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CARMEN A. TRUTANICH
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REPORT NO. R 12 - 0 3 3 1

OCT 19 2012

REPORT RE:

**DRAFT URGENCY INTERIM CONTROL ORDINANCE PROHIBITING
THE ISSUANCE OF ALL BUILDING PERMITS IN LOS ANGELES CHINATOWN,
SPECIFICALLY AN AREA GENERALLY BOUNDED BY THE 110 PASADENA
FREEWAY TO THE WEST, SUNSET BOULEVARD AND CESAR CHAVEZ AVENUE
TO THE SOUTH, MAIN STREET AND ALAMEDA STREET TO THE EAST,
AND COTTAGE HOME STREET TO THE NORTH**

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. 12-0382

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft urgency interim control ordinance, if adopted, will prohibit the issuance of all building permits in Los Angeles Chinatown, and specifically the area generally bounded by the 110 Pasadena Freeway to the west, Sunset Boulevard and Cesar Chavez Avenue to the south, Main Street and Alameda Street to the east, and Cottage Home Street to the North.

California Government Code Section 65858 allows a city to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that a city is studying or intends to study within a

reasonable time, without following the procedures normally required prior to the adoption of a zoning ordinance.

Such an urgency measure shall require a four-fifths vote of the legislative body for adoption and shall be in effect for an initial period of 45 days from its date of adoption.

The legislative body may, upon proper notice, adopt two subsequent extensions of the initial urgency measure, with the first extension being 10 months and 15 days, and the second extension being one year.

Such an urgency measure must be supported by findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement would result in that threat to the public health, safety, or welfare.

The purpose of this ordinance is two-fold: first, to prevent an increase in incompatible development that would be inconsistent with the objectives of the Central City North Community Plan and the character and scale of the community; second, to protect the health and safety of the community in and around Chinatown by temporarily prohibiting new permits for large formula retail uses that threaten the viability of the community's existing historic commercial and cultural character.

Charter Findings

Pursuant to Charter Section 559, the Planning Commission disapproved the draft ordinance and recommended that the City Council not adopt it. If the City Council chooses to adopt this ordinance, it may comply with the provisions of Charter Section 558 by either adopting the findings prepared by the Director of Planning attached to the file or by making its own findings.

Background

The City Planning Commission disapproved the proposed ordinance at its regular meeting of July 12, 2012.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety with a request that any comments be presented directly to your Honorable Body at the time this matter is considered.

CEQA Findings

A Categorical Exemption (ENV-2012-1505-CE) was considered for the proposed project and recommended for adoption. The proposed ordinance (Exhibit B) is exempt from the requirements of the California Environmental Quality Act (CEQA) and the City Guidelines for the implementation thereof pursuant to Article II, Section 2, Subsection (m) of the City of Los Angeles Guidelines, as it does not have a negative impact on the environment.

If you have any questions regarding this matter, please contact Deputy City Attorney Kenneth Fong at (213) 978-8235. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE/KTF:zra
Transmittal

ORDINANCE NO. _____

An urgency interim control ordinance, pursuant to California Government Code Section 65858, prohibiting the issuance of building permits for properties within Los Angeles Chinatown, and specifically the area generally bounded by the 110 Pasadena Freeway to the west, Sunset Boulevard and Cesar Chavez Avenue to the south, Main Street and Alameda Street to the east, and Cottage Home Street to the North.

WHEREAS, California Government Code Section 65858 allows a city to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that a city is studying or intends to study within a reasonable time, without following the procedures normally required prior to the adoption of a zoning ordinance; and

WHEREAS, such an urgency measure shall require a four-fifths vote of the legislative body for adoption and shall be in effect for an initial period of 45 days from its date of adoption; and

WHEREAS, the legislative body may, upon proper notice, adopt two subsequent extensions of the initial urgency measure, with the first extension being 10 months and 15 days, and the second extension being one year; and

WHEREAS, such an urgency measure must be supported by findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement would result in that threat to the public health, safety, or welfare; and

WHEREAS, Chinatown is a focal point of commerce and culture for the Chinese American population of Southern California with a unique and historic character; and

WHEREAS, the Central City North Community Plan encourages a strong and competitive commercial sector which best serves the needs of the community through maximum efficiency and accessibility while preserving the historic commercial and cultural character of the district; and

WHEREAS, there is a need to protect Chinatown's historically significant resources, including its vibrant small business sector, which supports the needs of local residents and are compatible with the neighborhood; create a supportive environment for new small business innovations; and preserve and enhance existing neighborhood-serving retail uses and future opportunities for resident employment, and business ownership; and

WHEREAS, the establishment and possible proliferation of large, New Formula Retail Uses in Chinatown, if not monitored or regulated, will hamper its diverse retail bases with distinct neighborhood retailing uses comprised of a mix of local businesses,

and thereby limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique; and

WHEREAS, without the appropriate land use regulatory controls in place, there could be a decrease in the diversity of merchandise available to residents, visitors, and tourists; and

WHEREAS, further study is needed by the Department of City Planning to determine the appropriate measures to address the establishment and possible proliferation of large, New Formula Retail Uses in Chinatown; and it is urgent to immediately prevent the proliferation of large, New Formula Retail Uses in the ICO area; and

WHEREAS, on March 23, 2012, the Los Angeles City Council adopted a motion directing the Department of City Planning and City Attorney to create an Interim Control Ordinance (ICO) temporarily prohibiting the issuance of demolition, building, or any other applicable permits for the establishment and operation of New Formula Retail Uses which are 20,000 square feet or larger in the subject area; and

WHEREAS, the ICO will be enforced until such time as other permanent land use regulations pertaining to larger, New Formula Retail Uses in the ICO area are adopted; and

WHEREAS, the proposed ordinance is required in the interest of the health, economic prosperity, and general welfare of the people.

NOW, THEREFORE,

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

Section 1. **DEFINITIONS.** The following terms, whenever used in this Ordinance, shall be as defined in this Section. Words and phrases not defined here shall be construed as defined in Section 12.03 of the Los Angeles Municipal Code, if defined therein.

PROJECT means the construction, erection, reconstruction, addition to, or change of use of any building or structure which requires the issuance of a demolition, building, or any other applicable permit.

FORMULA RETAIL USES means any retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

Sec. 2. **PROHIBITION.** In accordance with California Government Code Section 65858, for a period of 45 days from the effective date of this Ordinance, or until the adoption of permanent regulations pertaining to New Formula Retail Uses within the ICO area, whichever occurs first: No permit shall be issued for any Project that contains any single Formula Retail Use of 20,000 square feet or greater, except that existing businesses operating within the ICO area as of the effective date of this Ordinance may expand in size or move their location within the ICO area.

Sec. 3. **INTERIM CONTROL AREA.** The provisions of this Ordinance shall apply to all lots within the shaded area between the 110 Pasadena Freeway and Main and Alameda Streets, and between Sunset Boulevard, Cesar Chavez Avenue and Cottage Home Street, as shown on the attached map as Exhibit A.

Sec 4. **EXCEPTIONS.**

A. The prohibition specified in Section 2 of this Ordinance shall not apply to any construction for which a permit is required to comply with an order issued by the Department of Building and Safety to repair, remove, or demolish an unsafe or substandard condition.

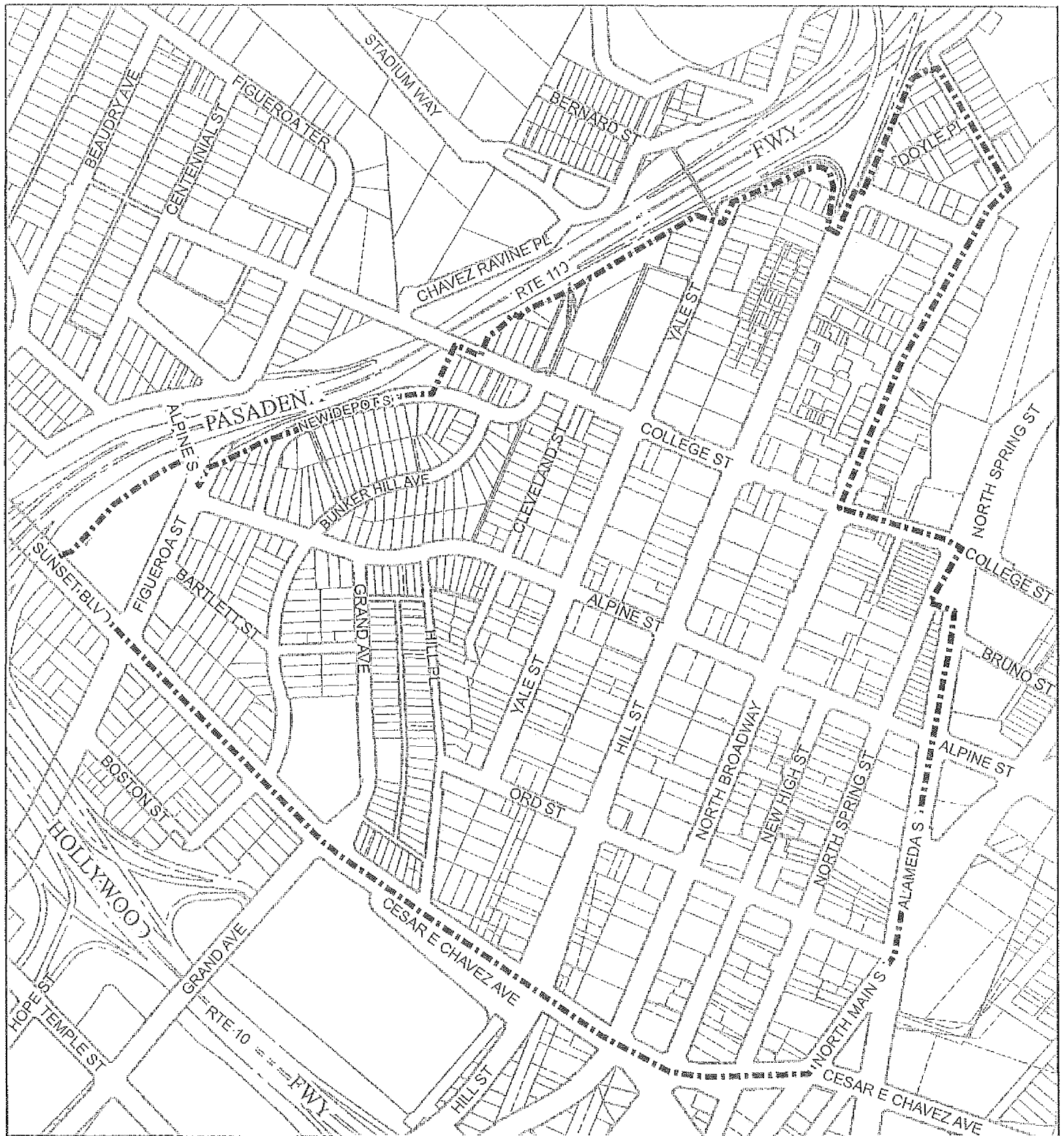
B. The prohibition specified in Section 2 of this Ordinance shall not apply to any construction for which a permit is required to restore a damaged nonconforming building in accordance with Section 12.23 A.4 of the Los Angeles Municipal Code.

C. The prohibition specified in Section 2 of this Ordinance shall not apply to any Project that secures a vested right pursuant to Section 12.26 A.3 of the Los Angeles Municipal Code, or otherwise secures a lawful vested right.

D. The prohibition specified in Section 2 of this Ordinance shall not apply to the issuance of a building permit for interior remodeling of a legally constructed building or structure, which does not affect any exterior feature.

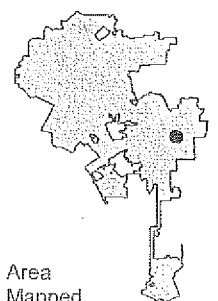
Sec. 5. **EXTENSION OF REGULATIONS.** Following notice pursuant to California Government Code Section 65090 and public hearing, the City Council may, by a four-fifths vote, extend the provisions of this Ordinance for 10 months and 15 days, and subsequently extend the Ordinance for one year.

Sec. 6. **HARDSHIP EXEMPTIONS.** The City Council, acting in its legislative capacity and by resolution, may grant exemptions from any or all of the provisions of this Ordinance in cases of extreme hardship duly established to the satisfaction of the City Council.



0 250 500 1,000 Feet

Chinatown Formula Retail ICO



Sec. 7. **APPLICABILITY OF THE ZONING CODE.** The regulations of this Ordinance are in addition to those set forth in the planning and zoning provisions of Chapter 1 of the Los Angeles Municipal Code and any other ordinances adopted by the City Council, and do not contain any rights not otherwise granted under the provisions and procedures contained in that Chapter or other ordinances.

Sec. 8. **SEVERABILITY.** If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Ordinance, which can be implemented without the invalid provision, and, to this end, the provisions of this Ordinance are declared to be severable.

Sec. 9. **URGENCY CLAUSE.** The City Council finds and declares that this Ordinance, pursuant to California Government Code Section 65858, is required because there is a current and immediate threat to the public health, safety, and welfare for the following reasons:

A. Permits have been issued for a formula retail use larger than 20,000 square feet in Chinatown, and additional permits could be issued for similar uses if the City does not act. If the City does not act, these large formula retail uses will endanger the viability of Chinatown's small businesses and threaten the unique and historic character of the neighborhood.

B. The approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare in that the historic, cultural, and economic integrity of Chinatown is characterized by the existing small business community in the area. The viability of that community is currently at risk due to development pressures resulting in the issuance of permits for large formula retail uses in the area, and the City needs time to develop permanent regulations that preserve and enhance existing neighborhood-serving retail uses. The proposed ordinance will help ensure that the character and scale of the established small business community is maintained until a permanent ordinance can be adopted

C. Delaying the implementation of this Ordinance could result in an increase in incompatible development that would be inconsistent with the objectives of the Central City North Community Plan and the character and scale of the community.

For all of these reasons, the Ordinance shall become effective upon publication pursuant to Section 281 of the Los Angeles City Charter.

Sec. 10. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board at the Main Street entrance to Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than four-fifths** of all of its members, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
KENNETH T. FONG
Deputy City Attorney

Date 10-19-2012

File No(s). CF 12-0382