



**Affordable Housing** | *Making It Happen*

JANUARY 2009



## **Supporters**

- Central City Association
- Building Industry Association - Los Angeles / Ventura Chapter
- California Apartment Association, Los Angeles
- Los Angeles Area Chamber of Commerce
- Valley Industry & Commerce Association
- South Bay Association of Realtors
- Beverly Hills / Greater Los Angeles Association of Realtors
- Los Angeles Police Protective League
- Hollywood Chamber of Commerce
- Building Owners & Management Association of Greater Los Angeles
- Apartment Association of Greater Los Angeles

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# I. EXECUTIVE SUMMARY

## AFFORDABLE HOUSING: MAKING IT HAPPEN

### *An Incentives-Based Approach to Los Angeles' Housing Challenges*

An update to the “Housing for All: Fair Share Program” released in 2004, this paper provides a pragmatic and incentives-based approach to addressing the long-term housing needs of Los Angeles. Continued population growth, high land prices, and stagnant wages have combined to create a severe housing shortage of all income levels in our city. The solutions outlined in this paper focus on engaging both the private sector and the community to deliver more affordable housing through the implementation of economically-sound policies that encourage development.

The Central City Association is joined by a broad coalition of business, labor, and non-profit groups to offer the following recommendations:

### 1. Collaborate With the Community to Site Affordable Housing

Many Angelenos hold the widespread belief that new residential development in their neighborhoods will result in more traffic congestion, higher school costs, and decreased property values. As the pressure begins to mount on city leaders to alleviate these negative impacts, affordable housing is often the first casualty. This negative association between more housing and a lower quality of life contributes to a long dysfunctional process rife with mistrust, conflict, and opposition. Therefore, any initiative to encourage the construction of affordable housing must engage the community and address their concerns.

#### A. The “Housing Incentive Zone” Program

**Rather than pitting developers and communities against each other, we propose incentivizing neighborhoods to increase density through the “Housing Incentive Zone” Program.**

- Each community plan area will be required to absorb a fair and equal share of affordable housing units to produce.
- Neighborhoods can then decide where increased residential density is most appropriate in their communities.

- Neighborhoods accepting additional density will receive direct rewards such as more open space, streetscape improvements, and infrastructure upgrades.
- Developers who construct affordable housing projects in zones designated by the community will receive incentives such as increased height, expedited city approvals, and floor area ratio bonuses.

This neighborhood-oriented mechanism allows for communities and developers to collaborate and reap the rewards from creating affordable housing.

### **B. Consider Siting Housing on Certain Industrially-Zoned Land**

**With a serious imbalance between jobs and affordable housing burdening the region, the City must work with local neighborhoods and consider building affordable housing on obsolete industrial land.**

Although retaining a vibrant manufacturing base is critical to this City's economic prosperity, not all industrial land in Los Angeles is suitable for the modern uses of our new economy. Some existing industrial land remains underutilized due to the historic lack of infrastructure investment and others host vacant obsolete buildings. To address this issue, some communities rich with single-family homes may embrace the option to site their fair share of affordable housing on industrially-zoned land, creating prime sites for mixed-use development or live/work activities and much-needed jobs and housing.

### **C. Maximize and Manage Underutilized City-owned Land**

**Following the trend of other cities in the country, Los Angeles and its communities should consider the redevelopment of underutilized city-owned land for the construction of workforce and affordable housing.**

The City owns hundreds of acres of underutilized land designated for public amenities such as libraries and community centers in commercial and residential zones. However, many of these parcels are inappropriately situated amidst very dense mixed-use development. With no expectation that land costs will decrease, we must consider redeveloping this land for housing in order to realize its highest and best use.

## 2. Facilitate the Development Process for Builders

A web of complex and conflicting local requirements create unnecessary burdens for builders that result in additional costs. These unanticipated delays often make development projects, especially affordable housing projects, economically infeasible. The following recommendations will improve the development process in Los Angeles to enhance reliability and encourage efficiency.

### A. Revisit City Policies That Result in Unnecessary Construction Costs

- **Create a Fire Zone 1A overlay to allow for the construction of wood-framed buildings (Type V) in appropriate areas of the City.**

Current law mandates that only high-cost Type III (4-hour fire resistance) construction is allowed in Fire Zone 1. Low-rise residential developments are thereby prohibited from building in these zones because they tend to be of Type V construction (2-hour fire resistance). Many other cities in California, however, have recognized that requiring a 4-hour fire resistant construction is unnecessary in urban environments. The City should amend the designation of Fire Zone 1 to include a new Fire Zone 1A overlay that will allow for the construction of Type V projects in the City.

- **Amend inconsistent guest parking requirements for condominium and rental units.**

The Department of City Planning Advisory Agency generally requires 0.5 guest parking spaces as a condition for approval of a subdivision map application for condominiums. However, no such requirement is applied to rental projects. This arbitrary policy increases construction costs for much-needed affordable condominium units, and its application should be ceased immediately.

- **Permit the use of chlorinated polyvinyl chloride (CPVC) piping in residential plumbing systems.**

The Los Angeles Building Code only allows for the installation of cast iron or copper piping in residential plumbing systems. Chlorinated polyvinyl chloride (CPVC) piping, however, is more competitively priced, energy-efficient, and easier to install and repair. The cost savings associated with CPVC installation could potentially add up to the millions in a high-density residential project.

- **Update Parking Design Criteria to promote the construction of innovative and efficient parking facilities.**

Current parking design regulations, spelled out in an informational bullet by the Department of Building & Safety, are extremely complicated and predicated upon outdated conceptions of car size, stall/aisle widths, and circulation patterns. Updating and simplifying these standards will allow developers to move away from generic parking lot design and create more efficient models appropriate for Los Angeles' urban communities.

### **B. Streamline the City Review Process**

- **Increase Speed of Environmental Review in the City by Hiring Additional Staff**

The Department of City Planning currently employs only five planners to review the hundreds of environmental impact reports and mitigated negative declarations submitted to the City each year for approval. Additional staff must be hired to increase the speed of environmental review in the City so we can meet the housing needs of our communities in a timely manner.

- **Continue to Implement and Monitor “12 to 2” Program**

Earlier this year, City Council President Eric Garcetti introduced a comprehensive development reform recommendation to streamline the development process, entitled the “12 to 2” Program. Under the new program, developers would only interface with the Department of Building & Safety and the Department of City Planning during the entitlement phase, instead of 12 different departments. The City must continue to implement and monitor this much-anticipated program to encourage developers to build more affordable and workforce housing in L.A.

### **C. Streamline the CEQA Review Process**

Adopted in 1970, the California Environmental Quality Act (CEQA) is a system of checks and balances enacted to minimize the potential adverse effects of land use development on surrounding communities. Navigating through the maze of the CEQA permitting process, however, can sometimes be counterintuitive and frustrating. The City can significantly streamline its internal CEQA process in three ways:

- **Modify the “Site Plan Review” Requirement for In-fill Housing Development to Make it Consistent With State Law**

Under state law, small in-fill affordable housing projects of less than five acres are exempted from CEQA review. Los Angeles, however, has adopted a far more stringent “site plan review” requirement for these in-fill projects, thereby triggering CEQA analysis. In Los Angeles, projects that create 50 or more units that would otherwise be exempted by state regulations and do not create the same negative impacts as larger development projects, still trigger CEQA review because they require a discretionary action by the City. This requirement discourages affordable housing development and should be altered to conform to state regulations.

- **Draft a Program EIR for Housing Incentive Zones**

A program environmental impact report (PEIR) is an EIR prepared for a certain geographic area or a jurisdictional program. The City should prepare PEIRs for designated housing incentive zones to analyze the impact of affordable housing in those areas. This will prevent duplicative paperwork from being filed and avoid redundant consideration of project impacts and policy considerations. Individual projects may then tier off of the City’s completed analysis and abbreviate the lengthy environmental review process.

- **Adopt Higher CEQA “Thresholds of Significance” for Targeted Areas of Higher Density Development**

CEQA permits local municipalities to establish “thresholds of significance” to help determine the significance of a project’s potential environmental impacts. Falling under a threshold implies that the effect is considered to be “less than significant” under CEQA. On the other hand, exceeding a threshold means that the project will be deemed to have a significant environmental effect, thereby requiring full environmental review.

The City should adopt customized thresholds for shading, parking, and transportation in special geographic areas such as Downtown Los Angeles, where density is higher than in other areas of the City. The current thresholds are outdated and disincentivize growth in these high-growth, often transit-oriented areas (instead incentivizing lower density, urban sprawl) because developers must prepare a much more extensive environmental analysis than is reasonable.

### 3. Increase Options for Affordable Housing and Encourage New Transit-Oriented Development

#### A. Explore Using Affordable Housing Trust Fund Dollars to Preserve Existing Affordable Housing

**Using the Affordable Housing Trust Fund to purchase affordability covenants will help preserve existing affordable housing and provide the City with a new long-range plan to alleviate the housing crisis.**

Currently, the City's Affordable Housing Trust Fund is used as a gap finance tool in many multifamily affordable housing developments. We propose expanding the use of the Affordable Housing Trust Fund to purchase covenants on certain units within for-rent properties that are more affordable for Los Angeles' workforce households. The cash infusion to the property owner will help finance acquisition of the building and the City will preserve and increase its supply of existing affordable housing at the same time.

#### B. Increase SB 1818's Effectiveness by Allowing the Transfer of Density Bonus Units

**Creating a secondary market for density bonus units derived from SB 1818 will assist in the financing of affordable housing projects and encourage the development of more housing options for our middle class.**

The City recently adopted a local implementation ordinance for SB 1818, a state law that grants developers more density in exchange for incorporating affordable housing into their projects. In some instances, both market-rate and affordable housing developers find themselves unable to effectively utilize the density bonus because of design or building type restrictions. Under this proposal, developers will have the ability to transfer any unrealized density bonus to another new residential project within a ½ mile radius. Proceeds from the sale can then be used to close financing gaps, instead of relying on limited City funding streams.

## C. The Transit-Oriented Development Enhancement (TODE) Program

**The Transit-Oriented Development Enhancement Program promotes dense development near transit centers and preserves existing housing stock in our local neighborhoods by extending affordable housing covenants.**

- Developments located within a ½ mile of an existing or planned rail transit station, fixed-guideway transit station or Rapid Bus stop (referred to collectively as “Transit Stations”) are entitled to a number of incentives such as increased floor area, height and density, or reduced parking requirements.
- In exchange for these incentives, the developer must place or extend affordable housing covenants on existing units and/or vacant land within two miles of the same transit station as the development.
- Covenants will be restricted for a period of 30 years for use only as “affordable housing.”

The TODE Program incentivizes both jobs and housing near transit, while preserving the supply of affordable housing without mandates or subsidy.

## 4. A Note on SB 375 and State Efforts Encouraging Higher Density, Transit Oriented Housing

The recommendations proposed by this paper correspond with recent state legislative efforts to encourage the construction of high density, transit-oriented housing. SB 375, adopted in September 2008, is an incentives-based piece of green legislation that tackles the connection between smart land use and greenhouse gas emissions. Along with the strategies discussed in this paper, SB 375 promotes high density residential development in transit areas as a way to reduce land use-related carbon emissions.

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## II. THE PROBLEM

On November 7, 2006, nearly 63% of Los Angeles voters joined a broad coalition of elected officials, civic, and business leaders, and housing advocates to support Measure H, the \$1 Billion Housing Bond. While Measure H received just under the two-thirds vote necessary to become law, the mandate from the voters was clear – Los Angeles must build more affordable housing.<sup>1</sup>

Lack of affordable housing is a critical problem. New housing production has failed to meet the L.A. Region's housing needs, causing home prices to skyrocket. The City of Los Angeles has grown by 490,514 residents since 1990, while only 75,854 new housing units have been added to the market. This means that more than six people are added to the market for every single housing unit produced.<sup>2</sup> Los Angeles is building less housing per capita than most major metropolitan areas, including New York, Houston, Chicago, and Atlanta.<sup>3</sup> Teachers, firefighters, police officers, nurses, City administrators, and others with median level incomes cannot afford to buy even a modest home. Low and very low income workers are shut out of housing opportunities entirely.

This document updates the 2004 “Housing For All: Fair Share Program,” reiterating the importance of incentives over mandates and recognizing that housing is inextricably linked to issues related to jobs, transportation, pollution, education, public safety, and quality of life. This document focuses on the need to build new housing, at all levels of affordability, especially near transit.

The 2004 “Housing For All: Fair Share Program” noted that inclusionary zoning would limit housing supply, drive up home prices, and create far less affordable housing than a voluntary program. We reiterate that inclusionary zoning can only work with the right incentives to off-set the cost of affordable housing. Inclusionary zoning, if adopted, should not become a new tax on the middle-class, forcing them to pay the affordable housing subsidy through higher home prices. One study estimates that inclusionary zoning policies increase market-rate housing costs by more than \$100,000 per new home.

We urge the City to encourage the development of more affordable housing – but that prompts the larger question, who are we serving? Our broad coalition of builders, developers, businesses, and non-profits urges adoption of an affordable housing policy that provides help to those making \$30,000 to

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<sup>1</sup> We continue to support a fully-funded Affordable Housing Trust Fund, with at least 50 percent of the funding allocated toward acquisition of housing covenants and financing for affordable housing investors' (profit and non-profit) acquisition of apartment buildings (even if they are maintained as mixed-income without rehabilitation).

<sup>2</sup> Los Angeles County Economic Development Corporation, “Meeting the Housing Challenge in L.A. and Ventura,” January 2007, p. 17, available at [http://www.laedc.org/consulting/projects/2007\\_BIA-study.pdf](http://www.laedc.org/consulting/projects/2007_BIA-study.pdf).

<sup>3</sup> In 2006, in the Los Angeles Metropolitan Statistical Area, one unit was built for every 387 people, compared to 307 people in New York, 203 people in Chicago, 77 people in Houston, and 73 people in Atlanta. <http://www.census.gov/>.

\$100,000 a year. These are the people sometimes traveling over two hours each way to work, inadvertently contributing to our traffic and pollution problems, while experiencing a huge diminution of their own quality of life.

We support the Mayor's call to build more affordable housing, but we urge the City to ensure that affordability requirements are coupled with incentives that fully off-set their cost. For instance, zoning incentives, such as increased density and reduced processing time, could fully off-set the cost of workforce housing units, which are less expensive to build than low-income units. Off-setting the cost of low-income units, however, requires guaranteed financial subsidies. While there is great need for both workforce and low-income housing, most public funds are earmarked for low income developments. To meet workforce housing needs, we believe zoning incentives should be implemented as soon as possible.

The City can help retain its workforce and bring back middle-class workers by focusing on housing for secretaries, nurses, teachers, police officers, and firefighters. We believe the proposals made in this paper will ensure that workforce housing is developed and built quickly and efficiently. We urge the City to implement these recommendations without delay.

## OUR GOALS

The current crisis in housing finance and increased complexity of navigating through Los Angeles' development process, compared to surrounding jurisdictions, makes it even more critical for the City of Los Angeles to provide incentives to attract housing investment. Through this document, we look forward to working with the City to achieve the following goals:

### **1. Build More Housing At All Levels Of Affordability.**

According to a 2007 study by the Los Angeles County Economic Development Corporation, Los Angeles has a housing shortage of over 100,000 units and 58.5 percent of demand is unmet by Los Angeles' current rate of production.<sup>4</sup> Recommendations in this document ensure that Los Angeles builds more housing and more affordable housing to meet current and growing demand.

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<sup>4</sup> Los Angeles Economic Development Corporation, p. i.

## **2. Decrease Congestion and Pollution.**

Los Angeles has the worst traffic and pollution problems in the nation, fueled by the significant jobs-to-housing imbalance in many of Los Angeles' communities. Many employees drive long distances to work because of the unavailability of suitable housing stock, including workforce housing, near their jobs. This document offers innovative solutions that will incentivize the construction of housing near transit and employment centers, while emphasizing the need for transportation planning as part of a comprehensive housing policy.

## **3. Make Los Angeles A Livable, Walkable City.**

We envision a Los Angeles where people walk in their neighborhoods and can easily access public transit, jobs, grocery stores, and basic amenities without their cars. Building a livable, walkable City will increase Angelenos' quality of life. This document ensures that quality of life considerations are the foundation of a comprehensive housing policy.

## III. RECOMMENDATIONS

### 1. Collaborate with the Community to Site Affordable Housing

#### A. The “Housing Incentive Zone” Program

##### INCENTIVIZING NEIGHBORHOODS

Many Angelenos believe new residential development means longer lines at the local supermarket, additional burdens on an already-stretched local infrastructure, and increased congestion, noise, and pollution in their neighborhoods. The perceived association between density and negative local impacts often results in strong community opposition to new projects. In turn, local opposition regularly delays or kills projects altogether, making development economically or politically infeasible. This is especially true for affordable housing projects, which often struggle with tighter profit margins and stronger opposition. Local opposition is a key force stunting housing production in Los Angeles. Thus, to be successful, any initiative to encourage the construction of affordable housing must address community concerns.

To address community concerns and facilitate the construction of much-needed housing, we propose *incentivizing neighborhoods to increase density*. Neighborhoods should be (a) involved in deciding which areas can best handle increased residential density; and (b) rewarded with community improvements when residential density increases within their communities. We urge the City to work with neighborhoods to adopt a “Housing Incentive Zone” program, as outlined below.

##### DEFINITION

Housing Incentive Zones (“HIZ”) are areas, selected with input from local community members, which are ideal for increased residential density, and especially workforce housing. Residents will help select HIZ areas through Community Plan updates (except during the first round of implementation).<sup>5</sup> Developers who opt to build in an HIZ area qualify for certain incentives to build workforce housing, such as increased density, floor area ratio, or height. In return, HIZ areas will receive open space and infrastructure improvements.

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<sup>5</sup> As referenced in this section, the first round of HIZ areas may need to be implemented *outside* of Community Plan updates, as an immediate response to the housing crisis. After that HIZ areas would be updated through the community plan process.

## NEIGHBORHOOD INCENTIVES

Neighborhoods accepting additional density in designated HIZ areas receive direct rewards. Incentives could include anything from increased open space to infrastructure improvements. Improvements will be funded by the increased property tax resulting from new, denser development. For example:

*Property A is valued at \$2,000,000 and pays \$20,000 per year in property tax, of which \$4,000 is received by the City and goes into the City's General Fund. If Property A were redeveloped with 150 units of new housing, its value would increase to \$22,000,000. The property tax bill for Property A would increase to \$220,000 and the City's share of the property tax would increase to \$44,000 per year. These funds can be targeted toward that neighborhood if the incremental increase in the City's tax revenue (or \$40,000 per year) is dedicated specifically to funding neighborhood improvement projects (e.g., street trees, sidewalk repairs, streetlights, park improvements, and street improvements) for a specified period (such as 10 years). The money can be held in a Neighborhood Housing Trust Fund to be directed by the Council Member for infrastructure improvements in that district.*

## IMPLEMENTATION

As the first, immediate step, the Planning Department should identify areas within each Community Plan Area that are appropriate for the HIZ Program. HIZ areas will then be implemented through a public process, with input from City Council and residents. The first HIZ areas may need to be adopted outside of Community Plan updates, as an immediate response to the housing crisis is long overdue. After the first HIZ areas are established, we recommend updating HIZ areas during Community Plan updates.

## RECOMMENDED LOCATIONS

HIZ areas should be located near transit, jobs, and/or amenities. HIZ areas could include commercial, residential accessory, and multi-family residential zones within:<sup>6</sup>

- Congestion Management Plan Corridors (MTA);
- Regional Centers (General Plan);
- ½ mile of the boundaries of Downtown, LAX, or the Port of Los Angeles (General Plan);
- ½ mile of the boundaries of a college or university campus with an enrollment exceeding 10,000 students;

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<sup>6</sup> Because the Fair Share Program is built on the premise of increased FAR, height, and density, it would *not* apply to Adaptive Reuse projects, which already have a defined building envelope and therefore cannot take advantage of these incentives.

- ½ mile of the Specific Plan boundaries of Century City North, Century City South, and Warner Center;
- ½ mile of an existing or projected transit station; and/or
- ½ mile of a Regional or Superregional Center (a shopping center of 400,000 square feet or more).<sup>7</sup>

### “FAIR SHARE” CONCEPT

Under the “Fair Share” concept, at the beginning of a new Community Plan cycle (about every 10 years) the City should set a target percent increase in housing units it must produce in order to keep up with current and previously unmet demand. The City should require each Community Plan Area to make an equal contribution during that cycle to increase housing by the City’s targeted percentage. The targeted percentage would be updated at the beginning of each new cycle.

### DEVELOPER INCENTIVES / SET-ASIDES

Development of workforce housing is not economically feasible in most areas of Los Angeles due to the high cost of land, community opposition, and delay associated with environmental and City reviews. To promote development of workforce housing in HIZ areas, the City must offer incentives to developers who pursue such projects. Developer incentives should make projects economically feasible while maximizing housing construction. Given the varied needs of Los Angeles’ diverse communities, the incentives and workforce housing set-aside requirements should be customized to each HIZ area, according to the following guidelines:

#### Mandatory Workforce Housing Component

Developers accessing incentives are required to include a workforce housing component. As general guidelines, the workforce housing component should target units built for individuals and families earning between 100% and 300% Area Median Income (AMI), which the U.S. Department of Housing & Urban Development estimates as \$59,800 for a family living in the Los Angeles – Long Beach Metropolitan Area in 2008. While land use incentives can help developers off-set costs associated with providing workforce housing, incentives alone historically have not been sufficient to support the development of low-income or very low-income housing. To make these projects feasible, requirements for low-income and very low-income housing generally must be coupled with financial subsidies.

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<sup>7</sup> International Council of Shopping Centers defines Regional Centers as shopping centers of 400,000 – 800,000 square feet with two or more anchors and Superregional centers as 800,000+ square feet with 3 or more anchors. See ICSC Shopping Center Definitions, available from <http://www.icsc.org/srch/lib/USDefinitions.pdf>, p. 4.

Communities must give developers the flexibility to provide workforce housing units on-site or off-site within the same HIZ area. Off-site units may be coupled with a higher set-aside requirement.

### **Incentives**

Incentives might include:

- (a) the elimination of density limitations in favor of a Floor Area Ratio (“FAR”) bonus;
- (b) increased height;
- (c) significant reduction of parking requirements, especially near transit;
- (d) expedited processing of City approvals;
- (e) fee deferral until Certificate of Occupancy is issued; and
- (f) preparation of a Program Environmental Impact Report (PEIR) to streamline the environmental review process (without compromising the quality of that analysis).

Incentives must entirely off-set the workforce housing requirement and must be guaranteed.

### **Priority for Public Safety, Teachers, and City Employees**

Public safety officers, teachers, nurses, and other City government employees should be given priority in accessing new housing opportunities, and the City should post a website informing all Angelenos about available housing.

### **A Note about SB 1818**

Incentives must exceed those offered in the City’s implementing ordinance for SB 1818, the State’s density bonus law. Forming a HIZ does not exclude any part of the City from the City’s implementing ordinance for SB 1818.

It is important that the Planning Department, Councilmembers, and neighborhoods are involved in developing guidelines for HIZ areas. Once guidelines are established, developers will be able to develop by-right according to either the HIZ guidelines or the underlying zoning.

## **PROGRAM EIR<sup>8</sup>**

If first-tier environmental review of each HIZ area occurs under a PEIR under the California Environmental Quality Act (CEQA), an agency can evaluate new projects in the HIZ area in light of the PEIR to determine whether additional environmental review is necessary. There are a number of benefits associated with preparing a PEIR. For example, preparation of a PEIR can avoid duplicative reconsideration of environmental impacts and basic policy considerations. Additionally, a PEIR can provide a unique opportunity for more extensive consideration of key impacts and alternatives than would be practical in an EIR for an individual project.

## **BENEFITS FOR THE CITY**

The HIZ Program provides a neighborhood-oriented mechanism to build much-needed workforce housing. Neighborhoods design and implement the program through Community Plan updates. The Program grants incentives to neighborhoods for increasing density and ensures that neighborhoods and developers work together to meet the City's housing needs. This in turn addresses citywide problems of traffic congestion and pollution.

### ***B. Consider Siting Housing on Industrially-Zoned Land***

In order to foster a diverse economy and protect the City's economic base, the Department of City Planning (Planning Department) and the Community Redevelopment Agency of Los Angeles (CRA) recently undertook the study of industrially-zoned land uses in the City and provided policy recommendations to guide future land use decisions. A January 3, 2008 memorandum summarizing the study's results states that the City's adopted policy is to retain the majority of industrial land for job producing uses.

Although retaining key industry is unquestionably critical for the City's future, not all industrial land is suitable for hosting the manufacturing needs of a contemporary Los Angeles economy. With industrial uses declining regionwide and a severe jobs/housing imbalance plaguing our communities, the City and local neighborhoods should consider siting their fair share of affordable housing on obsolete industrial land that cannot accommodate modern manufacturing facilities. Discarded buildings that were previously industrial warehouses are prime sites for mixed-use development, creating much-needed jobs and housing. Similarly, vacant and underutilized industrial land present unique opportunities for affordable housing and live/work activities.

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<sup>8</sup> This topic is further discussed in Section 2 of this paper.

It is crucial to note, however, that existing pristine industrial areas suitable for manufacturing retention and growth must be preserved to protect Los Angeles' viable industrial base and to enable the creation of new manufacturing uses. A blanket conversion of all of the City's industrial land is not the correct solution. Rather, a flexible policy must be adopted that acknowledges the changing nature of the City's manufacturing uses. Projects should be reviewed on a case-by-case basis by the City and communities to determine the appropriateness of conversion, taking into account competing land uses and the viability of the industrial land. In specific instances, specific solutions can be found to satisfy Los Angeles' thirst for jobs and housing.

### ***C. Maximize and Manage Underutilized City-owned Land***

The City owns hundreds of acres of land for public amenities such as libraries, community centers, maintenance yards to house service vehicles, and police and fire stations (some non-functional, obsolete, or underutilized). Many of these parcels are anomalies situated amidst dense mixed-use development. These underutilized parcels could serve as significant resources for the construction of affordable housing.

We urge the City to create an inventory of its land to determine whether each parcel is living up to its "highest and best use." For parcels that are under-utilized and in ideal locations for housing, we urge the City to implement a program by which the City would partner with the community and private sector to design and generate new housing opportunities. We recommend that the City lease the land to affordable housing developers, or if the land is unsuitable for affordable housing, lease the land to market rate, mixed-use or commercial developers and use the ground lease revenue to fund affordable housing. This program would only apply to underutilized City land in residential or commercial zones.

Using a competitive Request For Proposal process and acting as the landlord, the City can be assured that the property will be developed with the necessary public amenities (such as a library) required by the City and in keeping with good planning principles. Part of the leasing agreement would enable the City to maintain control over the public amenities.

### **As the first priority, the City should:**

- **Rent Directly to Affordable Housing Developers**

The City could calculate rent using a highest and best use calculation and then credit the rent back to a price feasible for affordable housing developers.

### **If the land is unsuitable for affordable housing, the City should:**

- **Use Rent Payments to Subsidize Affordable Housing Elsewhere**

Lease the land to market-rate, mixed-use or commercial developers. Rent payments would fund affordable housing elsewhere. To facilitate this process, the City could enter into agreements with surrounding landlords to make certain existing units or new units affordable housing in exchange for monthly payments from the City. This way, new market rate projects could fund affordable housing in nearby, existing buildings.

For example, the Los Angeles County Metropolitan Transportation Authority (“Metro”) conducts a “Joint Development Program” through which it leases surplus parcels to developers who agree to projects in line with Metro’s goals (such as enhancing its transit corridors and transit ridership). The City’s program could be modeled on Metro’s program, with the caveat that the land is “underutilized” as opposed to surplus, and could have a direct tie to funding affordable housing.

## **2. Facilitate the Development Process for Builders**

Various local requirements create additional, unnecessary burdens for builders that result in additional costs and make development projects, especially affordable housing development projects, economically infeasible. Obsolete building regulations further compound the problem, forcing developers to comply with standards that are no longer appropriate for a modern, urban setting. Some of the approaches described below have been used with great success in other jurisdictions and should be considered in Los Angeles. Implementing these changes will result in a meaningful and practical reduction of development costs.

## **A. Revisit City Policies That Result In Unnecessary Construction Costs**

### **CREATE A FIRE ZONE 1A OVERLAY**

Current law designates outdated fire zones for some urban areas of the City. Specifically, only Type III (4-hour fire resistant construction) is allowed in Fire Zone 1, (but not Type V or 2-hour fire resistant construction), which, due to cost, limits the viability of this zone for low-rise residential projects. A number of other cities, such as the City of San Diego, have recognized that requiring 4-hour fire resistant construction is unnecessary in urban environments. We recommend that the City take similar action and amend the designation of Fire Zone 1 to include a new Fire Zone 1A overlay that in certain locations shall allow the construction of Type V buildings.

### **AMEND INCONSISTENT GUEST PARKING REQUIREMENTS FOR CONDOMINIUM AND RENTAL UNITS**

The Department of City Planning Advisory Agency generally requires 0.5 guest parking spaces per unit (in addition to two parking spaces for the occupants) as a condition for approval of a subdivision map application for condominiums. This rule is not codified in the Los Angeles Municipal Code, and is disparately applied only to condominiums and not rental units. There is no basis to assume that individuals who reside in condominium units (as owners or renters) will entertain more guests than those who reside in apartment units (as owners or renters). Application of this arbitrary requirement has increased construction costs for much-needed affordable condominium units, and we recommend that the City cease application of this policy immediately. Similarly, as discussed later in conjunction with the TODE Program, the City can further reduce construction costs by alleviating parking requirements for certain transit-oriented developments.

### **PERMIT THE USE OF CHLORINATED POLYVINYL CHLORIDE (CPVC) PIPING IN RESIDENTIAL PLUMBING SYSTEMS**

The Los Angeles Building Code only allows for the installation of cast iron or copper piping in residential plumbing systems. Other jurisdictions in California, however, have embraced the use of chlorinated polyvinyl chloride (CPVC) and other plastic tubing systems for residential plumbing layouts. PVC piping, on a cost-per-linear-foot basis, is more competitively priced,

energy-efficient, and easier to install and repair. On the other hand, the use of cast iron and copper plumbing significantly increases residential housing construction costs because of rising raw material and labor costs. The cost savings associated with CPVC installation could potentially add up to the millions in a high-density residential project. Thus, we recommend that the City re-evaluate the use of plastic piping for residential plumbing systems to minimize construction costs.

### **UPDATE PARKING DESIGN CRITERIA TO PROMOTE THE CONSTRUCTION OF INNOVATIVE AND EFFICIENT PARKING FACILITIES**

Incorporating more flexibility in the City's parking design criteria and updating the parking geometry standards will allow developers to move away from generic parking lot design and create more efficient models appropriate for the changing nature of Los Angeles' communities. Current regulations, spelled out in an informational bulletin by the Department of Building & Safety, are extremely complicated and predicated upon outdated conceptions of car size, stall/aisle widths, and circulation patterns. Parking policies should be framed with good design in mind, recognizing that needs will vary with income, age, household type, the type of housing and its location. The City's regulations should be flexible enough to accommodate these local neighborhood conditions.

## ***B. Streamline the City Review Process***

### **INCREASE SPEED OF ENVIRONMENTAL REVIEW IN THE CITY**

The Department of City Planning currently employs only five planners to review the hundreds of environmental impact reports and mitigated negative declarations submitted to the City each year for approval. Internal operations and staff assignments have not been able to keep pace with the needs of the booming building industry, resulting in significant backlog of documents remaining for review. It is imperative that additional qualified planners are hired to reduce the backlog of environmental documents so that we effectively meet the housing needs of Los Angeles' diverse communities.

### **CONTINUE TO IMPLEMENT AND MONITOR "12 TO 2" PROGRAM**

Lack of communication between departments and the contradictory requirements for new projects are two of the biggest hurdles facing the standard approval process. An unpredictable, convoluted process results in delay for builders. Costs associated with delay can make otherwise viable projects economically infeasible. This is especially true for affordable housing developers, who face strict deadlines and even tighter financing pressures.

Earlier this year, Council President Eric Garcetti introduced a comprehensive development reform recommendation to streamline the development process and enhance reliability, called the “12-to-2” Program. The “12-to-2” Program enables developers to work solely with the Planning Department during the entitlement phase, through a case planner system, and Building & Safety during the construction phase. Instead of working independently with 12 different departments, under the new program, developers only need work with two departments.

Increased efficiency and predictability in the City’s review and approval process will encourage developers to build more housing, and especially more affordable housing in Los Angeles. The City must continue to implement the “12 to 2” program and monitor its effectiveness to ensure that the homebuilding industry can quickly respond to enormous demand in the City for safe and secure housing.

### C. Streamline the CEQA Review Process

The City can streamline the CEQA Review Process in three ways: (1) modify Los Angeles’ “site plan requirement” for infill development to make it consistent with State law; (2) draft a Program EIR (“PEIR”) that analyzes the impacts of constructing and providing affordable housing in target areas; and (3) modify the City’s CEQA “thresholds of significance” in areas targeted for higher density development such as Downtown Los Angeles.

#### **MODIFY THE “SITE PLAN REVIEW” REQUIREMENT FOR IN-FILL HOUSING DEVELOPMENT**

Under State law, certain in-fill affordable housing projects are exempted from CEQA review. The CEQA Guidelines,<sup>9</sup> developed by the Governor’s Office of Planning and Research and adopted by the California Resources Agency, include exceptions from CEQA’s requirements for over 30 classes of projects.<sup>10</sup> One such exception is for certain “in-fill” development projects located on less than five acres.<sup>11</sup>

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<sup>9</sup> The CEQA Guidelines (Cal. Code Regs., Tit. 14, § 15000 et seq.) were developed by the Governor’s Office of Planning and Research and adopted by the California Resources Agency pursuant to Public Resources Code sections 21083 and 21087. Courts generally afford great weight to the Guidelines. See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391, fn. 2.

<sup>10</sup> The Los Angeles City CEQA Guidelines incorporated the State CEQA Guidelines. City of Los Angeles CEQA Guidelines at Section 2.

<sup>11</sup> Public Resources Code section 15332 excepts from CEQA in-fill development projects which (1) are consistent with the applicable general plan designation and all applicable general plan policies, (2) consistent with applicable zoning designations and regulations, (3) are located within city limits on a project site of no more than five acres

Los Angeles, however, has adopted an inconsistent and more stringent “site plan review” requirement for such in-fill projects – thus triggering CEQA review even when the CEQA Guidelines themselves do not mandate it. This section analyzes LAMC’s “site plan review” provisions and details how it should conform to the statewide CEQA Guidelines.

Agencies such as the City of Los Angeles grant two types of approvals – discretionary and ministerial. Discretionary approvals, as suggested by the name itself, generally involve the exercise of judgment or deliberation by the individual or body making the decision.<sup>12</sup> In contrast, a ministerial action requires little or no personal judgment as to the wisdom of the project; the decision maker need only apply the law to the facts as presented in reaching a decision.<sup>13</sup>

City officials regularly grant building and other permits to proposed development projects that conform to the standard City code requirements. These permits generally involve standard ministerial approvals. These ministerial approvals do not require CEQA environmental review because courts have concluded that where an agency lacks regulatory authority to impose conditions, including conditions limiting any environmental impacts of a project, “to require the preparation of an environmental impact report would constitute a useless – and indeed wasteful – gesture.”<sup>14</sup> Thus, ministerial approvals for projects that comply with standard City code requirements generally do not require CEQA review.

For that reason (to trigger CEQA environmental review), the City created a discretionary approval process called “site plan review” for certain larger or more controversial projects that would otherwise only require a ministerial approval. The LAMC requires site plan review for (1) projects that create 50,000 gross square feet or more of nonresidential floor area, (2) projects that create 50 or more dwelling units or guest rooms, (3) projects that change the use of a fast food establishment such that average daily trips are increased by 500 or more, and (4) projects that increase average daily trips by 1,000 or more.<sup>15</sup>

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substantially surrounded by urban uses, (4) are located on a project site with no value as habitat for endangered, rare or threatened species, (5) would not result in any significant traffic, noise, air quality, or water quality effects, and (6) are located on a site that can be adequately served by all required utilities and public services.

<sup>12</sup> Cal. Code Regs., tit. 14, ch. 3 § 15357.

<sup>13</sup> Cal. Code Regs., tit. 14, ch. 3 § 15369.

<sup>14</sup> *Leach v. City of San Diego* (1990) 200 Cal.App.3d 389, 394-95 (quoting *Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259, 272). With discretionary approvals, the City can impose project conditions, including conditions to mitigate any potential environmental impacts. In contrast, a ministerial approval does require a hearing and does not result in findings or conditions. Thus, to require an environmental analysis for ministerial approvals would be wasteful.

<sup>15</sup> LAMC § 16.05.C.1.

Los Angeles' site plan review requirement triggers environmental review for projects much smaller than those that would otherwise be exempted by state regulations. As discussed above, the CEQA Guidelines exempt certain in-fill housing projects on less than five acres from CEQA review.<sup>16</sup> The LAMC allows the development of up to 108 units per acre in areas zoned R4 Multiple Dwelling and up to 217 units per acre in areas zoned R5 Multiple Dwelling.<sup>17</sup> For example, a five acre in-fill housing project of 100 units might be exempt from environmental review under CEQA Guidelines, but subject to such review under Los Angeles' site plan review requirement, which triggers CEQA review for projects of just 50 units.

Thus, housing projects in the City of Los Angeles that fully comply with the zoning code requirements, which would otherwise not require CEQA review, must undergo CEQA review if they create 50 or more dwelling units. This requirement discourages affordable housing development and should be altered to conform to state regulations.

The City of Oakland recognized this issue. In an effort to increase affordable housing production, Oakland advocated for an amendment to CEQA to promote the construction of in-fill developments.<sup>18</sup> To address the enormous need for affordable housing, Los Angeles should take advantage of this amendment and create new regulations to encourage infill housing development.

## **DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORTS FOR HOUSING INCENTIVE ZONES AND OTHER AREAS IN THE CITY TARGETED FOR AFFORDABLE HOUSING**

A PEIR or Program EIR, as defined in the CEQA Guidelines,<sup>19</sup> is an EIR prepared regarding a geographic area or a jurisdictional program.<sup>20</sup> In terms of HIZ areas, the City can prepare a PEIR that analyzes the impacts of affordable housing development on surrounding neighborhoods. The City can prepare a PEIR a part of the ongoing EIR analysis required for the update of the

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<sup>16</sup> See footnote 11 above.

<sup>17</sup> See LAMC §§ 12.11.C.4 (minimum lot area per dwelling unit shall be 400 square feet) and 12.12.C.4 (minimum lot area per dwelling unit shall be 200 square feet).

<sup>18</sup> See Cal. Pub. Res. Code § 21159.25.

<sup>19</sup> The CEQA Guidelines (Cal. Code Regs., Tit. 14, § 15000 et seq.) were developed by the Governor's Office of Planning and Research and adopted by the California Resources Agency pursuant to Public Resources Code sections 21083 and 21087. Courts generally afford great weight to the Guidelines. See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391, fn. 2.

<sup>20</sup> The regulations promulgated under CEQA expressly provide for the use of Program EIRs, listing numerous advantages to the use of a Program EIR. See Cal. Code Regs., tit. 14, ch. 3 § 15168.

Housing Element of the General Plan. PEIRs may also be prepared during Community Plan updates.

As detailed in the CEQA Guidelines, a PEIR provides numerous benefits, including increased efficiency.<sup>21</sup> A PEIR prevents duplicative paperwork and avoids wasteful reconsideration of project impacts and basic policy considerations.<sup>22</sup> A PEIR also provides an early opportunity for (1) the consideration of wider policy alternatives and program-wide mitigation measures and (2) more exhaustive consideration of the effects and alternatives associated with the series of planned actions than would be practical in an EIR on an individual project.<sup>23</sup>

A PEIR should identify the likely environmental effects of the proposed program, including larger cumulative impacts. The more detailed the analysis in the PEIR, the more likely that future projects can tier off of the already completed analyses.<sup>24</sup> If impacts are unduly speculative when the PEIR is prepared, the City can defer the analysis until a later point when the impacts are known.<sup>25</sup> In other words, if the City already has prepared a PEIR with a detailed analysis of various known environmental impacts of the proposed project, a new EIR is not required regarding those impacts. Subsequent EIRs and negative declarations may incorporate such information by reference. This in turn will make any subsequent EIR shorter because the EIR need only focus on new effects not previously considered.

## **MODIFY CEQA “THRESHOLDS OF SIGNIFICANCE” FOR TARGETED AREAS OF HIGHER DENSITY DEVELOPMENT**

CEQA expressly provides a mechanism for the City of Los Angeles to adopt thresholds of significance (“Thresholds”).<sup>26</sup> A Threshold is an identifiable quantitative, qualitative, or performance level of a particular environmental effect.<sup>27</sup> Noncompliance with a Threshold means that the effect of the project will normally be deemed “significant” in an environmental analysis pursuant to CEQA. Compliance with a Threshold means the effect generally will be determined to be “less than significant” under CEQA.<sup>28</sup> If a project is determined to have

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<sup>21</sup> See Cal. Code Regs., tit. 14, ch. 3 § 15168.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency* (2005) 134 Cal.App.4th 589, 615.

<sup>25</sup> See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 395-96.

<sup>26</sup> Cal. Code Regs., tit. 14, ch. 3 § 15064.7

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

significant environmental impact, the impact must be mitigated or the project must go through an Environmental Impact Report process.

Before the City can establish a new Threshold, the Threshold must be supported by substantial evidence, vetted publicly, and adopted by ordinance, resolution, rule, or regulation.<sup>29</sup> The City of Los Angeles can adopt customized Thresholds for geographic areas, such as Downtown Los Angeles or areas within ½ mile of Transit Stations, where the environment currently is or will be denser than other parts of the City. Modified Thresholds for these areas make sense as certain impacts differ in denser environments. For example, impacts related to shade and shadow may be less noticeable in an area surrounded by tall buildings. Parking requirements and trip generations rates differ near transit hubs.

Without customized Thresholds, project impacts require more extensive analysis and treatment under CEQA, leading to increased cost and delay. Without modification, the current Thresholds disincentivize growth in dense areas because developers must prepare more extensive environmental analyses under CEQA than is truly necessary given the existing character of the area. We recommend the following steps to address this issue.

### **A. Customize Thresholds for Downtown Los Angeles**

- **Eliminate the Threshold for “Shading.”**<sup>30</sup>

With the recent codification of the Transfer of Floor Area Rights and the Downtown Housing Ordinance, developers can build new high-rise construction Downtown. These new high rises will necessarily “shade” existing buildings and streets, while meeting the City’s goals of increasing residential density near Los Angeles’ job center, activating the streets through pedestrian traffic, and enhancing Downtown’s “look and feel.”

L.A.’s CEQA Thresholds Guide defines the significance threshold for determining “shade” as follows: “A project would normally be considered significant if shadow-sensitive uses would be shaded by project-related structures for more than three hours between the hours of 9:00 a.m. and 3:00 p.m. Pacific Standard Time . . . , or for more than four hours between the hours of 9:00 a.m. and 5:00 p.m. Pacific Daylight Time . . .” The definition of “shadow sensitive uses” encompasses

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<sup>29</sup> *Id.*

<sup>30</sup> “Shading” is a subsection of the “Aesthetics and Visual Resources” section of the *L.A. CEQA Thresholds Guide*, 2006, available from <http://www.lacity.org/ead/EADWebAQD/Thresholds/A-Aesthetics%20and%20Visual%20Resources.pdf>.

everything from restaurants with outdoor eating areas to routinely usable outdoor spaces associated with residential, recreational, or institutional land uses. The definition has, in some cases, been liberally interpreted to include all residential uses, regardless of outdoor areas.

L.A.'s CEQA Thresholds Guide does not take into account Downtown's high-rise environment and reasonable expectations for direct sunlight. As developers consider building additional high rise structures, the limitations of the current Threshold for "shading" could play an important role.

## **B. Customize Thresholds within a Half Mile of a Transit Station**

- **Raise the Threshold for "Parking."**

The Deputy Advisory Agency's 'Residential Parking Policy for Division of Land – No. AA 2000-1' requires 2 – 2.5 parking spaces per unit for new condominiums and condominium conversions citywide. This policy was established primarily for suburban areas in the City and is not applicable to Downtown or areas around transit stations, where fewer cars are needed for residents because of transit and walking opportunities. This has been recognized in recent planning approvals for numerous projects where a lower ratio has been approved. We encourage the City to officially modify this policy for Downtown and around Transit Stations such that the parking requirement is made consistent with the lower and more practical provisions of the Municipal Code.

- **Re-Evaluate Trip Generation Ratios.**

The City's Thresholds for Transportation are based largely on a project's impact as determined by the estimated number of car trips a project will generate. While Los Angeles' CEQA Threshold Guide is flexible in how these trips are estimated, the City does not have adequate data to reflect transit's impact on trip generation. For projects located near transit, trip generation rates are likely to be lower than the standard trip generation rates typically used for traffic studies elsewhere in the City. We encourage the City to conduct further studies of trip generation rates for affordable housing and other projects near transit in order to obtain more accurate estimates of actual trip generation characteristics in this environment.

### **3. Increase Options for Affordable Housing and Encourage New Transit-Oriented Development**

#### ***A. Explore Using Affordable Housing Trust Fund Dollars to Preserve Existing Affordable Housing***

One of the greatest opportunities to fix the imbalance in housing affordability rests in where supply is largest – existing for-rent and ownership housing stock. Currently in Los Angeles, local and federal financial instruments (tax credits, bond financing, and trust funds) are the primary mechanisms used to improve housing affordability and accessibility for workforce households. However, the effectiveness of these instruments is limited. With the state’s budget in turmoil, it will not be surprising to see these sources of funding collapse. For long-term planning purposes, the city should expand the ways we construct and preserve affordable housing.

#### **PROPOSAL**

Currently, the city’s Affordable Housing Trust Fund is used as a gap finance tool in eligible multifamily affordable housing developments. We propose expanding the use of Affordable Housing Trust Fund dollars to purchase covenants on certain units within for-rent properties that are more affordable to Los Angeles’ workforce households. These units are just as safe and decent as others in the development, but may be priced more competitively because of location, views, etc.

The benefits of this proposal are two-fold. The cash infusion to the property owner may be used to upgrade facilities and amenities, help finance acquisition of the building, or reduce the cost of equity capital. It also simultaneously enables the city to increase its supply of affordable housing without relying solely on new construction to alleviate the affordability crisis.

#### ***B. Increase SB 1818’s Effectiveness by Allowing the Transfer of Density Bonus Units***

The City of Los Angeles recently enacted a local ordinance to implement SB 1818, the state’s density bonus law. Pursuant to the ordinance, developers that incorporate a specified number of affordable housing units within a project are eligible to receive incentives such as reduced parking requirements and increased density. Unfortunately, there are many instances where the density bonus potential goes unrealized because of other competing constraints, such as

building structure and construction type. Specifically, to make the project economically viable, a builder may have to choose wood construction instead of the more expensive steel beam construction, limiting the size of the building and the ability of the builder to use the density bonus. Furthermore, due to constraints on height or design on the particular site, the project may not be able to use the density bonus.

### **CREATING A SECONDARY MARKET FOR UNITS**

To increase SB 1818's usage and effectiveness, we recommend creating a secondary market for market-rate density bonus units achieved through SB 1818. Under this proposal, developers will have the ability to transfer any unrealized density bonus units to another new residential project within a ½ mile radius.

### **FOSTERING DEVELOPER PARTNERSHIPS**

The transfer of density bonus units also provides an innovative way for affordable and market-rate housing developers to partner and leverage their relative expertise. Affordable housing developers often encounter funding gaps between the costs of land acquisition and construction and the restricted price point at which the units can be sold or rented. This gap is typically filled using a variety of state and local funding streams, including tax-credit financing or Proposition 1C monies. SB 1818 is another mechanism to close this gap without public funding, whereby proceeds from the sale of the additional market-rate, density bonus units can be used to finance the affordable units. Allowing that developer to transfer the density bonus units to another proximate new residential project provides an efficient, market-based mechanism to close the gap and encourage the development of more housing for Los Angeles' middle class.

### ***c. The TODE Program***

While transit-adjacent neighborhoods are ideal locations for increased density, it is important to recognize and consider the impact of growth on community character. The City should create mechanisms to increase density where it is needed most, without sacrificing existing neighborhoods.

As a mechanism to preserve neighborhoods, we support a program called the Transit-Oriented Development Enhancement Program. The TODE program will facilitate denser development near transit stations while preserving qualified affordable housing. With thousands of affordable housing covenants expiring each year, providing developers and apartment owners incentives to preserve these units will offer communities stability even as density increases near transit lines.

## **PURPOSE**

The purpose of the TODE program is to preserve the existing stock of affordable housing, facilitate higher density jobs and housing in environmentally sound locations, and encourage socio-economic diversity in neighborhoods near transit stations and stops.

## **LOCATION**

The TODE program grants a number of incentives to developments located within a ½ mile of existing or planned rail transit stations, fixed-guideway transit stations, and Rapid Bus stops. Some of these incentives include increased floor area, height and density, and reduced parking requirements. To receive these incentives, affordable housing covenants must be placed or extended on existing affordable units and/or vacant units (or land) within two miles of the same Transit Station as the development.

## **AFFORDABLE HOUSING REQUIREMENTS**

Developers participating in the TODE Program receive land use incentives in exchange for preserving and/or building affordable housing near their multi-family, commercial, or mixed-use development. In order to receive incentives, developers must abide by the following standards:

- Place and record an affordable housing covenant(s) on one or more sites, or partial sites, (referred to as a “Covenanted Site”) located within two miles of the same Transit Station as the development receiving the TODE incentives (“Qualified Development”).
- Restrict covenants for a period of 30 years for use only as “Affordable Housing” (as defined by Housing Department guidelines).
- A Qualified Development may not use SB 1818 (or other incentive programs) in addition to the TODE Program.<sup>31</sup>
- Covenant purchases will be negotiated between the owner of the Qualified Development and the Covenanted Site in a private agreement.

## **VOLUNTARY PARTICIPATION BY DEVELOPERS**

This program is voluntary. Developers are not required to participate, but should be encouraged to do so.

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<sup>31</sup> SB 1818 is the 2004 Senate Bill that updated the State’s Density Bonus Law. California jurisdictions must update their density bonus programs to be consistent with the State law. As such, the City of Los Angeles has undergone a substantial update of the City’s Density Bonus Program.

## **BENEFITS FOR THE CITY**

The TOD Program is different from other transit-oriented development recommendations because it incentivizes both jobs and housing near transit, while preserving the supply of affordable housing without mandates or City financial assistance. It allows a greater mix of developers to participate in the program, encouraging office, mixed-use, retail, and housing developments near transit, while implementing a market-driven response to Los Angeles' lack of affordable housing. The TOD program has the added benefit of improving access to and use of Los Angeles' transit system.

## **4. A Note on SB 375 and State Efforts Encouraging Higher Density, Transit Oriented Housing**

Many of the concepts introduced in this paper align well with recent state legislative efforts, including SB 375. On September 20, 2008, California enacted SB 375 – unprecedented legislation to reduce transportation-oriented greenhouse gas (GHG) emissions through coordinated planning of regional transportation, housing, and land-use. California enacted this legislation in its continued effort to meet goals for GHG emission reductions detailed in AB 32, the Global Warming Solutions Act of 2006. Many of the strategies discussed in this paper to encourage the development of higher density, transit oriented housing (including affordable housing) through CEQA exceptions and streamlining also appear in SB 375. For example:

- SB 375 provides a CEQA exemption to certain residential and mixed use projects that are: (1) built within ½ mile of a major transit stop or high-quality transit corridor; (2) at least 50 percent residential; and (3) have densities of at least 20 dwelling units per acre. This exemption applies as long as the projects are consistent with specific strategies developed by SCAG (pursuant to procedures set out in the bill) to reach regional GHG emission reduction targets set by CARB. This exemption only applies, however, if the project provides some percentage of affordable housing, if the developer pays in-lieu fees sufficient to support development of affordable housing, or the project provides public open space equal to or greater than five acres per 1,000 residents of the project.
- SB 375 also provides for streamlined CEQA review for projects that are consistent with the SCAG GHG emission reduction strategies and are 75 percent residential.

- SB 375 also mandates various actions by the City related to the update of the housing element. For example, SB 375 now requires that all regions adopt a fair share of low and very low income housing. SB 375 mandates the revision of the City's housing element within 18 months of the adoption of the regional GHG emission reduction strategy. Where the housing element does not identify adequate sites to accommodate the needs for all household income levels, those sites must be rezoned with minimum density standards. If the agency fails to complete the rezoning, under certain circumstances, it cannot disapprove housing projects and upon suit by interested parties, a court can compel a city to rezone.

### **III. CONCLUSION**

The need for livable, walkable, and affordable communities in our City is paramount. Los Angeles must implement innovative housing strategies with community input to incentivize affordability, reduce congestion and pollution, and increase quality of life. The comprehensive proposals contained in this paper will help us achieve these goals. We look forward to working with the City to implement an impactful housing production policy.

## ENDORSEMENTS

“Affordable Housing: Making it Happen” is presented and endorsed by the following organizations:



Central City Association



Building Industry Association  
Los Angeles / Ventura Chapter



Los Angeles Area  
Chamber of Commerce

Los Angeles Area Chamber of Commerce



Valley Industry & Commerce Association



South Bay Association of Realtors



Los Angeles Police Protective League



California Apartment Association of Los Angeles

## ENDORSEMENTS (CONTINUED)



Beverly Hills / Greater Los Angeles Association  
of Realtors



Hollywood Chamber of Commerce



Building Owners & Management Association of  
Greater Los Angeles



Apartment Association of Greater Los Angeles