
There are other conditions of approval that are routinely difficult, or impossible, to satisfy. These types of conditions should be eliminated entirely. Instead, they should be replaced with standardized and measurable conditions that meet the same intent and goal. For example, some Conditional Use Permits involving cafes, restaurants, nightclubs, and retail stores contain the following condition: “Prior to issuance of a building permit, applicant shall submit a security plan to the Los Angeles Police Department (LAPD) for review and approval.” While this language may seem simple enough, coordinating LAPD review and obtaining “approval” is virtually impossible. LAPD staff will not approve security plans for private property due to the City’s potential liability obligations, should there ever be a crime or other safety-related incident. This is just one example of a condition established by the City Planning Department that simply cannot be met.
5. **Establish A Multi-Departmental Policy For Interpretation And Implementation Of Design Guidelines**
Currently, the Planning Department’s Urban Design Studio exhibits reasonable flexibility in the application of the Downtown Design Guide (DDG) to projects. Page 2 of the DDG states clearly that projects not adhering strictly will nevertheless be deemed compliant if the proposed alternative is superior and achieves the objectives of the DDG. Despite this, Planning staff routinely disagrees with the Urban Design Studio’s position, thereby creating Departmental internal conflict and great uncertainty for the developer. This systemic problem creates great confusion, expense, and delay as projects are designed, and then redesigned, based on internal politics. Additionally, some DDG standards conflict with standards of other City Departments responsible for permitting and implementation. For example, a developer having Planning Department approval on street tree separation and tree location may later be overruled by other City bureaus and departments, such as Bureau of Engineering. Thus, project applicants are put in a difficult bureaucratic situation having to negotiate between two arms of the City. Establishing a multi-departmental policy on both the interpretation and implementation of design guidelines will greatly improve permit processes and provide clarity for all involved.
6. **Provide Proposed Organizational And Case Processing Chart**
Given the extent of the proposed reform and its potential impact on ongoing development, the City should provide regularly updated organizational and case processing charts. This will ensure that economic development and job creation will continue without unnecessary confusion or delay as the City implements ongoing departmental changes.
7. **Benchmark Successes And Address Any Oversights With A One Year Review**
Review of the implemented reforms should be made more formal.⁵ While ongoing feedback will occur naturally, a more formal review will provide the larger development community an opportunity to provide feedback and ensure that changes are improving the system in a deliberate manner. The review should also investigate if there are any process oversights that may need to be incorporated during later reforms. In this manner, the City can use a measured and calculated approach.

⁴ Matrix, see page 263.

⁵ Matrix Recommendation #305.

CAO/CLA Recommendation #2a: Instruct General Managers to develop Memorandums of Agreements to shift zoning compliance review to Planning.

1. **Shifting Zoning Compliance Review To Planning Raises Questions**

Although the Planning Department is currently undertaking a 5 year plan to rewrite the Zoning Code, to date the Department does not have extensive experience interpreting the more minor zoning code provisions that typically arise with by-right projects.⁶ Therefore, it is not clear how shifting zoning compliance review will impact processing timelines for projects utilizing the existing Parallel Design-Permitting Process through Department of Building and Safety. It is important that the City give careful consideration to this move, since projects in the pipeline may be detrimentally impacted.

CAO/CLA Recommendation #2b: Instruct General Managers to develop Memorandums of Agreements to shift code and condition compliance to DBS.

1. **Unifying Enforcement Efforts In DBS Will Eliminate Unnecessary Duplication**

The existing Condition Compliance Unit currently provides information to the State Alcoholic Beverage Control (ABC) regarding the validity of Conditional Use Permits (CUPs) so that the ABC can then act accordingly – to issue alcoholic beverage licenses or to request that the applicant return to the City for additional permitting. This has created some confusion regarding the obligations of applicants to obtain supplemental building permits after a CUP has been granted. It has also created delays for businesses that have to work with Planning, DBS, County Health and ABC to open their businesses on time. Unifying enforcement efforts in Building and Safety will alleviate the confusion, since applicants can then work with a single City department both to effectuate their CUPs and to obtain building permits.

2. **Weave Enforcement History Into Planning's Zoning Administration Process**

The coordination between Planning's Zoning Administration and DBS's enforcement arm can be strengthened and improved by weaving enforcement history into the zoning administration process.

a. **Streamline The Plan Approval Process Using Compliance History**

Currently, applicants having Conditional Use Permits return to the City after a designated period of time either to renew expiring permits or to comply with a permit condition that requires a Plan Approval. Official site inspections should be used on a regular basis, or in advance of Plan Approvals, to establish the level of compliance.⁷ Businesses deemed fully in compliance and with no history of violations should not be punished with an additional, discretionary Plan Approval process – they should be rewarded with administrative renewal of their permit. Additionally, businesses deemed substantially (but not fully) in compliance should be rewarded with a streamlined permitting process, including waiver of hearing requirements. Meanwhile, the discretionary public hearing process should be reserved for businesses that are not in substantial compliance or are, in fact, in non-compliance.

b. **Facilitate Compliance By Adopting Measurable, Standardized Conditions Of Approval**

Currently, many conditions of approval are not written in objective, measurable terms. As a result, business owners have difficulty complying with them, and inspectors are left to use judgment in their interpretation and enforcement. By adopting measurable, standardized conditions of approval, the compliance and enforcement processes can be clear and predictable for the business owner, for the community, and for City staff that conducts inspections and reviews discretionary applications.⁸ Please refer to the subsection titled "Eliminate Other

⁶ Matrix Recommendation #102.

⁷ Matrix Recommendation #220.

⁸ Matrix Recommendation #85.

Conditions Of Approval That Are Difficult, Or Impossible, To Satisfy” on page 2 of this letter for information on problematic conditions of approval.

c. Target Bad Actors Using A Complaint-Driven System

After streamlining the plan approval process and standardizing conditions of approval, the City will be able to more easily distinguish between the good operators and the bad. Bad operators not immediately due for a plan approval or site inspection should still be subject to zoning regulations. Those regulations should be enforced through a complaint-driven system, and staff resources should be allocated so that the City can respond to complaints in a timely fashion.⁹

CAO/CLA Recommendation #3: Report back in 90 days regarding cost recovery.

1. Revisit Fees Again Once Recommendations Have Been Implemented

The business community is supportive of cost recovery. Cost recovery ensures that development services will be appropriately funded, and that projects can move through the system without experiencing delay due to a lack of staff or resources. However, the City must adhere to the “value for cost” proposition.¹⁰ With reforms, the City should achieve permit streamlining and resource efficiencies. Accordingly, this should result in a reduction of fees. Therefore, the cost recovery analysis should identify which fees can be reduced under the new development services reform implementation plan.

CAO/CLA Recommendation #5: Instruct Departments to establish contracts to manage peak workload demands.

1. Immediately Allow The Use Of Third Party Contractors For Environmental Impact Reports

Although allowing environmental review in parallel with discretionary review will contribute greatly to permit streamlining, it will not address projects requiring environmental impact reports (EIRs).¹¹ Projects with EIRs currently experience a 1-2 year delay due to the added requirements (such as scoping, notice of preparation, draft and final EIR, response to comments, etc.). Therefore, we ask that the City immediately allow the use of third party contractors so that the review of EIR documents can continue at a reasonable pace.¹²

2. Establish Guidelines For The Use Of Third Party Contractors For Discretionary Processes

For example, applicants should be given the option to use an approved third party contractors any time the staff workload becomes so overwhelming that Planning staff cannot review an Initial Screencheck (Administrative) Draft EIR within 4-6 weeks or subsequent revised submittals in 2-3 weeks. Additionally, the City should establish a fee for the use of third party consultants to ensure that staffing and resources for EIR review is properly funded and maintained.

CAO/CLA Recommendation #7: Direct CAO, CLA, and Mayor’s office to develop an implementation plan.

1. Commit To Full Implementation of The Consultant’s Recommendations

We applaud the City’s decision to initiate a number of key changes immediately. We remind you, however, that the City must – over the span of years – maintain its commitment and dedication to complete the reforms in an effective manner. Partial implementation will only result in another variation of our dysfunctional and fractured system. In order to ingrain new cultures and patterns across

⁹ Matrix Recommendation #222.

¹⁰ Matrix Recommendation #319.

¹¹ Matrix Recommendation #48.

¹² Matrix Recommendation #308.

Departments, achieve the desired outcome long term, and see a return on the City's, full implementation is necessary. Otherwise, this report will simply require more shelf space as many past report have done.

2. Clarify How SB743 Impacts Required CEQA Analysis and Update CEQA Thresholds

One action item surprisingly missing from the list of recommendations regards clarification and implementation of SB743. SB743 statutorily exempts mixed use, residential and commercial projects in Transit Priority Areas from aesthetics and parking analysis, unless the agency has thresholds. Unfortunately, the City's current CEQA thresholds for parking and aesthetics are out of date and pre-date SB743. It is not clear if those existing thresholds trump SB 743 or vice versa. The City should immediately establish a policy to clarify this issue for the development community. The City should also update the CEQA thresholds of significance using new metrics anticipated from the State's Office of Planning and Research.

3. Invest In The City's Human Capital

While the City undergoes this organizational change, it is important to invest in City's human capital and acknowledge the great need for ongoing staff training. Currently, there is very little staff training and on-the-job trial and error occurs at developer time and expense. Regular staff training would result in departmental efficiencies, as well as increased staff moral and camaraderie.

In addition to these recommendations, we urge you to maintain commitment to and funding for long term planning efforts. While reforms are implemented, the investment and staff related to long term planning efforts should not suffer. Completion of re:codeLA should not be delayed beyond the 5 year timeline, and completion of Community Plans should remain a priority, with an emphasis on areas with the highest level of development activity.

As with any reorganization of this scope, the devil is in the details. We hope that this thoughtful input will help inform the City's process as it moves forward. Should you have any questions, you may contact Noel Fleming, CCA's Director of Legislative and Legal Affairs at 213-416-7513 or nfleming@ccala.org.

Sincerely,



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President & CEO

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