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REPORT NO. R 20 - 0332
DEC 11 2020

REPORT RE:

**DRAFT ORDINANCE AMENDING PROVISIONS OF
SECTIONS 12.21, 17.02, 17.05, 17.06, 17.51, 46.00, 46.01, 46.02, 46.03, AND 46.06
OF THE LOS ANGELES MUNICIPAL CODE TO INCLUDE THE MEXICAN
ELDERBERRY (*SAMBUCUS MEXICANA*) AND TOYON (*HETEROMELES
ARBUTIFOLIA*) SHRUBS IN THE CLASS OF PROTECTED TREES AND SHRUBS,
AND TO UPDATE RELATED REGULATIONS PROTECTING SUCH VEGETATION**

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. 13-1339

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 12.21, 17.02, 17.05, 17.06, 17.51, 46.00, 46.01, 46.02, 46.03, and 46.06 of the Los Angeles Municipal Code (LAMC) to include the Mexican Elderberry (*Sambucus Mexicana*) and Toyon (*Heteromeles arbutifolia*) shrubs in the class of protected trees and shrubs, and to update related regulations protecting such vegetation.

Background

On October 8, 2013, a motion (O'Farrell-Martinez) was introduced directing the Department of City Planning (Planning), with the assistance of the Bureau of Street Services, to report back with recommendations on how to protect the Mexican Elderberry and the Toyon shrubs, including the possible addition of the shrubs to the list of protected trees. On December 4, 2013, the City Council's Public Works and Gang

Reduction (PWGR) Committee recommended adoption of the motion and transmitted the file to the Planning and Land Use Management (PLUM) Committee. A little over a year later, on January 20, 2015, the PLUM Committee waived consideration of the item. The City Council adopted the motion on January 27, 2015.

On March 22, 2018, the City Planning Commission (CPC) considered and voted to recommend adoption of a proposed ordinance amending the LAMC to update certain regulations pertaining to protected trees, including the addition of the Mexican Elderberry and Toyon shrubs to the list of protected trees and the renaming of that list to include shrubs. The PLUM Committee transmitted the file to the PWGR Committee without recommendations on September 17, 2019.

At its meeting on December 2, 2020, the PWGR Committee considered the CPC's recommendation, as well as a joint report dated October 14, 2020, from the Bureau of Street Services and the Office of Forest Management with its recommendations on the proposed ordinance. The PWGR Committee requested that the City Attorney prepare and present a draft ordinance based on the CPC's proposed ordinance, with two amendments: one dealing with the root diameter of protected trees, and the other involving the prerequisites for the planting of replacement trees or shrubs, including public hearing requirements. The PLUM Committee waived consideration of the matter.

Summary of Ordinance Provisions

The CPC's transmittal report to the City Council, dated May 4, 2018 (CPC Transmittal Report), includes Planning's staff report, which provides a detailed description of the LAMC amendments effectuated by the draft ordinance. As explained in the staff report, the draft ordinance not only extends protected status to the Mexican Elderberry and Toyon shrubs, but also updates the regulations pertaining to protected plants. The draft ordinance incorporates the amendments requested by the PWGR Committee while preserving the updates recommended by the CPC: it changes the name of the list of Protected Trees to the list of Protected Trees and Shrubs, increases replacement requirements, refines the qualifications required of tree experts, establishes the measurement required for a tree or shrub to qualify for protected status, and provides for a public hearing at the Board of Public Works when the applicant for a permit seeks to replace more than two protected trees.

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 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 Transmittal Report to the City Council or make its own.

California Environmental Quality Act Standard of Review

Planning recommends that the City Council, based on the whole of the administrative record, determine that the draft ordinance amending LAMC Sections 12.21, 17.02, 17.05, 17.06, 17.51, 46.00, 46.01, 46.02, 46.03, and 46.06 is exempt under California Public Resources Code Section 15308 (categorical exemption for actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment), and that none of the exceptions under 15300.2 apply.

Reliance on this categorical exemption is appropriate when substantial evidence in the record supports the use of the categorical exemptions and none of the exceptions in CEQA Guidelines Section 15300.2 applies.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Bureau of Street Services and the Office of Forest Management with a request that all comments, if any, be presented directly to the City Council or its Committees 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 available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:ASK:mgm
Transmittal