



STAFF REPORT

Meeting Date: January 5, 2016
To: Honorable Mayor & City Council
From: Ryan Gohlich, Assistant Director of Community Development
Subject: Request by Vice-Mayor Mirisch for City Council Review of the Planning Commission's decision approving an Amendment to a Conditional Use Permit to allow Jim Falk Lexus to operate a vehicle service facility at 9031 Olympic Boulevard.
Attachments: 1. Municipal Code Excerpts BHMC Section 1-4-201, et seq.
2. Draft Planning Commission Resolution

BACKGROUND

Vice-Mayor Mirisch has requested this item be placed on the City Council's agenda to determine if there is Council support to call the subject Planning Commission decision up for review. If the City Council orders the review, this matter would be scheduled for consideration at a future public hearing.

DISCUSSION

The Planning Commission approved an application for an amendment to an existing Conditional Use Permit on December 10, 2015 to allow Jim Falk Lexus to operate the existing vehicle service facility on the property located at 9031 Olympic Boulevard. The subject property currently has an approved CUP that specifically allows Infiniti of Beverly Hills to operate the facility for vehicle service uses.

The Resolution adopted by the Planning Commission is attached hereto to provide a more detailed explanation of the Commission's determination¹ as to the Conditional Use Permit.

Pursuant to Beverly Hills Municipal Code Section 1-4-201, et seq., the City Council may order a review of any decision made by any commission, board, or official of the city. The process to initiate this review and set a hearing is specifically set forth in the municipal code, and those provisions are attached for reference.

¹ The Resolution adopted by the Planning Commission is pending final signatures. A draft of the adopted Resolution is attached to this report for the City Council's reference.

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The City Council must order any review within 30 days of the Planning Commission's approval, which was on December 10, 2015. If a review is ordered, the Planning Commission's action will be stayed until the Council review is final.

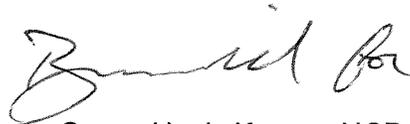
The decision to order a review at the January 5th City Council Meeting shall be limited to the question of whether to call the item up for a hearing before the City Council at a future formal meeting, and shall not include any evaluation or assessment of the merits or circumstances of the case or the Planning Commission's action. That discussion would take place at a noticed public hearing at an upcoming Council meeting.

FISCAL IMPACT

The recommendation in this report does not have significant budget or fiscal impacts for the City. It is noted that a City Council public hearing will result in cost to the City associated with public notices. The public notice cost would total approximately \$2,500.00 and would be appropriated from the City Clerk's budget.

RECOMMENDATION

It is recommended that the City Council make a determination as to whether or not the subject Planning Commission action will be called up for review.



Susan Healy Keene, AICP
Approved By

Attachment 1

Municipal Code Excerpts BHMC
Section 1-4-201, et seq.

Article 2. Council Ordered Review of Administrative Decisions

1-4-201: RIGHT TO REVIEW:

The council may order a review of any decision made by any commission, board, or official of the city, except as otherwise provided in this code. Such review may be ordered by motion of the council duly adopted within thirty (30) calendar days after the issuance of the decision. If the council orders a review of a decision, the effectiveness of such decision shall be stayed until council review is final. (1962 Code § 1-6.201; amd. Ord. 94-O-2211, eff. 9-2-1994)

1-4-202: SETTING HEARINGS:

Upon the adoption of an order for a review of a decision, the mayor shall fix a time and place for the hearing. At least ten (10) days prior to the hearing, written notice shall be mailed to the applicant and such other persons who appeared and addressed the board, commission, or official at the previous hearing on the matter, and such other notice as required by law for the previous hearing shall also be given. (1962 Code § 1-6.202)

1-4-203: HEARINGS BY THE COUNCIL:

Unless otherwise ordered and noticed, hearings shall be held as a part of the regular meetings of the council. The hearings shall be do novo in that an independent reexamination of the matter shall be made. The council may decide the matter upon the record or may take additional evidence. Any oral or documentary evidence may be received, but the mayor shall exclude irrelevant, immaterial, or unduly repetitious evidence. It shall not be a ground for objection that the evidence is hearsay or secondary, but the council's decision shall be made upon substantial evidence. (1962 Code § 1-6.203)

1-4-204: DECISIONS AND FINDINGS:

The provisions of sections 1-4-107 and 1-4-108 of this chapter shall be applicable to the decisions of the council. (1962 Code § 1-6.204)

Attachment 2

Draft Planning Commission
Resolution

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING AMENDMENTS TO AN EXISTING CONDITIONAL USE PERMIT TO ALLOW JIM FALK LEXUS TO OPERATE A VEHICLE SERVICE USE ON THE PROPERTY LOCATED AT 9031 OLYMPIC BOULEVARD.

The Planning Commission of the City of Beverly Hills hereby finds, resolves, and determines as follows:

Section 1. Jim Falk Lexus, through its agent Thomas S. Levyn, has submitted an application to amend an existing Conditional Use Permit (CUP) to allow Jim Falk Lexus to operate a vehicle service use within an existing commercial building located at 9031 Olympic Boulevard (the "Project"). The proposed service use would occupy the building, which contains approximately 15,300 square feet of floor area. The building will contain eighteen (18) service bays, one tire changing area, one alignment area, and a car washing station. The existing vehicle service use currently operates under an approved CUP; however that CUP is specific to Infiniti of Beverly Hills. An amendment to the CUP is required in order to allow Jim Falk Lexus to operate the vehicle service use.

Section 2. The Project site is located on the northwest corner of Olympic Boulevard and South Wetherly Drive. Olympic Boulevard is developed with various retail, restaurant, and office uses on both sides of the street for several blocks east and west of the project site. South Wetherly Drive to the north of the site is developed with single-family residential homes. The site directly abuts alleys along the north and west sides of the property.

Directly to the west of the site, across the 15' alley is a two-story commercial building with a surface parking lot. The property located directly to the northwest of the site, also across the alley, is owned by Southern California Edison and houses service equipment. The property located directly north of the project site, across the northern alley, is developed with a one-story single-family residence with detached garage, which is accessed from the alley. The residence is separated from the alley by a tall hedge and picket fence that runs parallel to the alley. The property located directly to the northeast of the site, across South Wetherly Drive, is a two-story single-family residence. The commercial property located to the east across South Wetherly Drive is currently used as a vehicle drop off/pick-up area for the existing Infiniti service operations. The Project would operate in conjunction with the neighboring property located at 9001 Olympic Boulevard.

Section 3. The request to allow Jim Falk Lexus to operate the vehicle services use requires an amendment to the existing CUP, which is specific to Infiniti of Beverly Hills. Vehicle service would occur from 7:00 AM to 7:00 PM on weekdays, and from 9:00 AM to 5:00 PM on Saturdays. No service would be performed on Sundays. Customers will drop vehicles off at 9001 Olympic Boulevard, and the vehicles will then be driven to 9031 Olympic Boulevard by Infiniti employees. Once service is completed, vehicles will be returned to 9001 Olympic Boulevard for customer pick up.

Section 4. The Project has been assessed in accordance with the authority and criteria contained in 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 City's Local CEQA Guidelines. The project qualifies for a categorical exemption pursuant to Section 15301 (Class 1) of the Guidelines. Specifically, the proposed project includes a change in operator under the same use classification within an existing structure including minor interior and exterior alterations. Therefore, the Planning Commission hereby finds the Project to be exempt from further environmental review.

Section 5. Notice of the Project and public hearing was mailed on November 30, 2015 to all property owners and residential occupants within a 500-foot radius of the property, plus block-face. Additionally, notice was published in two newspapers of local circulation, the *Beverly Hills Courier* and *Beverly Hills Weekly*. On December 10, 2015 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 6. In considering the request for a Conditional Use Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The proposed use is compatible with the area and surrounding uses;
2. The proposed use will have adequate buffering between the use and residential areas;
3. The proposed use will not create an adverse traffic impact or traffic safety hazard to pedestrians or to vehicles, including, but not limited to, an adverse impact on traffic circulation or parking; and

4. The proposed use will not create excessive noise, unpleasant odors, noxious fumes, excessive lighting, or substantial interference with neighboring properties or uses due to the activities associated with the proposed use or its hours of operation.

Section 7. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Conditional Use Permit (CUP):

1. The proposed change in vehicle service use operator represents substantially the same operations as what is currently approved as part of the existing CUP. The vehicle service use is commercial in nature, has traditionally been located in this area of the City, and is generally consistent with the surrounding uses along Olympic Boulevard which are comprised of retail, restaurants, and offices. The new operator's vehicle service facilities will be located within an existing commercial building on the property, which is part of the existing neighborhood fabric. To the north of the project site is a residential neighborhood which is separated from the site by alleys along the north and west sides of the project site. A traffic, parking, and circulation study that was considered as part of the original CUP approval indicated that the proposed use will not result in any significant traffic or parking related impacts on the neighborhood. Although the study determined the impacts would not be significant, conditions have been imposed on the project that will further limit traffic impacts, specifically in the residential neighborhood to the north. An acoustical study of the use was also considered as part of the original CUP, which

concluded that certain steps could be taken to minimize noise impacts. As a result, conditions have been imposed to minimize noise impacts. Since the proposed use will be substantially the same as the existing CUP, will be located within an existing commercial building in the neighborhood, and conditions have been incorporated in the project that will minimize the traffic and noise impacts, the proposed change in operator will be compatible with the area and the surrounding uses.

2. The proposed change in operator will not result in material changes to the building on the subject property, nor will the change in operator result in changes to the buffer provided between the vehicle service use and the adjacent residential uses. The vehicle service use is separated from residential uses by a 15' wide alley, has no openings facing residential properties, and as a result of previously imposed conditions has implemented noise mitigation measures into the building's construction. For these reasons, the proposed vehicle service use will be adequately buffered from residential properties.

3. A traffic, parking, and circulation study was prepared for the proposed use and considered by the Planning Commission as part of its approval of the original CUP that allowed the vehicle service use to be operated by Infiniti of Beverly Hills. The proposed amendment to the CUP would allow Jim Falk Lexus to operate the vehicle service use in substantially the same manner, processing a similar number of vehicles as was studied for the original CUP. This study, which was peer reviewed by the City's Transportation Engineer, indicated that the proposed use will not result in any significant traffic, parking, or circulation related

impacts on the neighborhood. While the study determined that the impacts would not be significant, it is recognized that the project will result in additional traffic in the area and conditions have been imposed on the project to minimize the traffic impacts. Specific conditions regarding the operational traffic associated with the use, including vehicle service test drives and the circulation of the vehicles to and from the site have been included. These conditions will reduce the amount of traffic in the residential areas, thereby reducing the potential traffic safety hazards to pedestrians. Therefore, the Project will not create an adverse traffic impact or traffic safety hazard to pedestrians or to vehicles, including but not limited to, an adverse impact on traffic circulation or parking.

4. The proposed vehicle service use is commercial in nature, has traditionally been located in this area of the City, and is generally consistent with the surrounding uses along Olympic Boulevard which are comprised of retail, restaurants, and offices. An acoustical study was prepared for the project as part of the approval of the original CUP. This study concluded that certain steps could be taken to minimize noise impacts. The recommended steps have been incorporated as conditions of approval on the project, and incorporated into the existing building's construction. The operational impacts of the project were also analyzed. For projects located in the general commercial-residential transition area of the City, such as the subject site, specific operational restrictions apply. These restrictions regulate operational elements such as the hours of operation, noxious fumes, and unpleasant odors. A condition of approval has been included on the project that requires full compliance with the operational standards for uses located

in the commercial-residential transition area. Finally, the proposed amendment to the CUP would allow Jim Falk Lexus to operate the vehicle service use in substantially the same manner as Infiniti of Beverly Hills. Since the proposed use is generally consistent with the surrounding commercial uses and conditions have been imposed that would minimize noise and the other operation impacts, the Project will not create excessive noise, unpleasant odors, noxious fumes, excessive lighting, or substantial interference with neighboring properties or uses due to activities association with the propose use or its hours of operation.

Section 8. Based on the foregoing, the Planning Commission hereby grants the requested CUP, subject to the following conditions:

1. Upon recordation, this Resolution shall supersede Planning Commission Resolution No. 1678.

2. The Planning Commission expressly reserves jurisdiction relative to traffic, parking, and noise issues and the right to impose additional conditions as necessary to mitigate any other unanticipated impacts caused by the proposed Project as they arise. In the event that the Project is found to result in any unanticipated impacts and a hearing is scheduled to review the Project, the full cost of the review hearing and implementation of any additional conditions or mitigations measures shall be paid for by the Applicant.

3. The conditions set forth in this resolution are specifically tailored to address the operations of Jim Falk Lexus as presented and approved by the Planning Commission. To ensure that any subsequent automobile service uses

operated at the subject site do not cause adverse impacts to the surrounding neighborhood, any transfer of ownership, management, or control of the dealership shall be reviewed by the Director of Community Development to determine whether the proposed change substantially conforms to the Project approved by the Planning Commission. If the Director determines that the proposed change does not substantially conform to the approved Project, the Director shall schedule a hearing before the Planning Commission in accordance with provisions of Section 10-3-3801 of the Beverly Hills Municipal Code. The Planning Commission expressly reserves jurisdiction at said hearing to revoke the CUP or to impose additional conditions as necessary to ensure that the operation of the subsequent dealership at the subject site is compatible with adjacent land uses. The full cost of any such review hearing and implementation of any additional conditions or mitigation measures shall be paid for the Applicant.

4. The project shall comply with all operational requirements for businesses located in the commercial-transition zone pursuant to Beverly Hills Municipal Code Section 10-3-1956.

5. The hours of operation for the vehicle service station shall be limited to 7:00 AM to 7:00 PM Monday through Friday, and 9:00 AM to 5:00 PM on Saturdays. No service shall be performed on Sundays. The Project shall not exceed the maximum limit of operational hours permitted in this condition. This condition shall not prevent the dealership from assisting customers beyond operating hours outlined above, provided that said customer entered the dealership prior to the close of business.

6. A combination of thermal and acoustical insulation shall be applied to the underside of the roof structure between the joists and the entire service pay area.

7. Perforated metal acoustical wall panels shall be provided along the interior of the north building wall.

8. Dual glazed, fixed, non-operable windows with a minimum of 45 STC rating shall be provided in the existing window openings along the north building elevation.

9. Sound control doors with a minimum 50 STC rating shall be installed at exterior door openings.

10. No public address system shall be utilized by the vehicle service center unless such system is inaudible beyond the property boundaries.

11. After the installation of the noise minimizing measures recommended by the Acoustical Study and further conditioned herein, the acoustical consultant shall inspect the installation and verify that recommended measures have been met. The acoustical consultant shall submit written documentation to the Director outlining the inspection and verifying proper installation of all materials.

12. The northern east-facing building opening that provides vehicle access to the Project from South Wetherly Drive shall be permitted to remain open during the approved vehicle service hours outlined in this resolution, but shall remain closed at all other times. Pursuant to Condition No. 19 herein the southern building opening shall be closed permanently.

13. At all times the vehicle service use shall operate in compliance with the City's noise ordinance and the noise study presented to the Planning Commission during the public hearing process.

14. All deliveries shall occur during the approved hours of operation outlined in this resolution.

15. Employees shall be provided free off-site parking. Employees shall be transported by company-funded shuttles from the off-site parking location to the project site. The shuttle vehicles shall be prohibited from driving on residential streets.

16. Except as expressly required by law, employees shall be prohibited from parking on City streets. The applicant shall actively discourage vendors and other vehicles associated with or doing business with the dealership or its employees from parking on City streets.

17. Vehicle test drives must follow the approved test drive route provided in Attachment E of the Traffic and Parking Analysis.

18. Vehicles shall be moved to and from the Project site by porters only. Customers shall not come directly to or from the Project site for the purpose of dropping-off/picking-up of vehicles.

19. When driving vehicles to and from the Project site the porters shall follow the amended circulation route approved by the Planning Commission on March 28, 2013. Vehicles shall enter and exit the Project site's northern driveway. This shall be achieved through the closure of the southern driveway and the widening of the northern driveway apron to a minimum width of 18 feet. This

condition shall not require the widening of the building opening associated with the northern driveway provided that a minimum building opening width of 14 feet is maintained.

20. All vehicle service shall be conducted within the service structure on the site. Vehicle service shall not occur within any public streets or public right-of-way.

21. Delivery vehicles shall be prohibited from parking along the public streets or alleys.

22. All deliveries shall occur on the adjacent site at 9001 Olympic Boulevard. No other streets or rights-of-way shall be used for such purposes. Goods may be transported to the project site as needed by company employees. When transporting goods via car or truck the employees must follow the same vehicular route approved for the porter operations. The transporting of goods shall occur during the approved hours of operation outlined in this resolution.

23. All customers of the vehicle service use shall be provided with free parking.

24. All trash storage and recycling areas shall be incorporated into the interior design of the Project, and shall only be removed from the structure for the purpose of collection.

25. At the close of business each day, an employee(s) of the dealership shall walk the perimeter of the project site and collect and dispose of any trash or debris that may be present on adjacent sidewalks or the alleys, regardless of whether said trash or debris was generated by the service operations.

26. Employees shall be prohibited from congregating outside the dealership, and shall be prohibited from eating, drinking, or smoking in the alley and other public rights-of-way.

27. Lunch trucks/catering trucks shall be directed by the service operation to park only on the public streets directly adjacent to the site. Said trucks shall be prohibited from parking in the alleys or within the residential neighborhoods.

28. The Applicant shall make available the phone number of the service operations manager who will serve as a single-point of contact for property owners and residential and commercial occupants within the surrounding neighborhood. The phone number shall be posted on the Project site at all times (even during construction) and shall be mailed to all property owners and residential and commercial occupants within a 500-foot radius of the Project site. In the event that the 500-foot radius ends within a street block and does not capture all properties within the block, the mailing radius shall be expanded to capture all the properties located within the block.

29. The Applicant shall install a vehicle directional sign at the east exit of the 9001 Olympic Boulevard site which indicates that a left-hand turn onto South Almont Drive is prohibited. The sign shall be installed on private property and shall be maintained by the Applicant.

30. At the Project site's vehicle entry/exit a directional sign shall be installed that prohibits outbound vehicles from making a left-hand turn onto South

Wetherly Drive. The sign shall be installed on private property and shall be maintained by the Applicant.

31. At the Project site's vehicle entry/exit the Applicant shall install lights that will flash to notify pedestrians when a vehicle is exiting the building. The Applicant shall also install mirrors that will provide vehicles exiting the property with visibility of the public right-of-way.

32. The Applicant shall be responsible for notifying all employees of the operational conditions within this resolution. The notification document(s) utilized shall be consistent with the materials provided by the applicant during the Planning Commission meeting on December 10, 2015. A copy of the document(s) is on file with the Community Development Department.

33. The Applicant shall be responsible for notifying patrons of how to best access the service facility from Olympic Boulevard and shall discourage patrons from using residential streets. This information shall be provided to patrons on the service facility's webpage, within written and email correspondence to patrons, and through verbal communications with the service facility employees. The notification documents shall be consistent with the materials provided by the applicant during the Planning Commission meeting on December 10, 2015. A copy of the document(s) is on file with the Community Development Department.

34. The vehicle washing bay within 9031 Olympic Boulevard shall be equipped with a water recycling system to ensure capture and reuse of water used for vehicle washing.

35. The vehicle washing bays within 9000 Olympic Boulevard shall be equipped with a water recycling system to ensure capture and reuse of water used for vehicle washing.

36. The vehicle washing facility located at 9000 Olympic Boulevard shall be prohibited from washing vehicles outside of the following hours: 8:00 AM to 7:00 PM on weekdays; 9:00 AM to 6:00 PM on Saturdays, and 11:00 AM to 3:00 PM on Sundays, with Sunday vehicle washing limited only to new or used cars that are to be delivered to a customer on a Sunday or Monday.

37. A central vacuum system shall be installed within the building at 9000 Olympic Boulevard to limit noise associated with vehicle cleaning. The central vacuum system shall be enclosed within the building at all times.

38. Sound curtains shall be installed around the vehicle washing bays located at 9000 Olympic Boulevard to limit noise associated with vehicle washing.

39. All compressed air hoses used at 9000 Olympic Boulevard shall be limited to a maximum length of 25' at all times, including any hose extensions.

40. This Conditional Use Permit shall expire two (2) years from the date of its approval. Upon application by the Applicant at least 30 days prior to the expiration of such permit, the City may extend the Conditional Use Permit if the Planning Commission determines that the uses are operating in a manner approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating significant adverse impacts on the surrounding neighborhood. The Conditional Use Permit shall remain valid until such a time as a decision is rendered by the Planning Commission. The Applicant

shall file all necessary applications and pay all applicable fees associated with said re-review. Furthermore, in the event the Director of Community Development believes that operation of the property may not be in compliance with the Conditional Use Permit provisions, the Director of Community Development or their designee, at their discretion, may require the project be returned to the Planning Commission for further review and analysis prior to the expiration of the entitlements. The Applicant shall file all necessary applications and pay all applicable fees associated with said review.

STANDARD CONDITIONS:

41. Decisions of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission action by filing a written appeal with the City Clerk. Appeal forms are available in the City Clerk's office. An appeal fee is required.

42. Prior to the issuance of building permits, the Project's exterior design and its associated signage shall be reviewed and approved by the Architectural Commission.

43. Project Plans are subject to compliance with all applicable zoning regulations, except as may be expressly modified herein. Project plans shall be subject to a complete Code Compliance review when building plans are submitted for plan check. Compliance with all applicable Municipal Code and General Plan Policies is required prior to the issuance of a building permit.

44. The Project shall operate at all times in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking or other actions.

45. At all times the Project shall comply with the standards of the City's Municipal Code and all other applicable State and Federal regulations.

46. This resolution approving the Conditional Use Permit shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of the resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development prior to the issuance of a building permit. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder.

47. A violation of any of these conditions of approval may result in the revocation of the entitlements granted herein. Any such revocation shall be conducted in accordance with the revocation proceedings set forth in §10-3-3803 of the Beverly Hills Municipal Code.

48. Prior to the issuance of a Building Permit, all applicable fees and taxes shall be paid to the City.

49. The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

50. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: December 10, 2015

Alan Robert Block
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Ryan Gohlich, AICP
Secretary

Approved as to form:

Approved as to content:

David M. Snow
Interim City Attorney

Ryan Gohlich, AICP
Assistant Director of Community
Development / City Planner