



## Planning Commission Report

**Meeting Date:** January 12, 2012

**Subject:** Establishment of a High Impact Convenience Store Conditional Use Permit

**Recommendation:** Adopt a resolution recommending that the City Council adopt an ordinance requiring High Impact Convenience Stores to obtain a Convenience Store Conditional Use Permit.

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### REPORT SUMMARY

This is a proposal to codify the "Convenience Store Conditional Use Permit" currently required for any High Impact Convenience Store use as described and defined in Interim Urgency Ordinances 11-O-2608 and 11-O-2609.

### BACKGROUND

The City is concerned about possible impacts to residential neighborhoods from certain convenience retail uses. On April 5, 2011, the Director of Community Development updated the City Council on regulations applying to convenience stores and requested direction to prepare an ordinance that would require expanded discretionary review of such uses. On April 21, 2011, the City Council adopted an interim urgency ordinance (11-O-2608) prohibiting "High Impact Convenience Stores" unless a new "Convenience Store Conditional Use Permit" was obtained. On May 24, 2011 that urgency ordinance was extended to allow the City time to develop a permanent ordinance (11-O-2609). The interim urgency ordinance is set to expire in April, 2012.

### DISCUSSION

The impacts of High Impact Convenience Stores, which primarily serve commuters, differ from the impacts of Neighborhood Convenience Stores, which primarily serve local residents and pedestrians. Without regulation, high customer turnover and the vehicle-focused nature of High Impact Convenience Stores will likely result in:

- Increased localized traffic,
- Parking problems, and
- Unwanted commercial intrusions into established residential neighborhoods.

#### Attachment(s):

1. Draft Resolution  
Exhibit A. Draft City Council Ordinance
2. City Council Reports for 4/5, 4/21, & 5/24/2011

#### Report Author and Contact Information:

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Associated impacts may include:

- Commercial parking on residential streets,
- Increased litter, and
- Excessive noise that would deteriorate the quality of life for those in the immediate vicinity.

In addition, High Impact Convenience Stores would not promote the City's brand and for the reasons discussed above would harm neighborhood character.

Convenience stores are currently permitted "by-right" in most commercial areas of the City except in the Multiple-Family Residential-Commercial Parking Zone (RMCP)<sup>1</sup> and at gas stations<sup>2</sup>.

### **Draft Ordinance**

The draft ordinance, attached, prohibits the establishment of convenience stores anywhere in the City unless the convenience store can either meet findings specified in the ordinance, or does not meet the definition of a "High Impact Convenience Store" based on the following definition:

"High Impact Convenience Store: Any retail store with the following characteristics: (1) more than half the square footage is dedicated to the sale of general food and drink products not intended for home preparation and consumption, tobacco, magazines, and toiletries, (2) the store is open to customers before 7:00 a.m. or after 9:00 p.m. Monday through Friday and before 9:00 am or after 9:00 pm on Sunday, and (3) meets one of the following – the store is located in a fuel station, or is served by on site surface parking, or is located within three hundred feet of a residential zone."

Staff arrived at the hours of operation in the definition by contacting local convenience stores, as well as considering the City's standards for normal business operating hours for transitional areas between commercial and residential uses in the Municipal Code<sup>3</sup>.

Convenience stores that do not meet this definition would not be subject to this ordinance. Stores that do meet this definition would be prohibited. A prohibited store could be allowed by the City with issuance of a "Convenience Store Conditional Use Permit" that would be reviewed by the Planning Commission, and subject to appeal to the City Council.

The Convenience Store Conditional Use Permit is a Conditional Use Permit established in the interim urgency ordinance and proposed to be made permanent by this ordinance.

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<sup>1</sup> The RMCP zone is the properties along the westside of N. Crescent Dr. approximately from Brighton Way to Wilshire Blvd.

<sup>2</sup> BHMC Sec. 10-3-1613

<sup>3</sup> BHMC 10-3-1951: Definitions: Extended Hours: The hours between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. on the following weekday, and the time between the hours of ten o'clock (10:00) P.M. and nine o'clock (9:00) A.M. on the following weekend day or holiday.

The Convenience Store Conditional Use Permit currently has the following findings:

1. The proposed use is compatible with the surrounding area and uses;
2. The proposed use will have adequate buffering between the use and residential areas, schools, parks, and other locations where children gather;
3. The proposed use will not create an adverse traffic impact or a traffic safety hazard to pedestrians or to vehicles, including, but not limited to, an adverse impact on traffic circulation or parking;
4. The proposed use will not create excessive noise, unpleasant odors, noxious fumes, excessive lighting, increased litter, or substantial interference with neighboring properties or uses due to the activities associated with the proposed use or its hours of operation;
5. The proposed use will not create an overconcentration of convenience stores in the area-vicinity.

#### **Additional Findings Proposed**

Staff encourages the Planning Commission to consider replacing the word “area” at the end of Finding 5 with the word “vicinity” for added clarity.

Staff also proposes that the Planning Commission consider additional findings in the permanent ordinance. The following draft findings have been provided as a suggestion. Including additional findings for a Convenience Store Conditional Use Permit will ensure that high impact convenience stores would not disrupt residential neighborhoods, and that the City’s brand would not be maintained.

Capping vehicle trips. A cap on vehicle trips is proposed that has been modeled on the City’s vehicle trip cap for mini-shopping centers (BHMC 10-3-1611). The number of vehicle trips per hour has been set at 1 trip every two minutes, with the maximum trips per day set just below the number of trips that could be generated in a 14-hour day (By definition High Impact Convenience Stores would be open longer than a 14-hour day, or outside of 7:00 am – 9:00 pm)

- “6. On average the proposed use will not substantially exceed either of the following per one thousand (1000) gross square feet of floor area:
- a. Thirty (30) vehicle trips per hour; or
  - b. Four hundred (400) vehicle trips per day.”

Limiting at Gateways and Prominent Intersections. In the interest of maintaining the City as a high-end, luxury market, the following finding would ensure that development proposed at those prominent entries and focal points in the City align with the City’s goals for brand development.

- “7. The proposed use is not located at a Gateway, or Key Gateway, or other prominent intersection or focal point in the City.”

## **ENVIRONMENTAL ASSESSMENT**

The draft Ordinance has 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. It can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance may have a significant effect on the environment. The Ordinance does not authorize construction and, in fact, imposes greater restriction on certain development in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of CEQA pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

## **PUBLIC NOTICING**

The public hearing on this item was duly noticed and as of the writing of this report no public comments have been received.

## **NEXT STEPS**

Once the Planning Commission has reviewed, revised if necessary, and acted on the draft resolution the matter will be scheduled for a formal hearing before the City Council.

Report Reviewed By:



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Michele McGrath  
Senior Planner

# Attachment 1

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE REQUIRING HIGH IMPACT CONVENIENCE STORES TO OBTAIN A CONVENIENCE STORE CONDITIONAL USE PERMIT AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE.

The Planning Commission of the City of Beverly Hills hereby resolves as follows:

Section 1. The impacts of high impact convenience stores, which primarily serve commuters, differ from the impacts of neighborhood convenience stores, which primarily serve local residents and pedestrians. Without regulation, high customer turnover and the vehicle-focused nature of high impact convenience stores will likely result in increased localized traffic, parking problems, and unwanted commercial intrusions into established residential neighborhoods. Associated impacts may include commercial parking on residential streets, increased litter, and excessive noise that would deteriorate the quality of life for those in the immediate vicinity. In addition, high impact convenience stores would not promote the City's brand and for the reasons discussed above would harm neighborhood character.

Section 2. The Planning Commission hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of the proposed Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction and, in fact, imposes the same restrictions that already exist under the urgency ordinance in order to protect the public health, safety, and general welfare. This 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, this 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 and commercial uses from impacts associated with intensification of commercial uses, and thereby qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 3. On December 30, 2011, notice of the public hearing was published in *The Beverly Hills Courier*.

Section 4. On January 12, 2012, the Planning Commission held a duly noticed public hearing to consider the draft Ordinance set forth in Exhibit A to this Resolution.

Section 5. Based on the evidence presented in the record, including the staff report and oral and written testimony, the Planning Commission hereby finds that allowing high-impact convenience stores to operate with a convenience store conditional use permit is compatible with the City's existing land uses so long as the necessary findings can be made.

Section 6. Based on the evidence presented in the record, including the staff report and oral and written testimony, the Planning Commission hereby finds that requiring High-Impact Convenience Stores to obtain a Convenience Store Conditional Use Permit prior to establishment is consistent with the General Plan. The Planning Commission finds that the Ordinance is consistent with the following Land Use Goals and Policies: (1) "LU1 Long-term Stability," which addresses the need for unique qualities to set the City of Beverly Hills apart from

other communities; (2) "LU2 Community Character and Quality," which addresses site planning in general, and (3) Policy "LU2.7 City Gateways," which encourages the exploration of opportunities at gateway areas to enhance the sense and quality of entry into the City. Thus, the Planning Commission hereby finds that the Ordinance is consistent with the General Plan.

Section 7. The Planning Commission hereby recommends that the City Council adopt an Ordinance with provisions substantially in the form set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 8. The Secretary shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

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Daniel Yukelson  
Chair of the Planning Commission of the  
City of Beverly Hills, California

ATTEST:

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Secretary

Approved as to form:

Approved as to content:

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David M. Snow  
Assistant City Attorney

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Jonathan Lait, AICP  
City Planner

EXHIBIT A

**[DRAFT]**  
ORDINANCE NO. 12-O-\_\_\_\_\_

AN ORDINANCE REQUIRING HIGH IMPACT  
CONVENIENCE STORES TO OBTAIN A CONVENIENCE  
STORE CONDITIONAL USE PERMIT AND AMENDING THE  
BEVERLY HILLS MUNICIPAL CODE.

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

**Section 1.** On April 5, 2011, the Director of Community Development recommended that the City Council study the City's regulations regarding the operation and development of convenience stores. The Director reported that prohibiting high impact convenience stores, as defined below, is necessary to protect against an immediate threat to the public health, safety or welfare and to avoid a conflict with any future potential regulation.

**Section 2.** On January 12, 2012, the Planning Commission held a duly noticed public hearing to consider regulations for high impact convenience stores, and adopted Resolution No. 12-R-\_\_\_\_ recommending approval of this Ordinance.

**Section 3.** High impact convenience stores, which primarily serve commuters, differ from neighborhood convenience stores, which primarily serve local residents and pedestrians. Without regulation, high customer turnover and the vehicle-focused nature of high impact convenience stores will likely result in increased localized traffic, parking problems, and

unwanted commercial intrusions into established residential neighborhoods. Associated impacts may include commercial parking on residential streets, increased litter, and excessive noise that would deteriorate the quality of life for those in the immediate vicinity. In addition, high impact convenience stores would not promote the City's brand and for the reasons discussed above would harm neighborhood character. The City Council finds that allowing the unregulated development of high impact convenience stores would result in the negative impacts described above and would erode the existing character of the City's neighborhoods. To ensure that the development of convenience stores is consistent with the goals and objectives of protecting the City's character, the City Council finds it necessary to adopt this Ordinance to protect the public health, safety, and general welfare.

**Section 4.** The City Council considered this Ordinance at a duly noticed public hearing on \_\_\_\_\_, and at the conclusion of the hearing introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

**Section 5.** 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. This Ordinance does not authorize construction and, in fact, imposes the same restrictions on development as already exist under the urgency ordinance in order to protect the public health, safety and general welfare. This 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, this 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 and commercial uses from impacts associated with intensification of commercial uses, and thereby qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

**Section 6.** The City Council hereby amends Section 10-3-100 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code by adding the following definition between the terms “Height of Wall, Fence or Hedge” and “Highest Element of a Building” as they presently appear in 10-3-100, with all other definitions in the Section remaining unchanged:

“HIGH IMPACT CONVENIENCE STORE: Any retail store with the following characteristics: (1) more than half the square footage is dedicated to the sale of general food and drink products not intended for home preparation and consumption, tobacco, magazines, and toiletries, (2) the store is open to customers before 7:00 a.m. or after 9:00 p.m. Monday through Friday or before 9:00 am or after 9:00 pm on Saturday or Sunday, and (3) has one of the following characteristics – is served by on site surface parking, or is located within three hundred feet of a residential zone. ‘High impact convenience store’ does not include newsstands, coffee shops, or any retail store containing a licensed pharmacy that is devoted to dispensing prescription medicine.”

**Section 7.** The City Council hereby amends Section 10-3-1604 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses conditionally permitted in the C-3 Zone by adding “High Impact Convenience Stores” between the uses “Educational Institutions” and “Hotels, subject to the provisions of article 28.6 of this chapter” as they presently appear in 10-3-1604, with all other uses in the Section remaining as previously adopted.

**Section 8.** The City Council hereby adds a new Section 10-3-3800.1 to Chapter 3 of Title 10 of the Beverly Hills Municipal Code establishing a Convenience Store Conditional Use Permit:

“No lot, premises, building, or portion thereof in the City of Beverly Hills shall be used for any ‘high impact convenience store,’ as defined in 10-3-100 of this Code, unless the City issues a convenience store conditional use permit. The City shall process an application for a convenience store conditional use permit in the same manner that it would process an application for a conditional use permit pursuant to this Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code. The City may impose any conditions on a convenience store conditional use permit that are necessary to preserve the public health, safety, or welfare, or to mitigate any potential adverse impacts resulting from the establishment of a high impact convenience store. The City shall not approve a convenience store conditional use permit unless it makes all of the following findings:

1. The proposed use is compatible with the surrounding area and uses;
2. The proposed use will have adequate buffering between the use and residential areas, schools, parks, and other locations where children gather;

3. The proposed use will not create an adverse traffic impact or a traffic safety hazard to pedestrians or to vehicles, including, but not limited to, an adverse impact on traffic circulation or parking;
4. The proposed use will not create excessive noise, unpleasant odors, noxious fumes, excessive lighting, increased litter, or substantial interference with neighboring properties or uses due to the activities associated with the proposed use or its hours of operation;
5. The proposed use will not create an overconcentration of convenience stores in the area.

**Section 9.** 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. To the extent that the discretionary process to approve a convenience store conditional use permit, or any part thereof, is determined to be invalid, the prohibition against high impact convenience stores shall remain valid.

**Section 10.** 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.

Adopted:

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BARRY BRUCKER  
Mayor of the City of Beverly Hills,  
California

ATTEST:

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(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

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LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager

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SUSAN HEALY KEENE  
Director of Community Development

# Attachment 2



## **CITY OF BEVERLY HILLS STAFF REPORT**

**Meeting Date:** April 5, 2011  
**To:** Honorable Mayor & City Council  
**From:** Susan Healy Keene, AICP, Director of Community Development  
**Subject:** Regulations Concerning Convenience Retail Stores

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### **INTRODUCTION**

The purpose of this report is to update the City Council on regulations that currently apply to convenience stores and to report on recent interest in developing such uses in the city. Staff requests the City Council consider directing the preparation of an ordinance that would require expanded discretionary review of such uses.

### **DISCUSSION**

Convenience stores offer local residents, businesses and regional commuters convenient access to a variety of personal items, including; over the counter medicine; pre-packaged food; tobacco; alcohol; magazines; and other goods. Neighborhood serving convenience stores can be well received and supported in some neighborhoods. However, more regional serving establishments, such as those found in gas stations or freestanding buildings could result in unwanted impacts due to higher parking and traffic generated by those uses.

The City's zoning regulations do not make a distinction between the neighborhood- and regional-serving stores. Convenience retail is also identified as a permitted 'by right' land use in the city's commercial zones, but requires a conditional use permit (CUP) in the city's RMCP zone. A CUP is a discretionary application requiring review by the Planning Commission.

For new building construction, the City requires a Development Plan Review permit, which can be approved administratively if the building is between 2,500 and 15,000 square feet. New buildings larger than 15,000 square feet require review before the Planning Commission. New buildings under 2,500 square feet do not require any review other than the review required to issue a building permit.

Recently, the Planning Division reviewed a conceptual application to locate a new free-standing, regional-serving convenience store. Because of this interest, staff is advising the Council of potential impacts associated with stores.

Notably, convenience stores tend to have a high volume of customers because of the convenience it offers to commuters. A high customer turnover results in increased localized traffic and could result in unwanted commercial intrusions into established

residential neighborhoods. Associated impacts related to commercial parking on residential streets, increased litter, and noise could deteriorate the quality of life for those in the immediate vicinity. While there may be incremental value in having a convenience store nearby, it is anticipated that most residents may regard a regional-serving convenience store as not promoting the city's brand and may harm neighborhood character.

While the conceptual application reviewed by the Planning Division would require discretionary review for the size of the new building, requiring a CUP application offers the opportunity to consider operational aspects of the use and, as appropriate, approve the project with conditions or deny the project based on identified impacts. However, a scaled down version of the project (less than 2,500 square foot), based on current regulations, would not be subject to any land use-related discretionary review and, therefore, could be established with the issuance of a building permit.

If the City Council shares the concerns identified above regarding the potential impacts of convenience stores, it would be appropriate to direct the preparation an interim ordinance that would establish a discretionary review process for convenience stores. If the City Council considers the concerns above to rise to a level of urgency, it would be appropriate to direct the preparation of an urgency ordinance, which would require at least a four/fifths approval from the City Council. The urgency ordinance would have the added benefit of immediately establishing the new regulatory standards once adopted, as opposed to waiting for first and second reading of interim ordinance and a thirty day delay before the interim ordinance becomes effective.

### **FISCAL IMPACT**

The recommendation in this report has no significant budget or fiscal impacts.

### **RECOMMENDATION**

It is recommended that the City Council:

1. consider the appropriateness of establishing a discretionary review requirement for convenience stores throughout the city and,
2. if appropriate, direct staff to prepare a either an interim or interim urgency ordinance

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Susan Healy Keene, AICP  
Director of Community Development



## AGENDA REPORT

**Meeting Date:** April 21, 2011  
**Item Number:**  
**To:** Honorable Mayor & City Council  
**From:** Susan Healy Keene, AICP, Director of Community Development  
**Subject:** AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING HIGH IMPACT CONVENIENCE STORES UNLESS SPECIFICALLY APPROVED BY THE CITY, AND DECLARING THE URGENCY THEREOF.  
**Attachments:** 1. Interim Urgency Ordinance  
2. April 5, 2011 Study Session Report

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### **RECOMMENDATION**

The City Council will consider adoption of an interim ordinance prohibiting high impact convenience stores and establishing a discretionary review process for the City to allow certain convenience stores to be established if findings can be made. Staff recommends that Council adopt the urgency ordinance and direct staff to return with an interim ordinance extension within 45 days.

### **INTRODUCTION**

At the April 5, 2011 City Council study session, staff presented a report on regulations that apply to convenience stores in the City (Attachment 2). City Council considered the report and requested an interim urgency ordinance be brought back for consideration during the April 21, 2011 session. Convenience stores can be a benefit to neighborhoods; however, more regional serving, or "high impact", convenience stores may cause undesirable conditions to develop or increase in nearby areas. Undesirable conditions could include increased traffic, commercial intrusions into residential areas such as patrons parking on residential streets, increased litter, and noise.

## **DISCUSSION**

Convenience stores are currently permitted “by-right” in most commercial areas of the City except in the Multiple-Family Residential-Commercial Parking Zone (RMCP)<sup>1</sup> and at gas stations<sup>2</sup>. The attached urgency ordinance prohibits the establishment of convenience stores anywhere in the City unless the convenience store can either meet findings specified in the ordinance, or does not meet the definition of a “High Impact Convenience Store” based on the following definition:

“High Impact Convenience Store: Any retail store with the following characteristics: (1) more than half the square footage is dedicated to the sale of general food and drink products not intended for home preparation and consumption, tobacco, magazines, and toiletries, (2) the store is open to customers before 7:00 a.m. or after 9:00 p.m. Monday through Friday and before 9:00 am or after 9:00 pm on Sunday, and (3) meets one of the following – the store is located in a fuel station, or is served by on site surface parking, or is located within three hundred feet of a residential zone.”

Staff arrived at the hours of operation in the definition by contacting local convenience stores, as well as considering the City’s standards for normal business operating hours for transitional areas between commercial and residential uses in the Municipal Code<sup>3</sup>.

Convenience stores that do not meet this definition would not be subject to this ordinance. Stores that do meet this definition would be prohibited. A prohibited store could be allowed by the City with issuance of a “Convenience Store Conditional Use Permit” that would be reviewed by the Planning Commission, and subject to appeal to the City Council. The convenience store conditional use permit is a CUP established with the following findings:

1. The proposed use is compatible with the surrounding area and uses;
2. The proposed use will have adequate buffering between the use and residential areas, schools, parks, and other locations where children gather;
3. The proposed use will not create an adverse traffic impact or a traffic safety hazard to pedestrians or to vehicles, including, but not limited to, an adverse impact on traffic circulation or parking;
4. The proposed use will not create excessive noise, unpleasant odors, noxious fumes, excessive lighting, increased litter, or substantial interference with neighboring properties or uses due to the activities associated with the proposed use or its hours of operation;

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<sup>1</sup> The RMCP zone is the properties along the westside of N. Crescent Dr. approximately from Brighton Way to Wilshire Blvd.

<sup>2</sup> BHMC Sec. 10-3-1613

<sup>3</sup> BHMC 10-3-1951:Definitions: Extended Hours: The hours between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. on the following weekday, and the time between the hours of ten o'clock (10:00) P.M. and nine o'clock (9:00) A.M. on the following weekend day or holiday.

5. The proposed use will not create an overconcentration of convenience stores in the area.

#### Interim Urgency Ordinance

Urgency ordinances protect the community by immediately addressing uses that may be in conflict with general plan and zoning policies. An urgency ordinance requires a 4/5 vote to be adopted and is effective immediately, for up to 45 days. Urgency ordinances can be extended twice, for up to a maximum of two years. To allow adequate time to study the issues and develop a balanced review process, Staff proposes to return within the 45 day effective period with an interim ordinance extending the urgency ordinance for up to 10 months and 15 days. This will allow the City time to adopt the permanent ordinance.

#### Analysis

The impacts of high impact convenience stores, which primarily serve commuters, differ from the impacts of neighborhood convenience stores, which primarily serve local residents and pedestrians. Without regulation, high customer turnover and the vehicle-focused nature of high impact convenience stores will likely result in increased localized traffic, parking problems, and unwanted commercial intrusions into established residential neighborhoods. Associated impacts may include commercial parking on residential streets, increased litter, and excessive noise that would deteriorate the quality of life for those in the immediate vicinity. In addition, high impact convenience stores would not promote the City's brand and for the reasons discussed above would harm neighborhood character.

### **ENVIRONMENTAL ASSESSMENT**

The urgency ordinance has 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. Staff has determined 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 regulations are therefore exempt from the environmental review requirements of 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 and commercial uses from impacts associated with intensification of commercial uses, and thereby qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

### **FISCAL IMPACT**

Fiscal impacts at this time include staff hours to prepare the required ordinances.

Meeting Date: April 21, 2011

**PUBLIC NOTICE AND COMMENTS**

This item was noticed in accordance with State law as part of the agenda.

Susan Healy Keene, AICP, Director of  
Community Development  

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Approved By



## AGENDA REPORT

**Meeting Date:** May 24, 2011  
**Item Number:**  
**To:** Honorable Mayor & City Council  
**From:** Jonathan Lait, AICP, Assistant Director of Community Development  
Peter Noonan, AICP, Associate Planner  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS EXTENDING INTERIM ORDINANCE 11-O-2608 PROHIBITING HIGH IMPACT CONVENIENCE STORES UNLESS SPECIFICALLY APPROVED BY THE CITY, AND DECLARING THE URGENCY THEREOF  
**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

Staff recommends that the City Council extend Interim Ordinance 11-O-2608, which prohibits high impact convenience stores and establishes a discretionary review process whereby the City may allow certain convenience stores to be established if specific findings can be made. Staff recommends that the City Council extend the urgency ordinance for up to 10 months and 15 days to allow sufficient time to study convenience stores and draft a permanent ordinance for the Council's consideration.

### **DISCUSSION**

On April 21, 2011, the City Council adopted an Interim Ordinance Prohibiting High Impact Convenience Stores Unless Specifically Approved by the City. The ordinance expires on June 5, 2011.

Extending the urgency ordinance would continue the prohibition on high impact convenience stores for up to an additional 10 months and 15 days. This will allow time to prepare and adopt a permanent ordinance in accordance with the State law process for amending the City's zoning code. This process includes duly noticed public hearings before the City's Planning Commission and the City Council.

Since the adoption of the Interim Ordinance, the City has initiated studies necessary and appropriate to evaluate the potential neighborhood impacts that could be associated with high impact convenience stores. As a result of this initial study, the definition provided for "High Impact Convenience Store" has been changed to ensure that it does not include newsstands, coffee shops, and any retail business containing a licensed pharmacy. The current definition is provided below, with the new language underlined.

"High-Impact Convenience Store: Any retail store with the following characteristics: (1) more than half the square footage is dedicated to the sale of general food and drink products not intended for home preparation and consumption, tobacco, magazines, and toiletries, (2) the store is open to customers before 7:00 a.m. or after 9:00 p.m. Monday through Friday and before 9:00 a.m. or after 9:00 p.m. on Sunday, and (3) meets one of the following – is served by on site surface parking, or is located within three hundred feet of a residential zone. 'High impact convenience stores' do not include newsstands, coffee shops, or any retail store containing a licensed pharmacy that is devoted to dispensing prescription medicine."

Once the City has fully studied the potential impacts associated with high-impact convenience stores, a recommendation will be transmitted to the City Council regarding the appropriateness of developing a zoning mechanism for reviewing new convenience store proposals. The intent of this study and recommendation is to assure that the City has a means of reviewing new convenience store proposals to prevent negative impacts to the surrounding neighborhoods. Staff anticipates that the recommendation will include a mechanism for determining whether a new convenience store should be considered a "high impact" convenience store. Staff also anticipates that the recommendation will include a permanent review process for those new convenience store proposals that have the potential to be high-impact.

Staff anticipates bringing a permanent ordinance to the Planning Commission for consideration within the next eight months. Once the Planning Commission has studied the proposal and recommended a course of action, Staff will return to the City Council with a draft ordinance for the Council's consideration.

### **ENVIRONMENTAL ASSESSMENT**

Extension of the urgency ordinance has 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. It can be seen with certainty that there is no possibility that the adoption and implementation of the Interim Ordinance or extension thereof may have a significant effect on the environment. This extension of the Interim 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. This extension 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.

### **FISCAL IMPACT**

Meeting Date: May 24, 2011  
Extension of Interim Ordinance 11-O-2608

Fiscal impacts at this time include staff hours to conduct appropriate studies and prepare the required ordinances.

Susan Healy Keene, AICP  
Director of Community Development