



Daniel Luna &lt;daniel.luna@lacity.org&gt;

## Public Comments Not Uploaded 22-0392\_pc\_11-07-23

1 message

**clerk.plumcommittee@lacity.org** <clerk.plumcommittee@lacity.org>

Tue, Nov 7, 2023 at 12:11 PM

Reply-To: clerk.plumcommittee@lacity.org

To: Clerk-PLUM-Committee &lt;clerk.plumcommittee@lacity.org&gt;

----- Forwarded message -----

From: David McDonald &lt;david.a.mcdonald@gmail.com&gt;

To: cd4.issues@lacity.org

Cc: clerk.plumcommittee@lacity.org, losangelesbeautiful@lacity.org, Jennifer Hull &lt;jennifer.hull@lacity.org&gt;

Bcc:

Date: Tue, 7 Nov 2023 08:37:10 -0800

Subject: Public Comments Not Uploaded CF# 22-0392 OPPOSE Metro Digital Billboard, Agenda Item # 10

I strongly oppose digital billboards anywhere in the city of Los Angeles. Surely we don't need the ad revenue that badly? They are a blight, and once installed, will never be removed.

----- Forwarded message -----

From: Alex Fierro-Clarke &lt;alexfierro.film@gmail.com&gt;

To: clerk.plumcommittee@lacity.org

Cc: losangelesbeautiful@gmail.com

Bcc:

Date: Tue, 7 Nov 2023 10:38:53 -0800

Subject: Public Comments Not Uploaded CF# 22-0392 OPPOSE Metro Digital Billboard, Agenda Item # 10

I strongly oppose the Metro Transportation Communication Network (TCN) digital billboard advertising Program (Program). Below is a summary of some of the proposed Program elements that are problematic (also see [August 22](#), [September 5](#) & [September 27](#) letters from Coalition for a Beautiful Los Angeles).

The current proposal represents a huge policy change for the City (as one City Planning Commissioner commented, "Frankly, this is a sea change in signage in our City"). If the City Council Planning and Land Use Management Committee (PLUM) votes to approve this Program over the community's objections, it is incumbent upon the Committee to ensure protections for its citizenry.

### Additional Mitigation Needed:

- City proposes 80 sign faces with less than a 3:1 **take-down ratio** (not adequate to offset the impacts of digital vs. static signs).
- City proposes an 8-second **refresh rate** based on [digital billboard] industry standards instead of the 20-second refresh rate recommended by Illuminating Engineering Society Recommended Practice for Off-Roadway Sign Luminance.
- City proposes **operating hours** from 5:00 a.m.-midnight – a 19-hour digital sunrise. Operating hours of 7:00 a.m.-midnight are more than adequate.

- City proposes a 200-foot buffer from **Scenic Highways** in conflict with the **Mobility Element** of the General Plan that requires a 500-foot setback from the centerline of a Scenic Highway. The ordinance must comply with the City's General Plan.
- During the City Planning Commission (CPC) hearing, staff commented that the two Bowtie State Park billboards were located too close to the Park. Even at the proposed distances of 619 and 820 feet, staff said it was best not to site the billboards at those locations. Yet, staff did not recommend removing other digital signs proposed in close proximity or adjacent to **sensitive uses** (such as FF-30 Ballona Wetlands Ecological Reserve; NFF-1 Barnsdall Art Park/World UNESCO Site; FF-25 Sepulveda Basin Wildlife Reserve/Woodley Park).
- City proposes all digital billboard faces be equipped with horizontal **louvers** to reduce light trespass. Two billboard structures, adjacent to environmentally sensitive properties, are also slated to have vertical louvers. Post-CPC Planning report is now recommending vertical louvers be installed on all billboard faces within 500 feet of open space and current residential uses. This fails to take into account future housing projects or other sensitive uses. All digital sign faces should include both **horizontal and vertical louvers**.
- The Program proposes four digital billboards located on four parcels that have also been identified by Metro as suitable for joint development agreements for **housing projects** (NFF-17, NFF-10, NFF-4, and NFF-5). Despite the Mayor's Emergency Declarations and Metro's commitment to prioritize housing, no analysis has been conducted to determine the best use of these parcels for housing vs. billboards.
- City proposes to locate 11 of 16 non-freeway facing digital billboards on the City's **High Injury Network** streets. This undermines **Vision Zero**.
- In August 2023, the City of La Mesa **rejected digital billboards** in a **surprise vote** because "a majority of the City Council felt the extra revenue wouldn't make up for potentially distracting drivers." This is not surprising because Traffic Safety studies from around the world have demonstrated that changing digital advertising signs are **dangerous and distracting** to drivers. Yet, Metro dismisses these facts relying instead on industry studies.
- The Program does not account for changes in the environment that might occur over time and does not include a provision to allow for new or updated information and studies. It fails to give the **City Council authority** to amend the standards, and other provisions to mitigate impacts on the visual environment, on residential or other properties, to reduce driver distraction or other hazards to traffic, or to otherwise protect and promote the public health, safety and welfare and apply these amended standards to existing signs and digital displays. Language to do so should be incorporated into the approval as recommended in May 25, 2021 **CPC Letter** of Determination.
- The Program is **overwhelmingly opposed** by 24 Neighborhood and Community Councils, 16 community/environmental organizations, and the **SAG/AFTRA** Union for its impacts on filming in LA.\

Signed,

Alex Fierro-Clarke

----- Forwarded message -----

From: Vijay Singh <Jamsppcusaservies@hotmail.com>

To:

Cc:

Bcc:

Date: Tue, 7 Nov 2023 16:32:46 +0000

Subject: Public Comments Not Uploaded Re: Online Developing App

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Hi,

I'm following you on my previous email. Please share your inputs so we can move ahead next action of plan.

Looking forward to your response.

Thanks,

Vijay

**From:** Vijay

**Sent:** Monday, September 02, 2023 5:04 PM

**Subject:** Online Developing App

Hi,

Would you be interested in building an app for your business? We are a professional Mobile Application Development company.

Our Mobile App Development Services include:

Lifestyle + Utility + On-Demand Apps Productivity and web applications and other Custom Software Development

(Create App for your business)

If you are interested, please share your requirement. It would be great if you can share your contact details so that we can connect for better communication and understanding.

Regards,

Vijay

IT Consultant

----- Forwarded message -----

From: Chris Spitz <ppfriends3@hotmail.com>

To: "clerk.plumcommittee@lacity.org" <clerk.plumcommittee@lacity.org>

Cc: "losangelesbeautiful@gmail.com" <losangelesbeautiful@gmail.com>

Bcc:

Date: Tue, 7 Nov 2023 14:44:36 +0000

Subject: Public Comments Not Uploaded Public Comment -- Item 10 on PLUM Cmtee agenda 11/7/23 -- OPPOSED  
 PLUM Committee: Please see my public comment on the Metro TCN/Digital Billboard program below (also submitted via the City Clerk's online filing portal):

Re CF# 22-0392 **OPPOSE** Metro Digital Billboard, Agenda Item # 10

I am a community leader on the Westside of Los Angeles and in Pacific Palisades. I write on my own behalf, although organizations on which I serve -- Pacific Palisades Community Council (PPCC) and the Westside Regional Alliance of Councils (WRAC) -- are also opposed.

I strongly oppose the Metro Transportation Communication Network (TCN) digital billboard advertising Program (Program). See August 22, September 5 & September 27 letters from Coalition for a Beautiful Los Angeles for a summary of some of the Program elements that are problematic. See also position letters submitted by PPCC and WRAC.

The current proposal represents a huge policy change for the City (as one City Planning Commissioner commented, "Frankly, this is a sea change in signage in our City"). If the City Council Planning and Land Use Management Committee (PLUM) votes to approve this Program over the community's objections, it is incumbent upon the Committee to ensure protections for its citizenry").

The Program is overwhelmingly opposed by 24 Neighborhood and Community Councils, 16 community/environmental organizations, and the SAG/AFTRA Union for its impacts on filming in LA. If the significant unmitigated impacts of the digital billboard Program are not addressed, these structures will blight the City and endanger roadway users for decades to come.

Thank you. Christina Spitz --  
 for ID only: WRAC Vice-Chair; PPCC At-large rep and past Chair

----- Forwarded message -----

From: "'Emily' via Clerk-PLUM-Committee" <clerk.plumcommittee@lacity.org>

To: "clerk.plumcommittee@lacity.org" <clerk.plumcommittee@lacity.org>, "Coalition for A. Beautiful Los Angeles" <losangelesbeautiful@gmail.com>

Cc:

Bcc:

Date: Tue, 7 Nov 2023 09:46:40 +0000 (UTC)

Subject: Public Comments Not Uploaded Fw: Public Comment Submission Validation - Council File No.: 22-0392  
 Attached please find confirmation of my submission of public comment regarding digital billboards.

--Em Allyn  
 sent from \$todaysLA®™

----- Forwarded Message

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**Council File Number:** 22-0392

**Comments for Public Posting:**

I strongly oppose the Metro Transportation Communication Network (TCN) digital billboard advertising Program (Program). Recently, I was in West Hollywood where I first saw the digital signs on buildings, etc. These are TERRIBLY DISTRACTING

and EXTREMELY DANGEROUS! Below is a summary of some of the proposed Program elements that are problematic (also see August 22, September 5 & September 27 letters from Coalition for a Beautiful Los Angeles). \*The current proposal represents a huge policy change for the City (as one City Planning Commissioner commented, "Frankly, this is a sea change in signage in our City"). If the City Council Planning and Land Use Management Committee (PLUM) votes to approve this Program over the community's objections, it is incumbent upon the Committee to ensure protections for its citizenry. \*\*\*Additional Mitigation Needed: \*City proposes 80 sign faces with less than a 3:1 take-down ratio (not adequate to offset the impacts of digital vs. static signs). \*City proposes an 8-second refresh rate based on [digital billboard] industry standards instead of the 20-second refresh rate recommended by Illuminating Engineering Society Recommended Practice for Off-Roadway Sign Luminance. \*City proposes operating hours from 5:00 a.m.-midnight – a 19-hour digital sunrise. Operating hours of 7:00 a.m.-midnight are more than adequate. \*City proposes a 200-foot buffer from Scenic Highways in conflict with the Mobility Element of the General Plan that requires a 500-foot setback from the centerline of a Scenic Highway. The ordinance must comply with the City's General Plan. \*During the City Planning Commission (CPC) hearing, staff commented that the two Bowtie State Park billboards were located too close to the Park. Even at the proposed distances of 619 and 820 feet, staff said it was best not to site the billboards at those locations. Yet, staff did not recommend removing other digital signs proposed in close proximity or adjacent to sensitive uses (such as FF-30 Ballona Wetlands Ecological Reserve; NFF-1 Barnsdall Art Park/World UNESCO Site; FF-25 Sepulveda Basin Wildlife Reserve/Woodley Park). \*City proposes all digital billboard faces be equipped with horizontal louvers to reduce light trespass. Two billboard structures, adjacent to environmentally sensitive properties, are also slated to have vertical louvers. Post-CPC Planning report is now recommending vertical louvers be installed on all billboard faces within 500 feet of open space and current residential uses. This fails to take into account future housing projects or other sensitive uses. All digital sign faces should include both horizontal and vertical louvers. \*The Program proposes four digital billboards located on four parcels that have also been identified by Metro as suitable for joint development agreements for housing projects (NFF-17, NFF-10, NFF-4, and NFF-5). Despite the Mayor's Emergency Declarations and Metro's commitment to prioritize housing, no analysis has been conducted to determine the best use of these parcels for housing vs. billboards. \*City proposes to locate 11 of 16 non-freeway facing digital billboards on the City's High Injury Network streets. This undermines Vision Zero. \*In August 2023, the City of La Mesa rejected digital billboards in a surprise vote because "a majority of the City Council felt the extra revenue wouldn't make up for potentially distracting drivers." This is not surprising because Traffic Safety studies from around the world have demonstrated that changing digital advertising signs are dangerous and distracting to drivers. Yet, Metro dismisses these facts relying instead on industry studies. \*The Program does not account for changes in the environment that might occur over time and does not include a provision to allow for new or updated information and studies. It fails to give the City Council authority to amend the standards, and other provisions to mitigate impacts on the visual environment, on residential or other properties, to reduce driver distraction or other hazards to traffic, or to otherwise protect and promote the public health, safety and welfare and apply these amended standards to existing signs and digital displays. Language to do so should be incorporated into the approval as recommended in May 25, 2021 CPC Letter of Determination. \*The Program is overwhelmingly opposed by 24 Neighborhood and Community Councils, 16 community/environmental organizations, and the SAG/AFTRA Union for its impacts on filming in LA. The

above list attempts to highlight some of the significant unmitigated impacts of the digital billboard Program that if not addressed will blight the City and endanger roadway users for decades to come. See Exhibit C: Site Plans/Renderings/Elevations & ZIMAS/Street View Maps.

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If the above button is not clickable or is broken, please copy and paste the entire URL (minus any spaces) into your browser window.

<https://cityclerk.lacity.org/Confirmation/?EmailConfirmation=2&c=EED7D6DC-48CC-4AE0-85ED-FA5F80A283C5&em=emyhope@yahoo.com>

If you DO NOT want to submit this public comment, simply ignore this E-mail and do not click on the link above.

Thank you,

Office of the City Clerk  
Council & Public Services Division  
City of Los Angeles

<https://clerk.lacity.org/council-and-public-services>

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#### 5 attachments

-  **Public Comments Not Uploaded CF# 22-0392 OPPOSE Metro Digital Billboard, Agenda Item # 10.eml**  
12K
-  **Public Comments Not Uploaded CF# 22-0392 OPPOSE Metro Digital Billboard, Agenda Item # 10.eml**  
33K
-  **Public Comments Not Uploaded Re: Online Developing App.eml**  
30K
-  **Public Comments Not Uploaded Public Comment -- Item 10 on PLUM Cmtee agenda 11/7/23 -- OPPOSED.eml**  
25K
-  **Public Comments Not Uploaded Fw: Public Comment Submission Validation - Council File No.: 22-0392.eml**  
28K



Daniel Luna <daniel.luna@lacity.org>

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## Public Comments Not Uploaded CF# 22-0392 OPPOSE Metro Digital Billboard, Agenda Item # 10

1 message

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**David McDonald** <david.a.mcdonald@gmail.com>

Tue, Nov 7, 2023 at 8:37 AM

Reply-To: clerk.plumcommittee@lacity.org

To: cd4.issues@lacity.org

Cc: clerk.plumcommittee@lacity.org, losangelesbeautiful@lacity.org, Jennifer Hull <jennifer.hull@lacity.org>

I strongly oppose digital billboards anywhere in the city of Los Angeles. Surely we don't need the ad revenue that badly? They are a blight, and once installed, will never be removed.

# Channel Law Group, LLP

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8383 Wilshire Blvd.  
Suite 750  
Beverly Hills, CA 90211

Phone: (310) 347-0050  
Fax: (323) 723-3960  
www.channellawgroup.com

JULIAN K. QUATTLEBAUM, III  
JAMIE T. HALL \*  
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760  
jamie.hall@channellawgroup.com

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\*ALSO Admitted in Texas

November 7, 2023

## **VIA ELECTRONIC MAIL**

Hon. Paul Krekorian, President  
Los Angeles City Council  
c/o City Clerk  
200 North Spring Street  
Los Angeles, CA 90012

Hon. Marqueece Harris-Dawson, Chair  
Planning and Land Use Committee  
200 North Spring Street  
Los Angeles, CA 90012  
([luigi.verano@lacity.org](mailto:luigi.verano@lacity.org))  
([clerk.plumcommittee@lacity.org](mailto:clerk.plumcommittee@lacity.org))  
(LACouncilComment.com)

RE: Opposition to Agenda Item #10 PLUM Meeting of November 7, 2023: Council File 22-0392, CPC-2022-5401-CA, CPC-2023-3653-ZC and ENV-2022-5286-EIR for Metro's Transportation Communications Network (TCN) – SCH #2022040363

Dear Council President Krekorian, Chair Harris-Dawson, Members of the Planning and Land Use Committee (“PLUM”), and City Clerk:

This firm represents the Coalition for a Beautiful Los Angeles.<sup>1</sup> As detailed in this comment letter, the Final Environmental Impact Report (“FEIR”) for the Transportation Communication Network (“TCN”) (“Project” or “proposed Project” or “TCN Program”)<sup>2</sup> is

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<sup>1</sup> The Coalition for a Beautiful Los Angeles (formerly Coalition to Ban Billboard Blight), established in 1986, is a non-profit dedicated to preserving, protecting and enhancing the scenic beauty and visual character of Los Angeles through education, outreach, and advocacy.

<sup>2</sup> The Draft and Final EIRs are available at:  
<https://www.dropbox.com/sh/713vazv99twwo2/AACpUExTf80X3bLjEuk2TQ4da?dl=0>

fatally flawed and the City’s process is also fatally flawed and does not comply with the requirements of the California Environmental Quality Act (“CEQA”).

As detailed in this comment letter, the City of Los Angeles (“City”) cannot proceed with the adoption of the proposed Ordinance(s)<sup>3</sup> without preparing a Subsequent EIR for the proposed Project and assuming Lead Agency status. The Ordinance(s) under consideration were not drafted or released to the public until nearly six months after the Los Angeles County Metropolitan Transportation Authority (“Metro”) FEIR for the Transportation Communications Network was certified by Metro. The potential impacts of these Ordinance(s) and the associated changes to the General Plan and various Specific Plans have therefore not received adequate environmental review. The existing environmental documentation for the proposed Project is insufficient for the actions before you. In the absence of the preparation of a Subsequent EIR, the approval of the Ordinance(s) and other actions before you would be in violation of CEQA.

## **1. THE PROPOSED PROJECT**

According to DEIR page II-1:

### **1. Project Summary**

The Los Angeles County Metropolitan Transportation Authority (Metro) proposes to implement the Transportation Communication Network (TCN) Program (Project or TCN Program), which would provide a network of structures with digital displays (TCN Structures) that would incorporate intelligent technology components to promote roadway efficiency, improve public safety, augment Metro’s communication capacity, provide for outdoor advertising where revenues would fund new and expanded transportation programs consistent with the goals of the Metro 2028 Vision Plan, and result in an overall reduction in static signage displays throughout the City of Los Angeles (City). Implementation of the Project would include the installation of up to 34 Freeway-Facing TCN Structures and 22 Non-Freeway Facing TCN Structures all on Metro-owned property. The total maximum amount of digital signage associated with the TCN Structures would be up to approximately 55,000 square feet. As part of TCN Program, a take-down component would be implemented including the removal of at least 110,000 square feet (2 to 1 square footage take-down ratio) of existing off-premise static displays. Signage to be removed would include, at a minimum approximately 200 off-premise static displays located within the City of Los Angeles.

As part of the Project, the City must amend the City’s sign regulations in Chapter I of the Los Angeles Municipal Code (the Zoning Code) to create a mechanism to review and approve the TCN Structures (Zoning

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<sup>3</sup> The latest version of the Ordinance(s), dated September 14, 2023, is available at: [https://clkrep.lacity.org/onlinedocs/2022/22-0392\\_misc\\_1\\_11-02-23.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-0392_misc_1_11-02-23.pdf)

Ordinance) and associated static display take-down program. The Zoning Ordinance regulations would generally affect the location, design, operations, take-down program and community benefits of the TCN Structures. General digital display and illumination standards would be adopted to support the implementation of the TCN Structures, including but not limited to, an 8-second refresh rate for the digital displays as well as a limit of 6,000 candelas during daytime and 300 candelas during nighttime for the digital displays. **The Zoning Ordinance, and other potential associated Zoning Code and General and/or Specific Plan amendments**, would create a new class of signage for the TCN Structures given their unique attributes and intelligent technology. However, due to its inclusion of off-premise advertising, an exception to the City's general ban on new off-premise signs outside of Sign Districts, Specific Plans, and Supplemental Use Districts would be needed. Importantly, the Zoning Ordinance would not authorize any signage beyond the potential 56 TCN Structures on Metro-owned property identified in this Project Description. (Emphasis added).

According to DEIR page II-17 to 18:

### **5. Requested Permits and Approvals**

Discretionary entitlements, reviews, permits and approvals required to implement the Project include, but are not necessarily limited to, the following:

- City adoption of Ordinance Amending Chapter I of the Los Angeles Municipal Code to authorize TCN Structures (Zoning Ordinance), including takedown requirements; and
- **City adoption of any other necessary LAMC and General and/or Specific Plan amendments to provide for the implementation of the TCN Program.**
- Issuance of a Coastal Development Permit by the California Coastal Commission and/or City for Site Locations FF-29 and FF-30.
- Other Metro and City discretionary and/or ministerial permits and approvals that may be deemed necessary, including, but not limited to, temporary lane closure permits, demolition/removal permits, grading permits, and sign approvals. (Emphasis added)

According to the Addendum to the EIR prepared by the City, the number of TCN Structures has been reduced from 56 to 49 as part of the Modified Project under consideration by the City Council via the Ordinance(s). In order to implement the Project, Council is being asked to approve Ordinance(s) containing a number of zoning code amendments, the details of which are of substantial importance and were not known at the time the EIR was certified as complete. The City Council has not been asked to consider any amendments to Specific Plans or the General Plan.

## 2. PROJECT HISTORY

- On **December 8, 2021**, City Council authorized the City Administrative Officer (CAO) to execute a Memorandum of Agreement (MOA) between the City of Los Angeles and Metro that would allow for the development of Metro’s Transportation Communication Network digital display offsite sign project.<sup>4</sup>
- City Council approved the MOA in the 2021/2022 budget, signed and executed the contract agreement (MOA C-139852) on **February 3, 2022**.<sup>5</sup> The contract allows for the City and Metro to split the revenues from off-site advertising in a 50/50 split.<sup>6</sup> Paragraph 4.1.1 of the contract also specifies Metro as the Lead Agency for preparation of the EIR for the Project.<sup>7</sup>
- On **April 5, 2022**, a motion was introduced instructing the Department of City Planning, with the assistance of the City Attorney, to prepare and present an Ordinance(s) to allow off-site digital signs that are part of Metro’s TCN Program.<sup>8</sup>
- On **April 18, 2022** Metro issued a Notice of Preparation (“NOP”) of a Draft Environmental Impact Report<sup>9</sup> (“DEIR”) and Initial Study.<sup>10</sup> In addition to the Initial Study, and NOP issuance, a Scoping meeting was held. As shown in DEIR Appendix A, the only comment letters received from the City of Los Angeles on the NOP were a letter from Councilmember Mike Bonin dated June 1, 2022 expressing concerns about the proposed Project and the potential for impacts,<sup>11</sup> and an email from Albert Lew of the Los Angeles Bureau of Sanitation Wastewater Engineering Services Division dated June 2, 2022 asking if a response to the NOP from LASAN was still needed.<sup>12</sup>

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<sup>4</sup> PLUM Staff Report, PDF page 4. The PLUM Staff Report is available at: [https://clkrep.lacity.org/online/docs/2022/22-0392\\_misc\\_300\\_10-26-23.pdf](https://clkrep.lacity.org/online/docs/2022/22-0392_misc_300_10-26-23.pdf)

<sup>5</sup> PLUM Staff Report, PDF page 90. The MOA is included in Plum Staff Report Exhibit B. The Council motion is available at: [https://clkrep.lacity.org/online/docs/2022/22-0392\\_mot\\_4-05-22.pdf](https://clkrep.lacity.org/online/docs/2022/22-0392_mot_4-05-22.pdf)

<sup>6</sup> PLUM Staff Report, PDF page 8

<sup>7</sup> PLUM Staff Report, PDF page 83 showing Metro designated as Lead Agency in MOA.

<sup>8</sup> PLUM Staff Report, PDF page 8

<sup>9</sup> A copy of the NOP is available at:

[https://www.dropbox.com/sh/713vazv99twwo2/AABY2hlrLn1VKf1Pid12eKJa/EIR%20Scoping/NOP?dl=0&preview=Notice+of+Preparation+\(English\).pdf&subfolder\\_nav\\_tracking=1](https://www.dropbox.com/sh/713vazv99twwo2/AABY2hlrLn1VKf1Pid12eKJa/EIR%20Scoping/NOP?dl=0&preview=Notice+of+Preparation+(English).pdf&subfolder_nav_tracking=1)

<sup>10</sup> A copy of the NOP is available at:

[https://www.dropbox.com/sh/713vazv99twwo2/AABY2hlrLn1VKf1Pid12eKJa/EIR%20Scoping/NOP?dl=0&preview=Transportation+Communication+Network+Initial+Study+\(April+2022\).pdf&subfolder\\_nav\\_tracking=1](https://www.dropbox.com/sh/713vazv99twwo2/AABY2hlrLn1VKf1Pid12eKJa/EIR%20Scoping/NOP?dl=0&preview=Transportation+Communication+Network+Initial+Study+(April+2022).pdf&subfolder_nav_tracking=1)

<sup>11</sup> See DEIR Appendix A, beginning on PDF page 86.

<sup>12</sup> See DEIR Appendix A, beginning on PDF page 90.

- On **June 28, 2022**, Los Angeles City Council adopted an amended motion (CF-22-0392) instructing the Department of City Planning to draft an amendment to the Zoning Code to permit digital signage related to the TCN Project.
- The DEIR<sup>13</sup> was circulated for public review **from September 9, 2022 through October 24, 2022**. The DEIR was published on Metro’s website and at fifteen public libraries. Metro also conducted public outreach that consisted of publication in the LA Times newspaper, mailing out 17,247 information postcards and sending 250,000 emails. Metro held two public hearings on October 6, 2022 and October 7, 2022.<sup>14</sup>
- On **January 26, 2023**, Metro’s Board certified the Final EIR (“FEIR”) for the TCN Program (“Certified FEIR”), and approved the TCN Program with minor changes to the program as analyzed in the Certified FEIR.<sup>15</sup>
- On **February 28, 2023 and March 1, 2023** respectively, lawsuits were brought challenging Metro’s EIR for the TCN Program by the Coalition for a Scenic Los Angeles, now doing business as Coalition for a Beautiful Los Angeles (Case No. 23STCP00626) and Citizens for a Better Los Angeles (Case No. 23STCP00670). That litigation is ongoing.
- **A draft of the proposed Metro TCN Ordinance(s) was first released to the public on June 14, 2023 (PLUM Staff Report, Exhibit D), nearly six months after certification of the Final EIR.**
- After the release of the draft proposed Ordinance(s), numerous written public comments were submitted on the draft Ordinance(s), and a public hearing occurred on **July 12, 2023**.<sup>16</sup> The City received a substantial number of comments raising concerns with the draft Ordinance(s).<sup>17</sup> Those comments are incorporated herein by reference and are available from the City.
- Since subsequent to the Metro Board’s adoption of the FEIR, the proposed Project was modified as part of the City’s consideration of the Ordinance(s) for the TCN Program, **in August 2023** an Addendum<sup>18</sup> to the previously Certified FEIR (contained in PLUM Staff Report Exhibit G) was prepared by the City to include minor modifications and clarifications to the Certified EIR Final EIR. According to PLUM Staff Report, PDF page

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<sup>13</sup> The Draft EIR is available at:

<https://www.dropbox.com/sh/713vazv99twwo2/AACpUEXtF80X3bLjEuk2TQ4da?dl=0>

See also: <https://www.metro.net/projects/transportation-communication-network/#documents>

<sup>14</sup> PLUM Staff Report, PDF page 24

<sup>15</sup> PLUM Staff Report, PDF page 24

<sup>16</sup> PLUM Staff Report, PDF page 18

<sup>17</sup> PLUM Staff Report, PDF pages 26 - 29

<sup>18</sup> The Addendum is also available at: [https://clkrep.lacity.org/onlinedocs/2022/22-0392\\_misc\\_400\\_10-26-23.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-0392_misc_400_10-26-23.pdf)

24, the changes addressed in the Addendum only considered the following Project modifications:<sup>19</sup>

The project modifications include: reducing the total number of TCN Structures from 56 to 49, reducing the number of digital displays from 97 to 86, making minor height revisions for three TCN Structures, a revision to the dimensions for one TCN Structure (sign area would remain the same), changing the hours of operation from 7 a.m. to 12 a.m. daily to 5 a.m. to 12 a.m. daily, modification of the static signage reduction requirements, and modification to the assessor parcel numbers (APNs) for 21 TCN Structures. The updates to the APNs do not reflect any changes in the general locations of the TCN Structures, but instead, correctly identify the APNs as the location analyzed in the Certified Final EIR, or would allow for minor adjustments in the placement of the proposed TCN Structures.

- On **August 31, 2023** The City Planning Commission received a letter from Metro’s legal counsel Sheppard Mullin requesting changes to the draft Ordinance(s).<sup>20</sup>
- Significant revisions were made to the Metro TCN Ordinance(s) (see PLUM Staff Report, pages 18-19 and PLUM Staff Report Exhibit E) and Revised Proposed Ordinance(s) were issued dated **September 1, 2023** (PLUM Staff Report Exhibit E).
- On **October 26, 2023** the Los Angeles City Planning Commission issued a Letter of Determination which:<sup>21</sup>

1. **Found**, based on the independent judgment of the decision maker, after consideration of the whole of the administrative record, the Project was assessed in the previously certified Environmental Impact Report No. ENV-2022-5286-EIR (State Clearinghouse No. 2022040363), certified by the Los Angeles County Metropolitan Transportation Authority (Metro) Board of Directors on January 26, 2023; and pursuant to CEQA Guidelines, Sections 15162 and 15164 and the Addendum, dated August 2023, that no major revisions to the EIR are required and no subsequent EIR or negative declaration is required for approval of the Project;
2. **Approved and Recommended** that City Council **adopt** the proposed Ordinance, dated September 14, 2023, as revised by the City Planning Commission to include:

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<sup>19</sup> Detailed explanation of modifications to the Project is included in the Addendum attached to the PLUM Staff Report as Exhibit G.

<sup>20</sup> PLUM Staff Report, PDF pages 595-641

<sup>21</sup> The City Planning Commission’s Report is available at:  
[https://clkrep.lacity.org/onlinedocs/2022/22-0392\\_misc\\_3\\_11-02-23.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-0392_misc_3_11-02-23.pdf)

The Letter of Determination is Available at:  
<https://planning.lacity.org/pdiscaseinfo/document/MTAyODc0/fe3b456d-e5a5-4f0e-9fa7-879f1ff43502/pdd>

- a. A minimum distance requirement between signs resulting in the removal of one sign (APN: 5409021902);
  - b. Removal of two signs due to proximity to a State Park (Assessor's Parcel Number: 5436033906, APN: 5442001900);
  - c. A public art requirement for specific single-faced TCN structures; and
  - d. Changes in the takedown provisions relative to the building permit requirement and the number of signs to be removed prior to the approval of Freeway Facing sign structures;
3. **Approved and Recommended** that the City Council **adopt** the Zone Change to permit the establishment of a contiguous and non-contiguous Supplement Use District, called the Transportation Communication Network, on property owned by Metro, as revised by the City Planning Commission to remove three proposed locations (APN: 5436033906; and APNs: 5442001900 and 5409021902);
  4. **Recommended** that the City Council **instruct** the City Attorney to incorporate the proposed amendments herein to Article 8 of Chapter 1A (New Zoning Code) as part of the ongoing Form and Legality review underway on CPC-2014-1582-CA and Council File 22-0617 for consideration by the City Council before final adoption;
  5. **Adopted** the Staff Recommendations Report as the Commission's Report on the subject; and
  6. **Adopted** the attached Amended Findings.
- On November 7, PLUM is scheduled to consider the proposed Ordinance(s). Specifically, PLUM is being asked to:<sup>22</sup>

Consider:

1. CPC-2022-5401-CA - Code Amendment (CA); Supplemental Use District (SUD); Final Environmental Impact Report and Addendum (FEIR); and Mitigation Monitoring Program (MMP) (Note: Please note that the CA Action will necessitate the preparation of a draft ordinance by the City Attorney.)
2. CPC-2023-3653-ZC - Zone Change (ZC); Final Environmental Impact Report and Addendum (FEIR); and Mitigation Monitoring Program (MMP) (Note: Please note that the ZC Action will not necessitate the preparation of a draft ordinance by the City Attorney.)

PLUM is being asked to recommend the following actions to the City Council:<sup>23</sup>

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<sup>22</sup> [https://clkrep.lacity.org/onlinedocs/2022/22-0392\\_misc\\_11-02-23.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-0392_misc_11-02-23.pdf)

Agenda available at: <https://lacity.primegov.com/Portal/Meeting?meetingTemplateId=121107>

<sup>23</sup> Ibid.

**Updated Recommendation to City Council:**

(Note: This supersedes the recommendation in the Transmittal Form dated October 26, 2023.)

1. **Found**, based on the independent judgment of the decision maker, after consideration of the whole of the administrative record, the project was assessed in the previously certified Environmental Impact Report No. ENV-2022-5286-EIR (State Clearinghouse No. 2022040363) and Mitigation Monitoring Reporting Program (MMRP) dated November 2022, certified by the Los Angeles County Metropolitan Transportation Authority (Metro) Board of Directors on January 26, 2023 and pursuant to CEQA Guidelines, Sections 15162 and 15164 and the Addendum, dated August 2023, that no major revisions to the EIR are required and no subsequent EIR or negative declaration is required for approval of the project; and all sign structures and sign faces permitted pursuant to the Metro TCN Ordinance must comply with all project design features and mitigation measures identified in the certified EIR and referenced in the MMRP;
2. **Approved and Recommended** that City Council adopt the proposed Ordinance, dated September 14, 2023, as revised by the City Planning Commission to include:
  - a. a minimum distance requirement between signs resulting in the removal of one sign (APN: 5409021902);
  - b. removal of two signs due to proximity to a State Park (APN: 5436033906, APN: 5442001900);
  - c. a public art requirement for specific single-faced TCN structures; and
  - d. changes in the takedown provisions relative to the building permit requirement and the number of signs to be removed prior to the approval of Freeway Facing sign structures;
- **Approved and Recommend** that the City Council adopt the Zone Change to permit the establishment of a contiguous and non-contiguous Supplemental Use District, called the Transportation Communication Network, on property owned by Metro, as revised by the City Planning Commission to remove three proposed locations (APNs: 5436033906; APN: 5442001900, 5409021902);
- **Recommended** that the City Council instruct the City Attorney to incorporate the proposed amendments herein to Article 8 of Chapter 1A (New Zoning Code) as part of the ongoing Form and Legality review underway on CPC-2014-1582-CA and Council File 22-0617 for consideration by the City Council before final adoption;
- **Adopted** the Staff Recommendation Report as the Commission’s Report on the subject; and

- **Adopted** the amended Findings.

### 3. **IMPROPER PRE-COMMITMENT TO THE PROJECT PRIOR TO CEQA COMPLIANCE**

Prior to initiating preparation of the EIR, both the City and Metro engaged in actions that predisposed the two agencies to approval of the proposed Project. Prior to initiating preparation of the EIR for this Project, Metro and the City of Los Angeles (“City”) entered into a Privileged & Confidential Memorandum of Agreement (“MOA”) dated January 12, 2022.<sup>24</sup> Although the agreement specifies CEQA compliance, the agreement and the various actions taken by the two agencies essentially as a practical and financial matter, have committed the two agencies to the Project.<sup>25</sup> As detailed in *Save Tara v. City of West Hollywood*, 45 Cal.4<sup>th</sup> 116 (Cal. 2008), which dealt with public-private, rather than public-public agreements:

A CEQA compliance condition can be a legitimate ingredient in a preliminary public-private agreement for exploration of a proposed project, but if the agreement, viewed in light of all the surrounding circumstances, commits the public agency as a practical matter to the project, the simple insertion of a CEQA compliance condition will not save the agreement from being considered an approval requiring prior environmental review. . .

A public entity that, in theory, retains legal discretion to reject a proposed project may, by executing a detailed and definite agreement . . . and by lending its political and financial assistance to the project, have as a practical matter committed itself to the project. When an agency has not only expressed its inclination to favor a project, but has increased the political stakes by publicly defending it over objections, putting its official weight behind it, devoting substantial public resources to it, and announcing a detailed agreement to go forward with the project, the agency will not be easily deterred from taking whatever steps remain toward the project’s final approval.

As part of the MOA, the City agreed that:<sup>26</sup>

**4.1.2 Implementation.** The implementation of this Agreement shall be contingent upon City enacting legislation that allows off-site advertising to be displayed on the TCN Structures and subject to any design and development standards, including any Mitigation Measures. LACMTA’s CEQA reports and analysis for the project shall encompass any City legislative changes needed to allow for the furtherance of this

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<sup>24</sup> [https://clkrep.lacity.org/onlinecontracts/2022/C-139852\\_c\\_2-3-22.pdf](https://clkrep.lacity.org/onlinecontracts/2022/C-139852_c_2-3-22.pdf)

<sup>25</sup> We request that the full history of actions by Metro and the City of Los Angeles regarding this Project be included in the administrative record.

<sup>26</sup> PLUM Staff Report, PDG page 83 (Exhibit B).

TCN Program. **The City agrees to pay for fifty percent (50%) of LACMTA's (or its agent's) cost of the CEQA Compliance Document(s) in the event of a "no build" alternative scenario as described under Section 4.1.3(i). The City's financial obligation under the "no build" alternative scenario is not expected to exceed \$1,000,000.** Any amount over \$1,000,000 shall be subject to the City reviewing and approving further costs prior to their programming and commitment by LACMTA. (Emphasis added).

The MOA thus imposes a financial penalty on the City should the "no build" alternative be selected. This penalty would also accrue should the City fail to approve the required Ordinance(s) and permits for the Project. This condition of the agreement thus represents improper pre-commitment of the City to the Project and has thus prejudiced the ability of the City to either challenge the EIR for the Project, acknowledge impacts of the Project not addressed in the EIR, or opt to oppose implementation of the Project and deny the Project.<sup>27</sup>

#### **4. THE CITY HAS FAILED TO COMPLY WITH ITS RESPONSIBILITIES AS A RESPONSIBLE AGENCY**

As previously noted, DEIR page II-17 indicates that the requested permits and approvals for the Project include:

- City adoption of Ordinance Amending Chapter 1 of the Los Angeles Municipal Code to authorize TCN Structures (Zoning Ordinance), including takedown requirements; and
- City adoption of any other necessary LAMC and General and/or Specific Plan Amendments to provide for the implementation of the TCN Program.
- Issuances of a Coastal Development Permit by the California Coastal Commission and/or City for Site Locations FF-29 and FF-30.
- Other Metro and City discretionary and/or ministerial permits and approvals that may be deemed necessary, including, but not limited to, temporary lane closure permits, demolition/removal permits, grading permits, and sign approvals.

Pursuant to the MOA, the City has opted to act as a Responsible Agency<sup>28</sup> for the Project despite the fact that the City should have acted as the Lead Agency, and Metro is, in essence, the

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<sup>27</sup> This is an example of terms in the MOA that result in a defacto pre-commitment. This is not the only term to so constitute.

<sup>28</sup> "If an agency's approval is required for any activity "integral to the project" and the agency could, in its discretion, deny approval, then that agency is a responsible agency under CEQA. (*Lexington Hills Assn. v. State of California* (1988) 200 Cal.App.3d 415, 431.)" The City's approval of the proposed Ordinance(s) is integral to the project. It is important that the City recognize that even as a Responsible Agency it has the power to deny approval.

project applicant. The TCN Program as described in the EIR lies entirely within the boundaries of the City of Los Angeles, clearly within the City's jurisdiction. The TCN Program is dependent upon: the Los Angeles City Council's final approval, promulgation of implementing Ordinance(s), changes to the City's zoning code, and changes to specific plans and community plans; and issuance of permits. With the exception of issuance of any required Coastal Development Permit, all of the key discretionary approvals are City approvals. The City therefore should have functioned as the Lead Agency for preparation of the EIR.

Moreover, CEQA strongly prefers to confer lead agency status on an "agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose" when the project will be carried out by a nongovernmental entity such as a billboard company under the direction of Metro. (CEQA Guidelines, § 15051(b)(1).) Metro is an agency with a single purpose and it does not have general governmental powers as the City of Los Angeles does, for example, to grant relief from City land use regulations, or to create sign districts and therefore, the City of Los Angeles should be the Lead Agency for this project. The City's failure to act as Lead Agency has proved prejudicial as it has resulted in the crafting of zoning Ordinance(s) required to implement the Project which have not been adequately analyzed in Metro's EIR, because they were not developed until more than six months after certification of the EIR.

Not only has the City failed to perform its duty as the Lead Agency for the EIR for the Project, it has also failed in its responsibility in its selected role as a Responsible Agency. CEQA Guidelines Section 15096 specifies the process for a Responsible Agency. Guidelines Section 15096 reads in part:

#### **15096. PROCESS FOR A RESPONSIBLE AGENCY**

- (a) **General. A Responsible Agency complies with CEQA** by considering the EIR or Negative Declaration prepared by the Lead Agency and **by reaching its own conclusions on whether and how to approve the project involved.** This section identifies the special duties a public agency will have when acting as a Responsible Agency.
- (b) **Response to Consultation. A Responsible Agency shall respond to consultation by the Lead Agency in order to assist the Lead Agency in preparing adequate environmental documents for the project.** By this means, the Responsible Agency will ensure that the documents it will use will comply with CEQA.
  - (1) In response to consultation, a Responsible Agency **shall** explain its reasons for recommending whether the Lead Agency should prepare an EIR or Negative Declaration for a project. Where the Responsible Agency disagrees with the Lead Agency's proposal to prepare a Negative Declaration for a project, the Responsible Agency should identify the significant environmental effects which it believes could result from the project and recommend either that an EIR be prepared

or that the project be modified to eliminate the significant effects.

- (2) As soon as possible, but not longer than 30 days after receiving a Notice of Preparation from the Lead Agency, **the Responsible Agency shall send a written reply by certified mail** or any other method which provides the agency with a record showing that the notice was received. **The reply shall specify the scope and content of the environmental information which would be germane to the Responsible Agency's statutory responsibilities in connection with the proposed project.** The Lead Agency shall include this information in the EIR.
- (c) Meetings. **The Responsible Agency shall designate employees or representatives to attend meetings requested by the Lead Agency to discuss the scope and content of the EIR.**
- (d) Comments on Draft EIRs and Negative Declarations. **A Responsible Agency should review and comment on draft EIRs** and Negative Declarations for projects which the Responsible Agency would later be asked to approve. Comments should focus on any shortcomings in the EIR, the appropriateness of using a Negative Declaration, or on additional alternatives or mitigation measures which the EIR should include. The comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency. Comments shall be as specific as possible and supported by either oral or written documentation.
- (e) Decision on Adequacy of EIR or Negative Declaration. If a Responsible Agency believes that the final EIR or Negative Declaration prepared by the Lead Agency is not adequate for use by the Responsible Agency, the Responsible Agency must either:
  - (1) Take the issue to court within 30 days after the Lead Agency files a Notice of Determination;
  - (2) Be deemed to have waived any objection to the adequacy of the EIR or Negative Declaration;
  - (3) Prepare a subsequent EIR if permissible under Section 15162; or
  - (4) Assume the Lead Agency role as provided in Section 15052(a)(3).

As shown in Appendix A of the DEIR, the City failed to respond to the NOP for the Project, despite the fact that a response is mandatory for a Responsible Agency. As shown in DEIR Appendix A, the only comment letters received from the City of Los Angeles included a

letter from Councilmember Mike Bonin dated June 1, 2022 expressing concerns about the proposed Project and the potential for impacts,<sup>29</sup> and an email from Albert Lew of the Los Angeles Bureau of Sanitation Wastewater Engineering Services Division dated June 2, 2022 asking if a response to the NOP from LASAN was still needed.<sup>30</sup> No formal comment letter from the City was sent in response to the NOP.

The EIR fails to document any meetings between the Lead Agency and the City regarding the scope and content of the EIR and the accuracy of the analysis contained therein, or whether the City designated employees to participate in the CEQA process.

As shown in the Final EIR for the Project, the only comment letter received from the City on the DEIR was from Councilmember Paul Koretz.<sup>31</sup> No formal comment letter was sent by the City on the DEIR; the City thus failed to comment on the DEIR.

As shown in the Project History above, the FEIR for the Project was certified on January 26, 2023. The draft of the required implementing Ordinance(s) were not made public until June 14, 2023. Following release of the draft Ordinance(s), the City released an Addendum in August of 2023 to address changes to the Project, but not the specifics of the Ordinance(s). The City Planning Commission did not opine on the validity of the FEIR until October 26, 2023, long after there was any ability to challenge the document in court. The FEIR is being considered by PLUM on November 7, 2023 and has yet to be considered by City Council. The City thus failed to review and consider the adequacy of the FEIR in a timely manner and has failed in its duty as a Responsible Agency, and in its duty to the citizenry of the City.

## **5. THE PROJECT DESCRIPTION IN THE EIR IS INADEQUATE**

The Project Description in the DEIR provides only the most general of descriptions of the zoning Ordinance(s) required for the Project, stating on DEIR page II-8:

### **(2) Zoning Ordinance**

The TCN Program is contingent on the adoption of a Zoning Ordinance by the City. The proposed Zoning Ordinance would amend the City's sign regulations in Chapter I of the Los Angeles Municipal Code (LAMC) to authorize the TCN Structures. The adoption of a Zoning Ordinance includes the drafting of said ordinance, a public hearing, review and recommendation by the City's City Planning Commission, and consideration and adoption by the City Council. The Zoning Ordinance would create a mechanism for the review and approval of the TCN Structures. The Zoning Ordinance would not authorize new signage other than the TCN Structures. The Zoning Ordinance would address the time, manner, and place aspects of the TCN Program, including the allowable locations, size and height limitations, urban design requirements, and

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<sup>29</sup> See DEIR Appendix A, beginning on PDF page 86.

<sup>30</sup> See DEIR Appendix A, beginning on PDF page 90.

<sup>31</sup> FEIR page II-2.

applicable community benefits including take-down requirements for the removal of existing static off-premise signs. The Zoning Ordinance would not otherwise change the existing regulations for signs, including off-site and digital signage, in the City. Based on the above, the anticipated development from the Zoning Ordinance would be limited to the 56 TCN Structures as described above and in this Chapter 3, as well as the take-down of approximately 200 static displays located within the City.

The Project Description in the EIR and the EIR's impact analysis are deficient because they do not address the details of the September 14, 2023 implementing Ordinance(s) before PLUM and Council or the proposed Project's required General Plan and Specific Plan amendments, and changes to community design overlays and other plans and their potential impacts. As noted in the PLUM Staff Report:<sup>32</sup>

One of the key aspects of the Ordinance is how it relates to the regulations in the Zoning Code and New Zoning Code, when applicable, as well as to other applicable SUDs and specific plans. The Ordinance will override most sign regulations within the Zoning Code and New Zoning Code, and any underlying zoning that would otherwise not permit this type of signage or project. It will not override any adopted Historic Preservation Overlay Zone (HPOZ), and, in areas subject to the New Zoning Code, it will not also not override conflicting provisions in Conservation Districts. **However, it will supersede all current and future specific plans, community design overlays and transit corridors plans. The following list identifies current specific plans, SUD, and other overlays that will be overridden to realize the proposed TCN Project:** (Emphasis added).

- Alameda Specific Plan
- Central City West Specific Plan
- Cornfield Arroyo Secco Specific Plan
- Crenshaw Corridor Specific Plan
- LAX Specific Plan
- LAX Coastal Transportation Corridor
- Vermont/Western Neighborhood Plan Station Neighborhood Area Plan (SNAP)
- Exposition Transit Neighborhood Plan (Expo TNP)
- Little Tokyo Community Design Overlay
- Sun Valley Community Design Overlay
- Fletcher Square Community Design Overlay
- Cypress Park & Glassell Park Community Design Overlay
- West Adams-Baldwin Hills-Leimert Park Community Plan Implementation Overlay
- Westchester- Playa Del Rey Community Plan Implementation Overlay
- Sylmar Community Plan Implementation Overlay
- 15th Street Sign District

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<sup>32</sup> PLUM Staff Report, PDF page 11

The Ordinance will only supersede regulations that are related to the project and permissions granted for the TCN structures.

The EIR fails to analyze the potential impacts to all of these plans and overlays, addressing only the following (DEIR page IV.I-10):

The proposed Site Locations are located within 10 Specific Plans, including the Alameda District, Central City West, West Los Angeles Transportation Improvement and Mitigation Plan, Exposition Corridor Transit Neighborhood Plan, Los Angeles Coastal Transportation Corridor, Los Angeles International Airport Plan (LAX), South Los Angeles Alcohol Sales, Vermont/Western Station Neighborhood Area Plan, Cornfield/ Arroyo Seco, and Crenshaw Corridor. Of these, the Central City West, West LA Transportation Improvement Mitigation Plan, Exposition Corridor Transit Neighborhood Plan, LA Coastal Transportation Corridor, the Vermont/Western Station Neighborhood Plan, Cornfield Arroyo Seco, and Crenshaw Corridor Specific Plans have language that explicitly prohibits either pole signs, off-site commercial signage, or both.

“A total of 22 Community Plan Areas are proposed to have at least one TCN structure and digital display. The following table lays out the number of proposed structures and signs per Community Plan Area.”<sup>33</sup> The proposed Project thus results in zoning which is not consistent with these Community Plans.<sup>34</sup>

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<sup>33</sup> PLUM Staff report, PDF page 12

<sup>34</sup> Table reproduced from PLUM Staff report, PDF page 13.

Community Plan Area	No. of TCN Support Structures	No. of Digital Display Sign Faces	Total Sign Area per Community Plan Area
Arlota - Pacoima	2	4	2688 sf
Boyle Heights	4	8	5376 sf
Central City	3	5	2244 sf
Central City North	5	9	5832 sf
Encino - Tarzana	1	2	1344 sf
Granada Hills - Knollwood	1	2	1344 sf
Hollywood	2	4	1200 sf
Los Angeles International Airport	1	2	1344 sf
Northeast Los Angeles	4	8	5376 sf
North Hollywood - Valley Village	2	2	1344 sf
Palms - Mar Vista - Playa del Rey	1	2	1344 sf
Sherman Oaks - Studio City - Toluca Lake - Cahuenga Pass	3	4	1344 sf
Southeast Los Angeles	2	4	2688 sf
South Los Angeles	2	3	2016 sf
Silver Lake - Echo Park - Elysian Valley	1	2	1344 sf
Sun Valley - La Tuna Canyon	2	4	2688 sf
Sylmar	1	2	1344 sf
Van Nuys - North Sherman Oaks	2	3	900 sf
West Adams - Baldwin Hills - Leimert	2	3	900 sf
Westchester - Playa del Rey	3	6	4032 sf
West Los Angeles	4	5	2988 sf
Wilshire	1	2	600 sf
<b>Total Citywide</b>	<b>49</b>	<b>86</b>	<b>50,880 sf</b>

Both the Project Description and the impact analysis in the EIR for the Project are incomplete and inaccurate. The City cannot therefore certify the EIR for the Project in its current form. The Addendum prepared by the City addresses changes in the Project as detailed previously in this letter, but does not address the specifics of the Ordinance(s) and the resulting impacts which have not been adequately addressed in the EIR.

## 6. THE PROJECT DESCRIPTION IS NOT ACCURATE, STABLE OR FINITE

As detailed above, there have been changes made to the Project since certification of the FEIR, including changes in the number of TCN structures, operating hours, and the development of proposed Ordinance(s). In addition, it was not until October 30, 2023 that the City released a new Exhibit C<sup>35</sup> that shows the exact list and locations of signs with site and engineering renderings and photos of the locations, despite the fact that the public had been requesting this information for months. Project maps (Exhibit H) were not posted until November 2, 2023.<sup>36</sup>

<sup>35</sup> [https://clkrep.lacity.org/onlinedocs/2022/22-0392\\_misc\\_3100\\_10-30-23.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-0392_misc_3100_10-30-23.pdf)

<sup>36</sup> [https://clkrep.lacity.org/onlinedocs/2022/22-0392\\_misc\\_3000\\_10-30-23.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-0392_misc_3000_10-30-23.pdf)

This is information, which was not available at the time the EIR was certified, which is necessary for an understanding of impacts.

## 7. THE PROPOSED ORDINANCE(S) WILL RESULT IN ZONING WHICH IS INCONSISTENT WITH THE GENERAL PLAN AND WITH SPECIFIC PLANS

The City's proposed Ordinance(s) are inconsistent with a number of the Community Plans which form the Land Use Element of the City's General Plan as well as the Mobility Element of the General Plan. In addition, the proposed Ordinance(s) are inconsistent with a number of the City's Specific Plans. This is not allowed by State Law nor is the City's proposed process to subsequently bring the General Plan into conformance with this new zoning allowed by State Law.

A project in the City of Los Angeles is governed by three levels of local land use regulations:<sup>37</sup> a General Plan; potentially a Specific Plan; and the Zoning Ordinance. The City must adopt a comprehensive, long-term general plan for the physical development of the city. (*Gov. Code, § 65700; Beck Development Co. v. Southern Pacific Transportation Co. (1996) 44 Cal.App.4th 1160, 1195 (Beck Development).*) The general plan is a constitution for future development, located at the top of the hierarchy of local government law regulating land use. (*DeVita v. County of Napa (1995) 9 Cal.4th 763, 772-773; Foothill Communities Coalition v. City of Orange (2014) 222 Cal.App.4th 1302, 1310.*) After adoption of a general plan, a city may adopt a specific plan for the systemic implementation of the general plan for all or part of the city. (*Gov. Code § 65450; Beck Development Co., supra, 44 Cal.App.4th at p. 1196.*) No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan. (*Gov. Code, § 65454*) At the bottom of the land use regulation hierarchy is the zoning ordinance. A city controls the development and use of specific property within its jurisdiction through zoning regulations. (See 9 Miller and Starr, *Cal. Real Estate* (3d ed. 2011) Subdivisions, § 25.8, pp. 25-30-25-31.) The zoning ordinance must be consistent with any adopted specific plan. (*Gov. Code, § 65455; Beck Development, supra, 44 Cal.App.4th at p. 1196.*)

### **The Proposed Ordinance(s) Are Inconsistent With The General Plan**

The City is proposing to amend its zoning code to allow for the proposed Project in advance of amending its General Plan. According to the Staff Report prepared for PLUM:

The Los Angeles City Council (City Council) at its meeting on May 3, 2023, voted unanimously to approve the Downtown Community Plan and

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<sup>37</sup> Gov. Code, § 65700 (Deering, Lexis Advance through the 2023 Extra Session Ch 1, 2023 Regular Session Ch. 890) specifies:

- (a) This chapter shall not apply to a charter city, except to the extent that the same may be adopted by charter or ordinance of the city and except that charter cities shall adopt general plans in any case. General plans of a charter city shall be adopted by resolution of the legislative body of the city, or the planning commission if the charter so provides. These general plans shall contain the mandatory elements required by Article 5 (commencing with Section 65300) of Chapter 3 of this title.
- (b) Notwithstanding subdivision (a), paragraph (2) of subdivision (a) of Section 65400, Sections 65300.5, 65301.5, 65359, 65450, 65454, 65455, 65460.8, 65590, and 65590.1, and Article 10.6 (commencing with Section 65580) shall be applicable to charter cities.

the New Zoning Code (Chapter 1A of the Los Angeles Municipal Code). The New Code and Downtown Community Plan are currently being reviewed and finalized by the City Attorney, and once this form and legality process is complete, they will return to City Council for final approval and adoption, after which the New Zoning Code provisions will be in effect in the Downtown Community Plan Area. In order to ensure that the TCN SUD will be implemented in the Downtown Community Plan Area under the New Zoning Code, the enabling ordinance for the Metro TCN project includes amendments to not only current Zoning Code but also to New Zoning Code. **As future community plan updates are adopted under New Zoning Code rules, the New Zoning Code will extend to those areas as well, and the New Zoning Code version of the TCN SUD enabling ordinance language will also be necessary to implement the TCN SUD in those community plan areas as well.**<sup>38</sup> (Emphasis added).

This approach is inconsistent with Government Code §65860, which requires:

(a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974. A zoning ordinance shall be consistent with a city or county general plan only if both of the following conditions are met:

- (1) The city or county has officially adopted such a plan.
- (2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan.

(b) Any resident or property owner within a city or a county, as the case may be, may bring an action or proceeding in the superior court to enforce compliance with subdivision (a). Any such action or proceeding shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. No action or proceeding shall be maintained pursuant to this section by any person unless the action or proceeding is commenced and service is made on the legislative body within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance.

(c) In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.

(d) Notwithstanding Section 65803, this section shall also apply to a charter city.

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<sup>38</sup> PLUM Staff Report, PDF page 9

(Amended by Stats. 2018, Ch. 856, Sec. 6. (SB 1333) Effective January 1, 2019.)

As noted by the California Supreme Court in *City of Morgan Hill v. Bushy*, 5 Cal. 5<sup>th</sup> 1068:

Government Code section 65860, subdivision (a) requires zoning ordinances to “be consistent with the general plan of the county or city.” This provision renders invalid any change to the zoning ordinance that would make it inconsistent with the general plan, whether the change is made by a local government or a local initiative. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 544 (*Leshar*).) . . .

Nonetheless, a local zoning ordinance may temporarily differ from the general plan following a *general plan* amendment. The Government Code favors simultaneous modification of the general plan and the relevant zoning provisions. (§ 65862 [“It is the intent of the Legislature, in enacting this section, that local agencies shall, to the extent possible, concurrently process applications for general plan amendments and zoning changes which are needed to permit development so as to expedite processing of such applications”].) But this preference is not a requirement. (See *ibid.* [requiring the concurrent processing of general plan amendments and zoning changes “to the extent possible”].) So section 65860, subdivision (c) governs in circumstances where the zoning ordinance “becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan.” (§ 65860, subd. (c).) In such circumstances, “the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.” (*Ibid.*) This provision only applies to “zoning ordinances which were valid when enacted,” that is, were enacted before the general plan amendment and were consistent with the prior general plan. (*Leshar, supra*, 52 Cal.3d at p. 546.) The purpose of subdivision (c) “is to ensure an orderly process of bringing the regulatory law into conformity with a new or amended general plan, not to permit development that is inconsistent with that plan.” (*Ibid.*)

Furthermore, as noted by the California Supreme Court in *Leshar*:

Once the city has adopted a general plan, all zoning ordinances must be consistent with that plan, and to be consistent must be "compatible with the objectives, policies, general land uses, and programs specified in such a plan." (§ 65860, subd. (a)(ii).) . . .

**A zoning ordinance that is inconsistent with the general plan is invalid when passed** (*deBottari v. City Council* (1985) 171 Cal.App.3d 1204, 1212 [217 Cal.Rptr. 790]; *Sierra Club v. Board of Supervisors* (1981) 126 Cal.App.3d 698, 704 [179 Cal.Rptr. 261]) and one that was originally consistent but has become inconsistent must be brought into conformity with the general plan. (§ 65860.) The Planning and Zoning Law does not

contemplate that general plans will be amended to conform to zoning ordinances. The tail does not wag the dog. The general plan is the charter to which the ordinance must conform. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541) (Emphasis added).

Even with its incomplete analysis of land use impacts, DEIR page IV.I-25 acknowledges that the Project is inconsistent with the goals and policies of several Community Plans, stating on DEIR page IV.1-24 that:<sup>39</sup>

. . . due to the Project's inconsistencies with the goals and policies of the central City North, Central City, and North Hollywood-Valley Village Community Plans regarding historic resources and associated visual impacts resulting from Site Locations NFF-2, NFF-3, NFF-16 and NFF-21, and inconsistency with the Palms – Mar Vista – Del Rey Community Plan policy regarding placement of off-site commercial advertising in coastal areas resulting from Site Locations FF-29 and FF-30, the Project would substantially conflict with applicable goals, objectives, and policies set forth in the Community Plans and would, therefore, result in significant impacts.

Although according to Addendum page 6, TCN Structures FF-29, NFF-2, NFF-3, NFF-14, NFF-15, NFF-16, and NFF-21 have been eliminated by the City, FF-30 remains part of the Project<sup>40</sup> and would result in significant Community Plan consistency impacts. Thus, any Ordinance(s) which would allow for FF-30 is inconsistent with the General Plan and would be invalid.

DEIR Appendix I (on page 17) also acknowledges that the proposed Project is inconsistent with Policy 2.16 of the City of Los Angeles Mobility Plan 2035,<sup>41</sup> a required element of the General Plan, stating:

**Inconsistent.** Review of Appendix B indicates that the Site Locations NFF-7 and NFF-12 are located along a scenic highway as designated by the Appendix B Guidelines. In addition to their functions to improve the transportation system and provide communication during emergency events, the Proposed TCN structures would include off-premises advertising to fund new and expanded transportation programs. As such, the two Site Locations would be inconsistent with this policy.<sup>42</sup>

Page 168 of the Mobility Plan specifies:

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<sup>39</sup> Lack of Community Plan consistency includes, but is not limited to this example.

<sup>40</sup> See Draft Ordinance dated September 14, 2023, page 22, PDF page 22.

<sup>41</sup> The Mobility Element of the General Plan is available at: [https://planning.lacity.org/odocument/523f2a95-9d72-41d7-aba5-1972f84c1d36/Mobility\\_Plan\\_2035.pdf](https://planning.lacity.org/odocument/523f2a95-9d72-41d7-aba5-1972f84c1d36/Mobility_Plan_2035.pdf)

<sup>42</sup> NFF-7 is located at Venice Boulevard, 240 West of Robertson Boulevard per DEIR page IV.A-22. NFF-12 is located at the southeast corner of Crenshaw Boulevard and Exposition Boulevard per DEIR page IV-A-23.

#### 4. Signs / Outdoor Advertising

- a. Only traffic, informational, and identification signs shall be permitted within the public right-of-way of a Scenic Highway.
- b. Off-site outdoor advertising is prohibited in the public right-of-way of, and on publicly-owned land within five hundred feet of the center line of, a Scenic Highway.
- c. A standard condition for discretionary land use approvals involving parcels zoned for non-residential use located **within five hundred feet of the center line of a Scenic Highway shall be compliance with the sign requirements of the CR zone.**
- d. Designated Scenic Highways shall have first priority for removal of nonconforming billboards or signs. Such priority extends to properties located along, or within five hundred feet of the center line of, designated Scenic Highways. (Emphasis added).

Any Ordinance(s) which would allow for NFF-7 and NFF-12 is inconsistent with the General Plan Mobility Element and would therefore be invalid.

Not only are the land uses authorized by the proposed Ordinance(s) incompatible with some of the objectives, policies, general land uses, and programs specified in the General Plan, including the various community and specific plans, but the scheme to reconcile the proposed zoning Ordinance(s) with the General Plan will not result in the inconsistency being remedied within a reasonable time and, more importantly, is an impermissible case of the tail wagging the dog.<sup>43</sup> Even if it were permissible for the General Plan to be amended to conform to the proposed zoning Ordinance(s), there are 22 Community Plans that will require amendment as detailed in this letter. Given the pace at which the City has updated its Community Plans so far, as shown below, the inconsistencies between the zoning in the proposed Ordinance(s) and the Community Plans will not be remedied within a reasonable time given the pace at which the City develops and adopts Community Plan updates:

- Arleta-Pacoima Community Plan – last updated in 1996<sup>44</sup>
- Boyle Heights Community Plan – this plan is currently in the process of being updated.<sup>45</sup> On April 20, 2023 the City Planning Commission considered and recommended approval of the proposed update.<sup>46</sup>

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<sup>43</sup> For example, Government Code §65860.1 requires each city and county within the Sacramento-San Joaquin Valley to amend their zoning ordinance to be consistent with the general plan to achieve consistency within no more than 12 months.

<sup>44</sup> <https://planning.lacity.org/plans-policies/community-plan-area/arleta-pacoima>

<sup>45</sup> <https://planning.lacity.org/plans-policies/community-plan-area/boyle-heights>

<sup>46</sup> <https://planning.lacity.org/plans-policies/community-plan-update/boyle-heights-community-plan-update>

- Central City Community Plan - this plan is currently in the process of being updated.<sup>47</sup> On May 3, 2023 the City Council voted to approve the update with a number of follow-up items.<sup>48</sup>
- Central City North Community Plan - the current plan was adopted in 2000.<sup>49</sup>
- Encino-Tarzana Community Plan - the current plan was adopted in 1997.<sup>50</sup> The draft update has yet to be prepared.<sup>51</sup>
- Granada Hills – Knollwood Community Plan – the plan was last updated in 2015 and it is anticipated that the City will begin the plan update process in 2024.<sup>52</sup>
- Hollywood Community Plan – the current plan was adopted in 1998.<sup>53</sup> Council adopted an update on May 3, 2023 with follow-up recommendations. It is anticipated that it will take six months to a year to finalize the implementing ordinances.<sup>54</sup>
- Los Angeles International Airport Community Plan – refer to LAX Specific Plan.<sup>55</sup>
- Northeast Los Angeles Community Plan – this plan was last updated in 1999.<sup>56</sup>
- North Hollywood – Valley Village Community Plan – this plan was last updated in 1996.<sup>57</sup> “The multi-year update process began in July of 2018.”<sup>58</sup> The update (to the Southeast Valley Community Plan) which includes the: North Hollywood – Valley Village, Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass, and Van Nuys – North Sherman Oaks Community Plans.<sup>59</sup> The update is in the very early stages.<sup>60</sup>

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<sup>47</sup> <https://planning.lacity.org/plans-policies/community-plan-area/central-city>

<sup>48</sup> <https://planning.lacity.org/plans-policies/community-plan-update/downtown-los-angeles-community-plan-update>

<sup>49</sup> <https://planning.lacity.org/plans-policies/community-plan-area/central-city-north>

<sup>50</sup> <https://planning.lacity.org/plans-policies/community-plan-area/encino-tarzana>

<sup>51</sup> <https://planning.lacity.org/plans-policies/community-plan-update/southwest-valley-community-plans-update>

<sup>52</sup> <https://planning.lacity.org/plans-policies/community-plan-area/granada-hills-knollwood>

<sup>53</sup> <https://planning.lacity.org/plans-policies/community-plan-area/hollywood>

<sup>54</sup> <https://planning.lacity.org/plans-policies/community-plan-update/hollywood-community-plan-update>

<sup>55</sup> [https://planning.lacity.org/odocument/8c371dd7-15a2-4d05-a8ee-25a78a6362d4/13-0285\\_ord\\_182542.pdf](https://planning.lacity.org/odocument/8c371dd7-15a2-4d05-a8ee-25a78a6362d4/13-0285_ord_182542.pdf)

<sup>56</sup> <https://planning.lacity.org/plans-policies/community-plan-area/north-los-angeles>

<sup>57</sup> <https://planning.lacity.org/plans-policies/community-plan-area/north-hollywood-valley-village>

<sup>58</sup> <https://planning.lacity.org/plans-policies/community-plan-update/southeast-valley-community-plan-update>

<sup>59</sup> <https://planning.lacity.org/plans-policies/community-plan-update/southeast-valley-community-plan-update#about>

<sup>60</sup> <https://planning.lacity.org/plans-policies/community-plan-update/southeast-valley-community-plan-update#about>

- Palma – Mar Vista – Play del Rey Community Plan – this plan was last updated in 1997.<sup>61</sup> It is currently undergoing an update (as the Westside Community Plan which includes West Los Angeles, Venice, Palms – Mar Vista – Del Rey and Westchester – Playa del Rey).<sup>62</sup> It is still in the development phase.<sup>63</sup>
- Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass Community Plan - this plan was last updated in 1998<sup>64</sup> and is currently being updated. “The multi-year update process began in July of 2018.”<sup>65</sup> The update (to the Southeast Valley Community Plan) which includes the: North Hollywood – Valley Village, Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass, and Van Nuys – North Sherman Oaks Community Plans.<sup>66</sup> The update is in the very early stages.<sup>67</sup>
- Southeast Los Angeles Community Plan – this plan “was recently updated in 2017.”<sup>68</sup>
- South Los Angeles Community Plan - this plan “was recently updated in 2017.”<sup>69</sup>
- Silver Lake – Echo Park – Elysian Valley Community Plan – this plan was last updated in 2004.<sup>70</sup>
- Sun Valley – La Tuna Canyon Community Plan – the plan was last updated in 1999.<sup>71</sup>
- Sylmar Community Plan – this plan was last updated in 2015.<sup>72</sup>
- Van Nuys – North Sherman Oaks Community Plan – this plan was last updated in 1998.<sup>73</sup> It is being updated as part of the Southwest Valley Community Plan Update. As

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<sup>61</sup> <https://planning.lacity.org/plans-policies/community-plan-area/palms-mar-vista-del-rey>

<sup>62</sup> <https://planning.lacity.org/plans-policies/community-plan-update/planning-westside>

<sup>63</sup> <https://planning.lacity.org/plans-policies/community-plan-update/planning-westside#events>

<sup>64</sup> <https://planning.lacity.org/plans-policies/community-plan-area/sherman-oaks-studio-city-toluca-lake-cahuenga-pass>

<sup>65</sup> <https://planning.lacity.org/plans-policies/community-plan-update/southeast-valley-community-plan-update>

<sup>66</sup> <https://planning.lacity.org/plans-policies/community-plan-update/southeast-valley-community-plan-update#about>

<sup>67</sup> <https://planning.lacity.org/plans-policies/community-plan-update/southeast-valley-community-plan-update#about>

<sup>68</sup> <https://planning.lacity.org/plans-policies/community-plan-area/southeast-los-angeles>

<sup>69</sup> <https://planning.lacity.org/plans-policies/community-plan-area/south-los-angeles>

<sup>70</sup> <https://planning.lacity.org/plans-policies/community-plan-area/silver-lake-echo-park-elysian-valley>

<sup>71</sup> <https://planning.lacity.org/plans-policies/community-plan-area/sun-valley-la-tuna-canyon>

<sup>72</sup> <https://planning.lacity.org/plans-policies/community-plan-area/sylmar>

<sup>73</sup> <https://planning.lacity.org/plans-policies/community-plan-area/van-nuys-north-sherman-oaks>

previously noted this multi-year update process began in 2018 and is still in the early stages of plan development.

- West Adams – Baldwin Hills – Leimert Community Plan – this plan was last updated in 2016.<sup>74</sup>
- Westchester – Playa del Rey Community Plan – this plan was adopted in 2004.<sup>75</sup> It is currently being updated as part of the Westside plan. The update process began in 2022<sup>76</sup> and is in the plan development phase.<sup>77</sup>
- West Los Angeles Community Plan – this plan was adopted in 1997.<sup>78</sup> It is being updated as part of the Westside community plan effort.
- Wilshire Community Plan – the plan was last updated in 2001.<sup>79</sup>

The 22 of the City’s 35 Community Plans that require amendment are part of the Land Use Element of the General Plan,<sup>80</sup> which is a required element of a general plan. Government Code § 65358 limits the number of general plan amendments in a single year:

**(b)** Except as otherwise provided in subdivision (c) or (d), no mandatory element of a general plan shall be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the legislative body. Each amendment may include more than one change to the general plan.

**(c)** The limitation on the frequency of amendments to a general plan contained in subdivision (b) does not apply to amendments of the general plan requested and necessary for a single development of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for development, or on another site or sites encompassed by the general plan, in which case the combined total number of residential units shall be considered a single development proposal for purposes of this section.

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<sup>74</sup> <https://planning.lacity.org/plans-policies/community-plan-area/west-adams-baldwin-hills-leimert>

<sup>75</sup> <https://planning.lacity.org/plans-policies/community-plan-area/westchester-playa-del-rey>

<sup>76</sup> <https://planning.lacity.org/plans-policies/community-plan-update/planning-westside#home>

<sup>77</sup> <https://planning.lacity.org/plans-policies/community-plan-update/planning-westside#events>

<sup>78</sup> <https://planning.lacity.org/plans-policies/community-plan-area/west-los-angeles>

<sup>79</sup> <https://planning.lacity.org/plans-policies/community-plan-area/wilshire>

<sup>80</sup> <https://planning.lacity.org/plans-policies/community-plans>

(d) This section does not apply to the adoption of any element of a general plan or to the amendment of any element of a general plan in order to comply with any of the following:

- (1) A court decision made pursuant to Article 14 (commencing with Section 65750).
- (2) Subdivision (b) of Section 65302.3.
- (3) Subdivision (b) of Section 30500 of the Public Resources Code.

Even if the City managed to adopt four Community Plan updates a year, it would take at least 5 years to reconcile the inconsistencies in the proposed zoning Ordinance(s) and the Community Plans. This best-case scenario still does not represent a reasonable period of time for making the zoning and City's Land Use Element consistent.

The action before PLUM does not include any request to amend any of the Community Plans. The City's TCN Program implementing Ordinance(s) and the scheme to reconcile the Community Plans with the TCN implementing Ordinance(s) as part of future Community Plan updates thus violates State law. This is a significant land use impact of the Project which is not addressed in the EIR, and which could not have been known at the time the EIR was prepared since the draft Ordinance(s) were not released until nearly six months after the EIR was certified by Metro. The City must therefore act as Lead Agency and prepare a Subsequent EIR. More importantly, the City must deny the proposed Project and reject the implementing Ordinance(s) until such time as the needed Community Plan updates have occurred, since the proposed Ordinance(s) will be invalid when passed if approved prior to the required Community Plan updates.

### **The Proposed Ordinance(s) Are Inconsistent With The Specific Plans**

In addition, the proposed Project and implementing Ordinance(s) require amendment of a number of specific plans as detailed earlier in this letter. According the State Office of Planning and Research:<sup>81</sup>

A specific plan must be consistent with the jurisdiction's general plan (Gov. Code § 65454). In turn, zoning ordinances, subdivisions (including tentative tract and parcel maps), public works projects, development agreements, and land projects (as defined in Business and Professions Code section 11004.5) must be consistent with any applicable specific plan (Gov. Code §§ 65455, 66473.5, 66474(a), and 65867.5).

A specific plan is prepared, adopted, and amended in the same manner as a general plan, except that it may be adopted by resolution or ordinance and it may be amended as often as the local legislature deems necessary (Gov. Code § 65453(a)).<sup>82</sup>

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<sup>81</sup> [https://opr.ca.gov/docs/OPR\\_C9\\_final.pdf](https://opr.ca.gov/docs/OPR_C9_final.pdf)

<sup>82</sup> Page 240, Office of Planning and Research, "Implementation, Preparing, Integrating, and Implementing the General Plan. Available at: [https://opr.ca.gov/docs/OPR\\_C9\\_final.pdf](https://opr.ca.gov/docs/OPR_C9_final.pdf)

DEIR pages IV.I-24 indicates:<sup>83</sup>

As noted above, the Central City West, West LA Transportation Improvement Mitigation Plan, Exposition Corridor Transit Neighborhood Plan, LA Coastal Transportation Corridor, the Vermont/Western Station Neighborhood Plan, Cornfield Arroyo Seco, and Crenshaw Corridor Specific Plans have language that explicitly prohibits either pole signs, off-site commercial signage, or both. The proposed Zoning Ordinance would be established to regulate pole signs, off-site commercial and digital signage on Metro-owned property to promote roadway efficiency, improve public safety, and augment Metro's communication capacity. **The proposed Ordinance would include regulations that would supersede the sign-related limitations of the applicable Specific Plans, including the allowance of pole signs, and would include specific standards for sign area, height, setbacks, digital displays, refresh rates, and other criteria.** Therefore, with implementation of the Zoning Ordinance for the TCN Structures, the Project would not conflict with the Specific Plans. (Emphasis added).

This conclusion is not consistent with the law. Government Code §65455 specifically states:

65455. No local public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, **and no zoning ordinance may be adopted or amended within an area covered by a specific plan unless it is consistent with the adopted specific plan.** (Emphasis added).

As noted by the Courts:

After adoption of a general plan, a city may adopt, by resolution or ordinance, a specific plan or plans for the systematic implementation of the general plan for all or part of the city. (Gov. Code, § 65450, 65453.) A specific plan must be consistent with the city's general plan. (Gov. Code, § 65454.) Among other things, a specific plan must contain standards and criteria by which development will proceed, and a program of implementation including regulations, programs, public works projects, and financing measures. (Gov. Code, § 65451, subd. (a)(3) & (4).) **After adoption of a specific plan, no zoning ordinance, and no tentative subdivision map, may be adopted unless consistent with the specific plan. (Gov. Code, § 65455.)** (Emphasis added).  
[\*\(Beck Development Co. v. Southern Pacific Transportation Co. \(1996\) 44 Cal.App.4th 1160, 1196.\)\*](#)

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<sup>83</sup> The Project's lack of consistency with existing Specific Plan provisions includes, but is not limited to this example.

In addition, the proposed Ordinance(s) include the following provision<sup>84</sup> in Section B3, which is contrary to law:

8. A TCN District may encompass an area which is subject to, in whole or in part, a Specific Plan. If the provisions of the TCN conflict with any City-wide regulations in the Los Angeles Municipal Code, **specific plan**, or supplemental use districts, other than a Historic Preservation Overlay Zone, then the requirements of the TCN District would prevail.<sup>85</sup> (Emphasis added).

The proposed Ordinance(s) also include the following provision in Section 3B., which is contrary to law:<sup>86</sup>

**Relationship to the Los Angeles Municipal Code (LAMC).** Wherever this Ordinance contains provisions which establish regulations that are different from, more restrictive than or more permissive than would be allowed pursuant to the provisions contained in the Code, Supplemental Use District, **Specific Plan** or other Ordinance, this Ordinance shall prevail and supersede those otherwise applicable regulations. . . (Emphasis added).

The action before PLUM does not include the amendment of any of the Specific Plans. The City's TCN Program implementing Ordinance(s) and the scheme to reconcile the Specific Plans with the TCN implementing Ordinance(s) thus violates State law. This is a significant land use impact of the Project which is not addressed in the EIR, and which could not have been known at the time the EIR was prepared since the draft Ordinance(s) were not released until nearly six months after the EIR was certified by Metro. The City must therefore act as Lead Agency and prepare a Subsequent EIR. More importantly, the City must deny the proposed Project and reject the implementing Ordinance(s) until such time as the needed Specific Plan updates have been evaluated in an EIR, and have occurred, since the proposed Ordinance(s) will be invalid when passed if approved prior to the required Specific Plan updates.

#### **8. THE CITY MUST ASSUME LEAD AGENCY RESPONSIBILITY AND PREPARE A SUBSEQUENT EIR FOR THE PROPOSED ORDINANCE(S)**

Pursuant to CEQA Guidelines Section 15162, a Subsequent EIR must be prepared when "on the basis of substantial evidence in the light of the whole record, one of more of the following" occurs:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the

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<sup>84</sup> Examples of the way the proposed Ordinances are contrary to State Law include but are not limited to the examples in this letter.

<sup>85</sup> Page 4, Revised Ordinance dated September 14, 2023.

<sup>86</sup> Page 11, Revised Ordinance dated September 14, 2023, PDF page 11.

involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

As detailed in **Sections 7 and 9** of this letter, the specifics of the proposed Ordinance(s) constitutes both a substantial change in the Project and new information of substantial importance that could not have been known at the time the EIR was prepared, as does new information regarding actions by Metro and the City to address the housing crisis. As a result of this new information regarding the details of the implementing Ordinance(s) for the proposed Project, additional and/or more severe Project impacts have been identified by the City and commenters on the proposed Ordinances. (See **Sections 7 and 9** of this letter, also the transcript from the City Planning Commission Hearing on the Project included as **Attachment 1** to this letter.). In addition, all comments and testimony received during the administrative process is hereby incorporated by reference and are available from the City. A Subsequent EIR is therefore required.

Pursuant to CEQA Guidelines Section 15052(a)(2) the City must assume Lead Agency status and prepare the Subsequent EIR:

#### **15052. SHIFT IN LEAD AGENCY DESIGNATION**

(a) Where a Responsible Agency is called on to grant an approval for a project subject to CEQA for which another public agency was the appropriate Lead Agency, the Responsible Agency shall assume the role of the Lead Agency when any of the following conditions occur:

(1) The Lead Agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(2) The Lead Agency prepared environmental documents for the project, but the following conditions occur:

(A) A subsequent EIR is required pursuant to Section 15162,

(B) The Lead Agency has granted a final approval for the project, and

(C) The statute of limitations for challenging the Lead Agency's action under CEQA has expired.

(3) The Lead Agency prepared inadequate environmental documents without consulting with the Responsible Agency as required by Sections 15072 or 15082, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(b) When a Responsible Agency assumes the duties of a Lead Agency under this section, the time limits applicable to a Lead Agency shall apply to the actions of the agency assuming the Lead Agency duties.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21165, Public Resources Code.

**9. THE PROPOSED ORDINANCE(S) WILL RESULT IN ENVIRONMENTAL IMPACTS NOT IDENTIFIED IN THE EIR**

At the time the EIR was prepared the details of the City's proposed Ordinance(s) were not known. In addition, important information regarding new efforts by the City and Metro to locate affordable housing sites zoned for public facilities and/or owned by the City or Metro were also not known. Given this new information, additional Project impacts can be identified.

**New Information Regarding The Implementing Ordinance(S) For The Proposed Project Not Known At The Time The EIR Was Prepared**

The proposed Ordinance(s) include the following location restrictions or allowances which were not disclosed in the EIR or adequately analyzed given the fact that the details of the first draft of proposed Ordinance(s) were not disclosed until nearly six months after certification

of the EIR and therefore could not have been known at the time the EIR was being prepared. The proposed Ordinance(s) allow signs as close as: within 200.01 feet of an ecological preserve, and the centerline of a scenic highway, scenic parkway, scenic corridor or scenic route; within 1000.01 feet of another digital sign; and within 2,640.01 feet of another freeway facing TCN support structure:

**2. Prohibited Locations:**<sup>87</sup>

1. Signs shall not be located within 200 feet of an ecological preserve as defined by California Fish and Wildlife Code Section 1584, or a state or national park.
2. The face of any Sign shall be oriented away from residential zones in areas subject to Chapter 1 of the Code or Residential Use Districts (Division 5B.3 (Residential Districts) of Chapter 1A) in areas subject to Chapter 1A of the Code that are located within 200 feet, including residential zones or Residential Use Districts across an adjoining alley or street.
3. Signs shall not be located on a site within 200 feet, as measured from the centerline of a roadway designated as a scenic highway, scenic parkway, scenic corridor or scenic route as designated by the State of California Department of Transportation or an element of the General Plan.<sup>88</sup>
4. TCN Support Structures with a Digital Display shall be at least 1000 feet away from any other digital Off-Site Sign with a Digital Display on the same side of any portion of a Freeway or other roadway. This shall not be construed to prohibit Off-Site Signs with double-faced Signs with Digital Displays oriented toward opposing directions of the Freeway or other roadway. Furthermore, compliance will be verified with measurements taken between the TCN Support Structures or other applicable Off-Site Signs with a Digital Display.
5. Freeway Facing TCN Support Structures located on the same side of the freeway shall not be located within a minimum distance of 2,640 feet or one-half a mile from another Freeway Facing TCN Support Structure.

In addition, it was not known that the proposed Ordinance(s) would be crafted in a way that violates State Law, as detailed earlier in this letter.

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<sup>87</sup> September 14, 2023 draft Ordinance at page 25

<sup>88</sup> As discussed above in this letter, this provision is not consistent with the Mobility Element of the General Plan, which specifies that off-site outdoor advertising is prohibited in the public right-of-way of, and on publicly-owned land within five hundred feet of the center line of, a Scenic Highway.

## New Information Regarding Efforts By Metro and the City To Combat The Housing Crisis Not Known At The Time The EIR Was Prepared

The following new information regarding efforts by the City and Metro to combat the housing crisis was not known at the time the NOP was issued for the EIR on April 18, 2022, the DEIR was circulated for public review on September 9, 2022, or when the FEIR was certified on January 26, 2023:

- On February 10, 2023, Mayor Karen Bass issued an Executive Directive #3, Emergency Use of Viable City-Owned Property.<sup>89</sup> Bass then challenged the Metro Board, of which she is a member, to do the same.
- At its February 23, 2023 board meeting, Metro passed a motion "to try to maximize the use of its property to build temporary and permanent housing."<sup>90</sup>
- On March 16, 2023, the Metro Board received a staff report<sup>91</sup> on the use of Metro properties for interim housing, overnight homeless parking, and permanent housing, as shown on the following slide reproduced from the staff presentation:



Copies of Attachments B and C from the March 16, 2023 Staff Report are included in **Attachment 2** to this letter.

Attachment C to the Staff Report included a list of 17 Metro-owned “Potential Joint Development Sites” defined as “potential permanent housing sites identified as part of the

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<sup>89</sup> <https://mayor.lacity.gov/sites/g/files/wph2066/files/2023-03/ED%203%20-%20Emergency%20Use%20of%20Viable%20City-Owned%20Property.pdf>

<sup>90</sup> <https://mynews1a.com/government/2023/02/24/la-mayor-bass-applauds-metro-vote-to-explore-using-property-to-build-housing/>

<sup>91</sup> <https://metro.legistar.com/LegislationDetail.aspx?ID=6063458&GUID=56BA2CEF-07AB-4BA1-85E6-7C7173E1E24E&FullText=1>

Metro 10k Joint Development Strategic Plan<sup>92</sup> which will be presented to the Board on April 2023.” Attachment C includes the same four sites<sup>93</sup> that have been identified as locations for TCN structures on Metro-owned land.<sup>94</sup> The four sites include:<sup>95</sup>

- **NFF-17** Aviation Blvd. and Century Blvd. - 5601 W. Century Blvd 83,000 (K Line Aviation/Century)
- **NFF-10** Metro G Line at Sepulveda - 6127 Sepulveda Blvd 550,000 (G Line Sepulveda VN)
- **NFF-4 and NFF-5** Lankershim Blvd. and Campo de Cahuenga (*and additional Metro land nearby*) - 3906 Willowcrest Avenue North 470,000 park and ride attached to the B Line’s Universal /Studio City Station

The Metro sites identified for housing on which these four TCN sites would be located are shown in the following figures from Metro’s potential housing site analysis:



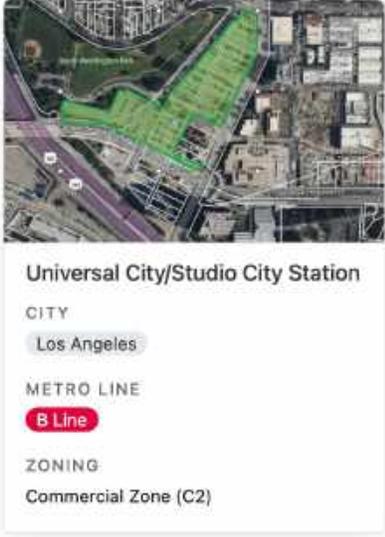
<sup>92</sup> See: <https://thesource.metro.net/2023/06/28/were-building-more-housing-near-transit-metros-10000-home-commitment/#:~:text=This%20action%20builds%20on%20the,project%20delivery%20must%20increase%20tenfold>.

<https://storymaps.arcgis.com/stories/ca751abd323c4382a39175d0ae1e6385>

<sup>93</sup> A review of Attachment B may reveal additional TCN site that Metro has identified for interim housing or overnight homeless parking.

<sup>94</sup> <https://www.dropbox.com/scl/fi/wwhyws0c7i5n4oramoyph/Attachment-C-Potential-Joint-Development-Sites.pdf?rlkey=ilybz6170tctlowdevilq2fbg&dl=0>

<sup>95</sup> See: <https://airtable.com/embed/appRp6WKDA1eJVhK6/shrwVANxN2EU25FZr/tbl7hAKnawuMpLwNw?background%20Color=teal&viewControls=on>

	
<p><b>Metro Land Identified For Housing</b>  Source:  <a href="https://airtable.com/embed/appRp6WKDA1eJVhK6/shrwVANxN2EU25FZr/tbl7hAKnawuMpLwNw?backgroundColor=teal&amp;viewControls=on">https://airtable.com/embed/appRp6WKDA1eJVhK6/shrwVANxN2EU25FZr/tbl7hAKnawuMpLwNw?backgroundColor=teal&amp;viewControls=on</a></p>	

**New of More Severe Environmental Impacts**

Based on this new information, the following additional Project impacts, which were not known at the time the EIR was certified can now be identified:

**Aesthetics, Light and Glare and Housing**

The proposed Ordinance(s) only require that the “face of any Sign shall be oriented away from residential zones in areas subject to Chapter 1 of the Code or Residential Use Districts (Division 5B.3 (Residential Districts) of Chapter 1A) in areas subject to Chapter 1A of the Code that are located within 200 feet, including residential zones or Residential Use Districts across an adjoining alley or street.” The proposed Ordinance(s) do not require that the face of any sign be oriented away from any housing located in public facilities, light industrial or commercial zones. The proposed Ordinance(s) and the Project would therefore allow for TCN signs to face housing to be located on Metro Joint Development sites on or near TCN sites NFF-4, NFF-5, NFF-17, NFF-10. The proposed Project therefore has the potential to result in significant light and glare impacts on housing in proximity to sites NFF-4, NFF-5, NFF-17, NFF-10 and any other TCN site located in or adjacent to new interim housing, overnight homeless parking, and permanent housing sites identified by Metro in its March 16, 2023 Staff Report. This is a new significant impact of the Project which was not identified in the Certified FEIR. The City must therefore prepare a Subsequent EIR for the Project.

In addition, the proposed Ordinance(s)’ threshold for facing signs away from residential zones has not received environmental review. No analysis has been done to determine if the 200-foot threshold will ensure that:

- Light trespass illuminance from the Project at night will not exceed 3.0 fc at a residential use on parcels other than those zoned for residential.

In fact, evidence in the DEIR indicates that the 200-foot threshold in the Ordinance(s) is insufficient to avoid light impacts on residential uses from signs with display sizes of 30 feet by 40 feet and 14 feet by 48 feet. As shown in DEIR Table IV.A-1 on DEIR page IV.A-32, the 200-foot threshold in the Ordinance(s) would allow for light trespass in excess of that allowed by the LAMC Chapter 1, Article 4.4, Section 14.4.4 E, for signs of 30 feet by 40 feet and 14 feet by 48 feet in proximity to residential uses.

**Table IV.A-1  
Light Trespass at 10 Percent of 3.0 fc Maximum Allowed by LAMC (0.3 fc)**

<b>Sign Type</b>	<b>Sign Dimensions (feet)</b>	<b>Distance at 10% of 3.0 fc Allowed by LAMC (0.3 fc)</b>
Freeway Facing Sign FF-1	30' x 40'	345'
Freeway Facing Signs FF-2 through FF-34	14' x 48'	270'
Non Freeway Facing Signs NFF-8, NFF-17 and NFF-18	14' x 48'	270'
Non Freeway Facing Signs NFF-1 through NFF-16, and NFF-19 through NFF-22	10' x 30'	175'

Source: Francis Krahe & Associates, Inc., 2022.

In fact, a recent report from the Department of City Planning now recommends additional mitigation for TCN signs located within 500 feet of existing open space and existing residential uses; however, the City has yet to adopt this recommendation.<sup>96</sup> In addition, the City has not recommended applying this to potential housing sites identified by Metro or the City for future housing projects. The Planning Department’s Report constitutes evidence of the potential additional impacts of the proposed 200-foot threshold, as well as the potential for additional new impacts to Metro’s planned housing in proximity to TCN sites. The City must therefore prepare

<sup>96</sup> See Report from the Department of City Planning dated November 1, 2023, available at: [https://clkrep.lacity.org/online/docs/2022/22-0392\\_misc\\_3\\_11-02-23.pdf](https://clkrep.lacity.org/online/docs/2022/22-0392_misc_3_11-02-23.pdf)

The report concludes that:

In summary, based on Commission’s instructions as well as the public comments received at the September 14, 2023 hearing, staff recommends that the additional 22 signs require vertical louvers, in addition to the proposed horizontal louvers, to reduce light trespass on nearby sensitive receptors. This recommendation will target the intelligent transportation communication messaging and off-site advertising to the intended audience and eliminate residual light pollution and potential quality of life impacts on nearby residents and users of public parks and open space throughout the City.

This is an acknowledgement that impacts would be more severe under the Ordinance(s) and that additional mitigation is required.

a Subsequent EIR for the Project to address these new and/or more severe impacts identified as a result of information that was not available at the time the EIR was certified.

As previously noted, DEIR Appendix B indicates that the Site Locations NFF-7 and NFF-12 are located along a scenic highway as designated in Appendix B of the City’s Mobility Element and are inconsistent with the Mobility Element which states that: “Off-site outdoor advertising is prohibited in the public right-of-way, and on publicly-owned land within five hundred feet of the center line of, a Scenic Highway.”<sup>97</sup> The proposed Ordinance(s) seek to establish a new prohibition on TCN signs within 200 feet, as measured from the centerline of a roadway designated as a scenic highway, scenic parkway, scenic corridor or scenic route as designated by the State of California Department of Transportation or an element of the General Plan.

NFF-7 would be located on APN 4313024909 in the vicinity of Robertson Boulevard and Venice Boulevard in West Los Angeles. Venice Boulevard from Longwood to Abbot Kinney is designated as a scenic highway in the Mobility Element.<sup>98</sup> As shown in the following figure, generated using ZIMAS, the NFF-7 site is located within 200 feet of the centerline of this scenic highway. This would be a significant impact under the threshold included in the proposed Ordinance(s) and the threshold in the proposed Ordinance(s) would result in new or more severe impacts than assumed in the Certified FEIR which assumed a 500-foot distance.



**Figure Showing TCN Site and a 200 Foot Radius From the Site**

NFF-12 would be located on APN 5044002900, 544002901, and 5044002903 and is in the vicinity of Crenshaw Boulevard and Exposition Boulevard in the West Adams – Baldwin Hills-Leimert area. Crenshaw Boulevard from the I-10 Freeway to Slauson is designated as a

<sup>97</sup> Page 168 of the Mobility Element.

<sup>98</sup> Mobility Element page 172.





**Figures Showing TCN Site and a 200 Foot Radius From the Site**

## Biological Resources

“Ecological Reserve” is defined by California Fish and Wildlife Code Section 1584.<sup>100</sup> A list of the Ecological Reserves in California is provided in Title 14 § 630 of the California Code of Regulations (“CCR”).<sup>101</sup> The Ballona Wetlands Ecological Reserve is listed as reserve (10) in CCR 14 § 630 (b). As noted on DEIR page IV-C-13:

The Ballona Wetlands are an ecological reserve located in the City and partially within unincorporated Los Angeles County. The wetlands are bisected by Ballona Creek, and are comprised of marshes, mud flats, salt pans and sand dunes, creating about 153 acres of wetland habitat and 83 acres of non-wetland waters. The wetlands provide important habitat for many special-status species, including federally and/or state endangered species. The wetlands are considered an Environmentally Sensitive Habitat Area (ESHA). TCN Structures FF-29 and FF-30 occur approximately 150 feet from the northeastern edge of the wetlands, within an area mapped as non-wetland habitat, and the TCN Structures would be outside of the ESHA boundary.

TCN Structures FF-29 and FF-30 are within 200 feet of the reserve and are therefore not consistent with the proposed Ordinance(s)’ requirement that: “Signs shall not be located within

<sup>100</sup> A copy of Section 1584 of the Fish and Game Code is available at:  
<https://law.justia.com/codes/california/2022/code-fgc/division-2/chapter-5/article-4/section-1584/>

<sup>101</sup> A copy of Title 14 § 630 of the California Code of Regulations is available at:  
<https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-1-fish-and-game-commission-department-of-fish-and-game/subdivision-2-game-furbearers-nongame-and-depredators/chapter-11-ecological-reserves/section-630-additional-visitor-use-regulations-on-department-lands-designated-as-ecological-reserves>

200 feet of an ecological preserve as defined by California Fish and Wildlife Code Section 1584, or a state or national park.” The reason for this prohibition is to avoid clearly significant impacts to the reserve.<sup>102</sup> The DEIR fails to identify the potential of FF-29 and FF-30 to impact the reserve. Although FF-29 has been removed from the Modified Project under consideration by the City, FF-30 remains part of the TCN program. Given the threshold for an impact embodied in the proposed Ordinance(s)’ prohibition on location within 200 feet of a reserve, the Project would result in an additional biological resource impacts in the form of impacts to an identified ecological reserve which was not identified in the EIR for the proposed Project and could not have been known until the proposed Ordinances became available, which was after the certification of the EIR. The City must therefore prepare a Subsequent EIR for the Project.

## **Land Use**

As detailed in Section 7 of the letter, the proposed Ordinance(s) would violate State law requiring that a zoning ordinance be consistent with any adopted General Plan or Specific Plan. The proposed Project would therefore result in additional land use plan consistency impacts and impacts associated with lack of consistency with State law that could not have been known at the time the EIR was prepared, as the proposed Ordinances were not available. The City must therefore prepare a Subsequent EIR for the Project.

## **10. THE REQUIRED FINDINGS CANNOT BE MADE**

### **General Plan Consistency Findings**<sup>103</sup>

For the reasons detailed in this letter, the required General Plan Consistency Findings cannot be made. The proposed Ordinance(s) and the TCN Project violate State Law.

### **Environmental Findings**<sup>104</sup>

For the reasons detailed in this letter the required CEQA Findings cannot be made. A Subsequent EIR is required to be prepared prior to any action on the Project.

\* \* \* \* \*

As detailed in this comment letter, the City cannot proceed with approval of the Project and certification of the environmental documents for the Project. The proposed Ordinance(s) violate State Law. The existing environmental documentation for the proposed Project is insufficient for the actions before you. In the absence of the preparation of a Subsequent EIR, the approval of the Ordinance(s) and other actions before you would also be in violation of CEQA.

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<sup>102</sup> Impact avoidance actually requires a greater distancing than provided for in the proposed Ordinance(s) as detailed in comments submitted during the administrative process.

<sup>103</sup> PLUM Staff Report, PDF pages 21-23

<sup>104</sup> PLUM Staff Report, PDF pages 23-25

We adopt and incorporate by reference all Project comments and objections raised by all others during both Metro's and the City's environmental review and land use entitlement processes for the Project. Pursuant to PRC Section 21167.6(e) and *Consolidated Irrig. Dist. v. Superior Court*, (2012) 205 Cal.App.4th 697, please include all of the hyperlinked references cited in each of the comment letters submitted during the administrative process in the administrative record.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie T. Hall", written in a cursive style.

Jamie T. Hall

**Attachments:**

1. Hearing Transcript – City Planning Commission Hearing on Project
2. Attachments B and C to Metro Staff Report of March 16, 2023 Regarding the Metro Property Inventory For Potential Unhoused Support Facilities

**ATTACHMENT 1**  
**Hearing Transcript – City Planning Commission Hearing on Project**

**ATTACHMENT 2**  
**Attachments B and C to Metro Staff Report of March 16, 2023**  
**Regarding the Metro Property Inventory For Potential Unhoused Support Facilities**