



AGENDA REPORT

Meeting Date: August 31, 2010

Item Number: E-2

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTION 10-3-2868 (C) OF THE MUNICIPAL CODE REGARDING THE MAXIMUM SEATING CAPACITY OF RESTAURANTS IN HOTELS LOCATED OUTSIDE THE BUSINESS TRIANGLE.

Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the City Council introduce an ordinance amending Section 10-3-2868 (C) of the Municipal Code regarding the maximum seating capacity of restaurants in hotels located outside the Business Triangle.

INTRODUCTION

On August 3, 2010, the City Council introduced for first reading an ordinance allowing increased restaurant capacity in hotels located on commercial property outside of the business triangle. The ordinance was adopted with the understanding that its provisions would not have the potential to increase restaurant seating in nonconforming hotels located on residentially-zoned properties. Increased activity in nonconforming hotels may have deleterious impacts to nearby residents, including possible increased traffic and parking congestion and noise.

Subsequent to the first reading, and after consultation with the City Attorney's Office, staff recommends that the City Council re-introduce the subject ordinance to ensure there is no uncertainty as to the intended, limited application of this ordinance to hotels on commercial properties.

ZONE TEXT AMENDMENT

The recommended Ordinance continues to permit hoteliers on commercial properties outside the Business Triangle the opportunity to request increased restaurant capacity to a maximum of 1.5 seats for each guestroom through a discretionary application and public hearing process. The existing provision allows a maximum capacity of 1.0 seat for each guestroom. The new language introduced by the ordinance would only apply to existing and new hotels located on commercial properties outside of the business triangle.

A distinctly different municipal code provision prohibits restaurants in nonconforming hotels in the City's R4 zone from expanding in area. While this provision limits the amount of area dedicated to restaurants in nonconforming hotels, it does not specifically prohibit an increase in seating within the existing restaurant area.

The proposed ordinance clarifies that the new capacity provision only applies to restaurant seating in hotels located on commercial property, and only subject to approval through a discretionary process. Nonconforming hotels with restaurants in the R4 Zone would be subject to existing prohibitions on expanding the area of a restaurant and remains limited to the previously adopted capacity limitations (1 seat for each guestroom).

ANALYSIS

The City Council concluded the public hearing on the subject ordinance. The proposed refinement reflects the majority of the City Council's direction on limiting the ordinance to existing and new hotels outside of the business triangle and located on commercial property.

The modification clarifies the limited scope of the proposed ordinance and would not result in changes to the intent of prior code amendments that limit the expansion of restaurants in nonconforming hotels.

Accordingly, the proposed ordinance results in no change to an existing provision related to hotels located on residential properties. It does, however, apply to five existing hotels and any future hotel with a restaurant located outside of the business triangle. The five existing hotels that would be subject to the proposed ordinance include:

- Thompson Hotel (9360 Wilshire)
- Beverly Wilshire (9500 Wilshire)
- Maison 140 (140 Lasky Drive)
- Mosaic Hotel (125 Spalding Drive)
- Peninsula Beverly Hills (9882 S. Santa Monica Blvd)

Because there is a change to the text language that was previously accepted by the City Council, staff recommends the ordinance be re-introduced for first reading. The second reading of the ordinance would follow on September 21, if approved by the Council.

ENVIRONMENTAL DETERMINATION

The Amendment has been reviewed pursuant to the California Environmental Quality Act (CEQA), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines. Pursuant to the State CEQA Guidelines Section 15305, minor alterations in land use limitations, the Amendment qualifies for a Class 5 Categorical Exemption, and is not anticipated to have a significant environmental impact. The Class 5 exemption is applicable because the changes in land use limitations would result in minor modifications to the amount of restaurant seating capacity that could be provided within hotels, and would apply in the City's commercial areas where slopes are less than 20%. Further, any increase in restaurant space within hotels is subject to discretionary review and analysis on a case-by-case basis, pursuant to the issuance of a Conditional Use Permit.

FISCAL IMPACT

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

PUBLIC NOTICE

A public hearing notice was mailed on July 23, 2010 to all property owners and residential occupants within a 300-foot radius of the subject property. Additionally, notice was published in the Beverly Hills Courier and the Beverly Hills Weekly, two newspapers of local circulation. The City Council closed the public hearing on August 3, 2010.

RECOMMENDED ACTION

It is recommended that the City Council introduce the ordinance amending Section 10-3-2868 C of the Municipal Code regarding regulations applicable to the seating capacities of restaurants located in hotels outside the Business Triangle.

Susan Healy Keene, AICP
Director of Community Development

 for SHC

Approved By

ATTACHMENT 1
Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING SECTION 10-3-2868 (C) OF THE MUNICIPAL
CODE REGARDING THE MAXIMUM SEATING CAPACITY
OF RESTAURANTS IN HOTELS LOCATED OUTSIDE THE
BUSINESS TRIANGLE.

WHEREAS, on June 10, 2010 and July 8, 2010, the Planning Commission conducted a duly noticed public hearing to consider a proposed amendment to the maximum restaurant seating capacity of restaurants in hotels located outside the Business Triangle as set forth in the Beverly Hills Municipal Code and recommended that the City Council approve the proposed amendment.

WHEREAS, on August 3, 2010, the City Council conducted a duly noticed public hearing to consider proposed amendments to the maximum restaurant seating capacity of restaurants in hotels located outside the Business Triangle and introduced the Ordinance.

WHEREAS, on August 31, 2010, the City Council considered and re-introduced the Ordinance with certain revisions to clarify the intent that the amended provisions apply only to hotels outside of the Business Triangle that are also within commercial zones.

WHEREAS, the City Council hereby finds and concludes that the Amendment has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA")), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's

Local CEQA Guidelines (hereafter the “Guidelines”), and the City’s environmental guidelines, and a Class 5 Categorical Exemption has been issued in accordance with the requirements of Section 15305 of the Guidelines to allow minor alterations in land use limitations. The Class 5 exemption is applicable because the changes in land use limitations would result in minor modifications to the amount of restaurant seating capacity that could be provided within hotels, and would apply in the City’s commercial areas where slopes are less than 20%. Further, any increase in restaurant space within hotels is subject to discretionary review and analysis on a case-by-case basis, pursuant to the issuance of a Conditional Use Permit.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF BEVERLY HILLS
DOES ORDAIN AS FOLLOWS:

Section 1. Subsection C of Section 10-3-2868 (REGULATIONS AND RESTRICTIONS APPLICABLE) of Article 28.6 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

“C. Hotels developed outside of that triangular area bounded by Wilshire Boulevard, South Santa Monica Boulevard, and the alley between Crescent Drive and Cañon Drive shall be restricted as follows:

1. Public assembly areas shall be prohibited.
2. The maximum capacity of any separate public meeting room shall not exceed one-third (1/3) of the number of guestrooms in the hotel.

3. The aggregate maximum capacity of all restaurants shall not exceed the number of guestrooms in the hotel, except that in commercial districts located outside of the business triangle, the aggregate maximum capacity of all restaurants shall not exceed one and one-half (1.5) times the number of guestrooms. Restaurants and dining in nonconforming hotels located in the R-4 Zone shall also be subject to the provisions set forth in BHMC Section 10-3-1207 (Dining in Nonconforming Hotels).

4. The maximum number of floors shall not exceed four (4) provided the height limitation set forth in subsection 10-3-2726A of this chapter is maintained.”

Section 2. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 3. 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 4. 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.

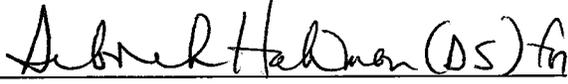
Adopted:
Effective:

JIMMY DELSHAD
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:

JEFFREY KOLIN
City Manager

 For Site

SUSAN HEALY KEENE
Director of Community Development