



Planning Commission Report

Meeting Date: April 9, 2015

Subject: Disaster Reconstruction Ordinance

Recommendation: Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code revising and codifying reconstruction standards relating to buildings damaged by disaster. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

REPORT SUMMARY

In the 1990s the City of Beverly Hills adopted regulations that govern certain aspects of rebuilding after a city-declared disaster; however, there is a desire to expand, update and clarify the code language in order to promote city resiliency through effective planning. The Planning Commission discussed aspects of a draft ordinance at a study session on January 22, 2015. At this meeting the commission provided comments and directed staff to return with a draft ordinance. On March 26, 2015, the Planning Commission opened a public hearing on a draft Ordinance. During this meeting, several changes to the draft Ordinance were requested by the Planning Commission. The hearing was continued to April 9, 2015. The Planning Commission Resolution and Draft Ordinance is included as attachment 1, and a redlined version of the Ordinance showing the changes made since the March 26 meeting is included as Attachment 2.

DISCUSSION

Please refer to the March 26, 2015 Staff Report (Attachment 3) for more information on the project background and draft Ordinance.

CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS

General Plan

The Safety Element of the General Plan contains language including Goal S 7.14 "Post Disaster Reconstruction" which calls for the City to "participate in the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction following a disaster event." Updating and codifying disaster

Attachments:

1. Planning Commission Resolution and Draft Ordinance
2. Redlined Draft Ordinance
3. March 26, 2015 Planning Commission Staff Report (without attachments)

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Associate Planner
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reconstruction and rebuild regulations can help aid coordination between public and private agencies in order to promote rapid reconstruction following a disaster.

Hazard Mitigation Action Plan

The City's 2010-2015 Hazard Mitigation Plan was adopted by the City in 2010 and by FEMA in 2011. This plan specifically promotes policies and programs designed to protect the public, crucial facilities, infrastructure, private and public property and the environment from natural and manmade hazards. The plan is currently being updated by staff and is expected to be considered by the City Council and reviewed by FEMA sometime in late 2015. Staff will work to ensure that the recommendations from the Planning Commission are integrated into the Hazard Mitigation and Action Plan as appropriate.

ENVIRONMENTAL REVIEW

The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in land use or density.

RECOMMENDATION

Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code revising and codifying reconstruction standards relating to buildings damaged by disaster. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

Report Reviewed By:
Timothea Tway
Associate Planner

A handwritten signature in cursive script, reading "Timothea Tway", is written over a horizontal line. The signature is in black ink and is positioned to the right of the printed name and title.

Attachment 1

Planning Commission

Resolution and Draft Ordinance

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BEVERLY HILLS
RECOMMENDING ADOPTION OF AN ORDINANCE
OF THE CITY OF BEVERLY HILLS REVISING AND
CODIFYING RECONSTRUCTION STANDARDS
RELATING TO BUILDINGS DAMAGED BY
DISASTER.

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

WHEREAS, the Planning Commission conducted a duly noticed public hearing on March 26, 2015, at which time it received oral and documentary evidence relative to the proposed Amendments; and

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

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

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections

15000, et seq.), and the City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission recommends that the City Council find that adoption of the Amendment will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in land use or density.

Section 2. As proposed, the Amendments to the Beverly Hills Municipal Code in Exhibit A would revise and codify the disaster recovery provisions of the City of Beverly Hills. The revisions consist of minor language changes to bring the program into conformance with the current structure and practices of the Community Development Department. An additional revision would extend the amount of time that a temporary structure or use, as allowed by the program, can be in place after a disaster from 90 days to 180 days, with the possibility of a one-time 180-day extension.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy "S 7.14 - Post-disaster Reconstruction" calls for the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction after a disaster.

Section 4. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 5. 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: April _____

Howard Fisher
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Michele McGrath
Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

City Planner

EXHIBIT A

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REVISING AND CODIFYING RECONSTRUCTION
STANDARDS RELATING TO BUILDINGS DAMAGED BY
DISASTER

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

Section 1. On _____, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. _____, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to establish disaster recovery regulations (collectively, the “Amendments”). On _____, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in land use or density. Further, the ordinance would apply City-wide, which has average slopes of not more than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. Specifically, the Amendments implement General Plan Policy “S 7.14 - Post-disaster Reconstruction” which calls for the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction after a disaster.

Section 4. The City Council hereby adds a new Article 46 to Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“ARTICLE 46: DISASTER RECONSTRUCTION PERMIT:

10-3-4600: PURPOSE

This Article establishes a program to facilitate reconstruction of commercial and residential areas after a disaster. This Article does not amend or allow exemptions from the City’s technical codes, including, without limitation, the City’s building, fire, electrical, mechanical, and plumbing codes.

10-3-4601: APPLICATION OF REGULATIONS

Notwithstanding any provision of Title 10, Chapter 3 of the Beverly Hills Municipal Code, in the event of a disaster for which the Mayor or the City Council has declared or ratified a state of emergency, the zoning regulations set forth in this Article shall apply. Additionally, any provision of Title 10, Chapter 3 which does not conflict with the provisions of this ordinance shall continue to apply.

10-3-4602: DEFINITIONS

1. “Aggregate Floor Area” shall mean the sum of the floor areas of all independent living quarters of a structure.”
2. “Building Footprint” or “Footprint” shall mean that portion of a site covered by a building.
3. “Disaster” shall mean any fire, flood, storm, earthquake or other occurrence for which the Mayor or the City Council has declared or ratified a state of emergency.
4. “Height Envelope” shall mean the outline of a building indicating the height of the building at each point within the building footprint.
5. “Multiple-Family Residential Dwelling” shall mean any building designed for human habitation that is legally divided into two or more independent living quarters.
6. “Residential Building” shall mean a building designed for human habitation or a building accessory to a building designed for human habitation.
7. “Then Current” shall mean at the time a Disaster Reconstruction Permit under this Article is applied for.”

10-3-4603: DISASTER RECONSTRUCTION PERMIT.

The owner of any building which has been damaged by a disaster to the extent of more than fifty percent (50%) of its replacement value may obtain a permit to repair or reconstruct such building in accordance with the standards contained in this Article. A building shall be considered damaged to the extent of more than fifty percent (50%) of its replacement value if the cost to repair the building exceeds fifty percent (50%) of the cost

of replacing the damaged structure with a new structure of the same size, construction material and occupancy on the same site, as determined by the Director of Community Development.

10-3-4604: TIME LIMITS FOR PERMIT APPLICATION

A. After a disaster, applications for a permit to repair or reconstruct a building located in a nonresidential, multiple-family residential, or RMCP zone pursuant to the provisions of this Article shall be submitted to the Community Development Department within two years after the date that the Mayor or the City Council declared or ratified a state of emergency as a result of such disaster.

B. After a disaster, applications for a permit to repair or reconstruct a building located in a single-family residential zone pursuant to the provisions of the Ordinance shall be submitted to the Community Development Department within five years after the date that the Mayor or the City Council declared or ratified a state of emergency as a result of such a disaster.

C. Nothing contained in this section shall be construed to alter the time limits set forth in Chapter 6 of Title 9 of the Beverly Hills Municipal Code concerning the completion of disaster repairs in compliance with the City's building code and other technical codes.

10-3-4605: REPAIR STANDARDS FOR NONCONFORMING RESIDENTIAL BUILDINGS LOCATED IN RESIDENTIAL AREAS.

The following standards shall govern the repair or reconstruction of residential buildings which are located in residential zones and do not conform to the then current City zoning ordinances, provided that the repair or reconstruction is performed pursuant to a permit issued under the authority of this Article.

A. Structures in Single Family Residential Zones.

The permittee may repair or reconstruct a building in such a manner that:

1. The floor area of the replacement structure is equal to or less than the floor area of the original structure as it is determined by the City;
2. The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;
3. The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.

Any permittee who repairs or reconstructs a building in a single-family residential zone under the provisions of this Article shall provide parking for the replacement or reconstructed building pursuant to the then current Beverly Hills Municipal Code.

The permittee may request a reduction of the applicable parking requirements by making application to the Community Development Department for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Community Development may reduce the applicable parking requirements if the Director determines that such a reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. The Director of Community

Development shall not reduce the applicable parking requirements to less than the legal number of spaces that was on the subject site prior to the disaster.

The front yard paving restrictions specified in Section 10-3.2422, Section 10-3.2518, or Section 10-3.2618 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code (or their successor sections) shall apply to any repair or reconstruction in a single-family residential zone pursuant to this Ordinance. The permittee may request a relaxation of the foregoing restrictions by making application to the Department of Community Development for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Community Development may relax the foregoing paving restrictions if the Director determines that such a relaxation: (1) is necessary because the subject property cannot otherwise physically accommodate the parking required under this Section; (2) the required parking under this Section is in excess of the legal number of spaces that was on the subject site prior to the disaster, (3) such relaxation will help to provide additional necessary parking; and (4) such paving will be compatible with the character of the adjacent streetscape.

The City shall determine the pre-damage parameters of the building which define the legally permitted scale of such building. Those parameters include, but are not limited to, the building's envelope, footprint, parking, and floor area. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

No building shall be repaired or reconstructed in a single-family residential zone under the provisions of this Ordinance except in conformity with the design review requirements specified in the Director's Guidelines for Disaster Reconstruction.

B. Structures in Multiple Family Residential Zones.

1. No building shall be repaired or reconstructed pursuant to this subsection B except in conformity with the architectural review requirements of Title 10, Chapter 3, Article 30 of the Beverly Hills Municipal Code.
2. The permittee may repair or reconstruct a building in such manner that the footprint of the replacement structure is within the footprint of the original structure as it is determined by the City.
3. The permittee may repair or reconstruct a building in such manner that the height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.
4. The permittee may reconstruct a garage in the rear yard of a property if the City determines that a rear yard garage existing prior to the disaster. The repaired or rebuilt garage shall be in the same location as the original garage as determined by the City.
5. The permittee may repair or reconstruct a building in such manner that the aggregate floor area in the replacement structure is equal or less than the aggregate floor area of the original structure as it is determined by the City.

6. The permittee may repair or reconstruct a building in such manner that the average unit size in the replacement structure is equal to or greater than the average unit size of the original structure as it is determined by the City.
7. The permittee may repair or reconstruct a building in such manner that the number of units in the replacement structure is equal to or less than the number of units in the original structure as it is determined by the City.
8. Excluding the parking required by paragraph (10) of subsection B of this Section, the permittee may repair or reconstruct a building, but only in such manner that the replacement structure is no more deficient in required numbers of parking spaces under the parking requirements of the then current Beverly Hills Municipal Code than the original structure may have been under the parking requirements of the then current Beverly Hills Municipal Code.
9. The City shall determine the pre-damage parameters of the existing building which define the legally permitted scale of the replacement structure. Those parameters include, but are not limited to, the building's envelope, footprint, parking, floor area, and number of dwelling units. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

10. For each unit repaired or reconstructed in excess of the then current density limitations of the Beverly Hills Municipal Code, the permittee shall provide one additional parking space up to the amount of parking otherwise required by the then current Beverly Hills Municipal Code for the replacement building.

The permittee may request a reduction of this parking requirement by making application to the Planning Commission for Development Plan Review pursuant to Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code. The Planning Commission may reduce or waive this parking requirement if it makes the findings required to issue a Development Plan Review Permit and findings required to issue a Development Plan Review Permit and additionally determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the building so that the building extends beyond the pre-damage height envelope or footprint, but not beyond the pre-damage maximum height or minimum setback, for the sole purpose of accommodating all code required parking on the site.

Unless the permittee requests a reduction in the parking required by this section, or requests a building design that exceeds the height envelope or

building footprint, the permittee shall not be required to obtain a Development Plan Review Permit in order to reconstruct the building.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building, nor shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage to the building.

C. Rental Units

Whenever the permittee repairs or reconstructs rental units, such units shall remain subject to the City's rent control laws. However, notwithstanding any other provisions of the Beverly Hills Municipal Code, any tenant required to vacate the rental unit due to damage or destruction, or due to repair or reconstruction of the unit, shall be provided a right of first refusal to reoccupy the unit.

10-3-4606: REPAIR STANDARDS FOR NONCONFORMING BUILDINGS LOCATED IN COMMERCIAL ZONES.

The following standards shall govern the repair or reconstruction of buildings which are located in a non-residential zone, and non-residential buildings located in a residential zone, that do not conform to then current City zoning ordinances, provided that the repair or reconstruction is performed pursuant to a permit issued under the authority of this Article.

A. The permittee may repair or reconstruct a building in such manner that:

(1) The floor area of the replacement structure is equal to or less than the floor area of the original structure as it is determined by the City;

(2) The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;

(3) The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.

The City shall determine the pre-damage parameters of the building which define the legally permitted scale of such building. Those parameters include, but are not limited to, the building's envelope, footprint, parking, and floor area. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

B. No building shall be repaired or reconstructed pursuant to this section except in conformity with the architectural review requirements of Title 10, Chapter 3, Article 30, of the Beverly Hills Municipal Code.

C. No building shall be repaired or reconstructed in such manner that the height exceeds the then current maximum height permitted by the Beverly Hills Municipal Code unless a Development Plan Review authorizing the additional height is first approved pursuant to the provisions of Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code.

D. Any permittee who repairs or reconstructs a building which is located in a commercial zone and which does not meet the then current parking requirements of the Beverly Hills Municipal Code, may repair or reconstruct that building without providing additional parking if the replacement building does not exceed then current Beverly Hills Municipal Code limitations on height and floor area ratio.

However, if a permittee repairs or reconstructs a building in such manner that the height exceeds the then current maximum height permitted by the Beverly Hills Municipal Code, or in such manner that the floor area ratio exceeds the then current maximum floor area ratio permitted by the Beverly Hills Municipal Code, then the permittee shall provide parking for the replacement building as required by the then current Beverly Hills Municipal Code.

The Planning Commission may reduce or waive this parking requirement as part of its consideration of the permittee's Development Plan Review application if the Planning Commission determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the buildings so that the building extends beyond the pre-damage height envelope or footprint, but

not beyond the pre-damage maximum setback, for the sole purpose of accommodating parking on the site.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building nor, shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage of the building.

10-3-4607: DEVELOPMENT PLAN REVIEW EXEMPTION FOR CONFORMING BUILDINGS.

The repair or reconstruction of a building damaged by a disaster shall be exempt from the development plan review requirements of Title 10, Chapter 3, Article 31 of the Beverly Hills Municipal Code provided that the damaged building conformed to all of the zoning provisions of the Beverly Hills Municipal Code at the time of the disaster and the repaired or reconstructed building does not exceed the height or floor area of the original building, as determined by the city.

10-3-4608: REPAIR STANDARDS FOR ALL STRUCTURES.

Notwithstanding any other provision of this Ordinance, all permittees shall repair or reconstruct damaged buildings in such manner as to conform to any legislation which, in the opinion of the Director of Community Development, is designed to prevent or ameliorate the type of damage generally caused by the disaster.

Section 10-3-4609: EXEMPTION FROM APPLICATION FEES AND FINE ART ORNAMENTATION REQUIREMENTS

No application fee shall be required as a condition of any application for Planning Department approval, Architectural Commission approval or Planning Commission approval to repair or reconstruct any building damaged by disaster.

In addition, the repair or reconstruction of any building damaged by a disaster shall be exempt from the fine art ornamentation requirements set forth in Title 3, Chapter 1, Article 8 of the Beverly Hills Municipal Code. Buildings that previously provided fine art to fulfill the requirements of the Beverly Hills Municipal Code shall replace any destroyed fine art as set forth in Beverly Hills Municipal Code Section 3-1-810.

10-3-4610: TEMPORARY STRUCTURES.

Beginning on the date of the declaration of emergency by the Mayor or City Council, and for a period of six months thereafter the Director of Community Development may issue:

(1) a permit to construct and utilize a temporary structure for the purpose of housing a use in a zone in which the use is otherwise prohibited or conditionally permitted if it can be determined that the proposed temporary structure will serve a public need and will be compatible with neighboring uses and, (2) a permit to construct and utilize a temporary structure if a building may not lawfully be occupied due to damage to the building, the owner of the building may request for the purpose of housing the use

that previously occupied the building if it can be determined that the proposed temporary structure will not be detrimental to the public health or safety.

Permits for temporary structures and temporary uses shall remain valid for 180 days after issuance. Permittees may request one 180-day extension from the Director of Community Development.

10-3-4611: RECONSTRUCTION OF MULTIPLE-FAMILY RESIDENTIAL DWELLINGS INVOLUNTARILY DAMAGED FOR REASONS OTHER THAN A DISASTER

Notwithstanding any other provisions of this Ordinance or any provision of the Beverly Hills Municipal Code, and without a declaration of emergency by the Mayor or the City Council, the owner of any multiple-family residential dwelling that is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy may repair or reconstruct such dwelling pursuant to this Section 10-3-4611 if the owner obtains a building permit for the repair or reconstruction within two years after the damage or destruction.

A. Determination of Specifications.

If a multiple-family residential dwelling is destroyed by fire, other catastrophic event or the public enemy, the City shall determine the pre-damage parameters of the dwelling which define the legally permitted scale of such dwelling. Those parameters include, but are not limited to, the dwelling's height envelope, footprint, parking, floor area, and number of dwelling units. Such determination shall be based on the records of the City, as well as any additional information

provided by the owner pursuant to a request by the Director Community Development.

B. Development Plan Review

1. No building shall be repaired or reconstructed pursuant to this Section except in conformity with the Development Plan Review requirements contained in Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code.

2. Unless the Planning Commission otherwise conditions the repair or reconstruction pursuant to this Development Plan Review process, the owner may repair or reconstruct the dwelling in such manner that:

- a. The average unit size in the replacement structure is equal to or greater than the average unit size of the original structure as it is determined by the City;
- b. The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City;
- c. The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;
- d. The aggregate floor area of the replacement structure is equal to or less than the aggregate floor area of the original structure as it is determined by the City;
- e. A garage may be rebuilt in the rear yard of a property if the existence of a rear yard garage is verified by the City, provided

that the replacement garage shall be in the same location as the original garage.

3. However, the Planning Commission may not impose any condition upon the repair or reconstruction which would prohibit the repair or reconstruction of the aggregate floor area of the original building or would prohibit repair or reconstruction of the total number of dwelling units of the original building, unless the Planning Commission determines that:

- a. The repair or reconstruction will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; or
- b. The existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the existing nonconforming use is permitted.

C. Parking

For each unit repaired or reconstructed in excess of the then current density limitations of the Beverly Hills Municipal Code, the permittee shall provide one additional parking space up to the amount of parking otherwise required by the then current Beverly Hills Municipal Code for the replacement building. The Planning Commission may reduce or waive this parking requirement as part of its approval of the permittee's Development Plan Review application if the Planning Commission determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is

necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the building so that the building extends beyond the pre-damage height envelope or footprint, but not beyond the pre-damage maximum height or minimum setback, for the sole purpose of accommodating parking the site.

Nothing in this subsection shall be construed to require the permittee to provide more parking this is required by the then current Beverly Hills Municipal Code for the replacement building, nor shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage to the building.

D. Rental Units

Whenever an owner repairs or reconstructs rental units pursuant to this Section, such units shall remain subject to the City's rent control laws. However, notwithstanding any other provision of the Beverly Hills Municipal Code, any tenant required to vacate a rental unit due to damage or destruction, or due to repair or reconstruction of the unit, shall be provided a right of first refusal to occupy the unit.

3-10-4612: ABANDONMENT OF RIGHTS

The failure to obtain a building permit for the repair or reconstruction of a building within two (2) years after issuance of a permit pursuant to this Ordinance shall

constitute an abandonment of such permit. Additionally, expiration of the building permit to repair or reconstruct a building damaged by a disaster shall also constitute an abandonment of the permit issued pursuant to this Ordinance. Upon abandonment, all rights granted by the permit shall lapse and the property affected thereby shall be subject to all provisions of Title 10, Chapter 3 of the Beverly Hills Municipal Code.

Nothing contained in this section shall be construed to alter the time limits set forth in Chapter 6 of Title 9 of the Beverly Hills Municipal Code concerning the completion of disaster repairs in compliance with the City's building code and other technical codes.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

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

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

MAHDI ALUZRI
Interim City Manager

SUSAN HEALY KEENE
Director of Community Development

Attachment 2
Redlined Draft Ordinance

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REVISING AND CODIFYING RECONSTRUCTION
STANDARDS RELATING TO BUILDINGS DAMAGED BY
DISASTER

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

Section 1. On _____, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. _____, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to establish disaster recovery regulations (collectively, the “Amendments”). On _____, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in land use or density. Further, the ordinance would apply City-wide, which has average slopes of not more than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. Specifically, the Amendments implement General Plan Policy “S 7.14 - Post-disaster Reconstruction” which calls for the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction after a disaster.

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Notwithstanding any provision of Title 10, Chapter 3 of the Beverly Hills Municipal Code, in the event of a disaster for which the Mayor or the City Council has declared or ratified a state of emergency, the zoning regulations set forth in this Article shall apply. Additionally, any provision of Title 10, Chapter 3 which does not conflict with the provisions of this ordinance shall continue to apply.

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3. “Disaster” shall mean any fire, flood, storm, earthquake or other occurrence for which the Mayor or the City Council has declared or ratified a state of emergency.
4. “Height Envelope” shall mean the outline of a building indicating the height of the building at each point within the building footprint.
5. “Multiple-Family Residential Dwelling” shall mean any building designed for human habitation that is legally divided into two or more independent living quarters.
6. “Residential Building” shall mean a building designed for human habitation or a building accessory to a building designed for human habitation.
7. “Then Current” shall mean at the time a Disaster Reconstruction Permit under this Article is applied for.”

10-3-4603: DISASTER RECONSTRUCTION PERMIT.

The owner of any building which has been damaged by a disaster to the extent of more than fifty percent (50%) of its replacement value may obtain a permit to repair or reconstruct such building in accordance with the standards contained in this Article. A building shall be considered damaged to the extent of more than fifty percent (50%) of its replacement value if the cost to repair the building, ~~as determined by the Director of~~

~~Community Development, exceeds fifty percent (50%) of the cost exceeds more than fifty percent (50%) of the damaged building shall mean the cost, as determined by the Director of Community Development, or~~ of replacing the damaged structure with a new structure of the same size, construction material and occupancy on the same site, as determined by the Director of Community Development.

10-3-4604: TIME LIMITS FOR PERMIT APPLICATION

A. After a disaster, applications for a permit to repair or reconstruct a building located in a nonresidential, multiple-family residential, or RMCP zone pursuant to the provisions of this Article shall be submitted to the Community Development Department within two years after the date that the Mayor or the City Council declared or ratified a state of emergency as a result of such disaster.

B. After a disaster, applications for a permit to repair or reconstruct a building located in a single-family residential zone pursuant to the provisions of the Ordinance shall be submitted to the Community Development Department within five years after the date that the Mayor or the City Council declared or ratified a state of emergency as a result of such a disaster.

C. Nothing contained in this section shall be construed to alter the time limits set forth in Chapter 6 of Title 9 of the Beverly Hills Municipal Code concerning the completion of disaster repairs in compliance with the City's building code and other technical codes.

10-3-4605: REPAIR STANDARDS FOR NONCONFORMING RESIDENTIAL BUILDINGS LOCATED IN RESIDENTIAL AREAS.

The following standards shall govern the repair or reconstruction of residential buildings which are located in residential zones and do not conform to the then current City zoning ordinances, provided that the repair or reconstruction is performed pursuant to a permit issued under the authority of this Article.

A. Structures in Single Family Residential Zones.

The permittee may repair or reconstruct a building in such a manner that:

1. The floor area of the replacement structure is equal to or less than the floor area of the original structure as it is determined by the City;
2. The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;
3. The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.

Any permittee who repairs or reconstructs a building in a single-family residential zone under the provisions of this Article shall provide parking for the replacement or reconstructed building pursuant to the then current Beverly Hills Municipal Code.

The permittee may request a reduction of the applicable parking requirements by making application to the Community Development Department for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Community Development may reduce the applicable parking requirements if the Director determines that such a reduction: (1) is necessary because the subject

property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. The Director of Community Development shall not reduce the applicable parking requirements to less than the legal number of spaces that was on the subject site prior to the disaster.

The front yard paving restrictions specified in Section 10-3.2422, Section 10-3.2518, or Section 10-3.2618 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code (or their successor sections) shall apply to any repair or reconstruction in a single-family residential zone pursuant to this Ordinance. The permittee may request a relaxation of the foregoing restrictions by making application to the Department of Community Development for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Community Development may relax the foregoing paving restrictions if the Director determines that such a relaxation: (1) is necessary because the subject property cannot otherwise physically accommodate the parking required under this Section; (2) the required parking under this Section is in excess of the legal number of spaces that was on the subject site prior to the disaster, (3) such relaxation will help to provide additional necessary parking; and (4) such paving will be compatible with the character of the adjacent streetscape.

The City shall determine the pre-damage parameters of the building which define the legally permitted scale of such building. Those parameters include, but are not limited to, the building's envelope, footprint, parking, and floor area. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

No building shall be repaired or reconstructed in a single-family residential zone under the provisions of this Ordinance except in conformity with the design review requirements specified in the Director's Guidelines for Disaster Reconstruction.

B. Structures in Multiple Family Residential Zones.

1. No building shall be repaired or reconstructed pursuant to this subsection B except in conformity with the architectural review requirements of Title 10, Chapter 3, Article 30 of the Beverly Hills Municipal Code.
2. The permittee may repair or reconstruct a building in such manner that the footprint of the replacement structure is within the footprint of the original structure as it is determined by the City.
3. The permittee may repair or reconstruct a building in such manner that the height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.
4. The permittee may reconstruct a garage in the rear yard of a property if the City determines that a rear yard garage existing prior to the disaster. The repaired or rebuilt garage shall be in the same location as the original garage as determined by the City.
5. The permittee may repair or reconstruct a building in such manner that the aggregate floor area in the replacement structure is equal or less than the aggregate floor area of the original structure as it is determined by the City.

~~10.8.~~ ~~The foregoing formula reflects the parking requirements set forth in Sections 10 3.2816 and 10 3.2817 of Article 28 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code at the time this Paragraph (8) was adopted. Should the requirements of those Sections be subsequently amended in a manner that affects the foregoing formula, the foregoing formula shall be modified to reflect those amendments.~~

~~11.9.~~ The City shall determine the pre-damage parameters of the existing building which define the legally permitted scale of ~~such building~~the replacement structure. Those parameters include, but are not limited to, the building's envelope, footprint, parking, floor area, and number of dwelling units. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

~~12.10.~~ For each unit repaired or reconstructed in excess of the then current density limitations of the Beverly Hills Municipal Code, the permittee shall provide one additional parking space up to the amount of parking otherwise required by the then current Beverly Hills Municipal Code for the replacement building.

The permittee may request a reduction of this parking requirement by making application to the Planning Commission for Development Plan Review pursuant to Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code. The Planning Commission may reduce or waive this

parking requirement if it makes the findings required to issue a Development Plan Review Permit and findings required to issue a Development Plan Review Permit and additionally determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the building so that the building extends beyond the pre-damage height envelope or footprint, but not beyond the pre-damage maximum height or minimum setback, for the sole purpose of accommodating all code required parking on the site.

Unless the permittee requests a reduction in the parking required by this section, or requests a building design that exceeds the height envelope or building footprint, the permittee shall not be required to obtain a Development Plan Review Permit in order to reconstruct the building.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building, nor shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage to the building.

C. Rental Units

Whenever the permittee repairs or reconstructs rental units, such units shall remain subject to the City's rent control laws. However, notwithstanding any other provisions of the Beverly Hills Municipal Code, any tenant required to vacate the rental unit due to damage or destruction, or due to repair or reconstruction of the unit, shall be provided a right of first refusal to reoccupy the unit.

10-3-4606: REPAIR STANDARDS FOR NONCONFORMING BUILDINGS LOCATED IN COMMERCIAL ZONES.

The following standards shall govern the repair or reconstruction of buildings which are located in a non-residential zone, and non-residential buildings located in a residential zone, that do not conform to then current City zoning ordinances, provided that the repair or reconstruction is performed pursuant to a permit issued under the authority of this Article.

- A. The permittee may repair or reconstruct a building in such manner that:
- (1) The floor area of the replacement structure is equal to or less than the floor area of the original structure as it is determined by the City;
 - (2) The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;
 - (3) The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.

The City shall determine the pre-damage parameters of the building which define the legally permitted scale of such building. Those parameters include, but are not limited to, the building's envelope, footprint, parking, and floor area. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

- B. No building shall be repaired or reconstructed pursuant to this section except in conformity with the architectural review requirements of Title 10, Chapter 3, Article 30, of the Beverly Hills Municipal Code.
- C. No building shall be repaired or reconstructed in such manner that the height exceeds the then current maximum height permitted by the Beverly Hills Municipal Code unless a Development Plan Review authorizing the additional height is first approved pursuant to the provisions of, ~~except in conformity with the Development Plan Review requirements contained in~~ Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code.
- D. Any permittee who repairs or reconstructs a building which is located in a commercial zone and which does not meet the then current parking requirements of the Beverly Hills Municipal Code, may repair or reconstruct that building without providing additional parking if the replacement building does not exceed then current Beverly Hills Municipal Code limitations on height and floor area ratio.

However, if a permittee repairs or reconstructs a building in such manner that the height exceeds the then current maximum height permitted by the Beverly Hills Municipal Code, or in such manner that the floor area ratio exceeds the then current maximum floor area ratio permitted by the Beverly Hills Municipal Code, then the permittee shall provide parking for the replacement building as required by the then current Beverly Hills Municipal Code.

The Planning Commission may reduce or waive this parking requirement as part of its consideration of the permittee's Development Plan Review application if the Planning Commission determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the buildings so that the building extends beyond the pre-damage height envelope or footprint, but not beyond the pre-damage maximum setback, for the sole purpose of accommodating parking on the site.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building nor, shall this subsection be construed to permit a building to be repaired or reconstructed without

providing at least the number of parking spaces provided prior to the damage of the building.

10-3-4607: DEVELOPMENT PLAN REVIEW EXEMPTION FOR CONFORMING BUILDINGS.

The repair or reconstruction of a building damaged by a disaster shall be exempt from the development plan review requirements of Title 10, Chapter 3, Article 31 of the Beverly Hills Municipal Code provided that the damaged building conformed to all of the zoning provisions of the Beverly Hills Municipal Code at the time of the disaster and the repaired or reconstructed building does not exceed the height or floor area of the original building, as determined by the city.

10-3-4608: REPAIR STANDARDS FOR ALL STRUCTURES.

Notwithstanding any other provision of this Ordinance, all permittees shall repair or reconstruct damaged buildings in such manner as to conform to any legislation which, in the opinion of the Director of Community Development, is designed to prevent or ameliorate the type of damage generally caused by the disaster.

Section 10-3-4609: EXEMPTION FROM APPLICATION FEES AND FINE ART ORNAMENTATION REQUIREMENTS

No application fee shall be required as a condition of any application for Planning Department approval, Architectural Commission approval or Planning Commission approval to repair or reconstruct any building damaged by disaster.

In addition, the repair or reconstruction of any building damaged by a disaster shall be exempt from the fine art ornamentation requirements set forth in Title 3, Chapter 1, Article 8 of the Beverly Hills Municipal Code. Buildings that previously provided fine art to fulfill the requirements of the Beverly Hills Municipal Code shall replace any destroyed fine art as set forth in Beverly Hills Municipal Code Section 3-1-810.

10-3-4610: TEMPORARY STRUCTURES.

Beginning on the date of the declaration of emergency by the Mayor or City Council, ~~or upon authorization by the City Manager,~~ and for a period of six months thereafter the Director of Community Development may issue:

(1) a permit to construct and utilize a temporary structure for the purpose of housing a use in a zone in which the use is otherwise prohibited or conditionally permitted if it can be determined that the proposed temporary structure will serve a public need and will be compatible with neighboring uses and, (2) a permit to construct and utilize a temporary structure if a building may not lawfully be occupied due to damage to the building, the owner of the building may request for the purpose of housing the use that previously occupied the building if it can be determined that the proposed temporary structure will not be detrimental to the public health or safety.

Permits for temporary structures and temporary uses shall remain valid for 180 days after issuance. Permittees may request one 180-day extension from the Director of Community Development.

10-3-4611: RECONSTRUCTION OF MULTIPLE-FAMILY RESIDENTIAL DWELLINGS INVOLUNTARILY DAMAGED FOR REASONS OTHER THAN A DISASTER

Notwithstanding any other provisions of this Ordinance or any provision of the Beverly Hills Municipal Code, and without a declaration of emergency by the Mayor or the City Council, the owner of any multiple-family residential dwelling that is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy may repair or reconstruct such dwelling pursuant to this Section 10-3-4611 if the owner obtains a building permit for the repair or reconstruction within two years after the damage or destruction.

A. Determination of Specifications.

If a multiple-family residential dwelling is destroyed by fire, other catastrophic event or the public enemy, the City shall determine the pre-damage parameters of the dwelling which define the legally permitted scale of such dwelling. Those parameters include, but are not limited to, the dwelling's height envelope, footprint, parking, floor area, and number of dwelling units. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director Community Development.

B. Development Plan Review

1. No building shall be repaired or reconstructed pursuant to this Section except in conformity with the Development Plan Review requirements

contained in Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code.

2. Unless the Planning Commission otherwise conditions the repair or reconstruction pursuant to this Development Plan Review process, the owner may repair or reconstruct the dwelling in such manner that:
 - a. The average unit size in the replacement structure is equal to or greater than the average unit size of the original structure as it is determined by the City;
 - b. The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City;
 - c. The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;
 - d. The aggregate floor area of the replacement structure is equal to or less than the aggregate floor area of the original structure as it is determined by the City;
 - e. A garage may be rebuilt in the rear yard of a property if the existence of a rear yard garage is verified by the City, provided that the replacement garage shall be in the same location as the original garage.
3. However, the Planning Commission may not impose any condition upon the repair or reconstruction which would prohibit the repair or reconstruction of the aggregate floor area of the original building or would

prohibit repair or reconstruction of the total number of dwelling units of the original building, unless the Planning Commission determines that:

- a. The repair or reconstruction will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; or
- b. The existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the existing nonconforming use is permitted.

C. Parking

For each unit repaired or reconstructed in excess of the then current density limitations of the Beverly Hills Municipal Code, the permittee shall provide one additional parking space up to the amount of parking otherwise required by the then current Beverly Hills Municipal Code for the replacement building. The Planning Commission may reduce or waive this parking requirement as part of its approval of the permittee's Development Plan Review application if the Planning Commission determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the building so that the building extends beyond the pre-damage height envelope or footprint, but not

beyond the pre-damage maximum height or minimum setback, for the sole purpose of accommodating parking the site.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building, nor shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage to the building.

D. Rental Units

Whenever an owner repairs or reconstructs rental units pursuant to this Section, such units shall remain subject to the City's rent control laws. However, notwithstanding any other provision of the Beverly Hills Municipal Code, any tenant required to vacate a rental unit due to damage or destruction, or due to repair or reconstruction of the unit, shall be provided a right of first refusal to occupy the unit.

3-10-4612: ABANDONMENT OF RIGHTS

The failure to obtain a building permit for the repair or reconstruction of a building within two (2) years after issuance of a permit pursuant to this Ordinance shall constitute an abandonment of such permit. Additionally, expiration of the building permit to repair or reconstruct a building damaged by a disaster shall also constitute an abandonment of the permit issued pursuant to this Ordinance. Upon abandonment, all

rights granted by the permit shall lapse and the property affected thereby shall be subject to all provisions of Title 10, Chapter 3 of the Beverly Hills Municipal Code.

Nothing contained in this section shall be construed to alter the time limits set forth in Chapter 6 of Title 9 of the Beverly Hills Municipal Code concerning the completion of disaster repairs in compliance with the City's building code and other technical codes.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

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

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

SUSAN HEALY KEENE
Director of Community Development

Attachment 3

March 26, 2015 Staff Report
(Without Attachments)



Planning Commission Report

Meeting Date: March 26, 2015

Subject: Disaster Reconstruction Ordinance

Recommendation: Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code revising and codifying reconstruction standards relating to buildings damaged by disaster. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

REPORT SUMMARY

In the 1990s the City of Beverly Hills adopted regulations that govern certain aspects of rebuilding after a city-declared disaster; however, there is a desire to expand, update and clarify the code language in order to promote city resiliency through effective planning. The Planning Commission discussed aspects of a draft ordinance at a study session on January 22, 2015. At this meeting the commission provided comments and directed staff to return with a draft ordinance. This report summarizes the attached draft ordinance (Attachment 1) and provides information requested by the Planning Commission during the meeting on January 22, 2015.

BACKGROUND

The City has several disaster reconstruction ordinances that were adopted in the 1990s that are in effect but were never codified¹. In 1995 the City Council adopted an ordinance that established a program to facilitate the reconstruction of buildings after a disaster. This Disaster Recovery Ordinance established a "Disaster Reconstruction Permit", which allows the owner of any building which has been damaged by a disaster to the extent of more than 50% of the building's replacement value, to repair and reconstruct the building according to a set of standards set forth in the ordinance. In 1998, the City Council adopted a second ordinance, which amended the 1995 disaster recovery ordinance. A summary of the contents of the 1995 and 1998 Ordinances can be found in the January 22, 2015 staff report (Attachment 2).

At its meeting on January 22, 2015, the Planning Commission discussed the need for a disaster recovery ordinance, benefits of disaster recovery ordinances, current disaster recovery regulations in Beverly

¹ The Disaster Reconstruction Ordinance should not be confused with the Seismic Safety Ordinance (1992), which lays out a series of standards to make existing unreinforced masonry buildings safer during earthquakes and allows existing buildings to be demolished and replaced with a new structure of comparable size and constructed in accordance with modern engineering standards.

Attachments:

1. Planning Commission Resolution and Draft Ordinance
2. January 22, 2015 Staff Report

Report Author and Contact Information:

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Associate Planner
(310) 285-1122
ttway@beverlyhills.org

Hills, and staff recommendations for changes to the existing regulations. Since the January meeting, staff has worked to incorporate the Commission's comments into the attached Draft Ordinance.

The ordinances adopted during the 1990s, as well as the changes proposed in the attached Draft Ordinance, attempt to balance several goals that should be considered after a community-wide disaster. These goals include:

- Retain housing units and commercial spaces in the City so residents and businesses are not displaced
- Create processes to help residents and businesses rebuild and reestablish as quickly as possible after a disaster,
- Encourage non-conforming buildings to come into compliance with current regulations when appropriate, and
- Preserve the existing community character of the City.

The language contained in the draft Ordinance is intended to address these goals. As discussed during the January 22 study session, staff is also working to develop an internal policy document (the Director's Guidelines for Disaster Reconstruction) that will contain policies and practices to govern City processes after a disaster. Staff will return to the Planning Commission for approval of the Guidelines document.

DISCUSSION

Summary of changes to existing regulations in Draft Ordinance

Codification of Ordinance language

The attached draft ordinance would cause the disaster reconstruction regulations of the City of Beverly Hills to be incorporated into the Beverly Hills Municipal Code as Article 46 in Chapter 3 of Title 10.

Minor changes to update code language

The Draft Ordinance includes minor language changes that have been made to ensure that the ordinance is in compliance with the current structure and practices of the Community Development Department. These changes do not represent substantive changes to the regulations contained in the Ordinance.

Design Review for single family development

At the time the original Disaster Reconstruction Ordinance was written there was no design review process for single family homes in the Central Area of the City. The attached draft Ordinance includes language to require homes constructed pursuant to the Disaster Reconstruction Permit to be subject to a design review process.

Given that there could be a large number of homes that require design review in the months after a major disaster, it may be appropriate to establish a modified design review process. Staff is currently working to develop this process for post-disaster recovery that will be outlined in the Director's Guidelines for Post Disaster Reconstruction. It is important that the design review requirement does not overly burden residents of the City or greatly delay the ability of residents to rebuild their

homes. Once a draft policy has been developed, staff will return to the Planning Commission with the Director's Guidelines for approval.

Time limit extended for temporary structures and uses

Current regulations allow the Director of Community Development to issue permits after a declared disaster to allow temporary uses and temporary structures. The Director may allow:

- A use in an area where the use is usually not allowed or conditionally permitted, for a period of time established by the Director, as long as the Director determines that the use will serve a public need and will be compatible with neighboring uses. Examples could include the Director allowing the storage of building and construction materials on a commercial or residentially zoned property in order to make these materials available for rebuilding.
- A temporary structure to house a use that was previously in a structure that cannot lawfully be occupied due to damage, for a period of 90 days.

The Planning Commission expressed support for the establishment of a uniform time period for temporary structures and temporary uses after a disaster that is longer than 90 days. The Draft Ordinance includes language (see page 15) that establishes a period of 180 days with an optional 180-day extension for both temporary uses and temporary structures.

Clarification on Fine Arts Fee waiver

Currently, construction of new commercial, industrial, or mixed use buildings that are valued over \$500,000 have an obligation to provide fine art, as required by Beverly Hills Municipal Code Section 3-1-800. The existing disaster recovery regulations waive the Fine Arts Requirement for buildings that are rebuilt after a disaster. Planning staff worked with Community Services staff to clarify the language in the Disaster Recovery Ordinance and bring it into conformance with the new Fine Art Ordinance that was adopted in early 2015. The italicized language below shows the language change in the Draft Ordinance:

"...In addition, the repair or reconstruction of any building damaged by a disaster shall be exempt from the fine art ornamentation requirements set forth in Title 3, Chapter 1, Article 8 of the Beverly Hills Municipal Code. Buildings that previously provided fine art to fulfill the requirements of the Beverly Hills Municipal Code requirements shall replace any destroyed fine art as set forth in Beverly Hills Municipal Code Section 3-1-810."

Clarification on request for reduction in parking requirements for multi-family and commercial structures

There was a request by a commissioner during the Planning Commission study session to clarify language in the existing reconstruction ordinance that governs the ability of the Planning Commission to waive or reduce the number of parking spaces required for multi-family and commercial buildings reconstructed after a disaster.

Currently, the regulations in the Disaster Recovery Ordinance allow non-conforming commercial and multi-family structures to rebuild under the following conditions:

- Commercial building:
 - The floor area of replacement structure must be equal or less than original structure
 - The footprint of the replacement structure is within the footprint of original structure
 - The height envelope of the replacement structure is within the height envelope of the original structure.

- Multi-family building²:
 - The footprint of the replacement structure is within the footprint of the original structure
 - The height envelope of the replacement structure is within the height envelope of the original structure
 - The aggregate floor area in the replacement structure is equal to or less than the aggregate floor area of the original structure
 - The average unit size in the replacement structure is equal to or greater than the average unit size of the original structure
 - The number of units in the replacement structure is equal to or less than the number of units in the original structure

Parking is a common deficiency of older developments in the City, many of which were developed when parking requirements were different than today. In order to address the non-conforming parking of some buildings that would be reconstructed, the current Ordinance contains the following parking requirements:

- Commercial building: a commercial building that is non-conforming in terms of parking may rebuild without providing additional parking if the building meets the current code limitations on height and floor area ratio. If the applicant is seeking to rebuild the commercial building back to a non-conforming height or floor area ratio, the applicant must provide all current code required parking.

- Multi-family building: a multi-family residential building must provide one additional parking space for each unit repaired or reconstructed in excess of the current density limitations of the Municipal Code.

Because it may be difficult to reconstruct older buildings with more parking than previously provided due to financial or space constraints, the current Ordinance provides two options for applicants that wish to request a reduction or waiver of these parking requirements:

² Additionally, owners of multiple-family buildings that are damaged for reasons other than a declared City disaster (such as a fire) may also take advantage of the disaster reconstruction standards outlined in the ordinance. Senate Bill 2112 mandates that local agencies allow the like for like rebuilding of non-conforming multiple-family residential structures, regardless of whether a state of emergency has been declared.

1. An applicant may request that the Planning Commission waive or reduce this parking requirement if the Commission determines that a waiver or reduction is necessary because:
 - a. the property cannot physically accommodate additional parking, or
 - b. if it is necessary to prevent undue economic hardship for the permittee.

2. An applicant may request to reconstruct a building so that it extends beyond the pre-damage height envelope or pre-damage building footprint, but not beyond the pre-damage total height or minimum setbacks of the damaged building in order to provide additional parking. For example, if an applicant was seeking to rebuild a multifamily building that previously had a penthouse unit that occupied 30% of the third story, the applicant could request to build a full third story in the reconstructed building in order to accommodate some or all of the code required parking. The applicant would not be able to request to build a four-story building, because that would be higher than the total height of the structure before it was damaged.

During the Planning Commission study session in January, a commissioner expressed interest in allowing an applicant to request to build outside the former building envelope only if the applicant is interested in providing all of the code required parking (not just a portion of the required parking). This would prohibit an applicant from requesting a deviation from the previous building envelope if the applicant was seeking to merely increase the number of parking spaces beyond the number previously provided on site, but not provide enough spaces to completely fulfill the existing parking requirements for the building.

The change suggested during the study session has been incorporated into the Draft Ordinance; however, staff suggests that the Planning Commission discuss this point further. Staff has concerns that this change would discourage a property owner from adding additional parking spaces in non-conforming buildings that could be beneficial to the community.

Additional Information Requested by Planning Commission

Several commissioners asked staff to return with additional information on several aspects of disaster recovery. The information requested is provided below.

Type of temporary structures that are common after a disaster

A Planning Commissioner had a question about the type of temporary structures that are generally used after a large-scale natural disaster. Staff research indicates that there are a variety of structures that can be used for temporary shelter or to house businesses or critical services temporarily after a natural disaster. For example, human shelter has been provided using the following in past disasters:

- Prefabricated buildings or prefabricated components that can be fashioned into a buildings
- Mobile homes or trailers
- Tents and fabric structures
- Structures built from available materials such as timber, clay, and building scraps

Each disaster is unique, and it is difficult to predict the extent of potential damage, or the type of temporary structures that may be used in any given situation.

Type of fees levied on new projects

During the study session in January, a commissioner asked staff to provide more information about the fees levied on new developments. Staff has compiled a general list of fees that may be levied on a multi-family project in the City of Beverly Hills. The fees include³:

Planning Application Fees

- Development Plan Review
- Architectural Review
- Environmental Review

Building Permit Fees

- Plan Check Fee
- Building Permit
- Shoring/Grading Permit
- Plumbing Permit
- Electrical Permit
- Mechanical Permit
- Off-site improvements (curb and gutter permit, paving replacement inspection, utility permit, street use/hauling)

Taxes + Other Fees

- Park and Recreation Tax
- Dwelling Unit Tax
- School Fee

The current disaster recovery ordinance exempts applicants from the Planning Application Fees and Fine Arts Requirement (for commercial projects). The Planning Commission did not express interest in changing language in the ordinance to waive any additional fees.

CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS

General Plan

The Safety Element of the General Plan contains language including Goal S 7.14 “Post Disaster Reconstruction” which calls for the City to “participate in the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction following a disaster event.” Updating and codifying disaster reconstruction and rebuild regulations can help aid coordination between public and private agencies in order to promote rapid reconstruction following a disaster.

³ Please note that this is a general list and projects may be subject to different fees and taxes and should be assessed on a case by case basis.

Hazard Mitigation Action Plan

The City's 2010-2015 Hazard Mitigation Plan was adopted by the City in 2010 and by FEMA in 2011. This plan specifically promotes policies and programs designed to protect the public, crucial facilities, infrastructure, private and public property and the environment from natural and manmade hazards. The plan is currently being updated by staff and is expected to be considered by the City Council and reviewed by FEMA sometime in late 2015. Staff will work to ensure that the recommendations from the Planning Commission are integrated into the Hazard Mitigation and Action Plan as appropriate.

ENVIRONMENTAL REVIEW

The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in land use or density.

RECOMMENDATION

Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code revising and codifying reconstruction standards relating to buildings damaged by disaster. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.



Report Reviewed By:
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Principal Planner