

Agenda Report

TO: CITY COUNCIL **DATE:** MARCH 15, 2004
FROM: CITY MANAGER
SUBJECT: CONSIDERATION OF A MORATORIUM ON NEW
CONSTRUCTION IN THE HILLSIDE DEVELOPMENT OVERLAY
DISTRICT (HD)

RECOMMENDATION

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

1. Find the proposed project to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act, CEQA Guidelines, Section 15060 (C)(2), as the activity 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 on all parcels affected by the Hillside Development Overlay District (HD) zoning designation;
3. Find that the proposed moratorium is consistent with the goals and policies of the General Plan;
4. Find that (a) continued approval of construction in the Hillside Development Overlay District under the existing requirements would have adverse impacts upon 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 provide time for an analysis of the existing standards and consideration of revisions to the Hillside Development Overlay District;
5. Direct the City Attorney to prepare an interim ordinance implementing this recommendation.

PLANNING COMMISSION'S RECOMMENDATION:

The Planning Commission reviewed the proposed moratorium on March 10, 2004. Following extensive testimony, the Commission recommended unanimous approval of staff's recommendation with an added exception for projects that have already submitted an application to the Planning Department and had that application deemed complete. The Commission felt that to uphold fairness within the application process, projects submitted for discretionary action such as a Conditional Use Permit, Minor Conditional Use Permit, or Variance and deemed complete would be exempt from the ordinance. The Commission recommended that all applications deemed complete as of March 10, 2004 be exempt from the impacts of the moratorium.

EXECUTIVE SUMMARY

There has been a notable increase in controversial new homes and construction projects built on steep, visible, environmentally sensitive lots in Pasadena. In response to these concerns, the Planning and Development Department is preparing recommended revisions to the existing Hillside standards that will promote development that has less environmental impact, is more in character with existing development and natural terrain, and will not overwhelm hillsides and ridgelines. Additional concerns regarding construction vehicles using the narrow roadways characteristic of the hillside area are also under review. A temporary moratorium on such development would allow time for the new development standards and Hillside regulations to proceed through the City's review and approval process and for determining what conditions and/or restrictions may be necessary concerning construction traffic.

BACKGROUND

The Hillside Ordinance was created in 1992. Most of the regulations set forth in 1992 remain in today's Zoning Code. Based on staff experience with the existing ordinance and in response to community concerns and issues, the Planning and Development Department has been working on proposed revisions to the Hillside Ordinance. Last year, three community meetings were held throughout the City to obtain a list of issues and concerns from the public. Many aspects of the ordinance were viewed favorably, and there was a common sentiment that many of the existing standards are working successfully. However, the community felt that there were important issues that were not adequately addressed, such as ridgeline protection, view preservation, reaction to environmental hazards, and development on steep slopes. In particular, specific concerns regarding an increase in controversial new homes built on steep, visible, environmentally sensitive lots in the City were noted. In response to these concerns, the proposed Hillside Ordinance will require new development that has less environmental impact, is more in character with existing development, and will not overwhelm hillsides and ridgelines.

As the proposal is being developed, the Planning and Development Department has continued to receive applications for new homes and major additions on large, steep lots. Projects that have received approval from the Zoning Hearing Officer are being called up to the Board of Zoning Appeals and/or are regularly appealed. There are several recent examples of such cases being subsequently denied by the Board of Zoning Appeals. A temporary moratorium on such development would allow time for the new development standards and Hillside regulations to proceed through the review and approval process. A moratorium offers the ability to review the current standards and submit draft revisions to these standards.

In evaluating the need for a moratorium, staff has determined that there is sufficient evidence to suggest that existing conditions make certain areas vulnerable to a change in neighborhood character and the construction of new homes or additions that overwhelm ridgelines and hillsides. Because of the scarcity of existing development sites in Pasadena, many hillside lots that had previously been thought unbuildable are being looked at as desirable sites. This leads to proposals for new homes on very steep lots with environmental concerns such as access, drainage and water runoff, erosion, and fire safety. Construction vehicles and trucks negotiating narrow, winding roadways characteristic of the hillside areas are a significant concern. Staff also determined that the pace of development within the Hillside District justifies a moratorium to curtail the new development of homes under the old standards until the severity of the impacts on existing neighborhood character and aesthetics can be determined more completely and appropriate actions proposed.

ANALYSIS

Government Code Section 65858 states that "the 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 planning department is considering or studying or intends to study within a reasonable time." The interim ordinance can be in place for 45 days and is eligible for an extension by vote of the Council. Extensions to the ordinance must make the finding that public health and safety are being preserved. The original approval and all extensions require a four-fifths vote. Staff is planning to bring forward the proposed revisions to the hillside ordinance within the original 45 day period.

The Government Code allows for the protection of the health, safety, and welfare. The existing Hillside Development standards are not doing an adequate job of providing protections on hillside lots. For example, the current ordinance allows the floor area for a home to be based on the overall size of the lot. Despite the fact that the code does require a reduction of floor area the steeper the average slope is, this reduction does not seem adequate for many lots. The

calculation does not take into consideration that a lot may only have a small building area with the remainder too steep for construction. As a result, the City is receiving applications for very large homes on what should be considered small building areas. Additionally, access and egress of construction vehicles and trucks to development sites is a cumulative impact in the hillside areas that has significant health and safety ramifications.

In addition to the issues of neighborhood character, view protection, aesthetics, and sightlines, this type of development raises a host of environmental issues. The public safety and welfare issues (erosion, hillside character, fire safety) of developing on lots with extreme slopes needs to be further evaluated through the draft revisions to the Hillside standards.

The moratorium would apply to all parcels within the HD (Hillside Development Overlay) zone within the City. This comprises lots zoned RS1-HD, RS-2-HD, RS-4-HD, and RS-6-HD. Parcels zoned HD-1 (Upper Hastings Ranch) would not be impacted by the moratorium. As proposed, the moratorium would apply to new homes, additions to existing homes, accessory structures, and any other construction in the HD Overlay zone unless it meets one of the following exceptions:

- The project has been issued a building permit or plans have been submitted for a building permit and application fees have been paid;
- The project is less than 500 square feet in size or less than 20% of the existing floor area of the dwelling unit;
- The project is an accessory structure of less than 20% of the existing floor area of the dwelling unit; and
- The project is located with a Planned Development (PD) or is within a proposed Planned Development for which a complete letter has been written. Projects within an existing or proposed PD zone (such as El Mirador, PD-9 and Annandale Canyon) will be governed by the rules and regulations of that Planned Development.

Unless one of the above exceptions is met, the moratorium would halt the issuance of any new building permits in the HD Overlay zone throughout the active period of the ordinance.

Staff has reviewed the number of parcels that will be impacted by this moratorium. There are 3,829 parcels in the City of Pasadena that are within the HD overlay. As of the date of the Planning Commission hearing, there were 21 discretionary applications (i.e. Conditional Use Permits and Variances) submitted for processing. Of these 21 applications, 15 have been deemed complete by staff and six have not yet been deemed complete. Of the 15 complete applications, eight have been approved by the Zoning Hearing Officer but are in various stages of appeal, review, or plan development. The Planning Commission's recommendation would exempt the 15 projects deemed complete from the

impacts of the moratorium. Each of these exempted projects will be evaluated to ensure there will be no environmental impacts or impacts to the roadway network. Staging and routing of construction vehicles will be evaluated for both project-specific and cumulative impacts on the hillside infrastructure. There is no method of estimating the number of projects that have been through the “over the counter” review process yet not submitted for discretionary action.

This moratorium would be for an initial period of 45 days, with an extension beyond 45 days possible with a separate action by the Council. The moratorium will provide protection for the neighborhood and residents while staff and City advisory bodies analyze the proposed revisions to the Hillside Overlay Ordinance, the health, safety and welfare concerns of Hillside Development, and the options for Council action.

ENVIRONMENTAL DETERMINATION

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

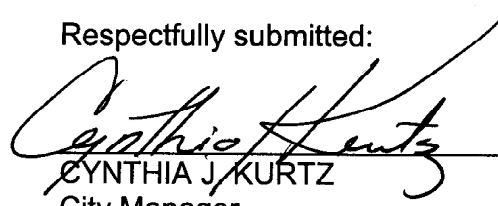
HOUSING IMPACT

The moratorium will not impact construction of additions or new homes for which a building permit has already been issued or applied for. The moratorium will have no impact on the construction of units within a Planned Development (PD) area. The moratorium will delay construction of any new dwelling units or additions in the Hillside District that do not meet the exceptions listed in the staff report.

FISCAL IMPACT

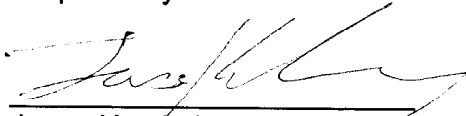
The proposed moratorium on new construction in the hillside would limit the collection of building fees and development impact fees, except for those projects that meet the recommended exceptions, have existing building permits, or have applied for building permits. Receipt of property tax attributable to the construction of new projects currently within the discretionary review process would be delayed. The amount of loss or delayed revenues cannot be determined at this time.

Respectfully submitted:



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Prepared by:



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Reviewed by:

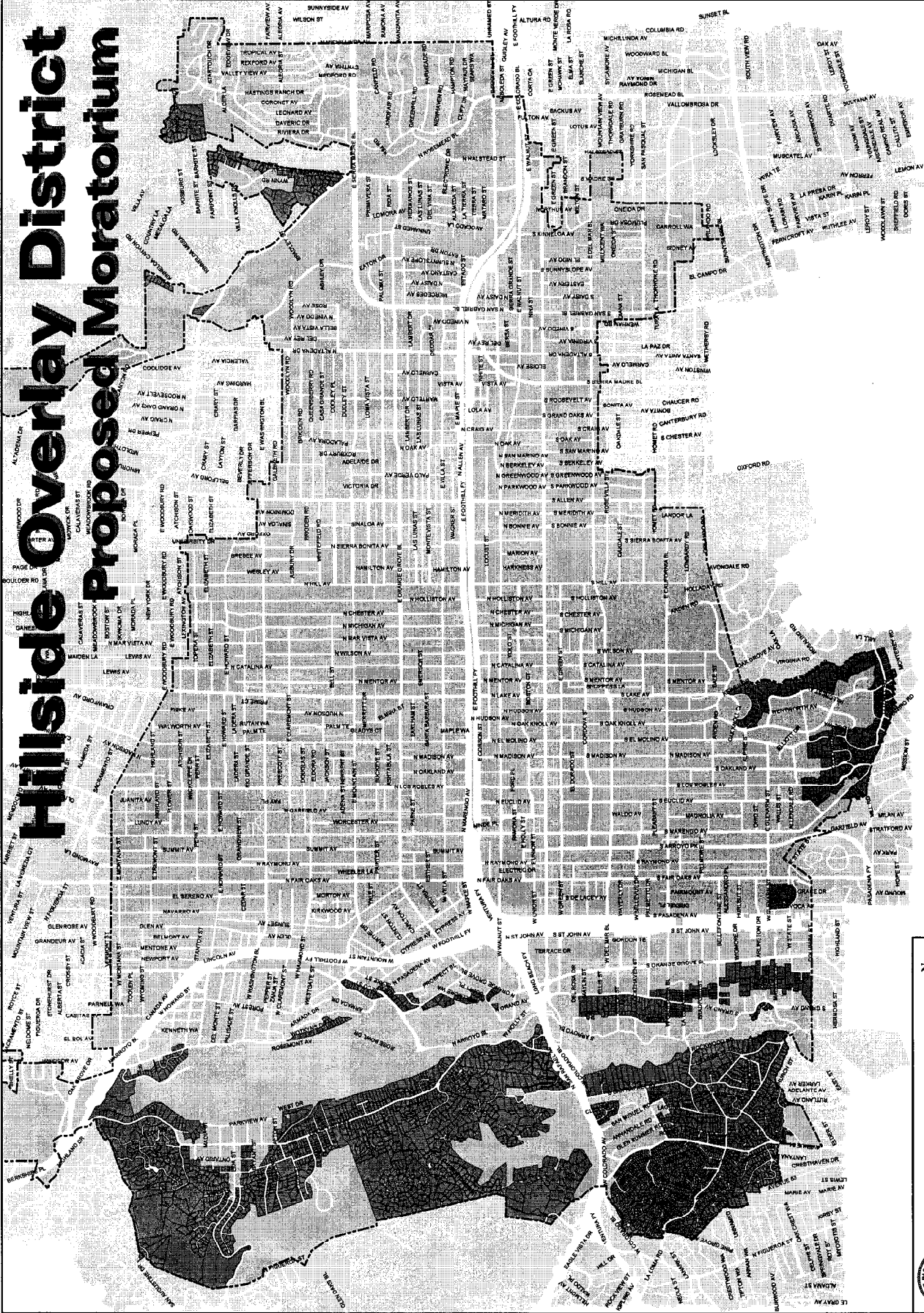


Richard J. Bruckner
Director of Planning and Development

Attachment

- A. Map of Affected Areas

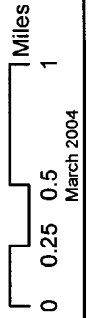
Hillside Overlay District Proposed Moratorium



HD (Hillside Overlay District)



ATTACHMENT A



March 2004

