

Communication from Public

Name: Frances Offenhauser
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Council File No: 21-0934
Comments for Public Posting: This letter reviews PLUM hearing for CF 21-0934 and includes a Public Records Request and a Cure and Correct.

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VIA EMAIL

Hon. Marquece Harris-Dawson, Chair
Planning and Land Use Committee
Los Angeles City Council
200 N. Spring Street, Rm. 395
Los Angeles, CA 90012
(<https://cityclerk.lacity.org/publiccomment/>)

VIA EMAIL

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Re: Hollywood Community Plan Update Meeting Defects

CF 21-0934; CPC-2016-1450-CPU, ENV-2016-1451-EIR; SCH. No. 2016041093

Re: April 24, 2023

Dear Chairman Harris-Dawson and Members:

I am writing to the PLUM Committee, the City Clerk and others to alert you that at the Special Meeting held on April 24, 2023 in City Council Chambers, the City conducted a meeting with a chaotic situation, and corrections to the PLUM actions should be made.

The Hollywood Community Plan is a matter of extreme importance. Tourism; iconic landmarks; lives and homes of 200,000 people; conscientious adherence to the bedrock requirements of Community Plans; our seriousness in the face of an 8 year climate deadline--- these DO matter..

Most importantly, the rush to approve this Plan stems from Zoning Code Sec 11.5.6— which passed by a Council vote and can be extended. **It is not in the Charter. Council can vote for an extension of that self-imposed deadline.**

In Zoning Code Sec. 11.5.8 is also a requirement for a completed “comprehensive assessment of the proposed zoning changes” for a Community Plan review, to ensure that the changes don’t reduce preservation of affordable housing and access to local jobs, and that the Plan includes a formal affordable housing monitoring program at adoption within the Community Plan Area. This and other bedrock requirements were omitted from PLUM review and vote.

. As we all know, this Plan removes local hiring; that TOC’s get removed by this Plan’s CPIO. Many of us know that evictions from RSO housing in Hollywood are outpacing “density bonus” new units, and that the Housing Element (adopted by the City Council) has numbers proving that it promotes evictions from RSO units, when Planning Department data is fully capable of flagging that. Isn’t this fundamental requirement missing from the Hollywood CommunityPlan?

Day of PLUM-- Hearing Issues: I personally witnessed 4 people on the Speaker List who were called when they were in a separate room and could not hear their names. After 29 minutes of “public comment” those speakers were still penned up, ready to speak. I saw them there waiting.

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Other speakers had given up. The Council Chamber PLUM members were notified near time stamp 1:23:00, that people were still waiting to speak.

Three items at the hearing were specifically pertinent to my interests:

1. The preponderance of speakers and letters asked for action to reverse the damage of this plan to historic landmarks—to NOT repeal the redevelopment plan historic protections, and to at least adopt the Cultural Heritage Commission’s letter to PLUM. When asked by Chair Harris -Dawson whether that was done, City Planning staffer Craig Weber informed PLUM members present that this is “incorporated” in the April 18, 2023 Planning “Technical Memo”. (roughly 1:39:55) I have read all 200 pages and don’t find it. *As it was promised to voting PLUM members, the CHC letter 4 recommendations should specifically included in the Council vote.* Mr. Weber failed to answer Mr Harris Dawson completely-- what the repeated and critical positions of LA Conservancy and Hollywood Heritage had stated regarding preservation, thus giving the question a misleading impression that the speakers concerns were addressed. They were not..
2. Garbled “reading into the record” makes it unclear what was and wasn’t approved. After multiple listenings, it appears Mr. Soto-Martinez’s request to reduce Regional Center FARs to today’s current zoning so affordable housing incentives could begin to work is in the record. This echoes and supports the request from the Cultural Heritage Commission, which PLUM was not apprised of.
3. The PLUM was not given the real facts that Los Angeles is under a Court Order still to prepare this Plan properly. Director Vince Bertoni offered that CEQA caused the Plan Update of 2012 to be rejected and rescinded. He didn’t mention that CEQA where all the fundamental underpinnings of the Plan and its required bedrock calculations are lodged-- population, build-out, and infrastructure-- so that that 2012 Update Plan itself as a whole was fatally flawed. PLUM members were denied the background to drill down on the adequacy of this Plan that is still under that Court Order. I am not an expert on it, but I read it in the Council File. From my extensive analysis of the Plan’s calculations and CEQA, the HCPU repeats the 2012 errors, but is worse.

This is not extraneous fluff. This is the fundamental requirement of a Community Plan in accordance with State law and OPR Guidelines. It is not “modern” to fail at the single bedrock requirement of a Community Plan—to insure City services, infrastructure, and action can and will support what growth may come. That no Land Use and Zoning may be proposed that is not consistent and coordinated with 9 Plan categories. This HCPU fails again.

I witnessed no questions from PLUM members or discussion. No discussion?. The unfortunate joke in the room was that the 1988 Plan is “out of date”, especially with RHNA.

The joke is on the PLUM-- the 1988 Plan was better-- buildout was for 272,000 people— 8,000 more than the RHNA goal (cited by Ms Mendenhale) of this 2023 Plan,. In 1988, buildout for 272,000 people was a conservative number; experts have estimated the 1988 Plan buildout still at 330,000- 470,000 persons. The 1988 Plan was not out of date. It was more equitable, un-

lopsided, and far closer to sustainable than the Plan PLUM reviewed Monday, which more than doubles buildout with no adequate infrastructure and no proof that the CPIO is any better than TOCs. (In fact, the City economist shows the CPIO fails economically where it is located.) .

How the PLUM Meeting Notice was Flawed: The conduct is inconsistent with the requirements of the state’s opening meeting law, the Brown Act, and other laws and court decisions against the City.

- **Authorization to Call Special Meeting:** The City’s agenda of the meeting contains no evidence that the meeting was in fact called by persons authorized to do so under Government Code section 54956 related to the call of a Special Meeting. The special meeting agenda in most California cities contain a certification of compliance with the requirement that either the chair of the legislative body or a certain number of committee members were exercising their discretion to call the special meeting, and that certification is signed by the person or persons actually calling the special meeting so the public can see and verify that the special meeting was lawfully called by a person with statutory authority. Under state law, the City Clerk has no authority to “call” a special meeting.
- **Legislative Intent for Special Meetings:** The City of Los Angeles has an unlawful pattern and practice of failing to issue meeting agendas demonstrating to the public its compliance with the special meeting call statutory requirement. In this case, the City Clerk merely inserted a phrase “Called by Committee Chair **SPECIAL MEETING – PLANNING AND LAND USE MANAGEMENT COMMITTEE**” This was a failure of the City to demonstrate the call of the special meeting met the minimum requirements of the open meeting law as to exercise power to call a special meeting. The power to call a special meeting outside of the adopted and publicized regular meeting schedule is a significant power, and due to the documented history of legislative bodies calling special meetings with almost no notice to the public (or none at all), the legislature placed the requirement of a “call” of a special meeting to demonstrate to the members of the legislative body and the public that this power was not abusively exercised.
- **Inadequate Time for Neighborhood Council Comment:** The neighborhood council ordinance set up a reasonable way for large groups of citizens to compile their reactions to projects and Community Plans in a deliberate and orderly way. Rushing this Plan through at the last minute

How the PLUM Meeting was Conducted was Flawed: Government Code section 54954.3(a) specifically provides: “Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.” Under this provision and principles articulated by the Court of Appeal against the City of Los Angeles in the case of *Preven v. City of Los Angeles* (2019) 32 Cal.App.5th 925, the City has an affirmative obligation to enable each person wishing to speak on an item of a special meeting to speak unless the City makes a finding based upon substantial evidence that the number of persons seeking to comment exceeds the ability of the legislative body to hear all who wish to speak.

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Government Code section 65351 expressly mandates that the City incorporate opportunities for public participation in its general plan process. The consideration and adoption of substantive changes to this Community Plan is a very serious issue. Its clear purpose is to address the fundamental issues providing sufficient public infrastructure to meet the basic health and safety needs of a growing population.

- Limiting speaking time unnecessarily to one minute: For the City Council, the ultimate decision making body for the City’s general plan, to give the bare minimum public notice of this special meeting, and declare at the outset of the meeting that only one hour of public input would be allowed, and that each person would be restricted to only one minute to discuss complex issues of City planning policy, demonstrates a failure to receive valuable information as required of the Council, and to value that information from the public. Given the speakers list, each speaker could have spoken for 2 minutes. Public comment stopped at 29 minutes. Speakers with substantive comments were limited to rushing through 1 minute.
- Scheduling two Community Plans at one meeting without enough time: In the case of the meeting called on April 24, 2023, instead of making any findings based upon substantial evidence the Chair declared that the City Council Committee would only listen to public comment on not one community plan, but two community plans, for a period of one hour each --because of a “quorum”. That may have been true, but then there was no necessity to schedule two community plans in one Special Meeting. If a quorum wasn’t possible, why was the special meeting called?
- Having no discussion: The Legislature has proclaimed this is one of the most fundamental rights of citizens to know what their government is doing. Taking a vote to adopt a Statement of Overriding Consideration on a dense, important, and flawed EIR had zero discussion. No discussion among PLUM members, if there was a consensus on the Hollywood Community Plan outside the meeting room, that is in violation of the Brown Act --that majority consensus is required in this state to be achieved before the public physically in the room participating.
- No discussion of radical Plan changes: Given the departure from the Plan rolled out at the City Planning hearings, a separate full hearing should have been held just to clarify what all the changes were. Councilpersons from the Districts in the Plan area may turn this Community Plan into an inclusionary zoning or tenant protection referendum. But then the deadline should have been extended. Inclusionary zoning was studied at length over years for Downtown, and in South Central drafted through concerted efforts of Chair Harris Dawson. For Hollywood it was thrown into discussion after work hours on Friday before a Monday hearing, and crowded out a possible discussion of the remainder of the Community Plan.
- Critical issues went unquestioned: Chair Harris Dawson did ask staff about historic issues. PLUM members could have asked for clarification from the speakers on very critical issues- the majority of speakers had written succinct revisions to the current Plan for historic landmarks and real neighborhoods. Council used to welcome written statements to read into their motions. In

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Hollywood, and under State planning law, what the speakers were addressing was not a side issue.

- Advise was not issued by City Attorney: The Council File shows that Los Angeles is under a court order to reform its planning procedures for this Community Plan. PLUM was voting without advice on this, or had been advised at a Pre-Meeting or closed Council session. As well, the Council File shows that the proposed repeal (mis-labeled as an “amendment”) of the Hollywood Redevelopment Plan was also unlawful, as the procedure and public involvement for such and amendment/repeal had to be conducted differently.

Some speakers gave up and left. The challenges to participation in the hearing they could not see were overcome by a number of speakers, but others were left standing in the Public Works Hearing Room and not permitted to provide comment as required by Government Code section 54954.3(a) for a Special Meeting. Because the City failed to even attempt to base its limitation of public comment on the Hollywood Community Plan on substantial evidence, the imposition of the one hour speaking limit, especially with the arbitrary one-minute speaking limit per person, was a failure to comply with section 54954.3(a). Furthermore, even before the expiration of the one hour the Chair announced close of Public Comment, while multiple speakers ready to speak in the Public Works Hearing Room were denied their right to speak even though they were on the speaker’s list and present.

Most sincerely,



Attached:

- 1. Cure and Correct**
- 2. Public Records Request**

Attachment #1 **Cure and Correct**

1. As it was said to voting PLUM members, the Cultural Heritage Commission's letter having 4 recommendations should specifically be included in the Council vote.
2. PLUM should advise the Council that it can extend the deadline for action or amendment of the Hollywood Community Plan and all its last-minute changes, and should schedule further hearings .
3. This hearing appears to have included violations and abridgement of rights.
4. In the future, on a multiple item meeting, attendees for the second item, and attendees not intending to speak, should be asked to wait in the Public Works Hearing Room so that speakers can be heard at Council. That second room should be provided with a video feed.
5. No vote should be taken on a Statement of Overriding Consideration until PLUM members can sign that they have read and understood the EIR, and as in this case, understand why it has so many unmitigated flaws. If Academy members can sign in on Awards screenings, Council members should not vote without understanding the vote's meaning.
6. No vote should be taken on a Community Plan that does not comply with LAMC 11.5.8.
7. Returning to the issue of the Chair of the PLUM Committee declaring that only one hour of public comment at only one minute per person would be allowed on the Hollywood Community Plan, the City acted contrary to the open meeting law. The City's agenda contains the following statement: "The Committee may limit the total amount of time for public comment on any specific agenda item, on all agenda-items collectively, and/or on general public comment, based on the anticipated time required to hear from public speakers on any given or all agenda items, on the availability of Committee members and the need to maintain quorum, and on any other relevant factor." To the extent that the City's rule purports to authorize restricting public comment time *without knowing how many persons have in fact signed up to speak at a particular meeting*, such "policy" decision is unlawful and not supported by substantial evidence. The hearing must be re-conducted.
8. In this case, the City purported to conduct a special meeting. Presumably, someone asked City Councilmembers on the Committee to clear their calendars to allow time for the special meeting. City Councilmembers must attentively listen to public comment in order to take it into account in public deliberations over important policy decisions such as adoption of major portions of the City's general plan. Each Council member of PLUM should be asked to summarize their findings from the public comment and from their review of all the documents prior to voting.
9. The fact that the Community Plan has to decipherable map, and the only one that exists I brought in to Council, is an indication that the PLUM should have voted to continue and recommend extending the hearing time.

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Despite the failure of the City to provide appropriate advanced notice of the PLUM Committee special meeting of April 24, 2023, community members did show up in force as they although the City had abruptly called a special meeting on Friday, April 21, 2023 as the week closed for business at 5 pm.

On Monday, April 24, 2023, the City appeared completely unprepared for the number of persons who came out to support, to object, to watch, or to give public comment to two community plans schedule at the same meeting. A long line formed outside City Hall and many people who wished to observe or comment were not able to get into the building before the Chair called the PLUM Committee meeting to order. Once the City Council chamber was filled with many hotel union supporters and others who came to City Hall very early that day, City officials halted admission of people into City Hall. They then opened up the Public Works Hearing Room down the hallway from City Council Chambers and began allowing the overflow of people to go to the Public Works Hearing Room.

Persons who had prepared remarks to deliver to the PLUM Committee were standing outside City Hall, not being let into the building as City officials scrambled to provide more space to observe and participate in the meeting. Many speakers left. Speakers were called while still being admitted to the second room, and could not hear their names. Some people knowledgeable about City Council meeting processes informed staff so they could be called a second time. (They weren't). Others less sophisticated may have submitted speaking requests but were just never called to the podium in either the City Council Chamber or the Public Works Hearing Room.

A City staff member was organizing speakers for the Public Works Hearing Room microphone so the PLUM Committee could hear their comments. However, in a final act of shutting the public out of its government, the Chair, prior to the expiration of the stated one hour of comment on the Hollywood Community Plan, cut off the "hearing" as at least four persons who were on the speakers list and lined up in the Public Works hearing room, were not permitted to speak at all. As the Chair was closing public comment on the Hollywood Community Plan, the City employee at the microphone speaks up and says that there are people lined up over in the Public Works Hearing Room.

The Chair may not have heard this but the online translation tool captured the moment on screen.

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Attachment #2: **Public Records Request**

Pursuant to the California Public Records Act, I request that the City promptly gather and produce all communications including emails and text messages on the phones of City Councilmembers or City staff related in any way to the decision to call a special meeting for PLUM Committee on April 24, 2023.

If the City of Los Angeles did not conduct a “pre-PLUM meeting.” , then that will be evident. I call for the Clerk to release all documents, emails, texts, and attendance list for the pre-PLUM meeting for the April 24, 2023 PLUM Committee meeting, between the pre-PLUM meeting and through the PLUM meeting of April 24, 2023.

To the extent that such public documents reside on the personal phones of City elected officials and staff, I request that the City Attorney instruct City electeds and staff to hold and not destroy any such records in the event of further proceedings. I understand the City has a history of denying access to all public records of pre-PLUM meetings merely based upon a claim that a City attorney also attended the meeting. I specifically allege that the mere fact that a City Deputy Attorney may also attend the pre-PLUM meeting is not a legitimate basis for the City to deny production of all public records from the meeting that are not specifically the rendering of legal advice to a client. Additionally, the public interest in determining whether or not the City achieved any consensus on substantive or procedural matters related to the Hollywood Community Plan at the pre-PLUM meeting is a matter of great public concern that far outweighs any interest in City officials to keep secret the proceeding of a such a meeting where the public was excluded. Therefore, the deliberative process exception to the Public Records Act must fall to the supreme public interest in knowing what government officials were doing in the conduct of a secret pre-PLUM meeting related to the Hollywood Community Plan.

Pursuant to the California Public Records Act, for the period of March 1, 2023 through April 24, 2023, I request the City to promptly search for and produce all documents including email and text communications among City Councilmembers and/or City staff determining their availability for the conduct of the PLUM Committee special meeting on April 24, 2023. To the extent that such public documents reside on the personal phones of City elected officials and staff, I request that the City Attorney instruct City staff to hold and not destroy any such records in the event of further proceedings.

We demand that the City cease and desist its pattern and practice of conducting secret pre-PLUM meetings and other types of communications or vote commitments among City Councilmembers, their staff, and other staff of the City such that substantive decision making occurs outside public meetings of the City Council.

Should the City fail to respond to this cure and correct/cease and desist letter demand in a timely fashion, we reserve all rights to take enforcement action against the City.