

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: January 23, 2024

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director
Via: Fred Ramirez, Asst. Community Development Director – Planning
Scott Plambaeck, Planning Manager
By: Amanda Landry, Principal Planner

SUBJECT: Adoption of an Extension of an Urgency Ordinance Extending Interim Development Standards in Response to Senate Bill 423, which added California Government Code Section 65913.4(r) and 10-Day Report

RECOMMENDATION

Adopt AN EXTENSION OF AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK EXTENDING INTERIM DEVELOPMENT STANDARDS IN RESPONSE TO SENATE BILL 423 (Attachment 1) (requires 4/5th vote for adoption).

BACKGROUND

On December 12, 2023, Council adopted Urgency Ordinance No. 23-4,003 (Attachment 2) establishing interim development standards to clarify that on sites located within the Rancho Commercial Land Use Designation, multifamily residential housing projects are allowed with a conditional use permit. These interim standards further specified that the phrase “with discretionary approval” appearing in footnote 1 of the General Plan Consistency Tables in BMC Sections 10-1-701.5, 708.5, 714.5, 720.5, 801.5, 808.5, 901.5, 906.5, 910.5, 921.5, 2103.5, 2109.5, 2114.5, 2119.5, 2412.5, 2420.5, 2428.5, 2436.5, 2444.5, 2503.5, 2508.5, 2514.5, 2519.1.5, 2520.5, 2601.5, and 2611.5, will mean “with a Conditional Use Permit” for any sites within the Rancho Commercial Land Use Designation only. For sites falling within any other land use designation, the meaning of the footnote will remain unchanged.

The adopted Urgency Ordinance is valid for 45 days and will expire on January 26, 2024, unless extended by Council. California Government Code Section 65858(d) requires that at least 10 days prior to the expiration of an urgency ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition that led to the adoption of the ordinance. After holding a public hearing, Council can extend the Urgency Ordinance for an additional 10 months and 15 days, for a total

effective period of one year (CA Government Code Section 65858(a); Burbank Municipal Code (BMC) 10-1-1996). As with the initial adoption of the Urgency Ordinance, a four-fifths (4/5) vote is required to extend the urgency ordinance.

Pursuant to State Law and the BMC, Council may extend the Urgency Ordinance adopted on December 12, 2023, or allow the Urgency Ordinance to expire. Staff recommends Council extend the Urgency Ordinance for 10 months and 15 days, until December 11, 2024, to allow staff time to work with the community on establishing comprehensive objective standards in conjunction with the Council directed preparation of the Burbank Rancho Neighborhood Specific Plan.

DISCUSSION

On October 11, 2023, Governor Gavin Newsom signed Senate Bill (SB) 423, amending California Government Code Section 65913.4 (commonly referred to as “SB 35”), which relates to streamlined ministerial approval procedures for multifamily housing projects. SB 423 went into effect on January 1, 2024 (Attachment 2). Among the changes included in SB 423 is the addition of Subsection (r) to California Government Code Section 65913.4, which establishes a temporary exemption from the streamlined ministerial approval process for multifamily housing projects proposed on “qualified sites”. Qualified sites are those that satisfy the following criteria:

1. The site is within an equine or equestrian district designated by a general plan, specific or master plan.
2. As of January 1, 2024, the general plan applicable to the site contains, and has contained for five or more years, an equine or equestrian district designation where the site is located.
3. As of January 1, 2024, the equine or equestrian district applicable to the site is not zoned to include residential uses but authorizes residential uses with a conditional use permit (CUP).
4. The local government jurisdiction has a state-law compliant adopted housing element.

Under SB 423, this temporary exemption will apply to qualified projects submitted on or after January 1, 2024 through July 1, 2025.

The adopted Urgency Ordinance No. 23-4,003 ensures that properties within the Rancho Commercial Land Use Designation can be considered “qualified sites” and be temporarily exempted from the streamlined ministerial review process established by SB 35.

Necessity for the Extension of the Urgency Ordinance

Burbank City Charter Section 500 authorizes Council to adopt or extend, by a 4/5ths vote, an interim urgency ordinance as an emergency measure for preserving the public peace, health, safety, or welfare, which will go into effect immediately upon adoption. Further, following a noticed public hearing, BMC Section 10-1-1996 authorizes Council to extend an interim zoning ordinance as an urgency measure in order to protect the public safety, health, and welfare if the Planning Commission is conducting or intends to conduct studies within a reasonable time on zone changes, permitted uses, or property development standards.

Adoption of the proposed Extension Ordinance is necessary for properties in the Rancho Commercial Land Use Designation to continue to qualify for the temporary relief from state mandated streamlined ministerial reviews afforded to equestrian districts by SB 423, while the City undertakes the process to prepare the Burbank Rancho Neighborhood Specific Plan and associated General Plan amendment and related environmental assessment efforts.

Update on Burbank Rancho Neighborhood Specific Plan & Measures Taken to Alleviate Urgency (10-Day Report)

Council previously acknowledged the need to develop Rancho Commercial Land Use Designation specific objective development standards and on March 28, 2023, directed staff to initiate the development of a Burbank Rancho Neighborhood Specific Plan and associated General Plan amendment to implement Program LU-1 of the Burbank2035 General Plan goals realization element, and budgeted \$1.4 million toward this effort. The Burbank Rancho Neighborhood Specific Plan will establish objective development standards to ensure consistency with the Burbank2035 General Plan and the land use policies of the 1993 Rancho Master Plan. These actions will help reconcile public concerns regarding potential development and construction related impacts in the equestrian neighborhoods within the City. Finally, the Burbank Rancho Neighborhood Specific Plan will also address findings from studies or other observations regarding construction impacts on equine uses resulting from future development.

Since the adoption of Urgency Ordinance No. 23-4,003, staff has continued preparation for the development of the Burbank Rancho Neighborhood Specific Plan by drafting a scope of work to solicit proposals from qualified professionals to perform work on the upcoming Specific Plan. An extension of the Urgency Ordinance for an additional 10 months and 15 days, until December 11, 2024, will allow staff time to continue to develop policies and recommendations derived from extensive and robust community engagement with potentially affected residents, property owners, and interested stakeholders including business owners and land developers. The draft Burbank Rancho Neighborhood Specific Plan will be brought to the Planning Commission at a public hearing for consideration and input prior to a formal recommendation and presentation to Council at a public hearing. This process will include robust public engagement through community workshops, meetings, and public hearings, and therefore, additional time is needed to complete these efforts.

COMMUNITY OUTREACH

The Urgency Ordinance was considered at a public meeting on December 12, 2023, and was listed on the posted agenda, including the publication of the full staff report. A public notice for the proposed Extension Ordinance was published in a newspaper of general circulation in the City on Wednesday, December 27, 2023.

ENVIRONMENTAL ASSESSMENT

The interim development standards extended by the proposed Extension Ordinance are derived from the Burbank2035 General Plan and, as such, were contemplated in the Program Environmental Impact Report (EIR) for Burbank2035 (SCH #2010021004) and no further environmental review is required, pursuant to the California Environmental

Quality Act (CEQA) Guidelines Section 15152. In addition, pursuant to CEQA Guidelines Section 15162, no subsequent EIR is required as there are no changes proposed to the Burbank2035 General Plan land uses or densities as noted in the General Plan Consistency Tables outlined in the BMC, there have been no substantial changes in circumstances, and no new information has become known since the time of the General Plan EIR certification.

The Extension Ordinance is also exempt from CEQA, pursuant to CEQA Guidelines Section 15061(b)(3), because the Extension Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Extension Ordinance continues interim development standards that, for the purposes of providing clarity when determining “qualified site” eligibility under the regulatory changes enacted by SB 423, the phrase “discretionary approval” within the Rancho Commercial Land Use Designation, includes approval through a conditional use permit. As this action continues the previously adopted clarification of existing process and there are no significant impacts resulting from this procedural clarification, the use of the Exemption is appropriate. Any future changes to the land use or development standards within the Rancho Commercial Land Use Designation will be studied and implemented through the Burbank Rancho Neighborhood Specific Plan, which will be prepared in conformance with applicable local and state laws and accompanied by the required environmental assessment pursuant to CEQA.

FISCAL IMPACT

Adoption of the Extension Ordinance will have no impact to the City’s General Fund.

CONCLUSION

It is necessary to extend Urgency Ordinance No. 23-4,003 to continue to clarify the definition of “discretionary approval” for the Rancho Commercial Land Use Designation and enable qualified properties to be eligible for the temporary relief afforded to equestrian districts by SB 423. This will allow the City to continue to make progress toward the completion of the ongoing Burbank Rancho Neighborhood Specific Plan efforts without the significant disruptions associated with projects being reviewed through a state-mandated streamlined ministerial review. Therefore, staff is recommending Council extend the Urgency Ordinance for an additional 10 months and 15 days to December 11, 2024.

ATTACHMENTS

Attachment 1 – Urgency Ordinance Extension

Attachment 2 – Urgency Ordinance No. 23-4,003, adopted December 12, 2023

Attachment 3 – SB 423

Attachment 4 – Burbank2035 General Plan Land Use Map

Correspondences