



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning
Commission Meeting of
December 11, 2008

TO: The Planning Commission

FROM: Larry Sakurai, Principal Planner

THROUGH: Jonathan Lait, AICP, City Planner

SUBJECT: An Ordinance of the City of Beverly Hills amending Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in single-family residential zones. The amendment would allow elevators to encroach up to 30 inches into a required setback. The encroachment could not be any wider than 10 feet and could be no closer than three feet from the front of the residence.

EXECUTIVE SUMMARY

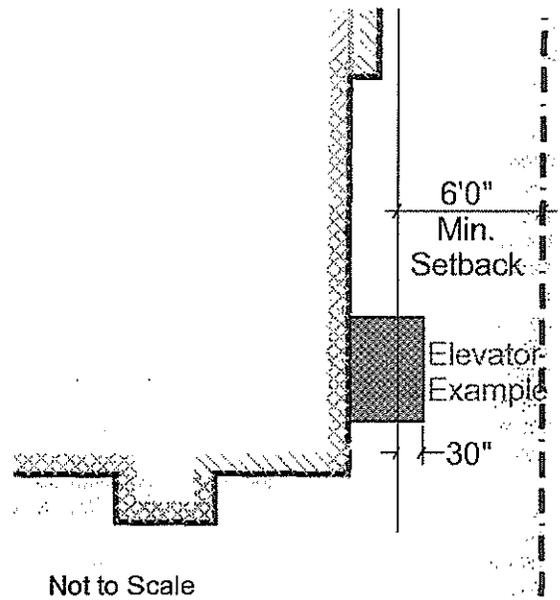
Pursuant to the Planning Commission's direction at its November 20, 2008 meeting, a ordinance has been prepared to allow residential elevators to encroach into single-family side and rear yards. Among the purposes of the proposed ordinance is to facilitate improvements for vertical accessibility for less mobile residents. The ordinance proposes a permissible encroachment of 30 inches into a required setback (same as that allowed for fireplaces), with a permissible width of 10 feet. The encroachment could be no closer than three feet from the front of the building and no closer than three feet from a property line. The ordinance is consistent with the General Plan and staff recommends that the Planning Commission approve a resolution recommending adoption of the ordinance to the City Council.

DISCUSSION

There has been a growing trend in elevators in single-family residential homes. As the population ages, lifts and elevators have been seen as a means to continue to reside in one's

home. However, demand for residential elevators has also been growing as a desired amenity in new homes as well.*

The ordinance would allow a 30-inch (2½') encroachment into a required side or rear yard setback, which is the same encroachment that is allowed for a fireplace. The width of the encroachment parallel to the property line cannot be any greater than 10 feet, and the encroachment could be no closer than three feet from the front of the building. In no case would the encroachment allowed to be any closer than three feet from the property line. The ordinance addresses only single-family residential development. Commercial buildings must meet the requirements of the Americans with Disability Act. At this time, multiple-family residential are not addressed by this ordinance. Newer and larger multiple-family residential development usually provides elevators for residential use. However, staff could bring a proposal to the Planning Commission at a later date that addresses setback encroachments associated with retrofitting existing multiple-family residential development.



PUBLIC NOTICE AND COMMENTS

A public notice was published in *The Beverly Hills Courier* on Friday, November 28, 2008, and in *The Beverly Hills Weekly* on Thursday, December 4, 2008. As of this report, no comments have been received.

ANALYSIS

Municipal Code and General Plan Conformance

Section 10-3-3908 of the Beverly Hills Municipal Code (regarding the decision of the Planning Commission on zoning amendments) states: "If, from the facts presented at the public hearing, or by investigation by or at the instance of the planning commission, the planning commission finds that the public interest, health, safety, morals, peace, comfort,

* Kate Goodloe, *Dallas Morning News*, May 14, 2007.

convenience, or general welfare requires the reclassification of any portion of the property, the planning commission shall so recommend to the council."

By accommodating devices that facilitate mobility within a residence, the proposed amendment would serve the public interest, health, comfort, convenience, and general welfare. Residential elevators can make it possible for those with limited mobility to continue to reside in their homes. The proposed 30-inch encroachment is analogous to a fire-place/chimney and poses a minimal intrusion to light and air.

Allowing such improvements to existing residences can help to maintain the community's housing stock and preserve the viability and stability of residential neighborhoods (Goal No. 1 in the Housing Element; Objective 1.1 in the Land Use Element). The amendment proposes no changes in density and presents no conflicts with the polices in the General Plan; therefore, as the amendment also advances policies of the General Plan, it is consistent with the General Plan.

ENVIRONMENTAL DETERMINATION

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. Staff has determined that the proposed ordinance qualifies for a Categorical Exemption (Section 15305 of the CEQA Guidelines), Class 5, "minor alterations in land use limitations" because the ordinance would not result in any changes in land use or density and would only allow minor encroachments. Therefore, under the authority provided by the CEQA Guidelines, no significant environmental impacts are anticipated.

RECOMMENDATION

Based on the foregoing analysis, staff recommends that the Planning Commission approve a resolution recommending that the City Council approve the proposed ordinance allowing elevator encroachments into R-1 side and rear yard setbacks. It is then anticipated that the City Council would consider the ordinance during January 2009 and if adopted, the ordinance would become effective in February 2009.



LARRY SAKURAI

Staff Report
R-1 Elevator Encroachment Ordinance
For the the Planning Commission Meeting of December 11, 2008

Attachments:

Draft Ordinance
Draft Planning Commission Resolution

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING PERMISSIBLE ENCROACHMENTS IN SIDE YARDS, STREET SIDE YARDS, AND REAR YARDS IN SINGLE-FAMILY RESIDENTIAL ZONES

The Planning Commission of the City of Beverly Hills hereby resolves as follows:

Section 1. It has come to the attention of the City that in various households there is a need to provide assisted vertical accessibility in single-family homes. Occasionally this need comes in conflict with the setback standards in single-family residential areas. This ordinance accommodates this need by allowing elevator and elevator enclosures to encroach into required side yards, street side yards, and rear yards.

Section 2. The Planning Commission hereby recommends that the City Council find that the proposed ordinance institutes minor alterations in land use limitations, which do not result in changes in land use or density. It would only allow minor encroachments into side and rear yards. This Ordinance therefore qualifies as a Class 5 exemption pursuant to Section 15305 of Title 14 of the California Code of Regulations and should be deemed exempt from further environmental review requirements of the California Environmental Quality Act.

Section 3. On November 28, 2008, notice of the public hearing was published in The Beverly Hills Courier. On December 11, 2008, the Planning Commission held a duly

noticed public hearing to consider a draft ordinance entitled as follows, which is attached hereto as Exhibit A, and hereinafter referred to as "Ordinance":

"Ordinance of the City of Beverly Hills Amending Sections 10-3-2409, 10-3-2509, and 10-3-2610 of the Beverly Hills Municipal Code regarding Permissible Encroachments in Side Yards, Street Side Yards, and Rear Yards in Single-Family Residential Zones"

Evidence, both written and oral, was presented at the hearing.

Section 4. Pursuant to Beverly Hills Municipal Code Section 10-3-3908, if, from the facts presented at the public hearing, or by investigation by or at the instance of the Planning Commission, the Planning Commission finds that the public interest, health, safety, morals, peace, comfort, convenience, or general welfare requires the reclassification of any portion of the property, the Planning Commission shall so recommend to the City Council.

Section 5. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds that the proposed Ordinance would serve the public interest, health, comfort, convenience, and general welfare by modifying the allowed use of single family residential properties to better accommodate devices facilitating mobility within a residence.. Residential elevators can allow those with limited mobility to continue to reside in their homes. The proposed 30-inch encroachment is analogous to a fireplace/chimney and poses a minimal intrusion to light and air.

Section 6. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds

that by facilitating the installation of elevators to existing residences, the Ordinance will help to maintain the community's housing stock and preserve the viability and stability of residential neighborhoods (Goal No. 1 in the Housing Element; Objective 1.1 in the Land Use Element). The Ordinance proposes no changes in density and presents no conflicts with the policies in the General Plan; therefore, because the Ordinance also advances policies of the General Plan, it is consistent with the General Plan.

Section 7. The Planning Commission hereby recommends that the City Council adopt the Ordinance substantially as set forth in the attached Exhibit A, which is hereby incorporated by reference.

Section 8. The Secretary shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

Kathy Reims
Chair of the Planning Commission of the
City of Beverly Hills, California

ATTEST:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP
City Planner

[DRAFT]
ORDINANCE NO. 08-O-_____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610
OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING
PERMISSIBLE ENCROACHMENTS IN SIDE YARDS,
STREET SIDE YARDS, AND REAR YARDS IN SINGLE-
FAMILY RESIDENTIAL ZONES

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

Section 1. It has come to the attention of the City that in various households there is a need to provide assisted vertical accessibility in single-family homes. Occasionally this need comes in conflict with the setback standards in single-family residential areas. This ordinance accommodates this need by allowing elevator and elevator enclosures to encroach into required side yards, street side yards, and rear yards.

Section 2. The Planning Commission considered the zone text amendment set forth in this Ordinance at a duly-noticed public hearing on December 11, 2008. Evidence, both written and oral was presented during the hearing. After considering the evidence, the Planning Commission recommended that the City Council adopt this Ordinance.

Section 3. The City Council considered this Ordinance at a duly noticed public hearing on _____. Evidence, both written and oral, was presented during the hearing.

Section 4. This Ordinance institutes minor alterations in land use limitations which do not result in changes in land use or density. It would only allow minor encroachments into side and rear yards. This Ordinance therefore qualifies as a Class 5 exemption pursuant to

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Section 15305 of Title 14 of the California Code of Regulations and is thus exempt from further environmental review requirements of the California Environmental Quality Act.

Section 5. City Council hereby adds Paragraph K to Section 10-3-2409 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Central Area of Beverly Hills to read as follows:

"K. Elevators and elevator enclosures, provided the encroachments is limited to thirty inches (30") or less, the length of the encroachment measured parallel to the property line does not exceed ten feet (10'), and the encroachment is not closer than three feet (3') from the front of the building."

Section 6. City Council hereby adds Paragraph K to Section 10-3-2509 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Hillside Area of Beverly Hills to read as follows:

"K. Elevators and elevator enclosures, provided the encroachments is limited to thirty inches (30") or less, the length of the encroachment measured parallel to the property line does not exceed ten feet (10'), and the encroachment is not closer than three feet (3') from the front of the building."

Section 7. City Council hereby adds Paragraph K to Section 10-3-2610 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Trousdale Area of Beverly Hills to read as follows:

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"K. Elevators and elevator enclosures, provided the encroachments is limited to thirty inches (30") or less, the length of the encroachment measured parallel to the property line does not exceed ten feet (10'), and the encroachment is not closer than three feet (3') from the front of the building."

Section 8. 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 remain in full force and effect.

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. 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:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

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ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

RODERICK J. WOOD
City Manager

ANNE BROWNING MACINTOSH
Interim Director of Community
Development

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