



DEPARTMENT OF CITY PLANNING

RECOMMENDATION REPORT

City Planning Commission

Date: December 15, 2016

Time: After 8:30 a.m.

Place: Van Nuys City Hall,
Council Chambers, 2nd Fl.
14410 Sylvan Street
Los Angeles, CA 91401

Case No.: CPC-2016-4345-CA

CEQA No.: ENV-2016-4346-CE

Plan Area: Citywide

Council No.: All

Applicant: City of Los Angeles

PROJECT LOCATION: Citywide

PROPOSED PROJECT: An ordinance amending Sections 12.03 and 12.22, and repealing portions of Section 12.24, of Chapter 1 of the Los Angeles Municipal Code (LAMC) for the purpose of regulating Accessory Dwelling Units and complying with state law.

RECOMMENDED ACTIONS:

1. **Approve** the proposed ordinance (Exhibit A) and recommend its adoption by City Council;
2. **Adopt** the staff report as the Commission's report on the subject;
3. **Adopt** the attached Findings;
4. **Approve** and recommend that the City Council, based on the whole of the record, determine that the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code 21080.17 and CEQA Guidelines Sections 15378(a), 15061(b)(3), 15301, 15302, and 15303.

VINCENT P. BERTONI, AICP
Director of Planning

(signed version in the case file)

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Exhibits:
 A – Proposed Ordinance
 B – California Government Code §65852.2 (as amended by AB 2299 and SB 1069)

PROJECT ANALYSIS

Project Summary

The proposed Code Amendment would replace the City's second unit ordinances (Los Angeles Municipal Code (LAMC) §12.24 W.43 and W.44, established in 1985) with a new Accessory Dwelling Unit (ADU) ordinance. The ordinance will incorporate important new provisions of state second unit law (AB 2299 and SB 1069) that go into effect on January 1, 2017 and introduce new provisions to regulate the size and location of ADUs in Los Angeles.

The ordinance is in response to a City Council Motion (Martinez/Koretz) dated August 31, 2016 directing the Department of City Planning to prepare a new code amendment to provide standards that alleviate barriers to the construction of second units while taking into account the unique characteristics of each geographic area of the city.

Background

Second units, also known as accessory dwelling units (ADUs), refers to a second home on a property with a preexisting primary home. Second units are seen by many as an important housing option, particularly in cities that have a shortage of housing. They offer a smaller, often more affordable option for renters, allow family members such as seniors or young people a convenient housing option and offer important assistance for homeowners in paying their mortgage. Many existing homeowners express concerns about the impacts of second units on privacy, traffic, parking and neighborhood character.

There have been a number of policy changes regarding second units/ADUs in Los Angeles in the last year. The changes have largely revolved around the interplay of the City's 1985 second unit ordinance and the state's second unit law. California's second-unit law was first enacted in 1982, and significantly amended in 2002 with AB 1866 to encourage the creation of second-units while maintaining local control and flexibility.

The primary motivation of the state's second unit law is to provide for additional housing opportunities in an efficient, affordable, sustainable manner. The intent is to remove unnecessary barriers, and ensure that local regulations are not "so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance" (State Housing and Community Development Memorandum dated August 6, 2003).

The City's second unit policy that had been in place formally since 2010 and which relied upon a set of development standards in the 2002 state law, was invalidated in February 2016 as a result of a Los Angeles Superior Court Order. In response, in September 2016 the City Council directed the Department (CF 14-0057-S8) to propose interim and long-term policy responses to the Court Order. The Council also approved an ordinance grandfathering various pending second unit applications and allowing, during one week at the end of September, additional applications to be filed under the City's prior policy, the default state standards. The May 26, 2016 Department recommendation report on this item (CPC-2016-1245-CA) summarized the court case and City policy up until then.

As an interim step, on November 2, 2016 the Department issued a Zoning Administrator Interpretation (ZAI) of the City's 1985 second unit ordinance (12.24 W.43 and 44). The ZAI (ZA 2016- 4167-ZAI) analyzed the code section to determine what provisions are ministerial and could be legally implemented and which are discretionary and therefore invalid. Between the effective

date of the ZAI and December 31, 2016, projects seeking an ADU permit would use the ZAI procedures. However, due to recent changes in state law (AB 2299), the ZAI will expire on December 31, 2016, after which date the new state provisions take effect. The ZAI would also terminate if the ADU ordinance is adopted by City Council prior to the end of year.

The Governor approved Assembly Bill 2299 on September 27, 2016, to become effective January 1, 2017. AB 2299, and another second unit bill, SB 1069, mandate that all discretionary provisions relating to second units be removed from local ordinances and includes additional changes regulating allowable parking, setbacks, utility and passageway requirements (see Exhibit B for a copy of the amended state law). The legislation also replaces the term “second unit” with “accessory dwelling unit” (ADU).

Specifically, AB 2299 modifies existing state law by stating any existing local ADU ordinance that fails to meet the requirements of the new law “shall be null and void upon the effective date of the act . . . and that agency shall thereafter apply the [state standards] unless and until the agency adopts an ordinance that complies with this section” (Amended Gov. Code § 65862.2(a)(4)). The City’s existing ADU ordinance includes discretionary approval provisions precluded by AB 2299 (see ZA 2016- 4167-ZAI). Consequently, effective January 1, 2017, AB 2299 will void the City’s existing ADU ordinances, and require the City to apply the new state default standards pending the City’s adoption of a new ordinance consistent with AB 2299.

The proposed ordinance would change the City’s ADU law to be in compliance with state law by repealing the City’s 1985 second unit law (§12.24 W.43 and 44), incorporating the new state provisions, and introducing new tailored ADU regulations that recognize the diversity of Los Angeles’ neighborhoods.

The City’s Existing Second Dwelling Unit Zoning Provisions

The City’s existing 1985 SDU zoning provisions, LAMC §12.24 W.43 and W.44, create discretionary Conditional Use Permit processes for standard sized lots (W.43) and for larger lots (W.44), each requiring approval by the Zoning Administrator. In addition to the standard CUP findings (e.g., project compatibility with surrounding neighborhood), the ordinance also includes several development standards. For example, second units on standard sized lots are, among other limitations, restricted to A, RA, RE, RS, R1, RMP, and RW1 zones, not permitted in a Hillside and Equine Keeping districts, limited to a maximum size of 640 square feet, and can only be built on lots with a minimum size of 7,500 square feet or more. These provisions are highly restrictive in that they effectively prevent ADUs from being permitted on a majority of the City’s residentially-zoned parcels.

As mentioned above, the City’s existing 1985 second unit regulations do not comply with state law as of January 1, 2017. The City’s existing second dwelling unit regulations include discretionary standards as part of the Conditional Use Permit and further require adherence to passageway and other rules that contradict provisions of state law that are mandatory as of January 1, 2017.

Status of Second Dwelling Units in Los Angeles

Since the passage of AB 1866 in 2003, through November 17, 2016, a total of 680 ADUs have been permitted in the City of Los Angeles, of which 404 have been completed by receiving a Certificate of Occupancy. This represents a relatively small number of approvals, considering that the Los Angeles has approximately 480,000 single-family zoned lots and that approximately 100,000 new residential units have been built in the City since that time. In comparison, Portland, Oregon (a much smaller city) has permitted about 600 ADUs in the last two years alone.

Approximately 58% of the ADUs that have been permitted in Los Angeles since 2003 are detached structures. The rest are a mix (in order of frequency) of garage conversions, other accessory structure conversions, attached new construction and conversions of existing single-family dwellings. Almost 90% of the ADUs that have been permitted are located in the San Fernando Valley. The remainder are located in South LA, Hollywood and West LA.

City ADU Policy Context

The City's official policy on ADUs can be found in the City's Housing Element (of the General Plan). It calls for the Department of City Planning to "identify obstacles to enable second units on single family lots and propose ways to address the obstacles" (Program 69 on pg. 6-47). The stated objective is to "identify development standards and code requirements that pose compliance difficulties" and "adopt amendments to the Zoning Code to alleviate (those) challenges." Furthermore, the Mayor's *Sustainable City pLAN* includes a policy to "pilot new regulations governing second units and granny flats" as a way to build capacity for housing. In addition, several City Council motions supporting SDUs, including current non-permitted units, have been issued by Council members in recent years, including motions by Councilmembers Cedillo (CF 14-0057-S1) and Price (CF 14-0057). Most recently, Council Motion 19A (CF 14-0057-S8), passed by the City Council in September 2016 directed the Department to prepare updated second dwelling unit regulations.

Like the State, the City's goal in supporting the concept of ADUs is primarily related to housing availability and affordability. The City is currently in the midst of an unprecedented housing crisis, with housing vacancy rates the lowest of any major city in the United States. ADUs are an affordable housing option that have the potential to provide significant amounts of new rental units and assist more families in achieving homeownership.

New State Accessory Dwelling Unit Law

As stated, the pre-existing state ADU law already included several provisions that limit the discretion of local jurisdictions in regulating new ADUs. The new state ADU law (effective January 1, 2017) preempts a local jurisdiction's ability to regulate aspects of ADUs even further. Local ordinances must adhere to the following post January 1st:

- Project review may not require any discretion or qualitative decision-making. That is, all approvals must be "by right" or ministerial in nature.
- The state's standards include a limitation on the size of an ADU (1200 square feet), while ADUs that are attached to an existing single family dwelling cannot be larger than 50% of the existing living areas.
- No passageway (unobstructed pathway extending from a street to one entrance of the accessory dwelling unit) shall be required in conjunction with the construction of an ADU
- No setbacks shall be required for an existing garage that is converted to an ADU. An ADU that is constructed above a garage will not be required to have more than a five foot setback from the side and rear lot lines.
- An ADU shall be treated as an accessory use or accessory building.
- Existing accessory structures, when converted to an ADU, are permitted without additional restrictions provided the structure has independent exterior access and side and rear setbacks sufficient for fire safety.
- Parking standards are limited to no more than one space per ADU or bedroom and required parking is permitted to be a tandem space in an existing driveway. Parking standards for new ADUs are reduced to zero spaces under certain circumstances (within

½ mile of public transportation, located in an historic district; is part of an existing primary residence; or, when a car-share vehicle is located within one block).

- When a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU the replacement parking spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

Proposed Accessory Dwelling Unit Ordinance

The proposed ADU ordinance aims to strike a balance between providing housing opportunities pursuant to state law and providing regulations, within the confines legally permitted by state law, to limit overall scale and size and respond to concerns about neighborhood impacts. The ordinance incorporates the required provisions of state law and creates new local development standards.

Below is a summary of the key provisions of the proposed ordinance that go beyond state law. ADUs are:

- Not allowed in Hillside areas unless contained within the existing space of a single-family residence or existing accessory structure
- Not allowed between the front of the primary residence and the street
- Limited in size, to 50% of the primary residence; however, in no case, shall the ADU be larger than 1200 square feet, and in the case of a detached ADU, the City may not require an ADU of less than 640 sq. ft.
- Required to meet all underlying zoning, floor area and land use regulations

Key Issues

Regulating Size and Scale of ADUs

The size and scale of ADUs is one of the largest sources of concern. An out of scale ADU could negatively affect neighborhood character and the privacy of neighbors. State law permits local jurisdictions to regulate the maximum size of newly constructed ADUs, as long as they permit at least a 150 square foot efficiency unit and do not permit units larger than 1,200 square feet.

The proposed ordinance recognizes that size is often contextual. What is considered large in one area may be small in another. As such, the proposed ordinance regulates size and scale of ADUs by requiring that the ADUs be no more than 50% of the total floor area of the main home, excluding garages, up to a maximum of 1,200 square feet. Detached ADUs are eligible for a minimum of 640 square feet under this calculation. As such, an ADU will always be smaller than the main home unless the main home is very small (less than 640 square feet). By adopting this standard, the proposed ordinance would ensure that size and scale of ADUs is regulated in a manner that is tailored to the unique characteristics of individual residential neighborhoods. The 640 square foot minimum ensures eligibility for a modest one bedroom ADU, although a smaller ADU may be constructed. Attached ADUs are limited to 50% of the total floor area of the main home, excluding garages, without the 640 square foot minimum. This ensures attached ADUs will always be subservient and accessory to the main home.

Regulating the Location of ADUs on a Lot

The location of buildings on an individual parcel greatly influences the ability to develop an ADU and how it impacts neighboring properties. LAMC Section 12.21.C contains a set of area

regulations that determine how far back accessory buildings must be set from property lines (called setbacks or yards), how far they must be distanced from each other, as well as several specific location requirements. These provisions require a minimum 10-foot separation between a detached ADU and main home and state that the detached ADU not be located on the front half of a lot, unless more than 55 feet from a front lot line). The draft ordinance goes further and prevents an ADU from being located between the primary residence and the street adjoining the front yard, to maintain the appropriate relationship between accessory and main structures on a lot.

AB 2299 reduces allowable setback provisions across the state in three cases - when existing garage buildings are converted (zero feet), when any other existing square footage is converted to an ADU (as necessary to protect life-safety), or when a second story is built on top of a garage (five feet).

Preventing ADUs in Hillside Areas

Los Angeles is a very unique city for the amount of mountain terrain and hillside areas located within its boundaries. Given their unique characteristics and development challenges, these areas have long had distinct zoning and land use policies, including the development regulations contained in the Baseline Hillside Ordinance (BHO). City policies aim to preserve natural viewsheds, whenever possible, in hillside and coastal areas (General Plan Framework 6.1.2).

The City's current second unit ordinance in LAMC §12.24 W.43 precludes second unit development within defined Hillside Area boundaries. The proposed ordinance would continue this policy by providing that second units that add any new square footage not be allowed in Hillside areas covered by the BHO. The BHO applies to approximately 136,000 single-family lots (28% of the City's total single-family properties) located within the Department of City Planning Hillside Area Map, as defined in Section 12.03 of the LAMC. State law requires that, regardless of regulations that apply broadly to ADUs, the conversion of existing space of a single-family residence or existing accessory structure to ADU shall be approved if two conditions are met (PCR 65852.2(e)).

Hillside areas are often characterized by larger amounts of natural vegetation and substandard streets. They are typically not located near public transit, services or jobs. Impacts of new construction are often multiplied in hillside neighborhoods, with pronounced impacts on water and sewer services, congestion, parking availability and roadway degradation. Hillside development creates public safety impacts due to construction vehicles and machinery forced to park and transverse narrow hillside streets. Hillside areas also have a higher fire and natural disaster risk, while the winding roads slow emergency response times. For these reasons the draft ordinance places a restriction on ADUs in Hillside Areas.

Other Activities to Regulate Development in Single-Family Neighborhoods

ADUs will not solely be subject to the development regulations in the proposed ordinance. Pursuant to proposed §12.22 A.32 B(1), ADUs must comply with all provisions of the underlying zoning district, except where they conflict with the ordinance. As such, standard regulations such as total residential floor area ratio (which limits total square footage in relation to lot size), height, building separation, etc. must all be met. It is also important to note that general zoning regulations place limits on accessory buildings on single-family properties that may not meet the definition of an ADU, such as pool houses, guest houses, garages and other accessory structures. There are several concurrent activities the Department is currently pursuing that will further regulate the scale and placement of ADUs, upon adoption:

Baseline Mansionization Ordinance (BMO)/Baseline Hillside Ordinance (BHO)

The purpose of the BMO/BHO Code amendment is to update and refine the current rules relating to the size and bulk of new and enlarged homes, as well as grading of hillside lots. The BMO/BHO Code amendment will serve as a more immediate response to the scale of development for neighborhoods not subject to an ICO. It will provide carefully considered regulations while the new re:code LA single-family zones are developed for citywide application

re:code LA R1 Variation Zones.

The ongoing effort to comprehensively rewrite the City's Zoning Code will include new single-family zones to better address the diversity of Los Angeles' neighborhoods. The preparation and adoption of a new menu of R1 Zones (a component of the new single-family zones) is being accelerated to be available for 16 neighborhoods that are currently subject to one of the City's residential ICOs. These new R1 Variation Zones will contain tailored requirements on maximum residential floor area ratios, heights, encroachment planes and lot coverage to recognize neighborhoods where the predominant character is detached garages, single-story houses, or houses that are larger in scale.

Conclusion

The proposed Code Amendment will ensure that ADU regulations in Los Angeles are made current with the new state law and reflect needed protections for hillside areas and limit out-of-scale construction, encouraging the production of new housing supply while protecting the character of local neighborhoods.

PUBLIC HEARING AND COMMUNICATIONS

SUMMARY OF PUBLIC COMMUNICATIONS AND COMMENTS

The draft ordinance was made available to the public on November 17, 2016. The Department's public outreach efforts have consisted of email communications with all neighborhood councils, neighborhood council alliances, and interested parties. Staff made clear its availability to meet with interested neighborhood council alliances to further explain the proposed ordinance. It met with the PlanCheckNC alliance, which focuses on planning and land use issues, on December 10th to discuss the proposed ordinance. The Department also sent the draft ordinance to an extensive "interested party" list that includes members of the public concerned with the topic of second units and ADUs. The interest list was developed earlier in 2016 when a prior second unit ordinance, discussed above, went through the public process.

These efforts have yielded 14 public comments as of December 1st, eleven of which are generally supportive of ADUs and three that expressed concerns. The comments are summarized as follows:

Comments from those with Concerns about ADUs

Size and Scale

The Department received comments requesting that the proposed size limits should be both increased and decreased. Those with concerns about the proposed size regulations have stated the City should retain the 640 square feet maximum size from the current 1985 City law. They believe this is closer to the vision of a small "granny flat" and better protect neighborhood character and privacy.

It is important to note the 1985 provision applied to for small and normal sized lots only. Larger lots often qualified for the alternative large lot provisions in 12.24 W.44 that allowed unlimited square footage. In addition, the square footage limits in the ordinance are only one method of controlling building massing. Total residential floor area (FAR) limits currently being updated as part of the Baseline Mansionization and Baseline Hillside Ordinances (BMO and BHO), as well as the R1 Variation Zones Code Amendment and Neighborhood Conservation Zone Changes (discussed in greater detail above).

Definition of Hillside Area

Those with concerns about ADUs have generally been supportive of the proposed ban on ADUs in hillside areas. However, the Department received comments that the "Hillside Area," as defined in the proposed ordinance, is insufficient and should instead be based on an older, alternative Building Code definition of hillside area found in LAMC Section 91.7003. They note that this was the definition used by the City's current second unit ordinance.

Planning staff deliberately recommends to use the updated zoning code definition of Hillside Area (established in 2009) found in LAMC Section 12.03, rather than rely on the older Building Code definition. The older definition included many areas that are not true hillside areas based on more detailed analysis. They were last amended by the Bureau of Engineering in 1993 using a method that included all properties located within a square "grid map" if it included at least some hillside areas – a somewhat arbitrary distinction that resulted in the inclusion of many non-sloped areas. In 2009, the Department utilized Geographic Information Systems (GIS) technology to more accurately determine what properties should be included as Hillside Areas (see CPC-2008-4683-

CA). The definition of Hillside Area in LAMC 12.03 refers to a Department of City Planning Hillside Area Map, dated September 23, 2009, attached to Council File No. 09-1390. This definition is used to determine eligibility under the Baseline Hillside Ordinance (BHO).

ADUs in Equinekeeping (“K”) Districts

One comment expressed concern that the ordinance does not adequately limit ADUs in the “K” Equinekeeping District as the City’s 1985 second unit law does. “K” Districts include provisions to regulate the placement of equine (horse) structures/enclosures on a lot, specifically the distance between structures and any habitable space located on both the equine keeping lot and adjacent lots. The concern is that permitting ADUs in these “K” Districts will bring additional residents who will complain about horses and limit opportunities to develop future equine structures/enclosures.

The majority of properties in the “K” District are also in the Hillside Area, where ADUs will not be permitted under the draft ordinance. It is also important to note that the City currently requires any new development in the “K” District to comply with procedures (per Zoning Information File No. 243) to ensure that the creation of new habitable space does not inappropriately encroach upon equine keeping uses. Furthermore, Department staff updating the City’s zoning code as part of the *re:codeLA* effort, has been working with equine communities to make further changes in this area, as needed.

ADUs on Lots Fronting Substandard Streets

Commenters have expressed concern regarding ADUs on lots fronting substandard public streets, which are streets where the width of the public way is below current standards. The City’s current second unit law prevents ADUs in these areas. Particular concern was raised about parking, given that the new state law states off-street parking can no longer be required if a second unit would be located within half a mile of public transportation. The assumption by the commenter is that parking may be accommodated on public streets, including substandard streets that may be too narrow to safely accommodate additional vehicles. The commenter also suggested that these areas be mapped in relation to public transportation.

The term substandard streets may be construed to mean any street that does not meet current standards. This includes sidewalk width in addition to street width. Unfortunately, there is no central database that identifies all substandard streets. Many of the concerns the Department has heard with in regards to substandard streets has had to do with Hillside Area neighborhoods, where the proposed ordinance will not permit ADUs. Many local streets and expansive boulevards, especially in the non-hillside areas, are technically “substandard” but have otherwise safe and stable current conditions. Because the substandard street designation does not assume a street is unable to accommodate street parking, and does not link to a specific overall width standard, banning ADUs based on a substandard street designation would impact large numbers of property owners for insufficient cause.

Lot Size

A commenter requested the Department explain why it chose to not include the lot size restriction, as well as provide options for different neighborhoods or Council Districts to continue the current standards. The City’s 1985 second unit law includes a significant restriction on the size of lots that are eligible to develop an ADU. It requires a lot to be at least 50% larger than the minimum lot size required for the zone in which it is located. This means that a typical R1 single-family lot would be required to be 7,500 square feet to have an ADU because the minimum lot size for that zone is 5,000 square feet. The proposed ordinance does not include this restriction on lot size.

The Department has completed an analysis that shows that the current lot size restriction precludes more than 61% of the city's single-family residential lots from having an ADU. When combined with the Hillside Area restrictions, the prohibition would apply to nearly 88 percent of the City's single-family lots. State law clearly intends for the removal of unreasonable obstacles to ADU development. Banning ADUs in almost 90% of the City's single-family lots would have the effect of severely limiting the ability to create ADUs in Los Angeles to assist in solving the City's housing supply crisis. It would also present an unreasonable limit on ADUs because many of the zones impacted by this type of lot size restriction would be the RA, RS and RE zones, which already require large lots in excess of 7,500 square feet. Wide ranging limitations, such as requiring a certain minimum lot sizes to construct an ADU, should only be considered relative to objective health and safety concerns." The Department recommends citywide regulations that restrict the development of ADUs in hillside areas, and require contextual scale for detached ADUs in all lots.

Short Term Rentals

Several commenters stated their opposition to ADUs being used as short-term rentals like Airbnb, given the increased popularity of such activity and potential for neighborhood disruption it may cause. However, short-term rentals are presently not permitted in ADUs or anywhere else in Los Angeles unless a property has been designated as a Bed and Breakfast or Transient Occupancy Residential Structure through a Conditional Use Permit. In June 2016 the City Planning Commission adopted a proposed Home-Sharing Ordinance that will allow for registered short-term rentals to occur legally; however, the draft ordinance states that ADUs may not be used solely for this purpose. The aim is to ensure ADUs are used for housing and not as a commercial activity. ADUs must be lived in by primary residents, who then are afforded the same opportunity to engage in regulated part-time sharing of their home as anyone else. The Home-Sharing Ordinance is currently awaiting Council review.

Owner Occupancy

Some commenters have stated that ADUs should only be able to be developed or occupied when the primary home is occupied by the property owner. This is meant to adhere closer to the original intent of second units and reduce associated problems when an absentee owner is not present on the property. State law allows for such restrictions; however, Department staff has not recommended inclusion of such a provision based on challenges regarding enforcement. For example, there may be no ability to effectively enforce an owner-occupancy provision after an ADU is built. The City could require that only owner-occupants may apply to develop an ADU. However, this would also prevent someone from developing an ADU and then selling to an owner-occupant who rents out the ADU. This would ultimately result in fewer ADUs being developed and may not advance the policy objectives of owner-occupancy.

Timing

Concern has been expressed over the compressed time schedule between release of the draft ordinance and City Planning Commission consideration of the ordinance. This Ordinance is being developed to respond to the January 1, 2017 time frame imposed by state law. Department staff has heard concern from some members of the public that every effort be made to minimize the "regulatory gap" between the default state standards becoming effective at the new year and new local regulations. Given the amount of public discussion on the ADU topic over the course of the last year, the Department is aware of many of the key concerns. Department staff has received feedback during the comment period for this ordinance that represents concerns from both sides of this issue. Community feedback and input will continue to inform the process through consideration by the City Planning Commission and subsequently by the City Council.

Comments from Those Supportive of ADUs

Size and Scale Can Be Better Regulated Through Floor Area

Those who think the proposal is too limiting emphasize the hardship on those with modest yet typical 1100-1400 square foot homes. Their ADUs would be capped at between 640-700 sq. ft., which may upend the financial feasibility of developing an ADU or prevent a second bedroom or more efficient second story. However, allowing larger ADUs than is being proposed could compromise neighborhood scale and backyard character. The limitation of ADU size based on the size of the primary residence also reinforces the principle that the second unit is subordinate and accessory to the main home with a single-family zone.

Permitting ADUs in Hillside Areas if Close to Public Transit

One public comment suggests permitting ADUs in Hillside Areas if they are located in close proximity to public transportation. They state that these sites are appropriate for adding homes and suggested an exception to the restrictions in Hillside Areas for properties within a half mile walking route of a public transportation stop along a prescribed route according to a fixed schedule. While the Department is generally supportive of new housing near areas corridors served by transit, such an exception would undermine the City's overriding goal in protecting areas of natural importance, protecting viewsheds and ensuring health and safety are protected. Proximity to transit does not alleviate these concerns.

Permitting Two ADUs When a Lot has Rear Alley Access

A commenter has suggested that the ordinance should permit two ADUs on a lot when it has rear alley access. They mention that this has been a successful strategy in cities like Vancouver with "laneway" homes. Staff is not aware of this example and does not recommend such a change to single-family neighborhoods.

Permitting Two ADUs for Duplexes

A commenter suggested permitting ADUs in areas where a legal duplex already exists as a way to further housing goals. ADUs are permitted on any lot that allows residential use, whether zoned for single-family or multi-family. However State law states that ADUs may only be built on lots where an "existing single-family residence already exists." While there are reasons to consider such a limited expansion, this would represent a significant deviation from the state law and would require additional analysis to ascertain the impact.

Permitting ADUs in the Front Yard between the Primary Residence and Street

A commenter objected to the ordinance's ban on ADUs located between the primary residence and street. The regulation is intended to preserve the size relationship between (front) main and (back yard) accessory structures on a lot. It is similar to another applicable regulation in the zoning code that requires accessory buildings like ADUs be located in the rear half of the lot, unless that is more than 55 feet from the front property line (12.21 C5(b)). Both of these regulations impacts a relatively small, yet not insignificant, number of properties.

By prohibiting detached ADUs in front yards, neighborhood character and consistency can be better preserved by aligning frontages and massing to neighborhood norms. This is consistent with the typical character of a larger home in front of a smaller home. An allowance for ADUs in the front yard is arguably more disruptive, being an incongruent front home.

Front Yard Parking

In response to the restriction of parking in front yards, a commenter points to language in the state law that states "replacement spaces (for a demolished garage or carport) may be located in any

configuration on the same lot as the Accessory Dwelling Unit, including but not limited to covered spaces, uncovered spaces, or tandem spaces". The commenter then cites draft language proposed to be included in a forthcoming State of California Department of Housing and Community Development memorandum interpreting this section "broadly" to include replacement parking within setback areas, unless there are objective reasons relating to health and safety to prevent this. One of those reasons is that the prohibition is consistent and throughout the entire jurisdiction. The Department cannot comment on a memorandum that has not been issued at the time of writing this report; however, it should be noted that another provision in State law explicitly allows cities to prevent off-street parking in setback areas when specific findings are made that parking in setback areas is not feasible based upon it not being permitted anywhere else in the jurisdiction. Currently the City prohibits front yard parking citywide; therefore, this provision in the Ordinance is consistent with current zoning policies and furthers objective health and safety goals.

Replacement Parking

A commenter addressing the challenge of providing required parking spaces on small lots suggested that, if applicable, replacement parking for the primary residence should have the option of being uncovered and that parking for the ADU (if required) should have the option of being tandem with the primary unit's parking spot. Regarding the latter point, required parking for an ADU may already be provided through tandem parking in the draft ordinance per 12.22 A. 31(b)11.

FINDINGS

General Plan/Charter Findings

City Charter Section 556

In accordance with Charter Section 556, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan in that it would further accomplish the following goals, objectives and policies of the General Plan outlined below.

General Plan Framework Element

The proposed ordinance will meet the intent and purposes of the General Plan Framework Element to encourage the creation of housing opportunities for households of all types and income levels, while at the same time preserving the existing residential neighborhood stability of single-family zoned neighborhoods and promoting livable neighborhoods. Accessory Dwelling Units, as a housing typology, furthers those goals as they increase capacity and availability of housing without significantly changing neighborhood character. In particular, the ordinance would further the intent and purpose of the Framework Element of the following relevant Goals and Objectives:

Goal 3B - Preservation of the City's stable single-family residential neighborhoods.

Objective 3.5 - Ensure that the character and scale of stable single-family residential neighborhoods is maintained, allowing for infill development provided that it is compatible with and maintains the scale and character of existing development.

The proposed ordinance is in substantial conformance with the intent to preserve the City's stable single-family neighborhoods as it would result in relatively minor alterations to a small fraction of single-family properties each year and those alternations would be compatible with existing regulations governing accessory buildings. In other words, the ordinance would not allow an accessory building to be built that was not already allowed permitted in the same location with the same size and scale. The use inside the building may be different, but the scale and architectural character will not be altered. Specific provisions in the draft ordinance, applicable only to ADUs, will prevent their development where other types of accessory buildings are permitted today.

The standards set forth in the proposed ordinance require that the lot be zoned for residential use and contain an existing single-family dwelling. No more than one ADU would be permitted per lot. Furthermore, the ordinance would require that any detached ADU or ADU addition to existing space be limited in size and not be located between the front of the primary residence and the street. Therefore, these units would either be built behind the main home, or attached to the rear of the existing home. Either way, the ADUs are unlikely to be significantly different in character from existing typical rear yard structures such as garages or carriage houses. They are also unlikely, in the majority of circumstances, to be significantly visible from the public way. In addition, the proposed ordinance would require that the increased floor area of an attached second unit not exceed fifty percent of the existing floor area, up to a maximum of 1,200 square feet. This limitation helps differentiate an attached ADU from a traditional duplex, which is not permitted in single-family zones. Furthermore, the proposed ordinance would restrict the floor area of a detached ADU, which will not exceed a maximum size of the larger of 640 square feet or fifty percent of the total floor area of the primary dwelling unit, up to a maximum size of 1,200 square feet. Any new ADU must further comply with City zoning requirements relating to height, setback,

lot coverage, architectural review, and other applicable zoning requirements. These standards offer significant protections against out-of-scale new development in single-family neighborhoods.

The State Legislature has determined it is appropriate to provide for second dwelling units within single-family and multifamily zoned areas absent specific adverse impacts on the public health, safety, and welfare that could result from allowing second units within single-family and multifamily zoned areas (Gov. Code §65852.2(c)). The City's Housing Element also provides for second units within single-family and multifamily zoned areas, as a matter of citywide policy. The proposed ordinance will increase housing production and capacity in single-family and multifamily neighborhoods on lots designed to accommodate more than one independent residence within the existing home or as a separate structure, as part of the City's overall goal to increase housing production and capacity in the City overall to accommodate the existing and expected increases in population.

Goal 4A - An equitable distribution of housing opportunities by type and cost accessible to all residents of the City.

The ordinance would also further a more equitable distribution of housing opportunities as it would permit a greater diversity of dwelling units in areas of the City that would otherwise receive little additional housing. This creates additional opportunities for homeowners to purchase and stay in their homes, as well as for renters to live in areas they might otherwise be excluded from. ADUs are generally smaller than the primary home on the property, adding to the diversity and type of housing available in the City. The ordinance would facilitate the construction and preservation of a range of different housing types that address the particular needs of the city's households, including the elderly, disabled family members, in-home health care providers, and young adults. The proposed ordinance thereby expands rental and homeownership accessibility in single-family and multifamily neighborhoods for all residents of the City.

Objective 4.4 - Reduce regulatory and procedural barriers to increase housing production and capacity in appropriate locations.

The ordinance would reduce the regulatory and procedural barriers to the operation and placement of accessory dwelling units by providing for implementation of the ministerial development standards in Government Code Section 65852.2(b)(1) in approving accessory dwelling units on a City wide basis. The ordinance clarifies regulations regarding accessory dwelling units that are in the planning process, under construction, or already built. It would also expressly permit ADUs on multifamily lots and allow for a greater variety of ADUs to be built.

Policy 6.1.2.c. - Coordinate City operations and development policies for the protection and conservation of open space resources, by preserving natural viewsheds, whenever possible, in hillside and coastal areas.

The ordinance would restrict the construction of ADUs in Hillside areas covered by the City's Baseline Hillside Ordinance (BHO), thereby contributing to the preservation of natural viewsheds in these areas.

Housing Element

The ADU housing typology is specifically called out by the Housing Element as a way to facilitate the provision of additional rental housing types and help make homeownership more affordable. The Housing Element includes a specific Program (or implementation action) to alleviate barriers to increased construction of ADUs (Program 68 in the current 2014-2021 Housing Element). In

addition, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan in that it would further accomplish the goals, objectives and policies of the Housing Element outlined below.

Objective 1.4 - Reduce regulatory and procedural barriers to the production and preservation of housing at all income levels and needs.

Policy 1.4.1 - Streamline the land use entitlement, environmental review, and building permit processes, while maintaining incentives to create and preserve affordable housing.

The proposed ordinance would streamline the land use entitlement, environmental review, and building permit processes for the operation and placement of accessory dwelling units as it: (1) eliminates potential litigation between neighbors and against the City regarding accessory dwelling units that are in the planning process, under construction, and already built; (2) expressly permits ADUs on multi-family lots; and (3) allows for a greater variety of ADUs to be built. The ordinance would also further a more equitable distribution of housing opportunities as it would permit a greater diversity of dwelling units in areas of the City that would otherwise receive little additional housing.

Policy 1.2.2 - Encourage and incentivize the preservation of affordable housing, including non-subsidized affordable units, to ensure that demolitions and conversions do not result in the net loss of the City's stock of decent, safe, healthy or affordable housing.

The proposed ordinance encourages and incentivizes the preservation of non-subsidized affordable units by making it more likely they are able to be legalized in the future and therefore will not have to be demolished.

Objective 1.1 - Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.

Policy 1.1.1 - Expand affordable homeownership opportunities and support current homeowners in retaining their homeowner status.

The proposed ordinance expands affordable homeownership opportunities and supports current homeowners as the supplemental rental income from an ADU allows households to afford homeownership who otherwise may be unable.

Policy 1.1.2 - Expand affordable rental housing for all income groups that need assistance.

The proposed ordinance expands the creation of additional rental housing options by supporting the creation of additional ADU units, which adds to the overall rental housing supply, which results in lower rents by increasing the overall vacancy rate in the City. The proposed ordinance further accomplishes this policy, in that ADUs are typically more affordable to rent than other types of housing.

Policy 1.1.3 - Facilitate new construction and preservation of a range of different housing types that address the particular needs of the city's households.

The proposed ordinance facilitates the construction and preservation of a range of different housing types that address the particular needs of the city's households, including but not limited to the elderly, disabled family members, in-home health care providers, and young adults.

Policy 1.1.6 - Facilitate innovative models that reduce the costs of housing production.

The proposed ordinance also facilitates an innovative housing type that reduces the typical cost of new construction, because the cost of land does not have to be factored into the development costs.

Finally, the ordinance would support the intent and purposes of the Housing Element of the General Plan regarding ADUs in that it affirms that the City should follow, as a matter of policy, state law standards for approving second units (2013 Housing Element, pages 2-11 through 2-12).

City Charter Section 558(b)(2)

In accordance with Charter Section 558(b)(2), the adoption of the proposed ordinance would be in conformity with public necessity, convenience, general welfare and good zoning practice for the following reasons:

The proposed ordinance is in conformity with public necessity because it: (1) brings the City's regulations into compliance with state law; (2) brings the City's regulations into compliance with the Housing Element of the General Plan; (3) allows the continued processing of permit applications for ADUs; (4) eliminates potential litigations between neighbors and against the City regarding accessory dwelling units that are in the planning process, under construction, and already built; and (5) brings the City into compliance with the ADU policy in effect since 2009 which has been relied upon since that time by property owners, family members, students, the elderly, in-home health care providers, the disabled, and others, who reside in accessory dwelling units.

The proposed ordinance is in conformity with public convenience and general welfare for the same reasons as stated above. The proposed ordinance is additionally in conformity with public convenience and general welfare because it provides a locally-tailored ADU policy that is in conformance with the intent of State law.

The proposed ordinance is in conformity with good zoning practice for reasons (1), (2) and (5) as stated above.

City Charter Section 559

In accordance with Charter Section 559, and in order to ensure the timely processing of this ordinance, the City Planning Commission authorizes the Director of Planning to approve or disapprove for the Commission any modification to the subject ordinance as deemed necessary by the Office of City Attorney. In exercising that authority, the Director must make the same findings as would have been required for the City Planning Commission to act on the same matter. The Director's action under this authority shall be subject to the same time limits and shall have the same effect as if the City Planning Commission had acted directly.

CEQA Findings

Statutory Exemption – PRC Section 21080.17

Pursuant to Section 21080.17 of the California Public Resources Code, the adoption of the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA).

Under PRC Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (the state second dwelling unit law). The proposed ordinance, if adopted, implements Government Code Section 65852.2 within the City of Los Angeles in a manner that is consistent with the requirements of state law. As such, the adoption of the proposed ordinance is exempt from CEQA.

As proposed, the City's ordinance would place additional restrictions on ADUs beyond those expressly mandated in the state's second dwelling unit law. The state second dwelling unit law expressly authorizes local agencies to adopt additional restrictions so long as the additional restrictions do not conflict with or invalidate the regulations established in the state law. To the extent that a Court would find that regulations in the proposed ordinance that are authorized by state law but not mandated ("discretionary regulations") are not exempt under PRC Section 21080.17, the City provides the following additional analysis.

The provisions of the proposed ordinance that go beyond state law would do the following:

- Restrict ADUs in Hillside areas covered by the City's Baseline Hillside Ordinance (BHO)
- Prohibit ADUs from being sited between the front of the primary residence and the street
- Further restrict the size of ADUs, to 50% of the square footage of the primary residence, up to the maximum of 1,200 sq. ft. allowed under state law.
- Require ADUs to meet all underlying zoning and land use regulations

Not a Project Under CEQA – CEQA Guidelines Section 15378, and “Common Sense Exemption” – CEQA Guidelines Section 15061(b)(3)

These provisions of the proposed ordinance are not a “project” under CEQA pursuant to CEQA Guidelines section 15378, which provides that CEQA applies to “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed ordinance would additionally be subject to the “common sense” exemption pursuant to CEQA Guidelines section 15061(b)(3), which provides that, where it can be seen with certainty that there is no possibility that a project may have a significant effect on the environment, the project is not subject to CEQA. These standards are intended to offer significant protections against out-of-scale new development in single-family neighborhoods and in the City's environmentally-sensitive Hillside areas. As such, the effect of the proposed provisions would be to provide further environmental protections and would not have a significant effect on the environment.

The City's analysis shows that these provisions are not anticipated to significantly alter the number or location of new ADUs. In particular, historical data on location of ADUs shows that a restriction on new ADUs located in Hillside Areas would not result in the additional development of ADUs in other parts of the City.

As explained above, the City's current second unit ordinance in LAMC §12.24 W.43 restricts second unit development within defined hillside area boundaries. The proposed ordinance would continue this policy by providing that second units, unless contained within the existing space of a single-family residence or existing accessory structure pursuant to state law, not be allowed in Hillside areas covered by the BHO. The BHO applies to approximately 136,000 single-family lots (28% of the City's total) located within the Department of City Planning Hillside Area Map, as defined in Section 12.03 of the LAMC.

Based on prior history of ADU development, there is no evidence to conclude that a restriction on ADUs in Hillside Areas would result in an increase in ADU development in other locations. ADUs are constructed by individual homeowners, are limited to one per lot where a preexisting single-family home is located. ADU development does not directly correlate to demand, so it would be speculative to connect a prohibition on ADUs in Hillside Areas with an increase in development elsewhere. Furthermore, of the 680 ADUs which have been permitted since the City first began regulating their construction, only 30 have been located in Hillside Areas (and only 13 of all permitted Hillside ADUs have received their Certificate of Occupancy). This represents only 4.4% of the City's total supply of permitted ADUs and a fractional source of housing supply for a City with an annual housing need of 10,250 dwelling units (2013-2021 Housing Element). Further restricting the construction of ADUs in Hillside Areas is therefore not expected to result in substantial development of other housing elsewhere.

More generally, a University of California, Berkeley study suggests that ADUs would have a lower environmental impact than other residential typologies.¹ ADU residents have fewer cars and utilize public transportation more often than the general population. In communities already served by transit, ADUs can provide new homes without adding traffic. Any potential for new ADU construction that would result from the passage of the proposed ordinance would have insignificant impact.

Categorical Exemption – CEQA Guidelines Sections 15301, 15302 and 15303

Class 1 Exemption

To the extent that the proposed ordinance allows the conversion of existing accessory structures to ADUs, the ordinance additionally qualifies for the Class 1 Categorical Exemption. A project qualifies for a Class 1 Categorical Exemption if it involves negligible or no expansion of an existing use, including small additions to existing structures. Any conversion or legalization of an existing ADU which may occur as a result of this ordinance would be subject to this exemption. Legalization of an existing dwelling unit would also be subject to a common sense exemption as it would not change the baseline conditions. CEQA Guidelines Section 15061(b)(3).

Class 2 Exemption

To the extent that the proposed ordinance would also allow for the replacement or reconstruction of existing structures that would not otherwise occur, the ordinance additionally qualifies for the Class 2 Categorical Exemption. A project qualifies for a Class 2 Categorical Exemption if it involves the replacement or reconstruction of existing structures and facilities where the new structure would be located on the same site and have substantially the same purpose and capacity as the preexisting structure. Under the proposed ordinance, ADUs are restricted in size, such that they may not exceed a total of the greater of 50% of the square footage of the primary dwelling unit or 1,200 square feet.

Class 3 Exemption

Furthermore, Class 3 exempts the development of second dwelling units. CEQA Guidelines Section 15303(a).

Exceptions

There is no evidence in the record which demonstrates that any of the six (6) Exceptions from CEQA Guidelines Section 15300.2 apply to the proposed ordinance: (a) Location; (b) Cumulative

¹ "Yes in My Backyard: Mobilizing the Market for Secondary Units," Karen Chapple, J. Weigmann, A. Nemirow, and C. Dentel-Post (2011), UC Berkeley: Center for Community Innovation.

Impacts; (c) Significant Effect; (d) Scenic Highways; (e) Hazardous Waste Sites; and (f) Historical Resources.

While it is possible that an ADU may be located within a “sensitive” environment (such as a Liquefaction Zone, Fault Zone, Methane Zone) as a result of the proposed ordinance, specific Regulatory Compliance Measures (RCMs) in the City of Los Angeles regulate the grading and construction of projects in these particular types of locations and will reduce an potential impacts to less than significant. These RCMs have been historically proven to work to the satisfaction of the City Engineer to reduce any impacts from the specific environment a project may be located in. Thus, the proposed ordinance will not result in a significant impact based on the potential location of an ADU.

Additionally, ADUs are limited to one per lot, with a requirement that a single-family home already be present. There is no reason to believe that the proposed ordinance would create a succession of projects of the same type and in the same place. As discussed, the ordinance restricts ADUs to areas zoned and designated for such development, and places further restrictions on the allowable size and scale to ensure that any ADU is consistent with surrounding development. Thus, there are no unusual circumstances created as a result of this ordinance which may lead to a significant effect on the environment. According to Appendix B of the City of Los Angeles Mobility Plan, there are no designated state scenic highways located within the City of Los Angeles, so there is no possibility that an ADU created as a result of this ordinance would have any impact on scenic resources. There is no reason to believe that an ADU would be located in a Hazardous Waste Site, as the ordinance requires that the site already contain a single-family residence and this condition would have been verified upon construction of the pre-existing home. Any ADU constructed on a project site identified as a historic resource or eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register would be further subject to historic review by the Los Angeles Office of Historic Resources. As such, the proposed ordinance in and of itself does will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.

State Accessory Dwelling Unit Law Findings

State law explicitly allows cities to prevent off-street parking in setback areas when specific findings are made that parking in setback areas is not feasible based upon it not being permitted anywhere else in the jurisdiction. Currently the City prohibits front yard parking citywide (LAMC Section 12.21 A.6); therefore, this provision in the Ordinance is consistent with current zoning policies that apply to all residential uses and furthers objective health and safety goals of preventing parking on sidewalks, maintaining clear and open front yards and allowing for greater visibility and safety.

Urgency Clause Findings

The City finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reasons: The City is currently in the midst of a housing crisis, with the supply of affordable options unable to support the demand for housing in the City. The US Census reports that vacancy rates for housing in the Los Angeles area are currently the lowest of any major city. A housing option that is currently available and affordable for many in the City is Accessory Dwelling Units.

While Accessory Dwelling Units are assets in mitigating the housing crisis, Los Angeles is a very unique city for the amount of mountain terrain and hillside areas located within its boundaries. The City's current second unit ordinance in LAMC §12.24 W.43 precludes second unit

development within defined hillside area boundaries. The proposed ordinance would continue this policy by providing that second units be restricted in Hillside areas covered by the BHO. The BHO applies to approximately 136,000 single-family lots (28% of the City's total) located within the Department of City Planning Hillside Area Map, as defined in Section 12.03 of the LAMC.

Hillside areas are often characterized by larger amounts of natural vegetation and substandard streets. They are typically far from public transit, services or jobs. Impacts of new construction are often multiplied in hillside neighborhoods, with pronounced impacts on water and sewer services, congestion, parking availability, roadway degradation, and public safety due to construction vehicles and machinery forced to park and transverse narrow hillside streets. Hillside areas also have a higher fire and natural disaster risk, while the winding roads slow emergency response times. For these reasons the draft ordinance places a restriction on ADUs in Hillside Areas.

Given their unique characteristics and development challenges, these areas have long had distinct zoning and land use policies, including the development regulations contained in the Baseline Hillside Ordinance (BHO). City policies aim to preserve natural viewsheds, whenever possible, in hillside and coastal areas (General Plan Framework 6.1.2). Therefore, immediate action is necessary to bring the City's regulations into compliance with state law while preventing the development of Accessory Dwelling Units in Hillside Areas.

For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.