



AGENDA REPORT

Meeting Date: April 7, 2009
Item Number: F-5
To: Honorable Mayor & City Council
From: City Attorney
Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS REGARDING THE APPLICABILITY OF PARKING AND LOADING STANDARDS TO CERTAIN NONCONFORMING COMMERCIAL STRUCTURES IN THE C-3T-2 ZONE ON OLYMPIC BOULEVARD BETWEEN REXFORD DRIVE AND ROBERTSON BOULEVARD
Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the proposed ordinance be adopted.

INTRODUCTION

This ordinance addresses changes of use in 12,000+ sq. ft. nonconforming commercial structures along Olympic Boulevard. Such projects are required to meet current parking and loading standards or obtain Planning Commission approval where the standards cannot be met.

DISCUSSION

At the City Council meeting of February 17, 2009, the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

No direct fiscal impact is anticipated.



Laurence S. Wiener, City Attorney

ORDINANCE NO. 09-O-

ORDINANCE OF THE CITY OF BEVERLY HILLS
REGARDING THE APPLICABILITY OF PARKING AND
LOADING STANDARDS TO CERTAIN NONCONFORMING
COMMERCIAL STRUCTURES IN THE C-3T-2 ZONE ON
OLYMPIC BOULEVARD BETWEEN REXFORD DRIVE AND
ROBERTSON BOULEVARD

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

Section 1. It has come to the attention of the City that existing deficiencies in parking and the loading facilities can be exacerbated as a result of changes in, or introduction of, new businesses in existing nonconforming buildings within the Commercial Transition Zone (C-3T-2) along Olympic Boulevard between Rexford Drive and Robertson Boulevard. These deficiencies in parking, loading, or both, cause the intrusion of parking and other activity associated with commercial uses into nearby residential areas. Such intrusion negatively impacts the character and enjoyment of these residential areas.

Section 2. The Planning Commission considered the zone text amendment set forth in this Ordinance at a duly-noticed public hearing on January 29, 2009. Evidence, both written and oral was presented during the hearing. After considering the evidence, discussing the ordinance, and providing direction to staff regarding revisions to same, the Planning Commission recommended that the City Council adopt an Ordinance substantially similar to this Ordinance.

Section 3. The City Council considered this Ordinance at a duly noticed public hearing on February 17, 2009. Evidence, both written and oral, was presented during the hearing.

Section 4. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. The proposed ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. The proposed ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with intensification of commercial uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 5. City Council hereby adds Section 10-3-1633 to Article 16.3 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the C-3T-2 Commercial Transition Zone to read as follows:

"Section 10-3-1633: Intensification of Existing Nonconforming Uses.

Notwithstanding the provisions of Article 41 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code, if intensification of a major commercial space located in the Olympic Commercial Residential Transition Area, as defined in Section 10-3-1633 A., is proposed, such proposal shall comply with current parking and loading standards set forth in

Sections 10-3-2729, 10-3-2730, 10-3-2741, 10-3-2742, and 10-3-2743, unless, pursuant to the provisions of Section 10-3-1633 C., the Planning Commission approves and establishes parking standards, loading standards, or both, that differ from the otherwise applicable standards.

A. Definitions. For the purposes of this Section, the following words and phrases shall have the meaning set forth below:

1. 'Olympic Commercial-Residential Transition Area' shall mean the portion of the C-3T-2 Zone located between Rexford Drive and the alley immediately west of Robertson Boulevard.

2. 'Intensification of Use' shall mean a change in use where the new use is listed in a higher tier on the list set forth in Section 10-3-1633B than the previous use. Tier 2, for example, is higher than Tier 1.

3. 'Major Commercial Space' shall mean buildings and tenant spaces that meet any of the following:

(a) Existing commercial buildings with 12,000 square feet or more of floor area as defined by Section 10-3-100, which is proposed to be occupied by a single tenant or business, even if a reduction in the floor area below 12,000 square feet is proposed, or

(b) Existing multiple-tenant commercial buildings that include one or more spaces with 12,000 square feet or more of floor area as defined by Section 10-3-100 which is proposed to be intensified, even if a reduction in

the floor area of one or more of the spaces with 12,000 square feet or more is proposed, or

(c) Existing multiple-tenant commercial buildings that are proposed to be reconfigured to create one or more new tenant spaces with 12,000 square feet or more of floor area as defined by Section 10-3-100.

4. 'Regular Operation' shall mean a permitted or existing nonconforming use that is open for business to the general public during a use's customary business hours.

B. Intensity of Use. To determine whether a change of use is an intensification of use, uses have been classified into the following three tiers of land use intensity. Tier 1 represents the lowest intensity of use, Tier 2 represents a higher intensity of use than Tier 1, and Tier 3 represents the highest intensity of use.

Tier 1 shall include: warehousing or storage, mini-warehouses, antique stores, furniture stores, car sales, or service, surface parking, and other similar uses as determined by the Director of Community Development.

Tier 2 shall include: apparel stores, hardware stores, toy stores, general retail stores, general offices, health/fitness clubs, and other similar uses as determined by the Director of Community Development.

Tier 3 shall include: restaurants, supermarkets, drugstores, convenience markets, video rental stores, educational institutions, religious institutions, medical offices, beauty shops, and other similar uses as determined by the Director of Community Development.

In determining the tier in which a specific use belongs, the Director of Community Development may consider all relevant factors including, without limitation, parking demand and traffic generation as indicated in *ITE Parking Generation, 3rd Edition*; *ULI Shared Parking, 2nd Edition*; *ITE Trip Generation, 7th Edition*, or any combination thereof; vehicle trips generated by the use; the judgment of the Director of Public Works and Transportation; and any data or evidence and supporting analysis provided by a registered engineer.

- C. Planning Commission Authority. A project applicant may apply to the Planning Commission for a change to the parking standards, loading standards, or both, required by this Section. The application shall be submitted and processed pursuant to the procedures established for the City's Development Plan Review process as set forth in Article 31 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code. The Planning Commission may establish parking requirements that differ from those requirements set forth in Section 10-3-2729 or Section 10-3-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code if, in addition to the Development Plan Review findings of Section 10-3-3104, the Planning Commission determines that the use will generate a need for parking

different than the amount or layout of parking required under Section 10-3-2730 or the Commission determines that the parking demand will be met by means other than those means specified in Section 10-3-2730; provided further, that the Planning Commission may not reduce the required parking to less than the amount of parking that can currently be accommodated on the subject site.

The Planning Commission may also establish loading requirements that are different than those requirements established in Sections 10-3-2740 through 10-3-2742 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code if, in addition to the Development Plan Review findings of Section 10-3-3104, the Planning Commission determines that the use's loading needs can be accommodated with a number of spaces, layout, or both, that differs from the requirements of Sections 10-3-2740 through 10-3-2742, or if the Commission determines that the use's loading requirements will be met by means other than those specified in Sections 10-3-2740 through 10-3-2742."

Section 6. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the City Council hereby finds that by protecting neighborhoods, the proposed ordinance will help to maintain the community's housing stock and preserve the viability and stability of residential neighborhoods (Goal No. 1 in the Housing Element; Objective 1.1 in the Land Use Element). The proposed ordinance proposes no changes in density and presents no conflicts with the policies in the General Plan; therefore,

because the Ordinance also advances policies of the General Plan, it is consistent with the General Plan.

Section 7. Interim Ordinance No. 08-O-2556, as extended by Ordinance No. 08-O-2559, is hereby repealed when this ordinance takes effect.

Section 8. 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 remain in full force and effect.

Section 9. 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 10. 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:

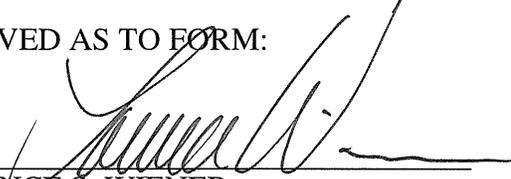
NANCY KRASNE
Mayor of the City of Beverly Hills,
California

ATTEST:

_____ (SEAL)

BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD, CCM
City Manager



ANNE BROWNING MACINTOSH, AICP
Interim Director of Community
Development