



July 24, 2024

Vince Bertoni
Director, Los Angeles Department of City Planning
200 N Spring Street
Los Angeles, CA 90012

Re: Recommendations for the Citywide Housing Incentive Program

Dear Director Bertoni,

This coalition of the undersigned organizations represents thousands of individual and organizational members in Los Angeles who collectively advocate for greater housing production to address our region's severe housing affordability crisis, which is rooted in decades-long failure to build enough homes to meet the substantial need for housing. As a result of the housing shortage, Los Angeles has extremely unfavorable conditions for renters and aspiring homeowners. Among large cities in the United States, Los Angeles consistently has the highest levels of homelessness, rent burdened tenants, and overcrowding and the lowest rates of homeownership. Clearly, Los Angeles needs to act with urgency and resolve to produce more housing at all income levels. United with this goal in mind, our coalition is focused on ensuring that the proposed Citywide Housing Incentive Program (CHIP) maximizes the potential for creating new housing in LA.

We are writing this letter to offer our comments on the CHIP, highlighting its strengths but more pressingly expressing concerns about provisions we believe will hinder the financial feasibility of projects and ultimately limit the potential amount of new affordable and mixed-income housing that it may yield. Additionally, we provide recommendations to amend and improve the proposed CHIP, based on technical guidance provided in partnership by Urban Land Institute Los Angeles' (ULI-LA) members who have unparalleled expertise and experience with planning, land use and development in LA.

As the successor to the Density Bonus (DB) and Transit Oriented Communities (TOC) Programs, we recognize the CHIP as perhaps the most important planning tool to implement the City's Housing Element Rezoning Program. The Housing Element requires the City to allow sufficient zoning capacity to enable an additional 255,433 housing units to be built over what is currently allowed (after accounting for anticipated housing development and capacity in the pipeline). Among the available mechanisms to achieve this goal, the CHIP has the most potential based on its geographic scope and broad applicability to virtually all new multifamily housing developments. **Given the central role of the CHIP in the City's ability to plan for and meet its housing production mandates, it must be a robust tool that exceeds what is already possible today under DB and TOC; however, as currently drafted, in many ways the CHIP is more restrictive than the present DB and TOC on balance.**

Moreover, we must acknowledge that the CHIP largely avoids addressing single-family zoned areas of the City, aside from limited permissions for Faith Based Organizations under the new Affordable Housing Incentive Program (AHIP) and as compelled in certain conditions under State Density Bonus Law. This means that approximately 75 percent of the City's land area is excluded from the CHIP, despite the tremendous need for the entire city to contribute to meeting our substantial housing goals and concerning equity considerations of continuing the status quo patterns of multifamily

affordable and mixed-income housing development. To fulfill the City's housing requirements and meaningfully confront historical systems that have perpetuated inequity, the City must reconcile this challenging and fundamental issue, whether in the context of the CHIP or beyond. With this letter, we have chosen to focus on the mechanics of the CHIP and technical provisions rather than reiterating points about the CHIP's geography, which is worth its own separate debate and discussion. If the CHIP does not address single-family zoning, we urge the City to find other opportunities to expand housing production in single-family areas, including by rezonings in the forthcoming community plan updates, developing pilot programs for "missing middle" housing, expanding ADU production and separate ownership of ADUs, and creating a robust program under SB 9.

Policy Issues + Recommendations

The following recommendations put forth by our coalition are intended to maximize the potential for the CHIP to produce new housing, primarily by ensuring its provisions yield financially feasible projects and that its approval pathways are clear, predictable and streamlined and protect against potential politicization of development. As a baseline principle, we believe the CHIP should not reduce any allowances currently provided under DB and TOC and instead it should only grow the successful aspects of these programs. In our analysis in partnership with ULI LA, we found that there are many positive elements of the CHIP, such as (i) the creation of an incentive program for mixed-income development in commercial corridors, (ii) the increased density bonuses in the Mixed-Income Incentive Program (MIIP), (iii) the pathways for streamlined ministerial approvals for mixed-income and 100% affordable projects, and (iv) the ability to develop in P zones in some instances. However, these advances are substantially undermined by additional restrictions and limitations in the programs. We outline each of those areas where we believe the CHIP hinders housing production and offer our recommendations below.

1. Retain TOC Affordability Requirements.

The MIIP substantially increases the percent of affordable units required for projects beyond existing TOC levels and differentiates them by market area (*proposed* LAMC, Tables 12.38(c)(3).1 and (c)(3).2.). This will pose significant financial feasibility challenges for projects and may inadvertently push development into lower-income neighborhoods. The City should retain the existing across-the-board TOC affordability levels, which have proven to be tremendously successful.

2. Eliminate Above-Grade Parking as FAR.

The CHIP modifies the City's existing definition of FAR to now include "vehicle parking areas above ground" when using the FAR bonus in proposed LAMC sections 12.22 A.37(e)(1), 12.22 A.38 (e)(1), and 12.22 A.39(e)(1). Below-grade parking is extremely expensive and renders many projects infeasible. Above-grade parking is a cost-effective solution and the parking areas can be attractively screened and incorporated in the architectural design. This new deduction from FAR substantially reduces the project's buildable floor area, which reduces the number of units and will significantly impact the economic feasibility of these programs requiring projects to trade housing units for parking. While circumstances may change in the future, the reality is that projects need parking to be desirable to tenants from a market standpoint, especially for families, and for funding purposes based on lender and investor requirements and preferences.

3. Increase FAR Incentives.

The CHIP presents an excellent opportunity to enhance the DB and TOC programs to maximize their potential for producing mixed-income housing. However, the FAR incentives are too low to be effective in optimizing the construction of projects using Type IIIA (i.e., wood frame construction with fire rated improvements on a reinforced concrete podium also known as "5 over 2") over Type I construction mid-rise buildings.

A. For DB projects, the on-menu FAR incentive for projects in C zones has been reduced to the greater of 35% increase or 2.5:1 and there is no FAR incentive in any R zone (*proposed* LAMC 12.22.A.37(f)(2)(ii).) This is less than is currently allowed on-menu by the LAMC and will push projects to seek off-menu incentives for FAR, especially considering that projects can receive up to 100% density bonus. Without adequate available FAR, the additional density cannot be achieved. The on-menu FAR should be increased to at least 4.0 for both C and multi-family R zones.

B. For Transit Oriented Incentives and Opportunity Corridor Incentives in the MIIP, the FARs in the C zones are also too low and the R zones are potentially further reduced. (*Proposed* LAMC, Tables 12.22.A.38(e)(2) and 12.22.A.38(f)(2).) The FAR in C and R zones should be at least 4.0 in Tiers 1 and 2 and OC-1 and 5.5 in Tiers 3 and 4 and OC-2 and OC-3.

4. Maximize the Availability of Ministerial Procedures.

As shown by the success of Executive Directive 1, streamlined ministerial approval procedures dramatically reduce processing time and increase certainty. Shortening delays in the entitlement process can reduce carrying costs and enhance project feasibility. We appreciate that the CHIP seeks to establish guardrails through the use of on-menu incentives to identify projects appropriate for streamlined processing. However, numerous aspects of the CHIP will cause projects that should be able to use a ministerial procedure to instead be forced into a discretionary process. Additionally, the CHIP's procedures are not uniform across programs. For example, utilization of off-menu incentives under the MIIP requires a Director's Determination in some cases, but using off-menu incentives under the DB requires Expanded Administrative Review.

A. Waiver Limitation. Projects using a specified number of waivers of development standards will be required to use a Class 3 CUP discretionary process with a hearing before the City Planning Commission (CPC) and an appeal to the City Council. For DB projects, even one waiver triggers this requirement. (*Proposed LAMC*, § 12.22 A.37(d)(3).) For MIIP projects, more than one waiver and for AHIP projects more than three waivers triggers the requirement. (*Proposed LAMC*, § 12.22 A.38 (d)(4) and 12.22 A.39(d)(4).) Waivers of development standards are ministerial decisions and should not force any project into a discretionary procedure requiring CPC approval. Similarly, MIIP projects and AHIP projects requesting 1 or up to 3 waivers, respectively, or requesting certain off-menu incentives are subject to a discretionary Director's Determination with an appeal to an Area Planning Commission. (*Proposed LAMC*, § 12.22 A.38 (d)(3) and 12.22 A.39(d)(3).) These projects should be handled by a ministerial Administrative Review.

B. Incentive Limitation. An eligible MIIP project is allowed to use four Additional Incentives (on-menu) or one incentive to gain relief from a development standard not on the list of Additional Incentives. (*Proposed LAMC*, § 12.22 A.38 (h)) A project in the AHIP is allowed to use five Additional Incentives or one incentive not on the list of Additional Incentives. (*Proposed LAMC* section 12.22 A.39(h).) The DB program follows the State Density Bonus Law and allots the number of incentives in accordance with the level of affordability provided. (*Proposed LAMC*, Table 12.22 A.37(f)(1)(i).) Because of the critical need for more mixed-income housing in the City, these incentives should be readily available. Each program, including the DB program, should allow projects to use five Additional Incentives or one incentive not on the list of Additional Incentives.

5. Minimize Appeals.

Time consuming appeals can unnecessarily delay much-needed housing projects, particularly when the project is using incentives and waivers in the CHIP.

A. Limit Appellate Bodies. The City should allow waivers to be processed under Expanded Administrative review. However, the City should eliminate appeals under Expanded Administrative Review. (*Proposed LAMC*, § 13B.3G.). The CHIP requires waivers to be processed through CPC review and to be appealable to City Council. This is contrary to the existing process for off-menu incentives or waivers where the CPC's decision is final under LAMC Section 12.22 A.25(g)(3)(i)(b). The City should also eliminate the ability for appellants to appeal CPC decisions to City Council on waivers. (*Proposed LAMC*, §§ 12.22 A.37(d)(3), 12.22 A.38 (d)(4), and 12.22 A.39(d)(4).)

B. Limit the Scope of Appellants. The City should limit the scope of potential appellants to only "an applicant or any owner or tenant of a property abutting, across the street or alley from, or having a common corner with the subject property aggrieved by the decision," consistent with the procedures already in place for on-menu DB projects under LAMC Section 13B.2.5 G(3)(b).

C. Eliminate Appeals to City Council.

The City should eliminate the ability for off-menu incentives or waivers to be appealable to City Council. This is contrary to the existing process for off-menu incentives or waivers where the CPC's decision is final under LAMC Section 12.22 A.25(g)(3)(i)(b).

6. Eliminate Penalty System of Incentives.

The CHIP creates a tiered incentive system that requires applicants to include a significant amount of affordable housing to receive additional density, FAR, etc. However, applicants are not able to qualify for certain incentives unless additional project features are included. For example, a lot width, lot coverage or open space reduction incentive is not available unless an applicant meets certain increased requirements from the Landscape and Site Design Ordinance. See also *Proposed LAMC* §§ 12.22 A.37(f)(2)(vi), (vii), (viii), (xiii), 12.22 A.38(h)(2)(v), (vi), (vii), (xi), and 12.22 A.39(f)(2)(vii), (viii),

(ix), (xii). To receive an FAR incentive in the DB program, the project must provide elevated levels of affordable housing. See *Proposed LAMC* §§ 12.22 A.37(f)(2)(ii). These additional requirements restrict the ability to use the streamlined procedures and they should be eliminated.

7. Eliminate the Environmental Consideration Area provision.

The CHIP introduces new requirements for projects located in an “Environmental Consideration Area,” which has an extremely broad definition. In some cases, the project is ineligible to use the programs until it obtains a “no further action” letter or regulatory approval that will needlessly rule out otherwise feasible projects. Instead, the CHIP should incorporate concepts used in SB 35, which only excludes projects on the state Cortese list of hazardous materials sites. Alternatively, the City could require projects to assess and remediate hazardous materials subsequent to the entitlement process, such as a standard condition to obtaining a building permit, rather than an eligibility requirement.

8. Allow CHIP in Rezoned Areas.

The CHIP ordinances specify that they supersede specific plans, overlays, supplemental use districts, Q and D conditions, and citywide regulations; however, rezonings implemented by Community Plan updates and Community Plan Implementation Ordinances (CPIO) would not be subject to the CHIP, which would exclude significant areas of the City. The CHIP should be usable in these Community Plans areas as one more option and pathway for developing mixed-income housing. This change will extend the effective lifespan of the CHIP and avoid a slow erosion of the CHIP as new CPIOs and Community Plans are adopted.

By incorporating the set of recommendations contained herein, we believe the CHIP would meaningfully strengthen the existing DB and TOC programs and provide the robust tool that is needed to make significant progress on housing production. We appreciate your consideration and welcome the opportunity to further discuss these concerns and recommendations.

Sincerely,



Nella McOsker
President & CEO
Central City Association



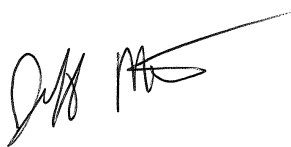
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