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West Los Angeles Area Planning Commission  
200 N. Spring Street, Room 272  
Los Angeles, CA 90012

April 21, 2014

**RE: ZA 2007-5365(ZAD)(ZAA)(PA1)  
1500 Gilcrest Drive**

Dear Commissioners:

The Federation of Hillside and Canyon Associations, Inc., represents 44 resident and homeowner associations spanning the Santa Monica Mountains, from Pacific Palisades to Mt. Washington. The Federation's mission is to protect the property and quality of life of its over 200,000 constituents and to conserve the natural habitat and appearance of the hillside and mountain areas in which they live.

The Federation supports the appeal filed by Juliana Maio and Michael Phillips ("Appellants") of the Zoning Administrator's January 17, 2014 approval of the Applicant's development plans for the property at 1500 Gilcrest Drive. The Federation has previously written in opposition to the project in a February 16, 2013 letter, which is attached.

The Federation supports the appeal because the Zoning Administrator's approval improperly rewards the Applicant by retroactively legalizing his blatant violation of permit conditions that were both necessary to mitigate environmental impacts and relied upon by community members who would have otherwise appealed the initial ZA determination. Moreover, the Zoning Administrator has improperly utilized the Plan Approval process to modify and eliminate previously imposed conditions, in violation of long-established Planning Department policy that clearly precludes use of the streamlined Plan Approval process change CUP conditions.

**The City Should Not Encourage Developers To Flout Mitigating Permit Conditions  
By Retroactively Approving The Violation Of Such Conditions**

It is difficult to imagine a practice more detrimental to the enforcement of land use conditions than the issuance of a permit authorizing that which had been forbidden under a prior permit where, as in this case, the developer simply chose to ignore those conditions *before* seeking and obtaining a permit authorizing such conduct. Retroactively "legalizing" development in violation of express land use conditions encourages developers to ignore mitigating conditions they are supposed to honor, making a mockery of the permitting process. To maintain credibility, the City should rebuke (not reward) developers who strategically choose to beg forgiveness after willfully violating conditions instead of seeking permission to modify those conditions.

The Applicant here blatantly violated conditions limiting the use of retaining walls and grading—mitigating conditions that had been critical in quelling opposition to issuance of the initial permit. He has graded the property to create essentially an additional floor to the house, where the original grant only allowed two floors. He has also completely

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flattened and altered a ridge that was to remain in its natural state and configuration, ignoring permit conditions limiting grading and retaining walls.

The Applicant further built balconies and terraces where none were to be built and in substantial excess of what was allowed, adversely impacting the visual character of the neighborhood and invading the privacy of surrounding neighbors. These balconies are in violation of conditions in the initial grant and otherwise contrary to the Bel Air-Beverly Crest Community Plan. He was properly cited by Building and Safety for violating these conditions and should have been subjected to an enforcement action, not awarded a permit.

### **Plan Approval Cannot Be Used To Modify Permit Conditions**

The Zoning Administrator also erred by utilizing the Plan Approval process to change the previously-imposed permit conditions. Planning Department policy has unambiguously precluded the use of Plan Approval to change existing permit conditions for decades.

In September 1989, Planning circulated Zoning Administrator Memo No. 78 to clarify any confusion over the use of the streamlined Plan Approval process:

There has recently been confusion over what type of application can be filed as ‘plan approval’ and what must be filed as a full conditional use case. . . . In no event shall the plan approval be used to expand the site or to change an explicit condition or language of the grant of the original authorization. New conditional use applications should be filed in such cases.

This policy was reiterated in a June 10, 2010 Planning Director’s Report signed by Michael LoGrande, as Chief Zoning Administrator, and Alan Bell, Senior City Planner from the Office of Zoning Administration. The Report recites the same policies set forth in ZA Memorandum No. 78, including the rule that Plan Approval cannot be used to modify conditions:

A further issue concerns conditions imposed as part of the original approval. Specifically, a property owner or a developer may not request that these conditions be modified. This restriction applies no matter how minor or inconsequential the request is, or if the originally imposed conditions are outmoded, no longer relevant or needed, or should be amended or deleted due to changed circumstances.

The Zoning Administrator here violated this long-established policy by using the Plan Approval process to modify the prior grading and retaining wall conditions to allow precisely that which the original conditions were intended to prohibit.

The Hillside Federation urges this Commission to grant the appeal, thereby compelling the Applicant to either comply with the existing CUP conditions or file a new conditional use application, subject to the municipal and CEQA-mandated review procedures necessary to protect the environment.

Sincerely,

*Marian Dodge*

Marian Dodge

cc: CD 4 Jonathan Brand