



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Community Development

MEETING DATE: November 18, 2014

PREPARED BY: Steve Sizemore, Director

AGENDA LOCATION: AR-1

TITLE: An Interim Moratorium Ordinance of the City of Monrovia Enacted Pursuant to California Government Code Section 65858 Prohibiting the Demolition of Any Main Building on a Property in the City Constructed Prior to January 1, 1940, During the Pendency of the City's Review and Adoption of Relevant Permanent Building, Zoning and Preservation Regulations, Subject to Certain Specifications and Exceptions; Adoption of Urgency Ordinance No. 2014-13U, and Introduction and First Reading of Ordinance No. 2014-13

OBJECTIVE: To establish an interim moratorium for 45 days prohibiting the demolition or structural alteration of any main building on a property in the city constructed prior to January 1, 1940, while the City undertakes a comprehensive advanced planning process for the preservation of neighborhood character.

BACKGROUND: In 2004, the City of Monrovia adopted a neighborhood compatibility ordinance requiring an advisory review of demolition permits for residential structures that were built prior to 1940. The review is delegated to the Historic Preservation Commission. The purpose for instituting the new process was to allow the Commission and Staff to assist and guide the applicant on an advisory basis with the intention of finding solutions to retain the structure, exploring incentives, and directing the owner toward landmark designation and/or appropriate changes that safeguard the structure. Alternatives to demolition might include restoration, relocation, or architectural salvage.

It is also important to note that the process was specifically designed so as not to require the Commission to make decisions regarding future land uses. Over the past ten years, the Commission has done an admirable job focusing on their core task, which is the evaluation of the historical significance of pre-1940 residential structures that are being proposed for demolition.

Recently, at the October 2014 meeting of the Historic Preservation Commission, over 200 residents and property owners attended the meeting to express their concern regarding the proposed demolition of six historic homes. Those attending the meeting also raised significant concern regarding the replacement of the older residential structures with new homes that were incompatible in size and design with the rest of the neighborhood.

Then, at the following City Council meeting on November 4, 2014, residents attended the meeting and expressed to the City Council many of the same concerns. At that time, the City Council directed staff to prepare an interim moratorium prohibiting the demolition of older homes and a building moratorium to address incompatible homes being built in established neighborhoods.

ANALYSIS: Under California Government Code section 65858, a city may adopt an interim ordinance to temporarily prohibit certain land uses and/or entitlements that may be in conflict with a contemplated general plan, specific plan, or zoning proposals that the city council is considering or intends to study

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within a reasonable time. The purpose of such an interim ordinance is to give the City time to study the potential impact of particular activities and determine whether and how these activities should be further regulated.

Based on the initial analysis conducted by staff, it is recommended that the City Council adopt an initial urgency moratorium to restrict the demolition of any pre-1940s home. During the ensuing 45 days while the interim moratorium is in place, staff will meet with community stakeholders, review data, and consider development patterns in an effort to determine the appropriateness of the scope of the moratorium. It should be noted that in general, properties eligible for listing in the National Register are at least 50 years old.

For purposes of the current proposed ordinance only, and with reference to buildings in the City that were constructed prior to January 1, 1940, the term "demolition" shall mean and include:

1. The removal of more than twenty-five (25) percent of the wall area of the main building on a property that faces a public street(s) and/or fifty (50) percent of all exterior wall area of the main building; or
2. Structural alteration of more than twenty-five (25) percent of the wall area of the main building on a property facing a public street and/or fifty (50) percent of all exterior wall areas.

The proposed ordinance contains exceptions for normal repair and/or maintenance of structures constructed prior to January 1, 1940, including, without limitation, replacement of windows and doors, provided that, in the opinion of the Director of Community Development, such repair or maintenance does not significantly alter the appearance, size or character of the building.

Again, during the 45-day period, while the temporary moratorium is in effect, staff will conduct an extensive review of regulations and standards as well as preparing a report for City Council consideration on the next steps needed to implement potential General Plan and Municipal Code Amendments

ENVIRONMENTAL IMPACT: The adoption of the moratorium will not have a significant effect on the environment, because the moratorium will impose greater limitations on development in the City, and protect the aesthetic character of Monrovia, thereby serving to reduce potential significant adverse environmental impacts. The adoption of this ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

FISCAL IMPACT: During the initial timeframe (45 days); the moratorium is in effect, there may be some minor fiscal impact to the City from entitlement applications that are not processed.

OPTIONS: The City Council has the following options to consider:

1. Adopt the urgency ordinance (4/5 vote necessary), introduce the non-urgency ordinance, and schedule a Public Hearing for December 16, 2014. This would stop potential demolitions immediately for a period of 45 days. During this time frame the Council would hold a public hearing to determine if the moratorium should be extended.
2. Introduce the non-urgency ordinance and schedule a Public Hearing for December 16, 2014. This would alleviate concerns about urgency ordinances in general, but would create a window period during which demolitions might occur
3. Take no action on the moratorium. This would mean the existing residential development standards would remain as is.

RECOMMENDATION: Staff recommends that the City Council adopt the moratorium by urgency ordinance (4/5 vote necessary), introduce the non-urgency ordinance, and schedule a Public Hearing for December 16, 2014, to determine if the moratorium should be extended.

COUNCIL ACTION REQUIRED: If the City Council concurs, the appropriate action would be a motion to adopt Ordinance No. 2014-13U, and introduce, waive further reading, and read by title only Ordinance No. 2014-13.

ORDINANCE NO. 2014-13U

AN URGENCY INTERIM MORATORIUM ORDINANCE OF THE CITY OF MONROVIA ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE DEMOLITION OF ANY MAIN BUILDING ON A PROPERTY IN THE CITY CONSTRUCTED PRIOR TO JANUARY 1, 1940, DURING THE PENDENCY OF THE CITY'S REVIEW AND POTENTIAL ADOPTION OF RELEVANT PERMANENT BUILDING, ZONING AND PRESERVATION REGULATIONS, SUBJECT TO CERTAIN SPECIFICATIONS AND EXCEPTIONS, AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA does ordain as follows:

SECTION 1. Moratorium established. Notwithstanding any other provision of the Monrovia Municipal Code or applicable uniform code, the City of Monrovia hereby establishes an interim moratorium on the demolition of any building in a residential zone in the City that was constructed prior to January 1, 1940. During the term of this moratorium, and except as provided herein, no person shall demolish or intentionally damage a building in a residential zone in the City that was constructed prior to January 1, 1940, and no person shall issue or approve any permit or entitlement for the demolition of such a building.

SECTION 2. Definitions.

- A. For purposes of this Ordinance only, and with reference to a building in the City that was constructed prior to January 1, 1940, the term "demolition" shall mean and include:
1. The removal of more than twenty-five (25) percent of the wall area and/or roof structure of the main building on a property that faces a public street(s) and/or fifty (50) percent of all exterior wall area and/or roof structure of the main building; or
 2. Structural alteration of more than twenty-five (25) percent of the wall area and/or roof structure of the main building on a property facing a public street and/or fifty (50) percent of all exterior wall areas and/or roof structure of the main building.
 3. No person shall obtain a demolition and/or building permit for a percentage of removal or alteration that does not fall under the definition of "demolition" in

this Ordinance and subsequently remove or alter more wall area than indicated on the permit application.

4. To be considered as not demolished, all remaining exterior wall area must remain structurally contiguous (without a break). No new exterior wall covering shall be permitted over the existing exterior wall covering.
5. When a section of an exterior wall would have both the interior and exterior wall covering removed, that section of wall shall be considered to be demolished, even if the structural components (i.e. studs or sheathing) of the wall would remain.

B. For the purposes of this Ordinance, the terms "accessory building," "building," and "main building" shall have the definitions set forth in Section 17.04.080 of the Monrovia Municipal Code.

C. For the purposes of this Ordinance only, a building shall be deemed to have been "constructed" as of the **earlier** of the date any building permit for the building was issued by the City or predecessor government agency or the date construction actually commenced according to available City or private records. In the absence of any records or evidence to show that a building was constructed after January 1, 1940 it shall be presumed that the building was constructed before that date. The Director shall make the determination regarding the construction date based on all credible and verifiable evidence and governmental records available to him. The property owner may appeal the decision of the Director to the Planning Commission subject to the provisions of the Monrovia Municipal Code.

SECTION 3. Moratorium term. This Ordinance shall expire, and the moratorium established hereby shall terminate, forty-five (45) days after the date of adoption unless extended by the City Council at a regularly noticed public hearing pursuant to California Government Code Section 65858. The City Council hereby calls and schedules a public hearing on the matter for December 16, 2014 at 7:30 p.m. or as soon thereafter as the matter may be heard, in the City Council Chambers. The City Clerk is directed to give notice of the hearings as required by law.

SECTION 4. Exceptions. The Moratorium established by this Ordinance shall not apply to any of the following:

- (a) Normal repair or maintenance of buildings constructed prior to January 1, 1965 1940, including, without limitation, replacement of windows and doors, provided that, in the opinion of the Director of Community Development, such repair or maintenance does not significantly alter the appearance, size or character of the building;
- (b) Work on buildings constructed **after** January 1, 1940 that is otherwise carried-out in compliance with the Monrovia Municipal Code and other applicable laws;

(c) Repair, demolition or maintenance work which the City Manager or his designee determines is necessary to abate a threat to the public health or safety;

(d) Work on Accessory Structures, as defined in Section 17.04.080 of the Monrovia Municipal Code, regardless of the date of construction.

(e) Any project for which all necessary discretionary approvals have been previously granted and for which a completed application for a Building Permit, which includes all necessary plans and drawings, was submitted to the Planning Division before the close of business on the day before this Ordinance takes effect.

(f) Any project for which a complete application for consideration by the Development Review Committee ("DRC") has been filed before the close of business on the day before this Ordinance takes effect.

SECTION 5. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance, and establishment of a moratorium hereby, may have a significant effect on the environment, because the moratorium will impose greater limitations on development in the City, and protect the aesthetic character of Monrovia, thereby serving to reduce potential significant adverse environmental impacts. The adoption of this ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

SECTION 6. Penalty. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 7. Legislative Findings. The City Council has directed City staff to initiate a study and planning process to find ways to preserve the historic and aesthetic character of the City's historic main buildings. The City Council hereby finds that the neighborhood character and ambience created by the look and style of main buildings constructed prior to 1940 is a tremendous community resource. Neighborhood character can be diminished each time an older main building is demolished in favor of modern style structures. During the course of the study and planning process, the City Council finds that developers and others are likely to submit applications for the demolition and/or fundamental alteration of such historic main buildings to avoid the uncertainty of new regulations that may be adopted in the future. Once such community resources are demolished, the contribution that main building could make to the character of its neighborhood can be lost forever.

The Planning Commission, the Historic Preservation Commission, the City Council, and the people of Monrovia require a reasonable, limited, yet sufficient period of time to consider and study legally appropriate and reasonable policies regulating historic main building character and aesthetics. It is not the intent of the City Council to prohibit indefinitely the demolition or alteration of all pre-1940 structures, but rather to craft and possibly adopt design standards and other guidelines that will apply when property owners decide to demolish or alter pre-1940 main buildings, thereby helping to maintain the character of neighborhoods and to find ways for property owners to choose preservation over demolition. Given the time required to undertake the study and planning this situation calls for, the City Council finds that it is necessary that this temporary moratorium be declared in the interim, to ensure that the demolition and fundamental alteration of such main buildings that may be in conflict with the contemplated new development policies are not permitted in the interim. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Section 65858 in order to protect the public health, safety, or welfare.

SECTION 8. Urgency. The historic resources of the City of Monrovia help to create the identity and atmosphere of the community. The rapidly dwindling number of historic buildings in the City and the region, and the risk that more historic buildings will be lost, represent a true danger to the health, welfare and safety of the community. The City Council therefore finds by at least a 4/5 vote that it is necessary that this Ordinance take effect immediately and its urgency is hereby declared. As such, this Ordinance shall take effect immediately upon its adoption.

SECTION 9. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, 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 remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED and ADOPTED this 18th day of November 2014.

Mary Ann Lutz, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, CMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia

ORDINANCE NO. 2014-13

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 3. No person shall obtain a demolition and/or building permit for a percentage of removal or alteration that does not fall under the definition of "demolition" in this Ordinance and subsequently remove or alter more wall area than indicated on the permit application.

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 5. When a section of an exterior wall would have both the interior and exterior wall covering removed, that section of wall shall be considered to be demolished, even if the structural components (i.e. studs or sheathing) of the wall would remain.
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- C. For the purposes of this Ordinance only, a building shall be deemed to have been "constructed" as of the **earlier** of the date any building permit for the building was issued by the City or predecessor government agency or the date construction actually commenced according to available City or private records. In the absence of any records or evidence to show that a building was constructed after January 1, 1940 it shall be presumed that the building was constructed before that date. The Director shall make the determination regarding the construction date based on all credible and verifiable evidence and governmental records available to him. The property owner may appeal the decision of the Director to the Planning Commission subject to the provisions of the Monrovia Municipal Code.

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- (e) Any project for which all necessary discretionary approvals have been previously granted and for which a completed application for a Building Permit, which includes all necessary plans and drawings, was submitted to the Planning Division before the close of business on the day before this Ordinance takes effect.
- (f) Any project for which a complete application for consideration by the Development Review Committee ("DRC") has been filed before the close of business on the day before this Ordinance takes effect.

SECTION 5. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance, and establishment of a moratorium hereby, may have a significant effect on the environment, because the moratorium will impose greater limitations on development in the City, and protect the aesthetic character of Monrovia, thereby serving to reduce potential significant adverse environmental impacts. The adoption of this ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

SECTION 6. Penalty. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 7. Legislative Findings. The City Council has directed City staff to initiate a study and planning process to find ways to preserve the historic and aesthetic character of the City's historic main buildings. The City Council hereby finds that the neighborhood character and ambience created by the look and style of main buildings constructed prior to January 1, 1940 is a tremendous community resource. Neighborhood character can be diminished each time an older main building is demolished in favor of modern style structures. During the course of the study and planning process, the City Council finds that developers and others are likely to submit applications for the demolition and/or fundamental alteration of such historic main buildings to avoid the uncertainty of new regulations that may be adopted in the future. Once such community resources are demolished, the contribution that main building could make to the character of its neighborhood can be lost forever.

The Planning Commission, the Historic Preservation Commission, the City Council, and the people of Monrovia require a reasonable, limited, yet sufficient period of time to consider and study legally appropriate and reasonable policies regulating historic main building character and aesthetics. It is not the intent of the City Council to prohibit indefinitely the demolition or alteration of all pre-1940 structures, but rather to craft and possibly adopt design standards and other guidelines that will apply when property owners decide to demolish or alter pre-1940 main buildings, thereby helping to maintain the character of neighborhoods and to find ways for property owners to choose preservation over demolition. Given the time required to undertake the study and planning this situation calls for, the City Council finds that it is necessary that this temporary moratorium be declared in the interim, to ensure that the demolition and fundamental alteration of such main buildings that may be in conflict with the contemplated new development policies are not permitted in the interim. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Section 65858 in order to protect the public health, safety, or welfare.

INTRODUCED this 18th day of November, 2014.

PASSED, APPROVED and ADOPTED this 2nd day of December, 2014.

Mary Ann Lutz, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, CMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia