



Planning Commission Report

Meeting Date: November 12, 2015

Subject: **Historic Preservation Ordinance Amendments**
Consideration of a resolution recommending adoption of an ordinance amending Articles 32 (Historic Preservation) and 32.5 (Historic Incentive Permit) of the Beverly Hills Zoning Code to clarify the definition of an "Exceptional Work" and to refine the criteria for issuance of Historic Incentive Permits in the Trousdale Estates Area of the City.

Recommendation: That the Planning Commission:

1. Conduct a public hearing and receive testimony on the proposed amendments; and
2. Adopt a resolution recommending that the City Council adopt the proposed amendments.

REPORT SUMMARY

Updates to the City's Historic Preservation Ordinance were adopted by the City Council several months ago. At that time, the City Council identified concerns regarding the applicability of the Historic Incentive Permit in Trousdale Estates, and directed staff to pursue additional amendments to refine the scope of Historic Incentive Permits issued in Trousdale Estates. In addition to the direction provided by the City Council, Commissioner Corman, one of the principal authors of the updated Historic Preservation Ordinance, has identified clarifications to the definition of "Exceptional Work" in order to meet the original intent of the definition when identifying properties for landmark designation. This report transmits the subject amendments in the form of a draft ordinance, and seeks a recommendation from the Planning Commission that would be forwarded to the City Council for consideration.

Attachment(s):
A. Draft Resolution and Ordinance

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ORDINANCE DETAILS

The proposed ordinance amendments are limited in scope, and consist of the following:

Revision to Definition of “Exceptional Work.” Subsequent to adoption of the updated Historic Preservation Ordinance, Commissioner Corman identified concerns about the language used to define an “Exceptional Work,” and the manner in which the language outlines only a limited list of examples of publication types that could be used for the purpose of identifying an exceptional work. Although the original intent of the definition was to capture broader publication types, such as film and archived photographs, this intent is not made clear in the adopted definition. In order to provide added clarity to the definition, the following definition amendment is recommended:

EXCEPTIONAL WORK: A remarkably superior example of architectural work that has been recognized as such by members of the architectural community. At a minimum, the work's exceptional quality shall have been documented by at least one of the following: a) it was the subject of a major architectural award; b) it was substantively discussed (i.e., not just mentioned) and photographically depicted in a monograph on a master architect's career; or c) it was substantively discussed or photographically depicted in at least two (2) publications (e.g., a book, treatise, ~~or~~ trade magazine article, film, or set of photographs made available to the public by an institutional archive) ~~written—authored~~ by acknowledged experts in the field of architecture. A monograph or publication made available to the public solely in electronic form and without any reasonable expectation of compensation to the author, or substantially authored by the architect of the work, shall not count toward this minimum.

Historic Incentive Permit Refinements. As adopted, the Historic Incentive Permit allows the Planning Commission to waive any development standards set forth in the zoning code for a locally landmarked property. During the City Council's review of the ordinance, residents of Trousdale Estates expressed concerns that the Historic Incentive Permit had the potential to alter the character of Trousdale Estates by allowing for deviations from the areas longstanding limitations on building height and construction and grading over sloped areas of properties. Rather than postpone adoption of the entire Historic Preservation Ordinance in order to address this concern, the City Council moved forward with the Historic Preservation Ordinance and directed staff to work on amendments that would protect the character of Trousdale Estates by limiting the scope of Historic Incentive Permits issued in Trousdale Estates. Proposed revisions were presented to the Cultural Heritage Commission in order to seek their input, and the Cultural Heritage Commission recommended eliminating additional height, as well as construction/grading over sloped areas from the permissible types of zoning code deviations that could be granted in Trousdale Estates. Accordingly, the following amendments are recommended:

“10-3-3253: HISTORIC INCENTIVE PERMIT AUTHORITY: Upon application by a property owner, in a form satisfactory to the director of community development, the reviewing authority may, if it makes the necessary findings, issue a historic incentive permit to waive or deviate from any development standard set forth in this chapter, except that no waiver or deviation shall be granted to: exceed the building height standards for the Trousdale Estates Area of the City, as set forth in Section 10-3-2605 of this chapter; allow construction off the level pad in the Trousdale Estates Area of the City, as set forth in Section 10-3-2603 of this chapter; and/or allow grading of sloped areas for the Trousdale Estates Area of the City, as set forth in Section 10-3-2604 of this chapter. No certificate of appropriateness shall be required for any project for which a historic incentive permit is granted pursuant to the provisions of this article. Nothing in this

section, however, shall be construed to permit any waiver or deviation from land use requirements or restrictions set forth in this chapter.

ENVIRONMENTAL ASSESSMENT

The subject amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The amendments qualify for a categorical exemption pursuant to Section 15305 (Class 5) of the Guidelines for minor alterations to land use limitations in areas of the City with an average slope of less than 20%, and the amendments are therefore exempt from further review under the provisions of CEQA.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	11/5/2015	7 Days
Newspaper Notice	10 Days	11/2/2015	10/30/2015	13 Days
Mailed Notice (Owners & Residents - 500' + Block-Face Radius)	N/A	N/A	N/A	N/A
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	11/5/2015	7 Days

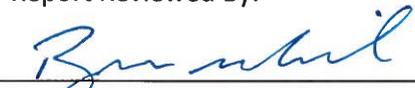
Public Comment

As of the writing of this report, staff has not received any written correspondence in regard to the proposed amendments; however, staff has spoken with a representative of the Trousdale Estates HOA who expressed support for the amendments pertaining to Trousdale Estates.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution recommending a draft ordinance to the City Council.

Report Reviewed By:



Ryan Gohlich, Assistant Director of Community Development / City Planner

ATTACHMENT A
DRAFT RESOLUTION AND 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 AMENDING ARTICLES 32 (HISTORIC PRESERVATION) AND 32.5 (HISTORIC INCENTIVE PERMIT) OF THE BEVERLY HILLS ZONING CODE TO CLARIFY THE DEFINITION OF AN "EXCEPTIONAL WORK" AND TO REFINER THE CRITERIA FOR ISSUANCE OF HISTORIC INCENTIVE PERMITS IN THE TROUSDALE ESTATES AREA OF THE CITY

WHEREAS, the Planning Commission has considered the proposed amendments 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 November 12, 2015, at which times 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 finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (class 5 categorical exemption) of Title 14 of the California Code of Regulations. The class 5 exemption is applicable because the Amendments constitute minor changes in land use limitations, and will apply in areas of the City with an average slope of less than 20%.

Section 2. The Planning Commission does hereby find that the proposed Amendments are intended to clarify the intent of the provisions set forth in the Historic Preservation Ordinance with respect to identifying properties that qualify as an “Exceptional Work,” and to refine the types of development incentives offered to landmarked properties in the Trousdale Estates Area of the City to ensure that no adverse impacts result from said development incentives. For these reasons, the Amendments serve to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

Section 3. 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 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: November 12, 2015

Alan Robert Block
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Ryan Gohlich
City Planner

EXHIBIT A

ORDINANCE NO. 15-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ARTICLES 32 (HISTORIC PRESERVATION) AND 32.5 (HISTORIC INCENTIVE PERMIT) OF THE BEVERLY HILLS ZONING CODE TO CLARIFY THE DEFINITION OF AN “EXCEPTIONAL WORK” AND TO REFINES THE CRITERIA FOR ISSUANCE OF HISTORIC INCENTIVE PERMITS IN THE TROUSDALE ESTATES AREA OF THE CITY

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

Section 1. On November 12, 2015, 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 clarify the definition of an “Exceptional Work” and to refine the criteria for issuance of Historic Incentive Permits in the Trousdale Estates Area of the City (collectively, the “Amendments”). On _____, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (class 5 categorical exemption) of Title 14 of the California Code of Regulations. The class 5 exemption is applicable because the Amendments constitute minor changes in land use limitations, and will apply in areas of the City with an average slope of less than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy “HP 1.4 – Develop Incentives to Protect Significant Historic Resources” calls for the development and funding of financial and regulatory incentives to encourage the protection of historic buildings, districts, and public landmarks/monuments from demolition or significant alteration, which may include flexible development standards and other incentive-based mechanisms to make preservation feasible for owners and developers. Further, General Plan Policy “HP 1.1 – Local Register of Historic Resources” calls for the establishment of criteria for identifying resources.

Section 4. The City Council hereby amends Section 3202 of Article 32 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to modify the definition of “Exceptional Work” as follows, with all other portions of Section 10-3-3202 remaining in effect without amendment:

“EXCEPTIONAL WORK: A remarkably superior example of architectural work that has been recognized as such by members of the architectural community. At a minimum, the work's exceptional quality shall have been documented by at least one of the following: a) it was the subject of a major architectural award; b) it was substantively discussed (i.e., not just mentioned) and photographically depicted in a monograph on a master architect's career; or c) it was substantively discussed or photographically depicted in at least two (2) publications (e.g., a book, treatise, ~~or~~ trade magazine article, film, or set of photographs made available to the public by an institutional archive) ~~written-authored~~ by acknowledged experts in the field of architecture. A monograph or publication made available to the public solely in electronic form and without any reasonable expectation of compensation to the author, or substantially authored by the architect of the work, shall not count toward this minimum.”

Section 5. The City Council hereby amends Section 3253 of Article 32.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other portions of Section 10-3-3253 remaining in effect without amendment:

Section 6. “10-3-3253: HISTORIC INCENTIVE PERMIT AUTHORITY: Upon application by a property owner, in a form satisfactory to the director of community development, the reviewing authority may, if it makes the necessary findings, issue a historic incentive permit to waive or deviate from any development standard set forth in this chapter, except that no waiver or deviation shall be granted to: exceed the building height standards for the Trousdale Estates Area of the City, as set forth in Section 10-3-2605 of this chapter; allow construction off the level pad in the Trousdale Estates Area of the City, as set forth in Section 10-3-2603 of this chapter; and/or allow grading of sloped areas for the Trousdale Estates Area of the City, as set forth in Section 10-3-2604 of this chapter. No certificate of appropriateness shall be required for any project for which a historic incentive permit is granted pursuant to the provisions of this article. Nothing in this section, however, shall be construed to permit any waiver or deviation from land use requirements or restrictions set forth in this chapter.

Section 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 8. 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 9. **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
City Manager

SUSAN HEALY KEENE
Director of Community Development