



AGENDA REPORT

Meeting Date: May 15, 2012

Item Number: D-1

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: 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

Attachments:

1. Ordinance
2. Resolution of the Planning Commission Recommending that the City Council Adopt the Proposed Ordinance
3. Staff Report and Attachments to the Planning Commission on April 12, 2012

RECOMMENDATION

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled " 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" be introduced and read by title only.

INTRODUCTION

Currently, the Beverly Hills Municipal Code requires the City to accept an offer to dedicate land for street and alley improvements within one year¹. This code language was adopted on May 3, 1984 and has never been amended. 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. Under the current code requirements, when a development project

¹ Beverly Hills Municipal Code 10-6-4 "Dedication Procedure"
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lasted for more than one year the City would either need to accept the land dedication prior to the completion of a project, or forego the dedication.

DISCUSSION

The City's Street Master Plan guides the City's development of streets and alleys. Many alleys in the City were originally constructed to a width of fifteen feet (15') which is very narrow for today's vehicles. To assure adequate access for emergency and other service vehicles in alleys serving commercial properties, condominiums and apartments, the Master Plan calls for a minimum width of twenty feet for certain alleys. Not all alleys require widening and the City currently has no plans to widen alleys in single family neighborhoods, except for alleys that separate single family homes from commercial and retail businesses, condominiums and apartments.

Additionally, although rare, the City sometimes constructs new alleys as was the case with the Mercedes Benz dealership at Beverly Boulevard and Civic Center Drive, which required a new alley for emergency access onto Alden Drive between the dealership and the abutting properties to the east.

Currently, the alley widening requirement of the City's Street Master Plan is triggered when a property is redeveloped. When a new structure, or reconstruction or enlargement of a structure is proposed on a lot abutting an alley that is narrower than twenty feet and subject to dedication pursuant to the Master Plan, the City requires a dedication of land from that lot. Typically, the dedication is equal to one half of the additional width needed to widen the alley to twenty feet. If an existing alley is fifteen feet wide, for instance, the required dedication would be two and a half feet (2.5').

When land is dedicated, the land is given to the City free of cost. The property owner no longer owns that piece of land and is no longer assessed property tax for that portion of land. The dedicated land becomes part of the City's infrastructure. The Municipal Code does not allow the City to charge an administrative fee in connection with any dedication or subsequent street or alley improvement. Additionally, the City cannot charge the property owner during the construction phase for use of the portion of land that is to be dedicated.

ANALYSIS

The City's Municipal Code currently requires the City to accept dedications of land within one year. The requirement to dedicate land is triggered when a property is redeveloped. Construction of certain projects can take longer than one year, and so at the end of a year the property including the area that is to be dedicated to the City may still be an active construction site. Accepting land prior to the completion of construction on the site would then shift property ownership for that dedicated portion of the construction site to the City. The City could be

liable for any injuries or damage that occurred on the dedicated land while construction work was still ongoing.

The City has never foregone a dedication of land. However, the stipulation that the land be accepted within one year has presented challenges to limiting the City's liability. Keeping the requirement in the code that the City accept dedications of land within one year would continue to raise liability concerns when a private construction project with a land dedication requirement lasts for more than one year. If the City was to forego a dedication of land, the City would then lose an opportunity to build out the Street Master Plan, and the alley in question would remain narrower than desired for emergency and other service vehicles to navigate effectively.

The ordinance provided as Attachment 1 deletes the City's current requirement that dedications of land for street and alley improvements be accepted within one year. This ordinance is similar to the land dedication requirements in other jurisdictions by having no set time limit to accept dedications and thereby allowing any offer of dedication to continue to be valid until all construction work has been completed. While the dedication is pending, the property owner shall be able to use the land. The City may accept the dedication once construction has been completed.

ENVIRONMENTAL REVIEW

The 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.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a duly noticed public hearing on this matter on April 12, 2012. No public comments were received prior to, or during that hearing. The Planning Commission adopted the attached resolution recommending that the City Council delete the one-year requirement on a vote of five-zero (5-0) in favor.

PUBLIC NOTICE

The public hearing scheduled before the City Council on May 15, 2012 was noticed in the Beverly Hills Courier on Friday, May 4, 2012 and in the Beverly Hills Weekly on Thursday, May 10, 2012. As of the writing of this report no public comments have been received.

Meeting Date: May 15, 2012

Zoning Ordinance: Deletion of Requirement to Accept Dedications of Land within One Year

FISCAL IMPACT

Adoption of this ordinance would not result in any immediate fiscal impacts; the ordinance however would reduce the City's potential for liability related to accepting land and therefore could have a beneficial impact on City revenues.

Susan Healy Keene, AICP
Director of Community
Development

Approved By



Attachment 1

Ordinance

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. On April 12, 2012, the Planning Commission held a duly notice public hearing at the end of which it adopted Resolution No. 1638, recommending that the City Council amend certain development standards in the zoning code for single family properties in the Central Area of the City. On May 15, 2012, the City Council held a duly notice public hearing, received public testimony, and at the end introduced this ordinance.

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.

Section 3. This ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Goal S 3 “Existing and New Development and Redevelopment” requires that existing and new development, and redevelopment projects address fire protection in a proactive and preventative manner. General Plan Policy S 3.4 “Fire Department Access” and General Plan Implementation Program 2.4 require private and public

access, drives and roadways to be designed to preserve and maintain Fire Department access to properties.

Section 4. 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 5. 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 6. 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.

Section 7. 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 W. BRIEN, MD
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 KOLIN
City Manager



DAVID GUSTAVSON
Director of Public Works & Transportation



SUSAN HEALY KEENE
Director of Community Development

Attachment 2

Recommendation of the Planning
Commission

RESOLUTION NO. 1638

RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF BEVERLY HILLS RECOMMENDING DELETION OF
THE REQUIREMENT TO ACCEPT DEDICATED PROPERTY
WITHIN ONE YEAR AND AMENDMENT OF 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, among other things, 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.

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 feasible 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".

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.

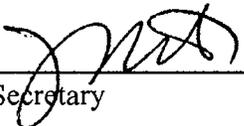
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: **April 12, 2012**



Craig Corman
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



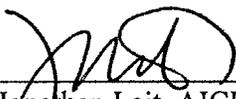
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:



Jonathan Lait, AICP
Assistant Director of Community Development /
City Planner
PN

Exhibit A – Proposed Amendments to the Zoning Code (BHMC 10-6-4)

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:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

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LAURENCE S. WIENER
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City Manager

DAVID GUSTAVSON
Director of Public Works & Transportation

SUSAN HEALY KEENE
Director of Community Development

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

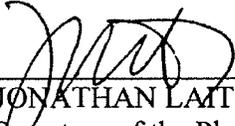
I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1638 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on April 12, 2012, 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 Fisher, Yukelson, Cole, Vice Chair Rosenstein, and Chair Corman.

NOES: None.

ABSTAIN: None.

ABSENT: None.



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

Attachment 3

Staff Report to the Planning
Commission on April 12, 2012



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:

Peter Noonan, AICP CEP
Associate Planner
(310) 285-1127
pnoonan@beverlyhills.org

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. 1638

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

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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

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Adopted:

Effective:

WILLIAM BRIEN
Mayor of the City of
Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

(SEAL)

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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