

## **Justification Findings for Landscaping Setback Variance and Grading Exceptions**

Proposed Variances:

- A. To allow a variance from the 15-foot landscape setback requirement for an 11-foot setback for a small portion of the cul-de-sac located at the terminus of Marlborough Avenue with the proposed entrance and access road to the proposed industrial development at 750 Marlborough Avenue (“Subject Property”).
- B. To allow for three (3) grading exceptions related to slope height in excess of standards in the City of Riverside Hillside Grading Ordinance set forth in Title 17 of the City Municipal Code.
- C. To allow for nineteen (19) grading exceptions related to the height of the retaining walls in excess of the standards in the City of Riverside Hillside Grading Ordinance set forth in Title 17 of the City Municipal Code

**1. Will the strict application of the provisions of the Zoning Code result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Zoning Code and/or Title 17 of the Riverside Municipal Code (Grading)?**

### **Variance A:**

The proposal complies with this finding.

The purpose and intent of the Zoning Code is stated in Riverside Municipal Code section 19.020.010:

The purpose of the Zoning Code is to encourage, classify, designate, regulate, restrict and segregate the highest and best location and use of buildings, structures and land for agriculture, residence, commerce, trade, industry, water conservation or other purposes in appropriate places; to regulate and limit the height, number of stories and size of buildings and other structures hereafter erected or altered; to regulate and determine the size of yards and other open spaces; and, to regulate and limit the density of population and for such purpose to divide the City into zones of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement. Further, such regulations are deemed necessary to encourage the most appropriate use of land; to conserve and stabilize the value of property; to provide adequate open spaces for light and air and to

prevent and fight fires; to prevent undue concentration of population; to lessen congestion on streets; to facilitate adequate provisions for community utilities and facilities such as transportation, water, sewerage, schools, parks and other public facilities; and, to promote the public health, safety and general welfare, all as part of the General Plan of the City. (Ord. 6966 §1, 2007)

The Project involves construction of an approximately 339,510 square foot warehouse, 6,820 square feet of office space, and 86,698 square feet of vehicular parking, including 379 standard vehicular parking spaces and 46 trailer parking spaces on a 16.74 net-acre site (“Project”). Primary vehicular and truck access to the Subject Property would be provided by an entrance located at the eastern end of Marlborough Avenue, on the western border of the site.

The requested variance area encompasses approximately 64.9 feet of total setback at the terminus of Marlborough Avenue with the Subject Property and proposed access road. The 11-foot variance from the Zoning Code’s required 15-foot landscaping setback requirement is necessary to accommodate the retaining walls that facilitate and support the proposed access road into the Subject Property, which was designed to achieve the most efficient use of space on, and access to, the Project site. Compliance with the Zoning Code’s 15-foot setback requirement in this instance would prevent and/or impede construction of the retaining walls and access road for the Subject Property. This would result in practical difficulties or unnecessary hardships on the Project applicant that are inconsistent with the purpose and intent of the Zoning Code, including the provision of adequate transportation facilities. (Mun. Code, § 19.020.010.)

Based on the above findings, the Zoning Code, and the information prepared for this Project, staff finds that the strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Zoning Code.

### **Variance B:**

The proposal complies with this finding.

The stated purpose of the City of Riverside Hillside Grading Ordinance found in Title 17 of the City Municipal Code (“Grading Ordinance”) is to “regulate hillside and arroyo grading in a manner which minimizes the adverse effects of grading on natural landforms, soil erosion, dust control, water runoff and construction equipment emissions.” (Mun. Code, Ch. 17.04.)

The Grading Ordinance includes regulations to, in part, minimize the visual impact of grading; ensure that significant natural characteristics such as land form, vegetation, wildlife communities, scenic qualities, and open space can substantially be maintained; to preserve unique and significant geologic; biologic and hydrologic features of public value; to encourage

alternative approaches to conventional hillside construction practices by achieving land use patterns and intensities that are consistent with the natural characteristics of hill areas such as slope, landform vegetation, and scenic quality; preserve and enhance existing community character, as defined by such factors as visual appearance, density, road widths and vegetation; and preserve major hillsides viewscapes visible from points within the city so that they are not detrimentally altered by the intrusion of highly visible cut and/or fill slopes, building lines and/or road surfaces. (*Id.*)

Section 17.28.020(10) of the Grading Ordinance provides that “Slopes having a ratio of 3.9:1 or steeper shall not exceed 20 feet in vertical height. Slopes having a 4:1 or flatter ratio may be up to twenty five feet in vertical height.” Section 17.28.020(11) further provides that “Slopes requiring benches shall not normally be permitted.” The Subject Property proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height; however, the slope areas are generally all located behind the proposed industrial building to be constructed on the Subject Property. Consequently, the slopes are not visible to traffic on Marlborough Avenue or otherwise within the public right-of-way or viewscape. Granting the exceptions are consistent with the purpose of the Grading Ordinance to minimize the visual impact of grading and preserve major hillside viewscapes visible from points within the City so that they are not detrimentally altered by the intrusion of highly visible cut and/or fill slopes. The slopes also help to create a natural transition from the Project site to the surrounding Park area by maintaining the rolling hills aspect of the existing terrain.

As noted above, the Project proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height along the southern border of the Subject Property adjacent to the existing and proposed new mapped access trail to the Box Springs Mountain Reserve Park. In order to protect and preserve the trail for public access to the Box Springs Reserve, the grading plan for the Subject Property was required to begin its cuts inside the boundary of the property line thereby contributing to the depth of the cuts and the remaining hillside slope. Strict compliance with the Title 17 Grading Ordinance in this instance would cause practical difficulties and unnecessary hardships inconsistent with general purpose and intent of the Grading Ordinance because it would preclude the preservation, creation and maintenance of a safe and accessible trail for visitors to access the Box Springs Mountain Reserve Park.

Based on the above findings, the Grading Ordinance, and the information prepared for this Project, staff finds that the strict application of the provisions of the Grading Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Grading Ordinance.

#### **Variance C:**

The proposal complies with this finding.

The stated purpose of the Grading Ordinance is to “regulate hillside and arroyo grading in a manner which minimizes the adverse effects of grading on natural landforms, soil erosion, dust control, water runoff and construction equipment emissions.” (Mun. Code, Ch. 17.04.)

The Grading Ordinance includes regulations to, in part, minimize the visual impact of grading; ensure that significant natural characteristics such as land form, vegetation, wildlife communities, scenic qualities, and open space can substantially be maintained; to preserve unique and significant geologic; biologic and hydrologic features of public value; to encourage alternative approaches to conventional hillside construction practices by achieving land use patterns and intensities that are consistent with the natural characteristics of hill areas such as slope, landform vegetation, and scenic quality; preserve and enhance existing community character, as defined by such factors as visual appearance, density, road widths and vegetation; and preserve major hillsides viewscapes visible from points within the city so that they are not detrimentally altered by the intrusion of highly visible cut and/or fill slopes, building lines and/or road surfaces. (*Id.*)

Section 17.28.010(C)(1) of the Grading Ordinance provides that “retaining walls constructed of materials architecturally consistent with the development may be permitted in lieu, or in combination with cut or fill slopes. Retaining or crib walls in an area not open to public view are permitted up to six feet in height unless a higher wall is approved administratively. Retaining or crib walls exposed to public view shall not exceed three feet in height unless approved administratively and shall be included as part of the permitted height of the slope.” The Subject Property proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height; however, the major slope areas (and thus the higher retaining walls) are generally all located behind the proposed industrial building to be constructed on the Subject Property and therefore are not publicly visible to traffic on Marlborough Avenue or otherwise within the public right-of-way or viewscape. The retaining walls that are visible from the public right-of-way are not proposed to significantly exceed the existing height standards under the Grading Ordinance, and will be effectively screened from the public viewscape. Granting the exceptions are consistent with the purpose of the Grading Ordinance to minimize the visual impact of grading and preserve major hillside viewscapes visible from points within the City so that they are not detrimentally altered by the intrusion of highly visible cut and/or fill slopes and retaining walls. The slopes and supporting retaining walls also help to create a natural transition from the Project site to the surrounding Park area by maintaining the rolling hills aspect of the existing terrain.

As noted above, the Project proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height along the southern border of the Subject Property adjacent to the existing and proposed new mapped access trail to the Box Springs Mountain Reserve Park. In order to protect and preserve the trail for public access to the Box Springs Reserve, the grading plan for the Subject Property was required to begin its cuts inside the boundary of the property line thereby contributing to the depth of the cuts and the remaining hillside slope. Strict

compliance with the Title 17 Grading Ordinance in this instance would cause practical difficulties and unnecessary hardships inconsistent with general purpose and intent of the Grading Ordinance because it would preclude the preservation, creation and maintenance of a safe and accessible trail for visitors to access the Box Springs Mountain Reserve Park.

Based on the above findings, the Grading Ordinance, and the information prepared for this Project, staff finds that the strict application of the provisions of the Grading Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Grading Ordinance.

- 2. Are there special circumstances or conditions applicable to the property involved or to the intended use or development of the property involved that do not apply generally to other property in the vicinity and, solely with respect to Variance A, other property in the vicinity under the identical zoning classification?**

**Variance A:**

The proposal complies with this finding.

The constraint of the Project site and its location at the terminus of Marlborough Avenue adjacent to the Box Springs Mountain Reserve Park presents a special circumstance or condition applicable to the property involved or to the intended use or development of the property that does not apply generally to other property in the vicinity and under the identical zoning classification.

The Subject Property is located at the terminus of Marlborough Avenue. Adjacent land uses include light industrial buildings to the north and west, a vacant lot to the northeast, and Box Springs Mountain Reserve Park to the south and east. As a result of the existing topography, the Project applicant is required to install retaining walls to facilitate and support the access road designed for the Subject Property at the terminus of Marlborough Avenue. The variance from the 15-foot setback is necessary to accommodate construction of the retaining walls and thereby permit construction of the proposed access road into the Subject Property. These conditions are unique to the proposed Project and intended development of the Subject Property and generally do not apply to other Industrial-zoned properties in the vicinity of the Subject Property. In addition, in order to protect and preserve the trail for public/fire access to the Box Springs Reserve, which is a special circumstance and condition uniquely applicable to the Subject Property, trail and fire access restrictions/conditions, including increasing the width of the current trail, mandate that the building footprint be sited further into the slope than otherwise required as compared to a property without a public accessible trail situated on the site.

Based on the above findings, the Zoning Code, and the information prepared for this Project, staff finds that there are special circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the vicinity and under the identical zoning classification.

**Variance B:**

The proposal complies with this finding.

The exceptional circumstances and conditions applicable to the Subject Property and its intended development that do not apply generally to other properties in the area include: the Subject Property's location adjacent to the Box Springs Mountain Reserve Park; and the requirement to preserve, maintain and extend the current public access trail for the Box Springs Mountain Reserve Park.

The Project proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height along the southern border of the Subject Property adjacent to the existing and proposed new access trail to the Box Springs Mountain Reserve Park. The Project requires preservation and maintenance of the existing access trail and an extension of the trail along the southern border of the Subject Property in order to allow recreational visitors to access the Box Springs Mountain Reserve Park. The preservation and maintenance of the existing access trail and extension of the trail along the southern border of the Subject Property is necessary in order to continue to allow the public to access the Box Springs Mountain Reserve Park legally. As such, grading must be done in order to accommodate and stabilize the proposed trail to protect the general public. These conditions are unique to the Project and the intended development of the Subject Property and generally do not apply to other properties in the vicinity of the Subject Property. In addition, in order to protect and preserve the trail for public/fire access to the Box Springs Reserve, which is a special circumstance and condition uniquely applicable to the Subject Property, trail and fire access restrictions/conditions, including increasing the width of the current trail, mandate that the building footprint be sited further into the slope than otherwise required as compared to a property without a public accessible trail situated on the site.

Based on the above findings, the Grading Ordinance, and the information prepared for this Project, staff finds that there are special circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the vicinity.

**Variance C:**

The proposal complies with this finding.

The exceptional circumstances and conditions applicable to the Subject Property and its intended development that do not apply generally to other properties in the area include: the Subject

Property's location adjacent to the Box Springs Mountain Reserve Park; and the requirement to preserve, maintain and extend the current public access trail for the Box Springs Mountain Reserve Park.

The Project proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height along the southern border of the Subject Property adjacent to the existing and proposed new access trail to the Box Springs Mountain Reserve Park. The Project requires preservation and maintenance of the existing access trail and an extension of the trail along the southern border of the Subject Property in order to allow recreational visitors to access the Box Springs Mountain Reserve Park. The preservation and maintenance of the existing access trail and extension of the trail along the southern border of the Subject Property is necessary in order to continue to allow the public to access the Box Springs Mountain Reserve Park legally. As such, grading and the installation of retaining walls in excess of the Grading Ordinance's height standards must be done in order to accommodate and stabilize the proposed trail to protect the general public. These conditions are unique to the Project and the intended development of the Subject Property and generally do not apply to other properties in the vicinity of the Subject Property. In addition, in order to protect and preserve the trail for public/fire access to the Box Springs Reserve, which is a special circumstance and condition uniquely applicable to the Subject Property, trail and fire access restrictions/conditions, including increasing the width of the current trail, mandate that the building footprint be sited further into the slope than otherwise required as compared to a property without a public accessible trail situated on the site.

Based on the above findings, the Grading Ordinance, and the information prepared for this Project, staff finds that there are special circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the vicinity.

**3. Will the granting of such variance and/or waiver prove materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located?**

**Variance A:**

The proposal complies with this finding.

The Project was designed to maximize and make the most efficient use of the Subject Property for the intended development purposes, including the location and design of the proposed access road.

Based on the above findings, the Zoning Code, and the information prepared for this Project, staff finds that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located.

**Variance B:**

Section 17.28.020(10) of the Grading Ordinance permits the Zoning Administrator to increase vertical slope height by up to 25% without a grading exception depending on the sensitivity of the site. Sensitivity is determined by such factors as the slope's visibility from the public right-of-way, its location on a ridge line, the presence of habitat for sensitive species including rare, threatened, or endangered species, or the presence of unique topographic features such as knolls, valleys, rock outcroppings or other features or viewscapes.

As noted above, the Project proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height; however, the slope areas are generally all located behind the proposed industrial building to be constructed on the Subject Property adjacent to the hills comprising the Box Springs Mountain Reserve Park. Consequently, the slopes are not visible to traffic on Marlborough Avenue or otherwise within the public right-of-way or viewscape, and therefore not considered to be a sensitive area. Further, the grading exceptions are necessary to accommodate the required extension of the Box Springs Mountain Reserve Park public access trail and the ongoing preservation and maintenance of the existing access trail located on the Subject Property.

The proposed grading exceptions would not be injurious to adjacent property or improvements because they would provide a benefit to the public by facilitating the connection of existing roadways, and allowing for the provision of a public access trail to the Box Springs Mountain Reserve Park while minimizing visual impacts to the surrounding area due to the lack of visibility from public right-of-ways, including Marlborough Avenue.

Based on the above findings, the Grading Ordinance, and the information prepared for this Project, staff finds that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located.

**Variance C:**

Section 17.28.010(C)(1) of the Grading Ordinance permits the Zoning Administrator to increase the height of retaining walls outside of the public viewscape above the maximum six-foot height limit.

As noted above, the Project proposes slopes with a ratio of 3.9:1 or steeper, ranging from 20.3 feet to 35.9 feet in vertical height; however, the slope areas are generally all located behind the proposed industrial building to be constructed on the Subject Property adjacent to the hills comprising the Box Springs Mountain Reserve Park. Consequently, the slopes (and higher retaining walls) are not visible to traffic on Marlborough Avenue or otherwise within the public right-of-way or viewscape, and therefore not considered to be a sensitive area. The retaining walls that are visible from the public right-of-way are not proposed to significantly exceed the

existing height standards under the Grading Ordinance, and will be effectively screened from the public viewscape. Further, the grading exceptions are necessary to accommodate the required extension of the Box Springs Mountain Reserve Park public access trail and the ongoing preservation and maintenance of the existing access trail located on the Subject Property.

The proposed grading exceptions would not be injurious to adjacent property or improvements because they would provide a benefit to the public by facilitating the connection of existing roadways, and allowing for the provision of a public access trail to the Box Springs Mountain Reserve Park while minimizing visual impacts to the surrounding area due to the lack of visibility from public right-of-ways, including Marlborough Avenue.

Based on the above findings, the Grading Ordinance, and the information prepared for this Project, staff finds that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located.

**4. With respect solely to Variance A, will the granting of such variance be contrary to the objectives of any part of the General Plan?**

The proposal complies with this finding.

**Variance A:**

Staff has reviewed the Project and the General Plan, and determined that the variance from the Zoning Code's 15-foot landscaping setback requirement for the Project will not be contrary to the objectives of any part of the General Plan.