AGENDA REPORT

Meeting Date: April 21, 2009

Item Number: D-1

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, City Planner

Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTIONS 10-3-2450, 10-3-2451, 10-3-2455, AND 10-3-3601 OF THE MUNICIPAL CODE OF THE CITY OF BEVERLY HILLS REGARDING THE TRANSFER OF DISCRETIONARY REVIEW AUTHORITY OF SPECIFIC TYPES OF APPLICATIONS AND PERMITS IN THE SINGLE-FAMILY RESIDENTIAL ZONES IN THE CENTRAL AREA OF THE CITY

Attachments:
1. Ordinance
2. Planning Commission Resolution
3. Legislative Digest

RECOMMENDATION

Staff recommends that the City Council approve the amendments to the Beverly Hills Municipal Code regarding a transfer of reviewing authority from the Planning Commission to the Design Review Commission for specific discretionary review applications. Additionally, staff recommends that the City Council introduce the ordinance for the first reading, receive public testimony, and advance the matter to the Council meeting on May 5, 2009 for second reading and adoption.

BACKGROUND

At a retreat early in 2007, the Design Review Commission articulated the advantages of assuming some of the Planning Commission's discretionary review processes associated with single-family residential development. During May 2007, liaisons of the Planning Commission and the Design Review Commission met to discuss their respective roles with respect to single-family residential development and ways to make the application process more efficient. After another Planning Commission and Design Review Commission liaison meeting at the beginning of 2008, the Planning Commission considered several minor accommodation and R-1 permit processes and concurred that discretionary authority on five specific types of R-1 applications should be transferred. At its January 22, 2009 study session, City Council directed staff to proceed with amendments to the Zoning Code that would 1) transfer discretionary authority on

the five R-1 processes from the Planning Commission to the Design Review Commission, and 2) expand R-1 design review from the current Central Area coverage to all single-family residential zones throughout the community. The expansion of R-1 design review will be addressed in another ordinance tentatively scheduled to be initially considered by the Planning Commission on July 9, 2009.

The Planning Commission considered the proposed zoning amendments at its meeting of February 26, 2009 and recommended that the amendments be adopted.

DISCUSSION

During 1995, the City did a comprehensive update of its single-family residential development standards which included the R-1 Permit public hearing process to provide some architectural flexibility in addressing neighborhood compatibility issues. The process ensures that when development is proposed to deviate from certain norms, it would be done in a manner that is compatible with the neighborhood. The City also has a minor accommodations process, which provides for some deviation from rigid zone standards provided that the deviation meets required findings. Both processes currently come under the authority of the Planning Commission.[a]

The Design Review Permit process was established in the Central area of the City in 2004 to preserve prevailing architectural styles and neighborhood character, while addressing concerns regarding building mass and bulk for single-family residential developments. Any development requiring commission-level review is reviewed by the Design Review Commission, whose authority is focused on the project's visual character as seen from the street.

Over the years, it has become apparent that certain discretionary applications and permits reviewed by the Planning Commission that pertain to design aspects of the single-family projects might more effectively be reviewed through integration into the Design Review Commission's review of single-family development projects, in contrast to current sequential process between two commissions.

Currently, a residence requiring an R-1 permit often also requires separate review by the Design Review Commission. The transfer of authority would reduce the need for homeowners to proceed through two separate Commission review processes and allow the requests to undergo a more integrated review. For instance, an applicant may propose a new single-family residence requiring review by the Design Review Commission and subsequently, a Central R-1 for windows above a second story through the Planning Commission. The proposed amendments would allow such applications to be reviewed by the Design Review Commission concurrently. The proposed amendments would relate to architectural features of a single-family residence; namely, front yard paving, garage entrances, architectural projects, windows above a second story, and encroachments into a front yard.

It should be noted that presently, the Design Review Commission exercises discretionary review authority over the single-family residential developments only in the Central Area of the City. Pursuant to the City Council's direction, an ordinance is being developed to expand the Design Review Commission's authority to the Trousdale and Hillside areas of the City. The ordinance would include a similar transfer of certain R-1 Permit and Minor Accommodation authority from the Planning Commission to the Design Review Commission.

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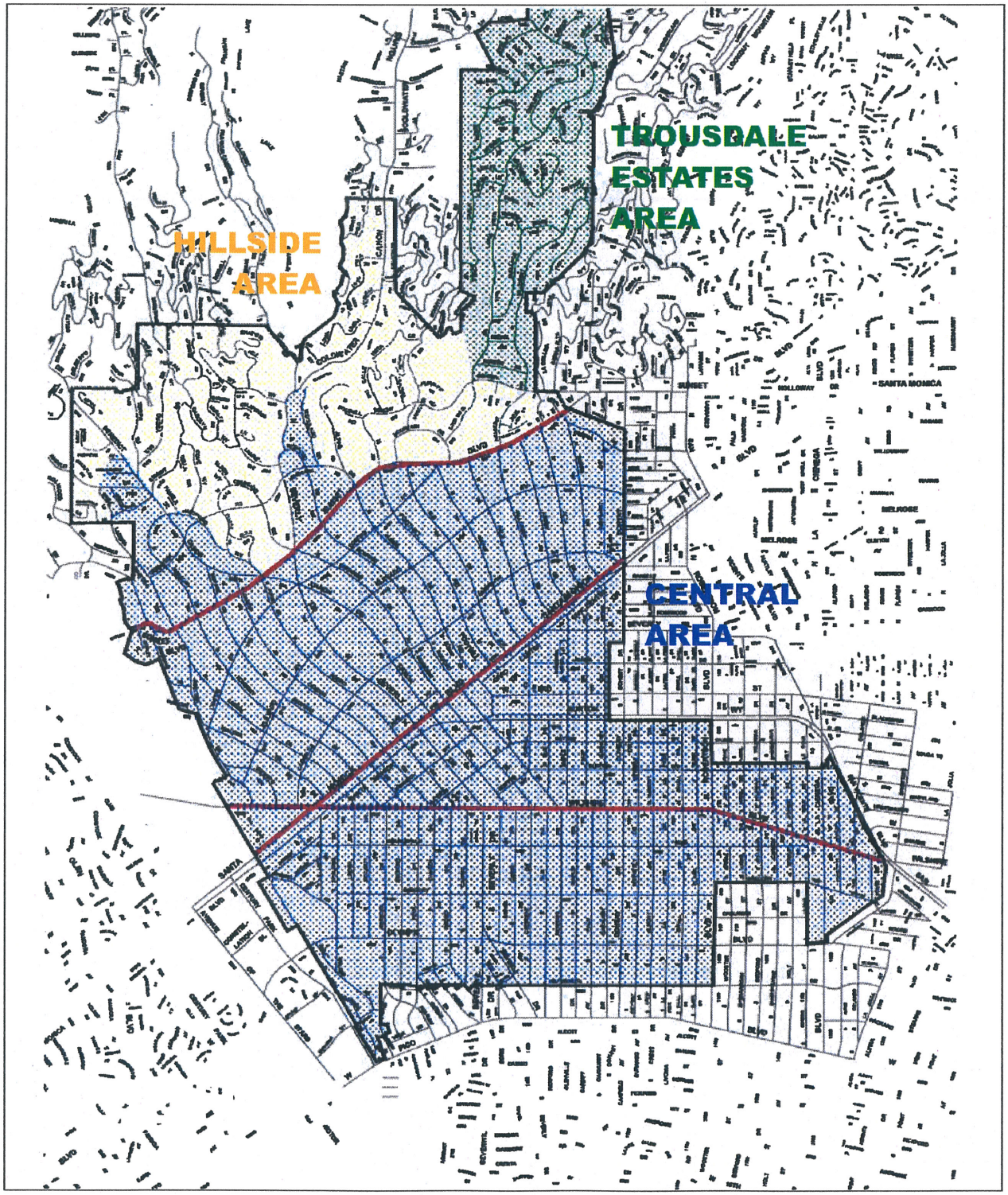
[a] Minor accommodations are typically reviewed at the administrative (staff) level, but staff can refer cases to the Planning Commission when warranted.

R-1 AREAS OF THE CITY

EACH R-1 AREA HAS ITS OWN SPECIFIC DEVELOPMENT STANDARDS
(The proposed ordinance would only affect the Central Area.)



Proposed Amendments to the Municipal Code

REVIEW PROCESS

Central R-1 Permits are currently reviewed through a public hearing process before the Planning Commission. Central R-1 Permits may be granted if the findings are made that the proposal will not have a substantial adverse impact on:

- The scale and massing of the streetscape;
- Neighbor's access to light and air;
- Neighbors' privacy; and
- The garden quality of the City.

One of the factors that cannot be considered under the current Central R-1 permit process is architectural style. The ordinance proposes to remove this limitation. As the Central R-1 permit process was established before design review was instituted for single-family residential development, this provision was appropriate at the time of adoption. In light of current policies, it is proposed to remove this provision from Section 10-3-2450 in order to allow for the Design Review Commission to have the option of reviewing a project on the basis of architectural style. In all other respects there would be no changes to the required findings and standards of review for Central R-1 permits and minor accommodations.

Minor accommodations are typically reviewed at the staff level. However, when warranted, cases are sometimes referred to the Planning Commission for a public hearing process. The findings for minor accommodation applications vary depending on the type of application being requested (explained under Minor Accommodation – Front Yard Paving, below).

In the event that one of the aforementioned applications (minor accommodation or Central R-1 permit) accompanies a request for approval from the Planning Commission (such as for a variance), the Planning Commission would then be the reviewing authority for the permit. Likewise, should the application at the project site require discretionary approval from the City Council, the minor accommodation application will be reviewed by the City Council. In all instances when an application requires review from a higher body of authority, all applications will be reviewed concurrently with the higher reviewing body.

APPLICATIONS AFFECTED BY THE PROPOSED ORDINANCE

Discretionary authority is proposed to be transferred to the Design Review Commission from the Planning Commission for the Central area of the City in the single-family residential zone only. Authority shall be transferred only for certain types of Central R-1 Permits and one type of minor accommodation, as discussed below.

Minor Accommodation – Front Yard Paving

In the Central Area of the City, paving within the front yard shall not exceed 400 square feet for those sites south of Santa Monica Boulevard; and for sites north of Santa Monica Boulevard, paving is restricted to either 1) less than 33% of the front yard, or 2) for circular driveways, an alternative prescriptive constraint.[b]

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[b] The front yard may be paved in the minimum amount necessary to construct a circular driveway not exceeding 12 feet in width. In addition, paving is permitted for one four-foot wide walkway to connect the driveway to the residence, and a nine-foot driveway to connect the circular driveway to parking required behind the front yard setback.

In cases where an owner desires to replace or modify existing nonconforming paving, a Minor Accommodation can be granted to allow for replacement of legally nonconforming pavement with an amount of paving less than or equal to the existing pavement if the reviewing authority finds that the paving will be compatible with the character of the adjacent streetscape.

Central R-1 Permits

To provide some flexibility in the single-family residential development standards, owners can apply for a Central R-1 Permit for eight different types circumstances specified in the zoning code. Of the eight types of Central R-1 Permits that may be granted, it is proposed that the Design Review Commission serve as the reviewing authority instead of the Planning Commission on following four types of permits. The remaining four Central R-1 permits relate to development standards that are not primarily associated with the visual character of the project from the street, and would more appropriately be handled by the Planning Commission.

Proposed Reviewing Authority for Central R-1 Permits	
Proposed for the Design Review Commission	Retained by the Planning Commission
• Garage entrance requirements • Front architectural projections • Upper windows facing the street • Front yard encroachments	• Accessory structure height limits • Maximum floor area • Side yard setbacks • Game court fence heights

1. Garage Entrance Restrictions

Pursuant to BHMC Section 10-3-2416, garage entrance widths, orientation of the garage entrance, and the location of the garage are restricted. The restrictions depend on the project's location within the Central Area (north or south of Santa Monica Boulevard, south of Olympic/west of Roxbury). The following chart provides the garage entrance restrictions that must be met in order to allow for a proposed garage entrance.

Section 10-3-2416: Garage Entrance Restrictions		
Location	**Requirements**	**Applicable ONLY to the Following Situations**
A. North of Santa Monica Boulevard	One of the following conditions be met: • Garage entrance is to be perpendicular to front lot line, or • Garage is to be located entirely within 50' of rear lot line, or • Garage is to be located entirely beyond 100' of front lot line.	• Underground garages • Garages entrances greater than 24' • Garage entrances greater than 40% of the lot width
B. South of Santa Monica Boulevard*	Garage entrance shall be perpendicular to front lot line.	Garage is less than 38' from front lot line
C. South of Olympic Boulevard and west of Roxbury Drive	• Garage entrance is to be no greater than 24', and • Garage entrance is to be no greater than 40% of the lot width	Applies to all garages entrances
Notes: * Except as provided for Location C.		

A Central R-1 permit could be granted to modify the specifications listed above for the vehicular entrance width or orientation requirements as reviewed by the Design Review Commission, provided that the Commission makes the findings described on page 4.

2. Architectural Projections

Pursuant to BHMC Section 10-3-2408(F)(2), architectural projections that project more than 6" into the front yard but no more than 10% of the setback depth, shall comply with one of three conditions. One of the three conditions[c] states that the encroachment into the front yard shall not cover more than 20% of the maximum potential façade of the building. This condition could be modified by a Central R-1 permit granted by the Design Review Commission if the Commission make the findings described on page 4.

3. Window Heights, South of Santa Monica Boulevard

Pursuant to BHMC Section 10-3-2415, no building located in the Central Area of the City, south of Santa Monica Boulevard, shall have windows facing the street which are above a second story unless allowed through a Central R-1 permit.

4. Maximum Encroachment into a Front Yard (Roof Eaves)

Pursuant to BHMC Section 10-3-2408(C), roof eaves cannot exceed a maximum vertical distance of 12" and projecting no more than 18" into the front yard. Additionally, BHMC Section 10-3-2408(E) restricts architectural projections (such as half timbers, corbels, and window and door accents) to project no more than 6" into such yard. Modifications to the restrictions of the roof eaves and architectural projections would be permitted by approval of a Central R-1 Permit.

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[c] The other two conditions are: 1) no walls, fences, or hedges located in the front yard shall exceed three feet in height, and 2) all paving in the front yard conforms to the current front yard paving standards.

ANALYSIS

The volume of minor accommodations and Central R-1 permits reviewed by the Planning Commission is not significant. Of the proposed applications under the current ordinance, in 2008 (from January to October 2008), seven minor accommodation applications were submitted for modifications front yard paving. All seven applications were processed at the staff level. There were no Central R-1 permit applications identified under the proposed Ordinance that required review from the the Planning Commission. It is anticipated that the workload will remain consistent upon transfer of discretionary review authority because there is virtually no change in process or procedure. It is merely a change in which commission would review the case. There will be no change in the fees associated with processing the applications.

As the proposed amendments to the Ordinance relate to design aspects of single-family residences, the Design Review Commission staff believes that it is the appropriate reviewing authority for such applications. Furthermore, applications submitted for Design Review Commission review will streamline the process for the home owner and the community. Thus, staff recommends proposed the transfer of reviewing authority from the Planning Commission to the Design Review Commission for the aforementioned applications.

GENERAL PLAN CONFORMANCE

Zoning Amendment may be granted if it does not conflict with the General Plan. The proposed amendments seek to streamline the review process by placing discretionary review with the Commission that typically reviews such applications and results in time-cost savings to applicants. None of the actions are in conflict with the City's goals and does not conflict with the General Plan.

PUBLIC NOTICE AND COMMENTS

Notice of the public hearing was published in the *Beverly Hills Courier* and mailed to local community groups, including the Beverly Hills Chamber of Commerce, on April 10, 2009. On April 9, 2009, the notice of public hearing was published in the *Beverly Hills Weekly*. As of the date of preparation of this staff report, no comments (verbal or written) have been received.

ENVIRONMENTAL DETERMINATION

The amendments to the Beverly Hills Municipal Code has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA guidelines, and the environmental regulations of the City. The review process and the discretionary nature of the permits at issue will not change, only the body responsible for considering and acting on such permit applications will change. As such, this activity is not a project for purposes of the California Environmental Quality Act ("CEQA"), pursuant to the State CEQA Guidelines Section 15378 (b)(5). In addition, staff has determined that there is no possibility that amendments to the Beverly Hills Municipal Code will have a significant effect on the environment. The proposed amendments are administrative and procedural in effect, and maintain existing discretionary review processes of certain application and requirements on certain developments in order to protect the public health, safety and general welfare is subsequently maintained. The proposed amendments are therefore, exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

ALTERNATIVES

In addition to the recommended action, the Council may consider the following:

1. Modify the proposed ordinance.
2. Reject the proposed ordinance.

FISCAL IMPACT

The recommendation in this report does not have any anticipated significant budget or fiscal impacts.

Jonathan Lait, AICP
Approved By

Attachment 1

Ordinance

Ordinance No. 09-O-

ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTIONS 10-3-2450, 10-3-2451, 10-3-2455, AND 10-3-3601 OF THE MUNICIPAL CODE OF THE CITY OF BEVERLY HILLS REGARDING THE TRANSFER OF DISCRETIONARY REVIEW AUTHORITY OF SPECIFIC TYPES OF APPLICATIONS AND PERMITS IN THE SINGLE-FAMILY RESIDENTIAL ZONES IN THE CENTRAL AREA OF THE CITY

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Since inception of the Design Review Permit process in 2004, the concept of transferring reviewing authority of certain discretionary applications and permits from the Planning Commission to the Design Review Commission has been considered because several discretionary permits pertaining to design aspects of single-family projects are currently within the jurisdiction of the Planning Commission. Transferring the reviewing authority for certain applications will promote a more efficient review process by the City's Design Review Commission as part of its review of single-family development projects in the Central Area of the City. As proposed herein, the Design Review Commission would be the reviewing authority for those applications in the Central Area of the City specifically named and permitted through the Minor Accommodation and Central R-1 permits.

Section 2. The Planning Commission considered the zone text amendment set forth in this Ordinance at a duly-noticed public hearing on February 26, 2009. Evidence, both written and oral was presented during the hearing. After considering the evidence, discussing the ordinance, and providing direction to staff regarding revisions to same, the Planning Commission recommended that the City Council adopt an Ordinance substantially similar to this Ordinance.

Section 3. The City Council considered this Ordinance at a duly noticed public hearing on April 21, 2009. Evidence, both written and oral, was presented during the hearing.

Section 4. This Ordinance institutes a change of the reviewing authority over certain permit types which constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. The review process and the discretionary nature of the permits at issue will not change, only the body responsible for considering and acting on such permit applications will change. As such, this activity is not a project for purposes of the California Environmental Quality Act ("CEQA"), pursuant to the State CEQA Guidelines Section 15378 (b)(5). Further, it can be seen with certainty that there is no possibility that amendments to the Beverly Hills Municipal Code will have a significant effect on the environment. The proposed amendments are administrative and procedural in effect, and maintain existing discretionary review processes applicable to certain developments in order to protect the public health, safety and general welfare. Therefore, as a separate and independent ground, the proposed amendments are exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that this administrative change will have a significant impact on the environment.

Section 5. The City Council hereby amends Section 10-3-2450 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the standards for which a Central R-1 permit may be granted, to read as follows:

"10-3-2450: Central R-1 Permit Authority:

Notwithstanding any other provision of this Code, upon application by a property owner, in a form satisfactory to the Director of Community Development, the reviewing

authority may issue a Central R-1 permit to establish the following standards in the Central Area of the City:

A. Establish vehicular entrance width and orientation requirements for garages in the Central Area.

B. Establish a height limit for an accessory structure located in a side, street side or rear yard north of Santa Monica Boulevard. In no event, however, shall an accessory structure exceed the height limitations permitted in the principal building area.

C. Establish a maximum floor area exceeding the limitations of Section 10-3-2402 of this Chapter for all buildings located on a site area. Nothing in this subsection, however, shall be construed to permit noncompliance with height and setback requirements set forth in Article 24 of this Chapter.

D. Establish the cumulative coverage of the maximum potential facade permitted for architectural projections which encroach into the front yard. Such architectural projections, however, may cover no more than two-thirds (2/3) of the maximum potential facade.

E. Establish standards for the placement of windows which are above a second story, and face a street on property located south of Santa Monica Boulevard.

F. Establish the minimum side setback, where the existing side setback is nonconforming, for additions with a height in excess of fourteen feet (14') at a width no less than the existing side setback, provided that in no event shall the side setback for the addition be less than three feet (3').

G. Establish the maximum encroachment into a front yard for eaves and plant-on accents provided by subsections 10-3-2408C and E of this Chapter when the primary dwelling encroaches into the front yard by the maximum amount permitted by subsection 10-3-2418C of this Chapter.

H. Establish a height limit for game court fences located within five feet (5') of a property line. In no event, however, shall a game court fence or lighting standard be

permitted to exceed the height allowed for such structure located more than five feet (5') from a lot line.

Additionally, the reviewing authority shall not act under any subsection of this Section unless a property owner specifically applies for review under that subsection. This constraint shall not limit the reviewing authority's power to condition its action pursuant to Section 10-3-2454 of this Article."

Section 6. The City Council hereby amends Section 10-3-2451 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the reviewing authority for Central R-1 permits that may be granted, to read as follows:

"10-3-2451: Reviewing Authority:

The reviewing authority for a Central R-1 permit application shall be the Planning Commission unless the application requested is for one or more of the following:

A. 10-3-2450(A), regarding vehicular entrances

B. 10-3-2450(D), regarding maximum potential façade

C. 10-3-2450(E), regarding placement of second story windows

D. 10-3-2450(G), regarding maximum encroachment into front yard

The Design Review Commission shall be the reviewing authority for the aforementioned Central R-1 permit applications unless the application accompanies a separate application for discretionary approval from the Planning Commission with regard to the same project site. In that case, the Planning Commission shall be the reviewing authority for the Central R-1 permit application.

In the event that a Central R-1 permit application accompanies a separate application for a discretionary approval from the City Council with regard to the same project site, the City Council shall be the reviewing authority for the Central R-1 permit."

Section 7. The City Council hereby amends Section 10-3-2455 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding appeals from decisions for Central R-1 permits, to read as follows:

"10-3-2455: Appeals from Decisions:

The applicant or any person aggrieved by any decision of the Planning Commission regarding a Central R-1 permit, may appeal that decision to the City Council. Such decision may be appealed in the manner as provided in Title 1, Chapter 4, Article 1 of this Code.

The applicant or any person aggrieved by any decision of the Design Review Commission regarding a Central R-1 permit, may appeal that decision to the Planning Commission. Such decision may be appealed in the manner provided in Title 10, Chapter 3, Article 44, Section 10-3-4417 of this Code."

Section 8. The City Council hereby amends Section 10-3-3601 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding Minor Accommodation permits that may be granted, to read as follows:

"10-3-3601: Reviewing Authority

A. Unless specified, the reviewing authority for a minor accommodation shall be the Director of Community Development. If, in the opinion of the Director, an application merits review by the Planning Commission, the Director may refer such application to the Planning Commission and the Planning Commission shall serve as the reviewing authority for such minor accommodation application and shall conduct a noticed public hearing regarding the requested minor accommodation.

B. Notwithstanding Section 10-3-3601(A), the minor accommodation specified by Section 10-3-3600(C), regarding front yard paving as specified in Section 10-3-2422(I) for the Central Area of the City, the reviewing authority shall be the Director of Community Development. If in the opinion of the Director an application merits review by the Design Review Commission, the Director may refer such application to the Design Review

Commission. If the application for a minor accommodation pursuant to Section 10-3-3600 (C) accompanies an application for any other type of discretionary approval from the Planning Commission for the same project site, the Planning Commission shall be the reviewing authority for the application for the minor accommodation and shall conduct a noticed public hearing regarding the requested minor accommodation.

If the application for a minor accommodation pursuant to Section 10-3-3600 (C) accompanies an application for any other type of discretionary approval from the City Council for the same project site, the City Council shall be the reviewing authority for the application for the minor accommodation and shall conduct a noticed public hearing regarding the requested minor accommodation."

Section 9. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 10. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 11. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

NANCY KRASNE
Mayor of the City of Beverly Hills, California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD, CCM
City Manager

ANNE BROWNING MACINTOSH, AICP
Interim Director of Community Development

Attachment 2

Planning Commission Resolution

Planning Commission Resolution

A signed copy of the Planning Resolution will be provided to the City Council prior to the April 21, 2009 meeting.

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO THE MUNICIPAL CODE OF THE CITY OF BEVERLY HILLS REGARDING THE TRANSFER OF DISCRETIONARY REVIEW AUTHORITY OF SPECIFIC TYPES OF APPLICATIONS AND PERMITS IN THE SINGLE-FAMILY RESIDENTIAL ZONES IN THE CENTRAL AREA OF THE CITY

The Planning Commission of the City of Beverly Hills hereby resolves as follows:

Section 1. Since inception of the Design Review Permit process in 2004, the concept of transferring reviewing authority of certain discretionary applications and permits from the Planning Commission to the Design Review Commission has been considered because several discretionary permits pertaining to design aspects of single-family projects are currently within the jurisdiction of the Planning Commission. Transferring the reviewing authority for certain applications will promote a more efficient review process by the City's Design Review Commission as part of its review of single-family development projects in the Central Area of the City. As proposed herein, the Design Review Commission would be the reviewing authority for those applications in the Central area of the City specifically named and permitted through the Minor Accommodation and Central R-1 Permits.

Section 2. The Planning Commission hereby finds that amending the City's ordinances to change the reviewing authority over certain permit types constitutes an

organizational or administrative activity that will not result in direct or indirect physical changes in the environment. The review process and the discretionary nature of the permits at issue will not change, only the body responsible for considering and acting on such permit applications will change. As such, this activity is not a project for purposes of the California Environmental Quality Act ("CEQA"), pursuant to the State CEQA Guidelines Section 15378 (b)(5). Further, it can be seen with certainty that there is no possibility that amendments to the Beverly Hills Municipal Code will have a significant effect on the environment. The proposed amendments are administrative and procedural in effect, and maintain existing discretionary review processes of certain application and requirements on certain developments in order to protect the public health, safety and general welfare is subsequently maintained. Therefore, as a separate and independent ground, the proposed amendments are exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 3. On February 13, 2009, notice of the public hearing was published in the *Beverly Hills Courier* and mailed to local community groups. On February 19, 2009, notice of the public hearing was published in the *Beverly Hills Weekly*. On February 26, 2009, the Planning Commission held a duly noticed public hearing, at which both written and oral evidence was presented, to consider draft amendments to specific sections of the Beverly Hills Municipal Code within the single-family residential zone, in the Central area of the City listed as follows:

A. Central R-1 permit to establish vehicular entrance width and orientation for garages (BHMC Sec. 10-3-2450 (A).);

B. Central R-1 permit to establish the cumulative coverage of the maximum potential façade permitted for architectural projections that encroach into the front yard (BHMC Sec. 10-3-2450 (D).)

C. Central R-1 permit to establish standards for placement of windows above a second story facing a street south of Santa Monica Boulevard (BHMC Sec. 10-3-2450 (E).)

D. Central R-1 permit to establish the maximum encroachment into a front yard for eaves and plant-on accents when the primary dwelling encroaches into the front yard by the maximum amount (BHMC Sec. 10-3-2450 (G).) and,

E. Minor Accommodation permit for the amount of front yard paving permitted, in the Central area of the City (BHMC Sec. 10-3-3600 (C).).

Section 4. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds that the proposed amendments will help to streamline the development process for homeowners and provide a more cohesive review process for the community. The proposed amendments reassign the reviewing authority for specific applications and present no changes to or conflicts with to the policies in the General Plan.

Section 5. The Planning Commission recommends that the City Council amend Section 10-3-2450 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the standards for which a Central R-1 Permit may be granted, to read as follows:

"10-3-2450: Central R-1 Permit Authority:

Notwithstanding any other provision of this code, upon application by a property owner, in a form satisfactory to the director of planning and community development, the reviewing authority may issue a Central R-1 permit to establish the following standards in the Central Area of the city:

A. Establish vehicular entrance width and orientation requirements for garages in the Central Area.

B. Establish a height limit for an accessory structure located in a side, street side or rear yard north of Santa Monica Boulevard. In no event, however, shall an accessory structure exceed the height limitations permitted in the principal building area.

C. Establish a maximum floor area exceeding the limitations of section 10-3-2402 of this chapter for all buildings located on a site area. Nothing in this subsection, however, shall be construed to permit noncompliance with height and setback requirements set forth in article 24 of this chapter.

D. Establish the cumulative coverage of the maximum potential facade permitted for architectural projections which encroach into the front yard. Such architectural projections, however, may cover no more than two-thirds (2/3) of the maximum potential facade.

E. Establish standards for the placement of windows which are above a second story, and face a street on property located south of Santa Monica Boulevard.

F. Establish the minimum side setback, where the existing side setback is nonconforming, for additions with a height in excess of fourteen feet (14') at a width no less than

the existing side setback, provided that in no event shall the side setback for the addition be less than three feet (3').

G. Establish the maximum encroachment into a front yard for eaves and plant-on accents provided by subsections 10-3-2408C and E of this chapter when the primary dwelling encroaches into the front yard by the maximum amount permitted by subsection 10-3-2418C of this chapter.

H. Establish a height limit for game court fences located within five feet (5') of a property line. In no event, however, shall a game court fence or lighting standard be permitted to exceed the height allowed for such structure located more than five feet (5') from a lot line.

Additionally, the reviewing authority shall not act under any subsection of this section unless a property owner specifically applies for review under that subsection. This constraint shall not limit the reviewing authority's power to condition its action pursuant to section 10-3-2454 of this article."

Section 6. The Planning Commission recommends that the City Council amend Section 10-3-2451 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the reviewing authority for Central R-1 permits that may be granted, to read as follows:

"10-3-2451: Reviewing Authority:

The reviewing authority for a Central R-1 permit application shall be the planning commission unless the application requested consists only of one or more of the following:

A. 10-3-2450(A), regarding vehicular entrances

B. 10-3-2450(D), regarding maximum potential façade

C. 10-3-2450(E), regarding placement of second story windows

D. 10-3-2450(G), regarding maximum encroachment into front yard

The design review commission shall be the reviewing authority for the aforementioned Central R-1 permit applications unless the application accompanies a separate application for discretionary approval from the planning commission with regard to the same project site. In that case, the planning commission shall be the reviewing authority for the Central R-1 permit application.

In the event that a Central R-1 permit application accompanies a separate application for a discretionary approval from the city council with regard to the same project site, the city council shall be the reviewing authority for the Central R-1 permit."

Section 7. The Planning Commission recommends that the City Council amend Section 10-3-2455 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding appeals from decisions for Central R-1 permits, to read as follows:

"10-3-2455: Appeals from Decisions:

The applicant or any person aggrieved by any decision of the design review commission regarding a Central R-1 permit, may appeal that decision to the planning commission pursuant to the procedures set forth in title 10, chapter 3, article 44, section 10-3-4417 of this code.

The applicant or any person aggrieved by any decision of the planning commission regarding a Central R-1 permit, may appeal that decision to the city council as provided in title 1, chapter 4, article 1 of this code."

Section 8. The Planning Commission recommends that the City Council amend Section 10-3-3601 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding Minor Accommodation permits that may be granted, to read as follows:

"10-3-3601: Reviewing Authority

A. Unless specified, the reviewing authority for a minor accommodation permit shall be the director of community development. If, in the opinion of the director, an application merits review by the planning commission, the director may refer such application to the planning commission and the planning commission shall serve as the reviewing authority for such minor accommodation application and shall conduct a noticed public hearing regarding the requested minor accommodation.

B. Notwithstanding Section 10-3-3601(A), the minor accommodation permit specified by Section 10-3-3600(C), regarding front yard paving as specified in 10-3-2422(I) for the Central Area of the city, the reviewing authority shall be the director of community development. If in the opinion of the director, an application merits review by the design review commission in, the director may refer such application to the design review commission. If the application for a minor accommodation pursuant to Section 10-3-3600 (C) accompanies an application for any other type of discretionary approval from the planning commission for the

same project site, the planning commission shall be the reviewing authority for the application for the minor accommodation permit and shall conduct a noticed public hearing regarding the requested minor accommodation.

If the application for a minor accommodation pursuant to Section 10-3-3600 (C) accompanies an application for any other type of discretionary approval from the city council for the same project site, the city council shall be the reviewing authority for the application for the minor accommodation permit and shall conduct a noticed public hearing regarding the requested minor accommodation."

Section 9. Pursuant to Beverly Hills Municipal Code Section 10-3-3908, the Planning Commission finds that the public interest, health, safety, morals, peace, comfort, convenience, or general welfare requires amendment of the review procedures for the Central R-1 area of the City, therefore, the reclassification of any portion of the property, the Planning Commission recommends that the City Council adopt the foregoing amendments.

Section 10. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds that the proposed amendments would serve the public interest, health, comfort, convenience, and general welfare. Presently, several specific Central R-1 permits and a minor accommodation permit related to single-family project design are under the reviewing authority of the Planning Commission. By identifying and specifying certain applications that could be better processed by

transferring the reviewing authority to the Design Review Commission, the development process will be streamlined for applicants, the Commission and staff. A more integrated, coherent, and efficient review procedure can encourage superior design for single-family homes and a more expeditious review process. If the Code is amended as recommended by the Planning Commission, requests for multiple entitlement permits such as R-1 Design Review permits and Minor Accommodation permits and/or Central R-1 permits may be reviewed simultaneously by the Design Review Commission, instead of sequentially by two separate reviewing authorities for such applications, as is the case under current ordinances.

Section 11. The Planning Commission hereby recommends that the City Council adopt an ordinance with provisions substantially as set forth in Section 5 and Section 6 of this resolution.

Section 12. The Secretary shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

Nanette Cole
Chair of the Planning Commission of the
City of Beverly Hills, California

ATTEST:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
Assistant Director of Community
Development

Attachment 3

Legislative Digest

LEGISLATIVE DIGEST

AMENDMENTS TO SECTIONS 10-3-2450, 10-3-2451, 10-3-2455, AND 10-3-3601 OF THE MUNICIPAL CODE OF THE CITY OF BEVERLY HILLS REGARDING THE TRANSFER OF DISCRETIONARY REVIEW AUTHORITY OF SPECIFIC TYPES OF APPLICATIONS AND PERMITS IN THE SINGLE-FAMILY RESIDENTIAL ZONES IN THE CENTRAL AREA OF THE CITY

Below are amendments proposed to Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding a transfer of discretionary review authority on specific types of applications and permits in the Single-Family Residential Zones from the Planning Commission to the Design Review Commission. These amendments would modify and add text to certain sections of Article 24.5 regarding Central R-1 Permits and Article 36 regarding Minor Accommodations to Certain Development Standards. Existing text proposed to be deleted is printed in ~~strikeout~~ type and new text that is proposed to be added is <u>underlined</u> to indicate that it is new.

Article 24.5. Central R-1 Permits

10-3-2450: CENTRAL R-1 PERMIT AUTHORITY:

Notwithstanding any other provision of this code, upon application by a property owner, in a form satisfactory to the director of ~~planning and~~ community development, the reviewing authority may issue a Central R-1 permit to establish the following standards in the Central Area of the city:

A. Establish vehicular entrance width and orientation requirements for garages in the Central Area.

B. Establish a height limit for an accessory structure located in a side, street side or rear yard north of Santa Monica Boulevard. In no event, however, shall an accessory structure exceed the height limitations permitted in the principal building area.

C. Establish a maximum floor area exceeding the limitations of section 10-3-2402 of this chapter for all buildings located on a site area. Nothing in this subsection, however, shall be construed to permit noncompliance with height and setback requirements set forth in article 24 of this chapter.

D. Establish the cumulative coverage of the maximum potential facade permitted for architectural projections which encroach into the front yard. Such architectural projections, however, may cover no more than two-thirds (2/3) of the maximum potential facade.

E. Establish standards for the placement of windows which are above a second story, and face a street on property located south of Santa Monica Boulevard.

F. Establish the minimum side setback, where the existing side setback is nonconforming, for additions with a height in excess of fourteen feet (14') at a width no less than the existing side setback, provided that in no event shall the side setback for the addition be less than three feet (3').

G. Establish the maximum encroachment into a front yard for eaves and plant-on accents provided by subsections 10-3-2408C and E of this chapter when the primary dwelling encroaches into the front yard by the maximum amount permitted by subsection 10-3-2418C of this chapter.

H. Establish a height limit for game court fences located within five feet (5') of a property line. In no event, however, shall a game court fence or lighting standard be permitted to exceed the height allowed for such structure located more than five feet (5') from a lot line.

~~The reviewing authority shall not review or condition projects on the basis of architectural style.~~

Additionally, the reviewing authority shall not act under any subsection of this section unless a property owner specifically applies for review under that subsection. This constraint shall not limit the reviewing authority's power to condition its action pursuant to section 10-3-2454 of this article.

10-3-2451: REVIEWING AUTHORITY:

The reviewing authority for a Central R-1 permit application shall be the planning commission unless the application requested is for one or more of the following:

A. 10-3-2450(A), regarding vehicular entrances

B. 10-3-2450(D), regarding maximum potential façade

C. 10-3-2450(E), regarding placement of second story windows

D. 10-3-2450(G), regarding maximum encroachment into front yard

The design review commission shall be the reviewing authority for the aforementioned Central R-1 permit applications unless the application accompanies a separate application for discretionary approval from the planning commission with regard to the same project site. In that case, the planning commission shall be the reviewing authority for the Central R-1 permit application.

In the event that a Central R-1 permit application accompanies a separate application for a discretionary approval from the city council with regard to the same project site ~~area~~. In that case, the city council shall be the reviewing authority for the Central R-1 permit application.

10-3-2455: APPEALS FROM DECISIONS:

The applicant or any person aggrieved by any decision of the planning commission regarding a Central R-1 permit, may appeal that decision to the city council. Such decision may be appealed in the manner as provided in title 1, chapter 4, article 1 of this code.

The applicant or any person aggrieved by any decision of the design review commission regarding a Central R-1 permit, may appeal that decision to the planning commission. Such

decision may be appealed in the manner provided in title 10, chapter 3, article 44, section 10-3-4417 of this code.

Article 36. Minor Accommodations to Certain Development Standards

Section 10-3-3601: REVIEWING AUTHORITY:

A. Unless otherwise specified, the reviewing authority for a minor accommodation shall be the director of ~~planning and~~ community development. If, in the opinion of the director, an application merits review by the planning commission, the director may refer such application to the planning commission and the planning commission shall serve as the reviewing authority for such minor accommodation application and shall conduct a noticed public hearing regarding the requested minor accommodation.

B. Notwithstanding Section 10-3-3601(A), the minor accommodation specified by Section 10-3-3600(C), regarding front yard paving as specified in section 10-3-2422(I) for the Central Area of the city, the reviewing authority shall be the director of community development. If in the opinion of the director, an application merits review by the design review commission in, the director may refer such application to the design review commission. If the application for a minor accommodation pursuant to section 10-3-3600 (C) accompanies an application for any other type of discretionary approval from the planning commission for the same project site, the planning commission shall be the reviewing authority for the application for the minor accommodation and shall conduct a noticed public hearing regarding the requested minor accommodation.

If the application for a minor accommodation pursuant to Section 10-3-3600 (C) accompanies an application for any other type of discretionary approval from the city council for the same site area, the city council shall be the reviewing authority for the application for a minor accommodation and shall conduct a noticed public hearing regarding the requested minor accommodation.