City of Beverly Hills
Planning Division
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Planning Commission Report

Meeting Date: April 12, 2012

Subject: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL AMEND CERTAIN DEVELOPMENT STANDARDS FOR SINGLE FAMILY PROPERTIES IN THE CENTRAL AREA OF THE CITY AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

Recommendation: Adopt a resolution recommending that the City Council adopt an ordinance modifying the development standards for single family homes follows:

(1) On corner lots in the Central Area of the City south of Santa Monica Boulevard, allow existing homes to be extended into the rear yard setback area if specific development standards are met subject to a Central R1 Permit;

(2) On lots in the Central Area of the City, allow minor additions to existing homes with non-conforming rear yard setbacks to extend into the rear yard setback subject to a Central R1 Permit; and,

(3) On lots in the Central Area of the City, allow walls, fences, and hedges over three feet in height in the front yard setback area when the home has architectural projections that encroach into the front yard setback area, subject to Design Review and all other parts of the Code.

REPORT SUMMARY

On January 12, 2012 the Planning Commission studied proposed changes to the City's Zoning Code to allow greater flexibility in development standards for single family properties in the Central Area. This report proposes three sets of zone text amendments that would address the flexibility desired. These amendments would: 1) revise the current review and permitting process allowing the principal residential building on corner lots south of Santa Monica Boulevard to be extended into the rear yard area; 2) establish a review and permitting process for expanding a principal residential building with a legally non-conforming rear yard setback; and, 3) allow a property owner to apply to the City's Design Review program for approval to install walls, fences, and hedges higher than three feet in the front yard area when architectural projections on the principal residential building encroach into the front yard setback by more than six inches. The proposed changes would not affect the maximum height or maximum floor area allowed by Code on one family properties.

Attachment(s):
1. Draft Resolution
   Exhibit A. Draft Ordinance
2. Zoning Code Sections
3. Staff Reports
   - January 12, 2012
   - September 8, 2011

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BACKGROUND

The following is a brief summary of past actions related to the proposed zoning amendments in this report.

July 28, 2011	The Planning Commission directed staff to bring forward a narrowly focused discussion of development on single family residential corner lots south of Santa Monica Boulevard. The discussion related to additions into required rear yard areas at the request of a resident, Jacob Manaster.
September 8, 2011	Consistent with Planning Commission direction, staff returned with a discussion item on amending the existing zoning regulations applicable to corner lot properties located south of Santa Monica Boulevard in the Central Area of the City. At the meeting public comment was received on expanding the potential amendments to address zoning regulations applicable to interior lots in the Central Area of the City as well. The Planning Commission directed staff to propose amendments that allow minor additions for corner lots south of Santa Monica Boulevard, and to interior lots in the Central Area of the City.
December, 2011	The City Council Ad Hoc Committee Members of the Mayor's Task Force for Government Efficiency met with staff to broadly discuss the concept of amending the City's zoning code to afford greater flexibility in remodeling homes. At this meeting a third issue was raised regarding fence height in the front yard setback area when there is a slight architectural encroachment into the required front yard by a home.
January 12, 2012	Staff brought forward a discussion item addressing the three possible zoning amendments that had been identified. The Planning Commission considered the issues, received public comment and directed staff to return with a draft ordinance amending the City's zoning code.

DISCUSSION

This section discusses the proposed amendments to the City's zoning and development standards for single family homes in the Central Area of the City. The Central Area essentially includes all properties below Sunset Boulevard with the exception that the Central Area of the City also applies to some properties in Coldwater and Benedict Canyons. On January 12, 2012 the Planning Commission studied proposed changes to the City's Zoning Code to allow greater flexibility in development standards for single family properties in the Central Area. The staff report from the Planning Commission's January 12, 2012 meeting, along with the staff report from an earlier meeting on the same subject matter that occurred on September 8, 2011 is provided as Attachment 2.

1. CORNER LOTS –CENTRAL AREA OF THE CITY SOUTH OF SANTA MONICA BOULEVARD

The first set of text amendments proposed would revise the existing development standard for single family corner lots south of Santa Monica Boulevard set forth in the Beverly Hills Municipal Code (BHMC) Section 10-3-2418D (Provided in Attachment 2). The amendment would allow the Planning Commission reduce the required rear yard setback for additions to the principal residential building through issuance

of a Central R-1 permit if required findings can be made and the existing home complies with certain development standards.

Current Development Standard: Reduced Rear Yard Setback For Existing buildings on Corner Lots South of Santa Monica in the Central Area of the City:

1. The corner lot in question is located south of Santa Monica Boulevard;
2. The rear lot line of the corner lot is located along an alley;
3. The corner lot has a minimum width of fifty four feet (54');
4. The street side setback is a minimum of fifteen feet (15') for the portion of side setback outside the required rear setback;
5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;
6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;
7. The portion of the structure within the required rear setback maintains a minimum five foot (5') side setback; and
8. The proposed structure maintains a minimum eight foot (8') rear setback.

If the existing home meets these eight standards, the property owner may file an application for a Central R-1 Permit. In order to approve the Central R-1 Permit (BHMC 10-3-24.5), the Planning Commission must find that the proposed addition would not have a substantial adverse impact on:

A. The scale and massing of the streetscape;

B. Neighbors' access to light and air;

C. Neighbors' privacy; and

D. The garden quality of the City.

Reason for Proposing Amendments to the Code

This Code section is intended to strike a balance between the desire of property owners to meet the changing housing needs of their families over time and ensuring that home additions at the rear of corner lots do not impact the neighborhood. Establishing minimum development standards for corner lots whose owners request a reduced rear yard setback is an appropriate means of ensuring that the existing character of single family neighborhoods is maintained. However, the effect of this code section has been to effectively preclude property owners from seeking the intended relief because their project could not meet the eight development standards required to apply for a Central R-1 Permit. This is the case even when all of the required findings for approval of the Central R-1 Permit can be made and the project would not result in a negative impact on the surrounding neighborhood. To date, this code section has largely been unused, even though property owners have expressed interest in using it. Staff has found only one Central R-1 application filed in the last eight years under this code section.

Modifying the eight development standards so that additional corner lot properties could be eligible to apply for a Central R-1 Permit would provide greater flexibility for property owners while allowing the City to review the project to ensure that the required Central R-1 Permit findings are made and proposed additions would not impact the neighborhood. Modifying the eight development standards to allow property owners to propose modest additions to their homes allows families to stay in place while their housing needs change over time without completely demolishing and rebuilding.

On January 12, 2012, the Planning Commission studied these criteria and provided direction to staff on how development standards could be revised to provide greater flexibility while maintaining neighbors' privacy and the character of the area. Following the direction provided by the Planning Commission, staff has revised the standards to:

(1) Reduce the required street side setback to allow more corner property owners to expand existing houses to the rear but within existing height and floor area standards;

(2) Require additional setbacks from the street side and alley side of the second floor of an addition in the rear yard to protect neighbors' privacy and reduce the appearance of bulk and mass;

(3) Allow a garage to be located at the lot line on the alley consistent with the many existing zero-lot line garages in the Central Area;

(4) Require a minimum setback from the alley for a home addition on the first floor that is not a garage; this provides an incentive to build a garage, since garages would be able to extend to the lot line); and,

(5) Require modulation along the street side of the property as a means of articulating the side of the house for aesthetic reasons.

(6) Limiting the area of the required rear yard that could be covered by an extension of the home to fifty percent, while allowing the Planning Commission to determine through the Central R-1 Permit findings if the addition is adequately set away from the neighboring property addresses the need to limit the size of additions in the rear yard area while allowing flexibility in the design and layout to assure that the neighbor's sense of privacy is maintained.

The following new language is being proposed based on direction from the Planning Commission and on case studies of properties.

Proposed New Language:

10-3-2418: DEVELOPMENT INCENTIVES FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT:

Notwithstanding any other provision of this article, the following incentive based development standards shall apply to single-family residential development in the Central Area of the City:

D. Rear Setback Adjustment For Corner Lots South Of Santa Monica Boulevard: Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced rear setback for an

addition to an existing building located on a corner lot provided all of the following requirements are satisfied:

1. The corner lot in question is located south of Santa Monica Boulevard;
2. The rear lot line of the corner lot is located along an alley;
3. The corner lot has a minimum width of fifty four feet (54');
4. The street side setback is a minimum of ~~fifteen feet (15')~~ five feet (5') for the portion of side setback outside the required rear setback;
5. The height of the existing principal residential building~~primary structure~~ on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;
6. The height of the addition does not exceed the height of the existing principal residential building~~primary structure on the corner lot~~;
7. The principal residential building does not cover more than fifty percent (50%) of the required rear yard area, excluding porches and decks that may be attached to the building;

~~7~~8. Street Side Setback. The portion of the principal residential building~~structure~~ within the required rear ~~setback~~ yard maintains a minimum five foot (5') street side setback; and

~~8~~9. Rear Setback. For the first floor or up to fourteen feet (14') in height the proposed addition~~structure~~ maintains a minimum ~~eight foot (8')~~ four foot (4') rear setback, unless the addition contains a garage that is not accessed from the alley, in which case no rear setback shall be required. The second floor or any portion of the addition over fourteen feet (14') in height shall maintain an additional two foot (2') rear setback;

10. Street Side Modulation Requirement. In addition to the street side setback and rear setback required by this section, the street side façade of the proposed addition shall be modulated so that a portion or portions of the new addition's street side façade equal to fifty percent (50%) of the façade area is offset by two feet (2') an average, this modulation requirement does not include insets for windows and doors. The Planning Commission may waive this modulation requirement in part or in whole if it determines as part of the Central R-1 Permit findings that the modulation provided by the existing principal residential building is adequate;

Establishing a modulation requirement that requires half of the new addition to be offset by two feet on average allows flexibility in the design of the new addition while ensuring that the building's façade will not be a flat wall along the street. Insets for windows and doors are not included in this minimum requirement because the intent of the modulation is to offset the addition's walls along the street. The Planning Commission as part of the Central R-1 Permit findings can make a determination that the

existing home provides adequate modulation and that a part or all of this required modulation can be waived. Changes to the exterior of single family homes in the Central Area that are visible from the street would require a Design Review permit, and so , once a project has been issued a Central R-1 Permit, the project would then be reviewed for its design.

2. INTERIOR LOTS – CENTRAL AREA OF THE CITY

The second set of text amendments proposed would add a development incentive for single family lots in the Central Area of the City to allow an addition to the rear portion of an existing home with a legally non-conforming rear yard setback, similar to the existing allowance for extension of a legally non-conforming side yard setback. The language in the Code that allows for the extension of legally non-conforming side setbacks is provided in BHMC 10-3-2406C and below. A copy of the full Code section is provided in Attachment 2.

Currently by Code, if a legally constructed, existing, principal residential building does not conform to the side setback requirements, the building may be enlarged by-right through the extension of the existing, legally non-conforming side setback. The same ability to enlarge an existing principal residential building along an existing, legally non-conforming rear setback does not exist in the Code. The reason for this proposed amendment is to provide the ability to enlarge an existing home at the rear setback similar to the existing Code provision for extending a legally non-conforming side setback.

Current Development Standard: Extension of a Legally Non-Conforming Side Yard Setback

> C. Side Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that:
>
> 1. The existing setback is not less than three feet (3') and
>
> 2. The enlarged portion of the building does not exceed fourteen feet (14') in height.
>
> a. Minor Accommodation: If the existing setback is not less than three feet (3') and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, and provided that the reviewing authority finds that the extension will not have any adverse impact on:
>
> (1) The scale and massing of the streetscape,
>
> (2) Neighbors' access to light and air,
>
> (3) Neighbors' privacy, and
>
> (4) The garden quality of the city.

b. Central R-1 Permit: If the existing setback is not less than three feet (3'), the extension exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.

By current Code, a legally non-conforming side setback can be extended, provided that: a) the existing setback is not less than three feet, and b) the new construction does not exceed fourteen feet in height. If the addition would be over fourteen feet in height, then the extension of the non-conforming side setback could be permitted through issuance of a minor accommodation permit provided that the floor area of the extension was less than 1,000 square feet and less than twenty percent of the existing building. To issue the permit the Director must make the findings associated with a minor accommodation as provided in BHMC 10-3-2406C and previously on page 6 of this report.

If the new construction exceeds fourteen feet in height, and the area of the extension exceeds 1,000 square feet or twenty percent of the existing building, then the extension may be permitted by a Central R-1 Permit, subject to the required findings previously presenting on page 4 of this report. Both the Minor Accommodation and the Central R-1 Permit processes require public notices be sent to all property owners and occupants within 100 feet, and 300 feet, respectively, to provide an opportunity for neighbors to have any concerns identified and addressed prior to issuing the permit.

The processes in place that allow legally non-conforming side setbacks to be extended have worked well in the community, with only one project, out of nearly fifty, being appealed to the City Council. In that particular case, the City Council upheld the Director's decision.

Reason for Proposing Amendments to the Code

The intent of amending the code to allow homes with legally non-conforming rear yard setbacks to expand the home up to the non-conforming rear setback line is to create flexibility that would allow a property owner to modify their existing home to meet their changing housing needs, rather than demolishing and rebuilding. Creating flexibility in the code and establishing a process through which a property owner can ask for an addition into the required rear yard area redirects new building mass away from the street while assuring, through the Central R-1 Permit findings, that neighbor's privacy and access to light and air are preserved. Based on the apparent success of the City's current process for extending a legally non-conforming side yard setback, it is proposed to extend these same provisions to the extension of legally non-conforming rear yard setbacks. An approach that would accomplish this would be to establish rules for extending a principal residential building with a legally non-conforming rear yard setback along the existing, non-conforming building line.

As proposed, a new code section would be added to the Beverly Hills Zoning Code, establishing a permitting process for extending a legally non-conforming rear yard setback. As written, that process would be similar to the process currently established for extending a legally non-conforming side yard setback.

When the Planning Commission studied this proposal on January 12, 2012, it directed staff to return with the following revisions. First, the Planning Commission expressed a desire to add a square footage

limitation to the by-right option. Secondly, the Planning Commission directed staff to add an R-1 Permit option to the by-right option, but removing the minor accommodation option. A desire had been expressed by the Commission to review cases that would be higher than fourteen feet, or larger than 1,000 square feet in area. Consistent with the Planning Commission's direction, the proposed code amendment would establish a 1,000 square foot limit on by-right extensions, and would not include a minor accommodation (Director Level) permit. If upon second review the Planning Commission would like to retain the minor accommodation option, the ordinance could be revised accordingly.

When drafting the by-right limitation, staff identified a need to limit the height of any porch or deck that would be located in the rear yard and attached to the principal residential building to limit neighbors' privacy concerns. A porch or deck to be attached to the building within the rear yard could not exceed three feet in height. This is the same development standard in place for porches and decks on accessory structures that are located in the rear yard. Setting this same development standard for by-right extensions of the legally non-conforming rear yard setback would strike a balance between the ability for a property owner to extend their home, and the neighboring property owners right to privacy. A porch or deck could still be allowed to exceed three feet in height, however this would be approved through the issuance of a Central R-1 Permit, and the finding would have to be made by the Planning Commission that the porch or deck did not create a substantial adverse impact to the neighbors' privacy.

Proposed New Language:

Article 24. Single-Family Residential Development Standards For The Central Area Of The City
10-3-2405: REAR SETBACKS:
The rear setback of a site area located in the Central Area of the city shall equal thirty percent (30%) of the lot depth minus nine feet (9').

A. Principal Residential Building: Notwithstanding any other provision of this section, a principal residential building may encroach into a maximum of five percent (5%) of the area of the rear yard and such encroachment shall be governed by the height restrictions set forth in section 10-3-2403 of this article.

B. Doheny Drive And Olympic Boulevard: Notwithstanding any other provision of this section, for those lots located easterly of Doheny Drive and southerly of Olympic Boulevard, a maximum of four hundred fifty (450) square feet of floor area of the principal residential building may encroach into the rear yard provided that a ten foot (10') rear setback is provided, the encroachment conforms with the height restrictions contained in subsection 10-3-2403C1 of this article, and no other building is located in the accessory structure area. (Ord. 89-O-2056, eff. 4-20-1989; amd. Ord. 90-O-2101, eff. 10-4-1990; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995)

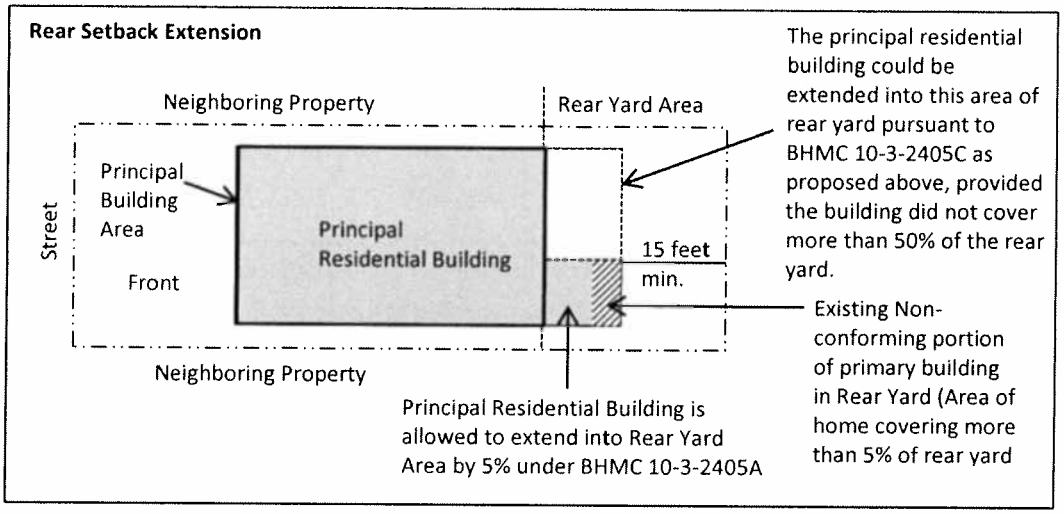
C. <u>Rear Setback Extension: If a legally constructed existing building does not conform to the setback requirement of this section, enlarging the building through extending the existing nonconforming rear setback can be permitted provided that:</u>

1. The existing rear setback is maintained, and is not less than fifteen feet (15');

2. The principal residential building does not cover more than fifty percent of the rear yard area, excluding porches or decks that may be attached to the building; and

3. The height of the addition located within the rear yard area does not exceed fourteen feet (14') and the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing floor area, inclusive of any floor area granted pursuant to subsection 10-3-2406 C of this chapter; and the height of any porch or deck attached to a primary structure and located within the rear setback is no more than three feet (3') above natural grade.

   a. If an extension of a principal residential building meets the criteria of C1 and C2, but does not meet the criteria of C3, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.



Article 24.5. Central R-1 Permits

10-3-2406: SIDE SETBACKS:

The following side setback requirements shall govern the Central Area of the city:

C. Side Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that:

1. The existing setback is not less than three feet (3') and

2. The enlarged portion of the building does not exceed fourteen feet (14') in height.

a. Minor Accommodation: If the existing setback is not less than three feet (3') and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing floor area ~~authorized by building permit as of September 2, 1988~~ [1] inclusive of the area of any rear yard setback extension concurrently or previously approved pursuant to section 10-3-2405 C of this chapter, and provided that the reviewing authority finds that the extension will not have any adverse impact on:

(1) The scale and massing of the streetscape,

(2) Neighbors' access to light and air,

(3) Neighbors' privacy, and

(4) The garden quality of the city.

Extension of a non-conforming side setback permissible by a minor accommodation at the same time as extension of a non-conforming rear set back pursuant to section 10-3-2405 shall be reviewed as one project and may be permitted by a single Central R1 permit issued pursuant to article 24.5 of this chapter.

b. Central R-1 Permit: If the existing setback is not less than three feet (3'), the extension exceeds fourteen feet (14') in height, and the area of the extension, inclusive of any rear yard setback extension approved pursuant to section 10-3-2405 of this chapter, exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.

[1] The language stating "authorized by building permit as of September 2, 1988" is proposed to be deleted because project to not approach this threshold and the research and analysis required to confirm this requirement result in excessive staff hours and delay in processing a permit application. The findings that are required to be made prior to issuing both a Minor Accommodation Permit and a Central R-1 Permit ensure that an addition to an existing home would not impact neighboring properties.

Proposed New Language Associated with the Amendments:

To establish the new development standards discussed previously in this report amendments are required in the Central R-1 Permit Section of the Code. These amendments would allow non-conforming rear setback extensions, and establishment of the minimum rear setback for corner lots south of Santa Monica Boulevard to be permitted as described below through the established Central R-1 Permit process.

> **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:
>
> I. Non-Conforming Rear Setback Extension. Establish the minimum rear setback where the existing rear setback is non-conforming but is not less than fifteen feet (15'), and the extension exceeds fourteen feet (14') in height, the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area, inclusive of any floor area granted pursuant to subsection 10-3-2406 C of this chapter, or the height of any porch or deck attached to a primary structure and located within the rear setback is no more than three feet (3') above natural grade, pursuant to section 10-3-2405 of this chapter.
>
> J. Corner Lots South of Santa Monica Boulevard. Establish the minimum rear setback and side yard setback for a primary building located within the rear yard setback area of corner lot properties south of Santa Monica Boulevard, pursuant to section 10-3-2418 of this chapter.

3: WALLS, FENCES AND HEDGES IN THE FRONT YARD – Central Area of the City

The third text amendment proposed would allow a property owner to apply to the City's Design Review program for approval to install walls, fences, and hedges higher than three feet in the front yard area when architectural projections on the principal residential building encroach into the front yard setback by more than six inches. Pursuant to BHMC 2420, the maximum allowable height of a wall, fence, or hedge located within the first twenty percent of the front yard is three feet; however, if the fence is set back a distance of more than twenty percent of the front setback, the wall, fence, or hedge can be six feet in height provided that any portion of the wall, fence or hedge that is above three feet in height is open to public view. There are many property owners in the Central Area of the City that have chosen to take advantage of this Code provision and have installed a three foot block wall with a three foot wrought iron fence on top, or have installed a six foot wrought iron fence in their front yards.

A separate section of the Code (BHMC 10-3-2408F) allows minor architectural projections on the principal residential building to encroach into the front yard area by more than six inches but not more than ten percent of the front setback depth, subject to certain restrictions. One of these restrictions

limits the height of walls, fences and hedges in the front yard to three feet in height, and does not allow any height above three feet even if the wall, fence or hedge would be open to public view. The purpose of this requirement was to ensure that the encroachment of architectural projections on the principal residential building into the front yard, when combined with a six-foot wall, fence or hedge, did not result in building mass and bulk that was incompatible with the streetscape. By limiting the height of walls, fences and hedges to three feet, the view of the home from the street remains open and could limit the perception of building mass. (Complete Code sections are provided in attachment 2)

Reason for Proposing Amendments to the Code

The Code section limiting the height of walls, fences and hedges in the front yard when architectural projections on the principal residential building encroach more than six inches into the front yard was developed prior to establishment of the Design Review program for the Central Area of the City. With the City's Design Review program in place, limiting the height of walls, fences and hedges in this instance could limit applicants' and the City's ability to address the broader need for good design, as well as applicants' wishes to enclose their yards for a variety of reasons. The Planning Commission considered these issues and directed staff to prepare an amendment that would enable a property owner to request taller walls, fences, and hedges that would be otherwise allowed by the City's Code without architectural projections. The Planning Commission expressed a desire for code flexibility, but wanted to ensure that any request under new code allowances was reviewed through the City's Design Review program.

The proposed Code amendment would allow a property owner to apply to the City's Design Review program for approval of a wall, fence or hedge that exceeds three feet, subject to all other code requirements.

Proposed New Language:

10-3-2408: PERMISSIBLE ENCROACHMENTS IN FRONT YARD:

No structure or element of a building may encroach into any front yard except the following:

A. A fence, gate, or wall that otherwise complies with the requirements of this code, <u>including but not limited to, subsection F of this section</u>;

F. Architectural projections that project more than six inches (6") into the yard but no more than ten percent (10%) of the setback depth provided that the following conditions are met:

1. <u>W</u>alls, fences, or hedges located in the front yard shall <u>be limited to</u> three feet (3') in height <u>unless approved pursuant to article 44 (R-1 Design Review) of this chapter</u>; and

2. Architectural projections which encroach into the front yard shall cover no more than twenty percent (20%) of the maximum potential facade of the building,

except as permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and

3. All paving within the front yard conforms to the requirements of section 10-3-2422 of this article.

For the purposes of this subsection F, the depth of an architectural projection into a front setback shall be the distance between the front setback line and the point of the projection closest to the front lot line.

PUBLIC NOTICE

Notice of this public hearing was advertised in the Beverly Hills Courier on March 30, 2012, and in the Beverly Hills Weekly on April 4, 2012. As of the writing of this report staff has received two phone calls from the public inquiring about the proposed amendments but has not received any public comments.

ENVIRONMENTAL ASSESSMENT

The code amendments were 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. It has been determined that adoption of the code amendments would not have a significant environmental impact and are exempt from CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance may have a significant effect on the environment, as no specific development is authorized by this Ordinance, and any future development proposed pursuant to these amendments will require separate environmental analysis when the details of those proposals are known.

NEXT STEPS

Once the Planning Commission has acted, the Ordinance will be scheduled for consideration by the City Council.

Report Reviewed By:

Jonathan Lait, AICP
City Planner

Attachment 1

RESOLUTION NO. ____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL AMEND CERTAIN DEVELOPMENT STANDARDS FOR SINGLE FAMILY PROPERTIES IN THE CENTRAL AREA OF THE CITY AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. Amendments to the development standards for single family properties in the Central Area of the City have been proposed to provide flexibility in siting and building design. On September 8, 2011, the Planning Commission directed staff to bring forward a request by a resident to amend the development standards for single family corner lots south of Santa Monica Boulevard. During the meeting evidence, both written and oral, was presented and another resident requested that the amendments be extended to interior lots in the Central Area of the City and that the Planning Commission also consider amending the development standards for walls, fences and hedges when architectural projects encroach into the front yard setback area.

Section 2. The Planning Commission considered the zone text amendments to the Beverly Hills Municipal Code Article 24 Chapter 3 Title 10 as set forth in Exhibit A at a study session on January 12, 2012, and during a duly noticed public hearing on April 12, 2012, at which time the Planning Commission received oral and documentary evidence relative to the proposed amendments.

Section 3. As proposed, the amendment to the Beverly Hills Municipal Code in Exhibit A would amend the City of Beverly Hills development standards for single family properties in the Central Area of the City. The amendments would (1) allow existing homes with

non-conforming rear yard setbacks to encroach into a rear yard area; (2) allow walls, fences, and hedges over three feet in height that are located in the required front yard area to be approved pursuant to the City's Design Review Program (Article 44 of Chapter 3 of Title 10 of the City of Beverly Hills Municipal Code) when the home has architectural elements that project into the required front yard area; and (3) modify the development standards applying to corner lots located south of Santa Monica Boulevard which allow existing homes to encroach into the rear yard area, subject to a Central R-1 Permit.

Section 4. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Goal "LU 2 – Community Character and Quality" strives to improve the built environment by requiring a high level of site planning, while General Plan Policy "LU 2.4 Architectural and Site Design" requires new construction and renovation to exhibit a high level of excellence in site planning. Additionally, the General Plan includes "Implementation Program 2.1 – Update Zoning Code and Development Regulations" which requires that the City's zoning codes be updated and amended from time to time.

Section 5. The amendments have 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. It can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance may have a significant effect on the environment. The Ordinance does not authorize construction. This Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. The records related to this determination are on file with the City's Community Development Department, 455 N. Rexford Drive, Beverly Hills, California, 90210.

Section 6. The Planning Commission does hereby recommend that the City Council adopt an Ordinance approving and enacting the proposed Amendment substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 7. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

_____
Craig Corman
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 /
City Planner

Exhibit A – Proposed Amendments to the Zoning Code (BHMC 10-3-24)

Exhibit A

[DRAFT] ORDINANCE NO. 12-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING CERTAIN DEVELOPMENT STANDARDS FOR SINGLE FAMILY PROPERTIES IN THE CENTRAL AREA OF THE CITY AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

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

Section 1. On April 12, 2012, the Planning Commission held a duly notice public hearing and at the end of which adopted Resolution No. 12-O-____, recommending that the City Council amend certain development standards in the zoning code for single family properties in the Central Area of the City.

Section 2. The code amendments were 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. It has been determined that adoption of the code amendments would not have a significant environmental impact and are exempt from CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance may have a significant effect on the environment, as no specific development is authorized by this Ordinance, and any future development proposed pursuant to these amendments will require separate environmental analysis when the details of those proposals are known.

Section 3. The Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Goal "LU 2 – Community Character and Quality" strives to improve the built environment by requiring a high level of site planning, while General Plan Policy "LU 2.4 Architectural and Site Design" requires new construction and renovation to exhibit a high level of excellence in site planning. Additionally, the General Plan includes "Implementation Program 2.1 – Update Zoning Code and Development Regulations" which requires that the City's zoning codes be updated and amended from time to time.

Section 4. The City Council hereby adds a new subsection C. to Section 10-3-2405 of Article 24 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code with all other provisions in Section 10-3-2405 remaining in effect without amendment:

"C. Rear Setback Extension: If a legally constructed existing building does not conform to the setback requirement of this section, enlarging the building through extending the existing nonconforming rear setback can be permitted provided that:

1. The existing rear setback is maintained, and is not less than fifteen feet (15');
2. The principal residential building does not cover more than fifty percent of the required rear yard area, excluding porches or decks that may be attached to the building; and
3. The height of the addition located within the rear yard area does not exceed fourteen feet (14') and the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the

existing floor area of the primary residence, inclusive of any floor area granted pursuant to subsection 10-3-2406 C of this chapter; and the height of any porch or deck attached to a primary structure and located within the rear setback is no more than three feet (3') above natural grade.

a. If an extension of a principal residential building meets the criteria of C1 and C2, but does not meet the criteria of C3, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter."

Section 5. The City Council hereby amends subsection C. of Section 10-3-2406 of Article 24 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other provisions in Section 10-3-2406 remaining in effect without amendment:

"C. Side Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that:

1. The existing setback is not less than three feet (3') and
2. The enlarged portion of the building does not exceed fourteen feet (14') in height.

a. Minor Accommodation: If the existing setback is not less than three feet (3') and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the

extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing floor area-inclusive of the area of any rear yard setback extension concurrently or previously approved pursuant to section 10-3-2405 C of this chapter, and provided that the reviewing authority finds that the extension will not have any adverse impact on:

(1) The scale and massing of the streetscape,

(2) Neighbors' access to light and air,

(3) Neighbors' privacy, and

(4) The garden quality of the city.

Extension of a non-conforming side setback permissible by a minor accommodation at the same time as extension of a non-conforming rear set back pursuant to section 10-3-2405 shall be reviewed as one project and may be permitted by a single Central R1 permit issued pursuant to article 24.5 of this chapter.

b. Central R-1 Permit: If the existing setback is not less than three feet (3'), the extension exceeds fourteen feet (14') in height, and the area of the extension, inclusive of any rear yard setback extension approved pursuant to section 10-3-2405 of this chapter, exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter."

Section 6. The City Council hereby amends subsections A and F of Section 10-3-2408 of Article 24 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other provisions in Section 10-3-2408 remaining in effect without amendment:

"A. A fence, gate, or wall that otherwise complies with the requirements of this code, including but not limited to, subsection F of this section;" and,

"F. Architectural projections that project more than six inches (6") into the yard but no more than ten percent (10%) of the setback depth provided that the following conditions are met:

1. Walls, fences, or hedges located in the front yard shall be limited to three feet (3') in height unless approved pursuant to article 44 (R-1 Design Review) of this chapter; and
2. Architectural projections which encroach into the front yard shall cover no more than twenty percent (20%) of the maximum potential facade of the building, except as permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and
3. All paving within the front yard conforms to the requirements of section 10-3-2422 of this article.

For the purposes of this subsection F, the depth of an architectural projection into a front setback shall be the distance between the front setback line and the point of the projection closest to the front lot line."

Section 7. The City Council hereby amends subsection D of Section 10-3-2418 of Article 24 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other provisions in Section 10-3-2418 remaining in effect without amendment:

"D. Rear Setback Adjustment For Corner Lots South Of Santa Monica Boulevard: Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced rear setback for an addition to an existing building located on a corner lot provided all of the following requirements are satisfied:

1. The corner lot in question is located south of Santa Monica Boulevard;
2. The rear lot line of the corner lot is located along an alley;
3. The corner lot has a minimum width of fifty four feet (54');
4. The street side setback is a minimum of five feet (5') for the portion of side setback outside the required rear setback;
5. The height of the existing principal residential building on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;
6. The height of the addition does not exceed the height of the existing principal residential building;
7. The principal residential building does not cover more than fifty percent (50%) of the required rear yard area, excluding porches and decks that may be attached to the building;
8. Street Side Setback. The portion of the principal residential building within the required rear yard maintains a minimum five foot (5') street side setback; and

9. Rear Setback. For the first floor or up to fourteen feet (14') in height the proposed addition maintains a minimum four foot (4') rear setback, unless the addition contains a garage that is not accessed from the alley, in which case no rear set back shall be required. The second floor or any portion of the addition over fourteen feet (14') in height shall maintain an additional two foot (2') rear setback;

10. Street Side Modulation Requirement. In addition to the street side setback and rear setback required by this section, the street side façade of the proposed addition shall be modulated so that a portion or portions of the new addition's street side façade equal to fifty percent (50%) of the façade area is offset by two feet (2') on average, this modulation requirement does not include insets for window and door openings. The Planning Commission may waive this modulation requirement in part or in whole if it determines as part of the Central R-1 Permit findings that the modulation provided by the existing principal residential building is adequate;

Section 8. The City Council hereby adds new subsections I and J to Section 10-3-2450 of Article 24 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other provisions in Section 10-3-2450 remaining in effect without amendment by revising the existing code language as follows:

"I. Non-Conforming Rear Setback Extension. Establish the minimum rear setback where the existing rear setback is non-conforming but is not less than fifteen feet (15'), and the extension exceeds fourteen feet (14') in height, the

area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area, inclusive of any floor area granted pursuant to subsection 10-3-2406 C of this chapter, or the height of any porch or deck attached to a primary structure and located within the rear setback is no more than three feet (3') above natural grade, pursuant to section 10-3-2405 of this chapter.

J. Corner Lots South of Santa Monica Boulevard. Establish the minimum rear setback and side yard setback for a primary building located within the rear yard setback area of corner lot properties south of Santa Monica Boulevard, pursuant to section 10-3-2418 of this chapter."

Section 9. Severability. 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 be and remain in full force and effect. To the extent that the discretionary process to approve a convenience store conditional use permit, or any part thereof, is determined to be invalid, the prohibition against high impact convenience stores shall remain valid.

Section 10. Publication. 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. Effective Date. 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:

Effective:

WILLIAM BRIEN
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:

JEFFREY C. KOLIN
City Manager

SUSAN HEALY KEENE
Director of Community Development

Attachment 2

Zoning Code Sections

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10-3-2405: REAR SETBACKS:

The rear setback of a site area located in the Central Area of the city shall equal thirty percent (30%) of the lot depth minus nine feet (9').

A. Principal Residential Building: Notwithstanding any other provision of this section, a principal residential building may encroach into a maximum of five percent (5%) of the area of the rear yard and such encroachment shall be governed by the height restrictions set forth in section 10-3-2403 of this article.

B. Doheny Drive And Olympic Boulevard: Notwithstanding any other provision of this section, for those lots located easterly of Doheny Drive and southerly of Olympic Boulevard, a maximum of four hundred fifty (450) square feet of floor area of the principal residential building may encroach into the rear yard provided that a ten foot (10') rear setback is provided, the encroachment conforms with the height restrictions contained in subsection 10-3-2403C1 of this article, and no other building is located in the accessory structure area. (Ord. 89-O-2056, eff. 4-20-1989; amd. Ord. 90-O-2101, eff. 10-4-1990; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995)

10-3-2406: SIDE SETBACKS:

The following side setback requirements shall govern the Central Area of the city:

A. North Of Santa Monica Boulevard: The sum of the side setbacks from the two (2) longest side lot lines shall be at least fifteen feet (15') plus thirty percent (30%) of the lot width in excess of seventy feet (70'). In addition, except as otherwise provided in this section, each side setback for site areas located north of Santa Monica Boulevard shall be at least seven and one-half feet (7.5').

1. Exception: Site area in excess of one hundred feet (100') in width. In addition to any other side setback required, if the width of a site area exceeds one hundred feet (100'), then the side setback from the two longest side lot lines shall be at least ten feet (10') plus ten percent (10%) of the width of the site area in excess of one hundred feet (100').

2. Exception; Two Or More Lots: For those site areas that consist of two (2) or more lots as subdivided on July 3, 1984, the side setback shall be at least fifteen feet (15'). In addition, the sum of the side setbacks adjacent to the two (2) longest side lot lines shall be at least twelve feet (12') plus thirty percent (30%) of the lot width in excess of one hundred feet (100').

B. South Of Santa Monica Boulevard: Except as otherwise provided in this section, the side setback for buildings located south of Santa Monica shall be five feet (5') on one side. On the other side, the side setback shall be nine feet (9') for the first thirty eight feet (38') behind the front setback line and five feet (5') for the remainder of the site area. Parking may be provided in this nine foot (9') area pursuant to section 10-3-2419 of this article.

1. Exception: The setback requirements set forth in this subsection B shall not be applicable to: a) any corner lot, b) those site areas located south of Olympic Boulevard and west of Roxbury Drive, nor c) those site areas located south of Olympic Boulevard and east of Doheny Drive.

   a. Corner Lots And All Lots South Of Olympic Boulevard And West Of Roxbury Drive: The side setbacks for all corner lots located southerly of Santa Monica Boulevard and those site areas located southerly of Olympic Boulevard and westerly of Roxbury Drive shall be at least five feet (5'). In addition, the sum of the side setbacks adjacent to the two (2) longest side lot lines shall be at least twenty percent (20%) of the lot width.

   b. South Of Olympic Boulevard And East Of Doheny Drive: The side setbacks for site areas southerly of Olympic Boulevard and easterly of Doheny Drive shall be five feet (5').

2. Exception: For those buildings located on site areas that consist of two (2) or more lots as subdivided on July 3, 1984, the side setback shall be ten feet (10') plus ten percent (10%) of the width of the lot in excess of one hundred feet (100').

C. Side Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that:

1. The existing setback is not less than three feet (3') and

2. The enlarged portion of the building does not exceed fourteen feet (14') in height.

   a. Minor Accommodation: If the existing setback is not less than three feet (3') and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, and provided that the reviewing authority finds that the extension will not have any adverse impact on:

      (1) The scale and massing of the streetscape,

(2) Neighbors' access to light and air,

(3) Neighbors' privacy, and

(4) The garden quality of the city.

b. Central R-1 Permit: If the existing setback is not less than three feet (3'), the extension exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.

D. Application Of Side Setback Requirements To Existing Legally Nonconforming Side Yards: In all cases that the side setback requirements of this section are applied to construction on lots with existing legally nonconforming side setbacks, the largest setback required by this section shall be applied to the side of the lot with the largest existing side yard. (Ord. 85-O-1953, eff. 7-4-1985; amd. Ord. 86-O-1977, eff. 10-2-1986; Ord. 89-O-2056, eff. 4-20-1989; Ord. 90-O-2090, eff. 3-8-1990; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995; Ord. 96-O-2261, eff. 7-5-1996)

10-3-2407: STREET SIDE SETBACKS:

The street side setbacks for site areas located in the Central Area of the city shall be as shown on the "residential street setback map of the city of Beverly Hills", on file in the office of the department of building and safety.

If a street side setback for a site area is not established on the residential street setback map, then the street side setback shall be five feet (5') for those site areas located south of Santa Monica Boulevard and fifteen feet (15') for those site areas located north of Santa Monica Boulevard. (Ord. 85-O-1953, eff. 7-4-1985; amd. Ord. 86-O-1977, eff. 10-2-1986; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995)

10-3-2408: PERMISSIBLE ENCROACHMENTS IN FRONT YARD:

No structure or element of a building may encroach into any front yard except the following:

A. A fence, gate, or wall that otherwise complies with the requirements of this code;

B. Paving in accordance with section 10-3-2422 of this article;

C. Roof eaves not exceeding a maximum vertical dimension of twelve inches (12") and projecting not more than eighteen inches (18") into such yards, unless a greater projection is permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter;

D. One covered entry porch located at or below the first floor level that is a maximum of four feet (4') in depth and which has no vertical supporting elements;

E. Architectural projections, such as half timbers, corbels, and window and door accents, projecting no more than six inches (6") into such yard, unless a greater projection is permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and

F. Architectural projections that project more than six inches (6") into the yard but no more than ten percent (10%) of the setback depth provided that the following conditions are met:

1. No walls, fences, or hedges located in the front yard shall exceed three feet (3') in height; and

2. Architectural projections which encroach into the front yard shall cover no more than twenty percent (20%) of the maximum potential facade of the building, except as permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and

3. All paving within the front yard conforms to the requirements of section 10-3-2422 of this article.

For the purposes of this subsection F, the depth of an architectural projection into a front setback shall be the distance between the front setback line and the point of the projection closest to the front lot line. (Ord. 85-O-1953, eff. 7-4-1985; amd. Ord. 89-O-2056, eff. 4-20-1989; Ord. 95-O-2239, eff. 7-7-1995)

10-3-2418: DEVELOPMENT INCENTIVES FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT:

Notwithstanding any other provision of this article, the following incentive based development standards shall apply to single-family residential development in the Central Area of the city:

A. Rear Setback Adjustment For Corner Lots: The rear setback for a corner lot shall be reduced to twenty feet (20') for that fifty percent (50%) of the rear lot line closest to the side street if the owner of that corner lot elects to increase the front setback otherwise required by this chapter by fifteen feet (15') for that fifty percent (50%) of the front lot line closest to the side street.

B. Front Setback Averaging: Portions of a primary dwelling may encroach into a front yard if other portions of the dwelling are set back an equivalent distance so that the average

distance between the dwelling and the front lot line equals the required front setback. No such encroachment into the front yard, however, shall be deeper than ten percent (10%) of the front setback.

For purposes of averaging pursuant to this subsection, the entire encroachment into the front yard shall be considered as wide as the widest portion of the encroachment measured approximately parallel to the front lot line, and the depth of the entire encroachment shall be the distance between the front setback line and the point of encroachment closest to the front lot line.

C. Cumulative Front Setback Encroachments: The encroachments allowed under subsection 10-3-2408F, section 10-3-2419 and subsection 10-3-2420A of this article shall not, cumulatively, cover more than fifty percent (50%) of the maximum potential facade.

D. Rear Setback Adjustment For Corner Lots South Of Santa Monica Boulevard: Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced rear setback for an addition to an existing building located on a corner lot provided all of the following requirements are satisfied:

1. The corner lot in question is located south of Santa Monica Boulevard;

2. The rear lot line of the corner lot is located along an alley;

3. The corner lot has a minimum width of fifty four feet (54');

4. The street side setback is a minimum of fifteen feet (15') for the portion of side setback outside the required rear setback;

5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;

6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;

7. The portion of the structure within the required rear setback maintains a minimum five foot (5') side setback; and

8. The proposed structure maintains a minimum eight foot (8') rear setback.

E. Side Setback Adjustment For Lots North Of Santa Monica Boulevard: Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced side setback for a new single-family residence or an addition to an existing single-family residence provided all of the following requirements are satisfied:

1. The lot in question is located north of Santa Monica Boulevard;

2. The maximum height of the proposed structure on the lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;

3. The proposed structure maintains a minimum seven and one-half foot (7.5') setback from each side lot line;

4. The maximum height of the proposed structure at the side setback lines, as adjusted, is twenty four feet (24');

5. The surface area of the facade of the proposed structure is not greater than the maximum potential facade.

This subsection shall remain in effect only until such time as the city council adopts new R-1 standards and as of that date is repealed. Any Central R-1 permit issued pursuant to this section on or before the date this subsection is repealed shall remain in effect for six (6) months from the date this subsection is repealed and shall expire on that date unless a building permit has been issued for construction pursuant to that Central R-1 permit. (Ord. 89-O-2056, eff. 4-20-1989; amd. Ord. 95-O-2239, eff. 7-7-1995; Ord. 01-O-2384, eff. 11-2-2001; Ord. 02-O-2399, eff. 6-20-2002; Ord. 02-O-2403, eff. 9-6-2002; Ord. 04-O-2441, eff. 2-6-2004)

10-3-2420: WALLS, FENCES AND HEDGES:

In addition to any requirements imposed pursuant to title 9 of this code, a building permit shall be required for any wall or fence greater than six feet (6') in height and shall also be required for any wall or fence, regardless of its height, that is located in a front yard.

A. Thickness: No wall or fence shall exceed two feet (2') in thickness. Cavities or spaces within a wall or fence shall not be used for the support, storage, shelter, or enclosure of persons, animals, or personal property.

B. Supporting Elements: No column, pillar, post, or other supporting element of a wall or fence shall be more than twenty four inches (24") in width.

C. Front Yards: The maximum allowable height of a wall, fence, or hedge located within the first twenty percent (20%) of the front yard, measured from the front lot line, shall be three feet (3').

The maximum allowable height of a wall, fence, or hedge located within the front yard at a distance from the front lot line of more than twenty percent (20%) of the front setback shall

be six feet (6'); provided, however, any portion of such wall, fence, or hedge which exceeds three feet (3') in height shall be open to public view.

D. Side Yards: The maximum allowable height for that portion of a wall, fence, or hedge located in both a side yard and a front yard shall be six feet (6'); provided, however, that any portion of such wall, fence, or hedge which exceeds three feet (3') in height shall be open to public view.

The maximum allowable height for that portion of a wall, fence, or hedge located in a side yard, but not in a front yard, shall be seven feet (7'), except that the maximum allowable height shall be eight feet (8') for such a wall, fence, or hedge located within five feet (5') of a rear lot line and parallel to such rear lot line.

Furthermore, any portion of such wall, fence or hedge that exceeds three feet (3') in height and is located in a street side yard shall be open to public view or the wall, fence or hedge shall be set back an average of at least one foot (1') and no less than six inches (6") from the street side lot line for the purpose of providing landscaping on the street side of the wall.

E. Rear Yards: The maximum allowable height for a fence, wall or hedge located solely in a rear yard shall be eight feet (8'). (Ord. 80-O-1771, eff. 10-16-1980; amd. Ord. 84-O-1934, eff. 10-11-1983; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995; Ord. 01-O-2384, eff. 11-2-2001; Ord. 02-O-2403, eff. 9-6-2002)

10-3-2412: ACCESSORY BUILDING PORCHES AND DECKS:

No accessory building shall have a porch or deck located more than three feet (3') above the finished grade. For the purposes of this section, grade shall be defined as it is defined in title 9 of this code.

A. Exception: Notwithstanding the provisions of this section, the planning commission may permit an accessory building located on a residential site with an area that equals or exceeds twenty four thousand (24,000) square feet to include a porch or deck located more than three feet (3') above finished grade through a Central R-1 permit issued pursuant to article 24.5 of this chapter. (Ord. 89-O-2056, eff. 4-20-1989; amd. Ord. 95-O-2239, eff. 7-7-1995; Ord. 02-O-2403, eff. 9-6-2002)

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. (Ord. 09-O-2566, eff. 6-27-2009)

Attachment 3

City of Beverly Hills
Planning Division
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Planning Commission Report

Meeting Date: January 12, 2012

Subject: Discussion and direction regarding amendments to the Beverly Hills Municipal Code regarding rear setbacks and encroachments into the front yard setback area for single family residential lots south of Santa Monica in the Central Area of the City.

Recommendation: Receive the staff report and provide direction to staff regarding the proposed amendments to the City's Zoning Code.

REPORT SUMMARY

This report transmits draft language that would modify existing regulations related to requests for reduced rear yard setbacks and for the construction of fences in the front yard for single-family properties located south of Santa Monica Boulevard, in the Central Area of the City. The proposed amendments relate to limited circumstances involving homes located on both interior and corner lots.

BACKGROUND

The Planning Commission held a study session on September 8, 2011 and received a staff report regarding possible revisions to corner lot regulations. At that meeting, Mr. Murray Fischer presented information to the Commission regarding potential revisions to interior lots as well, expressing the need for property owners to seek relief for homes with existing non-conforming rear yards. Based on the staff report and the testimony presented by Mr. Fischer, the Commission expressed a desire for staff to return at a future meeting with options for amending the Municipal Code to address both instances.

In early December, staff met with the Ad Hoc Committee Members of the Mayor's Task Force for Government Efficiency and broadly discussed the concept of amending existing regulations to afford single-family property owners greater flexibility when contemplating additions or remodels to existing homes in the rear yards of their property. At this meeting, a third issue was raised regarding the height of fences allowed to be constructed in the front yards of homes when there is a slight encroachment into a front yard setback area. The Committee Members expressed support for implementing policies to improve processing efficiencies that would also establish greater flexibility for homeowners and maintain safeguards against unintended impacts of development. The proposed amendments described in this report are intended to achieve this goal.

DISCUSSION

Attachment(s):

1. Beverly Hills Municipal Code Section 10-3-2408 D
2. Beverly Hills Municipal Code Section 10-3-2406 C

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ISSUE 1: CORNER LOTS – South of Santa Monica Boulevard, Central Area of the City

The rear yard setback for corner, single family residences located South of Santa Monica Boulevard, in the Central Area of the City is required to be 30% of the lot depth minus nine (9) feet. However, pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-2418 (D) (Attachment 1), the Planning Commission may reduce the required rear yard setback requirement for additions to these properties through the Central R-1 permit process if the required findings can be made and existing home complies with *all* of the following:

1. The corner lot in question is located south of Santa Monica Boulevard;

2. The rear lot line of the corner lot is located along an alley;

3. The corner lot has a minimum width of fifty four feet (54');

4. The street side setback is a minimum of fifteen feet (15') for the portion of side setback outside the required rear setback;

5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;

6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;

7. The portion of the structure within the required rear setback maintains a minimum five foot (5') side setback; and

8. The proposed structure maintains a minimum eight foot (8') rear setback.

If the above conditions are met, a property owner may file an application for review before the Planning Commission. In approving a Central R-1 Permit, the Commission must find that the proposed development will not have a substantial adverse impact on:

A. The scale and massing of the streetscape,
B. Neighbors' access to light and air,
C. Neighbors' privacy, and
D. The garden quality of the city

The eight (8) standards identified in BHMC Section 10-3-2418 (D), above result in a barrier that restricts the ability of property owners to seek relief from the Planning Commission for a reduced rear yard setback, even when all of the required findings for approval of a Central R-1 Permit can be made and the project would not result in a negative impact on the surrounding neighborhood. The Code provides a process for the reduction of *side* yard setbacks without the "pre-screening" criteria established for corner lots. The intent of the ordinance appears to have been to strike a balance between the desire of property owners to add to the rear area of their corner lots and ensuring that such development does not impact the neighborhood. However, the result of the ordinance has been to effectively preclude property owners from seeking the relief intended to be provided, namely a reduced rear yard setback:

there have been no applications files under this section of the Code in the last five years and only one that staff could identify within the last eight years.

While keeping some of the criteria contained in the existing Code may be important, removing or modifying other criteria would achieve greater flexibility for property owners and result in efficiencies the development process.

Proposed New Code Language – Corner Lots

The proposed Code amendment would amend the existing requisite criteria contained in 10-3-2418 D, but would not change the requirement for a hearing and findings for a Central R-1 Pemit. Staff has identified proposed changes to the code in ~~strikeout~~, underline format, below.

10-3-2418 D. Rear Setback Adjustment For Corner Lots South Of Santa Monica Boulevard: Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced rear setback for an addition to an existing building located on a corner lot provided all of the following requirements are satisfied:

1. The corner lot in question is located south of Santa Monica Boulevard;

2. The rear lot line of the corner lot is located along an alley;

3. The corner lot has a minimum width of fifty four feet (54');

4. The street side setback is a minimum of ~~fifteen feet (15')~~ five feet (5') for the portion of side setback outside the required rear setback;

5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;

6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;

7. The portion of the structure within the required rear setback maintains a minimum ~~five foot (5')~~ three foot (3') side setback; and

8. The proposed structure maintains a minimum ~~eight foot (8')~~ four foot (4') rear setback.

ISSUE 2: INTERIOR LOTS – South of Santa Monica Boulevard, Central Area of the City

The Code does not currently allow for any additions to non-conforming rear yards in the Central Area of the City. However, the Code does have provisions to allow property owners to remodel and add to non-conforming homes in the *side yard*, in limited circumstances and with three separate processes, depending on the situation. To allow for greater flexibility in the review process, the same approach for side yards could be applied to the rear yard additions. Each of the three situations for extensions of non-conforming side yards is presented below, as contained in BHMC Section 10-3-2406 (C) (Attachment 2).

1. By-Right Addition

If a legally constructed existing building does not conform to the side setback requirements, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that: a) existing setback is not less than three feet (3'); and b) the new construction does not exceed fourteen feet (14') in height.

2. Minor Accommodation
If the new construction is over 14-feet in height, then the extension may be permitted by a minor accommodation permit provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing building, providing the Director finds that the project will not have an adverse impact on:

(1) The scale and massing of the streetscape,
(2) Neighbors' access to light and air,
(3) Neighbors' privacy, and
(4) The garden quality of the city.

3. Central R-1 Permit
If the new construction exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing building then the extension may be permitted by a Central R-1 permit, subject to required findings.

Both the Minor Accommodation and Central R-1 processes identified above require public notice to neighbors (100-foot radius for Minor Accommodation and 300-foot for Central R-1) to ensure that any concerns regarding the proposed development can be expressed and considered prior to rendering a decision. This process has seemingly worked well in the Community and only one project out of nearly fifty (50) have been appealed to the City Council (the Director's decision was upheld by Council in the one instance).

An approach to addressing the needs of property owners with existing legal non-conforming rear yard setbacks is to establish rules similar to those for non-conforming side yards.

Proposed New Code Language
The proposed code amendment would add a new Code section **10-3-2405 C**, for rear yards, as identified below. This new proposed language mirrors that found in 10-3-2406 C for *side* yards.

Rear Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, rear setback provided that:

1. The existing setback is not less than 18-feet (18').
2. The enlarged portion of the building does not exceed fourteen feet (14') in height.

a. Minor Accommodation: If the existing setback is not less than 18-feet (18')and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the

existing floor area authorized by building permit as of September 2, 1988, and provided that the reviewing authority finds that the extension will not have any adverse impact on:

(1) The scale and massing of the streetscape,
(2) Neighbors' access to light and air,
(3) Neighbors' privacy, and
(4) The garden quality of the city.

b. Central R-1 Permit: If the existing setback is not less than 18-feet (18'), the extension exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.

ISSUE 3: FENCES IN THE FRONT YARD - South of Santa Monica Boulevard, Central Area of the City

The maximum allowable height of a wall, fence, or hedge located within the first twenty percent (20%) of the front yard, is three feet (3'). However, if the fence is setback a distance of more than twenty percent (20%) of the front setback, the fence can be six feet (6'); provided, however, any portion of such wall which exceeds three feet (3') in height is open to public view.

There are many homes in the Central Area that choose to take advantage of this code provision and build a three-foot block wall with a three foot wrought iron fence on top, or to build a six-foot wrought iron fence in the front yard.

A separate section of the Code[1] allows minor architectural projections to encroach into a required front setback area by more than 6-inches but not more than 10% of the setback depth subject to certain restrictions. One of these restrictions limits the height of walls in the front yard to three-feet, regardless of whether or not they are open to public view. The purpose of this requirement appears to have been to ensure that the encroachment into the front yard did not result in mass and bulk that was incompatible with the streetscape. By limiting the height of walls to three-feet, the view of the home from the street would be more open and could limit perceived mass.

This code section was developed prior to the City's establishment of Design Review for the Central Area of the City and has become a somewhat antiquated zoning tool to deal with the larger issue of design and compatibility with the existing built environment. While it is important to critically review projects which have any encroachment into the front yard area, staff believes that this should be appropriately

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[1] BHMC Section 10-3-2408 F: F. Architectural projections that project more than six inches (6") into the yard but no more than ten percent (10%) of the setback depth provided that the following conditions are met:
1. No walls, fences, or hedges located in the front yard shall exceed three feet (3') in height; and
2. Architectural projections which encroach into the front yard shall cover no more than twenty percent (20%) of the maximum potential facade of the building, except as permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and
3. All paving within the front yard conforms to the requirements of section 10-3-2422 of this article.
For the purposes of this subsection F, the depth of an architectural projection into a front setback shall be the distance between the front setback line and the point of the projection closest to the front lot line

handled through the Design Review process and not through an arbitrary zoning standard. The proposed amendment would allow those projects that had minor architectural projections into the front yard to construct fences similar to their neighbors, subject to the Design Review process. The proposed amendment is provided in strikeout underline format, below.

Proposed New Code Language

The proposed code amendment would amend BHMC Section 10-3-2408 F, as follows:

F. Architectural projections that project more than six inches (6") into the yard but no more than ten percent (10%) of the setback depth provided that the following conditions are met:

1. No walls, fences, or hedges located in the front yard shall exceed three feet (3') in height, unless first reviewed and approved by the design review commission or the director of community development in accordance with the provisions of article 44 of this chapter; and
2. Architectural projections which encroach into the front yard shall cover no more than twenty percent (20%) of the maximum potential facade of the building, except as permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and
3. All paving within the front yard conforms to the requirements of section 10-3-2422 of this article.
For the purposes of this subsection F, the depth of an architectural projection into a front setback shall be the distance between the front setback line and the point of the projection closest to the front lot line

NEXT STEPS

It is recommended that the Planning Commission receive the staff report and any public testimony and provide direction to staff regarding proposed changes to the City's Zoning Code. If amendments are directed, staff would prepare the required public notice and prepare resolutions and a draft ordinance for the Commission's next regularly scheduled meeting on January 26, 2012.

ATTACHMENT 1

10-3-2418: DEVELOPMENT INCENTIVES FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT:

Notwithstanding any other provision of this article, the following incentive based development standards shall apply to single-family residential development in the Central Area of the city:

D. Rear Setback Adjustment For Corner Lots South Of Santa Monica Boulevard: Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced rear setback for an addition to an existing building located on a corner lot provided all of the following requirements are satisfied:

1. The corner lot in question is located south of Santa Monica Boulevard;

2. The rear lot line of the corner lot is located along an alley;

3. The corner lot has a minimum width of fifty four feet (54');

4. The street side setback is a minimum of fifteen feet (15') for the portion of side setback outside the required rear setback;

5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;

6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;

7. The portion of the structure within the required rear setback maintains a minimum five foot (5') side setback; and

8. The proposed structure maintains a minimum eight foot (8') rear setback.

ATTACHMENT 2

10-3-2406: SIDE SETBACKS:

The following side setback requirements shall govern the Central Area of the city:

A. North Of Santa Monica Boulevard: The sum of the side setbacks from the two (2) longest side lot lines shall be at least fifteen feet (15') plus thirty percent (30%) of the lot width in excess of seventy feet (70'). In addition, except as otherwise provided in this section, each side setback for site areas located north of Santa Monica Boulevard shall be at least seven and one-half feet (7.5').

1. Exception: Site area in excess of one hundred feet (100') in width. In addition to any other side setback required, if the width of a site area exceeds one hundred feet (100'), then the side setback from the two longest side lot lines shall be at least ten feet (10') plus ten percent (10%) of the width of the site area in excess of one hundred feet (100').

2. Exception; Two Or More Lots: For those site areas that consist of two (2) or more lots as subdivided on July 3, 1984, the side setback shall be at least fifteen feet (15'). In addition, the sum of the side setbacks adjacent to the two (2) longest side lot lines shall be at least twelve feet (12') plus thirty percent (30%) of the lot width in excess of one hundred feet (100').

B. South Of Santa Monica Boulevard: Except as otherwise provided in this section, the side setback for buildings located south of Santa Monica shall be five feet (5') on one side. On the other side, the side setback shall be nine feet (9') for the first thirty eight feet (38') behind the front setback line and five feet (5') for the remainder of the site

area. Parking may be provided in this nine foot (9') area pursuant to section 10-3-2419 of this article.

1. Exception: The setback requirements set forth in this subsection B shall not be applicable to: a) any corner lot, b) those site areas located south of Olympic Boulevard and west of Roxbury Drive, nor c) those site areas located south of Olympic Boulevard and east of Doheny Drive.

a. Corner Lots And All Lots South Of Olympic Boulevard And West Of Roxbury Drive: The side setbacks for all corner lots located southerly of Santa Monica Boulevard and those site areas located southerly of Olympic Boulevard and westerly of Roxbury Drive shall be at least five feet (5'). In addition, the sum of the side setbacks adjacent to the two (2) longest side lot lines shall be at least twenty percent (20%) of the lot width.

b. South Of Olympic Boulevard And East Of Doheny Drive: The side setbacks for site areas southerly of Olympic Boulevard and easterly of Doheny Drive shall be five feet (5').

2. Exception: For those buildings located on site areas that consist of two (2) or more lots as subdivided on July 3, 1984, the side setback shall be ten feet (10') plus ten percent (10%) of the width of the lot in excess of one hundred feet (100').

C. Side Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that:

1. The existing setback is not less than three feet (3') and

2. The enlarged portion of the building does not exceed fourteen feet (14') in height.

a. Minor Accommodation: If the existing setback is not less than three feet (3') and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, and provided that the reviewing authority finds that the extension will not have any adverse impact on:

(1) The scale and massing of the streetscape,

(2) Neighbors' access to light and air,

(3) Neighbors' privacy, and

(4) The garden quality of the city.

b. Central R-1 Permit: If the existing setback is not less than three feet (3'), the extension exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.

D. Application Of Side Setback Requirements To Existing Legally Nonconforming Side Yards: In all cases that the side setback requirements of this section are applied to construction on lots with existing legally nonconforming side setbacks, the largest setback required by this section shall be applied to the side of the lot with the largest existing side yard. (Ord. 85-O-1953, eff. 7-4-1985; amd. Ord. 86-O-1977, eff. 10-2-1986; Ord. 89-O-2056, eff. 4-20-1989; Ord. 90-O-2090, eff. 3-8-1990; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995; Ord. 96-O-2261, eff. 7-5-1996)

City of Beverly Hills
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Planning Commission Report

Meeting Date: September 8, 2011

Subject: Discussion regarding a potential zone text amendment to the residential development standards for corner lots located in the Central Area of the City, south of Santa Monica Boulevard

Recommendation: Receive the report and provide direction to staff

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REPORT SUMMARY

At its July 28, 2011 meeting, the Planning Commission directed staff to bring forward a narrowly focused discussion at the request of a resident, Jake Manaster. Consistent with Commission direction, this report:

- Identifies existing zoning regulations applicable to corner lot properties located in the Central Area of the City, south of Santa Monica Boulevard;
- Provides an amendment consistent with the Commission's direction; and

DISCUSSION

Existing Development Standards for Corner Lots South of Santa Monica

The zoning code currently specifies setback standards for single family residences based on lot size and location within the City. Different standards apply to properties located north of Santa Monica Boulevard, south of Santa Monica Boulevard, and to corner lots located south of Santa Monica Boulevard.[1]

Pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-2405, the rear yard setback for lots located south of Santa Monica Boulevard is 30% of the lot depth minus nine (9) feet.

However, the Planning Commission may reduce the required rear yard setback requirement for these properties through the Central R-1 permit process if all of the following requirements are satisfied:

1. The corner lot in question is located south of Santa Monica Boulevard;

2. The rear lot line of the corner lot is located along an alley;

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[1] Rear setback standards for all areas of the City (Hillside, Trousdale, Central North and Central South) are included as Attachment 1

Attachment(s):
1. Rear setback standards for all areas of the City

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3. The corner lot has a minimum width of fifty four feet (54');

4. The street side setback is a minimum of fifteen feet (15') for the portion of side setback outside the required rear setback;

5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;

6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;

7. The portion of the structure within the required rear setback maintains a minimum five foot (5') side setback; and

8. The proposed structure maintains a minimum eight foot (8') rear setback.

In order for the Commission to approve a Central R-1 permit for properties that meet the above requirements, the Commission must find that the proposed development will not have a substantial adverse impact on:

A. The scale and massing of the streetscape,

B. Neighbors' access to light and air,

C. Neighbors' privacy, and

D. The garden quality of the city.

Potential Text Amendment

While there is no pending project to analyze against existing code requirements, staff was requested by the Planning Commission to review those requirements related to a reduction in the rear yard setback for additions on corner lots. The code specifies eight (8) standards that must be met in order for a property owner to be able to apply for a Central R-1 permit to allow the reduced rear setback. These standards include restrictions on height, setbacks, location and lot width. A possible text amendment to remove or modify the setback standards (Nos. 4, 7 and 8, above) would afford owners of corner lots located south of Santa Monica Boulevard greater flexibility when remodeling or adding to an existing home. Modifying these standards would not eliminate the requirement to apply for a Central R-1 permit to allow a reduced rear yard setback. Therefore, the public process and ability to ensure that such additions do not result in adverse impacts to neighbors or incompatibility with the scale of the streetscape would still remain.

Other amendments may be considered if staff is directed to pursue amending these development standards or if such an application is submitted by a property owner.