



City of Culver City

Staff Report Details (With Text)

File #: 16-822 **Version:** 1 **Name:**
Type: Public Hearing **Status:** Public Hearing
File created: 3/28/2017 **In control:** City Council Meeting Agenda
On agenda: 4/18/2017 **Final action:**
Title: CC - (1) Adoption of a Resolution Approving and Issuing a Report on Measures Taken in Relation to Ordinance No. 2017-005 Establishing a Temporary Moratorium on Hillside Development in the Lower and Upper Culver Crest Neighborhoods (Moratorium); (2) Consideration of a Reduction in the Area or Properties that are Subject to the Moratorium and Modified Scope of the Moratorium as Deemed Appropriate; and (3) Consideration of the Adoption of an Ordinance Extending for an Additional 10 Months and 15 Days the Moratorium, and Declaring the Urgency Thereof and that it Shall Take Effect Immediately (or Alternately, Consideration of the Adoption of such Ordinance with a Modified Scope) (Four-Fifths Vote Required for Item #3).

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2017-04-18_ATT 1_Resolution Issuing Report on Moratorium.pdf, 2. 2017-04-18_ATT 2_10719 Ranch_Letter re Pool Permit.pdf, 3. 2017-04-18_ATT 3_Urgency Ordinance_Extending Hillside Development Moratorium.pdf, 4. 2017-04-18_ATT 4_Alternate Urgency Ordinance_Extending Hillside Development Moratorium_Modified Scope.pdf

Date	Ver.	Action By	Action	Result
4/18/2017	1	City Council Meeting Agenda		
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Meeting Date: April 18, 2017

Contact Person/Dept: Sol Blumenfeld, Community Development

Phone Number: 310-253-5700

Fiscal Impact: Yes No

General Fund: Yes No

Public Hearing: **Action Item:** **Attachments:**

Commission Action Required: Yes No

Public Notification: (E-Mail) Meetings and Agendas - City Council; and Notify Me - Culver City News and Events (03/30/17 and 04/13/17); (Publication) Culver City News (04/06/17)

Department Approval: Sol Blumenfeld, Community Development Director (04/10/17)

RECOMMENDATION

Staff recommends the City Council (1) adopt a Resolution approving and issuing a report on measures taken in relation to Ordinance No. 2017-005 establishing a temporary moratorium on hillside development in the Lower and Upper Culver Crest Neighborhoods (Moratorium); (2) consider a reduction in the area or properties that are subject to the moratorium and modified scope of the Moratorium as deemed appropriate; and (3) consider the adoption of an Ordinance extending for an additional 10 months and 15 days the Moratorium, and declaring the urgency thereof and that it shall take effect immediately (or alternately, consider the adoption of such Ordinance with a modified scope). **(Item #3 requires a four-fifths vote.)**

PROCEDURE:

1. The Mayor seeks motion to receive and file the affidavit of mailing and posting of public notice.
2. The Mayor calls on staff for a brief staff report and City Council poses questions to staff as desired.
3. The Mayor seeks a motion to declare the public hearing open and the City Council receives public comment.
4. The Mayor seeks a motion to close the public hearing after all testimony has been presented.
5. The City Council discusses the matter and arrives at its decision.

BACKGROUND

On December 20, 2016, City staff from the Community Development and Public Works Departments met with approximately 15 residents in the Culver Crest hillside neighborhood in order to discuss their concerns regarding the single family home under construction and a proposed Accessory Dwelling Unit (ADU) at 10753 Cranks Road. Among their concerns were the height of the home, the safety of building on the slope, the condition of the slope relative to prior slope stabilization on the site and in the area, the proposed ADU design, the location of the ADU on the slope, concerns regarding the safety of constructing a pool on the property, and the need for additional development and building standards for hillside development and construction.

At the January 13, 2017 City Council meeting, several members of the Culver Crest neighborhood presented these same concerns during the public comment period. At that time, the City Council directed staff to place the issue of hillside development and construction on a future agenda for further discussion.

During the February 27, 2017 agenda discussion of hillside development, the City Council received testimony from residents who expressed concerns regarding the extent of construction in Culver Crest hillside neighborhoods in light of the history of portions of the hillside sliding in this area on several occasions, including most recently in February 2017. Those concerns were heightened due to the recent heavy rains and slide, and predictions for higher than normal rainfall during the coming months. After hearing significant public comment from the Culver Crest neighborhood residents, and discussing the concerns expressed by residents regarding the safety of the hillside, the City Council directed staff to (1) study methods to better regulate development and construction on the Lower and Upper Culver Crest hillside to ensure the public health, safety and welfare; and (2) agendize, for Council's consideration, a proposed temporary 45-day moratorium on new development and construction in the Lower and Upper Culver Crest areas in order to give the City sufficient time to complete such study.

On March 20, 2017, the City Council adopted Ordinance No. 2017-005, entitled "An Urgency Ordinance of the City of Culver City, California, Establishing a 45-Day Moratorium on the Issuance of Any New Building Permits for Development and Construction in the Lower and Upper Culver Crest Hillside Neighborhoods and Declaring the Urgency Thereof and that it Shall Take Effect Immediately" (hereinafter the "Moratorium"), in order to allow the City time to thoroughly research options for regulating the development and construction on the hillside and prepare and present recommended regulations to the Planning Commission for recommendation to the City Council.

Also included in City Council's discussion and adoption of the temporary 45-day moratorium was direction to City staff to evaluate a reduction in the area or properties that are subject to the Moratorium and return with options to discuss at the time an extension of the Moratorium would be considered.

DISCUSSION

Report on City Actions Taken in Relation to Moratorium

Consistent with the provisions of Government Code Section 65858 (d), at least 10 days prior to the expiration or any extension of the Moratorium, the City Council must issue a written report describing the measures taken to alleviate the condition which led to the adoption of the Moratorium. Further, issuing a report on the actions and measures taken by the City since the adoption of the Moratorium will help keep the affected property owners and residents, and the community, well-informed on this matter.

As set forth in the Report, attached to the proposed Resolution (Attachment 1), such measures include, but are not limited to, the City's efforts to:

- Review and analyze other cities' hillside development and construction standards. There are different types of regulations that may be warranted, depending on site, geological and topographical conditions, and staff is in the process of vetting various provisions to determine what is appropriate for Culver City.
- Evaluate potential geotechnical and planning consultants to assist with studying and evaluating various hillside development and construction standards in order to make recommendations that are appropriate for the hillside neighborhoods.
- Study possible revisions to the Culver City Municipal Code (CCMC), Title 17, Zoning and Title

15, Building Code, which would appropriately balance the rights of property owners to develop their property, with the preservation of the health, safety and welfare of the surrounding residents and their properties.

The City is pursuing its study, review and preparation of recommended code amendments as expeditiously as is practicable.

Options for Reducing the Area/Properties Subject to the Moratorium

At the March 20, 2017 City Council meeting, in addition to adopting the Moratorium, the City Council directed staff to evaluate a reduction in the area or properties that are subject to the Moratorium and return with options to discuss at the time an extension of the Moratorium would be considered. Some of the options that were discussed by the City Council at that time were to remove all or portions of the Lower Crest area; or define the properties subject to the moratorium by a different method (i.e. by the degree of slope, whether the property would require a retaining wall pursuant to the City's codes). Based upon the Council direction, Staff identified properties that directly abut steep hillside conditions and/or are steeply sloped and require retaining walls for building additions or structures (as "building" and "structure" are defined in the 2016 Edition of the California Building Code), which properties are shown on the alternate moratorium area map included with Attachment 4.

In the event the City Council desires to reduce the area or properties that are subject to the Moratorium, an alternate proposed Ordinance has been provided for the City Council's consideration, as discussed further below. It should be noted, an accessory dwelling unit could potentially be built on any of the properties that are removed from the Moratorium area.

Staff recommends the City Council discuss the various options and consider modifying the scope of the moratorium as deemed appropriate.

Urgency Ordinance Extending the Moratorium

By its own terms, the Moratorium expires and will be of no further force and effect after May 4, 2017, unless extended by four-fifths vote of the City Council.

Per the City's Council's direction, provisions of the City's current Zoning and Building Codes are being reviewed and studied in order to adequately and appropriately balance the rights of property owners to develop their property with the preservation of the health, safety and welfare of the surrounding residents and their properties. City staff will prepare recommended code amendments for consideration by the Planning Commission and City Council.

Without an extension of the Moratorium, the City may be required to accept and process applications for new or expanded development and construction on hillside properties under the existing Zoning and Building Codes. There was one application (for the construction of a pool) that was in process at the time of the adoption of the Moratorium, for which a building permit was not issued as a result of the Moratorium. Even in the event the City Council determines to modify the scope of the Moratorium as set forth above, this property would still fall within the properties described and be subject to the Moratorium. (Please see Attachment 2 for the property owner's request for relief from the Moratorium.)

The proposed moratorium provides that for a period of 45 days from the date of adoption, no building

permits for development and construction shall be issued for any improvement to any property located within the Lower and Upper Culver Crest Neighborhoods, as identified on Exhibit A of the proposed Ordinance, unless that improvement will not expand the footprint of any improvements, or add square footage of development, on the subject property that existed before the effective date of the Ordinance. Further the proposed moratorium excludes plumbing, mechanical and electrical permits issued for existing structures. The Ordinance further clarifies that the Moratorium shall not apply to the issuance of a building permit solely for the construction of a retaining wall where the Building Official has determined it is necessary to protect the public health and safety.

Declaration of Urgency

If the City Council desires to extend the Moratorium, the necessary findings to preserve the quality of life and protect the health, safety, and welfare of the community, continue to be relevant. The 45-day Moratorium was enacted with the intention of giving staff adequate time to review and study potential Zoning and Building Code amendments in order to adequately and appropriately balance the rights of property owners to develop their property, with the preservation of the health, safety and welfare of the surrounding residents and their properties. Since the review and study of the hillside areas is incomplete, the City Council may still find that the Moratorium is warranted and may wish to extend it by an additional 10 months and 15 days.

Extension of Moratorium

If the City Council adopts the proposed Ordinance (Attachment 3), the Moratorium will be extended through and including May 19, 2018, during which time no building permit or land use determination or entitlement shall be granted for, nor shall any application for a subdivision, use permit, variance, building permit, or land use determination or entitlement required to comply with the Culver City Municipal Code, including any appeals, be accepted or processed for, any improvement to any property located within the Lower and Upper Culver Crest Neighborhoods, as identified on Exhibit A, attached to the proposed Ordinance, unless that improvement will not expand the footprint of any improvements, or add square footage of development, on the subject property that existed before the effective date of the Moratorium. For the purpose of the Moratorium, “building permit” shall not include plumbing, mechanical and electrical permits for existing structures.

Alternately, the City Council may consider modifying the scope of the Moratorium to reduce the area or properties that are subject to the Moratorium. As discussed earlier in the report, such a modification could include removing all or portions of the Lower Crest area; or defining the properties subject to the Moratorium by a different method (i.e. by the degree of slope, whether the property would require a retaining wall pursuant to the City’s codes, etc.). Staff identified properties that directly abut steep hillside conditions and/or are steeply sloped and require retaining walls for building additions or structures (as “building” and “structure” are defined in the 2016 Edition of the California Building Code), which properties are shown on the alternate moratorium area map included with Attachment 4.

If the City Council determines to modify the scope of the Moratorium, an alternate proposed Ordinance has been provided for Council’s consideration (Attachment 4).

The extension of the Moratorium will allow the City time to continue its review and study of potential Zoning and Building Code amendments, in order to adequately and appropriately balance the rights of property owners to develop their property, with the preservation of the health, safety and welfare of

the surrounding residents and their properties.

Legal Authority

The proposed urgency ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to CEQA guidelines, California Code of Regulations, Title 14, Chapter 3, §15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and §15060(c)(3) [the activity is not a project as defined in §15378] because it has no potential for resulting in physical change to the environment, directly or indirectly; rather it prevents changes to the environment pending the completion of the contemplated study.

The procedures set forth in Government Code Section 65858 for the imposition and extension of a moratorium, which the City has followed, provide that after notice and a public hearing, a moratorium adopted by an urgency ordinance may be extended for 10 months and 15 days by a four-fifths vote of the City Council upon a finding the action is required to protect the public safety, health, and welfare. Pursuant to the procedures established by Section 65858, such moratorium would have no further force and effect 10 months and 15 days after of its adoption. In addition, after notice and a public hearing, such moratorium may be extended for an additional 12 months. Not more than two extensions may be adopted.

Culver City Charter Section 614, provides additional authority for the City Council to adopt an ordinance as an urgency measure for preserving the public peace, health or safety by a four-fifths vote.

FISCAL ANALYSIS

The adoption of the Ordinance may impact the issuance of building permits and collection of building permit fees; however because it is speculative to determine the exact number of applications the City may have received or could have received during the period of the moratorium, it is difficult to determine the fiscal impact at this time.

ATTACHMENTS

1. Proposed Resolution (Including Report Describing Measures Taken in Relation to the Moratorium)
2. Letter from 10719 Ranch Property Owner Requesting Relief from Moratorium
3. Proposed Ordinance
4. Alternate Proposed Ordinance (with modified scope)

MOTION

That the City Council:

1. Adopt a Resolution Issuing approving and issuing a report on measures taken in relation to Ordinance No. 2017-005 establishing a temporary moratorium on hillside development in the Lower and Upper Culver Crest Neighborhoods;

AND

2.A. Adopt an Ordinance extending, for an additional 10 months and 15 days, a moratorium on the issuance of any new building permits for development and construction in the Lower and Upper Culver Crest hillside neighborhoods as identified on the map, attached to the proposed Ordinance as Exhibit A, and declaring the urgency thereof and that it shall take effect immediately. (This item requires a four-fifths vote.);

OR

2.B. Adopt an Ordinance extending, for an additional 10 months and 15 days, a moratorium on the issuance of any new building permits for development and construction on properties that directly abut steep hillside conditions and/or are steeply sloped and require retaining walls for building additions or structures (as “building” and “structure” are defined in the 2016 Edition of the California Building Code) which properties are identified on the map, attached to the proposed Ordinance as Exhibit A, and declaring the urgency thereof and that it shall take effect immediately. (This item requires a four-fifths vote.);

OR

2.C. Take no action, in which case the existing Moratorium will expire by its own terms and operation of law on May 4, 2017