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CITY PLANNING**

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(213) 978-1300

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EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

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DEPUTY DIRECTOR

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DEPUTY DIRECTOR

January 18, 2024

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

Attention: Ad Hoc Committee on City Governance Reform

Dear Honorable Members:

**DEPARTMENT OF CITY PLANNING RECOMMENDATIONS FOR CHARTER AMENDMENTS;
CF 23-1027**

On December 12, 2023, the City Council approved a motion requesting that the Department of City Planning, among other departments, provide a report on recommendations for identifying and prioritizing sections in the Charter that would benefit from reform to modernize the City's organizational infrastructure and/or support more strategic citywide policies. Following are City Planning's recommendations for further evaluation:

Section 104 - Restrictions on Powers of the City (13:1 Floor Area Ratio)

Charter Section 104 stipulates that the total floor area contained in all the buildings on any one building site, across the City, shall not exceed 13 times the buildable area of the site as such buildable area. This stipulation is generally described as a 13:1 Floor Area Ratio (FAR) limitation. While most areas in the City are unlikely to realize FAR of this magnitude, the Charter's 13:1 limitation did constrain the level of development that could be accommodated with the recently adopted Downtown Community Plan (DTLA2040).

FAR is further regulated within the City's zoning code, as a function of designated "Height Districts" (or Form Districts under the new Zoning Code). Most commercial corridors across the city are zoned to allow 1.5:1 FAR, and using density bonuses, development on these corridors tends to occur between 3:1 and 4.5:1 FAR. More dense Regional Centers, such as Central Hollywood, or North Hollywood tend to allow up to 6:1 FAR in focused areas. Only the Downtown Community Plan area allows FARs that reach up to 13:1, generally within the Bunker Hill, Financial Core, and South Park areas. The Downtown Community Plan is a recently adopted land use and zoning plan that seeks to accommodate 20% of the City's anticipated growth over the next twenty years. The plan focuses growth in proximity to the hub of the region's transportation network, and a major employment center, consistent with local and state sustainability goals. While growth accommodated under the plan is significant, the Charter's 13:1 FAR limitation provided a seemingly arbitrary limitation in a context where high-rise construction is supported.

To effectuate any greater FARs Downtown, a subsequent amendment to the Downtown Community Plan would be required, along with the adoption of new zoning districts.

Further study of a possible Charter amendment is recommended to allow for higher FAR specifically within the Downtown Community Plan area.

Section 245 - City Council Veto of Board Actions

Under Charter Section 245, the City Council is provided unique discretion pertaining to the actions of Area Planning Commissions and the City Planning Commission. While the City Council has the authority to veto board and commission actions pertaining to various city departments and functions, and remand those actions back to their originating board or commission (i.e. subsection (c)), the City Council is provided a unique authority to veto and assume the decision-making authority of the Area Planning Commission or City Planning Commission (i.e. subsection (e)).

With respect to planning actions, the City Council's use of Charter Section 245 has been varied. In some instances, the City Council has vetoed commission actions and remanded those actions back to the originating commission, and in others the City Council has exercised its authority under subsection (e) to assume the decision-making authority of the commission. There are benefits to maintaining the decision-making authority of the City's established Area Planning Commissions, and City Planning Commissions. Commission proceedings can allow for a level of notification, engagement, transparency, and deliberation that may be difficult to replicate at the City Council level, and can thus serve to bolster public trust in the City's decision-making process. While use of veto authority on the part of the City Council may, at times, be necessary and appropriate, preserving the decision-making authority of the City's Area and City Planning Commissions can serve to maintain the Charter's envisioned system of appointed commissions, and can serve to balance the magnitude of land use authority prescribed to the City Council, consistent with the goals stated under the Council's motion to initiate a Charter reform process.

In the event that the City seeks to remove subsection (e), it may also be appropriate to clarify, under subsection (c) the extent to which the City Council may, or may not, further exercise veto authority on a matter that has previously been subject to Charter Section 245.

Further study of a possible Charter amendment is recommended to consider the implications of Section 245, subsection (e) with respect to City Planning actions.

Section 552 - Area Planning Commissions

The Charter reform of 1999 created seven Area Planning Commissions (APC). Among the primary functions of the APCs is the review of appeals related to numerous Zoning Administrator and Director of Planning determinations. Here the Charter stipulates that the role of the APCs is to "hear and determine appeals where it is alleged there is *error or abuse* (emphasis added) of discretion in any order, requirement, decision, interpretation or other determination made by a Zoning Administrator."

The basis for making an appeal, as articulated under the Charter creates a unique challenge for APCs in that their consideration is tied to specific errors or abuses made on the part of the initial decision-maker. Under the recently effectuated General Procedures established by the new Zoning Code, the standard of review for APCs is articulated differently under LAMC Section 13A.2.8.E.1: "*Unless otherwise required by a specific process, the appellate body shall hear the matter de novo (i.e. afresh), considering the whole of the project with no deference given to the decision of the initial decision maker. The appellate body shall make its decision based on the*

record before the initial decision maker and any other evidence or testimony presented at or before the appellate body's hearing". This standard of review allows the APCs to be responsive to new information that is provided, or to differ with the initial decision-maker, without the specific burden of demonstrating that there was an error or abuse.

In addition, Charter Section 552, subsection (d) establishes that the APCs may "make recommendations with respect to zone changes or similar matters referred to it from the City Planning Commission pursuant to Section 562." However, this reference to Charter Section 562 appears to be a typographical error. Charter Section 565 pertains directly to the delegation of legislative authority to Area Planning Commissions, by the City Planning Commission.

Lastly, Charter Section 555 states "The Council shall adopt an ordinance creating not less than five separate bodies to be known as Area Planning Commissions. The ordinance shall establish the boundaries of the area to be served by each Area Planning Commission, which shall be drawn so that all areas of the City are served by an Area Planning Commission." This wording of this Charter provision provides an instruction to establish an ordinance, which occurred in 2000. The wording of this section could be revised.

It is recommended that Charter Section 552, subsection (a) be amended to read: "hear and determine appeals in any decision, interpretation or other determination made by a Zoning Administrator, not including any rules promulgated by a Zoning Administrator pursuant to Charter Section 561 to carry out requirements prescribed by ordinance."

It is recommended that Charter Section 552, subsection (d), be amended to cross reference Section 565 in lieu of Section 562.

It is recommended that Charter Section 552 be amended to remove directive language instructing the formation of APCs by ordinance, given an ordinance has already been adopted.

Section 555 - General Plan - Procedures for Adoption

Charter Section 555 conveys the manner in which the City's various General Plan elements are updated. Of note, Subsection (d) conveys the general procedures by which the City Council may modify components of a proposed General Plan Amendment that has been approved by the City Council, and the timeframe in which the Council shall act to adopt, modify, or reject a proposed General Plan Amendment. Here the Charter defers to ordinance to define the timeline in which the Council may act. LAMC Section 11.5.6.E specifies that the City Council has 75 days to act on a General Plan Amendment that has been submitted by the City Planning Commission and the Mayor, and that if no action occurs within 75 days that the General Plan Amendment is deemed denied.

The lack of specificity on the part of the Charter, and the LAMC's provision that no action on the part of the City Council equates to denial of a General Plan Amendment can have significant implications on the City's ability to establish meaningful land use regulations and/or comply with State mandates. By the time most city-initiated General Plan Amendments (i.e. updates to a Community Plan, the Housing Element, etc.) have been transmitted to the City Council for consideration they have undergone years of engagement with stakeholders, a public hearing, an additional hearing with the City Planning Commission, and a recommendation by the Mayor. These General Plan Amendments have usually been supported by millions of dollars of investment on the part of the City's budget.

While the City Council works to schedule General Plan Amendments for review in a timely manner, in practice there may be difficulty in gaining consensus to schedule Council hearings for geographic plans that involve multiple Council Districts or plans that involve a high degree of controversy. Such plans may include Community Plans, elements of the General Plan such as the Housing Element or Mobility Element, geographic zoning overlays, or other long-range planning tools. If a plan is not scheduled for a hearing and decision at City Council within the specified time frame, under current rules it is deemed denied. In order to provide further framing and guidance to the decision-making process for complex City-initiated General Plan Amendments, the consequence of no-action on the part of the City Council could be that the recommendation of the City Planning Commission, and Mayor, is sustained. Should this matter be addressed in any future amendment to the Charter, a subsequent and corresponding amendment to the LAMC would also be required.

Further study is recommended for Charter Section 555, Subsection (d), to address instances of no action by the City Council, pertaining to City-initiated General Plan Amendments such as Community Plan updates, or General Plan element updates.

Section 561 - Office of Zoning Administration

Charter Section 561 establishes the Office of Zoning Administration (OZA) as a function of the Department of City Planning. It enables the formation of Associate Zoning Administrators and a Chief Zoning Administrator, whose function is to investigate and determine all applications for variances from any of the regulations and requirements of the zoning ordinances. The Charter also provides that the Zoning Administrator shall have other powers and duties with respect to zoning and land use as prescribed by ordinance.

The Charter provides that “all rules and regulations shall be available for inspection in the Office of Zoning Administration.” This particular provision is at odds with City Planning’s overall approach to making public records available to the general public, wherein records are provided at a centralized Records Division. This particular provision can be clarified to ensure that such records are made publicly available, without being prescriptive as to a specific location.

It is recommended that Charter Section 561 be amended to state that “all rules and regulations shall be available for inspection consistent with the Public Records Act,” or that this sentence be removed altogether given that the Public Records Act remains in effect.

Sincerely,



VINCENT P. BERTONI, AICP
Director of Planning

VPB:SMMB:cw