



Legislation Text

File #: 12-0001, **Version:** 1

Recommendation to receive supporting documentation into the record, conclude the public hearing, adopt resolution recertifying the Final Program EIR 04-08 (State Clearinghouse No. 2009071006) and adopting Findings of Fact, a Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Downtown Plan; deny the appeal, and uphold the December 1, 2011 decision of the Planning Commission;

Downtown has long been the center for civic, commercial, cultural, and entertainment activity in Long Beach, and the City Council has adopted and implemented several plans over the years to further the Downtown's position in this respect. Most recently, the Downtown Planned Development District (PD-30) was adopted in 2000, and provided a regulatory framework for continued development of Downtown. The development boom in the early to mid 2000's resulted in several projects that, although consistent with the overall vision for Downtown, were in conflict with the specific development standards. As a result, several amendments to PD-30 were approved to make way for the various projects. Although facilitating these projects was important to the continued development of Downtown, the ad hoc nature of the amendments resulted in a lack of a cohesive approach on the part of the City, as well as uncertainty on the part of the development, residential and business communities, with respect to the timeline and overall certainty in the City processes. Recognizing the need for a cohesive vision for future development, as well as the need to create a fair, clear and predictable process, the City began the process of updating the plan for Downtown.

To assist in facilitating a cohesive vision that represented the needs and desires of the community, the two Downtown City Councilmembers formed the Downtown Visioning Committee (Committee) consisting of various Downtown stakeholders. The Committee was tasked with creating a comprehensive set of principles to guide the future development of the Downtown area. After a one-year process that included extensive community outreach, the Committee completed the "Vision Statement for Downtown," which was subsequently presented to the City Council on May 20, 2008. After reviewing the Vision Statement, the City Council directed staff to prepare a new plan for Downtown. Largely based on the visioning effort and the formal direction of the City Council, the Downtown Plan was developed as a document that provides the regulations, guidelines, and incentives necessary to realize the outcomes set forth in the Vision Statement. Development of the Downtown Plan also included the formation of a steering committee made up of Downtown residents and other stakeholders.

The Downtown Plan was originally drafted in conjunction with a community-based Downtown Steering Committee. A series of community meetings were held to review and refine the Downtown Plan. The revised Downtown Plan and its associated Program Environmental Impact Report (PEIR) were released to the public in December 2010 for a 115-day public review period as directed by the City Council on November 9, 2010.

The Downtown Plan provides an update to the existing land use regulations in the area, including the entirety of PD-30, a portion of PD-29 (Subarea 5), and other adjacent areas totaling approximately

725 acres, and will become the zoning for the project area (Exhibit A - Downtown Plan Project Area Map). The Downtown Plan is accompanied by the Final Program Environmental Impact Report (PEIR) (Exhibit B - Downtown Plan and Final PEIR).

The Downtown Plan

The purpose of the Downtown Plan is to provide continuing guidance over the coming decades to create and maintain a vibrant and successful urban core in Downtown Long Beach through clear design and development standards. The Downtown Plan and PEIR will streamline the process for future development projects and public improvements. It is important to note that the Downtown Plan does not mandate where and when any particular type of development will occur, and does not attempt to influence economic or market forces. It neither discourages nor advocates for market rate or affordable housing, but establishes clear and concise development standards for all types of development.

The Downtown Plan includes the core and adjacent neighborhoods, providing unified development guidance for the larger area. It provides direction for future development projects in terms of land use, urban design, open space requirements, historic preservation and adaptive reuse, signage and other aspects of creating a vibrant urban environment, while protecting existing stable neighborhoods. The key enhancements of the Downtown Plan include:

- Expansion of the Downtown Plan area from 467 acres to 725 acres.
- A comprehensive set of design standards for new development that provide criteria for a range of building types.
- A simplified land use table that combines the existing subareas into one district.
- Modified height limits that focus development intensity in the core areas of the Downtown while limiting the intensity of development in and around existing residential neighborhoods.
- Parking, open space, and building setback requirements that are more reflective of a thriving Downtown environment.
- Adaptive reuse standards and incentives and a list of historically significant properties eligible to use the incentives.
- New guidelines and standards for the streetscape and public realm.

Public Process

Presentation of the Downtown Plan for City Council's consideration is the culmination of four years of community meetings, staff and consultant efforts, and input from the Planning Commission and City Council. The Plan as presented represents an attempt to balance the needs of various Downtown stakeholders with the social and economic health of the entire City. In addition to extensive meetings with community groups, steering committee members and interested stakeholders, staff received extensive public comment on the Downtown Plan through a dedicated website, and incorporated these comments into the overall Downtown Plan (Exhibit C - Comment Matrix).

California Environmental Quality Act (CEQA)

A Program Environmental Impact Report (PEIR) was prepared for the Downtown Plan under the California Environmental Quality Act (CEQA). The PEIR provides the environmental clearance for the adoption of the Downtown Plan, and also provides a document from which environmental review of subsequent development projects within the Downtown Plan area can be based. Each subsequent project will be required to complete an Initial Study to determine if there are any new or outstanding

environmental issues that were not forecasted by the PEIR. If so, additional review under CEQA may be required.

Since implementation of the Downtown Plan will come in the form of future development and public improvement projects, the PEIR provides analysis for what impacts and mitigation measures should be incorporated into these projects. The PEIR of the Downtown Plan determined that all project impacts can be mitigated to a level below significance with the exception of the following impacts, which are considered significant unavoidable adverse impacts of the Downtown Plan:

- Aesthetics
- Air Quality
- Cultural Resources
- Greenhouse Gas Emissions
- Noise
- Population and Housing
- Public Services
- Transportation and Traffic

The Final PEIR contains written responses to all comments received on the Draft PEIR, with addenda and errata providing updated information. The Draft PEIR, along with the comments, responses and additional information, comprise the Final PEIR. A Resolution certifying the PEIR and adopting the Findings of Fact, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program is attached.

The Statement of Overriding Considerations (SOC) is required due to the unavoidable adverse significant impacts identified in the Final PEIR. Whenever a project results in unavoidable significant impacts, the lead agency must state in writing the specific reasons to support its action. If the economic, legal, social, technological or other benefits of a project outweigh the significant unavoidable adverse environmental impacts, the adverse effects may be considered to be acceptable.

Planning Commission Actions

On November 10, 2011, the Planning Commission held a special meeting to consider actions related to the Downtown Plan, and to receive testimony. During that meeting, it was noted that the Final PEIR was missing a study by David Rosen & Associates, which served as an attachment to an official comment letter. While the comment letter was responded to and included in the Final PEIR, the actual study document was inadvertently omitted and, therefore, the administrative record was incomplete. As such, the Planning Commission continued the public hearing to December 1, 2011, in order to allow for inclusion of the study, to complete the administrative record and to allow the Planning Commission full consideration of all issues presented during the comment period. At the December 1, 2011 meeting, the Planning Commission voted to certify the Final PEIR. The Planning Commission also voted to recommend the General Plan Land Use Designation (LUD) change and adoption of the Downtown Plan. Copies of the respective staff reports are attached (Exhibits D-1 and D-2).

The Planning Commission's actions have been appealed to the City Council. The appellants are the Legal Aid Foundation of Los Angeles, the Natural Resources Defense Council and Housing Long Beach, acting together. The City Council, therefore, must consider the appeal, and either uphold the appeal, or deny the appeal and re-certify the Final PEIR. This action must be taken so that the City Council can consider the information provided in the Final PEIR prior to taking any actions related to adopting or implementing the Downtown Plan.

Supplemental Recommendation by Planning Commission

The appellants are encouraging the inclusion of community benefits as part of the Downtown Plan. They are advocating that these benefits be applied only in the downtown. The Planning Commission crafted a supplemental recommendation to request that the City Council authorize a citywide study of community benefits, including affordable housing requirements, commercial linkage fees, and local hiring practices. This recommendation was the result of the Planning Commission's belief that these issues are best addressed citywide, rather than being limited to the 725 acres within the boundaries of the Downtown Plan.

In April 2011, the appellants submitted the David Rosen & Associates study, referenced above, as part of their comment letter. The DRA study concluded that community benefits should be applied specifically in the Downtown Plan area as mitigation for environmental issues analyzed in the Final PEIR related to population and housing, air quality, greenhouse gas emissions, traffic and transportation.

A fundamental purpose of the DRA study was to demonstrate that the imposition of community benefit requirements on new development would not act as a constraint to new development under the Downtown Plan. The analysis performed by DRA was based on the assumption that the increased heights and building density, reduced parking requirements and shortened entitlement timelines proposed in the Downtown Plan would result in increased property values. The DRA study creates estimates of the property value increases, which were then used to conclude that the proposed community benefits costs could be borne without constraining new development. The existence of this value enhancement is crucial to the conclusion that community benefits requirements will not constrain new development opportunities.

The DRA study only considered the increased height limits, reduction in parking standards and streamlined approval process proposed in the Downtown Plan. The DRA study did not take into account any of the additional requirements imposed by the Downtown Plan such as increased open space and an intensified architectural design review process. Moreover, the Final PEIR concluded that the intensity of development that would occur under the Downtown Plan should not be expected to be substantially different than would be anticipated under existing zoning. It is, therefore, not reasonable to conclude that the proposed Downtown Plan will cause downtown property values to increase. This negates the fundamental premise of the DRA conclusion that the cost of additional community benefits can be supported without constraining new development.

The Final PEIR concluded that the inclusion of community benefit requirements in the Downtown Plan is not necessary to mitigate the environmental issues the DRA study is purporting to address. The Planning Commission concurred with the Final PEIR conclusion, but then also requested that the City Council study these issues on a citywide basis in the belief that these issues are housing and development policies with citywide implications that should be explored and analyzed from a citywide perspective, provided the City Council agrees.

Inclusionary Housing Requirements

To provide the City Council with some background on these policies, staff surveyed 140 cities in the Counties of Los Angeles, Orange and San Diego. The staff survey found that 31 cities in the three counties have adopted inclusionary housing ordinances or policies (22 percent), and that only two of the ordinances do not apply citywide. These two ordinances only apply inclusionary housing obligations in redevelopment project areas that are subject to the affordable housing production requirements imposed by the California Redevelopment Law (CRL).

The following facts should be considered when evaluating the imposition of inclusionary housing

requirements in Long Beach:

1. Over the past 10 years, the majority of the deed restricted affordable housing units constructed in Long Beach have been developed under the auspices of the Long Beach Housing Development Company.
2. Approximately 11 percent of all existing units in the Downtown Plan area are currently deed restricted for occupancy by very low-, low- and moderate-income households. Comparatively, three percent of the housing units in the City are subject to income and affordability restrictions.
3. Only 6.6 percent of the City's housing inventory is located in the Downtown Plan area. Comparatively, 24 percent of the City's income restricted units are located in the Downtown Plan area.
4. Forty seven percent of the City is already subject to the inclusionary housing requirements imposed by the CRL for redevelopment project areas adopted after 1976. This requirement applies to both the Central and North Long Beach Redevelopment Project Areas. Approximately 73 percent of the Downtown Plan area is within the Central Project Area and, therefore, it is already subject to the inclusionary housing requirements imposed by the CRL.

It is clear that the area encompassed by the Downtown Plan already contains a large percentage of the income restricted housing units in the City. If the City Council wishes to consider applying inclusionary housing requirements on new development, the limitations imposed by the California Court of Appeals decision in the *Palmer/Sixth Street Properties L.P. v. City of Los Angeles* (Palmer) need to be considered. The Palmer decision clearly limits the ability of local land use jurisdictions to impose income and affordability restrictions on rental housing unless a developer receives financial assistance and/or development incentives.

Commercial Linkage Fees

There are currently 27 cities in California that impose commercial linkage fees. Of this total, only three of those cities are located in the Counties of Los Angeles, Orange and San Diego. These cities are Santa Monica, West Hollywood and San Diego. If the City Council wishes to consider the imposition of a linkage fee on commercial development, the City must demonstrate that new commercial development increases the need for housing that is affordable to low and moderate-income households. This increased need must be quantified and the fee must reflect the need for affordable housing created by the development.

Community Benefits Study Option

If the City Council wishes to pursue discussion of community benefits, one option would be to direct that these issues be reviewed as part of the next mandatory update of the Housing Element, which must be adopted by 2013.

For the reasons stated above, and in accordance with the Planning Commission's recommendations, staff recommends approval of the Downtown Plan without the inclusion of community benefits proposed by the appellants.

This matter was reviewed by Assistant City Attorney Michael Mais on December 21, 2011 and by Budget Management Officer Victoria Bell on December 19, 2011.

The Municipal Code requires City Council action within 60 days of appeals filed on actions taken by the Planning Commission. This appeal period ended on December 12, 2011.

There is no fiscal or local job impact associated with the recommended action.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH RECERTIFYING THAT THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (PEIR) FOR THE DOWNTOWN PLAN (STATE CLEARINGHOUSE NO. 2009071006) HAS BEEN COMPLETED IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE AND LOCAL GUIDELINES AND MAKING CERTAIN FINDINGS AND DETERMINATIONS RELATIVE THERETO; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

AMY BODEK
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

PATRICK H. WEST
CITY MANAGER