

ATTACHMENT 2

INTERIM (URGENCY) ORDINANCES

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

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 9, 2016, the Planning Commission held a duly noticed public hearing after which it adopted a Resolution recommending in part that the City Council include urgency 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. That resolution passed 3 to 2 but was subsequently rescinded in order to allow people more time to address the impacts of the ordinance.

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 Council wishes to protect the status quo by limiting off pad development and terracing of hillsides, while new Hillside development standards are being adopted.

Because the public process of adopting standards for off pad development and terracing of hillsides in the Hillside Area of the City may be lengthy, and because even standards that are introduced this evening will not be effective for 30 days after a second reading, several projects might acquire vested rights prior to the effective date of the ordinance and therefore might frustrate the ultimate standards that may be adopted. The City Council wishes to both adopt an interim ordinance that will take effect immediately and help protect the status quo, and a permanent ordinance that will remain in effect while the standards are further 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 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, 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. Allowing the planning commission to review off pad development for mass and scale and to prohibit terracing so as to avoid the degradation of natural hillside contours and neighborhood identity and slope destabilization will mitigate these impacts. 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. 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 5. 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 6. 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 7. 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 8. 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 9. 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 10. 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.

ADOPTED:

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

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

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 9, 2016, the Planning Commission held a duly noticed public hearing after which it adopted a Resolution recommending in part that the City Council include urgency 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. That resolution passed 3 to 2 but was subsequently rescinded in order to allow people more time to address the impacts of the ordinance.

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. The City Council wishes to protect the status quo with respect to landform alterations, while new Hillside development standards are being adopted.

Because the public process of adopting standards for excavation in the Hillside Area of the City may be lengthy, and because even standards that are introduced this evening will not be effective for 30 days after a second reading, several projects might acquire vested rights prior to the effective date of the ordinance and therefore might frustrate the ultimate standards that may be adopted. The City Council wishes to both adopt an interim ordinance that will take effect immediately and help protect the status quo, and a permanent ordinance that will remain in effect while the standards are further 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 continued 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. 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 including, heightened noise, traffic, and parking impacts resulting from truck hauling activities on winding, narrow residential streets. Allowing the planning commission to review each project for its construction-related impacts would mitigate these impacts to an acceptable level. 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. 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 5. 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 two thousand (2,000) 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 6. 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 7. 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 8. 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 9. 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.

ADOPTED:

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

ATTEST:

(SEAL)
BYRON POPE
City Clerk

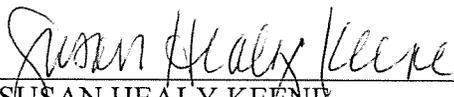
APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
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