

SOMOS
LAW GROUP

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Los Angeles, CA 90013

September 13, 2024

BY EMAIL

Mr. Craig Weber
Principal City Planner & Division Manager
Community Planning
Department of City Planning
200 N. Spring St
Los Angeles, CA 90012

Re: Planning and Land Use Management (PLUM) Committee Comments;
September 17, 2024 Meeting, Agenda Item No. 12;
Council File 23-0861;
Boyle Heights Community Plan Update: River Adjacent Industrial District

Dear Mr. Weber,

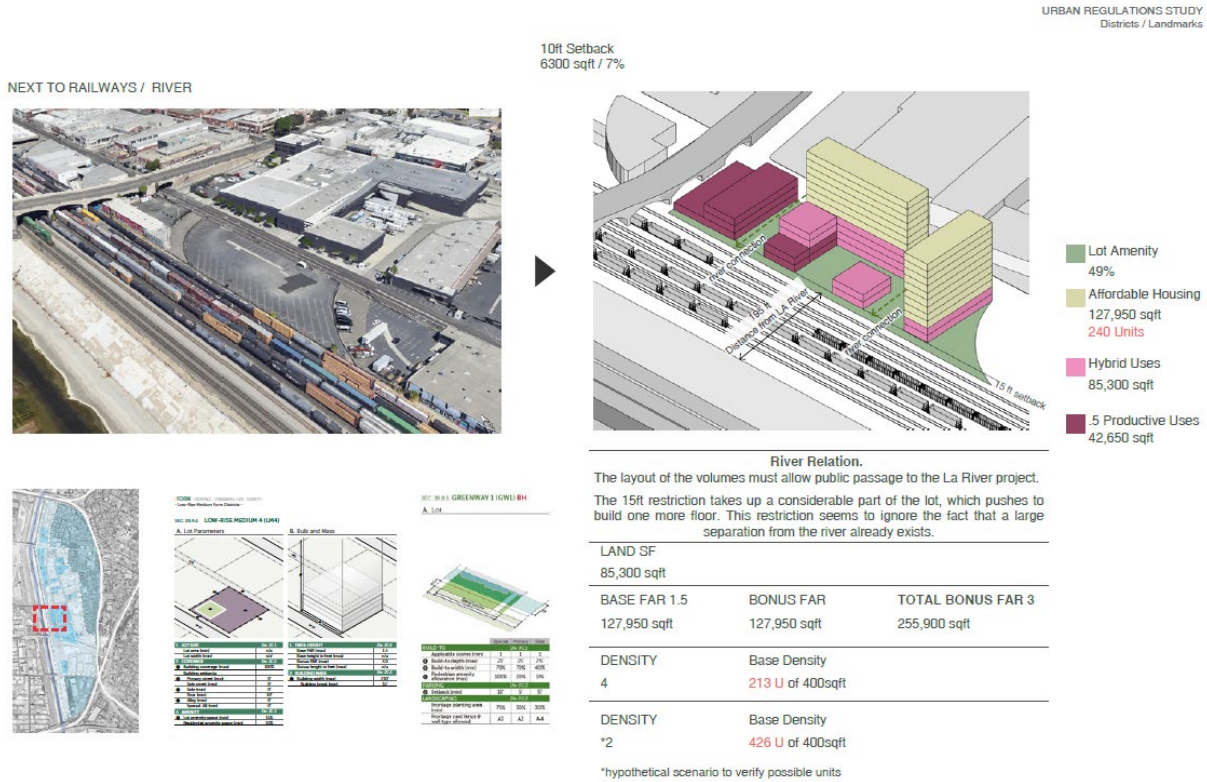
We appreciate the opportunity to provide feedback on the proposed revisions to the Boyle Heights Community Plan. At the outset, we want to convey our overarching support for the Community Plan Update, acknowledging the commendable efforts of both the City Planning Department and Council District 14. Representing a coalition of constituents and stakeholders deeply invested in Boyle Heights, we aim to underscore key opportunities within the industrial area delineated by the US 101 freeway to the north and east, the I-10 freeway to the south, and the Los Angeles River to the west (the “Boyle Heights River District” or “River District”).

We also wish to begin by expressing our support for the application of the hybrid industrial land use designation to the River District. Although previous iterations of the Community Plan contemplated light industrial and community center land use designations, we strongly support the decision led by Council District 14 and supported by the recommendation of the City Planning Department to maintain a hybrid industrial zoning designation, which was also identified as the Environmentally Superior Alternative in the Draft EIR issued July 2022. The density, mix of uses and development standards applicable to the hybrid industrial designation is well-suited to the existing and future landscape of the River District.

We are also in receipt of a September 13, 2024, letter submitted to the PLUM Committee by the honorable Councilmember for the 14th District of the Los Angeles City Council. In this letter, Mr. De León supports the hybrid industrial designation and calls for additional technical modifications of which we are in full support. We extend our gratitude to Council District 14 for their dedicated commitment to promoting hybrid industrial zoning and more flexible development standards throughout the Boyle Heights River District, ensuring a more resilient and sustainable future for our community.

II. Amend the Form District for the River District to remove the 15-foot special lot line setback and retain the existing rear building setback standard of 10 feet.

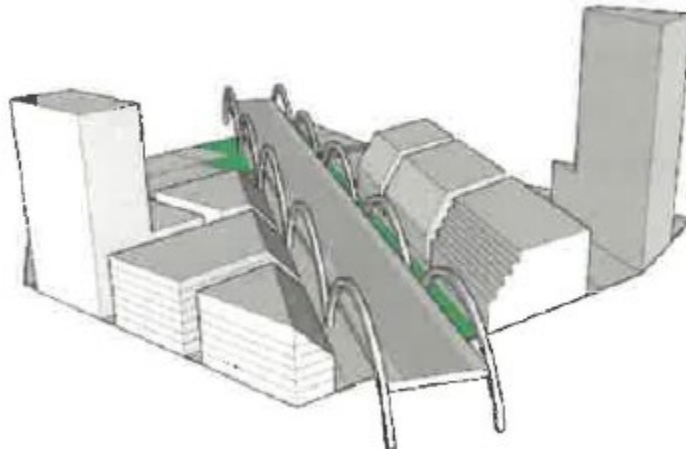
Properties in the River District would be subject to Form Districts LM3, LM4, LM6, and LM7. Proposed modifications to the existing Form Districts LM4 and LM6 for the purposes of the River District include removing the existing rear building setback standard of 10 feet and adding a “special lot line” setback of 15 feet applicable to properties in the River District. We agree with the aim of the special lot line setback—to protect open area along the River—but recommend restoring the setback to the existing 10-foot distance. The intent of the River special lot line setback is a laudable one to be sure: to “ensure that any future development along the Los Angeles River would...creat[e] open area along the side of properties fronting the river.” (Department of City Planning Recommendation Report, dated January 11, 2024 (“CPC January 11 Report”), p. 16.) This goal is only marginally advanced by the proposed special setback, however, when merely five feet would be added to the existing 10-foot rear building setback. Conversely, this additional five feet of setback represents a significant limitation on buildable area, especially when combined with the other building standards discussed herein. Accordingly, the special lot line setback should be set at 10 feet because it sufficiently protects the open area adjacent to the River while maintaining necessary buildable area for space-intensive uses such as affordable housing. See below for a graphical representation of the 15-foot special lot line setback, which is insignificant relative to the 125 feet of separation from the River in addition to the existing ten-foot rear building setback.



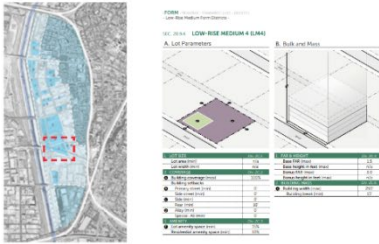
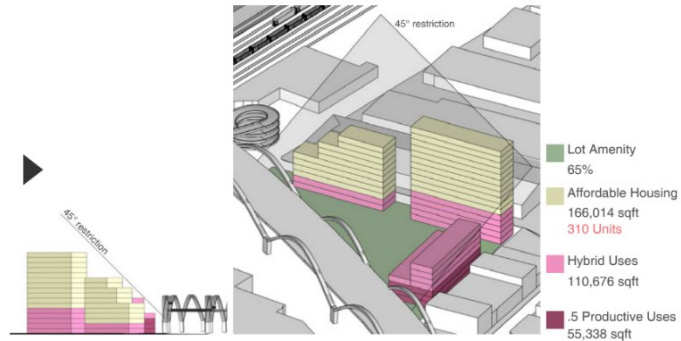
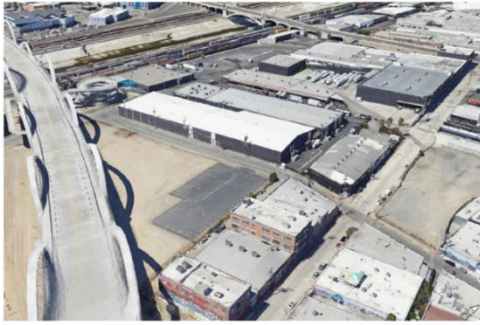
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III. Remove the bulk plane standard proposed as part of the new Form District LM7.

Parcels adjacent to the Sixth Street Viaduct and Sixth Street PARC Project would be subject to a new Form District LM7. As part of this new Form District, a bulk plane standard would apply, “requiring that above an origin height of 36 feet or 3 stories, the height of new development cannot exceed past an angled plane of 45 degrees.” (CPC January 11 Report, p. 269.) The Sixth Street Viaduct and PARC Project stand as iconic monuments of the newly developed Boyle Heights landscape, and sightlines to these projects must be preserved. Unfortunately, the bulk plane standard would have unintended consequences that run counter to that very goal. Whereas the City’s desired effect is to create a gradual slope in the height of buildings emanating from the Sixth Street Viaduct, the actual result would be to encourage adjacent development to maximize building heights at the outer limits of each parcel, as shown in the images below. By encouraging development in this way to favor tall buildings, the bulk plane standard will not only not preserve sightlines, but will also limit housing affordability in those buildings. We suggest that the bulk plane standard be removed. Instead, the City can do more to preserve the vistas surrounding the Sixth Street Viaduct and Sixth Street PARC Project through a comprehensive planning effort, such as a master plan or specific plan, as described in greater detail below. A comprehensive planning document that is tailored to this area can build in protections across the various parcels to create a uniform development pattern that daylight, complements and enhances views of and connections to these vital community assets.



NEXT TO 6th St VIADUCT



45° Restriction
This restriction pushes the volumes to the northern limit of the lot, generating high-rise buildings, which may not be economically viable for the development of affordable housing

LAND SF	110,676 sqft	
BASE FAR 1.5	BONUS FAR	TOTAL BONUS FAR 3
166,014 sqft	166,014 sqft	332,028 sqft
DENSITY	Base Density	
4	276 U of 400sqft	
DENSITY	Base Density	
*2	553 U of 200sqft	

*hypothetical scenario to verify possible units

IV. Apply the Low-Rise Full Form District designation with respect to building widths.

The building width standards applicable to the River District are found in the Form District standards for Form Districts LM3, LM4, LM6, and LM7. Building width standards for LM3, LM6, and LM7 are 140 feet; the building width standard for LM4 is 210 feet. We request that for the purposes of building widths, the Low-Rise Full Form District designation apply to the River District, which does not impose any building width requirement. Three main considerations guide our request: nonconformity, productive uses, and existing building articulation standards. First, setting maximum building widths between 140 feet to 210 feet would render a multitude of buildings in the River District nonconforming. Existing building widths in the River District predominantly exceed these widths, so to reduce the maximum threshold to 75 feet would bring these buildings out of conformance. Nonconforming buildings can present significant challenges to communities and property owners. The process of bringing a building into conformance can be onerous, even impracticable, particularly when such conformity would necessitate such a large reduction in overall building width. Second, placing narrow maximum building widths hampers the ability of communities and property owners to integrate productive real estate uses over time. Many uses, including industrial, warehouse, and distribution uses, are only feasible when housed within buildings of greater widths than that dictated by the proposed maximum. Capping the maximum building widths in this way may prevent property owners from incorporating such uses that would bring greater productive capacity to their communities, particularly in the River District. Finally, the goal of maximum building widths to improve the pedestrian experience can be achieved by means of existing building articulation standards. In tandem with these articulation standards, manifold design interventions are possible to enhance the street-facing pedestrian experience without the need for prescriptive width standards that risk creating widespread nonconformance and hampering productive uses over time.

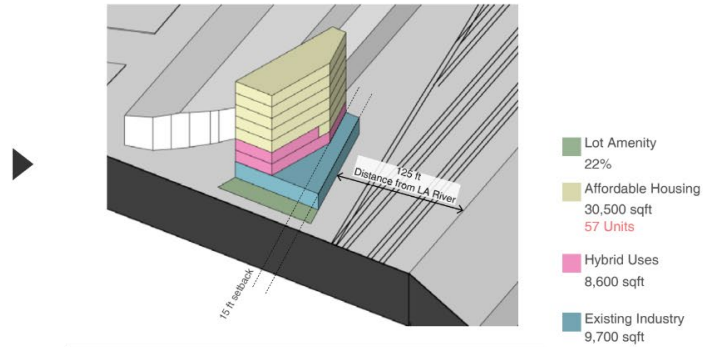
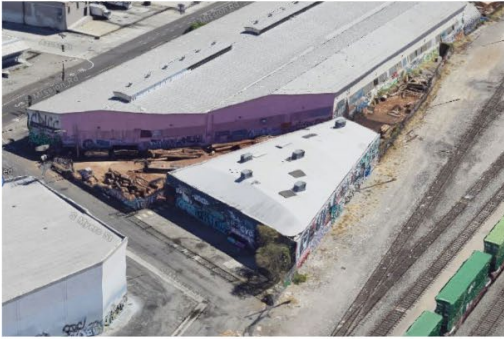
V. Amend the Industrial Mixed-use 6 (IX6) Use District to reduce the required FAR for productive space in a housing structure from 0.5 to 0.25 FAR.

The addition of the Hybrid Industrial land use designation introduced the Industrial Mixed-use 6 (IX6) Use District, permitting a range of light industrial, commercial, and residential activities. Within IX6, residential uses are allowed, provided that 0.5 FAR is devoted to “either Designated Production Space (i.e. light manufacturing, artisanal manufacturing, or office uses), or through the re-homing of a Legacy Small Business.” (CPC January 11 Report, p. 9.) However, the IX6 Use District Appendix to the November 28, 2023 technical memorandum specifies that only Manufacturing, Light: General, Artistic & Artisanal, and/or Garment & Accessory uses and/or Legacy Small Business would qualify, calling into question whether the City Planning Department intended to include office uses in its bespoke collection. Regardless, we suggest that office uses be included along with other employment-generating uses such as emerging small business and a broader range of commercial and industrial activities in recognition of the dignity and productivity in many different forms of labor. We also request that this productive space requirement be reduced from 0.5 to 0.25 FAR. The benefits of developments that provide a mix of commercial and residential uses are manifold and well-established. The challenge with mixed-use development involving housing construction is that minimum floor-area requirements for productive uses can impact the feasibility of the residential component if those requirements are high. Although the proposed 0.5 FAR requirement for productive space is theoretically feasible under the right circumstances, a reduced 0.25 FAR requirement would provide greater flexibility and enable more residential mixed-use projects to be developed. This marginal reduction in productive space FAR would guarantee robust commercial productive space while also making the development of needed affordable housing more attainable. Requiring residential developments to provide 0.5 FAR toward productive space risks stymying residential development altogether.

VI. Amend the Form District for the River District to restore the original requirement for lot amenity space of 15 percent from the proposed 20 percent.

Proposed technical modifications to Form Districts LM4 and LM6 would increase the minimum requirement for lot amenity space from 15 percent to 20 percent “so as to both be consistent with the same standards as found in similar Form Districts.” (CPC January 11 Report, p. 17.) We request that the original 15 percent lot amenity requirement be restored. Boyle Heights has a patent and visible need for greater lot amenities, particularly in the River District. But by placing requirements on a parcel-by-parcel basis, the minimum lot amenity requirement would create a patchwork of amenities across different properties. Rather than marginally increase the minimum lot amenity requirement, the original 15-percent requirement should be restored and a more coordinated, unified approach to open space development be pursued. Specifically, as discussed below, a comprehensive regulatory planning framework for the River District would enable open space development that can transcend the boundaries of individual properties, yielding larger, more accessible, and more ambitious amenity options than can be achieved by means of a minimum lot amenity requirement.

SMALL LOT



Construction on top of existing industry.
 In small lots where it is desired to preserve the existing industry, the possibility of building is reduced by counting what exists as part of the FAR
 The 15ft restriction takes up a considerable part of the lot, which pushes to build one more floor

LAND SF	12,200 sqft	
BASE FAR 1.5	BONUS FAR	TOTAL BONUS FAR 4
18,300 sqft	30,500 sqft	48,800 sqft
DENSITY	Base Density	
4	30 U of 400sqft	
DENSITY	Base Density	
*2	60 U of 200sqft	

*hypothetical scenario to verify possible units

While the Boyle Heights Community Plan accomplishes much as a broad regulatory document, the work of realizing its goals and policies can only occur at the project level. To that end, our coalition of constituents and stakeholders will be undertaking an ambitious, comprehensive planning effort to bring forth the vision of the Boyle Heights Community Plan in the River District. Whether by means of a specific plan, master plan, or other regulatory planning mechanism, the River District would reap immense benefits by a unified and tailored framework for development.

First, a comprehensive River District planning framework would enable the City to enter into a development agreement to create contractual community benefits in the River District which otherwise cannot be accomplished by means of the Boyle Heights Community Plan alone. Labor provisions provide a timely example. Although Council requested that local hiring provisions be included in the recent updates to the Boyle Heights Community Plan, Planning rejected said request in a technical memorandum dated November 28, 2023: "incorporating local hire requirements into zoning and land use is not common practice...Further research should be conducted to better understand...the legal and practical implications of requiring businesses to hire from a local labor force as a zoning and land use requirement." (CPC January 11 Report, p. 252.) Such limitations would not apply to development agreements, which would empower the City freely to negotiate with developers on appropriate local labor requirements for the River District. Moreover, the U.S. Supreme Court's recent decision in *Sheetz v. El Dorado County* further cabins the ability of local agencies to require "exactions," holding that certain imposed fees constitute an unconstitutional taking under the Fifth Amendment.¹ Notably, however, *Sheetz* does not affect voluntary community benefits provided through a contractual development agreement. Accordingly, voluntary community benefits, which the City would not have otherwise been able to seek through the Boyle Heights

¹ *Sheetz v. County of El Dorado, California* (2024) 144 S.Ct. 893.

Community Plan, would be fully permissible by means of a development agreement for the River District.

Second, a comprehensive River District planning framework would help to advance the City's goals for affordable housing in Boyle Heights. Although the City will be implementing inclusionary zoning in Boyle Heights, the efficacy of inclusionary zoning policies to yield affordable housing development in the City of Los Angeles remains an open question.² On the other hand, a comprehensive planning document such as a specific plan or master plan can place stronger guarantees that affordable housing will be developed. As with its desired labor provisions, the City can enter into a development agreement that stipulates affordable housing as a community benefit. Prioritizing affordable housing within a specific plan and a development agreement will help to effectuate the regulations outlined in the City's inclusionary zoning.

Likewise, open space development is another area that is well-suited for a more comprehensive planning approach. As discussed above, although the Boyle Heights Community Plan can outline goals for open space and even place stringent requirements for lot amenity space for each property, such regulations at best will result in fragmented open space across Boyle Heights. Instead, by implementing a specific plan or master plan, the City can approach open space development more ambitiously and with greater coordination across properties. Rather than create a patchwork of small, isolated pockets of open space, a comprehensive planning document can designate a large swath of the River District for a major open space development, as well as provide resources for implementation and development. As with local hiring requirements and affordable housing, such open space development can be codified and funded as part of a development agreement executed as part of a specific plan or master plan.

Finally, a comprehensive River District planning document can help to bolster and streamline environmental review for projects that are consistent with the established planning framework. Although the City undertook robust environmental review of the Boyle Heights Community Plan, future projects to be built pursuant to the Community Plan will still need to undergo additional environmental review for project-specific impacts. For instance, warehousing and distribution facilities are required by Mitigation Measure AQ-9 to undergo project-level health risk assessments and by the proposed IX6 zoning district to obtain conditional use permits after the City Planning Commission conducts a hearing. The compatibility and conditions for such uses can be further explored under a River District specific plan or master plan, enabling streamlined approval where appropriate. In general, environmental review conducted for a River District specific plan or master plan can examine environmental impacts more proactively, thereby reducing procedural and administrative burdens and supporting economic development goals. In particular, by focusing review of environmental impacts more granularly, a River District specific plan or master plan can help to streamline environmental review for important, community-serving uses such as affordable housing.³

² See Shane Phillips, *Modeling Inclusionary Zoning's Impact on Housing Production in Los Angeles: Tradeoffs and Policy Implications* (2024), UCLA Lewis Center for Regional Policy Studies.

³ See Edward Kung and Stuart Gabriel, *Tackling the Housing Crisis: Streamlining to Increase Housing Production in Los Angeles* (2023), Los Angeles Business Council Institute.

In conclusion, we wish to reiterate our gratitude for the opportunity to engage with the proposed revisions to the Boyle Heights Community Plan, facilitated by the Planning and Land Use Management Committee. Our unwavering support for the Community Plan Update is underscored by the diligent efforts of the City Planning Department and the steadfast advocacy of Council District 14. As representatives of a diverse coalition deeply rooted in Boyle Heights, we are committed to seizing the potential within the industrial areas. With a shared vision for the future, we remain dedicated to fostering inclusive growth and sustainable development within our community.

Warm Regards,



Alfred Fraijo Jr.
of SOMOS LAW GROUP

cc: Mr. Kevin De León
Mr. John S. Lee
Ms. Katy Yaroslavsky
Mr. Imelda Padilla
Ms. Heather Hutt