

## Against CFMS 16-1470

---

Kerrin Clark

Mar 8, 2018 4:02 PM

Posted in group: **Clerk-PLUM-Committee**

Dear Councilmembers and Staff -

Voicing strong opposition to the pending motion to place Cheviot Hills in the R1V2 zoning category, I write this time as an individual rather than as one name on the list of close to 400 verified residents and homeowners in the affected area who support keeping this neighborhood in the R1/BMO category. Moving Cheviot Hills into R1V2 zoning contradicts the very goals for the rezoning process set out almost four years ago and raises questions about the influences that came to bear on this matter.

In a motion submitted May 16, 2014, Councilmember Koretz noted *"Of all the residential family zoned parcels within the BMO, 234,575 or 77% are zoned R1. And, of those, half are lots in the 5,000-6,000 square foot range. This means the backbone of our city's single-family neighborhoods are modest sized lots, with modest sized homes. These neighborhoods are integral to the city's history, as they have provided a consistent presence for our families and economic growth."* Later that year, the City Council directed the Planning Department to *"address the issue of out-of-scale development and loss of neighborhood character in single-family zones, with a focus on the R1 Zone"* and *"the Department of City Planning to tackle the issues of neighborhood conservation"*. That directive and the subsequent work undertaken by Planning Department staff led to a Department of City Planning Recommendation Report submitted on October 13, 2016. This report asserted the proposals contained therein *"represent context sensitive zoning meant to preserve the neighborhood character of the individual communities."* In that recommendation report, Cheviot Hills was included in the Lower CD 5 area and was recommended for R1V3 zoning. (It was called R1V2 at the time but the designations were later changed). A copy of the specific recommendation for Lower CD 5, including highlighted portions indicating why that option was chosen, is attached.

None of those stated objectives or promises are met by putting Cheviot Hills into the R1V2 zoning category, which allows taller houses with flatter roof lines, incentivizes subdivision of larger lots, promotes second story massing and creates disadvantaged lots at the smaller end of each of the tiered categories. According to the May 19, 2016 report put out by the City Planning Department on Historical Cultural Monument status for the Gage House, at 2706 Wigtown Road, *"the property is located within the Cheviot Hills Planning District, which was identified through the citywide historic resources survey, SurveyLA, as a "good example of a residential subdivision from the early 20th century" that "represents residential patterns of development in West Los Angeles." Too many of the houses in the district have been altered for it to qualify to be a National Register Historic District."* With 50% of its lots under 7,000 square feet, and a historical average residential floor area of less than 30% the size of the lot, clearly Cheviot Hills is precisely the kind of neighborhood Councilmember Koretz described in May 2014 as the "backbone" of the city and a "consistent presence for families and economic growth", and it has been under threat for some time.

Until December 8, 2016 when Cheviot Hills was pulled, unannounced, without appearing on any agenda, and for no stated reasons, out of the Lower CD 5 area and simultaneously out of the Planning Department recommendation of R1V3 (then R1V2), the process for determining zoning options had been handled as it should have been: backed by meticulous research, expert analysis and open public comment. Indeed, the full text of the Findings portions of the initial recommendations include the statement *"The proposed ordinance is not arbitrary as the Department has thoroughly analyzed many different approaches and has determined that the proposed amendments are the simplest and .... most direct way of dealing with the issue of "mansionization" or development of homes that are disproportionate in size within their community."* By December 8, 2016 no such statement is included in Attachment 20 to Council File 16-1470 that 'recommends' Cheviot Hills be given R1V2/New status, nor could it be.

On May 18, 2017 a Cheviot Hills resident wrote to me that this change was the result of "a deal to drop our [sic] request for R1V2 (known at the time as R1VNew) if the Planning Commission passed the BMO that was .5FAR ... with a continued 400 square foot exemption". According to this private citizen, who held no position of authority or representation on behalf of those who live in or own the 1400 homes in Cheviot Hills, "A few days

after that, the City Council took jurisdiction over this matter and changed the BMO to what it is today." The writer continues, "The Council office then informed us [sic] that in recognition of Council actions, they understood that the BMO was "no longer a compromise for Cheviot Hills and would likely seek R1V2 for our area" ". (Sub quotation marks are of those of the writer.) He does not explain how the R1/BMO was **not** a "compromise" between the recommended R1V3 and his preference for R1V2.

Zoning designations should be made on the basis of how they balance the needs and desires of both individuals and a community at large, as well as how they meet the task laid out by the City Council *"to address out of scale development and loss of neighborhood character"* and *"to foster additions and new construction more consistent with a communities predominant building forms"*. Almost doubling the size of the historical RFAR in Cheviot Hills for most lots, as would be possible under R1V2, is not in keeping with those criteria.

Cheviot Hills should remain an R1/BMO zoned neighborhood and any further review of or changes to that status should be subjected to and based on the same kind of diligence, detail and expertise that was brought to bear until some as yet undisclosed influences took over in the Fall of 2016.

Sincerely,  
Kerrin Clark

## **FINDINGS (Lower Council District 5)**

### **General Plan/Charter Findings**

In accordance with Charter Sections 556 and 558, the proposed zone change is in substantial conformance with the purposes, intent and provisions of the City's General Plan, and all applicable provisions of the Los Angeles Municipal Code (LAMC).

### **General Plan Framework/ Community Plan Consistency**

The proposed zone change ordinance for the Lower Council District 5 Community is consistent with the following goals, objectives, and policies of the General Plan Framework, in addition to several similar provisions echoed in most of the Community Plans that make up the Land Use Element of the General Plan

### **General Plan Framework**

The proposed Zone Change Ordinance is consistent with the following goals, objectives, and policies of the General Plan Framework:

- Goal 3B** Preservation of the City's stable single-family residential neighborhoods.
- Objective 3.5** Ensure that the character and scale of stable single-family residential neighborhoods is maintained, allowing for infill development provided that it is compatible with and maintains the scale and character of existing development.
- Policy 3.5.2** Require that new development in single-family neighborhoods maintains its predominant and distinguishing characteristics such as property setbacks and building scale.
- Policy 3.5.4** Require new development in special use neighborhoods such as water-oriented, rural/agricultural, and equestrian communities to maintain their predominant and distinguishing characteristics.

Pursuant to Section 12.32(F) of the Los Angeles Municipal Code this proposal is for a Zone Change to those parcels lying within the Lower Council District 5 Community, bounded within the proposed Ordinance Map, from R1-1 to R1V2. The current Single Family "R1" regulations for the Lower Council District 5 Community allow large, box-like structures that may compromise the existing character of the smaller scaled neighborhood, potentially limiting light and air to adjacent buildings. The proposed zone change ordinance for the Lower Council District 5 Community is necessary in order to preserve and maintain the character defining features, such as scale, proportion, building mass and garage orientation that make the existing single-family neighborhood unique.

With regards to scale and proportion, the existing R1 zone allows for a Floor to Area Ratio that reaches 0.60 for net livable space. Currently, the area is regulated by an interim Control

Ordinance 183,497 which states, “Notwithstanding any section of the LAMC, no building permit shall issue for a Project in Lower Council District 5 unless the proposed structure's Residential Floor Area—without exceptions for detached accessory buildings; porches, patios and breezeways; and over-in-height ceilings—does not exceed the base Residential Floor Area set forth in the Zoning Code. No Residential Floor Area bonus shall be allowed for green building, proportional stories, or front façade articulation.” The R1V2 zone reduces the allowable FAR from 0.60 to a range that reaches a maximum 0.45 on smaller lots to a minimum 0.35 on larger lots. This FAR allowance is more in keeping with the existing FAR makeup of the community, which averages 0.28 FAR, while still allowing for a reasonable expansion of house size to meet modern needs. It also is in keeping with the intent of the Interim Control Ordinance for the area.

Furthermore, the current R1 is inadequate as it does not control building massing. The existing R1 development standards neither limits the setback distance of the upper portions of the walls nor the structure mass. The new building envelope for the proposed zone, R1V2, requires that walls over 20 feet in height employ an encroachment plane of 45 degrees to a maximum height of 30 feet. The encroachment plane curtails the overall massing of the structure, reducing the perception of size and bulk while enhancing the overall visual quality of the street by providing a more unified and low scale appearance which increases light and air circulation.

### **West Los Angeles and Westwood Community Plans**

The proposed zone change will promote the objectives, policies and goals of the West Los Angeles and Westwood Community Plans by continuing to protect the character of the existing single-family neighborhood in the Lower Council District area. By instituting more restrictive development regulations, the proposed regulations require new development to be compatible with neighborhood character. As new houses are developed in conformance with the proposed regulations, and are built with smaller height, floor area and lot coverage envelopes, the overall existing character of the Lower Council District community is preserved. The proposed zone changes are consistent with applicable objectives and policies of the West Los Angeles Community Plan, including the following:

#### *West Los Angeles Community Plan*

- Policy 1-1.1** Protect existing single-family residential neighborhoods from new out-of-scale development and other incompatible uses.
- Policy 1-1.2** Promote neighborhood preservation in all residential neighborhoods.

#### *Westwood Community Plan*

- Policy 1-1.1** Protect existing single-family residential neighborhoods from new out-of-scale development and other incompatible uses.
- Policy 1-1.2** Protect the quality of residential environment and promote the maintenance and enhancement of the visual and aesthetic environment of the community.

The policies listed above will be accomplished through the implementation of the proposed zone change to R1V2. Based on data from the existing housing stock in the Lower Council District 5

Community, including floor area and analysis of building typologies, the proposed new zone was selected from a range of new single family subzones. The proposed zone requires all new development to be similar in character to the majority of existing houses in the project area. No changes are proposed to the community's residential density – the project area will remain designated for single family development. On the whole, the proposed zone change to R1V2 act as a refinement of the existing Single Family Development Standards contained in the Los Angeles Municipal Code, tailoring existing types of development regulations to more specifically address the needs of a well-defined community.

#### Public Necessity, Convenience, General Welfare, and Good Zoning

Los Angeles **City Charter Section 558** and **LAMC Section 12.32(C)(7)** require that prior to adopting a land use ordinance, the City Council make findings that the ordinance conforms with public necessity, convenience, general welfare, and good zoning practice. The proposed Zone Change conforms to public necessity, convenience, general welfare, and good zoning practice in the following respects: The proposed single family development standards of the R1V2 create guidelines and standards for new development which help protect the character of Lower Council District 5 and reinforce the neighborhood's scale. The new single family standards within the R1V2 Zone will ensure that new construction is compatible with the existing context; new projects will enhance and reinforce the existing environment; and that the aesthetic and visual quality of the area will be improved and complement the character of the Community.

The proposed zone change began with a desire voiced by the community to preserve the built character of the Lower Council District 5 community. Planning staff responded by researching building form in the community, as well as extensive field work and meetings with community members to better understand the issues facing the area. Through this methodology, staff determined that there was an impetus for additional single family development regulations in the Lower Council District 5 community; it was true that the built form of the neighborhood was beginning to change, and that the changes were potentially negatively affecting the character of the community. The proposed zone, R1V2 offers protections and methods to preserving the overall character of the community.

The proposed zone change ordinance substantially advances a legitimate public interest in that it will further protect single-family residential neighborhoods from out-of-scale development that often leads to structures that are built-out to the maximum size allowed in the LAMC. In recent years, Citywide property values have increased rapidly and this high premium for land has driven a trend where property owners and developers tear down the original houses and replace them with much larger structures or significantly remodel existing houses with large-scale two-story additions which are out-of-scale with the neighboring properties. Good zoning practice requires new development standards for single-family residential zones to further maintain and control the preservation of neighborhood character. This proposed zone change ordinance accomplishes this requirement.

The proposed ordinance is not arbitrary as the Department has thoroughly analyzed many different approaches and has determined that the proposed amendments are the simplest and most direct way of dealing with the issue of "mansionization" or development of homes that are disproportionate in size within their community. There is a reasonable relationship between a legitimate public purpose which is maintaining existing single-family residential neighborhood

character and the means to effectuate that purpose. Delaying the implementation of these code amendments could result in the continuation of over-sized development of single-family residential neighborhoods which is inconsistent with the objectives of the General Plan and would create an irreversible negative impact on the quality of life in the communities within the City where a Zone Change has been proposed.

### **CEQA Findings**

Pursuant to Section 210821(c)(3) of the California Public Resource Code, the Department of City Planning prepared a Negative Declaration (ENV-2016-2111-ND), which concludes that the proposed zone change for the Lower Council District 5 (as bounded by the Proposed Ordinance Map) will result in less than significant impacts and/or that there will be no impacts. The Negative Declaration was published for a period of 20 days, from September 29, 2015 and will be complete by October 19, 2015. We will address comments as they are submitted and will have a final response to comments by second City Planning Commission hearing on November 10, 2016.

As stated in the mandatory findings of significance in the Negative Declaration, the Department of City Planning concludes the following:

- a) Based on the analysis in this Initial Study, the proposed zone changes would not have the potential to degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal. The proposed project does not propose or authorize any new development. Further, development (e.g., additions, new construction) of single-family units that occurs pursuant to the proposed project would not impact any endangered fauna or flora, modify any special status species habitat, and would only occur on lots zoned for single-family development. Due to the highly urbanized nature of the project area and the surrounding area, construction activities and operation of future development would not impact the habitat or population in the Project Area. In addition, the proposed project does not propose or authorize any new development in any identified Biological Resource Areas. The proposed project would not impact the habitat or population level of fish or wildlife species, nor would it threaten a plant or animal community, nor impact the range of a rare endangered plant or animal. Furthermore, impacts to Cultural Resources and related archaeological and paleontological resources would be less than significant following the implementation of the regulatory compliance measures.
- b) No significant impacts were identified for the 17 environmental factors analyzed within the Initial Study. Currently, a proposed Code amendment to the 2008 Baseline Mansionization Ordinance (BMO) and the 2011 Baseline Hillside Ordinance (BHO) are undergoing similar environmental review that could be viewed in connection to the proposed Project. The proposed Code amendment to the BHO/BMO specifically amends the existing BMO and BHO to establish more stringent development standards for properties zoned R1, modify RFA calculations, adjust grading provisions for single-family lots located in designated "Hillside Areas," and eliminate the "Green Building Option" bonus for properties zoned RA,

RE, and RS, and eliminate all bonuses in the R1 zones that currently permit additional RFA in exchange for the inclusion of particular building features.

As mentioned throughout, the proposed Code amendment would establish variations of the existing R1 Zone that are tailored to meet the varying character and design of single-family neighborhoods throughout the City. These zones regulate lot coverage maximums, height, placement of bulk, and size. The proposed Project would also create a new Supplemental Use District that mandates garages to be detached from the main building and located at the rear of a property. The proposed Project, by itself, does not propose or authorize any development and would not authorize or expand any new or existing land uses.

The proposed Code amendment to the BMO/BHO (i.e. Related Project) would further apply specific requirements related to form and massing to single-family zoned properties in the area. The Related Project applies specific requirements related to form and process, triggered by an application for a building and/or grading permit in any single family zoned lot (RA, RE, RS, R1). The combination of the proposed Project and the Related Project is not expected to incentivize any new construction; rather, these projects together would in effect address concerns of perceived out-of-scale construction in single-family neighborhoods and help regulate form in residential zones. It is also important to note that no significant impacts were identified for the Related Project.

Thus the proposed Project in combination with Related Projects would not result in a cumulatively considerable effect

- c) A significant impact may occur if the proposed project has the potential to result in significant impacts, as discussed in the preceding sections. All potential impacts of the proposed project have been identified, and regulatory compliance measures have been prescribed, where applicable, to reduce all potential impacts to less-than-significant levels. Upon implementation of mitigation measures identified and compliance with existing regulations, the proposed project would not have the potential to result in substantial adverse impacts on human beings either directly or indirectly.

### **Delegation of City Planning Commission Authority**

In accordance with **Charter Sections Charter 559**, and in order to insure the timely processing of this ordinance, the City Planning Commission authorizes the Director of Planning to approve or disapprove for the Commission any modification to the subject ordinance as deemed necessary by the Department of Building and Safety and/or the City Attorney's Office. In exercising that authority, the Director must make the same findings as would have been required for the City Planning Commission to act on the same matter. The Director's action under this authority shall be subject to the same time limits and shall have the same effect as if the City Planning Commission had acted directly.