



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: July 2, 2013

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, City Planner/ Assistant Director of
Community Development
Peter Noonan, AICP CEP, Senior Planner, Community
Development

Subject: Scope and Timeline for Reviewing City's Regulation of Vacant
Non-conforming and Conditionally Permitted Uses

Attachments: 1. April 2, 2013 Staff Report

INTRODUCTION

On April 2, 2013, at the request of Mayor Mirisch, the City Council discussed the City's regulation of non-conforming and conditionally permitted uses on sites that have been vacant for extended periods of time. During the discussion, the City Council provided direction to the Planning Commission to review and develop a recommendation regarding current City regulations. This report presents a proposed scope and timeline for completing this work effort and returning to City Council.

The work scope presented in this report includes an analysis of regulations in other cities, potential impacts to neighborhoods, means of providing greater community input, and meeting General Plan goals and policies.

The proposed work plan does not include an analysis of economic implications, or of the ability to attract or retain businesses. If the City Council would like economic aspects explored, an additional work item can be developed which would include a request for a consultant to complete the economic analysis.

DISCUSSION

Non-conforming uses are uses that were allowed by-right at one time in the past, but are now prohibited or require some form of discretionary review, such as a conditional use permit.

Conditionally-permitted uses are uses reviewed and approved by the Planning Commission. The Planning Commission can add conditions of approval to a conditional

use permit in order to make the finding necessary to grant the permit and address any potential impacts which the use might have on the neighborhood.

Currently, the City's zoning code regulations allow non-conforming or conditionally permitted uses to continue with no further review, even if the property is left vacant for an extended period of time. A property loses the right to a non-conforming use when a conforming use is established, unless the non-conforming use is medical and the building is on the City's medical registry. Registered medical buildings are allowed to continue as medical buildings, even if non-medical uses are established in the building for some period of time. In all other instances, once a conforming use is established, a non-conforming use cannot later be re-established. Non-conforming uses and conditionally permitted uses cannot be expanded or intensified without further review by the City.

The Mayor had raised concerns regarding the City's regulations for the Council to consider for the following reasons: (1) during the time in which a property is vacant neighboring properties could change hands, or the community's vision for the area could change; (2) since there is currently no time limit on how long a property can remain vacant and retain its non-conforming or conditionally-permitted use rights, property owners, today, might be more apt to allow properties to remain vacant, waiting for a certain business type or rental rate before leasing the property again; (3) leaving a property vacant, and then reusing the property after an extended period of time represents changes to neighborhood character; (4) re-instating non-conforming or conditionally-permitted uses after a long period might cause impacts that were not originally foreseen and addressed when the use was originally permitted; (5) current regulations for the reinstatement of non-conforming and conditionally-permitted uses does not provide opportunities for community input.

For these reasons, at the April 2, 2013 meeting, the City Council directed staff to identify and explore the issues associated with re-instating non-conforming and conditionally-permitted uses on properties that have been vacant for an extended period of time.

The City Council identified the following aspects for inclusion in the Planning Commission's study:

- Broad community involvement of residents, property owners, and realtors;
- Greater development of the issues and potential alternatives;
- Case studies from other cities.
- Striking a balance between limiting impacts to neighborhoods, attracting and retaining businesses, assuring properties can be leased, and meeting the goals and policies in the City's General Plan.
- Full consideration of potential impacts of current regulations and alternatives, including analysis of the benefits and considerations of setting a maximum amount of time a property can remain vacant and retain its non-conforming or conditionally-permitted rights.
- Potential impacts to neighboring properties from continued non-conforming or conditionally-permitted uses,

- Potential impacts from changing to by-right permitted uses,
- Potential economic implications and impacts on the ability to lease non-conforming or conditionally-permitted properties and on the ability to retain and attract businesses.

Analysis of economic considerations is not included in the proposed work scope since there would be an added cost for a consultant to complete the study. If the City Council would like to include this aspect in the study at this time, an additional work scope can be brought forward with a request for funding.

Work Scope

Staff has developed the following Planning Commission work scope to address City Council direction, with work beginning in the 2013/14 Fiscal Year:

Staff Analysis

1. Staff will develop an issues statement that presents the City's current regulation of non-conforming and conditionally-permitted uses and land use considerations to be studied. The City will identify all properties that could be affected by a change in regulation in order to notify all affected property owners and neighboring residents and tenants. The city will also notify local real estate offices.
2. Staff will provide an update to the Planning Commission presenting the issues statement, and soliciting community input at a public hearing.
3. Staff will then develop case studies from other communities that have an established limit on how long non-conforming or conditionally-permitted properties can remain vacant before losing their rights.

Planning Commission Review and Public Outreach

4. All discussions will occur before the Planning Commission during publically noticed meetings. Affected property owners, neighbors and real estate agents will be notified of all meetings.
 - a. At the publically noticed meeting, staff will present the issue statement and case studies to the Planning Commission for consideration. Staff will also present information associated with setting a time limit, including:
 - i. Potential impacts from continuing a non-conforming or conditionally-permitted use,
 - ii. Potential new impacts from changing to a permitted by-right use,
 - iii. Ability to provide greater community input,
 - iv. Ability to meet goals and policies in the General Plan.
 - b. Planning Commission will consider all public comment when studying alternatives and making its recommendation.

City Council Review

5. The City Council will be presented with the results of the Planning Commission's study and its recommendation.

Meeting Date: July 2, 2013
Vacant Non-conforming, and Conditional Uses

Timeline

It is anticipated that this item will be completed by summer 2014.

FISCAL IMPACT

There would be no fiscal impact.

RECOMMENDATION

Staff will proceed as outlined in this report, unless otherwise directed by the City Council.

Susan Healy Keene
Director of Community Development

Approved By

Susan Healy Keene

Attachment 1

April 2, 2013 Staff Report



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: April 2, 2013
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development
Subject: Request by Mayor Mirisch to review the City's regulation of non-conforming and conditionally permitted uses that have been vacant for a period of time.

INTRODUCTION

At the request of Mayor Mirisch, information is being provided on the City's regulation of nonconforming uses and conditionally permitted uses.

DISCUSSION

The City's zoning ordinance regulates the size and location of buildings and permitted land uses. Some land uses are permitted by right, others may be conditionally permitted, and some are prohibited. The use of a property is declared 'nonconforming' when City policies change and the use no longer complies with current codes. For instance, a use that was previously allowed by right when it was established may now require a conditional use permit and, therefore, be determined nonconforming for lack of a conditional use permit.

Pursuant to local regulations (BHMC 10-3-4101), legally authorized uses that are now nonconforming with respect to current land use standards may continue to operate provided there is no expansion or alteration of the nonconforming use. If a nonconforming use is abandoned, the use may be reestablished at some point in the future provided there has not been an intervening use.

Some communities have regulations that would only allow a conforming use to be established once a nonconforming use was abandoned for a period of time, such as one or more years. During economic downturns and increased building vacancies, some property owners may end up losing their nonconforming rights with such regulations. Beverly Hills historically has had no limitation on when a nonconforming use can be reestablished.

Abandoned uses become more complicated when a property owner has previously received a conditional use permit. Since conditional use permit entitlements run with the land, the City may have to undertake a revocation process in certain circumstances to amend or revoke a conditional use permit. If directed by the City Council, there may be other alternatives not presently codified that could allow for certain limitations on conditional use permits that are no longer being used, but remain valid. However, more research with the City Attorney's office would be needed to explore those options.

Replacing nonconforming uses with conforming uses may not be possible in some instances because over time the City's parking and other building regulations have changed. If City Council is interested in establishing time limits on abandoned nonconforming uses, additional research is needed to better understand the possible impacts that parking and other building regulations would have on nonconforming properties.

FISCAL IMPACT

There is no fiscal impact associated with this report.

RECOMMENDATION

This report is provided at the request of a councilmember. Staff will proceed with this item based on direction from the City Council.



Susan Healy Keene
Director of Community Development