



4040 Vineland Avenue, Suite 108, Studio City, CA 91604 • (818) 487-6767 • Fax (818) 487-6760

July 22, 2010

W.O. #5433-010

Councilmember Ed P. Reyes
Chair, Planning and Land Use Management Committee
Room 350, City Hall
200 N. Spring Street
Los Angeles, California 90012

RE: CF 2010-1001 - Baseline Hillside Ordinance

Honorable Councilmember:

This letter is a follow-up to my brief presentation to the Planning and Land Use Management Committee on July 20, 2010.

I indicated to the Committee that the proposed revisions to the Hillside Ordinance recommended by the City Planning Commission included several provisions that are unrealistic and unworkable. I've tried to summarize those items by referencing them in Exhibit A of the City Planning Commission's letter to your Committee dated June 8, 2010, by page number and paragraph as follows:

Page 9, (b) - Guaranteed Minimum Residential Floor Area

The table lists Guaranteed Minimum Residential Floor Area for lots by zone in the Hillside Area based on a percentage of lot size. For some reason, the RA zone which has a minimum lot area requirement of 17,500 s.f. is only given 13% of the lot size, while the RE20 and RE40-zoned lots are permitted 18%, and even the RE15 lot is permitted 18%.

No reason is provided for why the RA zone is given a smaller minimum than the larger RE20 and RE40 lots. The guaranteed minimum residential floor area for RA-zoned lots should be more proportionate to the size of the lot, consistent with the other large zones.

Page 14, (e) - Lots fronting on Substandard Hillside Limited Streets

This proposed revision would result in limiting the maximum height of any new structure on a lot fronting on a Substandard Hillside Limited Street to just 24 feet. The current Code allows a maximum height of 36 feet for such structures, except for that limited portion of the structure within 20 feet of the front lot line, which is limited to 24 feet.

A Substandard Hillside Limited Street is one which has a minimum paved roadway width of 28 feet and a minimum dedication of 36 feet from the driveway of the project to the boundary of the Hillside Area. Nearly all properties in the Hillside Area front on a Substandard Hillside Limited Street due to either a pavement width of less than 28 feet or a dedication width of less than 36 feet. Homes and other structures on all such properties will be limited to 24 feet in height, which is a 33% reduction from the current Code. This is a major change which affects tens of thousands of properties, without taking into account the size or topography of these lots. There is no specific explanation or reasoning provided in the staff report that explains this drastic and far reaching change, or why it applies without regard to lot size or topography or neighborhood location. All existing homes, many thousands, exceeding 24 feet in height would become nonconforming. The proposed Ordinance would require a property owner to obtain a variance, rather than a Zoning Administrator's Adjustment for a new home or addition in these situations.

This Code section should remain as currently written and not be amended. Also, The Ordinance proposes to reduce existing maximum height limits by a further 15% to 16.6%, if the roof is not sloped more than 25%; again, without regard to lot size, topography or other individual aspects of the property. These proposed restrictions will cause virtually every project to go through multiple discretionary procedures just to build the same size home as currently exist on these lots, adding delay and cost to all parties.

Page 15. (6.a) - Maximum Grading Quantities

The maximum amount of grading permitted for larger lots is not proportional to the larger lot size. Larger lots in the RE40 (1 acre minimum) are only permitted 3,300 c.y., but such properties are at least eight times larger than a 5,000 s.f. R1-zoned lot which is permitted a maximum of 750 c.y. Many of these larger lots are anywhere from two acres to over 100 acres in size and these properties would naturally require more grading. The alternative to one house on a very large lot would be to subdivide into 40,000 s.f. lots with each lot being permitted 3,300 c.y., which leads to greater density and is contrary to desired goals of the Ordinance. Also, current Code already requires a property owner grading more than 1,000 c.y. to go through an environmental assessment review, so these new proposed limits in the Ordinance are not necessary and only add more burden on City planning staff and Building & Safety staff, and more costs and delays to homeowners. These limits should be increased on a basis that takes into account relative size, proportionality and topography of a respective lot, instead of a blanket approach that will inevitably cause problems.

Page 16. (b) - Import/Export Limits

The new proposed limitations on import and export are unrealistic and extremely restrictive. They are blanket limits regardless of the individual lot characteristics, they do not take into account the topography of individual properties, the lot size, lot zoning, nor design of the graded property. Because these proposed restrictions are not proportional to lot size, they are even more severe for larger properties which will naturally require more import or export. These new caps are also 25% lower for the vast majority of properties, those that front a Substandard Hillside Limited Street - again, even though the properties are the same size (whether it's a 40,000sf lot or a 5,000sf lot, the limits are the same - 350 cubic yards and 750 cubic yards). Almost every

project on a medium or large lot will need to exceed the proposed limits, thus creating a complex, lengthy and costly process that every homeowner will be required to go through with the City. These limits should be reconsidered and reworked to be more realistic and to be proportional to the size, topography, and location of a respective property.

Page 17, (d) - Zoning Administrator's Authority

The limitations on grading and import/export deviations are also very restrictive and do not take into account topography, lot size, lot zoning, or design of grading. These limits should be increased or removed, and, as noted above, the haul route and environmental assessment process already requires a property owner grading more than 1,000 c.y. to go through a review, so these new proposed limits in the Ordinance are not necessary and only add more burden on City planning staff and Building & Safety staff, and more costs and delays to homeowners.

Page 17, Subparagraph (c)(1) Pools exempt

The Project Analysis, on pages A17-18, acknowledges that the prior version of the proposed Ordinance provided that pools, in addition to underground structures, driveways, water storage tanks and completely subterranean spaces, were exempt from the grading caps. Without any indication why, this version of the Ordinance has deleted "pools" from this exemption (page 17), which makes the proposed grading and export limits even more restrictive than they appear.

Page 19, (8) - Fire Protection

This revised language appears to have eliminated the requirement for fire sprinklers for any home in a Hillside Area which fronts on a Standard Hillside Limited Street or is less than two miles from a truck company, or less than one and a half miles from an engine company.

The current regulation requires fire sprinklers for any new home or any addition which increases floor area by 50 percent or whenever the aggregate value of major remodels exceeds 50 percent of the replacement cost. The Fire Department should be asked to comment on this proposed language.

Page 22, (x) - Vested Development Plan

Section 12.21 A.17(i)(5) of current Code, which was adopted as part of the last major change in Hillside ordinances, provides for a specific vesting provision for hillside properties. The proposed Ordinance proposes to delete this existing Code section, and instead apply Section 12.26 A.3, which provides vesting of a set of plans "sufficient for a complete plan check for 18 months to proceed in substantial compliance with the rules, regulations, ordinances and adopted policies in force on the date the plan check fee is paid. These rights shall end if subsequent changes are made which increase or decrease the height, floor area or occupant load by more than 5 percent."

This will lead to undesired results since under 12.26 A.3, applicants who are in the pipeline before the pending code changes are effective, will be essentially "frozen" and prevented from making reductions in size or height from the project as initially submitted. This penalizes people who are in the pipeline, particularly those that need or want to reduce aspects of their project

after the adoption of the proposed Ordinance. It creates an incentive to build a larger project than may be desired, because to reduce its size would cancel your vesting.

Use of existing Section 12.21 A.17(i)(5), with revised language to tie it to the effective date of the proposed Ordinance instead of deleting it, and also prohibiting increases of more than 5 percent in height, floor area, would be a much more logical limitation and would allow projects which are in the pipeline to be reduced, but not increased.

Page 26 - Import/Export (Haul Route) Review

A key part of the proposed Ordinance will create multiple and duplicative hearings for a project owner, including both a haul route hearing and a hearing with the ZA on grading, import and export. Though staff suggests these multiple hearings could be combined, they acknowledged that under current law zoning administrators don't have such authority (page A-19). To create such authority also requires an amendment to the building code which is not a part of the proposed Ordinance and has not yet been drafted or circulated, nor is any time period set for when such required amendment would be adopted. This again leaves project owners and the City facing an unworkable situation because the proposed grading, import/export limits are extremely limited and will therefore cause many, many projects to go through these multiple hearings before work can commence - yet the necessary authority to allow these hearings to occur is not provided for in this Ordinance. Such an amendment should be drafted and made a part of the Ordinance before it is adopted, in order to avoid unnecessary multiple public hearings by both the Zoning Administrator and the Building and Safety Commission which would be caused by adopting the Ordinance as it is currently drafted..

Retaining Walls - General Comment

The proposed revisions to the Hillside Ordinance do not address any of the inevitable and admitted conflicts with the current Hillside Retaining Wall Ordinance. Recognizing this concern (which was also recognized in the staff's report), the City Planning Commission asked staff to initiate meetings with the Department of Building and Safety and report back on these conflicts and how to resolve them. No public comment has been made about whether or not any such meetings have occurred, and no mention of resolutions to these conflicts was made at the PLUM Committee hearing this week. This issue should not be neglected, since adoption of the Baseline Hillside Ordinance without the necessary concurrent revisions to the Hillside Retaining Wall Ordinance will cause problems for the City Planning Department, the Department of Building and Safety, and all project owners, at a time when these City departments are already operating with reduced hours, and reduced staff and resources.

The proposed Baseline Hillside Ordinance is an extremely complex set of regulations and makes major reduction to the current zoning entitlements permitted in the Hillside Areas, particularly with regard to grading and allowed building height, and without proportionality to lot size or topography in most cases. Based on my experience, it will require most projects to seek additional approvals in the form of Zoning Administrator Determinations, Zoning Administrator Adjustments and Zone Variances, in order to build a home comparable to most existing homes in the hillsides. Given the importance of the inherent conflicts between the proposed Ordinance

and existing Hillside Codes and the many new and complex limits and restrictions and review processes, including the slope band method and grading limits, and the problems and delays that will be caused by them, the Department of Building and Safety, the very department that will be responsible for enforcing much of the Ordinance, should be asked to publicly provide comment on these concerns and the likely unworkability of key parts of the Ordinance.

While it is intended to stop "mansoning" in the hillsides, the proposed Ordinance is much broader and will apply on a blanket basis that will affect more than 130,000 properties, by the City's own count, with the most restrictive provisions applying with out regard to the size or topography of any particular property. The effect of the numerous new unrealistic and unworkable requirements will be to prohibit any construction on thousands of properties, and to add uncertainty, substantial costs and lengthy delays to construction on tens of thousands of other properties, leaving property owners unable to build a new home or rebuild or add to their existing home. This will result in substantial devaluing of thousands of properties and potential lawsuits against the City. As well, hundreds of City Planning Department and Department of Building and Safety staff have been laid off, furloughed or taken early retirement in the last couple of years, yet the proposed Ordinance requires implementation of multiple new permit requirements and creates several new review and approval processes to be conducted by these Departments, which can only lead to more delays, costs and frustration as property owners and already overburdened city staff try to work through interpretation and implementation of the major changes proposed by the Ordinance.

There is a need to revise the current regulations to control the relatively few excessively large projects that have occurred in the recent past in the hillsides, but I'm concerned that the impact of this very broad proposed Ordinance is not fully understood and the City should at least further study the proposed limits contained in the Ordinance and the problems outlined above, including consider the interrelationship with the existing Hillside Retaining Ordinance before adopting the current version of the proposed Ordinance.

Thank you for permitting me to submit these comments. I remain available to assist you further, if at all necessary.

Very truly yours,



Tom Stemnock
President

TMS/gcm

FAWP\PLNG\5433\BHO Letter Follow-Up.wpd

cc: Councilmember Jose Huizar, CD 14
Councilmember Paul Krekorian, CD 2
Charlie Rausch, Department of City Planning