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## **NOTICE AND AGENDA: ENCINO NEIGHBORHOOD COUNCIL PLANNING AND LAND USE (PLU) COMMITTEE MEETING**

**Date: TUESDAY, November 13, 2018**

**Time: 7:00PM**

**Location: Encino Women's Club  
4924 Paso Robles Ave., Encino, CA 91316**

Residents and Stakeholders are invited to hear presentations from the presenters listed in the action items and informational items below. These items may affect your neighborhood. These developers, projects or presenters are seeking advisory comment from the Encino Neighborhood Council. You may speak and provide oral or written comments for the record on the impacts this project will have on you or your neighbors.

MEMBERS OF THE PUBLIC WHO WISH TO ASK A QUESTION OR SPEAK UNDER PUBLIC COMMENTS ARE REQUESTED TO FILL OUT A SPEAKER CARD AND PROVIDE IT TO THE CHAIR. Any personal information can be released pursuant to the CA Public Records Act.

MOTION(S), DISCUSSION(S), AND A VOTE MAY BE TAKEN ON ALL ITEMS POSTED ON THE AGENDA. At the discretion of the Chair this agenda may be modified as to time slots for agenda items or speakers to accommodate changes at that time.

### **1. Call to Order: Roll Call, Determination of a Quorum, selection of voting PLU Committee Members, Selection of Secretary for this meeting.**

Committee Members on the ENC Board:

Eliot Cohen\* (Chair), Henry Eshelman\*, Carol Levin\*, Dr. Gerald Silver\*, Lee Blumenfeld\*

Stakeholder Committee Members:

Diana Menzer, Jo-Dee Becker, Greg Zeisler MPH, Al Mass

Alternate Committee Member(s): Steven Turner\*\*

\*Indicates ENC Board Member, \*\*indicates ENC Alternate Board Member, no more than a total of 5 Board Members and/or Alternates May vote on the same item during the course of a Committee Meeting.

### **2. Approval of Minutes of Prior Committee Meetings**

2-A Discussion and Possible Action to Approve the Draft 10/09/2018 PLU Committee Meeting Minutes <http://www.encinonc.org/docs/34483203-5209.pdf>



For access to the digital copy of this agenda with links please scan the QR code or go to <http://encinonc.org/land-use-committee.php>

### 3. Action Items (Votes may be taken on all Action Items)

#### 3-A. PLU-18-11-0005: Discussion and Possible Action Re: 4741 Libbit Ave. Apartment Project. ENV-2018-5438-EAF/ DIR-2018-5437-DB)

Links below provides information including the following:

- Aerial (<http://encinonc.org/docs/34483203-5202.pdf>)
- Site Plan (<http://encinonc.org/docs/34483203-5206.pdf> )
- Renderings(<http://encinonc.org/docs/34483203-5203.pdf> ; <http://encinonc.org/docs/34483203-5204.pdf>)
- Elevations (<http://encinonc.org/docs/34483203-5207.pdf> ; <http://encinonc.org/docs/34483203-5208.pdf>)

Or <https://www.dropbox.com/sh/y17j0bj5zue8cpz/AAAH44lfLiFNAnBSrZ8hRM2a?dl=0>

**Project description:** 4741 Libbit Avenue is a proposal to build an apartment building on a vacant lot that will consist of 42 market-rate and 4 affordable apartments for a total of 46 units. The project will create upscale homes with modern amenities, generous open space, new streetscape landscaping and employ sustainable building practices.

- Size of the lot: 27,017 sf
- Square footage of the building: 60,000 sf
- Open space: 7,400 square feet
- Height: five stories at its highest point and limited to no more than 56 feet
- Parking: one level of subterranean parking with 60 vehicle spaces
- Bicycle parking: 44 stalls on the first floor and basement parking level

#### Existing Zoning

- Site has a land use designation of Medium Residential, the zoning designation is R3-1.
- Under existing zoning regulations, height would be limited to 45 feet and the rear yard setback would be set at 15 feet.
- 33 residential uses could be built onsite and required parking per LAMC 12.21A4(b) would be 2 vehicle spaces for 2-bedroom units, 1.5 vehicle spaces for 1-bedroom units and 1 vehicle space for single units.

#### Requested Entitlements

- An affordable housing density bonus has been requested to increase the number of residential units by including 4 affordable housing units in the building.
- The provision of affordable housing also qualifies the project for 2 development incentives, including a height increase to allow a partial stepped back 5-story building and the adjustment of the rear setback area to 12 feet. The density bonus by-right incentives allow additional units and reduced parking.

The ENC-PLU will consider a motion to approve/disapprove or with modifications approve project as presented.

#### 3-B. PLU-18-11-0006: Discussion and Possible Action to Weigh in on (re:code LA) Processes & Procedures Ordinance; Case No.: CPC-2016-3182-CA; Council File: 12-0460", CEQA Case No. ENV-2016-3183-CE

*Below is a discussion and interpretation of the proposed ordinance gathered from several sources. It is not meant to be a complete disclosure on all aspects of CF:12-0460. The complete file 924 pages can be obtained here:*

[https://planning.lacity.org/ordinances/docs/Processes\\_and\\_Procedures\\_Ordinance/Staff\\_Report.pdf](https://planning.lacity.org/ordinances/docs/Processes_and_Procedures_Ordinance/Staff_Report.pdf) Readers of this discussion and interpretation are urged to exercise their own due diligence. (PLU-Chair)



**OVERVIEW**

For years the Dept. of City Planning has been working on "re:code LA," a comprehensive revision of the city's zoning code. The first stage of that revision is now moving forward, rapidly. It's called the "Processes & Procedures Ordinance." It is a 948-page document. If adopted, it will add a new chapter giving the Mayor and the Planning Dept. especially the Planning Commissioner vast new powers while limiting the City Councils role in decision making, which will be codified into LAW of the Los Angeles Municipal Code.

LA's City Charter says (or will have said) that all legislative power of the city is vested in the City Council, except as otherwise provided in the City Charter. That includes the City Council's power over planning and zoning. But by adding this new chapter to the Municipal Code, "Processes & Procedures" seems intended to change that.

Under "General Authority" **the new language states:** *"The City Council generally exercises all legislative authority associated with the Zoning Code, except where otherwise provided by the Charter, State law, or the Zoning Code."* "In other words, the Zoning Code itself could limit the Los Angeles City Council's legislative power over zoning.

And since the Department of City Planning is rewriting the zoning code, the idea seems to be to take planning power from elected officials and *give it to unelected planning bureaucrats*. The addition of the words "State law" is also disturbing, since this could potentially limit the City's ability to challenge legislation from Sacramento, like maybe something along the lines of Scott Wiener's defeated SB 827.

This ordinance also *restricts appeals by the public, weakens safeguards* for Historic Preservation Overlay Zones (HPOZs), and allows the Department of City Planning to grant conditional use permits -- *without public input*.

The existing City Charter vests ALL legislative authority in the City Council except as otherwise reserved in the Charter. New proposed section 13.1 specifically provides that the City Council has legislative authority, except as limited by the Charter, state law, or the Los Angeles Municipal Code. **Subsection C makes it clear that it cuts back on the City Council's ultimate legislative authority under City Charter Section 240:**

The language in "C" is pernicious in at least three respects:

First, the "subject to State law" paves the way for a statewide Planning and Zoning Commission that is implemented top down by State law directly to City Planning managers, bypassing the City Council and the Mayor. The existing Charter gives the City and City Council the right to fight and sue over "top down" state legislation like the problematic Senator Scott Weiner bills on the basis of the California Constitution or otherwise. This amendment arguably takes that right away since it specifically cedes City Charter-granted powers to the State.

Second, the "subject to the Zoning Code" takes away all legislative authority from the City to the extent given to others in the Zoning Code itself. The existing City Charter gives the City Council (or any member in accordance with its rules) the ability to respond to neighborhood sentiment by "pulling" a matter from the Department of City Planning This amendment takes that right away since decisions are left to the Zoning Administrator or LADBS. Furthermore,



nearly all such decisions are unappealable and unreviewable under the proposed ordinance. Third, the veto language is missing the crucial phrase included everywhere that a veto is mentioned in the Charter itself -- the phrase "subject to the power of veto or approval by the Mayor as set forth in the Charter". Thus, without the override provisions, this could strip the City Council of ALL legislative authority except as otherwise approved by the Mayor. These "procedural" changes seem to fundamentally alter the veto power that the City Council has in the face of a mayoral veto.

### **CITIZEN/NEIGHBORHOOD PARTICIPATION:**

This is a general assault on neighborhood participation because it reduces notifications to residents and neighbors regarding a nearby project:

From: Councilmembers, Neighborhood Councils, occupants and neighbors within 500 feet or such greater footage area as would ensure notice to at least 20 property owners,

To: Councilmembers and immediately adjacent property owners ONLY.

1. It reduces the notice period from 24 to 21 days.
2. All requirements for a public hearing are vastly reduced and may be waived unless adjacent property owners (not Neighborhood Councils or other stakeholders) object in writing to the proposed project within 21 days of receiving the notice.
3. The number of hearings, particularly at the Director of Planning level, is "optional".

### **HISTORIC PRESERVATION:**

Historic Preservation and Historical Preservation Overlay Zones (HPOZ's): This proposed procedural ordinance allows decisions regarding commercial uses, wireless telecommunication, other specific breaches of HPOZ Guidelines, certificates of appropriateness, certificates of compliance and zoning "adjustments" and "variances" within any zone, including parcels in HPOZs, to be subject to unappealable determinations by of the Director of Planning or the Advisory Agency (which is an extension of the Director of Planning).

### **UPZONING:**

The proposed ordinance supposedly just "streamlines" procedures, yet significantly up-zones height, FAR and other zoning limitations INCLUDING SPECIFICALLY historic properties and residences at national, state and local levels. It also embodies as an ordinance the Planning Department's view that the new City Planning Commission-adopted Transit Oriented Communities Guidelines override all other City zoning regulations and ordinances. This is not just a "procedural" clarification, but a new zoning code, implemented by fiat by the Planning Department with limited or no notice, public hearings, or neighborhood input.

### **POWER GRAB:**

New section 13.1.1. opens by stating, *"This Division recognizes or formally establishes the agencies involved in administering the Los Angeles Zoning Code. The Division also describes how the agencies are composed, and their powers and duties."*

This language suggests that the agencies are being given powers independently of Council and its power per the City Charter. Since this will be enacted by ordinance, the provisions and powers granted may be read to override contrary provisions in the Charter and serve to delegate away legislative power without formally amending the Charter. That is made apparent because the Charter provision on the City Council's general authority is changed, while the Charter provision on the general authority for the Mayor's office is not. The City Charter cannot be amended or modified without a vote on the ballot, yet that is precisely what this proposal appears to do.

Section 13.1.3 gives the Central Planning Commission ("CPC") final decision-making authority over (among other things) Class 3 Conditional Use Permits, Preservation Plan Adoptions/ Amendments;



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and Policy Plans as well as over all decisions given to Area Planning Commissions. Currently, the CPC has final authority over NOTHING since all of their activities are subject to Council's ultimate legislative power. The proposed ordinance also makes the CPC the ultimate decision maker "to approve or deny, on appeal, any:

- Project Review relating to a Density Bonus;
- Specific Plan Interpretation (which affects an entire Specific Plan area or any of its subareas);
- Appeals of Department of City Planning action on LADBS appeal that is found may have a citywide impact;
- Zoning Code Interpretation; and
- Subdivision approval, as provided in Division 13.10."

So, the CPC would decide all Zoning Code interpretations (e.g. Do the CPC-adopted Transit Oriented Community Guidelines that implement Measure JJJ apply in an HPOZ? Do they override Q conditions?).

Area Planning Commissions ("APC") also get vastly expanded powers in Section 13.1.4 (and remember that the Director of Planning can exercise power and make decisions regarding all CPC and APC matters under the proposal):

- To render a final decision on any:
- Project Exception; and
- Certificate of Appropriateness (demolition, removal, relocation).
- To approve or deny, on appeal, any:
- Class 2 Conditional Use Permit;
- Project Review;
- Project Permit;
- Project Compliance (with Design Review);
- Project Adjustment;
- Specific Plan Interpretation (which is applicable only on a site-specific basis);
- Alternative Compliance;
- Adjustment;
- Variance;
- Appeals of Department of City Planning action on LADBS appeal;
- Zoning Code Interpretation on a site-specific issue;
- Subdivision approval, as provided in Div. 13.10;
- Certificate of Appropriateness (construction, addition, alteration, reconstruction);
- Certificate of Compatibility for non-contributing elements; and
- Coastal Development Permit.

NOTE: the proposal does not say "to hear in the first instance subject to any right of appeal to the full CPC and Council", it says "to render a final decision" and "to approve or deny, on appeal", in each case suggesting no further right of appeal.

### **THE ELEVATION OF THE DIRECTOR OF PLANNING:**

The Director of Planning currently has no ultimate authority in the existing charter and Municipal Code. **The proposed Section 1.3.5 grants the Director of Planning a wide array of prior un-granted powers making the Director of Planning the ultimate decision-maker:**

(1.) Review and submit recommendations on:

- a. The adoption or amendment of the General Plan;
- b. The adoption or amendment of a Specific Plan;
- c. The adoption or amendment of the Zoning Code;
- d. A Zone Change (including Supplemental Use Districts);
- e. The adoption or amendment of a Preservation Plan; and
- f. Any other decision within the original jurisdiction of the City Planning Commission or an Area Planning Commission.

(2.) **To render a decision on any:**



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- a. Project Review;
- b. Director Determination;
- c. Administrative Review;
- d. Project Compliance;
- e. Project Compliance (with Design Review);
- f. Project Adjustment;
- g. Specific Plan Interpretation;
- h. Alternative Compliance;
- i. Adjustment;
- j. Reasonable Accommodation - Fair Housing Protections for Individuals with Disabilities;
- k. Review of Conforming Work in an Historic Preservation Overlay Zone, where delegated by a Preservation Plan;
- l. Certificate of Appropriateness (construction, addition, alteration, reconstruction) in an Historic Preservation Overlay Zone;
- m. Certificate of Compatibility for non-contributing elements in an Historic Preservation Overlay Zone;
- n. Appeals from LADBS Determinations; and
- o. Coastal Development Permit.

**Motion: The Encino Neighborhood Council opposes in the strongest possible terms, the Processes & Procedures Ordinance; Case No.: CPC-2016-3182-CA; Council File: 12-0460", CEQA Case No. ENV-2016-3183-CE. The ENC opposition is due to the fact the ordinance weakens safeguards, handcuffs public participation, limiting or killing existing public notices and the public's rights to appeal many land-use decisions, gives unappealable decision making power to unelected political appointments. Furthermore, this ordinance erodes local control of building decisions to Administrators, Commissioners and Bureaucrats who have no idea of local concerns, conditions, traffic and continuity of the Neighborhood(s) in question.**

Sources: <https://citywatchla.com/index.php/2016-01-01-13-17-00/los-angeles/16366-948-pages-of-power-grab-la-s-city-planning-commission-hearing> <https://mailchi.mp/aidshealth/cjm1lfmao8-627425?e=58be8ee31e>  
<https://recode.la/updates/news/proposed-process-overhaul-%E2%80%93-staff-report-and-recommended-ordinance-released>  
[http://www.plannersnetwork.org/wp-content/uploads/2015/11/PPM\\_Fall2015\\_Platkin.pdf](http://www.plannersnetwork.org/wp-content/uploads/2015/11/PPM_Fall2015_Platkin.pdf)

#### **4. Public Comment on Issues NOT on this Agenda**

#### **5. Committee Member Comment on Items NOT on this Agenda**

#### **6. Adjournment (8:45 PM)**

The Encino Neighborhood Council (ENC), is a Certified Neighborhood Council of the City of Los Angeles which ADVISES City, other Governmental Officials' and the Community on issues or concerns that are affecting the community of ENCINO. The ENC is made up of volunteers who are ELECTED by the community who live, work or otherwise are involved in the community of ENCINO. The ENC also makes appropriations of City Funds for Community Projects and needs as requested and approved by various committees and the general board.

PUBLIC INPUT AT NEIGHBORHOOD COUNCIL MEETINGS – The public is requested to fill out a "Speaker Card" to address the Board on any agenda item before the Board takes an action on an item. Comments from the public on agenda items will be heard only when the respective item is being considered. Comments from the public on other



matters not appearing on the agenda that are within the Board's jurisdiction will be heard during the General Public Comment period.

Please note that under the Brown Act, the Board is prevented from acting on a matter that you bring to its attention during the General Public Comment period; however, the issue raised by a member of the public may become the subject of a future Board meeting. Public comment is limited to 2 minutes per speaker per item, unless adjusted by the presiding officer of the Board or Committee.

PUBLIC POSTING OF AGENDAS - ENC agendas are posted for public review as follows: Glass case outside the Encino Chamber of Commerce office at 4933 Balboa Blvd, Encino, Encino-Tarzana Branch Library, in the Encino Woman's Club (4924 Paso Robles Ave, Encino, 91316) and at [www.encinonc.org](http://www.encinonc.org) You can also receive our agendas via email by subscribing to L.A. City's Early Notification System at <http://www.lacity.org/government/Subscriptions/NeighborhoodCouncils/index.htm>

THE AMERICAN WITH DISABILITIES ACT - 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 and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. Sign language interpreters, assistive listening devices and other auxiliary aids and/or services, may be provided upon request. To ensure availability of services, please make your request at least 3 business days (72 hours) prior to the meeting you wish to attend by contacting Alex Garay, Board President, at (818) 971-6996 or email via [president@encinonc.org](mailto:president@encinonc.org)

PUBLIC ACCESS OF RECORDS – In compliance with Government Code section 54957.5, non-exempt writings that are distributed to a majority or all of the board in advance of a meeting may be viewed at our website: [encinonc.org](http://encinonc.org) or at the scheduled meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Alex Garay, Board President, at (818) 971-6996 or email via [president@encinonc.org](mailto:president@encinonc.org).

#### RECONSIDERATION AND GRIEVANCE PROCESS

For information on the ENC's process for board action reconsideration, stakeholder grievance policy, or any other procedural matters related to this Council, please consult the ENC Bylaws. The Bylaws are available at our Board meetings and our website <http://www.encinonc.org/bylaws.ph>

#### SERVICIOS DE TRADUCCION

Si requiere servicios de traducción, favor de avisar al Concejo Vecinal 3 días de trabajo (72 horas) antes del evento. Por favor contacte a Alex Garay, Presidente de la Mesa Directiva, al [\(818\) 971-6996](tel:8189716996) o por correo electrónico [president@encinonc.org](mailto:president@encinonc.org) para avisar al Concejo Vecinal.

