

## DEPARTMENT OF CITY PLANNING RECOMMENDATION REPORT

### CITY PLANNING COMMISSION

**DATE:** December 19, 2013  
**TIME:** after 8:30AM  
**PLACE:** Van Nuys City Hall  
14410 Sylvan Street  
Council Chamber, 2<sup>nd</sup> Floor  
Los Angeles, CA 91401

**CASE NO:** CPC-2013-2450-CA  
**CEQA:** ENV-2013-2451-CE  
**LOCATION:** Citywide  
**COUNCIL DISTRICT:** All  
**PLAN AREAS:** All

### PUBLIC HEARING REQUIRED

**SUMMARY:** The proposed ordinance (Appendix A) modifies Section 17.06 of the Los Angeles Municipal Code (LAMC) to allow construction of small lot subdivisions to commence prior to the recordation of the final map, with recordation of a covenant.

### RECOMMENDED ACTIONS:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the findings included in Attachment 1.
3. **Adopt** the Categorical Exemption as the CEQA clearance on the subject.
4. **Approve** the proposed ordinance (Appendix A) and recommend its adoption by the City Council.

MICHAEL J. LOGRANDE  
Director of Planning

ALAN BELL, AICP  
Deputy Director

THOMAS ROTHMANN  
Senior City Planner, Code Studies Unit

DEBORAH KAHEN, AICP  
City Planner, Code Studies Unit  
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**ADVICE TO PUBLIC:** \*The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communication may be mailed to the Commission Secretariat, 200 North Main Street, Room 272, Los Angeles, CA 90012 (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent a week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services, and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

## **SUMMARY**

In 2005, small lot subdivision regulations were adopted by the City Council (ordinance 176,354) in order to facilitate a greater diversity of home ownership options. The ordinance allows row homes or a cluster of single-family homes on small lots to be developed in multi-family zones as an alternative to apartment and condominium buildings. Small lot development has been popular with both housing developers and buyers.

The proposed ordinance (Appendix A) remedies a procedural inefficiency unforeseen at the time of adoption. After a small lot subdivision project has received approval from the Department of City Planning, it can take up to two years for the final subdivision map to record. Unlike apartments and condominiums, building permits for small lot subdivisions cannot be issued until the map records. Therefore, to begin construction applicants must choose between waiting for the map to record (which is risky due to increased market uncertainty and holding costs) or filing for deviations to allow construction on the lot that is not yet technically subdivided. Both options are inefficient and unnecessary.

The proposed ordinance amends Section 17.06 of the Los Angeles Municipal Code to allow building permits for small lot subdivisions to be obtained prior to the recordation of the final map when a covenant and agreement is filed that acknowledges that the Certificate of Occupancy will not be issued until the final map is recorded.

## **STAFF REPORT**

### **Initiation**

On February 12, 2013, the Planning Director initiated the proposed amendment to the 2005 Small Lot Subdivision Ordinance.

### **Background**

#### Small Lots

The small lot subdivision regulations allow a series of single-family homes on small lots to be built within the allowable density of the underlying multi-family zone. Small lot subdivisions are usually built to a density less than what is allowed. The fee simple homes have separate foundations, no shared walls, and are situated within individual lots. The provisions, located in Section 12.22 C.27, are primarily a collection of exceptions from single-family zone home construction. These exceptions include: reduced lot widths; alternative paths of vehicular access; reduced front, side, and rear yards; and no passageway requirement. Small lot subdivisions are permitted on multi-family lots (zones R2 when adjacent to a commercial or industrial zoned lot, all RD, R3, R4, R5, RAS3, and RAS4) as well as on lots zoned commercial and parking (C and P).

Small lot subdivisions are attractive to many home buyers. Those built as urban infill projects often provide single-family homes in walking distance to retail and services, are

close to job centers and mass transit, have less yard maintenance needs, and offer new construction at costs sometimes more affordable than comparable homes in the same neighborhood. Small lots can also encourage community when units have common driveways or direct access to the sidewalk. Despite the significant housing market downturn that occurred shortly after inception of the ordinance, the completion of 39 projects totaling 361 units as of November 15, 2013 is substantial. Growth in applications is expected to coincide with the current steady housing recovery.

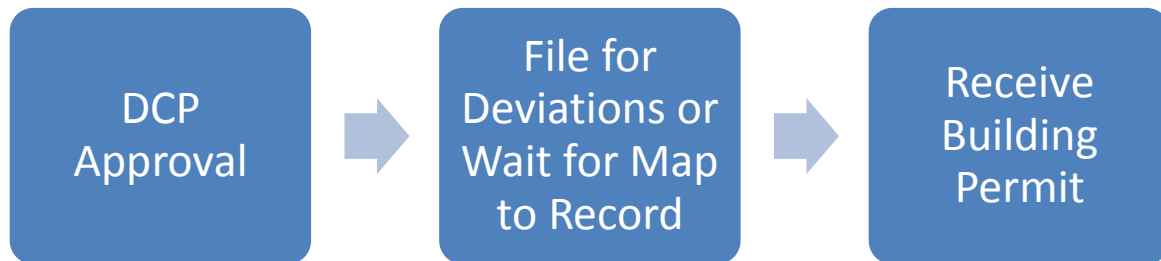
While small lot subdivisions are permitted under the provisions of the Zoning Code and consistent with the State Subdivision Map Act, applicants must still file a case for a subdivision map with DCP. The required case, a vesting tentative tract map or preliminary parcel map, calls for dividing the subject lot into multiple lots to coincide with the number of proposed homes. Review of the plans includes notice to property owners within 500 feet of the project site and to the local Neighborhood Council. DCP also commences an environmental review process.

#### Procedural Inefficiency

After DCP has approved a subdivision map for a small lot project, an applicant must still wait for the map to be recorded by the Department of Public Works and the County Board of Supervisors. During this time (often over a year), the developer cannot secure building permits since the new lot lines do not technically exist. Until the map is recorded the project is viewed as a collection of detached unit buildings on a multi-family zoned lot rather than the approved small lot subdivision of single family homes on single family lots. Until the map has recorded, these single-family homes must meet the provisions of traditional single-family zoning rather than the specific provisions for small lot projects.

For example, an applicant has applied for a vesting tentative tract map. The project is in full compliance with the small lot subdivision provisions: he or she intends to build a six-unit small lot subdivision on an RD2 lot, and in lieu of the required 15' rear yard setback for a single-family home, the project supplies a 5' rear yard setback (as permitted in the small lot subdivision provisions).

After receiving vesting tentative tract map approval from DCP, the applicant must either (1) request a deviation from the code through an adjustment for the reduced setback (or variance for other deviations) or (2) wait a significant period of time for the final map to record. In most cases, applicants pursue deviations from the zoning code. A situation has now been created in which, due to the timing of when a map records, an applicant is requesting deviations from what is permitted in the zoning code.

**CURRENT PROCESS**

Although deviations from the Zoning Code can allow the project to proceed, they are problematic for developers, neighborhoods, and City staff. They are an extra cost that can reflect in the project through either increased unit costs or a reduction in construction detail or amenities. They are also confusing to the local neighbors: it is difficult to discern which requests meet permitted small lot provisions and which requests are asking to deviate from the small lot provisions. They also unnecessarily absorb staff resources and undermine the initial goal of allowing this project type to be built by-right in the aforementioned multi-family zones.

It usually takes a lengthy amount of time for a final map to record. Per Section 17.07 of the LAMC, after receiving a vesting tentative tract or preliminary parcel map approval from the City, applicants have 36 months to apply for a final map. Once an application is submitted, it takes DPW and the County an average of six months to record the final tract or parcel map (although in some instances it can take up to 22 months). Construction itself is a lengthy process, and if development cannot commence until the final map is complete, the date at which the new units can finally be occupied is extended out into the future without any gain to the project or neighborhood. By exposing the project applicant to unnecessary expense and delay, project financing can become jeopardized and the project could be subject to unknown market changes.

**Apartment and Condominiums**

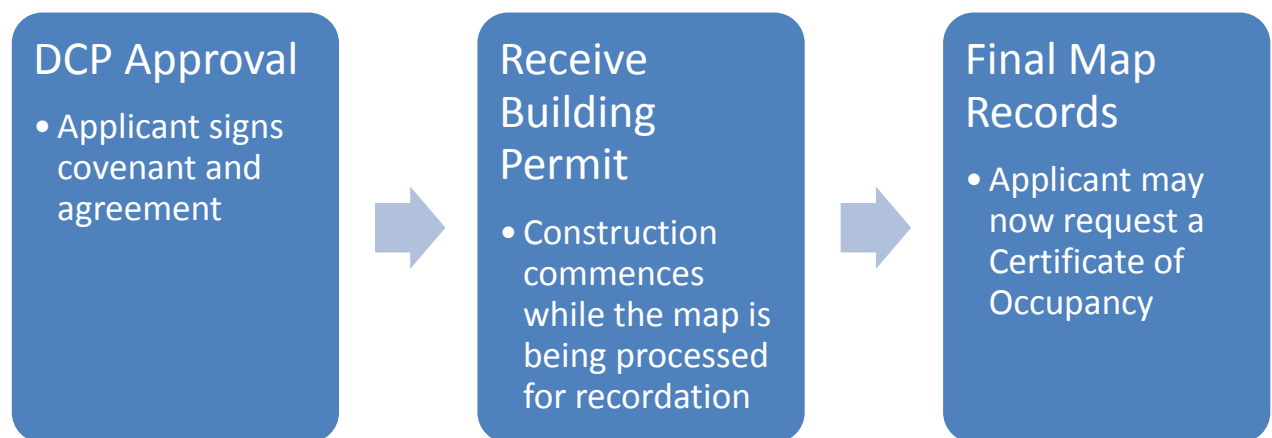
This procedural inefficiency during the development of multi-family property is unique to small lot subdivisions. Prior to the adoption of the small lot subdivision regulations, apartment and condominium buildings were nearly the only building form developed on multi-family properties. No subdivision map is required for apartment buildings because there is no division of air rights being sold to occupants. There is single ownership over the entire lot. Building permits are issued for condominium buildings before or after the final map is recorded. If construction begins prior to recordation, the units are considered apartments and public improvements otherwise required for a condominium project are

guaranteed to the satisfaction of the Bureau of Engineering through the filing of a B-permit. Once the tentative tract map is recorded, the units may be sold for ownership.

### Proposed Ordinance

The proposed ordinance (Appendix A) adds language to Section 17.06 of the LAMC allowing DBS to issue building permits to applicants who have received a vesting tentative tract or preliminary parcel map approval from DCP for a small lot subdivision. Thus, applicants can begin project construction without having to request deviations from the code or wait for the final map to record. To ensure that applicants follow through with map recordation, applicants will sign a covenant and agreement with the City acknowledging that a Certificate of Occupancy will not be issued until the final map has been recorded. The proposed ordinance makes no changes to what is physically allowed to be built or where it can be built, or to the noticing requirements for applications filed. Nor will the ordinance change procedures for a multiple-unit complex on a single lot.

### PROPOSED PROCESS



Several circumstances would render a project ineligible to receive building permits prior to recordation of the final map. Projects with a condition of approval requiring a map revision are not eligible because DCP will need to review plans again after the revision is made prior to construction. This is a temporary condition, because the project is eligible to participate once the map revision is completed. Projects including a street or alley merger or vacation are not eligible because the developer cannot legally claim the public land until the final map records. Lastly, projects with off-site common access cannot participate because the final map must be recorded in order to effectuate continuous on-site and off-site common access. The last two circumstances are not common; therefore very few projects would be affected.

The proposed ordinance establishes a balance between private and public interests by allowing construction to commence prior to final recordation while also guaranteeing that the subdivision process will be completed properly.

### **Public Outreach**

DCP staff held a public hearing on September 17, 2013. Notice was sent to Neighborhood Councils and relevant developer-interest groups. More than 20 individuals were in attendance, representing architects, developers, and community stakeholders. Twelve of those in attendance provided testimony. Additionally, 23 letters from individuals, the development community, and community groups have been received.

The development community and individuals that submitted written comment unanimously support the ordinance. In addition to the points made above, their comments also cited the following benefits of adopting this ordinance:

- Spurs economic growth through development
- Fosters neighborhood revitalization
- Keeps young professionals (the core demographic of small lot buyers) living in the City
- Encourages smarter growth using a single-family product
- Creates a more equitable development process, as it removes a burden that does not apply to most multi-family projects

Neighborhood groups were split on the issue. The Eagle Rock, Mar Vista, and Greater Wilshire Neighborhood Councils submitted letters of support due to reasons including following: construction can start immediately, the community benefits when vacant properties are developed sooner; the elimination of deviation requests to begin construction of a project that otherwise complies with code are eliminated, and will therefore make proposals more transparent; time and work demands will be reduced on planners, allowing them to focus on other community projects.

The Harbor Gateway North Neighborhood Council submitted a letter in opposition of the proposed ordinance. Their concerns rest with the initial small lot subdivision provisions. They expressed that these projects host inadequate parking, minimal landscaping and design, and are being built at an inappropriate scale.

Staff also received verbal feedback from community members on the phone and in person. Despite multiple conversations with staff, some misinformation about the proposal persists. One misperception is that the proposed ordinance would allow projects to be built before the plans are final. This understandable confusion between plans and maps led some community members to be concerned that DCP would be allowing projects to be built before plans were approved. This is not the case. Projects must still complete public case processing and receive plan approval before applying for building permits.

Another concern is that noticing would change. This ordinance does not change noticing or public hearing requirements for any subdivision case. It does, however, remove a common deviation request that is actually requesting entitlements intended to be by-right. The confusion this causes can breed mistrust and misunderstandings.

Lastly, independent of this proposed ordinance but related to small lot subdivisions, community members expressed dissatisfaction with the rezoning of single-family lots in order to employ small lot subdivisions. The proposed ordinance neither enhances nor inhibits this practice.

Several changes to the proposed ordinance were made in response to public comment:

- Projects with map revisions, once revised, should be eligible to begin construction prior to map recordation.
- “The Department of Building and Safety may issue permits based upon the provisions the Advisory Agency approves in the tentative or preliminary map and its conditions of approval” was changed to “The Department of Building and Safety shall issue permits...”
- “The dedication, improvement, and sewer requirements identified in the tentative or preliminary map approval or its conditions of approval must be provided at the time of building permit issuance” was changed to “...must be guaranteed to the satisfaction of the Bureau of Engineering...”

The following change, suggested through public comment, was not incorporated:

- In addition to DBS, the Bureau of Engineering and Fire Department shall also be required to issue permits. The Bureau of Engineering and the Fire Department have specific technical expertise. The proposed ordinance is not intended to override the review process of these departments.

### **Small Lot Design Guidelines**

Related to the proposed ordinance is a separate effort to update the Small Lot Design Guidelines (Guidelines.) The Guidelines have recently been updated to accommodate feedback heard from the community. The Guidelines assist in addressing spatial complexities unique to small lot settings. Considerations include placement of shared amenities such as driveways and pathways, neighborhood context, and proximity of adjacent structures. Incorporating the Guidelines into a project's design will encourage more compatible architecture, attractive residential projects, context-sensitive design, opportunities for pedestrian activity, and overall contribute to an enhanced sense of place. Projects that are not in compliance with the Guidelines may be subject to delays and community appeals.

### **Conclusion**

This amendment stands to benefit developers, neighborhoods, as well as the City in general. It will eliminate the superfluous step of applying for deviations from the zoning code, which muddy project descriptions that neighborhoods rely on, cause undue burden on developers, and consume staff resources that would be better spent on other planning projects. Adoption of the ordinance strikes a balance between developer and City interests while advancing the main goal of the initial small lot regulations: to increase the diversity of housing stock in a by-right manner.

## APPENDIX A

ORDINANCE NO. \_\_\_\_\_

**A proposed ordinance amending Section 17.06 of the Los Angeles Municipal Code to allow building permits for small lot subdivisions to be obtained prior to the recordation of the final map when a covenant and agreement is filed.**

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

Section 1. Paragraph (f) of Subdivision 2 of Subsection A of Section 17.06 of the Los Angeles Municipal Code is added to read:

(f) Small lot subdivision applicants who have received a vesting tentative tract map approval or preliminary parcel map approval may obtain a building permit prior to the recordation of the final map when a recorded covenant and agreement is filed. This covenant shall state that the applicant and his or her successors and assignees agree that the building permits are issued on the condition that a Certificate of Occupancy (temporary or final) for the buildings shall not be issued until after the final map has been recorded. The Department of Building and Safety shall issue permits based upon the provisions the Advisory Agency approves in the tentative or preliminary map and its conditions of approval. The dedication, improvement, and sewer requirements identified in the tentative or preliminary map approval or its conditions of approval must be guaranteed to the satisfaction of the Bureau of Engineering at the time of building permit issuance. Projects with the following features are not eligible to receive building permits prior to the recordation of a final map: off-site common access or a street or alley vacation or merger.

Sec. 2. The City Clerk shall certify that...



## **ATTACHMENT 1**

### **LAND USE FINDINGS**

The Department of City Planning recommends that the City Planning Commission find:

1. In accordance with Charter Section 556, that the proposed ordinance (Appendix A) is in substantial conformance with the purposes, intent, and provisions of the General Plan. Specifically, the proposed ordinance implements Economic Development Objective 7.4 of the Framework Element, "Improve the provision of governmental services, expedite the administrative processing of development applications, and minimize public and private development application costs" and Goal 7G, "A range of housing opportunities in the City." It also implements Housing Objective 4.4 of the Framework Element, "Reduce regulatory and procedural barriers to increase housing production and capacity in appropriate locations."

The proposed ordinance streamlines the process to develop small lot subdivisions by removing procedural barriers without compromising the level of input available to the neighboring community and review by the City. The proposed ordinance supports production of a relatively new and popular form of housing.

2. In accordance with Charter Section 558 (b) (2), the proposed ordinance (Appendix A) is in substantial conformance with public necessity, convenience, general welfare and good zoning practice. Consistent with City policies to streamline development and provide a range of housing opportunities in the city, the ordinance removes a disruption in the approval process that is to the detriment of the local community, the developer, and the City in general.

### **ENVIRONMENTAL FINDING**

In accordance with the California Environmental Quality Act (CEQA), this ordinance meets the criteria of a General Exemption pursuant to Article III, Sections 15301 and 15305, Classes 1 and 5 of the CEQA Guidelines. The proposed ordinance (Appendix A) is determined to constitute "negligible or no expansion of the use existing at the time the exemption is granted," and involves only administrative changes to case processing that do not change the physical product.

COUNTY CLERK'S USE

## CITY OF LOS ANGELES

CITY CLERK'S USE

OFFICE OF THE CITY CLERK  
200 NORTH SPRING STREET, ROOM 360  
LOS ANGELES, CALIFORNIA 90012

## CALIFORNIA ENVIRONMENTAL QUALITY ACT

## NOTICE OF EXEMPTION

(California Environmental Quality Act Section 15062)

Filing of this form is optional. If filed, the form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152 (b). Pursuant to Public Resources Code Section 21167 (d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY <b>City of Los Angeles Department of City Planning</b>	COUNCIL DISTRICT All
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PROJECT TITLE *Small Lot Subdivisions Procedural Amendment	LOG REFERENCE ENV 2013-2451-CE
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PROJECT LOCATION *Citywide
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DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:  
\* A proposed ordinance amending Section 17.06 of the Los Angeles Municipal Code to allow building permits for small lot subdivisions to be obtained prior to the recordation of the final map when a covenant and agreement is filed.

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT, IF OTHER THAN LEAD CITY AGENCY: *
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CONTACT PERSON *Deborah Kahen	AREA CODE * 213	TELEPHONE NUMBER *978 - 1202	EXT.
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EXEMPT STATUS: (Check One)

## STATE CEQA GUIDELINES

## CITY CEQA GUIDELINES

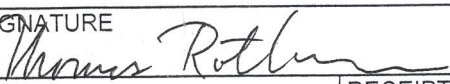
- |   |                           |                            |
|---|---------------------------|----------------------------|
| <input type="checkbox"/> MINISTERIAL                      | Sec. 15268                | Art. II, Sec. 2b           |
| <input type="checkbox"/> DECLARED EMERGENCY               | Sec. 15269                | Art. II, Sec. 2a (1)       |
| <input type="checkbox"/> EMERGENCY PROJECT                | Sec. 15269 (b) & (c)      | Art. II, Sec. 2a (2) & (3) |
| <input checked="" type="checkbox"/> CATEGORICAL EXEMPTION | Sec. 15300 <i>et seq.</i> | Art. III, Sec. 1           |
| <input type="checkbox"/> GENERAL EXEMPTION                | Sec. 15060                | n/a                        |

Class 1 and 5 Category Sections 15301 and 15305 (State CEQA Guidelines)

- ☐ OTHER (See Public Resources Code Sec. 21080 (b) and set forth state and City guideline provision.)

JUSTIFICATION FOR PROJECT EXEMPTION: Per State of California CEQA Guidelines, Sections 15301 and 15305, Classes 1 and 5, the ordinance is determined to constitute "negligible or no expansion of the use existing at the time the exemption is granted", and involves only minor alterations in land use limitations and do not have an impact on land use or density. Per CEQA Guidelines, Section 15352, the passing of the ordinance by City Council is the final legislative action and constitutes an "approval" for purposes of CEQA.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT ISSUED BY THE CITY PLANNING DEPARTMENT STATING THAT THE DEPARTMENT HAS FOUND THE PROJECT TO BE EXEMPT.

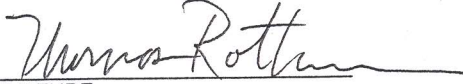
SIGNATURE 	TITLE SENIOR CITY PLANNER	DATE 8/8/2013
FEE:	RECEIPT NO.	REC'D. BY
		DATE

DISTRIBUTION: (1) County Clerk, (2) City Clerk, (3) Agency Record.

Rev. 11-1-03 Rev. 1-31-06 Word

IF FILED BY THE APPLICANT:

\* THOMAS ROTHMAN  
NAME (PRINTED)

\*   
SIGNATURE

\* AUGUST 8, 2013  
DATE