

**Mulholland Scenic Parkway Specific Plan Implementation Guidance Memorandum
March 30, 2021**

Justification for Appeal by the Federation of Hillside and Canyon Associations, Inc.

Per Municipal Code: 11.5.7 Specific Plan Procedures

6. Appeals.

(a) Filing of an Appeal. An applicant or any other person aggrieved by the Director's decision may appeal the decision to the Area Planning Commission. The appeal shall be filed within 15 days of the date of mailing of the Director's decision on forms provided by the Department.

REASON FOR THE APPEAL

1. The Memorandum Violates the Intent of the Specific Plan

The Mulholland Scenic Parkway Specific Plan (MSPSP) is the result of planning and consultation by the community and the City Council for a period of twenty years. When ordinance No. 167,943 was adopted on May 13, 1992, it brought to fruition the goals promulgated by esteemed Councilmembers Marvin Braude and Zev Yaroslavsky and the Citizens Advisory Committee on the Mulholland Scenic Parkway. Some of the stated purposes were:

E. To assure that the design and placement of building and other improvements preserve, complement, and/or enhance views from Mulholland Drive.

I. To reduce the visual intrusion caused by excessive lighting.

N. To provide a review process of all projects which are visible from Mulholland Drive to assure their conformance to the purposes and development standards contained in the Specific Plan and the Landform Grading Manual.

To that end, the City Council went further by creating and designating both an Inner and Outer Corridor for the Design Review Board's purview. Had they not intended to review projects in the Outer Corridor, they would not have created such an entity. Their goal was clear – all projects that are in BOTH corridors.

The Director's Memorandum eliminates the Outer Corridor from review. This is a huge change in the Specific Plan. The Memorandum states that the MDRB cannot review projects that are not visible from Mulholland Drive. And who determines if a project is visible? The developer, of course. This naiveté is appalling. Developers are not known for accurately describing their projects. We depend on the MDRB to honestly evaluate projects. Their members are professionals, architects, and landscape architects, who go out in the field to independently evaluate the project's impact on the environment and adherence to the MSPSP. Neighbors and neighborhood associations often bring issues to the attention of the MDRB. We depend on the MDRB to faithfully and fully evaluate projects to assure that they are in compliance with the MSPSP.

The March 30, 2021 memorandum makes drastic changes in the jurisdiction of the MSPSP and reduces its authority by more than half, and eliminates significant public input to Planning.

2. Lack of Transparency

The Director's memorandum was dated March 30, 2021. However no one saw it until the Mulholland Design Review Board (MDRB) received it on April 6, 2021, one day before the MDRB meeting. It was not on the agenda. It was never announced to the public nor to Neighborhood Councils. The public was never allowed to comment on it. The City has bypassed public comment and presented it as a *fait accompli*.

This is a direct violation of the Planning Department's own Public Participation Policy (Technical Bulletin 13, published January 5, 2011).

The purpose of the Public Participation Policy described in this Technical Bulletin is to engage Certified Neighborhood Councils, community-based organizations, other affected stakeholders, and the general public in the development of citywide plans and policies... The Department will engage the public in the development of preliminary staff recommendation reports before they are presented to the City Planning Commission. Different points of view will be considered... The new Public Participation Policy described in this Technical Bulletin will enable us to listen to these unique voices and consider these priorities.

This Public Participation Policy was a breath of fresh air when the public received it in 2011. Now it appears that the City has violated this policy.

Lately, the Planning Department has been making great efforts to reduce public participation in the land use process. Witness the on-going attempt by the Department to increase the fee for a non-applicant to file an appeal on a project from \$89 to \$16,097. (No, that's not a typo – \$16,097!) Such a draconian increase could only have been contemplated to make sure that neighbors and neighborhood associations would be financially unable to file an appeal, thus effectively denying them their constitutional right to have a voice in land use policies.

In a time when the Los Angeles Times has an article almost weekly on the FBI investigations into corruption by council members and staff, one would think the city would go out of its way to be transparent so that no corruption by developers could be allowed. One would be wrong. The Department continues to make unilateral decisions designed to limit public input.

Where is this decision coming from? And why now? When the MDRB asked Planning staffer Blake Lamb why the Director had issued this memorandum, she replied, "Because he can."

There was and still is no transparency in this memorandum.

3. Sets a Precedent for Unilateral Changes to Specific Plans

By allowing this change to stand, the City would be basically stating that the Director of Planning can unilaterally change anything in the MSPSP without public review or comment. Furthermore, this would establish a dangerous precedent for further non-transparent, undemocratic actions by the City.

SPECIFICALLY THE POINTS AT ISSUE

See reasons listed above:

1. The Memorandum Violates the Intent of the Specific Plan
2. Lack of Transparency
3. Sets a Precedent for Unilateral Changes to Specific Plans
4. Abuse of Authority by the Director of Planning

HOW YOU ARE AGGRIEVED BY THE DECISION

The Federation of Hillside and Canyon Associations, Inc. represents 46 homeowner associations spanning the Santa Monica Mountains. A majority of those associations fall within the boundaries of the MSPSP. For three decades the MDRB has reviewed all projects proposed for either the Inner or Outer Corridor to assure that Mulholland Drive retains its rustic character and its scenic value. The Director's Memorandum removes the MDRB from reviewing the vast majority of projects that used to come before them. Staff now has the responsibility to review most of the projects. They will likely rely on the word of the developer as to what is visible and what is not. Projects built without protective considerations required by the MDRB will result in the degradation of the scenic corridor and the loss of property values. The Federation seeks to protect the property value of our members.

By eliminating review of most projects by the MDRB, the Memorandum will permit projects without requiring necessary wildlife corridors and the granting of deed restrictions which assure that linkage is available to wildlife so that they can navigate freely along the Santa Monica Mountains. Without the ability to get deed restrictions from property owners we are losing critical wildlife connectivity.

The Planning Department is claiming that they are understaffed right now. If they are indeed understaffed, why are they taking on more responsibility that is normally handled by the MDRB?

WHY YOU BELIEVE THE DECISION-MAKER ERRED OR ABUSED THEIR DISCRETION

Abuse of Authority by the Director of Planning

The 2021 Memorandum begins by stating its purpose:

The purpose of this memo is to supersede the 1998 Director of Planning's memorandum and to clarify Project Permit Compliance and Design Review Procedures for Visible and Non-Visible Projects in the Mulholland Scenic Parkway Specific Plan area...

The October 15, 1998, memorandum from then-Director of Planning Con Howe clarified exemptions from review.

With the adoption of the 3D Exemption Interpretation, virtually all new projects, both private and public, will be subject to the provisions of the Specific Plan and review by the Design Review Board.

The 1998 memorandum makes it very clear that *all* projects are subject to review. In *clarifying* the intent of the MSPSP, Director Howe was actually strengthening the Plan by assuring that all projects were subject to review. The 1998 memorandum was therefore all together appropriate and within the Director's jurisdiction.

The 2021 memorandum from Director Bertoni is a horse of a different color. Rather than clarifying the intent of the MSPSP, the March 2021 memorandum *reduces* the area covered by the MSPSP and *diminishes* the role of the Mulholland Design Review Board thus unilaterally making legislative changes to the ordinances. These are not ministerial changes as he would have one believe; they are clearly discretionary in nature.

The 2021 memorandum claims that the provisions of the MSPSP have not changed since their implementation in 1992 and are thus out of date. It claims that other ordinances passed subsequently have made the MSPSP provisions unnecessary. We beg to differ. The provisions of the MSPSP are not out of date; they were ahead of their time. They were not "overly broad"; they were prescient, spot on in

identifying those factors that could imperil the integrity of the Santa Monica Mountains which they were designed to protect.

In issuing the March 30, 2021 memorandum, the Planning Director acted unilaterally to override the intent of City Council's Specific Plan, something that no individual has the right to do.