



staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Art Bashmakian, Director of Planning and Building Services
Rowena Genilo-Concepcion, Planning Manager

SUBJECT: Consideration and possible action to conduct a public hearing to consider whether to establish a moratorium to temporarily prohibit the City from issuing permits allowing construction of structures or development of properties within the A-E (Agricultural Estate) zone including, without limitation: subdivisions, planned development overlay developments, second dwelling units, multi-family developments, accessory buildings, and room additions by adopting, upon a four-fifths vote, Urgency Ordinance No. 13XX – An Urgency Ordinance prohibiting issuance of permits to allow the construction of structures or development of properties with the A-E (Agricultural Estate) Zone.

DATE: February 22, 2016

EXECUTIVE SUMMARY

During its meeting of January 25, 2016, the City Council directed that an ordinance establishing a moratorium on developing properties within the A-E (Agricultural Estate) Zone be drafted for consideration. If adopted, the draft ordinance would establish a moratorium temporarily prohibiting the City from issuing permits allowing construction of structures or development of properties within the A-E (Agricultural Estate) Zone including, without limitation, subdivisions, planned development overlay developments, second dwelling units, multi-family developments, accessory buildings, and room additions. The duration of the proposed moratorium is 45 days.

RECOMMENDATION TO CITY COUNCIL

- 1) Open the public hearing; take testimonial and documentary evidence; after considering the evidence, read by title only, waive further reading, and adopt Urgency Ordinance No. 13XX by at least a four-fifths vote; or
- 2) Alternatively, discuss and take other action related to this item.

FISCAL IMPACT

There will be no substantial fiscal impact during the time that the moratorium is in effect.

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PUBLIC NOTICE

A Notice of Public Hearing was published in the Herald American Bellflower Edition Newspaper on Friday, February 11, 2016. On February 10, 2016, a Public Hearing Notice was posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park.

CEQA STATUS

Adopting this Ordinance is exempt from further environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures for minor alterations in land use. This Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines § 15305. This Ordinance does not authorize any new construction or development entitlements. Any proposed project that will utilize the changes set forth in this Ordinance will be subject to CEQA review as part of the entitlement review of the project. The Ordinance will not adversely impact the environment and is therefore exempt from the provisions of CEQA.

BACKGROUND

On January 25, 2016, the City Council considered a subdivision project within the A-E (Agricultural Estate) Zone. Several residents within the A-E Zone were in attendance and voiced their concerns and oppositions to the project. Following public comments and discussions of the project, the project was denied. The basis of denial was that the proposed project was designed in a manner inconsistent with the underlying public policies for the A-E Zone. Specifically, that proposed project was not designed to maximize open space and the agricultural intent of the A-E Zone. In reviewing that project in conjunction with the City’s existing zoning regulations, the City Council felt that adjustments to the Bellflower Municipal Code (“BMC”) may be desirable to ensure that the zoning regulations properly reflected the General Plan and City Council’s purpose in establishing an A-E zone.

Among other things (as expressed by the City Council and the various public commentators), the development pattern of the A-E Zone did not reflect a more rural residential development that maintains and encourages husbandry of horses and farm animals for the enjoyment of area residents.

The proposed ordinance would establish a 45-day interim moratorium on construction or development within the A-E (Agricultural Estate) Zone. A construction or development moratorium is a formal action by the City Council that places a temporary halt on the issuance of any permits, approvals, or entitlements within the A-E Zone including, without limitation, subdivisions, planned development overlay developments, second dwelling units, multi-family developments, accessory buildings, and room additions. The proposed moratorium would delay development for a period of time, which would allow the City to evaluate the existing A-E provisions and the development issue of concern.

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At the conclusion of the 45-day moratorium, the City Council could either seek to adopt new regulations for the A-E Zone or extend the moratorium to allow additional time to research and develop alternatives. Based upon the requirements of applicable law, e.g., CEQA and the Public Resources Code (which requires consistency between the General Plan and the zoning regulations), staff anticipates that additional time – beyond the 45 days – may be required to fully vet the City Council’s concerns.

DISCUSSION

- **Moratorium**

The duration of the proposed moratorium is 45 days. However, the City Council may extend the duration of the moratorium by the approval of another moratorium ordinance at a subsequent public hearing upon the pending expiration of the initial moratorium ordinance. During the initial 45-day period and after notice and a hearing under Government Code § 65090, the City Council may extend the interim ordinance for up to 10 months and 15 days additional time. The urgency ordinance could, thereafter, be extended one more time for up to 12 months of a total of two years.

A development moratorium is a lawful exercise of "police powers" as provided in the California Government Code. Thus, "...an interim ordinance adopted pursuant to Government Code Section 65858, which prohibits the approval of new development plans so that a city can re-evaluate its land use policies, is lawful, provided the period of delay is reasonable and there are valid governmental reasons justifying the adoption of the interim ordinance."

- **Moratorium Findings**

State law requires that the City Council adopt a moratorium upon a 4/5 vote after making certain findings related to public health, safety, and welfare. Here are some potential land use concerns that relate to public health, safety, and general welfare issues:

Moratorium Area: The location of the moratorium area is bounded by Alondra Boulevard to the north, Beach Street to the south, Woodruff Avenue to the west, and the City boundary to the east. Approximately 480 properties and approximately 148 acres in area will be affected by the proposed moratorium.

Concerns Regarding Future Development: How the new development appears to the existing community is typically important. It is common to hear neighbor testimony on the potential impacts of new developments on property values, concerns over design, the amount of density, and ability of the proposed structures to architecturally enhance or compliment the existing neighborhood, and similar concerns. In many cases, existing zoning standards do not address these types of concerns.

CONCLUSION

Adopting the ordinance will provide some “breathing room” for staff to evaluate the General Plan and zoning regulations in light of the City Council’s concerns regarding the A-E Zone. At the conclusion of the 45-day moratorium, staff will be able to provide the City Council with some alternatives for moving forward including, without limitation, potential General Plan or zoning amendments.

ATTACHMENT

A. Ordinance 13XX 5

CITY OF BELLFLOWER

URGENCY ORDINANCE NO. 13XX

AN URGENCY ORDINANCE PROHIBITING ISSUANCE OF PERMITS TO ALLOW THE CONSTRUCTION OF STRUCTURES OR DEVELOPMENTS OF PROPERTIES WITHIN THE A-E (AGRICULTURAL ESTATE) ZONE.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance is adopted pursuant to Government Code §§ 36937, 65858, and other applicable laws.

SECTION 2. *Findings.* The City Council finds, determines and declares as follows:

- A. The City can adopt and enforce all laws and regulations not in conflict with the general laws and the City holds all rights and powers established by California law.
- B. The provisions of the Bellflower Municipal Code (“BMC”) that regulate the construction and development within the A-E (Agricultural Estate) Zone need review, study, and revision. The current regulations also fail to fully take into account the impacts related to construction and development, and the related public health, safety, and welfare concerns.
- C. The City Council is concerned about the construction and development within the A-E Zone and the impacts it may have on agricultural uses within the community.
- D. Without the enactment of this Ordinance, multiple applicants could receive permits that would allow construction and development within the A-E Zone that pose a threat to the public health, safety, and welfare.
- E. The City Council determines that the BMC requires updating to protect the public against health, safety, and welfare dangers caused by multiple applicants each constructing and developing properties within the A-E Zone. The City needs additional time to prepare, evaluate and adopt reasonable regulations regarding construction and development within the A-E Zone and to ensure such regulations are applied in a nondiscriminatory manner.

- F. In order to prevent frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated BMC amendments, and any further authorization of these uses within the City during the period of the moratorium may be in conflict with or may frustrate the contemplated updates and revisions of the BMC.
- G. Based on the foregoing, the City finds that that this Ordinance is necessary in order to protect the City from the potential effects and impacts of uncoordinated and conflicting construction and development within the A-E zone, potential loss of existing agricultural uses, impacts on existing properties with animal keeping, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.
- H. The City Council further finds that this moratorium is a matter of local and City-wide importance and is not directed towards any particular entity that currently seeks to construct or develop within the A-E Zone.
- I. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the moratorium imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the moratorium is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. *Environmental Assessment.* Adoption of this Ordinance is exempt from further environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures for minor alterations in land use. This Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §15305. This Ordinance does not authorize any new construction or development entitlements. Any proposed project that will utilize the changes set forth in this Ordinance will be subject to CEQA review as part of the entitlement review of the project. The Ordinance will not adversely impact the environment and is therefore exempt from the provisions of CEQA.

SECTION 4. *Interim regulations.* The following provisions are adopted as interim requirements for issuing permits pursuant to the BMC for construction or development within the A-E Zone, and any construction or development within the A-E zone in conflict with these provisions is expressly prohibited:

- A. Restricted Activities. For a period of forty-five (45) days after adoption of this Ordinance, the City will not issue a permit or land use entitlement to any person to allow the construction of structures or development of properties within the A-E Zone including, without limitation, subdivisions, planned development overlay developments, second dwelling units, multi-family developments, accessory buildings, and room additions. The City

Manager, or designee, must review any application for a permit or land use entitlement to determine compliance with the provisions of this Ordinance. The City Manager, along with City boards and commissions, are directed to refrain from accepting or processing any application for any land use entitlement including, without limitation, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction of structures or development of properties within the A-E, and to refrain from issuing any land use entitlement for any pending applications already received. These prohibitions will remain effective for forty-five (45) days following adoption of this Ordinance.

SECTION 5. *Construction.* This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 6. *Enforceability.* Repeal of any provision of the BMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 7. *Validity of Previous Code Sections.* If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the BMC or other city ordinance by this Ordinance will be rendered void and cause such previous BMC provision or other the city ordinance to remain in full force and effect for all purposes.

SECTION 8. *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 9. *Reliance on Record.* Each and every finding and determination in this Ordinance is based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 10. *Publication.* The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Bellflower's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11. *Report.* Pursuant to Government Code § 65858, the City Manager, or designee, must prepare a report for City Council consideration describing the measures taken to address the conditions which led to adoption of this Ordinance. This report must be provided to the City Council so that it may be considered and issued not later than 10 days before this Ordinance expires.

SECTION 12. *Declaration of Urgency.* Based on the findings set forth in Section 2, this is an urgency ordinance adopted for the immediate preservation of the public peace, health, safety and welfare.

SECTION 13. *Effective Date.* This Ordinance will become effective immediately upon adoption pursuant to Government Code §§ 36937 and 65858 for the immediate preservation of the public peace, health, safety, and welfare. Pursuant to those statutes this Ordinance is adopted by a four-fifths vote.

SECTION 14. *Expiration Date.* After adoption, this Ordinance will be repealed by operation of law on April 7, 2016, unless a subsequent ordinance is adopted by the City Council that extends this date.

Scott A. Larsen, Mayor

ATTEST:

Mayra Ochiqui, City Clerk

APPROVED AS TO FORM:

Karl H. Berger, Interim City Attorney