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21 November 2023

Marqueece Harris-Dawson  
Chair, PLUM Committee  
Councilmember, Council District 8

VIA EMAIL

**Re: Community Impact Statement for CF-22-0617-S2**

The Downtown Los Angeles Neighborhood Council (DLANC) has reviewed City Planning's REPORT ON ADAPTIVE REUSE INCENTIVE ELIGIBILITY WITHIN THE DOWNTOWN COMMUNITY PLAN, MOTION 54A, ITEM 1;, and would like to express our position as "For if Amended" per the following:

**Lowering the By-Right Adaptive Reuse Eligibility Requirement by 15 years (B.1)**

Since 2019, DLANC have worked to ensure that DTLA 2040 included an inclusionary housing program. As such, we are very cautious of projects that may, through administrative loopholes, find a way out of such a mandate. Therefore, we support the recommendation that projects within the Downtown plan area younger than 10 years of age should not be allowed to receive approval for adaptive reuse, through a discretionary process or otherwise. This stance ensures that the inclusionary housing obligations integral to the increase in DTLA housing are upheld.

While DLANC supports the adaptive reuse of buildings, we have significant concerns regarding the reduction of age eligibility from at least 25 years to less than 10 years for by-right approval of adaptive reuse projects. We believe this change may create a loophole that would undermine inclusionary housing and community benefits mandates for residential projects. This could lead to an asymmetrical application of these mandates throughout the Downtown plan area, diluting the intended community protections and benefits.

Recommendation: Maintain the age eligibility criterion at 25 years to ensure that adaptive reuse projects do not undermine the inclusionary housing and community benefits goals set forth in the new Zoning Code..

**Removing the Requirement for Parking Structures to be at least 10 years old to be eligible for By-Right Adaptive Reuse (E.1)**

Given the mandates of AB 1218, the DTLA plan area faces a deadline to significantly expand its electric vehicle (EV) charging infrastructure within the next 11 years. With an estimated 132,000 vehicles permanently based in the area — in addition to the 230,000 vehicles commuting into the plan area on weekdays — the need for adequate charging stations is clear and present. According to the latest reports from LADOT and the Bureau of Engineering, the current provision of just 240 EV charging stations is starkly insufficient for this volume of potential EV users.

Our existing parking garages are being considered as an integral asset in this infrastructure challenge. These structures can be retrofitted to incorporate EV charging stations, representing an efficient and cost-effective strategy to address the looming needs. However, the suggested amendment to remove the 10-year-old requirement for by-right adaptive reuse of parking structures threatens to derail this potential. Such a change could significantly hinder the ability of Downtown Los Angeles to prepare for a sustainable and electrified future.

Furthermore, since all residential projects within the Downtown plan area are already subject to inclusionary housing obligations, and these mandates do not apply to adaptive reuse projects, this amendment could allow ARO projects to circumvent these important community obligations. Therefore, DLANC agrees with Planning staff that the current requirement of 10-year requirement be maintained.

Recommendation: Uphold the current requirement of a 10-year minimum age for parking structures to be eligible for by-right adaptive reuse.

**Eligibility for Adaptive Reuse Projects Requiring Zoning Administrator Approval (E.2)**

To promote the continued transformation of DTLA’s aging building inventory, DLANC concurs with the recommendation to eliminate the Zoning Administrator Review for projects at least a decade old, streamlining the adaptive reuse process within the Downtown plan area.

Recommendation: We agree that the requirement for Zoning Administrator Review for ARO projects should be removed.

DLANC is committed to the thoughtful development and preservation of our community. We trust that our recommendations will be considered to ensure that the DTLA 2040 plan reflects the needs and values of our diverse population.

Sincerely,

Claudia Oliveira  
President,  
DLANC

Samir Bitar  
Chair,  
DLANC Planning & Land Use Committee

Cc: Kevin De León, Councilmember, Council District 14  
City Planner, City of Los Angeles

\* SUBJECT TO APPROVAL BY DLANC BOARD OF DIRECTORS ON DEC 12, 2023 \*

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September 19, 2023

Los Angeles City Council  
c/o Office of the City Clerk  
City Hall, Room 395  
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**REPORT ON ADAPTIVE REUSE INCENTIVE ELIGIBILITY WITHIN THE DOWNTOWN  
COMMUNITY PLAN, MOTION 54A, ITEM 1; CF-22-0617-Sx**

On May 3, 2023, the City Council approved the Downtown Los Angeles (DTLA) Community Plan Update. The approval included an [amending motion](#) (Motion 54A, Item 1) that was introduced by Councilmember de Leon (Council District 14) and was approved by City Council. The motion directed Los Angeles City Planning, in consultation with the City Attorney, to prepare a report with recommendations within 60 days to amend provisions of the Downtown Adaptive Reuse Regulations (ARO) that govern the age of buildings that are eligible for ARO incentives.

Specifically, Motion 54A, Item 1 requested that City Planning provide language necessary to amend Sec. 9.4.5. (Downtown Adaptive Reuse Program) of the new Zoning Code with the following changes:

- a. Eligibility B.1. to read: "Buildings That Are At Least ~~25~~ 10 Years Old" and B.2. to read: "Buildings that are ~~At Least~~ Less Than 10 Years Old.
- b. Process E.1. Department of Building and Safety Review to read: "Adaptive reuse projects involving buildings constructed in accordance with building and zoning codes in effect at the time they were built and that are at least ~~25~~ 10 years old and adaptive reuse projects involving parking structures or parking areas within an existing building with a Certificate of Occupancy ~~which was issued at least 10 years prior to the date of application.~~

- c. Process E.2. Zoning Administrator Review to read: “Adaptive reuse projects involving buildings constructed in accordance with building and zoning codes in effect at the time they were built and that are ~~at least~~ less than 10 years old may be approved by the Zoning Administrator, pursuant to Sec. 13B.2.1. (Class 1 Conditional Use Permit), if the adaptive reuse project complies with the requirements of Sec. 9.4.5.B. (Eligibility) and the criteria described in Sec. 9.4.5.C. (Standards) and Sec. 9.4.5.D. (Incentives) are met.

### *Background*

Los Angeles has been a leader in adaptive reuse, with its 1999 Adaptive Reuse Ordinance (CF 97-0648) enabling the creation of over 12,000 housing units within Downtown since its inception (according to the [Citywide Adaptive Reuse Ordinance Fact Sheet](#)). The 1999 ordinance was intended to enable the conversion of older, often economically distressed and historically significant buildings to more productive uses, and to reduce vacant space while preserving Downtown’s architectural and cultural past. After seeing the success of the ordinance, in 2003, the City expanded the Adaptive Reuse Ordinance to certain zones outside of Downtown (CF 02-0177-S1), and to several specific areas of the City through the Adaptive Reuse Incentive Areas Specific Plan (CF 02-0177). Recognizing the importance of adaptive reuse as a tool to reduce vacancy and sustainably create new housing opportunities, the City is currently embarking upon an update to expand the Citywide Adaptive Reuse Program through a stand-alone ordinance, first initiated under CF-11-1973-S1, and separately initiated by the Director of Planning as implementation programs 13 and 121 of the City’s Housing Element (CF-21-1230).

The new Zoning Code (Chapter 1A of the LAMC) recommended for approval by City Council on May 3, 2023 includes: 1) a Downtown Adaptive Reuse Program (Sec. 9.4.5.), which upon adoption of the new Zoning Code would be applicable throughout the Downtown Plan Area, and 2) a Citywide Adaptive Reuse Program (Sec. 9.4.6.), which would be applicable anywhere the new Zoning Code is applied outside of the Downtown Plan Area. The Citywide Adaptive Reuse Ordinance currently underway is intended to update the Citywide Adaptive Reuse Program of the new Zoning Code, as well as the existing citywide Zoning Code (Chapter 1 of the LAMC) to ensure consistency in the regulations wherever adaptive reuse is allowed outside of Downtown. A draft of the proposed revisions to the Chapter 1 version of the Citywide Ordinance was released in early May.

Given that amending Motion 54A is specific to the Downtown Adaptive Reuse Program (Sec. 9.4.5.) of the new Zoning Code, the discussion in this report will focus on recommended edits to that Section specifically, though the two programs are very similar to one another.

In the version that was presented to City Council, the Downtown Adaptive Reuse Program (Sec. 9.4.5.) of the new Zoning Code would expand the Downtown Adaptive Reuse program in large part by: 1) applying the program to the entirety of the Downtown Plan Area, 2) allowing the conversion of eligible buildings to any use permitted by the designated Use District of the

property, 3) modifying the “by-right” eligibility date for buildings from those built prior to 1974 to a rolling date of buildings that are 25 years or older at the time of application, (the eligibility for buildings subject to a Zoning Administrator process being 10 years or older) 4) allowing the conversion of parking garages or structures that are at least 10 years old to be eligible, and 5) incorporating additional incentives, such as exempting 1 story rooftop additions from counting toward FAR. Additionally, adaptive reuse projects are not required to participate in the inclusionary housing program of the new Zoning Code, as applied Downtown.

### *Discussion*

Amending motion #54A includes three key topics of discussion, which will be explored in this section.

#### 1. Expanding Eligibility for By-right Approval of Adaptive Reuse Projects to Buildings at Least 10 Years or Older

The new Zoning Code establishes that adaptive reuse projects in buildings that are at least 25 years old be eligible for by-right approval, and allows for a Zoning Administrator approval process for buildings that are 10 years or older. Amending motion #54A proposes to modify the by-right eligibility to buildings that are 10 years or older. By-right approval means that the Department of Building and Safety can approve the project so long as the requirements of the new Zoning Code are met, and that no additional discretionary review is required by City Planning.

In general, expanding access to the adaptive reuse program by increasing the pool of eligible buildings has many benefits. Many retail and office spaces are currently vacant or underutilized as an effect of the pandemic and the resulting shift in many office employees working from home. Allowing for greater opportunities of adaptive reuse can spur economic reinvigoration, in particular in those parts of Downtown that have been most impacted by changes in office vacancies. Adaptive reuse has environmental benefits as well. By extending the life of existing buildings, the resources and energy that may have otherwise been spent on new construction are reduced.

The original 1999 adaptive reuse program allowed for buildings built prior to 1974 to participate in a by-right approval process. According to the [1999 Adaptive Reuse Ordinance Council File \(CF-97-0648\)](#), pre-1974 buildings were originally identified as eligible for ARO as they were, “constructed prior to the institution of modern building and seismic safety codes, and as such are not as economically competitive as newer commercial towers.” Enabling these buildings to convert to residential uses helped to preserve and revitalize many historic buildings.

While buildings built after 1974 would have been constructed with modern building and seismic safety codes, the new Zoning Code modified the fixed date of 1974 to a rolling 25 year eligibility to ensure the number of eligible buildings would increase with time. The draft Citywide Adaptive

Reuse ordinance (released publicly May 2023), recommends that buildings 15 years of age be eligible for the by-right approval process.

A guiding principle in establishing the eligibility criteria for ARO buildings is whether the building will be old enough to have been credibly occupied for its original purpose before seeking an adaptive reuse. This is a primary consideration, so that there is assurance that eligible buildings do not use the ARO program as a loophole with an intention to avoid the various structural, safety, and affordable housing obligations placed upon residential buildings. For example, if a building is designed and proposed as commercial and receives a certificate of occupancy as an office use, that project should try to lease its space to commercial tenants and go through a good faith effort to actualize the original proposed office use. Expanding the adaptive reuse eligibility period to be too encompassing of newer buildings could create an unintended incentive for applicants to gain approval of a building under a use with more lax regulations (i.e. commercial occupancy) with the intent of later converting it to a different use (i.e. residential occupancy), thus skirting regulations that would have otherwise applied.

Of importance to consider is if a project were approved for a non-residential use, and later converted to residential under the adaptive reuse program, it would not be required to provide affordable units under the inclusionary housing program established Downtown. The new Zoning Code incorporates an inclusionary housing requirement for all Downtown projects involving the construction of 10 or more dwelling units. However, adaptive reuse projects are exempt from this requirement per Sec. 5C.4.5.B. (Inclusionary Housing Program - Applicability). Adaptive reuse projects are exempt from the Inclusionary Housing Program because an economic feasibility analysis showed that the various structural, seismic, and accessibility obligations required of adaptive reuse projects, as well as the varying scale of such projects, in addition to an inclusionary obligation, would make most adaptive reuse projects infeasible. If all buildings are eligible to participate in the Adaptive Reuse Program, regardless of age, newly constructed non-residential projects would be able to be converted through adaptive reuse to residential uses without providing any restricted affordable units.

Additionally, the adaptive reuse program would exempt projects from needing to comply with the Lot Amenity & Residential Amenity Space requirements of the new Zoning Code per Sec. 9.4.5.D.4. While any new construction projects would need to provide Lot Amenity Space regardless of a project's use, Residential Amenity Space is only required when residential uses are proposed. If all projects are eligible to participate in the Adaptive Reuse Program, regardless of age, newly constructed non-residential projects would be able to be converted through adaptive reuse to residential uses without providing Residential Amenity Space. The pandemic highlighted the importance of such amenity spaces, the on-site provision of which help ensure residential tenants have adequate access to open space and recreational activities.

In order to ensure a good faith effort is made to honor the original intent of a proposed project, Planning staff recommends that the absolute minimum time period to expand eligibility for

projects to participate in the by-right approval process for the adaptive reuse program would be 10 years of age and older.

2. Modifying the Eligibility for Adaptive Reuse Projects Requiring Zoning Administrator Approval per Sec. 13B.2.1. (Class 1 Conditional Use Permit) to Projects Under 10 Years of Age

As currently drafted, the new Zoning Code allows for adaptive reuse projects involving buildings that are at least 10 years old to apply for approval by the Zoning Administrator per Sec. 13B.2.1. (Class 1 Conditional Use Permit). Amending Motion 54A proposes to modify this eligibility to allow buildings under 10 years of age to apply for approval by the Zoning Administrator, with no minimum age requirement.

Due to the issues raised above regarding the potential for a project to be approved as a non-residential use and then to be adaptively reused into a residential project without meeting the requirements for inclusionary housing and other important standards, Planning staff recommends that a minimum building age for eligibility should be required. Sec. 12.26 of the current Zoning Code (Chapter 1 of the Los Angeles Municipal Code) allows for buildings constructed after 1974 to participate in the adaptive reuse program if at least 5 years have passed since the date of issuance of the Certificate of Occupancy, subject to discretionary approval. The Citywide Adaptive Reuse Ordinance draft, which was released in May of 2023 proposes to keep this 5 year minimum for adaptive reuse projects to seek discretionary approval. Buildings should be required to be at least 5 years of age to apply for approval by the Zoning Administrator, consistent with the current Zoning Code and the proposed Citywide Adaptive Reuse Ordinance.

However, within the Downtown Plan area, all residential projects are subject to an inclusionary housing obligation. Given the importance of the inclusionary housing program, and the fact that it does not apply to adaptive reuse projects, Planning staff recommends that projects younger than 10 years of age should not be allowed to receive approval for adaptive reuse, even through a discretionary process.

The new Zoning Code originally proposed that buildings should be at least 10 years of age to apply for approval by the Zoning Administrator. If the threshold for by-right projects to participate in the adaptive reuse program is reduced to a minimum of 10 years per the discussion in the section above, then Planning staff recommends that projects younger than that threshold should not be able to receive approval. Removing this approval option would help ensure projects make a good faith effort to comply with the original intent for which they received approval.

Should the City Council wish to adhere more closely to the direction in Motion 54A on this topic, Planning Staff recommend that adaptive reuse projects applying for approval by the Zoning Administrator (i.e. adaptive reuse of buildings fewer than ten years old) be a minimum of 5 years of age and be subject to the Inclusionary Housing Program.



### 3. Removing the Requirement for Parking Structures to be at Least 10 Years Old in Order to be Eligible for By-Right Adaptive Reuse

As currently drafted, the new Zoning Code allows for the adaptive reuse of parking structures, or parking areas within existing buildings, which are at least 10 years old to be eligible for by-right approval. Amending Motion 54A proposes to remove any minimum age requirement for parking structures or parking areas to receive by-right approval as adaptive reuse projects.

Under the new Zoning Code, no minimum parking will be required within the Downtown Plan Area. When developed, new parking structures will also be required to meet high standards of design, and for the majority of the Plan Area will need to be designed to be adaptable to other habitable uses in the future.

While the intent of requiring parking structures to be adaptable to future uses is clearly to enable the structures to be adaptively reused and repurposed for more productive uses in the future, a minimum age requirement for eligibility should be maintained to ensure that important requirements, such as the inclusionary housing program, are not side-stepped by proposing a parking structure and immediately adapting it to a residential use. If a parking structure were to be developed and then converted through the adaptive reuse program into residential units, the project would not be required to participate in the inclusionary housing program, and would be exempt from other important standards.

The Citywide Adaptive Reuse Ordinance, which was released for public review in May of 2023, proposes that parking structures, or parking areas within existing buildings, must be at least 5 years old to participate in the by-right approval process.

Given the new requirements for inclusionary housing in the new Zoning Code, Planning staff recommends that maintaining the current requirement of a 10 year minimum for eligibility would be most appropriate.

Should the City Council wish to adhere more closely to the direction in Motion 54A on this topic, however, Planning Staff recommend that parking structures under 10 years of age be eligible for adaptive reuse if they are at least 5 years of age and that they be subject to the Inclusionary Housing Program.

#### *Recommendations*

In summary, below are City Planning's recommended modifications to Sec. 9.4.5. (Downtown Adaptive Reuse) of the new Zoning Code for City Council consideration in response to the request submitted in amending motion #54A.

1. Modify the eligibility for buildings to participate in the adaptive reuse program through a by-right approval process to those that are at least 10 years old.
2. Remove the Zoning Administrator Review process for projects that are at least 10 years old.
3. Maintain the 10 year age requirement for parking structures and parking areas to be adaptively reused through a by-right process.

Below are the detailed edits recommended to Sec. 9.4.5. (Downtown Adaptive Reuse Program) of the new Zoning Code:

Sec. 9.4.5.B. (Eligibility)

Sec. 9.4.5.B.1. Buildings That Are At Least ~~25~~ 10 Years Old

Buildings constructed in accordance with building and zoning codes in effect at the time they were built and are at least ~~25~~ 10 years old. A certificate of Occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the date of construction.

~~Sec. 9.4.5.B.2.: Buildings that are Less Than 10 Years Old.~~

~~Buildings constructed in accordance with building and zoning codes in effect at the time they were built and are at least 10 years old. A certificate of Occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the date of construction~~

Sec. 9.4.5.E. (Process)

Sec. 9.4.5.E.1. (Department of Building and Safety Review)

The following types of adaptive reuse projects shall be approved by the Department of Building and Safety if the requirements of Sec. 9.4.5.B. (Eligibility) and the criteria described in Sec. 9.4.5.C. (Standards) and Sec. 9.4.5.C. (Incentives) are met. If the adaptive reuse project is approved, and the incentives described in Sec. 9.4.5.D. (Incentives) for which the project qualifies shall be granted.

Adaptive reuse projects involving buildings constructed in accordance with building and zoning codes in effect at the time they were built and that are at least ~~25~~ 10 years old and adaptive reuse projects involving parking structures or parking areas within an existing building with a Certificate of Occupancy which was issued at least 10 years prior to the date of application.

~~Sec. 9.4.5.E.2. Zoning Administrator Review~~

~~Adaptive reuse projects involving buildings constructed in accordance with building and zoning codes in effect at the time they were built and that are at least 10 years old may be approved by the Zoning Administrator, pursuant to Sec. 13B.2.1. (Class 1 Conditional Use Permit), if the adaptive reuse project complies with the requirements of Sec. 9.4.5.B. (Eligibility) and the criteria described in Sec. 9.4.5.C. (Standards) and Sec. 9.4.5.D. (Incentives) are met.~~

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning



Shana MM Bonstin  
Deputy Director

VPB:AR:ec