AGENDA REPORT

Meeting Date: February 18, 2014
Item Number: E-7
To: Honorable Mayor & City Council
From: City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE MUNICIPAL CODE REGARDING RESTAURANT USES IN THE MIXED USE PLANNED DEVELOPMENT OVERLAY ZONE, AND TRANSIENT RESIDENTIAL USES IN THE MIXED USE PLANNED DEVELOPMENT OVERLAY ZONE, SINGLE FAMILY RESIDENTIAL ZONES, AND MULTI-FAMILY RESIDENTIAL ZONES.
Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends that the City Council move to waive the full reading and adopt the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE MUNICIPAL CODE REGARDING RESTAURANT USES IN THE MIXED USE PLANNED DEVELOPMENT OVERLAY ZONE, AND TRANSIENT RESIDENTIAL USES IN THE MIXED USE PLANNED DEVELOPMENT OVERLAY ZONE, SINGLE FAMILY RESIDENTIAL ZONES, AND MULTI-FAMILY RESIDENTIAL ZONES.

DISCUSSION

At the City Council meeting of February 4, 2014, the City Council held a public hearing concerning this ordinance and introduced this ordinance.

FISCAL IMPACT

This ordinance will enable serviced residence use at the AKA property on Crescent Drive. The serviced residence use will allow stays of thirty days or fewer, which will generate transient occupancy taxes. Additionally, transient occupancies at the AKA property will generate a municipal surcharge of six percent of room revenue pursuant to a development agreement.

Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 14-O-____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE MUNICIPAL CODE REGARDING RESTAURANT USES IN THE MIXED USE PLANNED DEVELOPMENT OVERLAY ZONE, AND TRANSIENT RESIDENTIAL USES IN THE MIXED USE PLANNED DEVELOPMENT OVERLAY ZONE, SINGLE FAMILY RESIDENTIAL ZONES, AND MULTI-FAMILY RESIDENTIAL ZONES.

WHEREAS, on November 21, 2013 the Planning Commission conducted a duly noticed public hearing to consider proposed municipal code text amendments to the standards for transient uses in the City's single family residential zoning districts and the Mixed Use Planned Development Overlay Zone (M-PD-2), and with respect to proposed modifications to an approved Planned Development Permit to implement a new multi-family transient land use referred to as "serviced residences" for the property at 155 North Crescent Drive and 9355 Wilshire Boulevard; and,

WHEREAS, the Planning Commission considered the potential impacts of unrestricted short-term rentals of single family residences and second units on the stability and character of the City's single family residential neighborhoods, and the potential impacts of short-term rentals of multi-family residences in multi-family residential neighborhoods; and,

WHEREAS, the Planning Commission recommended that the City Council adopt an ordinance to permit serviced residences in the Mixed Use Planned Development Zone, to limit short-term rentals of single family residences and second units, and to provide a definition of transient uses in multi-family residential zones; and,

WHEREAS, on February 4, 2013, the City Council conducted a duly noticed public hearing to consider the proposed municipal code amendments and introduced the Ordinance; and,

WHEREAS, the Project 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 environmental regulations of the City. An Environmental Impact Report (EIR) was previously certified by the City Council on December 3, 2002 for the existing mixed-use development on the subject site. Pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, a lead agency (the City of Beverly Hills in this case) may prepare an addendum to a previously certified EIR if some changes or additions to the EIR are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred. Pursuant to CEQA Guidelines Section 15162, no subsequent EIR shall be prepared for the Project unless, on the basis of substantial evidence in the light of the whole record, one or more of the following is determined:

(1) Substantial changes are proposed in the project that will require major revisions of the previous EIR due to the involvement of new, significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due

to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance identifies one or more significant effects not discussed in the previous EIR, significant effects previously examined will be substantially more severe than shown in the previous EIR, mitigation measures or alternatives previously found not to be feasible or not analyzed in the EIR would be feasible and would substantially reduce one or more significant effects but the project proponents decline to adopt of the measure or alternative.

The above criteria have been assessed in accordance with the State CEQA Guidelines, and the Project, in the independent judgment of the City, has been determined to be eligible for an addendum to the previously certified EIR because it does not result in any new or substantially increased environmental impacts. Therefore, an addendum to the EIR has been prepared and is incorporated herein by reference, and his hereby adopted by the City Council.

In addition, the proposed amendments to the text of the various residential zones do not change the conclusion in the addendum. Further, the residential zone text amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that the amendments will not have the potential for any impacts on the environment. Further, the amendments would be exempt from CEQA pursuant to Section 15305 for single-family residential properties with slopes of less than 20%, as well as Section 15308 as

an action to protect the environment of the single family residential areas of the City. The City's multi-family areas are not in areas with 20% or greater slopes.

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

Section 1. Legislative Findings. The City Council hereby finds as follows:

A. The City was approached by Metropolitan Crescent Associates, LLC, regarding a proposed "AKA Beverly Hills Project," which would include authorization to operate an existing residential / mixed use project to provide "serviced residences," a type of multi-family transient accommodation. "Serviced residences" are luxury dwelling units with full kitchens, laundry facilities, and bathrooms, that are offered, without limitation, housekeeping, valet dry-cleaning and laundry services, and, with a minimum stay of seven (7) consecutive days. At present, a "luxury standard" includes a 24-hour resident service team, high-tech fitness center, full-service business center with executive board room and complimentary high-speed Internet access, a lounge;, en-suite dining, same-day valet dry-cleaning and laundry service, and full-time, on-site management and maintenance. All dwelling units include fully-

accessorized kitchens, contemporary furnishings, well-appointed bathrooms, premium cable television and Wi-Fi access.

B. The request that the City authorize this new type of transient use which, as a hybrid hotel / residential use, does not fit neatly into the City's traditional land use categories, caused the City to consider how transient uses allowed in the City's residential and mixed use zones are and should be defined.

C. Concurrent with the request for serviced residences, the City has become more aware of the degree to which dwelling units in the City are being used for short-term rentals through such websites as Airbnb (www.Airbnb.com), Vacation Rentals By Owner (www.vrbo.com), and similar on-line short-term rental websites.

D. Unfettered short-term rentals of single-family and multi family residential properties has the potential to change the character and stability of the City's residential neighborhoods. The Land Use Element of the City's General Plan, includes Goal LU 5 calling for "Complete, Livable, and Quality Neighborhoods." Goal LU 5 is bolstered by the following general plan policies that memorialize the City's commitment to preserving and maintaining the stability of single family residential areas:

1. "Policy LU 5.1 Neighborhood Conservation. Maintain the uses, densities, character, amenities, and quality of the City's residential neighborhoods, recognizing their contribution to the City's identity, economic value and quality of life."

2. In relevant part, "Policy LU 5.8 Encroachment of Incompatible Land Uses. Protect residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible."

E. The Land Use Element of the City's General Plan includes Goal LU 6 regarding Single-Family Residential Neighborhoods calling for "[m]aintenance of the identity, scale, and character of the distinct single-family residential neighborhoods." Goal LU 6 memorializes the City's commitment to preserving and maintaining its single-family residential neighborhoods from incompatible and character changing uses such as short-term rental of single family residences.

F. On November 12, 2013, VRBO listed 73 vacation rentals in Beverly Hills, approximately 45 were described as single family residences including 28 houses, 7 villas, 1 castle, 1 country house, 2 bungalows, and 6 estates. The remaining appeared to be multi-family in nature. In addition, a

number of properties in the City were listed as available on the airbnb.com, some in single family neighborhoods and some in multifamily areas.

G. The impact of short-term rentals in single family residential neighborhoods have been discussed in various news articles, including a September 2, 2013 article in the Los Angeles Times in which residents of the Silver Lake neighborhood in Los Angeles have expressed concerns about the operation of "virtual hotels, packing homes with throngs of visitors whose sheer presence alters the community feel." The City of New York also has concerns with the phenomenon, where, according to a Los Angeles Times Article of October 7, 2013, stays of less than 30 days, like in Beverly Hills, generally are not permitted in apartment units.

H. In multi-family residential neighborhoods, there is a greater likelihood of and expectation of shorter term occupancy of units such as apartments than in single family neighborhoods, however use of properties for stays of shorter than 30 days runs counter to the residential nature of the multi-family zones where hotel uses are prohibited. Existing ordinances prohibit this type of use, but further clarification is warranted.

I. Protection of the City's single family neighborhoods warrants amendment of the City's single-family residential zones to establish a minimum term of any rental or lease, and limit the number of times per year single family residential units, including second units, can be rented for short-term occupancy.

J. Protection of the City's multi-family neighborhoods warrants amendment of the City's single family residential zones to provide a definition of transient use and clarify that short-term stays of less than 30 days are not permitted, with an exception for the hybrid Serviced Residences Use proposed to be allowed only in the Mixed Use Planned Development Overlay Zone (M-PD-2).

Section 2. Section 100 of Article 1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to insert a new defined term "Serviced Residence" between the existing defined terms "Second Unit" and "Setback, Front," as follows, with all other portions of Section 10-3-100 remaining in effect without amendment:

"SERVICED RESIDENCE: A multi family transient use where each dwelling unit includes a full kitchen, laundry facilities and bathroom, no dwelling unit is leased or occupied by any person for less than seven (7) consecutive days, all residents jointly occupy the dwelling unit under a single written lease, and each dwelling unit is maintained and offered services at a luxury

standard. By way of illustration, at the time of adoption of the ordinance enacting this definition, a "luxury standard" includes a 24-hour resident service team, high-tech fitness center, full-service business center with executive board room and complimentary high-speed Internet access, a lounge, en-suite dining, same-day valet dry-cleaning and laundry service, and full-time, on-site management and maintenance. All dwelling units include fully-accessorized kitchens, contemporary furnishings, well-appointed bathrooms, premium cable television and Wi-Fi access."

Section 3. Section 1935 of Article 19.3 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to revise paragraph B and add a new paragraph J as follows, with all other portions of Section 10-3-1935 remaining in effect without amendment:

"B. Restaurants and bars may be permitted as part of a planned development but only in portions of a mixed use development with an underlying zoning of C-3 or RMCP.";

"J. Serviced Residence uses may be permitted as part of a planned development but only in those portions of a mixed use development with an underlying zoning of RMCP."

Section 4. A new paragraph D is hereby added to Section 1939 of Article 19.3 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code, with all other portions of section 10-3-1935 remaining in effect without amendment:

> "D. The planning commission may permit, as part of a planned development approval pursuant to Article 18.4 of this Chapter, no more than ten percent (10%)

of the parking spaces required to be provided for serviced residences to be used for taxi and limousine staging."

Section 5. Section 100 of Article 1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to revise the existing definition of "Single Housekeeping Unit" to read as follows:

"SINGLE HOUSEKEEPING UNIT: A traditional family or the functional equivalent of a traditional family, whose members are a nontransient interactive group of one (1) or more persons, where if consisting of more than one (1) person, such persons jointly occupy a single dwelling unit, jointly use common areas, share household activities and responsibilities (e.g., meals, chores, and expenses), and where, if the unit is rented or leased, all adult members jointly agree to occupy and be responsible for the entire premises of the dwelling unit under a single written rental agreement or lease and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager."

Section 6. Section 100 of Article 1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to insert a new defined term "Multi- Family Transient Use" between the existing defined terms "Multi-Family Residential Zone" and "New Car Dealer" as follows, with all other portions of Section 10-3-100 remaining in effect without amendment:

"MULTI-FAMILY TRANSIENT USE: Rental or lease of a multi-family dwelling unit for a period of less than thirty (30) days."

Section 7. Section 100 of Article 1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to insert a new defined term "Single-Family Transient Use" between the existing defined terms "Single-Family Residential Zone" and "Single Housekeeping Unit" as follows, with all other portions of Section 10-3-100 remaining in effect without amendment:

"SINGLE-FAMILY TRANSIENT USE: Rental or lease of a single-family residence or second unit for a period of less than six (6) months."

Section 8. The table of uses set forth in paragraph A of Section 302 of Article 3 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to insert a new row immediately after the "Home Occupations..." row, entitled "Single-Family Transitional Use", inclusive of new footnote number 4, with all other portions of paragraph 10-3-302 A remaining in effect without amendment:

"

	R-1	R-1.X	R-1.5	R-1.5X	R-1.5X2	R-1.6X	R-1.7X	R-1.8X
Single-Family Transient Use [4]	P[4]	P[4]	P[4]	P[4]	P[4]	P[4]	P[4]	P[4]

4. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 9. Section 401 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-401: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1. shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 10. Section 501 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-501: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1.X shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section

10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 11. Section 601 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-601: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1.5 shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 12. Section 701 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-701: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1.5X shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small

community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 13. Section 801 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-801: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1.5X2 shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 14. Section 901 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-901: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1.6X shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 15. Section 1001 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-1001: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1.7X shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family

residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 16. Section 1101 of Article 4 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows:

"10-3-1101: USES AND BUILDINGS PERMITTED:

Except as otherwise provided in this article, no lot, premises, building or portion thereof in zone R-1.8X shall be erected, constructed, built, altered, enlarged, built upon, used, or occupied for any purpose except as a private one-family residence, small family daycare home, small community care facility, or transitional or supportive housing structured as a single-family residence. A Single-Family Transient Use of a single family residence or second unit, as defined in Section 10-3-100, by a single housekeeping unit is permitted to commence two (2) times per calendar year for each single-family residence or second unit. Use of a single-family residence or second unit for a single-family transient use more than twice per calendar year is prohibited."

Section 17. The City Council has considered the addendum prepared for this project in accordance with the California Environmental Quality Act in conjunction with the EIR previously certified for the development on the project site, finds that the proposed project will not have any new or substantially increased significant adverse impacts on the environment, and hereby adopts the addendum Further, the City Council finds that the proposed amendments to the text of the various single-family residential zones do not change the conclusion in the addendum. The City Council finds that the residential zone text amendments are exempt from

CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that the amendments will not have the potential for any impacts on the environment. Further, the amendments would be exempt from CEQA pursuant to Section 15305 for single family residential properties with slopes of less than 20%, as well as Section 15308 as an action to protect the environment of the single family residential areas of the City. The City's multi-family areas are not in areas with 20% or greater slopes.

Section 18. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 19. 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 20. 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.

Section 21. 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. MIRISCH
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