



## DEPARTMENT OF CITY PLANNING

### RECOMMENDATION REPORT

#### CITY PLANNING COMMISSION

**Date:** May 25, 2017  
**Time:** After 8:30 a.m.  
**Place:** Van Nuys City Hall  
14410 Sylvan Street, Room 201  
Van Nuys, CA 91401

**Case No.:** DIR-2017-1914-MSC  
**CEQA No.:** N/A  
**Location:** Citywide  
**Council District:** All

**PROPOSED PROJECT:** Pursuant to LAMC Section 12.22 A.31, adoption of the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines).

**RECOMMENDED ACTIONS:**

1. **Recommend** adoption of the Transit Oriented Communities Guidelines (Exhibit A).
2. **Adopt** the staff report as the Commission's report on the subject;
3. **Adopt** the attached Findings;
4. **Determine** that the proposed Guidelines are not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15378(b)(3) and 15378(b)(2).

VINCENT P. BERTONI, AICP  
Director of Planning  
*(signed version in the case file)*

Ken Bernstein, AICP, Principal City Planner

Claire Bowin, Senior City Planner

Matthew Glesne, City Planner  
(213) 978-2666

# TABLE OF CONTENTS

<b>Project Analysis.....</b>	<b>A-1</b>
I.    Project Summary.....	A-1
II.   Background.....	A-1
III.  Measure JJJ Requirements for the TOC Guidelines.....	A-2
IV.   Proposed TOC Guidelines.....	A-3
A.  Tier-Based System	
B.  TOC Incentives	
C.  TOC Project Approval Process	
V.    Key Issues.....	A-9
A.  Calibration of Incentives	
B.  Respecting Unique Neighborhoods	
C.  Building Design and Historic Preservation	
VI.   Conclusion.....	A-10
<b>Public Outreach and Communications.....</b>	<b>P-1</b>
I.    Proposed Changes.....	P-1
II.   Public Comment Summary .....	P-1
A.  Eligibility Criteria	
B.  Incentives	
C.  Clarity	
D.  Additional Requirements	
E.  Additional Concerns	
<b>Findings.....</b>	<b>F-1</b>
I.    General Plan Findings.....	F-1
II.   CEQA Findings.....	F-3

## Exhibits:

A - Proposed TOC Guidelines

B – TOC Incentives Quick Guide

C - Measure JJJ, Sec. 6. Transit Oriented Communities Affordable Housing Overlay

## PROJECT ANALYSIS

### I. Project Summary

The project is a proposed set of guidelines to implement a provision of Measure JJJ, which was approved by the voters on the November 8, 2016 election and became effective on December 13, 2016. Section 6 of Measure JJJ established the Transit Oriented Communities Affordable Housing Incentive Program (TOC Program), which is an affordable housing incentive program for projects located near major transit stops (LAMC 12.22 A.31). The Measure directs the Department to create a set of guidelines (TOC Guidelines) to implement the program.

The TOC Guidelines specify the land use incentives, including increased density and floor area, to be granted to projects depending how close they are to different types of transit stops and the percentage of required affordable units to be included in the projects.

The proposed TOC Guidelines seek to fulfill the promise of Measure JJJ to create more affordable and mixed-income housing near transit, while minimizing impacts to the existing built character of the City's diverse neighborhoods. The program guidelines are based on the City's existing Density Bonus program, and correspond to the specific affordability requirements outlined in Measure JJJ. The TOC Program supports important objectives around equity, growth, and sustainability and has the potential to address the City's housing crisis in a way that is both meaningful and consistent with the City's core planning principles.

Measure JJJ expires 10 years from its effective date, on December 13, 2026, unless it is extended by the City Council for up to two additional five year periods. The Measure explicitly allows future planning efforts to supersede the TOC program in specific areas. This can occur when a Community Plan or Specific Plan or overlay establishes a development bonus system that requires, at minimum, the equivalent level of affordable units identified by Measure JJJ.

### II. Background

The Los Angeles region remains in a housing crisis. Housing affordability, overcrowding, and homelessness rates are ranked at or near the most severe in the country. While there are multiple factors contributing to high housing cost, the lack of adequate affordable and market rate housing to keep up with population growth over the last 30 years is a primary cause.

Since 2010, the City's population is estimated to have grown by about 250,000 people, and about 58,000 housing units have been constructed in that time, according to the California Department of Finance. This housing production is higher than in prior years, but has not addressed built-up demand. The rental vacancy rate in the LA metro area is currently 2.4% (4Q 2016), which is the second lowest in the country and less than half what it was during the prior LA housing boom a decade earlier (US Census Housing Vacancies and Homeownership (CPS/HVS)).

The City's General Plan and SCAG's regional plan (Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS)) both promote transit-oriented infill development focused

within higher intensity commercial and multi-family areas, specifically around major transit corridors, job centers, and amenities. With the recent voter approval of Measure M, the most ambitious transit expansion in Los Angeles history, there is increased urgency to support this investment with land use incentives that allow additional housing and mixed-use growth along these transit nodes.

The TOC Guidelines aim to accomplish several core objectives, as outlined in Measure JJJ:

- Help to address the acute housing shortage for all income levels in neighborhoods well served by public transit;
- Increase the number of affordable housing units proposed in new housing projects;
- Promote the one-to-one replacement of any rent stabilized units or those occupied by lower income households;
- Respect the unique character of areas planned for lower intensity development; and
- Promote more sustainable, safe, walkable neighborhoods with access to good jobs and amenities for residents at all economic levels.

### **III. Measure JJJ Requirements for the TOC Guidelines**

Measure JJJ established LAMC Section 12.22 A.31 to create a new transit-based affordable housing incentive called the *Transit Oriented Communities Affordable Housing Incentive Program* (TOC Program). The measure required the Department of City Planning to prepare, within 90 days of the effective date of Measure JJJ, a *TOC Incentive Guidelines* (Exhibit A) document that establishes the eligibility, incentives, process and procedures of the program. The Department released the draft Guidelines on March 13, 2017, within 90 days of the Measure's effective date.

Measure JJJ establishes the procedures and eligibility criteria for the TOC Program. An eligible housing development is one that results in the construction, addition or remodeling of buildings containing 5 or more units, including a mixed-use development that includes commercial uses in addition to the residential uses. Additionally the project must:

- Be located within a ½ mile radius of a major transit stop, defined as any rail station or an intersection of two or more bus routes each with 15 minute peak headways.
- Provide on-site restricted affordable units at a rate of at least (as a percent of the total number of units in the project):
  - 7% Extremely Low Income (ELI) households;
  - 11% Very Low Income (VL) households; or
  - 20% Low Income households;
- Replace any demolished or converted housing units that were subject to the Rent Stabilization Ordinance (RSO) and/or were occupied by lower income households with the prior five years, per Gov. Code §§ 65915(c)(3)(A);
- Not seek or receive a Density Bonus or other type of development bonus separate from and above any bonus derived from the TOC program

The specific incentives offered through the program are determined by the proposed TOC Guidelines but must be consistent with the provisions of Measure JJJ, including:

- At least a 35% density and/or floor area ratio increase;
- Parking reductions consistent with those offered through AB 744 (2015), which allows cities to require no more than 0.5 parking spaces per bedroom near a Major Transit Stop;
- Up to either two or three Additional Incentives, depending on the percent of affordable housing provided; and
- A separate incentive(s) must be provided for projects meeting higher labor provisions.

#### IV. **Proposed TOC Guidelines**

##### **A. Tier-Based System**

The Department of City Planning structured the Guidelines to provide levels of incentives linked to the quality and proximity of a transit stop. This strategy results in a system that provides different levels of development for a project located a half-mile from a regular bus lines than for one located adjacent to a Metro Rail Station.

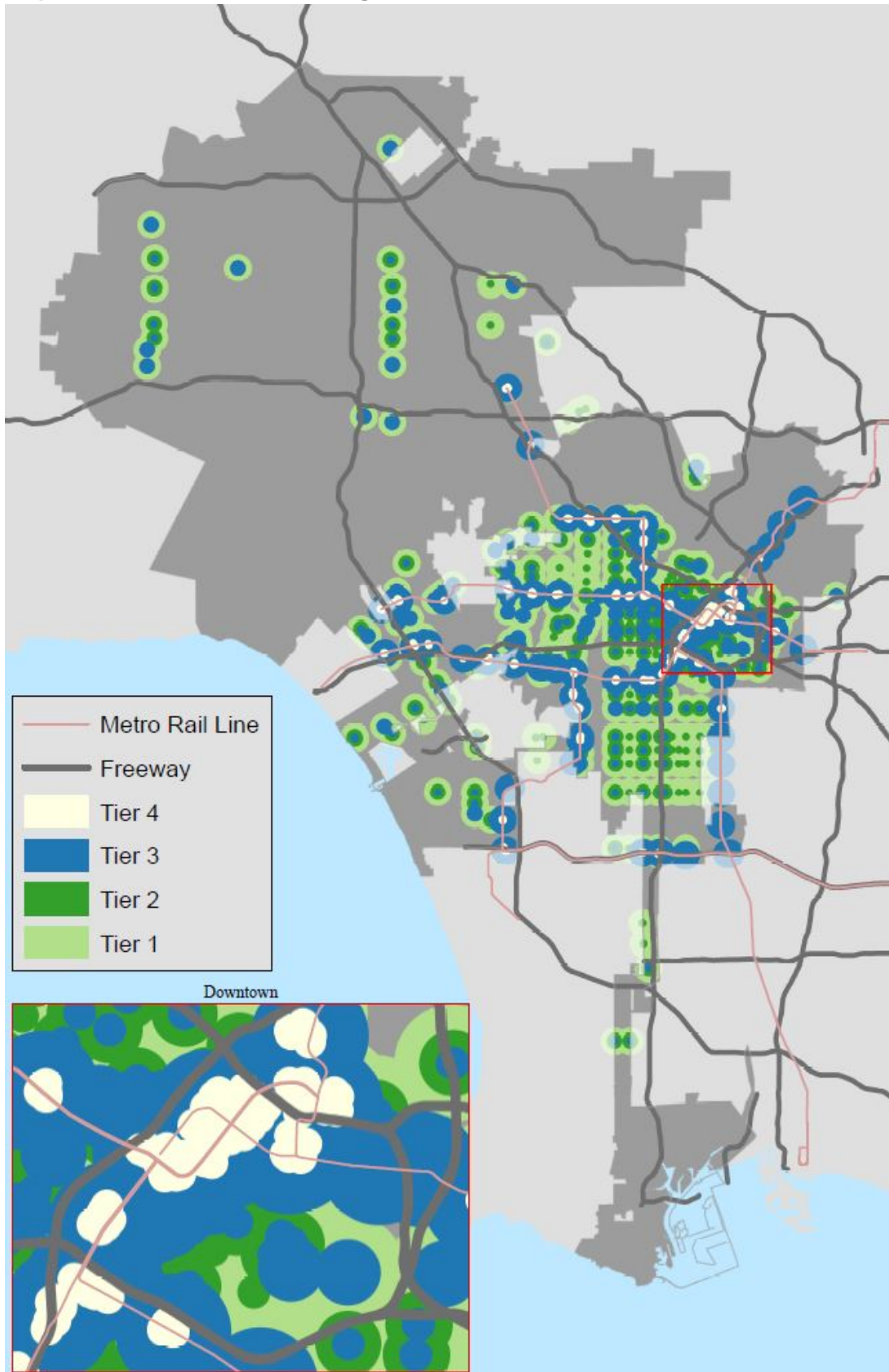
To reflect these important distinctions, the Department proposes a Tier-based system that classifies eligible TOC areas into 4 Tiers depending on the project's distance from different types of transit service. Because they allow for increased density and floor area, the higher Tiers also require that additional levels of affordable housing be provided. All incentives and tiers are proposed in careful proportion to the affordable housing requirements outlined in JJJ and the development incentives in the City's current Density Bonus program. The structure of the Tiers is summarized in Chart 1 on the following page.

Approximately 21.2% of the City's zoned land falls within a half-mile of a major transit stop, or areas that are subject to the TOC Program. However, since much of this land is zoned for low density residential (i.e. R1, R2 or RA zones) or uses that do not permit housing to be built (P or M zones), this limits the eligible TOC areas to approximately 13% of the City. Of these eligible TOC areas, approximately 58% are subject to exceptions and restrictions (i.e. zoned with a height district designation of 1-XL or 1-VL or in a RD Zone), and would not be able to access the full range of incentives available to other projects (see *TOC Incentives* discussion below).

**Chart 1. TOC Affordable Housing Incentive Area Tiers**

<b>Type of Major Transit Stop</b>	<b>Low (Tier 1)</b>	<b>Medium (Tier 2)</b>	<b>High (Tier 3)</b>	<b>Regional (Tier 4)</b>
<b>Major Bus</b> (intersection of 2 bus lines w/ 15 min. peak headways)	750 - 2640 ft.	< 750 ft.	-	-
<b>Rapid Bus and Metrolink Rail Stations</b>	1500 - 2640 ft.	750 ft. - 1500 ft.	< 750 ft, or < 1500 ft. from intersection of two Rapid Bus Lines	-
<b>Rail Stations (Metro)</b>			<2640 ft.	<750 ft from intersection with another train line or Rapid Bus stop

**Map 1. TOC Affordable Housing Incentive Area Tiers**



## B. TOC Incentives

The incentives provided in the TOC Guidelines describe the range of bonuses from particular zoning standards that applicants may select through the TOC Program. The system is based largely on the current Density Bonus program, which features a limited set of “by-right” Base Incentives and a menu of Additional Incentives, from which up to either two or three may be selected through a discretionary review process. Unlike Density Bonus, there is no way to request incentives that are not on the menu.

### Base Incentives

Similar to the Density Bonus program, and in line with the requirements established by Measure JJJ, the TOC Program allows for projects requesting limited Base Incentives relating to density and parking to be considered without any additional planning discretionary review or entitlement (see *Chart 2*). Measure JJJ describes the density incentive to mean “minimum square feet per dwelling unit, floor area ratio (FAR), or both.” (LAMC Section 12.22 A.31 (a)(2)(i)). Density increases of at least 35% must be provided, alongside parking standards consistent with California Government Code Section 65915(p) (i.e. the AB 744 standards).

**Chart 2. Base TOC Incentives**

	<b>Low (Tier 1)</b>	<b>Medium (Tier 2)</b>	<b>High (Tier 3)</b>	<b>Regional (Tier 4)</b>
<b>Increase in Maximum Allowable Number of Dwelling Units<sup>a</sup></b>	50%	60%	70%	80%
<b>Increase in Floor Area Ratio (FAR)<sup>b</sup></b>	Up to 35%, or at least 2.5:1 in commercial zones <sup>c</sup>	Up to 40%, or at least 3.0:1 in commercial zones <sup>c</sup>	Up to 45%, or at least 3.5:1 in commercial zones <sup>c</sup>	Up to 50%, or at least 4.0:1 in commercial zones <sup>c</sup>
<b>Residential Minimum Parking Requirements</b>	0.5 spaces per bedroom		1 space per unit	0.5 spaces per unit

Notes:

<sup>a</sup> Exception: In the Restricted Density Multiple Family Zone (RD Zone), the maximum increase in allowable number of dwelling unit shall be limited to the amounts listed below:

1. Tier 1 – 35%
2. Tier 2 – 35%
3. Tier 3 – 40%
4. Tier 4 – 45%

<sup>b</sup> Exceptions: The following apply to the FAR Base Incentive:

1. In the RD Zone or a Specific Plan or overlay that limits FAR, the maximum FAR increase shall be limited to 40%.
2. If the allowable base FAR is less than 1.25 then the maximum FAR allowed per this section is limited to 2.5.



3. *In the Greater Downtown Housing Incentive Area, the maximum FAR increase shall be limited to 35%. However, in computing allowable floor area, the description in LAMC Section 12.22 A.29(c)(1) may be used.*

*° Including Hybrid Industrial Zones, Commercial Manufacturing Zones and any defined area in a Specific Plan or overlay that allows for commercial uses.*

In all Tiers, the Department recommends applying a larger percentage bonus to the number of units allowed within the building envelope (i.e. density) than to the size of the building envelope itself (i.e. FAR). This structure is recommended so as to limit the visual impacts of new development in areas zoned for lower and medium intensity by ensuring that building forms are more in scale to surrounding zoning context while allowing for additional housing units to be built.

### *Density*

In determining what percent increase in density (i.e. minimum square feet of lot area per dwelling unit) to allow under the program, the Department considered the amount of affordable housing required by the TOC program. Measure JJJ requires that TOC projects dedicate approximately 35% more affordable housing than the current Density Bonus program.

For example, both programs include a category for setting aside 11% of the units as very low income. However, Measure JJJ and the TOC Program calculate this as a percentage of the total number of units in the project (base density plus bonus), while the existing Density Bonus program calculates this only as a percentage of the maximum density allowed prior to any bonus (base density). To illustrate, a project with a base density of 100 units and a bonus of 35% will have a total of 135 units. Under Density Bonus, the project would be required to set aside only eleven units as very low income (eleven percent of the 100 base units), whereas under the TOC Program the project would be required to set aside 15 units (eleven percent of the 135 total units, rounded up). The 15 unit set aside requirement under TOC is approximately 35% higher than the 11 unit Density Bonus requirement. In this manner, the TOC program effectively mandates 35% more in affordable housing set asides than the Density Bonus program, and in general should correspond to incentives that are 35% more than currently exist under the Density Bonus program.

Allowable density was structured to be in line with the proportional formula established by the existing Density Bonus program. Given the increased costs of providing the additional affordable units, the Department calculated that TOC projects should receive at least a 47% Density Bonus to maintain the cost/incentive relationship established under Density Bonus law (a 35% increase from the current maximum 35% bonus). Any smaller increase in density would make the TOC program more “costly” than Density Bonus, which would be contrary to the intent of Measure JJJ.

Rather than creating incentives to allow for uniform 50% bigger, higher, and denser buildings, the TOC Guidelines propose a more strategic approach that reflects the City's priority policy objectives, including the protection of areas that have been purposefully planned for lower intensity and allowing greater intensity of incentives near high quality transit stations. As shown

in Chart 2, the proposed Guidelines provide incentive increases ranging from 50% to 80% in the number of allowable units on a given site, depending on the Tier. For projects located in a Restricted Density (RD) Zone, these increases are limited to a range of 35% to 45%.

#### *Floor Area Ratio (FAR)*

Similar to the existing Density Bonus program, the TOC Guidelines present a two-tiered approach to FAR incentives. As summarized in Chart 2, the proposed FAR incentive allows increases of 35%-50%, except for commercially (C) zoned properties, in which an FAR increase always permits a minimum FAR of between 2.5:1 and 4:1 (with exceptions for areas planned for low intensities). This range of allowable FARs for C zoned properties was designed to complement and build upon the existing Density Bonus program, which establishes a maximum FAR bonus of 35% but also includes a transit-based FAR incentive to permit a 3:1 FAR in C Zones within 1,500 feet of a bus rapid transit stop or rail station. The separate treatment of commercial and residential zones allows mixed-use development in commercial areas that today are typically capped at 1.5:1 FAR.

#### *Parking*

The proposed parking incentives are consistent with AB 744 (2015), which prevents cities from requiring more than 0.5 parking spaces per bedroom (or fewer in 100% affordable and special needs projects) in areas near transit. In Tier 3, the proposed TOC Guidelines cap required spaces at 1 space per unit. In the Tier 4 areas, which are located within 750 feet of a Metro rail station, parking is reduced to 0.5 spaces per unit. In addition, to promote mixed-use development and services for the TOC projects, the Guidelines allow for parking reductions of 10-40% for ground floor nonresidential uses, depending on the Tier.

#### Additional Incentives

Per Measure JJJ, applicants may obtain up to either two or three Additional Incentives on top of the Base Incentives described above. Similar to the Density Bonus program, the TOC Guidelines propose a menu of defined incentives from which applicants may select. While the TOC Guidelines are based on the menu of incentives available to Density Bonus projects, there are some key differences between the programs (see comparison chart in Exhibit B). Unlike Density Bonus, the proposed Guidelines does not allow a reduction of front yards in R Zones, but allow for greater flexibility in front yard adjustments in C Zones. While Density Bonus applies a uniform transitional height standard to all applicable projects, the TOC Guidelines propose a standard that is nuanced based on neighborhood context. As proposed, the TOC menu allows for variations to the same set of zoning code development standards included in the Density Bonus menu, as listed below:

- *Yards/Setbacks*
  - In residential (R) zones, up to a 25-35% decrease in any one individual side or rear yard in Tiers 1 & 2 or two yards in Tiers 3 & 4, or use of front yard averaging
  - In commercial (C) zones, the ability to utilize the yard requirements for the RAS3 zone (LAMC Section 12.10.5), which is designed for mixed-use projects
- *Open Space* - Up to a 20-25% decrease in required open space per LAMC 12.22 A.25(f)(6)

- *Lot Coverage* - Up to a 20-25% increase in maximum lot coverage per LAMC 12.22 A.25(f)(2)
- *Lot Width* - Up to a 25% decrease in the minimum lot width requirement per LAMC 12.22 A.25(f)(3)
- *Averaging of Floor Area Ratio, Density, Parking or Open Space, and permitting Vehicular Access* per LAMC 12.22 A.25(f)(8)
- *Density Calculation* – Allow the area of any land required to be dedicated for street or alley purposes to be included as lot area for purposes of calculating the maximum density per LAMC 12.22 A.25(f)(8)
- *Height* - A transitional height requirement for projects adjacent to single-family zones and a one story (or 11 ft.) increase if in Tiers 1 & 2, or a two-story (or 22 ft.) increase in Tiers 3 & 4. The second story must be stepped back 15 feet if the project is:
  - in a Specific Plan or overlay, or
  - zoned with a height limit of 45 feet or less

### **C. TOC Project Approval Process**

Measure JJJ requires that TOC Projects follow the procedures of the current Density Bonus program in LAMC 12.22 A.25(g). As such, there are different approval processes depending on the number and type of incentives being requested. TOC projects may follow either a ministerial (“by-right”) or discretionary (Planning approval required) process using 12.22 A.25(g)(i) and (ii) respectively. Projects requesting only Base Incentives do not require separate Planning Department review, while those asking for Additional Incentives will be processed with a Director’s Determination, similar to the Density Bonus program.

The discretionary approval process for projects asking for Additional Incentives requires Planning Department staff to issue a Directors Determination approving or denying the project. Adjacent and abutting property owners are notified of decisions and are given an opportunity to appeal to the Area Planning Commission. Ministerial projects that seek only Base Incentives will go to The Department of Building and Safety (LADBS) for Plan Check to apply for a building permit. Affordable housing covenants will also need to be filed with the Housing and Community Investment Department (HCIDLA) for all projects. All projects triggering the Site Plan Review provisions of LAMC 16.05 (when 50 units or more are allowable by current zoning) will require a discretionary Planning review even if otherwise qualified for ministerial under the TOC program.

Projects that seek Additional Incentives under the TOC program will be subject to design guideline review (any local design guidelines or the Citywide Multifamily Design Guidelines) that will allow for project design conditions, such as transparency and articulation. This is an important difference compared to the Density Bonus program, which does not require conformance with any design guidelines.

## **V. Key Issues**

### **A. Calibration of Incentives**

The proposed TOC Incentives were crafted to balance the City’s General Plan objectives and align with the City’s major affordable housing incentive program – Density Bonus. An economic

analysis of the March 2017 draft Guidelines showed the incentives proposed in the TOC Guidelines to offer very similar economic returns as those provided by the current Density Bonus program. The analysis demonstrated that in many cases, the additional development costs for larger projects taking advantage of TOC incentives (which results in the need for additional parking and impacts construction type) would not be fully offset by the incentives offered. For these reasons, and in response to many public comments received along the same lines, the Department is suggesting some refinements to the proposed incentives and required percentage of affordable units (see *Public Communications* section of this report).

### **B. Respecting Unique Neighborhoods**

The TOC Guidelines were designed to respect the uniqueness of Los Angeles's diverse neighborhoods by differentiating incentives for projects located in areas which have been planned for lower intensity development (see *TOC Incentives* discussion above). The Guidelines' transitional height requirements are also designed to provide a balanced transition between higher and lower density neighborhoods. Additionally, the TOC Guidelines would consider all applicable design guidelines for any project seeking Additional Incentives.

### **C. Building Design and Historic Preservation**

Projects that seek Additional Incentives under the TOC program would be subject to any applicable design guidelines within the General Plan and/or Citywide Design Guidelines. This process would allow for additional oversight of project design, including ground level features, glazing, and articulation.

Additionally, the TOC Guidelines do not supersede existing regulations for historic properties in Los Angeles (such as Historic Preservation Overlay Zones and Historic-Cultural Monuments). Because approval of any Additional Incentives would require a discretionary approval, this would also trigger CEQA review as well as require analysis of the project's impact on historic resource. The CEQA process is designed to analyze any potential loss of designated or identified historic resources. The approval of Additional Incentives will require a finding that there are no specific adverse impacts upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the Specific Adverse Impact without rendering the development unaffordable to Low, Very Low and Moderate-Income households.

## **VI. Conclusion**

The TOC Guidelines were developed to implement Section 6 of Measure JJJ, which was approved by the voters during the November 8, 2016 election. The TOC Program established a new affordable housing incentive program for projects located near major transit stops. The Measure directed the Department to establish the TOC Guidelines to implement the program within 90 days of the Measure's effective date (December 13, 2016).

The Department crafted the Guidelines within the context of the various mandates described in Measure JJJ as well as the City's existing Density Bonus program, while responding to the

range of existing zoning and development intensity. As a result, the Department is proposing a balanced TOC Program that acknowledges this context to link the intensity of land use incentives to the varying types of high quality transit and other neighborhood characteristics.

The City's General Plan directs growth to transit-rich neighborhoods and job centers. The proposed TOC Guidelines seek to align with this objective while fulfilling the intent of Measure JJJ to create more affordable and mixed-income housing near transit, while minimizing impacts to the existing built character of the City's diverse neighborhoods. The TOC Program supports important objectives around equity, growth, and sustainability and has the potential to address the City's housing crisis in a way that is both meaningful and consistent with the City's core planning principles.

## PUBLIC COMMUNICATIONS

Measure JJJ provided the Department 90 days from adoption (December 13, 2016) to publish the draft TOC Guidelines. During the limited period provided to develop the draft TOC Guidelines, the Department solicited input from as many stakeholder groups as possible. Groups of architects, builders, business groups, housing advocates and neighborhood councils were briefed during the preparation of the TOC Guidelines. Feedback from these stakeholders was incorporated in the draft Guidelines that were released on March 13, 2017 (meeting the 90-day requirement). Following release, the Department circulated the draft during a 30-day public comment period, which closed on April 13, 2017. During this time, 16 public comment letters were received touching on an array of topics.

Most comments were supportive of the goals of the program, which are to provide more mixed-income housing near transit. Builders and business groups wanted more incentives and greater clarity. Architects expressed desire for a higher quality projects, and advocates wanted to ensure the affordable housing and labor goals of the Measure JJJ were being supported. Homeowner associations expressed concern whether local infrastructure can handle more growth, but appreciated the program's protections for neighborhoods planned for lower intensity.

### I. Proposed Changes

As a result of the public comments received, the Department has made the following changes to the proposed TOC Guidelines provided in *Exhibit A*:

1. Clarified the definition of Major Transit Stop
2. Moved Tier 2 Metro rail stations to Tier 3
3. Refined required affordability levels for each Tier to better align with findings of an economic analysis
4. Allowed housing on "PF" Public Facility Zones
5. Clarified height incentive exceptions and removed exception for projects located on lots designated as Neighborhood Commercial general plan land use
6. Clarified that Extremely Low Income units may be used to qualify for Additional Incentives
7. Made miscellaneous updates for greater clarity, including:
  - a) Clarified the approval processes. The TOC approval process follows the process used by current Density Bonus projects, as found in LAMC Sec. 12.22 A.31(g). More information about these processes have been added to the draft TOC Guidelines.
  - b) Clarified the relationship to Specific Plans and other types of zoning ordinances, future CPIOs, etc.
  - c) Clarified how transit stops are defined for the purposes of the Tier designation.

### II. Public Comment Summary

Comments centered on five categories: eligibility criteria, incentives, clarity, additional requirements, and other concerns. These comments, along with the Department's response and

any proposed changes to the TOC Guidelines recommended as a result of these comments, are summarized below.

### **A. Eligibility Criteria**

Many commenters requested clarification or changes having to do with the basic TOC eligibility requirements. This includes changes to the major transit stop definition, the way projects built across multiple lots are treated, and the Tier eligibility for projects near Metro rail stations.

#### *Major Transit Stop Definition*

Measure JJJ refers to a Major Transit Stop as defined in State Law (Section 21155). The initial draft TOC Guidelines had originally clarified this definition by adding a requirement that the transit line be under construction to ensure accuracy in determining the exact location of the stop. However, because the proposed definition would be slightly different than the definition referenced by Measure JJJ, commenters said it could lead to confusion. Upon further review, the Department was able to obtain accurate location information for planned transit lines. Additionally, location information would be verified upon project application. Therefore, the Department has recommended to modify the definition of a Major Transit Stop to align with the definition provided in state law. As amended, the definition would include any transit stop included in an adopted regional plan (i.e. the SCAG RTP/SCS).

#### *Tier Structure*

As a result of multiple discussions and ongoing research, including an economic analysis and research highlighted by the LA County Health Department, the Department has recommended a change to the Tier structure for Metro rail stations. Rail stations are particularly likely to alter travel behavior of users located up to ½ mile from Metro rail stations, which is typically less than a walking distance of 10 minutes. Therefore, all areas located within ½ mile of a Metro rail station will be included in Tier 3 or Tier 4, not Tier 2, 3 and 4 as had been originally proposed. This change does not impact the criteria for Tier 4.

#### *Combining TOC with Other Planning Entitlements*

Two comments requested that the TOC program be allowed to be used in combination with other planning entitlements that allow for increases in density. Measure JJJ specifically disallows TOC projects from being used with the Density Bonus and other “development bonus” provisions of local or state law. The term “development bonus” is not further defined in the TOC section, but in other sections of Measure JJJ specifically includes discretionary General Plan Amendments, zone changes, and height district changes. This restriction was included in the proposed TOC Guidelines.

#### *Approval Process for Base Incentives*

One commenter objected to including FAR along with density under the by-right ministerial process. This issue is discussed under *Base Incentives* above. To summarize, Measure JJJ describes the density incentive as pertaining to “minimum square feet per dwelling unit, floor area ratio (FAR), or both.” (LAMC Section 12.22 A.31 (a)(2)(i)). TOC projects are to follow Density Bonus procedures, which allow for projects receiving density and parking incentives to

be processed ministerially. Density, as defined by Measure JJJ, includes both minimum square feet per dwelling unit and FAR, and as such both are included as Base Incentives in the proposed TOC Guidelines.

#### *Delineation of TOC Incentive Areas*

Two commenters expressed disappointment that the TOC incentives are heavily concentrated in areas of the City that are already relatively dense. One argued that more priority should be given to existing low transit usage areas such as the San Fernando Valley, where the marginal impacts of TOCs could be greater. However, the Department does not have the authority to expand TOC incentive areas, as they are specifically defined by Measure JJJ and state law. As transit service is expanded in the future, the TOC areas would be expanded to reflect these new Major Transit Stops.

#### *Required Percentage of Affordable Units*

Based on the results of an economic analysis, the required percentage of affordable units has been better calibrated to equalize the options between the income levels. Generally, the affordability percentage for the Lower Income category was reduced because the study showed it was considerably more costly for a developer to provide onsite compared to the other income levels.

In addition, the required percentage of Very Low Income units in Tier 2 has been adjusted, so that the incremental difference between Tier 2 and Tier 3 better aligns with the incentives offered in each Tier.

### **B. Incentives**

#### *Parking*

Most commenters requested additional incentives be offered to TOC projects. The most commonly suggested incentive was reduced parking. Since additional density may create the need to construct additional parking spaces, or even to add an additional parking level. Commenters suggested a range of solutions including: halving all parking in Tiers 2-4; removing parking limits altogether; or allowing residential off-site parking and removing parking in Tier 4. The Department recognizes ongoing efforts to better frame parking requirements around transit resources, and maintains parking in line with existing Density Bonus code.

#### *Floor Area Ratio (FAR)*

The Department also received multiple comments pertaining to the FAR incentive. Several commenters expressed concern that the FAR incentives do not track with density increases. Density is allowed to increase up to 80%, but FAR is capped at 50%. This was intentional as it allows additional housing units to be built without overly impacting the scale of existing neighborhoods. Others requested that floor area be calculated as prescribed in the Greater Downtown Housing Incentive Area, which allows for larger buildings due to the exclusion of common areas from the total floor area calculation. The Department recommends maintaining a citywide standard for calculating floor area, and therefore recommends no change on these items. Other specific requests include allowing the calculation of FAR to include alleyways as



part of lot area for condo buildings and allowing for transfer of floor area ratios (TFAR) in areas that may have limited development potential because they are either historic or include desirable existing open space. The former is already included as an incentive and the latter is a complicated concept that requires additional study that could not be completed within the parameters provided in Measure JJJ.

#### *Public Facility Zones*

Other commenters suggested that the TOC Guidelines should provide an incentive that would allow joint public private developments to build housing on Public Facility (PF) Zones, without requiring a Conditional Use Permit (CUP). The PF Zone was created to regulate the use and development of publicly owned land. It allows for a limited number of uses, including primarily government buildings and service facilities. The zone does provide a path for joint public-private developments that include residential use to be approved through a Site Plan Review or Conditional Use Permit. The City and County have both identified publicly owned land as an important part of their respective homeless strategies (for building permanent supportive housing and other affordable housing). Metro also owns several PF-zoned lots that it would like to offer for joint development as affordable housing. To support public efforts for affordable housing around station areas, the Department has incorporated a change in the draft Guidelines to allow an incentive for joint public-private developments to build housing in PF Zones if the project matches the density of the most permissive adjacent zoning.

#### *Consistency with General Plan Land Use*

Commenters also requested an incentive to allow General Plan Land Use (GPLU) to be used as the base density if in conflict with the property's zoning designation. This is currently allowed through a provision of State Density Bonus law, however not as an incentive. Therefore, including this as an incentive may go beyond the scope of incentives mandated by Measure JJJ. For that reason, the Department has not incorporated this change in the TOC Guidelines.

#### *Housing in Manufacturing (M) and Parking (P) Zones*

Similarly, commenters requested an incentive which would allow housing in Manufacturing (M) and Parking (P) Zones. This incentive would provide the ability to build dwelling units in zones that do not currently allow residential use. To be eligible to participate in the TOC program, projects must be able to build a minimum of five dwelling units. Projects located in these zones do not have the ability to do this without seeking a Zone Change. Additionally, allowing housing on these parcels would be in direct conflict with current adopted General Plan land use designations for this area, and all projects must be consistent with the General Plan land use designation. Modifications of this type should be undertaken as part of a comprehensive Community Plan update which is able to evaluate the neighborhood and environmental impacts of such a change. The Department has not incorporated this request in the TOC Guidelines.

#### *Labor Incentives*

Commenters also requested a modification in the proposed incentive for projects that choose to follow the labor provisions of Measure JJJ. As proposed, these projects would be eligible to receive two Additional Incentives. It was requested that instead these projects would be allowed

an increase in their Tier designation. This is the same incentive that is proposed to be offered to projects that provide 100% affordable housing. So as not to undermine the incentive to provide 100% affordable units, the Department has not proposed making this change.

#### *Clarified Exceptions to Height Incentive*

The Guidelines initially included an exception to the height incentive for lots designated as Neighborhood Commercial general plan land use. Because this designation may not reflect the site's proximity to recently completed transit infrastructure, this exception has been removed.

Additionally, the height incentive exceptions were modified to apply to projects located on lots with a height limit of 45 feet or less, in lieu of the originally proposed exception for lots with a Height District designation of 1XL or 1VL. Relying solely on the Height District Designation would not include other areas of the City that have been planned for lower height limits, including those with Q and D conditions, as well as residential zoned properties located in Height District 1 (RD, R3 and RAS3).

#### **C. Clarity**

A common request in the public comments was for greater clarity in the TOC Guidelines. In some cases this meant spelling additional provisions out directly in the TOC Guidelines rather than alluding to other state or local code sections. In other cases, additional language is requested to make the intention clear. The Department has accommodated these requests where feasible, as described in the list of changes above.

#### **D. Additional Requirements**

Some commenters believed the City should be requiring more of TOC projects, including:

- Right of return for tenants displaced by a new development project
- Monthly TOC Reporting and Monitoring
- Higher green building code standards or required solar
- Required first floor mixed-use development

Generally, the Department does not have the clear authority or mandate to impose additional requirements on TOC projects. Measure JJJ determined the eligibility criteria and requirements. It also states that nothing in the TOC Guidelines may restrict any right authorized in the underlying zone.

#### **E. Additional Concerns**

Some commenters had concerns about the scale of incentives being provided. These included suggestions that the Guidelines should:

- Do more to protect open space and yards
- Account for insufficient infrastructure
- Do an economic study

Front yards in Residential (R) Zones are exempted from any yard (setback) incentives. This is stricter than Density Bonus which allows reductions of any yards. Open space and lot coverage

are afforded the smallest reductions of any standard in the menu, in recognition of their importance to the quality of life for residents and neighbors.

The General Plan directs growth to areas well served by existing infrastructure. The TOC Program encourages new infill housing in central areas linked to existing services, including transit infrastructure. The program also aligns with the build-out of public additional transit infrastructure in the Los Angeles region.

The Department commissioned an economic analysis of the proposed TOC Program. It is discussed under the *Calibration of Incentives section above*.

## FINDINGS

### I. General Plan Findings

Because the TOC Guidelines are not an ordinance, and will not amend any portion of the City's General Plan, adoption of the Guidelines does not require findings to ensure consistency with the General Plan pursuant to City Charter Sections 556 and 558.

Regardless, as general practice, the Department recognizes the importance of ensuring that all adopted guidelines and procedures are in conformance with the goals, objectives and policies of the City's General Plan. As outlined below, the TOC Guidelines are in substantial conformance with the purpose, intent and provisions of the General Plan.

#### A. General Plan Framework Element

The proposed TOC Guidelines will meet the intent and purposes of the General Plan Framework Element to encourage the creation of housing opportunities for households of all types and incomes, while at the same time promoting livable neighborhoods. In particular, the proposed TOC Guidelines would further the intent and purpose of the following relevant objectives and policies of the Framework Element:

*Objective 3.2 - Provide for the spatial distribution of development that promotes an improved quality of life by facilitating a reduction of vehicular trips, vehicle miles traveled, and air pollution.*

*Objective 3.4 - Encourage new multi-family residential, retail commercial, and office development in the City's neighborhood districts, community, regional, and downtown centers as well as along primary transit corridors/boulevards, while at the same time conserving existing neighborhoods and related districts.*

*Policy 3.4.3 - Establish incentives for the attraction of growth and development in the districts, centers, and mixed-use boulevards targeted for growth.*

*Objective 4.2 - Encourage the location of new multi-family housing development to occur in proximity to transit stations, along some transit corridors, and within some high activity areas with adequate transitions and buffers between higher-density developments and surrounding lower-density residential neighborhoods.*

*Objective 7.9 - Ensure that the available range of housing opportunities is sufficient, in terms of location, concentration, type, size, price/rent range, access to local services and access to transportation, to accommodate future population growth and to enable a reasonable portion of the City's work force to both live and work in the City.*

The proposed TOC Guidelines would provide development incentives for multi-family residential development and mixed-use development located within proximity to public transportation. Land use incentives, including increased density and floor area, would vary depending upon how

close the development project is to different types of transit stops and the percentage of affordable units included. These incentives are designed to maximize the amount of mixed-income and affordable housing located near public transportation, helping to accommodate population growth, provide greater access to transportation and jobs, and reduce vehicle miles traveled. Research has shown that households located within a half mile of public transportation have lower transportation-related greenhouse gas emissions from auto use and lower vehicle miles traveled overall. Focusing targeted growth within transit-oriented areas allows the City to accommodate the growing need for a range of housing opportunities while ensuring livable neighborhoods.

### **B. Housing Element**

The proposed TOC Guidelines are in substantial conformance with the purpose, intent and provisions of the General Plan in that they would further accomplish the goals, objectives and policies of the Housing Element outlined below:

*Objective 1.1 - Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.*

*Policy 1.1.2 - Expand affordable rental housing for all income groups that need assistance.*

*Policy 1.1.3 - Facilitate new construction and preservation of a range of different housing types that address the particular needs of the city's households.*

*Policy 1.1.4 - Expand opportunities for residential development, particularly in designated Centers, Transit Oriented Districts and along Mixed-Use Boulevards.*

The TOC Guidelines would provide land use incentives, including increased residential density, for projects located near public transportation that include a designated percentage of affordable housing units. These incentives would help to facilitate an increase in housing supply overall by removing barriers to increased residential density, as well as promote greater variety in housing types (such as micro-units) and affordability levels. This would help to expand affordable rental housing across all income levels and provide a range of housing opportunities.

*Objective 1.4 - Reduce regulatory and procedural barriers to the production and preservation of housing at all income levels and needs.*

*Policy 1.4.1 - Streamline the land use entitlement, environmental review, and building permit processes, while maintaining incentives to create and preserve affordable housing.*

The TOC Guidelines would help to ease regulatory barriers by establishing a ministerial procedure to provide increased residential density and parking reductions, as well as by creating a process for projects to request additional modifications of development standards.

This process will help streamline approval of additional housing units located near public transit by minimizing the need for projects to seek additional discretionary planning entitlements.

*Objective 2.2 - Promote sustainable neighborhoods that have mixed-income housing, jobs, amenities, services and transit.*

*Policy 2.2.2 - Provide incentives and flexibility to generate new multi-family housing near transit and centers, in accordance with the General Plan Framework element.*

*Objective 2.5 - Promote a more equitable distribution of affordable housing opportunities throughout the City.*

*Policy 2.5.1 - Target housing resources, policies and incentives to include affordable housing in residential development, particularly in mixed-use development, Transit Oriented Districts and designated Centers.*

*Policy 2.5.2 - Foster the development of new affordable housing units citywide and within each Community Plan area.*

The TOC Guidelines would target the production of additional mixed-income housing and affordable housing units in areas located near public transit by establishing a new incentive system for projects which include a certain percentage of affordable units.

## **II. CEQA Findings**

The adoption of the proposed TOC Guidelines is not a “project” under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(3), which provides that CEQA does not apply to “the submittal of proposals to a vote of the people of the state or of a particular community that does not involve a public agency sponsored initiative.” Adoption of the TOC Guidelines would carry out the results of Measure JJJ, a land use initiative proposed by voters and approved by the electorate on November 8, 2016. Case law has held that CEQA review is not required before adoption of a voter initiative (See *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 793–795, 38 Cal.Rptr.2d 699, 889 P.2d 1019; *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165; and *Stein v. City of Santa Monica* (1980) 110 Cal.App.3d 458,461, 168 Cal.Rptr. 39.).

The proposed TOC Guidelines were prepared to comply with Measure JJJ, which mandated that the Director of Planning prepare the Guidelines within 90 days of the enactment of the ordinance. The voter initiative included several minimum requirements to be included in the TOC Guidelines, as described in the “Measure JJJ Requirements” section of this report. The TOC Guidelines are intended to provide guidance on implementation of a voter approved initiative. It includes a set of definitions, an expanded explanation of the eligibility criteria, the list of incentives and greater clarity on administrative procedures.

The Department was required to produce a set of development incentives for which TOC projects would be eligible. The ballot measure specified the basic incentive structure, including the number of incentives as well as the minimum allowable density, FAR and parking deviations. It also created a process to determine the exact type of incentives to be offered in the draft TOC Guidelines. For example, the measure requires that the Guidelines provide at least a 35% density and/or floor area ratio increase, as well as an additional 2 or 3 incentives must be provided, depending on the amount of affordable housing units being provided.

CEQA Guidelines Section 15378(b)(2) further specify that any “continuing administrative activities, such as...general policy and procedure making” are not a project under CEQA. The TOC Guidelines are a set of policies and procedures enacted to implement Measure JJJ, and provide the necessary administrative framework to carry out its intent. Thus, the TOC Guidelines are further not a “project” requiring environmental review under CEQA (*Northwood Homes, Inc. v. Town of Moraga* (1989) 216 Cal. App.3d 1197,1206-1207).