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March 19, 2019

Planning and Land Use Management Committee
Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012

By Hand and Via Email: sharon.dickinson@lacity.org

Re: Objection to Resolution Transferring Land Use Authority from CRA/LA-DLA to City of Los Angeles and to Categorical Exemption ENV-2018-6006-CE; PLUM Agenda Tuesday, March 19, 2019, Item 8

Honorable Chair Harris-Dawson and Councilmembers:

On behalf of AIDS Healthcare Foundation and Coalition to Preserve LA, we object to approval of the proposed resolution to transfer land use authority in redevelopment areas from CRA/LA-DLA to the City of Los Angeles. This transfer of authority seeks to transfer the privileges of land use review and approval authority without transferring the responsibilities for fulfilling affordable housing requirements imposed by Community Redevelopment Law. Additionally, the transfer could have extensive negative impacts on the supply of affordable housing in Los Angeles and density controls in redevelopment areas so should not be regarded as exempt from the California Environmental Quality Act.

A. The Proposed Transfer Fails to Account for the Shortfall in Affordable Housing That Currently Exists in Redevelopment Areas, or to Plan for Supplying the 15% Affordable Units Required Throughout Redevelopment Areas by Community Redevelopment Law.

The proposed transfer resolution provides no mechanism to meet Community Redevelopment Law's requirement to provide adequate affordable housing (15% of new or rehabilitated units developed) in redevelopment areas of the City. The requirement for the provision of affordable housing within the redevelopment plan areas at a level of at

least 15% for privately sponsored projects is fundamental, mandatory, and clear. The Community Redevelopment Law states:

Prior to the time limit on the effectiveness of the redevelopment plan ... at least fifteen percent (15%) of all new or rehabilitated units developed within the Project Area by public or private entities or persons other than the Agency shall be for persons and families of low or moderate income. Not less than forty percent (40%) ... shall be available at affordable housing cost to, and occupied by, very low income households.

(Health and Safety Code section 33413 subd. (b)(2)(A)(i), emphasis added.)¹ Contrary to this requirement, CRA/LA and the City of Los Angeles have failed to ensure that the 15% affordable housing requirement in redevelopment areas has been met to this point or will be met by the time the 21 unexpired redevelopment plans expire in the next 14 years (https://planning.lacity.org/ordinances/docs/CRA_CleanUp/faq.pdf [showing unexpired plans including Hollywood Plan that expires in May 2028 and Pacific Corridor Plan that expires in 2033]).

The City has fallen woefully short of its obligation to produce low/moderate income units throughout the City. For example, in the Hollywood area, there was a deficit of at least 331 Low/Moderate Income Units according to the May 15, 2008 “5-Year Implementation Plan (2009-2013).” The deficit has only worsened since that time as new residential units are built without sufficient affordable units included.

The City’s Housing Element for 2013-2021 reports:

- The City’s RHNA [Regional Housing Needs Assessment] calls for *about 5,700 units/year affordable* to moderate income households or below.
- The City has been producing *an average of 1,100 affordable units/year* since 2006.

¹ The Supreme Court has noted the Legislature has explicitly required that new residential development in redevelopment areas include affordable units:

Furthermore, with respect to two geographic categories—redevelopment areas and the coastal zone—the Legislature has enacted statutes *explicitly directing that new residential development within such areas include affordable housing units*. See Health & Saf.Code, § 33413, subd. (b)(1), (2)(A)(i) [redevelopment areas]; Gov.Code, § 65590, subd. (d) [coastal zone].)

(*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, 445–446, emphasis added.)

(City of Los Angeles Housing Element 2013-2021, adopted December 3, 2013, p. c-xxii, emphasis added.) Therefore, the City and CRA/LA have failed to meet their obligations to produce sufficient low/moderate income units by a wide margin throughout the entire city and its redevelopment areas. Transferring land use authority from CRA/LA to the City of Los Angeles without a means for addressing this affordable housing shortfall would violate Community Redevelopment Law and be inconsistent with the City's Housing Element and other provisions of the General Plan. With the transfer of authority would come substantial responsibilities for which the former redevelopment agency, and now the CRA/LA, are in breach. The Planning Department has no plan to address this breach.

State law under the Health & Safety Code vests in the CRA/LA, as successor to the CRA, the successor rights and responsibilities. See also the CRA/LA's website at <http://www.crala.org/internet-site/index.cfm>, incorporated herein by this reference, prominently stating on the home page: "Notice: ABx1-26 does not abolish the 31 existing Redevelopment Plans. The land-use authorities in the Redevelopment Plans remain in effect and continue to be administered by the CRA/LA".

The CRA/LA has recently opposed the manner in which transit oriented communities (TOC) programs have been implemented by the City Planning Department. As reported in local press (<https://therealdeal.com/la/2019/01/24/city-toc-program-that-encourages-affordable-housing-development-faces-challenge/>), ["CRA/LA, a local agency with some authority over development, contends that existing density limitations across a half-dozen areas supersede those bonuses the city awarded to developers through TOC, Urbanize reported. [See enclosure]. CRA/LA first brought up the issue in a June memo."]) This conflict with CRA/LA reveals that transferring CRA/LA rights and responsibilities in redevelopment areas could have extensive adverse impacts on the development of affordable housing and density controls in these areas. TOC programs only incentivize the production of affordable housing, while CRA plans and Community Redevelopment Law mandate its creation. Therefore the preference should be given to the proper implementation of CRL and CRA/LA redevelopment plans, not to the TOC plans anywhere that TOC conflicts with CRL and redevelopment plans.

Furthermore, the City Planning Department has failed to implement the 15% affordable housing requirement of Health and Safety Code section 33413 subdivision (b)(2)(A)(i). When we have made objections in the contexts of development projects in the Hollywood area for failing to require 15% of residential units being developed be affordable to low and moderate income persons, the response has been that the requirement was an aggregate requirement, only imposed areawide and not on individual

projects. However, on an areawide basis, the City has failed to meet the 15% requirement so has not met its aggregate affordable housing obligations either.

B. Environmental Impact Analysis Is Required Before the Transfer of Authority is Approved.

The transfer of land use authority from CRA/LA to the City of Los Angeles could have profound and negative consequences on the production of affordable housing and control of density throughout Los Angeles. Thus, the City's claimed exemption under CEQA is improper. Exemptions from CEQA's requirements are to be construed narrowly in order to further CEQA's goals of environmental protection. (*Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1220.) Projects may be exempted from CEQA only when it is indisputably clear that the cited exemption applies. (*Save Our Carmel River v. Monterey Peninsula Water Management Dist.* (2006) 141 Cal.App.4th 677, 697.) The City cannot make and has not made such an "indisputably clear" showing.

The claimed exemptions, under section 15308 and 15320 of the CEQA Guidelines, relate to actions by regulatory agencies for the protection of the environment (section 15308) or for changes in organization of local agencies (section 15320) that do not change the geographical area in which previously existing powers are exercised. Since the resolution purports to eliminate the ability of CRA/LA-DLA to exercise powers it had in all redevelopment areas, this elimination of powers is not exempt from CEQA.

CONCLUSION.

Before authority and responsibility for land use approvals in redevelopment areas is transferred from CRA/LA to the City of Los Angeles, the affordable housing requirements of Community Redevelopment Law must be fulfilled, or an enforceable plan for their fulfillment must be developed. Additionally, environmental review that analyzes the impacts and alternatives to the transfer of authority must be prepared because the Project is not exempt from CEQA.

Sincerely,


Douglas P. Carstens

Enclosure: Urbanize article, January 23, 2019, "CRA/LA Redevelopment Plans Put a Damper on TOC Developments"

ENCLOSURE

CRA/LA Redevelopment Plans Put a Damper on TOC Developments

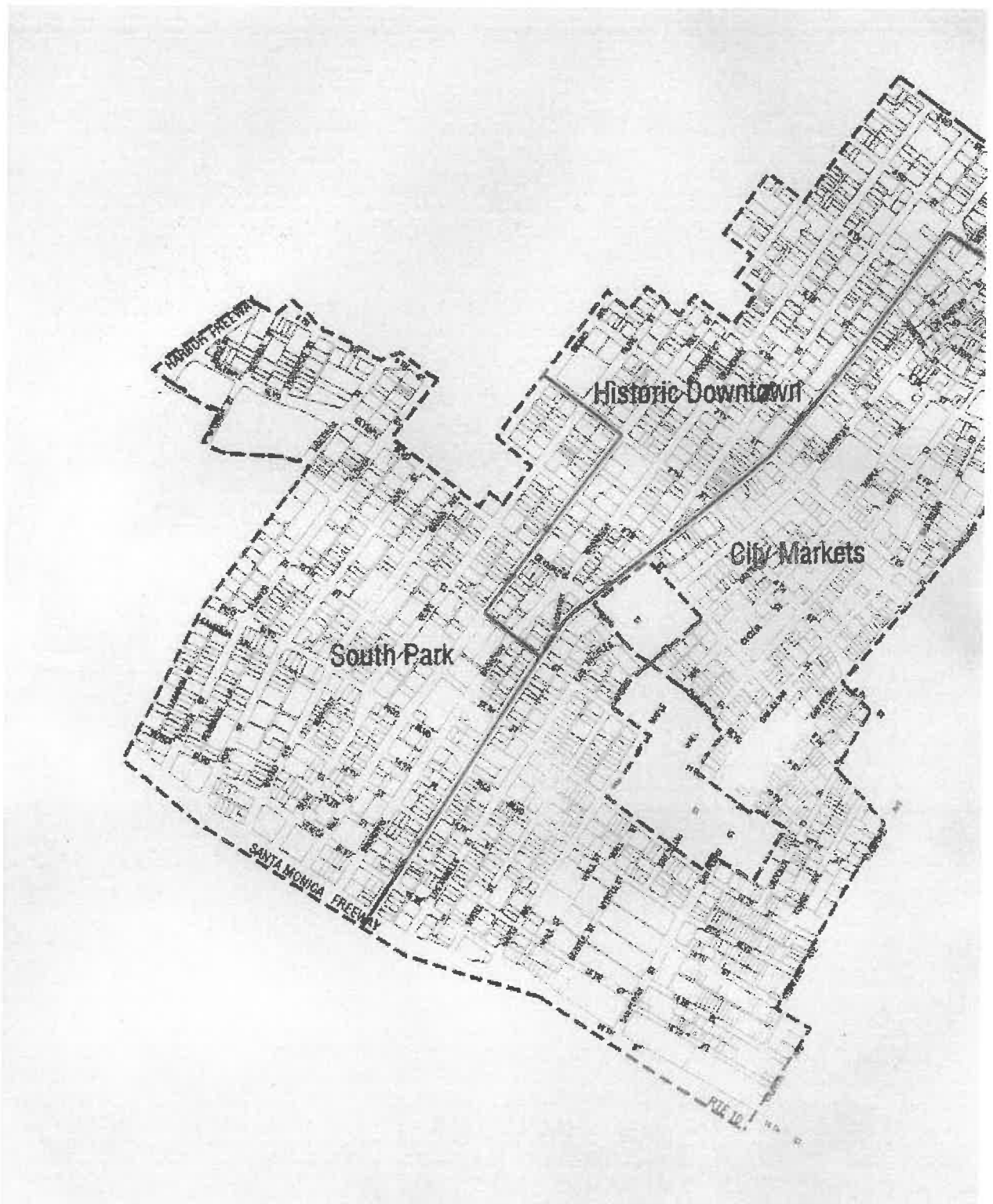
In September 2017, the City of Los Angeles adopted [the Transit Oriented Communities \(TOC\) guidelines](#). The program, which was created as a result of the passage of Measure JJJ in 2016, allows projects that create affordable housing relief from certain zoning laws, including density and height limits.

Over the past year, [the TOC guidelines proved popular with developers](#). Through June 2018, the Los Angeles Department of City Planning reported that the development incentives were used in 19 percent of all entitlement applications - a total of 112 projects and 5,571 housing units. But moving forward, the TOC program's efficacy may be curtailed in some of Los Angeles' residential development hotspots.

Last June, [CRA/LA issued a memo](#) indicating that density limits in six redevelopment project areas supersede the TOC ordinance, thereby preventing developers from taking advantage of the full incentives offered by the program. [A notice since issued by the Department of City Planning](#) seems to concur with this conclusion, recommending that project applicants consult with their case planners for guidance, and stating that the Department "continues to work collaboratively with the CRA/LA on this topic and will provide future updates on the matter as appropriate."

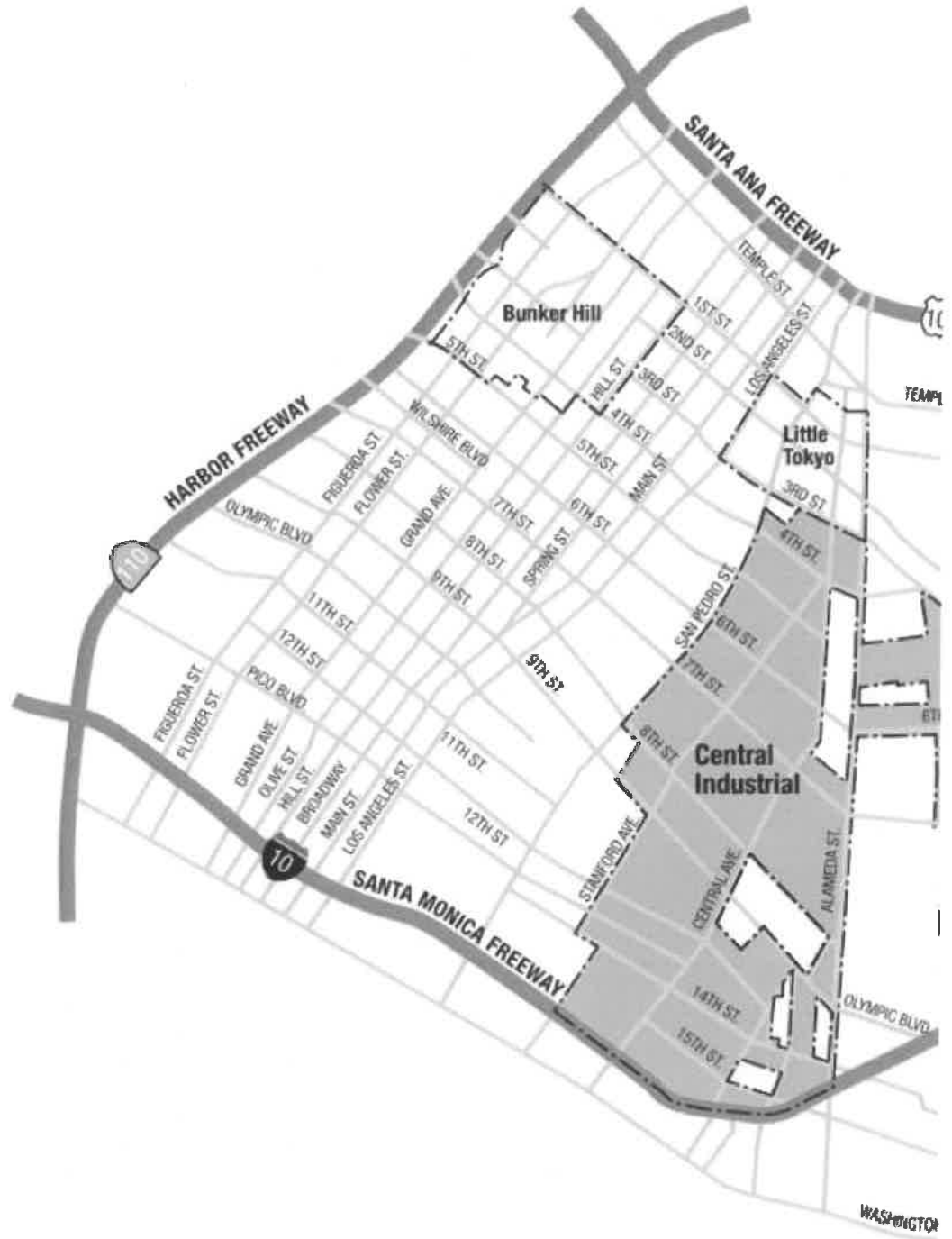
The six redevelopment areas, which include neighborhoods with robust multifamily development pipelines, are:

City Center



CRA/LA

Central Industrial

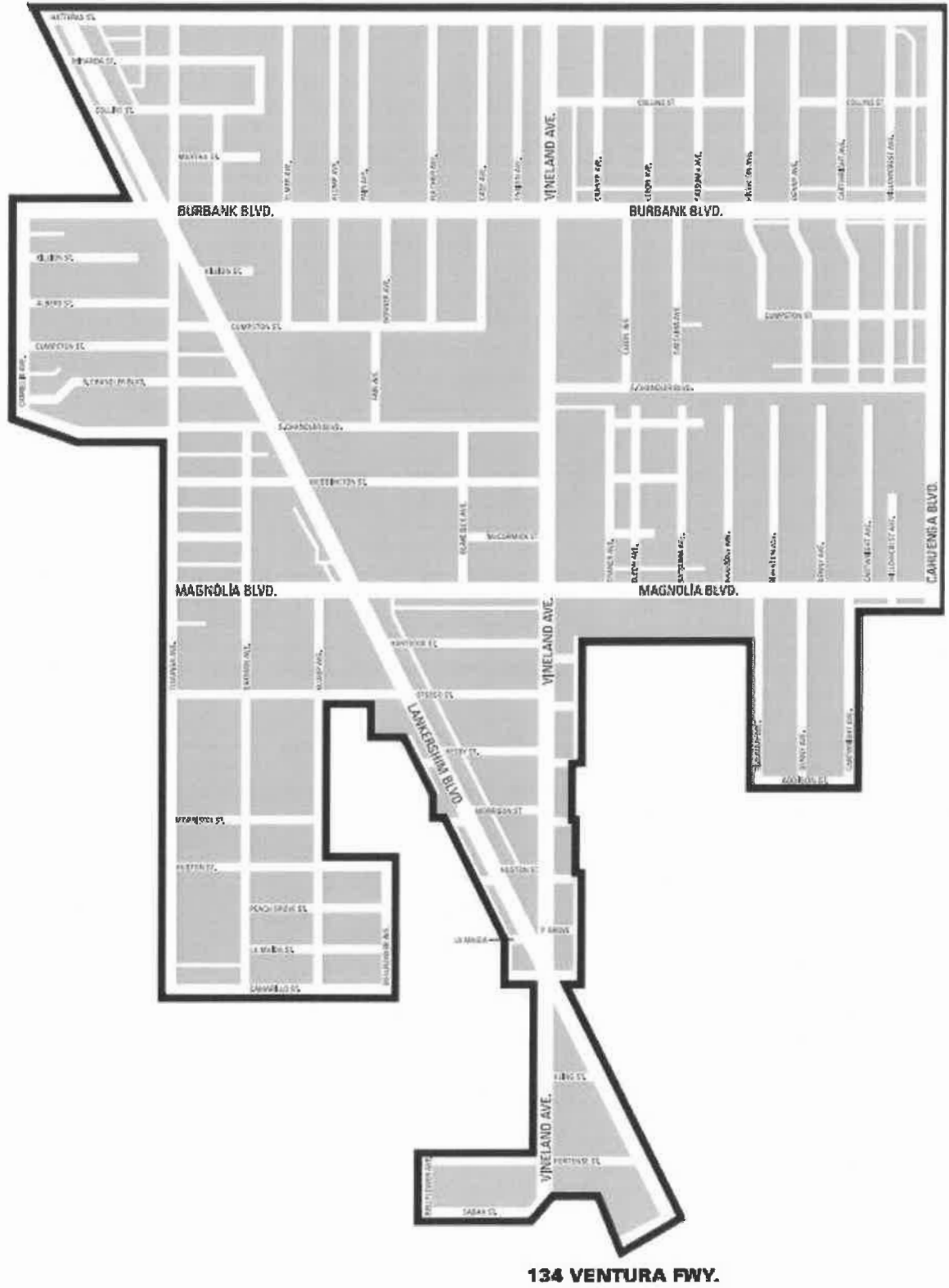


CRA/LA
Hollywood



CRA/LA

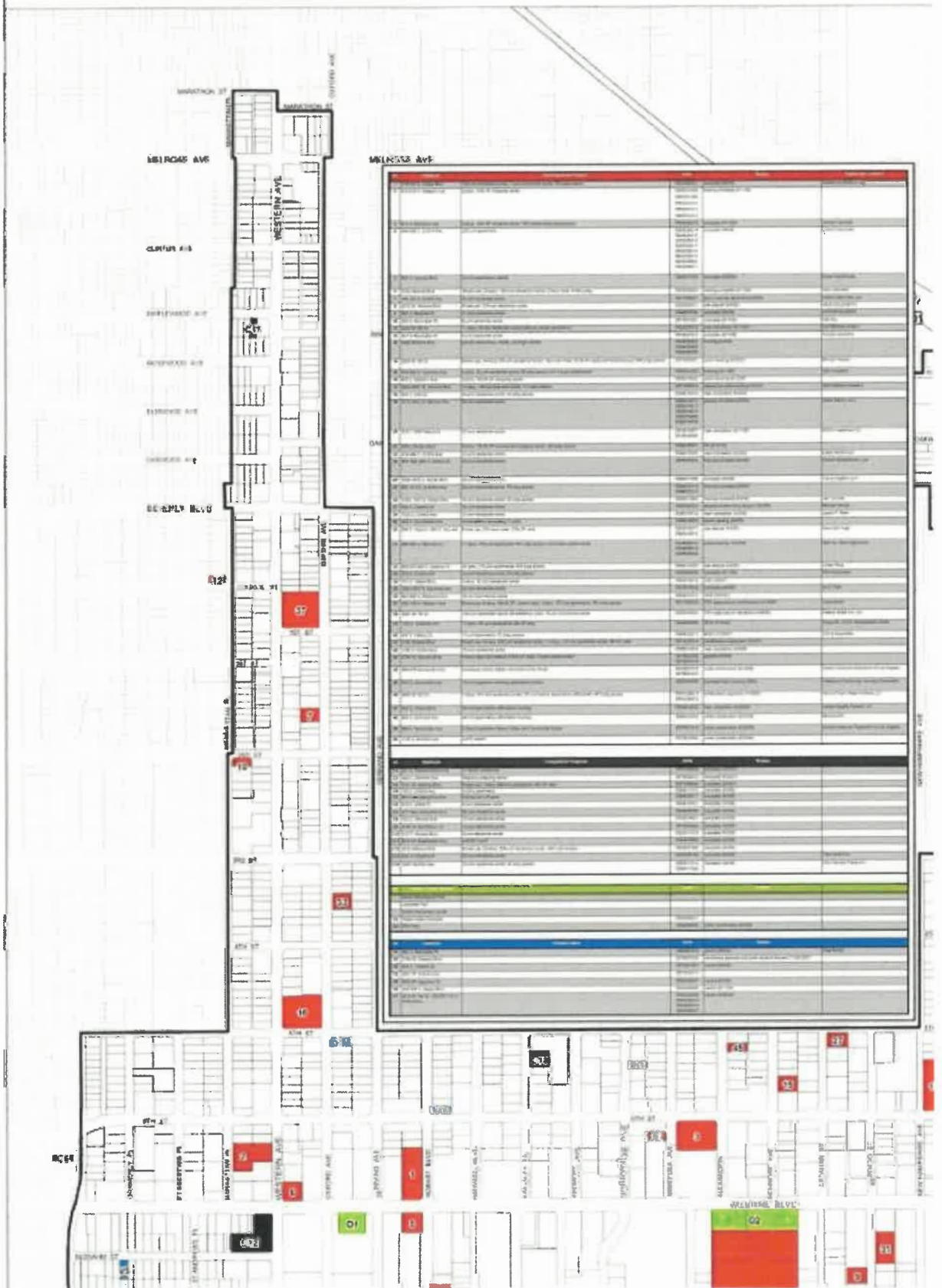
North Hollywood



CRA/LA
Wilshire Center/Koreatown

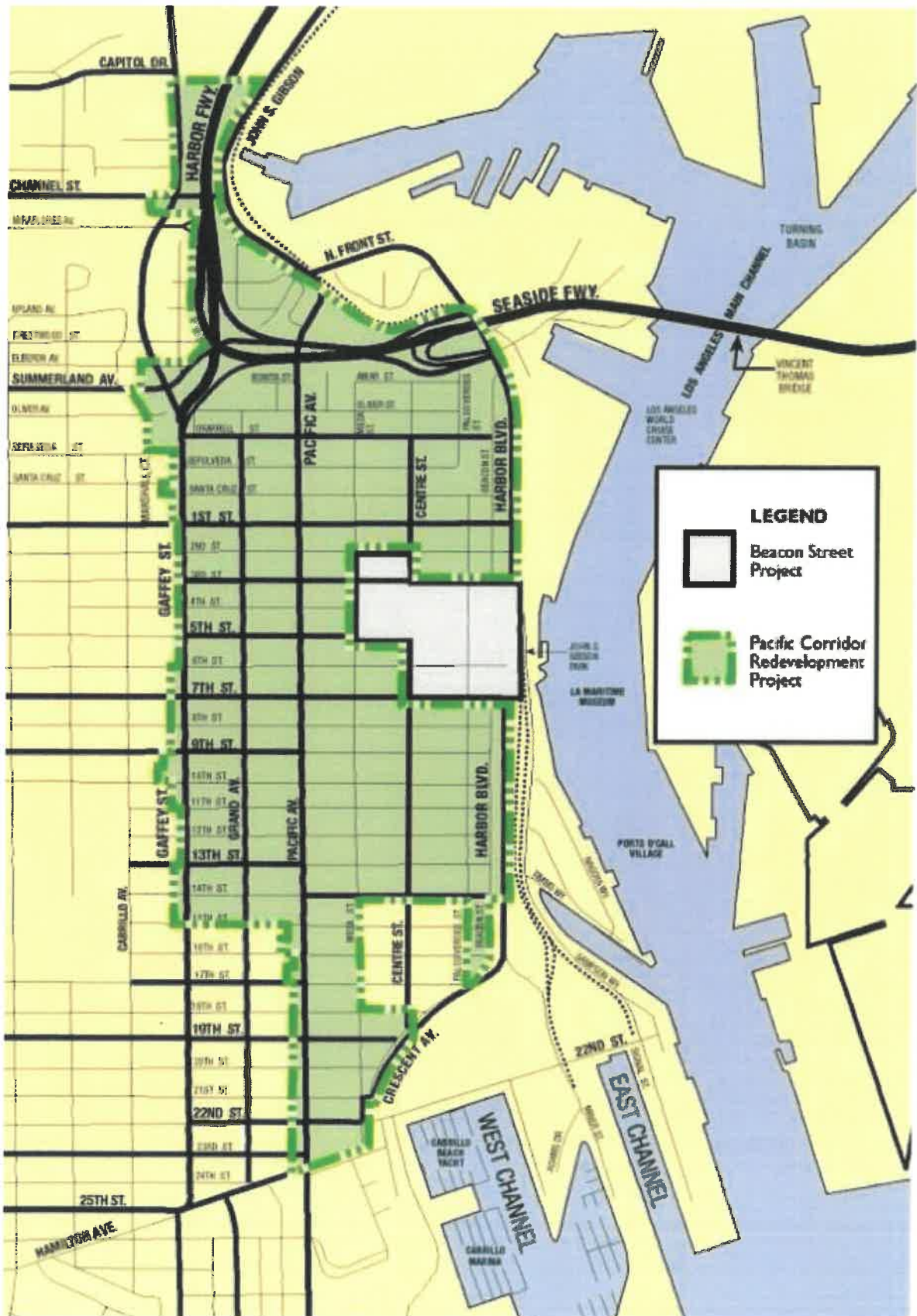
Wilshire Center / Koreatown

Redevelopment Project **Development Projects**



CRA/LA

Pacific Corridor



CRA/LA

As of September 2014, the CRA/LA estimated that there were 25 projects in which the TOC incentives were in conflict with the redevelopment plans. They total 1,350 housing units - including 214 affordable units and 59 permanent supportive housing units - and are largely concentrated in the Hollywood and Wilshire Center/Koreatown areas.

Other redevelopment project areas - including the City Center and Central Industrial areas - have yet to see new developments employing the TOC incentives.

[A motion introduced last in October 2018 by Councilmember Mitch O'Farrell](#) requests a report back on the 25 projects that are in conflict with the redevelopment plans, and what efforts have been taken to resolve the situation. The item was approved yesterday by the City Council's Planning and Land Use Management Committee.

- [Transit Oriented Communities Archive](#) (Urbanize LA)