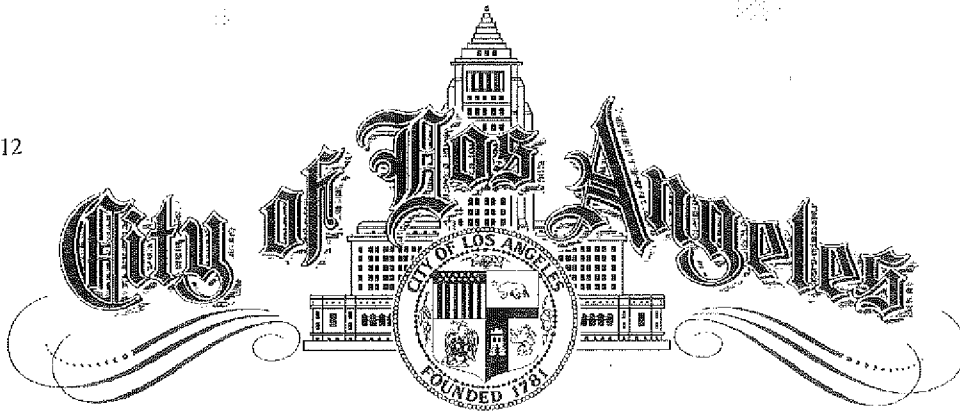


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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 2 - 0 3 3 2

REPORT RE:

OCT 22 2012

**DRAFT OF ORDINANCE AMENDING SECTIONS 12.24 AND 19.11
OF THE LOS ANGELES MUNICIPAL CODE TO ALLOW FOR THE TRANSFER
OF RESIDENTIAL DENSITY IN MIXED-USED UNIFIED DEVELOPMENTS
IN SPECIFIC ZONES, REMOVE REFERENCE TO EXPIRING REDEVELOPMENT
PROJECT AREAS, AND MAKE MINOR TECHNICAL CORRECTIONS**

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. CF 10-1353
CPC 2009-3955-CA

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The purpose of the draft ordinance is to modify Subsection 19 of Subsection W of Section 12.24 of the Los Angeles Municipal Code to allow for the transfer of density as well as developable floor area from one parcel to another in unified developments. This modification is intended to particularly assist mixed use projects by allowing increased density to be transferred to residentially-zoned parcels.

The concept of "Floor area averaging" is that a land owner may transfer developable floor area from one parcel to another within unified developments, so long

as the entire project does not exceed the cumulative, allowable floor area of the individual parcels.

As currently written, Subsection 19 of Subsection W of Section 12.24 of the Los Angeles Municipal Code allows for such floor area averaging among parcels in any zone, be it a commercial, manufacturing, or residential zone. But the development of mixed-use projects is hindered because this subsection does not allow increased density to be transferred to residentially-zoned parcels within such projects. Currently, before such a transfer can be made, the developer must apply for and receive a zone variance under the authority of Section 12.27 of the Code. Obtaining such a zone variance is a difficult and burdensome process.

Therefore, the proposed ordinance will amend the subsection to allow for such transfers of increased density to residentially zoned parcels without the need for a zone variance.

The proposed ordinance will also remove references in the Los Angeles Municipal Code to expiring Redevelopment Project Areas and make minor technical corrections to the Code.

More details on the proposed ordinance are provided in the report prepared by the Department of City Planning.

Charter Findings

Pursuant to Charter Section 559, the Planning Commission approved the draft ordinance and recommended that the City Council adopt it. If the City Council chooses to adopt this ordinance, it may comply with the provisions of Charter Section 558 by either adopting the findings prepared by the Director of Planning attached to the file or by making its own findings.

Background

The City Planning Commission approved the proposed ordinance at its regular meeting of June 24, 2010.

Your Planning and Land Use Management Committee approved the proposed ordinance at its regular meeting of September 21, 2010.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety, with a request that any comments be presented directly to your Honorable Body at the time this matter is considered.

CEQA Findings

We recommend that, prior to adoption of this ordinance, you adopt Negative Declaration No. ENV-2009-3956-ND. If you concur, you may comply with CEQA by adopting this Negative Declaration prior to or concurrent with your action on the ordinance.

If you have any questions regarding this matter, please contact Deputy City Attorney Kenneth Fong at (213) 978-8235. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE/KTF:zra
Transmittal

ORDINANCE NO. _____

A proposed ordinance amending Sections 12.24 and 19.11 of the Los Angeles Municipal Code to allow for the transfer of residential density in mixed-use unified developments in specific zones, remove reference to expiring Redevelopment Project Areas, and make minor technical corrections.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subdivision 19 of Subsection W of Section 12.24 of the Los Angeles Municipal Code is amended to read as follows:

19. Floor area ratio averaging and residential density transfer in unified developments.

(a) **Floor Area Ratio Averaging.** The averaging of floor area ratios may be permitted for buildings which will comprise a unified commercial, industrial, or mixed-use development in the C or M zones citywide or in the R5 zone within the Central City Community Plan Area, even if buildings on each individual parcel or lot would exceed the permitted floor area ratio. However, the floor area ratio for the unified development, when calculated as a whole, may not exceed the maximum permitted floor area ratio for the height district(s) in which the unified development is located.

(b) **Residential Density Transfer.** The transfer of residential density may be permitted for buildings which will comprise a unified mixed-use development in the C zones citywide or in the R5 zone within the Central City Community Plan Area, even if buildings on each individual parcel or lot would exceed the permitted density. However, the number of all dwelling units and guest rooms for the unified development, when calculated as a whole, may not exceed the maximum number permitted based on the minimum lot area per dwelling unit and guest room standards set forth in the zone(s) in which the unified development is located.

(c) **Definition.** A unified development for purposes of this subdivision shall mean a development which is:

(1) a combination of functional linkages, such as pedestrian or vehicular connections;

(2) in conjunction with common architectural and landscape features, which constitute distinctive design elements of the development;

(3) is composed of two or more contiguous parcels, or lots of record separated only by a street or alley; and

(4) when the development is viewed from adjoining streets appears to be a consolidated whole.

(d) **Finding.** In addition to the findings otherwise required by this section, before granting an approval, the Zoning Administrator shall find that the development, although located on separate parcels or lots of record, is a unified development as defined by this subdivision.

(e) **Procedures.** In addition to the requirements of subsection A through Q of this section, all persons with an ownership interest in the property requesting floor area ratio averaging, residential density transfer, or both, and all persons with mortgage interests, including those persons holding ground leases, must sign the application. A current title search shall be submitted with the application to ensure that all persons with an ownership interest in the property have signed the application.

(f) **Covenant.** If the Zoning Administrator approves the floor area ratio averaging or residential density transfer, then the applicants shall file a covenant running with the land with the Department of Building and Safety prior to the issuance of any building permits:

(1) guaranteeing to continue the operation and maintenance of the development as a unified development;

(2) indicating the floor area and, if applicable, density used on each parcel and the floor area and, if applicable, density potential, if any, that would remain;

(3) guaranteeing the continued maintenance of the unifying design elements; and

(4) specifying an individual or entity to be responsible and accountable for this maintenance and the fee for the annual inspection of compliance by the Department of Building and Safety, required pursuant to Section 19.11.

Sec. 2. Section 19.11 of the Los Angeles Municipal Code is amended to read as follows:

SEC. 19.11. ANNUAL INSPECTION OF COMPLIANCE WITH FLOOR AREA RATIO AVERAGING AND RESIDENTIAL DENSITY TRANSFER COVENANTS.

A fee of \$300.00 shall be charged and collected by the Department of Building and Safety to cover the cost of an annual inspection to monitor compliance with, and maintain records of, the covenant required pursuant to Sections 12.24 B.25 and 12.24 C.58 of this Code prior to July 1, 2000, and Section 12.24 W.19 of this Code on and after July 1, 2000.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Kenneth T. Fong
KENNETH T. FONG
Deputy City Attorney

Date 9-20-12

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted

September 28 2012

See attached report.

Michael LoGrande
Michael LoGrande
Director of Planning

File No(s). CF 10-1353

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September 28, 2012

The Honorable Carmen A. Trutanich
City Attorney
City Hall East, 7th Floor
200 North Main Street
Los Angeles, CA 90012-4131

Attention: Terry P. Kaufmann Macias
Assistant City Attorney

RE: Unified Development CUP - Transfer of Density in Mixed Use Projects
Council File No: 10-1353 (not transmitted)
CPC File No: 2009-3955-CA (not transmitted)

Dear Mr. Trutanich:

Transmitted is the proposed draft ordinance prepared by your office that amends the Los Angeles Municipal Code to expand the Unified Development Conditional Use to include the transfer of residential density.

The language contained in this draft ordinance is substantially the same as that approved by the City Planning Commission on July 24, 2010 and the Planning and Land Use Management Committee (PLUM) on September 21, 2010. This letter contains the required findings regarding the ordinance.

ENVIRONMENTAL IMPACT

In accordance with the California Environmental Quality Act (CEQA), a Negative Declaration (ENV-2009-3956-ND) was published on April 22, 2010. On all measures the proposed ordinance will have either no or a less than significant impact.

FINDINGS

1. In accordance with Charter Section 556, that the proposed ordinance is in substantial conformance with the purposes, intent, and provisions of the General Plan in that it supports:

Goal 3A of the Framework Element of the General Plan, "A physically balanced distribution of land uses that contributes towards and facilitates the City's long-term ... conservation of existing residential neighborhoods, ... and achievement of the vision for a more livable city", specifically addressing:

- Objective 3.1, "Accommodate a diversity of uses that support the needs of the City's existing and future residents, businesses, and visitors," through implementation of Policy 3.1.4 by accommodating "new development in accordance with land use and density provisions of the General Plan Framework Long-Range Land Use Diagram," and
- Objective 3.2, "Provide for the spatial distribution of development that promotes an improved quality of life by facilitating a reduction of vehicular trips, vehicle miles traveled, and air pollution," through implementation of Policy 3.2.2, by helping "[e]stablish ... patterns and types of development that improve the integration of housing with commercial uses and the integration of public services and various densities of residential development within neighborhoods at appropriate locations," and
- Objective 3.4, "Encourage new multi-family residential, retail commercial, and office development in the City's neighborhood districts, community, regional, and downtown centers as well as along primary transit corridors/boulevards, while at the same time conserving existing neighborhoods and related districts," through implementation of Policy 3.4.3a, by helping "[e]stablish incentives for the attraction of growth and development in the districts, centers, and mixed-use boulevards targeted for growth that may include ... [d]ensities greater than surrounding areas";

Goal 3C of the Framework Element of the General Plan, "Multi-family neighborhoods that enhance the quality of life for the City's existing and future residents," specifically addressing:

- Objective 3.7, "Provide for the stability and enhancement of multi-family residential neighborhoods and allow for growth in areas where there is sufficient public infrastructure and services and the residents' quality of life can be maintained or improved" by implementation of Policy 3.7.1, which states that the City must "[a]ccommodate the development of multi-family residential units in areas designated in the community plans"; and

Goal 4A of the Framework Element of the General Plan, "An equitable distribution of housing opportunities by type and cost accessible to all residents of the City," and Goal 1 of the Housing Element of the General Plan, "A City where housing production and preservation result in an adequate supply of ownership and rental housing," specifically addressing:

- Framework Element Objective 4.1, “Plan the capacity for and develop incentives to encourage production of an adequate supply of housing units ... to meet the projected housing needs,” through implementation of Policy 4.1.1 by helping “[p]rovide sufficient land use and density to accommodate an adequate supply of housing units ... to meet the twenty-year projections of housing needs,” and
- Housing Element Objective 1.1, “Plan the capacity and develop incentives for the production of an adequate supply of rental and ownership housing for households of all income levels and needs,” through implementation of Policy 1.1.3 by facilitating “new construction of a variety of housing types that address current and projected needs of the city’s households,” Policy 1.1.4 by expanding “location options for residential development, particularly in designated Centers, Transit Oriented Districts and along Mixed-Use Boulevards,” and Policy 1.1.6 by facilitating “innovative models that reduce land, materials and labor costs”; and

2. in accordance with Charter Section 558 (b)(2), the proposed ordinance will be in conformity with the public necessity, convenience, general welfare, and good zoning practice in that it supports:

Goal 4A of the Framework Element of the General Plan, “An equitable distribution of housing opportunities by type and cost accessible to all residents of the City,” and Goal 1 of the Housing Element of the General Plan, “A City where housing production and preservation result in an adequate supply of ownership and rental housing” specifically addressing:

- Framework Element Objective 4.4, “Reduce regulatory and procedural barriers to increase housing production and capacity in appropriate locations,” through implementation of Policy 4.4.1a by introducing flexibility that establishes “development standards that are sufficiently detailed and tailored to community and neighborhood needs to reduce discretionary approvals requirements,” and
- Housing Element Objective 1.5, “Reduce regulatory and procedural barriers to the production and preservation of housing at all income levels and needs” by effectuating Program E, Zoning Code Reform, identified under Policy 1.5.1, “Streamline the land use entitlement, environmental review, and building permit processes”; and

Goal 2 of the Housing Element of the General Plan, “A City in which housing helps create safe, livable and sustainable neighborhoods,” specifically addressing:

- Objective 2.2, “Promote sustainable neighborhoods that have mixed-income housing, jobs, amenities, services and transit,” through implementation of Policy 2.2.1 by helping “[p]rovide incentives to encourage the integration of housing with other compatible land uses.”

CHARTER SECTION 559

For the foregoing reasons and as provided under the authority of Charter Section 559 and City Plan Case No. 13505-A, I find that my action conforms with all applicable portions of the General Plan and with the July 24, 2010 action of the City Planning Commission, and I therefore approve this ordinance and recommend that it be adopted by the City Council.

Sincerely,

MICHAEL J LOGRANDE
Director of Planning



ALAN BELL, AICP
Deputy Director

AB:TR

Attachment