



AGENDA REPORT

Meeting Date: September 10, 2013
Item Number: F-5
To: Honorable Mayor & City Council
From: City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-3311 REGARDING IN-LIEU PARKING FEES.
Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends that the City Council waive full reading and move to approve the ordinance entitled, "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-3311 REGARDING IN-LIEU PARKING FEES."

INTRODUCTION

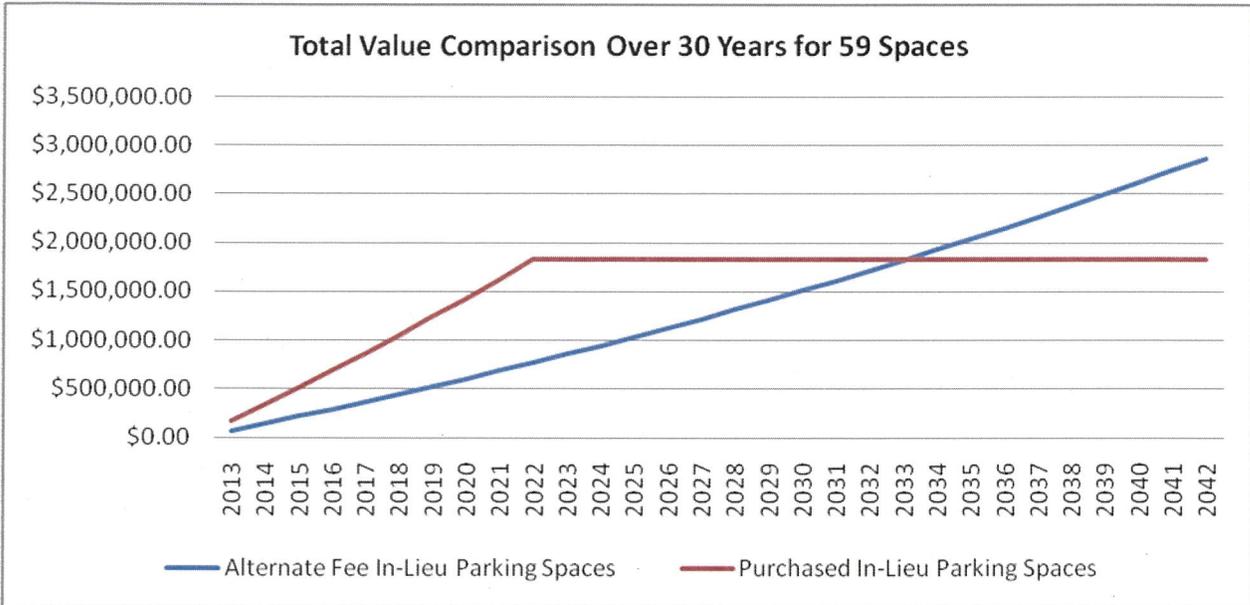
This Ordinance proposes a Zone Text Amendment to allow in-lieu parking spaces to be leased from the City on an annual basis at a reduced cost, rather than purchased in full.

DISCUSSION

At its meeting of August 20, 2013, the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

In order to provide an assessment of the financial impacts of the project, staff prepared a monetary value comparison between the standard in-lieu parking rate versus the discounted in-lieu rate, over a 30-year period. In order to account for estimated inflation, an annual 2% increase (compounded) has been applied to all figures. Staff found that lease payments made by a business over a 20-year period would be approximately equal to fees that would otherwise be paid over a 10-year period for the purchase of in-lieu parking spaces. However, the alternate fee structure would provide an ongoing revenue stream for the in-lieu parking fund into the future beyond the initial 10 years (provided the restaurant continues to operate), and the basic financial comparison shows that any utilization of lease-style in-lieu parking spaces beyond 20 years would provide a greater amount of revenue to the City's parking fund than a purchased space.



for 
 Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 13-O-_____

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

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. On July 25, 2013, the Planning Commission held a duly noticed public hearing, at which the Planning Commission adopted Resolution No. 1689, recommending that the City Council amend the Zoning Code regarding the establishment of a pilot program that would allow an alternate payment program for in-lieu parking spaces for certain projects.

Section 2. The City Council considered this Ordinance at a duly noticed public hearing on August 20, 2013, and, at the conclusion of the hearing, introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 3. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the "Guidelines"), and the environmental regulations of the City. The City Council hereby finds and determines that the adoption of this Ordinance is exempt from CEQA pursuant to Section 15305 of the Guidelines for minor alterations in land use limitations. The Class 5 exemption is applicable because this Ordinance makes minor changes to the City's in-lieu parking program, which is applicable only in the generally flat business triangle area of the City.

Section 4. The City Council hereby amends Section 10-3-3311 of Article 33 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

"10-3-3311: WAIVERS, ALTERNATIVE FEES, AND OTHER EXEMPTIONS:

- A. Pursuant to the requirements, limitations and procedures set forth in this section, the city council or the planning commission may allow a property owner to purchase in-lieu parking to serve a site area in excess of sixteen thousand (16,000) square feet and may waive, in whole or in part, the fees required by section 10-3-3310 of this article.
1. Eligible Uses: The city council or planning commission may only take action pursuant to this subsection A with regard to site areas occupied by, or fees imposed upon, the following uses:
 - a. Museum uses owned and controlled by a nonprofit, tax exempt entity.
 - b. Adaptive reuses of a building listed on the National Register of Historic Places.
- B. Pursuant to the requirements, limitations and procedures set forth in this section, and as an alternative to payment of the fees required by section 10-3-3310 of this

Article, the city council or the planning commission may allow, within the in-lieu parking district, businesses to make annual payments to utilize in-lieu parking spaces instead of purchasing in-lieu parking spaces. The annual payment shall be in the amount of fifty percent (50%) of an annual payment calculated pursuant to subsection (b) of Section 10-3-3313, whether or not the site area exceeds sixteen thousand (16,000) square feet. The option to make payments pursuant to this subsection B shall be subject to the following restrictions.

1. Eligible Uses: The city council or planning commission may only take action pursuant to this subsection B with regard to site areas occupied by food sales and service commercial activities as defined in section 10-3-3303 C. of this article.
 2. New Construction: This subsection B shall not be applicable to new construction or the addition of floor area to an existing building, and shall only be available for the conversion of existing commercial space to space designated for eating and bar purposes.
 3. Maximum Number of Spaces to Be Allocated Pursuant to Alternate Fee Program: The maximum number of in-lieu parking spaces that may be approved citywide pursuant to this subsection B shall not exceed 150 spaces.
 4. Payment of Fees: Payment of the in-lieu parking fees shall be due annually on or before the anniversary of the in-lieu parking approval, and shall be paid in advance of the time period for which the in-lieu parking spaces are utilized. Fees shall be based initially on the in-lieu parking rates in effect at the time of in-lieu parking approval, shall continue in perpetuity for the life of the business, and shall be adjusted annually to account for increases in the consumer price index. Such adjustment shall not exceed ten percent (10%) annually.
 5. Transferability: Any in-lieu parking granted pursuant to this subsection B is not transferable, and the privilege to use in-lieu parking pursuant to this section shall immediately terminate in the event that the business to which the in-lieu parking spaces were granted vacates the premises or discontinues its operations.
 6. Sunset: The payment for in-lieu parking spaces authorized by this subsection B is a pilot program. The city council or planning commission may take action pursuant to this subsection B on applications filed on or before October 11, 2014, and timely applications may be processed to conclusion. Unless the city council extends this subsection B, this subsection shall be repealed as of 12:01 a.m. on October 12, 2014.
- C. Findings Required: The city council or planning commission shall not take action pursuant to this section unless the city council or planning commission finds that:
1. Due to the nature of the proposed use, the proposed use will attract and serve potential retail sales customers to the in-lieu parking district; and

2. The proposed use will not unreasonably deplete parking resources in the in-lieu parking district.
- D. **Reviewing Body:** The city council shall review an application filed pursuant to this section unless that application accompanies an application that otherwise requires review by the planning commission. If the application filed pursuant to this section accompanies an application that otherwise requires review by the planning commission, then the planning commission shall be the reviewing body for the application filed pursuant to this section.
- E. **Procedure:** An application filed pursuant to this section shall be submitted to the director of planning and community development. Upon receipt of such application, a hearing regarding the application shall be scheduled before the city council or the planning commission, as provided in subsection D of this section. Notice of the hearing shall be mailed to the applicant at least ten (10) days prior to such hearing.”

Section 5. 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 remain in full force and effect.

Section 6. 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 7. 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:

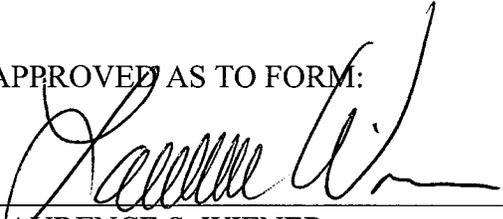
JOHN A. MIRISH
Mayor of the City of
Beverly Hills, California

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