



**CITY OF LA HABRA HEIGHTS  
OFFICE OF THE CITY ATTORNEY  
M E M O R A N D U M**

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**TO:** Mayor Carroll and Members of the City Council  
**FROM:** Michael G. Colantuono, City Attorney  
**DATE:** November 21, 2003  
**SUBJECT:** General Plan Land Use Policy Number 6: Building Size Regulations

As promised, I write to lay out options available to the Council with respect to the regulation of home sizes and to propose a policy to implement the aspect of Goal 7 that encourages a variety of architectural styles and home designs.

1. Absolute limit on home size, applicable City-wide, as distinguished from a limit based on the size or other characteristics of the lot.

Councilmember Borrowe has suggested a policy (his number 5) as follows:

“The city council may impose a finite limit on the size of a new home and on those undergoing extensive remodeling.”

This policy allows for an absolute limit on home size, but does not require one. The “pro” of such an approach is that it leaves the issue of an upper limit on home size open for future discussion and ensures that it is addressed during the implementation of the General Plan. The “con” is that it invites community controversy over a very abstract idea – is there are right to build very large houses? – rather than focusing on what appears to be the core issue – the appropriateness of the scale and visibility of a new structure to its setting, whether that setting is described as the building site, the streetscape, a neighborhood, or the entire community. This is purely a policy issue without legal ramifications. Nonetheless, it is my view (which you need not share) that the ultimate goal of this policy – maintaining the character of La Habra Heights – can be accomplished in less controversial ways.

If the Council does not wish to include reference to an absolute limit on house size, the General Plan can simply be silent on the matter (which may invite controversy without establishing clear policy) or affirmatively rule it out, as by adding the following to the beginning of Land Use Policy 6:

“It is not the policy of the City to impose an absolute limit on home sizes throughout the City. However, it is the policy of the City to ....”

2. Land Use Policy Number 6. I believe there is a consensus that the core element of this policy should appear in the General Plan:

“Ensure that residential structures are appropriately scaled to the lot on which they are located.”

Still to be determined is whether to augment this policy by either of the following:

A. Adding a list of specific techniques that might be used to accomplish this goal, perhaps as follows:

*Planning Commission recommendation* (slightly edited): “by utilizing various proportional requirements (such as floor area ratios, cubic content ratios, or impervious coverage ratios), setbacks, and/or other requirements.”

*Councilmember Klein’s recommendation:* “by establishing proportional requirements based on total average slope, impervious coverage, and/or grading quantities.”

B. Broadening the goal to address not just proportionality to the building site, but also proportionality to the streetscape, neighboring houses or neighborhood or community character. Although I have labeled this “the City Attorney’s suggestion” because that is how it was referenced last night, this is purely a matter of policy as to which I have no recommendation. I made this suggestion in the interest of furthering your discussion and assisting you in reaching consensus.

*City Attorney’s suggestion:* “Structures shall be appropriately scaled to the lot, neighboring houses, adjacent streetscapes, neighborhood character, and community character. Structures shall not appear much larger and more massive than neighboring houses and shall be scaled, massed, and screened to accomplish this goal.

Like Land Use Policy 6 as recommended by the Planning Commission, you can state the goal (first sentence) with or without specifying means to accomplish it (second sentence). As to the first sentence, you can pick and choose among the list of relationships at the end of the sentence. Specifically, I think of neighborhood character and community character as an either/or choice, although that is not the only way to view these terms.

3. Policy Regarding Diversity of Home Sizes. As you requested, I offer the following, initial suggestion to implement the following portion of Goal 7: “Require that future residential development continues the present variety and diversity of structural design and appearance ...”:

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*Land Use Element Policy 6A:* “Require future residential development to continue the present variety and diversity of structural design and appearance by affirmatively allowing a variety of architectural designs and by forbidding the development of tracts of more than a few homes with substantially similar designs.”

Again, all of these are policy issues as to which there are essentially no legal constraints. If I can do more to assist your development of a consensus on these issues, please let me know.

c: John Hendrickson, City Manager  
Sandra Massa-Lavitt, Interim Community Development Director  
Barbara Doppieri, Planning Technician  
Marc Blodgett, Planning Consultant