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June 17, 2022

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**RE: LAND USE REFORM MOTIONS RELATIVE TO HIGH VALUE PROJECTS AND
INCREASED TRANSPARENCY; 20-1044, 20-1045**

SUMMARY

On August 19, 2020, the City Council introduced three Motions aimed at reforming the land use approval process and outcomes in response to concerns over corruption and undue influence in the legislative process. Generally, the Motions aim to explore updating zoning throughout the City, the pathway for approval of high-value projects and increased transparency in the approval process of projects. Although each Motion covers distinct topics, they are also interrelated which is why this report back will combine multiple Motions.

More specifically, the first Motion ([CF 20-1042](#)) discusses the challenges posed by zoning, particularly when rezoning efforts have not kept time with changing needs and trends throughout the City's 470 square miles. The Motion poses alternatives for rezoning throughout the City of Los Angeles. Given the complexity of this Motion and the subsequent amendments made on February 16, 2021, the report back is discussed in detail in a separate report transmitted to the Council File on June 6, 2021.

The second Motion ([CF 20-1044](#)) explores differentiating between projects of a certain "value" and providing for an alternative approval pathway for certain projects with the intent of avoiding undue influence and special interest. Details of this Motion are described in the section below titled *High-Value Projects*.

The third and last Motion ([CF 20-1045](#)) covered in this report discusses providing more clarity on the development process focusing on transparency and providing a faster path to development of much needed housing within the City. Details of this Motion are described in the section below titled *Increased Transparency*.

This report aims to provide a discussion of the aspects outlined in Motion's 20-1044 and 20-1045 and the work that is currently underway within the Department of City Planning for consideration by the Council relative to the topics covered.

RECOMMENDATIONS

The Department of City Planning offers the following recommendations for consideration on next steps to advance the Council Motions described above:

1. INSTRUCT City Planning, with the assistance of the the City Attorney, to prepare and present an ordinance to amend Section 11.5.12 of the Municipal Code to limit the delegation of Council's authority to consent to extensions of time for Council to act on high value development projects, inclusive of a definition of such projects as proposed in this report. The ordinance would require that such projects be agendized for consideration at the next Council meeting that occurs following a maximum of two-time extensions of 180 days.
2. INSTRUCT City Planning to report to Council one year following the effective date of the Processes and Procedures Ordinance, on the effectiveness of the new procedures in promoting the public interest, particularly when legislative actions and other land use entitlements are granted. In addition, the report is to include an evaluation of how transparency has increased and provide recommendations with any potential amendments to further increase transparency in the development review process.
3. REQUEST the Ethics Commission, in consultation with the City Attorney, to prepare a report with recommendations and guidelines on communication protocols between project applicants and elected officials.

DISCUSSION

High Value Projects: CF 20-1044

This Motion directs the Department to develop criteria for high value projects and to amend the planning process, so these projects are diverted from PLUM to go directly to the City Council. In addition, the Motion requests an analysis of high value projects that have gone to PLUM since 2013 and to take into consideration both the total cost as well as the cost per square foot. The Motion also requests that the Department include deadlines in terms of when high value projects should be scheduled for Council, and when non-high value projects should be scheduled in PLUM. Lastly, an amendment to the Motion instructed that nothing in the proposed rule change shall preclude the PLUM Committee from hearing a high value project.

High Value Project Criteria

Typically, development costs for a project are not provided or collected by the Department of City Planning. Rather, building valuation information is submitted to the Department of Building and Safety at the time of building permit issuance, most often occurring after the conclusion of the Planning entitlement process. As building costs may not be known during the Planning process, an alternative metric for establishing criteria for high value projects is recommended. The recommended approach is to utilize the State standard for "regionally significant" projects, which is linked to scale and density rather than monetary value. Criteria for projects of "regional significance" are identified in both the California Environmental Quality Act (CEQA) and California Water Code. Generally, these criteria identify projects meeting the following minimum development scope:

1. 500 dwelling units or guest rooms;
2. 250,000 square feet of commercial office floor area;
3. 500,000 square feet of floor area of any other non-residential use;
4. An equivalent combination of the above.

The above criteria would therefore create an objective and feasible standard in distinguishing large-scale and high value developments processed by the Department of City Planning.

Analysis of High Value Projects

A review of planning entitlements which have been filed since 2013 found that 63 projects would qualify as “regionally significant” projects. Of these, 33 have already been considered by the PLUM Committee and the City Council, seven did not require entitlement approvals at the City Council level, two were terminated, and 25 are currently pending. The 33 projects approved by the PLUM Committee and the City Council totaled approximately 17,800 dwelling units, 4,800 hotel rooms, nearly 3.9 million square feet of office uses, and 2.8 million square feet of other commercial floor area.

PLUM Committee and City Council Process

In regard to the planning process and decisions which occur during project consideration by the PLUM Committee or City Council, it should be noted that the Los Angeles Municipal Code does not explicitly set requirements for entitlements to be reviewed by the PLUM Committee of the City Council. Rather, pursuant to authority set forth in Charter Section 242(b), the City Council may create committees to report to the Council any information or recommendations necessary to enable the Council to properly legislate.

The PLUM Committee provides an opportunity for required public hearings to be held prior to the consideration of project entitlements by the full City Council. “Regionally significant” projects typically have controversial and lengthy hearings. The PLUM Committee meetings afford opportunities for public engagement and provide an ability for City Planning staff to respond to issues raised at the hearing prior to the final City Council decision. If the PLUM Committee hearing process were bypassed, the City Council would then instead be required to hold these public hearings. This would have the potential of both significantly lengthening certain City Council meetings and impacting the orderly and timely conduct of the meetings. Items might also need to be continued more than one time if supplemental staff reports or additional technical documents are needed in response to testimony presented at the public hearing and prior to final City Council action.

It should also be noted that the LAMC does establish overall time limits for the City Council to act on certain entitlement requests. These vary depending on the entitlement request, as well as whether the entitlements are subject to the Multiple Approvals section of the LAMC. For example, a 90-day time limit is set for City Council action on Zone Changes and Multiple Approval entitlements, a 75-day time limit is set for stand-alone General Plan Amendments, and appealed actions vary based on the request. If the City Council fails to act within the prescribed time limit, the LAMC generally dictates that the request is either automatically approved or the lower decision-making body’s decision is sustained, except for General Plan Amendments, which are otherwise denied. These existing LAMC time limits ensure that action by the PLUM Committee and City Council occur in a timely manner.

In addition, time limits in the LAMC for various entitlements can be typically extended by mutual consent of the applicant and the City Council. LAMC Section 11.5.12 states that “where extensions on the City Council’s time to act on a matter may be granted by mutual consent of an applicant and the City Council, the Council President or the Council President’s councilmember designee may consent to a time extension on behalf of the City Council.” In practice, this means

that the LAMC time limits for a project may be extended at the PLUM Committee if both the applicant and the PLUM Committee chair agree to the request, or at the City Council if both the applicant and the City Council President agree to the request. The time extension is then documented in the Council File. These extensions are often requested by the applicant and are necessary to allow for Planning staff and the applicant to supplement the record in response to public comments, resolve project issues or design deficiencies, merge timelines on related cases and appeals, complete legal noticing requirements, or to conduct additional public outreach. The additional time provided through a time extension must also account for the time it takes for an item to be subsequently considered by the full City Council.

Potential Time Limit Considerations

If the City Council wishes to explore additional limitations on the PLUM Committee's and City Council's time to act on "high value" projects, the Council may consider limiting the length and number of time extensions available. The City Council may consider that time extensions cannot be extended for a period of more than 180 days at a time, and after the 180-day period, that any requests be placed on the next PLUM Committee agenda or City Council agenda for public consideration for additional time. The City Council may also consider that after 360 days have lapsed, that the item be automatically agendized for the next City Council meeting, and without the PLUM Committee recommendation if the PLUM Committee had not acted within that time. The PLUM Committee and City Council would therefore have the initial time to act under the LAMC established time limits, and two 180-day increments for time extensions, up to a period not to exceed 360 days if mutually agreed upon by the applicant and PLUM Committee Chair or Council President, for consideration of high-value projects. This would not preclude the PLUM Committee from considering a high value project.

The existing PLUM Committee and City Council development project entitlement process has been designed to allow for public engagement, timely review, and the critical ability to provide additional time extensions for projects for mediation, project improvements, and bolstering of the legal record. Therefore, bypassing PLUM Committee public hearings for "high value" or "regionally significant" projects may negatively affect the efficacy of the public participation and entitlement process and is therefore not recommended. However, if desired, the City Council could consider limiting the number and length of time extensions available at the PLUM Committee and City Council levels.

Increased Transparency: CF 20-1045

This Motion is focused on increased transparency and asked that the Department update the proposed Processes and Procedures Ordinance with additional criteria on when entitlements are to be granted and when entitlements should be restricted from moving forward unless it can be established that the proposed project is in the public interest or otherwise adheres to established City policies.

There are two parts to this Motion which aim to provide increased transparency for the public. The first is in relation to the Processes and Procedures Ordinance (CF12-0460-S4), while the second is in relation to making a finding of public interest to support the granting of an entitlement. The discussion below will, in turn, respond accordingly.

Process and Procedures Ordinance

The initial research for the Process and Procedures Ordinance (Ordinance) began in 2016 with a comprehensive review and inventory of all existing Zoning Code processes and procedures, including both ministerial and discretionary entitlements. Such a comprehensive analysis has not been done since the Zoning Code's inception in 1946. The purpose of this Ordinance, much like the Motion, was to create a transparent and consistent set of rules for reviewing development

projects and considering policy actions. This was accomplished by standardization, consolidation, and centralization of the current rules. In today's Zoning Code, processes and procedures are scattered throughout the Code, which makes it difficult for most Angelenos to find, interpret and understand these rules unless they are already familiar with the Code or utilize the services of a professional, such as an expeditor. This can deter public oversight and engagement. By centralizing all the rules for when and how an entitlement may be granted for any given project type, including the built-in opportunities for public participation during the project review process, the barrier to entry for understanding and navigating the entitlement system is significantly reduced.

In drafting the ordinance, the Department evaluated the accessibility of the City's entitlement processes and procedures and made amendments with the aim of creating a more transparent development process. The Department undertook a detailed analysis of all the current processes and procedures, comparing and contrasting each to identify where there were opportunities for streamlining while affirming opportunities for public engagement. Throughout this multi-year process, lessons learned from past implementation practices and opportunities for improvement were identified by the Department and the public, which informed the specific set of narrow policy changes proposed. Ultimately resulting in an overall consolidation of approximately 120 processes to approximately 60 processes while maintaining the full variety of project review.

It is important to note that this Ordinance is largely an effort that creates clearer administrative rules and the table of contents for the City's new Zoning Code. It was not intended to comprehensively revise the thresholds that require a project to pursue a specific entitlement path. Once the Processes and Procedures Ordinance is adopted, the Council and the public can more easily have policy discussions about revising entitlement paths, thresholds, and ministerial or discretionary actions, etc. given that all existing processes and procedures will have a standard convention by which they can be compared.

To distinguish, a Process is the overall path for obtaining project approval, often referred to as the entitlement threshold, and a procedure is the individual steps in the path, for example the need for a notice, hearing, appeal, etc. This distinction aids in transparent communication to the public about what the expectations are of an applicant and the City's role in complying with the stated rules of the Code.

In terms of additional criteria, the Process and Procedures Ordinance includes, for the first time, a requirement for mail notices of public hearing to be sent to Certified Neighborhood Councils to improve transparency. In addition, the Ordinance also requires a publication notice for certain discretionary entitlements, such as Preliminary Parcel Maps, Tentative Tract Maps, and Zoning Code Amendments and requires posting notice for Project Compliance, Project Adjustment, and Project Review. This combined with a standardization of time periods for public notice and appeals to avoid confusion and missed deadlines constitute some of the additional criteria for enhancing the Processes and Procedures as it relates to transparency.

The Ordinance was heard on March 25, 2021 for the second time, at the City Planning Commission where it was recommended for approval and transmitted to the Council (CF12-0460-S4). It was then approved by the PLUM Committee on June 1, 2021 and the full Council on June 23, 2021. Overall, the Process and Procedures ordinance makes clear and transparent the requirements for all project types including ministerial and discretionary which creates legibility for the public that was not there in the past.

One benefit of the current Ordinance is for subsequent policy discussion to be more easily had by both the public and the decision makers within the City now that there is a convention and standard across all processes and procedures for all entitlements. Ideally these discussions would

take place once the Ordinance is in effect and there has been time to review and evaluate the Ordinance. This will provide an opportunity to better understand the universe of changes needed to meet the needs of all stakeholders relative to the changes proposed. Any such future Code Amendment can be initiated by Council instruction and will require the full suite of work associated with policy change resulting in a Code Amendment. The Processes and Procedures Ordinance is currently undergoing form and legality review by the Office of the City Attorney, and it is anticipated that the City Council will formally adopt it before the end of 2022. The Department of City Planning will take steps to monitor and evaluate its effectiveness during the first year of implementation and will be prepared to report to Council one year following the effective date.

Entitlements & Findings Supporting Public Interest:

As previously stated, the second aspect to the Motion centers around when entitlements should be denied or approved contingent upon whether or not a proposed project is in the public interest or otherwise adheres to established City policies. Today, the process of denying or approving a project relies on a review of the entitlement request, merits of the project, comparison against the stated Zoning standards, and a statement of findings. The findings are essentially the justifications of how and why specific land use decisions are made. Specific entitlements require a finding as to the *conformance with public necessity, convenience, general welfare and good zoning practice*. The entitlements that require this finding include, General Plan Amendments, Zoning Code Amendments, Zone Changes, and Specific Plan Amendments. This Finding exists in the current Zoning Code (LAMC Section 12.32) and the City Charter (Charter Finding 558) and are applied to legislative actions.

Furthermore, a finding is made that the proposed project must be consistent with the goals, policies, and objectives that are adopted and found throughout the documents that guide the growth and development of the City. Such policy documents including the General Plan, Framework Element, Community Plans, Health and Wellness Element, Housing Element, Safety Element, and others, and are crafted with years of community input to reflect the public's interest as well as comply with the legal requirements under California Government Code section 65302.

These are the foundational policy documents of the City and address the public's interest at the citywide, community plan, and specific plan scales. The process of creating or updating these policy documents relies heavily on public engagement, data, and state mandates. The public, Planning Staff, and legislative bodies play a key role in creating the policies that ultimately reinforce the Finding of public necessity, convenience, general welfare and good zoning practice.

Greater public participation ensures that the City's long-range planning policies reflect the public interest. These policies are used by Planning Staff to support the findings and condition projects to reflect the policy objectives and intents. As a result, in the case of legislative actions, a recommendation to approve or deny a project is ultimately presented before the City Council. Each role, from policy creation to project review and final approval relies on transparent processes over time. In addition, the City Council is instrumental in affirming and approving policy documents that support the public interest as that will lay the foundation for when an entitlement should be approved or denied.

New Protocols and Communication between Developers and Council Offices:

As previously mentioned, on February 16, 2021, the Council adopted a Motion (Martinez-Krekorian), Council File No. 20-1045, instructing the Planning Department, in coordination with the Chief Legislative Analyst, to 'establish new protocols around communication between developers and council offices that take place outside official meetings or hearings, these protocols should ensure that discussions between developers and council offices take place transparently and with appropriate disclosures.'

In response to this instruction, the Ethics Commission, in consultation with the City Attorney, should be requested/directed to report on the communication protocols between developers and Council offices that take place outside official meetings or hearings, inasmuch as the Ethics Commission has the expertise and authority to investigate campaign contributions, contracts and expenditures, lobbying (which occurs in the land use vetting process), and makes policy recommendations on these matters. In addition, wherein any improper conduct is suspected, the Ethics Commission currently already has the authority to investigate City employees, including elected officials, and commissioners, and issue subpoenas, and compel testimony from city and non-city personnel.

Conclusion

As requested, this report offers potential criteria for high value development projects and describes how the City Council can impose limits on the length and number of time extensions available for the Council's consideration of such projects. Additionally, this report provides an update on the proposed Processes and Procedures Ordinance, its potential for increasing transparency in the development review process, and how required findings ensure that projects receiving approval are in the public interest or otherwise adhere to established City policies.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vincent P. Bertoni', with a large, stylized flourish at the end.

VINCENT P. BERTONI, AICP
Director of Planning