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CITY ATTORNEY

REPORT NO. R 18 - 0073

MAR 15 2018

REPORT RE:

REVISED DRAFT ORDINANCE AMENDING SECTIONS 12.24 AND 14.00 OF THE LOS ANGELES MUNICIPAL CODE TO ALLOW FOR DISCRETIONARY APPROVAL OF CERTIFIED FARMERS' MARKETS IN RESIDENTIAL ZONES AND MINISTERIAL APPROVAL IN OTHER ZONES AS A PUBLIC BENEFIT

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 10-1832

Honorable Members:

On September 28, 2017, this Office transmitted a draft ordinance amending Section 12.24 of the Los Angeles Municipal Code (LAMC) to allow for discretionary approval of Certified Farmers' Markets in Residential (R) zones and adding a new Subdivision 11 to LAMC Section 14.00 to permit by right the operation of Certified Farmers' Markets in the Agricultural (A), Commercial (C), Manufacturing (M) and Parking (P) zones. (City Attorney Report No. R17-0338.)

At its meeting on October 3, 2017, the Planning and Land Use Management (PLUM) Committee requested that the City Attorney revise the draft ordinance to include the following additional amendments:

- Eliminate the annual review requirement under Section 12.24X Subdivision 6(e) for Certified Farmers' Markets by removing the requirement in its entirety;

- Under Section 12.24X Subdivision 6(c)(9) and Section 14.00 Subdivision 11(a)(10), require acceptance of electronic benefit transfer (EBT) card payments at Certified Farmers' Markets and to require operators to show proof of EBT card payment acceptance;
- Create an administrative process allowing Council Districts to modify hours of operation for Certified Farmers' Markets.

On December 5, 2017, the PLUM Committee considered oral reports from the Planning Department and City Attorney's Office concerning the PLUM Committee's proposed amendment to create a new administrative process for modifying hours of operation. The Planning Department advised that an existing "Alternative Compliance" procedure in LAMC Section 14.00B would allow applicants to request a change in operating hours for Certified Farmers' Markets and eliminate the need to create an additional administrative procedure. Concerned about the high cost of fees associated with the Alternative Compliance procedure, the Committee requested a further report back on the feasibility of creating a less costly approval procedure for modifying hours, and a report on the feasibility of including farmers' markets as by-right uses in residential zones.

At the PLUM Committee hearing on February 27, 2018, the Planning Department recommended that the draft ordinance expand the operating hours for farmers' markets in the A, C, M and P zones from 7:00 a.m. – 7:00 p.m. to 7:00 a.m. – 9:00 p.m. Additionally, the Planning Department advised that including by-right farmers markets in residential zones would require further environmental study and should come through a separate code amendment. In consideration of the Department report, the PLUM Committee withdrew its previous request to create a new administrative process and adopted the Department's recommendations. The PLUM Committee requested the City Attorney to revise the draft ordinance with the additional amendment.

This revised draft ordinance incorporates all amendments previously noted in City Attorney Report No. R17-0338, as well as the revised amendments adopted by the PLUM Committee on December 5, 2017, and February 27, 2018.

Charter Findings Required

Charter Section 558(b)(3) requires the City Council to make the findings required in Subsection (b)(2) of the same action; namely, whether adoption of the proposed ordinance will be in conformity with public necessity, convenience, general welfare and good zoning practice. Charter Section 558(b)(3)(A) allows the City Council to adopt an ordinance conforming to the CPC's recommendation of approval of the ordinance, if the CPC recommends such approval. Similarly, Charter Section 556 requires the City Council to make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan. The City Council can either adopt the CPC's findings and recommendations as set forth in the CPC's Transmittal Report or make its own.

California Environmental Quality Act (CEQA) Determination

The Planning Department recommends that the City Council adopt a negative declaration for this project and also find that the project is categorically exempt from CEQA. Adoption of a negative declaration is appropriate when the City Council, having considered the whole administrative record and exercising its independent judgment, determines the following: (1) the City has complied with all of the procedural requirements related to the preparation, noticing and distribution of the Notice of Intent to Adopt a Negative Declaration, the negative declaration and the initial study supporting the determination of a negative declaration, as set forth in Public Resources Code Section 21091 and CEQA Guidelines Sections 15071, 15072 and 15073; (2) there is no substantial evidence the project will have a significant effect on the environment; and (3) the negative declaration reflects the City Council's independent judgment and analysis.

In addition, the Department further recommends the City Council determine that based on the whole of the administrative record, the draft ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15303(c), 15304(e), 15311(c), 15332 and City CEQA Guideline Class 4; and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. If the City Council concurs, it should adopt these findings prior to or concurrent with its action on the ordinance.

Council Rule 38 Referral

Pursuant to Council Rule 38, a copy of the revised draft ordinance was sent to the Department of Building and Safety with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Oscar Medellin at (213) 978-8068. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 
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DM:OM:amg
Transmittal