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To: Los Angeles City Council
Planning and Land Use Management (PLUM) Committee
Room 350
200 North Spring Street
Los Angeles CA 09912

Date: July 20th, 2010

Sherman Oaks Homeowners Association Comments and Recommendations on Proposed Municipal Code Amendment Establishing New Single-Family Dwelling Development Regulations in Designated Hillside Areas (Baseline Hillside Ordinance)

File Number: 10-1001

The Sherman Oaks Homeowners Association (SOHA) represents more than 3,000 hillside homes and lots in Los Angeles to which the Baseline Hillside Ordinance (BHO) will apply. We have worked with and supported the Planning Department for more than two years in their development of the BHO. We concur with the basic purpose of the BHO – to preserve the look and feel of communities and reduce the detrimental impacts of overly large homes. We further feel that the BHO must achieve a reasonable compromise and present a well-balanced set of “baseline” provisions that protect neighborhood character and scale, including limitations on floor area, height, and grading. Unfortunately, the most recent version of the BHO does not include certain important protections that appeared in earlier BHO versions, as these were removed during reviews by the City Planning Commission. SOHA has worked with other homeowner groups and has developed the following recommendations for reinstating specific critical protections in the BHO. We thank the Planning and Land Use Management (PLUM) Committee for their consideration of our recommendations.

BASELINE HILLSIDE ORDINANCE REFERENCES – In our recommendations, the BHO paragraph and page references are to the latest version of the BHO from Exhibit A of the City Planning Commission June 8th 2010 report (CPC-2010-581-CA). Because this latest version does not include some language deleted from earlier versions, we have included that language in this memo, where necessary.

1. COUNT 75% OF EXEMPTED CUT/FILL AGAINST GRADING LIMITS – Modify the Hillside Development Standards paragraph 6.c (Grading Exceptions on pages 16-17) such that 75% of exempted cut and/or fill as defined in sub-paragraphs 6.c(1) and 6.c(2) is counted toward the maximum grading quantities in paragraph 6.a (on pages 15-16) and the import/expert limits in paragraph 6.b (on page 16). The current BHO version essentially exempts all cut and fill from the maximum grading quantity limits. Prior BHO versions exempted little cut and fill from these limits. The current provisions will allow massive grading, much to the detriment of neighbors, neighborhoods, stability, and safety. We strongly recommend that 75% of the cut and fill be reinstated against the maximum grading quantities and limits. This is a reasonable portion that would continue to encourage some “notching” into hillsides while not allowing massive grading in our limited hillside areas.

2. BUILDING PERMIT ISSUANCE BEFORE GRADING PERMIT ISSUANCE – Change paragraph 6 (Grading on page 15) to replace the word “approved” with “issued” and read: “No grading permits shall be issued until a building permit is issued.” Using “issued” rather than “approved” protects against the situation where the permit is approved but never paid for and issued. We understand that issuance of the building permit would require developers to pre-pay the required fees, but this is not a significant financial burden. Without the wording change, a property can be graded and the discarded or even sold. Having the building permit fees pre-paid at least forces builders and developers to demonstrate their commitment to an approved project.

3. ADD 10% LIMIT TO ZONING ADMINISTRATOR DETERMINATION – Modify the Zoning Administrator Determinations (12.24.x) paragraph 28.a(5) (Grading Zoning Administrator Authorities on page 23) and paragraph 28.b(5) (Grading Findings on page 25) such that the Zoning Administrator: (1) can only increase the maximum grading quantities [sub-paragraphs 28.a(5)(i) and 28.b(5)(i)] by a maximum of 10% above the limits provided in Hillside Development Standards paragraph 6.a; and (2) can only increase the import/export quantities [sub-paragraphs 28.a(5)(ii) and 28.b(5)(ii)] by a maximum of 10% above the limits provided in Hillside Development Standards paragraph 6.b. The current provisions allow the Zoning Administrator (ZA) to increase the maximum grading quantities much too significantly and will lead to over grading. The key question here is why bother to have any limits at all in the ordinance if they can be totally overturned by the ZA. This makes no sense and gives too much authority to the ZA for critical grading issues.

4. REINSTATE PROHIBITION AGAINST GRADING ON EXTREME SLOPES – The paragraph prohibiting grading on extreme slopes (shown in the box below) appeared in an earlier version of the BHO (April 22nd) but was eliminated from the current version (and no longer appears at all in Exhibit A to the CPC report). Eliminating this prohibition will have drastic impacts on the City of Los Angeles (possibility of lawsuits when failures on steep slopes eventually occur) and on local homeowners (possibility of damage and personal injury when failures on steep slopes eventually occur). We strongly recommend that the “Grading on Extreme Slopes” requirement be fully reinstated. The rationale for eliminating the requirement was that such slopes represent only 0.14% of the hillside area. However, this 0.14% still equates to 62 acres of what used to be called “junk lots” and which continue to be essentially unbuildable. In addition, because of the instability and difficulty of building on such junk lots, we recommend that Building and Safety (LADBS) increase the geotechnical analysis and reporting requirements to the most stringent level possible where slopes are greater than or equal to 100%.

d. **Grading on Extreme Slopes.** Grading, excepted as otherwise noted in this Paragraph, on slopes greater than or equal to 100% shall be done only when recommended by a full site Geotechnical Investigation Report and approved by the Department of Building & Safety Grading Division in order to mitigate previously existing unsafe conditions.

Except that grading activity exempted by Subparagraphs (1) and (2) of Paragraph g of this Subdivision shall not be prohibited as a result of this provision when the portions of a slope that are greater than or equal to 100% is no more than 100 square feet.

Furthermore, if PLUM does not consider it possible to reinstate the grading prohibition on slopes equal to or greater than 100%, then we alternately recommend implementation of all the following requirements:

- Require Building and Safety (LADBS) to increase the geotechnical analysis and reporting requirements to the most stringent level possible where slopes are greater than or equal to 100%; AND
- Require inspection by a Deputy Grading Inspector, paid by the applicant per LADBS P/BC 2002-34 which states that section 91.1701.1 of the Los Angeles Municipal Code requires the use of a Registered (Licensed) Deputy Inspector ... for certain grading or foundation earthwork in hillside areas; AND
- Require that LADBS not give Categorical Exemptions (CEs) to properties with slopes equal to or greater than 100%, since the issuance of a CE without some other form of mitigation eliminates the notification process to stakeholders, including neighbors, and this is an unfair situation.

5. INTRODUCE SELF-POLICING NEIGHBORHOOD NOTIFICATION – At the current time, it is difficult for the average Los Angeles homeowner to learn what a builder or developer might be building on a neighboring lot, and impossible to ensure that what is being built meets the Building Code. Now, with the inclusion of the Baseline Mansionization Ordinance (BMO for the flatlands) and the Baseline Hillside Ordinance (BHO for the hillsides), neighbors must also be concerned that any new building or remodeling meet and continue to meet the applicable BMO and BHO limits. The citizens of Los Angeles deserve the simple consideration of being reasonably notified when a neighboring or nearby property is being built or modified, and understanding that the building or modification meets the important requirements that PLUM has helped put in place.

One simple way to do this is giving neighboring homeowners and relevant homeowner associations (HOAs) the information they need to self-police any adjacent or nearby construction. This can be accomplished by requiring builders to provide (by certified letter) to the 12 nearest neighbors and the relevant HOAs a document summarizing what the property will look like (a rendering) and how the property meets the Code and the BMO or BHO, whichever is applicable. Neighboring homeowners and the HOAs can then self-monitor the construction and report any concerns to LADBS, e.g., where the construction seems to deviate from the approved building requirements as presented in the summary.

6. PREVENT CUMULATIVE SLIGHT MODIFICATIONS – We are concerned that builders and developers may attempt to circumvent the requirements in the Baseline Mansionization Ordinance (BMO) and Baseline Hillside Ordinance (BHO) by requesting multiple small modifications which cumulatively result in significant changes that exceed BMO and BHO requirements. We recommend that the impact of slight modifications be eliminated by providing Building and Safety (LADBS) the authority to grant modifications only when the cumulative impact of any and all modifications does not increase the total residential floor area by more than 5% or 1,000 square feet, whichever is less. All further modifications would then require re-application for, re-approval of, and re-issuance of the building permit.

In addition, should the self-policing neighborhood enforcement method (noted in the prior recommendation) be used, the following would also apply. When the cumulative impact of any and all modifications increases the total residential floor area by more than 5% or 1,000 square feet, whichever is less, require builders to provide (by certified letter) to the 12 nearest neighbors and the HOA an updated document summarizing the modifications, what the modified property will look like (rendering), how the property will continue to meet the Code and the BMO or BHO, and if the builder will be seeking re-approval and re-issuance of the building permit.

7. REINSTATE LANDFORM GRADING REQUIREMENT – The following paragraph on landform grading appeared in an earlier version of the BHO (April 22nd) but was eliminated from the latest version (and no longer appears as deleted in Exhibit A of the CPC report). We recommend that the landform grading requirement be reinstated. However, if that cannot be accomplished, we recommend that Zoning Administrator Determinations paragraph 28.a(5) (grading on page 23) be modified to require grading in conformance with the Department of City Planning – Planning Guidelines Landform Grading Manual whenever the Zoning Authority approves increased maximum grading quantities [per sub-paragraph 28.a(5)(i) on page 23] or approves increased import and/or export quantities [per sub-paragraph 28.a(5)(ii) on page 23]. Note that Landform Grading is already provided in sub-paragraph 28.b(5)(i) on Zoning Administrator Findings.

e. **Landform Grading Requirement.** For any project, including remedial grading, involving 1,000 cubic yards or more of grading, landform grading, as outlined in the Department of City Planning – Planning Guidelines Landform Grading Manual, shall be used to reflect original landform and result in minimum disturbance to natural terrain. Notching into hillsides is encouraged so that projects are built into natural terrain as much as possible.

8. ADD “FREESTANDING RETAINING WALL” DEFINITION – Add a definition for “freestanding retaining wall” (into BHO definitions section 12.03) as the term is used in the Hillside Development Standards paragraph 6.c(1) (grading exceptions on pages 16-17). The definition of this term is somewhat, but not fully clarified in LADBS P/ZC 2002-016. We are therefore concerned that the term could be misconstrued by various parties and this could lead to implementations problems for the BHO.

9. ADD “NOTCHING” DEFINITION – Add a definition for “notching” homes into hillsides (into BHO definitions section 12.03) to carefully clarify the exact meaning of this term. The Planning Department and Building and Safety Department (LADBS) have constructed many of the BHO provisions to encourage notching into hillsides, but have not clarified the meaning of this concept. Again, such lack of clarification could lead to later confusion to the detriment of the ordinance.

Thank you very much for your consideration.

Sherman Oaks Homeowners Association

By Marshall Long
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By Bob Anderson
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