

## GRADING EXCEPTIONS JUSTIFICATION FINDINGS

### EXCEPTIONS REQUESTED

1. To permit a five-foot bench, approximately 550-feet long at the western property line boundary and a 2:1 and 3:1 slope between 20-feet and 35-feet in height, with a ten-foot wide bench between the 2:1 and 3:1 slopes approximately 1,550-feet long along the westerly property line adjacent to Sycamore Canyon Wilderness Park (Area 1 on Grading Exception Exhibit);
2. To permit a 3-1 slope between 20-feet and 34-feet in height and approximately 220-feet long adjacent to the proposed on-site park trail along the southerly property boundary (Area 2 on Grading Exception Exhibit); and
3. To permit a 2:1 slope between 20-feet and 24-feet in height and approximately 250-feet long adjacent to the proposed driveway at the knuckle of Lance Drive and Dan Kipper Drive (Area 3 on Grading Exception Exhibit).

Where maximum 20-foot high slopes are permitted (Riverside Municipal Code § 17.28.020(10)) and where benches are not normally permitted (*Id.* § 17.28.020(11)).

### FINDINGS

1. The strict application of Title 17 of the Riverside Municipal Code would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of Title 17 of the Riverside Municipal Code.

Yes. The general purpose of the Title 17 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.” Riverside Municipal Code Chapter 17.04.

The 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 viewsapes 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 of the Grading Ordinance sets forth minimum grading standards and requirements for hillside/arroyo grading. Section 17.28.020 applies to any parcel having an average natural slope of 10 percent or greater, or which is zoned Residential Conservation (RC), or which is located within or adjacent to a delineated arroyo identified by the Grading Ordinance or a blue-line stream identified on USGS map, or other significant arroyo. The Project is not located within a designated arroyo, is not zoned RC, and does not have an average natural slope of 10 percent or greater. However, Section 17.28.020 applies to the Project because a blue-line stream traverses the site.

Section 17.28.020(10) provides “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) provides “Slopes requiring benches shall not normally be permitted.” The Project proposes slopes exceeding 20 feet in vertical height in three areas of the site, as well as limited benches in Area 1, requiring an exception. Slopes on the property which exceed 20’ in height or where a bench is proposed are depicted on the Grading Exception Exhibit.

“An ‘unnecessary hardship’ occurs where the natural condition or topography of the land places the landowner at a disadvantage vis-à-vis other landowners in the area, such as peculiarities of the size, shape or grade of the parcel.” *Committee to Save Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1183.

As set forth below, limiting slopes to 20 feet in height and/or eliminating the proposed benches along the western site boundary would result in practical difficulties and unnecessary hardships that are inconsistent with the general purpose and intent of the Title 17 Grading Ordinance.

**Westerly property line adjacent to Sycamore Canyon Wilderness Park (Area 1):** The Project proposes 2:1 and 3:1 slopes ranging from 20 feet to 35 feet, as well as a 5-foot and 10 foot bench for a 550-foot long area of the western boundary of the site, adjacent to the Sycamore Canyon Wilderness Park. The existing site consists of primarily vacant and hilly land. A blue line stream traverses the central portion of the Project site. Currently, access to the site is provided by Lance Drive, which is a partially realized roadway that runs along the southerly portion of the eastern edge of the Project site before terminating at about 1300-feet northerly of the knuckle of Lance Drive and Sierra Ridge Drive. Access to the northern portion of the Project site is also available from Dan Kipper Drive. The Project includes roadway improvements that will extend Lance Drive northward approximately 920 feet from its current northern terminus, which is about 320-feet southerly of the northern property line, to connect with the existing western terminus of Dan Kipper Drive in order to provide improved circulation in the area and vehicular access to the Project site.

Natural features including the existing blue line stream and the adjacent Sycamore Canyon Wilderness Park on the western boundary of the Project site, coupled with the site’s proximity to

residential uses on its northern property line are not considered typical of most industrial zoned land in the area. As explained below, these features and associated project design features that will enhance the visual appearance of the Project consistent with the intent of the Grading Ordinance make necessary the proposed 20-35 foot slopes and benches on the western boundary of the Project site.

Specifically, the Project will be providing an approximately 3-acre habitat conservation area on the site to mitigate its impact to on-site riparian/riverine areas. Due to the site's location next to the Sycamore Canyon Wilderness Park, the resource agencies have required that the conservation area be located on the site's western boundary, adjacent to the Sycamore Canyon Wilderness Park. This will provide a more meaningful mitigation area and further serve as an important physical and visual buffer between the park and the proposed Project buildings. In particular, the Project-level Determination of Biologically Equivalent or Superior Preservation (DBESP) required by the MSHCP determined that the habitat that will be created in the Project's Conservation Area is considered biologically superior in comparison to the existing drainage.

Additionally, the Army Corp of Engineers and resource agencies are requiring that the blue line stream also be moved to the western boundary of the site. Specifically, the Army Corps of Engineers and resource agencies rejected a proposal to move the stream to the eastern boundary of the site because the western boundary would provide a more natural mitigation area adjacent to the Project habitat mitigation area and Sycamore Canyon Wilderness Park. Relocating the blue line stream to the western boundary would reduce site drainage into the stream while providing drainage for the swale and area to the west, as well as further buffer the park and the proposed Project buildings.

The subject slopes and benches are also necessary in order to accommodate important Project design features that will minimize the visual appearance of the Project and help maintain the aesthetic quality of the surrounding area. Specifically, the applicant revised the Site Plan to substantially lower the building pads to provide a better viewshed for residential properties north and northeast of the site. In addition, the Project increased Building 2's northerly landscaped setback area to 64 feet to further buffer and provide a more natural transition to the adjacent residential uses to the north.

Overall, the proposed 2:1 and 3:1 slopes, as well as the 5-foot and 10-foot wide benches are required to accommodate both the natural conditions of and required modifications to the land, as well as other important project design features that help enhance the visual appearance of the project consistent with the intent of the Grading Ordinance. As an industry standard, warehouse facilities are required to provide building slabs at no greater than a 0.50 percent slope. Additionally, truck access is required to be as flat as possible, in most conditions between a 1.5 to 2.5 percent cross-fall. Due to the existing terrain both on and surrounding the site, which consists of rolling hills, large cut and fill slopes are required to join the existing terrain along the

boundary lines, while still providing for the required building slabs for the project. In addition, creating these slopes will reduce impacts from importing or exporting soil to or from the site.

Further, granting the exception is consistent with the purpose of the Grading Ordinance to minimize the adverse effects of grading on natural landforms, as it helps mitigate the loss of the blue line stream, while at the same time, minimizing views of the site from neighboring residences and the Sycamore Canyon Wilderness Park. 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. Accordingly, *the denial of the grading exception would preclude these important features, causing practical difficulties or unnecessary hardships inconsistent with the Ordinance's general purpose and intent.*

**Southerly property line adjacent to proposed Park trail (Area 2):** The Project proposes maintaining a 3:1 slope ranging from 20 to 34 feet along the southern boundary of the site, adjacent to the proposed park trail. As stated above, the requested slope is required in order to lower the building pad areas to minimize views of the Project buildings from surrounding residential uses. Further, the Project is required to construct a an approximately 1,270 foot long, 12 foot wide trail to provide visitor access to the Sycamore Canyon Wilderness Park adjacent to the site. The trail spans from the proposed parking area at the southeast corner of the site, along the southerly property line, ending at the westerly property line. The provision of a 3:1 slope ranging from 20 to 34 feet along the southern boundary of the site will allow for a more even surface, thereby improving the accessibility and functionality of the public trail amenity provided by the Project. As such, denying the grading exception would cause practical difficulties and unnecessary hardships inconsistent with general purpose and intent of the Grading Ordinance because it would preclude development of a safe and accessible trail for visitors to access the Sycamore Canyon Wilderness Park, which is required as a condition of approval for the Project.

**Adjacent to proposed driveway at intersection of Lance Drive and Dan Kipper Drive (Area 3):** The Project proposes a 2:1 slope between 20 feet and 24 feet along the knuckle of Lance Drive and Dan Kipper Drive. Due to the existing terrain of the Project site having a grade difference of 45 to 50 feet from the existing Dan Kipper Drive street elevations to the west of Building 2, a fill slope is created along the street frontage and a cut slope is created along the westerly property line. The creation of these slopes allows for onsite grades to be within industry standards for warehouses.

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. Regarding site sensitivity, there are three prehistoric bedrock milling sites located on the Project site; however, none were found to constitute historic properties under the National Historic Preservation Act or constitute historical resources under CEQA. The Project will be required to pay the MSHCP fee to offset any potential impacts to species and habitats covered by the MSHCP. Moreover, the

DBESP required by the MSHCP determined that the habitat created in the Project's Conservation Area is considered biologically superior in comparison to the existing drainage.

As previously stated, the only reason this slope requires a grading exception is due to the location of a blue line stream on site. This places an undue hardship on the Project, as other projects in the vicinity may not be subject to the grading exception requirement for similar slopes. While the slope would be visible from both Lance Drive and Dan Kipper Drive, which are public rights-of-way, both of these streets end at the Project site and would largely only be accessed by those traveling to the Project site and not by the general public or adjacent industrial properties in the Sycamore Canyon Business Park.

The topography of the Project site requires 20 to 24 foot slopes at this location. The Project is zoned Business and Manufacturing Park (BMP). Development of a logistics facility, in accordance with the zoning of the site, requires a flat surface in order to protect cargo within transport vehicles. As stated above, the existing site terrain has a grade difference of 45 to 50 feet from the east (along Dan Kipper Drive) to the west. This grade difference creates the need for sloping along the exterior in order to develop a flat site.

Denial of an exception would result in practical difficulties and unnecessary hardships as it would impact site layout which is necessary for compatibility with neighboring residences as well as impede site development according to industry standards.

2. There are exceptional circumstances or conditions applicable to the property involved or the intended use or development of the property that do not apply generally to other properties in the same zone or neighborhood.

Yes. The exceptional circumstances and conditions applicable to the property and its intended development that do not apply generally to other Industrial-zoned properties in the area include: the site's location adjacent to the Sycamore Canyon Wilderness Park; the existence of the blue line stream that is required to be relocated to the western boundary; the requirement to provide for a trail easement; the requirement to locate the 3-acre conservation area on the western site boundary adjacent to the Sycamore Canyon Wilderness Park; and the site's vicinity to neighboring residences and associated Project features (like lowering the building pads) that are designed to minimize the Project's visual appearance and help maintain the aesthetic quality of the surrounding area.

**Westerly property line adjacent to Sycamore Canyon Wilderness Park (Area 1):** The Project site is consistent with the Riverside General Plan and Sycamore Canyon Business Park Specific Plan Land Use Designation as well as Zoning Designation, and is adjacent to other industrial uses to the south and east, located within the Sycamore Canyon Business Park Specific Plan. However, the site is adjacent to the Sycamore Canyon Wilderness Park to the west and single-family residential uses to the north and northwest. These circumstances do not generally apply to the majority of properties located within the Sycamore Canyon Business Park area, as

many of the properties are not adjacent to residential uses. The benches along the western perimeter of the Project site, as well as slopes ranging from 20 to 35 feet are required to support the relocation of the blue line stream to the western perimeter of the site, as well as to keep consistency with the slopes of adjacent residences. Accordingly, an exception is necessary to move the blue line stream to the western boundary of the site, maintain a conservation area along the western boundary, and provide for a natural transition from the site to the surrounding terrain.

**Southerly property line adjacent to proposed Park trail (Area 2):** The Project site is immediately adjacent to the Sycamore Canyon Wilderness Park, located on the western boundary of the Project site. The Project also requires a trail to be constructed on site in order to allow recreational visitors to access the Wilderness Park. The trail will be constructed in a 20-33 foot wide easement area to be dedicated to the City. The trail is required to have a 2 percent maximum cross slope pursuant to Mitigation Measure REC 2. A 3:1 slope between 20-feet and 34-feet in height and approximately 220-feet long is required to support the trail.

The trail easement is required as a condition of approval in order to continue to allow the public to access the park legally. As such, grading must be done in order to accommodate and stabilize the proposed trail to protect the general public.

**Adjacent to proposed driveway at intersection of Lance Drive and Dan Kipper Drive (Area 3):** The slopes proposed at this location range from 20 to 24 feet, which generally could be approved without a grading exception, so long as the site is not sensitive. As stated above, the only reason this slope requires a grading exception is due to the location of a blue line stream on site. This is unique to the Project site and did not impact other properties within the Sycamore Canyon Business Park Specific Plan, sharing a Business Manufacturing Park zone.

3. The granting of a waiver will 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.

No. Section 17.28.020(10) 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 viewsapes. As discussed above, there are three prehistoric bedrock milling sites located on the Project site, however, none were found to constitute historic properties under the National Historic Preservation Act or constitute historical resources under CEQA. The Project will be required to pay the MSHCP fee to offset any potential impacts to species and habitats covered by the MSHCP. Further, a Project-level Determination of Biologically Equivalent or Superior Preservation (DBESP) is required by the MSHCP. As part of the

DBESP, the Project proposes an approximately three acre Conservation Area along the western edge of the Project site. The DBESP determined that the habitat that will be created in the Project's Conservation Area is considered biologically superior in comparison to the existing drainage.

The proposed 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 conservation area and relocation of a blue line stream. In addition, the exceptions would allow for a site layout that is more compatible with neighboring residences and will better protect neighboring viewsheds as discussed above.

**Westerly property line adjacent to Sycamore Canyon Wilderness Park (Area 1):** The proposed 20 to 35 foot slopes as well as the 5-foot and 10 foot benches located along the western boundary of the Project site are necessary in order to support the relocation of the blue line stream on site. Due to the elevation difference in the existing property line grades along the westerly property line and the proposed grades of the onsite truck yard, there is a 25 to 30 foot elevation difference. To properly provide a swale within the grade difference that provides the required depth needed to handle the existing project flows within the swale, the swale depth is control by the site grades (low side of the grade difference). This in turn increases the grade difference from 30 feet maximum height to a total of 35 feet maximum height in some areas. California Building Code Section J109 requires benching or terracing whenever a 2:1 slope is greater than 30 feet in vertical height. Benches are therefore required in order to comply with the California Building Code, and the site has been conservatively designed to provide benching in 25 foot vertical height intervals. Also after the 10' bench is provided, the slope changes from a 2:1 slope to a 3:1 slope within the swale area, minimizing slope heights.

Slopes in this area are adjacent to the Sycamore Canyon Wilderness Park, limiting the view of the slopes by residents. The single-family residential units to the west also contain slopes ranging from 20 to 25 feet and the Project slopes enable the neighboring residences to maintain their viewsheds. Specifically, the last house at the beginning of the requested exception area is located at 1,630 feet where the northernmost corner of the building is at 1,568 feet. This is a 62 foot difference in an area where the building is only 41 feet in height. The slopes in this area, along with landscaping along the bench, will also help shield the Wilderness Park from the Project site, creating a public benefit. The bench will allow for the maintenance of the stream consistent with the purpose of the Grading Ordinance.

**Southerly property line adjacent to proposed Park trail (Area 2):** The 20 to 34 foot slopes located on the southern portion of the site, adjacent to the proposed park trail will not be materially detrimental to the public welfare because it will largely not be seen by the public. Building 1 and Building 2 will block the view of this slope from the view of surrounding residential uses to the north. Uses to the east and west include other industrial uses within the Sycamore Canyon Business Park Specific Plan, and the Sycamore Canyon Wilderness Park is

located to the west. The slope would be visible by members of the public utilizing the trail to the Wilderness Park; however, the slope has been designed to be gradual and serves a public benefit by stabilizing the site to permit the trail.

**Adjacent to proposed driveway at intersection of Lance Drive and Dan Kipper Drive (Area 3):** As discussed above, slopes ranging from 20 to 24 feet are required at the knuckle of Lance Drive and Dan Kipper Drive in order to facilitate street improvements and circulation. This allows for the Project site to utilize existing infrastructure and not require additional grading, particularly adjacent to the Sycamore Canyon Wilderness Park. The slopes proposed at this location are also within the height permitted by the Zoning Administrator on non-sensitive sites, and as such, are generally consistent with the Grading Ordinance and would not require a grading exception but for the presence of a blue line stream on site.

Extending Lance Drive to connect with Dan Kipper Drive to allow site access enables the blue line stream to be relocated adjacent to the Sycamore Canyon Wilderness Park, maintaining open space and wildlife communities, as well as preserving biologic and hydrologic features of public value. The exception also allows for development of an industrial use, consistent with the City of Riverside General Plan and Sycamore Canyon Business Park Specific Plan and zoning. The slopes at this location also would not impact major hillside views, as this portion of the site is surrounded by industrial uses to the east and the Project will provide landscaping to buffer the slope area from residential uses to the north.