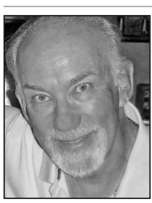

# All that Glitters Is Not Gold

## *The Not-So-Hidden Agenda Behind re:code LA*

***Dick Platkin***



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*re:code LA* is a major Los Angeles Department of City Planning program to rewrite and reorganize the voluminous and confusing Los Angeles zoning code. This project is scheduled to take five years and is shepherded by 15 separate consulting firms, with The Code Studio, an Austin, Texas, company in the lead. The projected cost of these consultant contracts is $5,000,000.

LA's existing compilation of local land use laws is, in turn, part of the even more voluminous Los Angeles Municipal Code (LAMC), which includes the closely related Building Code. As the Facebook, website, and press reports for the *re:code LA* project indicate, the original zoning code began as an 84-page document when the City Council first adopted it in 1946.

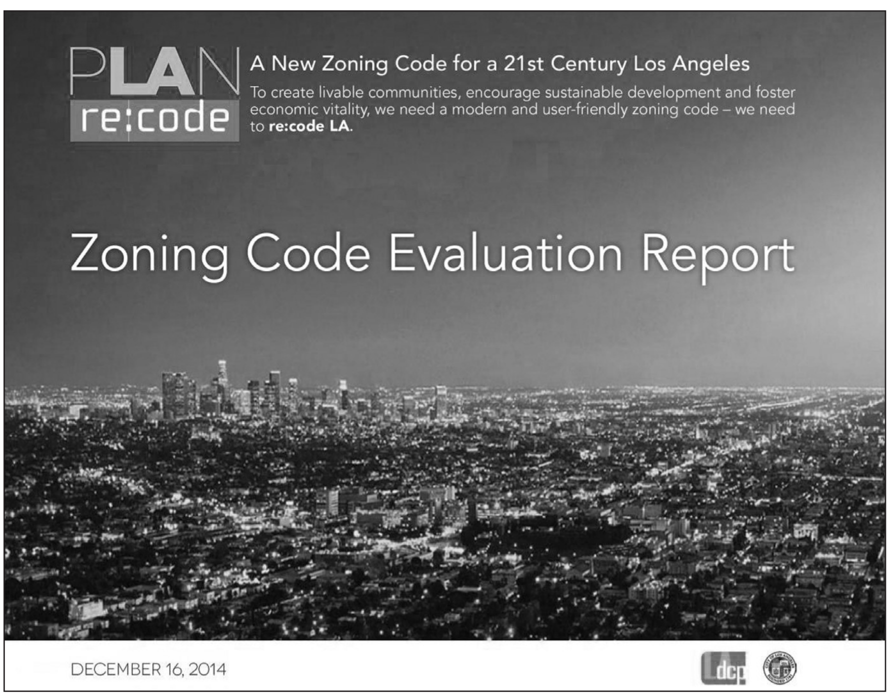
Now, 69 years later, it is a 600-page document, and it is still growing in length and complexity with each new land use ordinance. This is why hardly anyone is adept at using the zoning code, with three notable exceptions: a small circle of veteran city planners, pricey land use attorneys catering to large real estate investors, and a handful of neighborhood activists who devote much of their waking hours playing David against the City of LA's Goliath.

So, the case for *re:code LA*'s update of the Los Angeles zoning code should be a no-brainer – right? Simplifying and shortening this cumbersome heirloom appears to make everyone in Los Angeles a winner, not just the consultants. Not exactly so in reality, though, since this and subsequent revisions of the Zoning Code gloss over the real reasons it is such an unwieldy document. Consider the following to understand why *re:code LA*'s final work products will eventually need to be simplified and reorganized yet again. Even if *re:code LA*'s new approaches to zoning (e.g., form based zoning) are, as anticipated, adopted through massive municipal ordinances, they only mark time until elected officials initiate still another zoning revision process.

**The Underlying Reason**

The reason Los Angeles's zoning code has grown in size and complexity is because its purpose is to regulate private investment in real estate. This is no easy task because potential investment capital has soared to unimaginable heights. According to the *Wall Street Journal*, our humble planet now has $263 trillion in global wealth looking for more profitable investment outlets. Furthermore, this pool of potential investment capital has more than doubled in the past 15 years, and computer technology has also made these under-performing reserves incredibly fluid. Several keystrokes can transfer vast sums to a prospective real estate venture in Los Angeles. In response to the quickly changing risks and opportunities fostering such projects, the local legislative process has responded with new zoning ordinances and regulations. This means investors always face new, unprecedented opportunities for lucrative deals, often with short windows to obtain building permits. They don't want their business ventures hampered by zoning and environmental reviews that can tie them up for as long as several years. They typically succeed with new ordinances and rules that streamline their approvals, but occasionally local residents manage to push through new ordinances to protect their neighborhoods, such as LA's recent "mansionization" Interim Control Ordinances.

In this mix of old and new regulations, LA's Department of Building and Safety (LADBS) reviews all construction and real estate projects, about 130,000 per year. Around 95 percent of these projects are straightforward. LADBS approves them by right because they conform to existing rules. But, LADBS sends about five percent of these projects, or about 3,000 per year, to City Planning for special handling because they cannot approve them by-right. Designed to maximize return for investors, these referred projects are too large, too tall, or other otherwise do not conform to the existing Zoning Code. This leaves developers with the stark options of down-sizing their projects and their



expected profits so Building and Safety can quickly approve them by-right, or charging ahead and requesting City Planning to approve a range of zoning exemptions (i.e., entitlements). In most cases, these exemptions trigger the California Environmental Quality Act, and each year about 15 large projects in Los Angeles are subject to an Environmental Impact Report.

Los Angeles: McMansion at Colgate, Crescent Heights, and Edinburgh, view looking NE

**The Role of *re:code LA***

The literal and metaphoric bottom line is that existing zoning laws and administrative regulations often impede new paths to profitability. As a result, many proposed projects need to circumvent zoning requirements through either new entitlements or the elimination of current zoning requirements. The latter is the role of *re:code LA*.

This means that when the *re:code LA* process eventually produces a revised Los Angeles's zoning code, it will accommodate the needs of private real estate investors *currently* hemmed in by existing state environmental laws, municipal ordinances. and zoning reviews. Nevertheless, their requests for new zoning ordinances, as well as zone changes, zone variances, and conditional use permits, will begin anew as the needs of private real estate investors to maximize profits faces new circumstances. Just as the old zoning code could not respond to unpredictable changes in market conditions, the new zoning code will suffer the same fate. Will communities rebel against terrible projects, as has repeatedly happened in Los Angeles, most recently in Hollywood? Have interest rates gone up or down? Has the price of building materials nose-dived or sky rocketed? Has the demand for fast food peaked, while tattoo parlors, Tarot card readers, and marijuana dispensaries cannot find suitable storefronts or customers? These and countless other unpredictable market conditions ensure that the new zoning code will quickly encounter obstacles that no team of well compensated *re:code LA* consultants could divine. It takes far more than deep pockets to control the future!

**De-Regulation of Zoning**

Even if the expected thrust of *re:code LA* is to remove as many layers of zoning regulations as possible and to create a more permissive building environment in Los Angeles for real estate speculators, it will not address the underlying dilemma. To sustain a high quality of life, good planning needs to trump market forces, but in most cities, especially in Los Angeles, the political culture of City Hall invariably means that market forces trump good planning. Zoning and environmental regulations are, quite frankly, nothing more than encumbrances that are either ignored or twisted to permit what they were intended to either stop or carefully review. In rare cases well-organized public outrage stalls or blocks this process, but this is the exception, not the rule.

This outcome is inevitable when it is market forces, not rational city planning that drives the "development" process. Until Los Angeles breaks this cycle, the zoning code will remain a pliant document, always giving way to the latest, unexpected real estate trends.

**The Impacts of *recode LA***

At the end of the five-year process, we should expect *re:code LA* to produce a revamped zoning code that will lean toward form-based zoning. This means that the range of uses permitted for each parcel will be dramatically expanded, while the existing regulations for height, size, yards, and parking will only experience minor changes.

While the exact percentage of future discretionary projects that Building and Safety will then send to City Planning is unknowable, we can make a back-of-the-envelope guess: the *re:code LA* deregulation process could cut the number of discretionary actions in half. Instead of 3,000 cases per year, 1,500 is more likely.

There should be little doubt about who benefits most from these changes. Property owners, mostly of commercially zoned lots, will have seen the value of their properties soar because many more uses will now be allowed on them. This untaxed gift card from City Hall – the equivalent of free plan amendments, zone changes, and variances – will reach many billions of dollars.

Real estate investors will also reap benefits because many of their projects will no longer be subject to long, costly environmental reviews. Furthermore, by-right projects are ministerial decisions. LADBS makes them in private, without public access, and the files are not available for external review. There are also no public notices, hearings, debates, or appeals. In most cases nearby businesses and residents only learn about approved by-right projects when the bulldozers show up to demolish existing buildings.

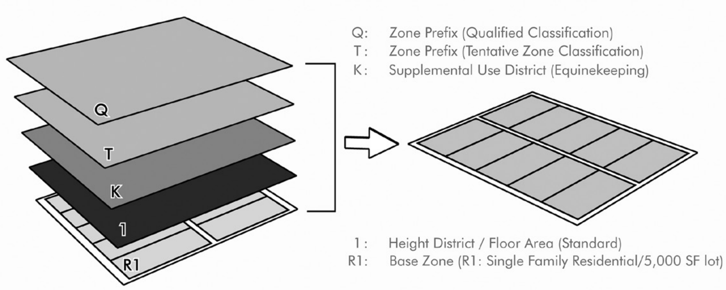
There is a bigger question, though, about the alleged benefits of *re:code LA*. Los Angeles suffers from a long list of neglected planning-related problems. These include, but are hardly limited to the ongoing mega-drought and other early symptoms of climate change, the country's worst traffic congestion and air quality, crumbling infrastructure, poor schools and parks, plug ugly signs and billboards, killer earthquakes, long transportation corridors blighted by overhead wires, and a serious lack of parkway trees compared to all surrounding and nearby cities.

It is hard to see how *re:code LA* will mitigate these and other catastrophes in-the-making. The new zoning code won't pave streets and sidewalks, plant trees, improve parks and schools, build mass transit, or reduce the production of green houses gases. While the careful review of land use actions notifies decision makers of the environmental impacts of proposed real restate projects, once these projects become by-right developments they are no longer subject to zoning or environmental reviews. The consequences of these deregulated projects, called externalities by economists, remain "unknown unknowns," to quote Donald Rumsfeld, even if the projects' bean counters can expertly calculate the extent of new profits recycling back to the global pool of $263 trillion in idle and underperforming investment capital.

This hopefully explains why all that glitters in *re:code LA* is not gold, but just another short-term scheme to bail out risky investments in Los Angeles neighborhoods. P²

## Combine the Existing Residential Requirements into a **New System**

### Translate existing residential zones plus overlays into new base zones.




The intent of **re:code LA** is to simplify and clarify the existing zoning regulations. Each combination of base zoning, rezoning conditions and zoning overlays results in a different (and unique) set of rules for property development.