

Agenda Report

TO: CITY COUNCIL

DATE: APRIL 19, 2004

FROM: CITY MANAGER

SUBJECT: CONSIDERATION OF A MORATORIUM ON NEW RESIDENTIAL AND MIXED-USE CONSTRUCTION IN THE CENTRAL DISTRICT SPECIFIC PLAN AREA

RECOMMENDATION

It is recommended that, following a public hearing, the City Council:

1. Find the proposed moratorium to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act, CEQA Guidelines, Section 15060(C)(2), because the moratorium will not result in a direct or reasonably foreseeable indirect physical change in the environment;
2. Approve a moratorium for an initial period of 45 days on new construction, as described on Attachment B, on parcels within the Central District Specific Plan Area, except for parcels in Central District subdistricts CD-7 and CD-7A, Planned Developments and Master Development Plans, as shown and described on Attachments A and B;
3. Find that the proposed moratorium is consistent with the objectives and policies of the General Plan;
4. Find that (a) continued approval of residential and mixed-use construction in the Central District Specific Plan Area under the existing requirements would have adverse impacts on the public health, safety, or welfare pursuant to the standards and policies set forth in the General Plan and (b) an interim ordinance establishing the proposed moratorium is necessary to avoid these adverse impacts and to provide time for an analysis of the Draft Central District Specific Plan and implementing revisions of the Zoning Code;
5. Direct the City Attorney to prepare an urgency interim ordinance implementing this recommendation.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on April 14, 2004. The Planning Commission, by a vote of seven to two, approved the staff recommendation with two modifications. Both modifications are related to the categories of projects that would be excepted (i.e., exempted) from the moratorium on building permits. First, projects with applications for Predevelopment Plan Review ("PPR") submitted on or before December 8, 2003, would be excepted. Second, projects that are subject to a Master Development Plan would be excepted, in addition to those with Planned Developments.

Staff recommended to the Commission, and recommends to the City Council, that the "pipeline" threshold for excepting projects be a discretionary approval (e.g., concept design review,) that has become effective prior to the effective date of the moratorium ordinance. The Commission recommends, instead, that the threshold be submittal of an application for Predevelopment Plan Review on or prior to December 8, 2003, the date on which the City Council conceptually approved the Central District Specific Plan. For projects submitting PPR applications after the City Council's conceptual approval of the Draft Specific Plan, staff included information about the Draft Specific Plan in the PPR comments to the applicant. Commissioners noted the certainty that these applicants had been informed of the pending changes in the Central District.

The staff recommendation to the Planning Commission did not include projects subject to a Master Development Plan among those to be excepted from the moratorium. The Commission recommended that they be added. The staff recommendation to the City Council recommends that projects subject to a master development plan be excepted from the moratorium, as does the recommendation from the Commission.

EXECUTIVE SUMMARY

After the Council conceptually approved the Draft Central District Specific Plan, the Planning and Development Department received several development applications for projects with impacts that the Draft Specific Plan would not permit. Staff recommends a moratorium on issuing building permits for projects that include (1) 10 or more dwelling units or (2) 10,000 or more square feet of gross floor area including one or more units. The moratorium is recommended for a period of forty-five days. Projects with an effective discretionary approval would be excepted from the moratorium.

BACKGROUND

The City Council approved in concept the Draft Central District Specific Plan on December 8, 2003. The Draft Specific Plan establishes Floor-Area Ratios (FARs) and maximum densities to reduce the impacts of new development by concentrating development in areas served most efficiently by transit. In addition, as implemented by

the revised Zoning Code, the Draft Specific Plan requires mixed-use projects to include adequate open space and an appropriate balance of nonresidential uses with dwelling units. Environmental review for the Specific Plan area is to be completed this coming summer. Public hearings to adopt the Specific Plan will be held at that time.

Since December 8, 2003, the rate of new applications for development in the Central District has increased. Many of these projects are inconsistent with the proposed requirements of the Draft Specific Plan. The development of numerous inconsistent projects could have specific impacts on the public health, safety, or welfare and on the effectiveness of the proposed specific plan.

Staff review has determined that, of twenty-two projects currently being processed, seventeen do not meet the standards that would limit project impacts under the Draft Specific Plan.

ANALYSIS

Options

Staff considered three options to reduce the impact of continuing to approve development that conflicts with the standards to be established in the Specific Plan: to adopt an interim zoning standards ordinance; to impose a moratorium on construction; or to take no action.

An *interim zoning standards ordinance* could be an effective way of reducing the long-term impacts of new development that is inconsistent with the Draft Specific Plan. Such an ordinance would put specific standards, such as limits on FAR or height, in effect during the interim period until the Central District Specific Plan and the implementing provisions of the revised Zoning Code are in effect. Two difficulties suggest the need for an alternative, however:

- Adopting an interim zoning standards ordinance requires an environmental analysis, which would delay its implementation;
- The Specific Plan as adopted may be different than as currently proposed. The use of an interim zoning standards ordinance might result in the development of projects that are inconsistent with the final adopted Specific Plan.

As an alternative, a *moratorium* would disallow development that meets certain criteria during an interim period. A moratorium, however, has the potential of retarding employment-producing nonresidential developments or of conflicting with housing affordability goals.

Nevertheless, taking *no action* would fail to reduce the impacts of development that is not consistent with the requirements of the Draft Specific Plan.

Staff recommends an ordinance imposing a moratorium on new construction, as described below, because this option resolves the specific problems while minimizing economic disruption. This moratorium would be for an initial 45-day period, with the possibility of extending it until the Central District Specific Plan is adopted and in effect. To minimize potential economic disruption, however, the specific provisions of the moratorium are important. In addition, California state law has certain requirements for an interim ordinance that denies approvals during a specified period.

Applicability - During the period of the moratorium, the City will not issue building permits for any project that involves construction of ten or more dwelling units or any combination of nonresidential floor area and dwelling units totaling 10,000 square feet or more, with each dwelling unit being counted as 1,000 square feet of nonresidential space, with stipulated exceptions, within the following zoning districts:

CD-1, CD-2, CD-3, CD-4, CD-5 (all subdistricts), CD-6, CD-8, CD-9, CD-10, CD-11, CD-12, CD-13, CD-13A, CD-14, CD-15, CD-16, and any IG zone fronting on Arroyo Parkway between California Boulevard on the north and Glenarm Street on the south.

Staff recommends not issuing building permits to residential and mixed-use projects. As recommended, the moratorium will apply to “dwelling units,” so work/live spaces will also be subject.

Further, staff recommends ten units, or a combination of nonresidential floor area and dwelling units totaling 10,000 square feet, as the threshold under which projects are not subject to the moratorium, because it is consistent with other thresholds (e.g., Design Commission reviews within Central District). Staff does not recommend that all new construction be prohibited, because a complete prohibition might impact a large number of relatively small additions, which do not have adverse impacts.

The affected districts include the entirety of the Central District Specific Plan Area excluding the residential area south of Cordova Blvd, east of Marengo Avenue and west of Oak Knoll Avenue (i.e., CD-7 & CD-7A). These areas are excluded because the Draft Specific Plan proposes to exclude them. These areas are subject to the City of Gardens provisions and are located in areas that have a lower density than the remainder of the Central District. They are located in areas that do not allow for mixed-use development and thus cannot take advantage of the mixed-use development standards. The recommendation is also specifically to exclude PD-8 & PD-13, because they are outside of the Central District and to exclude PD-10, PD-12, PD-21, PD-24, and PD-26. Each of the latter is essentially built-up, and a proposed moratorium would likely have little or no effect on these areas.

Exceptions – Several categories of projects would be excepted generally from the moratorium:

- All exclusively nonresidential projects (i.e., with no dwelling units);

- All rehabilitations, tenant improvements, changes of use, including residential, and any project that does not add square footage over the proposed threshold;
- Projects that are subject to a Planned Development;
- Projects that are subject a Master Development Plan.

Rehabilitations, tenant improvements and changes of use are proposed for exception, because they have relatively modest impact and because inclusion would have a significant economic impact. Projects that are subject to a Planned Development or a Master Development Plan receive legislative approval establishing specific standards and will not be subject to the corresponding provisions of the Specific Plan.

For excepting projects from the moratorium based on the status in the review and approval process, the threshold should be a discretionary approval that has become effective prior to the effective date of the moratorium. This threshold is based on the need to avoid impacts to the effectiveness of the proposed specific plan and a desire to provide equity to applicants that have invested significantly in project planning. It is also noted that the recommended threshold is consistent with §17.08.020.M.2 of the Zoning Code. Although this subsection of the Zoning Code does not specifically apply to moratoriums, consistency with the subsection threshold would reduce the possibility of error in assessing projects.

Processing - During the moratorium period, applications for discretionary approval and applications for building plan check will continue to be accepted. However, applicants will be advised of the moratorium and that no building permit will be issued during the moratorium period. In addition, staff will identify any inconsistencies with the Draft Specific Plan. The applicant will also be advised that, after the adoption of the Specific Plan, any project shall be required to be consistent with the requirements of the Specific Plan.

Applications for discretionary approval and building plan checks will continue to be processed and, if appropriate, hearings will be held and decisions made. For applicable projects, any approval will include a condition acknowledging the effect of the moratorium on the completion of the project as proposed. Upon adoption of the Specific Plan, staff will review affected projects for consistency with the adopted Specific Plan. If a project is found to be inconsistent with the adopted Specific Plan, a new review or plan check of a revised project may be necessary.

General Plan Objectives and Policies

The Land Use Element of the General Plan emphasizes clustering development near transit to support use of transit and pedestrian mobility (Policy 1.3; Policy 10.2; Policy 20.1). Objective 21 directs that the city coordinate development between transit-oriented and pedestrian districts. The emphasis on development that supports transit and pedestrian mobility complies with the direction given by Objective 5, which calls for the preservation of Pasadena's character and scale, including its traditional urban design form and historic character. The Draft Central District Specific Plan and

implementing zoning revisions will establish standards to accomplish the policy direction given in the Land Use Element. In their absence, development may create long-term impacts in the Central District.

State Law Requirements

California law states that “[t]he legislative body of a...city..., to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time.” (Government Code Section 65858) With legislative findings that there is a current and immediate threat to the public health, safety, and welfare, and with a four-fifths vote of the body, the interim ordinance may be in effect for 45 days. The legislative body may extend an ordinance affecting multifamily housing, again with a four-fifths vote, to a total period of two years, if certain additional findings are made. The additional findings concern specific, adverse impacts on health and safety, the necessity of the moratorium, and the absence of a feasible alternative.

The Draft Central District Specific Plan reduces the potential concentration of dwelling units in portions of the Central District that cannot accommodate impacts that currently are allowed and directs development to areas served by transit. Further, as implemented through proposed Zoning Code requirements for open space in mixed-use development, the Specific Plan will reduce potential imbalance between new units and necessary open space. Continued development according to the development standards now in place will result in ongoing impacts to the public health, safety, and welfare in the Central District.


Environmental Determination

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act, CEQA Guidelines, Section 15060 (C)(2), because the moratorium will not result in a direct or reasonably foreseeable indirect physical change in the environment.

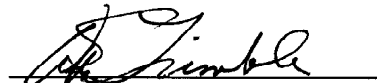
FISCAL IMPACT

Revenue from fees for plan check and for construction tax will not be received for projects subject to the moratorium during the period of the moratorium. Staff also recommends that, for projects that are submitted consistent with the Draft Specific Plan and Draft Zoning Code, additional plan check and discretionary review fees will not be charged if the Specific Plan and Zoning Code adopted by the Council require changes because the Council modifies the draft Specific Plan and Zoning Code.


Respectfully submitted,


CYNTHIA J. KURTZ
City Manager

Prepared by:


William Trimble
Planner

Approved by:


Richard J. Bruckner
Director, Planning and Development

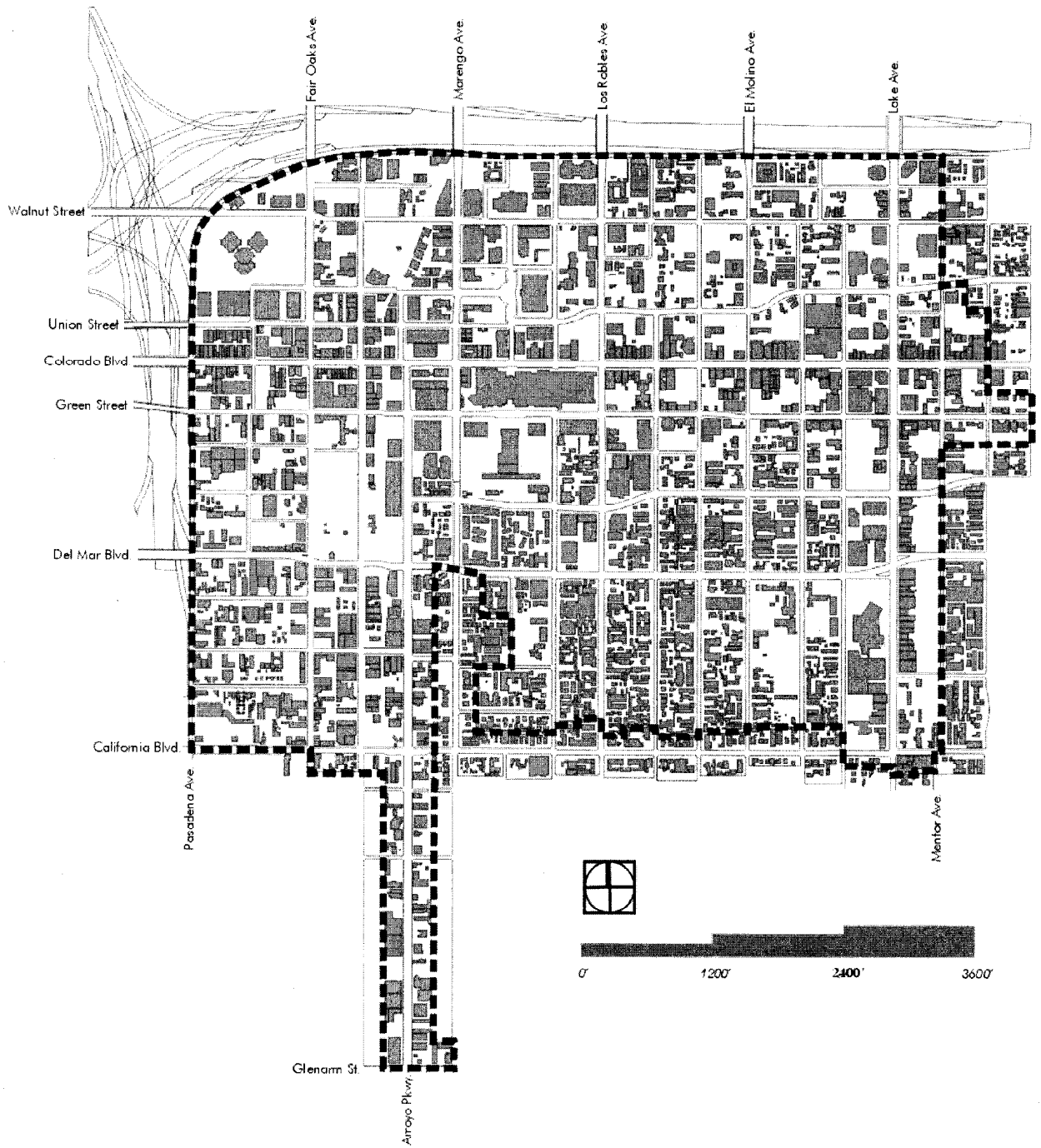
Attachments:

- A. Map – Central District Specific Plan
- B. Proposed Moratorium on Residential Mixed-Use Construction within the Central District Specific Plan Area
- C. Development Projects in Central District Specific Plan Area

Attachment A

Central District Specific Plan

Central District Specific Plan



Attachment B

**Proposed Moratorium
on Residential and Mixed-Use Construction
within the Central District Specific Plan Area**

**Proposed Moratorium on Residential and Mixed-Use Construction
Within the Central District Specific Plan Area**

Recommendations

Issue to be resolved:

The City Council approved in concept a draft specific plan for the Central District on December 8, 2003. Recently, a number of applications for development projects have been submitted. Many of these projects are inconsistent with the proposed requirements of the draft specific plan. The development of numerous inconsistent projects could impact public welfare and the effectiveness of the proposed specific plan.

Recommendation:

Adopt an ordinance imposing a moratorium on new construction.

Applicability:

During the period of the moratorium, the City will not issue building permits for any projects that construct 10 or more dwelling units or any combination of square footage and dwelling units of 10,000 or more square feet, with each dwelling unit being counted as 1,000 square feet of non-residential space, with stipulated exceptions, within the following zoning districts:

CD-1, CD-2, CD-3, CD-4, CD-5 (all subdistricts), CD-6, CD-8, CD-9, CD-10, CD-11, CD-12, CD-13, CD-13A, CD-14, CD-15, CD-16, and any IG zone fronting on Arroyo Parkway between California Boulevard on the north and Glenarm Street on the south.

Exceptions:

- All exclusively nonresidential projects
- All rehabilitations, tenant improvements, changes of use, including residential, and any project that does not add square footage over the proposed threshold
- Projects that have an effective discretionary approval prior to the effective date of the moratorium ordinance
- Projects that are subject to a Planned Development
- Projects that are subject to a Master Development Plan

Processing:

During the moratorium period, applications for discretionary approval and applications for building plan check will continue to be accepted. However, applicants will be advised of the moratorium and that no building permit will be issued during the moratorium period. In addition, staff will identify any inconsistencies with the draft specific plan. The applicant will also be advised that, after the adoption of the proposed specific plan, any project may be required to be consistent with the requirements of the specific plan.

Applications for discretionary approval and building plan checks will continue to be processed and, if appropriate, hearings held and decisions made. For applicable projects, any approval will include a condition acknowledging the effect of the moratorium on the completion of the project as proposed. Upon adoption of a specific plan, a review will be conducted of applicable projects for consistency with the adopted specific plan. If a project is found to be inconsistent with the adopted specific plan, a new review or plan check of a revised project may be necessary.

Attachment C

**Development Projects
in Central District Specific Plan Area**

15-Apr-04

STATUS OF PROJECTS IN CENTRAL DISTRICT WITH HOUSING UNITS		APPLICATION FOR				PLAN
		LAND-USE DISCRETIONARY		ENTITLEMENT APPROVAL		CHECK
ADDRESS	# HOUSING UNITS	MIXED-USE	COMPLETED PPR			
Arroyo N 31	12	•	•	•	•	
Arroyo S260	68	•				
Colorado E 618-630	146	•	•			
Del Mar E 240	22		•	•		
Del Mar E 175	4		N/A	•	•	•
DeLacey S 250	34	•	•	•	•	•
Green W 100	61	•	•	•	•	
Hudson N 233	22	•	•	•		
Hudson S 141	9	•	•	•	•	•
Lake N 220	106	•	•	•		
Cordova E 175	28	•	•	•	•	
Madison N 255	179		•	•	•	
Marengo S 215	37	•	•	•		
Oak Knoll N 77	30		•	•	•	
Raymond N 121	49	•	•	•	•	
Raymond S 443	30	•	•	•	•	•
San Pasqual 950	80		•			
Union E 686-700	104	•	•			
TOTAL UNITS	1021					

STATUS OF PROJECTS IN CENTRAL DISTRICT: NON-RESIDENTIAL

Green E 300	216000	•	•	•	•	
Fair Oaks S 55	22250	•	•	•	•	
Colorado E 1010	18236		•	•	•	
Raymond S 412	3900					

TOTAL S.F. 260386



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CITY CLERK
CITY OF PASADENA

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RECEIVED

April 10, 2004

To: John Poindexter
City of Pasadena

Fr: Pamela Hemann
Los Angeles County East Chapter, BIA of Southern California

Re: Moratorium for Central District

We respectfully request that the City of Pasadena not adopt a development moratorium. A moratorium on development in a city must find "current and immediate threat to the public health, safety and welfare." Current development, and numbers for development in the pipeline for the Central District, although not yet publicly shared, will likely remain below the 1994 General Plan figure of 10,000 new homes, apartments and condominiums in downtown Pasadena. A finding that development within the previously approved plan presents "current and immediate threat to the public health, safety and welfare," seems highly improbable. Such a ruling would indeed conflict with the approved goals of the General Plan and undermine the new Central District Plan focused on revitalizing the downtown area with new retail, mixed use, transit-oriented development, and higher density housing

Taking the step to a moratorium within the urgent timeline being considered, without supporting research, is an unreasonable approach by the city. The current policies and regulations on development were adopted with public input, environmental analysis and a vision for downtown Pasadena to have a vital mix of higher density housing, businesses, and retail and commercial facilities. A moratorium on development would very simply suggest that the General Plan that was adopted in 1994 was predisposed to present a threat to the public health, safety and welfare.

Several corridors of Pasadena are appropriate for higher density housing, mixed-use development and transit-oriented projects because of the Gold Line and complementary transit systems. The Gold Line will be little more than an expensive transportation experiment if the cities that benefit from that transit system take actions that limit its purpose. Higher density is demanded in these transit corridors, which are, indeed, designed to benefit the public.

We ask that appropriate research be conducted to reach a sound decision on any changes in policies and regulations impacting future development. We hope that the voices of a few current residents will not adversely impact a much larger group of citizens who are seeking housing.

We appreciate your consideration of our request to not impose a moratorium.