

# **ATTACHMENT 4**

## **JUNE 30, 2016 PLANNING COMMISSION STAFF REPORT**



## Planning Commission Report

---

**Meeting Date:** June 30, 2016

**Subject:** Hillside Development Standards Ordinance

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

**Recommendation:** Consider a resolution recommending to the City Council approval of an ordinance regulating landform alterations, expansions of the level pad areas of lots and development off the level pad of lots in the Hillside area of the City. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

---

### REPORT SUMMARY

Over the last two years both the Planning Commission and City Council have raised concerns regarding hillside development and an increasing reliance by property owners on grading and retaining walls to facilitate larger projects. The concerns include the increased mass and scale of new construction, degradation of natural hillside contours, increased construction impacts and the potential of projects to create slope destabilization. Based on these concerns, Planning Commissioner Corman submitted a draft urgency ordinance for review 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 at a special meeting scheduled for 7 p.m. on June 30, 2016. The draft ordinance is attached (Exhibit A) for the Planning Commission's review. The recommendation in this report is that the Commission discuss the ordinance and decide whether to recommend its approval to the City Council.

### BACKGROUND

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

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

Report Author and Contact Information:  
Masa Alkire, Principal Planner  
(310) 285-1135  
malkire@beverlyhills.org



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 requires landform alteration exceeding identified quantity 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 identified 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.

Adoption of the attached ordinance by the City Council will immediately deal with the issue of detrimental hillside development by codifying additional regulations for the Hillside Area of the City. It is intended that the City will continue to study and develop more comprehensive changes to the City's hillside regulations, in particular landform alteration, grading and retaining wall standards, and make additional changes to the regulations applicable to the Hillside Area of the City at a future date.

## **DISCUSSION**

### **Summary of Draft Ordinance**

The draft ordinance includes 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 1,500 cubic yards in a 5 year period for those properties that are immediately adjacent to a street that is less than 24 feet wide. Requests to export/import more than 1,500 cubic yards in a 5 year period on properties adjacent to a street that is less than 24 feet wide would require approval of a Hillside R-1 Permit. The current limit of export/import before an R-1 permit is required is 3,000 cubic yards per 5 year period. The current regulation does not include provisions regarding the width of adjacent streets (BHMC § 10-3-2521).
- Prevents a level pad that measures less than twenty feet (20') in any direction from counting toward the total level pad for the purposes of calculating the maximum floor area allowed on a property. The current standards do not include a minimum size for portions of level pad to be used in calculating maximum floor area, and in some instances retaining walls are constructed in series to create 3-foot (3') wide areas of



level pad that are used to increase the amount of floor area that may be constructed on a property.

- Limits maximum cumulative floor area located off the existing level pad to 1,000 square feet. Existing level pad would be defined as the level pad existing at the time of adoption of the ordinance. Additional floor area located off the existing level pad in excess of 1,000 square feet would require approval of a Hillside R-1 Permit. There is currently no maximum for floor area developed off the level pad. There is a minimum setback of 5' from the edge of the level pad, or construction over the slope must extend a minimum of 20' measured horizontally from the edge of the level pad (BHMC § 10-3-2507)
- If approved, the ordinance would not apply to those projects which have received discretionary approvals prior to its passage. The ordinance also would not apply to any projects for which no discretionary permits are required and that have filed complete applications for building permits prior to June 1, 2016.

**Summary on Properties Potentially Impacted**

Staff reviewed the building plans on file with the City for an assortment of recently issued building permits, current building plan check submittals and preliminary review requests for larger single family homes located in the Hillside area of the City to assess the potential effect of the ordinance on the Community Development Department's workload. The following table anonymously identifies seven recent projects under review at the City. The table is intended to provide context as to how many more projects may require discretionary review if the 1500 cubic yard "import/export" provision of the draft ordinance is implemented.

	<b>Street Width</b>	<b>1500 c.y. export/import on street less than 24 feet wide</b>
<b>Example 1</b>	20	<b>R-1 permit req. (1988 export)</b>
<b>Example 2</b>	29	No R-1 permit (186 export)
<b>Example 3</b>	20	<b>R-1 permit req. (2885 export)</b>
<b>Example 4</b>	29	No R-1 permit (186 export)
<b>Example 5</b>	29	No R-1 permit (2025 export)
<b>Example 6</b>	27	No R-1 permit (2862 Export)
<b>Example 7</b>	27	No R-1 permit (2115 Export)

The seven example projects currently do not require discretionary review and are simply required to go through the City's plan check process to receive a building permit. The 1500 cubic yard "import/export" provision of the draft urgency ordinance would trigger Planning Commission discretionary review of two of the seven sample projects identified by Staff.

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

1. Cabrillo Drive
2. Calle Vista Drive
3. El Retiro Way
4. Garden Lane



5. Glen Way
6. La Altura Road
7. Lago Vista Drive
8. Lago Vista Place
9. Loma Linda Drive
10. Monte Cielo Drive
11. Pickfair Way
12. Summitridge Place
13. Tower Road

On June 21, 2016 Staff reviewed City plan check submittal records and identified 16 current building plan check submittals the Hillside Area of the City. The new regulations contained in the ordinance would not affect many of these plan check submittals, as some of the submittals are for minor work such as stairs or small accessory structures. However all of these existing plan check submittals will need to be checked to see if the calculation of level pad provision or the new thresholds for discretionary review are applicable. As part of this re-review of existing plan check submittals 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 likely that some of the projects could require redesign to be compliant with the new qualification requirements for level pad used in floor area calculations.

On June 21, 2016 Staff also identified four projects that are currently submitted to the Planning Division for discretionary approval. Two of the projects are minor requests that are unlikely to be affected by the proposed new regulations (a deck over a driveway and a solid fence on a property line). Two of the requests are for new single family homes. If discretionary review of the two projects is not completed before the effective date of the ordinance, then the projects would need re-review for compliance with the new regulations.

Staff also identified that at least six relatively recently completed concept reviews for new residential development in the Hillside Area. Some of the comments issued on these concept reviews may be inaccurate after the new regulations are in effect and applicants may have to re-design projects to meet the new regulations.

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

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

- Land Use Policy 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**

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Newspaper Notice	10 Days	June 17	June 20	13 Days
Mailed Notice (Owners & Occupants – Hillside Area of the City)	10 Days	June 20	June 20	10 Days

Public Comment

Seven comment letters and emails were received before the June 9, 2016 Planning Commission meeting when an urgency ordinance regarding this matter was considered by the Planning Commission. As of the writing of this report an additional 18 letters and emails have been received by the Planning Division. Copies of all 25 correspondence received to date are attached (Attachment C).

**ENVIRONMENTAL REVIEW**

The ordinance has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The Planning Commission finds that adoption of the ordinance will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15061(b)(3) as there is no possibility that adoption and implementation of the ordinance may have a significant effect on the environment because the



ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. The Planning Commission also finds that this ordinance is exempt from CEQA pursuant to Section 15308 of Title 14 of the California Code of Regulations because the Ordinance is adopted to assure the maintenance and protection of the environment, and enacts more strict development standards for the protection of the environment.

**RECOMMENDATION**

Staff recommends that the Planning Commission discuss the proposed ordinance and, if appropriate, adopt a resolution recommending approval of the ordinance to the City Council.

Report Reviewed By:

A handwritten signature in black ink, appearing to be "R. Gohlich", followed by the word "for" in a cursive script.

---

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