

CITY OF WALNUT CREEK
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

Measure A

Effective March 19, 1985

BUILDING HEIGHT FREEZE INITIATIVE

On March 12, 1985 the voters of the City of Walnut Creek passed the Building Height Freeze Initiative. The precise language of this initiative is as follows:

- (a) The building height limitation in the Zoning Ordinance shall not be raised without the approval of the electorate.
- (b) No use permits to exceed the basic building height limitations of a land use district shall be granted.
- (c) No permit shall be issued to construct a building over six stories in height without the approval of the electorate.

The following explains the effect of each section of the initiative:

(a) Almost all zones contain a maximum height limit. It may be one, two, three, six or ten stories, or, in some instances, a specific number of feet. In most zones within the Core Area, the adopted policy is that regardless of the number of floors a building contains, it is defined as a two-story building if its height does not exceed 35 feet above the original grade, a three-story building if its height does not exceed 50 feet above the original grade, and a six-story building if its height does not exceed 89 feet above the original grade. Other story heights have comparable heights in feet. No zoning can be changed that would allow higher buildings anywhere in the city without voter approval at a citywide election.

There are also some Planned Development (P-D) zones which frequently specify the precise location and heights of buildings as well as where parking, landscaping and other open space are designated. Voter approval is required for any change in a Planned Development zone if a building is to be higher than that shown in the P-D or is to be placed on the site where one was not previously shown. This is not true of all P-D zones, however.

(b) Certain zones have basic height limits, but the zoning ordinance says that the height may be increased through the granting of a use permit. No use permit may now be granted to allow any such increase in building height.

(c) This section simply prohibits the Community Development Department from issuing a building permit anywhere in the city for any building over six stories in height, as a six-story building is defined in the Municipal Code, without approval of the voters at a citywide election.

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Following is a brief and general explanation of what effect the initiative will have on further development.

(a) Almost all zones contain a maximum height limit. It may be one, two, three, six or ten stories, or, in some instances, a specific number of feet. In most zones within the Core Area, the adopted policy is that regardless of the number of floors a building contains, it is defined as a two-story building if its height does not exceed 35 feet above the original grade, a three-story building if its height does not exceed 50 feet above the original grade, and a six-story building if its height does not exceed 89 feet above the original grade. Other story heights have comparable heights in feet. No zoning can be changed that would allow higher buildings anywhere in the city without voter approval at a citywide election.

There are also some Planned Development zones which specify where on the site buildings are allowed and where parking, landscaping and other open space are designated. Voter approval is also required for any change in any such zoning if a building is to be placed on the site where one was not previously shown. This is not true of all P-D zones, however.

(b) Certain zones have basic height limits, but the zoning ordinance says that the height may be increased through the granting of a use permit. The S-C, Shopping Center, zone could go from one to two stories in this manner. The basic height limit in the M-1 and M-2 (multiple-family) zones is 30 feet, in the C-O (office) zone it is 25 feet and two stories and in the C-C and C-G (commercial) zones and the E-L and E-H (industrial) zones it is 30 feet and two stories. These limits could be raised to an unspecified limit through the granting of a use permit. The E-R (Shadelands area) zones have maximum height limits of 40 feet except that a use permit may be granted if a higher structure is needed to house special equipment. No use permit may now be granted to allow any such increase in building height.

(c) This section simply prohibits the Community Development Department from issuing a building permit anywhere in the city for any building over six stories in height, as a six-story building is defined in the Municipal Code, without approval of the voters at a citywide election.

INTER-OFFICE MEMORANDUM

DATE: March 28, 1985

TO: Planning staff
FROM: Chief of Planning *GH*
SUBJECT: MEASURE "A" INTERPRETATION AND PROCEDURES

David, John and I met this morning to discuss the way in which the City in general, and Planning in particular, should respond to the dictates of Measure "A". We reached some conclusions about how to interpret Measure "A" in borderline cases and what procedures we need to follow to give structure and order to our processing of projects under Measure "A".

First, as always, the procedural. The first public hearing notice on a project will be amended to include a statement of the staff determination on the Measure "A" impact on the project. That is, whether the project will require a vote of the electorate is to be stated in the public hearing notice. A statement will be included which specifies that under the terms of Sec. 10-2.2211 of the W.C.M.C., this staff determination is appealable to the Planning Commission within ten days of the date of publication of the notice. Also, staff reports on projects will include a new section detailing the rationale for staff's determination on Measure "A" impact.

Last, as always, the substantive. To date the critical decisions on Measure "A" seem to revolve around distinctions between approved Planned Developments not yet constructed and proposed changes to them. P-Ds which have been built out pose no real dilemma; they are subject to Measure "A" if new buildings are proposed which are not on the approved map as long as no written height standards are included or referenced. Based on advice given prior to the March 12 election, David and John are comfortable with the following parameters for decisions on individual projects:

- 1) Absolute building heights on proposed projects with unspecified height limits cannot exceed absolute heights of approved buildings.
- 2) On all projects the existing Municipal Code definition of building height is to be used, not that in effect at the time of project approval.
- 3) Buildings may be relocated on the site, subject to our present procedure for determination of consistency with existing project approval.
- 4) Building footprint sizes for proposed buildings must not substantially exceed the sizes of building footprints of approved buildings. This is really the same test as staff has been making for consistency with approved P-Ds.

- 5) On residential P-Ds where no heights are specified or referenced, and no building elevations are shown as part of the approved plans, we will assume a standard two-story, or 25 foot height limit. This is the standard height limit in City residential districts and it is reasonable to assume the City standard in the absence of specific provisions to the contrary.

It is certain that application of the above criteria will result in a clear determination for the majority of cases. For those not instantly falling into one of the two camps, we will try to reach a judgment based on the intent of Measure "A" and afford the public and the applicant the right of appeal as discussed above.

JHS/mr

cc: City Attorney
Community Development Director

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