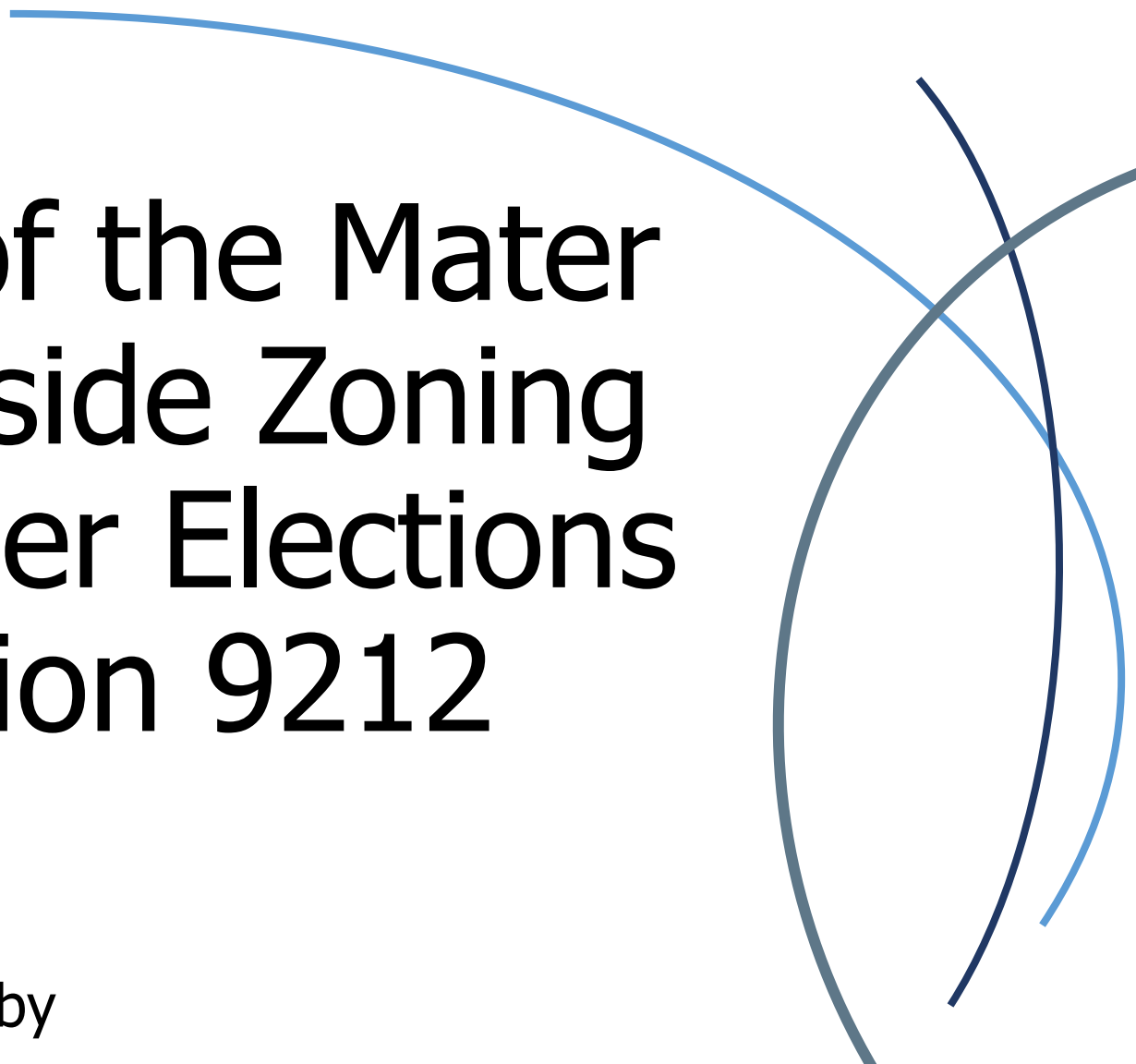


An Analysis of the Mater Dolorosa Hillside Zoning Initiative Under Elections Code Section 9212

Presented by
Aleks R. Giragosian
City Attorney



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WHATLEY, PC

Initiative's Impact on Land Use

- General Plan Land Use Map Amendment:
 - Institutional → Residential Low Density – Hillside
- Zoning Map Amendment:
 - Institutional → Hillside Management Zone
- Likely Increases Residential Development Potential
 - Auxiliary Residential → Primary Residential
- Consistent with the General Plan
- Impacts on Regional Housing Needs Allocation are Unknown at this Time

Retreat Center & Stations of the Cross Converted to Non-Conforming Uses

- Non-Conforming uses may be maintained and repaired
- Non-Conforming uses may only be altered or enlarged with a Minor Conditional Use Permit
 - A Minor Conditional Use Permit requires the non-conforming use to be a permitted or conditionally permitted within the underlying zone
 - The Hillside Management Zone permits all uses permitted or conditionally permitted within the R-1
 - R-1 conditionally permits “churches, temples, and other places of worship”, “Recreational Centers Privately Operated”, or “nonprofit organizations.”

Retreat Center & Stations of the Cross Converted to Non-Conforming Uses

- Q1: Is the Retreat Center a “church, temple, and other place of worship”, a “recreational center privately operated”, or a “nonprofit organization” as contemplated by SMMC 17.60.030?
- Unclear — requires a formal Director’s Interpretation.
- That interpretation must be guided by SMMC 17.52.020 which states: “Should any conflict or ambiguity arise in the application to an R-H zoned lot of any two or more provisions of this title, the more restrictive application or interpretation shall apply.”

Retreat Center & Stations of the Cross Converted to Non-Conforming Uses

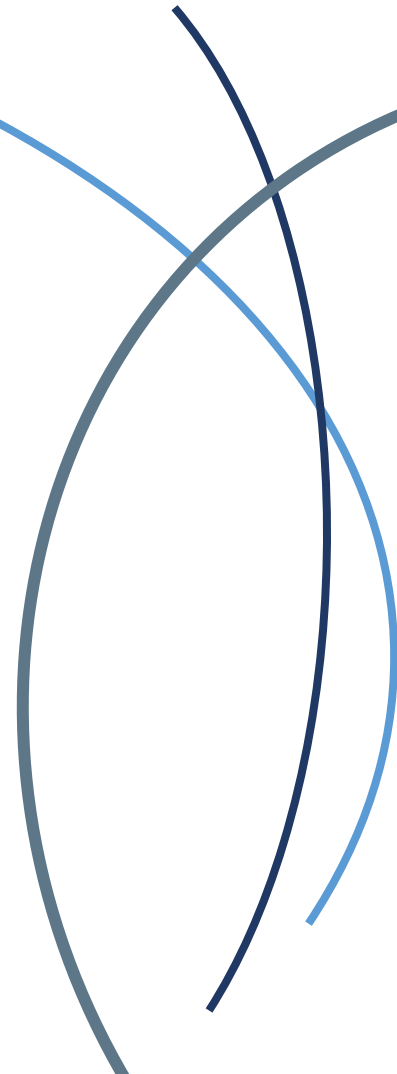
- Q2: Are the Stations of the Cross a “church, temple, and other place of worship”, a “open air theaters”, or a “nonprofit organization” as contemplated by SMMC 17.60.030?
- Unclear — requires a formal Director’s Interpretation.
- That interpretation must be guided by SMMC 17.52.020 which states: “Should any conflict or ambiguity arise in the application to an R-H zoned lot of any two or more provisions of this title, the more restrictive application or interpretation shall apply.”

Retreat Center & Stations of the Cross Converted to Non-Conforming Uses

- Q3: Even if the Passionists can apply for a Minor Conditional Use Permit, can the use “comply with the performance standards and applicable development standards” in the Hillside Management Zone?
- Unclear – based on development application
- Potential Modification- SMMC 17.52.090(E)(4)(b-c) allow for deviations from the Hillside Management Zone design and development standards
- Potential Variance- SMMC 17.60.010 allows for variances from development standards

Six Potential Development Scenarios

	Meadow s Project	Meadows Project + ADUs/ JADUs	17-Acre: Base Density	17-Acre: State- Permitted Density	35-Acre: Base Density	35-Acres: State- Permitted Density
Maximum Density	42 Units	126 Units	8 Units	32 Units	17 Units	68 Units
Maximum Gross Floor Area	3,775 sq. ft./unit	3,775 sq. ft./ unit + ADUs/ JADUs	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit



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Development Potential for Meadows Project as Proposed

	Meadows Project	Meadows Project + ADUs/ JADUs	17-Acre: Base Density	17-Acre: State-Permitted Density	35-Acre: Base Density	35-Acre: State-Permitted Density
Maximum Density	42 Units	126 Units	8 Units	32 Units	17 Units	68 Units
Maximum Gross Floor Area	3,775 sq. ft./unit	3,775 sq. ft./ unit + ADUs/ JADUs	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit

Proposed Unit Mix for Meadows Project

25% minimum at 3,200 sq. ft. | 35% maximum at 3,650 sq. ft. | 40% maximum at 3,775 sq. ft.

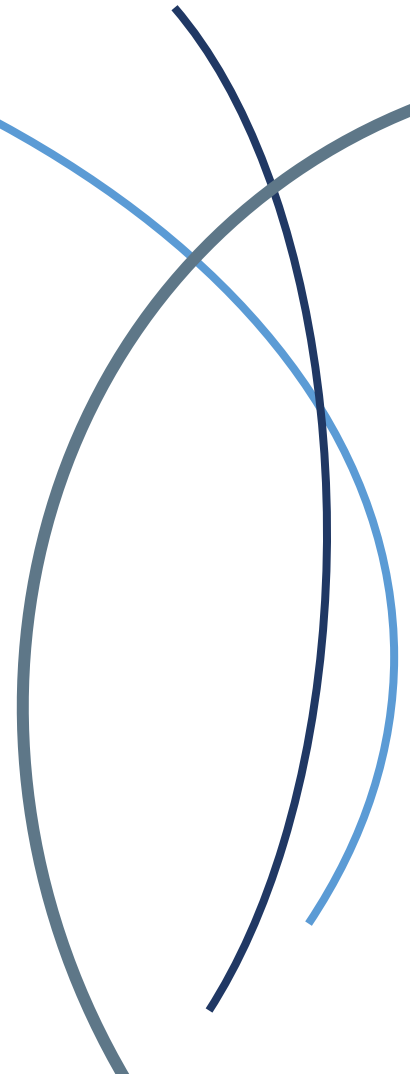
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Development Potential for Meadows Project with ADUs/JADUs

	Meadows Project	Meadows Project + ADUs/ JADUs	17-Acre: Base Density	17-Acre: State-Permitted Density	35-Acre: Base Density	35-Acres: State-Permitted Density
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Unit Mix for Meadows Project with ADUs/JADUs

3,200–3,775 sq. ft. for Primary Dwellings (500 sq. ft. for JADU | 1,200 sq. ft. for ADU)



Development Potential for Meadows Project Under Base Density Assumptions for 17-Acre Site

	Meadow s Project	Meadows Project + ADUs/ JADUs	17-Acre: Base Density	17-Acre: State- Permitted Density	35-Acre: Base Density	35-Acres: State- Permitted Density
Maximum Density	42 Units	126 Units	8 Units	32 Units	17 Units	68 Units
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Base Density Under Hillside Management Zone

Two acre minimum per lot; one residential unit per lot up to 6,500 sq. ft. each

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Development Potential for Meadows Project Under State-Permitted Density Assumptions for 17-Acre Site

	Meadow s Project	Meadows Project + ADUs/ JADUs	17-Acre: Base Density	17-Acre: State- Permitted Density	35-Acre: Base Density	35-Acres: State- Permitted Density
Maximum Density	42 Units	126 Units	8 Units	32 Units	17 Units	68 Units
Maximum Gross Floor Area	3,775 sq. ft./unit	3,775 sq. ft./ unit + ADUs/ JADUs	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit

Maximum State-Permitted Density Under Hillside Management Zone
 One acre minimum per lot; Two residential units per lot (500–6,500 sq. ft.)

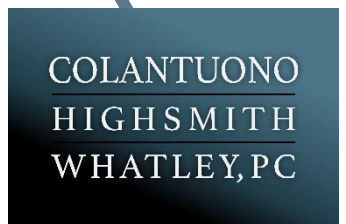
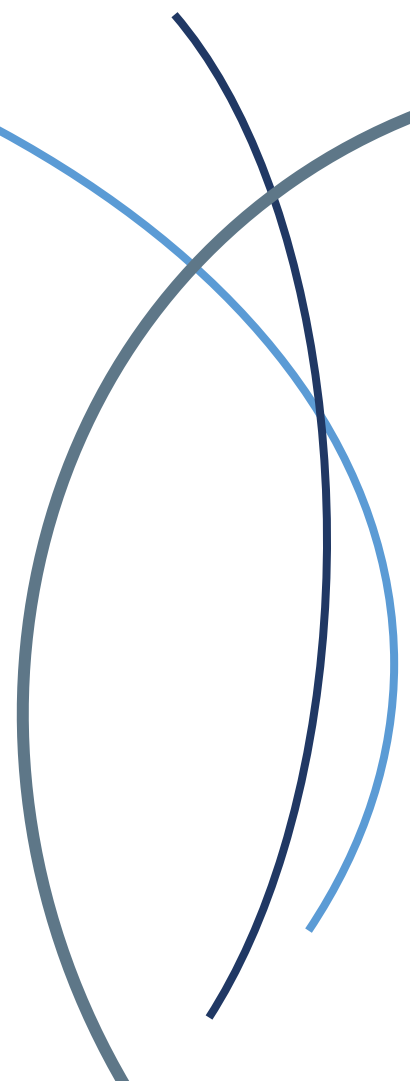


Development Potential for Meadows Project Under Base Density Assumptions for 35-Acre Site

	Meadow s Project	Meadows Project + ADUs/ JADUs	17-Acre: Base Density	17-Acre: State- Permitted Density	35-Acre: Base Density	35-Acres: State- Permitted Density
Maximum Density	42 Units	126 Units	8 Units	32 Units	17 Units	68 Units
Maximum Gross Floor Area	3,775 sq. ft./unit	3,775 sq. ft./ unit + ADUs/ JADUs	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit

Maximum Base Density Under Hillside Management Zone

Two acre minimum per lot; one residential unit per lot up to 6,500 sq. ft. each



Development Potential for Meadows Project Under State-Permitted Density Assumptions for 35-Acre Site

	Meadow s Project	Meadows Project + ADUs/ JADUs	17-Acre: Base Density	17-Acre: State- Permitted Density	35-Acre: Base Density	35-Acres: State- Permitted Density
Maximum Density	42 Units	126 Units	8 Units	32 Units	17 Units	68 Units
Maximum Gross Floor Area	3,775 sq. ft./unit	3,775 sq. ft./ unit + ADUs/ JADUs	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit	6,500 sq. ft./ unit

Maximum State-Permitted Density Under Hillside Management Zone
 One acre minimum per lot; Two residential units per lot (500–6,500 sq. ft.)

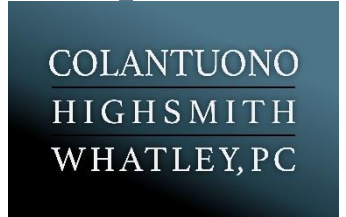
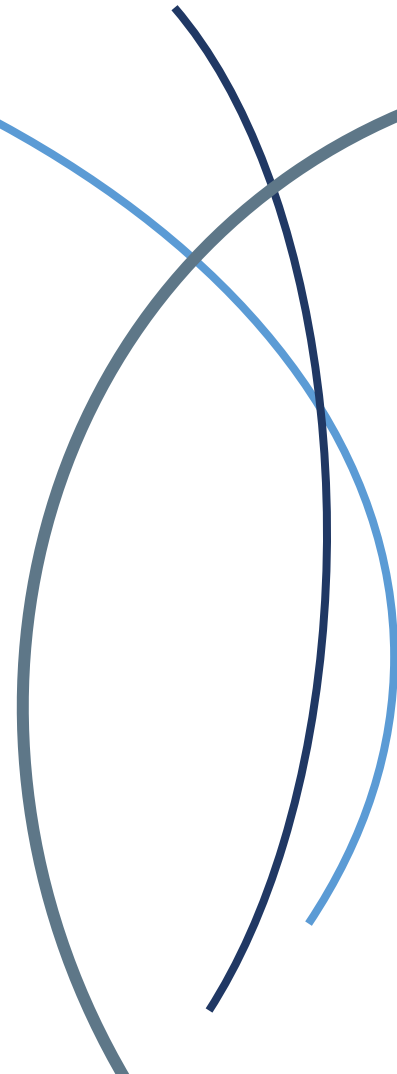


Comparison of Benefits

	Meadows Project	Meadows Project + ADUs/JADUs	17-Acre: Base Density	17-Acre: State-Permitted Density	35-Acre: Base Density	35-Acres: State-Permitted Density
Public Facilities Fees	\$2,605,493	\$2,605,493	\$496,284	\$1,985,138	\$1,054,604	\$3,138,957

Other Benefits Only Available Through Meadows Project

- \$910,000-\$983,500 to implement Net Zero water use strategies
- Transfer of turn-key public park
- Payment of park and landscape buffer maintenance expenses through creation of Community Facilities District
- Conservation easements on lots above the Retreat Center



Comparison of Degree of Discretionary Review

- Under the Institutional Zone, the City Council and Planning Commission may use the Specific Plan and Development Agreement to exercise a greater degree of discretion in their review of the Meadows Project
- Under the Hillside Management Zone, the Housing Accountability Act and the Senate Bill 330 would curtail the City Council's and Planning Commission's discretion and limit public participation

Initiative Opponent's Legal Arguments

1. Religious Land Use and Institutionalized Persons Act Claim Alleging Unlawful Discrimination and a Substantial Burden on the Passionists' Exercise of Religion
2. California Constitutional Claim Alleging An Unlawful Form of Initiative
3. California Constitutional Claim Alleging Unlawful Exercise of Police Power
4. Senate Bill No. 330 Claim Alleging Unlawful Reduction in Intensity of Use