



PLANNING COMMISSION STAFF REPORT

APPLICATION: Ordinance No. 2016-10 **AGENDA ITEM:** PH-2
PREPARED BY: Sheri Bermejo
Planning Division Manager **MEETING DATE:** August 10, 2016

SUBJECT: Ordinance No. 2016-10
Planning Commission Resolution No. 2016-04

REQUEST: Amendment to the Monrovia Municipal Code Title 17 (Zoning) to implement demolition review permit regulations for any main residential building that is fifty or more years old.

APPLICANT: City of Monrovia

ENVIRONMENTAL DETERMINATION: Exempt pursuant to Section 15061(b)(3) of the State CEQA Guidelines

BACKGROUND: On November 18, 2014, the City Council adopted two moratoria based on concerns that development pressure would lead to the demolition of potential historic structures and that new construction of larger homes would be incompatible with the existing character of established neighborhoods. The demolition moratorium prohibits the demolition of any main building on a property that was constructed before 1940. The demolition moratorium was adopted concurrently with a construction moratorium, which prohibits the issuance of building permits for two-story residential construction in the Residential Low (RL) and Residential Estate (RE) zones throughout the City.

The adoption of the moratoria provided much needed time for the City to study its zoning and preservation regulations in order to create improved development standards to address these community concerns. As the Commission is aware, the Neighborhood Compatibility Ordinance (Ordinance 2016-08) was developed to address new residential construction. Over the last several months staff has also focused on review and analysis to address the concerns related to demolition. To commence and facilitate a comprehensive review and update of the City's Historic Preservation Program, the City Council approved a professional service agreement with Anne Browning McIntosh of The Code Group, Inc. dba VCA Code (VCA) on February 2, 2016. On June 20, 2016, Anne Browning McIntosh and staff conducted a Joint Study Session (Study Session) with the City Council and the Historic Preservation Commission (HPC) to provide an overview of several policy implementation options for consideration. One main topic of discussion included the components of a new demolition permit ordinance. Ordinance 2016-10, the subject of this report, proposes a new demolition permit review process as a preservation effort to further discourage the demolition and substantial alteration of potential landmark residential structures that contribute to the defining character of the City of Monrovia.

DISCUSSION/ANALYSIS: Demolition review is a land use tool that gives local jurisdictions the ability to ensure that potentially significant buildings and structures are not demolished without notice and some level of review by a historic preservation commission. Although a demolition ordinance does not always prevent demolition, it can delay a demolition permit request so that a building's significance can be assessed and alternatives to demolition can be explored.

The City of Monrovia adopted its current *advisory* demolition ordinance in 2004 for dwellings that were built prior to January 1, 1940. It requires a 120-day delay provision for the Historic Preservation Commission and City Staff to educate, guide, and assist property owner(s) on an advisory basis with the intention of encouraging solutions to retain a structure, landmark a structure, or evaluate project alternatives to safeguard a structure if deemed a potentially significant historic resource. The *advisory* demolition ordinance requires public noticing, a 14-day posting on the site and a mailing to any interested parties, but it does not require a public hearing.

Ordinance 2016-10 proposes a revised demolition permit review process that includes the following key components:

- 1) **Demolition of main residential building(s) that are 50 years or older.** The proposed demolition permit process would apply only to *main residential buildings* in any zone that are fifty (50) years old or older. The new ordinance clearly defines a *main residential building* as a residential building, or residential buildings, within which is conducted the principal use. Therefore, the ordinance would not apply to the demolition of detached accessory structures.
- 2) **Actions that Trigger Demolition Review.** The City's current demolition review process is only triggered by total demolition of a residential structure. Ordinance No. 2016-10 broadens demolition activities to include the additional following actions:
 - a) Alteration or demolition of fifty percent or more of the main building's roof area would trigger demolition review, or
 - b) Alteration or demolition to a main building's exterior wall area, equal to or greater than:
 - i) The removal or alteration of fifty percent or more of a main building's total exterior wall area, or
 - ii) The removal or alteration of twenty-five percent or more of any exterior wall facing a public street.

To facilitate a balanced approach that encourages property maintenance and reasonable modernization of existing structures, the ordinance contains a comprehensive list of actions that would not constitute demolition activities. These actions include window replacement proposals that do not involve the removal or alteration of an exterior wall that exceeds twenty-five percent of the wall area, reroofing that only replaces the existing roof material with a similar material, ordinary maintenance and repair, restoration, rehabilitation, and demolition or alteration that is ordered by the building official.

- 3) **Review Process - Determining Historic Significance.** The review process outlined in Ordinance 2016-10 requires a formal assessment of a building's historic significance for proposals that meet the threshold for demolition review. As with the current ordinance, the Historic Preservation Commission's role would not be to approve or deny a demolition permit request, but to assign the subject building a historic status code in accordance with the *California Historical Resource Status (CHRS) Code* rating system. CHRS codes range from 1 through 7 and determine the level of significance of a property. A rating of 7 is a property that has not yet been evaluated. The lower the number, the higher the historic value of the property.

The CHRS rating system is consistent with the provisions of the *California Environmental Quality Act (CEQA)*, as it creates a clear definition of what is considered a potential historic resource for the purposes of evaluation of project impacts under CEQA. Any property with a status code of 1 through 5 is considered to be either a historic resource or a potential resource. Therefore, the demolition of a resource rated 1 through 5 would be subject to a higher level CEQA review. A property with a status code of 6 does not have merit as a historic resource. Therefore, if a resource that is rated a 6 were to be demolished, there would likely be no potential impact to historic resources under CEQA.

To further ensure accurate review and assignment of a CHRS code determination, new application requirements would require one of the following types of supplemental documentation:

- a) **Documentation from a Historic Survey** that indicates a CHRS code for the subject building and other site data, or
- b) **A Historic Assessment by a Qualified Historic Preservation Expert**, consisting of a written historic assessment and determination of CHRS code for the property, OR
- c) **A Written Request for Exemption** due to obvious lack of historic significance.

Lastly, it is important to note that in accordance with Monrovia Municipal Code (MMC), Title 2, Chapter 2.45, Section 2.54.090, any person not satisfied with a determination by the Commission shall have the right to appeal to the City Council.

- 4) **Making a Decision on the Demolition Permit Request.** Similar to the City's current process, demolition permits shall be decided upon by the review authority that is authorized to make a final decision on the replacement project.

Municipal Amendment Process

Amendments to the Zoning Code are adopted by ordinance which requires a minimum of two public hearings: one held by the Planning Commission and one held by the City Council. In this case, the Planning Commission acts as an advisory body to the City Council and will make a recommendation on the proposed Ordinance No. 2016-10 through the adoption of a Planning Commission Resolution. The anticipated timeline is as follows:

- August 10, 2016 – Planning Commission public hearing
- September 6, 2016 – City Council public hearing, “first reading”
- September 20, 2016 – City Council meeting, adoption and “second reading”
- October 20, 2016 – Effective date of Ordinance 2016-10

It is important to note that a Special Meeting of the Historic Preservation Commission will be scheduled before the City Council considers Ordinance 2016-10.

Conclusion

In summary, Ordinance 2016-10 significantly broadens the scope of projects that would qualify for demolition review for the purpose of preserving existing, potentially historic residential structures to the greatest extent possible to protect against the loss of potential landmarks. This is accomplished by increasing the age threshold to all main residential buildings that are 50 year old or older at the time an application is filed. Furthermore, Ordinance 2016-10 applies the demolition review process to not only total demolitions, but to any action that demolishes or materially alters a residential building.

RECOMMENDATION: Staff recommends approval of Ordinance No. 2016-10. If the Planning Commission concurs with this recommendation then, following the public hearing, the following motion is appropriate:

MOTION:

Close the public hearing and adopt Planning Commission Resolution No. PCR 2016-04.

PLANNING COMMISSION RESOLUTION NO. 2016-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONROVIA, CALIFORNIA, RECOMMENDING APPROVAL TO THE CITY COUNCIL OF ORDINANCE NO. 2016-10 TITLE 17 (ZONING) OF THE MONROVIA MUNICIPAL CODE TO INCORPORATE DEMOLITION REVIEW PERMIT REGULATIONS FOR ANY MAIN RESIDENTIAL BUILDING THAT IS FIFTY OR MORE YEARS OLD

(i) The Monrovia City Council adopted Ordinance Nos. 2014-13U and 2014-13 on November 18, 2014, and December 2, 2014, respectively which prohibited the demolition of any main building on a property in the City constructed prior to January 1, 1940 (Moratorium). The purpose of the Moratorium was to allow the City to study, review and adopt permanent zoning regulations regarding the demolition or significant alteration of historic residential structures in the City. The Moratorium was extended by the adoption of Ordinance 2014-16U on December 16, 2014. Ordinance Nos. 2014-13U, 2014-13, and 2014-16U are hereby repealed as of the effective date of this Ordinance No. 2016-10.

(ii) On August 10, 2016, the Planning Commission of the City of Monrovia conducted a duly noticed public hearing on Ordinance No. 2016-10. At the hearing, all interested persons were given an opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence, and testimony presented in connection with this Ordinance. Following the close of the public hearing, the Planning Commission adopted Resolution No. PCR2016-04 recommending approval of Ordinance No. 2016-10.

(iii) Environmental Review

Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, City Staff determined that Ordinance 2016-10 is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. City Staff found that there is no possible significant effect directly related to Ordinance 2016-10 ("project"), because this ordinance will impose regulations that will constrain the demolition of historic residential structures and thereby reduce the potential environmental impacts arising from demolition of residential structures that are 50 or more years old for the purpose of preserving existing, potentially significant historic resources in the City. Therefore, no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR § 15061(b)(3)). The Planning Commission has reviewed the project and based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City staff has correctly concluded that it can be seen with certainty that there is no possibility the proposed amendments to the Municipal Code and the effects derivative from that adoption may have a significant effect on the environment, because this ordinance will reduce the potential environmental impacts arising from the demolition or significant alteration of residential structures that are 50 or more years old and will thereby preserve existing, potentially significant historic resources in the City.

(iv) The custodian of records for all materials that constitute the record of proceeding upon which this decision is based is the Planning Division Manager. Those documents are available for public review in the Planning Division located at 415 South Ivy Avenue, Monrovia, California 91016.

(v) All legal prerequisites to the adoption of this Resolution have occurred.

A. RESOLUTION

NOW, THEREFORE, the Planning Commission of the City of Monrovia hereby finds, determines and resolves as follows:

1. The Planning Commission finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Adoption of Ordinance No. 2016-10 will not have a significant effect on the environment.
3. The project is in conformance with the environmental goals and policies adopted by the City.
4. Ordinance No. 2016-10 is consistent with and necessary to carry out General Plan goals and policies set forth in the Land Use and other Elements of the General Plan, and to guide and direct orderly development of the City and the respective neighborhoods.
5. Ordinance No. 2016-10 will not adversely affect the public health, safety, or welfare in that it will provide for orderly and consistent development in the City.
6. Based upon the findings and conclusions set forth above, the Planning Commission hereby recommends approval of Ordinance No. 2016-10 to the City Council as set forth in "Exhibit A" attached hereto and incorporated herein by this reference.

The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 10th day of August 2016.

Coulter Winn, Chair
Monrovia Planning Commission

ATTEST:

APPROVED AS TO FORM:

Craig Jimenez, AICP, Secretary
Monrovia Planning Commission

Carol Lynch, Assistant City Attorney
City of Monrovia

ORDINANCE NO. 2016-10

AN ORDINANCE OF THE CITY OF MONROVIA, CALIFORNIA AMENDING TITLE 17 (ZONING) OF THE MONROVIA MUNICIPAL CODE TO INCORPORATE DEMOLITION REVIEW PERMIT REGULATIONS FOR ANY MAIN RESIDENTIAL BUILDING THAT IS FIFTY OR MORE YEARS OLD

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

SECTION 1. The Monrovia City Council adopted Ordinance Nos. 2014-13U and 2014-13 on November 18, 2014, and December 2, 2014, respectively which prohibited the demolition of any main building on a property in the City constructed prior to January 1, 1940 (Moratorium). The purpose of the Moratorium was to allow the City to study, review and adopt permanent zoning regulations regarding the demolition or significant alteration of historic residential structures in the City. The Moratorium was extended by the adoption of Ordinance 2014-16U on December 16, 2014. Ordinance Nos. 2014-13U, 2014-13, and 2014-16U are hereby repealed as of the effective date of this Ordinance No. 2016-10.

SECTION 2. On August 10, 2016, the Planning Commission of the City of Monrovia conducted a duly noticed public hearing on Ordinance No. 2016-10. At the hearing, all interested persons were given an opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence, and testimony presented in connection with this Ordinance. Following the close of the public hearing, the Planning Commission adopted Resolution No. PCR2016-04 recommending approval of Ordinance No. 2016-10.

SECTION 3. On _____, 2016, the City Council of the City of Monrovia conducted a duly noticed public hearing on Ordinance No. 2016-10. At the hearing, all interested persons were given an opportunity to be heard. The City Council received and considered the staff report and all the information, evidence, and testimony presented in connection with this Ordinance.

SECTION 4. Environmental Review

Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, City Staff determined that Ordinance 2016-10 is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. City Staff found that there is no possible significant effect directly related to Ordinance 2016-10 ("project"), because this ordinance will impose regulations that will constrain the demolition of historic residential structures and thereby reduce the potential environmental impacts arising from demolition of residential structures that are 50 or more years old for the purpose of preserving existing, potentially significant historic resources in the City. Therefore, no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR § 15061(b)(3)). The Planning Commission has reviewed the project and based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City staff has correctly concluded that it can be seen with certainty that there is no possibility the proposed amendments to the Municipal Code and the effects derivative from that adoption may have a significant effect on the environment, because this ordinance will reduce the potential environmental impacts arising from the demolition or significant alteration of

residential structures that are 50 or more years old and will thereby preserve existing, potentially significant historic resources in the City.

SECTION 5. The custodian of records for all materials that constitute the record of proceeding upon which this decision is based is the City Clerk. Those documents are available for public review in the Office of the City Clerk located at 415 South Ivy Avenue, Monrovia, California 91016.

SECTION 6. All legal prerequisites to the adoption of the Ordinance have occurred.

SECTION 7. Title 17 (Zoning), Chapter 17.12 (Residential Development Standards), is hereby amended by repealing in its entirety Section 17.12.050 (Demolition of Residential Structures-Advisory Review) of the Monrovia Municipal Code.

SECTION 8. Title 17 (Zoning), Chapter 17.12 (Residential Development Standards), Section 17.12.060 (Incentives for Retention of Residential Structures), subsection (B) of the Monrovia Municipal Code is hereby amended to read as follows:

(B) *Properties subject to this section.* The incentives in this section apply to residential structures in residential zones that are fifty years old or older and have architectural values as determined by the Historic Preservation Commission. The qualification will be based on the condition of the existing structure, its architectural integrity and historic value, and the proposed development and restoration plan for the property.

SECTION 9. Title 17 (Zoning), Chapter 17.12 (Residential Development Standards), Section 17.12.060 (Incentives for Retention of Residential Structures), subsection (C) of the Monrovia Municipal Code is hereby amended to read as follows:

(C) *Exceptions and variances.* Exceptions and variances. The provisions in this title may be deviated from if the Committee or the Commission determines that the value of preserving the structure outweighs potential impacts of the approval of a minor exception approved pursuant to Section 17.52.110 or major variance approved pursuant to Section 17.52.120.

SECTION 10. Title 17 (Zoning) the Monrovia Municipal Code is hereby amended by adding a new Chapter 17.10 entitled "Demolition Review of Main Residential Buildings" to read as follows:

Chapter 17.10 Review of Demolition of Main Residential Buildings

17.10.010 Purpose and intent.

The purpose of this Section is to preserve existing, potentially historic main residential buildings that are at least 50 years old to the greatest extent possible to protect against the loss of potential historic landmarks.

17.10.020 Definitions. For the purposes of this section, the following definitions shall apply.

(A) **ALTERATION.** Any change or modification, through public or private action, to the character defining or significant physical features of a main residential building, as defined in

this chapter. Such changes may include, but are not limited to, changes to or modification of the structure, its architectural details, or visual characteristics.

- (B) **BUILDING, MAIN RESIDENTIAL.** A residential building or residential buildings, including houses, duplexes or multi-family residential structures, that were constructed fifty or more years prior to the date when an application is submitted to the City, within which the principal use on the property is conducted. The Director of Community Development shall determine whether a structure on a property is a main residential building.
- (C) **CHARACTER DEFINING ELEMENTS.** Architectural features of a building or structure that help convey the significance of the historical building and which were present during the period of significance.
- (D) **DEMOLITION.** Any act or process that destroys or damages in part or in whole, a main residential building.
- (E) **NON-DESIGNATED PROPERTY.** A non-designated property shall mean a property that has not been designated as a Historic Landmark in accordance with the Historic Preservation Ordinance of the City of Monrovia set forth in Chapter 17.40 of this Title. If the property is a Historic Landmark, demolition review shall be subject to the provisions of Chapter 17.40.
- (F) **ORDINARY MAINTENANCE AND REPAIR.** Any work for which a building permit is not required by law where the purpose and effect of such work is to correct any deterioration of, or damage to, an improvement or natural feature or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.
- (G) **REHABILITATION.** The act or process of returning an improvement or site to a condition of utilization, through repair, remodeling or alteration, that makes possible an efficient contemporary use while preserving those portions or features of the improvement or site that are significant to its historical, architectural and cultural values.
- (H) **RESTORATION.** The act or process of accurately recovering the form and details of an improvement or natural feature and its setting as it appeared at a particular period of time by means of the removal of later additions to, or by the replacement of missing earlier portions of the feature.

17.10.030 Applicability. This Section shall apply to a main residential building on any Non-Designated property in any zone that was constructed more than fifty years prior to the date of the application where an applicant proposes a demolition or alteration of the building's exterior, when the following actions are included in the request:

- (A) Total demolition or removal of a main residential building in its entirety, or
- (B) Alteration or demolition of fifty percent or more of a main building's roof area, or
- (C) Alteration or demolition of a main building's exterior wall area, equal to or greater than:
 - (1) The removal or alteration of fifty percent or more of a main building's total exterior wall area, or
 - (2) The removal or alteration of twenty-five percent or more of any exterior wall facing a public street.
 - (3) The provisions of this Paragraph (C) shall not apply to the alteration of an exterior wall if:
 - (a) The wall retains its character defining elements;

- (b) The wall is not covered or otherwise concealed by a new wall that is proposed to be placed in front of the existing wall, and
- (c) Attached character defining design elements, such as covered porches, porte-cocheres, columns, etc., are also retained.

17.10.040 Exemptions. Notwithstanding the provisions of any other Section in this Chapter, discretionary demolition review shall not be required for:

- (A) The demolition of detached accessory structures, such as garages, guest houses, sheds, trellises, fences, gazebos, uncovered decks, play structures, and other similar detached accessory structures, as determined by the Director of Community Development; or
- (B) The demolition of flatwork; or
- (C) Window replacement that does not remove exterior wall area; or
- (D) Ordinary maintenance and repair; or
- (E) Restoration; or
- (F) Rehabilitation; or
- (G) Interior construction that does not involve any exterior changes; or
- (H) Reroofing that only replaces the existing roof material with a similar material; or
- (I) Painting; or
- (J) Reasonable accommodation requests made pursuant to Section 17.52.327; or
- (K) Demolition or alteration that is ordered by the building official.

17.10.050 Application requirements.

- (A) Prior to filing an application for a permit to demolish or alter a main residential building, the applicant shall submit:
 - (1) A fully dimensioned and scaled materials removal plan that clearly demonstrates that the project does or does not meet the criteria listed in Sections 17.10.030 or 17.10.040 of this chapter; and
 - (2) Documentation sufficient for City Staff to determine the level of review, if any, that is required by the California Environmental Quality Act (“CEQA”).
- (B) If the proposed project is subject to the provisions of Section 17.10.030 of this chapter, the applicant shall submit an “Application for a Discretionary Demolition Permit” (“Application”) along with all other required planning applications for the proposed work and the payment of all applicable fees. The Application shall contain such information as is requested by the Director of Community Development, including one of the following:
 - (1) Documentation from a previous survey conducted by the City, including a suggested code pursuant to the State of California historic property status codes and other site data, or
 - (2) A written historic assessment and determination of a potential historic code for the property, prepared by a City-approved historic preservation expert retained by the applicant, or
 - (3) A written request to be exempt from these requirements due to a perceived obvious lack of historic significance in lieu of an assessment required by sub-paragraphs (1) and (2) above. The Historic Preservation Commission shall consider whether there is merit to the request and either reject the request or require additional documentation pursuant to sub-paragraph (2) above.

17.10.060 Determination of historic significance. The Historic Preservation Commission shall determine whether the main building or buildings that are the subject of the application are or are not potential historic resources and shall rate the building(s) accordingly. The determination of the Historic Preservation Commission may be appealed to the City Council

pursuant to Section 2.54.090 of this code. No Discretionary Demolition Permit or building permit shall be approved or issued by the City for the proposed work until a final determination of historic significance has been made by the Historic Preservation Commission or by the City Council pursuant to an appeal.

17.10.070 Withdrawal of application request by applicant. An applicant may withdraw his/her application at any time during the process by submitting a written request to the Director of Community Development.

17.10.080 Building Permit Issuance. The building permit for the replacement structure(s) shall be issued concurrently with the demolition permit. However, if the Historic Preservation Commission has determined that a main building does not have historic significance, the Development Review Committee may authorize the issuance of a demolition permit before the replacement project's building permit is issued, if the Development Review Committee finds that the building is in disrepair and/or constitutes a public nuisance.

SECTION 11. 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.

SECTION 12. The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and said Ordinance shall become effective 30 days after its passage.

INTRODUCED this _____ day of September, 2016.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2016.

Tom Adams, 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