



## AGENDA REPORT

**Meeting Date:** August 5, 2008

**Item Number:** D-1

**To:** Honorable Mayor & City Council

**From:** Anne Browning McIntosh, AICP, Interim Director of Community of Development

**Subject:** RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE COMPREHENSIVE SCHEDULE OF TAXES, FEES & CHARGES TO ADJUST THE IN-LIEU PARKING FEE

**Attachments:**

1. Beverly Hills Municipal Code, Section 10-3-3310, "In-Lieu Parking, In-Lieu Fee Amount"
2. Letter from RBF dated July 23, 2008
3. Fee Resolution

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### RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution, increasing the fee amount for participation in the City's In-Lieu Parking Program. It is also recommended that staff be directed to evaluate other aspects of the In-Lieu Parking Program as they work to update the entire zoning code, which is scheduled to begin in the fall of 2009.

### INTRODUCTION

At the Planning Commission Subcommittee of the City Council held on July 10, 2008, staff was directed to review the City's existing In-Lieu Parking fees. Staff recommends that the City Council adopt the attached resolution increasing the In-Lieu Parking fee amount.

The In-Lieu Parking Program allows a reduction in the onsite parking requirements within the business triangle area of the city for certain retail and restaurant business and cultural entities. Through the In-Lieu Parking Program, businesses that cannot meet the city's onsite parking requirements can propose to pay into an In-Lieu Parking Fund. This fund has been established to subsidize the cost incurred by the City for constructing new public parking facilities. Since the inception of the In-Lieu

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Parking Program in 1976, the program's fee structure has been revised periodically. The fee varies by location within the Business Triangle.

## DISCUSSION

The original fee structure has been modified from time to time to account for construction costs as well as including the cost of land. However, as costs escalated, participation in the program lagged and these costs were adjusted once again to remove the cost of land and establish a variable fee, based on a three tiered system depending on project location. Since the mid-1990's, the fee structure has been annually adjusted. This annual adjustment was initially based on the Engineering News Record Construction Cost Index for the Los Angeles Area, but more recently has been tied to the Consumer Price Index (CPI). A brief history of the In-lieu Parking Program's fee structure is provided in the following chart.

### THE IN-LIEU PARKING PROGRAM SINCE 1976 FEE STRUCTURE

1970's	<ul style="list-style-type: none"><li>• In-lieu Parking Program became effective on June 17, 1976.</li><li>• Original program required a fee of approximately \$6,000.00 per parking space.</li><li>• Fee structure was modified approximately two years later. This restructuring raised the cost per parking space to \$12,000.00</li><li>• In-lieu parking funds were used to help pay for the Bedford parking structure.</li></ul>
1980's	<ul style="list-style-type: none"><li>• The fee increased due to escalating property values - an appraisal report was used to determine a chargeable land value which was included in the formula when determining the per parking space fee.</li><li>• Cost of in-lieu parking tended to be around \$30,000.00 per parking space.</li><li>• During this time, it was common that applicants would appeal the in-lieu fees to the City Council to reduce the cost.</li></ul>
1990's	<ul style="list-style-type: none"><li>• Cost of in-lieu parking tended to be around \$50,000.00 per parking space.</li><li>• The in-lieu program was rarely used.</li><li>• Fee structure was amended in 1994 to eliminate the land value as part of the fee.</li><li>• Fee was reduced by 50% and a set cost was codified (BHMC 10-3-3310) with a variable fee depending on location.</li><li>• The fees were adjusted annually based on the Engineering News Record Construction Cost Index for the Los Angeles Area.</li><li>• A reduced rate is established for additions to existing restaurants.</li><li>• In-lieu program funds were used in constructing the "R" lot parking structure.</li></ul>

2007	<ul style="list-style-type: none"> <li>Fees are annually increased based on the Consumer Pricing Index.</li> </ul>
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### The In-Lieu Fee Program Today

As part of the overall increase in Planning Fees established by City Council for the Fiscal Year 2008/2009, the in-lieu parking fee was increased by approximately 27% compared to last year. The table below identifies the cost of the in-lieu parking fee during periodic intervals since 1994:

**IN-LIEU PARKING PROGRAM FEE STRUCTURE**  
Fees per Parking Space

	1994	1997	2003	2007	2008
Rodeo Drive	\$25,000.00	\$25,878.30	\$29,994.50	\$35,704.30	\$45,760.80
Beverly Drive	\$20,000.00	\$20,702.70	\$23,995.50	\$28,563.40	\$36,608.60
Other Locations within the Business Triangle	\$15,000.00	\$15,527.00	\$17,996.60	\$21,422.40	\$27,456.20
Restaurant Expansion Fee	\$6,070.00	\$6,282.45	\$7,210.90	\$8,867.70	\$11,365.40

As indicated in the above table, the fee program is composed of a three-tiered system which reflects the variable cost of land within the Business Triangle. This reflects past policies whereby the cost of land was factored into the in-lieu fee. The properties along Rodeo Drive have a higher land value than other areas of the Business Triangle. When the fee structure was last amended in 1994, the cost of land was factored out of the equation and a set fee was introduced that included higher fees for properties with higher land value. In addition, in 1994, changes were also made to encourage the expansion of existing restaurants by introducing a reduced in-lieu fee.

Notwithstanding the recent fee increase, the existing in-lieu program reflects a policy perspective that may require re-evaluation in context to development paying its fair share cost of construction. To provide further information related to the actual costs associated with subterranean parking, staff consulted with the regionally recognized firm, RBF Consulting. The attached letter from this firm, (Attachment 2) illustrates, based on recent analysis, that construction costs associated with subterranean parking structures is approximately \$67,000 (\$75,000 if construction occurs below the water table) per space. There are several variables that could affect the cost of subterranean parking, including the cost of land, depth of construction, and size and shape of the lot.

## Policy Considerations

Staff has identified a number of policy considerations for the Council's deliberation:

- **Purpose of the In-Lieu Program:** The original goals of the program were:
  - To provide expansion, modernization, rehabilitation, and development opportunities within the existing zoning constraints of height, density, and parking requirements by providing greater flexibility in the development process; and
  - To work toward a program of properly located, easily accessible centralized parking to serve the needs of the Business Triangle as a whole. This would help to minimize the isolated and inefficient parking areas adjacent to small commercial uses and to minimize curb cuts to preserve and enhance the pedestrian experience.

In support of these objectives, the purpose of the original fee schedule was to strike a balance which would pay for the eventual construction of in-lieu parking with no-out-of-pocket costs to the City, and which would at the same time not exceed the costs of providing on-site parking, so that the In-Lieu Program would provide a reasonable alternative to a developer/business owner faced with a choice. Both new buildings and additions to existing buildings have participated in the program, with in-lieu parking spaces for individual projects ranging from 1 space to 93 spaces. Future policy considerations of this issue may include whether or not to set a limit on the number of in-lieu spaces that can be achieved through this program, how many times a property could take advantage of the program and whether or not it should apply to new construction.

- **Cost Recovery versus Reduced Fees.** A key policy consideration for the In-lieu parking program is the fee. As seen previously in the 1980s, a fee that is too high results in a program with low or no participation; while at the other end of the spectrum, a fee that is too low results in the City subsidizing developers and business owners. There are reasonable arguments to support an in-lieu fee program that requires full cost recovery, as well as reasoned support for subsidizing the fee program. Full cost recovery ensures that the City will not have to contribute additional funds on behalf of a development to provide parking that serves a participating property owner. However, subsidizing the program allows the City to provide incentives that encourage the retention, expansion and establishment of certain land uses that support other city objectives, such as maintaining a diverse mix of land uses, contributions toward a pedestrian-oriented environment, and directing vehicle traffic to well managed parking resources.

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- **Reduced Fee for Restaurant Expansion:** As part of the 1994 amendment to the program, additions to existing restaurants that have been in business for at least two years were allowed to participate in the program at a reduced rate. The code allows the reduced rate for a one time expansion with no limit on the number of in-lieu spaces for the reduced rate; or for multiple expansions up to a maximum of 15 spaces for all additions. The purpose of this reduced rate was to further encourage the expansion of established restaurant uses in the Business Triangle to increase the City's tax base and foster an active nightlife in the area. This reduced rate also recognized that many restaurants operate on lower profit margins than other retail businesses.
- **Tiered Fee Structure:** Previously, in the 1980's, the in-lieu fee amount included the cost of land. The Planning Commission would establish the in-lieu fee on a case-by-case basis upon review of a property appraisal report. Property values varied (and continue to do so) based on location within the Business Triangle, with property along Rodeo Drive the most expensive, followed by Beverly Drive and then other streets. The inclusion of land value resulted in significantly increased fees and participation in the program lagged and appeared not to make sense from an economic development perspective. Therefore, in 1994, Council amended the Program to remove the cost of land from the calculation and resultant variable in-lieu fee in favor a set, codified fee. However, in recognition of the variable property values within the Business Triangle, this new set fee established three different rates: one for properties along Rodeo Drive; a lower fee for properties along Beverly Drive; and an even lower fee for all other properties.

Given that the current in-lieu fee structure does not consider land costs in its calculation, it is appropriate to evaluate whether a tiered system remains appropriate. According to recent construction projects and conclusions from RBF Consulting, the cost per space, without considering land costs, is approximately \$67,000. The original tiered system was intended to reflect the land values on different streets, but since land costs are no longer considered, the base construction costs would remain constant on Rodeo, Beverly and other properties. Alternatively, the Council could consider including land costs again, though it is anticipated the in-lieu fee program would have less appeal for most development projects.

In addition to the fee increase proposed in the attached resolution, staff has identified several other aspects of the In-Lieu Program that the Council may wish to consider. Changes to any of the elements of the program other than fee amounts, including those identified below, would require a zone text amendment and further action by the Council:

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- **Opportunities to expand the In-Lieu Program:** Recent discussion related to the General Plan update effort has identified the possibility of extending the in-lieu program to other parts of the City, notably, S. Beverly Drive and portions of Robertson Boulevard. While not a part of the subject action to raise the in-lieu fees, this matter is one that will be considered further through the General Plan hearings. The City Council will have an opportunity to consider policies that reflect these issues in the coming months.
- **Fee Payment Schedule:** Although this discussion would also not be part of the subject action to raise in-lieu fees, Council may wish to examine the current payment requirements for in-lieu fees. Currently, the Code allows payment to be made in four (4) equal installments of twenty five percent (25%) of the in-lieu parking fees to the city within a four (4) year period. Interest does not accrue on any unpaid balance of such fees; however, the balance is adjusted annually to account for increases in the consumer price index. However, for restaurant uses which payment of in-lieu fees for restaurant uses is subject to a similar installment plan except that payment is due in ten (10) equal installments of 10 percent (10%) each. Since construction costs can often outpace the CPI, this installment plan can have the effect of further subsidizing the construction of parking spaces.

## Options

Unlike other City fees, establishing an in-lieu parking fee does not legally require a nexus study to set the fee; however, the Council may find technical data useful in making its determination. The best information available to understanding true construction costs in the City is the actual construction costs for projects currently being developed in the City. Based on RBF Consulting's analysis, that figure is at or around \$67,000 per subterranean space (\$75,000 below the water table).

In setting the fee, the Council may wish to consider the following options or variations of these options:

- Cost Recovery (Includes Land Costs): \$67,000 + Land Cost (further study would be required)
- Cost Recovery (Does not include land costs): \$67,000
- Averaging (Average Existing Rodeo Fee to Full Cost Recovery Fee): \$56,380 ( $67,000 + 45,760 / 2$ ).
- Retain Existing Fee Level: \$45,760 (Rodeo); \$36,608.60 (Beverly Drive); \$27,456.20 (all other locations) or
- Consider modifications to the restaurant expansion fee.

## Proposed In-Lieu Fee

Staff recommends that the City Council continue the in lieu program and assess a fee that reflects cost recovery, without considering actual land costs. It is believed that

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adding land costs would render the in-lieu program unattainable for most property owners or applicants and has the potential to disrupt the mix of land uses in the Business Triangle.

Since land costs are not being considered, it is also recommended that the tiered system be eliminated and a flat rate be applied. However, as indicated above, there are special circumstances relating to the expansion of well-established restaurants within the Business Triangle that warrant a reduced fee as a development incentive. Given the lower profit margin associated with many restaurants, and in an effort to continue promoting restaurant uses in the Business Triangle, which complement other land uses and contributes toward nighttime activity, it is recommended that the in lieu fee continue to be reduced for restaurant uses, albeit at an increased rate. The current fee of \$11,365 is well below construction costs; it is recommended that this fee be raised to \$33,500, which is half the fee recommended for retail establishments.

### FISCAL IMPACT

The exact fiscal impact associated with the proposed recommendation is unknown. While the increased fees would contribute additional funds to the City for the purpose of constructing off-street parking structures, the increased fees may also deter some applicants from advancing certain development projects through the entitlement process. However, the recommended action would further a policy of ensuring that certain commercial development pay its fair share and help off-set the costs borne by the City in constructing new parking facilities.

### ALTERNATIVE ACTIONS

In addition to the recommended action, the Council may wish to consider the following:

1. Adopt a fee that is higher or lower than the staff recommended fee;
2. Adopt the attached resolution and direct staff to study a fee that factors in the cost of land;
3. Do not amend the existing in-lieu fees.

  
Anne Browning McIntosh, AICP  
Approved By

ATTACHMENT 1

BHMC SECTION 10-3-3310

**10-3-3310: IN-LIEU FEE AMOUNT:**

If the city approves an application for participation in the in-lieu parking district, then the applicant shall pay the fees set forth in this section.

- A. **New Construction And Reconstruction:** For each parking space required due to the addition of floor area or due to reconstruction, the applicant shall pay a twenty five thousand dollar (\$25,000.00) fee if the subject property is located on Rodeo Drive, a twenty thousand dollar (\$20,000.00) fee if the subject property is located on Beverly Drive, and a fifteen thousand dollar (\$15,000.00) fee if the subject property is located elsewhere within the in-lieu parking district. These amounts may be adjusted annually by resolution of the city council.
- B. **Food Sales And Service Commercial Activities:** Notwithstanding the provisions of subsection A of this section, and subject to the restrictions set forth in this subsection, the applicant shall pay a reduced fee of six thousand seventy dollars (\$6,070.00) for each parking space required by the expansion of: 1) a convenience sales and service commercial business which has been lawfully operated at the subject site for more than two (2) years, or 2) a food sales use. The fee of six thousand seventy dollars (\$6,070.00) represents thirty five percent (35%) of the estimated 1993 cost to construct a parking space, exclusive of land value.

This amount may be adjusted annually by resolution of the city council. The reduced fee set forth in this subsection shall be applied to no more than one expansion of a food sales use or convenience sales and service commercial business during the lifetime of a building unless such expansion involves the purchase of less than fifteen (15) in-lieu parking spaces. If the expansion involves the purchase of less than fifteen (15) in-lieu parking spaces then the reduced fees set forth in this subsection may be applied to the purchase of up to fifteen (15) in-lieu spaces during the life of the building.

- C. **Small Theaters:** Notwithstanding the provisions of subsection A of this section, for each parking space required as a result of the establishment of a theater within an existing building, the applicant shall pay a fee equal to fifty percent (50%) of the fee required under subsection A of this section provided that the building contains at least one parking space per three hundred fifty (350) square feet of floor area, the theater does not exceed twenty five percent (25%) of the existing floor area of the building and the planning commission, after notice and a hearing as set forth in section 10-3-3307 of this article, finds that such theater would complement existing retail uses in the in-lieu parking district by enhancing the pedestrian or retail attraction of the in-lieu parking district. (Ord. 76-O-1608, eff. 6-17-1976; amd. Ord. 78-O-1701, eff. 8-31-1978; Ord. 83-O-1888, eff. 5-5-1983; Ord. 89-O-2053, eff. 3-23-1989; Ord. 91-O-2112, eff. 3-22-1991; Ord. 94-O-2206, eff. 8-5-1994; Ord. 96-O-2264, eff. 8-16-1996)

ATTACHMENT 2  
LETTER FROM RBF



July 23, 2008

JN: 10-105297.001

Mr. Jonathan Lait, AICP  
City Planner  
**City of Beverly Hills**  
455 N. Rexford Drive  
*City Hall, Ground Floor*  
Beverly Hills, CA 90210

**RE: Calculation of Costs for Construction of Subterranean Parking Spaces**

Dear Mr Lait:

At your direction, I have estimated the cost of constructing subterranean parking spaces within the City of Beverly Hills based of the following assumptions:

1. The cost estimates do not include land value.
2. The cost estimates are based on my experience working on very recent projects in the City of Beverly Hills; including the Montage, the William Morris Project and an evaluation of conceptual concepts in the Entertainment Business District.
3. The cost estimates do not average both above and below grade parking ("blended"), but rather analyze only subterranean parking spaces. The cost estimates include two categories: subterranean parking that does not extend into the water table and subterranean parking that is below the water table, thus requiring a matt foundation.
4. That the site is environmentally clean and there is no methane gas present.

The results of analysis indicate the following:

1. Parking that is underground and above the water table would cost **\$67K/** space.
2. Parking that is underground and below the water table would cost **\$75K/**space.

If a mechanical stacking system is used, the cost / space for these spaces would be about \$10K. It would cost approximately \$5mil/level to deepen the garage to allow for the double stack utilized by the mechanical stacking.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. H. Bell', is written over a light blue horizontal line.

K. H. Bell, P.E.  
Vice President,  
Director of Public Works

PLANNING ■ DESIGN ■ CONSTRUCTION

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ATTACHMENT 3  
DRAFT RESOLUTION

RESOLUTION NO. 08-R-\_\_\_\_\_

RESOLUTION OF THE COUNCIL OF THE CITY OF  
BEVERLY HILLS AMENDING THE  
COMPREHENSIVE SCHEDULE OF TAXES, FEES &  
CHARGES TO ADJUST THE IN-LIEU PARKING FEE

The Council of the City of Beverly Hills does resolve as follows:

Section 1. As set forth in Resolution 08-R-12604, the City Council has established, amended, fixed and modified, effective July 21, 2008, all fees, permit fees, City service charges, and other fees, charges, extractions, and required payments for municipal services, inspections, enforcement activities or for other indicated purposes (“Comprehensive Schedule of Taxes, Fees & Charges”). The City Council now desires to amend that Comprehensive Schedule of Taxes, Fee & Charges only as to the in-lieu parking fees, but not the in-lieu parking seismic upgrade incentive which shall remain as previously adopted.

Section 2. Pursuant to the adopted “Comprehensive Schedule of Taxes, Fees & Charges,” the current in-lieu parking fees range from \$11,365.50 per parking space for restaurants to \$45,760.80 per parking space for Rodeo Drive. The purpose of the fee is to pay for development of parking spaces in areas eligible to participate in the in-lieu parking program. The current fees, however, are not sufficient to cover the costs of developing such new parking. Therefore, an increase in the in-lieu fee amounts is warranted and necessary to ensure continued effectiveness of the in-lieu parking program.

Section 3. The in-lieu parking fee for Fiscal Year 2008/2009 is hereby adjusted as set forth in Exhibit A and shall be included in the Comprehensive Schedule of Taxes, Fees & Charges.

Section 4. The City Council is taking action only on the in-lieu parking fee, as set forth in Exhibit A. The remaining fees, permit fees, City services charges and other fees, charges, extractions, and required payment for municipal services as set forth in the Comprehensive Schedule of Taxes, Fees & Charges have not been modified, and shall remain in full force and effect.

Section 5. The City Clerk shall certify to the adoption of this and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

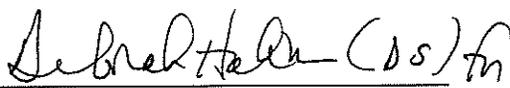
Adopted:

\_\_\_\_\_  
BARRY BRUCKER  
Mayor of the City of Beverly Hills,  
California

ATTEST:

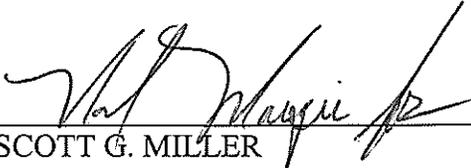
\_\_\_\_\_  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
ANNE BROWNING MCINTOSH  
Interim Director of Community  
Development



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SCOTT G. MILLER  
Director of Administrative Services/  
Chief Financial Officer

EXHIBIT A

In-Lieu Parking Fee (Per Space)

In-Lieu Parking Fee	\$67,000.00
In-Lieu Parking Restaurant Expansion Fee	\$33,500.00