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## Specific Recommendations to Improve the Proposed Core Findings Ordinance and Streamline the Los Angeles City Zoning Code

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*LA Neighbors United supports streamlining the Los Angeles Zoning Code to consolidate language, eliminate redundancies, and modernize and strengthen the code to effect better planning in the City.*

*Streamlining project permitting and maintaining the integrity of Community and Specific Plans through clear, strong code are not mutually exclusive. In fact, we must do both to make Los Angeles an even better place to live and do business ... protecting and enhancing neighborhoods, commercial centers, boulevards and scenic areas.*

*We are concerned that the proposed changes, which to varying degrees affect Conditional Use Permits, Administrative Adjustments and Specific Plan Exceptions (collectively thousands of entitlements annually), will weaken or eliminate important protections, with potentially significant negative impacts on residential communities and commercial districts.*

*The following revisions are intended to address community concerns. With these changes and a programmatic environmental impact report that tracks the potential impacts of all nine planned code studies, we would be pleased to support the Core Findings Ordinance.*

### **Seven Proposed New Core Findings**

*Proposed language from the City is in black; our recommended changes are in red*

#### **1. The ~~Neighborhood Enhancement-Community Benefit~~ Core Finding**

“That the project will enhance the environment in the adjacent and surrounding neighborhood ~~or by~~ will performing a function or provideing a service that is essential or beneficial to the community, ~~city or region.~~”

*This finding applies to conditional uses. We have further streamlined the finding to focus on the land use. We have added the reference to “adjacent” neighborhood in an effort to eliminate any uncertainty regarding the meaning of “surrounding neighborhood.” (The current code actually includes the word “adjacent” in this context; removing the reference is material, not benign, and will weaken the finding.)*

## 2. The Project Compatibility Core Finding

“That the project’s location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade the adjacent or surrounding neighborhood, including public rights-of-way.”

*We have strengthened the finding by clarifying that compatibility includes height, which is used inconsistently in the proposed ordinance. (Sometimes it is included in the compatibility context, and sometimes it is not.) Adding the reference to “adjacent” neighborhood is intended to eliminate any uncertainty regarding the meaning of “surrounding neighborhood.” (The current code typically refers to “neighboring properties” in the context of compatibility. The City’s proposed change is material, not benign, and will weaken the code.)*

*We also suggest “further degrade” be explicitly defined to indicate that it is not acceptable for projects to be deemed compatible on the basis of their consistency with existing projects in the neighborhood that may deviate from prevailing zoning regulations, design standards, building code requirements, uses or conditions; in other words, a prior departure should not be an acceptable basis on which to make a compatibility finding for any other project.*

## 3. The General Plan Core Finding

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

*“Substantial conformance” is not typically used in the context of zoning regulations; there is great uncertainty about its potential application in zoning. We suggest simply “consistent,” which clearly indicates plan consistency, which is a State law requirement. (The current code refers to projects being “in harmony” with the General Plan. The City’s proposed change is material, not benign, and will weaken the code.)*

## 4. The Adjustment Core Finding

“That the granting of the adjustment is necessary recognizing that there are special circumstances applicable to the existing project site that makes strict application of the ~~recognizes that while site characteristics or existing improvements make strict adherence to the~~ [zoning regulations or, specific plan regulations, ~~or hillside regulations in Section 12.21 A, 17 (e) or (h)~~] impractical or infeasible; ~~the project conforms with the intent of those regulations.~~”

*This language strengthens the finding in the current code.*

*The notion of granting adjustments based on “site characteristics” **or** [emphasis added] “existing improvements,” as proposed by the City, will encourage all manner of deviations from the code relative to land use, structures and vegetation, with potentially significant negative impacts. (The City’s proposed change is material, not benign, and will weaken the code.)*

## 5. The Project Design Core Finding

“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.”

*We have added “scale and character of the adjacent [neighborhood]” to strengthen the finding and allow less room for subjective interpretation. We are very concerned that without this clarifying language, all manner of deviations from the code will be allowable, with potentially significant negative impacts. (The current code typically refers to project design compatibility in relation to “neighboring properties.” The City’s proposed change is material, not benign, and will weaken the code.)*

## 6. The Traffic Core Finding

“That the project will not create an adverse impact on street access, including the health and safety of pedestrians and motorists, -or a significant impact on traffic or circulation in the surrounding neighborhood.”

*We propose to strengthen the finding by explicitly acknowledging the importance of pedestrian health and safety.*

## 7. The Housing Element Core Finding

“That the project is consistent with implements the affordable housing provisions of the Housing Element of the General Plan, increases the supply of affordable housing, and utilizes development incentives, if any, that are necessary to ensure the project’s economic feasibility.”

*The City’s Housing Element of the General Plan is a rich document that addresses many important issues relative to housing in the City, including housing development capacity within existing zoning and the importance of infrastructure and amenities to support the resident population. We recommend that “affordable housing” be defined to include rent-stabilized housing, or the City risks the continuing exodus of middle-class people from Los Angeles. New housing projects that utilize discretionary incentives should produce a net gain (not a net loss) of affordable housing in the City. Also, we continue to advocate that density-bonus project applications should be accompanied by an economic pro forma, consistent with allowances under California Government Code § 65915.*

### **Proposed New Specific Plan Exceptions Threshold**

There are 46 Specific Plan areas in the City, including:

- Alameda
- Avenue 57
- Central City West
- Century City
- Coastal Bluffs

- Colorado Boulevard
- Crenshaw Corridor
- Devonshire/Topanga
- Foothill Boulevard
- Girard
- Glencoe/Maxella
- Granada Hills
- Hollywoodland
- LA Sports and Entertainment District
- LAX/El Segundo Dunes
- Mt. Washington/Glassell Park
- Mulholland Scenic Parkway
- North University Park
- Oxford Triangle
- Pacific Palisades
- Park Mile
- Playa Vista
- Porter Ranch
- San Gabriel/Verdugo Mountains Scenic Preserve
- San Vicente Scenic Corridor
- San Pedro
- Sepulveda Corridor
- Valley Circle/Plummer Street Scenic Corridor
- Valley Village
- Venice Coastal
- Ventura/Cahuenga
- Vermont-Western
- Warner Center
- West Los Angeles Traffic Improvement and Mitigation Plan
- Westwood Village
- Wilshire-Westwood Scenic Corridor

Land use exceptions to Specific Plans are governed by Los Angeles Municipal Code § 11.5.7. The Core Findings Ordinance would change the Specific Plan exceptions threshold as such:

**Findings.** The Area Planning Commission may permit an exception from a specific plan if it ~~makes all the following findings finds~~:

(a) ~~That the strict application of the regulations of the specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan; that the strict application of the provisions of the specific plan would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the specific plan;~~

~~(b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area; that there are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same specific plan;~~

(c) ~~That that~~ an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;

~~(d) That the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property; and that the granting of the exception will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located; and~~

~~(e) That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.; that the granting of the exception will not adversely affect the specific plan.~~

We recommend that the City's proposed Specific Plan exceptions threshold be revised as such:

**Findings.** The Area Planning Commission may permit an exception from a specific plan if it ~~makes all the following findings finds~~:

~~(a) That the strict application of the regulations of the specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan; that the strict application of the provisions of the specific plan to the existing property would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the specific plan;~~

~~(b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area; that there are special circumstances applicable to the existing property subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same specific plan;~~

(c) ~~That that~~ an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;

~~(d) That the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property; and that the granting of the exception will not be materially detrimental to the public welfare, or injurious to the property or improvements adjacent to or in the vicinity of the subject property; and in the same zone or vicinity in which the property is located; and~~

(e) ~~That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.; that the granting of the exception will be consistent with the purposes, intent and provisions of not adversely affect the specific plan.~~

In several key respects the proposed Specific Plan exceptions threshold is weakened by the Core Findings Ordinance. In (2)(d) the City proposes to eliminate the adjacency standard in favor of a broader “same zone or vicinity” standard. In (2)(e), the City proposes to eliminate the consistency standard in favor of “not adversely affect,” which is highly subjective.

We recommend maintaining both the adjacency and the consistency standards, recognizing that Specific Plans typically are drawn for the express purpose of ensuring a high degree of planning protection and consistency, be it in a residential area, commercial center, mixed-use district or scenic area.

As a reminder, in Specific Plan areas variances are not applicable, so if the exceptions standard is weakened across the City’s 46 Specific Plan areas, so are important protections ... there is no other protection.

The City is proposing material changes (not benign), with potentially significant negative impacts.

## **Other Issues of Concern**

### **1. Applicability of Core Findings Ordinance to Hillside Areas**

The proposed Core Findings Ordinance modifies Hillside sections of the code notwithstanding the new Baseline Hillside Ordinance, which was produced over a period of years with a high level of community input. We recommend Hillside provisions of the Core Findings Ordinance be stricken, or reconciled with the Baseline Hillside Ordinance with the Baseline Hillside Ordinance prevailing where there are conflicts. (The City’s proposed changes are material, not benign, and will weaken the code, with potentially significant impacts.)

### **2. Elimination of Mitigation Measures Requirement**

The proposed ordinance will eliminate the currently required finding for approval of Specific Plan exceptions and Site Plan Review that mitigation measures and monitoring be incorporated into a project to mitigate negative environmental impacts. (Los Angeles Municipal Code § 11.5.7(C)(2)(b) and (E)(3)(d) and 16.05(F)(5).) 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 Specific Plan exceptions and 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 these projects.

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 decision-maker 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 above, will permit much more impactful projects.

These requirements should be maintained, especially since they apply to major projects and other significant projects subject to Site Plan Review. These requirements help ensure the City does in fact comply with the California Environmental Quality Act.

### **3. Elimination of Written Findings Requirement**

The Core Findings Ordinance eliminates current requirements that written findings be made as part of written determinations. (The proposed changes maintain the requirement for written determinations, but not written findings.) This change is material, not benign. It likely will result in more loosely based determinations not directly supported by findings of fact, with potentially significant impacts.

We propose a simple solution to assure streamlined project review and to enhance transparency: The City should maintain the written findings requirement, and utilize a series of simple “Findings Checklists” to evaluate applications. The appropriate “Findings Checklist,” including supporting fact-based statements, would be included with a written determination, which also could be highly succinct.

### **4. Assurances Regarding Neighborhood Council Notification of Project Applications**

While no specific procedural change to the City’s Neighborhood Council Early Notification System is proposed at this time, it became clear through the recent Planning Department Workshops on the Core Findings Ordinance that the City desires to hold fewer hearings on project applications. Because there is the risk that fewer hearings, which require public notice, will result in limited public participation and more potentially impactful projects without the benefit of mitigation, we ask the City to reaffirm its commitment to Neighborhood Council notification of all land-use project applications. This will help ensure there is still community awareness of proposed projects, so the public can potentially weigh in via other channels (such as direct communication with City Council offices) about project concerns.

We also reiterate the importance of the City allowing for sufficient Neighborhood Council response times (typically 45 days) after notification and before decisions are rendered.

As a cautionary reminder to all Neighborhood Councils, the City Charter does not specify which types of land-use project applications are covered under the Early Notification System; that is left to the discretion of the City. The City can change its notification procedures at any time.

### **5. Implications of New Findings for Already Entitled Projects**

Based on the scope of project types affected by the proposed ordinance, hundreds of *already entitled* projects could get new findings or have their old ones deleted, potentially resulting in enlarged or otherwise compromised projects that are required only to conform to the new, weaker findings.

Under the proposed ordinance, mitigating conditions could only be imposed based on the new core findings, which permit much more impactful projects.

Newly allowable projects could be larger in physical size (mass and scale) and more intense (with higher densities, reduced setbacks, etc.). In the case of conditional uses, such as for homeless shelters, standards also are being defined down. Hundreds of projects will be affected, with the potential to be upsized, or otherwise compromised, retroactively, with potentially significant impacts.

## **6. Programmatic Environmental Impact Report to Track All Nine Zoning Code Studies**

Based on the significance of the changes proposed to the zoning code as a result of the Core Findings Ordinance individually and the other eight zoning code studies collectively, we have recommended that the City undertake a programmatic Environmental Impact Report to track the impacts of proposed changes as well as potentially necessary mitigation measures.

To summarize, the nine code studies being undertaken by the City include:

- Administrative Exceptions, including an “abbreviated review process” for deviations from the zoning code
- Calculation and Measurement, including residential density, floor area ratio and height
- Commercial Development Standards
- Core Findings
- Multiple Approvals
- Open Space and Setback Standards
- Plan Approvals
- Planned Unit Developments
- Site Plan Review

As the City itself has acknowledged, this project represents the most massive rewrite of the Los Angeles Zoning Code since 1946. While the City is now focused on six of the nine zoning code studies, their intent as expressed at the recent Planning Department Workshops on the Core Findings Ordinance is to complete all nine code studies.

As we’ve established through our various comments on the Core Findings Ordinance and the Community Plan Implementation Overlay District Ordinance, there is a very clear nexus between all of these studies and ordinances ... in particular, between the Core Findings and anticipated code studies on Administrative Exceptions, Calculation and Measurement, Open Space and Setback Standards, Plan Approvals, Site Plan Review and the Community Plan Implementation Overlay District Ordinance.

To be clear, it is not our intention to hold up legitimate streamlining of the zoning code with unnecessary environmental review; quite the contrary. The changes proposed by the City go far beyond streamlining existing code. The City’s proposed changes are material, with potentially significant impacts.