



## AGENDA REPORT

**Meeting Date:** November 21, 2016  
**Item Number:** D-1  
**To:** Honorable Mayor & City Council  
**From:** Laurence S. Wiener, City Attorney  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO CONDITIONALLY ALLOW ALTERNATIVE PARKING FACILITIES TO PROVIDE REQUIRED PARKING IN COMMERCIAL ZONES AS A PILOT PROGRAM

**Attachments:**

1. Ordinance
2. Redline Showing Changes Made by the Council at the Meeting of November 15, 2016

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### **RECOMMENDATION**

It is recommended that the City Council move to waive the full reading and adopt the ordinance, as amended, entitled: "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO CONDITIONALLY ALLOW ALTERNATIVE PARKING FACILITIES TO PROVIDE REQUIRED PARKING IN COMMERCIAL ZONES AS A PILOT PROGRAM."

### **INTRODUCTION**

This ordinance is the result of a Zone Text Amendment request by the developer of a new restaurant project at 250-260 North Canon Drive to allow alternative parking facilities that may use automobile elevators and mechanical parking lifts to provide required parking in commercial zones through a Conditional Use Permit.

### **DISCUSSION**

At its meeting of November 1, 2016, the City Council conducted a first reading and introduced this ordinance. At that meeting, the City Council made changes to the draft ordinance, to address the requirements for employee parking, valet drop off locations, and that uses for which Alternative Parking facilities may be authorized must provide luxury services or products.

At its meeting of November 15, 2016, the City Council made further changes to the ordinance and re-introduced the ordinance, as amended. The changes include clarifying that: (i) alternative parking facilities shall be below grade, (ii) staging and queuing shall occur within a reasonable distance from the alternative parking facility, (iii) the alternative parking facility shall not create any material, as opposed to significant, adverse traffic or parking impacts, traffic safety or pedestrian hazards, or pedestrian-vehicle conflicts; and (iv) the ordinance will sunset after one year of operational experience with each of the two projects, unless extended by the Council..

These changes have now been incorporated into the ordinance being presented to the City Council for adoption.

**FISCAL IMPACT**

No fiscal impact to the City is anticipated from a Council decision on this matter.



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Laurence S. Wiener, City Attorney

# ATTACHMENT 1

ORDINANCE NO. 16-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO  
CONDITIONALLY ALLOW ALTERNATIVE PARKING  
FACILITIES TO PROVIDE REQUIRED PARKING IN  
COMMERCIAL ZONES AS A PILOT PROGRAM

WHEREAS, the City Council has considered proposed amendments to the City of Beverly Hills Municipal Code, as more fully described below (the “Amendments”); and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on September 19, 2016, which was continued on September 26, 2016, at which time it received oral and documentary evidence related to the proposed Amendments; and

WHEREAS, the Planning Commission, at the September 26, 2016 hearing, also considered and conditionally approved a Conditional Use Permit to permit use of an alternative parking facility to provide required parking on the property located at 250-260 North Canon Drive as would be permissible should the proposed zone text amendments be approved; and

WHEREAS, the City Council conducted a duly noticed public hearing on November 1, 2016, at which time it received oral and documentary evidence related to the proposed Amendments; and

WHEREAS, the City Council finds that the proposed Amendments will result in a benefit to the public interest, health, safety, morals, peace, comfort, convenience, or general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan.

NOW, THEREFORE, the City Council of the City of Beverly Hills does resolve as follows:

**Section 1.** The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 *et seq.*), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*), and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (Class 5) of Title 14 of the California Code of Regulations. The Class 5 exemption is applicable because the Amendments result in minor changes in land use limitations regarding the manner in which parking is provided and applies only to properties with an average slope not exceeding 20%. Thus, the City Council hereby finds that the Amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15305.

**Section 2.** The City Council does hereby find that the proposed Amendments are intended to provide flexibility for properties in commercial zones that wish to utilize mechanical parking lifts and/or automobile elevators to provide required parking. This is accomplished by allowing the Planning Commission, on a case-by-case basis, to issue a Conditional Use Permit to allow the establishment of an alternative parking facility that provides required parking, provided that the proposed alternative parking facility and the use(s) it serves are located in a commercial zone, is 100% valet-operated, and meets other specific criteria. For these reasons, the Amendments serve to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

**Section 3.** The City Council hereby amends Section 10-3-100 of Article 1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code by adding three definitions with all other definitions in the section remaining unchanged.

The term “Alternative Parking Facility” is added between the terms “Alley” and “Architectural Projections” as they presently appear in Section 10-3-100, to read as follows:

“ALTERNATIVE PARKING FACILITY: An off-street parking facility in which vehicular storage is accomplished with mechanical parking lifts and/or automobile elevators that are operated by a valet or other driver. An alternative parking facility shall not be a fully automated parking facility that uses mechanical systems to hoist individual vehicles from receiving areas to separate automobile storage areas without a driver.”

The term “Automobile Elevator” is added between the terms “Architectural Projections” and “Average Roof Height” as they presently appear in Section 10-3-100, to read as follows:

“AUTOMOBILE ELEVATOR: An elevator used to move vehicles vertically into and between levels of a parking garage in lieu of the use of ramps.”

The term “Mechanical Parking Lift” is added between the terms “Maximum Potential Side Facade” and “Medical Laboratory” as they presently appear in Section 10-3-100, to read as follows:

“MECHANICAL PARKING LIFT: An elevating device that enables the positioning of a vehicle above or below another parking space in a stacked (vertical tandem) fashion.”

**Section 4.** The City Council hereby amends Section 10-3-1604 of Article 16 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally permitted use before “Amusement Parks” to read as follows with all other provisions in Section 10-3-1604 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

**Section 5.** The City Council hereby amends Section 10-3-1702 of Article 17 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally permitted use before “Amusement Parks” to read as follows with all other provisions in Section 10-3-1702 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

**Section 6.** The City Council hereby amends Section 10-3-1802 of Article 18 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally permitted use before “Amusement Parks” to read as follows with all other provisions in Section 10-3-1802 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

**Section 7.** The City Council hereby amends Section 10-3-2003 of Article 20 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally

permitted use before “Brewing or manufacture of alcoholic beverages” to read as follows with all other provisions in Section 10-3-2003 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

**Section 8.** The City Council hereby adds new Section 2730.4 to Article 27 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

**“10-3-2730.4: ALTERNATIVE PARKING FACILITY**

An alternative parking facility, as defined in section 10-3-100, may be used to meet the parking requirements of section 10-3-2730 provided the alternative parking facility and the use(s) for which it provides required parking do not include medical uses and are located in a commercial zone on property with a site area not exceeding sixteen thousand (16,000) square feet, and subject to the following:

- A. Conditional use permit required. A conditional use permit, issued pursuant to the provisions of article 38 of this chapter, shall be obtained prior to any alternative parking facility commencing provision of required parking spaces for any use.
- B. Standards. All alternative parking facilities authorized by a conditional use permit shall comply with the following standards:
  - 1. Except for required ingress and egress, all alternative parking facilities shall be fully enclosed and below grade. Alternative parking facilities and portions of buildings that contain alternative parking facilities shall be subject to Architectural Review;

2. Staging and queuing of vehicles shall occur on private property within a reasonable distance from the alternative parking facility and shall not impede travel and access within the public right-of-way;
3. The alternative parking facility shall be operated by one or more parking attendants, as determined through the conditional use permit process, at all times during the hours of operation, so that it is valet-operated to service the use needs of the commercial facility for which it provides required parking;
4. The design of the alternative parking facility shall meet all applicable California building codes, as approved by the community development department;
5. An alternative parking facility shall comply with all applicable development standards, including those set forth in Article 16.5 of this chapter, and excluding the City's minimum parking standards if modifications to those standards are approved as part of the conditional use permit;
  - a. The reviewing authority may condition an alternative parking facility to modify standards relating to minimum parking stall size, minimum drive aisle width, and drive aisle parking spaces, provided the applicant demonstrates that the facility will accommodate a range of vehicle types and will not have an adverse impact on the efficiency of the parking operation or the safety of people or property.

C. Information required for application. Application submittals for an alternative parking facility conditional use permit shall include information that the director of community development deems to be necessary to determine whether the alternative parking facility

can adequately meet the parking needs of the proposed development and determine that no substantial negative impacts will result from the facility. At a minimum, the following shall be provided as part of the conditional use permit application:

1. Site Plan: Submittal of a site plan prepared by a design professional indicating all structures; the alternative parking facility location; number of required parking stalls; site ingress and egress; proposed queuing location; and the identification of adjacent land uses;
2. Operations Plan: Submittal of an alternative parking facility operations plan describing the broadest range of operating hours allowed for the commercial use(s) to be served by the alternative parking facility; the number of parking attendants and working hours; methods for automobile storage and retrieval during and outside of regular business hours; vehicle drop-off and pick-up location(s) for customers; vehicle circulation path; location of staging area for vehicles waiting to enter the alternative parking facility. The operations plan shall also describe, with regard to the mechanical parking lifts and automobile elevators: maintenance schedules and additional parts inventory requirements to maintain optimal operations;
3. Technical Studies: Submittal of technical studies demonstrating that the proposed design and operation of the alternative parking facility will not be detrimental to surrounding uses and properties with regard to noise, visual impacts, area parking and circulation, and existing on-site improvements;

4. Disabled Access Parking: Submittal of evidence that the parking provided will comply with all applicable disabled access requirements;
5. Back-Up Power: Prior to issuance of building permits, the applicant shall provide documentation that the alternative parking facility will be equipped with back-up generators with sufficient capacity to allow operation of the parking system in the case of electrical failure. In an alternative parking facility with multiple automobile elevators, mechanical lifts, or both, each elevator and lift shall be individually operable such that mechanical failure of one would not prevent use of the others.

D. Findings. In addition to the findings outlined in article 38 of this chapter, a conditional use permit shall only be issued if the planning commission finds that:

1. The proposed location of the alternative parking facility will not be detrimental to adjacent property or to the public welfare;
2. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable method of providing code-required parking;
3. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;
4. The proposed alternative parking facility and operation thereof will not create any material adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

- E. Conditions of Approval. The reviewing authority may impose any conditions that are necessary to address any potential adverse impacts resulting from the constriction and use of an alternative parking facility to provide required parking, including but not limited to:
1. Inspection Report: A maintenance inspection report and usage report for any alternative parking facility, prepared at the sole expense of the applicant, shall be submitted at any time upon request from the community development department and no less than every six months for review by the city.
  2. Service Contract: The owner of the alternative parking facility shall at all times maintain one or more contracts with an entity or entities that provides maintenance and 24-hour emergency service for the all aspects of the alternative parking facility, including but not limited to any automobile elevators and, mechanical parking lifts installed in the alternative parking facility.
  3. Employee parking shall not be allowed on the site. A property on which an alternative parking facility is permitted shall provide free paid parking for all employees at an off-site and off-street parking facility. Verification of off-site location shall be provided to the Director of Community Development and shall be updated whenever employee parking demand changes. This provision shall not apply to covenanted parking spaces for employee use when the property on which an alternative parking facility is located includes parking required to be provided on the site pursuant to the provisions of a covenant.

4. If valet drop off locations associated with a property utilizing an alternative parking facility are proposed on city streets, excluding alleys, there shall be valet drop off space to accommodate a minimum of three vehicles.
  5. A Conditional use permit for an Alternative Parking facility must be for a use providing a luxury service or product, such as, but not limited to, a restaurant whose chef or operator has operated or is operating a Michelin star rated restaurant, or a luxury brand retail establishment, as determined by the city council in its discretion.
  6. If granted a parking reduction pursuant to § 10-3-2730.4 B. 5, the project's parking shall be reviewed by either the city council or planning commission after 6 months and 1 year of commencement of the use. If the reviewing body determines the reduced parking is insufficient, the applicant shall be required to make arrangements to provide sufficient parking either through the in lieu parking program, if available, providing additional covenanted parking spaces, or other means, as directed by the reviewing body.
- F. The conditional use permit for an alternative parking facility authorized by this section 10-3-2730.4 is a pilot program. The city council or planning commission may take action pursuant to this section 10-3-2730.4 on up to two (2) applications. Unless the city council extends this section 10-3-2730.4, this section 10-3-2730.4 shall be repealed after one (1) year of operational experience with each of the two projects.

**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.

**Section 10.** 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 11.** Effective Date. 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:

Effective:

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JOHN A. MIRISCH  
Mayor of the City of Beverly Hills

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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MAHDI ALUZRI  
City Manager



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SUSAN HEALY KEENE, AICP  
Director of Community Development

# ATTACHMENT 2

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permitted use before “Brewing or manufacture of alcoholic beverages” to read as follows with all other provisions in Section 10-3-2003 remaining unchanged:

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**Section 8.** The City Council hereby adds new Section 2730.4 to Article 27 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

**“10-3-2730.4: ALTERNATIVE PARKING FACILITY**

An alternative parking facility, as defined in section 10-3-100, may be used to meet the parking requirements of section 10-3-2730 provided the alternative parking facility and the use(s) for which it provides required parking do not include medical uses and are located in a commercial zone on property with a site area not exceeding sixteen thousand (16,000) square feet, and subject to the following:

- A. Conditional use permit required. A conditional use permit, issued pursuant to the provisions of article 38 of this chapter, shall be obtained prior to any alternative parking facility commencing provision of required parking spaces for any use.
- B. Standards. All alternative parking facilities authorized by a conditional use permit shall comply with the following standards:
  - 1. Except for required ingress and egress, all alternative parking facilities shall be fully enclosed and below grade. Alternative parking facilities and portions of buildings that contain alternative parking facilities shall be subject to Architectural Review;

2. Staging and queuing of vehicles shall occur on private property within a reasonable distance from the alternative parking facility and shall not impede travel and access within the public right-of-way;
3. The alternative parking facility shall be operated by one or more parking attendants, as determined through the conditional use permit process, at all times during the hours of operation, so that it is valet-operated to service the use needs of the commercial facility for which it provides required parking;
4. The design of the alternative parking facility shall meet all applicable California building codes, as approved by the community development department;
5. An alternative parking facility shall comply with all applicable development standards, including those set forth in Article 16.5 of this chapter, and excluding the City's minimum parking standards if modifications to those standards are approved as part of the conditional use permit;
  - a. The reviewing authority may condition an alternative parking facility to modify standards relating to minimum parking stall size, minimum drive aisle width, and drive aisle parking spaces, provided the applicant demonstrates that the facility will accommodate a range of vehicle types and will not have an adverse impact on the efficiency of the parking operation or the safety of people or property.

C. Information required for application. Application submittals for an alternative parking facility conditional use permit shall include information that the director of community development deems to be necessary to determine whether the alternative parking facility

can adequately meet the parking needs of the proposed development and determine that no substantial negative impacts will result from the facility. At a minimum, the following shall be provided as part of the conditional use permit application:

1. Site Plan: Submittal of a site plan prepared by a design professional indicating all structures; the alternative parking facility location; number of required parking stalls; site ingress and egress; proposed queuing location; and the identification of adjacent land uses;
2. Operations Plan: Submittal of an alternative parking facility operations plan describing the broadest range of operating hours allowed for the commercial use(s) to be served by the alternative parking facility; the number of parking attendants and working hours; methods for automobile storage and retrieval during and outside of regular business hours; vehicle drop-off and pick-up location(s) for customers; vehicle circulation path; location of staging area for vehicles waiting to enter the alternative parking facility. The operations plan shall also describe, with regard to the mechanical parking lifts and automobile elevators: maintenance schedules and additional parts inventory requirements to maintain optimal operations;
3. Technical Studies: Submittal of technical studies demonstrating that the proposed design and operation of the alternative parking facility will not be detrimental to surrounding uses and properties with regard to noise, visual impacts, area parking and circulation, and existing on-site improvements;

4. Disabled Access Parking: Submittal of evidence that the parking provided will comply with all applicable disabled access requirements;
5. Back-Up Power: Prior to issuance of building permits, the applicant shall provide documentation that the alternative parking facility will be equipped with back-up generators with sufficient capacity to allow operation of the parking system in the case of electrical failure. In an alternative parking facility with multiple automobile elevators, mechanical lifts, or both, each elevator and lift shall be individually operable such that mechanical failure of one would not prevent use of the others.

D. Findings. In addition to the findings outlined in article 38 of this chapter, a conditional use permit shall only be issued if the planning commission finds that:

1. The proposed location of the alternative parking facility will not be detrimental to adjacent property or to the public welfare;
2. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable method of providing code-required parking;
3. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;
4. The proposed alternative parking facility and operation thereof will not create any significantly material adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

E. Conditions of Approval. The reviewing authority may impose any conditions that are necessary to address any potential adverse impacts resulting from the constriction and use of an alternative parking facility to provide required parking, including but not limited to:

1. Inspection Report: A maintenance inspection report and usage report for any alternative parking facility, prepared at the sole expense of the applicant, shall be submitted at any time upon request from the community development department and no less than every six months for review by the city.
2. Service Contract: The owner of the alternative parking facility shall at all times maintain one or more contracts with an entity or entities that provides maintenance and 24-hour emergency service for the all aspects of the alternative parking facility, including but not limited to any automobile elevators and, mechanical parking lifts installed in the alternative parking facility.
3. Employee parking shall not be allowed on the site. A property on which an alternative parking facility is permitted shall provide free paid parking for all employees at an off-site and off-street parking facility. Verification of off-site location shall be provided to the Director of Community Development and shall be updated whenever employee parking demand changes. This provision shall not apply to covenanted parking spaces for employee use when the property on which an alternative parking facility is located includes parking required to be provided on the site pursuant to the provisions of a covenant.

4. If valet drop off locations associated with a property utilizing an alternative parking facility are proposed on city streets, excluding alleys, there shall be valet drop off space to accommodate a minimum of three vehicles.
5. A Conditional use permit for an Alternative Parking facility must be for a use providing a luxury service or product, such as, but not limited to, a restaurant whose chef or operator has operated or is operating a Michelin star rated restaurant, or a luxury brand retail establishment, as determined by the city council in its discretion.
6. If granted a parking reduction pursuant to § 10-3-2730.4 B. 5, the project's parking shall be reviewed by either the city council or planning commission after 6 months and 1 year of commencement of the use. If the reviewing body determines the reduced parking is insufficient, the applicant shall be required to make arrangements to provide sufficient parking either through the in lieu parking program, if available, providing additional covenanted parking spaces, or other means, as directed by the reviewing body.

F. The conditional use permit for an alternative parking facility authorized by this section 10-3-2730.4 is a pilot program. The city council or planning commission may take action pursuant to this section 10-3-2730.4 on up to two (2) applications. Unless the city council extends this section 10-3-2730.4, this section 10-3-2730.4 shall be repealed ~~at such time as two (2) applications have been submitted to and approved by the city after one (1) year of operational experience with each of the two projects.~~

**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.

**Section 10.** 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 11.** Effective Date. 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:

Effective:

\_\_\_\_\_  
JOHN A. MIRISCH  
Mayor of the City of Beverly Hills

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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LAURENCE S. WIENER  
City Attorney

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MAHDI ALUZRI  
City Manager

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SUSAN HEALY KEENE, AICP  
Director of Community Development