



Planning Commission Report

Meeting Date: April 12, 2012

Subject: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING DELETION OF THE REQUIREMENT TO ACCEPT DEDICATED PROPERTY WITHIN ONE YEAR AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

Recommendation: Consider a recommendation to the City Council to adopt an ordinance deleting the requirement that the City accept dedicated property within one year

REPORT SUMMARY

The proposed ordinance would delete the current zoning requirement that the City accept offers to dedicate land within one year.

BACKGROUND

The Beverly Hills Municipal Code (BHMC) Title 10 Chapter 6 Article 4 "Dedication Procedure" was adopted on May 3, 1984 and has not been amended.

DISCUSSION

On recommendation from the City Attorney's Office, staff is bring forward a proposed change to the City's process for accepting dedication of land. Currently the City's Zoning Code (BHMC 10-6-4) requires the City to accept an offer to dedicate land within one year. Accepting dedicated land within one year of the offer is not always possible. Under certain circumstances a development project may continue for more than one year. In those situations the City would either have to accept the land dedication prior to the completion of a project, or forego the dedication. If the City was to accept the land before the completion of a project, the City could be liable for any injuries or damage that occurred on the dedicated land while construction work was still on-going. If the City foregoes a dedication of land it may present a challenge to fully building out the City's Master Streets Plan.

The draft ordinance provided at Exhibit A to Attachment 1 would remove the requirement that the City accept dedications within one year. The proposed language does not set a time limit, but allows any offer of dedication to continue to be valid until the City accepts.

Attachment(s):

1. Draft Resolution
Exhibit A. Draft Ordinance

Report Author and Contact Information:

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NEXT STEPS

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

Report Reviewed By:

Michele McGrath
Acting Principal Planner

Attachment 1

RESOLUTION NO. ____

RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF BEVERLY HILLS RECOMMENDING DELETION OF
THE REQUIREMENT TO ACCEPT DEDICATED PROPERTY
WITHIN ONE YEAR 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. The City requires dedication of land for certain development projects to assure that street widths are adequate to provide emergency access.

Section 2. Currently the City is required to accept any dedication of land within one year. Accepting a dedication of land in one year is not always possible.

Section 3. To assure that the City is able to provide adequate emergency services to all areas of the City it is necessary for the City to be able to accept dedications of land. It is not always possible to do so within one year; therefore this ordinance removing the requirement that a dedication of land be accepted within one year is necessary to maintain public health and safety.

Section 4. The Planning Commission considered the zone text amendment to the Beverly Hills Municipal Code Article 4 Chapter 6 Title 10 as set forth in Exhibit A at a duly noticed public hearing on April 12, 2012, at which time the Planning Commission received oral and documentary evidence relative to the proposed amendment.

Section 5. As proposed, the amendment to the Beverly Hills Municipal Code in Exhibit A would delete an existing requirement that the City accept any dedication of land within one year.

Section 6. The Amendments are consistent with the objectives, principles, and standards of the General Plan. The City's General Plan includes the following goal that relates to the dedication of land to provide emergency vehicle access: "S 3 -Existing and New Development and Redevelopment", in addition, the General Plan includes policy "S 3.3 - Fire Protection Services" which requires "[...]private and public access drives and roadways [be designed] to preserve and maintain Fire Department access to properties. The General Plan also includes "Implementation Program 2.4 - Building and Fire Codes" which "require[s] that new development/redeveloped structures include public and private access drives and roadways designed to maintain adequate Fire Department access to the property such that there will be no reduction of fire protection services below acceptable levels" as one of the implementation actions of the General Plan.

Section 7. The amendment has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The ordinance is not a "project" and is therefore exempt from CEQA pursuant to Section 15378(b)(5) 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 8. 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 9. 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 10-6-4)

Exhibit A

EXHIBIT A

ORDINANCE NO. 12-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
DELETING THE REQUIREMENT TO ACCEPT DEDICATED
PROPERTY WITHIN ONE YEAR AND AMENDING THE
BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. Paragraph B of Section 10-6-4 (“Dedication Procedure”) of Title 10 (“Planning and Zoning”), Chapter 6 (“Street, Alley, and Highway Dedications and Improvements”) of the Beverly Hills Municipal Code is hereby amended and restated to read as follows:

“B. The offer to dedicate land shall continue until accepted or rejected by the council. For the purposes of this section, an offer to dedicate shall be deemed filed at such time as the city attorney and city engineer have verified that it meets all the requirements of this chapter. If the offer is rejected by the council, the city will issue a release from such offer and record such release in the office of the county recorder.”

Section 2. This ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The ordinance is not a “project” and is therefore exempt from CEQA pursuant to Section 15378(b)(5) of Title 14 of the California Code of Regulations.

EXHIBIT A

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

Section 4. 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 attest and certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

EXHIBIT A

Section 5. 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:

BYRON POPE
City Clerk

(SEAL)

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager

DAVID GUSTAVSON
Director of Public Works & Transportation

SUSAN HEALY KEENE
Director of Community Development