



Staff Report

RESOLUTION PLACING A PROPOSITION ON THE BALLOT FOR THE NOVEMBER 8, 2005 MUNICIPAL ELECTION REQUIRING VOTER APPROVAL OF 1) CERTAIN AMENDMENTS TO THE EXISTING HILLSIDE RESIDENTIAL AND OPEN SPACE ZONING DISTRICTS (HRO-1, HRO-2, AND HRO-3); AND 2) ANY AMENDMENTS TO THE GENERAL PLAN LAND USE DESIGNATION FOR LANDS CURRENTLY IDENTIFIED AS HILLSIDE RESIDENTIAL AND OPEN SPACE (HROP); AND DIRECTING CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF SAID PROPOSITION

Honorable Mayor and Council Members:

Summary

The City Council has requested that a resolution be prepared placing a proposition on the ballot for the upcoming municipal election. The proposition would provide that any changes to the existing Hillside Residential and Open Space Zoning Districts (HRO-1, HRO-2, and HRO-3), except changes which would decrease the maximum allowed density of any property presently in such Districts, would have to be submitted for a vote of the people prior to becoming effective. In addition, any amendments to the General Plan Land Use designation for lands currently identified as Hillside Residential and Open Space (HROP) would have to be submitted to a vote of the people prior to becoming effective. The proposition would require a simple majority vote for passage.

Background

At a recent City Council meeting, Council Member Feierbach placed an Item 9 on the Council agenda requesting that this matter be considered at an upcoming meeting. Attached is a resolution which, if passed, would authorize the matter to be placed on the ballot.

Discussion

Elections Code section 9222 provides as follows:

Submission of proposition without petition

The legislative body of the city may submit to the voters, without a petition

therefor, a proposition for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular or special city election, and if the proposition submitted receives a majority of the votes cast on it at the election, the ordinance shall be repealed, amended, or enacted accordingly. A proposition may be submitted, or a special election may be called for the purpose of voting on a proposition, by ordinance or resolution. The election shall be held not less than 88 days after the date of the order of election.

The target dates are as follows:

August 12 - final day to place ballot measure (10-day examination period begins for anyone who wants to seek a writ or injunction re the measure).

August 17 -- last day to amend or withdraw ballot measure.

August 19 -- primary arguments in favor and against ballot measure due

August 19-29 -- 10-day calendar review for primary arguments

August 22 -- 10-day review ends for all public documents filed on or before August 12

August 29 -- last day to file rebuttal arguments

August 29 -- impartial analysis due by City Attorney

August 29-Sept 8 -- 10-day review for rebuttal to arguments and impartial analysis

Presently, the Hillside Residential and Open Space zoning districts (HRO-1, HRO-2 and HRO-3) are used to designate sensitive hillside lands in the western and southern sections of the City. The policies and standards of the HRO zones have been crafted over the last seventeen years through the development of the San Juan Hills Area Plan (1988) and Western Hills Area Plan (1990) and the creation of the Hillside Residential and Open Space zoning districts (1989, with subsequent amendments).

These policy plans and zoning rules work to assure that any development of lands respects the area's steep terrain, difficult geologic conditions (including active landslides) and lack of urban services, such as paved roads, sewers and drainage systems. These provisions include minimum allowed densities and lot sizes, both of which are determined by the slope of each property. In combination with policies which deter inappropriate grading and construction on unstable or steep slopes, the City can avoid unsuitable or potentially hazardous development, reduce the chance of property loss and avoid the unnecessary expenditure of public funds to support extreme hillside development.

In order to further assure that these hillside protection measures are preserved into the future, the Council may desire that future amendments to the HRO zoning standards be limited. In addition, the Council may wish to prohibit any up-zoning of properties currently designated as HROP in the San Juan Hills Area Plan and the Western Hills Area Plan. The purpose of this proposition, as currently worded, is to require that if a future Council desires to reverse the long-standing policies of the City and allow increased densities or up-zoning in these areas, such proposals

would be subject to a vote of the citizens of Belmont.

Staff has also considered two alternatives for your review. An option that would be less restrictive would be to limit the applicability of the proposition to only specific portions of Section 4.7 of the Zoning Ordinance. For example, if the proposition were limited only to Sections 4.7.9 (and included Table), 4.7.10(a), 4.7.11(a), and 4.7.12A, this would capture the slope density standards for all HRO Districts, but would allow a future Council to amend other parts of the ordinance, such as use limitations and other development standards. An option that would be more restrictive would be to add the San Juan Hills Area Policies and Western Hills Area Policies to the proposition, thus requiring voter approval for any changes to those policies. If the Council is interested in further exploration of these alternatives, staff can return with a revised staff report.

Per recent case law, council-sponsored initiative measures are defined as "projects" subject to CEQA. However, staff believes that several CEQA exemptions apply. Guidelines Section 16061(b)(3) provides, in relevant part, that "CEQA applies only to projects which have the potential for causing a significant effect on the environment." As the measure does not change any existing land use regulations related to development within the designated zoning districts, or change the designation of any lands subject to those regulations, the measure does not have the potential for causing a significant effect on the environment. In addition, Guidelines Sections 15307 and 15308 exempt from CEQA actions taken by regulatory agencies that involve procedures for the protection of natural resources and of the environment. The addition of a requirement for voter approval prior to any modifications to the HRO zoning standards except those which would decrease the intensity of development in those districts provides additional protections for natural resources and the environment in those areas. The purposes of the HRO district are described in Zoning Ordinance 4.7.1, which provides:

PURPOSE – The City Council finds and declares that certain areas of the City provide unique terrain features and add substantially to the character of the area, that the location and visibility of development therein will affect the visual quality of the environment, and that hillside development should preserve the natural terrain while providing a density of residential development compatible with the limitations of slope on the development site. The Council further finds that there are geologic and soils hazards in the area, steep slopes, and inadequate roadways making it necessary to reduce density in portions of the San Juan Hills Area to protect the public safety and to reduce significant and cumulative traffic impacts to the Ralston Avenue corridor. The objectives of the chapter's regulations are to encourage minimal grading and to reduce citizens' exposure to hazardous slopes by decreasing residential density as slope increases, to encourage clustering of homes and density transfer to reduce roadway and driveway grading, to regulate home size, and to encourage the voluntary merger of lots.

Thus, the Ordinance itself identifies the environmentally sensitive nature of these areas which would continue to be protected if the measure passes. If the Council adopts the proposed resolution, staff would file a Notice of Exemption for CEQA compliance with the State.

Fiscal Impact

The City Clerk's office has been in contact with County elections officials, which has estimated a cost of approximately \$10,000 to add this measure to the ballot. It should be noted that this amount is in addition to the estimated cost of \$24,000 for the regular municipal election.

Public Contact

Posting of City Council agenda. This matter does not require a noticed public hearing.

Recommendation

Staff recommends that if the Council wishes to submit this measure to the voters, it adopt the attached resolution.

Alternatives

1. Do not adopt the attached resolution.
2. Refer the matter to staff for further analysis.
3. Continue the matter to a subsequent agenda.

Attachments

1. Resolution and proposed ordinance for submittal to voters
2. Current Belmont Zoning Ordinance section 4.7 et seq.: Hillside Residential and Open Space (HRO) Zoning Districts

Respectfully submitted,

Marc L. Zafferano,
Interim City Attorney

Craig Ewing,
Planning Director

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
TO PLACE BEFORE THE VOTERS OF THE CITY OF BELMONT AN ORDINANCE
REQUIRING THAT CERTAIN AMENDMENTS TO THE EXISTING HILLSIDE
RESIDENTIAL AND OPEN SPACE DISTRICTS (HRO-1, HRO-2, AND HRO-3), AND
ANY AMENDMENTS TO THE GENERAL PLAN LAND USE DESIGNATION FOR
LANDS CURRENTLY IDENTIFIED AS HILLSIDE RESIDENTIAL AND OPEN SPACE
(HROP), BE APPROVED BY THE VOTERS OF THE CITY OF BELMONT**

WHEREAS, the City Council desires to submit to the voters at the municipal election on November 8, 2005 an ordinance that would require that certain amendments to the HRO-1, HRO-2, and HRO-3 Zoning Districts, and any amendments to the General Plan Land Use designation for land currently identified as Hillside Residential and Open Space (HROP), be approved by the voters.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont does hereby resolve as follows:

Section 1. That the City Council orders submitted to the voters at the General Municipal Election to be held and consolidated with the Statewide General Election on Tuesday, November 8, 2005, the following question:

“Shall an ordinance be adopted that requires that certain amendments to the Hillside Residential and Open Space zoning district (HRO-1, HRO-2, and HRO-3), and any amendments to the General Plan Land Use designation for lands currently identified as Hillside Residential and Open Space (HROP), be approved by the voters before becoming effective?”	YES
	NO

Section 2. The ordinance to be enacted by a majority of the voters pursuant to Section 1 above shall be in the form set forth in Exhibit A, attached hereto.

Section 3. This measure is submitted to the voters pursuant to Elections Code Section 9222.

Section 4. The ballots used at the election shall be in the form and content as is required by law.

Section 5. The City Attorney is hereby directed to prepare and submit an impartial analysis.

Section 6. The City Council authorizes _____ to prepare a written argument in favor of the ballot proposition, on behalf of the City Council, not to exceed 300 words. The City Council also authorizes submission of rebuttal arguments not to exceed 250 words. The City Council authorizes _____ to prepare and submit a written rebuttal argument in the event a written argument opposing the initiative measure is submitted.

Section 7. The City Clerk is hereby directed to deliver forthwith certified copies of this Resolution to the Clerk of the Board of Supervisors of San Mateo County and the Registrar of Voters of San Mateo County promptly upon its adoption.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on June 28, 2005 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELMONT REQUIRING THAT CERTAIN AMENDMENTS TO THE EXISTING HILLSIDE RESIDENIAL AND OPEN SPACE DISTRICTS (HRO-1, HRO-2, AND HRO-3), AND ANY AMENDMENTS TO THE GENERAL PLAN LAND USE DESIGNATION FOR LANDS CURRENTLY IDENTIFIED AS HILLSIDE RESIDENIAL AND OPEN SPACE (HROP), BE APPROVED BY THE VOTERS OF THE CITY OF BELMONT

WHEREAS, on April 11, 1989 and then on August 8, 1991, the City Council after extensive public input adopted Ordinance Nos. 808 and 848, respectively, which are generally known as the Hillside Residential and Open Space (HRO) District;

WHEREAS, the purpose of said Ordinances is to promote and encourage the orderly development of the hillside area of the City by the application of regulations and requirements established to meet the particular problems associated with development of hillside areas, including, but not limited to, geologic problems, slope, safe access, and visibility; and

WHEREAS, the primary regulations of said Ordinances are set forth at Section 4.7 et seq. of the Belmont Zoning Ordinance; and

WHEREAS, the City's General Plan, through the San Juan Hills Area Plan and the Western Hills Area Plan, designates certain property within the hillside area of the City as Hillside Residential and Open Space (HROP); and

WHEREAS, the City now desires that certain amendments to the existing HRO-1, HRO-2, and HRO-3 districts, and any amendments to the General Plan Land Use designations for lands currently identified as Hillside Residential and Open Space (HROP), be approved by the voters before becoming effective.

The People of the City of Belmont do ordain as follows:

Section 1. Certain Amendments to the HRO Ordinance Must Be Approved by the Voters.

Amendments to the existing Hillside Residential and Open Space Districts, Section 4.7 et seq. of the Belmont Zoning Ordinance, except amendments which would decrease the maximum allowed density of any property presently in such Districts, shall be approved by the Belmont voters before taking effect.

Section 2. Amendments to the General Plan Land Use designation for lands currently identified as Hillside Residential and Open Space (HROP) Must Be Approved by the Voters.

Lands currently classified on the City’s General Plan Land Use Map, through the San Juan Area Hills Plan, and the Western Hills Area Plan as “HROP”, as of November 8, 2005, shall not be amended to a land use classification other than a land use classification designated “HROP” unless the amended land use classification is approved by the Belmont voters.

Section 3. Publication and Effective Date.

This Ordinance shall take effect then (10) days after its adoption by the voters of Belmont, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the San Mateo County Times, a newspaper of general circulation, published and circulated in the City of Belmont, County of San Mateo, thenceforth and thereafter the same shall be in full force and effect.

Section 5. Severability

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

REGULAR

ORDINANCE NO.

TITLE: AN ORDINANCE OF THE CITY OF BELMONT REQUIRING THAT CERTAIN AMENDMENTS TO THE EXISTING HILLSIDE RESIDENTIAL AND OPEN SPACE DISTRICTS (HRO-1, HRO-2, AND HRO-3), AND ANY AMENDMENTS TO THE GENERAL PLAN LAND USE DESIGNATION FOR LANDS CURRENTLY IDENTIFIED AS HILLSIDE RESIDENTIAL AND OPEN SPACE (HROP) BE APPROVED BY THE VOTERS OF THE CITY OF BELMONT PRIOR TO BECOMING EFFECTIVE

HISTORY: This Ordinance was approved by the voters at the general election On November 8, 2005.

AYES:

NOES:

APPROVED:

Dave Warden

Mayor of the City of Belmont

ATTEST:

Terri Cook
Clerk of the City of Belmont

APPROVED AS TO FORM:

Marc L. Zafferano
City Attorney of the City of Belmont

ORDAINING CLAUSE:

THE CITIZENS OF THE CITY OF BELMONT DO ORDAIN AS FOLLOWS: