



AGENDA REPORT

- Meeting Date:** August 16, 2016
- Item Number:** E-2
- To:** Honorable Mayor & City Council
- From:** Ryan Gohlich, AICP, Assistant Director of Community Development
Masa Alkire, AICP, Principal Planner
- Subject:**
- A. AN ORDINANCE OF THE CITY OF BEVERLY HILLS REGULATING EXPANSIONS OF LEVEL PAD AREAS OF LOTS AND DEVELOPMENT OFF THE LEVEL PAD OF LOTS IN THE HILLSIDE AREA OF THE CITY
 - B. AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS REGULATING 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
 - C. AN ORDINANCE OF THE CITY OF BEVERLY HILLS REGULATING LANDFORM ALTERATIONS OF CERTAIN LOTS IN THE HILLSIDE AREA OF THE CITY
 - D. AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS REGULATING LANDFORM ALTERATIONS OF CERTAIN LOTS IN THE HILLSIDE AREA OF THE CITY AND DECLARING THE URGENCY THEREOF
- Attachments:**
- 1. Ordinances
 - 2. Interim (Urgency) Ordinances
 - 3. Planning Commission Resolution
 - 4. June 30, 2016 Planning Commission Staff Report
 - 5. Images of Streets Less than 24' in Width
 - 6. Entirety of Existing Hillside Ordinance with Inserted Changes
 - 7. Correspondence Received by Planning Commission
 - 8. Correspondence Received after June 30, 2016
 - 9. Email from California Fair Political Practices Commission
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RECOMMENDATION

Pursuant to the Planning Commission's review and recommendations, staff recommends that the City Council move to waive the full reading of the ordinances and that the ordinances entitled "an ordinance of the City of Beverly Hills regulating expansions of level pad areas of lots and development off the level pad of lots in the Hillside Area of the City" and "an ordinance of the City of Beverly Hills regulating landform alterations of certain lots in the Hillside Area of the City" be introduced and read by title only.

INTRODUCTION

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 submitted a draft urgency ordinance for consideration by the Planning Commission at the June 9, 2016 Planning Commission Hearing. By the conclusion of the meeting the Planning Commission decided to review the draft ordinance as a regular ordinance (rather than an urgency ordinance) at a special meeting on June 30, 2016. On June 30, 2016, after extensive deliberation and public comment, the Planning Commission unanimously adopted a resolution (Attachment 3) recommending that the City Council adopt the attached draft ordinances (Attachment 1), which modify specific development standards in the Hillside Area of the City related to grading, retaining walls, and construction off of the existing level pad. This report summarizes the recommended draft ordinances and discusses the Planning Commission's recommendation.

The same regulations have also been included in the form of Interim (Urgency) Ordinances (Attachment 2) for the City Council's consideration. If the City Council elects to adopt the Urgency Ordinances, the provisions would be effective for a 45-day period. At the expiration of that period, the Council may choose to extend the Ordinances to a future date.

BACKGROUND

At public meetings held in 2014 both the City Council and 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 Planning Commission recommended that the City Council adopt an interim urgency 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 adopted the urgency ordinance to prohibit expansion of the level pad area of lots in the Hillside area. Due to procedural deficiencies associated with public noticing, as well as concern from several Councilmembers regarding the broad nature of what amounted to a moratorium on construction off the level pad, the urgency ordinance was not subsequently renewed, and expired on September 12, 2014. Since that time, the City Council has prioritized a broader study of Hillside Area development standards, with such study being set as an 'A Priority' for fiscal year 2016/17. However, the study is expected to occur over several years, as it includes multiple areas of study, will include

broad public outreach, and will require consultant assistance.

On June 9, 2016 the Planning Commission again discussed the issues related to Hillside development and considered a draft urgency ordinance submitted by Commissioner Corman that would require landform alteration and development off the existing level pad exceeding specific 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. The Planning Commission considered the urgency ordinance and voted 3-2 to recommend approval of the urgency ordinance to the City Council. Later in the meeting Commissioner Corman, consistent with the City's adopted Planning Commission Rules of Procedure, introduced a motion to reconsider the action taken on the urgency ordinance. After additional deliberation the Planning Commission voted 4-1 to rescind the recommendation to the City Council to adopt the urgency ordinance. The Planning Commission then voted 5-0 to agendaize consideration of a draft Hillside Development Ordinance as a regular ordinance at a special Planning Commission meeting scheduled for June 30, 2016. Members of the Planning Commission stated that the intent of reviewing the item as a regular ordinance instead of an urgency ordinance was to allow for standard public noticing of the item and provide interested parties the ability to attend and participate in the Planning Commission hearing regarding the matter. Public noticing on the item was completed consistent with the City's adopted public noticing guidelines. The notice was mailed to all owners and occupants of homes located in the Hillside Area and published in both the *Beverly Hills Courier* and *Beverly Hills Weekly*.

On June 30, 2016 the Planning Commission held a special meeting to discuss making a recommendation to the City Council regarding the Hillside Development Ordinance. The well-attended meeting included public comment from 50 individuals with comments both in support and in opposition to the proposed ordinance. In addition, the Commission received 73 pieces of correspondence both in support and in opposition to the proposed ordinance. The correspondence in support of adopting the Hillside Development Ordinance included a petition signed by over 80 individuals.

The themes identified in the written and oral comments in favor of adoption of the ordinance included:

- Protecting the beauty, character and natural appearance of the Hillside Area.
- Protecting the scale and integrity of existing residential neighborhoods.
- Controlling and reducing the safety risks and other negative effects associated with construction activities for large residential projects on narrow hillside streets. These include excessive truck hauling trips and construction generated traffic.
- Oversized residential development on steep hillside lots creating long-term impacts, including long-term safety risks.
- The additional Commission review of certain hillside projects (on narrow streets or involving expansions of level pad) is a sensible "common sense" change to the Code that will provide more oversight to hillside development.

The themes identified in the written and oral comments in opposition to the ordinance included:

- The process undertaken for the proposed changes to the hillside regulations is rushed. A more thorough public process should occur with more public outreach and input from all stakeholders. This process should be similar to the process undertaken for recent changes to the Central Area development standards.
- Making the proposed ordinance applicable to all projects that have not filed a complete building permit before June 1, 2016 is unfair and “retroactive.”
- Many property owners have spent significant sums of money on development plans and if the revised ordinance was applicable to their project there could be significant additional expenses involved with revising projects.
- There has not been enough notice to all stakeholders, including affected trade-groups.
- A better way to control the negative impacts of hillside construction is to directly regulate how construction occurs and not through the proposed legislation.

After extensive deliberation the Commission adopted a resolution recommending approval of an amended ordinance to the City Council. The recommended ordinance includes two significant amendments from the draft version reviewed by the Commission, these are:

- The draft ordinance identified a 1,500 cubic yard threshold for the import or export of earth material from a site immediately adjacent to a street less than 24 feet wide unless reviewed by the Commission. The Planning Commission amended the recommended threshold to 2,000 cubic yards.
- The draft ordinance identified a June 1, 2016 cut-off date for “grandfathering” submitted building permit applications. The draft ordinance also identified that projects with discretionary entitlements approved before the effective date of the ordinance would also be grandfathered. The Planning Commission amended the grandfather provision recommendation to instead require the filing of a complete building permit or discretionary entitlement application before the effective date of the ordinance, meaning that a project could be grandfathered even if it has not secured building permits prior to the effective date of the ordinance.

DISCUSSION

Summary of Draft Ordinance

The attached draft ordinances recommended by the Planning Commission include the following measures applicable to development projects located in the Hillside Area of the City:

- Reduces the “by-right” limit of export/import from any single site to 2,000 cubic yards in a five-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 2,000 cubic yards in a five-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 five-year period. The current regulation does not include provisions regarding the width of adjacent streets (see BHMC § 10-3-2521 in Attachment 6).

- Requires a level pad area to contain a level square-shaped area with minimum dimensions of twenty (20) feet per side for the level pad to be used in calculations of the maximum floor area allowed on a property. The current standards do not include minimum dimension requirements for flat areas to be eligible for use as “level pad”¹ in maximum floor area calculations for a site, and in some instances multiple sets of retaining walls are constructed on sites to create long and narrow portions of level pad that can be used in the zoning code defined maximum floor area formula to increase the amount of floor area that may be constructed on a property.
- Limits maximum cumulative floor area that may be located off the existing level pad to 1,000 square feet before Hillside R-1 review is required. Existing level pad would be defined as the level pad existing at the time of adoption of the ordinance. There is currently no requirement that development of floor area off the level pad is subject to Hillside R-1 permit review. Currently the zoning code only allows development off the edge of a level pad if the building extends a minimum of 20’ from the edge of the level pad (see BHMC § 10-3-2507 in Attachment 6)
- If approved as drafted, the ordinance would not apply to those projects which have submitted a complete building permit application or a complete discretionary entitlement application by the effective date of the ordinance.

Adoption of the attached ordinances by the City Council will codify additional regulations for the Hillside Area of the City to address immediate concerns regarding detrimental hillside development that have been identified by the Planning Commission and members of the public. Requiring a lower import/export threshold for Hillside R-1 permit review will result in more extensive and more public review of large residential projects on narrow streets. Adding the requirement for Hillside R-1 review of projects with more than 1,000 square-feet of floor area off the level pad will result in greater review of projects involving large amounts of cantilevered or over-slope development. Requiring that a level pad include a 20 foot by 20 foot level buildable area is intended to disincentivize developing sites with multiple series of closely spaced retaining walls to artificially create long and narrow flat areas to qualify for more allowable building floor area. Projects with these three characteristics have generated extensive public concern regarding overdevelopment in the Hillside area. The measures included in the ordinance can be seen as an immediate response to the concerns raised by the community. It is envisioned, as noted earlier in this report, that the City will continue to study and develop more comprehensive changes to the City’s Hillside Area regulations over the coming years, including additional study of landform alteration, grading and retaining wall standards, and make additional changes to the regulations as appropriate, and the proposed ordinance is intended to be an interim, rather than permanent, solution.

2000 Cubic Yard Import/Export Threshold for R-1 Review

After extensive deliberation, the Planning Commission recommended modification to the 1,500 cubic yard threshold for Hillside R-1 Permit review properties adjacent to streets less than 24 feet wide. The Planning Commission is instead recommending a 2,000

¹ Pursuant to BHMC §10-3-100 Level Pad is defined as follows: 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.

cubic yard threshold. Based on the revised recommendation, a project located on a street less than 24 feet wide is estimated to have the following “by-right” truck trip and excavation limits before a project would trigger Hillside R-1 review:

- Generate up to 200 round-trip truck trips (based on a 10 cubic yard truck load)
- Allow construction of an approximately 4,400 s.f. basement (rough estimate based a 12 foot deep excavation and the assumption that all soil export from site is related to the basement only)

Streets Less Than 24 Feet Wide Potentially Triggering Additional Review

The draft ordinance does not contain a list of streets that would be subject to the reduced 2,000 cubic yard import/export threshold and instead identifies ordinance applicability to properties adjacent to streets less than 24 feet wide. Staff reviewed the City’s Public Right of Way and Street Numbers Index and identified 14 streets in the Hillside Area of the City with a roadway width less than 24 feet. The roadway width refers to curb-to-curb street width and not the width of the entire public right-of-way. The following 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. Laurel Lane
11. Monte Cielo Drive
12. Pickfair Way
13. Summitridge Place
14. Tower Road

Images of the above streets are provided as Attachment 5 for visual reference and to demonstrate the different characteristics of narrow streets in the Hillside Area.

In addition to the above list, the City’s Public Right of Way and Street Number Index identifies a small number of Hillside Area streets as having a street width that varies and does not provide a defined street width. Staff reviewed aerial photos and maps on the City’s GIS and preliminarily identified three additional streets that may be affected by the less than 24 feet wide street threshold of the draft ordinance. These additional streets are: Miradero Road, Shuyler Road, and Summit Drive. It should be noted that the width of these streets would need to be field verified to determine if the lowered import/export provision would be applicable to properties on these streets.

20' by 20' minimum dimensions for qualifying level pad

Extensive site alteration through the use of multiple series of retaining walls was identified as a concern by the Planning Commission. Using retaining walls to alter the natural hillside contours and create narrow and long level pad areas on a site was seen as being in conflict with the various General Plan policies that discuss maintaining natural topography and landforms in the Hillside Area of the City. The photo below of an existing residential site in the Hillside Area illustrates how using a series of retaining walls can result in extensive natural landform alteration. The 20' by 20' level area provision is intended to dis-incentivize the creation of series of narrow level pads as these flat areas will no longer qualify as level pad area in site maximum floor area calculations. Total site area is used to set the maximum development allowed on a residential site in the Hillside Area. The maximum floor area formula is structured so that level pad area qualifies a site for more building floor area than an equivalent amount of sloped area. The 20' by 20' level area provision will disqualify narrow flat areas from qualifying to be calculated as level pad in maximum floor area calculations, which will remove one incentive to build additional retaining walls. As drafted, this particular provision is absolute and cannot be relieved through approval of a Hillside R-1 Permit; however, this provision also does not prohibit the construction of retaining walls in series, and instead seeks only to remove the financial incentive associated with the relationship between maximum floor area and retaining walls constructed in series. If adopted as proposed, one could still construct retaining walls in series if desired, but said retaining walls in series would not translate to additional floor area for the site.²

² Level pad area allows approximately three times the amount of buildable floor area as compared to a comparable amount of sloped area.



Example of a Series of Retaining Walls Constructed for the Purpose of Increasing Allowed Floor Area

R-1 Review Required for More than 1,000 s.f. off of Level Pad

Currently the zoning code requires new construction in the Hillside Area to either be set back a minimum of five feet from the edge of a level pad or extend a minimum of 20 feet beyond the edge of a level pad. Development consistent with current code language has the potential to be visually imposing and substantial when viewed from downslope locations because of the requirement to extend a minimum of 20 feet beyond the pad edge. Therefore, the Planning Commission has included the recommendation that development in excess of 1,000 square feet off of an existing level pad (regardless of where the boundaries of the new level pad area are in relation to the new development) be subject to Hillside R-1 Permit review so that potential impacts of cantilevered or over-slope development, including visual and safety impacts, can be reviewed by the Planning Commission.

Grandfather Provision³

The draft version of the ordinance reviewed by the Planning Commission on June 30, 2016 identified a June 1, 2016 building permit application submittal date as the cut-off date for application of the new regulations. Including the June 1, 2016 "grandfather provision" was seen as way of allowing projects that have already received extensive City review in the building plan check process to not be subject to the new regulations. It

³ One attorney made the argument that choosing a June 1 grandfather clause would be a "taking." However, the city attorney's office informs us that no grandfather clause need be included in the ordinance. Therefore, the inclusion of a grandfather clause for the benefit for property owners and in order to reduce the impacts of the ordinance on proposed development is at the discretion of the City Council.

was identified at the Planning Commission hearing that not including a grandfather provision would result in the new regulations being applicable to all projects that have not established a vested right (issuance of a building permit and initiation of substantial construction). Not including a grandfather provision would also result in all projects currently in building plan check needing to be re-evaluated for consistency with the new ordinance. Public speakers opposed to the June 1, 2016 grandfather provision stated that a fairer and more reasonable approach to applying the new regulations is to make the regulations applicable to any building permit application submitted after the effective date of the ordinance. After extensive deliberation the Planning Commission's recommendation was to modify the grandfather provision to make the new rules not applicable to any complete building permit application or discretionary entitlement application received before the effective date of the ordinance. If adopted, the effective date of the ordinance will be 30 days after the City Council's adoption of the ordinance. Assuming that an ordinance is introduced for first reading on August 16, 2016, the ordinance would become effective on approximately September 25, 2016. It is also noted that should the City Council elect to establish a June 1, 2016 cutoff date, said earlier cutoff date would again not become effective until the end of September, meaning that any building permits issued before the effective date of the ordinance would be allowed to proceed with construction.

Pending Projects

On August 2, 2016 staff reviewed City plan check submittal records and identified 27 projects with current building plan check submittals pending in the Hillside Area. This number varied from staff's June 21, 2016 review of building plan check records, which identified 16 projects, for two reasons. First, staff expanded the search parameters for the August 2, 2016 snapshot to include all building plan checks submitted since the end of 2014. The June 21, 2016 snapshot only took into account building permit applications submitted since the beginning of May 2016. Second, additional projects have been submitted since the June 21, 2016 snapshot. The August 2, 2016 snapshot identifies 12 projects submitted after June 1, 2016. If a June 1, 2016 grandfather provision was included in the ordinance, then projects with plan check submittals after that date would need to be checked to see if the calculation of level pad provision or the new thresholds for discretionary review are triggered. It is likely that draft regulations contained in the ordinance would not affect some of these plan check submittals, as some of the submittals are for minor work such as stairs or small accessory structures. If re-review of plan check submittals is required, it is anticipated that the new regulations could trigger additional discretionary review for some projects, particularly the plan check submittals for new single-family homes. In addition, it is possible that some of the projects could require redesign to be compliant with the new qualification requirements for level pad used in floor area calculations. Ultimately, it is not possible to determine the exact number of pending projects that may be affected by the proposed ordinance, as the number is constantly in flux as existing projects are issued permits and new projects are filed on a daily basis.

Urgency Ordinances

As explained above, the Planning Commission had originally considered these hillside regulations in the form of an Interim Urgency Ordinance. There was discussion regarding whether there was an immediate threat to the public health, safety, or welfare, and whether 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. There was also discussion as to whether there was an immediate threat to

the public health, safety, or welfare resulting from artificially expanding the calculable level pad area of Hillside lots to facilitate larger development, and construction of buildings off the level pad of Hillside lots through grading and construction of retaining walls and undevelopable terraces. It was noted that 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 heightened noise, traffic, and parking impacts from truck hauling activities, as well as inappropriate increases in mass and scale of development, degradation of natural hillside contours and neighborhood identity, and slope destabilization. Additionally, while City Staff is undertaking the effort of studying changes to the hillside development standards, the process of studying standards, formulating ordinance revisions, and gathering public participation may be lengthy. The City Council may wish to consider whether there is a desire 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. Based on these issues, the City Council may wish to consider whether it can make these findings in support of an Interim Urgency Ordinance rather than a regular Ordinance.

Required Findings for an Urgency Ordinance

In order to adopt an Urgency Ordinance, the City Council must make legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional permits or entitlements would result in that threat to public health, safety, or welfare.

CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS

The changes to the Hillside development regulations are consistent with the following policies in the General Plan.

- Land Use Policy 1.1 “Scale of the City” Although implicit in any discussion of the future of the City, the importance of scale must be underscored. As long as the City is able to regenerate itself within the general framework of the existing scale, it will offer an environment which is becoming increasingly unique in the Westside.
- 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 5.1 “Neighborhood Conservation” Maintain the uses, densities, character, amenities, and quality of the City’s residential neighborhoods, recognizing their contribution to the City’s identity, economic value and quality of life.
- 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.
- Land Use Policy 6.2 “Housing Character and Design” Require that new, renovated, and additions to housing be located and designed to maintain the distinguishing characteristics and qualities of the neighborhoods in which they are located, including prevailing lot sizes, building form, scale, massing,

relationship to street frontages, architectural design, landscaping property setback, and other comparable elements.

- Open Space Policy 1.1 “Resource Preservation” Preserve the City’s biological diversity, remaining natural habitat and aesthetic character. Encourage new development on hillsides and in canyon areas to preserve natural land formations and native vegetation, and to set aside areas as greenbelts and wildlife corridors when feasible.
- Open Space Policy 6.1 “Protection of Scenic Views” Seek to protect scenic views and vistas from public places including City landmarks, hillside vistas, and urban views of the City.
- Open Space Policy 6.5 “Standards for New Development” Seek to ensure that new development does not adversely impact the City’s unique urban landscape.

PUBLIC OUTREACH AND NOTIFICATION

A public hearing notice was mailed on August 5, 2016 to all property owners and residential occupants in the Hillside Area of the City. The public hearing notice was also published in the Beverly Hills Courier on Friday August 5, 2016 and in the Beverly Hills Weekly on Thursday, August 4, 2016.

The item had been originally scheduled for the July 19, 2016 City Council meeting and public notice was published in the Beverly Hills Courier on July 8, 2016. A subsequent courtesy notice was published in the Beverly Hills Courier on July 15, 2016 identifying that the item had been rescheduled to be heard at the August 16, 2016 City Council meeting.

Additionally, notice of the June 30, 2016 Planning Commission hearing regarding this item was published on June 17, 2016 in the Beverly Hills Courier and June 23, 2016 in the Beverly Hills Weekly and mailed to all owners and occupants in the Hillside Area of the City on June 20, 2016.

Public Comment

Numerous public comments were received before the June 30, 2016 Planning Commission hearing and are attached for reference (Attachment 7). In addition, 30 comments have been received since the June 30, 2016 Planning Commission hearing and are provided as Attachment 8.

City Council Recusal

The Hillside Area of the City includes approximately 800 properties. Two of the five Councilmembers, Vice-Mayor Krasne and Councilmember Bosse reside within the Hillside Area.

The City Attorney has reviewed the matter to determine whether the State conflict of interest regulations would preclude the identified council members from voting on the proposed ordinance. He has asked the State for confirmation of his interpretation and the State has confirmed the interpretation. An email from the state’s Fair Political Practices Commission (“FPPC”) is included as Attachment 9.

As provided in the email, the FPPC as concluded the Vice-Mayor and the Councilmember cannot participate in the discussion regarding (1) the 20' by 20' minimum dimensions for a qualifying level pad and (2) the Hillside R-1 review required for development more than 1,000 square foot off of the level pad. Both of these requirements would affect the development potential of their property and the market value of their property and therefore would potentially have a material financial impact on the Vice-Mayor and Councilmember.

However, the Vice-Mayor and Councilmember may participate in the discussion regarding the 2,000 cubic yard import/export threshold for Hillside R-1 review. This standard only applies to streets less than 24 feet in width. Neither Vice-Mayor Krasne nor Councilmember Bosse live on a street of less than 24 feet in width. Therefore, this regulation will not impact their development potential and will have no other material financial impact on them or their assets.

In order to accommodate their participation in this process, the Planning Commission recommendation has been broken down into two ordinances. The first ordinance deals with the 20' by 20' minimum dimensions for a qualifying level pad and the Hillside R-1 review requirement for development of more than 1,000 square feet off the level pad. The City Council should consider that ordinance first. Vice Mayor Krasne and Councilmember Bosse will not be present in the room during the public testimony, but will watch the public testimony on television. (Vice Mayor Krasne and Councilmember Bosse will be able to testify as to their personal interests if they so choose).

The ordinance will be reviewed by three Councilmembers and will require a unanimous vote in order to pass, as an ordinance requires a majority vote of the entire City Council, rather than a simple majority.

After the Council finishes dealing with that ordinance, then Vice-Mayor Kranse and Councilmember Bosse can return to the dais and participate in the discussion regarding Hillside R-1 review for projects that exceed the 2,000 cubic yard import/export threshold on streets of less than 24 feet in width. They will also participate in the grandfather clause for that item.

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"). Staff believes, and the City Council will be asked to consider finding, 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 City Council is also asked to find 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.

FISCAL IMPACT

There are no identified fiscal impacts associated with this ordinance; however, it should be noted that adoption of the ordinance may increase project processing times due to the potential for project redesign and/or discretionary review by the Planning Commission. In addition, depending on the quantity of sustained discretionary reviews generated over the long term, additional staffing resources may be required in the future to accommodate additional project processing volume.

Susan Healy Keene, AICP

Approved By

