



Attachment 4

Planning Commission Staff Report

May 28, 2015

(without attachments)



Planning Commission Report

Meeting Date: May 28, 2015

Subject: Amendments to Beverly Hills Municipal Code Regarding Historic Preservation (Amendments to Title 10, Chapter 3, Articles 2.5, 32, 32.5, and 33; and Title 9, Chapter 1). Pursuant to the provisions set forth in the California Environmental Quality Act (CEQA), the Planning Commission may also consider a determination of exemption from CEQA.

Recommendation: 1) Review the proposed Draft Ordinance, and 2) adopt a Resolution recommending that the City Council adopt an Ordinance replacing Article 32 (Historic Preservation) and amending various other Municipal Code Sections related to historic preservation

REPORT SUMMARY

Summarized in this report is the background on the Historic Preservation Ordinance process that began in November 2013. This report also transmits a draft Ordinance that would amend various Beverly Hills Municipal Code (BHMC) sections with regards to Historic Preservation. The Planning Commission is presented with a draft Resolution recommending that the City Council adopt this Ordinance. As a next step, the Ordinance would be scheduled for a public hearing before the City Council. 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 ("prior revisions") was initiated in 2013 in response to suggestions from the State Office of Historic Preservation about a variety of administrative and other non-substantive changes that would make the ordinance more consistent with state and federal procedures. Since initial

Attachment(s):

1. Draft PC Resolution Recommending Ordinance (Includes Draft Ordinance as Exhibit A)
2. Redlined Draft Ordinance, showing changes since Draft v.12-11-14
3. Memo to the Planning Commission from Craig Corman, 5-28-15
4. Summary of CHC Comments from 4-21-15
5. Memo to Ryan Gohlich from Craig Corman, 5-18-15

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review in 2013, the Historic Preservation Ordinance policy and code update has been deliberated on by the Planning Commission, the Cultural Heritage Commission, and the City Council, Planning Commission and Cultural Heritage Commission Liaisons. The proposed revisions evolved through the input received from the various bodies, and is now presented to the Planning Commission for consideration and potential recommendation to the City Council.

By way of background, in 2013, the City and the State Office of Historic Preservation engaged in discussions about the City becoming a Certified Local Government (CLG), which would require changes to how the City's ordinance addresses historic districts. The CLG program is jointly administered by the State Office of Historic Preservation and the National Park Service in a partnership with local governments. CLG designation makes cities eligible to receive certain grants and technical assistance, among other benefits. These issues were discussed in a joint sub-committee of the Planning Commission and Cultural Heritage Commission, and later the Planning Commission adopted a resolution recommending changes to the ordinance (Resolution 1697, November 21, 2013). The resolution proposed additional restrictions on historic districts that would preclude the CLG designation. Accordingly, the State Office of Historic Preservation later reached out to City staff to discuss the ordinance in hopes that Beverly Hills might still become a CLG. These discussions continued into the spring of 2014.

Concerns from members of the public, including comments made at a City Council meeting in the summer of 2014, led to a Liaison Committee meeting of the City Council, Planning Commission and Cultural Heritage Commission on September 16, 2014. Processing times for development projects, and the scope of rehabilitation work that is allowed during a 30-day hold period, were among the issues addressed in the Liaison Committee meeting. The Committee agreed that changes to the ordinance should be considered.

Planning Commission Review

For the Planning Commission's full discussion, video archive of these meetings is available at: http://beverlyhills.granicus.com/ViewPublisher.php?view_id=26

- **October 9, 2014**

Initial changes to the ordinance were reviewed by the Planning Commission at its October 9, 2014 meeting. These changes incorporated input from a variety of sources including: the City Council, Cultural Heritage Commission, Planning Commission Subcommittee members, Cultural Heritage Commission Subcommittee members, the State Office of Historic Preservation, the City Attorney's Office, the City's historic consultants and City staff. The Planning Commission discussed this input, as well as the scope and intent of the Ordinance and the impact of the Historic Preservation Program in general. These topics 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

Commissioner Corman indicated his willingness to work on drafting additional changes to the Ordinance for consideration by the Planning Commission. One member of the public commented in support of revising the ordinance and provided suggestions for areas of adjustment. Accordingly, the Planning Commission continued the matter to the October 23, 2014, meeting to allow for these further refinements.

- October 23, 2014

At a continued public hearing on October 23, 2014, the Planning Commission considered an alternate redlined version of the Historic Preservation Ordinance, which was drafted in significant part by Planning Commissioner Craig Corman in consultation with Planning Commission Chair Howard Fisher. One member of the public commented in support of the drafted revisions.

Planning Commission members indicated their general support of the proposed amendments, and requested that staff present the draft to the Cultural Heritage Commission for its review (which occurred in November 2014), and to bring any resulting comments back to the Planning Commission for its further consideration.

- December 11, 2014

At its December 11th meeting, the Planning Commission considered a revised Historic Preservation Ordinance. The Planning Commission adopted Resolution No. 1737, (which superseded Resolution No. 1697 adopted November 21, 2013), recommending that the City Council replace Article 32: Historic Preservation and amend Article 32: Historic Incentive Permit.

Members of the public commenting at this meeting expressed concern with the drafted Ordinance changes and how they would impact the ability to protect historic resources in Beverly Hills.

Liaison Meeting

Following the Planning Commission's December 11, 2014, meeting, the proposed Ordinance was discussed at a liaison meeting on January 15, 2015 with representatives from the City Council (Mayor Bosse and Councilmember Mirisch), Planning Commission (Commissioner Corman and Chair Fisher), and Cultural Heritage Commission (Vice Chair Greer and Commissioner Furie). Members of the public commenting at this meeting expressed concern with the drafted Ordinance changes and how they would impact the ability to protect historic resources in Beverly Hills. The City Council Liaisons identified the following as mutually agreed upon issues that needed to be addressed through Ordinance amendments: streamlining of landmark proceedings; criteria for voluntary and involuntary designations; and reducing uncertainty in the home buying process. The direction from then-Mayor Bosse at the Liaison Meeting was for the Planning Commission representatives to continue working with the CHC and other interested parties to identify places of agreement amongst the stakeholders as well as those areas where consensus was not able to be reached.

Accordingly, further revisions have been drafted since the Planning Commission last reviewed the draft Ordinance in December 2014. Since then, Commissioner Corman (assisted by Chair Fisher), representing the Planning Commission, has met with various stakeholders to garner input on Ordinance language, including:

- A representative from the Los Angeles Conservancy, a historic preservation advocacy non-profit organization serving Los Angeles County
- Representatives from the Cultural Heritage Commission
- The City's historic consultant, Jan Ostashay of Ostashay & Associates Consulting
- City staff

Cultural Heritage Commission Review

The Cultural Heritage Commission (CHC) reviewed various iterations of the draft amended Preservation Ordinance on multiple occasions, as summarized below. For the Cultural Heritage Commission's full discussion, video archive of these meetings is available at:

http://beverlyhills.granicus.com/ViewPublisher.php?view_id=36.

- November 17, 2014, with continued discussion on November 24, 2014.

The Commission reviewed a draft of the Ordinance and provided responses to specific provisions as well as larger policy changes. Commissioners expressed concern with revised definitions, powers and duties of the commission, historic landmark and district designation criteria, timeframes, and fiscal and staffing impacts.

Members of the public commenting at these meeting expressed concern with the drafted Ordinance changes and how they would impact the ability to protect historic resources in Beverly Hills.

- February 2, 2015, with continued discussion on February 11, 2015.

The CHC reviewed a draft of the Ordinance and considered City staff's analysis in the context of the following ten topic areas and provided feedback to the Ad Hoc Committee for future discussions:

- Timelines (streamlining, providing more certainty, timing of notices)
- Voluntary/Involuntary Designation Criteria
- Decision-Making Process (which decisions should require approval by the City Council, the CHC, staff; supermajority vote?)
- Master Architect Criteria
- Designation Criteria (including concept of "iconic" properties)
- Historic Districts (residential)
- Definitions
- Economic Hardship (delisting, moving historic resources, involuntary designations)
- Survey/Inventory
- Incentives

- April 21, 2015

Most recently, the Cultural Heritage Commission reviewed a draft of the Ordinance at its special meeting on April 21, 2015. Commissioners discussed the proposed regulations and provided feedback for consideration by the Planning Commission. The CHC comments from that meeting are summarized in Attachment 4. Commissioner Corman considered this feedback and, in consultation with Chair Fisher, incorporated many suggestions as further refinements to the proposed ordinance that is presented for the Planning Commission's consideration in

Attachment 1. Commissioner Corman's response to the CHC comments is contained in the memo in Attachment 5.

DISCUSSION

This report transmits the proposed amended Historic Preservation Ordinance (Exhibit A to Attachment 1 of this report) drafted by Commissioner Corman with input from the Planning Commission, Cultural Heritage Commission, and other stakeholders.

Two versions of the Ordinance are presented as attachments to this report for the Planning Commission's reference:

- 1) Attachment 1, Exhibit A, presents a clean copy of the current proposed draft Ordinance and code language, for the Planning Commission's consideration; and
- 2) Attachment 2 presents a redlined document to highlight the changes between the version considered and recommended by the Planning Commission on December 11, 2014, and the current proposed Draft Ordinance, as provided by Commissioner Corman.

An overview of the major proposed changes to the Historic Preservation Ordinance is provided below for ease of use. Commissioner Corman has provided a summary and further explanation of key changes in the memo in Attachment 3. The major proposed amendments to the Ordinance would:

1. Revise select definitions (BHMC §10-3-3202);
2. Revise the Intent and Purpose of the Ordinance (§10-3-3203);
3. Revise the Powers and Duties of the Commission (§10-3-3208);
4. Revise Landmark and Historic District Designation Criteria (§§10-3-3212; 3213);
5. Revise Landmark and Historic District Designation Proceedings (§10-3-3215);
6. Clarify and expand temporary protections regarding permit issuance on properties while designation proceedings are pending (§10-3-3217);
7. Clarify the operation of the hold period on permits to alter buildings older than 45 years (§10-3-3218);
8. Refine Certificate of Appropriateness procedures (§10-3-3219);
9. Revise Certificate of Economic Hardship findings and procedures (§10-3-3220);
10. Replace the Director's Determination of Ineligibility process (§10-3-3204) with a new Certificate of Ineligibility Process (§10-3-3221);
11. 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);
12. Institute timeframes within which applications must be processed and acted upon;
13. Expand the applicability of the Historic Incentive Permit (§10-3-3251);
14. Establish a period in which to exercise demolition rights after demolition permit issuance on certain potentially historic properties (§9-1-104);
15. Make additional minor text changes in the Municipal Code.

To maintain internal consistency, minor amendments to other sections of the Beverly Hills Municipal Code¹ 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 Ordinance².
- 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.

STAFFING AND FISCAL IMPACT ANALYSIS

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 will recommend meeting this incremental need by adding part-time staff, the use of consultants or a combination of these. Because 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 – Significant portions 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

¹ Available online at: http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

² These non-substantive revisions are not currently in the Draft Ordinance included in the Planning Commission packet as Attachment 1; these amendments will be incorporated into the Draft Ordinance and provided to the Planning Commission under separate cover.

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 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 will recommend 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.

PUBLIC NOTICING

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 May 28, 2015, Planning Commission public hearing was published in the *Beverly Hills Courier* on Friday, May 15, 2015 and the *Beverly Hills Weekly* on Thursday, May 21, 2015. At the time of the publication of this report, no public comments were received.

GENERAL PLAN³ POLICIES

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

- **Policy 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.

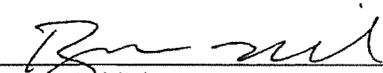
³ Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp

- **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 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.

Report Reviewed By:



Ryan Gohlich
City Planner