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REPORT NO. R17-0044
FEB 10 2017

REPORT RE:

DRAFT ORDINANCE AMENDING SECTIONS 12.03, 12.04, 12.08, 12.21, 12.21.1, 12.23, 12.32 AND 13.19 OF THE LOS ANGELES MUNICIPAL CODE AND ADDING SECTIONS 12.21.6 AND 13.20 TO THE MUNICIPAL CODE TO ESTABLISH VARIATIONS OF THE R1 ZONE AND A REAR DETACHED GARAGE SUPPLEMENTAL USE DISTRICT

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. 16-1460

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, 12.04, 12.08, 12.21, 12.21.1, 12.23 and 12.32 of Article 2 of Chapter 1 of the Los Angeles Municipal Code (LAMC); amends Section 13.19 of Article 3 of Chapter 1 of the LAMC; adds Section 12.21.6 to Article 2 of Chapter 1 of the LAMC; and adds Section 13.20 to Article 3 of Chapter 1 of the LAMC in order to establish variations of the R1 Zone and an "RG" Rear Detached Garage Supplemental Use District that may be applied to regulate garage placement in the RA, RE, RS and R1 Zones.

Background

On November 4, 2014, the City Council adopted the Planning and Land Use Management (PLUM) Committee's recommendations on several motions related to neighborhood preservation in the wake of a proliferation of out-of-scale development in neighborhoods throughout the City. These motions called for the following Council actions: establishment of an interim control ordinance (ICO) for certain areas; amendment of the Baseline Mansionization Ordinance (BMO) and Baseline Hillside Ordinance (BHO); establishment of new historic preservation overlay zones (HPOZs) for certain areas; and establishment of new single family zones for specific neighborhoods. (See related Council Files 14-0656, 14-0519, 14-1135, 13-0625, 14-0343, 14-0344, 14-1262). The draft ordinance transmitted with this report was developed in response to the last of these actions.

In order to address the concern of out-of-scale development while the Department of City Planning (Planning) worked on developing regulations pursuant to the City Council's action, the City Council passed two interim control ordinances (ICOs) in March of 2015 to restrict development in five proposed HPOZ 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.

On November 10, 2016, the City Planning Commission (CPC) considered Planning's proposed ordinance establishing variations of the R1 Zone and creating a "Rear Detached Garage Supplemental Use District" (R1 Variation Zone Ordinance) and voted to recommend its approval to the City Council. At its meeting on January 18, 2017, the PLUM Committee requested that the City Attorney transmit the final R1 Variation Zone Ordinance for the Council's consideration.

Summary of Ordinance Provisions

The CPC's transmittal report to the City Council, dated December 19, 2016, (CPC Transmittal Report) includes Planning's staff report, which provides a detailed description of the LAMC amendments effectuated by the draft ordinance. The purpose of the draft ordinance, together with the draft BMO and BHO, is to replace the temporary ICO regulations for most of the areas in the City currently covered by those regulations by providing tailored development options for single family neighborhoods that help to preserve each neighborhood's respective character. The draft ordinance establishes different types of R1 zones that can be implemented through zone changes, thus imposing specific regulations to prevent out of scale development in the neighborhoods subject to the zone change. For example, the draft ordinance

establishes zone-specific regulations pertaining to the varying location of the bulk of a building's mass in order to complement the building forms that exist in different neighborhoods. Similarly, the draft ordinance establishes a "Rear Detached Garage District" that may be utilized through a zone change to require that garages be detached and placed in the rear of properties in certain single-family zones if that is appropriate for a specific neighborhood.

The Council should consider this draft ordinance at the time it considers the draft ordinance previously transmitted by the City Attorney's Office amending the BMO and BHO, which the PLUM Committee recommended for approval on January 18, 2017 (Council File 14-0656), and related zone changes transmitted by Planning. 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 R1 Variation Zone ordinance and the ordinance amending the BMO and BHO *together* repeal and replace the ICOs mentioned above.

In order to ensure that this draft ordinance can be considered without risking the expiration of the ICOs before these provisions 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 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. 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 Khorasane 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