



AGENDA REPORT

Meeting Date: May 27, 2009
Item Number: F-4
To: Honorable Mayor & City Council
From: City Attorney
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 SINGLE-FAMILY RESIDENTIAL ZONES IN THE CENTRAL AREA OF THE CITY

Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the proposed ordinance be adopted.

INTRODUCTION

This ordinance transfers discretionary review authority of specific types of applications and permits in the single-family residential zones in the central area of the City to from the Planning Commission to the Design Review Commission.

DISCUSSION

At the City Council meeting of May 13, 2009, the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

There will be no significant fiscal impact.

A handwritten signature in black ink, appearing to read "L. Wiener".

Laurence S. Wiener, City Attorney

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.

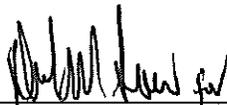
Adopted:

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