



## AGENDA REPORT

**Meeting Date:** March 1, 2016

**Item Number:** D-5

**To:** Honorable Mayor & City Council

**From:** David M. Snow, Interim City Attorney

**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

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### **RECOMMENDATION**

It is recommended that the City Council move to waive the full reading and adopt 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".

### **INTRODUCTION**

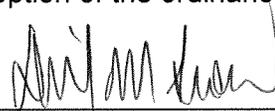
At its meeting of February 16, 2016, the City Council conducted a first reading of this ordinance and introduced it.

**DISCUSSION**

This ordinance amends the definitions of "Exceptional Work" to clarify that film and or archived photographs are included and "Landmark" to clarify what may be considered open to the general public. In addition, the ordinance provides that no waiver or deviation shall be granted from the development standards set forth in the municipal code in the Trousdale Estate Area of the City for exceeding building heights, allowing construction off the level pad, and and/or allowing grading of sloped areas. Further, language was added to clarify which pipeline projects are subject to the original ordinance versus the new ordinance.

**FISCAL IMPACT**

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



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David M. Snow, Interim City Attorney

# **Attachment 1**

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:

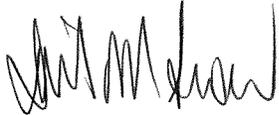
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JULIAN A. GOLD, M.D.  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:



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DAVID M. SNOW  
Interim City Attorney

APPROVED AS TO CONTENT:

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MAHDI ALUZRI  
City Manager



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SUSAN HEALY KEENE  
Director of Community Development