



AGENDA REPORT

Meeting Date: August 30, 2016

Item Number: D-4

To: Honorable Mayor & City Council

From: Laurence S. Wiener, City Attorney

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 ORDINANCE OF THE CITY OF BEVERLY HILLS REGULATING LANDFORM ALTERATIONS OF CERTAIN LOTS IN THE HILLSIDE AREA OF THE CITY

Attachments:

- 1. Ordinance
- 2. Redline Showing Changes Made by the Council at the Meeting of August 16, 2016
- 3. Ordinance
- 4. Redline Showing Changes Made by the Council at the Meeting of August 16, 2016

RECOMMENDATION

It is recommended that the City Council move to waive the full reading and adopt the ordinances as amended, 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."

INTRODUCTION

These ordinances regulate the expansions of level pad areas of lots and development off the level pad of lots in the Hillside Area of the City and landform alterations of certain lots in the Hillside Area of the City.

DISCUSSION

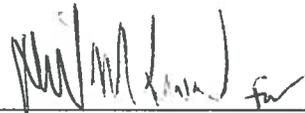
At its meeting of August 16, 2016, the City Council conducted a first reading and introduced these ordinances. At that meeting, the City Council made changes to the draft ordinances. The changes to the ordinance regulating expansions of level pad areas of lots and development off the level pad of lots include clarifications in Section 8 (Grandfather Provisions) to clarify the limited scope of revisions to pending project applications that would be allowed without subjecting the project to the new limitations in the ordinance.

The changes to the ordinance regulating landform alterations of certain lots in the hillside area of the City include reducing the threshold of import/export triggering Hillside R-1 review from 2,000 cubic yards to 1,500 cubic yards, and deleting former Section 7 (Grandfathering Provisions).

These changes have now been incorporated into the ordinances being presented to the City Council for adoption.

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.



Laurence S. Wiener, City Attorney

ATTACHMENT 1

ORDINANCE NO. 16-O-_____

**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**

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) the expansion of the level pad area of lots in the Hillside Area of the City and 2) 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, 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. On June 30, 2016, the Planning Commission held a duly noticed public hearing after which it adopted Resolution 1778, recommending in part that the City Council amend portions of Title 10 (Planning and Zoning) to include provisions to 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.

The City Council of the City of Beverly Hills shares the concerns raised by the Planning Commission, and finds that the grading of hillsides and construction of retaining walls to facilitate larger development warrant legislation to address those concerns.

The City intends to initiate a public process of studying standards for excavation, grading, and off-pad construction in the Hillside Area of the City, and formulate additional amendments to the regulations applicable to the Hillside Area of the City. Until this more comprehensive review of the Hillside regulations is completed, the legislation contained in this ordinance will address the immediate concerns regarding landform alteration, development off the level pad and expansions of the level pad in the Hillside Area of the City.

Section 2. General Plan.

The Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy Land Use 1.1 "Scale of the City" calls for regeneration of the City within the general framework of the existing scale. Land Use Policy 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 5.1 “Neighborhood Conservation” calls for maintaining the density, character, and quality of the City’s residential neighborhoods. Land Use Policy 6.1 “Neighborhood Identity” calls for maintaining the characteristics that define the City’s single-family neighborhoods. Land Use Policy 6.2 “Housing Character and Design” calls for renovations, additions and new housing be designed to maintain the characteristics and qualities of the neighborhoods in which they are located including lot size, building form, massing and landscaping. Open Space Policy 1.1 “Resource Preservation” encourages new development on hillsides to preserve natural land formations. Open Space Policy 6.1 “Protection of Scenic Views” seeks to protect scenic views. Open Space Policy 6.5 “Standards for New Development” seeks to ensure that new development does not adversely impact the City’s unique urban landscape.

Section 3. Added Regulations

The City Council hereby adds Section 10-3-2521.1 to Article 25 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-2521.1: DEVELOPMENT STANDARDS FOR LANDFORM ALTERATION, EXPANSIONS OF LEVEL PAD AREAS OF LOTS AND DEVELOPMENT OFF THE LEVEL PAD OF LOTS

A. 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. “Level pad” shall have the meaning set forth in Beverly Hills Municipal Code Section 10-3-100.

B. 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.K. of the Beverly Hills Municipal Code. “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 effective date of Ordinance _____ (_____, 2016).”

Section 4. Amended Regulations

The City Council hereby amends Section 10-3-2550 of Article 25 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code by adding an additional item to the list of items that the reviewing authority may issue a Hillside R-1 permit to read as follows, with all other provisions of Article 25 of Chapter 3 of Title 10 remaining in effect without amendment:

“K. Expansion off the Existing Level Pad: 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.”

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. Publication.

The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, 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.

Section 8. Grandfather Provisions

The regulations shall not apply to any project that, prior to the effective date of this Ordinance, has 1) filed a complete application for a building permit provided that the building permit does not expire or lapse and precluding any project design alterations except those necessary to satisfy plan review corrections, 2) filed a complete application for discretionary approvals provided that the application or approval does not expire or lapse and precluding

project design alterations that are not in substantial conformance with the complete application, or 3) has obtained approval for all necessary discretionary approvals.

Section 9. Effective Date

This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

ADOPTED:
EFFECTIVE:

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

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE
Director of Community Development

ATTACHMENT 2

**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**

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

Section 1. Legislative Findings.

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The City Council of the City of Beverly Hills shares the concerns raised by the Planning Commission, and finds that the grading of hillsides and construction of retaining walls to facilitate larger development warrant legislation to address those concerns.

The City intends to initiate a public process of studying standards for excavation, grading, and off-pad construction in the Hillside Area of the City, and formulate additional amendments to the regulations applicable to the Hillside Area of the City. Until this more comprehensive review of the Hillside regulations is completed, the legislation contained in this ordinance will address the immediate concerns regarding landform alteration, development off the level pad and expansions of the level pad in the Hillside Area of the City.

Section 2. General Plan.

The Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy Land Use 1.1 "Scale of the City" calls for regeneration of the City within the general framework of the existing scale. Land Use Policy 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 5.1 “Neighborhood Conservation” calls for maintaining the density, character, and quality of the City’s residential neighborhoods. Land Use Policy 6.1 “Neighborhood Identity” calls for maintaining the characteristics that define the City’s single-family neighborhoods. Land Use Policy 6.2 “Housing Character and Design” calls for renovations, additions and new housing be designed to maintain the characteristics and qualities of the neighborhoods in which they are located including lot size, building form, massing and landscaping. Open Space Policy 1.1 “Resource Preservation” encourages new development on hillsides to preserve natural land formations. Open Space Policy 6.1 “Protection of Scenic Views” seeks to protect scenic views. Open Space Policy 6.5 “Standards for New Development” seeks to ensure that new development does not adversely impact the City’s unique urban landscape.

Section 3. Added Regulations

The City Council hereby adds Section 10-3-2521.1 to Article 25 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-2521.1: DEVELOPMENT STANDARDS FOR LANDFORM ALTERATION, EXPANSIONS OF LEVEL PAD AREAS OF LOTS AND DEVELOPMENT OFF THE LEVEL PAD OF LOTS

A. 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. “Level pad” shall have the meaning set forth in Beverly Hills Municipal Code Section 10-3-100.

B. 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.K. of the Beverly Hills Municipal Code. “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 effective date of Ordinance _____ (_____, 2016).”

Section 4. Amended Regulations

The City Council hereby amends Section 10-3-2550 of Article 25 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code by adding an additional item to the list of items that the reviewing authority may issue a Hillside R-1 permit to read as follows, with all other provisions of Article 25 of Chapter 3 of Title 10 remaining in effect without amendment:

“K. Expansion off the Existing Level Pad: 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.”

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. Publication.

The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, 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.

Section 8. Grandfather Provisions

The regulations shall not apply to any project that, prior to the effective date of this Ordinance, has 1) filed a complete application for a building permit provided that the building permit does not expire or lapse and precluding any project design alterations except those necessary to satisfy plan review corrections, 2) filed a complete application for discretionary approvals provided that the application or approval does not expire or lapse and precluding project design alterations that are not in substantial conformance with the complete application, ;

or 3) has obtained approval for all necessary discretionary approvals. ~~prior to the effective date of the Ordinance.~~

Section 9. Effective Date

This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

ADOPTED:
EFFECTIVE:

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
Director of Community Development

ATTACHMENT 3

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REGULATING LANDFORM ALTERATIONS OF
CERTAIN LOTS IN THE HILLSIDE AREA OF THE CITY**

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 landform alterations 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. On June 30, 2016, the Planning Commission held a duly noticed public hearing after which it adopted Resolution 1778, recommending in part that the City Council amend portions of Title 10 (Planning and Zoning) to include provisions to further regulate landform alterations in the Hillside Area of the City in order to protect the health, safety, and welfare of the community.

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, warrants legislation to address those concerns.

Section 2. General Plan.

The Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy Land Use 1.1 "Scale of the City" calls for regeneration of the City within the general framework of the existing scale. Land Use Policy 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 5.1 "Neighborhood Conservation" calls for maintaining the density, character, and quality of the City's residential neighborhoods. Land Use Policy 6.1 "Neighborhood Identity" calls for maintaining the characteristics that define the City's single-family neighborhoods. Open Space Policy 1.1 "Resource Preservation" encourages new development on hillsides to preserve natural land formations. Open Space Policy 6.1 "Protection of Scenic Views" seeks to protect scenic views. Open Space Policy 6.5 "Standards for New Development" seeks to ensure that new development does not adversely impact the City's unique urban landscape.

Section 3. Added Regulations

The City Council hereby adds a new subsection C. to Section 10-3-2521.1 to Article 25 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-2521.1: DEVELOPMENT STANDARDS FOR LANDFORM ALTERATION, EXPANSIONS OF LEVEL PAD AREAS OF LOTS AND DEVELOPMENT OFF THE LEVEL PAD OF LOTS

C. 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.

Section 4. 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 5. 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 6. Publication.

The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, 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.

Section 7. Effective Date

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ADOPTED:
EFFECTIVE:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills,
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ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE
Director of Community Development

ATTACHMENT 4

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REGULATING LANDFORM ALTERATIONS OF
CERTAIN LOTS IN THE HILLSIDE AREA OF THE CITY**

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

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C. 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 ~~two thousand (2,000)~~ 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.

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Section 7. — Grandfather Provisions

~~The regulations shall not apply to any project that has filed a complete application for a building permit, a complete application for discretionary approvals, or has obtained approval for all necessary discretionary approvals prior to the effective date of the Ordinance.~~

Section 7. -Effective Date

This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

ADOPTED:
EFFECTIVE:

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

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

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LAURENCE S. WIENER
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