



## AGENDA REPORT

**Meeting Date:** December 20, 2016

**Item Number:** D-8

**To:** Honorable Mayor & City Council

**From:** Laurence S. Wiener, City Attorney

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING BEVERLY HILLS MUNICIPAL CODE SECTIONS § 10-3-2509, § 10-3-2409, AND § 10-3-100 TO ALLOW DECKS LOCATED AT FINISHED FIRST FLOOR LEVEL THAT COVER PORTIONS OF DRIVEWAYS THAT LEAD TO SUBTERRANEAN PARKING AS PERMISSIBLE ENCROACHMENTS IN REQUIRED SIDE YARDS, STREET SIDE YARDS, PAD EDGE SETBACKS, AND REAR YARDS IN THE HILLSIDE AND CENTRAL AREAS OF THE CITY, AND TO EXPRESSLY EXEMPT THE SUBTERRANEAN SPACE CREATED BELOW THE DECKS FROM COUNTING AS FLOOR AREA. THE CITY COUNCIL WILL ALSO CONSIDER ADOPTION OF A CATEGORICAL EXEMPTION, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

It is recommended that the City Council move to waive the full reading and adopt the ordinance entitled, "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING BEVERLY HILLS MUNICIPAL CODE SECTIONS § 10-3-2509, § 10-3-2409, AND § 10-3-100 TO ALLOW DECKS LOCATED AT FINISHED FIRST FLOOR LEVEL THAT COVER PORTIONS OF DRIVEWAYS THAT LEAD TO SUBTERRANEAN PARKING AS PERMISSIBLE ENCROACHMENTS IN REQUIRED SIDE YARDS, STREET SIDE YARDS, PAD EDGE SETBACKS, AND REAR YARDS IN THE HILLSIDE AND CENTRAL AREAS OF THE CITY, AND TO EXPRESSLY EXEMPT THE SUBTERRANEAN SPACE CREATED BELOW THE DECKS FROM COUNTING AS FLOOR AREA".

### **INTRODUCTION**

At its meeting of December 6, 2016, the City Council conducted a first reading of this ordinance and introduced it.

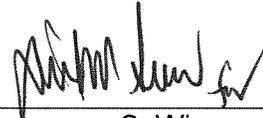
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**DISCUSSION**

This zone text amendment would allow decks located at finished first floor level and that cover portions of driveways that lead to subterranean parking to be located in required yards on single-family residential properties. This is a result of a request at 1011 Lexington Road. Per the Council's request, staff will return after one year with a report regarding the experience with this ordinance.

**FISCAL IMPACT**

No fiscal impact to the City is anticipated from a Council decision on this matter.



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Laurence S. Wiener, City Attorney

# **Attachment 1**

ORDINANCE NO. 16-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING BEVERLY HILLS MUNICIPAL CODE SECTIONS §10-3-2509, §10-3-2409, AND §10-3-100 TO ALLOW DECKS LOCATED AT FINISHED FIRST FLOOR LEVEL THAT COVER PORTIONS OF DRIVEWAYS THAT LEAD TO SUBTERRANEAN PARKING AS PERMISSIBLE ENCROACHMENTS IN REQUIRED SIDE YARDS, STREET SIDE YARDS, PAD EDGE SETBACKS, AND REAR YARDS IN THE HILLSIDE AND CENTRAL AREAS OF THE CITY, AND TO EXPRESSLY EXEMPT THE SUBTERRANEAN SPACE CREATED BELOW THE DECKS FROM COUNTING AS FLOOR AREA.

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

**Section 1.** On August 25, 2016, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. 1784, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to include provisions related to allowing decks located at finished first floor level that cover portions of driveways that lead to subterranean parking as permissible encroachments in required side yards, street side yards, pad edge setbacks, and rear yards in the Hillside Area of the City, to ensure consistency with the existing provision that allows said decks in the Central Area of the City, and to exempt the subterranean space created below the decks from counting as floor area (collectively, the “Amendments”). On December 6, 2016, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

**Section 2.** This Ordinance and the 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. The adoption and implementation of the Amendments would allow the construction of new, small structures accessory to a residence, as well as minor changes in land use limitations such as the amendment to the zoning code to allow decks located at finished first floor level that cover portions of driveways that lead to subterranean parking as permissible encroachments in required side yards, street side yards, pad edge setbacks, and rear yards in the Hillside Area of the City. Furthermore, allowing such decks in the Hillside would not result in additional grading as driveways that lead to subterranean parking are currently allowed structures in the Hillside, and the proposed decks would be covering the already-approved driveway structures. Therefore, the City Council finds that the Amendments are exempt from CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures) and Section 15305 (Minor Alterations in Land Use Limitations).

**Section 3.** The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy Land Use “2.1 City Places: Neighborhoods, Districts, and Corridors” encourages the maintenance and enhancement of the character, distribution, built form, scale, and aesthetic qualities of the City’s distinctive residential neighborhoods, business districts, corridors, and open spaces. General Plan Policy Land Use “2.3 Hillside Development” requires that natural landforms that define the City be maintained and that development on hillsides and in canyon areas be located, designed, and scaled to respect the natural topography and landscape. Furthermore, General Plan Policy Land Use “2.4 Architectural and Site Design” requires that new construction and renovation of existing buildings and properties exhibit a high level of excellence in site planning, architectural design, building materials, use of sustainable design and construction practices, landscaping, and amenities that contribute to the City’s distinctive image and complement existing development.

Additionally, General Plan Policy Land Use “6.2 Housing Character and Design” requires that new, renovated, and additions to housing be located and designed to maintain the distinguishing characteristics and qualities of the neighborhoods in which they are located, including prevailing lot sizes, building form, scale, massing, relationship to street frontages, architectural design, landscaping, property setbacks, and other comparable elements. Lastly, General Plan Policy Land Use “6.3 Housing Scale and Mass” encourages the regulation of renovations and additions to single-family housing to ensure that they do not adversely alter the contextual scale, mass, and design qualities of existing structures.

**Section 4.** The City Council hereby amends Section 10-3-2509 of Article 25 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code by adding one new permissible encroachment as subsection L of Section 10-3-2509 with all other provisions remaining in effect without amendment:

“L. Decks located at finished first floor level, covering portions of a driveway that leads directly to subterranean parking for residences, provided, further, that required handrails for such elements shall not extend more than forty two inches (42”) above the deck floor level and that the length of the deck shall be limited to 24’ or the width of the opening into the subterranean parking, whichever is less, provided that a substantial landscape buffer is provided between the deck and any adjacent property.”

**Section 5.** The City Council hereby amends subsection D of Section 10-3-2409 of Article 24 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code with all other provisions remaining in effect without amendment:

“D. Decks located at finished first floor level, covering portions of a driveway ramps that leads directly to subterranean parking for residences, provided, further, that required handrails for such elements shall not extend more than forty two inches (42") above the deck floor level and that the length of the deck shall be limited to 24’ or the width of the opening into the subterranean parking, whichever is less, provided that a substantial landscape buffer is provided between the deck and any adjacent property.”

**Section 6.** The City Council hereby amends Section 10-3-100 of Article 1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code by clarifying that the subterranean space created below the proposed decks is exempt from counting as floor area. Additionally, the City Council also amends this section by listing the floor area exemptions under the single-family residential zone floor area definition. All other definitions in the section remain unchanged.

The “Floor Area” definition applicable to the single-family residential zone (Subsection B of the definition) is amended to read as follows:

“B. Single-family residential zone: "Floor area" shall mean the area of all portions of floors and levels which have a roof or floor level above and are enclosed by exterior walls by more than fifty percent (50%). Further, "floor area" shall include the area of that portion of an upper level not separated from a lower level by a floor/ceiling assembly, but shall not include basements, crawl spaces, up to four hundred (400) square feet of garage area, and the space created below a deck located at the finished first floor level of a residence that extends over a driveway that leads to subterranean parking.

For the purposes of determining floor area in a single-family residential zone, "basement" shall mean any floor level below a story which has a finished floor level that is a maximum of

three feet (3') above grade at any point along the perimeter of the building facing a front or street side setback line and which has no windows exceeding eighteen inches (18") above grade at any point along such perimeter of the building. A basement may extend beyond the perimeter of the building provided that such portion of the basement is below the natural grade. For the purpose of determining whether a floor level is a basement, grade shall be defined as it is defined in California Building Code as adopted and amended in title 9 of this code.”

**Section 7.**     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.

**Section 8.**     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 9.** 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:

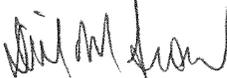
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JOHN A. MIRISCH  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_(SEAL)

BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
MAHDI ALUZRI  
City Manager

  
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SUSAN HEALY KEENE  
Director of Community Development