



Legislation Text

File #: ORD 17-0007-U, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Anne McIntosh, Community Development Director

Laurie B. Jester, Planning Manager

Ted Faturros, Assistant Planner

SUBJECT:

Public Hearing to Consider Extending Interim (IZO) Ordinance No. 16-0013-U Requiring a Use Permit for the Following Uses in the Downtown Commercial Zone: (1) Any Business or Professional Office; Bank and Savings & Loan; Catering Service; or Communications Facility Proposed to be Located on the Ground Floor Streetfront; and (2) Any Retail Sales Use Proposed to Have More Than 1,600 Square Feet of Buildable Floor Area; and Imposing Additional Use Permit Findings; and Receive Written Report Regarding IZO Ordinance No. 16-0013-U (Community Development Director McIntosh).

CONDUCT PUBLIC HEARING, ISSUE A 10 - DAY REPORT AND ADOPT ORDINANCE NO. 17-0007-U EXTENDING THE IZO FOR ONE YEAR

RECOMMENDATION:

Staff recommends that the City Council conduct a public hearing and adopt Ordinance No. 17-0007-U approving a one-year extension of the Interim Zoning Ordinance (IZO), requiring a Use Permit prior to the establishment of certain commercial uses and retail uses proposed to exceed 1,600 square feet of buildable floor area in the Downtown (Attachment 1). Staff also recommends that the City Council issue a report pursuant to Government Code Section 65858(d).

FISCAL IMPLICATIONS:

No impact.

BACKGROUND:

On July 5, 2016 the City Council adopted a 45-day IZO Ord No. 16-0009-U, for the Downtown, requiring a Use Permit for any business or professional office, bank and savings & loan, catering service, or communication facility proposed to be located on the ground floor streetfront, and for any retail sales use proposed to have more than 1,600 square feet of buildable floor area (Attachment 2). On August 16, 2016 the City Council adopted IZO Ord. No. 16-0013-U (Attachment 3), extending the IZO for an additional 10 months and 15 days. A public hearing is needed to consider an extension of the IZO which may be extended for up to one additional year. If the City Council chooses not to extend the IZO, it will expire on July 5, 2017. Regardless of whether the City Council extends the

IZO, a 10-day report is required to be issued by the City Council pursuant to Government Code Section 65858(d) (Attachment 4).

DISCUSSION:

Over the course of several years, the community has expressed concerns that the unique small-town beach character and pedestrian-orientation of the Downtown is changing and small local retail and service businesses were being lost. In response to the community's concerns, the City has developed and adopted a Downtown Specific Plan that provides clarity for Downtown development. The Downtown Specific Plan won't become effective until the California Coastal Commission certifies the Plan, a process expected to take at least 6 months to one year, possibly more pending any changes directed by the Coastal Commission. The City transmitted the Plan to the Coastal Commission in March 2017 for certification.

Interim regulations are one method in which to enact a "timeout" when a contemplated general plan, specific plan or zoning proposal which the city intends, or plans to study within a reasonable prior of time is being evaluated. Since the Downtown Specific Plan will not be certified by the Coastal Commission for at least another 6 months, Staff feels there is a need to extend the IZO.

Pursuant to Government Code Section 65858, ten days before the expiration of an interim ordinance, the City Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance. In order to comply with this section, the City has prepared the attached report.

Regulatory Context

Government Code Section 65858 permits an initial moratorium or interim regulations for 45 days, with a 4/5th vote of the City Council. Interim Ordinances take effect immediately. Subsequently the regulations may be extended for an additional 10 months and 15 days, for a total of one year, after a noticed public hearing. The Government Code has an option of extending the Ordinance up another year after the initial 10 month and 15 days, with another public hearing. In any case, an Interim Ordinance would be valid for a maximum of 2 years.

Draft Interim Zoning Ordinance

The draft IZO (Attachment 1) proposes to simply extend the existing IZO which requires a Use Permit for any business or professional office, bank and savings & loan, catering service, or communication facility proposed to be located on the ground floor streetfront, and for any retail sales use proposed to have more than 1,600 square feet of buildable floor area, essentially maintaining the status quo in the Downtown. The Ordinance does not affect any residential development, only commercial.

The draft Ordinance also continues to address projects that are in the pipeline, prohibiting the issuance of entitlements to all projects except those projects that have been processed and have received valid building permits. Applicants who have submitted applications, or have a project that is in plan check, or have not yet been submitted to plan check but have Planning approval, such as a Coastal Permit, will be subject to the new ordinance and cannot proceed with processing. If a Use Permit has already been approved for a different use it is exempt.

Alternative 1

Another option would be to not extend the IZO. This would allow business and professional offices, banks and savings & loans, catering services, or communication facilities to occupy ground floor

streetfront spaces without a Use Permit, and would allow any retail sales use proposed to have more than 1,600 square feet of buildable floor area without needing a Use Permit. The Code currently only requires that any use over 5,000 square feet requires a Use Permit.

Pros:

Business and professional offices, banks and savings & loans, catering services, or communication facilities could occupy ground floor streetfront spaces without a Use Permit. Retail sales uses proposed to have more than 1,600 square feet of buildable floor area would not need a Use Permit. Any use, including retail sales use, would still need a Use Permit if they exceed 5,000 square feet.

Cons:

Some of the Downtown Specific Plan's new regulations, currently not found in the Code, closely mirror the current IZO's regulations. Not extending the IZO would create policy and regulatory inconsistencies between the proposed Downtown Specific Plan and the existing Code.

Alternative 2

A second option would be for the City Council to approve extending the existing IZO, but also direct Staff to come back to the City Council at a later time with a modified IZO that would better mirror the regulatory language in the Downtown Specific Plan.

Pros:

The current IZO and the Downtown Specific Plan have some inconsistencies, like the fact that the retail square footage cap under the IZO is based on buildable floor area while the retail square footage cap under the Downtown Specific Plan is based on sales floor area. The Downtown Specific Plan also allows offices, banks, and other non-pedestrian uses to be located on a ground floor without a Use Permit if those uses are located entirely on an alley, while the current IZO requires a Use Permit for any ground floor office or bank use located on the ground floor streetfront.

Furthermore, there is a chance that the Coastal Commission could take longer than a year to review and certify the Downtown Specific Plan. If the Coastal Commission takes longer than one year to certify the plan, the current IZO, if extended, would expire before the Downtown Specific Plan takes effect, thus creating a situation where none of the new regulations that exist under either the IZO or the Downtown Specific Plan would be in effect.

Cons:

If a new IZO were to reflect the new regulations in the Downtown Specific Plan, and then the Coastal Commission revises the regulations or policies, there could be some confusion or inconsistencies in development in the Downtown.

PUBLIC OUTREACH/INTEREST:

A notice (1/4 page ad) of tonight's meeting was published in the Beach Reporter on June 08, 2017. A copy of the notice was mailed to all property owners and occupants in the Downtown Commercial District (CD) Zone of the City, as well as the Chamber of Commerce, the Downtown Business & Professional Association (DBPA), Downtown Business and Improvement District (BID), and the Manhattan Beach Commercial Property Owners Association (MBCPOA).

CONCLUSION:

Staff recommends that the City Council conduct the public hearing and adopt the extension of the

Interim Zoning Ordinance (IZO) to require a Use Permit for any business or professional office, bank and savings & loan, catering service, or communication facility proposed to be located on the ground floor streetfront, and for any retail sales use proposed to have more than 1,600 square feet of buildable floor area. If the Interim Zoning Ordinance is extended tonight it will be effective immediately and be in effect until July 5, 2018.

Attachment/Attachments:

1. Proposed Ordinance No. 17-0017-U
2. Ordinance No. 16-0009-U
3. Ordinance No. 16-0013-U
4. Government Code Section 65858(d)- 10-Day Written Report