

Council File No. 12-0460-S4; Case No. CPC-2016-3182-CA; ENV-2016-3183-CE

Geoff Missad <gmissad@gmail.com>
To: clerk.cps@lacity.org, zina.cheng@lacity.org

Wed, Nov 14, 2018 at 2:23 PM

Re: Council File No. 12-0460-S4; Case No. CPC-2016-3182-CA; ENV-2016-3183-CE ; Referred to by Planning and the City Planning Commission (CPC) as the "Planning and Processes Ordinance" and Renamed after the CPC hearing as Zoning Code / Los Angeles Municipal Code (LAMC) / Reorganization of Administrative Provisions / Amendment, OPPOSE

Dear City Council Members, Council Staff, and Clerks;

I am going to start my email by telling you how much I love my city and my neighborhood. For 20 years I have called Los Angeles home.

Citizen participation is key to our democracy and although the process is not easy it is critically important because it those of us who live here have the long term interests of all residents at heart. That is why we voted for JJJ because we want desperately to provide shelter and a place to call home for all of our population. Unfortunately, money and special interests keep finding ways to torpedo or bulldoze over the individual rights of human beings and voters in increasingly complicated ways.

It is my hope that you too believe that all truly good government (regardless of party affiliation) can handle public outcry and criticism. City Planning has been writing this Ordinance to alter the path to approval and notifications regarding development in Los Angeles. I am not sure who directed them to take these steps but I know that very intelligent community members have tried to point out this glaring shift of power to an unelected official and agency but have been dismissed and given the runaround. The name of the Ordinance and the file number was changed between the time that it was considered by the City Planning Commission and sent to PLUM without any cross-reference or link in the City Planning file or City Council, making it really difficult for most of us to figure out how to voice our opposition on the record. That is not how a city agency should work with concerned taxpaying residents.

As a resident, voter and taxpayer, I vehemently OPPOSE this Zoning Code/Los Angeles Municipal Code (LAMC)/Reorganization of Administrative Provisions.

Everyone needs a voice when it comes to our communities and this Ordinance takes away that voice and sends us down a path of reckless development. If we have learned nothing else in the last two years of politics it is that when something does not appear "just" or transparent that we, the people, need to "follow the money" and ask "Who is going benefit from this"? Well, it is not homeowners, renters or the homeless. By providing some of the upzoning menu incentives at the discretion of the Director of Planning without going through the process and dedicating the housing mandated by Measure JJJ, this Ordinance ONLY benefits the developers who want the keys to the valuable real estate in this city for speculative real estate investments. That is not "Planning", that is pandering to special interest lobbyists who pay for access to policymakers and elected officials. City Planning should be planned not just abdicated to the for-profit market benefiting from real estate speculation. City Planning is an agency made up of employees that are paid with taxpayer dollars and are supposed to implement policy written and put forth by LA's elected officials with the input and support of their taxpaying, voting constituents.

Per our Charter all planning and development is supposed to be on notice to and input from our Neighborhood Councils. This ordinance

*fails to include the neighborhood councils in the process,

*cuts back on notices required to surrounding neighbors,

*has all kinds of special interest provisions that are hard to find but that affect the Baseline Ordinance, the Hillside Ordinance, our Zoning Code provisions, the HPOZ Ordinance, Specific Plans and a host of other carefully thought through and transparently drafted and negotiated zoning features,

*shifts a lot of power from City Council to the unelected bureaucrats at Planning who have shown themselves to be deceptive in describing what this Ordinance does.

This ordinance is fundamentally flawed and done without transparency or community input. This is unacceptable and as elected officials who have sworn to act on behalf of the people of the city, I ask you to

REJECT

REVISE

RECIRCULATE (with an accurate summary) and

RECONSIDER

this Ordinance.

Thank you,

Geoff Missad
1551 S. Ogden Drive
Los Angeles, CA 90019

OPPOSE Council File No. 12-0460-S4 - Zoning Code / Los Angeles Municipal Code (LAMC) / Reorganization of Administrative Provisions / Amendment, Ordinance

Geoff Missad <gmissad@gmail.com>

Nov 14, 2018 12:12 PM

Posted in group: **Clerk-PLUM-Committee**

Hello.

I am resubmitting my **OPPOSITION** to Council File No. 12-0460-S4 - Zoning Code / Los Angeles Municipal Code (LAMC) / Reorganization of Administrative Provisions / Amendment, Ordinance to make sure you have received it and to request that my opposition be made a part of the file.

1. THIS ORDINANCE IMPERMISSIBLY SHIFTS POWER FROM COUNCIL, NEIGHBORHOOD COUNCILS AND NEIGHBORS TO THE DIRECTOR OF PLANNING.

The Ordinance represents a tsunamic shift in powers and duties away from Council, the electorate, neighborhood councils, and residents to the Director of Planning.

The Ordinance **makes the Director of Planning a virtual Czar over projects, authorizing the Director to spot zone and greenlight** numerous projects that do not provide affordable housing but that may nevertheless receive incentives or bonuses (a few specific examples in point 3), including by allowing the Director to be the "interpreter" of Specific Plan provisions and Zoning Code provisions for the City.

The Director of Planning is given "specific authority" over 30 categories of decisions, most of which (including an HPOZ Certificate of Appropriateness for alterations or additions and an HPOZ Certificate of Compatibility) are only appealable to an Area Planning Commission or not appealable at all, eliminating appeals to Council and not expressly preserving Council's plenary overall legislative authority.

The Director has been given the right to waive otherwise required public hearings even for Projects that have not bothered to appear before or work with neighborhood councils or residents (upon the signature of abutting and adjacent neighbors). **THAT CUTS OUT NEIGHBORHOOD COUNCILS, ACROSS THE STREET NEIGHBORS AND RESIDENTS WITHIN 500 FEET** (or such greater area as necessary to reach at least 20 residents).

The notice has been reduced for most matters from 24 to 21 days, from 500 feet or more to just next door and rear neighbors, and the Neighborhood Council early warning system and notice required by the Charter and the after the fact notice required under the current Code are NOWHERE TO BE FOUND. The Ordinance **BLATANTLY** and **CLEARLY CONTRADICTS** THE STAFF REPORT AND THE PUBLIC PRESENTATIONS BY PLANNING.

2. AS ITS NEWLY MINTED TITLE MAKES CLEAR THIS IS AN AMENDMENT OF THE ZONING CODE, THE MUNICIPAL CODE AND THE ADMINISTRATIVE CODE THAT ALTERS THE DEVELOPMENT PROCESS, SEVERELY RESTRICTS THE ABILITY OF STAKEHOLDERS TO PARTICIPATE IN THAT PROCESS AND ELIMINATES THE NOTICE, NEIGHBORHOOD COUNCIL PARTICIPATION AND OTHER PROTECTIONS HAVE TODAY AGAINST INAPPROPRIATE LAND USES.

This Proposed Ordinance amends the Los Angeles Administrative Code and the Los Angeles Municipal Code (in addition to purporting to amend the Charter). The goal to update and modernize the City's Codes may be laudable, the update may be long overdue and even some of the substantive changes may be appropriate but what Planning has done is hide the ball all the way, inaccurately described what this Ordinance is doing and why and tried to cut off meaningful review and meaningful citizen participation at every turn.

Characterizing this particular ordinance as "no big deal, nothing to see here, just putting the stuff all over the Code in one place for your benefit" is clearly inaccurate and deceptive. When Planning has meant to just affect process, Planning said so unequivocally. For example, <https://planning.lacity.org/eir/CenturyCityCenter/FEIR/files/Appendix%20O%20->

[%20Multiple%20Approvals%20Ord%20\(CPC-2010-1495-CA\).pdf](#) signed by, among others, Thomas Rothmann in 2010 unequivocally states:

"The proposed changes will **not substantively alter** the review processes for development projects. The proposed ordinance will **not lessen the ability of stakeholders to participate** in the public process **nor eliminate any criteria that protects the citizenry from inappropriate land uses.**"

WHERE IS THAT LANGUAGE HERE? It is not and there could not be such a statement in the Staff Report for this Proposed Ordinance because it would clearly be a lie. The changes proposed here WOULD substantively and materially alter the review processes for development projects, WOULD lessen the ability of stakeholders to participate in the public process and WOULD eliminate criteria that protects the citizenry from inappropriate land uses.

3. THIS ORDINANCE PROVIDES DEVELOPERS WITH ACCESS TO UPZONING, DENSITY BONUSES AND INCENTIVES WITHOUT PROVIDING A SINGLE UNIT OF AFFORDABLE HOUSING. EVEN WORSE, THIS ORDINANCE PERMITS STACKING OF BONUSES AND INCENTIVES UNDER DIFFERENT LAWS WHICH IS PROHIBITED BY THE CURRENT CODE AND IS THE PATH TO EVER LARGER UNFETTERED HYPERDEVELOPMENT ON STEROIDS.

Much of the citywide planning documents that have been put forth recently (TNPs, CRA changes and this Ordinance) have the effect, if not the goal, of providing developers with ever increasing ways to get incentives, bonuses and incredibly valuable entitlements as a matter of right or discretion WITHOUT having to provide the affordable housing or the jobs that were the lure to voters to approve Measure JJJ. Apparently, once enacted, the Department is eager to just "tweak" things in JJJ so that incentives and bonuses are available as a matter of right, or at the discretion of the Director of Planning, without those pesky conditions placed on the upzoning by the voters. It started with some of the differences between what JJJ authorized and what the TOC Guidelines promulgated by the Department of Planning provide - and those differences are material. It has continued with the TNPs and now it is ever present throughout this Ordinance.

Below are just a couple of specific examples from this Proposed Ordinance that give developers additional upzoning and incentives without providing a shred of the affordable housing required by JJJ. Even worse, this Proposed Ordinance allows density, height, less parking, mass, and other affronts to neighborhoods on steroids by permitting developers to stack incentives onto each other. That is clearly unacceptable. The voters should and will find it particularly appalling if Planning and Council permitted the worst of JJJ - the valuable entitlements of upzoning for the exclusive benefit of owners and developers of real estate - without keeping even the paltry price JJJ imposed in return - requiring that construction be done to provide good jobs and at least a minimal level of affordable housing units while limiting the incentives to those specifically provided in this measure and not any other law.

a. The first example is simple. This Ordinance is a blatant, no excuses and a complete 180 degree turn from existing law on the "no stacking" issue to permit hyperdevelopment on steroids by mixing and matching bonus upon bonus upon incentive under different State and City laws.

LAMC Section 11.5.11 currently makes it clear that a developer cannot "stack" density bonuses or other incentives under applicable laws. So it specifically says (language lifted straight out of JJJ itself as on the ballot):

"All Projects qualifying for development bonuses pursuant to this Section shall be required to meet any applicable replacement requirements of California Government Code Section 65915(c)(3). *A Developer seeking and receiving a density or development bonus under the provisions of California Government Code Section 65915 or any other State or local program that provides development bonuses shall not be eligible for the development bonuses pursuant to this Section.* For purposes of this provision, development bonuses shall include discretionary General Plan amendments, zone changes, and height district changes."

New Section 13.3.1. E.4. of the Proposed Ordinance then turns that "no stacking" concept on its head by stating that:

"In addition to* the requested General Plan amendments, zone changes and/or height district changes, a Project that provides affordable housing consistent with this Section **shall also be entitled to three incentives or concessions specified in California Government Code Sec. 65915(k) or the applicable Affordable Housing Incentive Program.*

How is that anything but material and substantive and an utterly unwarranted giveaway of the very thing that Council and the voters thought would be the result of JJJ -- additional levels of density and height, with reduced parking, in defined areas in exchange for building affordable housing?

b. A second example is less obvious but still is absolutely gobsmackingly substantive since it strips the affordable housing requirement out of the exemptions and conditional use permits within the purview of the Hillside Ordinance, thereby removing obstacles to another long time objective of developers -- a renewed ability to build McMansions or luxury housing in hillside areas that would qualify for upzoning bonuses, incentives and entitlements without having to provide affordable housing.

Currently, LAMC Section 12.21.C(10) (part of the Hillside Ordinance) limits certain development unless otherwise permitted under LAMC Section 12.24.F (just amended in February 2018). That section only permits bonuses and incentives that comply with and provide the required affordable housing component. Revised LAMC 12.21.C(10) does NOT refer to 12.24.F. instead referring to new Sections 13.4.3.E(3)(a) and 13.4.3.E(3)(a), neither of which contain ANY reference to affordable housing requirements. So the new Ordinance provides an escape hatch for Density Bonuses granted by conditional use permits without complying with the Affordable Housing restrictions.

c. A third example is that the Ordinance by a convoluted sleight of hand gives the Director of Planning the ability to cut parking requirements by another 20% over and above the parking requirements without requiring compliance with the affordable housing elements that today must be met in order to get that on-menu incentive.

This Ordinance newly grants the Director of Planning the power to provide for a reduction of 20% in parking requirements for projects that do not comply with the affordable housing requirements in two separate ways -- first, by subtly changing the language in the existing legislative land use ordinance section and second, by inserting the Director of Planning into the formal Conditional Use Permit (CUP) process as an initial decision maker for review of the file and completeness. LAMC Section 12.24.P. on land use reserves the power to Council alone: "As part of any legislative land use ordinance, ***the Council*** may approve changes to the parking requirements not to exceed 20% of the requirements otherwise required by the Code." There is a parallel provision in the Conditional Use Process ((LAMC section 12.24.S) that permits "an initial decision maker or the appellate body" for a Conditional Use Permit (today that is limited to a Zoning Administrator (ZA), the City Planning Commission (CPC), the Area Planning Commission (APC) or Council, **but NOT the Director of Planning**), to reduce the parking requirements as part of the CUP process in conjunction with making the other findings and determinations required by the CUP process. **Nobody except City Council or, on limited matters in a quasi-judicial CUP proceeding, a ZA, the CPC, or an APC, can reduce, or propose to reduce, the parking requirements of the LAMC for a specific project without complying with the affordable housing requirements.**

The Proposed Ordinance now inserts the Director of Planning as a newly minted authority that can reduce parking for a project that does not meet affordable housing requirements, either as part of the legislative ordinance process or as part of the CUP process and accomplishes this result in two different ways. First, the legislative ordinance (or other "spot zoning") now provides slightly modified language, that:

"As part of any legislative land use ordinance, the initial decision maker or the appellate body [RATHER THAN JUST THE COUNCIL] may approve changes to the parking requirements not to exceed 20% of the requirements otherwise required by the Code".

The effect is that since the Director of Planning is at least an initial decision maker on all land use ordinances, Zone Changes, Project Review and Compliance and Adjustments, and Directors Determinations, **the Director of Planning in many cases can just grant a 20% reduction in parking for a project without affordable housing.** Given the substantial changes to notices and a hearing, the Director can do so on the signature of the applicant and the abutting and adjoining landowners without any other notices, stakeholder participation or a public hearing. This is the an example of the worst kind of spot zoning process, particularly by an unelected official, susceptible to abuse in clear violation of the role of the Neighborhood Councils and the stakeholders as enshrined in the City Charter and existing law.

Second, unlike the "land use ordinance" process, the Proposed Ordinance **does not change the language in the equivalent CUP process provision BUT the CUP process itself is changed to insert the Director of**

Planning into the new sections as an "initial decision maker" for "review" and "completeness" whereas the Director of Planning is not mentioned at all in the existing law on CUPs. **The result, yet again, is that the Director of Planning can also insert a 20% parking reduction incentive into the CUP process WHETHER OR NOT THE PROJECT MEETS THE AFFORDABLE HOUSING ELEMENT.**

Both changes are material, substantive and deviate from the changes authorized under JJJ. Expanding the number of ways that density, parking and other incentives can be granted without complying with the requirements to provide affordable housing units and using the labor required by the voters in JJJ is an end run around the reasons put forth for its passage.

These apparently innocuous but actually substantive and pernicious "tweaks" to language permeate the Ordinance and are so thoroughly embedded and shrouded in subtle changes in the text that the Ordinance must be rejected until Planning is clear and forthright as to what this Ordinance does and why it should be enacted.

So, for these reasons I am in strong opposition.

Thank you,
Geoff Missad