



## AGENDA REPORT

**Meeting Date:** June 16, 2015

**Item Number:** E-2

**To:** Honorable Mayor & City Council

**From:** Ryan Gohlich, Assistant Director of Community Development / City Planner

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS REPLACING ARTICLE 32 (HISTORIC PRESERVATION) AND AMENDING ARTICLE 32.5 (HISTORIC INCENTIVE PERMIT), ARTICLE 33 (IN LIEU PARKING), AND ARTICLE 2.5 (PUBLIC NOTICE REQUIREMENTS) OF CHAPTER 3 OF TITLE 10, AND SECTION 9-1-104 OF CHAPTER 1 OF TITLE 9 OF THE BEVERLY HILLS MUNICIPAL CODE. THE COUNCIL WILL ALSO CONSIDER ADOPTION OF A CATEGORICAL EXEMPTION, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

**Attachments:**

1. Ordinance
2. Redlined Beverly Hills Municipal Code Sections
3. Planning Commission Recommendation (Resolution No. 1748)
4. May 28, 2015 Planning Commission Staff Report (excluding attachments)
5. Public Comment Letters
6. Memos from Planning Commissioner Corman and Summary of Cultural Heritage Commission Comments

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### **RECOMMENDATION**

It is recommended that the City Council move to waive full reading of the ordinance, and that the ordinance titled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS REPLACING ARTICLE 32 (HISTORIC PRESERVATION) AND AMENDING ARTICLE 32.5 (HISTORIC INCENTIVE PERMIT), ARTICLE 33 (IN LIEU PARKING), AND ARTICLE 2.5 (PUBLIC NOTICE REQUIREMENTS) OF CHAPTER 3 OF TITLE 10, AND SECTION 9-1-104 OF CHAPTER 1 OF TITLE 9 OF THE BEVERLY HILLS MUNICIPAL CODE" be introduced and read by title only.

## **INTRODUCTION**

Summarized in this report is the background on the Historic Preservation Ordinance policy and code update that began in November 2013. This report also transmits, upon the recommendation of the Planning Commission, an ordinance that would amend various sections of the Beverly Hills Municipal Code (BHMC) with regard to historic preservation. The revisions to the ordinance have evolved through numerous meetings and input received from various bodies and stakeholders, and the updated ordinance that has resulted from the culmination of these meetings is now presented to the City Council for consideration. If adopted by the City Council, the ordinance would amend the following sections of the Beverly Hills Municipal Code:

- Title 10 (Planning and Zoning), Chapter 3 (Zoning):
  - Article 32 (Historic Preservation),
  - Article 32.5 (Historic Incentive Permit)
  - Article 33 (In Lieu Parking),
  - Article 2.5 (Public Notice Requirements), and
  
- Title 9 (Building and Property Health and Safety Regulations), Chapter 1 (Technical Codes):
  - Section 9-1-104 (Amendments to Uniform Administrative Code).

## **BACKGROUND**

The current Historic Preservation Ordinance was adopted by the City Council in January 2012 and codified as Beverly Hills Municipal Code, Title 10, Chapter 3, Article 32. Review of the Historic Preservation Ordinance was initiated in 2013, partially in response to suggestions from the State Office of Historic Preservation, with the intention of addressing a variety of administrative and other non-substantive changes that would make the ordinance more consistent with state and federal procedures. As modifications to the ordinance were being contemplated and making their way through the public review process, additional concerns were raised by members of the public, including comments made at a City Council meeting in the summer of 2014. These concerns led to a Liaison Committee meeting of the City Council, Planning Commission, and Cultural Heritage Commission in September of 2014. Some of the issues discussed at this meeting included processing times for development projects and the scope of rehabilitation work that is allowed during a 30-day hold period. The Committee agreed that changes to the ordinance should be considered, and directed that work proceed on ordinance modifications. A follow-up Liaison Committee meeting occurred in January of 2015 to review the status of the ordinance changes, and additional guidance was provided by the Liaison Committee to make sure that the City's objectives were being met.

### *Continued Planning Commission Review*

Based on the general direction provided through the Liaison Committee meetings, the Planning Commission undertook continued work on the ordinance, with Commissioner Corman volunteering to lead the work on drafting new code language for the ordinance. Overall, the Planning Commission's goals included:

- Increasing certainty of the City's historic property review process
- Reviewing the pros and cons of historic districts
- Protecting property rights and values
- Tightening Local Landmark criteria
- Revisiting the Ordinance to ensure its alignment with the original intent of the legislation

Between October of 2014 and May of 2015, numerous meetings occurred with various stakeholders to discuss the ordinance and how best to achieve balanced objectives for the City. These meetings, at various times, included input from the Liaison Committee, Planning Commission, Cultural Heritage Commission, the City's historic consultant, representatives from the Los Angeles County Conservancy, and members of the public. Information concerning each of these meetings and the feedback received is provided as Attachment 4 (May 28, 2015 Planning Commission Staff Report) for reference. The ordinance presented to the City Council has been drafted based on the discussions that occurred through these meetings, and attempts to find balance and compromise between historic preservation and property rights.

### *Planning Commission Recommendation*

Most recently, the Planning Commission considered the draft ordinance at its May 28, 2015 meeting. At the meeting, the Planning Commission discussed the draft ordinance and heard public comment from various Cultural Heritage Commissioners (representing themselves as individuals). Three Cultural Heritage Commissioners indicated their support for the ordinance as drafted and one Commissioner expressed her continued opposition to many of the proposed changes. The Planning Commission unanimously voted 4-0 (Commissioner Gordon was unable to attend the meeting) to adopt Resolution No. 1747 (Attachment 3), recommending that the City Council adopt the ordinance replacing Article 32: Historic Preservation and amending various other sections of the Beverly Hills Municipal Code.

## **DISCUSSION**

This report transmits the proposed ordinance (Attachment 1), as recommended by the Planning Commission. The ordinance under consideration was drafted primarily by Planning Commissioner Corman with the help of the City Attorney's Office and input from the various stakeholders mentioned above. In order to make clear the changes that are being proposed, a redlined copy of the applicable code sections is included in Attachment 2 for the Council's reference.

An overview of the major proposed changes to the Historic Preservation Ordinance is provided below for ease of use. Commissioner Corman provided a summary and further explanation of key changes in the memo in Attachment 6. The major proposed amendments contained in the ordinance would:

1. Revise select definitions (BHMC §10-3-3202). Several definitions are modified. New definitions are introduced for terms such as “architect,” “iconic property,” “exceptional work,” “eligible property,” “person of great importance,” “person of local prominence,” “property of extraordinary significance,” “substantial integrity,” and others. Some definitions are deleted, such as “archaeological site.”
2. Revise the Intent and Purpose of the ordinance (§10-3-3203). Refinements are made to the existing language.
3. Revise the Powers and Duties of the Commission (§10-3-3208). Refinements are made to the existing language.
4. Establish the Inventory of Eligible Properties (§10-3-3210). The Cultural Heritage Commission is responsible for determining which properties are eligible for listing on the inventory and for maintaining and updating the list.
5. Revise Landmark Designation Criteria (§§10-3-3212; 3213). The criteria for landmark status are raised to a standard that would capture “exceptional” or “iconic” works and properties. The criteria also allow for more leeway if the designation is expressly sought or agreed to by the property owner.
6. Revise Historic District Designation Criteria (§10-3-3213). Historic District designation criteria are modified to eliminate non-contiguous (thematic) districts and districts in the single-family residential zone.
7. Revise Landmark and Historic District Designation Proceedings (§10-3-3215). Institutes timeframes within which applications must be reviewed and acted upon. Establishes a new “Preliminary Evaluation and Hearing” procedure. Increases notification times and requirements to provide information to the applicant/property owners. Designation of a landmark property or district where the property owner(s) oppose designation requires a “supermajority” vote of the City Council (four positive votes, unless a quorum is constituted of three members, then three positive votes).
8. Clarify and expand temporary protections regarding permit issuance on properties while designation proceedings are pending (§10-3-3217). Provides protection to potentially historic properties until a designation decision is reached, while allowing for permits to be issued on improvements that would not detrimentally alter the character-defining features of the potential historic resource.
9. Clarify the operation of the hold period on permits to alter buildings older than 45 years (§10-3-3218). Institutes timeframes within which the right to building permits must be exercised after a decision has been rendered on the historic status of a property.
10. Refine Certificate of Appropriateness procedures (§10-3-3219). Revises the standard of review and compliance when a Certificate of Appropriateness is required.

11. Revise Certificate of Economic Hardship findings and procedures (§10-3-3220). Application requirements are clarified. Finding requirements are revised. Allows for conditions of approval to be applied to the Certificate and extension of time periods to be considered.
12. Replace the Director's Determination of Ineligibility process (§10-3-3204) with a new Certificate of Ineligibility Process (§10-3-3221). Allows for a property owner to request a determination that the subject property is not an eligible property and therefore is exempt from the provisions of Article 32.
13. Insert a section to enable designated historic properties to apply for inclusion into the City's In Lieu Parking Program (§§10-3-3228; 10-3-3311). Expands the properties eligible to apply for in lieu parking from those that are adaptively reusing a building listed on the National Register of Historic Places (current requirement) to all "designated historic properties." Article 33 ("In Lieu Parking") is updated accordingly to maintain consistency.
14. Institute timeframes within which applications must be processed and acted upon in multiple provisions in Article 32.
15. Expand the applicability of the Historic Incentive Permit (§10-3-3251). Currently only designated historic properties may apply for the HIP; the expansion would enable those properties that have been determined to be eligible at a preliminary hearing by the Cultural Heritage Commission to also be eligible to apply.
16. Establish a period in which to exercise demolition rights after demolition permit issuance on certain potentially historic properties (§9-1-104).
17. Make additional minor text changes in the Municipal Code.

To maintain internal consistency, minor amendments to other sections of the Beverly Hills Municipal Code<sup>1</sup> are required. These amendments include:

- Revising BHMC Article 2.5 (Public Notice Requirements) to reflect the new and revised public noticing timelines included in the ordinance.
- Revising BHMC Article 33 (In Lieu Parking), specifically §10-3-3303, to reflect the expansion of the in lieu parking program to designated historic properties, as stipulated in (new) §10-3-3228.

The above amendments, as noted previously, display an attempt to strike an appropriate balance between the public benefits that result from a citywide historic preservation program with the protection of private property rights expected by landowners.

## **PUBLIC NOTICE**

California Government Code Section 65090 requires that notice of a public hearing shall be provided in at least one newspaper of general circulation within the jurisdiction at least 10 days prior to the hearing. Notice of the June 16, 2015, City Council public hearing was published in the *Beverly Hills Courier* on Friday, June 5, 2015, and the *Beverly Hills Weekly* on Thursday, June 11, 2015. At the time of the publication of this

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<sup>1</sup> Available online at: [http://www.sterlingcodifiers.com/codebook/index.php?book\\_id=466](http://www.sterlingcodifiers.com/codebook/index.php?book_id=466)

report, no new public comments beyond those previously submitted (and provided as Attachment 5) were received.

### **GENERAL PLAN CONSISTENCY**

The City of Beverly Hills General Plan includes numerous goals and policies intended to guide development in the city. Some policies relevant to the City Council's review of the ordinance include:

- **Policy Land Use (LU) 2.6 City History.** Acknowledge the City's history of places and buildings, preserving historic sites, buildings, and districts that contribute to the City's identity while accommodating renovations of existing buildings to maintain their economic viability, provided the new construction contextually "fits" and complements the site or building.
- **Policy LU 3.1 Conservation.** Conserve existing residential neighborhoods, and non-residential areas where new development builds on and enhances the viability of existing business sectors that are the City's strengths, promotes transit accessibility, is phased to coincide with infrastructure funding and construction, and designed to assure transitions and compatibility with adjoining residential neighborhoods.
- **Policy LU 5.1 Neighborhood Conservation.** Maintain the uses, densities, character, amenities, and quality of the City's residential neighborhoods, recognizing their contribution to the City's identity, economic value, and quality of life.
- **Policy Historic Preservation (HP) 1.1 Local Register of Historic Resources.** Consider establishing a local register of historic resources based on the City's historic resources inventory and any additional resources that qualify for designation under Federal, State, and local criteria. Develop criteria for locally significant resources which could include structures that have local importance due to their unique architecture or associations but which may not meet National Register Criteria.
- **Policy HP 1.3 Promote National, State and Local Designation of Historic Resources.** Develop programs to promote the nomination of properties listed on the City's historic resources inventory for listing on the local register of historic resources, California Register of Historic Resources, or National Register of Historic Places.
- **Policy HP 1.4 Develop Incentives to Protect Significant Historic Resources.** Develop and fund financial and regulatory incentives to encourage the protection of historic buildings, districts, and public landmarks/monuments from demolition or significant alteration, which may include Mills Act contracts, waiver of fees, flexible development standards, conservation easements, transfer of development rights, and other incentive-based mechanisms to make preservation feasible for owners and developers.
- **Policy HP 1.5 Tiered Regulations for Residential and Non-Residential Historic Resources.** Consider a tiered approach for regulating non-residential,

multi-family residential and single-family residential historic resources. A tiered approach to regulation may include standardized thresholds that trigger mandatory protections against demolition and/or financial and regulatory incentives to encourage preservation which may be different for each building type.

## **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. This ordinance qualifies for a categorical exemption from the environmental review requirements of CEQA pursuant to Section 15305 (Class 5, Minor Alterations in Land Use Limitations) of Title 14 of the California Code of Regulations.

## **STAFFING AND FISCAL IMPACT**

The proposed ordinance will have some staffing and fiscal impacts. However, these impacts are not expected to be significant because: (1) the majority of applications/procedures already exist in the current ordinance; (2) the overall volume of various applications/procedures is not expected to increase substantially; and (3) future fees may be adopted that will offset significant portions of the impacts.

Some of the staffing/fiscal impacts will represent one-time costs. The areas where limited impacts may occur relate to:

- Revising the inventory of eligible properties (One-Time)
- Preparing/modifying administrative guidelines (One-Time)
- Additional work required under the preliminary evaluation provision (On-Going)
- Additional work required under the certificate of ineligibility provision (On-Going)
- Modest increase in volume of 30-day hold applications (On-Going)
- Modest increase in staff time for outreach to the community and to realtors (One-Time)

The initial estimate of staffing/fiscal impacts is summarized below:

Staff Requirements – The additional one-time staffing requirements are estimated at 250 hours, or .13 FTEs (Full Time Equivalents). These hours can be accommodated within the department's existing work program. The additional on-going staffing requirements are estimated at 1500 hours per year, or .80 FTEs. These impacts cannot be accommodated with existing resources. Staff recommends meeting this incremental need by adding part-time staff, the use of consultants or a combination thereof. But in the first year – because the staffing requirements are based on estimates, including the estimated number of applications the City will receive – it is recommended that these needs be met by using consultants to augment staff's capacity. After the first year, the City will have data with which to decide whether the future requirements would be best met by adding part-time staff or continuing to use consultants. Further, since these costs would be the result of applications filed by property owners, a significant portion of them can be offset by revenues from fees.

Consultant Requirements – A significant portion of the technical work on Beverly Hills’ historic preservation program relies on technical expertise provided by historic preservation consultants. Since inception of the program, the budget for this consultant assistance has averaged \$75,000 per year. Similar to the staffing impacts discussed above, the proposed ordinance is expected to have both one-time and on-going impacts. The additional estimated one-time impacts for the first year would be \$80,000. The additional estimated on-going impacts would be \$86,000. Accordingly, the total first year costs are estimated at \$241,000 and \$161,000 in each subsequent year. Staff will recommend appropriations in these amounts in subsequent budgets. Similar to the staffing requirements, these costs would be the result of applications filed by property owners and, therefore, a significant portion of the costs can be offset through application fees that would be paid by applicants.

Overall, significant portions of the staffing and consultant costs may be offset through the collection of fees and reimbursements for consultant expenses. Further, since there is no fee for existing historic applications, it is possible that a portion of existing costs could also be recovered. Staff is presently working with the City’s consultants to prepare an in-depth analysis of the costs and proposed fees. This analysis will be submitted to the City Council for its review and adoption prior to the effective date of the revised historic ordinance. This analysis will detail the costs associated with processing applications that are filed by property owners, and will recommend to the City Council recovery of these costs through new or updated fees.

In order to assure that fees, staffing and administrative procedures are in place to properly implement the ordinance, staff recommends that the City Council specify the effective date of the new ordinance to be 120 days after final adoption, which will allow for the adoption and implementation of the necessary fees.

**RECOMMENDATION**

It is recommended that the City Council move to waive full reading of the ordinance, and that the ordinance titled “AN ORDINANCE OF THE CITY OF BEVERLY HILLS REPLACING ARTICLE 32 (HISTORIC PRESERVATION) AND AMENDING ARTICLE 32.5 (HISTORIC INCENTIVE PERMIT), ARTICLE 33 (IN LIEU PARKING), AND ARTICLE 2.5 (PUBLIC NOTICE REQUIREMENTS) OF CHAPTER 3 OF TITLE 10, AND SECTION 9-1-104 OF CHAPTER 1 OF TITLE 9 OF THE BEVERLY HILLS MUNICIPAL CODE” be introduced and read by title only.

Susan Healy Keene, AICP  
Director of Community Development

  
Approved By