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City of Los Angeles Releases Updated Draft Overhaul of Downtown Plan and Zoning

Sweeping changes include elimination of longstanding TFAR program

The Los Angeles Department of City Planning has released updated drafts of a suite of long-range planning documents presenting the City's new vision for downtown Los Angeles over the next twenty years. Known as "DTLA 2040", the new Downtown Los Angeles Community Plan and Community Plan Implementation Overlay District would replace the outdated Central City and Central City North Community Plans. These updated planning documents join the previously released preliminary draft of the City's new Zoning Code, which represents the first comprehensive update since it was first adopted nearly 75 years ago, although only the portion applicable to Downtown is proposed for adoption at this time. The City also has made available for public review and comment a Draft Environmental Impact Report (EIR) analyzing the impacts of DTLA 2040 on the environment, as required under the California Environmental Quality Act. The comment period on the EIR runs through December 4, 2020. The City also will be holding a public hearing to take comments on DTLA 2040 on December 8, 2020 and accepting written comments through December 18, 2020.

Overview - A Radical Departure from Existing DTLA Land Use Regulations

DTLA 2040 represents a radical departure from existing land use regulation for downtown Los Angeles. In addition to overhauling development rights, processes, and procedures across the Community Plan area, the new Zoning Code would now be form-based, highly prescriptive, and extremely complicated. As DTLA 2040 heads into uncharted planning and zoning waters, it should be expected to result in various unintended consequences that may require numerous code interpretations and potential corrective amendments for years to come.

Close attention should be paid to how the new rules may impact properties and projects, as their impacts on property values and development rights will likely vary depending on location. Projects for which entitlement applications are not deemed complete prior to the effective date of DTLA 2040 would be subject to the new rules. It will, therefore, be important to follow the City's review process closely and provide input both to support the positive elements of DTLA 2040 and comment on areas of concern.

While much of DTLA 2040 is unique to Downtown Los Angeles, many of its proposals may be seen as a harbinger of things to come in other Community Plan updates that are in process. And while only the downtown portion of the new Zoning Code is proposed for adoption at this time, public input on this portion could influence whether, and the extent to which, the Planning Department makes further changes to the draft that could affect the rest of the City.

The End of TFAR as We Know It

Under DTLA 2040, the areas in Downtown where housing would be permitted would nearly double, from 33% to 60%. At the same time, given its complexities and prescriptions, it remains to be seen whether this level of new housing can be realized

under the new Community Plan and Zoning Code. One of the more notable proposed changes is the elimination of the City's widely used transfer of floor area rights (TFAR) program as a tool for exceeding a property's permitted floor area, in favor of a new standardized, incentive-based Community Benefits Program, with an emphasis on affordable housing creation.

If adopted as proposed, developers would no longer have the option to pay up front to acquire additional floor area from the Los Angeles Convention Center property to exceed floor area ratio (FAR) limits through the City's longstanding TFAR program. Instead, under DTLA 2040, some areas of downtown would enjoy higher base FAR limits than they do today, ranging from as high as 6:1 to 13:1 within the new Transit Core portion of the Community Plan area (generally bounded by 1st Street on the north, the 110 freeway on the west, the 10 freeway on the south, and Hill Street north of 11th Street and Santee Street south of 11th Street to the east).

Under the new program, to exceed the base FAR (up to 13:1) and permitted height, developers would need to provide public benefits, such as affordable housing, publicly accessible open space, historic preservation, community amenities (e.g., childcare), transit-related infrastructure, and through a yet-to-be-defined Community Benefits Fund payment. Residential projects would be required to first provide affordable housing on-site or through in-lieu fee payments to obtain bonus FAR. If more bonus FAR is available (up to the 13:1 limit) than can be obtained through providing affordable housing, it can be obtained through providing these other forms of community benefits, subject to a discretionary and appealable Director's Determination. It is unclear how the overall cost to developers of this new public benefits program will compare to the TFAR program or the extent to which incorporating these types of public benefits into projects will be a feasible option for obtaining additional floor area.

A scaled down transfer of development rights program would remain for transfers from properties with historic resources. Under this limited program, the donor site with the historic resource may receive payment from the receiver site for up to the donor site's maximum FAR (including bonus FAR), subject to entering into a preservation plan with the City, which may also include rehabilitation of the historic resource. Transfers of floor area also would be permitted from properties within the Community Plan area outside the Civic Center Specific Plan area to within it.

Some of the Good...

DTLA 2040 also would usher in other major changes, including greater flexibility and enhancing development potential, including:

- For the new Community Plan area (other than within the existing Specific Plans), projects participating in the Community Benefits Program would benefit from a higher project review threshold of 500 residential dwelling units or guest rooms or 500,000 square feet of non-residential development, compared to the Municipal Code's standard Site Plan Review threshold of 50 residential units or guest rooms or 50,000 square feet of non-residential development. Projects in excess of 500 feet in height would not qualify for these increased thresholds. Of course, this higher threshold would not benefit projects that require other discretionary approvals, such as tract maps, conditional use permits, or variances.
- For projects exceeding the higher project review threshold or requiring other discretionary approvals, potential for CEQA streamlining and exemptions by virtue of the Community Plan Implementation Overlay District stating that it shall operate and be treated as a specific plan, zoning ordinance, and a prior plan level decision for which an EIR was certified.
- Projects within the Transit Core that participate in the Community Benefits Program may use the Buildable Area calculation (a more permissive calculation, which includes lot area plus the area between the exterior lot lines and the centerline of any abutting public right-of-way) to determine the maximum allowable FAR bonus.
- The area where adaptive reuse is permitted would be expanded to include the Arts District and the Fashion District.

- Minimum parking requirements would be eliminated, so that projects could be built without any parking.
- K-12 schools and daycare centers would be permitted uses (without the need for a conditional use permit) throughout most of downtown.

Some of the Bad...

At the same time, other changes would impose new restrictions and more stringent development standards, such as:

- Parking podium design would be heavily regulated to require the podium in most of downtown to be wrapped with active uses, except for the upper levels facing side streets, which still must be designed to be convertible to habitable uses in the future. In other more peripheral parts of downtown, the parking podiums would still need to be concealed.
- New prescriptions would be imposed within the Arts District, which will preclude or limit wood frame construction (allowing only Type I, II, or IV construction), allowing only residential as permanent supportive housing or as live/work units (which must have a minimum average unit size of 1,000 square feet) unless in connection with an adaptive reuse project, and imposing height limits in some areas. These new requirements collectively may impose insurmountable barriers to the continuation of housing growth within the Arts District that has gained so much momentum over the past several years.
- Minimum building heights would be required throughout much of the Plan area, which in many cases would allow only for high-rise construction, while imposing maximum heights in other areas.
- Conditional use permits would be required for hotels that exceed 49 rooms in certain areas, including parts of the Toy District and Little Tokyo.
- Highly prescriptive design standards would be added.
- Demolition permits would no longer be issued unless a building permit for a replacement development has been issued, except where the existing building is deemed hazardous or uninhabitable.

We are Here to Assist

Comments on the DTLA 2040 Draft EIR must be submitted by December 4, 2020. In addition, the City will be holding a [virtual public hearing](#) on December 8, 2020 from 4:00-7:00 pm to take public comment on DTLA 2040. Written comments can continue to be submitted through December 18, 2020. The Planning Department also will be holding [virtual open houses](#), including a presentation and Q&A session, on December 2 and December 5, 2020 from 1:00-2:30 pm.

If you have questions regarding DTLA 2040, how it may impact your property or development plans, or would like assistance in preparing comments for submittal to the City of Los Angeles Planning Department, please contact David Goldberg at david@agd-landuse.com or your existing point of contact at our firm.
