City of Beverly Hills
Planning Division
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Planning Commission Report

Meeting Date: October 28, 2010

Subject: Resolution of the City of Beverly Hills Planning Commission recommending that the City Council amend the Beverly Hills Municipal Code to permit single family residential lots located on the east side of Spalding Drive south of Olympic Boulevard and west of Roxbury Drive that meet certain standards to apply for Central R-1 Permits regarding second units as set forth in Section 10-3-409 of the Beverly Hills Municipal Code.

Recommendation: Conduct Public Hearing and Adopt a Resolution Forwarding a Recommendation that the City Council Adopt the Subject Ordinance

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REPORT SUMMARY

In 2003 an ordinance was adopted that permits seventeen (17) properties on Spalding Drive[1] [hereinafter referenced as the "Spalding properties"] that have steep slopes and are located along an alley to apply for a Central R-1 Permit to modify the Municipal Code's height limitations on accessory structures[2]. The section of the Code that permits second units[3], was not similarly revised at that time resulting in different maximum height standards for accessory structures and second units on the Spalding properties. The requirement that detached second units shall be at the ground floor and the maximum height of fourteen feet (14') makes it difficult for owners on this block to build second units or to convert existing accessory structures to second units. At the March 25, 2010 Study Session, the Planning Commission directed staff to prepare a draft ordinance narrowly amending the Code to permit owners of the Spalding properties to apply for a Central R-1 permit to allow second units above the ground floor and to allow owners to request the same height modifications for second units as are available for accessory structures on the Spalding properties. No other Zoning Code modifications are proposed; the maximum floor area for second units on the Spalding properties would remain 650 square feet. A draft ordinance is attached for the Commission's review and recommendation to City Council.

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[1] Spalding addresses are: 432, 436, 440, 444, 448, 452, 456, 460, 464, 468, 472, 476, 480, 486, 492, 494, and 496.

[2] Accessory Structure/Building (BHMC 10-3-100): A subordinate structure or building, including a private garage, a private stable, a pool house, or a detached guest suite, the use of which is incidental to that of the main building, and which is located on the same site area. Except as otherwise provided in this chapter, accessory structure or accessory building shall not include kitchen facilities.

[3] Second Unit (BHMC 10-3-100): An attached or detached residential dwelling unit which provides complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and is located on the same site area as the primary dwelling.

Attachment(s):
1. Resolution
   Draft Ordinance
2. Photos of Subject Area
3. Zoning Code Sections
4. Public Notice

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Stars show location of 2-story accessory Structures on Spalding Drive

Spalding Properties -

BACKGROUND

- 1997 - City enacts a second units ordinance (BHMC sec. 10-3-409) pursuant to a 1983 State law requiring local governments to allow second units.
- 2002 - City ordinance clarifying definition of "second unit" as a dwelling unit that provides complete, independent living facilities as differentiated from an accessory structure.
- 2003 - City Ordinance allowing second units by right, with restrictions, pursuant to revisions in State law. The ordinance further clarified definitions of "second unit" and "accessory structure" so that a fully enclosed accessory structure shall not contain kitchen facilities unless constructed prior to 9/26/2003 or otherwise constructed in compliance with applicable codes at the time of construction. An accessory structure built prior to 9/26/03 that contains a kitchen may convert to a second unit if it meets Code.
- October 2003 – In response to a request from an owner of a property on Spalding Drive, the City adopted an ordinance permitting the Spalding properties to apply for a Central R-1 Permit to modify the height limitations of accessory structures as is permitted for properties in the Central Area north of Santa Monica Blvd. Maximum height may not exceed 25' for a flat roof or 30' for a sloped roof with a 22' plate height as measured from the lowest (alley side) existing grade.
- March 2010 – A resident requested the Planning Commission consider a text amendment to allow modification to the height limitation for second units on the Spalding properties as had been adopted in 2003 for accessory structures. The Planning Commission requested that staff prepare a draft ordinance.

DISCUSSION

Zone Modifications due to Unusual Topography

The draft ordinance is proposed to apply to the same 17 properties on Spalding Drive that are already permitted to request additional height for accessory structures pursuant to the 2003 ordinance. This section of Spalding Drive is developed as single-family homes with some multi-family dwellings at the north end of the block. These properties are characterized by topography that slopes down twenty to thirty feet from the front of the property along Spalding Drive to the rear alley adjacent to Roxbury Park.

The City allows second units, as well as accessory structures, on single family residential properties throughout the City pursuant to State law and in compliance with City restrictions. The City has received and approved an average of three discretionary second unit applications annually since the current ordinance was adopted in 2003. The City has modified the Code sections regarding second units and accessory structures several times, as noted above, in response to changes in State law and the City's experience with second unit and accessory structure applications, particularly for the Spalding properties. The unique topography and development pattern of the southwest area, including Spalding, prompted not only the adoption of more flexible height standards for accessory structures but also side yard setback standards smaller than required of other properties in the Central Area South of Santa Monica Boulevard. The grade difference on the Spalding properties has resulted in most parking being located at the alley rather than along the side of the house like other properties south of Santa Monica so smaller side setbacks are appropriate and reflect the unique development pattern in this area.

Spalding Properties

A number of owners of the Spalding properties opted, in the past, to build accessory structures, including guest houses, above their garages which was permitted by the Zoning Code through 1997. There are six existing two-story accessory structures at the rear of the Spalding properties, along the alley adjacent to Roxbury Park (see map on previous page). Five of those accessory structures are over fourteen feet (14') in height. The accessory structure on the property at 452 Spalding is a second unit. A number of other properties have structures along the rear such as games courts or large fences.

Current Zoning Code

The height allowed in the Central R-1 area for accessory units as compared to second units is consistent both north and south of Santa Monica Boulevard; however, the Spalding properties do not have consistent Zoning Code standards for accessory structures and second units: an accessory structure may have a maximum height of 25 to 30 feet if a Central R-1 Permit is obtained but the maximum height for a second unit is only 14 feet and the unit must be located on the ground floor. This makes it difficult for owners to develop second units or to convert accessory structures to second units, particularly if the property has a garage at the alley.

Beverly Hills Zoning Code: Accessory Structure and Second Unit Floor Area and Height

R-1 Central Area	**Area**	**Height**
South of Santa Monica		
Accessory Structure	max 500 SF	located in accessory structure area and 14' max height
Second Unit	max 650 SF	located on ground floor and 14' max height
Spalding Drive Properties		
Accessory Structure	max 500 SF	14' max height; can apply for Central R-1 permit for 25-30' height
Second Unit	max 650 SF	located on ground floor and 14' max height
North of Santa Monica		
Accessory Structure	None/max FA for site	14' max height*
Second Unit	650 SF; max FA for site**	same as accessory structure***

* Can request greater height with a Minor Accommodation or Central R-1 permit
** Greater than 650 SF with Second Unit Use Permit that can be approved by CD Director or referred to PC
*** Can request greater height with a Second Unit Use Permit and R-1 Permit.

Proposed New Code Language

The proposed code amendment would add a new subsection to Code section 10-3-409 6. C. regarding second units. This subsection would permit the Planning Commission to consider, under a Central R-1 Permit, second units that exceed fourteen feet (14') if the subject lot abuts an alley and has a grade difference of twenty feet (20') or more between the front and rear property. In addition, the height of the accessory structure is not permitted to exceed the following:

1. Twelve feet (12') as measured from the lowest finished elevation along the perimeter of the primary structure; and

2. Twenty five feet (25') for a flat roof and thirty feet (30') for a sloped roof with a twenty two foot (22') plate height as measured from the lowest (alley side) existing grade.

This language is almost identical to the Code language that permits modification of the height limits for accessory structures on the Spalding properties. The ordinance has been developed to apply only to the properties at 432 to 496 Spalding Drive. The other streets south of Olympic and west of Roxbury that abut an alley to the rear are Hillgreen Drive and Hillgreen Place; however, these properties slope uphill from the street and so are not covered by the 2003 ordinance and would not be covered by the proposed ordinance.

GENERAL PLAN CONFORMANCE

The draft ordinance is consistent with the General Plan in that it implements a zoning code amendment (General Plan Implementation Program 2.1) to allow additional flexibility in the development of second units in a single-family area pursuant to Land Use Element policy 6.4 that states:

"Second Units. Allow second units in single-family residential districts in accordance with State law."

The ordinance represents continued implementation of a portion of Program 2.5 of the Housing Element that is intended to encourage second units and which is already reflected in the City's Zoning Code:

"Consider permitting second units without a discretionary permit provided standards for size, parking, etc. are applied. Consider feasibility of permitting only one kitchen per dwelling unit in order to encourage creation of legal second units."

The City's housing element observes that second units can provide affordable rental options for smaller households, such as caregivers or the elderly parents of the primary homeowner, and offer an important opportunity to help Beverly Hills address its regional housing needs. To the extent that additional dwelling units are created through construction or conversion, they will accommodate some of the City's future housing need as set out in the Housing Element.

ENVIRONMENTAL ASSESSMENT

This project 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 is exempt from CEQA review requirements pursuant to Section 15282(h) of Title 14 of the California Code of Regulations that exempts by statute an ordinance that designates areas within the city where second units may be permitted. Staff has further determined that construction of a second unit in a residential zone is exempt from CEQA requirements pursuant to Section 15303(a). Therefore, under the authority provided by the CEQA Guidelines, no significant environmental impacts are anticipated.

PUBLIC OUTREACH AND NOTIFICATION

Action	Type of Notice	Required Notice Period	Required Notice Date	Actual Notice Date	Actual Notice Period
PC Public Hearing 10/28/10	Newspaper Notice	10 days	10/18/10	10/18/10	10 days
	Mailed Notice to Adjacent Owners				
Report on Website	Min. 4 days prior to meeting	N/A	N/A	N/A	N/A

Public Comment

As of the time of this report, no letters or emails have been received by the Planning Division. Planning staff has been in contact with the Spalding resident who requested the text amendment and that resident has indicated that he will attend the public hearing.

ANALYSIS

The intent of the 2003 ordinance and the proposed ordinance is to allow properties with unique topography and location the ability to construct accessory and second unit structures. Accessory structures above the ground floor and above fourteen feet (14') in height were previously permitted and built on this block; therefore new second units with a similar building envelope would be consistent with the development pattern in the area. An ordinance that would encourage second units is also consistent with the City's General Plan. Structures that are considered "second units" may be counted under State law as additional housing units that are more affordable than conventional single family residential units; however, the extreme slope on the subject properties on Spalding Drive combined with the limitation on the maximum height of second units in the City's Central Area south of Santa Monica Boulevard makes it difficult for owners to build second units on the Spalding properties. Owners may choose to build accessory structures rather than second units to take advantage of potential additional height, even though the allowed floor area for accessory structures is slightly smaller than for second units. If owners are permitted to apply to the Planning Commission for a Central R-1 permit to build second units above the ground floor (e.g. above a garage) and at a maximum height greater than fourteen feet (14') but not exceeding the maximum allowed height of a principal residence, there would be incentive for applicants to build second units.

No adverse impacts to the neighborhood are anticipated because the floor area limitation of 650 square feet for second units will not be modified and each proposed second unit would be reviewed through the Central R-1 Permit process. To issue a Central R-1 Permit, the Planning Commission is required to find that the proposed development will not have a substantial adverse impact on:

A. The scale and massing of the streetscape,

B. Neighbors' access to light and air,

C. Neighbors' privacy, and

D. The garden quality of the city.

This should ensure that individual projects will not impact the neighboring area.

Based on staff's review, it is recommended that the Planning Commission adopt the attached resolution forwarding a recommendation to the City Council to adopt the draft ordinance.

NEXT STEPS

It is recommended that the Planning Commission conduct public hearing and adopt a resolution forwarding a recommendation that the City Council adopt the subject ordinance

Alternatively, the Planning Commission may consider the following actions:

1. Modify the draft ordinance or Resolution as appropriate
2. Direct staff to conduct additional analysis and continue the hearing to a date (un)certain.

Report Reviewed By:

Jonathan Lait, AICP
Assistant Director of Community Development / City Planner

Attachment 1

Planning Commission Resolution

Draft Ordinance

RESOLUTION NO.

RESOLUTION OF THE CITY OF BEVERLY HILLS PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND THE BEVERLY HILLS MUNICIPAL CODE TO PERMIT SINGLE FAMILY RESIDENTIAL LOTS LOCATED ON THE EAST SIDE OF SPALDING DRIVE SOUTH OF OLYMPIC BOULEVARD AND WEST OF ROXBURY DRIVE THAT MEET CERTAIN STANDARDS TO APPLY FOR CENTRAL R-1 PERMITS REGARDING SECOND UNITS AS SET FORTH IN SECTION 10-3-409 OF THE BEVERLY HILLS MUNICIPAL CODE.

WHEREAS, the Planning Commission has considered the draft Ordinance that would amend the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendment"); and

WHEREAS, the Planning Commission considered the zone text changes set forth in the proposed Amendment at a study session on March 25, 2010 and at a duly noticed public hearing October 28, 2010, at which time it received oral and documentary evidence relative to the proposed Amendment; and

WHEREAS, the Planning Commission finds that the proposed Amendment is required for the public health, safety, and general welfare, and that such Amendment is 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. This project 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. The Planning Commission has determined that the proposed ordinance is exempt from CEQA review requirements pursuant to Section 15282(h) of Title 14 of the California Code of Regulations that exempts by statute an ordinance that designates areas within the city where second units may be permitted. The Planning Commission has further determined that construction of a second unit in a residential zone is exempt from CEQA requirements pursuant to Section 15303(a). Therefore, under the authority provided by the CEQA Guidelines, no significant environmental impacts are anticipated.

Section 2. The Planning Commission does hereby find that the proposed Amendment is intended to address an inconsistency in the Code that results in different development standards for accessory structures and second units south of Santa Monica Boulevard even though such developments are similar. Second units are encouraged in the City's General Plan as a way to provide additional, more affordable housing; however, the extreme slope on the subject properties on Spalding Drive combined with the limitation on the maximum height of second units in the City's Central Area south of Santa Monica makes it difficult to build second units on the subject properties unless such units are allowed above the ground floor (i.e. above a garage) and are permitted a maximum height greater than fourteen feet (14') but not exceeding the maximum allowed height of the principal residence on the site. Guest units above the ground floor and above fourteen feet (14') in height were previously permitted and were built in the subject area prior to changes in the Zoning Code; therefore new second units above the ground floor and over fourteen feet (14') in height would be consistent with the development

pattern in the area. The draft ordinance is consistent with the General Plan in that it implements a zoning code amendment to allow additional flexibility in the development of second units in a single-family area pursuant to Land Use Element policy 6.4 that states: "Second Units. Allow second units in single-family residential districts in accordance with State law." The ordinance represents continued implementation of a portion of Program 2.5 of the Housing Element that implements State law to permit second units: "Consider permitting second units without a discretionary permit provided standards for size, parking, etc. are applied. Consider feasibility of permitting only one kitchen per dwelling unit in order to encourage creation of legal second units." To the extent that additional dwelling units are created through construction or conversion, they will accommodate some of the City's future housing need as set out in the Housing Element.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendment 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:

_____

Lili Bosse
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:

_____

Jonathan Lait, AICP
Assistant Director of Community Development / City Planner

New Code language in red

EXHIBIT A

[DRAFT]
ORDINANCE NO. 10-O- _____

ORDINANCE OF THE CITY COUNCIL OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO PERMIT SINGLE FAMILY RESIDENTIAL LOTS LOCATED ON THE EAST SIDE OF SPALDING DRIVE SOUTH OF OLYMPIC BOULEVARD AND WEST OF ROXBURY DRIVE THAT MEET CERTAIN STANDARDS TO APPLY FOR CENTRAL R-1 PERMITS REGARDING SECOND UNITS AS SET FORTH IN SECTION 10-3-409 OF THE BEVERLY HILLS MUNICIPAL CODE.

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

Section 1. The City Council considered this Ordinance at a duly noticed public hearing on [date]_____, and at the conclusion of the hearing introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 2. This project 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 is exempt from CEQA review requirements pursuant to Section 15282(h) of Title 14 of the California Code of Regulations that exempts by statute an ordinance that designates areas within the city where second units may be permitted. Therefore, under the authority provided by the CEQA Guidelines, no significant environmental impacts are anticipated.

Section 3. City Council hereby adds Section 10-3-409 A. 6. c. of Chapter 3 of Title 10 of the Beverly Hills Municipal Code, with all other provisions of Section 10-3-409 remaining in effect without amendment, regarding maximum height of second units to read as follows:

" c. Central R-1 Permits: Notwithstanding any other provision of this section, for those lots located south of Olympic Boulevard and west of Roxbury Drive, the Planning Commission may, through the issuance of a Central R-1 Permit pursuant to article 24.5 of this chapter, modify the height limitations set forth in subsection A. 6. of this section, to allow a detached second unit to be located above the ground floor, provided the rear lot line of the subject lot abuts an alley and provided further that the elevation of the subject lot slopes downhill from the front (street) lot line of the property to the rear (alley) lot line with a minimum difference in elevation of at least twenty feet (20') between the street and the alley. In addition to the findings required by section 10-3-2453 of this chapter, the Planning Commission may issue a Central R-1 permit to allow an accessory structure to exceed fourteen feet (14') in height if the Planning Commission finds that the proposed accessory structure will not have a substantial adverse impact on adjacent properties or the public welfare. In making this determination, the Planning Commission may look at such factors as the impact of the accessory structure on the scale and massing as viewed from adjacent properties, the impact of the accessory structure on available light in neighboring yards, and the cumulative impact to adjacent properties from the proposed accessory structure in combination with existing accessory structures in the vicinity. Under no circumstances shall the height of an accessory structure be permitted to exceed the following:

1. Twelve feet (12') as measured from the lowest finished elevation along the perimeter of the primary structure; and

2. Twenty five feet (25') for structures with a flat roof and thirty feet (30') for structures with a sloped roof, with a maximum plate height of twenty two feet (22') as measured from the lowest existing grade."

Section 4. 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 5. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 6. 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 7. 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:

JIMMY DELSHAD
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

_____
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____
JEFFREY KOLIN
City Manager

_____
SUSAN HEALY KEENE, AICP
Director of Community Development

Attachment 2

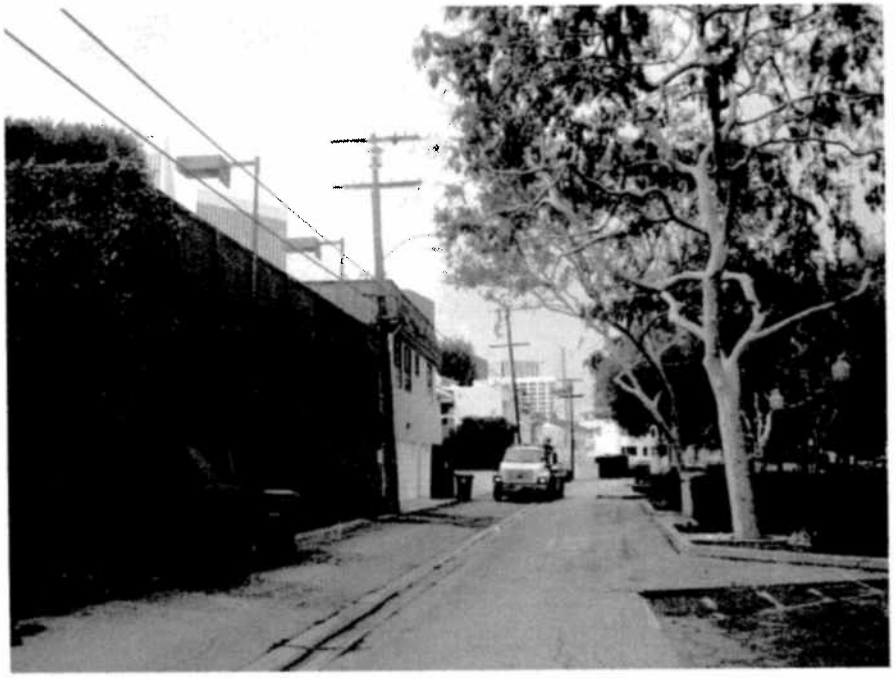
Photos of Subject Area

Spalding Drive – Rear Alley

Looking north with Roxbury Park at right

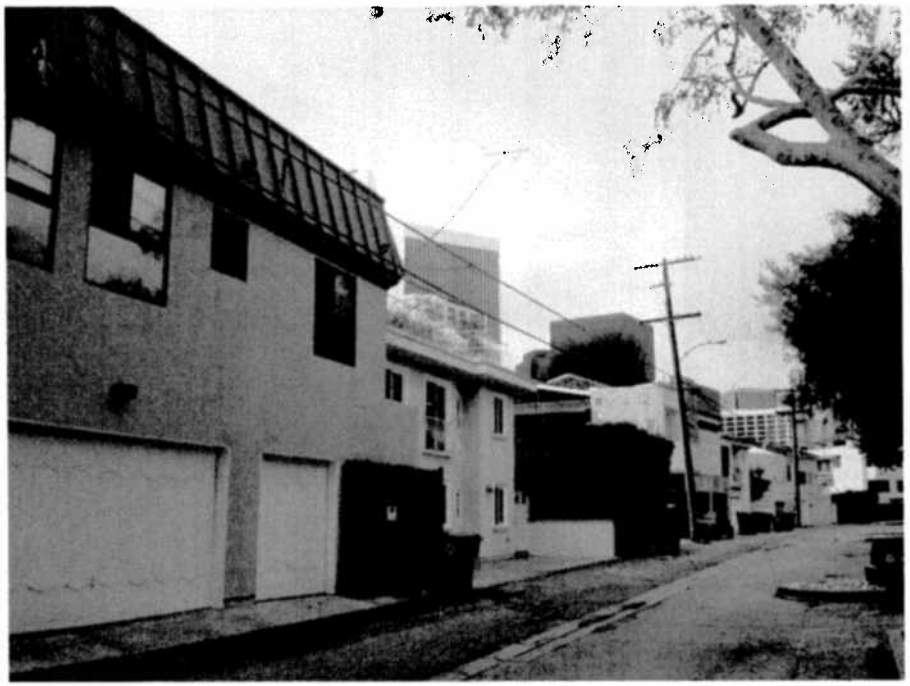
Two-story accessory structure
472 Spalding

Game court fence
460 Spalding

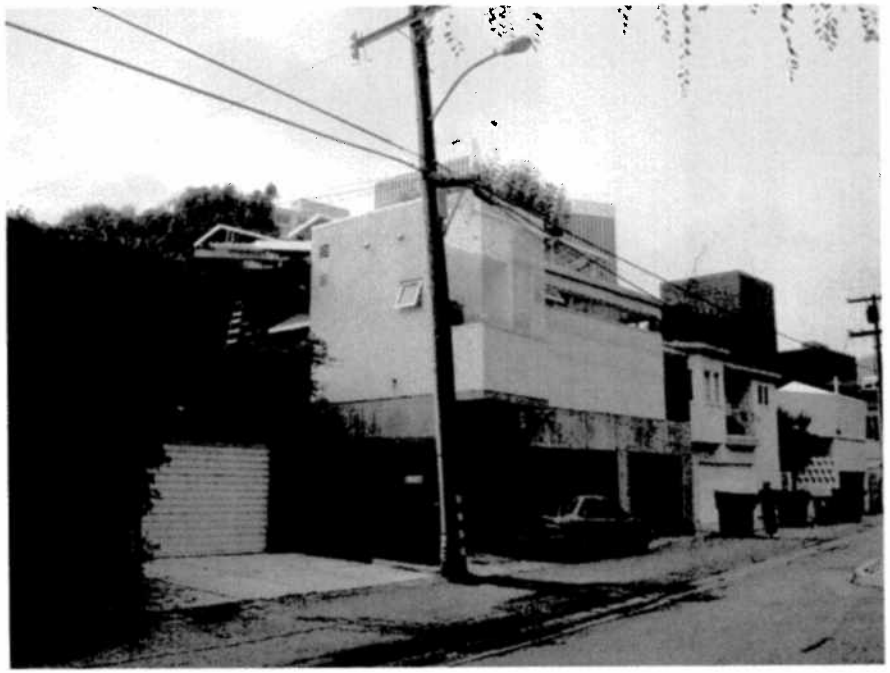


Spalding Drive – Rear Alley

Looking north with Roxbury Park at right



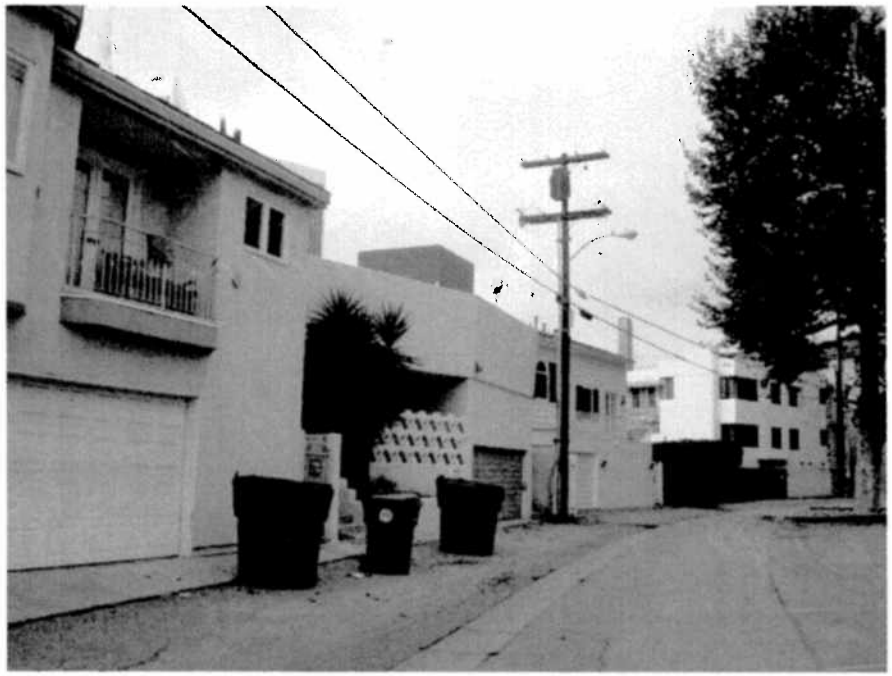
Two-story accessory structure
444 Spalding



Two-story accessory structures
456 and 452 Spalding

Spalding Drive – Rear Alley

Looking north with Roxbury Park at right



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Two-story accessory structures
440 Spalding

View of park across alley from rear of
Spalding Properties

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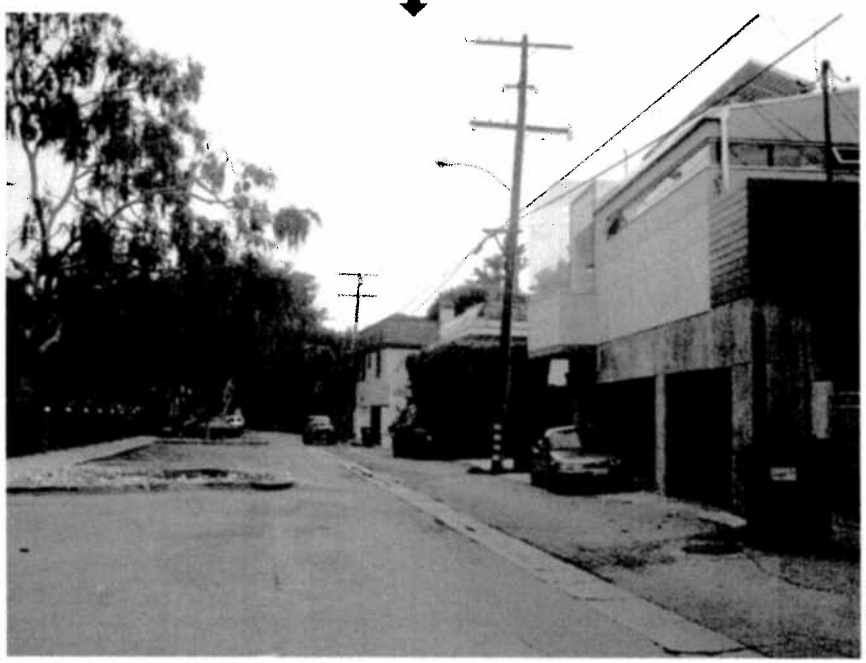
Spalding Drive – Rear Alley

Looking south down alley with park at left



Looking northwest toward Century City from alley

Spalding Drive – Rear Alley

Topography

Looking west from alley up to residences on Spalding

Spalding Drive – Rear Alley

Topography

Looking west from alley up to
residence at 472 Spalding

Attachment 3

Zoning Code Sections

10-3-409: SECOND UNITS:

A. Standards: Notwithstanding sections 10-3-401 and 10-3-402 of this article, a second unit shall be permitted in an R-1 zone provided the proposed second unit meets the following standards and requirements:

1. Location: The lot or parcel on which the proposed second unit will be constructed contains not more than one additional single-family dwelling unit. The second unit may be either: a) attached to the primary one-family residence and located within the living area of the residence, or b) detached from the primary one-family residence and located on the same site area as the residence. If the second unit is detached, is must be located to the rear of the primary dwelling unit on the site.

2. Site Area: The site area on which the second unit will be located is a minimum of six thousand (6,000) square feet.

3. Unit Size: The second unit shall not be less than the minimum size for an efficiency unit, as defined in section 17958.1 of the California Health and Safety Code or any successor statute and shall not exceed a maximum floor area of six hundred fifty (650) square feet.

4. FAR Calculations: The floor area of the second unit shall be included for purposes of determining the floor area of buildings on the site when calculating floor area for any purpose under this code, including the determination of floor area ratio.

5. Number Of Accessory Structures Permitted:

   a. Sites Less Than Eight Thousand Five Hundred Square Feet: Where the site area is less than eight thousand five hundred (8,500) square feet, no accessory structure shall be permitted on the site area except the second unit and a garage.

   b. Sites Equal Or Greater Than Eight Thousand Five Hundred Square Feet: Where the site area is equal to or in excess of eight thousand five hundred (8,500) square feet, no more than one accessory structure in addition to the second unit and a garage shall be permitted on the site area. The restrictions on the number of accessory structures on a site set forth in this subsection shall not apply to estate lots of at least twenty four thousand (24,000) square feet.

6. Height:

   a. Detached Second Units: A detached second unit shall be located on the ground floor and shall not exceed a maximum height of fourteen feet (14'). Notwithstanding the foregoing, a detached second unit located on an estate lot of at least twenty four thousand (24,000) square feet may be located on the second floor and shall comply with the maximum height limit applicable to the primary dwelling structure on the site.

   b. Attached Second Units: An attached second unit may be located on either the ground floor or the second floor of the primary dwelling unit and shall be subject to the same height limitations applicable to the primary structure.

7. Garage Conversion Prohibited: No garage may be demolished or converted in order to construct a second unit, unless a garage of at least equal size is replaced concomitantly on the site area. Any garage that has been demolished or converted to any other accessory use within the three (3) year period prior to the issuance of a building permit for a second unit must be replaced with a garage of at least equal size as a condition to the issuance of the building permit for a second unit.

8. Rental And Transfer: The second unit may be rented but shall not be sold, transferred or assigned separately from the primary single-family dwelling.

9. Parking: Each second unit shall be provided with one parking space in addition to the parking spaces required for the primary dwelling, which additional parking space shall be provided behind the front setback line of the site area.

10. Architectural Compatibility: The second unit shall conform to the color, material, architectural style, and detailing of the primary structure and shall meet all other applicable building code requirements and development standards of the zone for single-family residential structures and accessory structures.

11. Side Setbacks: The second unit shall comply with all side setback requirements applicable to the primary dwelling unit on the site.

12. Rear Setback: The second unit shall comply with the rear setback requirement applicable to the primary dwelling unit on the site. Notwithstanding the foregoing, a second unit located on a site whose rear lot line abuts an alley or a commercially zoned parcel may be located within the rear setback.

13. Entrances: A separate entrance shall be provided for attached second units, which entrance shall not be located on the front of the primary residential structure or facing the street. On corner lots, a separate entrance shall be provided for attached second units, which entrance shall not be located on the front of the primary residential structure or facing the street on which the primary residential structure fronts.

14. Required Features: The second unit must provide complete, independent living facilities for sleeping, sanitation, and cooking.

15. Covenant Required: The owner of record shall record a deed restriction in a form satisfactory to the city attorney within thirty (30) days following the issuance of a building permit for the second unit. Within thirty (30) days of the issuance of building permit for a second unit pursuant to this article, the owner of record shall record a covenant, in a form satisfactory to the city attorney, which shall place future buyers on notice of the maximum size of the second unit is as set forth in this subsection A, the required amount of off street parking to be provided for the second unit, that the second unit may not be sold, transferred or assigned separately from the primary dwelling unit, and that such restrictions shall run with the land and be binding upon all future owners. The covenant shall be recorded in the official records of the county of Los Angeles, and a copy of the covenant shall be filed with the office of the city clerk.

B. Second Unit Use Permits: Notwithstanding any other provision of this article, second units

north of Santa Monica that do not meet all of the standards set forth in subsection A of this section but comply with the standards set forth in this subsection may be permitted in an R-1 zone pursuant to a second unit use permit issued under the authority set forth in this subsection.

1. Standards: Upon application by a property owner in a form satisfactory to the director of planning and community development, the reviewing authority may, subject to the findings provisions of this subsection B, issue a second unit use permit for the development of a second unit in an R-1 zone if the proposed second unit meets the following standards and requirements:

a. Location: The lot or parcel on which the proposed second unit will be constructed contains not more than one additional single-family dwelling unit. The second unit may be either: 1) attached to the primary one-family residence and located within the living area of the residence, or 2) detached from the primary one-family residence and located on the same site area as the residence. If the second unit is detached, is must be located to the rear of the primary dwelling unit on the site.

b. Site Area: The site area on which the second unit will be located is a minimum of six thousand (6,000) square feet.

c. Unit Size: The square footage of the second unit, when combined with the floor area of the other structures on the site, shall not exceed the maximum allowable FAR for the site.

d. FAR Calculations: The floor area of the second unit shall be included for purposes of determining the floor area of buildings on the site when calculating floor area for any purpose under this code, including the determination of floor area ratio.

e. Number Of Accessory Structures Permitted:

(1) Sites Less Than Eight Thousand Five Hundred Square Feet: Where the site area is less than eight thousand five hundred (8,500) square feet, no accessory structure shall be permitted on the site area except the second unit and a garage.

(2) Sites Equal Or Greater Than Eight Thousand Five Hundred Square Feet: Where the site area is equal to or in excess of eight thousand five hundred (8,500) square feet, no more than one accessory structure in addition to the second unit and a garage shall be permitted on the site area. The restrictions on the number of accessory structures on a site set forth in this subsection shall not apply to estate lots of at least twenty four thousand (24,000) square feet.

f. Height: The second unit shall be subject to the same height limitations as other accessory structures on the site area. In addition to an application for a second unit use permit, a separate application for an R-1 permit must be submitted to allow for an increase in the applicable height limitations. Said R-1 permit shall be reviewed pursuant to the standards and procedures for accessory structures set forth in article 24.5, 25.5 or 26.5 of this chapter, as appropriate.

g. Garage Conversion Prohibited: No garage may be demolished or converted in order to

construct a second unit, unless a garage of at least equal size is replaced concomitantly on the site area. Any garage that has been demolished or converted to any other accessory use within the three (3) year period prior to the issuance of a building permit for a second unit must be replaced with a garage of at least equal size as a condition to the issuance of the building permit for a second unit.

h. Rental And Transfer: The second unit may be rented but shall not be sold, transferred or assigned separately from the primary single-family dwelling.

i. Parking: Parking for a second unit shall be provided at the following ratios:

(1) One parking space in addition to the parking spaces required for the primary dwelling for a second unit with a floor area of one thousand (1,000) square feet or less;

(2) Two (2) parking spaces in addition to the parking spaces required for the primary dwelling for a second unit with a floor area in excess of one thousand (1,000) square feet and not more than four (4) bedrooms;

(3) Three (3) parking spaces in addition to the parking spaces required for the primary dwelling for a second unit with five (5) bedrooms;

(4) Four (4) parking spaces in addition to the parking spaces required for the primary dwelling for a second unit with six (6) or more bedrooms.

All required parking spaces shall be provided behind the front setback line for the site area.

j. Architectural Compatibility: The second unit shall conform to the color, material, architectural style, and detailing of the primary structure and shall meet all other applicable building code requirements and development standards of the zone for single-family residential structures and accessory structures. A landscape plan which provides for adequate screening of the second unit from neighboring properties to the satisfaction of the director of planning and community development is required as a condition to the issuance of a second unit use permit.

k. Side Setbacks: The second unit shall be subject to the same side setback limitations as other accessory structures on the site area. In addition to an application for a second unit use permit, a separate application for an R-1 permit must be submitted to allow for a reduction in the side setback limitations. Said R-1 permit shall be reviewed pursuant to the standards and procedures for accessory structures set forth in article 24.5, 25.5 or 26.5 of this chapter, as appropriate.

l. Rear Setback: The second unit shall be subject to the same rear setback limitations as other accessory structures on the site area. In addition to an application for a second unit use permit, a separate application for an R-1 permit must be submitted to allow for a reduction in the rear setback limitations. Said R-1 permit shall be reviewed pursuant to the standards and procedures for accessory structures set forth in article 24.5, 25.5 or 26.5 of this chapter, as appropriate.

m. Entrances: A separate entrance shall be provided for attached second units, which entrance shall not be located on the front of the primary residential structure or facing the street. On corner lots, a separate entrance shall be provided for attached second units, which entrance shall not be located on the front of the primary residential structure or facing the street on which the primary residential structure fronts.

n. Required Features: The second unit must provide complete, independent living facilities for sleeping, sanitation, and cooking.

o. Covenant Required: The owner of record shall record a deed restriction in a form satisfactory to the city attorney to this effect within thirty (30) days following the issuance of a building permit for the second unit. Within thirty (30) days of the issuance of building permit for a second unit pursuant to this article, the owner of record shall record a covenant, in a form satisfactory to the city attorney, which shall place future buyers on notice of the approved size of the second unit, the required number of off street parking spaces to be provided for the second unit, that the second unit may not be sold, transferred or assigned separately from the primary dwelling unit, and that such restrictions shall run with the land and be binding upon all future owners. The covenant shall be recorded in the official records of the county of Los Angeles, and a copy of the covenant shall be filed with the city's planning department.

2. Reviewing Authority: Unless otherwise specified, the reviewing authority for a second unit use permit shall be the director of planning and community development. If, in the opinion of the director, an application merits review by the planning commission, the director may refer such application to the planning commission, and the planning commission shall serve as the reviewing authority and shall conduct a noticed public hearing regarding the requested second unit use permit.

   If the application for a second unit use permit accompanies an application for any other type of discretionary permit for the same site area, the reviewing authority and the administrative review process applicable to that other type of discretionary permit shall apply to the second unit use permit application. However, the standards for the granting or denial of the second unit use permit application shall continue to be those set forth in this section or any of its successors.

3. Notice:

   a. A notice of application, in a form approved by the city, shall be posted in a conspicuous place on the subject site within three days after an application for a second unit use permit has been deemed complete. Such notice shall be visible from a distance of sixty feet (60') and shall remain posted in such conspicuous place for no less than ten (10) days. Within five (5) days of posting, the applicant for a second unit use permit shall submit an affidavit to the city certifying such notice has been posted in compliance with this section.

   b. A notice of intended decision regarding an application for a second unit use permit shall be mailed at least ten (10) days prior to any decision rendered by the director of planning and community development to all property owners and residential occupants within one hundred feet (100') of the exterior boundaries of a project site.

c. A notice of public hearing shall be mailed at least ten (10) days prior to any hearing held by a reviewing authority other than the director of planning and community development, by United States mail, postage paid, to all property owners and occupants within three hundred feet (300') of the exterior boundaries of a project site, as shown on the latest equalized assessment roll.

d. When a decision regarding a second unit use permit is rendered by the director of planning and community development, then a notice of decision shall be mailed in the same manner as the notice of intended decision.

4. Required Findings: The reviewing authority shall not issue a second unit use permit unless the reviewing authority finds that the proposed second unit will not have a substantial adverse impact on or be detrimental to:

a. The scale and massing of the streetscape;

b. The scale and massing of the neighborhood as viewed from neighboring properties;

c. Neighbors' access to light and air;

d. Neighbors' privacy;

e. The garden quality of the city; and

f. Adjacent properties or the public welfare.

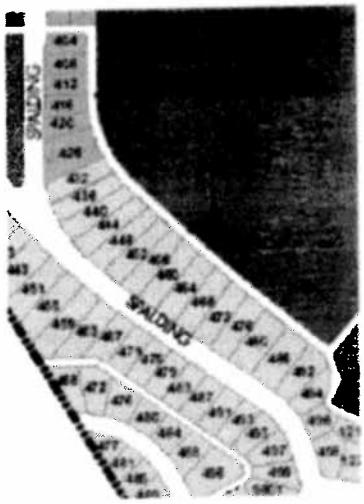
5. Appeals From Decisions: The applicant or any person aggrieved by any decision regarding a second unit use permit by a reviewing authority other than the city council may appeal to the city council as provided in title 1, chapter 4, article 1 of this code.

C. Conversion Of Existing Accessory Structures: For any accessory structure constructed prior to September 26, 2003, that contains a kitchen, the property owner may apply for a building permit pursuant to subsection A of this section or a second unit use permit pursuant to subsection B of this section to convert the accessory structure to second unit. All applications for conversion must comply with the standards and regulations set forth in subsection A or B of this section, as appropriate. If the conversion is permitted, any covenant previously recorded by the property owner, or his or her predecessor, restricting the use of the site to one bona fide housekeeping unit shall be released by the city. (Ord. 97-O-2285, eff. 12-5-1997; amd. Ord. 03-O-2427, eff. 9-26-2003)

Attachment 4

Public Notice

NOTICE OF PUBLIC HEARING



DATE: Thursday, October 28, 2010

TIME: 1:30 p.m., or as soon thereafter as the matter may be heard

LOCATION: Commission Meeting Room 280 A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its regular meeting on Thursday, October 28, 2010, will hold a public hearing beginning at 1:30 p.m. or as soon thereafter as the matter may be heard, to consider:

> An ordinance of the City of Beverly Hills amending the Beverly Hills Municipal Code to permit single family residential lots located on the east side of Spalding Drive south of Olympic Boulevard and west of Roxbury Drive that meet certain standards to apply for Second Unit Use Permits as currently permitted for single family residential lots north of Santa Monica Boulevard, as set forth in Section 10-3-409 of the Beverly Hills Municipal Code.

Any Planning Commission recommendation regarding a draft ordinance would be forwarded to the City Council for its consideration at a duly noticed public hearing.

This project 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 is exempt from CEQA review requirements pursuant to Section 15282(h) of Title 14 of the California Code of Regulations that exempts by statute an ordinance that designates areas within the city where second units may be permitted. Staff has further determined that construction of a second unit in a residential zone is exempt from CEQA requirements pursuant to Section 15303(a). Therefore, under the authority provided by the CEQA Guidelines, no significant environmental impacts are anticipated.

Any interested person may attend the meeting and be heard or present written comments to the Commission. Comments may be submitted in writing to the Planning Division of the Community Development Department and written or oral comments will be accepted at the Planning Commission meeting at the date and time noted above.

If you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

A copy of the application is on file in the Planning Division and a copy of the staff report will be available on October 22, 2010 and can be reviewed by any interested person at City Hall, 455 N. Rexford Drive, Suite 100, Beverly Hills, CA 90210 or in the Beverly Hills Public Library Reference section. If there are any questions regarding this notice, please contact Michele McGrath in the Community Development Department at 310.285.1135 or at mmcgrath@beverlyhills.org.

Jonathan Lait, AICP, City Planner

Published: October 15, 2010