



OFFICE OF THE CITY ATTORNEY
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REPORT NO. R 0 7 - 0 0 8 1

MAR 0 8 2007

REPORT RE:

**DRAFT OF URGENCY ORDINANCE PURSUANT TO
GOVERNMENT CODE SECTION 65858 ESTABLISHING
A TEMPORARY MORATORIUM ON THE ISSUANCE OF
BUILDING AND DEMOLITION PERMITS FOR PROPERTIES
WITHIN THE WINDSOR SQUARE AREA**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File Nos. 07-0354, 04-1848, 04-1848-S1, 00-1247, 00-1247-S1

Honorable Members:

We are transmitting to you for your action, approved as to form and legality, a final draft urgency ordinance, extending Urgency Ordinance No. 178400, pursuant to Government Code Section 65858, establishing a temporary moratorium on the issuance of building and demolition permits for properties within the Windsor Square Area.

Background

On January 4, 2007, in the case of *NoHPOZ Alliance, et al. v. City of Los Angeles*, Los Angeles Superior Court Case No. BS093489, the Los Angeles Superior Court issued a peremptory writ of mandate directing the City to, among other things, immediately set aside and vacate Ordinance No. 176246, establishing the Windsor Square Historic Preservation Overlay Zone (HPOZ) and approving a CEQA general exemption with respect thereto. The City reported to the Court on March 2, 2007, on what the City intends to do to comply with the writ.



The City Council adopted Ordinance No. 178400, an urgency ordinance, pursuant to California Government Code Section 65858, by a four-fifths vote on February 7, 2007, to protect the Windsor Square neighborhood. The ordinance expires on March 24, 2007, 45 days after its adoption.

Since the date of the adoption of the ordinance, the Director of Planning initiated a new Windsor Square HPOZ, and the Department of Planning (Department) has conducted further studies on the appropriate level of environmental review necessary for the new HPOZ. In addition, the Department has completed its re-evaluation of the Windsor Square Historic Resources Survey (Survey) using the Secretary of Interior Standards for Rehabilitation and National Register Bulletin 15. As a result of the re-evaluation, the Department recommended to the Cultural Heritage Commission that the Survey be modified and the HPOZ boundaries be revised. All R3 multiple family zoned lots were removed from the proposed HPOZ in order to negate any potential impact on a significant component of multifamily housing.

On March 1, 2007, the Cultural Heritage Commission certified the modified Survey as complete and accurate and recommended that the City Planning Commission adopt the Windsor Square Preservation Plan (Preservation Plan) and the City Council adopt the re-initiated Windsor Square HPOZ. However, additional time is required to complete the public hearing and approval process before the City Planning Commission and the City Council for the final adoption and approval of the Windsor Square Preservation Plan and the Windsor Square HPOZ.

Urgency Ordinance Provisions

The final draft urgency ordinance imposes a temporary moratorium on the issuance of building and demolition permits in a portion of the Wilshire Community Plan Area known as Windsor Square, generally bounded by Beverly Boulevard on the north, Arden Boulevard on the west, Van Ness Avenue on the east, and the rear property lines of the commercially zoned properties along Wilshire Boulevard to the south.

Exceptions are provided (1) for work required to comply with any order issued by the Department of Building and Safety to repair or demolish any unsafe or substandard condition or to rebuild as a result of destruction by fire, earthquake or other natural disaster, and (2) where an applicant has completed the plan check process and paid the plan check fee prior to the effective date of the ordinance. The provisions of the draft ordinance do not apply to the issuance of a building permit for interior remodeling of a legally constructed building or structure, which does not affect any exterior feature or to rehabilitation work that is consistent with the Secretary of Interior Standards for Rehabilitation as determined by the Director of Planning.

The draft ordinance would be in effect for a period of ten months and 15 days from the date of adoption unless extended by the City Council in accordance with the terms and provisions of California Government Code Section 65858.

CEQA Findings for the Urgency Ordinance


Regarding a finding pursuant to the California Environmental Quality Act of 1970 (CEQA), the Department of Planning has determined that the adoption of the ordinance is exempt from the requirements of CEQA, pursuant to Article 19, Section 15308, Class 8 of the State's Guidelines in that the project "consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment."

If the City Council concurs, it should adopt this finding prior to or concurrent with its action on the ordinance.

If you have any questions, you may contact Terry Kaufmann Macias at (213) 978-8248. She or another member of this Office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By 
CLAUDIA CULLING
Special Counsel - Municipal

ORDINANCE NO. _____

An urgency ordinance, pursuant to California Government Code Section 65858, establishing a temporary moratorium on the issuance of building and demolition permits for properties within the re-initiated Windsor Square Historic Preservation Overlay Zone (HPOZ) generally bounded by Beverly Boulevard on the north, both sides of Arden Boulevard on the west, both sides of Van Ness Avenue on the east, and the rear property lines of the commercially zoned properties along Wilshire Boulevard on the south, but excluding commercially and multi-family – R3 zoned lots.

WHEREAS, the Superior Court of California, County of Los Angeles, ruled that the City of Los Angeles set aside and vacate its decision to approve the Windsor Square Historic resources Survey and adopt the Historic Preservation Overlay Zone and Preservation Plan, because the City failed to comply with the California Environmental Quality Act in the adoption of the Windsor Square Historic Overlay Zone; and

WHEREAS, this court decision will leave Windsor Square one of the richest collections of Period Revival architecture in Southern California vulnerable to demolition and irreversible alterations that could adversely impact the character of the neighborhood; and

WHEREAS, a certified historic consultant determined that 1,104 out of 1,239 parcels in Windsor Square were historically significant and “added to the historic architectural qualities or historic associations for which these properties are significant because they were present during the period of significance, and possess historic integrity reflecting its character at that time;” and

WHEREAS, the re-adoption of the Windsor Square Historic Preservation Overlay Zone and Preservation Plan is consistent with the goals and objectives of the General Plan’s conservation and housing element to “protect important cultural and historical sites and resources for historical, cultural, research, and community education purposes and to identify and protect architecturally and historically significant residences and neighborhoods”; and

WHEREAS, there is a current and immediate threat to the public health, safety and welfare because knowledge that the Windsor Square HPOZ is no longer in effect may drive some owners and developers to obtain building and demolition permits until the Windsor Square HPOZ and Preservation Plan is re-adopted effectively accelerating the destruction of historically and architecturally significant structures in the neighborhood; and

WHEREAS, the City of Los Angeles has decided to study the appropriate level of environmental clearance necessary to re-certify the Windsor Square Historic Resources Survey and re-adopt the Windsor Square Historic Preservation Overlay Zone (HPOZ)

and Preservation Plan and in doing so requires more time to complete the study and analysis and re-process the HPOZ and Preservation Plan; and

WHEREAS, in re-processing the Windsor Square Historic Preservation Overlay Zone, the City of Los Angeles removed all R3 multiple family zoned lots from the proposed HPOZ in order to negate any potential impact on a significant component of multifamily housing; and

WHEREAS, the City Council adopted Ordinance No. 178400, an urgency ordinance, pursuant to California Government Code Section 65858, by a four-fifths vote on February 7, 2007, to protect the Windsor Square neighborhood. The ordinance expires on March 24, 2007, 45 days after its adoption. Since the date of the adoption of the ordinance, the Director of Planning initiated a new Windsor Square HPOZ and the Department of Planning (the Department) has conducted further studies on the appropriate level of environmental review necessary for the new HPOZ. In addition, the Department has completed its re-evaluation of the Windsor Square Historic Resources Survey (Survey), using the Secretary of Interior Standards for Rehabilitation and National Register Bulletin 15. As a result of the re-evaluation, the Department recommended to the Cultural Heritage Commission that the Survey be modified and the HPOZ boundaries be revised. On March 1, 2007, the Cultural Heritage Commission certified the modified Survey as complete and accurate and recommended that the City Planning Commission adopt the Windsor Square Preservation Plan (Preservation Plan) and the City Council adopt the re-initiated Windsor Square HPOZ. However, additional time is required to complete the public hearing and approval process before the City Planning Commission and the City Council for the final adoption and approval of the Windsor Square Preservation Plan and the Windsor Square HPOZ; and

WHEREAS, it therefore remains urgent to protect the public health, safety, and welfare by extending Ordinance No. 178400 pursuant to Government Code Section 65858 and thereby continue to prevent demolitions and alterations that could result in the loss of historically important resources and stopping incompatible new construction that could jeopardize the overall character of the Windsor Square neighborhood until the revisions to the Historic Preservation Overlay Zone can be considered and the permanent regulations go into effect.

NOW THEREFORE,

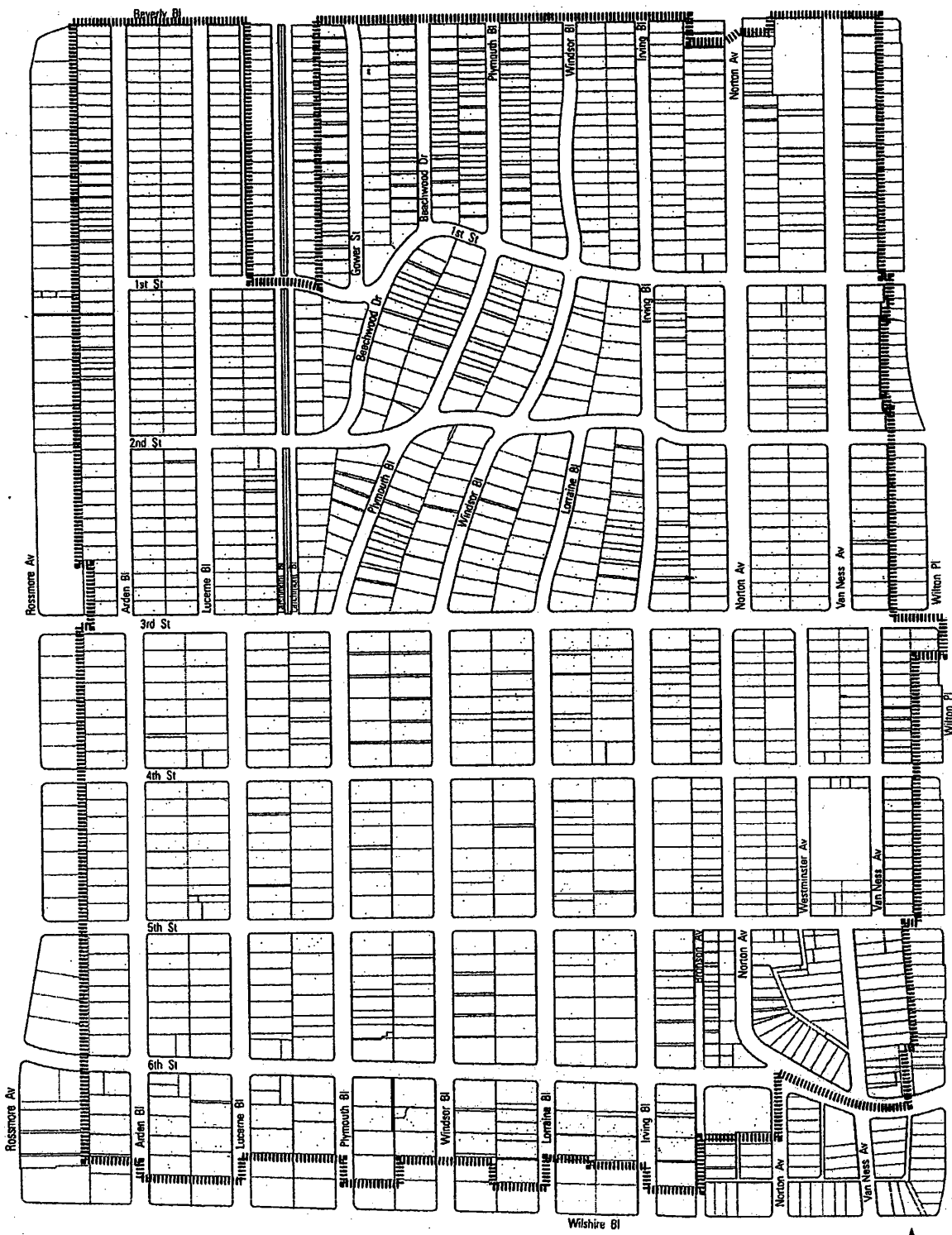
**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. DEFINITIONS. The following words and phrases, whenever used in this ordinance, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Los Angeles Municipal Code Section 12.03.

PROJECT. The erection, construction, demolition, addition to, or alteration of a building or structure, or removal of an exterior feature of any building or structure on any lot located in whole or in part in the area identified in Section 3 of this ordinance. The term "Project" shall not include interior remodeling, which does not affect any exterior feature.

Sec. 2. PROHIBITION. In accordance with California Government Code Section 65858, no building or demolition permit for a Project shall be issued. This ordinance shall be in effect for a period of ten months and 15 days from the date of adoption unless extended by the City Council in accordance with the terms and provisions of Government Code Section 65858.

Sec. 3. INTERIM CONTROL AREA. The provisions of this ordinance shall apply to any lot in whole or in part within the re-initiated proposed Windsor Square HPOZ as shown on the following map:



**Proposed
WINDSOR SQUARE**
Historical Preservation Overlay Zone Boundaries

Prepared by City of Los Angeles Planning Department • Graphic Services Section • February, 2007

- Proposed HPOZ Area
- Proposed HPOZ Boundary
- Not in Boundary

Sec. 4. EXCEPTIONS.

- A. The prohibition specified in Section 2 of this ordinance shall not apply to any construction for which a building permit or demolition permit is required:
 - 1. In order to comply with an order issued by the Department of Building and Safety to repair or demolish an unsafe or substandard condition;
 - 2. In order to rebuild as a result of destruction by fire, earthquake or other natural disaster, provided that the development is not prohibited by any provision of the Los Angeles Municipal Code.

- B. The provisions of this ordinance shall not apply to the issuance of a building permit within the Proposed Windsor Square HPOZ:
 - 1. If architectural and structural plans sufficient for a complete plan check were accepted by the Department of Building and Safety prior to the effective date of the ordinance; and
 - 2. If a plan check fee was collected prior to the effective date of the ordinance; and
 - 3. If no subsequent changes are made to those plans, which increase or decrease the height, floor area or occupant load by more than five percent.

- C. The provisions of this ordinance shall not apply to the issuance of a building permit for interior remodeling of a legally constructed building or structure, which does not affect any exterior feature.

- D. The provisions of this ordinance shall not apply to rehabilitation work that is consistent with the Secretary of Interior Standards for Rehabilitation as determined by the Director of Planning.

Sec. 5. EXTENSION OF REGULATIONS. The City Council may extend this ordinance in accordance with the provisions of California Government Code Section 65858.

Sec. 6. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The proposed ordinance is exempt from the California Environmental Quality Act of 1970 (CEQA), pursuant to Article 19, Section 15308, Class 8 of the State's Guidelines in that the project "consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment:

Sec. 7. APPLICABILITY OF THE ZONING CODE. The regulations of this ordinance are in addition to those set forth in the planning and zoning provisions of Chapter 1 of the Los Angeles Municipal Code and any other ordinances and do not contain any rights not otherwise granted under the provisions and procedures contained in that Chapter or any other ordinances.

Sec. 8. SEVERABILITY. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions, and, to this end, the provisions of this ordinance are declared to be severable.

Sec. 9. URGENCY CLAUSE. The City Council finds and declares that this ordinance, pursuant to Government Code Section 65858, is required because there is a current and immediate threat to the public health, safety, and welfare for the following reasons:

1. In the past, the City has received several permit applications for the development of property within Windsor Square when no restrictions were in place. In a single year between 2001-2002, 82 building alteration and addition permits and four demolition permits were issued in Windsor Square. It is likely that the Court's ruling and knowledge that the City's plans to re-adopt the Windsor Square Historic Preservation Overlay Zone will drive some owners and developers to obtain building permits to demolish or substantially alter historically significant structures.
2. If this ordinance is not immediately adopted, the continued processing of building alteration, addition, and demolition permits could result in the loss of irreplaceable historically significant structures, thereby rendering ineffective the HPOZ and Preservation Plan meant to preserve these resources.
3. Unless this ordinance is passed, Windsor Square would be vulnerable to incompatible construction that would create an unsightly patchwork of design and scale, jeopardizing the overall character of the neighborhood. This is particularly true in Windsor Square, where approximately 89% of the structures are historically intact. Every time construction is incompatible with the scale, massing, development pattern, or design of the neighborhood, it tends to have an even more dramatic impact on the overall character of the community.
4. This ordinance would not only protect a local historic resource, but also an important historic, cultural, and economic resource for the entire City of Los Angeles. Windsor Square was one of the first planned communities in Los Angeles with consistent street grid pattern, street lighting and setbacks. However, unlike today's planned communities, each home was uniquely designed in a myriad of predominantly Period Revival styles including Spanish Colonial, Tudor, English, French, Mediterranean, and Italianate. This fact has

attracted many people from all over to move into Windsor Square, resulting in inflating home values. Windsor Square is also home to the City's Mayoral residence, one of the few Mayoral residences remaining in the United States. Moreover, Windsor Square due to its historic character is a favorite filming location, helping retain film production, an economic benefit, in the City.

5. The adoption of this ordinance will enable the City to conduct the necessary environmental review to re-process the Windsor Square Historic Preservation Overlay Zone and Preservation Plan, thereby preventing the demolition or alteration of irreplaceable structures that would permanently change the character of the Windsor Square neighborhood and undermine the stated goals of the General and Community Plans of "preserving and enhancing neighborhoods having a distinctive and significant historical character" and developing a Historic Preservation Overlay Zone for the Windsor Square neighborhood".

Sec. 10. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than four-fifths** of all of its members, at its meeting of _____.

FRANK T. MARTINEZ, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By Terry Kaufmann Macias
TERRY KAUFMANN MACIAS
Deputy City Attorney

Date March 8, 2007

File No. _____

Pursuant to Charter Section 559, I **approve** this ordinance on behalf of the City Planning Commission and recommend that it be adopted

March , 2007

See attached report.