



AGENDA REPORT

Meeting Date: January 6, 2008

Item Number: D-2

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, City Planner

Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING PERMISSIBLE ENCROACHMENTS INTO SIDE YARDS, STREET SIDE YARDS, AND REAR YARDS IN SINGLE-FAMILY RESIDENTIAL ZONES, AND AMENDING SECTION 10-3-3600 REGARDING MINOR ACCOMMODATIONS THAT MAY BE GRANTED

Attachments:

1. Ordinance
2. Planning Commission Resolution

RECOMMENDATION

Staff recommends that the City Council introduce for first reading and adopt the proposed ordinance.

EXECUTIVE SUMMARY

The preparation of the subject ordinance was initiated by the Planning Commission. The purpose of the ordinance is to:

- Address the needs of an aging population with improved vertical access/mobility within existing single-family homes.

- Support retention of existing homes and avoid unnecessary or costly expenses in retrofitting existing homes.
- Recognize an increasing trend for including elevators in homes.
- Balance the mobility and health needs, the community's quality of life, and neighborhood character and aesthetic quality.

Key points of the ordinance include:

- Applies only to existing single-family dwellings in single-family residential zones.
- Permits a 30-inch enclosed elevator encroachment into required side and rear yards, by right.
- Allows encroachments of up to 60 inches through a Minor Accommodation process.
- Requires a minimum three-foot clearance from any property line.
- Restricts width parallel to the property line to seven feet.
- Limits aggregate width of encroachments (including chimneys) to 13 feet.
- Requires architectural compatibility and no openings to address potential aesthetic and privacy concerns
- Includes provisions to address elevator-related noise on the exterior of the building.

INTRODUCTION

The Planning Commission initiated an amendment to the Zoning Code in response to a growing need for in elevators in single-family residential homes. As the community's population ages, health and mobility issues can affect the quality of life for its residents. Lifts and elevators can help to address mobility issues and can be seen as a means for many to continue to reside in their homes. However, in existing residential development, setback requirements can be a significant impediment to the installation of such devices. The Planning Commission, therefore, proposed the code amendment to accommodate home elevators in a manner that preserves the integrity of neighborhoods.

DISCUSSION

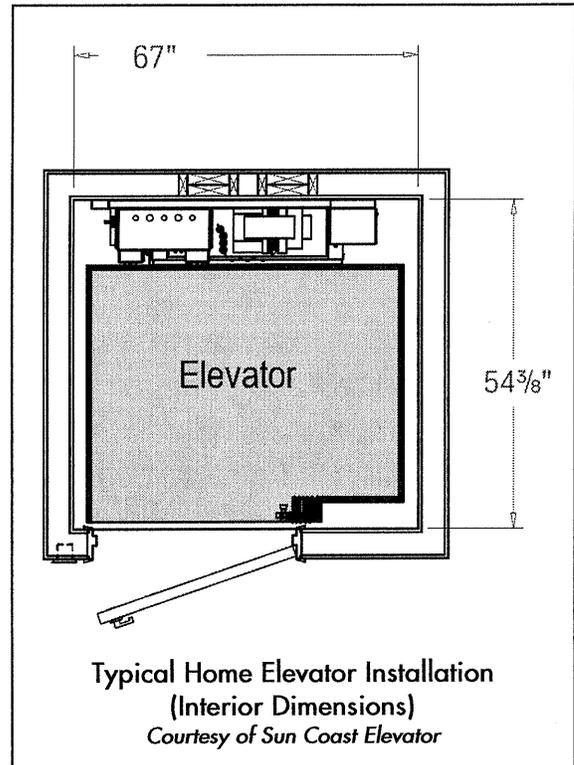
Planning Commission Considerations

In response to the Commission's initial direction, staff drafted an amendment to the allowable encroachments in side and rear yard setbacks, based on the 30-inch encroachments currently allowed for fireplaces and chimneys. At the Planning Commission's December 11 meeting, residents and homeowner representatives advocated for increasing the allowable encroachment to between 48 and 60 inches. This would accommodate installations that are entirely external, in which the exterior wall of the residence is close to the required setback. The 30-inch standard anticipates some extra yard between the house and the setback, and/or installations that are partially inside the residence. After evaluating the public testimony and deliberating on the issue the Planning Commission modified the proposed ordinance to better address:

- Mobility needs
- Aesthetic considerations
- Privacy and noise

With respect to the existing conditions, the Planning Commission, based on staff's suggestion, provided a discretionary process (minor accommodation) to allow encroachments of up to 60 inches in the rear half of the building. However, since the public hearing, staff has further examined this issued and believes it appropriate to expand this modification along the entire length of a required side or rear yard. Staff considered several factors:

- The efficacy of "one-size-fits-all" standards
- Significant variations in lot depth, vegetation, and other circumstances



- Building mass
- Existing conditions

- Accessibility of minor accommodation process to neighboring residents for larger encroachments
- Considerations addressed by the proposed minor accommodation provisions

The Proposed Regulations

The ordinance includes the following standards:

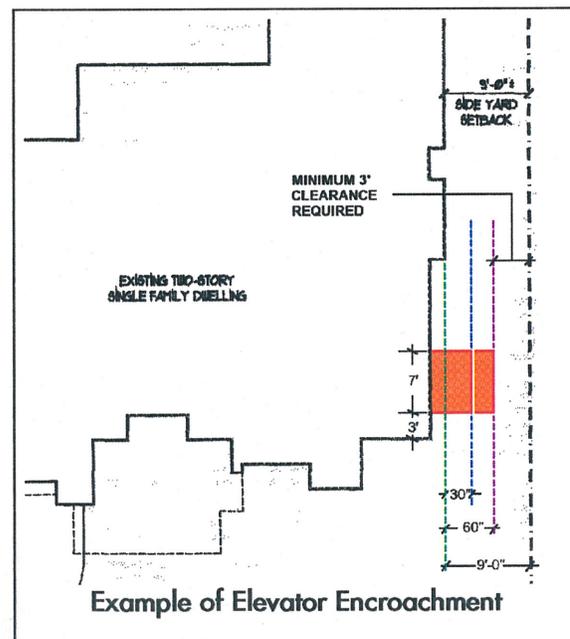
- Elevators and elevator enclosures would be allowed to encroach up to 30 inches (2½ feet) into a required side or rear setback.
- An additional 30-inch encroachment (total of 60 inches or five feet) could be authorized through the minor accommodation process, provided that the encroachment will not have any impact on:
 - Streetscape scale & massing,
 - Neighbors' access to light & air,
 - Neighbors' privacy, and
 - Garden quality of the City.
- Such encroachments could be up to seven feet wide as measured parallel to the property line. Together with encroaching fireplaces, the aggregate widths could not exceed 13 feet.
- Such encroachments could be no closer than three feet from the front of the building (to address building mass).
- Encroaching elevators and elevator enclosures would not be allowed to have any windows.
- Encroaching elevators would be required to comply with the City's noise ordinances.
- In no case would elevators and elevator enclosures be allowed to be any closer than three feet from the property line.

The Minor Accommodation Process

- Allows minor variations from regular standards
- Public notice provided to neighboring properties
- Staff-level process; can be referred to the Planning Commission
- Decisions are appealable

Authority to Amend Code

Section 10-3-3908 of the Beverly Hills Municipal Code (regarding the decision of the Planning Commission on zoning amendments) states: "If, from the facts presented at the public hearing, or



by investigation by or at the instance of the planning commission, the planning commission finds that the public interest, health, safety, morals, peace, comfort, convenience, or general welfare requires the reclassification of any portion of the property, the planning commission shall so recommend to the council."

Analysis

Staff finds that, by accommodating devices that facilitate mobility within a residence, the proposed amendment would serve the public interest, health, comfort, convenience, and general welfare. Residential elevators can make it possible for those with limited mobility to continue to reside in their homes. The proposed 30-inch encroachment is analogous to a fireplace/chimney and poses a minimal intrusion to light and air. Any encroachment greater than 30 inches is to be evaluated through a public process to protect the streetscape, the neighbors' light, air, and privacy, and the garden quality of the City. Through such modest encroachments, the ordinance can maintain or improve the quality of life for its residents.

General Plan Consistency

Allowing such improvements to existing residences can help to maintain the community's housing stock and preserve the viability and stability of residential neighborhoods (Goal No. 1 in the Housing Element; Objective 1.1 in the Land Use Element). The amendment proposes no changes in density and presents no conflicts with the policies in the General Plan; therefore, as the amendment also advances policies of the General Plan, it is consistent with the General Plan.

Notification

A minimum ten-day public notice is required. Notice was published in the December 26, 2008 edition of *The Beverly Hills Courier* and the January 1, 2009 edition of *The Beverly Hills Weekly*.

Environmental Assessment

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. Staff has determined that the proposed ordinance qualifies for a Categorical Exemption (Section 15305 of the CEQA Guidelines), Class 5, "minor alterations in land use limitations" because the ordinance would not result in any changes in land use or density and would only allow minor encroachments. Therefore, under the authority provided by the CEQA Guidelines, no significant environmental impacts are anticipated.

Alternatives/Options

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

1. Add, delete, and/or amend provisions proposed in the ordinance.
2. Reject the proposed ordinance.

FISCAL IMPACT

The proposed Code amendment is not anticipated to have any significant fiscal impact on the City. The provisions would be handled through the regular plan check process. Any minor accommodation application requires a fee that recovers the cost of the process. The ordinance proposes no changes in land use that has any implication on business tax revenues. The ordinance proposes no new City services nor any public improvements or capital expenditures.



Jonathan Lait, AICP

Approved By

Attachment 1

Ordinance

ORDINANCE NO. 09-O-_____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610
OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING
PERMISSIBLE ENCROACHMENTS INTO SIDE YARDS,
STREET SIDE YARDS, AND REAR YARDS IN SINGLE-
FAMILY RESIDENTIAL ZONES, AND AMENDING SECTION
10-3-3600 REGARDING MINOR ACCOMMODATIONS THAT
MAY BE GRANTED

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

Section 1. It has come to the attention of the City that in various households there is a need to provide assisted vertical accessibility in single-family homes. Occasionally this need comes in conflict with the setback standards in single-family residential areas. This ordinance accommodates this need by allowing elevator and elevator enclosures to encroach into required side yards, street side yards, and rear yards of existing residences. It is the goal and objective of this ordinance to preserve the quality of life of the community's residents by providing greater flexibility for adding elevators to existing single-family residences, thus providing aging and other residents with the opportunity to enhance accessibility and continue residing in their homes while balancing these accessibility needs with neighbors' interests with respect to light, air, tranquility, and privacy.

Section 2. The Planning Commission considered the zone text amendment set forth in this Ordinance at a duly-noticed public hearing on December 11, 2008. Evidence, both written and oral was presented during the hearing. After considering the evidence, discussing the ordinance, and providing direction to staff regarding revisions to same, the Planning Commission recommended that the City Council adopt an Ordinance substantially similar to this Ordinance.

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Section 3. The City Council considered this Ordinance at a duly noticed public hearing on January 6, 2009. Evidence, both written and oral, was presented during the hearing.

Section 4. This Ordinance institutes minor alterations in land use limitations which do not result in changes in land use or density. It would only allow minor encroachments into side and rear yards. This Ordinance therefore qualifies as a Class 5 exemption pursuant to Section 15305 of Title 14 of the California Code of Regulations and is thus exempt from further environmental review requirements of the California Environmental Quality Act.

Section 5. City Council hereby adds a new Paragraph K to Section 10-3-2409 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Central Area of Beverly Hills to read as follows:

"K. Elevators and elevator enclosures, provided the following criteria are met:

1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7').
3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13');

4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
 - a. Thirty inches (30"), or
 - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment 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."

Section 6. City Council hereby adds a new Paragraph K to Section 10-3-2509 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Hillside Area of Beverly Hills to read as follows:

"K. Elevators and elevator enclosures, provided the following criteria are met:

1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7').
3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13');
4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
 - a. Thirty inches (30"), or

- b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment 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."

Section 7. City Council hereby adds a new Paragraph K to Section 10-3-2610 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code immediately following paragraph J, and preceding the concluding paragraph of Section 10-3-2610 which shall remain in place with no amendment. The new Paragraph K relates to permissible encroachments in side yards, street side yards, and rear yards in the Trousdale Area of Beverly Hills, and shall read as follows:

"K. Elevators and elevator enclosures, provided the following criteria are met:

- 1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
- 2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7').

3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13');
4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
 - a. Thirty inches (30"), or
 - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment 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."

Section 8. City Council hereby adds Paragraph T to Section 10-3-3600 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding minor accommodations that may be granted to read as follows:

"T. Subsections 10-3-2409K, 10-3-2509K, and 10-3-2610K regarding elevator encroachments into a side or rear setback in R-1 zones."

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

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. 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:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

[Signatures continue]

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ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD, CCM
City Manager



ANNE BROWNING MACINTOSH, AICP
Interim Director of Community
Development

Attachment 2

Planning Commission Resolution

RESOLUTION NO. 1542

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING PERMISSIBLE ENCROACHMENTS INTO SIDE YARDS, STREET SIDE YARDS, AND REAR YARDS IN SINGLE-FAMILY RESIDENTIAL ZONES, AND AMENDING SECTION 10-3-3600 REGARDING MINOR ACCOMMODATIONS THAT MAY BE GRANTED

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

Section 1. It has come to the attention of the City that in various households there is a need to provide assisted vertical accessibility in single-family homes. Occasionally this need comes in conflict with the setback standards in single-family residential areas. This ordinance accommodates this need by allowing elevator and elevator enclosures to encroach into required side yards, street side yards, and rear yards.

Section 2. The Planning Commission hereby recommends that the City Council find that the proposed ordinance institutes minor alterations in land use limitations, which do not result in changes in land use or density. It would only allow minor encroachments into side and rear yards. This Ordinance therefore qualifies as a Class 5 exemption pursuant to Section 15305 of Title 14 of the California Code of Regulations and should be deemed exempt from further environmental review requirements of the California Environmental Quality Act.

Section 3. On November 28, 2008, notice of the public hearing was published in The Beverly Hills Courier. On December 11, 2008, the Planning Commission held a duly noticed public hearing to consider a draft ordinance entitled as follows, hereinafter referred to as "Ordinance":

"Ordinance of the City of Beverly Hills Amending Sections 10-3-2409, 10-3-2509, and 10-3-2610 of the Beverly Hills Municipal Code regarding Permissible Encroachments in Side Yards, Street Side Yards, and Rear Yards in Single-Family Residential Zones"

Evidence, both written and oral, was presented at the hearing.

Section 4. Pursuant to Beverly Hills Municipal Code Section 10-3-3908, if from the facts presented at the public hearing, or by investigation by or at the instance of the Planning Commission, the Planning Commission finds that the public interest, health, safety, morals, peace, comfort, convenience, or general welfare requires the reclassification of any portion of the property, the Planning Commission shall so recommend to the City Council.

Section 5. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds that the proposed Ordinance, as modified by the Commission and attached hereto as Exhibit A, would serve the public interest, health, comfort, convenience, and general welfare by modifying the allowed use of single family residential properties to better accommodate devices facilitating mobility within a residence. Residential elevators can allow those with limited mobility to continue to reside in their homes. The proposed 30-inch encroachment is analogous to a

fireplace/chimney and poses a minimal intrusion to light and air. The proposed provision for minor accommodation considers and preserves streetscape scale and massing, neighbors' access to light and air, neighbors' privacy, and garden quality of the City.

Section 6. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds that by facilitating the installation of elevators to existing residences, the Ordinance will help to maintain the community's housing stock and preserve the viability and stability of residential neighborhoods (Goal No. 1 in the Housing Element; Objective 1.1 in the Land Use Element). The Ordinance proposes no changes in density and presents no conflicts with the policies in the General Plan; therefore, because the Ordinance also advances policies of the General Plan, it is consistent with the General Plan.

Section 7. The Planning Commission hereby recommends that the City Council adopt the Ordinance substantially as set forth in the attached Exhibit A, which is hereby incorporated by reference.

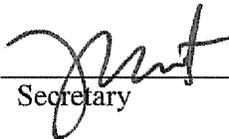
A fully-executed copy of the Planning Commission Resolution will be provided to the City Council prior to the Meeting.

Section 8. The Secretary shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: **DECEMBER 11, 2008**

Kathy Reims
Chair of the Planning Commission of the
City of Beverly Hills, California

ATTEST:



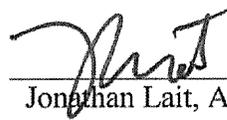
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:



Jonathan Lait, AICP
City Planner

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1540 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on December 11, 2008, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Bosse, Yukelson, and Chair Reims.

NOES: Vice Chair Cole.

ABSTAIN: None.

ABSENT: Chair Furie.



JONATHAN LAIT, AICP
Secretary of the Planning Commission/
City Planner
City of Beverly Hills, California

[DRAFT]
ORDINANCE NO. 08-O-_____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610
OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING
PERMISSIBLE ENCROACHMENTS INTO SIDE YARDS,
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MAY BE GRANTED

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

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Section 2. The Planning Commission considered the zone text amendment set forth in this Ordinance at a duly-noticed public hearing on December 11, 2008. Evidence, both written and oral was presented during the hearing. After considering the evidence, discussing the

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ordinance, and providing direction to staff regarding revisions to same, the Planning Commission recommended that the City Council adopt an Ordinance substantially similar to this Ordinance.

Section 3. The City Council considered this Ordinance at a duly noticed public hearing on January 6, 2009. Evidence, both written and oral, was presented during the hearing.

Section 4. This Ordinance institutes minor alterations in land use limitations which do not result in changes in land use or density. It would only allow minor encroachments into side and rear yards. This Ordinance therefore qualifies as a Class 5 exemption pursuant to Section 15305 of Title 14 of the California Code of Regulations and is thus exempt from further environmental review requirements of the California Environmental Quality Act.

Section 5. City Council hereby adds a new Paragraph K to Section 10-3-2409 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Central Area of Beverly Hills to read as follows:

"K. Elevators and elevator enclosures, provided the following criteria are met:

1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7').

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3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13');
4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
 - a. Thirty inches (30"), or
 - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued and the encroachment is located on the rear fifty percent (50%) of the building. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment 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."

Section 6. City Council hereby adds a new Paragraph K to Section 10-3-2509 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Hillside Area of Beverly Hills to read as follows:

- "K. Elevators and elevator enclosures, provided the following criteria are met:
1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
 2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7').
 3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13');
 4. The encroachment is not closer than three feet (3') from the front of the building;
 5. The elevator and elevator enclosure does not have any windows;
 6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
 7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.

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8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
- a. Thirty inches (30"), or
 - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued and the encroachment is located on the rear fifty percent (50%) of the building. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment 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."

Section 7. City Council hereby adds a new Paragraph K to Section 10-3-2610 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code immediately following paragraph J, and preceding the concluding paragraph of Section 10-3-2610 which shall remain in place with no amendment. The new Paragraph K relates to permissible encroachments in side yards, street side yards, and rear yards in the Trousdale Area of Beverly Hills, and shall read as follows:

"K. Elevators and elevator enclosures, provided the following criteria are met:

1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%)

during the past five (5) years as described in Section 10-3-4100 of this Chapter.

2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7').
3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13');
4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
 - a. Thirty inches (30"), or
 - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued and the encroachment is located on the rear fifty percent (50%) of the building. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment 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."

Section 8. City Council hereby adds Paragraph T to Section 10-3-3600 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding minor accommodations that may be granted to read as follows:

"T. Subsections 10-3-2409K, 10-3-2509K, and 10-3-2610K regarding elevator encroachments into a side or rear setback in R-1 zones."

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

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.

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

Adopted:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

RODERICK J. WOOD, CCM
City Manager

ANNE BROWNING MACINTOSH, AICP
Interim Director of Community
Development

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