

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 08/20/07		Item Number: <u>A-1</u>	
AGENDA ITEM: Discussion of and Comment on Mixed Use Development Projects in the Development Process.			
Contact Person/Dept.: Thomas Gorham and Todd Tipton		Phone Number: (310) 253-5727 and (310) 253-5783.	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: All Commercial Property Owners in Culver City (08/10/07); Signs on Planning Counter (08/01/07); All homeowners associations (08/10/07); Architects, designers and planning related consultants on file with the City (08/10/07); Development professionals working with the Redevelopment Agency (08/10/07); Speakers at the July 23, 2007 Council meeting regarding 9900 Culver Boulevard (08/10/07); Master Notification List (08/16/07).			
Department Approval: Sol Blumenfeld (08/13/07)		City Attorney Approval: Carol Schwab (08/13/07)	
City Controller Approval: Marlee Chang (08/15/07)		City Manager Approval: Jerry B. Fulwood (08/15/07)	
<u>RECOMMENDATION:</u> Staff recommends the City Council (the "Council") discuss and provide direction on mixed use development projects currently in the development process. <u>BACKGROUND:</u> On July 2, 2007 the Council conducted a hearing on proposed revisions to Mixed Use Ordinance in order to consider reducing density in mixed use development projects. The Council's concerns on the matter were based upon recent mixed-use development permit applications that have been disapproved by the Planning Commission (based primarily on traffic, parking and neighborhood compatibility issues related to density) and concerns about several currently proposed Redevelopment Agency mixed use development projects. The project denials have created uncertainty for developers, staff and the community about what types of mixed-use projects are permissible and how to evaluate new mixed-use development applications which otherwise appear to comply with the provisions of the Zoning Code. Current projects in the development pipeline are in limbo and further long-range planning by staff has been put on hold until this matter is resolved. Though several mixed-use projects have been submitted, proposed, or are in the pipeline for project review since adoption of the mixed use Ordinance, none have been built.			
A1-1			

City of Culver City, California
City Council Agenda Item Report

Also at the July 2nd meeting, the Council requested that staff bring back information for discussion information about a moratorium ordinance (see below).

On July 26, 2007, staff provided a complete list of mixed use development projects that were in the “pipeline” (i.e. those which had received entitlements, but had not proceeded with construction or obtained building permits and those that proceeded in good faith in obtaining land and preparing pre-development studies based upon work with the Agency and or Planning staff). The various projects were detailed, indicating their size and stage in the development process.

On August 6, 2007, after lengthy consideration of the staff report, public testimony and materials presented at the City Council Mixed Use Development Study Session, the Council directed staff to focus upon Option 2, tailoring the recommendations to reflect the residential areas immediately abutting each commercial zone and to more fully develop the “community benefits” concept. Most of the discussion involved revisions to the Mixed-Use Ordinance. The collateral issue of “projects in the pipeline” was not directly addressed, though it is an urgent concern.

Also at the Study Session, staff noted that one mixed-use development project on the list had matured to the point where a building permit could be issued. The Council directed staff to not issue any building permits for mixed-use projects until the mixed-use ordinance was revised or until the matter of a moratorium was presented to the Council for consideration. Thus, staff is requesting that this item be considered at this time.

DISCUSSION:

Staff is quickly following-up on the Council direction regarding the mixed-use ordinance and will return on October 8, 2007 with a draft ordinance addressing the City Council’s concerns. In light of the progress made at the study session, the City Council should now consider the disposition of the unresolved matter of current development projects in the pipeline (whether they should be held to new standards or be allowed to proceed under the standards that were in effect when they began the development process) or if a moratorium should be considered.

Staff does not recommend a moratorium because it is unlikely that any additional projects (beyond those listed below) will be deemed complete before staff is able to bring the draft mixed-use ordinance back to the Council for consideration (on October 8). If an application were to be deemed complete during that time, staff would inform the Council immediately. It is also important to note that four of the effected projects are small and range from 2 to 8 dwelling units.

City of Culver City, California
City Council Agenda Item Report

Projects in the Development Pipeline

A. Projects Subject to a Specific Plan

Project/Location	Description/Status	Units/Density/Height
Washington/National Triangle (Urban Partners)	Transit oriented development. Exclusive Negotiating Agreement (ENA) w/Agency, preliminary plans prepared per draft specific plan.	230 units 65 units/ac 56' – 130' height 30,600 s.f. retail
Brentwood Fairfield (Former car dealerships)	Preliminary plans prepared per draft specific plan and submitted for Preliminary Project Review (PPR)	133 units 65 units/ac 56' height 17,000 s.f. retail
Edward Zucker Site (Spartan Supply Site)	Preliminary plans prepared per draft specific plan and submitted for PPR	115 units 65 units/ac 56' height 43,000 s.f. retail
Sepulveda/Jefferson	ENA, project plans and development studies prepared. A specific plan has been recommended by the Citizens Advisory Committee for the area.	TBD

B. Projects Subject to a Purchase and Sale Agreement

9900 Culver Blvd	Processed entitlement application and currently on appeal at City Council.	21 units 55 du/ac 44'-56' height 4,750 s.f. retail
4043 Irving Place	Property acquired from Agency, plans prepared, and PPR submitted. Incomplete entitlement application submitted.	28 units 52 units/ac 43' height 3,000 s.f. office

C. Agency Sponsored Projects

City of Culver City, California
City Council Agenda Item Report

Washington/Centinela	Request for Offers issued May, 11 offers received, all without plans.	TBD
Baldwin Motel Site	Existing entitlements owned by the Agency for a 24 unit live work/residential project. RFP issued and conceptual plans prepared but no final project selection.	TBD

D. Projects Considered by the Planning Commission

13365 Washington Bl.	Reviewed by Planning Commission on April 11, 2007 and continued in order to address traffic issues. Applicant has prepared revised traffic study and is scheduled to go back to Commission in September.	19 units 65 du/ac 50' height 4,000 s.f. retail
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E. Projects Subject to Administrative Review

11503 Washington Bl. (at Berryman)	Project has been noticed and Administrative Approval is pending.	2 units 11 du/ac 22' height 3,296 s.f. office
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F. Projects Submitted for Preliminary Project Review (PPR)

5813 Washington Bl. (@Dauphine/Ernest)	Applicant worked with staff for more than 1 year and submitted mixed use project plans to PPR in June 2007.	33 units 65 du/ac 43' height 13,000 s.f. retail
Encore Motel (across Washington Bl. from Costco)	Two years ago the Agency entered into an ENA that expired and the owners eventually sold the site. Current owner	32 units 65 du/ac 55' height 15,760 s.f. retail

**City of Culver City, California
City Council Agenda Item Report**

	proposed a mixed use project, and worked with staff on conceptual plans for over a year, largely based upon the prior information and RFP issued by the City two years ago. Submitted for PPR.	
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G. Projects Approved but Not Built

11281 Washington Pl. (@ Sawtelle)	Received entitlements in January of 2005 prior to the mixed use ordinance and new zoning code being adopted. Received an extension prior to permit expiration date. Project is through plan check but no building permit issued.	8 units 28 du/ac 43' height 5,130 s.f. retail
13340 Washington Bl. (Burger King site)	Live/Work project part of larger project in City of L.A. Not subject to mixed use ordinance. Going through corrections to obtain their building permit.	6 units 30' height
12601 Washington Bl. (@ Boise)	Administrative Approval 2005 & plans approved by Building Safety. Ready for construction pending financing.	4 units 34 du/ac 43' height 1,300 s.f. retail 4,818 s.f. office

Vested Rights

Section 17.100.020 E of the zoning ordinance contains provisions for allowing permit applications to be processed in compliance with the requirements that were in place when the application was deemed complete. The code section states:

17.100.020 E -“Effect of Zoning Code Amendments on Projects in Progress. All land use permit applications that have been determined by the Division to be complete before the effective date of this Title, or any amendment to this Title, will be processed in compliance with the requirements in effect when the application was accepted as complete.”

City of Culver City, California
City Council Agenda Item Report

The City Attorney has reviewed the matter and has determined that the City Council has legal authority to allow projects in the pipeline to proceed pursuant to the existing mixed-use ordinance even if revisions to the ordinance are subsequently adopted, if there is a rational approach for doing so.¹

Staff believes the following would qualify:

The City Council determines that projects in the pipeline should proceed based on the fact that the developer relied on the existing regulations and staff's contact and communications during the planning stages, incurred good faith design expenses and executed agreements to purchase land based on those communications.

If Council decides to allow projects in the pipeline to proceed pursuant to the existing Mixed-Use Ordinance, then all 15 exempt projects will be permitted to continue through the development process.

FISCAL ANALYSIS:

Due to the number of variables and unknowns associated with the development projects listed above, it is difficult to calculate a meaningful fiscal impact at this time. However, a number of general statements can be made in relation to each project.

¹ The City's current Zoning Code (CCMC Section 17.100.020.E) adopts one rational based approach. That subsection provides if a project application has been deemed complete before new regulations are adopted, then that application would be complete. Two of the applications for the projects listed in the table have been deemed complete.

The City Council could determine that a rational basis could be based on all the pertinent facts, such as, but not limited to, Agency subcommittee/staff and Planning staff contact and communications in the planning stages to date, good faith expenses incurred by the potential developers on design based on those communications, and agreements to purchase land between the Agency and potential developers. Also, although not legally obligated to do so, the City has in the past permitted projects, which have been in the "pipeline" for an extended period or before any changes to the City's regulations were contemplated, to proceed under previous Zoning Code provisions. One or more of the above-described considerations would meet the rational basis standard for permitting some or all of the projects in the "pipeline" to proceed under current zoning laws.

Whatever criteria is proposed for permitting projects in the "pipeline" to continue through the process, once that criteria is adopted, all of the projects that meet that criteria must be permitted to continue through the process.

Depending on which approach the City Council decides to use, subsection 17.100.020.E should be amended to reflect that decision so the Zoning Code language will be consistent with that approach. Those revisions can be made to apply only to modifications to the mixed-use regulations the City Council may adopt.

City of Culver City, California
City Council Agenda Item Report

A zoning change that decreases height and density from what is currently allowed may:

- Decrease Utility Users Tax and Tax Increment revenues generated by a project;
- Decrease land value;
- Decrease the total maximum number of housing units, resulting in slower growth of Culver City's housing supply; and
- Reduce the impact of a project on the City's services.

Conversely, a zoning change that increases height and density from what is currently allowed would have the opposite impacts as those described above.

Additionally, there are a number of potential indirect benefits to mixed use that would also decrease as height and density allowances are reduced (and vice-versa), including:

- Reduced short-haul trips and subsequent reduced traffic and environmental impacts as residents live closer to retail/commercial areas where they may more easily access work, shopping and entertainment without need for a car; and
- Increased desirability for commercial corridor reinvestment that promotes the City's economic development and redevelopment goals.

There are several options for Motions that the City Council may want to consider relative to projects in the pipeline. These range from the least restrictive to most restrictive in terms of the number of effected projects as noted below.

MOTION:

That the City Council:

1. a. Allow all mixed-use development projects in the development process to proceed (Items A-G in the table above);

and

b. direct staff not to proceed further with a moratorium ordinance; or,

2. a. Allow only mixed-use development projects that are subject to a Specific Plan to proceed (Item A in the table above);

and

City of Culver City, California
City Council Agenda Item Report

b. direct staff to draft a limited moratorium ordinance exempting therefrom Item A projects; or,

3. a. Allow only mixed-use development projects that are subject to a Purchase and Sale Agreement or are Agency sponsored to proceed (Items B and C in the table above);

and

b. direct staff to draft a limited moratorium ordinance exempting therefrom Items B and C projects; or,

4. a. Allow only mixed-use development projects considered by the Planning Commission or subject to administrative review and those submitted for Preliminary Project Review and approved under these processes, but not built, to proceed (Items D, E, F and G in the table above);

and

b. direct staff to draft a limited moratorium ordinance exempting therefrom Items D,E,F and G projects; or,

5. a. Direct staff to draft a moratorium ordinance for mixed-use development;

and

b. do not allow any mixed-use development projects in the development process to proceed.

ATTACHMENTS:

1. Building Permit Report 7/9 – 8/10/07
2. Correspondence from interested parties