



## AGENDA REPORT

**Meeting Date:** September 2, 2014

**Item Number:** F-1

**To:** Honorable Mayor & City Council

**From:** Ryan Gohlich, Senior Planner

**Subject:** AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS EXTENDING INTERIM ORDINANCE NO. 14-O-2663 PROHIBITING THE EXPANSION OF THE LEVEL PAD AREA OF LOTS IN THE HILLSIDE AREA OF THE CITY AND DECLARING THE URGENCY THEREOF

**Attachments:**

1. Interim Ordinance
2. Public Communication

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### RECOMMENDATION

It is recommended that the City Council extend the interim ordinance pertaining to the expansion of the level pad area of lots in the Hillside Area of the City for an additional 160 days beyond its September 12, 2014 expiration date.

### INTRODUCTION

At its July 29, 2014 meeting, the City Council, upon the Planning Commission's recommendation, voted to adopt an interim ordinance that prohibits the expansion of the level pad area of lots in the Hillside Area of the City. The Interim Ordinance adopted on July 29 took effect immediately, and is in effect for an initial 45-day period, which will expire on September 12, 2014.

The purpose of this report is to update the City Council on staff and the Planning Commission's progress in studying permanent changes to grading and retaining wall standards in the Hillside Area, and to seek an extension of the interim ordinance adopted on July 29.

## **DISCUSSION**

### **Outreach and Timing**

At the time the interim ordinance was adopted, the City Council expressed a desire for transparency and community input, as well as a desire to move expeditiously on studying possible code modifications and implementing permanent changes. Based on the level of outreach and public input desired, as well as balancing existing priorities set forth in the Community Development Department's work plan, the initial 45-day interim ordinance period has not provided sufficient time to conduct proper public outreach and thoughtfully study the issues at hand. Recognizing these constraints, as well as the public's desire for certainty in the development process, the Planning Commission, at its August 7, 2014 meeting, formed a subcommittee comprised of Commissioners Corman and Shooshani to study various options to address the concerns about grading and retaining walls in the Hillside Areas of the City. The subcommittee held its first meeting on August 26, 2014, and discussed the status of the interim ordinance, as well as possible areas of focus for amendments to the Hillside standards, pending input from the public. While the subcommittee continues to work on a long-term solution, the subcommittee recommends that the interim ordinance be extended for a period of 160 days, until February 19, 2014. This extension would provide the time needed for public outreach and thoughtful study of the issues, as well as public hearings before the Planning Commission and City Council to adopt a permanent ordinance that will become effective prior to expiration of the interim ordinance.

### **Areas of Focus**

At its August 26, 2014 meeting, the subcommittee identified several aspects of grading and retaining walls that it intends to focus on, including the following:

- Establishment of more appropriate grading and retaining wall thresholds for triggering review by the Planning Commission;
- Limiting the use of retaining walls for terracing;
- Analysis and possible modification of the way in which wall height is measured;
- Provisions for requiring graded areas to be more contiguous with the primary level pad that contains the main residence; and
- Architectural design and finish of retaining walls, as well as landscaping to screen retaining walls.

The above areas of focus are preliminary, and may be modified based on upcoming community input and public hearings; however, the subcommittee felt it was appropriate to outline some of its goals in order to keep stakeholders informed throughout the process.

### **Public Communication**

Although the subcommittee recommends that the interim ordinance be extended without modification, staff has received one letter from Tom Levyn outlining requested changes to the interim ordinance in order to exempt additional projects from the provisions of the interim ordinance. The letter is provided as Attachment 2 for the Council's consideration.

### **GENERAL PLAN CONSISTENCY**

The General Plan includes goals and policies relevant to the City Council's discussion of Hillside Area grading and retaining walls, including:

- 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.

### **RECOMMENDED ACTION**

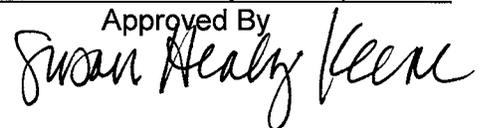
It is recommended that the City Council extend the interim ordinance pertaining to the expansion of the level pad area of lots in the Hillside Area of the City for an additional 160 days beyond its September 12, 2014 expiration date.

### **FISCAL IMPACTS**

There are no fiscal impacts associated with this report.

Susan Healy Keene, AICP  
Director of Community Development

Approved By



**ATTACHMENT 1**  
**INTERIM ORDINANCE**

ORDINANCE NO. 14-O-\_\_\_\_\_

AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS EXTENDING INTERIM ORDINANCE NO. 14-O-2663 PROHIBITING THE EXPANSION OF THE LEVEL PAD AREA 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 expanding the level pad area of lots in the Hillside Area of the City through grading and construction of retaining walls. The Planning Commission's concerns stem from an increasing reliance by property owners upon grading and retaining walls to facilitate larger projects, and the concerns include increased mass and scale, degradation of natural hillside contours and neighborhood identity, increased construction impacts, and slope destabilization. At a special meeting on July 24, 2014, the Planning Commission directed staff to forward an item to the City Council identifying the concerns. Specifically, the Planning Commission recommended that the City Council adopt an Interim Ordinance to prohibit the expansion of the level pad area of lots in the Hillside Area of the City 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 grading and retaining wall standards, and to direct staff and the Planning Commission to study the matter, and forward a recommendation for ordinance amendments for consideration by the City Council.

The City Council of the City of Beverly Hills shares the concerns raised by the Planning Commission, and finds the hillside grading and retaining wall standards warrant study and possible amendment to address those concerns. The City Council wishes to maintain the status quo with respect to level pad areas in the Hillside Area of the City while the grading and retaining wall standards are studied.

Because the public process of studying the grading and retaining wall standards for the Hillside Area of the City and formulating any ordinance revisions that may be warranted may be

lengthy, and because the further modifications to the level pads on properties in the Hillside Area of the City might frustrate the ultimate standards that may be adopted, the City Council adopted Ordinance No. 14-O-2663, an interim ordinance that took effect immediately on July 29, 2014 (the “Interim Ordinance”). The Council wishes to extend the Interim Ordinance to allow for study of the grading and retaining wall standards for the City’s Hillside Area.

**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 expanding the level pad area of lots in the Hillside Area of the City through grading and construction of retaining walls would result in that threat to the public health, safety or welfare. As described in Section 1, further expansions of level pads 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, increased construction impacts, and slope destabilization. To preserve the public health, safety and welfare, the City Council finds that it is necessary that this ordinance extending the Interim Ordinance take effect immediately to continue to prevent such harm.

**Section 4. Prohibition**

Notwithstanding any other ordinance or provision of the Beverly Hills Municipal Code, no level pad area of any lot in the Hillside Area of the City shall be expanded, including through grading, construction of retaining walls, or any combination thereof. For purposes of this Interim Ordinance, “level pad” shall have the meaning set forth in Beverly Hills Municipal Code Section 10-3-100. This prohibition 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 July 29, 2014. In addition, this prohibition shall not apply to any project for which, before July 29, 2014, 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.

**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, 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 amend and extend the effect of the Interim Ordinance for a period of one hundred and sixty (160) days. The City Council may extend the effectiveness of the Interim Ordinance for an additional one year period, 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:

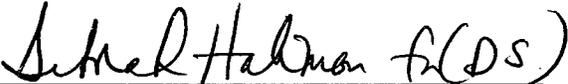
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LILI BOSSE  
Mayor of the City of Beverly Hills,  
California

ATTEST:

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

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

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JEFFREY KOLIN  
City Manager

**ATTACHMENT 2**  
**PUBLIC COMMUNICATION**

# Glaser Weil Fink Jacobs Howard Avchen & Shapiro LLP

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August 27, 2014

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Honorable Mayor Lili Bosse  
Honorable Vice Mayor Julian Gold, MD  
Honorable Councilmember Willie Brien, MD  
Honorable Councilmember Nancy Krasne  
Honorable Councilmember John Mirisch  
Beverly Hills City Council  
455 North Rexford Drive  
Beverly Hills, California 90210

Re: Urgency Ordinance - Criteria and Exemptions

Dear Mayor Bosse, Vice Mayor Gold and Councilmembers Brien, Krasne and Mirisch:

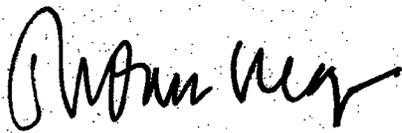
In order (i) for the community to fully understand the spirit and the purpose of the Urgency Ordinance prohibiting the expansion of level pads in the Hillside, (ii) to provide certainty for property owners in Beverly Hills who are confused as to whether or not the Urgency Ordinance applies to them, and (iii) to limit the unintended consequences of the application of the Urgency Ordinance, please find enclosed a list of criteria that should help our homeowners plan for the future.

Please note the list of homes which have been added to aid homeowners in their determination of the applicability of the Ordinance. The list is not intended to be exhaustive and is expected to be supplemented from time to time by the Planning Department.

Further, although some of the suggested Criteria may already be incorporated into the existing Urgency Ordinance using language different than our enclosure, we strongly believe that the Criteria is a cleaner way to present the exemptions.

Please consider these suggestions at your September 2, 2014 meeting.

Very truly yours,



THOMAS S. LEVYN  
of GLASER WEIL FINK JACOBS HOWARD AVCHEN & SHAPIRO LLP

TSL:tsl

Beverly Hills Urgency Ordinance  
Criteria for Exemption

**Urgency Ordinance No. 14-O-2663 Exemption Criteria**

- I. URGENCY ORDINANCE NO. 14-O-2663 SHALL NOT BE APPLIED WITH RESPECT TO ANY PROJECT FOR WHICH:
  - A. An application for a building permit has been filed with the City of Beverly Hills and all Plan Check fees as reflected on the building permit have been paid prior to July 30, 2014;
  - B. An application for Concept Review has been commenced by the City of Beverly Hills prior to July 30, 2014;
  - C. An application for discretionary approval [including but not limited to text amendments, variances, lot-line adjustments, R-1s or minor accommodations] has been filed with the City of Beverly Hills prior to July 30, 2014;
  - D. An application has been filed with the City of Beverly Hills and the Planning Commission has first calendared a hearing or discussion or preview to consider a discretionary approval or legislative approval prior to July 30, 2014;
  - E. An application has been filed with the City of Beverly Hills and the City has commenced an environmental review prior to July 30, 2014;
  - F. An application for a discretionary approval had been filed with the City of Beverly Hills which had been denied by the Planning Commission, and a new application seeking approval under different criteria is filed with the City;
  - G. An application for a project shows no net increase in floor area, notwithstanding some expansion of level pad;
  - H. The Director of Community Development determines that the public safety and welfare require the replacement or repair of existing retaining walls or materials used to support retaining walls.
- II. PROPERTIES SUBJECT TO URGENCY ORDINANCE NO. 14-O-2663 MAY BE EXEMPT FROM FULL COMPLIANCE WITH THE ORDINANCE IF PROPERTY OWNERS OBTAIN A MINOR ACCOMMODATION PURSUANT TO THE BEVERLY HILLS MUNICIPAL CODE.
- III. THE FOLLOWING PROPERTIES MEET ONE OR MORE OF THE AFOREMENTIONED CRITERIA AND SHALL BE EXEMPT FROM URGENCY ORDINANCE NO. 14-O-2663. THIS LIST IS NOT INTENDED TO BE EXHAUSTIVE.

- A. 1250/1254 Lago Vista Drive, Beverly Hills, CA 90210.
- B. 1201 North Beverly Drive, Beverly Hills, CA 90210.
- C. 1184 Loma Linda Drive, Beverly Hills, CA 90210.
- D. 1127 Miradero Road, Beverly Hills, CA 90210.
- E. 1160 Tower Road, Beverly Hills, CA 90210.
- F. 1120 Summit Drive, Beverly Hills, CA 90210.
- G. 1146 Tower Road, Beverly Hills, CA 90210.
- H. 619 Doheny Road, Beverly Hills, CA 90210.
- I. 1801 Angelo Drive, Beverly Hills, CA 90210.
- J. 820 Loma Vista Drive, Beverly Hills, CA 90210.
- K. 625 Mountain Drive, Beverly Hills, CA 90210.