
MEMORANDUM

TO: City Council Planning Subcommittee
FROM: Hal Toppel
John Swiecki
Randy Breault
RE: Draft Grading Ordinance
DATE: April 24, 2013

This Memo is intended to provide you with some of the history and background leading to preparation of the draft grading ordinance. The proposed ordinance No. 579 will completely replace the existing grading ordinance as now contained in Chapter 15.01 of the Municipal Code, and will also amend Section 17.32.220 of the zoning regulations.

The draft furnished to you with this Memo is Revision No. 8, which incorporates all of the changes to the original grading ordinance made by the City staff, and additional changes requested by Mountain Watch and the Planning Commission. The blue print reflects the changes made by City staff, some in response to comments from Mountain Watch, and the red print shows changes made by the Planning Commission. The Commission has completed its review of the draft ordinance and has recommended adoption by the City Council.

Although revision of the grading ordinance was included a part of a settlement of a CEQA lawsuit commenced by Mountain Watch against the City relating to approval of the Ng condominium project on Bayshore Boulevard, the update to Chapter 15.01 was already on the City's "to do" list but work had not yet commenced as of that time. In addition to any other changes the City desired to make, the settlement agreement specifically required that the amendments should: (a) enhance existing fines and penalties for violations of the grading ordinance; (b) prohibit removal of existing vegetation having habitat value without providing mitigation; and (c) require habitat restoration of graded areas within the jurisdiction of the HCP that will decrease the presence of exotic / non-native plant species, as well as prevent erosion.

The settlement agreement provided for early review of any draft ordinance by Mountain Watch and this process was followed. Numerous drafts of the ordinance were developed by staff before a proposed draft was even presented to Mountain Watch. Additional drafts were prepared to incorporate comments from Mountain Watch. So by the time the proposed ordinance was considered by the Planning Commission, the document under review was Draft Number 8. We think it is accurate to say that the latest draft represents a collaborative effort between the City staff and Mountain Watch and goes a

~~long way toward providing better protection of the environment and mitigating the adverse impacts of grading activities.~~

Some of the major changes that will be made by the proposed ordinance are as follows:

1. A new statement of objectives has been added as Subsection 15.01.020.B to guide the conduct of grading operations.

2. A new definition for "clearing and grubbing" has been added as Section 15.01.040(13), and this activity has been distinguished from "weeding", as defined in Section 15.01.040(47).

3. Provisions for the protection of heritage resources have been added as Section 15.01.060.

4. A requirement has been added to obtain permission from the Plan Operator before a permit can be issued by the City for grading within the HCP. (Section 15.01.100).

5. The role of the Planning Commission in the consideration of applications for grading permits has been clarified in Section 15.01.100. The same amendment would be made to Section 17.32.220 of the Zoning Ordinance. The ordinance will establish the specific circumstances where Planning Commission review is required and defines the potential impacts that should be considered and the determinations that should be made by the Commission.

6. Section 15.01.040(35) requires revegetation plan for any site within the HCP and other sites having habitat value, and Section 15.01.200 provides for the submittal and implementation of such plan.

7. Section 15.01.560 will substantially increase the penalties for willful, reckless, or grossly negligent violations of the grading ordinance.

Attachments

Draft Grading Ordinance-Redline/Strikeout Version - *N.I.C*

Planning Commission Reports/Minutes

Public Correspondence