



AGENDA REPORT

Meeting Date: February 16, 2016

Item Number: F-1

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development
Ryan Gohlich, Assistant Director of Community Development – City Planner

Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ARTICLES 32 (**HISTORIC PRESERVATION**) AND 32.5 (**HISTORIC INCENTIVE PERMIT**) OF THE BEVERLY HILLS ZONING CODE TO CLARIFY THAT CERTAIN ARCHIVED PHOTOGRAPHS AND FILMS MAY BE CONSIDERED IN DETERMINING WHETHER A PROPERTY IS AN "EXCEPTIONAL WORK," TO REFINE THE CRITERIA FOR ISSUANCE OF HISTORIC INCENTIVE PERMITS IN THE TROUSDALE ESTATES AREA OF THE CITY, TO CLARIFY APPLICABILITY OF THE ORDINANCE TO INTERIOR SPACES, AND TO CLARIFY TIMEFRAMES FOR APPLICABILITY OF THE REVISED HISTORIC PRESERVATION ORDINANCE VERSUS APPLICABILITY OF THE PRIOR ORDINANCE.

Attachments:

1. Ordinance
2. Planning Commission Resolution
3. January 28, 2016 Planning Commission Report
4. November 12, 2015 Planning Commission Report

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 amending articles 32 (**historic preservation**) and 32.5 (**historic incentive permit**) of the Beverly

Hills zoning code to clarify that certain archived photographs and films may be considered in determining whether a property is an "exceptional work," to refine the criteria for issuance of Historic Incentive Permits in the Trousdale Estates area of the City, to clarify applicability of the ordinance to interior spaces, and to clarify timeframes for applicability of the revised historic preservation ordinance versus applicability of the prior ordinance" be introduced and read by title only.

INTRODUCTION

Updates to the City's Historic Preservation Ordinance were adopted by the City Council several months ago. At that time, the City Council identified concerns regarding the applicability of Historic Incentive Permits in Trousdale Estates, and directed staff to pursue additional amendments to refine the scope of Historic Incentive Permits issued in Trousdale Estates. In addition to the direction provided by the City Council, several additional cleanup items were identified by Commissioners and staff. The cleanup items are intended to ensure that the ordinance can be implemented as originally envisioned and intended, and this report summarizes the subject amendments that are in the attached ordinance.

BACKGROUND

The proposed amendments were considered by the Planning Commission during noticed public hearings on November 12, 2015 and January 28, 2016. On January 28, 2016 the Planning Commission voted unanimously to forward the proposed amendments to the City Council for consideration. In addition to review by the Planning Commission, the Cultural Heritage Commission reviewed the Trousdale Estates amendment, and was informed about the additional cleanup items identified by the Planning Commission and staff.

DISCUSSION

The proposed ordinance amendments are limited in scope, and consist of the following:

Revision to Definition of "Exceptional Work." Subsequent to adoption of the updated Historic Preservation Ordinance, Commissioner Corman identified concerns about the language used to define an "Exceptional Work," and the manner in which the language outlines only a limited list of examples of publication types that could be used for the purpose of identifying an exceptional work. Although the original intent of the definition was to capture broader publication types, such as film and archived photographs, this intent is not made clear in the adopted definition. In order to provide added clarity to the definition, the following definition amendment is recommended:

EXCEPTIONAL WORK: A remarkably superior example of architectural work that has been recognized as such by members of the architectural community. At a minimum, the work's exceptional quality shall have been documented by at least one of the following: a) it was the subject of a major architectural award; b) it was substantively discussed (i.e., not just mentioned) and photographically depicted in a monograph on a master architect's career; or c) it was substantively discussed or photographically depicted in at least two (2) publications (e.g., a book, treatise, ~~or~~ trade magazine article, film, or set of photographs made available to the public by an institutional archive) ~~written~~ authored by acknowledged experts in the field of architecture. A monograph or publication made

available to the public solely in electronic form and without any reasonable expectation of compensation to the author, or substantially authored by the architect of the work, shall not count toward this minimum.

Historic Incentive Permit Refinements. As adopted, the Historic Incentive Permit allows the Planning Commission to waive any development standards set forth in the zoning code for a locally landmarked property. During the City Council's review of the ordinance, residents of Trousdale Estates expressed concerns that the Historic Incentive Permit had the potential to alter the character of Trousdale Estates by allowing for deviations from the area's longstanding limitations on building height and construction and grading over sloped areas of properties. Rather than postpone adoption of the entire Historic Preservation Ordinance in order to address this concern, the City Council moved forward with the Historic Preservation Ordinance and directed staff to work on amendments that would protect the character of Trousdale Estates by limiting the scope of Historic Incentive Permits issued in Trousdale Estates. Proposed revisions were presented to the Cultural Heritage Commission in order to seek their input, and the Cultural Heritage Commission recommended eliminating additional height, as well as construction/grading over sloped areas from the permissible types of zoning code deviations that could be granted in Trousdale Estates. Accordingly, the following amendments are recommended:

"10-3-3253: HISTORIC INCENTIVE PERMIT AUTHORITY: Upon application by a property owner, in a form satisfactory to the director of community development, the reviewing authority may, if it makes the necessary findings, issue a historic incentive permit to waive or deviate from any development standard set forth in this chapter, except that no waiver or deviation shall be granted to: exceed the building height standards for the Trousdale Estates Area of the City, as set forth in Section 10-3-2605 of this chapter; allow construction off the level pad in the Trousdale Estates Area of the City, as set forth in Section 10-3-2603 of this chapter; and/or allow grading of sloped areas for the Trousdale Estates Area of the City, as set forth in Section 10-3-2604 of this chapter. No certificate of appropriateness shall be required for any project for which a historic incentive permit is granted pursuant to the provisions of this article. Nothing in this section, however, shall be construed to permit any waiver or deviation from land use requirements or restrictions set forth in this chapter.

Revision to Definition of "Landmark." The historic preservation ordinance currently allows "any interior space or spaces of a landmark open to the general public..." to be included in a landmark designation; however, it has become apparent that there could be different interpretations of what being open to the general public means. Although the intent of the original ordinance was to include spaces that were customarily open to the general public, the current ordinance does not provide clarity on how to treat spaces that may have been closed to the public at some point in the past, whether for purposes of tenancy changes or simply as a means to avoid being included in landmark proceedings. In order to ensure that the original intent of the ordinance is achieved, the following definition amendment is recommended:

LANDMARK: Any property, including any building, structure, object, place, landscaping, or natural feature located on it that has been designated as a landmark pursuant to this article and is listed on the local register. In addition, any interior space or spaces of landmark that is or was regularly open or accessible to the general public, or to which the public is or was regularly invited, including, but not limited to, a lobby area,

restaurant areas, theaters, and banks, may be included in the property's landmark designation.

Applicability of Ordinance. The recently adopted historic preservation ordinance attempted to deal with pipeline projects (those properties that had been initiated for landmark status, but had not yet formally completed the process) by establishing time periods for determining whether a property would be subject to the original or revised ordinance. Subsequent to adoption of the ordinance, the Planning Commission, Cultural Heritage Commission, and staff identified issues with how the adopted language actually applied to pipeline projects. In particular, several properties that had been assessed under the original ordinance were inadvertently made subject to the revised ordinance, which would require preparing new historic assessment reports to be consistent with the new ordinance. In order to correct this error, the attached ordinance provides new guidelines and dates for ordinance applicability to ensure that properties assessed under the original ordinance's criteria will continue to be subject to the original ordinance, while properties that have been or will be assessed under the new ordinance's criteria will be subject to the new ordinance.

ENVIRONMENTAL ANALYSIS

The subject amendments have 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 amendments qualify for a categorical exemption pursuant to Section 15305 (Class 5) of the Guidelines for minor alterations to land use limitations in areas of the City with an average slope of less than 20%, and the amendments are therefore exempt from further review under the provisions of CEQA.

FISCAL IMPACT

There is no fiscal impact that will result from the adoption of the ordinance.



Susan Healy Keene, AICP

Approved By

ATTACHMENT 1

ORDINANCE

ORDINANCE NO. 16-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ARTICLES 32 (HISTORIC PRESERVATION) AND 32.5 (HISTORIC INCENTIVE PERMIT) OF THE BEVERLY HILLS ZONING CODE TO CLARIFY THAT CERTAIN ARCHIVED PHOTOGRAPHS AND FILMS MAY BE CONSIDERED IN DETERMINING WHETHER A PROPERTY IS AN "EXCEPTIONAL WORK," TO REFINER THE CRITERIA FOR ISSUANCE OF HISTORIC INCENTIVE PERMITS IN THE TROUSDALE ESTATES AREA OF THE CITY, TO CLARIFY APPLICABILITY OF THE ORDINANCE TO INTERIOR SPACES, AND TO CLARIFY TIMEFRAMES FOR APPLICABILITY OF THE REVISED HISTORIC PRESERVATION ORDINANCE VERSUS APPLICABILITY OF THE PRIOR ORDINANCE.

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

Section 1. On November 12, 2015 and January 28, 2016, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. 1759, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to clarify the definition of an "Exceptional Work," to refine the criteria for issuance of Historic Incentive Permits in the Trousdale Estates area of the City, to clarify applicability of the ordinance to interior spaces, and to clarify timeframes for applicability of the revised historic preservation ordinance versus applicability of the prior ordinance (collectively, the "Amendments"). On February 16, 2016, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council finds

that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (class 5 categorical exemption) of Title 14 of the California Code of Regulations. The class 5 exemption is applicable because the Amendments constitute minor changes in land use limitations, and will apply City-wide, which area has an average slope of less than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy “HP 1.4 – Develop Incentives to Protect Significant Historic Resources” calls for the development and funding of financial and regulatory incentives to encourage the protection of historic buildings, districts, and public landmarks/monuments from demolition or significant alteration, which may include flexible development standards and other incentive-based mechanisms to make preservation feasible for owners and developers. Further, General Plan Policy “HP 1.1 – Local Register of Historic Resources” calls for the establishment of criteria for identifying resources.

Section 4. The City Council hereby amends Section 3202 of Article 32 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to modify the definitions of “Exceptional Work” and “Landmark” as follows, with all other portions of Section 10-3-3202 remaining in effect without amendment:

“EXCEPTIONAL WORK: A remarkably superior example of architectural work that has been recognized as such by members of the architectural community. At a minimum, the work's exceptional quality shall have been documented by at least one of the following: a) it was the subject of a major architectural award; b) it was substantively discussed (i.e., not just mentioned) and photographically depicted in a monograph on a master architect's career; or c) it was substantively discussed or photographically depicted in at least two (2) publications (e.g., a

book, treatise, trade magazine article, film, or set of photographs made available to the public by an institutional archive) authored by acknowledged experts in the field of architecture. A monograph or publication made available to the public solely in electronic form and without any reasonable expectation of compensation to the author, or substantially authored by the architect of the work, shall not count toward this minimum.”

“LANDMARK: Any property, including any building, structure, object, place, landscaping, or natural feature located on it that has been designated as a landmark pursuant to this article and is listed on the local register. In addition, any interior space or spaces of a landmark that is or was regularly open or accessible to the general public, or to which the public is or was regularly invited, including, but not limited to, a lobby area, restaurant areas, theaters and banks, may be included in the property's landmark designation.”

Section 5. The City Council hereby amends Section 3253 of Article 32.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other portions of Section 10-3-3253 remaining in effect without amendment:

“10-3-3253: HISTORIC INCENTIVE PERMIT AUTHORITY: Upon application by a property owner, in a form satisfactory to the director of community development, the reviewing authority may, if it makes the necessary findings, issue a historic incentive permit to waive or deviate from any development standard set forth in this chapter, except that no waiver or deviation shall be granted to: exceed the building height standards for the Trousdale Estates Area of the City, as set forth in Section 10-3-2605 of this chapter; allow construction off the level pad in the Trousdale Estates Area of the City, as set forth in Section 10-3-2603 of this chapter; and/or allow grading of sloped areas for the Trousdale Estates Area of the City, as set forth in Section

10-3-2604 of this chapter. No certificate of appropriateness shall be required for any project for which a historic incentive permit is granted pursuant to the provisions of this article. Nothing in this section, however, shall be construed to permit any waiver or deviation from land use requirements or restrictions set forth in this chapter.

Section 6. Applicability.

A. The Historic Preservation Ordinance (Ordinance No. 12-O-2617) that was in effect prior to the effective date of Ordinance No. 15-O-2682 shall apply to:

- (i) Applications for Nomination by a Property Owner or Property Owners that were deemed complete for processing and had a complete historic assessment report on file with the Community Development Department prior to the effective date of Ordinance No. 15-O-2682; and
- (ii) City Council or Cultural Heritage Commission-initiated nominations initiated prior to the effective date of Ordinance No. 15-O-2682 and for which a historic assessment report had been completed prior to the effective date of Ordinance No. 15-O-2682.

B. The Historic Preservation Ordinance, as amended by Ordinance No. 15-O-2682, shall apply to:

- (i) Applications for Nomination by a Property Owner or Property Owners that were deemed complete for processing and had a complete historic assessment report on file with the Community Development Department prior to the effective date of this Ordinance No. _____; and
- (ii) City Council or Cultural Heritage Commission-initiated nominations initiated prior to the effective date of this Ordinance No. _____; and for which a

historic assessment report had been completed prior to the effective date of this Ordinance No. _____.

- C. All other applications or initiations shall be governed by the provisions of Ordinance No. 12-O-2617, as amended by Ordinance No. 15-O-2682 and as further amended by this Ordinance.

Section 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 8. Declaratory of Existing Law. The amendments relating to the definitions of “exceptional work” and “landmark” are intended to clarify the intent of the existing ordinance, and are declaratory of existing law and, as to the definition of “landmark” also declaratory of the the regulations enacted by Ordinance No. 12-O-2617.

Section 9. 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 10. 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:

JULIAN A. GOLD, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

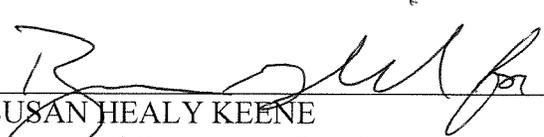
APPROVED AS TO FORM:



DAVID M. SNOW
Interim City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE
Director of Community Development

ATTACHMENT 2

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 1759

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ARTICLES 32 (HISTORIC PRESERVATION) AND 32.5 (HISTORIC INCENTIVE PERMIT) OF THE BEVERLY HILLS ZONING CODE TO CLARIFY THAT CERTAIN ARCHIVED PHOTOGRAPHS AND FILMS MAY BE CONSIDERED IN DETERMINING WHETHER A PROPERTY IS AN "EXCEPTIONAL WORK," TO REFINER THE CRITERIA FOR ISSUANCE OF HISTORIC INCENTIVE PERMITS IN THE TROUSDALE ESTATES AREA OF THE CITY, TO CLARIFY APPLICABILITY OF THE ORDINANCE TO INTERIOR SPACES, AND TO CLARIFY TIMEFRAMES FOR APPLICABILITY OF THE REVISED HISTORIC PRESERVATION ORDINANCE VERSUS APPLICABILITY OF THE PRIOR ORDINANCE.

WHEREAS, the Planning Commission has considered the proposed amendments to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendments"); and

WHEREAS, the Planning Commission conducted duly noticed public hearings on November 12, 2015 and January 28, 2016, at which times it received oral and documentary evidence relative to the proposed Amendments; and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

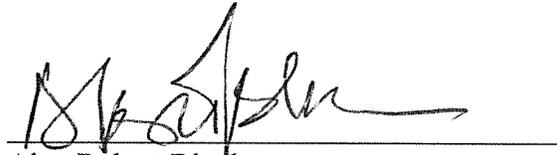
Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The Planning Commission finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (class 5 categorical exemption) of Title 14 of the California Code of Regulations. The class 5 exemption is applicable because the Amendments constitute minor changes in land use limitations, and will apply in areas of the City with an average slope of less than 20%.

Section 2. The Planning Commission does hereby find that the proposed Amendments are intended to clarify the intent of the provisions set forth in the Historic Preservation Ordinance with respect to identifying properties that qualify as an “Exceptional Work,” to refine the types of development incentives offered to landmarked properties in the Trousdale Estates Area of the City to ensure that no adverse impacts result from said development incentives, to clarify applicability of the ordinance to interior spaces, and to clarify timeframes for applicability of the revised historic preservation ordinance versus applicability of the prior ordinance. For these reasons, the Amendments serve to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

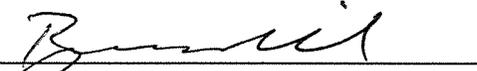
Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. 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.

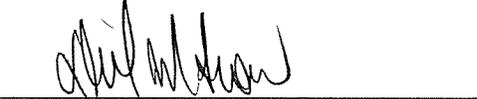
Adopted: January 26, 2016


Alan Robert Block
Chair of the Planning Commission of the
City of Beverly Hills, California

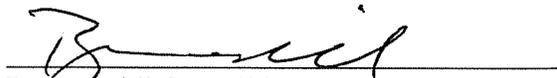
Attest:


Secretary

Approved as to form:


David M. Snow
Assistant City Attorney

Approved as to content:


Ryan Gohlich, AICP
City Planner

ATTACHMENT 3

JANUARY 28, 2016 PLANNING COMMISSION REPORT



Planning Commission Report

Meeting Date: January 28, 2016

Subject: **Historic Preservation Ordinance Amendments**
Consideration of amendments to the definition of "Landmark" set forth in Article 32 (Historic Preservation) of the Beverly Hills Zoning Code to clarify when interior spaces may be considered as a part of landmark proceedings.

Recommendation: That the Planning Commission:

1. Conduct a public hearing and receive testimony on the proposed amendments; and
2. Direct staff to incorporate the proposed amendments into a resolution and draft ordinance that will be forwarded to the City Council for consideration.

REPORT SUMMARY

At its November 12, 2015 meeting, the Planning Commission recommended several amendments to the City's historic preservation ordinance pertaining to identifying an "exceptional work," refining Historic Incentive Permits in Trousdale Estates, and clarifying when the new ordinance would apply to properties versus the old ordinance. Since that time, staff has identified one additional component of the historic preservation ordinance that requires some clarification. The clarification pertains to the definition of "Landmark," and the manner in which interior spaces may be considered during landmark proceedings. The historic preservation ordinance already allows for interior spaces to be considered as part of landmark proceedings; however, this report recommends refinements to the definition to provide for better clarity in the review and processing of landmarks.

AMENDMENT DETAILS

The proposed ordinance amendments are limited in scope, and consist of the following:

Revision to Definition of "Landmark." The historic preservation ordinance currently allows "*any interior space or spaces of a landmark open to the general public...*" to be included in a landmark designation; however, it has become apparent that there could be different interpretations of what being open to the general public means. Although the intent of the original ordinance was to include spaces that were customarily open to the general public, the current ordinance does not provide clarity on how to treat spaces that may have been closed to the public at some point in the past, whether for purposes of tenancy changes or simply as a means to avoid being included in landmark proceedings. In order to ensure that the original intent of the ordinance is achieved, the following definition amendment is recommended:



LANDMARK: Any property, including any building, structure, object, place, landscaping, or natural feature located on it that has been designated as a landmark pursuant to this article and is listed on the local register. In addition, any interior space or spaces of a landmark that is or was customarily open or accessible to the general public, or to which the public is or was customarily invited, and which has a special historical or aesthetic interest or value as part of the landmark, including, but not limited to, a lobby area, restaurant areas, theaters, and banks, may be included in the property's landmark designation.

ENVIRONMENTAL ASSESSMENT

The subject amendments have 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 amendments qualify for a categorical exemption pursuant to Section 15305 (Class 5) of the Guidelines for minor alterations to land use limitations in areas of the City with an average slope of less than 20%, and the amendments are therefore exempt from further review under the provisions of CEQA.

PUBLIC OUTREACH AND NOTIFICATION

Table with 5 columns: Type of Notice, Required Period, Required Notice Date, Actual Notice Date, Actual Period. Rows include Posted Notice, Newspaper Notice, Mailed Notice (Owners & Residents - 500' + Block-Face Radius), Property Posting, and Website.

Public Comment

As of the writing of this report, staff has not received any written correspondence in regard to the proposed amendments.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and direct staff to incorporate the definition change into the previously adopted resolution and draft ordinance regarding amendments to the historic preservation ordinance. Said resolution and draft ordinance would then be forwarded in its entirety to the City Council for their consideration.

Report Reviewed By:

[Signature]
Ryan Gohlich, AICP, Assistant Director of
Community Development / City Planner

ATTACHMENT 4

NOVEMBER 12, 2015 PLANNING COMMISSION REPORT



Planning Commission Report

Meeting Date: November 12, 2015

Subject: **Historic Preservation Ordinance Amendments**
Consideration of a resolution recommending adoption of an ordinance amending Articles 32 (Historic Preservation) and 32.5 (Historic Incentive Permit) of the Beverly Hills Zoning Code to clarify the definition of an "Exceptional Work" and to refine the criteria for issuance of Historic Incentive Permits in the Trousdale Estates Area of the City.

Recommendation: That the Planning Commission:

1. Conduct a public hearing and receive testimony on the proposed amendments; and
2. Adopt a resolution recommending that the City Council adopt the proposed amendments.

REPORT SUMMARY

Updates to the City's Historic Preservation Ordinance were adopted by the City Council several months ago. At that time, the City Council identified concerns regarding the applicability of the Historic Incentive Permit in Trousdale Estates, and directed staff to pursue additional amendments to refine the scope of Historic Incentive Permits issued in Trousdale Estates. In addition to the direction provided by the City Council, Commissioner Corman, one of the principal authors of the updated Historic Preservation Ordinance, has identified clarifications to the definition of "Exceptional Work" in order to meet the original intent of the definition when identifying properties for landmark designation. This report transmits the subject amendments in the form of a draft ordinance, and seeks a recommendation from the Planning Commission that would be forwarded to the City Council for consideration.

Attachment(s):
A. Draft Resolution and Ordinance

Report Author and Contact Information:
Ryan Gohlich
(310) 285-1118
rgohlich@beverlyhills.org

ORDINANCE DETAILS

The proposed ordinance amendments are limited in scope, and consist of the following:

Revision to Definition of “Exceptional Work.” Subsequent to adoption of the updated Historic Preservation Ordinance, Commissioner Corman identified concerns about the language used to define an “Exceptional Work,” and the manner in which the language outlines only a limited list of examples of publication types that could be used for the purpose of identifying an exceptional work. Although the original intent of the definition was to capture broader publication types, such as film and archived photographs, this intent is not made clear in the adopted definition. In order to provide added clarity to the definition, the following definition amendment is recommended:

EXCEPTIONAL WORK: A remarkably superior example of architectural work that has been recognized as such by members of the architectural community. At a minimum, the work's exceptional quality shall have been documented by at least one of the following: a) it was the subject of a major architectural award; b) it was substantively discussed (i.e., not just mentioned) and photographically depicted in a monograph on a master architect's career; or c) it was substantively discussed or photographically depicted in at least two (2) publications (e.g., a book, treatise, ~~or~~ trade magazine article, film, or set of photographs made available to the public by an institutional archive) ~~written~~ authored by acknowledged experts in the field of architecture. A monograph or publication made available to the public solely in electronic form and without any reasonable expectation of compensation to the author, or substantially authored by the architect of the work, shall not count toward this minimum.

Historic Incentive Permit Refinements. As adopted, the Historic Incentive Permit allows the Planning Commission to waive any development standards set forth in the zoning code for a locally landmarked property. During the City Council's review of the ordinance, residents of Trousdale Estates expressed concerns that the Historic Incentive Permit had the potential to alter the character of Trousdale Estates by allowing for deviations from the areas longstanding limitations on building height and construction and grading over sloped areas of properties. Rather than postpone adoption of the entire Historic Preservation Ordinance in order to address this concern, the City Council moved forward with the Historic Preservation Ordinance and directed staff to work on amendments that would protect the character of Trousdale Estates by limiting the scope of Historic Incentive Permits issued in Trousdale Estates. Proposed revisions were presented to the Cultural Heritage Commission in order to seek their input, and the Cultural Heritage Commission recommended eliminating additional height, as well as construction/grading over sloped areas from the permissible types of zoning code deviations that could be granted in Trousdale Estates. Accordingly, the following amendments are recommended:

“10-3-3253: HISTORIC INCENTIVE PERMIT AUTHORITY: Upon application by a property owner, in a form satisfactory to the director of community development, the reviewing authority may, if it makes the necessary findings, issue a historic incentive permit to waive or deviate from any development standard set forth in this chapter, except that no waiver or deviation shall be granted to: exceed the building height standards for the Trousdale Estates Area of the City, as set forth in Section 10-3-2605 of this chapter; allow construction off the level pad in the Trousdale Estates Area of the City, as set forth in Section 10-3-2603 of this chapter; and/or allow grading of sloped areas for the Trousdale Estates Area of the City, as set forth in Section 10-3-2604 of this chapter. No certificate of appropriateness shall be required for any project for which a historic incentive permit is granted pursuant to the provisions of this article. Nothing in this

section, however, shall be construed to permit any waiver or deviation from land use requirements or restrictions set forth in this chapter.

ENVIRONMENTAL ASSESSMENT

The subject amendments have 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 amendments qualify for a categorical exemption pursuant to Section 15305 (Class 5) of the Guidelines for minor alterations to land use limitations in areas of the City with an average slope of less than 20%, and the amendments are therefore exempt from further review under the provisions of CEQA.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	11/5/2015	7 Days
Newspaper Notice	10 Days	11/2/2015	10/30/2015	13 Days
Mailed Notice (Owners & Residents - 500' + Block-Face Radius)	N/A	N/A	N/A	N/A
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	11/5/2015	7 Days

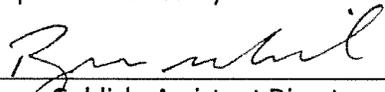
Public Comment

As of the writing of this report, staff has not received any written correspondence in regard to the proposed amendments; however, staff has spoken with a representative of the Trousdale Estates HOA who expressed support for the amendments pertaining to Trousdale Estates.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution recommending a draft ordinance to the City Council.

Report Reviewed By:



Ryan Gohlich, Assistant Director of Community
Development / City Planner

ATTACHMENT A
DRAFT RESOLUTION AND ORDINANCE

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ARTICLES 32 (HISTORIC PRESERVATION) AND 32.5 (HISTORIC INCENTIVE PERMIT) OF THE BEVERLY HILLS ZONING CODE TO CLARIFY THE DEFINITION OF AN “EXCEPTIONAL WORK” AND TO REFINE THE CRITERIA FOR ISSUANCE OF HISTORIC INCENTIVE PERMITS IN THE TROUSDALE ESTATES AREA OF THE CITY

WHEREAS, the Planning Commission has considered the proposed amendments to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the “Amendments”); and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on November 12, 2015, at which times it received oral and documentary evidence relative to the proposed Amendments; and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The Planning Commission finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (class 5 categorical exemption) of Title 14 of the California Code of Regulations. The class 5 exemption is applicable because the Amendments constitute minor changes in land use limitations, and will apply in areas of the City with an average slope of less than 20%.

Section 2. The Planning Commission does hereby find that the proposed Amendments are intended to clarify the intent of the provisions set forth in the Historic Preservation Ordinance with respect to identifying properties that qualify as an “Exceptional Work,” and to refine the types of development incentives offered to landmarked properties in the Trousdale Estates Area of the City to ensure that no adverse impacts result from said development incentives. For these reasons, the Amendments serve to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. 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: November 12, 2015

Alan Robert Block
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:

Ryan Gohlich
City Planner

EXHIBIT A

ORDINANCE NO. 15-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ARTICLES 32 (HISTORIC PRESERVATION) AND 32.5 (HISTORIC INCENTIVE PERMIT) OF THE BEVERLY HILLS ZONING CODE TO CLARIFY THE DEFINITION OF AN "EXCEPTIONAL WORK" AND TO REFINE THE CRITERIA FOR ISSUANCE OF HISTORIC INCENTIVE PERMITS IN THE TROUSDALE ESTATES AREA OF THE CITY

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

Section 1. On November 12, 2015, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. _____, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to clarify the definition of an "Exceptional Work" and to refine the criteria for issuance of Historic Incentive Permits in the Trousdale Estates Area of the City (collectively, the "Amendments"). On _____, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (class 5 categorical exemption) of Title 14 of the California Code of Regulations. The class 5 exemption is applicable because the Amendments constitute minor changes in land use limitations, and will apply in areas of the City with an average slope of less than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy “HP 1.4 – Develop Incentives to Protect Significant Historic Resources” calls for the development and funding of financial and regulatory incentives to encourage the protection of historic buildings, districts, and public landmarks/monuments from demolition or significant alteration, which may include flexible development standards and other incentive-based mechanisms to make preservation feasible for owners and developers. Further, General Plan Policy “HP 1.1 – Local Register of Historic Resources” calls for the establishment of criteria for identifying resources.

Section 4. The City Council hereby amends Section 3202 of Article 32 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to modify the definition of “Exceptional Work” as follows, with all other portions of Section 10-3-3202 remaining in effect without amendment:

“EXCEPTIONAL WORK: A remarkably superior example of architectural work that has been recognized as such by members of the architectural community. At a minimum, the work's exceptional quality shall have been documented by at least one of the following: a) it was the subject of a major architectural award; b) it was substantively discussed (i.e., not just mentioned) and photographically depicted in a monograph on a master architect's career; or c) it was substantively discussed or photographically depicted in at least two (2) publications (e.g., a book, treatise, ~~or~~ trade magazine article, film, or set of photographs made available to the public by an institutional archive) ~~written~~ authored by acknowledged experts in the field of architecture. A monograph or publication made available to the public solely in electronic form and without any reasonable expectation of compensation to the author, or substantially authored by the architect of the work, shall not count toward this minimum.”

Section 5. The City Council hereby amends Section 3253 of Article 32.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other portions of Section 10-3-3253 remaining in effect without amendment:

Section 6. “10-3-3253: HISTORIC INCENTIVE PERMIT AUTHORITY: Upon application by a property owner, in a form satisfactory to the director of community development, the reviewing authority may, if it makes the necessary findings, issue a historic incentive permit to waive or deviate from any development standard set forth in this chapter, except that no waiver or deviation shall be granted to: exceed the building height standards for the Trousdale Estates Area of the City, as set forth in Section 10-3-2605 of this chapter; allow construction off the level pad in the Trousdale Estates Area of the City, as set forth in Section 10-3-2603 of this chapter; and/or allow grading of sloped areas for the Trousdale Estates Area of the City, as set forth in Section 10-3-2604 of this chapter. No certificate of appropriateness shall be required for any project for which a historic incentive permit is granted pursuant to the provisions of this article. Nothing in this section, however, shall be construed to permit any waiver or deviation from land use requirements or restrictions set forth in this chapter.

Section 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 8. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code,

shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 9. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

JULIAN A. GOLD, M.D.
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

MAHDI ALUZRI
City Manager

SUSAN HEALY KEENE
Director of Community Development