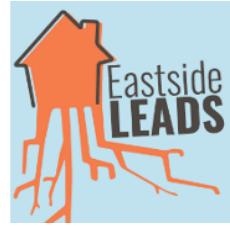


PLUM Committee
200 N. Spring Street, Room 340
Los Angeles, CA 90012



Submitted Electronically

September 13, 2024

RE: Proposed Boyle Heights Community Plan Update [Council File: 23-0861]

Honorable Committee Members,

The Eastside Leadership for Equitable and Accountable Development Strategies (“Eastside LEADS”) Coalition submits these comments regarding the proposed Boyle Heights Community Plan Update (“BHCPU”).

Eastside LEADS supports many of the policies reflected in the draft plan and encourages the Committee to maintain these policies. We would like to offer comment on the proposed general plan modifications initiated by City Council that would change the general plan destination in a light industrial area of Boyle Heights adjacent to the LA River to allow for additional hybrid industrial uses such as office, limited commercial, and market-rate housing (“Alternative 3”). Specifically, Eastside LEADS is concerned about the potential for predominantly market-rate, high-rent housing projects to spur gentrification in this area and offers two proposals to mitigate this risk and bolster the plan’s capacity to generate new affordable housing for acutely-, extremely-, and very- low income households.

Additionally, we appreciate the Committee’s actions to incorporate many of our proposals into the BHCPU following our previous December 3, 2023 letter attached below. We would like to reiterate the importance of several of our previous proposals that the Committee has not yet incorporated into the BHCPU.

1. Do not allow market rate housing in the industrial area near the LA River.

At its December 12, 2023 meeting, the City Council proposed a modification to the draft Boyle Heights Community Plan Update that would change the general plan designation in the river-adjacent industrial area to a hybrid industrial designation allowing market rate housing in mixed-use developments. As required by the City Charter, the proposed modification was referred to the City Planning Commission for its recommendation. After holding a public hearing and reviewing extensive written comment from stakeholders, the City Planning Commission recommended that the City Council **disapprove** the proposed modification—citing concerns that the influx of high-income residents of new market rate housing could catalyze gentrification and displacement throughout Boyle Heights. The Mayor concurred with the City Planning Commission’s recommendation to disapprove the proposed modification allowing market-rate housing in this area.¹

¹ Boyle Heights Community Plan Update Transmittal from Mayor Karen Bass to the City Council, May 30, 2024, available at https://clkrep.lacity.org/onlinedocs/2023/23-0861_misc_4-30-24.pdf.

We share the concerns of the City Planning Commission. Boyle Heights is overwhelmingly a community of renters, many of whom are low income and at risk of displacement. A proliferation of high-rent, market rate apartments—similar to those common in the Arts District—would undoubtedly spill over into surrounding neighborhoods.

The only housing that should be allowed in the industrial area adjacent to the river is housing that is 100% affordable. In the DTLA 2040 Plan Update, the City implemented an IX1 zone in Skid Row that mandates that all new development provide at least 80% affordable housing. The City implemented this new zoning to ensure that any new housing built in an IX1 Zone meets the deep affordability needs of the Skid Row community.

Like Skid Row, Boyle Heights also has a severe need for affordable housing. Over 74% of households in the neighborhood are renters, and the median household income of \$47,079 – one of the lowest in the City.² The BHCPU should ensure that any new development serves the housing needs of existing residents by providing the most possible affordable housing. The Committee should adopt inclusionary requirements for the river-adjacent industrial area similar to those in the IX1 zone.

2. Alternatively, amend the inclusionary requirement for the river-adjacent industrial area to require increased set-aside of Very Low Income, Extremely Low Income, and Acutely Low Income Units.

If the City moves forward with allowing market rate housing in the river-adjacent industrial area of Boyle Heights, then the Committee should amend the inclusionary housing requirement in this area to increase the set-aside for Very Low Income (VLI), Extremely Low Income (ELI) and Acutely Low Income (ALI) Units. Last December, the Committee adopted a recommendation from Council District 14 to increase the inclusionary housing requirement for Low Income (LI) units from 22% to 50%. However, changing the set-aside for LI units alone will have little or no impact on the amount of affordable housing produced under the plan. Developers can easily avoid this increased LI affordability requirement because the requirements for VLI, ELI, and ALI units were not increased. They remain the same as before at 17% VLI, 15% ELI, or 13% ALI.

Because housing developers can choose among these various affordability levels and number of units, and there is no increased requirement for VLI, ELI, or ALI units, a rational developer will choose to meet their obligations under one of these affordability levels rather than the increased 50% requirement for LI units. If the City moves forward with allowing market rate housing in the river-adjacent industrial area, we recommend requiring increased set-aside requirements for VLI, ELI, and ALI units such that the VLI, ELI, and ALI set-asides are economically equivalent to the 50% LI requirement.

3. Explore mechanisms to promote compliance with past community benefit agreements and voluntary conditions of approval.

Developers often promise community benefits when applying for land use entitlements in order to receive community support for their proposals. However, little monitoring or enforcement of those obligations

² Boyle Heights Demographic Profile, Los Angeles Department of City Planning, available at https://planning.lacity.gov/odocument/23548cd5-c3b2-42ca-b276-bd4587278dca/standard_report2020_BOYLE_HTS_mail.pdf

occurs, resulting in skepticism that even successful campaigns for equitable development will fulfill their promises.

BHCPU's Community Benefits Program and discretionary approvals within the community plan area should not remain open for bad faith actors who have failed to fulfill past promises to provide community benefits. The City should explore methods to mandate compliance with past promises of community benefits, such as restricting eligibility for local incentive programs or discretionary approvals for developers that did not deliver past promises of community benefits.

4. Cap the Demolition and/or Conversion of Existing Rent Stabilized Units.

In order to avoid reducing the supply of rent-stabilized units in Boyle Heights, Eastside LEADS recommends a cap on the demolition and/or conversion of apartment units covered under the Los Angeles Rent Stabilization Ordinance. Specifically, we propose the following amendment to the Proposed Plan's Land Use policies:

LU 2.2: ~~Limit~~ **Cap** the conversion of existing affordable and rent stabilized units into for-sale units to avoid reducing the supply of affordable rental units locally.

Conclusion

These changes to the proposed Boyle Heights Community Plan Update are meant to further the Plan's goals of creating new affordable housing for acutely-, extremely-, and very- low income households. The Coalition proposes two amendments to mitigate the harmful effects of allowing market-rate housing in the river-adjacent industrial areas, and emphasizes the importance of several of its prior BHCPU proposals that the Committee has not yet adopted. Thank you for your attention to these issues.

Sincerely,

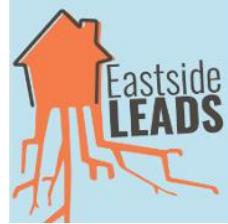
The Eastside LEADS Coalition

Members of the Eastside LEADS Coalition include:

Alliance for California Traditional Arts
Community Power Collective
InnerCity Struggle
Latino Equality Alliance
Legacy LA
Public Counsel
Self Help Graphics & Art
The Wellness Center

Attachment

PLUM Committee
200 N. Spring Street, Room 340
Los Angeles, CA 90012



Submitted via Council File Management System

December 3, 2023

RE: Proposed Boyle Heights Community Plan Update [Council File: 23-0861]

Honorable Committee Members,

The Eastside Leadership for Equitable and Accountable Development Strategies (“LEADS”) Coalition submits these comments regarding the proposed Boyle Heights Community Plan Update (“BHCPU”), including the Boyle Heights Community Plan Implementation Overlay (“CPIO”).

In short and as detailed below, Eastside LEADS supports many of the policies reflected in the draft plan and encourages the Committee to maintain these policies while further strengthening anti-displacement provisions. We offer eight separate proposals designed to achieve the Plan’s goals of preventing displacement of current residents and ensuring that Boyle Heights remains a viable community for its working class families, spurring local employment, preserving existing affordable housing, and creating new affordable housing affordable to acutely- and extremely- low income households.

Notably, we advocate for many of the same protections for naturally-occurring affordable housing currently recommended by City staff and community advocates for the South LA Community Plan Implementation Overlay.¹

I. Maintain policies recommended by the City Planning Commission that support the existing Boyle Heights community and prevent displacement.

The draft plan prepared by the Department of City Planning and recommended by the City Planning Commission includes several policies that Eastside LEADS strongly supports. We urge this Committee to recommend that the Council adopt the following policies:

1. **Maintain the Acutely Low Income option in the Community Benefits Program.** Including an Acutely Low-Income category for families earning 0-15 percent of the AMI will allow families most in need to qualify for the affordable housing that the BHCPU Community Benefits Program will make possible.
2. **Maintain the requirement for on-site affordability.** Requiring on-site affordability for projects that receive incentives under the Community Benefits Program will ensure that affordable units are available on the same timeframe as market rate units and are of similar quality. We support on-site affordability requirements and agree with the decision not to include off-site and in-lieu fee alternatives.
3. **Maintain the requirement for Community Benefits Program projects to include 2-bedroom units or larger.** Larger rental units are desperately needed to serve the families in Boyle Heights,

¹ [CPC-2022-5432-ZC-CPIOA](#)

including multigenerational families who are often forced into overcrowded housing. We support the Department of City Planning's recommendation in their November 28, 2023 technical memo to incorporate Technical Amendment I.A to apply this requirement to 100% affordable housing, with narrow exemptions for permanent supportive housing, senior housing, and veteran housing.²

4. **Maintain CX2 and CX5 designations.** The limitation on square footage for commercial storefronts along key commercial corridors to 5,000 square feet ensures that affordable commercial space for rent will continue to exist in the community and provide a pathway for local businesses to survive.
5. **Maintain restrictions on market-rate housing near the Los Angeles River.** The City Planning Commission considered and rejected an alternative proposal to allow predominantly market rate housing in the area adjacent to the Los Angeles River. Eastside LEADS largely supports this decision. However, given the urgent need for affordable housing, Eastside LEADS would support changing the permitted uses in this area to allow for predominantly affordable housing - similar to the IX1 use district.

II. Adopt additional policies to prevent displacement, encourage affordable housing, and ensure community benefits.

The BHCPU's existing policies notwithstanding, the proposed plan can do more to prevent displacement of low-income community members, preserve naturally-occurring affordable housing, and ensure that new development benefits existing community members. Our coalition knows this through our partnership with the USC Forward Coalition's advocacy to amend the South LA Community Plan Community Plan Implementation Overlay, helping organize town halls with local residents to develop solutions to the chronic loss of naturally-occurring affordable housing.

The USC Forward Coalition's advocacy has spurred efforts to address dangers to naturally-occurring affordable housing in the South LA Community Plan Area.³ In November 2022, DCP recommended many of the community's proposed amendments.⁴ And in early 2023 the City Council adopted a motion to incorporate additional protections for tenants.⁵ These policies are appropriate in Boyle Heights as well and adopting similar amendments, along with the other policies discussed below, will strengthen the BHCPU.

As such, we urge the committee to incorporate the following eight proposals into its recommendation to the City Council:

Proposal 1. **Amend the General Plan Map to Close Loopholes.** To protect local affordable housing incentives, the General Plan Map should be amended to specify where each Density District is allowed.

² Department of City Planning Technical Memo to PLUM (Nov. 28, 2023), page 6-7, available at https://clkrep.lacity.org/onlinedocs/2023/23-0861_misc_2_11-29-23.pdf.

³ <https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=20-1265-S1>

⁴ Staff Recommendation Report and Technical Modification Transmittal to City Planning Commission (South LA CPIO), available at https://planning.lacity.org/odocument/24e43be6-3cc5-4a5f-ac49-7f1f1bde4c4a/Exhibit_A_-Staff_Recommendation_Report_to_City_Planning_Commission.pdf

⁵ https://clkrep.lacity.org/onlinedocs/2020/20-1265-s1_misc_01-11-23.pdf

Eastside LEADS supports the affordable housing incentives in the draft Community Benefits Program designed to produce acutely- and extremely-low income affordable housing. However, recent changes in state density bonus law threaten to undermine the Community Benefits Program incentives, allowing developers to receive greater density increases in exchange for fewer affordable units that charge higher rents. This can be avoided by amending the General Plan Map to specify where each Density District is allowed so that a developer cannot use state density bonus law to access large density increases while providing little affordable housing.

State density bonus law was recently amended to change the definition of “maximum allowable residential density.”⁶ This is the base density from which a density bonus is calculated. As amended, the law may be interpreted to allow a developer to use the greatest density allowed under a site’s land use designation as the base density for their density bonus application—ignoring the Density District in the site’s zoning. In some cases, under the current draft plan, this could allow developers to more than **double** the allowable density while providing only **5%** of units as affordable to very low-income households.⁷ This is considerably more lucrative than the 70% density increase offered under the Community Benefits Program for providing 15% very low-income units.

Given the choice, many developers would elect to use state density bonus law instead of local affordable housing incentives such as the proposed Boyle Heights Community Benefits Program—leading to fewer affordable units and affordable units with higher rents than the ELI and ALI units encouraged under the Community Benefits Program. To avoid this, the draft plan should be amended to clarify with specificity on the General Plan Map where specific Density Districts are permitted under the plan. This could be accomplished by providing an overlay, or a secondary map. Adding this specificity will prevent developers from circumventing the Plan’s carefully designed affordable housing incentives.

Proposal 2. **Replacement Unit Affordability and Unit Size.** Include the same protections as the draft South LA Community Plan Implementation Overlay.

The requirements for replacement units should be strengthened so that when a displaced tenant household’s income is unknown, replacement units default to extremely low-income affordability. Additionally, replacement affordable units should have at least the same total square footage as the original units. The changes should be reflected as amendments to the replacement requirements in Chapter 1A, Article 9 Section 9.2.1.F.4.b.iii, Section 9.2.2.C.1.b, Section 9.3.2.B.2, Sec. 9.4.1.B.4, and wherever else appropriate.

There is precedent for including such requirements. As a result of the USC Forward Coalition’s successful advocacy, the Department of City Planning has recommended that portions of the South LA Community Plan Area be subject to stricter replacement requirements, including that units have the same square footage as demolished units and be priced as extremely low-income units where the income of displaced tenants is unknown.⁸ USC Forward’s advocacy was in response to facts on the ground: new

⁶ See Gov. Code 65915(o)(6) as amended by Assembly Bill 323 (2023-2024).

⁷ This comparison assumes a site with the “Neighborhood Center” land use designation and density district of 8. There are over a thousand such sites in the proposed plan.

⁸ Staff Recommendation Report and Technical Modification Transmittal to City Planning Commission (South LA CPIO), page A-5, *supra* note 4.

residential construction in South LA overwhelmingly produced smaller units favored by USC's growing student population rather than larger units required by the neighborhood's low-income residents of color.

Boyle Heights as a community faces a similar dilemma. With an average household size of four, development should require a greater proportion of multi-bedroom units, a policy that has already been adopted as recommendation during the BHCPU process. However, the mere number of bedrooms cannot be the sole requirement guiding the development of community-oriented residential units: a requirement that a replacement unit's square footage be comparable to the original unit is also necessary.

Boyle Heights is also indisputably a lower-income area than the rest of the City, and as such replacement unit affordability should be lower than the City's average affordability levels in order to truly serve Boyle Heights' existing community. To accommodate this local need, replacement units should be set at extremely low-income affordability levels.

Requiring that replacement units be affordable to extremely low-income households when the income of the household is not known would also be appropriate on a citywide basis. In the City of Los Angeles, extremely low-income households make up the largest share of renter households by income category according to the HUD Comprehensive Housing Affordability Strategy Data.⁹

Proposal 3. Strengthen Tenant Right of Return and Require City-Approved Relocation Plan.

State law provides low-income tenants and tenants in rent stabilized units relocation assistance and a first right of refusal in new developments.¹⁰ However, it is rare for tenants to successfully exercise this right to return.

To improve tenants' ability to find temporary replacement housing and exercise their right to return, projects receiving incentives under the Community Benefits Program should be required to implement a City-approved tenant relocation plan for displaced tenant households with comparable specificity requirements as Tenant Habitability Plans ("THP"). The City already has a longstanding requirement that landlords submit specific tenant relocation plans when substantially remodeling a unit to render it habitable as part of a THP.¹¹ The City should leverage its existing knowledge and infrastructure by requiring THPs that identify specific units where a tenant can relocate to in the same neighborhood and at an affordable rent. These additional protections will help achieve the promise of development without displacement and realize a true right to return.

Proposal 4. Anti-Harassment Protection. Prohibit demolition permits for properties where the City has made a finding of tenant harassment in the previous five years.

Landlords can sidestep the entire regulation regime designed to protect naturally-occurring affordable housing by harassing tenants until they self-evict. Similarly, sophisticated landlords—aware that the City

⁹ HUD Comprehensive Housing Affordability Strategy Data available at <https://www.huduser.gov/portal/datasets/cp.html>.

¹⁰ California Government Code ("Cal. Gov. Code") § 66300(D)(2)(d)(ii)

¹¹ Los Angeles Municipal Code ("LAMC") § 152.06

Attorney's office resources are limited—will balance the cost of complying with these regulations against the low likelihood of City enforcement.

We recommend that the City refrain from issuing demolition permits in the Boyle Heights Community Plan Area if the City has made a finding that an owner of the property has engaged in tenant harassment in the previous five years. This proposal is modeled on an existing law: the City's protected tree and shrub regulations, which allow the City to withhold permits when a developer is found to have unlawfully removed a protected tree or shrub.¹² This requirement does not require the Housing Department to do a new investigation, but simply to check whether an investigation that sustained such a complaint already occurred.

Proposal 5. **Tenant Enforcement.** A codified private right of action for tenants against property owners who have failed to meet any of the requirements listed in the BHCPU CPIO, or state law replacement and first right of refusal requirements.

This proposal addresses Eastside LEADS's overriding enforcement concern by giving tenants a codified private right of action against property owners who violate the BHCPU CPIO or state law replacement and first right of refusal requirements. Importantly, a private right of action should include mandatory attorney fees, minimum civil penalties per violation, and a tripling of a tenant's alleged damages. This policy will ensure that these policies are in fact enforced, without further burdening the City Attorney's enforcement capacity.

Proposal 6. **Require Affordable Rents in Mixed Income Projects.** Projects should use HCD rent limits (Schedule 6) for affordable units.

“Affordable” rent limits vary greatly by program. For example, the HUD low-income rent limit for a two-bedroom unit is over 80% higher than the HCD low-income rent limit.¹³ To achieve true affordability, the draft CPIO should be amended consistent with the Department's Technical Amendment I.B, which would set the rent schedule for projects using the Plan's Community Benefits Program to that required by California Health and Safety Code section 50052.5 or section 50053.¹⁴ Codifying these affordable rent limits is particularly important in Boyle Heights given its relatively lower-income population.

Proposal 7. **Local hire and training.** Explore additional local hire and training opportunities for area residents, including construction jobs on large developments and permanent jobs on sites zoned as P2 use districts.

For decades, one of main demands Boyle Heights community members have made of large development projects is that these projects hire local residents. A local hire policy in the BHCPU will help ensure that future development in Boyle Heights contributes to the local economy and benefits the community.

The City should explore options to implement a local hire requirement for projects requiring a Major Development Conditional Use Permit (per LAMC § 12.24 U.14) focusing on hiring residents from the local area for construction jobs (e.g. within a 2-mile radius of the project). Additionally, any projects

¹² L.A.M.C. § 46.06.

¹³ Department of City Planning Technical Memo to PLUM (Nov. 28, 2023), page 9.

¹⁴ *Id.* at page 10.

using city-owned land in a P2 use district should be subject to the same local hire requirement for permanent on-site jobs.

Proposal 8. **CBA Enforcement.** Explore mechanisms to promote compliance with past community benefit agreements and voluntary conditions of approval.

In order to receive community support for their proposals, developers often promise community benefits when applying for land use entitlements. However, little if any monitoring of those obligations takes place, resulting in skepticism and a belief that even successful campaigns for equitable development will ultimately prove futile.

BHCPU's Community Benefits Program and discretionary approvals within the community plan area should not remain open for bad faith actors who have reneged on past obligations to provide community benefits. The City should explore mechanisms to promote compliance with past promises of community benefits, such as potentially restricting eligibility for some incentive programs or discretionary approvals for developers that have not followed through with past promises of community benefits.

Conclusion

These edits to the proposed Boyle Heights Community Plan Update are meant to further the Plan's goals of preventing displacement of current residents and ensuring that Boyle Heights remains a viable community for its working class families, spurring local employment, preserving existing affordable housing, and creating new affordable housing affordable to acutely- and extremely- low income households. Thank you for your attention to these issues.

Sincerely,

The Eastside LEADS Coalition

Members of the Eastside LEADS Coalition include:

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