

November 14, 2024

VIA EMAIL AND MAIL

Brian Norton, Senior Planner
Planning Division
City of Riverside
3900 Main Streets
Riverside, CA 92522
BNorton@riversideca.gov

Re: Wyndham Hills Grading Exception Request

Dear Mr. Norton:

I am writing in regards to the property located at 6869 Wyndham Hills Drive, Riverside, CA 92522 (“Wyndham Hills”). I intend to develop Wyndham Hills as a personal residence (“Project”). To do so, Wyndham Hills must be graded as described in the grading plan attached as Exhibit “A” and incorporated herein by reference. Based on these grading plans and the required findings highlighted below, Wyndham Hills demonstrates the existence of special circumstances that apply to the property that would prevent compliance with the Riverside Municipal Code (“RMC”). Thus, we are applying for a grading exception pursuant to RMC 17.32.010.

Grading Exception

Wyndham Hills involves a total acreage of 17.59 acres; however, only 1.178 acres of this property will be disturbed, a portion of which is located in the Alessandro Arroyo tributary (“Project Site”). (See Exhibit A.) However, 0.26 acres (11,390 square feet) of this proposed disturbed area is located outside the Alessandro Arroyo tributary and is considered topographically the flattest surface on the Project Site. (*Id.*) The Project requires grading subject to City approval pursuant to provisions of RMC 17.28.020. To note, the Project Site contains an existing access point and graded driveway that has been maintained for the past twenty years, along with existing electric and water connections. However, it would be physically and/or financially infeasible to construct the residence on any other portion of the Project Site based on the property’s topography; thus, this Property seeks an exception to build within portions of the Alessandro Arroyo tributary.

Background

Chapter 17.28 of the RMC applies grading standards and requirements to the Project. This ordinance was intended to minimize grading in hillside areas and to protect natural arroyos and their tributaries; however, no biological field studies were conducted to establish the physical boundaries of these arroyos. Instead, the limits of these arroyos were determined through the use and review of topographic maps and aerial photography. Based on these maps and photos, Chapter 17.28 defines the legal boundary of the Alessandro Arroyo including a 50-foot buffer between the arroyo and the surrounding properties (“Legal Arroyo”).

Glen Lukos & Associates, expert environmental specialists, conducted a Habitat Assessment and MSHCP Consistency Analysis for the Project (“Report”), a copy of which is attached hereto and 31905.00001\40941054.5

incorporated by reference as Exhibit “B.”¹ To note, this Report was drafted prior to the Hawarden Fire that took place in July 2024. This fire destroyed nearly 530 acres, much of which included portions of the Alessandro Arroyo.²

The Report included a physical site survey which determined, in part, the physical boundary of the arroyo (“Environmental Setback Buffer”). The physical site survey indicated a total of 6.46 acres of arroyo, including associated arroyo tributaries, occur within the Project area, of which 2.05 acres are riverine and 4.42 acres are riparian. (Report, p. 38) The Environmental Setback Buffer’s boundaries differ from what is depicted as the City’s Legal Arroyo. (*Id.*) The Report provides an Arroyo Comparison Map as Exhibit 10, and the Project grading plans with an overlay of the Environmental Setback Buffer as compared to the City’s Legal Arroyo are provided as Exhibit 11. (*Id.*) To be clear, the grading plan, as presented in Exhibit A and B, does not actually grade within the Environmental Setback Buffer. And, in an abundance of caution, the Project would include a 50 foot buffer between the Project Site and the Environmental Setback Buffer.

Exhibits 10 and 11 of the Report demonstrate two important things. First, the Exhibits demonstrate that the Project would not result in any biological impacts as it does not grade within the Environmental Setback Buffer and offers a 50 foot buffer. And second, the Exhibits demonstrate that the Project Site contains an arroyo which is of more limited in size than depicted in the Legal Arroyo.

Despite the Report’s findings regarding the Project’s biological impacts based on the Environmental Setback Buffer, the Report nonetheless discusses impacts to the City’s Legal Arroyo. To be clear, the boundaries of the City’s Legal Arroyo are not being revised as part of this grading exception request. The findings below are provided in accordance with RMC 17.32.020.

Required Findings

Will the strict application of the provisions of this Title result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this title?

1. Yes, application of the provisions of this Title would result in practical difficulties and unnecessary hardships inconsistent with the general purpose and intent of this title. RMC 17.04.010 dictates, in part, that the purpose of the Title is to regulate hillside and arroyo grading in a manner which minimizes the adverse effects of grading on natural landforms. RMC 17.28.020 is intended to support this purpose through regulation of arroyo grading. However, as discussed in the Report, no such adverse effects would arise as a result of implementing the proposed grading plan here. More specifically, Chapter 17.28.20 of the RMC states that Community & Economic Development Director shall have the authority to administratively allow grading within designated

¹ The Report’s analysis took a conservative approach by assuming a project footprint of 1.73 acres; whereas here, the Project proposes disturbance of only 1.178 acres. The Report’s analysis therefore represents data and results based on an over-analysis of the Project’s potential impact.

² For more information, please California’s Department of Forestry and Fire Protection’s (“CalFire”) assessment of the Hawarden Fire at the following link: <https://www.fire.ca.gov/incidents/2024/7/21/hawarden-fire>. (Site last visited, 10/7/24)

arroyo tributaries depending on the sensitivity of the area. Sensitivity shall be determined by such factors as the presence of riparian vegetation, habitat for rare or endangered species, significant rock outcroppings or other unique topographic features on the property proposed to be graded or in nearby segments of the same tributary. (*Id.*)

As discussed in the Report, no such adverse effects would arise as a result of implementing the proposed grading plan here. Specifically, no special-status plant species were detected on the Project Site, nor do the soils and conditions of the Project Site have the potential to support special status plants. (Report, p. 41.) While the Report found some areas containing Riversidean sage scrub, the Hawarden Fire in July 2024 decimated this area, effectively removing this Riversidean sage scrub from the Project Site, as depicted in Exhibit “C.” (See also Report p. 43.) Lastly, no impacts to other riparian/riverine resources, significant rock outcroppings, or other unique features would occur within these areas. (*Id.*)

In addition, no special-status animal species were detected on the Project Site during biological surveys. (Report, p. 41.) Regardless, the Report found that the Project could impact habitat for certain non-listed, special-status species that have the potential to occur on Project Site. (*Id.*) This Project impact, however, was eliminated following the Hawarden Fire in July 2024, which effectively destroyed the habitats for these species.

Also of note, the Project is within the Western Riverside County MSHCP, which provides comprehensive biological mitigation both for listed species and their habitats. Given the low likelihood of the Project impacting species, and the minimal areas of disturbance of the Alessandro Arroyo, the Project would not make a cumulatively considerable contribution to the regional decline of these species. (Report, p. 43.) All of these species are also fully covered under the MSHCP; so if and when these species and habitats recover from the Hawarden Fire, any potential cumulative impacts would be mitigated through payment of fees and participation in the Plan. (*Id.*)

Lastly, other characteristics of the Project Site present various practical difficulties. Here, the Project Site contains an extremely limited area (0.26 acres or 11,390 square feet) outside the City’s Legal Arroyo. (See Report, Exhibit 10.) Forming a rather unique shape of buildable space centered in the Project Site, this area is surrounded by the City’s Legal Arroyo, which cuts off any possible access to this limited portion without encroaching on the Legal Arroyo. (*Id.*) Limiting development to this area would make it virtually impossible to access or enjoy this property. Further, constraining development of the residence to only this section of the Project Site would significantly reduce the house and pad size, so much so that it would be disproportionate to the surrounding developments. Here, the Project only proposes a residence consistent with the pad and house size of the adjacent properties.

The Project, based on the above findings, would not have any impact on the sensitivity of the Legal Arroyo. Further, the Project Site presents practical difficulties that would prohibit any sort of development on the property. Accordingly, the prohibition of the Project’s grading dictated by the strict application of RMC 17.28.20 would not support this Title’s general purpose of minimizing the adverse effects of grading on natural landforms. There are no adverse effects caused by the Project’s grading to minimize. Rather, its application would only unnecessarily prohibit the development of this Project.

Are there exceptional circumstances or conditions applicable to the property or to the intended use or development of the property that do not generally apply to other property in the same zone or neighborhood?

2. Yes. While the Project Site compromises approximately 17.62 acres, only the portions depicted in the grading plans found in Exhibit “A” can support the housing residence. The topography of the remaining portions of the Project Site contains an active low-flow channel, an unnamed drainage along the southern Project boundary, a slope to the west, and the northwestern portion of a hill to the southeast. (Report, p. 20.) The active low-flow channel and unnamed drainage prohibits construction of any sort of development since it would significantly impact the drainage of the Project Site and surrounding area. Any sort of development on the slope to the west or hill to the southwest would be cost prohibitive since it would require extensive grading, engineering, construction materials, labor, etc. Further, there is only one existing ingress/egress easement for the Property, which leads to the proposed residence. (Report p. 2.) Building a drive way to any other portion of the Property would involve extensive development and costs. Based on this, it would be physically and/or financially infeasible to construct the residence on any other portion of the Project Site.

More importantly, the remaining portions of the Project Site are completely enveloped within the Alessandro Arroyo. (Report, Exhibit 10.) Development in these areas would require extensive grading and likely have a significant impact on it. The only practical site for the residence is therefore located in the portion of the Project Site that has suitable topography, is generally located outside the mapped arroyo and arroyo setback, and will not have an impact on the sensitivity of the Legal Arroyo. Furthermore, and because the neighboring properties are already fully built-out, application of this exception would not apply to them. Thus, the Property exists with this exceptional circumstance that should be granted given the circumstances stated above.

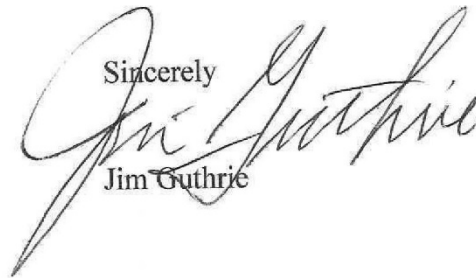
Will the granting of a waiver be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located?

3. No. The granting of the grading exception will allow reasonable development of a single, residential home in the Hawarden Hills and Alessandro Heights neighborhoods in accordance with the City’s General Plan policies and objectives. The conceptual grading plan balances the significant and varied constraints and conditions described in the findings above. In addition to the grading plan, the Project also proposes soil export operations on approximately two acres of the Project Site. An air quality analysis, prepared by Webb Associates (“Air Quality Study”), evaluated whether the expected criteria air pollutant emissions generated as a result of soil hauling would cause exceedances of the South Coast Air Quality Management District’s (SCAQMD) significant thresholds for air quality in the Project area. A copy of this Air Quality Study is attached hereto and incorporated by reference as Exhibit “D.” The Air Quality Study concluded that the soil hauling from the proposed Project will not exceed these criteria pollutant thresholds. In fact, the Air Quality Study determined that the air emissions associated with the Project’s

construction only consisted of a tiny fraction of SCAQMD's allowable threshold.³ Therefore, the Project will not affect the air quality to the detriment of the surrounding public and properties.

Furthermore, the neighboring properties are fully built-out and complete, such that development of the Property would not impede or affect the ability of neighboring properties to be developed. In fact, the bottom portion of Project Site shall be properly maintained to protect the neighboring properties from any significant fire hazards posed by the surrounding area, a feature that is clearly needed following the destruction of the Hawarden Fire. Moreover, the Project proposes a pad size of 26,220 square feet, a pad size similar to and consistent with the other single family residences in the surrounding area. Lastly, a substantial amount of the Project's acreage will be donated to the Western Riverside Regional Conservation Authority, promoting the public welfare of the neighborhood through the conservation of its surrounding area. Thus, there is no reason to suggest that the granting of a Grading Exception will be detrimental to public welfare or injurious to the neighboring properties. To the contrary, allowing me to develop my property with a single-family home is necessary to put me in parity with the surrounding parcels that are similarly developed with residential uses.

Based on the foregoing, I respectfully request a grading exception necessary to achieve the enclosed building plans. Should you require additional information necessary to make a determination regarding this exception request, please contact me at any time.

Sincerely

Jim Guthrie

³ This conclusion is based on the Air Quality Study's conservatively calculation of expected criteria air pollutant emissions based on approximately 2 acres of land. Since the Project only proposes disturbance of 1.178 acres, the actual air emissions associated with the Project's construction will likely be lesser than the Air Quality Study's determination.