

Communication from Public

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Council File No: 23-0623-S1
Comments for Public Posting: We submit the attached comments on the codification of ED1 Streamlining Provisions for consideration by the PLUM Committee and the full City Council.

April 11, 2024

Planning & Land Use Management Committee
Los Angeles City Hall
200 N. Spring St.
Los Angeles, CA 90068

Re: Executive Directive No. 1 (ED 1), Expedition of Permits and Clearances
Council Files 23-0623 & 23-0623-S1
Concerns Re Codification of ED1 Streamlining Provisions

Members of the Planning & Land Use Management Committee,

We are writing to express our concern about the City Council's interest in codifying the provisions of Mayor Bass's Executive Directive 1 (ED1) within the LAMC. We understand that LA needs affordable housing, and we understand that expediting review of affordable housing projects could help bring new housing on-line in less time and with lower costs. However, we have grave doubts that codifying the streamlining provisions contained in ED1 will bring significant progress in this area. ED1 was signed by the Mayor at the beginning of her term with a good deal of fanfare. As a symbolic gesture it sent a strong message, but we believe that ED1 has serious flaws that could prevent it from having a meaningful impact on the production of affordable housing. While the City has emphasized the high number of applications received, we feel it's important to point out that none of these units have actually been built yet. Non-profit developers face significant challenges in funding affordable housing. And there are good reasons to ask whether the for-profit developers who have jumped on ED1 will actually build housing accessible to low-income Angelenos.

The Draft Ordinance appears to have addressed some of the failings of ED1, but it also appears to open the door to other problems. Having reviewed both ED1 and the Draft Ordinance, and having followed the ensuing debate over the proposed changes to the LAMC, we believe the following issues raise serious concerns:

- Concurrent with the effort to codify ED1, the City is pursuing other programs to boost housing production, including rezoning under the Housing Element, and the Citywide Housing Incentive Program (CHIP), but there does not appear to be any attempt to coordinate these efforts;
- A number of ED1 projects involve the demolition of rent-stabilized (RSO) apartments that are currently occupied by low-income households;
- The Draft Ordinance appears to allow streamlined review in Very High Fire Hazard Severity Zones (VHFHSZs) and flood plains, raising serious safety concerns;
- Streamlining will likely lead to additional loss of mature trees, green space and reduction of permeable surfaces, if no mitigation is required;
- There are serious questions about whether the for-profit developers who have submitted ED1 applications would deliver any housing for Low Income or Very Low Income households, where the need is greatest;
- The City has not been able to maintain an accurate inventory of existing affordable units;
- The City has failed to create inventories of affordable and RSO housing as part of the Community Plan Update process, as required by LAMC Sec. 11.5.8;
- The City must conduct inspections to verify compliance in projects that are subject to affordable housing covenants;

- The Draft Ordinance’s protections for historic resources and HPOZs should be strengthened;
- City departments have recommended the creation of 18 additional positions to support the ED1 process, but the City is actually weighing substantial job cuts to deal with the current budget crisis;
- The Draft Ordinance specifies that no notifications or hearings are required for ED1 projects, and no appeals are permitted.

We offer more detailed explanations of these concerns below.

The City Does Not Appear to Be Coordinating Its Multiple Housing Initiatives

Concurrent with the effort to codify ED1, the City is pursuing other programs to boost housing production, including rezoning under the Housing Element, and the Citywide Housing Incentive Program (CHIP), but there does not appear to be any attempt to coordinate these efforts. We are concerned that responsible planning is being sacrificed in favor of a “Build, Baby, Build” approach. Considering the multiple challenges LA is facing, including declining water resources, aging water and power infrastructure, failure to meet State requirements for solid waste disposal, declining air quality, and cuts to City services, we believe the City needs to think holistically in planning for the future. LA is already suffering from the effects of unplanned growth. Moving forward, we believe the City needs to consider its various initiatives as part of an overall strategy that will produce needed housing that can be adequately served by City agencies and infrastructure.

To underline the importance of creating housing within a holistic planning framework, we point to the recently released report *Los Angeles County’s Climate Cost Challenge* from the Center for Climate Integrity. The report emphasizes the costs LA County is going to incur as the effects of climate change become more pronounced.

Los Angeles County’s Climate Cost Challenge from Center for Climate Integrity

<https://climateintegrity.org/la-county-cost>

The LA Times offers a useful overview of where we’ll see the greatest impacts and where the most investment is needed.

The most expensive adaptation categories are related to precipitation and heat, including an estimated \$4.3 billion for improved stormwater management, \$2.5 billion for cool pavement investments and \$1.4 billion for tree canopies to combat urban heat islands, the report found. Other costs include wildfire mitigation; coastal defense and infrastructure protection; building upgrades for cooling and air conditioning; and responses to vector-borne diseases such as West Nile virus.

L.A. County Faces \$12.5 Billion in Climate Costs through 2040, from LA Times, 4/4/24

<https://www.latimes.com/environment/story/2024-04-04/l-a-county-faces-12-5-billion-in-climate-costs-through-2040>

Given the City of LA’s current budget crisis, we urge the City to consider carefully the importance of building within a coherent framework that will minimize climate change impacts.

A Number of ED1 Projects Involve the Demolition of Rent-Stabilized (RSO) Apartments

We are concerned by reports that a number of ED1 projects involve the demolition of RSO housing.

L.A. is fast-tracking affordable housing. Some say those projects are pushing them out
<https://www.latimes.com/california/story/2023-12-14/mayor-karen-bass-affordable-housing-initiative-is-sparking-new-displacement-fears>

United Neighbors in Defense Against Displacement (UNIDAD) has expressed concerns about how ED1 projects threaten to displace low income households in South Los Angeles.

<https://www.unidad-la.org/streamlining-affordable-housing-is-important-but-so-is-protecting-rents/>

We are also aware of ED1 projects that threaten existing housing in Eagle Rock and the Valley. While some commenters believe this threat can be alleviated by guarantees that displaced tenants will have the right to return to newly constructed ED1 projects, in most cases “right-of-return” is an empty promise. Few tenants can afford to put their lives on hold for two years or more while a new project is being built. And with ED1, it's questionable whether the projects proposed by for-profit developers will offer units at levels that are affordable to these households.

Currently, Mayor Bass’ Executive Directive 1 directs City departments to use the streamlined review process outlined in CA Gov. Code Section 65913.4, which prohibits streamlining for projects that involve the demolition of existing affordable or rent-stabilized housing. The State wisely granted these protections to reduce displacement. We believe the City should incorporate the restrictions included in CA Gov. Code Section 65913.4 in its effort to codify ED1 as part of the LAMC.

The Ordinance Appears to Allow Projects in VHFHSZs and Flood Plains

CA Gov. Code Sec. 65913.4 also restricts use of a streamlined review process for projects located within a very high fire hazard severity zone (VHFHSZ). This also seems to be a prudent restriction. In recent years the LA area has seen unprecedented wildfires that have taken lives and caused extensive damage. As the impacts of climate change increase, it seems likely we could see even more destructive fires. There is at least one ED1 project (3446 N. Floyd Terrace) that is located within a VHFHSZ. To protect the safety of Angelenos, we believe streamlined review should be prohibited in VHFHSZs.

The Draft Ordinance does not appear to prohibit streamlined review in flood plains, which raises safety concerns in view of recent extreme weather events. Some parts of LA have seen serious flooding in the past two years. The findings presented for the ordinance say that 13 projects proposed under ED1 are located in a flood plain. Should we really be offering streamlined review for these projects? Perhaps the City should consider the impacts of Hurricane Harvey on Texas. A substantial number of homes built in flood plains were destroyed, leaving many people homeless. We believe that projects located in flood plains should not be eligible for streamlined review.

In Texas, Home Sellers Must Now Disclose More About The Risk Of Flooding. NPR, 10/27/19

<https://www.npr.org/2019/10/27/772996585/in-texas-home-sellers-must-now-disclose-more-about-the-risk-of-flooding>

Streamlining Will Increase Loss of Trees, Green Space and Permeable Surfaces

Streamlining will likely lead to additional loss of mature trees, green space and reduction of permeable surfaces, if no mitigation is required. Like other major cities, LA will be subject to increased urban warming as the effects of climate change become more pronounced. We note that, because of the past emphasis on incentivizing development without considering environmental impacts, LA has been largely paved over. Groundwater replenishment has been substantially reduced as LA covered its green spaces in asphalt and concrete. The urban forest is under intense pressure due to development, especially with the current trend toward reducing setbacks and waiving open space requirements. Please note that the CCI report states that LA County will need to invest \$1.4 billion in preserving and expanding tree canopy to minimize the urban heat island effect.

It's Unlikely that For-Profit Developers Will Deliver Needed Low Income Housing

While LA City officials have talked extensively about the fact that for-profit developers have submitted a number of applications for ED1 projects, there are reasons to doubt that they will deliver a significant number of affordable units at the Low Income or Very Low Income levels where the need is greatest. The applications already submitted by for-profit developers under the current ED1 program are largely planned for Moderate Income households, which serves families making up to 120% of the Area Median Income (AMI). While the Draft Ordinance stipulates that most affordable units must be for households making 80% of the AMI or less, it remains to be seen whether for-profit developers will find this financially attractive.

Another question is whether the for-profit developers that have submitted applications so far will actually build the approved project, or instead try to flip the entitled property, a common practice. High interest rates have already depressed new construction, and it appears that the passage of Measure ULA has, to some degree, deterred banks from making construction loans.

With a number of ED1 projects proposed for sites that currently hold RSO apartments, it would be a tragedy if these projects were approved, existing housing were demolished, and then no new affordable units were built.

The City Has Not Been Able to Maintain an Accurate Inventory of Affordable Units

In September 2021, an article in *Capital & Main* revealed that the City did not have an accurate inventory of covenanted affordable units. It was also revealed that affordable units in mixed-income projects were not included in the City's on-line registry of affordable units. While the City appears to be updating its on-line registry to correct the latter issue, it remains to be seen whether the City can maintain an accurate database of all covenanted affordable units. We question the rush to codify ED1's streamlining provisions before this has been accomplished.

L.A.'s Affordable Housing Programs Leave Low-Income Renters in the Dark, Capital & Main, 9/7/21

<https://capitalandmain.com/l-a-s-affordable-housing-programs-leave-low-income-renters-in-the-d-ark>

The City Hasn't Created Inventories of Affordable & RSO Housing Required by LAMC Sec. 11.5.8

As part of the community plan update process, LAMC 11.5.8 requires the City to complete a comprehensive assessment to ensure that the updates do not reduce the capacity for creation and preservation of affordable housing, or undermine affordable housing incentive programs. This includes the preparation of a program to create and monitor an inventory of units within the community plan area that are subject to an affordability covenant or covered by the Rent Stabilization Ordinance. However, the City has failed to live up to the requirements of LAMC 11.5.8 and has not prepared inventories or monitoring programs as part of recent community plan updates.

In general, the City's failure to offer current, accurate statistics regarding net progress in the production of affordable housing makes it hard to tell if we're making any progress at all. On LA City Planning's Housing Progress Dashboard, under Housing Approved through Planning Entitlements, it shows that 29,875 affordable units were approved from July 2013 through December 2022. However, it offers no information about how many of these units were actually built. It also offers no numbers of RSO units removed from the market under the Ellis Act, nor does it include the number of affordable units that had their affordability covenants expire during this period. Without this additional information, it's impossible to know whether or not we're making any progress.

The City Must Conduct Inspections to Verify Compliance with Affordable Covenants

The City must conduct inspections to verify compliance with affordability covenants in mixed-income buildings. We have received anecdotal evidence that some developers who were given density bonuses in exchange for agreeing to provide affordable housing are not making these units available to qualifying households. While LAHD does receive documents verifying household income for qualifying tenants, it does not appear that LAHD has the resources to assess compliance nor to enforce the law when violations occur. This is crucial if the City intends to extend streamlining options to for-profit developers. There is no way to assess the program's success without monitoring and enforcement.

The Draft Ordinance's Protections for Historic Resources Should Be Strengthened

We are glad that the Draft Ordinance does include some protections for historic resources, but we believe the Ordinance needs to go farther. While the Ordinance protects contributing structures in HPOZs, it would allow streamlined review for projects that involve the demolition of non-contributing structures. We believe this is a serious mistake. While non-contributing structures do not enjoy the same protection as contributing structures in HPOZs, their replacement with large multifamily projects could certainly impact the community. Inserting a six-story contemporary building into a neighborhood dominated by two-story duplexes and bungalow courts built before WWII is bound to undermine the historic importance of an HPOZ.

We point to the findings of the Preservation Positive report by the Los Angeles by LA Conservancy.

Preservation Positive from LA Conservancy

<https://www.laconservancy.org/save-places/explore-preservation-resouces/study-preservation-positive-los-angeles/>

Among the key findings are: 1) Only 6.2% of total parcels in L.A. have been identified as historic through designation or by SurveyLA, leaving 93.8% available for new development, increased density, and much-needed housing; 2) While historic designation is not feasible or appropriate for every older property, HPOZs protect affordable housing, foster neighborhood stability, and serve as home to a racially and economically diverse population; 3) Of the 35 HPOZs that currently exist, 21 have populations where there is a greater share of racial diversity than in the rest of the city; 4) As much as 69% of housing in HPOZs has more than one unit, with 39% providing five or more units or apartments. This makes historic neighborhoods more accessible to renters and provides a greater range of rents and significantly higher density uses.

How Will the City Fund the 18 Additional Positions Recommended by City Departments?

City departments have recommended the creation of 18 additional positions to support the ED1 process, but the City is actually weighing substantial job cuts to deal with the current budget crisis. Before the City proceeds with codifying streamlining provisions as part of the LAMC, we must know how the City will deal with this issue. Will the City create the additional positions and hire personnel in spite of budget cuts? Or will the City approve the Draft Ordinance without hiring the additional staff, thereby hindering effective implementation?

REPORT AND RECOMMENDATIONS RELATIVE TO STAFFING NEEDS TO FULLY IMPLEMENT EXECUTIVE DIRECTIVE 1 STREAMLINING (CF 23-0623), November 30, 2023
https://clkrep.lacity.org/onlinedocs/2023/23-0623_rpt_plan_12-05-23.pdf

To sum up, we agree that there is a need for more affordable housing, and there may be benefits in offering streamlined approvals to credible affordable housing developers with a proven track record. We have grave concerns, however, about offering the same streamlined process to for-profit developers. Rather than rushing to codify this program as part of the LAMC, we urge City Planning and the City Council to look at this proposal alongside the City's other housing initiatives, and to think holistically about how to effectively provide needed affordable housing. This will not happen without effective monitoring and enforcement. And while the creation of new affordable housing is a priority, we should not allow the construction of new units to put tenants in harm's way. Nor should we ignore significant environmental impacts, as the City is already failing to meet its sustainability goals in a number of areas.

Sincerely,
David Ewing
Annie Gagen
Jack Humphreville
Kim Lamorie
Casey Maddren
Dick Platkin
Cherilyn Smith
Gina Thornburg