

MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 3 - 0 3 0 1
OCT 1 5 2013

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTION 12.04 OF THE
LOS ANGELES MUNICIPAL CODE TO AMEND THE ZONING MAP TO ESTABLISH A
BEVERLY GROVE RESIDENTIAL FLOOR AREA (RFA) SUPPLEMENTAL USE DISTRICT**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. CF 11-1438; CPC-2013-190-RFA

Honorable Members:

Pursuant to the request of the City Council, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The purpose of the draft ordinance is to create a residential floor area (RFA) supplemental use district in the Beverly Grove area of the City. The creation of the Beverly Grove RFA supplemental use district is authorized by Section 13.13 of the Los Angeles Municipal Code, which was added by Los Angeles Ordinance No. 179,883 (often referred to as the "Baseline Mansionization Ordinance" or "BMO").

Charter Findings

Pursuant to Charter Section 559, the Planning Commission approved the draft ordinance and recommended that the City Council adopt it. If the City Council chooses to adopt this ordinance, it may comply with the provisions of Charter Section 558 by either adopting the findings prepared by the Director of Planning attached to the file or by making its own findings.

Background and Summary of Ordinance Provisions

In June of 2008, the City enacted the BMO (Los Angeles Ordinance No. 179,883). The BMO imposes new single-family residential floor area requirements on all lots located in the flatland areas of the City.

Los Angeles Municipal Code (LAMC) Section 13.13, which was added by the BMO, authorizes the enactment of Residential Floor Area (RFA) supplemental use districts in order to tailor the BMO's development standards and Floor Area Ratio (FAR) to the needs of specific neighborhoods. An RFA supplemental use district can be used to either raise or lower the residential floor area maximums for a particular neighborhood. This can help preserve the existing character of a neighborhood.

On November 1, 2011, the City Council adopted a motion (Koretz-Krekorian) that directed the Department of City Planning (Planning Department) to prepare an RFA supplemental use district for properties in the Beverly Grove neighborhood within the Wilshire Community Plan. The Beverly Grove neighborhood is generally bounded by Colgate Avenue on the north, Fairfax Avenue on the east, Lindenhurst Avenue on the south, and San Vicente Boulevard on the west. The motion instructed the Planning Department to draft an RFA overlay that would limit the floor area ratio to 0.41, increase side yard setbacks for two-story homes, and eliminate exemptions for over-height entries, balconies, covered porches and attached garages.

In response, the Planning Department prepared the proposed Beverly Grove RFA Supplemental Use District, which restricts the maximum residential floor area, including accessory buildings, on a single-family residentially-zoned lot in the area to 0.42 of the entire lot.

The proposed ordinance also allows for the award of a "bonus" that would increase the floor area ratio by 0.06 if the required covered parking is in a detached garage located to the rear of the lot. An additional bonus of 0.02 of floor area ration is also available to a developer who utilizes one or more of the following options: (1) inclusion of certain stepped back design features in the project; (2) inclusion of smaller stories above the first floor on multi-story projects; (3) reduction of the maximum height of project by 20 percent of the maximum allowable height pursuant to the zone; or (4) increased side yard setbacks to at least two feet more than the minimum required pursuant to the zone for the entire depth of the lot.

The proposed ordinance eliminates certain exemptions per the City Council's instructions. The ordinance also defines "remodel" to include the alteration of an existing building or structure where at least 50 percent of the perimeter length of the continuous exterior wall and 50 percent of the roof are retained.

Additional background on the development of the ordinance is set forth in the materials, including the Planning Department staff report on this matter, transmitted to your Planning and Land Use Management Committee from the City Planning Commission on August 26, 2013.

At its meeting on September 17, 2013, your Planning and Land Use Management Committee considered this ordinance, along with the associated negative declaration, heard public comment on the matter, and approved the recommendations of the City Planning Commission to adopt the ordinance and establish the Beverly Grove RFA. After hearing testimony regarding the increased pace of out of scale and out of character development in the Beverly Grove area, the Committee instructed the Planning Department and the City Attorney's Office to prepare and present the ordinance for City Council with an urgency clause.

The proposed ordinance before you includes an urgency clause, as well as findings supporting the inclusion of this clause pursuant to Los Angeles City Charter Section 253.

Approval of Form and Legality

Our Office has approved the draft ordinance as to form and legality.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety, with a request that any comments be presented directly to you at the time this matter is considered.

CEQA Findings

We recommend that, prior to adoption of this ordinance, you adopt Categorical Exemption No. ENV-2013-1480-CE. If you concur, you may comply with CEQA by adopting this Categorical Exemption prior to or concurrent with your action on the ordinance.

If you have any questions regarding this matter, please contact Deputy City Attorney Adrienne Khorasane at (213) 978-8246. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM/ASK:mgm
Transmittal

ORDINANCE NO. _____

An ordinance amending Section 12.04 of the Los Angeles Municipal Code by amending the zoning map.

WHEREAS, on May 6, 2008, the City Council adopted the Baseline Mansionization Ordinance (BMO) in response to the proliferation of oversized and out of character single-family dwellings being developed in neighborhoods throughout the City; and

WHEREAS, the BMO created a Residential Floor Area Supplemental Use District (RFA) overlay tool to provide for development standards to be further tailored in individual neighborhoods in order to ensure that new development matches the scale and character of existing buildings in the surrounding area; and

WHEREAS, the area unofficially known as Beverly Grove (located in the Wilshire Community Plan and generally bounded by Colgate Avenue on the north, Fairfax Avenue on the east, Lindenhurst Avenue on the south, and San Vicente Boulevard on the west) continues to experience out-of-scale development with a noticeable increase in demolitions and the construction of new single-family dwellings; and

WHEREAS, since the passage of the BMO in 2008, 58 out of 690 single-family homes in Beverly Grove have either been demolished and rebuilt or remodeled in a way that is out of scale and out of character with the neighborhood; and

WHEREAS, since January of this year, there have been 19 demolition or new home permits issued for buildings that are out of scale and out of character in the neighborhood, despite the intent of the BMO; and

WHEREAS, seven of these demolition permits were issued since the City Planning Commission's action on August 8, 2013, recommending adoption of the Beverly Grove RFA; and

WHEREAS, knowledge of the proposed Beverly Grove RFA may encourage owners and developers to obtain a greater number of building and demolition permits prior to the adoption of the appropriate regulatory controls, effectively accelerating the destruction and replacement of properties in the proposed RFA with out of scale and out of character development; and

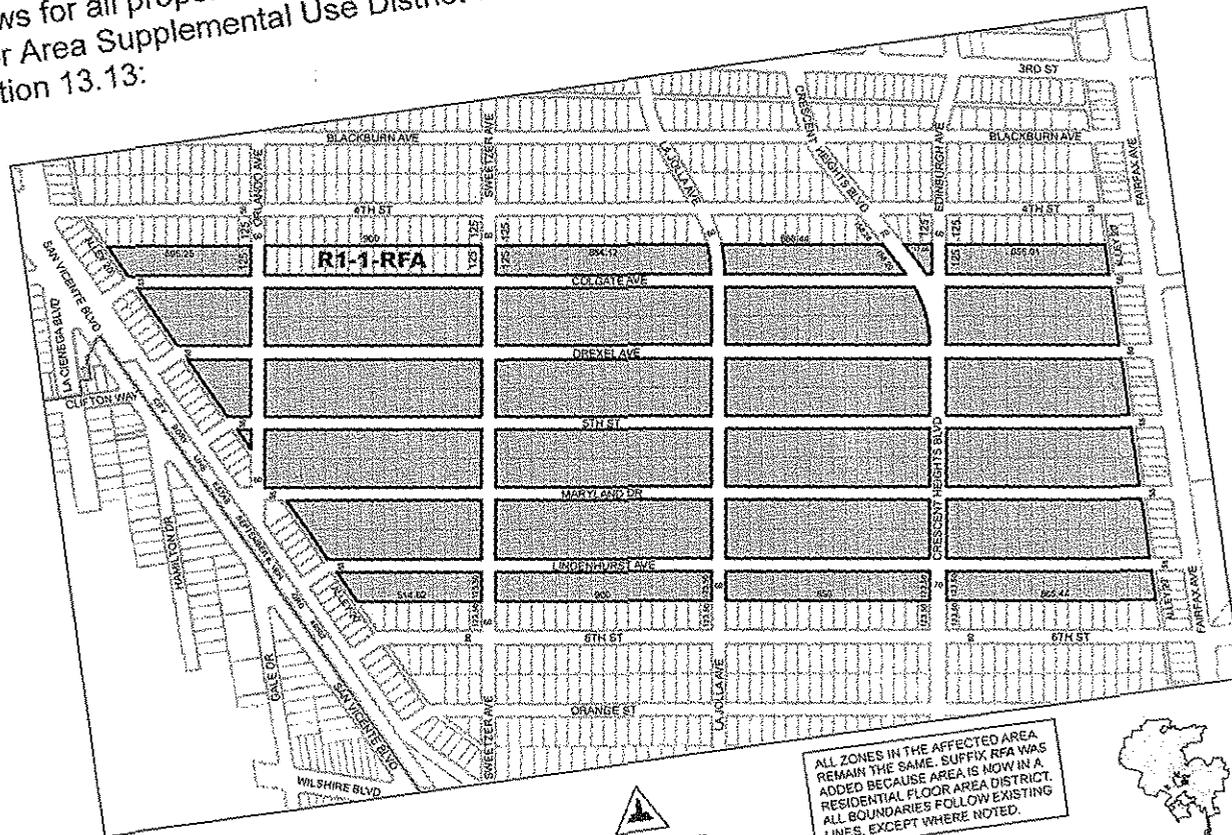
WHEREAS, the proposed ordinance and resulting RFA is consistent with the goals and objectives of the General Plan's land use and housing elements to conserve the character of existing neighborhoods and protect the Beverly Grove RFA from development that is inconsistent with the intent of the BMO and the Wilshire Community Plan; and

WHEREAS, it is urgent to immediately prevent the further alteration, demolition and redevelopment of properties in this unique neighborhood.

NOW, THEREFORE,

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Section 12.04 of the Los Angeles Municipal Code is hereby amended by changing the zones and zone boundaries shown upon a portion of the zone map attached thereto and made a part of Article 2, Chapter 1 of the Los Angeles Municipal Code, together with applicable regulations set forth in Section 2 of this ordinance, so that such portion of the zoning map for the Beverly Grove neighborhood (which encompasses Colgate Avenue, Drexel Avenue, West 5th Street, Maryland Drive and Wilshire Community Plan ("Beverly Grove Residential Floor Area District") shall be as follows for all properties zoned R1, consistent with the procedures for a Residential Floor Area Supplemental Use District established in Los Angeles Municipal Code Section 13.13:



R1-1-O-RFA



City of Los Angeles Department of Planning and Economic Development

C.M. 138 B 173, 135 B 173
136 B 177

AJW

CPC-2013-0190-RFA

042413

ALL ZONES IN THE AFFECTED AREA
REMAIN THE SAME. SUFFIX RFA WAS
ADDED BECAUSE AREA IS NOW IN A
RESIDENTIAL FLOOR AREA DISTRICT.
ALL BOUNDARIES FOLLOW EXISTING
LINES, EXCEPT WHERE NOTED.



Foot
Mapped

Sec. 2. All lots zoned R1 that are within the Beverly Grove Residential Floor Area District and with the suffix RFA, as described in the map in Section 1 of this ordinance, shall be subject to the following regulations:

- A. **Maximum Base Residential Floor Area.** For all single-family residentially-zoned lots within the Beverly Grove Residential Floor Area District, the maximum residential base floor area ratio contained in all buildings, including accessory buildings, shall not exceed 0.42.
- B. **Detached Garage Bonus.** Notwithstanding the foregoing, an additional 0.06 of floor area ratio shall be allowed if the required covered parking is located in a private garage that is detached from the main building and located to the rear of the lot.
- C. **Additional Bonus.** An additional 0.02 of floor area ratio shall be allowed, only in combination with the Detached Garage Bonus, if any one or more of the following methods listed below is utilized:
 - 1. The exterior walls facing either the front or side lot lines, and built within the minimum setbacks required by Section 12.08 of this Code, have a maximum uninterrupted length of 30 feet each. The portion of an uninterrupted exterior wall facing the front lot line that extends beyond 30 feet is then recessed 10 feet for a minimum length of 10 feet. The portion of an uninterrupted exterior wall facing the side lot line that extends beyond 30 feet is then recessed 5 feet for a minimum length of 5 feet.
 - 2. The total residential floor area of each story other than the base floor in a multi-story building does not exceed 75 percent of the base floor area, and a minimum of 15 linear feet of any story other than the base floor is stepped back in the front yard at least 5 feet more than the minimum required pursuant to the zone.
 - a. For purposes of this subsection, the base floor area calculation shall not include the area of covered parking and areas of attached porches, patios, and breezeways with a solid roof. The calculation of each story other than the base floor shall include all portions of a story with a ceiling height greater than 14 feet and areas of attached porches, patios, and breezeways with a solid roof which are connected to the story other the base floor.
 - 3. The maximum height of a building is reduced by 20 percent of the maximum allowable height pursuant to the zone.
 - 4. All side yard setbacks are at least 2 feet greater than the minimum required pursuant to the zone and are maintained for the entire depth of the lot.

The maximum allowable residential floor area ratio, including any bonuses obtained through the utilizations of the methods described above, shall be 0.50.

D. Areas Exempt From Residential Floor Area Calculation. On all single-family lots located in the Beverly Grove Residential Floor Area District, the following components shall be exempt in the calculation of the total residential floor area permitted on a lot, in lieu of the exceptions listed in the definition of "Floor Area, Residential" in Section 12.03 of the Code, including:

1. The first 400 square feet of detached covered parking area that is built to the rear of the lot.
2. Detached accessory buildings not exceeding 200 square feet.
3. A basement, not to be used as parking area, when the elevation of the upper surface of the floor or roof above the basement does not exceed 2 feet in height at any point above the finished or natural grade, whichever is lower.
4. Rooftop equipment enclosures set back at least 10 feet from the roof perimeter.

E. Additions To Existing Buildings. With regard to projects on any single-family lot in the Beverly Grove Residential Floor Area District and with the suffix RFA, a remodel shall mean the alteration of an existing building or structure provided that at least 50 percent of the perimeter length of the contiguous exterior wall and 50 percent of the roof are retained.

F. Verification of Existing Residential Floor Area. For additions with cumulative residential floor area of less than 1,000 square feet constructed after January 1, 2008, or remodels of buildings built prior to January 1, 2008, the existing residential floor area shall be the same as the building square footage shown on the most recent Los Angeles County Tax Assessor's records at the time the plans are submitted to the Department of Building and Safety and a plan check fee is paid.

1. Exception. Residential floor area may be calculated as defined in Section 12.03 of this Code when a complete set of fully dimensioned plans with area calculations of all structures on the lot, prepared by a licensed architect or engineer, is submitted by the applicant. Any work that does not qualify as a remodel, as defined above, or additions that are 1,000 square feet or larger shall require a complete set of fully dimensioned plans with area calculations of all the structures on the lot, prepared by a licensed architect or engineer.

- G. **Minimum Building or Structure Size.** In no event shall a lot be limited to less than 2,000 square feet of residential floor area.
- H. **Damaged or Destroyed Legally Non-Conforming Buildings or Structures.** This ordinance is not intended to penalize or punish any existing homes that may not conform to the Residential Floor Area District regulations following its passage. Accordingly, any legally non-conforming buildings which are damaged or destroyed by any cause except arson or other intentional destruction, may be rebuilt with the same residential floor area as existed prior to the destruction, without the need to comply with the regulations set forth in this ordinance.
- I. **Exemption for Projects Already in Plan Check.** Any project that was currently in plan check as of the effective date of this ordinance, or that acquired a vested right pursuant to Section 12.26 of this Code prior to the effective date of this ordinance, shall be exempt from the provisions of this ordinance.

Sec. 3. **URGENCY CLAUSE.** The City finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reasons: The measures contained in the ordinance are designed to protect the unique character of the Beverly Grove neighborhood from new development built out of character and scale. In 2006, an Interim Control Ordinance (Ordinance Number 178124) was adopted to prevent new development inconsistent with the intent of the General Plan while the 2008 Baseline Mansionization Ordinance (Ordinance Number 179883) was developed to address out of scale development citywide. Despite the measures of the Baseline Mansionization Ordinance, new development built out of scale and incompatibly with the existing neighborhood continues. Moreover, the pace of demolition and construction of new buildings has accelerated with the recovery of the housing market over recent months. Delaying the implementation of this ordinance is likely to result in more development that is inconsistent with the objectives of the General Plan, incompatible with the existing neighborhood, irreversible, and with negative impacts on the quality of life in the Beverly Grove community. For all of these reasons, the Beverly Grove Residential Floor Area District Ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of _____.

HOLLY L. WOLCOTT, Interim City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
ADRIENNE S. KHORASANEE
Deputy City Attorney

Date 10/15/13

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted

October 15, 2013

See attached report.


Michael LoGrande
Director of Planning

File No(s). CF 11-1438; CPC-2013-190-RFA