



Legislation Text

File #: 23-0017, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Quinn M. Barrow, City Attorney

Talyn Mirzakhanian, Acting Community Development Director

SUBJECT:

Urgency Ordinance No. 23-0001-U:

An Interim Ordinance Of The City Of Manhattan Beach Extending Urgency Ordinance No. 22-0002-U, Which Amended The Manhattan Beach Municipal Code To Clarify Provisions For The Preservation Of Historic Resources (Acting Community Development Director Mirzakhanian).

(Estimated Time: 15 Mins.)

A) CONDUCT PUBLIC HEARING

B) ADOPT URGENCY ORDINANCE NO. 23-0001-U EXTENDING THE INTERIM ZONING ORDINANCE FOR A MAXIMUM OF ONE YEAR

RECOMMENDATION:

Staff recommends that the City Council adopt Urgency Ordinance No. 23-0001-U extending Interim Ordinance No. 22-0002-U that clarified provisions for the preservation of historic resources in the existing Historic Preservation Ordinance.

FISCAL IMPLICATIONS:

There is no direct fiscal impact associated with the adoption of the attached Ordinance No. 23-0001-U. As the recommended action is an interim zoning ordinance, the City will need to review and update the existing Ordinance to ensure consistency with the City's intended historic preservation goals. This will incur costs associated with staff time.

BACKGROUND:

At the November 2, 2021, City Council meeting, the City Council requested a discussion the City's existing historic preservation ordinance, seeking clarity as to portions of the ordinance that were subject to property owner consent. On December 7, 2021, the City Council conducted a discussion of the existing historical preservation ordinance and found that the ordinance text differs from the intended policy direction during the 2016 adoption. The City Council confirmed that the intended policy direction was for the ordinance requirements to be voluntary, and directed staff to take action

(s) to amend the ordinance. Staff reviewed the ordinance and determined that minor changes can be made immediately to narrow the broad applicability of the Certificate of Appropriateness, environmental review, and 60-day waiting period for demolition.

On January 18, 2022, the City Council adopted Interim Ordinance No. 22-0002-U (Attachment) to clarify provisions for the preservation of historic resources in the existing Historic Preservation Ordinance. The Interim Ordinance had a term of 45 days, with an initial expiration date of March 4, 2022. On March 1, 2022, the City Council adopted Urgency Ordinance 22-0004-U to extend the Interim Ordinance, without change, for 10 months and 15 days to January 17, 2023. State law allows for the Interim Ordinance to be extended for one additional year. Given numerous competing priorities during calendar year 2022, staff has not been able to undertake the effort to study and revise the historic preservation ordinance. Therefore, staff is proposing an extension of the Interim Ordinance, without any change to the interim regulations adopted by the Council last January (and re-adopted in March 2022), for one additional year to January 16, 2024.

Government Code Section 65858(d) requires that 10 days prior to the expiration or extension of any interim zoning ordinance, the City Council issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance. The Council issued the report on December 20, 2022. The City Council must consider extensions for the Interim Ordinance at a public hearing.

DISCUSSION:

The draft Ordinance would extend the Interim Ordinances, without any revisions. Ordinance No. 22-0002-U (as previously extended by Ordinance No. 22-0004-U) temporarily narrowed the applicability for Certificates of Appropriateness, 60-day waiting period for demolition, and environmental review to historical landmarks and contributing resources to historic districts. The key provisions of Interim Ordinance No. 22-0002-U are:

1) Definition of C of A (Section 10.86.030)

C of As are defined as “the permit granted on the finding by the Planning Commission or Director that an application to demolish, alter, or relocate a historic resource as defined by this chapter is in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and other applicable criteria as provided in this chapter.” By changing “historic resource” to “historic landmark or contributing resource”, this would change the applicability to only properties designated as a historic landmark (which requires property owner consent) or those that are a contributing resource to a historic district.

2) Requirements for C of As (Section 10.86.150)

Subsection A of Section 10.86.150 includes general C of A requirements for historic landmarks and contributing resources. The section includes a specific prohibition of any demolition of a historic resource included in the Inventory of Historic resources unless the City first issues a C of A. Deleting this prohibition is necessary to ensure internal consistency.

3) Findings for C of As (Section 10.86.170)

The Ordinance includes findings that must be met in order for a decision body to approve C of A. To ensure internal consistency, a corresponding change is needed in the findings section to indicate that the finding applies not to “historic resource” but to “historic landmark or contributing resource.”

4) Sixty-day Waiting Period for Demolition (10.86.190)

This section indicates that “Applications for a Certificate of Appropriateness for demolition of a historic resource” are subject to a sixty-day waiting period, during which the City would post notices and explore alternatives to demolition. By changing “historic resource” to “historic landmark or contributing resource”, this would change the applicability to only properties designated as a historic landmark (which requires property owner consent) or those that are a contributing resource to a historic district.

Staff anticipates that two to three properties per month are potentially affected by the requirements in the current Ordinance, the most notable cases being proposed demolitions. Over half of the City’s housing stock is over 45 years of age (built prior to 1977), rendering them as potentially eligible as a historic resource. As such, the potential for the Ordinance to affect even a handful of properties on a regular basis is considerable. Given this, staff has presented these interim measures to be adopted as an urgency ordinance. During the past year, staff has not received any concerns regarding the revised provisions in the interim ordinance. The extension of the interim zoning ordinance prevents unintended consequences of relying solely on the ordinance text as written in the underlying existing historic preservation ordinance.

Four Councilmember votes in favor are required for an urgency ordinance. If adopted, the interim zoning ordinance would be extended to a maximum of January 17, 2024. After public hearings, the interim zoning ordinance may be extended twice: (1) for a maximum of 10 months and 15 days (which occurred in March 2022); and (2) a second time not to exceed one year. This would constitute the second extension. In total, an interim zoning ordinance cannot exceed two years.

PUBLIC OUTREACH:

A public hearing notice was published in the Beach Reporter on December 29, 2022. Future Planning Commission and City Council public hearings for the Zoning Code Amendments will also be noticed.

ENVIRONMENTAL REVIEW:

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds and determines that the Ordinance is exempt from the CEQA pursuant to Government Code Section 65852.21(j). Furthermore, this Ordinance is exempt from CEQA based on the following reasons. This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies. For the reasons set forth herein above, it can be seen with certainty that

there is no possibility that this Ordinance will have a significant effect on the environment.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary, and has approved as to form the draft ordinance.

ATTACHMENTS:

1. Urgency Ordinance No. 23-0001-U
2. Urgency Ordinance No. 22-0002-U (January 18, 2022)
3. PowerPoint Presentation