



AGENDA REPORT

Meeting Date: July 3, 2012
Item Number: G-4
To: Honorable Mayor & City Council
From: City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS REQUIRING CONVENIENCE STORES TO OBTAIN A CONVENIENCE STORE CONDITIONAL USE PERMIT AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE
Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends that the City Council move to approve the ordinance entitled: AN ORDINANCE OF THE CITY OF BEVERLY HILLS REQUIRING CONVENIENCE STORES TO OBTAIN A CONVENIENCE STORE CONDITIONAL USE PERMIT AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE.

INTRODUCTION

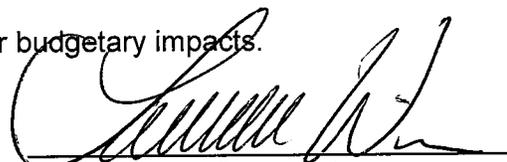
This ordinance will replace the current regulations by amending the City's Municipal code to include a permanent zoning regulation requiring all new convenience stores regardless of location in the City to first obtain a convenience store conditional use permit.

DISCUSSION

At the City Council meeting of June 19, 2012, the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

The recommendation in this report has no fiscal or budgetary impacts.



Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 12-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REQUIRING 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. 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 has been assessed with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. This Ordinance does not authorize construction, and in fact imposes the same restrictions on development as already exist under Urgency Ordinances 11-O-2608 and 11-O-2609 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 2. The Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy LU 5.8 “Encroachment of Incompatible Land Uses”

strives to protect residential neighborhoods from intrusion of incompatible uses and disruptive traffic.

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 the following definition between the terms “Common Property Line” and “Corner Lot” as they presently appear in 10-3-100, with all other definitions in the Section remaining unchanged:

“CONVENIENCE STORE: Any retail business selling general food and drink products not intended for home preparation and consumption with more than half the square footage of the retail sales floor area dedicated to the sale of such foods and drinks, tobacco, magazines, toiletries, or any combination thereof. ‘Convenience Store’ does not include a retail business occupying a tenant space whose primary entrance opens into the interior of a commercial building. ‘Convenience Store’ does not include newsstands, tobacconists, specialty food stores, or retail stores containing a licensed pharmacy.

Section 4. 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 the following definition between the terms “small family daycare home” and “story” as they presently appear in 10-3-100, with all other definitions in the Section remaining unchanged:

“SPECIALTY FOOD STORE: Any retail business dedicated to the sale of specialized types or classes of food and drink products, including but not limited to import food stores, bakeries, and chocolatiers.

Section 5. 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 the following definition between the terms “though lot” and “Trousdale estates” as they presently appear in 10-3-100, with all other definitions in the Section remaining unchanged:

“TOBACCONIST: Any retail business with at least ninety percent of its retail floor area dedicated to the sale of tobacco products such as cigarettes, tobacco, and pipes.

Section 6. The City Council hereby amends Section 10-3-1604 of Article 16 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses conditionally permitted in the C-3 Zone by adding “Convenience Stores not occupying a tenant space whose primary entrance opens into the interior of a commercial building” 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 7. The City Council hereby amends Section 10-3-1702 of Article 16 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses conditionally permitted in the C-3A Zone by adding “Convenience Stores not occupying a tenant space whose primary entrance opens into the interior of a commercial building” between the uses “Clubs” and “Drive-up, drive-in and drive-through facilities, subject to the provisions of section 10-3-1612 of this chapter” as they presently appear in 10-3-1702, with all other uses in the Section remaining as previously adopted.

Section 8. The City Council hereby amends Section 10-3-1802 of Article 16 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses conditionally permitted in the C-3B Zone by adding “Convenience Stores not occupying a tenant space whose primary entrance opens into the interior of a commercial building” between the uses “Clubs” and “Drive-up, drive-in and drive-through facilities, subject to the provisions of section 10-3-1612 of this chapter” as they presently appear in 10-3-1802, with all other uses in the Section remaining as previously adopted.

Section 9. The City Council hereby amends Section 10-3-2003 of Article 16 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses conditionally permitted in the C-5 Zone by adding “Convenience Stores not occupying a tenant space whose primary entrance opens into the interior of a commercial building” between the uses “Car washes that: A. Are enclosed in a building; B. Exclusively serve a business whose operation is primarily devoted to the sales, long term leasing or rental of automobiles or other motorized vehicles; C. Are located on the site of the business being served; and D. Do not exceed twenty feet (20') in width or forty feet (40') in length. When reviewing the conditional use permit application for such car washes, the planning commission shall consider the conditional use permit criteria set forth in section 10-3-1613 of this chapter” and “Educational institution uses teaching grade levels one through twelve (12)” as they presently appear in 10-3-2003, with all other uses in the Section remaining as previously adopted.

Section 10. The City Council hereby adds a new Section 10-3-3800.1 to Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code establishing a Convenience Store Conditional Use Permit:

“10-3-3800.1 CONVENIENCE STORE CONDITIONAL USE PERMIT. Where authorized in the zone, the City may permit Convenience Stores as a conditional use in the same manner that it would process an application for a conditional use permit pursuant to this Article 38. 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 Convenience Store including impacts associated with congregation. The City shall not approve a conditional use permit for a Convenience Store unless it makes all of the following findings:

1. The proposed use will contribute to and enhance the character of the neighborhood and location, and will promote harmonious development in the area, and will contribute positively to the branding and image of the city;
2. The proposed use will have adequate buffering between the use and residential areas, schools, parks, and locations where children gather, and will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed development;
3. The proposed use will not result in detrimental impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, and loading or manner of operation;

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 vicinity.”

Section 11. 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 require a convenience store conditional use permit, or any part thereof, is determined to be invalid, a convenience store use shall be construed as prohibited in the commercial zones.

Section 12. Repeal of Interim Ordinance. The City Council hereby repeals Interim Ordinance No. 11-O-2608 and Ordinance No. 11-O-2609 as last extended by Ordinance No. 12-O-2621, which repeal shall become effective only upon this Ordinance taking effect

Section 13. 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 14. 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:

WILLIAM W. BRIEN, MD
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:

JEFFREY C. KOLIN
City Manager



SUSAN HEALY KEENE
Director of Community Development