



Department of City Planning • Citywide Section

NOTICE OF PUBLIC HEARING

Value Capture Ordinance

Value Capture Ordinance
Council District: All

CASE: CPC-2017-2022-CA
ENV-2017-2023-ND

This notice is to inform you of a public hearing for case number CPC-2017-2022-CA, a proposed zoning code amendment that has been initiated by a City Council Motion (Council File #14-1325-S1). All interested persons are invited to attend the public hearing at which you may listen, speak, or submit written information relating to the proposed project.

PLACE: Los Angeles City Hall
200 N. Spring Street, Room 350
(Public entrance is on Main Street)

TIME: Thursday, July 13, 2017, after 8:30 am

STAFF: Matthew Glesne: matthew.glesne@lacity.org, 213-978-2666

**LAST DAY TO ADDRESS
COMMENTS TO STAFF:
JUNE 26, 2017**
After this date, comments
are to be addressed to the
City Planning Commission

PROPOSED PROJECT: An ordinance amending Sections 12.22, 12.24, 14.00, and 14.3.1 of the Los Angeles Municipal Code to clarify existing regulations and align affordability requirements across the range of zoning entitlements that allow for increased density or floor area ratio beyond what is allowed by zoning. The ordinance will ensure the creation of affordable housing through certain conditional use permits and public benefit projects.

PURPOSE: The purpose of the hearing is to obtain testimony from affected and/or interested persons regarding this project. The hearing will be conducted by a Hearing Officer who will consider all the testimony presented at that time and any written communication received prior to or at the hearing from affected and/or interested persons regarding this proposed code amendment, as well as the merits of the draft ordinance as it relates to existing land use regulations.

Please submit comments to: Mathew Glesne at matthew.glesne@lacity.org, (213) 978-2666. In order to be considered in the report to the City Planning Commission, comments should be received by 5 PM on June 26, 2017. Comments received after June 26, 2017 should be addressed to the City Planning Commission for its consideration.

EXHAUSTION OF ADMINISTRATIVE REMEDIES: If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on these matters delivered to the Department before the action on this matter. Any written correspondence delivered to the Department before the action on this matter will become a part of the administrative record. Note: This may not be the last hearing on this matter.

ADVICE TO PUBLIC: The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda.

WRITTEN COMMUNICATION: Written communications should cite the Case Number indicated at the top of this notice and may be mailed to the attention of the staff contact identified above at the Los Angeles Department of City Planning, Code Studies Section, City Hall - Room 701, 200 North Spring Street, Los Angeles CA 90012.

REVIEW OF THE FILE: The complete file including application and an environmental assessment is available for public review at the Department of City Planning, City Hall - Room 763, 200 North Spring Street, Los Angeles CA 90012 between the hours of 8:00 AM to 5:00 PM, Monday through Friday. Please call the staff contact indicated at the top of this notice several days in advance to assure its availability. Case files will not be available for inspection on the day of the hearing.

ACCOMMODATIONS: As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability. The hearing facility and its parking are wheelchair accessible. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. *Como entidad cubierta bajo el Título II del Acto de los Americanos con Desabilidades, la Ciudad de Los Angeles no discrimina. La facilidad donde la junta se llevará a cabo y su estacionamiento son accesibles para sillas de ruedas. Traductores de Lengua de Muestra, dispositivos de oído, u otras ayudas auxiliares se pueden hacer disponibles si usted las pide en avance.*

Other services, such as translation between English and other languages, may also be provided upon request. *Otros servicios, como traducción de Inglés a otros idiomas, también pueden hacerse disponibles si usted los pide en avance.*

To ensure availability of services, please make your request no later than three working days (72 hours) prior to the hearing by calling the staff person referenced in this notice. *Para asegurar la disponibilidad de éstos servicios, por favor haga su petición al mínimo de tres días (72 horas) antes de la reunión, llamando a la persona del personal mencionada en este aviso.*

VALUE CAPTURE ORDINANCE

Background and Quick Guide – May 25, 2017



Background

In response to Council Motion CF 14-1325 (O-Farrell/Huizar), on November 23, 2016 the City Council requested the Department of City Planning (DCP) draft a “value capture” ordinance. The ordinance is intended to link the approval of discretionary land use entitlements that increase allowable residential density with standardized affordable housing requirements. The motion refers specifically to Zone Changes, Zone Variances, Development Agreements and General Plan Amendments, all which normally increase residential density beyond the 35% threshold permitted by the Density Bonus program.

Subsequent to that direction, on December 13, 2016, the City Council certified the approval of the ballot initiative titled Measure JJJ (the *Build Better LA Initiative*), which was approved by voters on November 8, 2016. Measure JJJ imposes minimum affordable housing and labor requirements on development projects requesting General Plan Amendments, Zone Changes, or Height District Changes. In effect, these new regulations contain similar policies as those proposed by the value capture motion (CF 14-1325) and the subsequent report back by the Department of City Planning dated October 8, 2016.

Currently all residential Zone Change, Height District Change and General Plan Amendment projects with more than ten units are subject to Measure JJJ’s affordable housing and labor requirements. However, there remain additional entitlement pathways to achieve significant density increases that are not subject to the provisions of Measure JJJ. These alternate entitlement pathways are the focus of the draft ordinance.

Draft Ordinance

DCP is proposing an ordinance to establish consistent affordable housing requirements for development projects that seek density increases beyond the current Density Bonus program through entitlements not covered by Measure JJJ. The ordinance would:

- Clarify and standardize affordability requirements
- Align 55 year affordability covenant requirements
- Include AB 2222 style housing replacement policy
- Make minor updates to these code sections as needed

The following entitlements are proposed to be included in the ordinance:

1. LAMC Section 12.24 U.26 - Conditional Use Permit for a Density Bonus for a Housing Development Project in which the density increase is greater than the maximum permitted in Section 12.22 A.25.

VALUE CAPTURE ORDINANCE

Background and Quick Guide – May 25, 2017



2. LAMC Section 14.00 A.2 - Public Benefits Project for Density increase for a Housing Development Project to provide for additional density in excess of that permitted in Section 12.22 A.25.
3. LAMC Section 12.24 V - Conditional Use Permit for Mixed Commercial/Residential Use Developments (to obtain additional Floor Area Ratio)
4. LAMC Section 12.24 F - Conditional Use Permit Allowing Height and Area Changes
5. LAMC 14.3.1 - Eldercare Facilities that do not meet the use, area, or height provisions of the respective zone

The draft Value Capture program would establish an affordable housing requirement for these programs which would better align them with established regulations such as the density bonus program, Measure JJJ and the TOC program (as established in LAMC 12.22 A.25, 11.5.11 and 12.22 A.30 respectively).

What Would Be the Impact of the Proposed Ordinance?

The regulations are intended to clarify existing regulations and align affordability requirements across the range of planning entitlements that allow consideration of increased density or floor area ratio. A percentage of affordable housing will be required based upon the percent of density increase, across the range of City policies. The ordinance will result in an increase of affordable housing units developed, however any increase is expected to be relatively modest due to the relatively low level of applicable entitlement requests. The City does not expect major impacts to development patterns or individual project feasibility. Projects subject to the new requirements are all receiving significant density increases over that allowed by zoning and the requirements are designed to be in line with a proportional formula that has proven to be economically feasible under the density bonus program.

Questions or Comments

If you have any questions or comments, please send them to Matthew Glesne at matthew.glesne@lacity.org or (213) 978-2666. Comments submitted prior to **the end of the day on June 26, 2017** will be considered for the staff recommendation report. Comments submitted after this time should also be directed to the City Planning Commission (cpc@lacity.org).

ORDINANCE NO. _____

An ordinance amending Sections 12.24, 14.00, and 14.3.1 of the Los Angeles Municipal Code to clarify existing regulations and align affordability requirements across the range of zoning entitlements that allow for increased density or floor area ratio beyond what is allowed by zoning. The ordinance will ensure the creation of affordable housing through certain conditional use permits and public benefit projects.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection F of Section 12.24 of the Los Angeles Municipal Code is amended to read:

F. Conditions of Approval. In approving a project, the decision-maker may impose conditions related to the interests addressed in the findings set forth in Subsection E. The decision may state that the height and area regulations required by other provisions of this Chapter shall not apply to the conditional use approved. If density limits are increased, the development project must also contain the requisite number of Restricted Affordable Units as set forth in Section 12.24 U.26(a)(1) through (5) of the Los Angeles Municipal Code.

Section 2. Subdivision 26 of Subsection U of Section 12.24 of the Los Angeles Municipal Code is amended to read:

26. Density Bonus for a Housing Development Project in which the density increase is greater than the maximum permitted in Section 12.22 A.25.

(a) In addition to the findings set forth in 12.24 E., the City Planning Commission shall find:

(1) that the project is consistent with and implements the affordable housing provisions of the Housing Element of the General Plan;

(2) that the project contains the requisite number of ~~affordable units~~ Restricted Affordable Units, based on the number of units permitted by the maximum allowable density on the date of application, as follows and/or senior citizen units as set forth in California Government Code Section 65915(b):

a. 11% Very Low Income Units for a 35% density increase; or

- b. 20% Low Income Units for a 35% density increase; or
- c. 40% Moderate Income Units for a 35% density increase in for-sale projects

The project may then be granted additional density increases beyond 35% in the following manner:

- d. For every additional 1% set aside of Very Low Income Units, the project is granted an additional 2.5% density increase; or
- e. For every additional 1% set aside of Low Income Units, the project is granted an additional 1.5% density increase; or
- f. For every additional 1% set aside of Moderate Income Units in for-sale projects, the project is granted an additional 1% density increase.
- g. In calculating the density increase and Restricted Affordable Units, any number resulting in a fraction shall be rounded up to the next whole number;

(3) that the project meets any applicable dwelling unit replacement requirements of California Government Code Section 65915(c)(3);

(4) that the project's Restricted Affordable Units are subject to a recorded affordability restriction of 55 years from the issuance of the Certificate of Occupancy, recorded in a covenant acceptable to the Housing and Community Investment Department, and subject to fees as set forth in Section 19.14 of the Los Angeles Municipal Code; and

(5) that the project addresses the policies and standards contained in the City Planning Commission's Affordable Housing Incentives Guidelines.

~~(b) The payment of filing fees may be deferred pursuant to the provisions of Sections 19.01 O., 19.05 A.1. and 5. of this Code.~~

Section 3. Subsection V of Section 12.24 of the Los Angeles Municipal Code is amended to read:

V. Conditional Use Permit – Area Planning Commission With Appeals to the City Council. (Amended by Ord. No. 182,095, Eff. 5/7/12.) The following uses and activities may be permitted in any zone, unless restricted to certain zones or locations, if approved by the Area Planning Commission as the initial decision-maker or the City Council as the appellate body. In addition

to the requirements set forth below, the decision-maker shall follow the procedures set forth in Subsections B. through Q.

Mixed Commercial/Residential Use Developments

1. **Findings.** In addition to the findings set forth in Section 12.24 E., the Area Planning Commission shall find:
 - (a) that the project is consistent with and implements the affordable housing provisions of the General Plan's Housing Element;
 - (b) that the project will further the City's goal of achieving an improved jobs-housing relationship, which is needed to improve air quality in the City;
 - (c) that pursuant to an agreement entered into under Government Code Sections 65915-65918, the project will include the number of Restricted Affordable Units as set forth in Section 12.24 U.26(a)(1) through (5) of the Los Angeles Municipal Code, with any percentage increase in floor area treated the same as a percentage increase in density for purposes of calculating the number of Restricted Affordable Units. sufficient to qualify for a 35% Density Bonus pursuant to Section 12.22 A.25. of this Code;
 - (d) that the affordability of all reserved lower income dwelling units will continue for a minimum of ~~30~~55 years;
 - (e) that the approval of a mixed use development pursuant to this section will constitute an incentive under Government Code Section 65915 and the Transit Oriented Communities program in LAMC 12.22 A.31; and
 - (f) that the approval of a mixed use development on the site will ~~reduce the cost per unit of the~~ provide for affordable housing costs in the housing development.

Section 4. Subdivision 2 of Subsection A of Section 14.00 of the Los Angeles Municipal Code is amended to read:

2. Density increase for a Housing Development Project to provide for additional density in excess of that permitted in Section 12.22 A.25. (Subdivision Title Amended by Ord. No. 179,681, Eff. 4/15/08.)

- (a) Performance Standards:
 - (1) The development project contains the requisite number of ~~affordable~~ Restricted Affordable Units and/or senior citizen units as set forth in Section

12.24 U.26(a)(1) through (5) of the Los Angeles Municipal Code California
Government Code Section 65915(b);

Section 5. Section 14.3.1 of the Los Angeles Municipal Code is amended to read:

A. Purpose Statement. The purpose of this article is to provide development and affordability standards for Alzheimer's/ Dementia Care Housing, Assisted Living Care Housing, Senior Independent Housing and Skilled Nursing Care Housing, create a single process for approvals and facilitate the processing of applications of Eldercare Facilities. These facilities provide much needed services and affordable housing for the growing senior population of the City of Los Angeles.

B. Eldercare Facility Unified Permit. The Zoning Administrator, as the initial decision maker, may, upon application, permit an Eldercare Facility to be located on a lot or lots in the A1 through R3 Zones, or in the RAS3, R4, RAS4, R5, and all C Zones, when an Eldercare Facility does not meet the use, area, or height provisions of the respective zone contained in this chapter, or the requirements of any specific plan, supplemental use district, "T" classification, "Q" condition, "D" limitation, or Citywide regulation adopted or imposed by City action. In order to approve the project, the Zoning Administrator shall ensure that it is in conformance with the provisions of this section.

In addition, if the proposed Eldercare Facility is located within the boundaries of an adopted specific plan, notwithstanding the provisions of Section 11.5.7 C. of this Code, the Zoning Administrator shall have the initial decision making authority to decide whether the proposed Eldercare Facility is in conformance with the applicable regulations of the specific plan. In making this determination, the Zoning Administrator shall make each of the findings set forth in Section 11.5.7 C.2. of this Code, following the provisions set forth in this section. Further, if the proposed Eldercare Facility is subject to site plan review, notwithstanding the provisions of Section 16.05 of this Code, the Zoning Administrator shall have the initial decision making authority relating to site plan approval. In making this determination, the Zoning Administrator shall make each of the findings set forth in Section 16.05 F. of this Code, following the provisions set forth in this section.

C. Application for Permit. To apply for an Eldercare Facility Unified Permit approval, an applicant shall file an application and development plans with the Department of City Planning, on a form provided by the Department, and include all information required by the instructions on the application and the guidelines adopted by the Director of Planning. The Director of Planning shall adopt guidelines which shall be used to determine when an application is deemed complete. The application shall include a description of how the proposed Eldercare Facility meets the findings set forth in this section. In addition, the applicant shall file a recorded covenant acceptable to the Housing and Community Investment Department ensuring affordability restriction of 55 years from the issuance of the Certificate of Occupancy.

D. Procedures. An application for an Eldercare Facility Unified Permit shall follow the procedures set forth in Sections 14.00 B.4., 14.00 B.7. through B.11. and Section 19.00 and pay covenant fees set forth in Section 19.14 of this Code. If the Zoning Administrator fails to act on an application within the time provided, the applicant may file a request for a transfer of jurisdiction to the Area Planning Commission for decision, pursuant to the procedures set forth in Section 14.00 B.8. An applicant or any other person aggrieved by a decision of the Zoning Administrator may appeal the decision to the Area Planning Commission pursuant to the procedures set forth in Section 14.00 B.9. and Section 19.00.

E. Findings for Approval. The Zoning Administrator shall not grant the approval unless he or she finds that the strict application of the land use regulations on the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations. The Zoning Administrator must also find:

1. that the property's location, size, height, operations and other significant features shall be compatible with and shall not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety;
2. that the project shall provide services to the elderly such as housing, medical services, social services, or long term care to meet citywide demand;
3. that the project shall not create an adverse impact on street access or circulation in the surrounding neighborhood;
4. that the project provides for an arrangement of uses, buildings, structures, open spaces and other improvements that are compatible with the scale and character of the adjacent properties and surrounding neighborhood; ~~and~~
5. that the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and with any applicable specific plan;
6. that the project contains the requisite number of Restricted Affordable Units as set forth in Section 12.24 U.26(a)(1) through (5) of the Los Angeles Municipal Code, unless the project results in a density increase of over 100%, in which case the following provision shall apply; and
7. for a project resulting in a density increases of 100% or more over existing zoning, it shall provide Restricted Affordable Units as a percent of the number of total units in the project of at least:
 - a. 19% Very Low Income Units; or
 - b. 30% Low Income Units; or

- c. 44% Moderate Income Units in for-sale projects.

In calculating the density bonus and Restricted Affordable Units, any number resulting in a fraction shall be rounded up to the next whole number.