

**PLANNING DEPARTMENT TRANSMITTAL
TO THE CITY CLERK'S OFFICE
SUPPLEMENTAL
*CF 17-1054***

CITY PLANNING CASE:	ENVIRONMENTAL DOCUMENT:	COUNCIL DISTRICT:
CPC-2008-1552-CPU	ENV-2008-1781-EIR	1, 8, 9, 10, 15
PROJECT ADDRESS:		
South Los Angeles Community Plan Area		
PLANNER CONTACT INFORMATION:	TELEPHONE NUMBER:	EMAIL ADDRESS:
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NOTES / INSTRUCTION(S):	
<p>Please upload the attached documents as "Communication from City Planning - Supplemental Response to Comments" to the Council prior to the City Council Meeting of November 22, 2017.</p>	
TRANSMITTED BY:	TRANSMITTAL DATE:
Claudia Rodriguez Council Liaison	November 22, 2017

Supplemental Response to Comments

South LA Community Plan Update and Southeast LA Community Plan Update Final EIR
Nos. ENV-2008-1781 and ENV-2008-1780

The City has reviewed the letter submitted to the City by the Silverstein Law Firm, dated November 21, 2017. This comment was submitted after the comment period for the Draft EIR and after the publication of the FEIR. The City is not required to provide a formal response under CEQA and the CEQA Guidelines. As a general matter, the City finds nothing in the letter that would require different analysis than that provided in the DEIR and the FEIR. Additionally, many of the issues raised in the letter were addressed in response to comments in the FEIR and the commenter has not provided new evidence to support its arguments. The following responses are intended to provide further clarification or information to support the City's certification of the EIR for the adoption of the South Los Angeles Community Plan Update and the Southeast Los Angeles Community Plan Update, adopt necessary findings and a statement of overriding considerations.

Item #	COMMENT	CITY RESPONSE
1.	<p>II. THE CITY SUBSTANTIALLY RELIES UPON SCAG POPULATION GROWTH PROJECTIONS, ALTHOUGH THIS WAS THE PRECISE GROUND ON WHICH THE LOS ANGELES SUPERIOR COURT INVALIDATED THE CITY'S HOLLYWOOD COMMUNITY PLAN UPDATE.</p> <p>On January 14, 2014, the Los Angeles County Superior Court issued its statement of decision holding that the City violated CEQA in its evaluation of the potential impacts of the Hollywood Community Plan Update. (See Exhibit 1 hereto.) The Court found the City's use of inaccurate population and growth projections by the Southern California Association of Governments ("SCAG"), instead of more accurate U.S. Census data, resulted in an EIR analysis of environmental impacts that was "fatally flawed."</p> <p>In Appendix B of the Draft EIR for the South and Southeast Los Angeles Community Plan Updates, the City has written a description of its "methodology"</p>	<p>We refer the commenter to the Methodology provided in Appendix B to the Draft EIR. As stated in the Methodology section, the 2010 Census Data was used for the purposes of establishing the baseline existing conditions for the South LA and Southeast LA Community Plan updates. In the Methodology, the City explains the source of data for the development of existing population and future growth, including why the use of both the SCAG numbers and the US Census Data numbers was appropriate.</p> <p>The City disagrees that the trial court in the HCPU decision invalidated the use of SCAG as a source for population data. In the HCPU, the court found that reliance on the population numbers from SCAG was inappropriate where subsequent Census data showed substantially different numbers. There is no evidence in the current record that the SCAG numbers used are inconsistent with US Census data. Additionally, the record reflects that the use of SCAG numbers is reasonable and supported by substantial evidence. The Methodology also explained why the SCAG numbers are consistent with the most recent Census.</p>

<p>in persisting in the use of SCAG data, all without reference to the Hollywood Community Plan Update court decision against the City and City Council. Throughout the Methodology section the City makes a number of critical, unsubstantiated claims that use of SCAG's data is a generally accepted practice, yet the City fails to cite the reader to any evidence in support of these contentions. This is particularly concerning where the City fails to disclose in the Draft EIR the details of the Hollywood Community Plan Update decision, or how the City in these plans allegedly has avoided such similar fatal errors.</p> <p>The Hollywood Community Plan decision was handed down almost two years before the City circulated the Draft EIR in this case. There was ample time for the City to disclose the Hollywood Community Plan court decision and explain to the public why choosing to largely rely on SCAG population numbers is allegedly justified in these two new community plan updates.</p>	<p>SCAG is designated as a Metropolitan Planning Organization (MPO) responsible for carrying out federal and state statutory duties within its region which encompasses six counties (Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura) and 191 cities in an area covering more than 38,000 square miles with over 18 million residents.</p> <p>Federal and state laws require SCAG to develop regional plans for transportation, growth management, hazardous waste management and air quality. SCAG is responsible for producing socio-economic estimates and projections at multiple geographic levels. The socio-economic estimates and projections are used for federal and state mandated long-range planning efforts such as the Regional Transportation Plan (RTP).</p> <p>Federal laws require that land use allocation in an RTP reflect development patterns most likely to be built in the Southern California region. While federal and state laws do not mandate consistency with the RTP, state law does require SCAG to identify and quantify housing needs for the region, prepare the Regional Housing Needs Assessment (RHNA), and for local agencies to update their Housing Elements to plan and zone to accommodate the agency's RHNA.</p> <p>Many government agencies (including public service providers and other city departments) rely on the same source, i.e., the most current SCAG RTP data, for purposes of planning, both for estimates of current population, housing and employment, as well as for projections of future population, housing, and employment. Use of such data is a consistent and best practice for local governments. It is also the Department of City Planning's practice to use SCAG RTP data as a benchmark or as a reference point for estimates and projections locally.</p> <p>The commenter is not providing any substantial evidence to demonstrate why reliance on SCAG or the City's methodology is not reasonable in the present case.</p> <p>The trial court decision in the HCPU litigation is not citable or controlling on preparation of the South LA Community Plan or Southeast LA Community Plan Update EIR and commenter has not demonstrated a reason that decision is relevant to the current matter.</p>
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<p>2.</p>	<p>III. THE CITY'S DRAFT EIR FAILS TO CONSIDER THE AMOUNT OF PROJECTED GROWTH THAT WILL BE ACCOMMODATED IN RESIDENTIAL NEIGHBORHOODS BY THE CITY'S EXISTING AND NEW GRANNY FLAT ORDINANCE.</p> <p>In the Draft EIR, the City gives lip service to "protection" of existing single family residential neighborhoods in these community plan updates. However, the City's single-family neighborhoods are under attack by the City. The City has changed its PLUM Committee policies to encourage the development of second granny units on the same lots as a single family home in City residential areas, without environmental review. If there was any time and place to analyze the potential cumulative impact of the granny flat process, it is during the update of a community plan.</p> <p>In this and other manners, the City's process here is flawed by the failure to disclose, analyze and mitigate cumulative impacts, including land use, population and housing, traffic, and provision of public services.</p> <p>In the Draft EIR, neither the Project Description nor the Land Use/ Population/ Housing analysis disclosed and estimated the amount of projected growth that will be accommodated by the City's granny flat policies. This failure to analyze and project how many new units would be developed during the plan horizon means that the City has wrongfully ignored how allowing growth in both single-family residential areas and the boulevards will impact the environmental impact analysis of the Project.</p>	<p>We refer the commenter to the Methodology and Comment 8-22 and Response to Comment 8-22 in the FEIR at 2-79 to 2-80 to explain the City's growth assumptions, including how those were calculated in relation to existing regulatory setting, such as the second dwelling law which is established in State law. (Note: the City's recent action was to repeal its ordinance to rely on the State law.) Specifically, as stated in Comment 8-22, growth assumptions are based on a mid-point analysis that is affected by many things including the overall population growth projections from SCAG as well as the City's refinement based on market forces, past experience and historical zoning records. The calculation of the reasonable expected development in the single family land use designation also uses the midpoint methodology. The City uses its best efforts, consistent with CEQA requirements, to make a good faith analysis of projecting and forecasting future growth and the impacts from that growth.</p> <p>Growth may be in the form of second dwelling units, it may be in the form of density bonus, or in traditional zoning approvals. But as supported in the City's Methodology, the City expects future growth at the program level in these community plans to be as described in the Draft EIR at Table 2-1.</p> <p>The commenter has not provided any substantial evidence to support why the City's methodology related to growth assumptions is not supported by substantial evidence or fails to adequately consider second dwelling units or provides any substantial evidence that demonstrate second dwelling units will result in cumulative impacts to traffic, land use, population and housing, or the provision of public services different from those impacts identified in the Final EIR.</p>
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<p>3. IV. THE CITY'S CREATION OF NEW ACRES OF REGIONAL COMMERCIAL LAND USE DESIGNATION IN THE AREA OF WASHINGTON BOULEVARD WILL INJECT TWICE THE DENSITY DISCLOSED IN THE DRAFT EIR.</p> <p>Prior versions of the South and Southeast Los Angeles Community Plans did not include any areas designated as Regional Commercial- the City's most dense and intense land use designation. In these new plans, at least 8 acres of Regional Commercial land uses will be added into the community plan.</p> <p>The City's Project Description, and its Land Use/Population/Housing sections, fail to disclose and analyze how much of the projected population growth would be accommodated in the new Regional Commercial area.</p> <p>In fact, the City is currently taking diametrically opposed positions regarding the residential unit density permitted in the Regional Commercial areas of the City.</p> <p>In the Draft EIR, the City disclosed that the maximum residential unit density permitted in the Regional Center Commercial was R4, which is 400 square feet of lot area per unit of apartments or condominiums. Presumably, the City has projected how much of the projected growth would be accommodated in the new Regional Center Commercial areas at the R4 unit density level. But in reality, the City has misrepresented in the Draft EIR what its pattern and practice has been with regard to residential unit density in Regional Commercial Center mixed use projects on commercial lots.</p> <p>In 2000, without any environmental review or public notice/hearing process, the Zoning Administrator issued an "interpretation" of LAMC 12.22A18(a)</p>	<p>The EIR as a programmatic document analyzes impacts at the community plan level, consistent with the requirements under CEQA Guidelines Section 15151 and 15204.</p> <p>The commenter conflates the use of maximum densities allowed by zoning for purposes of calculating the development on a parcel with the density range allowed by land use designations and analyzed in the EIR. The mid-point methodology described in the Methodology in Appendix B, describes the factors that are used to develop the reasonable expected development of the plan area by land use designation categories. The mid-point methodology takes into account the range of densities allowed within the range of zones allowed in the land use category.</p> <p>The Regional Center land use designation and Regional Center CPIO subarea are not synonymous. The EIR analyzes the reasonably expected development based on the mid-point methodology using land use while the CPIO establishes more restrictive regulations that would result in less development than analyzed. The EIR analyzed conservatively more than what would be allowed to be built under the CPIO.</p> <p>Additionally, under the CPIO, this land will be limited to the R3 density and will only allow the R4 density provided the development is providing affordable housing either as a Density Bonus or TOC project. (R3 density is half that of R4 density and R4 is half that of R5 density.) Projects using the CPIO incentives for affordable housing would be allowed unlimited density, although project sizes would still be restricted by height and FAR limitations. Again, as discussed above and in the Methodology in Appendix B, the reasonably expected development analyzed in the EIR is a mid-point analysis based upon a number of factors.</p>
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<p>that purports to "read into the code" that R5 residential unit density will be authorized in mixed use projects on commercial lots in all Regional Commercial Center areas of the City. The R5 residential density is double that of R4, requiring only 200 square feet of lot area for each apartment or condominium unit. Thus, in the Draft EIR the City disclosed a residential unit density of R4 as the lawful maximum density, but its pattern and practice is to allow twice as much density in these areas of the City. Had the City disclosed the actual or "in practice" R5 density in the Draft EIR, it should have analyzed whether to make adjustments elsewhere. In other words, the Project and its EIR paint an inaccurate picture of population/housing, density, and corresponding environmental impacts that could flow therefrom.</p> <p>It is ironic that the City has informed the public in these Draft EIRs that Regional Center Commercial only allows a maximum residential density of R4, because in pending litigation in Hollywood, the City recently succeeded in convincing the Los Angeles County Superior Court that the Zoning Administrator's Interpretation of R5 was lawful, even though LAMC 12.22C is where one would expect to find an express exception allowing R5 density in the place of R4 density in mixed use projects on commercial lots in the Regional Center Commercial land use designation areas of the City. We incorporate by reference that Court ruling, which the City Attorney is also aware of.</p> <p>If ever there was a time that the cumulative impact of this strange Zoning Administrator Interpretation should be assessed, it would be with each update of a City community plan containing or adding more Regional Commercial Land uses.</p>	<p>The Commenter has not provided any substantial evidence to support that the Methodology and the EIR's assumptions for growth are not supported by substantial evidence or provided any other basis that would require different analysis or conclusions.</p>
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	<p>Research of the archives of the City reveals that when the ordinance authorizing R5 land <i>uses</i> in Regional Commercial Areas of the City was enacted, the City's environmental review examined only the environmental impacts of allowing R5 uses, not the doubled R5 <i>density</i> to Regional Commercial Center areas of the City. (Exhibit 2.)</p> <p>Thus, now would be the proper time for the City to disclose and analyze the impacts of double density in such projects in Regional Commercial Center, but the City's Draft EIR here failed to disclose and analyze the cumulative impacts, or how much additional projected growth would be accommodated by such doubling of density under the Zoning Administrator's interpretation. The City failed to analyze the cumulative impacts of doubling the residential unit density in 1982 when such mixed use projects were first authorized (Exhibit 2), and the City certainly conducted no cumulative impact analysis when the Zoning Administrator's interpretation purported to allow a doubling of density. Why has the City refused to do so for a third time even failing to inform the public in the Draft EIR of the existence of the Zoning Administrator's interpretation?</p> <p>For these additional reasons, the City's environmental analysis is fatally flawed, and the City has failed to proceed in accordance with law.</p>	
4.	<p>V. THE CITY FAILED TO REASONABLY ASSESS HOW MANY PROJECTS OVER THE PLANNING HORIZON WILL OBTAIN DENSITY BONUSES.</p> <p>Consistent with what appears to be a City pattern and practice, the Draft EIR fails to disclose and analysis how much</p>	<p>We refer the commenter to Response to Comment 8-22 and the response above. Density Bonus as well as other existing regulations are factored into the methodology in developing growth projections.</p>

	<p>cumulative floor area and residential density would be added to the Community Plan areas as a result of the density bonus law. The City can and must examine existing data to reasonably project how much of the anticipated future growth could be accommodated under the exercise of the density bonus. Having failed to disclose and analyze the likely impact of density bonuses on future growth in the Project Description and Land Use/Population/Housing sections of the Draft EIR, and corresponding environmental review areas flowing therefrom, the City has failed to proceed in accordance with law.</p>	
<p>5.</p>	<p>VI. THE CITY HAS FAILED TO DISCLOSE HOW MUCH OF ITS INDUSTRIAL LAND IS AT RISK OF LOSS UNDER THE INDUSTRIAL HYBRID ORDINANCE.</p> <p>During the period of preparation of the Draft EIR and the proposed community plans, the City enacted a new Industrial Hybrid Ordinance whose name seems to mask its real purpose: to allow loss of precious industrial land and the high paying jobs such land can generate.</p> <p>While the proposed Community Plans claim to include significant new areas of Industrial Hybrid land uses designations, the Draft EIR fails to disclose and analyze how much of projected population growth will be accommodated by developers opting to construct live-work units on land designated for industrial land uses.</p> <p>The Project Description and Land Use/Population/Housing sections of the Draft EIR do not show that the City considered this source of new housing not necessarily located next to any transit line, and the impacts of injecting this large amount of residential uses into the City's</p>	<p>The Hybrid Industrial Zone is not the same as the Hybrid Industrial Land Use Designation. No land in the project area is proposed to be zoned Hybrid Industrial under the Hybrid Industrial Ordinance.</p> <p>The only corresponding zone for the land that is designated Hybrid Industrial in the proposed plans is the CM zone. The change in the plan to refer to the land use type as Hybrid Industrial is a nomenclature change. This designation replaced the Commercial Manufacturing land use designation which had a CM zone consistency and exists presently throughout the plan areas.</p> <p>The land designated with the Hybrid Industrial land use designation is located close to transit. Additionally this designation has been used to transition land use between industrial uses and existing residential uses to reduce the impacts to residential uses through the regulatory standards in the implementing CPIO.</p> <p>Furthermore, the mid-point methodology takes into account the range of densities and uses (including residential) allowed within the Hybrid Industrial land use category.</p>

	<p>dwindling industrial land supply. For this additional reason, the City has failed to proceed in accordance with law.</p>	
<p>6.</p>	<p>VII. THE CITY FAILED TO DISCLOSE, ANALYZE AND MITIGATE OTHER CONFLICTS, INCLUDING WITH THE CITY'S GENERAL PLAN FRAMEWORK ELEMENT.</p> <p>Given the similarities between the flaws in the instant Community Plan Updates and EIR and those identified and successfully litigated against the City in the Hollywood Community Plan Update litigation, we attach collectively hereto at Exhibit 3 and incorporate by reference our opening and reply trial briefs in the HCPU case.</p> <p>The arguments specifically regarding population estimates, the failures to properly analyze a reasonable range of alternatives, cumulative and growth inducing impacts, and the internal inconsistencies and non-correlative nature with regard to the City's General Plan, including its Framework Element (incorporated herein by this reference), and including regarding infrastructure issues, apply equally to the proposed approvals before you today. This firm's HCPU litigation arguments - which have already received judicial approval against the City - are renewed herein. For the reasons that the City was found to have violated the law in the HCPU litigation, if the current plans and EIR are approved, the City will also see these plans and EIR invalidated.</p> <p>Finally, to the extent that the City does what it frequently does, i.e., adds significant new information to the EIR only a few days before or at the time of its certification, without recirculating the Draft EIR as CEQA mandates, then this is and will constitute a further violation of CEQA.</p>	<p>This comment fails to provide any specifics and does not provide any substantial evidence to support the need for different analysis or conclusions in the EIR. Pursuant to Guidelines Section 15204 and 15064 an impact is not significant without a showing of substantial evidence.</p> <p>Additionally, as discussed above the trial court decision in the HCPU litigation is not citable or controlling law in relation to the proposed plans.</p>

ADDITION TO FINAL EIR

Modifications at PLUM

The following modifications to the South and Southeast Los Angeles CPIO Ordinance were submitted by Council Districts 8 and 9:

The first modification increases the maximum base FAR from 2.25:1 to 3:1 for non-residential Projects in the TOD Regional Center Subarea. *(This change would affect a small portion of the South LA Community Plan Area roughly at the intersection of Figueroa St. and Washington Blvd. In Southeast LA, it would affect the Washington Corridor between Figueroa Street and Trinity Street.)*

The second modification increases the maximum (bonus) height from 12 stories to 15 stories for this same TOD Regional Center Subarea for qualifying projects *(such as affordable housing Projects that meet the criteria to qualify as 100% Affordable or Mixed Income).*

The third modification increases the maximum FAR from 2.25:1 to 4:1 for Hotel Projects in the TOD High Subarea. *(This change would affect the west side of Vermont Ave. roughly from Jefferson Blvd. south to Martin Luther King Blvd across from the University of Southern California campus and Exposition Park. In Southeast LA, it would affect small areas at Figueroa and Adams, 23rd and Grand, and Washington between Trinity and Central Ave.)*

The fourth modification would clarify that the Citywide TOC Affordable Housing Incentive Program would remain as an alternative option for Projects that include affordable units, provided these “TOC Projects” comply with the regulations of the CPIO.

Staff has reviewed the proposed modifications and has found that they were assessed in the EIR. The TOD Regional Center and TOD High subareas were analyzed to the intensities identified. Therefore, the increased density allowed by these modifications was fully assessed and no further analysis is required. The analysis above does not provide substantial new information pursuant to CEQA Guideline Section 15088.5, including because no new significant impacts were identified.