



CITY COUNCIL AGENDA REPORT

MEETING DATE: May 15, 2007

ITEM NUMBER: _____

SUBJECT: AN URGENCY ORDINANCE TO EXTEND INTERIM ORDINANCE NO. 07-8 PLACING A MORATORIUM ON THE APPROVAL OF RESIDENTIAL CONDOMINIUM CONVERSIONS

DATE: MAY 2, 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 any conversion of existing apartments into residential condominiums.

BACKGROUND:

City Council adopted an interim urgency ordinance (No. 07-8) at its meeting on April 3, 2007, placing a moratorium on the approval of any use permits, variances, or any other applicable entitlement which would allow conversions of existing apartments to residential condominiums (common interest developments) in the City of Costa Mesa. The Council issued a report on the steps staff has taken to address the urgency giving rise to the moratorium at its meeting of May 1, 2007. The interim urgency moratorium will expire on May 18, 2007.

ANALYSIS:

Currently, requests for conversions are scrutinized through the Residential Common Interest Development Conversion, a discretionary review process which allows staff and the Planning Commission to compare these conversion requests with current development standards for new condominium projects, and to require certain property upgrades and improvements.

In addition to the Municipal Code requirements, staff uses a standard list which it has compiled, of conditions of approval for condominium conversions that are intended to ensure quality improvements to properties. The Municipal Code also allows the Commission to deny a residential conversion if the critical vacancy rate for apartments falls below 3%.

The City's Development Services staff has begun the process of reviewing and revising conditions of approval as well as preparing proposed Municipal Code amendments for consideration by the City Council. The amended standards are intended to ensure quality building standards and appropriate upgrading of such properties to bring them into as much conformity as possible with current building and zoning standards at the time of conversion. However, the process to complete the implementation of such code

amendments, including public hearings before the Planning Commission and City Council, and orderly adoption of appropriate code revisions following public hearings will require more time.

On May 1, 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 residential condominium conversions.

There remains 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. As noted earlier, should Council wish to proceed with the moratorium extension, a four-fifths vote will be required.

FISCAL REVIEW:

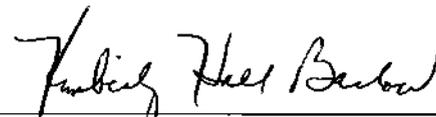
This draft ordinance does not require any fiscal review.

LEGAL REVIEW:

The attached draft interim urgency ordinance extension was prepared by the City Attorney's Office and approved as to form.

CONCLUSION:

Adoption of the attached draft interim urgency ordinance will establish a moratorium which will allow time to develop and enact additional development standards and review criteria to evaluate future requests for conversions throughout the City.



KIMBERLY HALL BARLOW
City Attorney



DONALD D. LAMM, AICP
Deputy City-Mgr. – Dev. Svs. Director

DISTRIBUTION: City Manager
Asst. City Manager
City Attorney
Deputy City Manager – Dev. Svs. Dir.
Public Services Director
City Clerk (2)

Staff (4)
File (2)

ATTACHMENTS: 1 Draft Interim Urgency Ordinance Extension

File Name:	Date:	Time:
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ORDINANCE NO. _____

AN URGENCY 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 MULTI-FAMILY APARTMENT UNITS TO BE SUBDIVIDED OR CONVERTED INTO RESIDENTIAL CONDOMINIUMS IN THE CITY OF COSTA MESA.

WHEREAS, at its meeting on April 3, 2007, the City Council adopted an interim urgency ordinance (No. 07-8) placing a moratorium on the approval of any use permits, variances, or any other applicable entitlement which would allow for existing multi-family apartment units to be subdivided or converted into residential condominiums in the City of Costa Mesa; and

WHEREAS, the City's Development Services staff has been reviewing and revising conditions of approval and preparing proposed code amendments for consideration by the City Council regarding standards for conversion of existing apartment complexes into condominiums in order to ensure quality building standards and appropriate upgrading of such properties to bring them into as much conformity as possible with current building and zoning standards at the time of conversion; and

WHEREAS, City staff has indicated that while it has begun the process of studying and preparing proposed amendments to the City's zoning codes regarding residential condominium conversions, the process to complete the implementation of such code amendments, including public hearings before the Planning Commission and City Council and orderly adoption of appropriate code revisions following public hearings will require more time; and

WHEREAS, the interim urgency ordinance imposing a temporary moratorium on residential condominium conversions will expire on May 18, 2007; and

WHEREAS, the City Council finds that there remains a current and immediate threat to the public health, safety, or welfare from the approval of entitlements or permits relating to residential condominium conversions of existing multi-family residential units in the City, necessitating an extension of the ordinance. Government Code 65858 allows such an extension for up to 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 residential condominium conversions for existing multi-family apartment units in the City would best serve the public health, safety, and welfare by being extended while the City conducts further comprehensive study into the adequacy of the

existing conditions of approval and methods for ensuring that conversions of existing multi-family apartment units into condominiums create high quality housing and bring the converted multi-family properties as close to conformity to existing zoning and building codes as is reasonably possible; 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 May 1, 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).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

Section 1.

1. In order to protect the public health, safety, and welfare and pursuant to the provisions of California Government Code Section 65858, a moratorium is hereby extended for six (6) months from and after May 18, 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 multi-family apartments into residential condominiums in the City of Costa Mesa excepting only those projects for which applications were pending at the time of adoption of the initial moratorium on April 3, 2007.

2. The extension of the moratorium shall be effective immediately upon adoption, but may be extended only after notice, pursuant to California Government Code Section 65090; and 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 condominium conversion applications for multi-family apartment complexes.
 - (b) City Staff has been in the process of developing and revising conditions of approval and possible code revisions to address appropriate upgrades and conformance issues for conversion of multi-family apartments into ownership condominium housing.

- (c) The conversion of existing multi-family residential units into residential condominiums without ensuring the upgrade and conformity of the properties to current zoning and building codes to the maximum extent feasible may have a detrimental impact on the ability of present and future property owners to preserve their substantial financial investments in their family home and may have a detrimental impact on the City's ability to preserve and expand the City's residential housing stock.
- (d) The current development standards in place in the City of Costa Mesa relating to conversion of existing multi-family residential units to condominiums are inadequate to ensure that these conversions meet the highest standards feasible to preserve and protect ownership housing in the City.
- (e) The City of Costa Mesa requires time to complete its comprehensive study of the adequacy of the current standards, conditions of approval and assessment process for residential condominium conversions.
- (f) The public health, safety, and general welfare require implementation of a moratorium to ensure that the City's zoning codes are strengthened to ensure that homes created from such conversions are habitable, and do not contain latent defects and deterioration which will undermine the investment of families in these units and impair the long term vitality of the City's ownership housing stock.

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 15th day of May, 2007.

Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

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

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that foregoing is the original of Ordinance No. 07-____ and was duly introduced for first reading duly passed and adopted at a regular meeting of the City Council held on the 15th day of May, 2007, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 16th day of May, 2007.

JULIE FOLCIK, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 07-____ duly passed and adopted by the Costa Mesa City Council at the regular meeting held on May 15, 2007, and that the Ordinance was published in the Newport Beach-Costa Mesa Daily Pilot on _____, 2007.

JULIE FOLCIK, CITY CLERK

(SEAL)