STATEMENT ON THE SUBJECT

The Planning Commission will hold a public hearing to consider minor corrections and clarifications to the Zoning Ordinance, including but not limited to language related to construction mitigation measures for zone clearances, CEQA review authority for non-elected decision-making bodies, and fire safety clearance standards for foliage.

RECOMMENDATION

Staff recommends that the Planning Commission hold the public hearing, consider all pertinent testimony, and adopt the following:

1) Draft Resolution No. PC 15-1119: "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A ZONE TEXT AMENDMENT TO CLARIFY CERTAIN EXISTING LANGUAGE AND MAKE MISCELLANEOUS EDITS TO THE ZONING ORDINANCE REGARDING CONSTRUCTION MITIGATION STANDARDS FOR ZONE CLEARANCES, CEQA REVIEW AUTHORITY, AND FOLIAGE TRimming TO REDUCE FIRE HAZARD, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA." (EXHIBIT A)

OVERVIEW OF PROPOSED CODE CHANGES

The proposed text changes to the Zoning Ordinance consist of a variety of clarifications to existing language and minor additions to streamline the planning process and code enforcement (see Exhibit B). The proposed changes:

1. Introduce a Minor Construction Mitigation Period Plan requirement for Zone Clearance projects that consolidates and summarizes construction mitigation and property maintenance standards that are located throughout the Zoning Code;

2. Clarify the decision-making bodies for documents prepared pursuant to the California Environmental Quality Act (CEQA); and

3. Require a minimum clearance of four feet between foliage and overhead utility lines to reduce fire hazard.
BACKGROUND
The following text changes in this amendment will create a more orderly and consistent Zoning Ordinance. Planning staff keep a running list of miscellaneous revisions that should be made to increase the clarity and accuracy of the Zoning Ordinance. These changes are described below and listed in Exhibit B.

1) **Construction Mitigation Standards:** The proposed text changes will require Zone Clearance projects to comply with a Minor Construction Mitigation Period Plan ("Minor CMP"). Zone Clearances are required for smaller projects (i.e. remodels, small additions, fences, etc). Currently, there is no document that summarizes the construction mitigation standards for Zone Clearance applicants. Applicants for Administrative and Development Permits are required to submit and sign a Construction Mitigation Plan. Staff will consolidate and summarize relevant construction mitigation and property maintenance standards, which are currently scattered throughout the Zoning Ordinance into a single form. The Community Development Department will provide the Minor CMP form to Zone Clearance applicants, who will be required to review and sign the form prior to receiving a Building Permit. The Minor CMP will make the planning process more transparent for Zone Clearance applicants and give Code Compliance the authority to cite applicants for failure to comply with construction mitigation standards.

2) **Authority for CEQA decisions:** The Zoning Ordinance provides decision-making authority for all land-use related actions to the Planning Commission, Historic Preservation Commission, and the Director of Community Development. The City Council retains decision-making authority for legislative changes such as zone changes and development agreements. The decision-maker regarding all CEQA documents is not clearly identified in the Zoning Ordinance. The proposed zone text change will clarify that the decision-maker for all CEQA documents is the same body as the decision maker on land use permit or action. This change will codify current City practice. Recently other cities have been challenged for not explicitly granting authority to these bodies in the Zoning Ordinance. The zone text changes will clarify this authority.

3) **Foliage Maintenance for Fire Safety:** The proposed zone text changes will require hedges, trees, and other foliage to be trimmed so that they maintain a minimum distance of four (4) feet from overhead utility lines to reduce the risk of fire. Recently, overgrown foliage near utility lines caught on fire, resulting in lost power and cable service in the neighborhood. This change will improve safety in the City.

**Public Notice**
A legal notice was published in the Beverly Press and West Hollywood Independent on February 19, 2015. In addition to the noticing required by the Municipal Code, the Planning Division noticed all of the West Hollywood neighborhood groups on February 20, 2015. A notice of cancellation and continuance of public hearing was posted on March 5, 2015 for the Planning Commission meeting on March 19, 2015.
California Environmental Quality Act (CEQA)
The miscellaneous cleanup items clarifying existing language in the Zoning Ordinance are Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061 and 15321. Section 15061 states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Section 15321 explains that "actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issues, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard or objective, administered or adopted by the regulatory agency" are categorically exempt. The zone text changes are categorically exempt as they provide minor clarifications to the enforcement process by regulatory agencies and have no potential for causing a significant effect on the environment.

Planning Commission Long-Range Planning Subcommittee
The proposed zone text amendments were discussed with the Long-Range Planning Subcommittee on February 19, 2014. The Commissioners were supportive of the zone text changes.

Public Comment & Correspondence
Staff presented the proposed changes to the West Hollywood Chamber of Commerce Board meeting on February 17, 2015. The members were generally supportive of the proposed changes.

Conclusion
Staff recommends that the Planning Commission adopt Resolution PC 15-0001 to recommend that the City Council approve revisions to the Zoning Ordinance with the zone text changes described above.

EXHIBITS
A. Draft Resolution No. PC 15-1119
B. Index to Zoning Ordinance Text Changes
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RESOLUTION NO. PC 15-1119

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A ZONE TEXT AMENDMENT TO CLARIFY CERTAIN EXISTING LANGUAGE AND MAKE MISCELLANEOUS EDITS TO THE ZONING ORDINANCE REGARDING CONSTRUCTION MITIGATION STANDARDS FOR ZONE CLEARANCES, CEQA REVIEW AUTHORITY, AND FOLIAGE TRIMMING TO REDUCE FIRE HAZARD, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.

The Planning Commission for the City of West Hollywood hereby finds, resolves, and orders as follows:

SECTION 1. The City of West Hollywood initiated amendments to the Zoning Ordinance, Article 19 of the Municipal Code, to clarify existing policies, codify current planning practices, and streamline City procedures. These changes address multiple sections of the Municipal Code, as listed in Attachment A.

SECTION 2. A public hearing was duly noticed for the Planning Commission meeting of March 5, 2015 by publication in the Beverly Press newspaper, the West Hollywood Independent Newspaper, required state and local agencies, and the City website and by announcement on City Channel 6 by February 20, 2015. A notice for cancellation and continuance of public hearing was posted on March 5, 2015 for the Planning Commission meeting on March 19, 2015.

SECTION 3. This proposed text changes to the City's Municipal Code are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 and 15321. Section 15061 states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Section 15321 explains that "actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issues, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard or objective, administered or adopted by the regulatory agency" are categorically exempt. The zone text changes are categorically exempt as they pertain to the enforcement process by regulatory agencies and create fire safety requirements that have no potential for causing a significant effect on the environment.

SECTION 4. The Planning Commission of the City of West Hollywood hereby finds that Zone Text Amendment 2015-0001 is consistent with the Goals and Policies of the General Plan, specifically Policy LU-1, which states that the City should "maintain an urban form and land use pattern that enhances quality of life and meets the community's vision for its future." A more clear Zoning Code will help the City meets these goals.

ITEM 10.B. EXHIBIT A
SECTION 5. Based on the foregoing, the Planning Commission of the City of West Hollywood hereby recommends approval to the City Council of Zoning Text Amendment 2015-0001, which is attached hereto as Attachment A.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of West Hollywood at a regular meeting held this 19th day of March, 2015 by the following vote:

AYES: Commissioner:

NOES: Commissioner:

ABSENT: Commissioner:

ABSTAIN: Commissioner:

ROY HUEBNER, CHAIRPERSON

ATTEST:

DAVID J. DEGRAZIA, PLANNING MANAGER
CURRENT & HISTORIC PRESERVATION PLANNING

Any action to challenge the final decision of the City of West Hollywood made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section §1094.6.
Attachment A

ZONE TEXT AMENDMENT 015-0001
WEST HOLLYWOOD MUNICIPAL CODE
SECTIONS TO BE MODIFIED

(New text indicated with underlining, deleted text with strikethrough.)

Section 1. Section 19.20.050 in Chapter 19.20 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

19.20.050 Fences, Walls, and Hedges.
Hedges. Hedges (and any supporting apparatus) are allowed with no restriction on height so long as the hedges do not block sightlines for drivers per Section 19.28.130(D) or pedestrians as determined by the Director. The Director may require trimming, removal, or other modifications to the hedge as required to promote and protect the public health, safety, and welfare. See Section 19.30.030 for additional fire hazard avoidance requirements for hedges, shrubs and landscaping.

Section 2. Subsection (C) of Section 19.30.030 of Chapter 19.30 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

C. Fire Hazard.

1. All violations of applicable conditions of the Fire Code as adopted by the city in Municipal Code Section 14.04.010, and as reported to the Director by the Fire Marshal.

2. All dry, dead shrubs, dead trees, combustible refuse and waste, or any material growing or found upon public or private property, which by reason of their size, condition, manner of growth, or location constitute a fire hazard to any structure, improvements, crops, or other property, or when dry will, in reasonable probability, constitute a fire hazard.

   a. Hedges, shrubs, and other landscaping (e.g. bamboo) shall be trimmed to maintain a vertical and horizontal clearance of at least four (4) feet from overhead utility lines.

Section 3. Subsection (K) of Section 19.30.030 of Chapter 19.30 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

K. Overgrown, Dying or Dead Vegetation. Overgrown, dying or dead vegetation on private property or within parkway areas. Overgrown vegetation includes, but is not limited to, vegetation that: (1) obstructs a person’s view, to any degree, of approaching or nearby pedestrians or vehicles on public property; (2) obstructs any person’s view, to any degree, of signs or traffic lights on public property; (3) obstructs access to, or use
of, a sidewalk, street or highway, or a public easement or dedication to any degree; or
(4) blocks, obstructs, or interferes with, public improvements, street lights, or signage to
any degree as determined by the Director or the Director's designee. See Section
19.30.030.C(2)(a) for minimum clearance requirements from utility lines. A
determination that vegetation on private property or on an adjoining parkway is dead or
dying may include, without limitation, consideration of the following factors: any physical
characteristic of appearance evidencing a lack of proper watering or feeding; the
creation or promotion of a fire hazard by reason therefor; the existence of an infestation
of any kind that is injurious to such vegetation; or when diseased or dying vegetation
does not substantially respond to remedial care. The City shall require replacement of
dead or dying vegetation and the abatement of such a condition. In this event, a
responsible person shall first obtain applicable permits and comply with all applicable
landscape regulations and requirements in the West Hollywood Municipal Code.

Section 4. Section 19.40.020 in Chapter 19.40 of Title 19 of the West Hollywood
Municipal Code is amended to read as follows:


Table 4-1 (Review Authority) identifies the city official or body responsible for
reviewing and making decisions on each type of application, land use permit, and other
entitlements required by this Zoning Ordinance.

The Director may refer any request to the Commission for a decision. Additional
fees shall not be charged to the applicant in the event of a Director's referral. See also
Section 19.62.070 (Amendments to an Approved Project).

Any city official or body serving as the City's decision-making or appeal Review
Authority for a project as set forth in Table 4-1 shall have the authority to adopt and/or
certify environmental reviews performed under the California Environmental Quality Act.

Section 5. Subsection (F) of Section 19.40.040 in Chapter 19.40 of Title 19 of the West
Hollywood Municipal Code is amended to read as follows:

F. Environmental Assessment. All development applications shall be reviewed,
as required by the California Environmental Quality Act (CEQA), to determine whether:

1. The proposed project is exempt from the requirements of CEQA;
2. A negative declaration or mitigated negative declaration may be issued; or
3. An environmental impact report (EIR) shall be required.

These determinations and, where required, the preparation of EIRs or other
focused studies shall be in compliance with the city's CEQA Guidelines. In addition to
the City Council, any city official or body serving as the City's decision-making or appeal
Review Authority for a project as set forth in Table 4-1 in Section 19.40.020 shall have
the authority to adopt and/or certify environmental reviews performed under the
California Environmental Quality Act.
Section 6. Section 19.42.040 in Chapter 19.42 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

ZONE CLEARANCE
19.42.040 Procedure.

A. Decisions of the Director may be appealed in compliance with Chapter 19.76 (Appeals). The procedures of Chapter 19.62 (Permit Implementation, Time Limits, and Extensions) shall apply after the issuance of a zone clearance.

B. Construction Mitigation. Prior to receiving a Building Permit, the applicant shall submit a Minor Construction Mitigation Period Plan on a form provided by the Community Development Department, demonstrating compliance with the applicable construction mitigation standards in this code.
## Exhibit B

### Index to Zoning Ordinance Text Changes

<table>
<thead>
<tr>
<th>Modified Code Section</th>
<th>Equivalent Section in Current Code</th>
<th>Description of Change</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chapter 19.20 General Property Development and Use Standards</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19.20.050 Fences, Walls, and Hedges</td>
<td>19.20.050</td>
<td>Add reference text: See Section 19.30.030 to maintain hedges to avoid fire hazard.</td>
</tr>
<tr>
<td>19.30.030 Specific Violations</td>
<td>19.30.030(C)</td>
<td>Add language to Fire Hazard section regarding trimming hedges, shrubs, trees, and other landscaping to maintain clearance from utility lines.</td>
</tr>
<tr>
<td><strong>Chapter 19.40 Application Filing and Processing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19.40.040 Initial Application Review and Environmental Assessment.</td>
<td>19.40.040(F)</td>
<td>Add new language to clarify CEQA authority for decision-making review bodies.</td>
</tr>
<tr>
<td><strong>Chapter 19.42 Zone Clearance</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19.42.040 Post Approval Procedures</td>
<td>19.42.040</td>
<td>Add language to require a Minor Construction Period Mitigation Plan prior to Building Permit.</td>
</tr>
</tbody>
</table>