



## Planning Commission Report

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**Meeting Date:** June 9, 2016

**Subject:** Hillside Development Urgency Ordinance

**Project Applicant:** City Initiated Project / Planning Commission Request

**Recommendation:** Discuss the proposed interim ordinance regulating landform alterations, expansions of the level pad areas of lots and development off the level pad of lots in the Hillside area of the City, and provide direction as appropriate. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

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### REPORT SUMMARY

Over the last two years both the Planning Commission and City Council have raised concerns regarding hillside development and an increasing reliance by property owners on grading and retaining walls to facilitate larger projects. The concerns include the increased mass and scale of new construction, degradation of natural hillside contours, increased construction impacts and the potential of projects to create slope destabilization. Based on these concerns, Planning Commissioner Corman has submitted the attached draft interim ordinance (Exhibit A) for review by the Planning Commission. The recommendation in this report is that the Commission discuss the urgency ordinance and decide whether to recommend its approval to the City Council.

### BACKGROUND

The Planning Commission previously discussed the issues relating to the existing Hillside development standards, including the effects of retaining walls, grading, and hauling at a special meeting on July 24, 2014. The July 24, 2014 staff report (Exhibit B) is attached to provide background on Hillside development standards as the report includes a description of existing development standards and cites Municipal Code sections relevant to the Hillside area of the City. At the special meeting, the Planning Commission unanimously voted to recommend that the City Council adopt an interim ordinance pursuant to Government Code Section 65858 to prohibit the expansion of the level pad areas of lots in the Hillside Area of the City. On July 29, 2014 the City Council voted to adopt an interim ordinance to prohibit expansion of the level pad area of lots in the Hillside area. The interim ordinance expired on September 12, 2014.

The attached draft interim ordinance submitted by Commissioner Corman differs from the previous City Council urgency action which prohibited level pad expansion in the Hillside area of the City. The draft ordinance instead requires landform alteration exceeding identified quantity

Attachment(s):  
A. Draft Resolution and Draft Interim Ordinance  
B. Planning Commission report dated July 24, 2014 with attachment

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thresholds to undergo Planning Commission review through a Hillside R-1 permit and identifies a minimum size of a level pad that qualifies for use in maximum floor area calculations. Adoption of the attached interim ordinance will immediately deal with the issue of detrimental Hillside development and afford the City time to study potential revisions to grading and retaining wall standards in the Hillside area of the City.

## **DISCUSSION**

### **Summary of Draft Ordinance**

The draft ordinance includes the following measures, which would apply to Hillside development projects during the 45-day period the urgency ordinance would be in effect:

- Reduces the “by-right” limit of export/import from any single site to 1,500 cubic yards in a 5 year period for those properties that are immediately adjacent to a street that is less than 24 feet wide. Requests to export/import more than 1,500 cubic yards in a 5 year period on properties adjacent to a street that is less than 24 feet wide would require approval of a Hillside R-1 Permit. The current limit of export/import before an R-1 permit is required is 3,000 cubic yards per 5 year period. The current regulation does not include provisions regarding the width of adjacent streets (BHMC § 10-3-2521).
- Prevents a level pad that measures less than twenty feet (20’) in any direction from counting toward the total level pad for the purposes of calculating the maximum floor area allowed on a property. The current standards do not include a minimum size for portions of level pad to be used in calculating maximum floor area, and in some instances retaining walls are constructed in series to create 3-foot (3’) wide areas of level pad that are used to increase the amount of floor area that may be constructed on a property.
- Limits maximum cumulative floor area located off the existing level pad to 1,000 square feet. Existing level pad would be defined as the level pad existing at the time of adoption of the urgency ordinance. Additional floor area located off the existing level pad in excess of 1,000 square feet would require approval of a Hillside R-1 Permit. There is currently no maximum for floor area developed off the level pad. There is a minimum setback of 5’ from the edge of the level pad, or construction over the slope must extend a minimum of 20’ measured horizontally from the edge of the level pad (BHMC § 10-3-2507)
- If approved, the ordinance would not apply to those projects which have received discretionary approvals prior to its passage. The ordinance also would not apply to any projects for which no discretionary permits are required and that have filed applications for building permits prior to its approval.

### **Summary on Properties Potentially Impacted**

Staff reviewed an assortment of recently issued building permits as well as current building plan check submittals and preliminary review requests to assess the potential effect of the interim ordinance on the Community Development Department’s workload. The following table anonymously identifies seven recent projects under review at the City. The table is intended to



provide context as to how many more projects may require discretionary review if the 1500 cubic yard “import/export” provision of the draft urgency ordinance is implemented.

	<b>Street Width</b>	<b>1500 c.y. export/import on street less than 24 feet wide</b>
<b>Example 1</b>	20	<b>R-1 permit req. (1988 export)</b>
<b>Example 2</b>	29	No R-1 permit (186 export)
<b>Example 3</b>	20	<b>R-1 permit req. (2885 export)</b>
<b>Example 4</b>	29	No R-1 permit (186 export)
<b>Example 6</b>	29	No R-1 permit (2025 export)
<b>Example 7</b>	27	No R-1 permit (2862 Export)
<b>Example 9</b>	27	No R-1 permit (2115 Export)

The seven example projects currently do not require discretionary review and are simply required to go through the City’s plan check process to receive a building permit. The 1500 cubic yard “import/export” provision of the draft urgency ordinance would trigger Planning Commission discretionary review of two of the seven sample projects identified by Staff. Staff has not at this time assessed how many more projects would require discretionary review if the modification requiring an R-1 permit for more than 1000 square feet off the existing level pad is implemented.

Staff also reviewed City records and identified 13 streets in the Hillside area of the City with a roadway width less than 24 feet. The following subject streets have at least a portion of their length identified as less than 24 feet wide:

1. Cabrillo Drive
2. Calle Vista Drive
3. El Retiro Way
4. Garden Lane
5. Glen Way
6. La Altura Road
7. Lago Vista Drive
8. Lago Vista Place
9. Loma Linda Drive
10. Monte Cielo Drive
11. Pickfair Way
12. Summitridge Place
13. Tower Road

### **CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS**

Conducting further study to amend the regulations of Hillside development is consistent with the following policies in the General Plan.

- Land Use Policy 2.3 “Hillside Development” Maintain the natural landforms that define the City and require that development on hillsides and in canyon areas be located, designed, and scaled to respect the natural topography and landscape.



- Land Use Policy 6.1 "Neighborhood Identity" Maintain the characteristics that distinguish the City's single-family neighborhoods from one another in such terms as topography, lot size, housing scale and form, and public streetscapes.

### **ENVIRONMENTAL REVIEW**

The Ordinance has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission finds that adoption of the Ordinance will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15061(b)(3) as there is no possibility that adoption and implementation of the Ordinance may have a significant effect on the environment because the Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. The Planning Commission also finds that this Ordinance is exempt from CEQA pursuant to Section 15308 of Title 14 of the California Code of Regulations because the Ordinance is adopted to assure the maintenance and protection of the environment, and enacts more strict development standards for the protection of the environment.

### **RECOMMENDATION**

Staff recommends that the Planning Commission discuss the proposed interim ordinance and provide staff with direction on whether the ordinance should be recommended to the City Council.

Report Reviewed By:

  
\_\_\_\_\_  
Ryan Gohlich, AICP, Assistant Director of  
Community Development / City Planner



**Attachment A**

Draft Planning Commission Resolution  
And  
Draft City Council Interim Ordinance

RESOLUTION NO. \_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS REGULATING LANDFORM ALTERATIONS, EXPANSIONS OF LEVEL PAD AREAS OF LOTS, AND DEVELOPMENT OFF THE LEVEL PAD OF LOTS IN THE HILLSIDE AREA OF THE CITY

WHEREAS, the Planning Commission has considered the proposed interim ordinance and amendments to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the “Amendments”); and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on June 9, 2016, at which time it received oral and documentary evidence relative to the proposed Amendments; and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that the Amendments are consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000,

et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The Planning Commission hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. The City Council also hereby finds that this Ordinance is exempt from CEQA pursuant to Section 15308 of Title 14 of the California Code of Regulations, because this Ordinance is adopted to assure the maintenance and protection of the environment, and enacts more strict development standards for the protection of the environment.

Section 2. As proposed, the Amendments to the Beverly Hills Municipal Code in Exhibit A would modify development standards in the Hillside area of the City during the interim period to: 1) require a Hillside R-1 permit for the import or export of more than 1,500 cubic yards of earth material on site adjacent to a street that is less than twenty-four feet wide; 2) prevent the use of a level pad that measures less than twenty feet (20’) in any direction from counting toward level pad calculations for the purpose of identifying a building site’s maximum permitted cumulative floor area; and 3) require a Hillside R-1 permit to construct more than 1,000 square feet of cumulative building floor area off of the existing level pad of a site.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy “Land Use 2.3 “Hillside Development” calls for maintaining the natural landforms that define the City and requiring that development on

hillsides and in canyon areas be located, designed, and scaled to respect the natural topography and landscape. Land Use Policy 6.1 “Neighborhood Identity” calls for maintaining the characteristics that define the City’s single-family neighborhoods.

Section 4. The Planning Commission does hereby recommend that an interim ordinance to regulate development in the Hillside include the criteria substantially set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 5. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: June 9, 2016

\_\_\_\_\_  
Alan Robert Block  
Chair of the Planning Commission of the  
City of Beverly Hills

Attest:

\_\_\_\_\_  
Ryan Gohlich, AICP  
Secretary of the Planning Commission

Approved as to form:

Approved as to content:

\_\_\_\_\_  
David M. Snow  
Assistant City Attorney

\_\_\_\_\_  
Ryan Gohlich, AICP  
Assistant Director / City Planner  
Community Development Department

EXHIBIT A

**AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS REGULATING LANDFORM ALTERATIONS, EXPANSIONS OF LEVEL PAD AREAS OF LOTS, AND DEVELOPMENT OFF THE LEVEL PAD OF LOTS IN THE HILLSIDE AREA OF THE CITY AND DECLARING THE URGENCY THEREOF**

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

**Section 1. Legislative Findings.**

Over time, the Planning Commission of the City of Beverly Hills has developed a greater concern for the impacts associated with: 1) landform alterations in the Hillside Area of the City; 2) the expansion of the level pad area of lots in the Hillside Area of the City; and 3) development off the level pad area of lots in the Hillside Area of the City. The Planning Commission's concerns stem from property owners' increasing excavation and exportation of earth material, and from property owners' increasing reliance on grading and construction of off-pad retaining walls to create larger projects. In particular, the Commission is concerned about heightened noise, traffic, and parking impacts resulting from truck hauling activities on winding, narrow residential streets; about over-sized mass and scale of development resulting from off-pad construction and/or the terracing of hillsides to permit construction of larger on-pad buildings under current Municipal Code standards; and about the incremental loss of natural hillside contours and neighborhood identity and slope destabilization, resulting from off-pad development and/or the terracing of hillsides. At a regular meeting on June 9, 2016, the Planning Commission adopted a Resolution forwarding this issue to the City Council identifying these concerns and recommending that the City Council adopt an Interim Ordinance to further regulate landform alterations in the Hillside Area of the City, and regulate both the expansion of the level pad areas and the off-pad development of lots in the Hillside Area of the City, in order to protect the health, safety, and welfare of the community and afford the City the opportunity to study potential revisions to the City's Hillside development standards.

The City Council of the City of Beverly Hills shares the concerns raised by the Planning Commission, and finds that the excavation and export of significant amounts of earth material on lots adjacent to and accessed by narrow streets, as well as the grading of hillsides and construction of retaining walls to facilitate larger development, warrant study and possible legislation to address those concerns. The City Council wishes to maintain flexibility to protect the status quo with respect to landform alterations, expansions of level pads, and off-pad development in the Hillside Area of the City while new Hillside development standards are studied.

Because the public process of studying standards for excavation, grading, and off-pad construction in the Hillside Area of the City, and then formulating any ordinance revisions that may be warranted, may be lengthy, and because unregulated landform alterations, level pad

expansions, and off-pad development in the Hillside Area of the City during the study and ordinance formulation period might frustrate the ultimate standards that may be adopted, the City Council wishes to adopt an interim ordinance that will take effect immediately and help protect the status quo while the standards are studied.

**Section 2. Authority.**

Pursuant to Government Code Section 65858, the City Council may adopt, as an urgency measure, an interim ordinance that prohibits any uses that may be in conflict with a contemplated zoning proposal that the City Council is considering, studying, or intends to study within a reasonable period of time.

**Section 3. Urgency Findings.**

The City Council finds and determines that there is an immediate threat to the public health, safety, or welfare, and that landform alterations in the Hillside Area of the City involving excavation and export of significant amounts of earth material on lots adjacent to and accessed by winding, narrow residential streets would result in that threat to the public health, safety or welfare. The City Council further finds and determines that there is an immediate threat to the public health, safety, or welfare, and that artificially expanding the calculable level pad area of Hillside lots to facilitate larger development, and constructing buildings off the level pad of Hillside Lots through grading and construction of retaining walls and undevelopable terraces on hillsides would result in that threat to the public health, safety or welfare. As described in Section 1 above, currently unregulated landform alterations on lots adjacent to and accessed by winding, narrow residential streets could threaten the health, safety, and welfare of the community through the imposition of inappropriate construction-related impacts, and unregulated expansions of level pads and off-pad development in the Hillside Area of the City could threaten the health, safety and welfare of the community through inappropriate increases in mass and scale of development, degradation of natural hillside contours and neighborhood identity, and slope destabilization. To preserve the public health, safety and welfare, the City Council finds that it is necessary that this ordinance take effect immediately to prevent such harm.

**Section 4. Regulations**

A. Notwithstanding any other ordinance or provision of the Beverly Hills Municipal Code, including but not limited to Section 10-3-2521, within any five (5) year period: no more than one thousand five hundred (1,500) cubic yards of earth material may be imported or exported from a site in the Hillside Area that is immediately adjacent to a street that is less than twenty four (24) feet wide, unless a Hillside R-1 permit is issued pursuant to Section 10-3-2550.A. of the Beverly Hills Municipal Code.

B. Notwithstanding any other ordinance or provision of the Beverly Hills Municipal Code, a level pad area must contain a level square-shaped area with minimum dimensions of twenty (20) feet per side for the level pad to be used to calculate the maximum permitted cumulative floor area of buildings and structures in the Hillside Area pursuant to Section 10-3-

2502.B. of the Beverly Hills Municipal Code. For purposes of this Interim Ordinance, “level pad” shall have the meaning set forth in Beverly Hills Municipal Code Section 10-3-100.

C. Notwithstanding any other ordinance or provision of the Beverly Hills Municipal Code, the maximum cumulative floor area of the portion of any buildings and structures located off the existing level pad of any lot in the Hillside Area of the City shall be one thousand (1,000) square feet, unless a Hillside R-1 permit is issued pursuant to Section 10-3-2550 of the Beverly Hills Municipal Code. For purposes of this Interim Ordinance, “level pad” shall have the meaning set forth in Beverly Hills Municipal Code Section 10-3-100, and “existing level pad” shall mean the level pad in existence on the date this Ordinance takes effect. For purposes of this Section of this Interim Ordinance, when applying Section 10-3-2550 of the Beverly Hills Municipal Code, the reviewing authority may issue a Hillside R-1 permit to allow more than one thousand (1,000) square feet of cumulative floor area to be located off the level pad if it finds that the development will not have a substantial adverse impact on the scale, integrity, or visual character of the surrounding area, or on the privacy of neighboring properties, and the reviewing authority may require the applicant to submit such information and reports as the reviewing authority deems appropriate to determine the nature and extent of the impacts on the scale, integrity, and visual character of the surrounding area and on the privacy of neighboring properties.

The regulations contained in Sections 4.A., 4.B., and 4.C. above shall not apply to any project that has obtained all necessary discretionary approvals prior to this Ordinance taking effect, and shall not apply to any project for which no discretionary permits are required and that has filed an application for a building permit before June \_\_, 2016. In addition, this prohibition shall not apply to any project for which, before June \_\_, 2016, the Planning Commission has commenced a hearing to consider a discretionary approval or legislative approval as an alternative to allow the expansion of floor area without the expansion of the level pad area.

**Section 5. CEQA Findings.**

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. The City Council also hereby finds that this Ordinance is exempt from CEQA pursuant to Section 15308 of Title 14 of the California Code of Regulations, because this Ordinance is adopted to assure the maintenance and protection of the environment, and enacts more strict development standards for the protection of the environment.

**Section 6. 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 final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

**Section 7. Approval and Extension of Ordinance.**

This Ordinance, being an Interim Ordinance adopted as an urgency measure for the immediate protection of the public safety, health, and general welfare, containing a declaration of the facts constituting the urgency, and passed by a minimum four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption and shall continue in effect for a period of not longer than forty-five (45) days. After notice pursuant to Section 65090 of the California Government Code and public hearing, the City Council may extend the effectiveness of this Interim Ordinance as provided in Government Code Section 65858.

**Section 8. Publication.**

The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

ADOPTED:

\_\_\_\_\_  
JOHN A. MIRISCH  
Mayor of the City of Beverly Hills,  
California

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

\_\_\_\_\_  
MAHDI ALUZRI  
City Manager

\_\_\_\_\_  
SUSAN HEALY KEENE  
Community Development Director



**Planning Commission Report**  
Hillside Development Urgency Ordinance  
June 9, 2016

**Attachment B**  
Planning Commission Staff Report  
Dated July 24, 2014



# Planning Commission Report

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**Meeting Date:** July 24, 2014

**Subject:** **Hillside Area Development Standards**

Discussion regarding development standards pertaining to grading and retaining walls in the City's Hillside Area. The Commission may consider making a recommendation to the City Council that an urgency ordinance be adopted in order to regulate grading and the construction of retaining walls in the City's single-family Hillside Area.

**Recommendation:** That the Planning Commission:

1. Provide staff with direction regarding Hillside Area development standards.

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## REPORT SUMMARY

Presently, few regulations apply to the grading of Hillside Area properties and the construction of retaining walls, and at its July 17, 2014 meeting the Planning Commission raised concerns about Hillside development and an increasing reliance by property owners upon grading and retaining walls to facilitate larger projects. The concerns include increased mass and scale, degradation of natural hillside contours and neighborhood identity, increased construction impacts, and slope destabilization. Based on these concerns, the Chair of the Planning Commission has requested that the Planning Commission discuss existing standards and whether modifications are required to more appropriately regulate grading and retaining walls. Accordingly, this report outlines existing development standards and opportunities for code modifications, and is intended to guide the Commission's discussion.

## EXISTING HILLSIDE DEVELOPMENT STANDARDS

**Floor Area.** The maximum allowed floor area for single-family properties in the Central and Trousdale Areas of the City is 1,500 square feet plus 40% of the lot area. However, the maximum allowed floor area in the Hillside Area is a function of how much of the property contains level pad (areas with a 5% slope or less) versus how much of the property is sloped (areas with more than a 5% slope). The applicable floor area calculations are as follows:

- A. If the area of a site is fifteen thousand (15,000) square feet or less, then the maximum permitted cumulative floor area for buildings and structures on the site shall be forty percent (40%) of the area of the level pad plus ten percent (10%) of the area of the slope.
- B. If the area of a site is between fifteen thousand one (15,001) and twenty five thousand (25,000) square feet, then the maximum permitted cumulative floor area for buildings and structures on

Attachment(s):

- A. Relevant Municipal Code Sections

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the site shall be thirty seven percent (37%) of the area of the level pad plus ten percent (10%) of the area of the slope.

- C. If the area of a site is between twenty five thousand one (25,001) and thirty thousand (30,000) square feet, then the maximum permitted cumulative floor area for buildings and structures on the site shall be thirty four percent (34%) of the area of the level pad plus ten percent (10%) of the area of the slope.
- D. If the area of a site is greater than thirty thousand (30,000) square feet, then the maximum permitted cumulative floor area for buildings and structures on the site shall be thirty one percent (31%) of the area of the level pad plus ten percent (10%) of the area of the slope.

As is evidenced above, level pad is more valuable from a floor area perspective, as level pad allows a greater amount of development to occur when compared to sloped area. For example, on a 20,000 square foot property, 10,000 square feet of sloped area would allow for 1,000 square feet of development, but would allow for 3,700 square feet of development if graded level.

**Grading.** In order to maximize the amount of development that can occur on a property, it is common for sloped areas of properties to be graded level, thereby allowing increased floor area based on the above formulas. The Municipal Code requires review by the Planning Commission whenever more than 3,000 cubic yards of earth material are imported to, or exported from, a site (approximately 300 truckloads); however, grading to create level pad area rarely exceeds this threshold since most of the earth material remains on site as fill.

In addition to limiting the maximum amount of earth material that may be imported or exported, the Municipal Code limits the amount of total grading that can occur on a property. The total grading that can occur relies on a complex formula that takes into consideration the size of a property and the average slope of a property. For example, the formula would allow a 20,000 square foot property with a 10% average slope to cut and fill up to 12,000 cubic yards (approximately 1,200 truckloads) without Planning Commission review. Similar to the 3,000 cubic yard import/export limit, this threshold is rarely exceeded when creating additional level pad on a property.

**Retaining Walls.** When located outside a required front or street-side setback, retaining walls are allowed to be up to 7' in height. The height of a retaining wall is measured from natural or finished grade, whichever is lower, and the height of a wall is measured from the side of the wall closest to a property line. There is no limit on the number of walls that may be constructed in series, provided that a minimum 3' landscaped area is provided between any walls in series. Retaining walls are commonly used to create additional level pad, and a series of walls is sometimes constructed in order to maximize the amount of level pad that can be achieved. Sometimes the series of walls is visible from the public right of way (e.g. 1201 Laurel Way), and in other instances the retaining walls are located within the interior of a property since the location of sloped areas typically dictates where retaining walls are needed. Additionally, retaining walls have been used to create switchback stairs that run down a slope in order to connect a level pad to street parking below. To date, staff is not aware of retaining walls causing any slope failures; however, the appearance of some streets/properties has been altered.

### **POSSIBLE MODIFICATIONS**

In the event that the Commission feels the existing grading and retaining wall regulations do not offer sufficient protections for the Hillside Area, and that there is a more immediate need to provide such protections in advance of the broader code update that is currently being undertaken by the City, the Commission may wish to consider recommending that the City Council adopt an urgency ordinance to better regulate development. Some options could include, but are not limited to:

- Prohibiting or limiting expansion of existing level pads
- Reducing the threshold that triggers grading review by the Planning Commission
- Setting a greater minimum dimension between retaining walls constructed in a series, or limiting the number of walls that can be constructed in series
- Modifying the way that the height of walls is measured, or reducing the maximum allowed height for retaining walls
- More narrowly defining level pad to only include the level pad that the primary residence is located on (currently any level area counts as level pad if it has a dimension of at least 10')

When discussing the above options, the Commission should also consider the following General Plan policies, which relate to hillside development and preservation of neighborhood character:

- Policy LU 2.3 Hillside Development. Maintain the natural landforms that define the City and require that development on hillsides and in canyon areas be located, designed, and scaled to respect the natural topography and landscape.
- Policy LU 6.1 Neighborhood Identity. Maintain the characteristics that distinguish the City's single-family neighborhoods from one another in such terms as topography, lot size, housing scale and form, and public streetscapes.

### **NEXT STEPS**

It is recommended that the Planning Commission discuss whether there is an immediate need to address grading and retaining walls in the Hillside Area, and provide staff with direction as appropriate.

Report Reviewed By:

  
\_\_\_\_\_  
Ryan Gohlich, Senior Planner

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## ATTACHMENT A: RELEVANT MUNICIPAL CODE SECTIONS

### 10-3-2521: LANDFORM ALTERATION:

Within any five (5) year period, the total cubic yards that may be cut and filled on any site in the Hillside Area, including excavation for basements, shall be calculated as follows:

$$C = \frac{\{(4-10S)^4\}}{162} \{+.1\} \times \text{Site Area in Square Feet}$$

For the purposes of this formula:

C shall mean the total cubic yards of cut and the total cubic yards of fill permitted,

S shall mean the "average slope" of the site as defined in section 10-3-100 of this chapter.

The following is an example of the application of this formula to a site that is 30,000 square feet in area with an average slope of twenty five percent (25%):

$$C = \frac{\{(4-2.5)^4\}}{162} \{+.1\} \times 30,000$$

$$C = \{0.31 + .1\} \times 30,000$$

$$C = 3,937.5$$

3,937.5 cubic yards of cut and 3,937.5 cubic yards of fill would be permitted

However, within any five (5) year period, no more than three thousand (3,000) cubic yards of earth material may be imported or exported from a site in the Hillside Area.

The limitations set forth in this section may be modified by a Hillside R-1 permit issued pursuant to article 25.5 of this chapter. (Ord. 92-O-2147, eff. 9-4-1992; amd. Ord. 95-O-2239, eff. 7-7-1995)

### 10-3-2516: WALLS, FENCES AND HEDGES:

- D. Areas Other Than Front And Street Side Yards: The maximum allowable height for that portion of a wall, fence, or hedge located outside of all front and street side yards shall be seven feet (7').
- E. Series Of Walls: If a series of walls, or portions of a wall, are constructed so that perpendicular section cut through a wall would intersect more than one wall segment and would intersect a total height of seven feet (7') or more, then a minimum three foot (3') landscaped area must be provided between the wall segments. (Ord. 80-O-1771, eff. 10-16-1980; amd. Ord. 84-O-1934, eff. 10-11-1984; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995; Ord. 96-O-2271, eff. 12-27-1996)

## ATTACHMENT A: RELEVANT MUNICIPAL CODE SECTIONS

### 10-3-100: WORDS DEFINED:

**AVERAGE SLOPE:** The average slope of the site as calculated using the following formula:

$$S = \frac{I \times L}{\text{[Total square footage of site]}}$$

For the purposes of this formula:

S shall mean the average slope of the site;

I shall mean the contour interval in feet as shown on a contour map of the site;

L shall mean the combined length of contour lines in scale feet on the contour map being used to calculate the contour interval.

**GRADE:** For the purpose of measuring the height of walls and fences, the elevation of the natural or finished surface of the ground, whichever is lower.

**HEIGHT OF WALL, FENCE OR HEDGE:** The vertical distance above grade to the highest element of the wall, fence, or hedge, including, but not limited to, columns, pillars, pilasters, and gates, measured on the side of the wall, fence, or hedge located closest to the property line. Grades shall not be adjusted for the purpose of circumventing the maximum height allowances set forth in this chapter.

**LEVEL PAD:** That portion of a site containing level finished grade. No portion of a site with a slope that is greater than five percent (5%) shall be considered to be part of a level pad. Furthermore, for the purposes of calculating floor area ratio, no portion of a level finished surface which is the longest pole of a flag lot shall be considered to be part of a level pad.

**SLOPE:** That portion of the site other than the level pad.

**WALL:** A structure with length measured horizontally in excess of twenty four inches (24") and with height and thickness designed or constructed of nongrowing materials in such a manner as to enclose property or to inhibit passage through or to obscure view.