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Barney Heath
Director

MEMORANDUM

DATE: March 26, 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(2) Discussion and possible ordinance amendment to require a special permit for retaining walls over four (4) feet**
COUNCILORS ALBRIGHT, LIPOF, WRIGHT, AND LEARY Requesting discussion and possible ordinance amendment to Chapter 30 Section 5.4.2. to require a special permit for all retaining walls over four (4) feet on a site.

MEETING: April 8, 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 recommendations to minimize grade changes created during construction to the Zoning & Planning Committee (ZAP) at the March 11, 2024 meeting. 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 and straightforward solution. Based on discussions with ISD, to avoid complications with permits already in progress we recommend an effective date of June 1.

Updates to Text

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

the following refinements for clarification to the proposed language since the March 11 ZAP meeting, which are highlighted in yellow within Attachment A:

1. “in height or greater” was added in Sec. 5.4.2.A. and Sec. 5.4.2.B to specify what the four feet refers to.
2. In Sec. 5.4.2.B. The original language used the word “placement” because it was relative to the setback. A more appropriate word to use now is “construction.”
3. In Sec. 5.4.2.B. we specified “retaining” walls.
4. In Sec. 5.4.2.B. the Planning Department also clarified in the proposed ordinance that the 25-foot distance is measured using the front face of each wall.
5. The question of whether to add specific criteria in Sec. 5.4.2.C.2. was considered in the most recent proposed language for the ordinance. However, the Planning Department recommends not changing the language in Sec. 5.4.2.C.2. Implicit in the description of #2 is the issue of visibility, sight lines, and other design considerations. As special permits are reviewed, the Department will offer recommendations accordingly for the City Council to use as part of their deliberation.

Looking Ahead

City staff (Planning, ISD, Engineering, and Law) will continue to explore more complex solutions to addressing the broader issue of grade changes on properties and their implications which will be explored through the original Docket #76-24.

Attachment A Draft ordinance revisions to Sec. 5.4.2.

Attachment A

Draft Ordinance Language (changes in red):

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 proposed text: The **placement construction** of a retaining wall of 4 feet or more ~~within a setback~~ **in height or greater** requires a special permit. ~~When a combination of retaining walls is placed are~~ **When a combination of retaining walls is placed are** within 25 feet of each other **(measured from front-face of wall to front-face of wall)**, 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.