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CITY ATTORNEY

REPORT NO. R17-0011  
JAN 13 2017

**REPORT RE:**

**DRAFT ORDINANCE AMENDING SECTIONS 12.03, 12.07, 12.07.1,  
12.08, 12.21, 12.23 AND 12.28 OF ARTICLE 2 OF CHAPTER 1 OF  
THE LOS ANGELES MUNICIPAL CODE TO ESTABLISH NEW REGULATIONS  
FOR ALL SINGLE-FAMILY RESIDENTIAL ZONED PROPERTIES**

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. 14-0656

**Honorable Members:**

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Sections 12.03, 12.07, 12.07.01, 12.07.1, 12.08, 12.21, 12.23 and 12.28 of the Los Angeles Municipal Code (LAMC) in order to establish new regulations for all single-family residential zoned properties, including lots that are zoned RA, RE, RS and R1.

**Background**

In 2008, in response to the proliferation of out-of-scale development in neighborhoods throughout the City, the City Council approved the Baseline Mansionization Ordinance (BMO) (Ordinance No. 179,883). This ordinance established height and floor area ratio (FAR) limitations on developments in single-family residential zoned lots, not including those located in a Hillside Area or the Coastal Zone. The BMO provided a 20 percent FAR bonus for projects that included certain design features or met certain building standards.

Similarly, in 2011, the Council approved the Baseline Hillside Ordinance (BHO) (Ordinance No. 181,624) to address the same issue of out-of-scale development in hillside neighborhoods. The BHO's regulations included limitations on residential floor area, as well as on the amount of allowable grading based on lot size.

Since the Council's adoption of the BMO and BHO, the City continued to be concerned with the proliferation of out-of-scale development in single-family neighborhoods has continued. On May 16, 2014, the Council adopted a motion (Koretz-Bonin) directing the Department of City Planning (Planning) to prepare and present an ordinance to amend the provisions established by the BMO and BHO in order to "stabilize the conflict of out-of-scale homes that continue to proliferate in entire neighborhoods."

In order to address the issue while Planning developed the amendments to the BMO and BHO, the City Council passed two interim control ordinances (ICOs) in March of 2015 to restrict development in five proposed historic preservation overlay zone areas and 15 single-family neighborhoods, including neighborhoods with properties in hillside areas (Ordinances Nos. 183,496 and 183,497). In June of 2016, the Council passed another ICO to restrict development in five additional neighborhoods (Ordinance No. 184,381). The City Council extended all three ICOs pursuant to Government Code Section 65858. Ordinances Numbers 183,496 and 184,497 expire on March 25, 2017; Ordinance Number 184,381 expires on June 29, 2018.

At its meeting on June 14, 2016, the City Planning Commission (CPC) considered Planning's proposed ordinance amending the BMO and BHO and voted to recommend its approval to the City Council. On November 28, 2016, Planning transmitted a letter to the City Council requesting additional edits and clarifications to the proposed ordinance based on comments it received from other City departments. On November 29, 2016, the Planning and Land Use Management Committee voted to approve the proposed ordinance, as amended to include recommendations received by Council Districts 4, 5, and 11, and incorporating the changes requested by Planning in its November 28 communication.

On December 7, 2016, the City Council adopted the Planning and Land Use Management (PLUM) Committee's report, as amended by motion (Wesson-Huizar), requesting that the City Attorney's Office working with Planning, incorporate the revisions requested by the amending motion and transmit the final ordinance.

#### Summary of Ordinance Provisions

The CPC's transmittal report to the City Council, dated September 2, 2016, (CPC Transmittal Report) includes Planning's staff report, which provides an exhaustive description of the LAMC amendments effectuated by the draft ordinance. Key changes that the ordinance makes to the current regulations include: reduction of the maximum

residential floor area ratio allowed in the R1 zone; modification of the areas that count toward the calculation of residential floor area through the limitation of floor-area-calculation exemptions available in all single-family residential zones; elimination of all floor area bonus options in the R1 zone and elimination of the bonus option related to compliance with the City's Green Building Code in all single-family residential zones; and the establishment of an encroachment plane and side wall offset to be applied to the regulation of building envelopes in the R1 zone. Additionally, the draft ordinance requires occupied rooftop decks in the R1 zone to be no less than 3 feet from the minimum required side yard, and it limits driveway width in the R1 zone in non-hillside areas in order to preserve parkway trees and curbside parking. The draft ordinance also adds the requirement of a public hearing for requests for 10 percent additional residential floor area in non-hillside areas; current regulations already require a public hearing for such requests in hillside areas.

In terms of grading regulations, the draft ordinance amends the LAMC to include previously exempted grading under a structure (cut and fill), except grading for deepened foundation systems like caissons and piles, in the calculation of allowable grading. Consequently, the draft ordinance adjusts the formula for maximum grading to take into account all the grading that will now count toward the calculation of allowable grading. However, the draft ordinance provides for an exemption from grading limitations for fill resulting from cut beneath the footprint of a main building, so long as that amount does not exceed fifty percent of said cut. The draft ordinance also adjusts the by-right grading maximums in all residential zones except the R1 zone, for which the by-right grading maximum remains the same as established in the current Code. Finally, the draft ordinance limits the hours of import and export, as well as the amounts that can be imported and exported.

The provisions of the proposed ordinance remain subject to preemption by any applicable Specific Plans.

The Council should consider this draft ordinance at the time it considers the forthcoming draft ordinance establishing variations of the R1 zone (CF 16-1460) and related zone changes. If the Council chooses to do so, the ordinances should be adopted together so that they take effect at the same time. The simultaneous effective dates of these two ordinances is important because this draft ordinance amending the BMO and BHO and the R1 zone variation ordinance *together* repeal and replace the ICOs mentioned above.

In order to ensure that this draft ordinance can be held for consideration with the R1 zone variation ordinance without risking the expiration of the ICOs before these provisions can take effect, the draft ordinance includes an urgency clause so that, if adopted by Council, it can become effective upon publication. Pursuant to Charter Section 253, the utilization of an urgency clause is appropriate if it is required "for the immediate preservation of the public peace, health or safety." Here, the ICOs, which

were adopted to “protect the public safety, health, and welfare” (Cal. Govt. Code Sec. 65858), expire on March 25, 2017, and upon their expiration the current regulations that allowed the proliferation of out-of-scale development once again take effect. Planning states that this draft ordinance is required for the immediate preservation of the public peace, health or safety insofar as the proliferation of out-of-scale development in single-family residential neighborhoods poses threat to the public welfare, including degradation of neighborhood character, loss of neighbors’ privacy, curtailment of development potential, and negative impacts to aesthetics and general quality of life. The draft ordinance includes a statement describing this urgency as required by Charter Section 253. Urgency ordinances require a three-fourths vote of the Council in order to pass.

#### California Environmental Quality Act (CEQA) Standard of Review

The CPC recommends that the City Council adopt a negative declaration for this project. Adoption of a negative declaration is appropriate when the 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 to adoption of the determination of a negative declaration, the City Council must specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based. The CPC Transmittal Report states that the records upon which its recommendation is based are located at the Code Studies Division of the Planning Department in Room 701, 200 North Spring Street.

#### Charter Findings Required

Charter Section 558(b)(3) requires the Council to make the findings required in Subsection (b)(2) of the same section; 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 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 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.

Council Rule 38 Referral

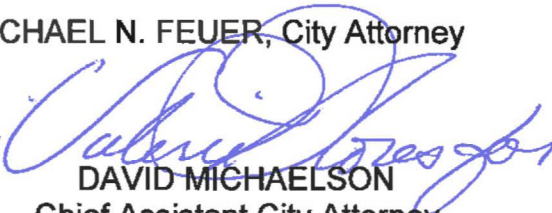
A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety, and the Bureau of Engineering in the Department of Public Works. The departments were requested to provide their comments, if any, directly to the City Council or its Committee when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Adrienne Khorasanee at (213) 978-8246. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON  
Chief Assistant City Attorney

DM:ASK:mgm  
Transmittal