

Daniel Freedman
dff@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

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BY EMAIL AND U.S. MAIL

Hon. City Attorney Hydee Feldstein Soto
Office of the City Attorney
City of Los Angeles
200 N Main St. #800
Los Angeles, CA 90012
E-Mail: Hydee.FeldsteinSoto@lacity.org

Re: Hollywood Community Plan Update
Housing Crisis Act Compliance
Council File: 21-0934

Dear Honorable City Attorney Feldstein Soto:

Our office represents the owner of 1719 Whitley Ave, Los Angeles, California 90028. We submit this letter to comment on the Hollywood Community Plan Update ("HCP" or "Community Plan") presently pending before the City Council ([CF 21-0934](#)), and to raise our concern over the fact that this iteration of the Community Plan unlawfully downzones our client's property and violates bright-line standards contained in the California Housing Crisis Act ("HCA") of 2019. Accordingly, before the Community Plan update can move forward and/or be adopted, it must be brought into compliance with state law.

For some background, the HCA, codified in Government Code section 66300 et seq., was adopted by the California legislature to address the state's persistent housing shortage. Subdivision (b)(1)(A) of section 66300 prohibits affected cities from (1) enacting any policy that changes the zoning of parcels to "a less intensive use" or (2) "reducing the intensity of land use" within a zoning district to below what was allowed under zoning ordinances in effect on January 1, 2018. In enacting the HCA, the Legislature declared that a "'less intensive use' includes . . . reductions to height, density, or floor area ratio . . . or anything that would lessen the intensity of housing." (See SB 330.) As amended, section 66300, subdivision (b)(1)(A), almost identically defines "'reducing the intensity of land use'" as including "reductions to height, density, or floor area ratio . . . *or any other action that would individually or cumulatively reduce the site's residential development capacity.*" (emphasis added)¹ Accordingly, under the HCA, a local agency

¹ As explained by the California Court of Appeal in *Yes In My Backyard v. City of Culver City* (2023) 96 Cal. App. 5th 1103, "the use of the disjunctive 'or' reflects a legislative intent that a single event, including a reduction in FAR, standing alone, constitutes an act 'reducing the intensity of land use.'"

is expressly prohibited from adopting any new law, policy, or plan that reduces the intensity of land uses, unless the City concurrently increases the intensity of land uses on other parcels.

Currently, our client's property is zoned [Q] R5-2, which presently permits a 6:1 floor area ratio ("FAR") and unlimited height. Under the proposed Community Plan, the development potential of the property is being reduced to a 4.5:1 FAR, with a maximum height of 60 feet. (See [Community Plan Implementation Overlay District](#), Figures IV-2, IV-3, IV-4.) The same is true with respect to the site's density, which is presently 1 unit per 200 square feet of lot area for R5 density, and which is being reduced to 1 unit per 400 square feet of lot area under the applicable CPIO density. Dozens of large neighboring and similarly situated properties are being similarly downzoned. Meanwhile, nowhere in the HCP or any of the associated staff reports does City Planning specify if other parcels are being concurrently up-zoned in order to comply with the HCA's no net-loss requirements.

The most recent staff report acknowledges the legal limitations created by the HCA, but dismisses this issue in reliance on a general statement that the Community Plan "allows for the net increase of approximately 17,000 to 28,000 housing units, and therefore complies with this requirement." (See [Aug 18, 2021, Los Angeles City Planning Commission Letter of Determination](#), Pg. F-27.) This analysis is not legally sufficient for multiple reasons. As expanded on in the HCP's Staff Recommendation Report, this conclusory calculation was generated by comparing the number of housing units anticipated to be developed under the new HCP, as compared to the number of housing units that actually exist in the Community Plan area as of 2016. (See [February 18, 2021, Staff Report](#), Exhibit A, Pg. A-30, "an increase of approximately 17,000 to 28,000 over the 104,000 housing units that are estimated to exist as of 2016...") This was not a comparison of the development density or intensity permitted under the existing laws and ordinances as of 2018, versus the development intensity permitted under the new HCP, *which is the only analysis relevant to establish compliance with the HCP*.

Moreover, the Community Plan's Environmental Impact Report ("EIR") explains that this analysis was prepared using the Southern California Association of Government's 2016 Regional Transportation Plan's demographic and growth forecasts that looks at population growth and employment trends, and is based on the number of forecasted "households." According to the EIR, this number was generated by "multiplying the projected residential population by projected headship rates, or the share of householders in population cohorts based on age-sex-racial/ethnic specific household formation levels." (See [HCP EIR Section 4.13, Population, Housing, and Employment](#).) This generalized analysis, which looks at broader growth and demographic trends, is not evidence that the new HCP will in fact result in a net increase in the region's development intensity or density. Second, this analysis does not even compare the correct years. The HCA expressly states that development intensity cannot be reduced based on a January 1, 2018, baseline. This analysis applies a 2016 analysis, which itself likely relied on even older data.

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In summary, when analyzing the new HCP on a parcel-by-parcel basis, it is apparent that the City is reducing the development intensity of a large swath of the Community Plan area in violation of state law. Moreover, the City cannot rely on general demographic, economic and population forecasts to claim that the overall development intensity of the HCP area is increasing, as these estimates do not in fact establish whether the Community Plan update will in fact increase development intensity or not. This is particularly true in this specific instance, where it is easily shown that the Community Plan does in fact *reduce* development intensity when analyzed on the parcel-by-parcel level. Accordingly, in order to comply with state law, we respectfully request the City either (i) modify the proposed zoning for our client's property so that it is at least equivalent to the development intensity permitted under the current General Plan; or (ii) provide evidence to establish how the City intends to comply with the HCA's no-net-loss requirements. Thank you for your consideration.

Very truly yours,



DANIEL FREEDMAN of
Jeffer Mangels Butler & Mitchell LLP

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CC: Hon. Members of the Los Angeles City Council (CityClerk@lacity.org)
City of Los Angeles Department of City Planning (hollywoodplan@lacity.org)
California Department of Housing and Community Development (robin.huntley@hcd.ca.gov)
California Attorney General, Housing Justice Team (housing@doj.ca.gov)