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Barney Heath
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MEMORANDUM

DATE: March 8, 2024

TO: R. Lisle Baker, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning
Olivia James, Community Engagement Specialist

RE: **#76-24 Discussion and possible ordinance amendment to deal with grade changes created during construction causing stormwater runoff on neighboring properties**
COUNCILORS ALBRIGHT, LIPOF, WRIGHT, AND LEARY requesting a discussion with the Planning Department to address concerns relative to the trend of significantly raising grade elevations on lots, using retaining walls, terracing and other means to add soil to conceal a raised basement, which can lead to new buildings that are significantly taller than nearby existing houses in the area and cause denuding of wooded areas and increase stormwater runoff. This discussion may result in an ordinance change to Chapter 30 section 5.4.2 which would require a special permit or other means of city review of all retaining walls over 4 feet on a site.

MEETING: March 11, 2024

CC: City Council
Planning Board
Anthony Ciccariello, Commissioner of Inspectional Services
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani, City Solicitor

Overview

The Planning & Development Department presented about grade changes created during construction to the Zoning & Planning Committee (ZAP) at the February 15, 2024 meeting ([see report here](#)) in February. The Committee was supportive of the approach of requiring a special permit for a retaining wall four feet or greater anywhere on the property as a short-term solution. This would be a straightforward adjustment since the current ordinance requires a special permit for a retaining wall that is four feet or greater within the setback.

Working closely with Inspectional Services (ISD) and Engineering, the Planning Department has drafted the amendments for this change, including special permit criteria (see Attachment A).

Looking Ahead

The Planning Department agrees that this docket item should be split so that the special permit threshold component can move to a public hearing. Staff recommends that ZAP set a public hearing for this portion for their first April meeting. In the meantime, City staff will continue to explore more complex solutions to addressing the broader issue of grade changes on properties and their implications.

Attachment A Draft ordinance revisions to Sec. 5.4.2.

Attachment A

Draft Ordinance Language (changes in red):

Sec. 5.4.2.A. Current text: A wall or terraced combination of walls, 4 feet in height or greater, to hold a mass of earth material at a higher position. When a combination of walls is placed within a setback, height is measured from the foot of the lowest wall to the top of the highest wall. For the purposes of this Sec. 5.4, a berm with a slope of 1:1 or greater is to be considered a retaining wall.

Sec. 5.4.2.A. Proposed text: A wall or terraced combination of walls, 4 feet in height or greater, to hold a mass of earth material at a higher position. ~~When a combination of walls is placed within a setback, height is measured from the foot of the lowest wall to the top of the highest wall.~~ For the purposes of this Sec. 5.4, a berm with a slope of 1:1 or greater is to be considered a retaining wall.

Sec. 5.4.2.B. Current text: : The placement of a retaining wall of 4 feet or more within a setback requires a special permit.

Sec. 5.4.2.B proposed text: The placement of a retaining wall of 4 feet or more ~~within a setback~~ requires a special permit. ~~When a combination of walls is placed within 25 feet of each other, height is measured from the foot of the lowest wall to the top of the highest wall.~~

Sec. 5.4.2.C (new section) Special Permit Criteria:

In granting a special permit, the city council shall find

1. That the lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of retaining walls;
2. That the requested retaining wall will not adversely impact adjacent property or the public;
3. That the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.