



DEPARTMENT OF CITY PLANNING

RECOMMENDATION REPORT

CITY PLANNING COMMISSION

Date: July 12, 2018
Time: After 8:30 a.m.
Place: Los Angeles City Hall
200 N. Spring St., Rm. 340
Los Angeles, CA 90012

Case No.: CPC-2016-4345-CA
CEQA No.: ENV-2016-4346-CE
Council No.: All
Plan Area: Citywide
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 15061(b)(3), 15301, 15302, and 15303.

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- A - Proposed Ordinance
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PROJECT ANALYSIS

Project Summary

The proposed Code Amendment would establish a new Accessory Dwelling Unit (ADU) ordinance. The ordinance will incorporate important provisions of state accessory dwelling unit law that have gone into effect since January 1, 2017 and introduce new provisions to regulate the size and location of ADUs in Los Angeles.

The City Planning Commission (CPC) previously considered the ADU ordinance on December 15, 2016. That ordinance was heard at the PLUM Committee on March 21, 2017 and May 15, 2018. The draft ordinance, as amended by the City Council, includes several provisions that differ from the CPC recommended ordinance and were not considered by the CPC. These differences include additional recommendations made by the Planning and Land Use Management (PLUM) Committee as well as new language to reflect changes made by state law in 2017. Significant differences from the December 15, 2016 CPC recommend ordinance are:

- The CPC recommended exception to the prohibition on the construction of ADUs in Hillside Areas (based on access to transit and standard street widths) has been removed.
- The inclusion of movable tiny houses as a form of ADUs.
- The inclusion of siting requirements for ADUs in areas that allow for equine keeping.
- The CPC recommended ADU size limits, beyond those that exist in State Law, have been removed.
- For conversions of legally existing space to ADUs, a limitation has been added to allow only those that are contained within a lawfully existing structure as of the effective date of the proposed ordinance.
- Clarifying that ADUs are subject to the objective criteria stated in the underlying applicable zoning and height district, Specific Plan, Historic Preservation Overlay Zone, Community Planning Implementation Overlay and other applicable zoning ordinances, unless in conflict with the proposed ADU ordinance.

Each of these items will be discussed under the Key Issues section below.

Background

On December 15, 2016 the Los Angeles City Planning Commission (CPC) acted to recommend an ordinance to regulate accessory dwelling units (ADUs). On March 21, 2017 the ordinance was considered by the Planning and Land Use Management (PLUM) Committee, which made several amendments and instructed the City Attorney to incorporate and prepare a final ordinance. Changes included several topics that were not considered by the CPC. At the May 14, 2018 meeting the PLUM Committee considered the Planning Department's report back on several items as requested by the Committee as well as an updated draft ADU ordinance dated May 10, 2018.

Accessory Dwelling Units

An Accessory dwelling unit (ADU) refers to a second home on a property that has a full kitchen and bathroom, which is an accessory use to another primary single family residence. An ADU can be used as a rental, but cannot be sold separately from the primary single family residence. ADUs often provide a more affordable option for renters in a particular neighborhood, can assist family members, and allow for assistance to homeowners in paying their mortgage.

New State Accessory Dwelling Unit Law

In 2016 and 2017, the California Legislature enacted Assembly Bills 2299 and 494 which significantly changed state law on ADUs. The primary motivation of the state's ADU 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 accessory dwelling units in zones in which they are authorized by local ordinance.”

State law, among other provisions, 1) creates a set of state development standards that override local zoning ordinances, and 2) requires a ministerial approval process for ADUs in all single-family and multifamily zones. State Law further states that 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 default 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, among other provisions, discretionary provisions precluded by State law. (Los Angeles Municipal Code (LAMC) §§12.24 W43 and 44, and §12.24E as incorporated into those sections). Consequently, effective January 1, 2017, the City’s existing ADU ordinances were voided, and the City began to apply the new state default standards pending the City’s adoption of a new ordinance consistent state law.

Local ordinances must adhere to the following after January 1, 2017:

- Project review requirements may not require any discretion or qualitative decision-making; 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 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 cannot 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 on an existing driveway. Parking standards for new ADUs are reduced to zero spaces under certain circumstances (within 1/2 mile of public transportation, located in an historic district, part of an existing structure, 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, covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts

Status of ADUs in Los Angeles Under State Law

Since state law pre-empted the City’s ADU ordinance, the City has seen a significant increase in the number of permitted ADUs. Between January 1, 2017 and March 30, 2018 a total of 3,267 ADUs have been permitted in the City of Los Angeles, of which 617 have been completed by receiving a Certificate of Occupancy. Almost 60% of all permitted ADUs since 2017 are conversions within existing space. Anecdotal evidence from building inspectors suggests the majority of these conversions are legalizations of existing living spaces.

Permits for ADUs have been distributed across the city. This contrasts to the trends before 2017, when almost 90% of ADUs were being permitted in the San Fernando Valley. New regulations pertaining to setbacks, conversions, parking and passageway have all contributed to the significant increase in ADU construction.

Proposed Accessory Dwelling Unit Ordinance

The proposed ordinance would amend the City's ADU regulations 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 proposed ADU ordinance aims to strike a balance between providing housing opportunities and providing local regulations to respond to concerns about impacts to particularly vulnerable areas. The ordinance incorporates the required provisions of state law, incorporates relevant existing provisions of the zoning code and creates additional local development standards to address concerns, particularly around development in hillside areas, protection of equine-keeping areas as well as the preservation of typical single-family neighborhood form.

The major differences from the City's current ADU policy under state law include:

- Prohibit the new construction of ADUs in Hillside areas as defined by the Hillside Area Map per Section 12.03 of the LAMC. Conversion of most existing structures to ADUs will still be permitted per state law.
- Prohibit detached ADUs located between the front of the primary residence and the street, except when attached to an existing structure or on a through lot.
- For conversions of legally existing space to ADUs, a limitation to allow only conversions that are contained within a lawfully existing structure as of the effective date of the proposed ordinance.
- Impose distancing requirements on ADUs located on lots where equine keeping uses are allowed by the underlying zone, and on lots adjacent or abutting those lots, to help protect equine keeping uses where an ADU is located on an adjacent or abutting property. This includes the following distancing requirements:
 - ADU must be located closer to the main home than the rear lot line
 - ADU must always be within 50 feet of the main home
 - For lots wider than 60 feet, ADUs must adhere to minimum 10 foot side yard setbacks.
- Require new parking for ADUs in front setback areas to be located on existing driveways.
- Allow movable tiny homes of no more than 430 square feet in size to be considered an ADU, and incorporate residential design standards.
- Allow an ADU to be located within 10 feet of another main building on the same lot.

Key Issues

Many of the key issues associated with ADUs was discussed in the Department's prior December 15, 2016 staff Recommendation Report. This report focuses on the key differences between the CPC recommended ordinance and the City Council amendments.

Hillside Areas

The proposed ordinance, as amended by the PLUM Committee, includes a prohibition on new construction and additions to create ADUs in Hillside Areas (conversions within existing space cannot be prohibited per state law). This aligns with the original Department recommendation but is a change from the CPC recommendation.

At the December 15, 2016 meeting, the CPC recommended including an exception to the Hillside Area prohibition for properties located within one-half mile of a transit stop and abutting a street meeting standard street dimensions. The CPC exceptions were removed by the PLUM Committee; however, the Committee requested a report back on the potential impacts, which was issued on May 11, 2018 (and is summarized below). The City's pre-existing second dwelling unit ordinance (LAMC 12.24 W.43 and 44) included a ban on second units in Hillside Areas as well.

Since January 2017 the City's existing second unit ordinance has become null and void (due to its inconsistency with State Law). The City has been operating under the State's ADU law since then which allows ADUs throughout the City, including in Hillside areas. The Hillside Area restrictions would apply 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. However, the impact on ADU development is expected to be proportionally lower than the 28% figure implies according to an analysis of the number of ADUs permitted in Hillside Areas in 2017. Out of a total of 2,342 permits issued for ADUs in 2017, a total of 171 were located in Hillside Areas. This represents about 7 percent of the total ADU permits issued in the City. The vast majority of ADUs permitted in Hillside Areas (119) were conversions within existing space which, consistent with State Law, would not be prohibited under the Hillside ban that is under consideration. In total, 52 ADUs would have been prevented by the prohibition in 2017, which represents 2.2% of total ADU permits.

Movable Tiny Houses

The City Council amended ordinance includes a *movable tiny house* (MTH) as a type of allowable ADU. As defined in the ordinance, a MTH is a 150-430 square foot independent living quarters for year-round residence that meets the "park model" construction standard for tiny homes on wheels. MTHs are built to resemble a typical cottage or bungalow and usually use conventional residential building materials. They are a transportable recreation vehicle but are primarily designed for long-term placement at a destination. When stationary, MTHs are connected to the utilities necessary to operate fixtures and appliances, the same as applicable to ADUs built on a permanent foundation.

A number of California jurisdictions have taken the lead in recent years to allow MTHs as a new housing typology. MTHs make particular sense in coastal California due to the habitable climate and need for creative housing solutions. Recently, the city of Fresno approved tiny houses on wheels as backyard cottages. The City of Ojai has recently followed suit and allowed movable tiny houses as ADUs. In the counties of Alameda, Contra Costa, Lake, Mendocino, Napa, Sacramento, and Sonoma, tiny houses on wheels are allowed as "caregiver dwellings" in the backyard of a person who needs assistance.

MTHs are built using conventional materials and standard methods, including a set of building certification standards called the American National Standards Institute (ANSI). ANSI is a non-profit association that oversees the creation of thousands of standards and guidelines. The ANSI code requires the structure meet or exceed more than 500 building and safety standards including electrical, plumbing, structural, heating & AC, fire safety, and egress. The proposed ordinance requires adherence to the ANSI 119.5 code, which is the "park model" RV standard used for most MTHs. Some other cities have also included the use of ANSI 119.2, which is the RV standard, but the design standards are intended, in part, to prevent RV-like appearance so the inclusion of the ANSI 119.2 standard was not included.

Professional tiny house companies build movable tiny houses in factories to ANSI 119.5 requirements and have their builds certified by a third party inspection body such as the Recreational Vehicle Industry Association (RVIA) or Pacific West Associates. The proposed language also allows for self-builds provided they are certified by a third party.

The Department has created a set of design standards to ensure MTHs resemble traditional homes and not park trailers or RVs. These standards address exterior cladding, roofing, windows and doors and are intended to be ministerial in nature, in that they do not require any subjective judgement. MTHs will also meet zoning siting criteria applicable to all ADUs.

Equine Keeping Areas

The PLUM Committee expressed concerns that ADUs may impact equine keeping on the subject or adjacent lots and would not be precluded by future construction of an ADU. A subsequent Council Motion (CF 18-0179) requested the Department prepare a report with recommendations and development standards to ensure that the construction of ADUs does not adversely impact equine keeping uses located in either K (equine keeping) districts, and in non-K districts. City Council also requested an amendment to ensure that the proposed requirements for equine keeping parcels also apply to properties that abut these lots.

In response, the Department has included new siting requirements for lots where equine-keeping is allowed (all K-zoned lots, as well as RA, RE20 and RE40 lots with sufficient size), as well as properties abutting these lots. The requirements would require that ADUs:

- Be located closer to the main home than the rear lot line and always within 50 feet of the main home
- Adhere to minimum 10 foot side yard setbacks (when lots are greater than 60 feet wide)

Size Limits

The CPC recommended ordinance included size limitations on detached and attached ADUs. The proposed ordinance had recommended ADUs to 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 were permitted a minimum of 640 square feet, regardless of the size of the main home.

The PLUM Committee removed the ordinance's square footage limitations. As such, the state's maximum size limits are included in the proposed ordinance. The state limits detached ADUs to a maximum of 1,200 square feet and attached ADUs to 50% of existing or proposed dwelling living area, or 1,200 square foot, whichever is less. PLUM Committee members expressed concern that requiring smaller ADUs on certain lots would prevent housing for families.

The size and scale of ADUs is an important issue for neighbors, with potential impacts to privacy and backyard neighborhood character. State law permits local jurisdictions to regulate the maximum size of newly constructed ADUs. In addition to size regulations in the ADU ordinance, there are other ways zoning and building code requirements continue to regulate the size and scale of ADUs. 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, historic standards, etc. must all be met.

The adoption in 2017 of the Baseline Mansionization Ordinance (BMO) updated the rules relating to the size and bulk of new and enlarged homes. Total residential floor area (RFA) between all applicable structures on a lot must not exceed 45% of the lot area size. So properties with relatively large homes may be unable to build up to 1200 square feet. New single-family Variation Zones have also been developed for citywide application and have already been applied to 16 neighborhoods subject to one of the City's residential ICOs. These new zones 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.

Limits on Conversions to Legally Existing Structures

The proposed ordinance includes language related to where new ADUs can be permitted. Conversions of “existing space” to an ADU is given special status under state law, whereby it must be approved if there is independent access and setbacks “sufficient for life-safety.” This precludes the ability to apply any additional zoning standards. However, this creates a situation where an owner could intentionally create a space that meets the development standards for a different type of accessory structure but not permitted as habitable space including an ADU. The applicant could then attempt to convert the building to an ADU using the state law provision. Encouraging this sort of two-step process would not appear to be the intent of state law.

The proposed change to the ordinance would require that an ADU fully contained within a primary residence or accessory structure lawfully exist as of the effective date of the ordinance. This would prevent the type of workaround described above and maintain the state’s intent of allowing pre-existing structures to be converted more easily than those created new. This language would not prevent an ADU from being created from legal space created in the future. However, it would need to conform to the regulations for an attached or detached ADU, including parking, setbacks and size limits.

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, encouraging the production of new housing supply while protecting the traditional residential character of local neighborhoods.

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 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.

The standards set forth in the proposed ordinance require that the lot be zoned for residential use and contain an existing or proposed 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. Any new ADU must further comply with City's objective zoning requirements relating to height, setback, lot coverage, floor area, architectural review, and other applicable zoning requirements. Additional standards to protect the unique character of areas that allow for equine (horse) keeping have also been included. In total, these standards ensure that the character and scale of stable single-family residential neighborhoods is maintained and offer significant protections against out-of-scale new development in single-family neighborhoods.

The State Legislature has determined it is appropriate to provide for accessory 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 accessory 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 by incorporating state law requirements into the City's zoning requirements. 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) reduces potential litigation regarding ADUs; (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 has the potential to result 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; and (4) reduces potential litigation between neighbors and against the City regarding accessory dwelling units that are in the planning process, under construction, and already built.

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.

State Accessory Dwelling Unit Law Findings**Hillside Restriction**

The proposed ordinance would restrict the new construction of ADUs in Hillside Areas defined by the Hillside Area Map per Section 12.03. Conversion of most existing structures to ADUs will still be permitted.

State law permits local jurisdictions, by ordinance, to designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted and not. The designation of areas may be based on criteria that may include, but are not limited to, the impact of accessory dwelling units on traffic flow and public safety.

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 can be multiplied in hillside neighborhoods, with pronounced impacts on water and sewer services, congestion, parking availability and roadway degradation. Based on the above,

the impacts of additional development, in Hillside Areas, beyond what is already planned or allowed through existing zoning and vested property interests, needs to be carefully managed. ADUs, which do not require discretionary review and environmental analysis unless requiring a discretionary permit (like a haul route permit), present particular issues relating to the likelihood of close proximate hillside development projects that have the potential to create public safety impacts due to construction vehicles and machinery forced to park and traverse often substandard hillside streets.

Hillside Areas correspond, in large part, with Very High Fire Severity Zones (VHFSZ), which means there's been determined to be a significantly higher fire and natural disaster risk in those areas (see map in Exhibit C). Dry brush, which is prevalent in Southern California, is acutely prone to fires. Brush fires continue to be a major threat to life and property in VHFSZ areas due to unique fuel, terrain, and climatic conditions. The hazard is especially great when dry "Santa Ana" winds arrive, usually in the fall and winter seasons, as evidenced by the recent 2017 wildfires referred to as the "Skirball Fire" in the Bel Air neighborhood of the City of Los Angeles and the "Creek Fire" in the Sylmar neighborhood of the City of Los Angeles. The "Skirball Fire" affected approximately 422 acres in the Bel Air neighborhood, destroying six structures and damaging 12 structures.¹ The "Creek Fire" affected the area four miles east of Sylmar in the San Gabriel Mountains, burning 15,619 acres, destroying 123 structures, and damaging 81 structures.²

For these reasons the draft ordinance places a restriction on ADUs in Hillside Areas.

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 ADU 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 adopt the state's ADU mandates, as well as place additional restrictions on ADUs consistent with the provisions in the state ADU law. The state ADU 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. The proposed ordinance includes the following additional provisions to implement state ADU law in the City:

- A restriction on construction of new ADUs in Hillside areas covered by the City's Baseline Hillside Ordinance (BHO) (this restriction does not apply to conversions of legally existing floor area to ADUs)
- A prohibition on siting ADUs between the front of the primary residence and the street

¹ Los Angeles Fire Department, *Skirball Fire Update*, <http://www.lafd.org/news/skirball-fire-update>, accessed February 22, 2018.

² National Wildfire Coordinating Group, InciWeb Incident Information System, *Creek Fire*, <https://inciweb.nwcg.gov/incident/5669/>, accessed February 22, 2018.

- Mandate that parking for an ADU may only be located in required front yard setback if located on an existing driveway
- For conversions of legally existing space to ADUs, a limitation to allow only those that are contained within a lawfully existing structure as of the effective date of the proposed ordinance
- Distancing requirements on ADUs that are either, (1) located on lots where equine keeping uses are allowed by the underlying zone, or (2) on a lot that is adjacent to another lot where equine keeping uses are allowed, to ensure that equine keeping is not precluded by an ADU. This includes the following distancing requirements:
 - ADU must be located closer to the main home than the rear lot line
 - ADU must always be within 50 feet of the main home
 - For lots wider than 60 feet, ADUs must adhere to 10 foot side yard setbacks
- An allowance for movable tiny homes of no more than 430 square feet in size to be considered an ADU, provided they comply with certain residential design standards

Categorical Exemptions – CEQA Guidelines Sections 15301, 15302, 15303

In addition to the statutory exemption, this Project is categorically exempt from CEQA as discussed below.

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.

Class 3 Exemption

Class 3 exempts the development of accessory 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

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

(a) Location.

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 and potential impacts to less than significant. These RCMs have historically proven to work to the satisfaction of the City Engineer and State Building Code standards 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.

(b) Cumulative; and

(c) Unusual Circumstance-Significant Impact

ADUs are limited to one per lot. Based on historical ADU development, it is not foreseeable that the proposed ordinance would result in 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. ADUs in the City are not unusual and the proposed regulations will ensure that future development of ADUs will not be built in location, size or scope that will result in unusual circumstances. The City’s standards are intended to offer significant protections against out-of-scale new development in equine keeping districts and 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.

Generally, a University of California, Berkeley study suggests that ADUs would have a lower environmental impact than other residential typologies. 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 significant new traffic. Any potential for new ADU construction that would result from the passage of the proposed ordinance would have insignificant impact.

Additionally, the City’s analysis shows that these additional provisions are not anticipated to significantly alter the number or location of new ADUs.

Hillside Restriction

The provisions that impose a restriction on construction of new ADUs in a Hillside Areas as defined by the Hillside Area Map per Section 12.03 of the LAMC are not anticipated to have a significant effect on the environment.

The proposed ordinance would provide that accessory dwelling units, unless contained within the existing space of a single-family residence or existing accessory structure, 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 generally constructed by individual homeowners, are limited to one per lot. If a homeowner was prevented from constructing a new ADU as a result of the regulation, they would have the option of creating an ADU from existing space or not create an ADU. In either event, this would not be expected to result in an increase in development elsewhere.

In the time since the City has begun implementing the new State standards provided in Government Code Section 65852.2 on January 1, 2017, a small fraction of new ADUs have been permitted in Hillside Areas, despite a marked increase in the total number of ADU permits issued under the State laws. A total of 2,342 permits were issued for ADUs in 2017, of which 171 were located in Hillside Areas. This represents only 7 percent of the total ADU permits issued in the City, despite the fact that 28 percent of all single-family parcels are located in Hillside Areas. The lower amount of ADU construction in Hillside Areas likely reflects the difficult topography and unique construction regulations that already exist in the Hillside Areas (e.g. the Baseline Hillside Ordinance). The vast majority of 2017 ADUs permitted in Hillside Areas (70 percent) were conversions of existing space which, consistent with state law, would not be prohibited under the Hillside ban that is under consideration. Fourteen ADUs in Hillside Areas were new construction, while 38 were additions. This is a significantly lower percentage of new construction and additions than the City as a whole, indicating that ADUs in hillsides are much less likely to involve new construction of a standalone structure. For these reasons, further restricting the construction of ADUs in Hillside Areas is therefore not expected to result in substantial development of other housing elsewhere.

Movable Tiny Homes

The provisions that allow for movable tiny homes of no more than 430 square feet in size to be considered an ADU are not anticipated to have a significant effect on the environment.

Movable tiny homes are an alternate type of housing structure that fall under the State definition of an accessory dwelling unit, defined as "an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated" (Gov. Code Section 65852.2 (i)(4)). The inclusion of movable tiny homes into the proposed ordinance would not foreseeably result in new development that would result in potential cumulative impacts. While movable tiny homes provide a lower-cost option when building an ADU, there is no evidence to suggest that there would be a significant increase in the number of ADUs in the City as a result of this provision, and therefore it is not anticipated that it would result in any potential impacts.

The City of Fresno was the first city in the Country to adopt similar provisions allowing movable tiny homes to be used as accessory dwelling units. In the time since the City began implementing the new regulations on January 1, 2018, zero movable tiny homes have been approved in the City of Fresno.

Siting Requirements in Equine Keeping Areas

The provisions that establish siting requirements for ADUs located in equine keeping areas are not anticipated to have a significant effect on the environment. As described, the proposed ordinance would place siting requirements for ADUs located on lots where equine keeping is a permitted use, in order to locate the ADU in closer proximity to the main home on a lot and ensure that the ADU does not preclude future equine keeping on neighboring lots. Current regulations in LAMC 12.21 C.5(a) require that new equine enclosures are located at least 75 feet from the habitable rooms of a neighbor's dwelling unit in order to protect the health and safety of the residents.

There is no evidence to conclude that additional restrictions on the siting of ADUs on lots in equine keeping areas would result in an increase in ADU development in other locations. The primary effect of this provision would be to influence the siting location of an ADU on an individual lot, which would not meaningfully have any impact on the ability to construct an ADU or influence individual decisions to build an ADU. ADUs are constructed by individual homeowners, and are limited to one per lot.

(d) State Scenic Highway.

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.

(e) Hazardous Waste.

It is not foreseeable that an ADU would be located in a Hazardous Waste Site, as the ordinance requires that the site already contain a single-family residence or would allow a new single-family residence to be constructed simultaneously and this condition would have been verified upon construction of the home.

(f) Historical Resources.

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 and approval by the Los Angeles Office of Historic Resources pursuant City requirements on cultural monuments and HPOZs.

PUBLIC HEARING AND COMMUNICATIONS

The Department's December 15, 2016 report references the communications received by the public on the earlier draft ADU Ordinance. Since the prior CPC hearing, the ordinance was heard at the Planning and Land Use Management (PLUM) Committee on March 21, 2017 and May 14, 2018.

Since the PLUM Committee's consideration, one additional comment letter has been received - from Abundant Housing LA. The letter expresses concern regarding several of the areas where the ordinance differs from state law and requests additional ADU allowances that go beyond state law. The seven points included in the letter are outlined below, along with a brief response.

1. Eliminate the "effective date" clause from the proposed conversion rules as it illegally goes beyond state law and would inhibit the conversion of ADUs from structures built legally in the future.

This point was included by the Department to close an apparent loophole in state law that would allow someone to knowingly construct an accessory building such as a garage with no setbacks with the purpose of future ADU conversion, for which setbacks are normally required. The policy is discussed more fully as the last point under the key issues section above. The proposed language would not prevent an ADU from being created from legal space created in the future. However, it would need to conform to the regulations for an attached or detached ADU, including parking, setbacks and size limits. The state law's reference under the conversion section (65852.2(e)) only applies to "existing space," which is interpreted to mean space that existed prior to the adoption of a local ordinance.

2. Remove blanket ban on ADUs in hillsides.

This point is discussed thoroughly in the key issues section above. The proposed hillside prohibition would ensure that health and safety concerns are addressed without significantly eroding opportunities for ADUs to be created.

3. Do not count ADUs in FAR and lot-coverage calculations.

The proposed ordinance makes clear that ADUs are subject to the recently adopted provisions of the Baseline Mansionization Ordinance (BMO). The BMO restricts total residential floor area (RFA) between all applicable structures to not exceed 45% of the lot area. The regulation means that properties with relatively large homes on smaller lots are often be unable to often build up to 1200 square feet. The inclusion of this requirements in the proposed ordinance is consistent with current practice, whereby if ministerial objective zoning standards apply to all structures and are not preempted by state law, they are applied to ADUs. Furthermore, State law allows local jurisdictions to apply FAR and lot-coverage calculations which per recently adopted law (BMO) have been carefully crafted to balance new development with existing neighborhood character.

4. Allow ADUs within multi-family dwellings

Currently, state ADU law only applies to a lot zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling. Therefore a property with two legal units in existence cannot add a third unit as an ADU.

Allowing multi-family units to have an ADU is a significant policy decision that would likely require additional analysis to determine the potential impacts, including CEQA analysis. While there would be clear benefits to the housing supply if allowed in multifamily buildings, an ADU could exacerbate the lack of parking in multi-family neighborhoods since ADUs generally do not require parking space in Los Angeles.

5. Allow ADUs in front of existing homes when exiting homes are on back of lot.

The proposed regulation would ban ADUs located between the primary residence and street. This issue was covered in the prior staff recommendation report dated December 15, 2016. 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.

6. Allow parking in front set-back.

Parking is permitted in all setback areas pursuant to state law. However, in order to protect the traditional residential character of front yards, the proposed ordinance would limit parking in front yard setback areas to existing driveway areas as well as clarify that existing zoning code provisions regarding parking design and driveway access areas also must be adhered to.

7. Reduce restrictions on moveable tiny home design.

Additional design standards are being proposed along with the allowance for Movable Tiny Homes (MTHs). The intent is to allow for a wide array of tiny homes on wheels, but to ensure they resemble a residence and not a recreational vehicle. The Department worked with members of the tiny home community on these regulations to strike the right balance. For example, the proposed ordinance would require that exterior cladding material exclude certain materials that are used for RVs and that windows be double-paned to ensure better insulation and not used a curved radius corner, which are typically used on vehicles. Roofs would need to have a 12:2 pitch for 50% of the roof area and be in compliant with building code roof materials. Room area extensions are not permitted as they would not be able to be captured on a site plan and therefore could be a loophole to allow MTHs to intrude into the distance required between structures.