



CITY COUNCIL AGENDA REPORT

MEETING DATE: May 1, 2007

ITEM NUMBER:

SUBJECT: AN URGENCY ORDINANCE TO EXTEND INTERIM ORDINANCE 07-6 PLACING A MORATORIUM ON THE APPROVAL OF INDUSTRIAL CONDOMINIUM CONVERSIONS

DATE: APRIL 18, 2007

FROM: KIMBERLY HALL BARLOW, CITY ATTORNEY

PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: KIMBERLY HALL BARLOW, 714-754-5399

RECOMMENDATION:

Adopt the attached urgency Ordinance extending the moratorium on the approval of industrial condominiums.

BACKGROUND:

City Council adopted an interim urgency ordinance (No. 07-6) at its meeting on March 20, 2007, placing a moratorium on the approval of any use permits, variances, or any other applicable entitlement which would allow for existing industrially zoned parcels to be subdivided into industrial condominiums in the City of Costa Mesa. The interim urgency moratorium will expire on May 5, 2007.

ANALYSIS:

There is currently no discretionary review process for non-residential condominium conversions, which allows staff and the Planning Commission to review conversion requests against current development standards for new projects and to require certain property upgrades and improvements for existing industrial parks sought to be converted to condominiums.

Planning Staff has initiated a comprehensive review of alternative ways to address industrial condominium conversions, including discretionary permit processes such as the existing residential conversion standards. There is considerable concern that the lack of such procedures and standards could negatively impact implementation of the Mesa West Bluffs Urban Plan as well as other overlay zones, result in substandard properties being converted to condominiums without being properly upgraded, and complicate urban plans recently enacted by the City.

On April 17, 2007, the City Council issued a report on steps which staff has taken to address the concerns which gave rise to the adoption of the interim urgency moratorium ordinance. Additional time is needed by staff to study, make recommendations, and hold necessary public hearings regarding the alternatives available to implement a greater level of review for industrial condominium conversions.

Considering the complexity and magnitude of this issue, a current and immediate threat to the public health, safety and welfare exists, necessitating an extension of the urgency ordinance. Government Code 65858 allows such an extension of the ordinance for ten (10) months and fifteen (15) days following notice, public hearing and upon a four-fifths vote. However, staff believes that a six-month time extension will be adequate to complete the Zoning Code amendment process. If it is determined later that additional time is required, Council will still have the ability to extend the moratorium.

ALTERNATIVES CONSIDERED:

City Council could allow the interim urgency ordinance to expire.

FISCAL REVIEW:

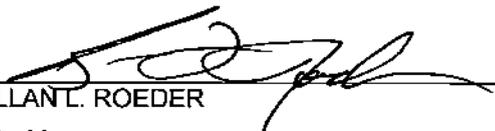
None required.

LEGAL REVIEW:

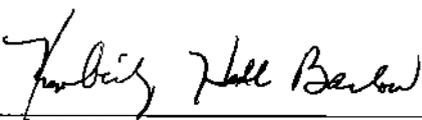
The City Attorney's office has prepared the attached ordinance for your consideration.

CONCLUSION:

The proposed urgency ordinance extension of six months is intended to allow more time for study, public discussion and development of procedures and standards relating to industrial condominium conversions. The City Attorney and the Development Services Director recommend that City Council adopt the ordinance.



ALLAN L. ROEDER
City Manager



KIMBERLY HALL BARLOW
City Attorney



DONALD D. LAM, AICP
Deputy City Manager- Development Services
Director

DISTRIBUTION: City Manager

ATTACHMENTS: 1 Ordinance

File Name

Date

Time

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA EXTENDING A MORATORIUM ON THE APPROVAL OF ANY SUBDIVISIONS, USE PERMITS, VARIANCES, OR ANY OTHER APPLICABLE ENTITLEMENT WHICH WOULD ALLOW FOR EXISTING INDUSTRIALLY ZONED PARCELS TO BE SUBDIVIDED INTO INDUSTRIAL CONDOMINIUMS IN THE CITY OF COSTA MESA.

WHEREAS, at its meeting on March 20, 2007, the City Council adopted an interim urgency ordinance (No. 07-6) placing a moratorium on the approval of any use permits, variances, or any other applicable entitlement which would allow for existing industrially zoned parcels to be subdivided into industrial condominiums in the City of Costa Mesa; and

WHEREAS, the City's current zoning code still contains no development standards or discretionary review process for industrial condominium subdivisions to ensure that non-conforming industrial property is brought to current code and that assessment is made of the possible impacts by the subdivision of industrial property on surrounding properties and to ensure that such subdivisions are occurring in appropriate locations; and

WHEREAS, City staff has indicated that more time is needed to conduct comprehensive studies and public hearings relating to the issue of industrial condominium subdivisions, in order to adequately determine whether such subdivisions should be subject to discretionary review processes, and/or whether development standards, which do not now exist, should be implemented for such subdivisions, whether such subdivisions should be precluded in certain overlay zone areas, or whether the underlying zoning should be changed in any portions of the overlay zone areas; and

WHEREAS, the interim urgency ordinance imposing a moratorium on industrial subdivisions will expire on May 5, 2007. However, considering the magnitude of possible impacts from industrial subdivisions being made without discretionary review, development standards and/or appropriate zoning restrictions, a current and immediate threat to the public health, safety and welfare continues to exist due to this lack of regulations on industrial subdivisions, necessitating an extension of the urgency ordinance. Government Code 65858 allows such an extension of the ordinance for ten (10) months and fifteen (15) days following notice, public hearing and upon a four-fifths vote; and

WHEREAS, the City Council finds that the interim moratorium temporarily prohibiting the issuance of subdivisions, use permits, variances, or any other applicable entitlement which would allow for industrial condominium subdivisions in the City, would

best serve the public health, safety, and welfare by being extended while the City conducts further necessary research into the adequacy of the existing industrial conversion entitlement process, the possibility of creating a discretionary review process, as well as crafting and adopting development standards for such conversions, and assessing the impact of such subdivisions on properties within overlay zones; and

WHEREAS, the City Council issued a written report describing the measures taken to alleviate the condition which led to the adoption of the interim ordinance at its regular meeting on April 17, 2007, which date is at least ten (10) days prior to the expiration of the interim ordinance or any extension as required by Cal. Govt. Code § 65858 (d).

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

Section 1.

1. In order to protect against a current and immediate threat to the public health, safety, and welfare and pursuant to the provisions of California Government Code Section 65858, a moratorium on the following is hereby extended for six (6) months from and after May 5, 2007, the expiration of the moratorium currently in effect:

The approval of any subdivision, use permit, variance, or any other applicable entitlement for the subdivision of existing industrially zoned parcels into industrial condominiums in the City of Costa Mesa.

2. This extension of the moratorium shall be effective immediately upon adoption, but may be extended only after notice, pursuant to California Government Code Section 65090; a public hearing; and for an additional period of no more than one (1) year from and after the expiration of this Ordinance, if findings are made that there remains a current and immediate threat to public health, safety, or welfare, pursuant to California Government Code Section 65858(c).
3. This urgency is based on the following facts:
 - (a) The City has recently received, processed and/or approved several industrial condominium subdivision applications.
 - (b) The City Council recently adopted comprehensive overlay zones for many of the industrial areas of the city after years of planning, study, and environmental review.
 - (c) The subdivision of single large industrially zoned lots into multiple small lots under separate ownership may have a detrimental

impact on the ability of present and future property owners to take advantage of the development incentives provided by the overlay zones.

- (d) There are currently no comprehensive discretionary review processes or development standards in place in the City of Costa Mesa zoning codes relating to the subdivision of industrial parcels to industrial airspace condominiums.
- (e) The City of Costa Mesa requires time to conduct a comprehensive study to ensure the adequacy of the current review and approval process for industrial condominium subdivisions, to determine whether new processes or standards should be implemented, or whether some of the property currently zoned for industrial use should be rezoned or whether industrial condominium subdivisions should be prohibited in some or all of the areas of the overlay zones.
- (f) The City of Costa Mesa also requires time to decide if the public health, safety, and general welfare would be better served by revising the overlay zones to address industrial condominium subdivisions or to otherwise revise regulations relating to development therein.

Section 2. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. The City Clerk shall certify to the passage and adoption of this ordinance, by at least a four-fifths vote of the City Council, and shall cause the ordinance to be published in the manner required by law. This ordinance shall become effective immediately from and after its passage.

PASSED AND ADOPTED this ____ day of _____, 2007

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07__ was introduced, considered section by section, and adopted at a regular meeting of said City Council held on the ____ day of _____, 2007 by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa