AGENDA REPORT

Meeting Date: July 2, 2013

Item Number: F-1

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, Assistant Director of Community Development

Subject: REQUEST FOR CITY COUNCIL DIRECTION REGARDING AN ALTERNATIVE IN-LIEU PARKING FEE STRUCTURE IN CONJUNCTION WITH THE ESTABLISHMENT OF SPAGHETTINI RESTAURANT.

Attachments: 1. May 7, 2013 Agenda Report

RECOMMENDATION

Staff recommends that the City Council receive information regarding a City Council ad-hoc committee meeting held to discuss a potential code amendment to the City's in-lieu parking fee structure, provide staff with direction regarding the ad-hoc committee's recommendations, and return the matter to the Planning Commission for review and refinement of the code amendment if so desired.

BACKGROUND

On May 7, 2013 the City Council considered a Zone Text Amendment and Alternative In-Lieu Parking Fee Agreement associated with the proposed establishment of Spaghettini Restaurant at 184 North Canon Drive. The Amendment and In-Lieu Agreement were intended to establish a procedure for allowing reduced in-lieu parking fees for certain restaurants on North Canon Drive when accompanied by broader public benefits offered to the City. The proposal presented to the City Council consisted of a lease-style in-lieu parking fee that would be charged annually for the life of the restaurant, but at a reduced rate as compared to the City's current in-lieu fee structure, in which fees are paid in a lump sum or over a fixed period of time. The fee previously proposed was equal to approximately 27%[1] of the standard in-lieu fee, and was

[1] The proposed monthly fee was based on 75% of the lowest monthly parking rate offered by the City, which equates to 27% of the standard in-lieu rate, amortized over a 10-year period.

accompanied by a variety of public benefits, including charity events and public concerts. The City Council reviewed the proposal, and ultimately determined that there was not Council support to move the Amendment and In-Lieu Agreement forward as presented. Upon making this determination, the City Council directed that an ad-hoc committee be convened to further discuss the proposal and determine whether a more appropriate Amendment and fee structure could be crafted.

AD-HOC COMMITTEE

The ad-hoc committee consists of Mayor Mirisch and Councilmember Gold. The committee held a meeting on May 24, 2013 with staff and the Spaghettini team to discuss various options for establishing an alternative in-lieu parking fee. At the meeting, the ad-hoc committee offered the following recommendations:

- The alternative program should be available to other businesses, not just Spaghettini.
- The alternative program should function as a lease that is tenant-specific and lasts only for the life of the business, as opposed to the City's current in-lieu program in which in-lieu parking spaces run with the land once paid in full.
- The lease rate should be an annual charge, and should be equivalent to 50% of the 10-year amortization rate that would be charged for a full-price in-lieu parking space.
- The lease should be subject to annual CPI increases.
- The lease concept should not include a provision for public benefits.
- The lease should be for a 10-year term with consideration of extension or renegotiation at the time of expiration.
- Notwithstanding Spaghettini's participation in the program, there is a desire to move forward with an amendment to establish a lease concept for in-lieu parking.

At the conclusion of the meeting, the ad-hoc committee directed staff to return to the City Council to present the above recommendations and determine whether there is support from the broader City Council to move forward with a program for reduced in-lieu parking fees. If the Council directs staff to move forward with the project, staff would return to the Planning Commission to make refinements to the Zone Text Amendment. Once refinements are made by the Planning Commission at a public hearing, an ordinance would be presented to the City Council for consideration.

CITY COUNCIL DIRECTION

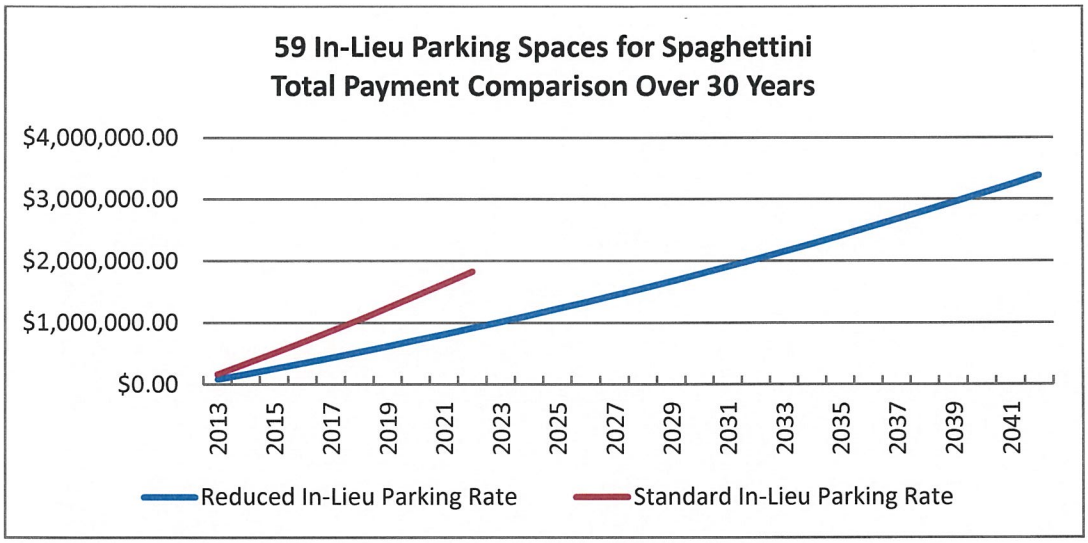
In light of the recommendations provided by the ad-hoc committee, staff seeks direction as to whether there is Council support to move forward with the establishment of an alternative in-lieu parking fee structure. Furthermore, staff recommends that significant changes to the City's in-lieu parking program be withheld until such time as staff is able to conduct a more comprehensive study (slated for Fiscal Year 2013-14) of possible changes to the program. In the event that there is Council support to move forward with an alternative fee structure and review process, staff would return to the Planning Commission to refine the program. In doing so staff would seek input from the Planning Commission regarding the following topics:

- Identification of eligible uses
- Geographic location of where the program would be available
- Whether the program should be a limited term pilot program
- Whether a lease of in-lieu parking spaces should be subject to a term limit
- Identification of the appropriate reviewing authority

The above reflects the items that staff contemplates presenting to the Planning Commission for consideration; however, staff also requests that the Council identify any additional topics that may require study in moving the amendment forward.

FISCAL IMPACT

This report seeks direction from the City Council, and action taken by the Council in response to this report will not have a fiscal impact. However, a basic comparison of standard in-lieu parking fees (for the 59 parking spaces needed for Spaghettini) versus the reduced in-lieu parking fee recommended by the ad-hoc committee (50% of current fees) is provided on the following page for reference. If the City Council moves forward with the ad-hoc committee's recommendation, additional analysis regarding the fiscal impact of reduced in-lieu parking fees will be provided at a later date, and will reflect any direction provided by the City Council and Planning Commission.



* An annual 2% CPI increase has been factored into the above calculations

RECOMMENDED ACTION

Staff recommends that the City Council receive information regarding a City Council ad-hoc committee meeting held to discuss a potential code amendment to the City's in-lieu parking fee structure, provide staff with direction regarding the ad-hoc committee's recommendations, and return the matter to the Planning Commission for review and refinement of the code amendment if so desired.

Susan Healy Keene, AICP
Director of Community Development

Susan Healy Keene

Approved By

ATTACHMENT 1

MAY 7, 2013 AGENDA REPORT

AGENDA REPORT

Meeting Date: May 7, 2013

Item Number: D-1

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, Assistant Director of Community Development

Subject:

A. ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-3311 REGARDING IN-LIEU PARKING FEES.

B. AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND NOTES ON A PLATE, LLC DBA SPAGHETTINI FOR AN ALTERNATIVE MONTHLY IN-LIEU PARKING FEE.

Attachments:

1. Ordinance
2. Alternative Monthly In-Lieu Parking Fee Agreement
3. Planning Commission Resolutions
4. Planning Commission Staff Report
5. Applicable General Plan Policies
6. Parking Inventory and Demand Analysis
7. Annual Value Analysis
8. Public Notice
9. Proposed Floor Plan

RECOMMENDATION

Staff recommends that the City Council receive public comment and discuss the proposed Zone Text Amendment and Alternative Monthly In-Lieu Parking Fee Agreement (In-Lieu Agreement) with public benefits presented on behalf of Spaghettini Restaurant. Should the Council determine that the amendment and In-Lieu Agreement are appropriate, staff recommends the Council move to waive the full reading of the ordinance and that the ordinance entitled "An ordinance of the City of Beverly Hills amending Beverly Hills Municipal Code Section 10-3-3311 regarding in-lieu parking fees" be introduced and read by title only. Additionally, staff recommends that the City Council approve an Alternative Monthly In-Lieu Parking Fee Agreement for the property located at 184 North Canon Drive, effective only if the ordinance takes effect.

REPORT SUMMARY

This report analyzes a proposal to establish a new restaurant use at 184 North Canon Drive by amending the Municipal Code to establish alternative in-lieu parking provisions that allow for reduced fees when public benefits are offered to the City. This report reviews the establishment of restaurants in Beverly Hills focusing on parking requirements, the Spaghettini restaurant project including proposed public benefits, the proposed Zone Text Amendment, and analyzes the amendment and the proposed In-Lieu Agreement with Spaghettini.

ESTABLISHING A RESTAURANT

New restaurants may be established by-right in the City's commercial zones if applicable code provisions are met. Generally, restaurants are subject to the same code provisions as other uses allowed in the C-3 zone, such as retail and office uses, with the exception of parking requirements. Restaurants containing less than 1,000 square feet of dining and bar area can be established within most general commercial spaces without providing additional parking[1], since the parking rate for such a restaurant is no greater than that of a retail or office use (one parking space per 350 square feet of building floor area). However, difficulties often arise when a restaurant proposes a dining and bar area of 1,000 square feet or more, as this changes the parking requirement to one space per 45 square feet of floor area for the entire dining and bar area (approximately 8 times more parking than would otherwise be required for a retail or office use parked at one space per 350 square feet).

Many of the commercial buildings in the City have restaurant spaces that predate the more stringent parking requirement of one space per 45 square feet, or the building owners did not contemplate having such a restaurant as a tenant at the time the buildings were designed. Therefore, many commercial buildings do not provide sufficient parking to accommodate a restaurant with 1,000 square feet or more of dining and bar area. When a restaurant operator desires to establish a 1,000 square foot or larger restaurant or bar in a space not previously occupied by a restaurant or bar, there are limited options for providing parking pursuant to Code requirements:

> **On-Site Parking.** The simplest solution for providing additional parking to accommodate a restaurant is if the site has excess on-site parking (above and beyond the number of spaces required for all other uses within a building). However, buildings are rarely built with excess parking, and restriping to gain additional spaces is generally not feasible due to area and dimensional constraints. Furthermore, constructing additional parking (above- or below-grade) can be cost prohibitive, especially for a restaurant.
>
> **Off-Site Parking.** Off-site parking spaces are an option, but they must be located within 750 feet of the restaurant, and cannot be required parking for any other use. Additionally, off-site parking must be covenanted to the restaurant for the life of the restaurant. Locating available off-site parking can be challenging, since most buildings do not contain excess parking spaces that can be made available for restaurant uses.

[1] The 1,000 square foot threshold for dining and bar area applies to each property, and not to each individual tenant space. Additionally, properties located on the north side of South Santa Monica Boulevard are allowed up to 2,000 square feet of dining and bar area on each property, but not more than 1,000 square feet of dining and bar area within each tenant space.

Furthermore, most owners of property containing excess parking are typically not willing to encumber their property/parking by way of an off-site parking covenant that remains in place for the life of a restaurant. Small numbers of off-site parking spaces are occasionally approved by the City for limited expansions, but off-site parking can be difficult to obtain when it comes to the establishment of larger restaurants.

In-Lieu Parking. This is a program that is currently available only to businesses[2] located in the Business Triangle, and allows businesses to pay into the City's in-lieu parking fund on a per space basis, which relieves the business of the obligation of providing a physical parking space either on- or off-site. The cost of each in-lieu parking space varies by location within the Business Triangle. Additionally, existing restaurants that wish to expand are eligible for a reduced fee, while new restaurants must pay the standard (non-reduced) rate. There is no limit placed on the number of reduced-fee spaces that an expanding restaurant may request, provided it is the first such request by the restaurant. Subsequent requests for reduced-fee spaces may be made, but only if fewer than 15 reduced-fee spaces were originally granted. Once the cumulative sum of 15 has been reached under a subsequent request, the standard rate would apply to the number of spaces in excess of 15. In-lieu parking rates are set forth as follows, and may be paid as a lump sum, or in annual installments over either a 4-year or 10-year period (subject to CPI increases)[3]:

Location	New Restaurant	Restaurant Expansion
Beverly Drive	$37,605.80 per space	$11,675.00 per space
Rodeo Drive	$47,007.40 per space	$11,675.00 per space
Other Locations in Business Triangle	$28,284.60 per space	$11,675.00 per space

Although there have been instances of new restaurants paying the standard in-lieu parking rates (typically for fewer than 10 spaces), staff has generally been informed by restaurant operators seeking to establish a new restaurant that the cost of in-lieu parking can be prohibitive due to start-up costs and the lower profit margin associated with food sales. This aligns with the information communicated early in the application process by Spaghettini Restaurant, and is the basis on which the proposed amendment and In-Lieu Agreement are being requested.

[2] Uses eligible to request in-lieu parking include retail, food, personal service (salons, tailors, etc.), equipment rental, museums, and historic places. General office and financial uses are excluded from participating in the in-lieu parking program.

[3] Pursuant to BHMC §10-3-3313, when a restaurant use is located in an existing building and has a lease term of 15 years or less, the restaurant may pay for the in-lieu parking in 10 annual installments. Non-restaurant uses, or restaurants with longer than a 15-year lease, are subject to payment over 4 annual installments.

PROJECT PROPOSAL AND ANALYSIS

Spaghettini Restaurant

Spaghettini is a dining and entertainment establishment that has been located in Seal Beach since 1988. Spaghettini offers a variety of food choices, and provides live entertainment five nights per week. The proposed project consists of the establishment of an approximately 5,000 square foot Spaghettini restaurant in Beverly Hills, of which, approximately 2,600 square feet would be utilized for dining and bar purposes. The restaurant is proposed to be open for lunch and dinner until 1:00 AM nightly. In conjunction with the restaurant use, the applicant proposes live musical entertainment (generally of a jazz genre) that would accompany dining.

With development of the project, the subject site requires 62 parking spaces. The building currently provides four on-site parking spaces; however, one of the on-site spaces will be eliminated to accommodate a required disabled access space. Accordingly, 59 additional parking spaces are required for the project, and the applicant proposes that the additional spaces be provided through the City's in-lieu parking program at a reduced fee.

Pursuant to the proposed Zone Text Amendment, the reduced fees to the City would be offset in part by public benefits provided to the City by the applicant. Specific information regarding the individual project proposal to establish Spaghettini Restaurant is set forth as follows:

Parking Supply.

In order to assess the request for in-lieu parking spaces, the applicant's transportation consultant prepared a parking inventory and demand analysis. The inventory and demand analysis studied four City parking facilities located within walking distance of the project site[4], and concluded that sufficient parking is available to accommodate the in-lieu parking request at all times of day[5]. Excluding certain spaces reserved for specific uses (hotel, residential, and new-car inventory), the four parking facilities have a combined total of 1,925 spaces that are available to transient users. The inventory and demand analysis documented that cumulative peak parking demand occurs at 1:00 PM on Thursday afternoons, at which time an average of 75% of the available parking spaces within the four garages are occupied[6], therefore 25% of the spaces (479 spaces) remain available for future demand. These figures are consistent with demand trends observed by the City's Parking Operations Division, and the complete parking inventory and demand analysis is provided as Attachment 6 for reference. In addition to the parking study's conclusion that

[4] 241 N. Canon Drive (Montage), 333 N. Crescent Drive, 221 N. Crescent Dr., and 9361 Dayton Way.

[5] It should be noted that the parking inventory and demand analysis refers to various numbers of parking spaces required for the project, which at times may appear to be contradictory to other information presented in this report. Specifically, the study references a code requirement of 69 spaces, which is based on an earlier restaurant floor plan. The floor plan approved by the Planning Commission requires a total of 59 additional parking spaces, rather than the 69 spaces discussed in the study. Additionally, the study references a peak parking demand of 92 parking spaces on Saturdays. The peak demand of 92 spaces is based on estimates set forth in the Institute of Transportation Engineers (ITE) parking generation manual, and should not be construed as a code requirement. The estimated demand analysis was prepared solely to document adequate parking availability, even under a worst-case scenario.

[6] 241 N. Canon Drive: 80% occupied, 333 N. Crescent Drive: 71% occupied, 221 N. Crescent Drive: 83% occupied, and 9361 Dayton Way: 51% occupied.

sufficient parking exists to accommodate the restaurant use at all times of day, staff anticipates lunchtime parking demand to be slightly less than in the evening, as patrons may be more likely to walk to the restaurant from surrounding offices within the Business Triangle during daytime hours. Furthermore, entertainment is not offered during lunch hours, which may result in fewer lunch patrons.

Lease of Spaces for Valet Operations. The in-lieu parking program relieves applicants of the requirement to construct physical parking spaces, but does not provide them with free access to parking spaces within City parking facilities. In order to succeed operationally, the applicant still requires access to physical parking spaces that can be utilized in conjunction with its valet operations, but this is not a City requirement. Valet spaces can be achieved through parking agreements with either private or public parking facilities.

In this case, the project includes a request to lease up to 70 monthly parking spaces from the City's 221 North Crescent Drive parking structure, for up to 10 years. The 221 North Crescent Drive parking structure contains a total of 713 parking spaces; however, only 581 of the spaces were counted during the parking inventory assessment in order to exclude spaces currently leased by the Audi dealership for new-car inventory. Of the 581 spaces available, peak occupancy was 83% (482 spaces) with 17% (99 spaces) remaining available to accommodate Spaghettini or other transient users. Based on this information, sufficient space is currently available to accommodate a Spaghettini lease agreement for 70 spaces. Furthermore, the City is able to modify or terminate its lease with Audi, which if necessary, could cause over 100 additional parking spaces to become available within the garage. The 221 North Crescent Drive parking structure currently leases spaces for $90.00 per month. The proposed monthly lease rate would be 85% of the standard lease rate at the facility (a bulk rate), which equals a monthly rate of $76.50 per space based on the current monthly rate. The City has historically granted reduced below market rates to tenants and bulk purchasers maximize service to the public and revenue. Provided the applicant leases 70 spaces per month at the discounted rate, the annual cost to lease the 70 spaces would be $64,260.00. The rate would not adjust annually with inflation, but would adjust whenever the monthly parking rate at the subject facility changes so that the applicant's rate remains at 85% of the standard rate.

Proposed Public Benefits. As a justification for requesting the reduced in-lieu parking fees and lease fees, the applicant has proposed a variety of project components that are intended to be broader public benefits that offset the financial costs associated with the City providing a reduced in-lieu parking fee. The proposed benefits are listed below in italics, followed by staff analysis.

> *Centennial Celebration Event. The applicant will host a charitable event in conjunction with the Beverly Hills Centennial Celebration. The event will accommodate at least 200 guests. The Applicant will provide food, beverages and jazz genre musical entertainment for the event. The Applicant will donate all event ticket sale proceeds to a charitable organization based in Beverly Hills and approved by the City.*
>
> This benefit allows the City to promote the Centennial Celebration, while simultaneously donating to a local charitable organization that supports the broader goals of the City. This public benefit is valued at approximately $20,000 based on average costs the City has experienced when hosting similar events.

Garden Concerts. The applicant will annually provide jazz genre musical entertainment for three "Concerts in the Gardens" series at the Beverly Cannon Gardens, which is located on Canon Drive near the site. The entertainment proposed by the applicant would be subject to the City's approval. This provision shall terminate after 10 years.

This benefit supplements the City's current programs and supports the broader goals of the City by providing outdoor entertainment opportunities for residents and visitors. This public benefit is valued at approximately $15,000 annually, or $150,000 over 10 years. The cost basis was provided by the City's Community Services Department, which hosts these types of events during the year.

Greystone Mansion Concerts. The Applicant will annually provide jazz genre musical entertainment and food (hors d'oeuvres) for three charitable fundraiser concerts at Greystone Mansion. The concert ticket sale proceeds will be donated to the Friends of Greystone for the exclusive benefit of the Greystone Estate. The Applicant will be responsible for the food, and all physical presence and hard costs related to the entertainment, including, without limitation, the costs of lighting and sound vendors and the entertainment. The entertainment proposed by the Applicant is subject to the City's approval. This provision shall terminate after 10 years.

This benefit would restore the City's program of holding concerts in the Greystone Mansion. The City previously held similar events at the mansion, but the events were eliminated due to budget constraints. Not only would this benefit restore a past program, it would also generate revenue for the Friends of Greystone to allow for the continued restoration of the property. This public benefit is valued at approximately $45,000 annually, or $450,000 over 10 years. The cost basis was provided by the City's Community Services Department, which hosts these types of events during the year.

Beverly Canon Gardens Holiday Concert. The Applicant will annually provide jazz genre, holiday-themed, musical entertainment for a winter holiday concert in the Beverly Canon Gardens. The entertainment proposed by the Applicant is subject to the City's approval. This provision shall terminate after 10 years.

The City currently provides concerts in the spring and summer, but does not offer a holiday concert. This public benefit would allow the City to expand its current concert program, and would help to kick off the holiday season and contribute to festivities and retail operations. This public benefit is valued at approximately $5,000 annually, or $50,000 over 10 years. The cost basis was provided by the City's Community Services Department, which hosts these types of events during the year.

Beverly Hills Holiday Ice Rink. For a period of three years, the Applicant will provide jazz genre musical entertainment for the opening day of the Beverly Hills Holiday Ice Rink. The entertainment proposed by the Applicant is subject to the City's approval.

The City recently hosted a successful holiday ice rink program. In order to enhance this program in the coming years, musical entertainment would accompany the opening day of the ice rink for the next 3 years. This will help to promote use of the ice rink and enhance holiday festivities in the City. This public benefit is valued at approximately $7,000 annually, or $21,000 over 3 years. The cost basis was

provided by the City's Community Services Department, which hosts these types of events during the year.

Additional Project Features. In addition to the above benefits, the applicant hosts a weekly radio broadcast show on 94.7 The Wave, and hosts an annual charity event associated with the Grammy Awards. As a result of contractual limitations, the radio broadcast and charity event are not guaranteed to continue throughout the years, but are intended to be carried out by the applicant for the foreseeable future. These activities are not included in the calculation of total benefits due to their uncertain nature and the applicant would not be penalized in the event that the applicant loses the ability to perform either of the activities. Details on these activities are as follows:

Radio Broadcasting and Promotion. The applicant currently hosts a weekly radio broadcast on 94.7 The Wave. The applicant will provide five, 30-second promotional broadcasts (related to City events) per week, in conjunction with their usual broadcast.

The radio broadcasts and promotions will help to highlight events in Beverly Hills and attract visitors to Spaghettini and other activities in Beverly Hills. These broadcasts are a part of the restaurant's normal operations, but can be used to showcase the different activities that Beverly Hills has to offer. To the extent feasible, since the applicant's contract with the radio station is not guaranteed, this benefit would occur for a period of 10 years. The promotional airtime is valued at approximately $130,000 annually. The cost basis has been provided by the applicant, and has not been independently verified by staff.

Grammy Event. The applicant will host an annual fundraiser for the Grammy Foundation.

The Grammy fundraiser is currently conducted from the restaurant's Seal Beach location. The event is part of normal business operations, but would be moved to the Beverly Hills location. The event helps to highlight the Grammys and fundraising as well as Spaghettini, and would be expected to attract visitors to Beverly Hills. The Grammy Foundation is a national organization, so it is difficult to quantify the benefit to the City; however, the added attention associated with the Grammys could be a benefit to the City. To the extent feasible, since the applicant's coordination with the Grammy Foundation is not guaranteed, this benefit would occur for a period of 10 years. The applicant values the event at $30,000 annually. The cost basis has been provided by the applicant, and has not been independently verified by staff.

Zone Text Amendment

Because it can be difficult for restaurants to pay the City's current in-lieu fees for the number of parking spaces required to meet code, the applicant proposes amending the Municipal Code to establish a pilot program on North Canon Drive that would allow for a reduction of in-lieu parking fees associated with restaurants that provide live entertainment and offer public benefits to offset the reduced in-lieu parking fees. The Planning Commission would continue to review and approve the inclusion of a business in the City's in-lieu parking program, but the City Council would be the reviewing authority for each agreement and any public benefits associated with reduced in-lieu parking fees. The Municipal Code currently allows the Planning Commission and City Council to reduce or waive in-lieu parking fees, but only for museum uses and adaptive reuse of buildings listed on the National Register of Historic Places (Spaghettini does not qualify as either). The current in-lieu parking fee that the applicant would otherwise be subject to is $28,284.60 per space ($1,668,791.40 for 59 spaces), paid over 10 years ($166,879.14 annually for 59 spaces).

Pilot Program for Alternative In-Lieu Parking Fee. The proposed in-lieu parking fee, as set forth in the attached ordinance (Attachment 1) would be a pilot program that functions as a lease concept that is paid in perpetuity, provided the restaurant remains operational[7]. Because the proposed fee structure would functionally serve as a lease, the fee's cost basis has been tied to the City's monthly parking rates offered at City-owned parking facilities. The City's least expensive monthly parking rate is $75.00 per month (450 North Crescent Drive). In order to encourage public benefits that serve the broader City, and in recognition of the fact that the fee will be paid in perpetuity (as opposed to only being for a 10-year term), the proposed in-lieu parking fee would be $63.75 per space per month, which is a 15% discount on the City's least expensive monthly parking rate of $75.00 per space. This rate equates to $765.00 per space per year, or $45,135 annually for the 59 parking spaces required by the project. Additionally, the rate would be adjusted annually in accordance with the Consumer Price Index in order to account for inflation.

Applicability of Proposed Zone Text Amendment. The proposed Zone Text Amendment, which offers an alternative in-lieu parking fee, would be available to any restaurant (existing or new) on North Canon Drive that meets all of the following:

- The restaurant has a deficit of 100 or fewer parking spaces;
- The restaurant provides live evening entertainment at least four nights per week; and,
- The restaurant offers an appropriate level and type of public benefits, pursuant to an agreement approved by the City Council.

Although the proposal to amend the Municipal Code is being pursued by Spaghettini Restaurant as an individual applicant, staff has received inquiries from other restaurants that may be interested in participating in the pilot program should the City Council approve the amendment. Subsequent projects meeting the above criteria would be eligible to seek the alternative in-lieu parking fee, but would require review by the Planning Commission and City Council on an

[7] The In-Lieu Agreement would apply to the individual restaurant, and would not run with the land. Subsequent restaurants desiring to participate in the pilot program would be required to initiate a new application that would be reviewed by the Planning Commission and City Council.

individual basis to determine the desirability of the use and the appropriateness of public benefits.

Sunset Provision. The proposed amendment is intended to serve as a pilot program that explores an alternative fee structure for in-lieu parking, and therefore includes a sunset provision that would cause the pilot program to be repealed on November 1, 2013 if not extended by the City Council. If desired by the City Council, staff could report back on the pilot program prior to its termination to see whether there is interest in extending it; however, staff notes that the November 1, 2013 repeal date may not provide sufficient time for build out, operation, and analysis of the Spaghettini project that might provide meaningful feedback for the City Council.

CITY COUNCIL/PLANNING COMMISSION LIAISON MEETING

Prior to the Planning Commission's review of the project, two meetings were held with the City Council and Planning Commission Liaison Committee[8] to discuss the project, in which the Committee confirmed the desirability of nightlife and entertainment associated with uses such as Spaghettini[9]. Some of the City Council's goals and policies associated with attracting nightlife and entertainment uses were discussed, and are further addressed in the "POLICY ANALYSIS" section of this report.

PLANNING COMMISSION REVIEW

Subsequent to the Liaison Committee meetings, the project and Zone Text Amendment were presented to the Planning Commission at its March 28, 2013 meeting. The Planning Commission considered a request for 59 in-lieu parking spaces, an Extended Hours Permit request to operate until 1:00 AM nightly[10], and was asked to provide a recommendation regarding the Zone Text Amendment. In reviewing the proposal, the Planning considered numerous General Plan policies that relate to the project (Attachment 5), and considered all required findings needed for project approval. Based on the information presented at the public hearing, the Planning Commission found that the proposed project would be consistent with the General Plan, would provide a desired land use within the Business Triangle, and would not result in any adverse impacts, particularly with respect to parking, traffic, and noise. Based on these findings, the Planning Commission conditionally approved the request for in-lieu parking and an Extended Hours Permit, contingent on the City Council's approval of the Zone Text Amendment and In-Lieu Agreement[11]. Additionally, the conditions of approval preserve the City's jurisdiction over noise, traffic, and parking issues, and the City has the ability to impose additional conditions on the project in the event that unanticipated impacts result.

---

[8] The Liaison Committee consisted of City Council Members Brien and Bosse, and Planning Commissioners Corman and Rosenstein.

[9] Due to a scheduling conflict, Planning Commissioners Corman and Rosenstein were not present at the first meeting.

[10] The property is subject to the City's transitional use standards due to its adjacency to residential land uses located immediately east of the project site across the alley. Businesses operating in the transitional use areas cannot accept new patrons beyond 10:00 PM without approval of an Extended Hours Permit.

[11] The Planning Commission voted 3-0 (Chair Corman and Vice Chair Rosenstein were absent) in support of recommending the Zone Text Amendment and In-Lieu Agreement to the City Council.

In its review of the Zone Text Amendment, the Planning Commission weighed the pros and cons of establishing a pilot program for an alternative in-lieu parking fee, and ultimately found that a pilot program would be a desirable way to explore options that might help to reduce some of the barriers experienced by restaurants trying to open in the City. The Planning Commission indicated that the proposed public benefits offered to the City appeared to be desirable and may be appropriate given the nature of the request for alternative in-lieu parking fees, but ultimately left the final discussion and decision to the City Council since it is a legislative and fiscal matter. The Planning Commission staff report (Attachment 4), resolution conditionally approving in-lieu parking and an Extended Hours Permit (Attachment 3), and resolution recommending adoption of the Zone Text Amendment (Attachment 3) have been provided for additional reference and details.

POLICY ANALYSIS

The following section focuses on key policy issues relevant to the project and pilot program, and serves to assist the City Council in its assessment of the request.

In-Lieu Parking Policies. The City's in-lieu parking program was established to provide an alternative method for businesses in the Business Triangle (primarily retail and restaurant) to meet the City's parking requirements, particularly when site constraints preclude the feasibility of building new parking spaces. The fees charged for in-lieu parking spaces were initially designed to reimburse the City for the construction costs of building new parking spaces (exclusive of land value). While the fees have generally increased over the years with annual fee adjustments, the fees have not kept up with average construction costs (on a per space basis) associated with building a parking structure. The City Council has requested that staff study the in-lieu parking program during the 2013-2014 fiscal year, and provide options for administering and possibly expanding the program. The 2013-2014 Community Development Department budget includes $100,000 to provide contract services for a consultant to assist with this effort. While it is anticipated that changes to the program will result from future discussions with the City Council, this particular application precedes the broader discussion. As a result, the amendment has been crafted as a pilot program.

Notwithstanding the limited nature of a pilot program, there are equity issues to be considered with respect to other restaurants (existing and potential future restaurants) on North Canon Drive and throughout the City that have purchased, or would like to purchase in-lieu parking spaces. Some restaurants previously obtained in-lieu parking spaces under the City's current provisions, or would be subject to the current provisions in the future depending on their individual circumstances. In addition to restaurant uses, retailers have purchased in-lieu parking spaces at the standard rate. For these reasons, the Council may wish to discuss whether a pilot program for reduced in-lieu parking fees is an appropriate approach.

City Parking Garage Policies. Notwithstanding the information in the parking inventory and demand analysis for the Spaghettini project that demonstrates sufficient parking availability to accommodate the restaurant, there are certain City policies that can be, and are currently utilized to maximize the use and availability of City parking facilities. As a general practice and in order to maintain revenue, the City actively tries to fill its parking structures whenever possible, which includes regular transient users, the leasing of spaces to monthly-parkers, and storage for auto dealership inventory. Transient

users of City facilities are considered to be the top priority as they patronize retail and restaurant establishments, while monthly leases for office uses and vehicle storage are generally considered to be a lower priority. The monthly leases help to ensure that City facilities do not sit empty, and leases can be modified on short notice whenever transient demand increases. The ability to modify monthly leases is an important component of ensuring parking availability, and modification can include relocation to a different facility that is less impacted, or in extreme cases termination of the lease. This is a policy that will continue to be utilized into the future to ensure that City facilities are utilized effectively, and can be modified at Council's direction if appropriate. In the event that monthly parking spaces associated with Spaghettini result in a future parking shortfall, these parking policies could be utilized to address any such shortfall and ensure efficient operation of the City's facilities.

Promoting Nightlife / Incentives for Certain Land Uses. The proposed amendment creates an incentive for one specific land use: restaurants located on North Canon Drive that include an evening entertainment component. The proposed restaurant use includes an entertainment component conducted in conjunction with restaurant operations. As outlined below, the City Council has expressed an interest in attracting entertainment-type uses within the Business Triangle in order to promote more nightlife within the City. Although the proposed restaurant use is not an entertainment-specific use, the musical component of the restaurant's operations may be a beneficial addition to the Business Triangle, and may lead to the improved nightlife desired by the City Council. The City's residents and visitors currently have limited opportunities to enjoy music and nightlife within the City, and the addition of such a use may help to encourage other business owners to stay open later into the evening.

In particular, one of the City Council's goals, as discussed in various meetings and set forth in the 2012-2013 budget work plan is to promote nightlife, and another is to consider incentives to attract certain types of businesses. The budget work plan states the following:

> *Vision Statement #5: Beverly Hills is known internationally for its alluring and distinctive hotels, retail stores, restaurants, and entertainment and headquarter businesses.*
>
> > *In coordination with the business community, develop a strategy to promote and establish nightlife uses in the City's Business Triangle and other key commercial areas.*
> >
> > *Begin implementation of Small Business Assistance Task Force recommendations. Incorporate business diversity initiatives such as consideration of incentives and attracting a balance of high-end, unique and community-serving businesses.*

In addition to the 2012-2013 budget work plan, the City's Economic Sustainability Plan for 2011-2015 states the following as top priorities:

> *<u>Priority Project 1: Clientele Attraction/Business Development Initiatives</u>. The City is also expanding efforts to attract businesses that appeal to younger consumers and grow nightlife in the City. (Page 11)*

Two specific programs under this priority include:

- *Produce broader platform of signature events and destination promotions.*

- *Complete review of and begin implementation of Business Attraction Strategy, including attracting both high-end and unique-local businesses along with community serving businesses. Consider financial incentives.*

Priority Project 2: City Service and Process Enhancement Initiatives. (Page 12)

Two specific programs under this priority include:

- *Review business tax and permit fee structure with a view to developing potential business attraction/retention incentives; attract both high-end and unique-local businesses along with community serving businesses. Consider financial incentives where appropriate.*

- *Identify, prioritize and develop 5-year schedule to eliminate obsolete zoning provisions and remove obstacles to development, including modification of nightlife/entertainment regulations and fees.*

Beverly Hills is associated with fine dining, but has not always had a broad variety of entertainment and nightlife options for residents and visitors. Based on the recommendations set forth in the budget work plan and Economic Sustainability Plan, Spaghettini may be viewed as helping to achieve some of these goals, particularly with respect to nightlife and entertainment. Although nightlife is considered desirable, staff also recommends that the Council consider whether the type of incentives that would be created by the amendment are an appropriate way to achieve the goal of nightlife.

Public Benefits. The City Council has previously identified nightlife as an important community goal, and this proposal, with the incorporation of reduced in-lieu parking fees, could move the City closer to achieving that goal. Whenever public benefits are offered to the City in exchange for certain development incentives, weighing the public benefits against the development incentives can be challenging. In this particular case, the public benefits would be obtained at the expense of in-lieu parking fees, and the public benefits should be of an appropriate nature to justify the reduced fees. In reviewing projects accompanied by public benefits, the City Council may wish to discuss whether it would be desirable to develop a menu of preferred public benefits. Since such a menu does not currently exist, staff has been involved in numerous discussions with the applicant regarding the type and level of benefits to be provided in conjunction with the project. Staff believes that the proposed public benefits associated with community events are appropriate, particularly on a limited basis as a pilot program, in that the benefits reflect the needs of the community and will help to attract a desired land use.

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 Zoning 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 proposed project consists of minor alterations in land use limitations for the purpose of establishing an alternative fee structure for in-lieu parking.

FISCAL IMPACT

In order to provide an assessment of the financial impacts of the project, staff has prepared a monetary value comparison between the standard in-lieu parking rate versus the discounted in-lieu rate plus public benefits, over a 30-year period. In order to account for estimated inflation, an annual 2% increase (compounded) has been applied. Over a 10-year period the proposed reduction in in-lieu parking fees would result in a paper loss of $579,909.70 for the City. The reason staff identifies this as a paper loss is that the proposed use will not contribute any money to the City's in-lieu parking fund if it is required to pay the full price, as Spaghettini is unable to afford the full in-lieu parking rate and would therefore not be established at the subject property. Additionally, no public benefits would be provided if the standard rate were paid. The City's existing parking structures are already operated within the existing budget, and have sufficient capacity to accommodate the proposed project. Any money paid by the applicant into the in-lieu parking fund could be used toward future parking facilities. While the amount of money contributed would be less than the standard rate, the reduced rate may be viewed as desirable when coupled with the proposed public benefits. Furthermore, under the proposed In-Lieu Agreement, an annual fee (with CPI increases) would be contributed to the City for the life of the restaurant, rather than only for the standard 10-year period. This would provide an ongoing revenue stream for the in-lieu parking fund into the future (provided the restaurant continues to operate). A basic comparison of the standard fees versus the reduced fees plus public benefit value, over a 30-year period, is provided below for analysis purposes. A detailed, annual breakdown of monetary value is provided as Attachment 7.

	Initial Monthly Value	Initial Annual Value	Value at 10 Years	Value at 20 Years	Value at 30 Years
Standard In-Lieu (Per Space)	$235.70	$2,828.46	$30,970.85*	$0	$0
Proposed In-Lieu (Per Space)	$63.75	$765.00	$8,376.54*	$18,587.49*	$31,034.58*
Standard In-Lieu (59 Spaces)	$13,906.30	$166,879.14	$1,827,280.02*	$0	$0
Proposed In-Lieu (59 Spaces)	$3,761.25	$45,135.00	$494,215.66*	$1,096,661.79*	$1,831,040.25*
Public Benefits	N/A	$92,000.00	$753,154.66*	N/A	N/A

*Amount has been calculated using an annual 2% increase to account for estimated inflation.

PUBLIC NOTICE

A public hearing notice was mailed on April 26, 2013 to all property owners within a 300-foot radius of the subject property, as well as all residential occupants within a 500-foot radius of the subject property[12]. Additionally, notice was published in the Beverly Hills Courier and the Beverly Hills Weekly, two newspapers of local circulation. As of the writing of this report, no comments have been received in regard to the project.

RECOMMENDED ACTION

Should the Council determine that the Zone Text Amendment and Alternative Monthly In-Lieu Parking Fee Agreement are appropriate, staff recommends the Council move to waive the full reading of the ordinance and that the ordinance entitled "An ordinance of the City of Beverly Hills amending Beverly Hills Municipal Code Section 10-3-3311 regarding in-lieu parking fees" be introduced and read by title only. Additionally, staff recommends that the City Council approve an Alternative Monthly In-Lieu parking Fee Agreement for the property located at 184 North Canon Drive, effective only if the ordinance takes effect.

Susan Healy Keene, AICP
Director of Community Development

Susan Healy Keene
Approved By

[12] A total of 64 property owners and 131 residential occupants received mailed notice. This includes such properties as Sunrise Assisted Living, the Montage Hotel/Condos, and AKA Beverly Hills.