



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 21-0156
MAY 13 2021

REPORT RE:

DRAFT ORDINANCE AMENDING ARTICLE 6 OF CHAPTER I OF THE LOS ANGELES MUNICIPAL CODE TO PROVIDE RELIEF FROM CERTAIN ZONING AND LAND USE REQUIREMENTS DURING A LOCAL EMERGENCY

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. 20-0380-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 Article 6 of Chapter I of the Los Angeles Municipal Code to provide relief from certain zoning and land use requirements during a local emergency. The draft ordinance, if enacted, would minimize the adverse economic impacts of an emergency like the COVID-19 pandemic on local business and property owners.

Background

On March 27, 2020, a motion (Blumenfield-Price) was introduced initiating an ordinance to provide relief from certain zoning and land use requirements in order to ease the regulatory burdens on local businesses struggling for economic survival in the wake of the COVID-19 emergency declaration and restrictions on business activity. On

May 27, 2020, the City Council adopted the motion, as amended (Koretz-Blumenfield), directing the the Planning Department to prepare an ordinance that provides three modes of relief: the extension of expiring conditional use permits for a 12-month period after the end of the COVID-19 emergency declaration; the suspension of any additional parking requirements imposed in conjunction with an approval for a change of use for 12 months after the end of the emergency declaration; and the suspension of any conditions of approval for off-site or valet parking requirements for six months after the end of the emergency declaration.

On December 3, 2020, the City Planning Commission (CPC) voted to recommend adoption of the Planning Department's proposed ordinance. At its meeting on February 16, 2021, the Planning and Land Use Management (PLUM) Committee adopted the CPC's recommendation with several amendments to the proposed ordinance and requested that the City Attorney prepare and present a draft ordinance approved as to form and legality.

Summary of Ordinance Provisions

The CPC's transmittal report to the City Council, dated January 6, 2021 (CPC Transmittal Report), includes the Planning Department's staff report, which provides a detailed description of the draft ordinance's provisions that are responsive to the Council's instructions in the motion adopted on May 20, 2021. Notably, the draft ordinance also includes the amendments approved by PLUM on February 16, 2021, which provide for the creation or expansion of outdoor dining areas by restaurants either on-site or in the adjacent public right-of-way without triggering additional parking requirements; the City Council's discretion to suspend all off-site parking requirements; and the exemption of the first 5,000 square feet of tenant improvement from additional parking requirements. Upon the declaration of a local emergency, the City Council may trigger the provisions of the draft ordinance by adopting a resolution. Residents and business owners may then take advantage of benefits conferred by the draft ordinance by submitting an application to the Planning Department to verify eligibility. The relief provided by the provisions of the proposed ordinance automatically ends 12 months from the end of the local emergency declaration, although the City Council could extend the provisions by as much as 24 additional months.

The draft ordinance includes an urgency clause so that, if adopted by Council and approved by the Mayor, it can become effective upon publication. Given the grave economic toll the pandemic and related health and safety measures have taken on local residents and businesses, the utilization of an urgency clause pursuant to Charter Section 253 is legally appropriate. The draft ordinance is required for "the immediate preservation of the public peace, health or safety" insofar as adoption of this draft ordinance is intended to provide relief to the property and business owners struggling to survive the current local emergency related to the pandemic. The draft ordinance

includes a statement describing the urgency as required by Charter Section 253. Urgency ordinances require a three-fourths vote of the City Council in order to pass.

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 (CEQA) Standard of Review

The CPC recommends that the City Council finds, based on the whole of the administrative record and the Initial Study completed for this project, that no significant impacts will result from the project's implementation and, therefore, that the Council adopts a negative declaration for the project. Under CEQA, the City Council may only adopt the proposed negative declaration if the City Council finds on the basis of the whole record, including the initial study and any comments received, that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration reflects the City Council's independent judgment and analysis. (CEQA Guidelines, Section 15074(b).)

In addition, the Department further recommends the City Council determine that based on the whole of the administrative record, the draft ordinance is exempt from CEQA pursuant to California Public Resources Code Section 21080.25 and CEQA Guidelines, Section 15301(Class 1), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. If the City Council concurs, it should adopt these findings prior to or concurrent with its action on the ordinance.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety and the Emergency Management Department with a request that all comments, if any, be presented 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 Khorasanee. 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