



## Planning Commission Report

**Meeting Date:** December 19, 2011

**Subject:** Historic Preservation

**Recommendation:** Review, provide direction and take action on a revised draft ordinance establishing historic preservation in the City of Beverly Hills.

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### REPORT SUMMARY

Attached is a resolution recommending that the City Council adopt an ordinance approving and enacting proposed amendments to the Beverly Hills Municipal Code regarding historic preservation. The Planning Commission reviewed and provided revisions to the original draft of the zoning ordinance during its study session meeting on December 8, 2011. A revised draft zoning ordinance incorporating the Planning Commission's direction is attached (Attachment 1, Exhibit A). Additionally, changes to the Beverly Hills Municipal Code Title 9 (Attachment 1, Exhibit B) are proposed to extend the noticing required prior to obtaining a permit to demolish or move a building, structure or object on certain properties from the current 10 day noticing period to a 30 day noticing period. With action by the Planning Commission today, staff will prepare the draft ordinance for review early next year by the City Council.

### BACKGROUND

The Planning Commission sub-committee met on December 12, 2011 to discuss and provide direction on incorporating the revisions received from the Planning Commission on December 8, 2011.

### DISCUSSION

A resolution recommending that the City Council adopt amendments to the Beverly Hills Municipal Code (BHMC) is being provided for the Planning Commission's consideration (Attachment 1). The proposed code amendments are also presented as exhibits to the resolution (Exhibit A: Zoning Code Amendments, Exhibit B: Building Code Amendments).

### Proposed Amendments to the Zoning Code (Title 10)

[Attachment 1, Exhibit A]

The proposed zoning text amendments would replace existing Article 32 of the zoning code ("Preservation of Landmarks")(BHMC 10-3-32), with a new Article 32 ("Historic Preservation"). Based on

#### Attachment(s):

1. Draft Resolution Recommending Adoption
  - A. Proposed Amendments to the Zoning Code (Title 10)
  - B. Proposed Amendments to the Building Code (Title 9)
2. Planning Commission Staff Report – December 8, 2011
3. Planning Commission Staff Report – October 27, 2011

#### Report Author and Contact Information:

Peter Noonan, AICP CEP  
Associate Planner  
(310) 285-1127  
pnoonan@beverlyhills.org

direction from the Planning Commission, the original draft historic preservation language has been revised and is attached as Attachment 1, Exhibit A. The proposed language revisions inserted are based on direction received from the Planning Commission during its last meeting of December 8, 2011 and on further direction received during a sub-committee meeting held on December 12, 2011.

#### Summary of Substantive Changes

- **ORDINARY MAINTENANCE AND REPAIR:** (Originally Section 10-3-3206) – Language removed because of consistency issues with requirements for a Certificate of Appropriateness (10-3-3219).
- **10-3-3207: CULTURAL HERITAGE COMMISSION:** (Originally Section 10-3-3209) – A new sub-section, sub-section (H), added establishing that the Cultural Heritage Commission would have approving authority in all cases involving a historic resource except for projects that require Planning Commission approval, in which case the Planning Commission shall have approving authority over the entire project including application of the historic preservation ordinance.
- **10-3-3209: PRESERVATION INCENTIVES:** (Originally Section 10-3-3211) – List of preservation incentives removed.
- **PROPERTY OF MERIT RECOGNITION CRITERIA:** (Originally Section 10-3-3212) }  
**PROPERTY OF MERIT RECOGNITION PROCESS:** (Originally Section 10-3-3213) } Property of Merit Program removed
- **10-3-3213: HISTORIC DISTRICT DESIGNATION CRITERIA:** (Originally Section 10-3-32-17) – Language revised to provide greater clarity.
- **10-3-3215: LANDMARK OR HISTORIC DISTRICT DESIGNATION PROCEDURES:** (Originally Section 10-3-3219) – A new sub-section inserted, sub-section (K), addressing recordation of resolutions designating historic resources.
- **10-3-3217: PENDING DEMOLITION, ALTERATION OR RELOCATION – TEMPORARY PROTECTIONS PENDING DESIGNATION:** (Originally Section 10-3-3221) – Title changed for clarity. Additionally, language was struck and a reference to the interim protection measures described in 10-3-3215(F) (Originally 10-3-3917(F)) was inserted to avoid establishing a secondary set of interim protection measures.
- **10-3-3218: HOLD PERIOD FOR PERMITS TO ALTER CERTAIN BUILDINGS, STRUCTURES AND OBJECTS 45 YEARS OF AGE AND OLDER:** – A new section has been added establishing a 30 day hold period for construction projects proposed for properties 45 years and older and designed by a Master Architect. Projects that replace materials with like materials would be exempt and the Director would have the ability to waive the hold time if certain criteria were met. This language is proposed to provide additional time to identify and determine whether properties that are 45 years of age and were designed by a Master Architect meet the criteria, and merit consideration by the Cultural Heritage Commission and City Council for designation as local Landmarks.
- **10-3-3219: CERTIFICATE OF APPROPRIATENESS: (Originally Section 10-3-3222)** – Sub-section (A) was removed because it referenced the Properties of Merit program. Language is subsection (B) was revised for clarity. A new sub-section, sub-section (C),

addressing standards for review of non-contributing properties in historic districts is included.

- **10-3-3219(E): CERTIFICATE OF APPROPRIATENESS:** (Originally Section 10-3-3222(E)) – Language added referring to the guidelines (to be created) for a list of additional materials needed to review a certificate of appropriateness for demolition of a landmark.
- **10-3-3222: APPEALS; FINALITY OF DECISIONS FOR CERTIFICATES OF APPROPRIATENESS AND CERTIFICATES OF ECONOMIC HARDSHIP:** (Originally Section 10-3-3223) – Title changed, and language revised to clarify that property owner only has right to appeal
- **10-3-3223: HISTORIC RESOURCE DISCLOSURE:** – New section added to address disclosure at point of historic status at point of sale.
- **10-3-3224: ENFORCEMENT AND PENALTIES:** – New section added to address enforcement and penalties.
- **PROPOSED DEMOLITION, SIGNIFICANT ALTERATION, OR RELOCATION OF BUILDINGS OR STRUCTURES 45 YEARS OR OLDER:** (Originally Section 10-3-3226) – Language removed. Demolition and relocation addressed in Exhibit B. Alterations that may remove Character-Defining Features addressed in 10-3-3218
- **10-3-3227: CITY-OWNED PROPERTIES; SCHOOL DISTRICT PROPERTIES:** – Section added addressing City-owned properties and improvements and School District properties.

#### **Proposed Amendments to the Building Code (Title 9)**

[Attachment 1, Exhibit B]

Language changes are also being proposed to the City’s Building Code (BHMC 9-1-104) that would extend the required noticing period for demolition and relocation of buildings, structures, and objects on certain properties (Attachment 1, Exhibit B). These language changes are proposed to provide additional time to identify and determine whether properties that are 45 years of age and were designed by a Master Architect meet the criteria and merit consideration for designation as local Landmarks.

#### **Review for Environmental Impacts**

The amendments proposed 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. It has been determined that adoption of the amendments would not have a significant environmental impact and is exempt from CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. In addition, adoption of the amendments would be categorically exempt from environmental review as a project that meets the criteria of the Class 31 exemption (“Historical Resource Restoration/Rehabilitation”).

#### **PROGRAM ADMINISTRATION**

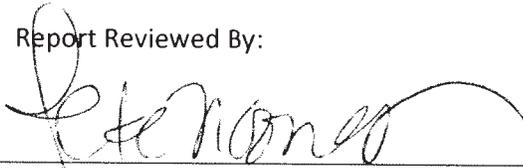
As mentioned in the previous staff reports of December 8 and October 27, 2011, establishing an historic preservation program in the City could result in additional staffing needs. As a draft program is developed the staffing needs and fees associated will be better understood and estimations will be

developed. Staff is currently assessing the anticipated workload and processing needs associated with administering the draft ordinance. This information will be included in the City Council's consideration of the proposed historic preservation ordinance.

#### **NEXT STEPS**

With action by the Planning Commission today, Staff will prepare the draft language establishing historic preservation in the City for consideration by the City Council.

Report Reviewed By:

A handwritten signature in black ink, appearing to read "Peter Noonan", written over a horizontal line.

Peter Noonan, AICP CEP  
Associate Planner, Community Development Department

# Attachment 1

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING REVOKATION OF ARTICLE 32 OF CHAPTER 3 OF TITLE 10 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING PRESERVATION OF LANDMARKS, ENACTMENT OF ARTICLE 32 OF CHAPTER 3 OF TITLE 10 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING HISTORIC PRESERVATION, AMENDMENT OF ARTICLE 104 OF CHAPTER 1 OF TITLE 9 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING NOTICING OF PROPOSED DEMOLITION, RELOCATION OR MAJOR ALTERATION OF BUILDINGS

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. Historic Preservation is a means of preserving, conserving and protecting buildings, structures, objects, sites, landscapes or other artifacts of historical significance. Local historic preservation programs have been established by many cities throughout Southern California.

Section 2. The Council of the City of Beverly Hills directed the Planning Commission and the Community Development Department to study and develop a historic preservation program for the City.

Section 3. The Planning Commission considered zone text amendments to the Beverly Hills Municipal Code Article 32 Chapter 3 Title 10 as set forth in Exhibit A at study sessions on October 27, 2011 and December 8, 2011 and at a duly noticed public hearing on December 19, 2011, at which times the Planning Commission received oral and documentary evidence relative to the proposed amendments. The Planning Commission also considered the amendments to the City of Beverly Hills Municipal Code Article 104 Chapter 1 Title 9 as set forth in Exhibit B (collectively with Exhibit A “Amendments”).

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Section 4. As proposed, the zone text amendments in Exhibit A would replace existing Article 32 (“Preservation of Landmarks”) with a new, more expansive Article 32 (“Historic Preservation”). The proposed zone text amendments provide greater protection for historically significant properties by establishing a historic preservation program for the City. The zone text amendments establish a Cultural Heritage Commission and create procedures and criteria for landmark and historic district designation. The zone text amendments also incorporate preservation incentives and create penalties for unauthorized demolition or alteration of historic resources.

Section 5. As proposed, the amendments to the Beverly Hills Municipal Code in Exhibit B would extend an existing requirement for site noticing from 10 days to 30 days prior to the issuance of a permit for demolition and add a 30 day site noticing requirement for substantial alteration.

Section 6. The Amendments are consistent with the objectives, principles, and standards of the General Plan. The City’s General Plan includes the following goals that relate to historic preservation: “HP 1 Value and Preserve Significant Cultural Resources”, “HP 2 Promotion of the City’s Historic Resources”; in addition, the General Plan includes “Implementation Program 2.3 Other Development Regulations and Ordinances” which lists adoption of a historic preservation ordinance as one of the implementation actions of the General Plan.

Section 7. 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. It has been determined that adoption of the Amendments would not have a significant environmental impact and is exempt from

Draft For Discussion Purposes

CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. In addition, adoption of the Amendments would be categorically exempt from environmental review as a project that meets the criteria of the Class 31 exemption (“Historical Resource Restoration/Rehabilitation”). The records related to this determination are on file with the City’s Community Development Department, 455 N. Rexford Drive, Beverly Hills, California, 90210.

Section 8. The Planning Commission does hereby recommend that the City Council adopt an Ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

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Section 9. 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:

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Daniel Yukelson  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

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Secretary

Approved as to form:

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David M. Snow  
Assistant City Attorney

Approved as to content:

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

Exhibit A – Proposed Amendments to the Zoning Code (BHMC 10-3-32)

Exhibit B – Proposed Amendments to the Building Code (BHMC 9-1-104)

Exhibit A – Proposed Amendments to the Zoning Code (BHMC 10-3-32)

**Article 32**  
**[DRAFT] - HISTORIC PRESERVATION**  
**Title 10, Chapter 3**

**10-3-3201: TITLE:**

This Article shall be known as the Historic Preservation Ordinance of the City of Beverly Hills.

**10-3-3202: DEFINITIONS:**

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**Addition.** Any extension or increase in floor area or height of a Building or Structure.

**Alteration.** Any physical modification or change to a Building, Structure, Site, or Object that may have a negative effect on Character-Defining Features of a Historic Resource and requires planning approval and a permit under Titles 9 or 10 of the Beverly Hills Municipal Code, including a Certificate of Appropriateness pursuant to this Article. Alterations shall also include construction of additions but shall not include Ordinary Maintenance and Repair.

**Archaeological Site.** An area where remains of man or his activities prior to keeping of history are still evident.

**Building.** A structure that is created principally to house any form of human activity, such as a house, barn, church, hotel, or similar construction, including accessory structures, such as guest houses, detached garages and sheds. “Building” may also be used to refer to a historically and functionally related unit, such as a courthouse and jail, or a house and barn.

**California Environmental Quality Act (CEQA).** Collectively, Public Resources Code Section 21000 *et seq.*, and the State of California CEQA Guidelines, 14 Cal. Code Regs. 15000 *et seq.*, as may be amended from time to time.

**California Register of Historical Resources.** The authoritative and comprehensive listing and guide to California’s significant historical resources as defined in California Public Resources Code Section 5020.1, as may be amended. Also referred to as the California Register.

**Certificate of Appropriateness.** A certificate issued to approve alteration, restoration, construction, removal, relocation in whole or in part, or demolition of a designated Landmark or Property within a Historic District.

**Certificate of Economic Hardship.** A certificate authorizing work described in an accompanying Certificate of Appropriateness because of extreme financial privation or adversity and in accordance with the procedures and findings of this Article.

**Certified Local Government.** The program authorized by the National Historic Preservation Act of 1966 (16 U.S. C. Section 470 et seq.) and the subsequent participatory agreement between the City and the State of California Office of Historic Preservation.

**Character-Defining Feature.** A prominent or distinctive aspect, quality, detail or characteristic of a Historic Resource that contributes significantly to its physical character and historical significance. Such features may include but are not limited to landscaping, setbacks, massing, distinguishing aspects, roof attributes, architectural details, materials, moldings, sculptures, fountains, light fixtures, windows, doors, and monuments.

**City of Beverly Hills Register.** A register containing those Properties and geographical areas formally designated by the City Council as Landmarks or Historic Districts pursuant to the provisions of this Article. The Register also includes Contributing Properties within Historic Districts. Also referred to as the Local Register.

**Commission.** The Cultural Heritage Commission as defined in Section 10-3-3205 of this Article.

**Contributing Property.** A Property, including all Buildings, Structures Objects, and Character-Defining Features located on it that adds or contributes to the significance of a Historic District under criteria set forth in this Article.

**Demolition or Demolish.** Any act or process that destroys in part or in whole an individual Historic Resource such that the historic character and Character-Defining Features of the Property are completely removed and cannot be repaired or replaced. The terms Demolition or Demolish shall include, but are not limited to, the act of pulling down, destroying, removing, or razing a Property or commencing work thereof with the intent of completing the same.

**Director.** The City's Director of Community Development, or her/his designee.

**District.** Refer to Historic District

**Economic Hardship.** The facts and circumstances which establish that there are no feasible measures that can be taken which will enable the property owner to make a reasonable beneficial use of the Property or derive a reasonable economic return from the Property in its current form.

**Exceptional Significance.** A Property having extraordinary importance under applicable evaluation criteria and context as defined in: "Criteria Consideration G: Properties That Have Achieved Significance within the Last Fifty Years", in the "National Register Bulletin: How to Apply the National Register Criteria for Evaluation".

**Historic District or District.** A geographic area having a significant concentration, linkage, or continuity of Sites, Buildings, Structures, Objects, or Character-Defining Features united historically or aesthetically by plan or physical development that has been designated pursuant to this Article.

**Historic Resource.** Historic Property. A Property determined to be a historic resource under CEQA, NEPA, Historic Property under Section 106 of the National Historic Preservation Act of

1966, as amended; under any other provision of California law; or listed, nominated or eligible for listing in the Local Register including Landmarks, Historic Districts, and Contributing Properties.

**Historic Resources Inventory or Local Inventory.** A list maintained by the City, which contains all Properties surveyed for historical or architectural significance determined to be eligible Historic Resources and all Properties within neighborhoods or areas determined to be eligible Historic Districts. In creating and maintaining the inventory, surveys, either of individual Properties or of several Properties as once, shall be conducted and the information obtained shall be compiled in accordance with professional standards. Surveys may be conducted and the resulting information compiled 1) by, or on behalf of, the City, or 2) by a Qualified Historic Preservation Consultant for a specific Property, in which case the individual survey shall be submitted to, and deemed sufficient by, the Director. The Director shall determine whether an individual survey merits inclusion of the specific Property on the Local Inventory.

**Integrity.** The ability of a Landmark or Contributing Property to convey its historical significance, with consideration of the following aspects that constitute integrity: location, design, setting, materials, workmanship, feeling, and association.

**Landmark.** Any Property, including any Building, Structure, Object, place, landscape, or Natural Feature located in it that is listed on the Local Register as approved by the City Council pursuant to this Article.

**List of Local Master Architects.** A list maintained by the City that includes Master Architects as defined in the Article who have designed properties in the City, and architects, designers and builders who may not be of recognized greatness, but who have designed or built properties in the City, and are of local importance as determined by the City Council on recommendation from the Cultural Heritage Commission.

**Local Register of Historic Properties.** Refer to “City of Beverly Hills Register”

**Maintenance and Repair.** Refer to Ordinary Maintenance and Repair

**Master Architect.** An architect of recognized greatness in the field of architecture who is included on the list of such architects compiled by the Cultural Heritage Commission, and updated from time to time. Refer also to “List of Local Master Architects”

**Mills Act.** The California Government Code Sections 50280 et seq., as it may be amended from time to time.

**National Register of Historic Places.** The official list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology and/or culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966, as amended (16 U. S. C. 470 et seq., 36 C.F.R. Sections 60, 63).

**Natural Feature.** Any naturally occurring tree, plant, plant community or geographical or geological site or feature.

**Nominated Resource.** A Property included in the Local Inventory that has been nominated as a Landmark or a Contributing Property of a Historic District for listing on the Local Register as provided for in this Article.

**Non-contributing Property.** A Property within a Historic District that is not a Contributing Property, as previously defined.

**Object.** The term “object” is used to distinguish from Buildings and Structures those constructs that are primarily artistic in nature or are relatively small in scale and of simple construction. Although it may be, by nature or design, movable, an Object is associated with a specific setting or environment.

**Ordinary Maintenance and Repair.** Any work that meets the criteria established in 10-3-3219(B) of this Article.

**Owner.** Any person(s), association, partnership, firm, corporation or public entity identified as the holder of title on any Property as shown on the last assessment roll of the County of Los Angeles, as applicable. For purposes of this Article, the term owner shall also refer to an appointed representative of an association, partnership, firm, corporation or public entity which is a recorded owner.

**Period of Significance.** Is the span of time that a Property, or geographic area was associated with important events, activities, or persons, or attained the Character-Defining Features that qualify it for designation as a Landmark or Historic District.

**Preservation.** Is the act or process of applying measures necessary to sustain the existing form, integrity, and/or materials of a Historic Resource.

**Property.** The entirety of a Site, including the Buildings, Structures, landscaping, Objects, and other physical aspects of the location, regardless of historic designation.

**Property within a Historic District.** Refers to both the Contributing Properties and Non-Contributing Properties. For the definition of “Contributing Properties in Historic Districts” refer to “Contributing Property”.

**Qualified Historic Preservation Consultant.** A consultant that meets the Secretary of the Interior’s Professional Qualifications Standards, as defined in 36 C.F.R. 61.

**Reconstruction.** The act or process of reproducing by new construction the exact form and detail of a Building, Structure, landscape or Object, or a part thereof, as it appeared at a specified period of time prior to alteration or demolition.

**Register of Historic Properties (Register).** Refer to “City of Beverly Hills Register”

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**Rehabilitation.** Any act or process of making a compatible use for a Property through repair, alterations and additions while preserving those portions or Character-Defining Features which convey its historical, cultural or architectural values.

**Relocation.** The act or process of moving a Historic Resource from one site to another site, or to a different location on the same site.

**Resource.** Refer to Historic Resource.

**Restoration.** The act or process of accurately refurbishing the form and details of a Property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

**Secretary of the Interior's Standards.** The "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" found at 36 C.F.R. 68.3, as it may be amended from time to time.

**Significant Persons.** Refers to individuals associated with Beverly Hills, in the past, who's activities, achievements and contributions are demonstrably important within the City, state, or nation and directly associated with a Historic Resource. The Resource must be associated with the person during the period that the person's significant achievements and contributions occurred. A person would not be considered historically significant by virtue of position/title, affiliation, race, gender, ethnicity or religion.

**Site.** A site is the location of a significant event, a prehistoric or historic occupation or activity, or a Building, Structure or Object whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing construction.

**Stabilization.** The act or process of applying measures designed to re-establish a weather resistant enclosure or the structural stability of an unsafe or deteriorated Property while maintaining the essential form as it exists at present.

**State Historical Building Code.** Part 2.7 of the California Health and Safety Code, commencing with Section 18950, and the regulations promulgated there under, as they may be amended from time to time (Cal. Code Regs., Title 24, Part 8).

**Structure.** The term "structure" includes both buildings, and other, generally functional, constructions made for purposes other than housing human activity, such as reservoirs and retaining walls.

**Substantial Alteration.** Any destruction, relocation or alteration activities that would materially change a Historic Resource's Character-Defining Features or impair its historical significance.

**Survey.** A systematic and standardized process for identifying and gathering data on the City's potential Historic Resources by which Properties are documented and evaluated for inclusion on

the Local Inventory and potential eligibility for listing on the City's Register, the California Register, or the National Register.

**10-3-3203: PURPOSE AND AUTHORIZATION:**

The purpose of this Article is to promote the public health, safety and general welfare by providing for the identification, recognition, designation, protection, enhancement, perpetuation and use of Historic Resources that reflect associations important in the City's history and to:

- A. Safeguard the character and history of the City which is reflected in its unique architectural, historical, and cultural heritage;
- B. Foster civic and neighborhood pride and a sense of identity based on the recognition of the City's past accomplishments as reflected through its Buildings, Structures, Objects, landscaping, Natural Features, infrastructure, and engineering;
- C. Promote public education and awareness by preserving and encouraging interest in Beverly Hills' cultural, social, and architectural history;
- D. Strengthen the City's economy by protecting and enhancing the City's attractions to residents, tourists, visitors, and others, thereby serving as a stimulus and support to local business and industry;
- E. Enhance property values, stabilize neighborhoods, and render City Landmarks and Contributing Properties in Historic Districts eligible for financial benefits and incentives;
- F. Acknowledge the critical role served by owners of City Landmarks and Contributing Properties in Historic Districts in furthering the goal of historic preservation pursuant to the City's General Plan;
- G. Encourage preservation and adaptive reuse of Landmarks and Contributing Properties in Historic Districts by allowing changes to a historic Properties to accommodate new functions, and not to "freeze" historic Properties in time;
- H. Identify financial and other incentives that are intended to encourage owners to designate, maintain, reuse, rehabilitate and improve Landmarks and Contributing Properties in Historic Districts.

**10-3-3204: ADMINISTRATIVE GUIDELINES:**

The Director is authorized to develop and make publically available Guidelines for the Designation and Preservation of Historic

Resources and other support documents as necessary or desirable to implement this Article. These administrative guidelines shall serve as baseline standards for evaluation and designation of Historic Resources, and processing Certificates of Appropriateness pursuant to this Article.

**10-3-3205: PERMIT REQUIRED:**

No permit shall be issued for any activity regulated by this Article unless and until the proposed work has been granted final approval or conditional approval pursuant to the provisions of this Article, and then the permit shall be issued in conformity with such approval or conditional approval.

**10-3-3206: MINIMUM MAINTENANCE REQUIREMENTS:**

Every owner of and every person in possession or control of a Landmark or Contributing Property and any appurtenant premises shall, to the maximum extent practicable, maintain and keep the Property in good repair, as defined in Sections 5-7-3 and 5-7-4 of this Code. In the case that a Property constitutes a public nuisance or is subject to vandalism, the City may issue any order it deems appropriate to prevent further vandalism or public nuisance pursuant to Section 1-3-101, and Section 5-7-6 of this Code.

**10-3-3207: CULTURAL HERITAGE COMMISSION:**

- A. Establishment of Commission.** There is hereby established the Cultural Heritage Commission. The Commission shall have and exercise the powers and perform the duties set forth in this Article with respect to historic preservation.
- B. Appointment and Qualifications.** The Commission shall be composed of five (5) members appointed by the City Council, all of whom shall be residents of the City. Members of the Commission shall have the duties and functions set forth in this Article.

The Commissioners shall have a demonstrated interest in, competence in, or knowledge of historic preservation. To the extent feasible and legally permissible, at least two of the Commissioners should be professionals who meet the qualifications for various disciplines outlined by the U.S. Secretary of the Interior, Code of Federal Regulations, 36 CFR Part 61. These disciplines include history, architecture, architectural history, planning, pre-historic and historic archaeology, folklore, cultural anthropology, curation, conservation and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography, to the extent that these professionals are available in the community. Of the five members, at least one should be a registered architect, licensed contractor or a California real estate licensee.

- C. Term.** The term of office for each Commissioner shall begin with the first day of March and shall be an initial term of two (2) years except that three of the initially appointed Commissioners shall be appointed for an initial term of four (4) years. Each Commissioner shall thereafter have the opportunity for reappointment to an additional 4-year term. An appointment to fill a vacancy on the Commission shall be for the period of the unexpired term.

- D. Rules and Orders.** The Commission shall elect officers and establish its own rules and regulations which shall be consistent with the Cultural Heritage Commission Bylaws and this code. Copies of the Commission’s Bylaws shall be kept on file in the office of the City Clerk. The Commission shall keep a record of its resolutions, proceedings and transactions, and the City Clerk shall be the repository for all such records.
- E. Secretary of the Commission.** The Director shall assign an employee of the Community Development Department, other than the Director, to be the Secretary of the Commission and assign duties to the employee, which shall be in addition to the duties regularly prescribed for that employee.

The Secretary shall attend Commission meetings and keep a record of the proceedings and transactions of the Commission, specifying the names of the Commissioners in attendance at each meeting and the ayes and noes upon all roll calls. The Secretary shall among other duties, post and publish all orders, resolutions and notices, which the Commission shall order to be posted and published.

- F. Scheduled Meetings.** The Commission shall meet at least four times per year. In the event the Commission has more than one regular meeting per quarter, the term “regular monthly” shall mean the first such meeting in any given quarter. The Commission shall establish a time and place for regular meetings to be held. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Cal. Gov. Code Section 54950 et seq.). The Commission chairperson shall have the authority to call and notice special meetings in a manner specified in the Ralph M. Brown Act.
- G. Quorum and Actions of the Commission.** A majority of the members of the Commission must be present at any meeting to constitute a quorum. The powers conferred upon the Commission shall be exercised by resolution or motion and adopted by a majority vote of the members present and recorded in the minutes with the ayes and noes. The action shall be attested to by the signature of the Secretary of the Commission.
- H. Commission Authority in Development Review.** When this Article is applicable in the review of a project consisting of a development entitlement pursuant to other articles of Title 10 of the Municipal Code, the Cultural Heritage Commission shall be authorized to review the project in its entirety unless any part of the development entitlement would require approval of the Planning Commission, in which case the Planning Commission shall be the Commission authorized to review the entirety of the project, including application of this Article.

**10-3-3208: POWERS AND DUTIES OF THE COMMISSION:**

Unless otherwise specified herein the duties of the Cultural Heritage Commission shall be as follows:

- A.** Exercise the authority set forth in this Article and as otherwise provided in this Code;
- B.** Inspect, investigate, and recommend for designation to the City Council, Landmarks, and Historic Districts, and make any preliminary or supplemental determinations, or conclusions, in order to implement this Article;
- C.** Review a City-wide Survey of Historic Resources, which is periodically updated, and other Surveys on a case-by-case basis, and recommend adoption of the Survey conclusions by the City Council;
- D.** Compile or cause to be compiled and maintained a Local Register listing and describing all designated Landmarks, Historic Districts and Contributing Properties within the City;
- E.** Compile or cause to be compiled and maintained a List of Local Master Architects as defined by the Article;
- F.** Conduct studies and evaluations of applications or proposals seeking the designation of potential Landmarks and Historic Districts, make determinations and recommendations as such appropriateness for consideration of such applications, and make any preliminary or supplemental determinations or conclusions, in order to implement this Article;
- G.** Develop designs for suitable signs, plaques or other markers, that may be placed, at private expense, on or near a designated Landmark, Historic District or Contributing Property, indicating that the Resource has been designated as such;
- H.** Review and approve applications for Certificate of Appropriateness and Certificates of Hardship, as applicable;
- I.** Recommend, promulgate, and amend, from time to time, such rules and regulations as it may deem necessary to implement the purposes of this Article;
- J.** Assume the responsibilities and duties that may be assigned to the Commission by the City under the Certified Local Government provisions of the National Historic Preservation Act of 1966, as amended, including but not limited to, compliance with the National Environmental Protection Act (NEPA) and the California Environmental Quality Act with regard to historic resources;
- K.** Review and make recommendations to the City Council on Mills Act contracts.

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- L. Upon request, advise the City Council, City departments, and City commissions the significance of historic resources, as defined by CEQA; and recommend to the City Council, City departments and City commissions appropriate action in compliance with the City's adopted CEQA procedures;
- M. Provide Recommendations to the City Council regarding the utilization and promotion of incentives and grants from federal and state agencies, private groups and individuals, and budgetary appropriations to advance the preservation of Historic Resources in the City;
- N. Participate in, promote and conduct public information, educational and interpretive programs pertaining to Historic Resources and provide public participation in all aspects of the City's historic preservation program;
- O. Coordinate with other local, County, State and Federal governments in the pursuit of the City's historic preservation goals;
- P. Upon request, review and make recommendations to the Planning Commission on zoning and general plan amendments related to preserving Historic Resources;
- Q. Develop a program to celebrate Historic Resources, and recognize outstanding maintenance, rehabilitation, and preservation of Landmarks, Historic Districts and Contributing Properties;
- R. Require that each commissioner attend at least one informational or educational meeting, seminar, workshop, or conference per year in accordance with the requirements of the Certified Local Government program;
- S. Perform any other functions that may be designated by resolution or motion of the City Council (Ord. C-6961 Section 1 (part), 1992).

**10-3-3209: PRESERVATION INCENTIVES:**

The City Council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve City Landmarks, Historic Districts, and Contributing Properties. Preservation incentives shall be made available to owners of Landmarks and Contributing Properties as defined in Sections 10-3-3212 and 10-3-3213 of this Article, respectively.

**10-3-3210: ESTABLISHMENT OF A LOCAL INVENTORY OF HISTORIC RESOURCES:**

The Commission, acting with the administrative support of the Director or his or her designee, shall maintain a Local Inventory of eligible Historic Resources and all Properties within areas identified to be eligible Historic Districts within the City as such is defined and provided for in the CEQA Guidelines Section 15064.5(a) (2) and shall periodically review, amend and update the Local Inventory. Resources listed on the City's Historic Resources Inventory, or individually

assessed and identified as potentially eligible, are eligible for nomination to the City's Local Register of Historic Properties.

**10-3-3211: ESTABLISHMENT OF A LOCAL REGISTER OF HISTORIC PROPERTIES:**

A Local Register of Historic Resources is hereby created. The purpose of the Local Register is to provide a means to preserve, protect, and enhance the most significant Historic Resources within the community. Properties listed on the Local Register may be identified on -site with an exterior marker or plaque displaying pertinent information about the Resource. A record of Properties on the Local Register shall be kept by the City and shall be provided to the Regional Information Center of the State Office of Historic Preservation and other agencies as required.

**10-3-3212: LANDMARK DESIGNATION CRITERIA:**

A nominated Property may be designated as a Landmark by the City Council upon the recommendation of the Commission if it is more than 45 years of age and satisfies the requirements set forth below.

Properties that are less than 45 years of age can be designated by the City Council, but in addition to meeting the criteria below, they must also exhibit Exceptional Significance as defined in Section 10-3-3204: Definitions of this Article.

For the purposes of this subsection, any interior space or spaces open to the general public, including but not limited to a lobby area, may be included in the Landmark designation of a Property if the City Council finds that the public space(s) satisfies the following criteria.

To be designated as a Landmark, a Property must satisfy the following:

**A. The Property meets at least two of the following criteria:**

1. Is identified with important events in the main currents of national, state, or local history or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, City or community;
2. Is directly associated with the lives of Significant Personages important to national, state, City or local history;
3. Embodies the distinctive characteristics of a style, type, period or method of construction;
4. Represents a notable work of a person included on the City's List of Master Architects; or possesses high artistic or aesthetic value;
5. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, City or community;

6. Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places or is listed or has been formally determined eligible by the State Historic Preservation Office for listing on the California Register of Historical Resources.

**B. The property retains integrity from its Period of Significance.** The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection 10-3-3213 (A) of this section. A proposed Landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of Integrity.

**C. The Property Has Historic Value.** The proposed Landmark is of significant historic or architectural value to the community, beyond the simple market value, and its designation as a Landmark is reasonable, appropriate and necessary to promote, protect, and further the goals and purposes of this Article.

**10-3-3213: HISTORIC DISTRICT DESIGNATION CRITERIA:**

A geographic area may be designated a Historic District by the City Council upon the recommendation of the Commission if the City Council finds that the proposed District meets the following criteria:

**A. Historic District Designation Criteria:**

1. At least seventy percent (70%) of the Properties in the proposed District have been identified as Contributing Properties.
2. The District meets at least two of the following criteria:
  - a) Is identified with important events in the main currents of national, state, or local history or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, City or community;
  - b) Is directly associated with the lives of Significant Personages important to national, state, City or local history;
  - c) Embodies the distinctive characteristics of a style, type, period or method of construction;
  - d) Represents a notable work of a person included on the City's List of Master Architects; or possesses high artistic or aesthetic value;
  - e) Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, City or community;

- f) Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places or is listed or has been formally determined eligible by the State Historic Preservation Office for listing on the California Register of Historical Resources.
  - 3. The district retains integrity from its Period of Significance.** The proposed District retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection 10-3-3213 (A) of this Article. A proposed Contributing Property's or District's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of Integrity.
  - 4. The District Has Historic Value.** The nominated District is of significant historic or architectural value to the community, beyond the simple market value, and its designation as a District is reasonable, appropriate and necessary to promote, protect, and further the goals and purposes of this Article.
  - 5.** The District is a contiguous or non-contiguous grouping of thematically related Properties or a definable area possessing a concentration of historic, scenic or thematic Sites, which contribute to each other and are unified aesthetically by plan, physical development or architectural quality.
  - 6.** The District reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning.
  - 7.** The proposed designation is in conformance with the purpose of the City's historic preservation provisions set forth in this Article and the City's General Plan.
- B. Consideration Factors:** In determining whether to list a geographic area on the Local Register as a Historic District, the following factors shall be considered:
1. A Historic District should have Integrity of design, setting, materials, workmanship, and association.
  2. The collective historic value of the Properties in a Historic District taken together may be greater than the historic value of each individual Property.

**10-3-3214: Street Improvements in Historic Districts:**

Whenever streetscape improvements are proposed by the City in areas that are designated Districts, the City shall consider the use of materials, landscaping, light standards, and signage that are compatible with the area's historic and architectural character.

**10-3-3215: LANDMARK OR HISTORIC DISTRICT DESIGNATION PROCEDURES:**

A Property, or Properties, included in the Local Inventory may be designated as a Landmark or Historic District, respectively, and added to the City's Local Register in accordance with the procedures set forth in this section.

- A. City Council or Commission Initiation of Nomination Proceedings.** Any Property, or Properties, may be nominated for designation as a City Landmark or Historic District, respectively, by the City Council or Cultural Heritage Commission. Initiation by the City Council or the Commission shall be by majority vote. The City Council or the Commission shall forward the initiation to the Director for a report and recommendation.
- B. Application for Nomination by a Property Owner or Property Owners.** If proposed by the property owner, an application for the proposed designation shall be completed on a form provided by the Department, and shall include all information required, payment of required fee, and filing of the application with the Department. In the event that property owners wish to nominate an area for designation as a Local Historic District, more than 50 percent of property owners in the proposed District area must demonstrate support for the application. The Director shall conduct an evaluation of the proposed designation and shall make a recommendation to the Commission as to whether the application is for formal consideration.
- C. Initial Notification to the Property Owner.** Within ten (10) days of a decision by the City Council or Commission to initiate nomination proceedings, or of the filing of a designation application, the property owner(s), designated agent or agents, and tenants of the subject Property(ies), if applicable, shall be notified by mail of the intent to have the Commission consider the preliminary evaluation of the Property(ies). Once completed, the owner(s) or designated agent or agents shall receive a copy of the evaluation assessment report.
- D. Preliminary Consideration of the Property Owner Application by the Commission.** When nomination procedures are initiated by a property owner(s), a hearing to determine whether the Property(ies) warrant formal consideration by the Commission shall be scheduled within sixty (60) days of filing of an application. If the Commission determines that the application warrants consideration, it shall schedule a public hearing within forty-five (45) days of such determination. A decision not to proceed shall be a final action of the Commission, which is applicable pursuant to Chapter 4 of Title 1 of the Municipal Code. Any determination of the Commission to schedule a public

hearing or not to proceed with nominations shall be in writing, shall be filed by the Commission Secretary with the Director, and shall be provided to the property owner.

- E. Notice of Public Hearing.** Written notice of the date, time place and purpose thereof shall be given by first class, prepaid mail not less than ten (10) days prior to said hearing to the applicant and all owner(s) of the Property proposed for nomination, as shown on the latest equalization assessment roll. A public hearing notice regarding designation of a Historic District shall be provided to all property owners within the proposed District, as shown on the latest equalization assessment roll. Failure to send notice by mail to any such real property owners where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. When the property owner(s) petition the City for designation, it is the petitioner's obligation to furnish to the Director a current list of names and legal mailing addresses of all real property owners to be notified, and to pay such fee to cover the costs of providing notification as shall be established by separate resolution. When the proposed designation is by City initiative, the Community Development Department shall be responsible for preparing the notification list. The Commission may also give other notice as it deems appropriate.
- F. Interim Protection Measures.** Upon initiation by the City Council or Commission, or upon determination that the application submitted by a property owner(s) warrants formal consideration by the Commission, any alteration, restoration, construction, removal, relocation, or demolition, in whole or in part, of a nominated Property or Property located in a nominated District is prohibited, and no permits shall be issued by any City department, board, commission, including but not limited to a conditional use permit, a tentative tract map or tentative parcel map permit, a development review permit, any administrative approval, design review approval, or architectural review approval. No building permit authorizing any alteration, restoration, construction, removal, relocation, or demolition shall be granted while a nominated Property or Property within a nominated District is under consideration or any appeal related thereto is pending. Pending permit applications may be processed, but no final action shall be taken until after the conclusion of the nominating process. Permits may be issued in the event of an emergency situation where there is an immediate threat to the public health, safety and welfare.
- G. Findings.** At the conclusion of a public hearing, or any continuation thereof, but in no case more than forty-five (45) days from the date set for the initial public hearing, the Commission shall approve, in whole or in part, or disapprove the application for the designation of the nominated Property or District. The decision of the Commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the decision, and such decision shall be filed with the Director. If the Commission fails to take action on the application for the nominated resource within the forty-five (45) day time period, the application for such designation shall be deemed disapproved, and it shall be the duty of the

Director to certify such disapproval. Upon the rendering of a decision regarding nomination of a Property or District, the Director shall give written notification to the owner(s) of the subject Property or owners of Properties in the proposed District shall be given written notification of the decision, using the name and address of such owner as shown on the latest equalization assessment roll.

- H. Recommendation or Action by Commission.** At the conclusion of the hearing, the Commission shall either deny the proposed nomination, or make a recommendation to the City Council in favor of the nomination. The Commission shall base its action or recommendation on the criteria, considerations and assessment of integrity and significance outlined in this Article. If it recommends listing the nominated Property or District on the Local Register as a Landmark, the Commission shall specify the significant elements or character-defining features of the nominated Historic Resource. In the case of a recommendation for listing of a Historic District (District) on the Local Register, the Commission shall identify all Properties that contribute to the area's designation as a District (Contributing Properties) along with the Building, Structures, Features, Objects or other features located on each. Properties, Buildings, Structures, Objects, features or other resources that happen to be located within the District, but that have no relevance to the area's identified period of significance, significant physical features, or identifying historic characteristics shall be deemed non-contributing resources.

Decisions of the Commission to reject nominations shall be in writing setting forth the basis for rejection and shall be final decisions of the Commission that may be appealed to the City Council pursuant to Chapter 4 of Title 1 of the Municipal Code.

- I. Hearing and Decision by the City Council.** The City Council shall consider the matter as soon as practicable after receiving the Commission's recommendation or after receiving a timely appeal of a Commission decision reject the proposed nomination. The City Council by written resolution may approve, reject, or give modified approval to a proposed Landmark or Local Historic District designation. The City Clerk shall then notify the property owner(s) or owners of Property in the District of the City Council's action.
- J. Historic Resource Resolution.** The resolution designating a Landmark, Historic District or Contributing Property within a Historic District shall include:
1. A description of the particular characteristics that justify the designation and which should therefore be preserved;
  2. The reasons for designation;
  3. A set of general guidelines to establish standards for future proposed changes; and

4. Delineation of the location and boundaries of the designated Resource or Resources.
- K. Recordation of Resolution.** A certified copy of such resolution shall be recorded in the office of the county recorder of the county of Los Angeles by the city clerk immediately following its effective date. The city clerk shall also send a copy of said resolution to the Director, the Director of Public Works and Transportation, the Building Official, the property owner(s), and the occupant(s) of the Property or Properties. The document to be recorded shall contain:
1. A legal description of the Property or Properties;
  2. The date and substance of the designation;
  3. A statement explaining that demolition, alteration, or relocation of the Property is restricted; and
  4. A reference to this Section authorizing the recordation.
- L. Disapproval of Nominated Resource.** Whenever an application for designation of a Property or Properties as a Landmark or District, respectively, has been rejected by the Commission or by the City Council, no application that contains the same or substantially the same information as the one disapproved shall be resubmitted to or reconsidered by the Commission within a period of five (5) years from the effective date of the final action on the prior application. However, if significant new information is made available and provided by and at the expense of the property owner(s), the Director may waive the time limit and permit a new application to be filed.
- M. Disapproval of Deletion of a Listed Resource.** Where an application for deletion of a listed Historic Resource from the Local Register has been denied, no new application to delete the same listed Resource may be filed or submitted for a period of one year from the effective date of the denial.
- N. Effect of Designation.** Upon designation, and thereafter, the provisions of this Article shall apply to the designated Property, Historic District, and Properties within the Historic District. From, and after, the adoption by the City Council by resolution designating the Property(ies) a local Landmark or Historic District, any removal or demolition, exterior construction, alteration or remodeling, or landscaping of the Property, or for Historic Districts, its Contributing Properties, is subject to the provisions of this Article. The owner(s) of such Property(ies) shall maintain and preserve the Historic Resource at such a level that it does not become a safety hazard to the occupants or to the public.

**10-3-3216: AMENDMENT OR RESCISSION OF LANDMARK OR HISTORIC DISTRICT DESIGNATION:**

Once a Landmark or Historic District designation is made, it shall not be repealed by the City Council unless it is determined at any time that:

1. The evidence used to establish the designation was erroneous, or that material procedural errors were made during the designation process; or
2. The Landmark or Historic District no longer meets the criteria for designation under Section 10-3-3212: or Section 10-3-3213:, respectively, due to damage caused by natural disaster (e.g. flood, earthquake, etc.) or reasons otherwise outside of the control of the owner.

Changes of use, differences of opinion of subsequent City Councils, desires of property owners, or financial considerations are not sufficient reasons to repeal a designation. The repeal of a Landmark or Historic District may be initiated by the Commission, the City Council or property owner. The City Council must consider a repeal of a previously designated Landmark or Historic District utilizing the same procedures for designation as provided by this Article. If the determination of Landmark or Historic District status is repealed, the City's Register of Historic Properties shall be updated accordingly.

**10-3-3217: PENDING DEMOLITION, ALTERATION OR RELOCATION – TEMPORARY PROTECTIONS PENDING DESIGNATION:**

Upon the determination by the Director that the property owner's application for Landmark or Historic District designation is substantively complete, or upon initiation by the City Council or the Commission, no permit shall be issued and no work shall be performed on the Property or Properties pursuant to 10-3-3216 F (Interim Protection Measures) pending final determination on whether the Property or Properties, respectively, shall be designated as a Landmark or a Historic District. No building or demolition permit shall be issued for a proposed Landmark or for any eligible Contributing Property identified in a proposed Historic District, until the City Council has made a determination.

The Commission shall recommend and the City Council shall act on the proposed designation within the time limits contained in this Article. If, after the expiration of the final period of time to act, the City Council has not taken an action on the application or initiation to designate, then any pending permit(s) may be issued and demolition, alteration, or relocation of the Property may proceed.

If the Commission or City Council determines, in a final decision, that the Property or Properties proposed to be designated does or do not meet the evaluation criteria for Landmark or Historic District designation set forth in Sections 10-3-3212: or 10-3-3213: of this Article, then the temporary prohibition on the issuance of a permit to demolish, alter or relocate the nominated Property or nominated Contributing Property within a nominated Historic District shall terminate.

**10-3-3218: HOLD PERIOD FOR PERMITS TO ALTER CERTAIN BUILDINGS, STRUCTURES AND OBJECTS 45 YEARS OF AGE AND OLDER:**

Any work involving a change in design, material, or appearance proposed on a property 45 years or older and designed by a person listed on the City’s List of Master Architects shall be subject to a thirty (30) day holding period prior to the issuance of permits. Permit applications may be processed, but no final action shall be taken until after the thirty day period has ended. The Director may waive the 30 day holding period if it is determined that the Property is not eligible for listing on the Local Register, or that the proposed work would not alter any Character-Defining Features, or that the work would comply with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.” Work proposed on locally designated Landmarks, Historic Districts and Properties within a Historic District is subject to the provisions of this Article and may require a Certificate of Appropriateness.

**10-3-3219: CERTIFICATE OF APPROPRIATENESS**

- A. Certificate of Appropriateness Required – Designated Landmarks and District Properties.** No person, owner or other entity shall restore, rehabilitate, alter, develop, construct, demolish, remove or change the exterior appearance of a designated Landmark or Contributing Property within a designated Local Historic District without first having applied for and been granted a Certificate of Appropriateness or Certificate of Economic Hardship exemption unless the work proposed qualifies as “Ordinary Maintenance and Repair” as defined previously and specified below. Further, a Certificate of Appropriateness, or Certificate of Economic Hardship exemption may be required for alterations, demolition, new construction and exterior changes in appearance of Non-Contributing Properties in a Historic District.
- B. Ordinary Maintenance and Repair Exemption.** A Certificate of Appropriateness shall not be required for ordinary maintenance and repair of a designated Landmark or Property within a Historic District. Ordinary maintenance and repair shall mean work on a Landmark property or Property within a Historic District that meets the following conditions:
1. Does not, by law, require issuance of a permit; and
  2. Involves regular, customary or usual care of an existing building, structure, object, or site, for the purposes of preserving said property and maintaining it in a safe and sanitary condition; and
  3. Does not involve a change of design, material, or appearance of the property.
- C. Standards for Review of Non-contributing Properties in a Historic District.** Any construction or demolition work proposed on Non-contributing Properties shall be reviewed to assure that the work is undertaken in a manner that does not impair the essential form and Integrity of the historic character of the District.

1. A Certificate of Appropriateness may be required prior to issuance of a permit for the following activities:
  - a) Demolition of any Building, Structure or Object;
  - b) New construction, including new Buildings, Structures, and Objects, and new ancillary features such as fences, gates and walls; and
  - c) Remodeling and additions, including increases in the number of stories.

A Certificate of Appropriateness for work proposed on a Non-Contributing Property shall be reviewed in the same manner as a Certificate of Appropriateness for work proposed on a Landmark or Contributing Property.

**D. Administrative Review.** A Certificate of Appropriateness shall be issued by the Director or his or her designee for work that meets the following conditions:

1. Requires a permit, and
2. Does not involve a change of design, material, appearance, or a change in visibility of the designated Landmark or Property within a Historic District.

All proposed work on a Landmark or Contributing Property shall comply with the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings." All proposed work on a Non-contributing Property shall comply with the standards set forth in the above paragraph C of this Section.

A Certificate of Appropriateness shall be approved by the Director within 21 days of receipt of a complete application, unless the Director determines that the proposed work would involve a change of design, material, appearance or visibility of property's character-defining features and overall historical significance.

Work that may be approved administratively includes, but is not limited to, the following:

In-kind replacement of historically accurate architectural features or building elements that are deteriorated, damaged beyond repair, or previously removed including windows, doors, exterior siding, porches, cornices, balustrades, and stairs.

In-kind replacement of historically correct built or cultivated site or landscape features that are deteriorated, damaged beyond repair, or

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previously removed including gates, fences, walls, hedges, pergolas, gazebos, walkways, and planting beds.

Replacement or repair of roof covering materials, gutters, and downspouts, with no change in appearance.

Foundation work and repainting of bricks on the exterior of a structure, with no change in appearance.

Addition of new fences and walls.

Addition or replacement of awnings and building mounted signs.

Landscape alterations, removal and installation of tree and plant material not specifically designated or listed as Character-Defining Features to the designated Resource.

New paving for driveways, walkways and/or patios.

Repainting of exterior surfaces that were originally intended to be painted. No surfaces that were not intended to be painted shall be painted including unpainted brick, concrete, or stone surfaces.

Installation of new exterior lighting.

Removal of additions intended to restore the original appearance of a Building, Structure, or Object.

Electrical, plumbing, utility work, and other permits for mechanical and other building systems, including rooftop appurtenances not visible from street level and that result in no change in appearance to the Property.

One-story residential room additions, excluding attached garages, that are no more than 15% of the size of the existing main residence, with limited or no visibility to public rights-of-way and adjacent properties.

Other minor rehabilitation work as determined by the Director.

- E. Commission Review.** The Director may refer an application for a Certificate of Appropriateness to the Commission when the importance of the Property or a potential discrepancy between the proposed work and the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.” justifies Commission review.

When a Certificate of Appropriateness application is referred to the Commission for review, a complete application shall be one that includes a report from a Qualified Historic Preservation Consultant detailing the project’s compliance with

and deviation from the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.”

When a Certificate of Appropriateness is requested for demolition or relocation of a Landmark or Contributing Property, additional supporting materials and justification shall be required as specified in the City’s Administrative Guidelines.

Upon receipt of a complete application, the Commission shall act on the Certificate of Appropriateness within 75 days. The time limits in this section shall be extended when necessary to comply with the provisions of CEQA or with the written consent of the owner. A public hearing shall be scheduled and notice provided per this Article and CEQA where applicable. The time, place and purpose of the public hearing on the proposed Certificate of Appropriateness shall be given by mailing written notice to the owner or owner’s representative at least ten (10) days prior to the date of the hearing. Notice to the owner or the owner’s representative shall be sent via certified mail, return receipt requested.

The applicant for a Certificate of Appropriateness may make submissions to the Community Development Department of any or all relevant information. Based on this and any other relevant information, the Commission shall take into consideration the reasonable economic, environmental, and technical feasibility of the work in determining whether to issue a Certificate of Appropriateness.

The Commission shall issue a Certificate of Appropriateness if it finds that the work:

1. Complies with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.”; or
2. Does not demonstrate strict compliance with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.”, but nonetheless protects and preserves the historic and architectural qualities and the Character-defining Features that make the Property a Landmark or Contributing Property.
3. Meets the criteria established for demolition, alteration or relocation of a Resource in the City’s Administrative Guidelines.

**10-3-3220: CERTIFICATE OF APPROPRIATENESS TERM, EXTENSION, MODIFICATION:**

**A. Term.**

1. **General.** A Certificate of Appropriateness shall lapse and become void 24 months from the date of issuance, unless a building permit (if required)

has been issued and the rights granted by the permit or Certificate have been exercised and is being pursued to completion. For the purposes of this section, the term “exercised” means substantial expenditures in good faith reliance upon the permit or Certificate. The burden of proof in showing substantial expenditures in good faith reliance upon the permit or Certificate shall be placed upon the permit or Certificate holder.

2. **Certificate of Appropriateness for Demolition.** A Certificate of Appropriateness for the demolition of a property shall expire at the end of one hundred and eight days (180) days from the date of issuance of the Certificate of Appropriateness unless a demolition permit or a building permit for the demolition work has been obtained and the rights of the permit or Certificate are being exercised and pursued to completion. For the purposes of this section, the term “exercised” means substantial expenditures in good faith reliance upon the permit or Certificate. The burden of proof in showing substantial expenditures in good faith reliance upon the permit or Certificate shall be placed upon the permit or Certificate holder.

**B. Extensions.**

1. **General.** So long as the approved plans have not been modified, a Certificate of Appropriateness may be extended for a period of up to an additional twelve (12) months upon request by the owner, and submittal of an appropriate application and payment of applicable fees. The Director may approve, conditionally approve, or deny any request for a time extension or may refer the request to the Commission, which may approve, conditionally approve, or deny any request for a time extension.
2. **Demolition.** A Certificate of Appropriateness for the demolition of a Property may be extended for a period of up to an additional forth-five (45) days upon request by the owner, and submittal of an appropriate application and payment of applicable fees no later than thirty (30) days prior to expiration. The Director may approve, conditionally approve, or deny any request for a time extension or may refer the request to the Commission, which may approve, conditionally approve, or deny any request for a time extension.

- C. Modifications.** An application to modify an issued Certificate of Appropriateness, or a condition of approval imposed thereon, shall be heard and considered in the same manner and by the same body as the original review application unless otherwise determined by the Director. Payment of applicable fees is required upon submitting an application.

**10-3-3221: CERTIFICATE OF ECONOMIC HARDSHIP.**

- A. The Commission may issue a Certificate of Economic Hardship to allow alteration, demolition, or relocation of a Landmark or Property within a Historic District when it has been demonstrated that denial of a Certificate of Appropriateness would create an undue hardship upon the owner.
- B. Applications. An application for a Certificate of Economic Hardship shall be made on the proscribed form and shall be accompanied by all of the following information if requested by the Director:
  - 1. The estimated market value of the Property in its current condition.
  - 2. The estimated market value of the Property after completion of the proposed alteration or demolition.
  - 3. Estimates of the costs of proposed alteration or demolition.
  - 4. In the case of demolition, the estimated market value of the Property after renovation of the existing Property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing Structures on the Property.
  - 5. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any Structures on the Property and their suitability for rehabilitation.
  - 6. For income-producing Properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation, and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.
  - 7. Remaining balance on any mortgage or other financing secured by the Property and annual debt service, if any, for the previous two (2) years.
  - 8. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the Property.
  - 9. The amount paid for the Property if purchased within the previous thirty six (36) months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the Property was purchased, and any terms of financing between the seller and buyer.

10. Any listing of the Property for sale, rent, and prices asked, and offers received, if any within the previous two (2) years.
  11. Any other information the Director may reasonably require in order to determine whether or not the Property does or may yield a reasonable return to the owners.
- C. The Commission shall hold a public hearing on all applications for a Certificate of Economic Hardship; after which it may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a Certificate of Appropriateness.
- D. The Commission shall not approve any Certificate of Economic Hardship unless it makes all of the following findings:
1. Denial of the application would decrease the value of the subject Property so as to leave no substantial value.
  2. Sale or rental of the Property is not financially feasible, when looking at the cost of holding such Property for uses permitted in the applicable zone.
  3. Adaptive reuse of the Property for lawful purposes is prohibited or impractical.
  4. Denial of the application would damage the owner of the Property unreasonably in comparison to the benefit conferred on the community.
- E. Upon approval, copies of the Certificate of Economic Hardship shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency upon request.
- F. No Certificate of Economic Hardship shall become effective until the time to appeal its approval has expired.

**10-3-3222: APPEALS; FINALITY OF DECISIONS FOR CERTIFICATES OF APPROPRIATENESS AND CERTIFICATES OF ECONOMIC HARDSHIP:**

**Authority to Appeal Decisions.** Only the owner of the Property subject to a Certificate of Appropriateness or Certificate of Hardship or an owner of Property within a Historic District in which the Property subject to a Certificate of Appropriateness or Certificate of Hardship is located shall be entitled to file an appeal of a decision on the Certificate, except that the City Council shall have the authority to call such decisions for review pursuant to the provisions of Article 2 of Chapter 4 of Title 1 of the Municipal Code.

- A. **Finality of Director or Commission Decision.** Any decision of the Director or Commission on a Certificate of Appropriateness or Certificate of Economic Hardship under this Article shall become final if no appeal is submitted within the applicable appeal period, and the decision is not called for review by the City Council pursuant to the provisions of Article 2 of Chapter 4 of Title 1 of the Municipal Code.
- B. **Appeal of Director Actions.** Appeals of a final decision by the Director pursuant to this Article may be appealed to the Commission within fifteen (15) days from the date of the decision pursuant to the procedures set forth in Chapter 4 of Title 1 of the Municipal Code.
- C. **Appeal of Commission Actions.** Appeals of a final decision by the Commission may be appealed to the City Council within fifteen (15) days from the date of the decision pursuant to the procedures set forth in Chapter 4 of Title 1 of the Municipal Code, or may be called for City Council review pursuant to the provisions of Article 2 of Chapter 4 of Title 1 of the Municipal Code. The City Council shall act within 90 days after expiration of the appeal period or within any additional period agreed to by the property owner or owners.

**10-3-3223: : HISTORIC RESOURCE DISCLOSURE**

- A. For purposes of this Section, the following terms shall have the meanings set forth below
  - 1. “Buyer” means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent with the object of entering into a real property transaction. “Buyer” includes vendee or lessee.
  - 2. “Offer to purchase” means a written contract executed by a buyer acting through a selling agent which becomes the contract for the sale of the real property upon acceptance by the seller.
  - 3. “Owner” means any person, co-partnership, association, corporation or fiduciary having legal or equitable title or any interest in real property.
  - 4. “Real property transaction” means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.
  - 5. “Sale” means a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract

within the meaning of California Civil Code Section 2985, and transactions for the creation of a leasehold exceeding one year's duration.

6. "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.
- B. If real property has been designated by the City of Beverly Hills as a Landmark, a Property within a Historic District, or has been identified in the Local Inventory or any update thereto, the owner or the selling agent of the real property shall, in any real property transaction, provide the buyer of the real property with notice informing the buyer of the property's historic status. The owner or the selling agent shall provide the notice to the buyer as soon as practicable before transfer of title.
- C. Any person who violates the provisions of this section shall be subject to the penalties and remedies specified in Chapter 3 of Title 1 of the Municipal Code. In addition, a buyer who does not receive the notice required by paragraph B of this section may bring a civil action for damages.

**10-3-3224: ENFORCEMENT AND PENALTIES:**

- A. Any person who violates a requirement of this of Article or fails to obey an order issued by the Commission and/or Director, or comply with a condition of approval of any Certificate or permit issued under this chapter shall be subject to enforcement actions as set forth in Title 1, Chapter 3 of this Code. .
- B. In addition to all other remedies available to the City, any alteration or demolition of a Historic Resource in violation of this Article is expressly declared to be a nuisance and may be abated as deemed appropriate by the City.
- C. In addition to all other remedies, the City shall have the authority to impose a temporary moratorium for the development of the subject Property for a period not to exceed twenty-four (24) months from the date the City becomes aware of any alteration or demolition in violation of this Article, unless the owner obtains permits to restore or reconstruct the Property to its original condition prior to the violation. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration and/or removal of the Historic Resource, and to ensure measures are incorporated into any future development plans and approvals for the subject Property. Mitigation measures which may be determined by the commission and/or Director shall be imposed as a condition of any subsequent permit for development of the subject Property.
- D. The City Attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration,

reconstruction or replacement of any Historic Resource demolished, partially demolished, altered or partially altered in violation of this chapter.

- E. Any person who constructs, alters, removes or demolishes a designated Landmark or Property in a designated Historic District without the approval and issuance of a Certificate or permit issued pursuant to this Article may be required to restore the Property to its appearance prior to the violation to the extent such restoration is physically possible under the guidance of the Director. This civil remedy shall be in addition to, and not in lieu of, any criminal remedies available.
- F. In addition to any other remedies provided herein, any violation of this Article may be enforced by civil action brought by the City. Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided herein are cumulative and not exclusive. In any such action, the City may seek as appropriate, one or both of the following remedies:
  - a) A temporary or permanent injunction, or both;
  - b) Assessment of the violator for the costs of any investigation, inspection or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.

**10-3-3225: PRE-EXISTING BUILDING PERMITS:**

This Article does not apply to construction, alteration, moving or demolition of a Building, Structure, or Object started under a building permit issued prior to the effective date of the ordinance enacting this Article.

**10-3-3226: FEES:**

The City Council may, by resolution, establish the fee(s) for submission of the nomination, and all other applications and submissions made pursuant to this chapter.

**10-3-3227: CITY-OWNED PROPERTIES; SCHOOL DISTRICT PROPERTIES**

- A. The provisions of this Article do not apply to City owned Properties; however the City Council may, in its discretion, add a City-owned Property to the Local Register provided the Property meets the criteria set forth in either Section 10-3-3212: or 10-3-3213: following any process it deems appropriate.
- B. The provisions of this Article shall not apply to Properties owned by a public school district, unless a school district files an application requesting Landmark, or Historic District designation of its property and the City designates the facility or facilities as a Landmark or Historic District.

**10-3-3228: DANGEROUS AND IMMEDIATELY DANGEROUS PROPERTIES:**

Nothing in this Article shall prevent the construction, alteration, repair, restoration, stabilization, rehabilitation, or demolition of a Property, regardless of designation, if the Building Official determines the Property creates an unsafe or dangerous condition that presents an imminent threat to the public of bodily harm or of damage to adjacent property. The Building Official shall notify the Director in writing with a finding that the proposed action is necessary in order to mitigate the unsafe or dangerous condition. In such event, no Certificate of Appropriateness or permit referral shall be required. However, the Building Official shall make all reasonable efforts to consult the Director, or his or her designated representative to determine if there are feasible alternatives to the proposed action that will adequately protect the public health and safety.

**Article 104**  
**[DRAFT] – AMENDMENTS TO UNIFORM ADMINISTRATIVE CODE**  
**Title 9, Chapter 1**

**102.6 Moved Buildings, Structures or Objects.**

4) The property owner or the owner's representative shall post at the ~~construction-site~~ property entrance a notice of intent to move a building, structure or object that is less than 45 years old and is readily visible at least ten (10) days prior to issuance of permit whenever the ~~director of building and safety~~ Director of Community Development determines that the grading, demolition, or construction work will have a significant impact on the surrounding properties.

5) If a building, structure, or object is more than 45 years old and was designed by a Master Architect, the property owner or the owner's representative shall post at the entrance to the property a notice of intent to move at least thirty (30) days prior to issuance of a permit. This requirement can be waived by the Director of Community Development if the property has been surveyed for its potential and has been determined to not be eligible for listing on a Register of Historic Resources.

Building and safety shall furnish the sign for notice of intent to ~~do grading, construction, or demolition~~ move a building, structure or object. Failure to comply with the requirements of this article shall be cause for the city to engage the necessary services or facilities to accomplish the intent of this article, and the city shall charge the owner of the lot or parcel of land for all costs so incurred by the city.

**102.9 Demolition of Buildings, Structures or Objects.**

(ix) If the building, structure or object proposed for demolition is 45 years or older and was designed by a Master Architect, the property owner or the owner's representative shall post at the construction site a notice of intent to demolish at least thirty (30) days prior to issuance of permit. This requirement can be waived by the Director of Community Development if the property has been surveyed for its potential and has been determined to not be eligible for listing on a Register of Historic Resources.

(x) If a building, structure or object proposed for demolition is less than 45 years old, the property owner or the owner's representative shall post at the construction site a notice of intent to demolish at least ten (10) days prior to issuance of a permit whenever the Director of Community Development determines that the demolition work will have a significant impact on the surrounding properties.

Building and safety shall furnish the sign for notice of intent to demolish. Failure to comply with the requirements of this article shall be cause for the city to engage the necessary services or facilities to accomplish the intent of this article, and the city shall charge the owner of the lot or parcel of land for all costs so incurred by the city.

**302.7 Notice of Grading or Demolition/Construction.** The property owner or the owner's representative shall post at the construction site a notice of intent to do grading, or construction,~~or demolition~~ that is readily visible at least ten (10) days prior to issuance of permit whenever the ~~director of building and safety~~ Director of Community Development determines that the grading, ~~demolition,~~ or construction work will have a significant impact on the surrounding properties.

Building and safety shall furnish the sign for notice of intent to do grading, or construction,~~or demolition.~~

# Attachment 2



## Planning Commission Report

**Meeting Date:** November 8, 2011

**Subject:** Historic Preservation

**Recommendation:** Review and provide direction on a draft zoning ordinance establishing historic preservation in the City of Beverly Hills.

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### REPORT SUMMARY

The City Council has directed the Planning Commission to develop an historic preservation program for the City. A draft historic preservation ordinance is attached for the Planning Commission's review and direction. This draft ordinance would be codified in the City's Municipal Code, replacing the existing Article 32 of Title 3, Chapter 10 (BHMC 10-3-32. Preservation of Landmarks). The draft ordinance establishes processes through which the City would implement General Plan goals and policies for historic preservation. Actions proposed in the draft ordinance are presented in the Discussion section of this report. The draft ordinance has been developed with the intention of the City obtaining "Certified Local Government" status as a means of availing the City to grant funding sources. This is an iterative process and the draft ordinance is being presented to facilitate discussion and revisions as necessary. With direction from the Commission, staff will incorporate any revisions necessary and return with a final draft ordinance for the Planning Commission's consideration on December 19, 2011.

### BACKGROUND

On October 27, 2011, acting on direction from the City Council, the Planning Commission held a study session to review the City's current goals and policies and provide direction on developing an historic preservation program for the City. The Planning Commission directed the formation of a subcommittee consisting of Commissioner Furie and Commissioner Rosenstein to oversee development of a draft ordinance. The subcommittee met twice, once on November 17, 2011, and again on November 28, 2011.

### DISCUSSION

The following section provides summary information on the key aspects of the draft historic preservation ordinance, presented on the following page.

**Attachment(s):**

1. Planning Commission Staff Report – October 27, 2011
2. California Historical Resource Status Codes
3. Draft Ordinance

**Report Author and Contact Information:**

Peter Noonan, AICP CEP  
Associate Planner  
(310) 285-1127  
pnoonan@beverlyhills.org

### Key Aspects of the Draft Ordinance

- Establishing a Cultural Heritage Commission
- Developing Guidelines and Program Incentives
- Identifying Historic Resources
- Designating Historic Landmarks and Historic Districts
- Issuing Certificates of Appropriateness for Work Proposed on Landmarks and Historic District Contributing Properties
- Recognizing Properties of Merit
- Preventing Demolition of Potentially Historic Resources and Establishing Penalties

#### **Establishing a Cultural Heritage Commission**

A new commission would be established to oversee the City's Historic Preservation Program. The commission would consist of five (5) members, of which, at least two (2) members would be professionals from the following fields: history, architecture, architectural history, planning, pre-historic and historic archaeology, folklore, cultural anthropology, curation, conservation and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography. At least one (1) member would be a registered architect, licensed contractor, or a California real estate licensee.

The Cultural Heritage Commission would be tasked with the following:

#### Summary of Duties

- Develop program incentives;
- Maintain an Inventory of Historic Resources, a Register of Landmark Properties and District Contributors; a list of Master Architects, and a list of Properties of Merit;
- Review and recommend on designation of Historic Landmarks and Historic Districts;
- Review and recommend on applications to the Mills Act program;
- Review and approve applications for certificate of appropriateness;
- Recognize Properties of Merit;

#### **Developing Guidelines and Program Incentives**

To provide additional guidance to local historic preservation the Cultural Heritage Commission will oversee the creation of guidelines. The guidelines will further elaborate on the processes proposed in the draft ordinance. The guidelines, once adopted, will be available on the City's website and at the City's permit counter and library, and on file at the local office of the State Office of Historic Preservation.

The Cultural Heritage Commission may also develop program incentives. Incentives that the Commission may explore could include:

#### Potential Incentives

- Use of the State Historical Building Code – Would make it possible to reconstruct dilapidated or missing portions of an historic resource using historic proportions such as smaller door openings.
- Historical Property Contracts (Mills Act) – Mills Act contracts under the City's pilot program will reduce property tax burden in exchange for the upkeep and maintenance of designated properties.
- Zoning and Development Standards – Studies would be conducted to assess the benefit of adjusting zoning and development standards for preservation of historic properties.
  - Parking – This would reduce current parking requirements for designated properties as a means of facilitating continued use of the existing historic property. This incentive would mainly apply to commercial properties.
  - Yard Setbacks – Studies would be conducted to determine incentives that would be appropriate.
- International Existing Building Code, Appendix A – Would provide alternative requirements for unreinforced load bearing walls, allowing the continued use of certain brick and masonry buildings.
- Transfer Development Rights/ Conservation Easements – Would allow the owner of a designed landmark or district contributing property that is under built in terms of allowable building height and floor area to transfer their rights of development to another property in the City.
- Expedited Plan Check
- Fee Waivers

#### **Identifying Historic Resources**

All properties in the City will periodically be reviewed for their potential as a Historic Resource. A flow chart illustrating the proposed process is provided as well as a list of terms used in this report. A full list of terms with definitions is provided in the draft ordinance. For illustrative purposes, terms have been organized to reflect the process flow presented in the flow chart.

#### **Terms:**

**Survey.** (verb) A systematic and standardized process for identifying and gathering data on the City's potential historic resources by which properties are documented and evaluated for eligibility for listing on the City's Register, the California Register, or the National Register.

**Inventory (Historic Resources Inventory or Local Inventory).** (noun) A list maintained by the City, which contains all properties surveyed for historical or architectural significance determined to be eligible historic resources and all properties within neighborhoods or areas determined to be eligible historic districts. In creating and maintaining the inventory, surveys, either of individual properties or of several properties as once, shall be conducted and the information obtained shall be compiled in accordance with professional standards. Surveys may be conducted and the resulting information compiled 1) by or on behalf of the city, or 2) by a Qualified Historic Preservation Consultant for a specific property in which case the individual survey shall be submitted to and deemed sufficient by the Director to support inclusion of the property on the Local Inventory.

**Nominated Resource.** A property that has been identified as a potential historic resource and has been nominated for listing on the Beverly Hills Register as provided for in this Article.

**Local Register (City of Beverly Hills Register)** (noun) The register contains those properties formally designated by City Council as landmarks or historic districts pursuant to the provisions of this Article. Also referred to as the Local Register.

**Landmark.** Any building, structure, object, place, landscape, or natural feature that is listed on the Local Register as approved by the City Council, pursuant to this Article.

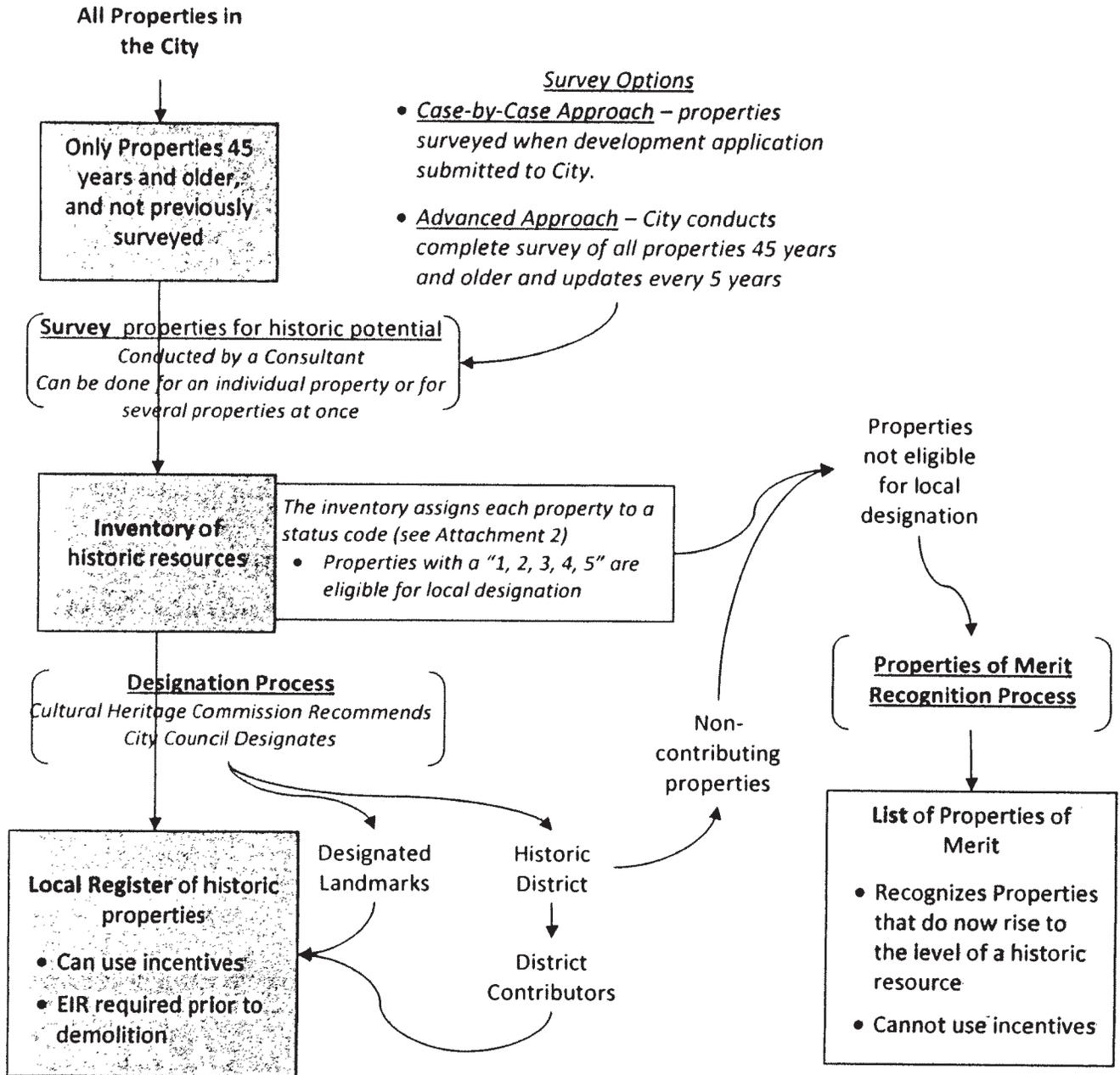
**Historic District.** A geographic area having a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development that has been designated pursuant to this Article. For the purposes of this article, 70% of the properties in a geographic area must be determined to be contributing in order for that area to be considered for designation as an Historic District.

**Contributing Property.** A property, including all buildings, structures or objects located on it, that adds or contributes to the significance of a historic district.

**Non-contributing Property.** A property within an historic district that is not identified as a contributing property as previously defined.

**Property of Merit.** Any Property recognized as being of architectural, historical, or cultural interest to the community and approved as such by the Cultural Heritage Commission pursuant to the provisions of this article.

**SURVEY, INVENTORY, DESIGNATED LANDMARK, LOCAL REGISTER FLOW CHART**



### **Designating Historic Landmarks and Historic Districts**

Historic Landmarks. The Cultural Heritage Commission would recommend to the City Council, and the City Council would designate properties included on the City's inventory of historic resources and determined to be eligible for designation as local historic landmarks.

Historic Districts. The Cultural Heritage Commission would also recommend to the City Council, and the City Council would also designate historic districts. Eligibility for being designated a historic district would include a requirement that at least 70% of the properties in the proposed district contribute to the historic nature of the district. These properties are referred to as "Contributing Properties". Provisions in the draft ordinance would only apply to Contributing Properties, and not to other properties determined to not be eligible for local designation. A Contributing Property can also be eligible for individual listing.

All designated properties and district contributors would be included in the City's Local Register of Historic Properties.

### **Result of Designation**

- Designated Landmarks and Contributing Properties would be eligible to use the proposed incentives.
- Any work (replacement in kind of deteriorating materials, alterations, additions and other work requiring a building permit) proposed on a property listed as a Designated Landmark or a Contributing Property would require a Certificate of Appropriateness.
- Designated Landmarks and Contributing Properties would be considered historic resources for the purposes of the California Environmental Quality Act (CEQA) and therefore demolition would automatically trigger an Environmental Impact Report (EIR).

Property of Merit. A property owner of a property not eligible for local designation as a Landmark or as Contributing Property may request recognition of the property by the City as a Property of Merit.

### **Issuing Certificates of Appropriateness for Work Proposed on Landmarks and Historic District Contributing Properties**

A certificate of appropriateness would be required for any work on a Designated Landmark or Contributing Property that requires a building permit.

Certificates of Appropriateness would either be reviewed by the Director (administrative review), or by the Cultural Heritage Commission (or by the Planning Commission in cases where an application for Certificate of Appropriateness accompanies a Planning Commission level entitlement application).

Administrative Review. Proposed work to a designated landmark that would be eligible for administrative review includes minor repairs and maintenance.

### Commission Review Required When

- The scope or breath of work proposed is greater than what is eligible for administrative review;

- When the importance of the property warrants;
- When a potential discrepancy between the proposal and the Secretary of the Interior's Standards for the Treatment of Historic Properties justifies Commission review.

### **Recognizing Properties of Merit**

Recognizing Properties of Merit provides an opportunity for the owners of properties that may or may not be eligible for designation as a landmark to have their property recognized for its unique or rare architecture, or historic, architectural or aesthetic benefit to the neighborhood.

- Properties of Merit would be recognized by the Cultural Heritage Commission
- Properties of Merit would be eligible to receive a plaque, at the owner's expense, that would be displayed on the street side of the exterior of the property.
- Properties of Merit could be altered or demolished in part or in whole through issuance of a building permit and following the City's current design or architectural review requirements without obtaining any additional clearance based on the property being recognized.
- Properties of Merit would not be considered historic resources for the purposes of the California Environmental Quality Act (CEQA) and therefore alteration or demolition would not automatically trigger an Environmental Impact Report (EIR).

### **Preventing Demolition of Potentially Historic Resources and Establishing Penalties**

Demolition, significant alteration, or relocation of buildings or structures 45 years or older would require a Certificate of Appropriateness (see below) if the building or structure meets the following criteria.

#### Commercial and Multi-Family Properties

- Listed on the Local Register;
- Built at least 45 years ago and is identified on the Local Inventory with a status code of 1, 2, or 3 (see Attachment 2, status code 1, 2 & 3 are properties either on the National or State Register or eligible for listing on the National or State Register);
- Built at least 45 years ago and was designed by an architect included on the City's list of master architects.

#### Single-Family Properties

- Listed on the Local Register;
- Built at least 45 years ago and is identified on the Local Inventory with a status code of 1, or 2 (see Attachment 2, status code 1 & 2 are properties listed on the National or State Registers);
- Built at least 45 years ago and was designed by an architect included on the City's list of master architects.

Enforcement and Penalties. Enforcement measures and penalties are proposed to strongly discourage unauthorized alteration or demolition of buildings and structures that meet one of the above criteria.

#### **PROGRAM ADMINISTRATION**

As mentioned in the previous staff report of October 27, 2011, establishing an historic preservation program in the City could result in additional staffing needs. As a draft program is developed the staffing needs will be better understood and estimations will be developed. Staff is currently assessing the anticipated workload associated with administering the draft ordinance.

#### **NEXT STEPS**

With direction, staff will revise the draft ordinance and return for the Planning Commission's consideration on December 19, 2011.

Report Reviewed By:

A handwritten signature in black ink, appearing to read 'Jonathan Lait', is written over a horizontal line. The signature is stylized and includes a small 'for' written below it.

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

# Attachment 3



## Planning Commission Report

**Meeting Date:** October 27, 2011

**Subject:** Establishing an Historic Preservation Program for the City of Beverly Hills

**Recommendation:** Review and consider information provided on local Historic Preservation Programs and provide direction to Staff on developing a program for the City.

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### REPORT SUMMARY

Historic Preservation is a means of preserving, conserving and protecting buildings, structures, objects, sites, landscapes or other artifacts of historical significance. Local historic preservation programs have been established by many cities throughout Southern California. On the Westside of Los Angeles, the Cities of Culver City, Santa Monica, West Hollywood, and Los Angeles have established reputable programs. Other cities with historic preservation programs in the greater region include: Glendale, Monrovia, Pasadena, Laguna Beach, and Coronado. Case studies have been conducted for each of these programs as a means of showing various models for Historic Preservation in Southern California.

### BACKGROUND

The City Council has directed the Planning Commission and the Community Development Department to study and develop an historic preservation program for the City of Beverly Hills.

### DISCUSSION

The City reviewed the historic preservation programs for several cities in Southern California. Summaries of the review are provided in Attachment 1. The following discussion is based on these program summaries. In general, historic preservation programs in Southern California have the following characteristics:

- Defined in the City's General Plan, enabled through a Zoning Ordinance
- Either any member of the public can nominate a property for historic designation, or the property owner must to request nomination. In some cities where any member of the public can nominate, the property owner must agree to the nomination.
- Established set of criteria with a requirement that a property meet at least one criterion on the list.
- Historic resource survey. Although not included in the study, most cities have conducted and maintain an inventory. Some cities use the inventory to designate historic properties, without waiting for a nomination to come from the property owner or a member of the public.
- Of the cities surveyed, most have dedicated full time employees administering their programs.

Attachment(s):

1. Surveyed Historic Preservation Programs in Southern California
2. Historic Preservation Element of the General Plan

Report Author and Contact Information:

Peter Noonan, AICP CEP  
Associate Planner  
(310) 285-1127  
pnoonan@beverlyhills.org

- All programs surveyed have a dedicated appointed body reviewing cases. If the city is a Certified Local Government, the review body is a Cultural Heritage and Landmarks Commission.
- Incentives offered include relaxed development standards, fee waivers, façade easements, transfer of development rights, Mills Act tax relief, and use of the State Historic Building Code.
- Oftentimes, designated properties may request a plaque to be displayed to the public.

### **Existing Historic Resources**

The Federal Government and the State Government both maintain lists of designated historic properties.

#### National Register of Historic Places (National Register)

The National Register is the official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of their community, region, state, or the nation. Seven properties in the City of Beverly Hills are listed on the National Register:

#### **Sites in Beverly Hills Listed on the National Register of Historic Places**

Anderton Court Shops	332 N. Rodeo Drive
Beverly Hills Women's Club	1700 Chevy Chase Drive
Beverly Wilshire Hotel	9528 Wilshire Boulevard
Doheny Estate/ "Greystone"	905 Loma Vista Drive
Harold Lloyd Estate/ "Greenacres"	
Virginia Robinson Estate	1008 Elden Way
U.S. Post Office – Beverly Hills Main	469 N. Crescent Drive

#### Benefits of Listing on the National Register

- Recognition
- Consideration in planning for Federal, federally licensed, and federally assisted projects
- Eligibility for certain tax provisions
- Qualification for Federal grants for historic preservation
- Use of the State Historical Building Code

#### California Register of Historical Resources (California Register)

Properties listed on a California Register are eligible for a plaque and markers identifying the historic resource. Plaques and markers must be purchased by the property owner and are provided only upon request.

The City's General Plan identified 48 properties as being eligible for listing the State's Registry. The General Plan's Historic Preservation Element is included as Attachment 2 of this report.

#### City of Beverly Hills Landmark Register

Although the City's Municipal Code allows for the designation of local historic resources (BHMC Title 10, Chapter 3, Article 32. Preservation of Landmarks), currently no local resources have been designated by the City.

#### **Historic Preservation in Beverly Hills to Date**

- 1975 – City adopts Beverly Hills Municipal Code Title 10, Chapter 3, Article 32. Preservation of Landmarks, which establishes a means for locally designating historic resources. City begins reviewing properties 50 years and older as potential historic resources as part of the environmental review required under the California Environmental Quality Act (CEQA).
- 1980s – The first of three surveys of historic resources is conducted and the Architectural Commission considers locally designating certain properties. Many properties in the City are photographed and building permits are compiled to provide a record of how buildings were altered in the event that a building was identified as a potential historic resource in the future.
- 1990s – The second of three surveys of historic resources is conducted.
- 2000s – The third of three surveys of historic resources is conducted.
- 2010 – The City Council amends the General Plan to include an Historic Preservation Element and an implementation program which calls for the development of an Historic Preservation Program.
- 2011 – The City Council establishes a Mills Act program and directs staff to develop an Historic Preservation Program

#### **General Plan – Historic Preservation Element and Implementation Program**

Development of an Historic Preservation Program would be consistent with the City's General Plan. In 2010 the City of Beverly Hills amended its General Plan to include an Historic Preservation Element, which is included as Attachment 2. The Historic Preservation Element includes two goals and eleven policies. The General Plan goals are as follows:

#### Historic Preservation Element - Goals

**HP 1 Value and Preserve Significant Cultural Resources.** A community with well-preserved and maintained historic and cultural resources that provide a sense of permanence, foster civic pride and stewardship, and contribute to the unique identify and charm of the City.

**HP 2 Promotion of the City's Historic Resources.** Acknowledge and actively promote the City wealth of historic resources through a variety of activities geared to residents, visitors, and the public at large.

Additionally, the City's General Plan includes Implementation Program 2.3, which calls for the development of an Historic Resources Ordinance as a framework for the preservation and documentation of significant historic and cultural resources in the community.

**Implementation Program 2.3 Other Development Regulations and Ordinances.**

**Historic Preservation.** Consider adoption of a local Historic Resources Ordinance as a framework for the preservation and documentation of significant historic and cultural resources in the community. The ordinance would identify specific actions designed to preserve, maintain and promote the City rich inventory of cultural resources including:

- Adopting a **local register** of historic resources and establishing criteria and procedures to list properties;
- Maintain an updated **historic resources inventory**, and requiring documentation of resources that may be approved for demolition, including establishment of an archive of historic information and resources;
- Programming to **promote the designation and protection** of significant local resources including residential, and non-residential properties;
- Exploring establishment of a **requirement to replace commercial buildings** that are demolished, and to extend this provision to residential buildings at some point in the future;
- Exploring **incentives such as a Mills Act Ordinance**, conservation easements, and transfer of development rights to promote preservation of significant resources;
- Establishing **disincentives and penalties for the demolition** of significant resources without benefit of City permits; and
- **Programming and partnerships** to promote the wealth of historically significant local resources.

**DEVELOPING A LOCAL PROGRAM – DIRECTION SOUGHT**

Historic preservation programs promote the historic architecture, culture, and aesthetic values and traditions of a city through the preservation of landmarks and districts. Historic preservation programs can add to the stability of neighborhoods and areas of the city; contribute to higher property values; fulfill the goals and policies of the City's general plan; help protect and enhance the city's cultural and aesthetic heritage; and if designed to do so, promote and encourage continued private ownership and utilization of historic resources.

Staff is seeking direction on developing a local historic preservation program. The following information is presented to facilitate discussion. This information is based on the existing historic preservation programs surveyed and is presented in the same order as the program summaries in Attachment 1. The Planning Commission, upon consideration could elect to develop a program with characteristics similar to what is presented, or could propose alternatives.

1. **Preservation Focus** – The preservation focus describes what the city’s historic preservation program is focused on preserving. The City of Los Angeles uses the following phrase (see Attachment 1 for additional cities):

“Properties and neighborhoods with distinct architectural and cultural resources”

Los Angeles’ phrase captures the essential nature of preserving architectural and cultural resources without further defining what this includes. This could work well for the City of Beverly Hills at this time, while the City reviews potential historic resources through the Mills Act Pilot Program.

2. **Enabling Legislation** – Enabling legislation determines how a city adopts its program. Most cities surveyed established their programs in the General Plan as an Element, and implemented the program through a Zoning Ordinance. City of Beverly Hills adopted an Historic Preservation Element in 2010 (Attachment 2). Under the current approach, the Planning Commission could develop a Zoning Ordinance to implement the General Plan’s Historic Preservation Element. This process is consistent with how most existing programs surveyed were developed.
3. **Implementation** – Implementation addresses how a city administers the historic preservation program. Aspects of program implementation are listed below for the Planning Commission’s consideration.
  - **Nomination of Potential Resources.** Cities in the region either allow any person to nominate a property for designation, or limit nomination to the property owner and the City’s designated historic resources commission. Limiting nominations to the property owner and designated commission (with consent from the property owner) would encourage cooperation on maintaining potential historic resources.
  - **Inventory of Potential Historic Resources.** Most cities review properties for their potential as historic resources. Many cities conduct this review as part of a regularly updated inventory. Conducting an inventory of potential historic resources is especially important if the City would like to designate local resources without first having a community member, or the property owner nominate the property for designation (with consent of the property owner). Inventories can be costly, and the City has conducted at least three dating back to 1986. The need for additional inventories should be further evaluated.
  - **Certificate of Appropriateness.** Many cities require a certificate of appropriateness prior to allowing any alteration of a designated historic resource. Requiring a certificate of appropriateness would allow the City to review and monitor any modification proposed to a designated resource and would assure that modification does not diminish the resource’s importance.
  - **Recognition.** Many cities offer a plaque to designated properties. Recognition of local historic resources could have an element of prestige, and could also integrate with City programs focused on economic sustainability and tourism.
  - **Demolition of Potential Historic Structures** – Currently the City does not have a means of preventing the demolition of a potentially historic structure when there is no replacement project proposed. To further review a potential site for its historic resource potential, the following or similar process could be adopted (see next page):

**Potential Process to Reduce Demolition of Potential Historic Structures**

If a site is both 45 years old, meets at least two of the Criteria for Local Designation as an Historic Resource (see below), and retains sufficient historic integrity to convey its historical significance, then a 90-day "cooling off" period is required prior to demolition of the structure. During the 90-day period, the property owner will conduct public outreach.

4. **Criteria for Local Designation** – Currently, the City's Municipal Code, Title 10, Chapter 3, Article 32 defines a landmark:

**Beverly Hills Municipal Code Title 10 Chapter 3 Article 32  
(BHMC 10-3-32. Preservation of Landmarks)**

"For the purposes of this article, a "historical or cultural landmark" is any site (including significant trees or other plant life located thereon), building, or structure of particular historic or cultural significance to the city, such as historic structures or sites in which the broad cultural, political, economic, or social history of the nation, state, or community is reflected or exemplified, or which are identified with historic personages or with important events in the main currents of national, state, or local history, or which embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period style or method of construction, or a notable work of a master builder, designer, or architect whose individual genius influences his age. (Ord. 75-O-1563, eff. 4-10-1975)"

Establishing criteria for designating historic resources would assist the City in reviewing nominations for local designation. As a suggestion towards this action, BHMC Article 32 could be amended to include criteria for designating local historic resources (refer to Attachment 1 to review the criteria used by other cities):

**Potential Criteria for Local Designation as an Historic Resource**

A property must satisfy both of the following criteria to be eligible for designation as an historic resource.

1. **Must meet at least two of the following:**
  - a. Is identified with important events in the main currents of national, state or local history or directly exemplifies significant contributions to the to the broad social, political, cultural, economic history of the nation, state, city or community; or
  - b. Is directly associated with the lives of historic personages important to national, state, city or local history; or
  - c. Embodies the distinctive characteristics of a style, type, period or method of construction; or represents a notable work of a master architect, builder, or designer<sup>1</sup> whose work influenced his or her generation; or possesses high artistic or aesthetic value; or
  - d. Has yielded or has the potential to yield, information important to the pre-history or history of the nation, state, city or community; or

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<sup>1</sup> The Community Development Department would maintain a list of Master Architects, Builders, and Designers.

- e. Represents a significant and distinguishable entity whose components may lack individual distinction; or
  - f. Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places or is listed or has been determined eligible by the State Historic Preservation Office for listing on the State Register of Historical Resources.
2. **Retains Integrity from its Period of Significance.** Proposed landmarks do not need to retain all aspects of integrity, but should retain a sufficient degree of those aspects of integrity that related to why it is significant. Integrity shall be judged with reference to the particular criteria associated with the potential landmark's significance. The seven qualities of integrity are: location, material, workmanship, design, association, feeling, and setting. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.
5. **Incentives** – The City Council recently established a local Mills Act Pilot Program. Local designation would qualify a property for consideration for this program. Other incentives identified in the City of Beverly Hills General Plan, and currently part of other local Historic Preservation Programs include the following. Providing both financial incentives, and development incentives (transfer of rights and reduced requirements) could offer a full range of options for preserving existing structures.

Potential Incentives

- Mills Act
  - Conservation Easements
  - Transfer of Development Rights
  - Fee Waivers
  - Relaxed Development and Parking Standards
  - Alternative Uses
  - Expedited Plan Check
  - State Historical Building Code
6. **Program Administration** – Establishing an historic preservation program in the City could result in additional staffing needs. As a draft program is developed the staffing needs will be better understood and estimations will be developed.

**NEXT STEPS**

With direction, staff will return with a draft Historic Preservation Program for the Planning Commission's consideration.

Report Reviewed By:

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