



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. 17-0422
DEC 05 2017

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 12.03, 12.09 A.3 AND 12.22 C.27 OF
THE LOS ANGELES MUNICIPAL CODE TO IMPOSE GREATER SETBACK
REQUIREMENTS AND OTHER RESTRICTIONS ON SMALL LOT SUBDIVISION
PROJECTS AND TO STREAMLINE THE APPLICATION PROCESS FOR
SMALL LOT SUBDIVISION PROJECTS**

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. 16-1045

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 12.09 A.3 and 12.22 C.27 of the Los Angeles Municipal Code (LAMC) to require greater front and rear yard setbacks in small lot subdivision projects and to restrict small lot subdivisions from being developed in R2 zones. The draft ordinance also amends the LAMC to create a process for subdividing existing "bungalow court" projects, and to establish design standards for small lot subdivision projects in order to allow the use of an administrative clearance process for those projects.

Background

In 2005, the City Council adopted the Small Lot Subdivision Ordinance (Ordinance No. 176,354; hereinafter, SLS Ordinance) to allow the development of homes on subdivided lots that were originally zoned for the development of multi-family projects. The goal of the SLS Ordinance was to provide more fee-simple home ownership opportunities throughout the City with the development of "small lot" homes. Small lot subdivision projects enjoy reduced setback requirements, reduced passageways, and exemptions from open space and certain parking requirements that apply to multi-family and condominium projects in the same zones.

Once the SLS Ordinance took effect, however, issues arose involving the compatibility of the new small lot subdivision projects with their surrounding neighborhoods. On July 30, 2014, the City Council adopted a motion (LaBonge-Krekorian) instructing the Department of City Planning (Planning Department) to update and improve its SLS Ordinance guidelines to ensure compatibility between the small lot subdivision projects and the communities in which they are situated. The motion also instructed the Planning Department, with the assistance of the City Attorney's Office, to evaluate and amend the SLS Ordinance to ensure neighborhood compatibility, and the City Administrative Officer (CAO) and Chief Legislative Analyst (CLA) to prepare a fiscal impact statement for the cost of evaluating and amending the SLS Ordinance. (Council File 13-1478.)

On July 1, 2015, a motion (O'Farrell/Bonin-Englander/Fuentes/Harris-Dawson/Huizar/Krekorian) was introduced to address issues related to small lot subdivision development, including neighborhood compatibility and proximity of these developments to adjacent structures, specifically with regard to massing, height and transitional space. The motion instructed the Planning Department to report on any updates to the SLS Ordinance and related guidelines, as well as on adaptive reuse or preservation incentives that could apply to existing bungalow courtyards and other existing residences and structures where small lot subdivision projects are being considered. The motion further instructed the Planning Department, with the assistance of the City Attorney's Office, to report on any enforcement issues and on the codification of the requirements in SLS Ordinance guidelines, including requirements pertaining to trash collection and guest parking. Finally, the motion instructed Planning to report on creating separate requirements for small lot subdivision projects of twenty units or more to ensure that these larger projects result in "quality urban design and sufficient project open space." (Council File 13-1478-S3.)

On September 14, 2016, the City Planning Commission (CPC) considered Planning's proposed ordinance, which was developed pursuant to the aforementioned Council motions and took into account recent project appeals and community feedback. The CPC voted to recommend the proposed ordinance's approval to the City Council. At its meeting on January 24, 2017, the Planning and Land Use Management (PLUM)

Committee considered the Planning Department's proposed ordinance. At that meeting, Council District 13 recommended revisions to the proposed language concerning fence and wall height within yard setback areas, and recommended expanding the section regulating "bungalow court" small lots to include existing dwellings on small lots. At the conclusion of the public hearing on the matter, the PLUM Committee requested that the City Attorney transmit the draft ordinance, inclusive of the changes recommended by Council District 13, for the City Council's consideration.

Summary of Ordinance Provisions

The CPC's transmittal report to the City Council, dated September 14, 2016, (CPC Transmittal Report) includes Planning's staff report, which provides a detailed description of the LAMC amendments effectuated by the draft ordinance. Notably, the draft ordinance establishes an administrative clearance process for small lot subdivision projects, which requires adherence to the Small Lot Design Standards adopted by the CPC. It also reduces the buildable lot area for small lot subdivision projects and imposes greater setback requirements on these projects.

Moreover, the draft ordinance allows existing bungalow courts (which are defined as "a group of three or more single, duplex or triplex dwelling structures oriented around a shared outdoor space") or certain detached single, duplex or triplex dwelling structures to be subdivided into small lot homes but retain their non-conforming rights as to yards, parking, driveway access, passageways and density. However, alterations or additions must conform to LAMC Section 12.23 A (regulations pertaining to buildings with nonconforming area, height or yards) and the "Bungalow Court" Small Lot Design Standards. New dwellings added to a bungalow court small lot subdivision project are considered new construction under the draft ordinance and are subject to the general provisions of the draft ordinance such as those relating to setback requirements, parking, as well as the Small Lot Design Standards.

Finally, the draft ordinance incorporates clarifications and technical corrections pursuant to comments from the Planning Department and the Department of Building and Safety.

California Environmental Quality Act (CEQA) Standard of Review

The CPC recommends that the City Council determine, based on the whole of the administrative record, that this amendment to the Small Lot Subdivision ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment.

The City Council may also determine that this draft ordinance is exempt from CEQA pursuant to the Class 8 Categorical Exemption, set forth in CEQA Guidelines, Section 15308. This exemption consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption. The intent of this draft ordinance is to improve the appearance and compatibility of small lot subdivisions with surrounding development thus improving the aesthetic environment. The adoption of this draft ordinance does not authorize any construction activities or relaxation of standards that would allow environmental degradation. In addition, none of the exceptions to this categorical exemption set forth in CEQA Guidelines, Section 15300.2, appear to apply to this ordinance amendment. Specifically, the City Council may determine that this draft ordinance does not present any unusual circumstances, as it will merely amend an existing ordinance.

Charter Findings Required

Charter Section 558(b)(3) requires the City 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 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.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety. The department was requested to provide 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