



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 17 - 0085  
MAR 17 2017

**REPORT RE:**

**DRAFT ORDINANCE AMENDING SECTIONS 12.04, 12.32, 13.20 AND 16.05 OF THE  
LOS ANGELES MUNICIPAL CODE TO ESTABLISH A HILLSIDE CONSTRUCTION  
REGULATION 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. 16-1472-S1

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 12.04, 12.32, 13.20 and 16.05 of the Los Angeles Municipal Code (LAMC) in order to establish a Hillside Construction Regulation (HCR) supplemental use district that may be applied to regulate the construction of single-family homes in hillside areas.

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 response to the 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 and 14-1262.)

Subsequently, in March of 2015, the City Council passed two ICOs to restrict development in five proposed HPOZ areas and 15 single-family neighborhoods, including neighborhoods with properties in hillside areas (Ordinance 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. Ordinance Numbers 183,496 and 184,497 expire on March 25, 2017; Ordinance Number 184,381 expires on June 29, 2018.

On March 1, 2017, the City Council adopted an ordinance amending the LAMC to establish new regulations for all single-family residential zoned properties, and 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. (Council Files 14-0656 & 16-1460.) That ordinance provided the revisions City Council sought to the City's BMO and BHO and established new single-family zones which could be utilized, through zone changes, to provide additional protections to communities to preserve neighborhood character. The provisions of this ordinance were designed to replace ICO Numbers 183,496 and 184,497.

The draft ordinance transmitted with this report was developed by the Department of City Planning (Planning) as an additional tool to be used to limit the impacts of construction in hillside neighborhoods, thus providing an additional means of protection to neighborhoods dealing with the effects of development. On December 15, 2016, the City Planning Commission (CPC) considered Planning's proposed 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 draft ordinance for the City Council's consideration.

#### Summary of Ordinance Provisions

The CPC's transmittal report to the City Council, dated December 23, 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 is consistent with the purpose of the ordinance passed by City Council on March 1, 2017 (amending the BMO and BHO and establishing R1 variation zones), in that it imposes specialized restrictions and requirements on development in certain areas in order to limit the effect of development in hillside communities.

Similar to the establishment of the R1 variation zones, this draft ordinance establishes a HCR supplemental use district (HCR District) that can be applied to a specific area through a zone change to impose a number of conditions on single-family home development projects within that area. For example, those projects would be subject to development regulations limiting the amount of allowable grading, as well as restrictions on the hours of hauling operations and construction activity. Moreover, projects in a HCR District would be required to adhere to standard conditions typically imposed by the Board of Building and Safety Commissioners on haul route approvals under LAMC Section 91.7006.7.5. Additionally, single-family home development projects within a HCR District that have a cumulative residential floor area of 17,500 square feet or more would be subject to the Site Plan Review process codified in LAMC Section 16.05.

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 City 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. Planning states that this draft ordinance is required for the immediate preservation of the public peace, health or safety insofar as allowing the ICOs to expire without providing for the adoption of permanent, context-sensitive single-family zones would result in the continued proliferation of out-of-scale development in single-family residential neighborhoods. This type of development poses a 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 City 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 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 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 Community Planning Bureau of the Planning Department in Room 701, 200 North Spring Street.

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 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