



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning
Commission Meeting of
December 11, 2008

TO: The Planning Commission
FROM: Larry Sakurai, Principal Planner
THROUGH: Jonathan Lait, AICP, City Planner
SUBJECT: Parking and Loading Standards for Certain Legal Nonconforming Commercial Structures on Olympic Boulevard between Rexford Drive and Robertson Boulevard

EXECUTIVE SUMMARY

On November 5, 2008, the City Council adopted an urgency interim ordinance to address the intensification of use in large commercial structures along Olympic Boulevard. The ordinance requires changes in use in nonconforming commercial buildings of 12,000 square feet or more to meet the current parking and loading standards unless an alternative arrangement is approved by the Planning Commission. The urgency ordinance took immediate effect upon adoption to prevent changes in such nonconforming buildings before the City could institute permanent regulations. The Planning Commission's discussion at the December 11 meeting is a step in the process toward permanent regulations. The City Council will be considering an extension of the interim ordinance at its meeting of December 18, 2008.

THE INTERIM ORDINANCE

The ordinance targets changes to large nonconforming commercial buildings in the C-3T-2 Zone along Olympic Boulevard between Rexford Drive and Robertson Boulevard, in close proximity to the residential neighborhoods. Issues addressed by the ordinance are associated with the encroachment of business-related activity into residential neighborhoods along the commercial/residential interface.

the premises. This allows the routine, gradual turnover in multi-tenant buildings and focuses on situations where changes are sizeable enough to pose a significant change in activity in an area. The ordinance defines the changes in land use intensity through a series of three tiers. A change from a lower tier to a higher tier would be considered the introduction of a more intensive land use. The tiers are as follows, from lowest to highest:

Tier 1: Warehousing, mini-warehouses (personal storage), furniture stores, and car sales.

Tier 2: Apparel stores, hardware stores, toy stores, discount stores, auto parts stores, general retail stores, general offices, medical offices, and health/fitness clubs.

Tier 3: Restaurants, supermarkets, drugstores, convenience markets, and video rental stores.

Beyond the parking and loading requirements, the ordinance also provides some flexibility in applying the standards through the Development Plan Review process. The process provides the applicant and the Planning Commission a means to more specifically tailor the requirements to the unique characteristics of a project. The ordinance provides the Planning Commission discretion to modify the requirements consistent with the findings for approval of a DPR permit. Any adjustment would need to rely on evidence presented to the Planning Commission, such as parking and/or circulation analyses, and information provided through the public hearing process.

DISCUSSION

The need for the urgency ordinance became evident as a result of two projects:

- The proposed conversion of the former dealership at 8955 Olympic Boulevard, and
- The proposed conversion of the former dealership at 9231 Olympic Boulevard.

In both cases, the former dealership spaces could be occupied by potentially more intensive retail uses without Planning Commission review and little City discretion to address parking and loading issues. The interim ordinance now requires that such conversions 1) provide an adequate number of parking spaces to meet current standards, 2) layout the parking in accordance with the current standards ("Minimum Parking Standards"), and 3) meet the current standards for loading facilities (both layout and number). Given the constraints of both the sites, it is likely that the applicants would need to submit proposals to the Planning Commission to address their parking and loading needs. The ordinance actually has implications on seven sites along Olympic Boulevard. In addition to the aforementioned

Staff Report
Parking and Loading Standards for Large Legally Nonconforming Commercial Structures on Olympic Boulevard
between Rexford Drive and Robertson Boulevard
For the the Planning Commission Meeting of December 11, 2008

RECOMMENDATION

Staff is requesting the Planning Commission's input on the regulations currently in place and any suggestions the Commission may have for permanent regulations. It is anticipated that the subject permanent ordinance will be in effect within a few months.



LARRY SAKURAI

Attachments:

Interim Ordinance

ORDINANCE NO. 08-O-2556

AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS REGARDING THE APPLICABILITY OF PARKING AND LOADING STANDARDS TO CERTAIN NONCONFORMING COMMERCIAL STRUCTURES IN THE C-3T-2 ZONE ON OLYMPIC BOULEVARD BETWEEN REXFORD DRIVE AND ROBERTSON BOULEVARD, AND DECLARING THE URGENCY THEREOF

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

Section 1. Legislative Findings.

The Planning Commission of the City of Beverly Hills is currently considering a comprehensive update to the City' General Plan. Upon adoption of an updated General Plan, the City will thereafter consider an update to its Planning and Zoning ordinances to ensure consistency with the updated General Plan. One of the many updates that will be addressed is an update of the parking standards that are applied to new uses in nonconforming commercial structures, within the City's existing Commercial-Residential Transition Area on Olympic Boulevard, as shown on Exhibit A, attached hereto and incorporated herein by reference.

Presently, deficiencies in the parking and the loading facilities can result from changes in, or introduction of new businesses in existing nonconforming buildings within the Commercial-Residential Transition Area along Olympic Boulevard. These deficiencies in parking, loading, or both, result in the intrusion of parking and other activity associated with

commercial uses into nearby residential areas. Such intrusion negatively impacts the character and enjoyment of these residential areas.

Therefore, it would be highly detrimental to the public welfare if, in the interim time necessary to complete the zoning ordinance update process, projects were established, commenced, or constructed that would have negative impacts in residential areas and evade regulations developed to address these issues in the future.

Section 2. Authority.

Pursuant to Government Code Section 65858, the City Council may adopt as an emergency measure, an interim ordinance that prohibits any uses that may be in conflict with a contemplated zoning proposal which a legislative body, Planning Commission, or Planning Department is considering or studying or intends to study within a reasonable period of time.

Section 3. Urgency Findings.

The City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Interim Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 65858 and take effect immediately upon adoption. As described in Section 1 of this Interim Ordinance, changes in use of nonconforming structures with insufficient parking and loading facilities within the Commercial-Residential Transition Area along Olympic Boulevard pose a significant threat to the residential character of residential neighborhoods adjacent to and near these structures. Specifically, the intrusion of commercial parking resulting from lack of sufficient on-site parking and displacement of parking to accommodate loading activities, negatively impacts the neighboring residential areas with

respect to parking, noise and traffic patterns. Additionally, inadequate parking and loading facilities for these structures places an increased burden on adjacent commercial streets and therefore adversely affects nearby commercial uses. The City is updating its General Plan with respect to the types of uses that may be appropriate along the commercial corridors adjacent to residential uses, and thereafter will update its Planning and Zoning ordinances with respect to, among other things, parking and loading standards and requirements and further controls, as deemed necessary, to avoid the harmful effects of intensification of commercial properties without adequate parking and loading facilities. The City Council finds that continued intensification of the commercial area along Olympic Boulevard Commercial-Residential Transition Area during the City's review and consideration of these issues will further erode the existing character of the City's residential neighborhoods and frustrate the purpose of any regulations ultimately adopted. To ensure that activity within the subject Commercial-Residential Transition Area during this period of study is consistent with the goals and objectives of protecting residential neighborhoods, the City Council finds it necessary to adopt interim regulations that both respect property rights and protect the public health, safety, and general welfare. Absent the passage of this Interim Ordinance, inconsistent development within the subject Commercial-Residential Transition Area along Olympic Boulevard poses a current and immediate threat to the public health, safety, or general welfare and approval of additional entitlements for development inconsistent with the provisions of this Ordinance would frustrate the City's ability to protect the public health, safety, and welfare by minimizing the adverse effects of intensified commercial uses. If this Ordinance does not become effective immediately, but instead becomes effective thirty (30) days after its second reading, there is a risk that further harm will be done to the City's residential neighborhoods and the subject Commercial-

Residential Transition Area before the above referenced studies can be completed and any protections recommended by the studies can be implemented. It is necessary that this Ordinance take effect immediately to prevent such harm to the residential neighborhoods adjacent to and near the City's Commercial-Residential Transition Area along Olympic Boulevard. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare and its urgency is hereby declared.

Section 4. Definitions.

For the purposes of this Ordinance, the following words and phrases shall have the meaning set forth below.

4.1 "Olympic Commercial-Residential Transition Area" shall mean the area shown in Exhibit A of this ordinance.

4.2 "Intensification of Use" shall mean a change in use where the new use is listed in a higher tier on the list set forth below, than the previous use. Tier 2, for example, is a higher tier than Tier 1.

Tier 1 shall include: warehousing, mini-warehouses, furniture stores, car sales or service, surface parking, storage and other similar uses as determined by the Director of Community Development.

Tier 2 shall include: apparel stores, hardware stores, toy stores, discount stores, general retail stores, general offices, medical offices, health/fitness clubs, and other similar uses as determined by the Director of Community Development.

Tier 3 shall include: restaurants, supermarkets, drugstores, convenience markets, video rental stores, and other similar uses as determined by the Director of Community Development.

4.3 “Major Commercial Space” shall mean commercial space of 12,000 square feet or more, excluding space used for or in connection with parking or loading.

4.4 “Regular Operation” shall mean a permitted or existing nonconforming use that is open for business to the general public during a use’s customary business hours.

Section 5. Intensification in Use.

Proposals for Intensification of Use, as defined in Section 4 above, of Major Commercial Space located in the Olympic Commercial-Residential Transition Area shall comply with the provisions of Sections 6 and 7 of this Ordinance or shall obtain Planning Commission approval pursuant to Section 8 of this Ordinance.

In determining the tier in which a specific use belongs, the Director of Community Development may consider all relevant factors including, without limitation, parking demand as indicated in *ITE Parking Generation, 3rd Edition*; parking demand as indicated in *ULI Shared Parking, 2nd Edition*; and/or vehicle trips generated by the use as projected using the *ITE Trip Generation, 7th Edition*; the judgment of the City Engineer; and any data or evidence and supporting analysis provided by a registered engineer.

Section 6. Parking Requirements.

Notwithstanding any provisions of the City of Beverly Hills Municipal Code to the contrary, including specifically Section 10-3-4102 of Chapter 3 of Title 10, if the application of this Section 6 is triggered by Section 5 of this Ordinance, then the proposed use of a nonconforming structure shall meet the parking requirements set forth in Sections 10-3-2729 and 10-3-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code.

Section 7. Loading Facilities.

Notwithstanding any provisions of the City of Beverly Hills Municipal Code to the contrary, if the application of this Section 7 is triggered by Section 5 of this Ordinance, then the proposed use of a nonconforming structure shall meet the loading space requirements set forth in Sections 10-3-2741, 10-3-2742, and 10-3-2743 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code.

Section 8. Planning Commission Authority.

Notwithstanding the provisions of Sections 6 and 7, a project applicant may apply to the Planning Commission for an accommodation to the parking and/or loading standards required by Sections 6 and 7. The application shall be submitted and processed pursuant to the procedures established for the City's Development Plan Review process as set forth in Article 31 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code. The Planning Commission may establish parking requirements that differ from those requirements set forth in Section 10-3-2729 or Section 10-3-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code if, in addition to the Development Plan Review findings of Section 10-3-3104, the Planning Commission

determines that the use will generate a need for parking different than the amount or layout of parking required under Section 10-3-2730 or the Commission determines that the parking demand will be met by means other than those means specified in Section 10-3-2730; provided further, that the Planning Commission may not reduce the required parking to less than the amount of parking that can currently be accommodated on the subject site.

The Planning Commission may also establish loading requirements for nonconforming uses that are different than those requirements established in Sections 10-3-2740 through 10-3-2742 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code if the Planning Commission determines that the loading can be accommodated in a manner that achieves the Development Plan Review findings required under Section 10-3-3104 of the Municipal Code.

Section 9. This ordinance shall not apply to uses in regular operation on November 5, 2008. This ordinance shall not apply to businesses that received a certificate of tenancy or certificate of occupancy on or before November 5, 2008. The provisions of this ordinance shall not apply to structures and tenant space improvements under construction on November 5, 2008 with a valid building permit.

Section 10. CEQA Findings.

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety, and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section

15061(b)(3) of Title 14 of the California Code of Regulations. Further, this Ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with intensification of commercial uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 11. 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 remain in full force and effect.

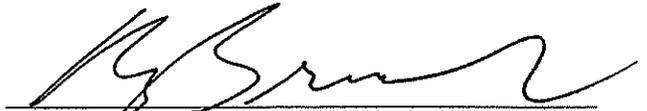
Section 12. This Ordinance, being an Interim Ordinance adopted as an urgency measure for the immediate protection of the public safety, health, and general welfare, containing a declaration of the facts constituting the urgency, and passed by a minimum four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption and shall continue in effect for a period of not longer than forty-five (45) days; provided, however, that after notice pursuant to Section 65090 of the California Government Code and public hearing, the City Council may extend the effectiveness of this Interim Ordinance as provided in Government Code Section 65858.

Section 13. 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

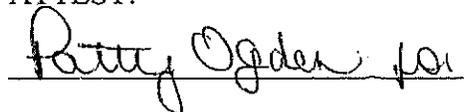
after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Adopted: November 5, 2008



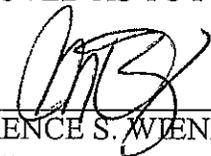
BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:

 (SEAL)

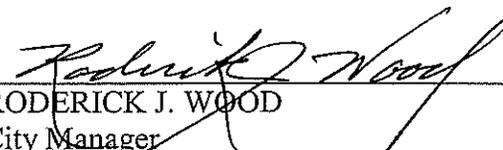
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

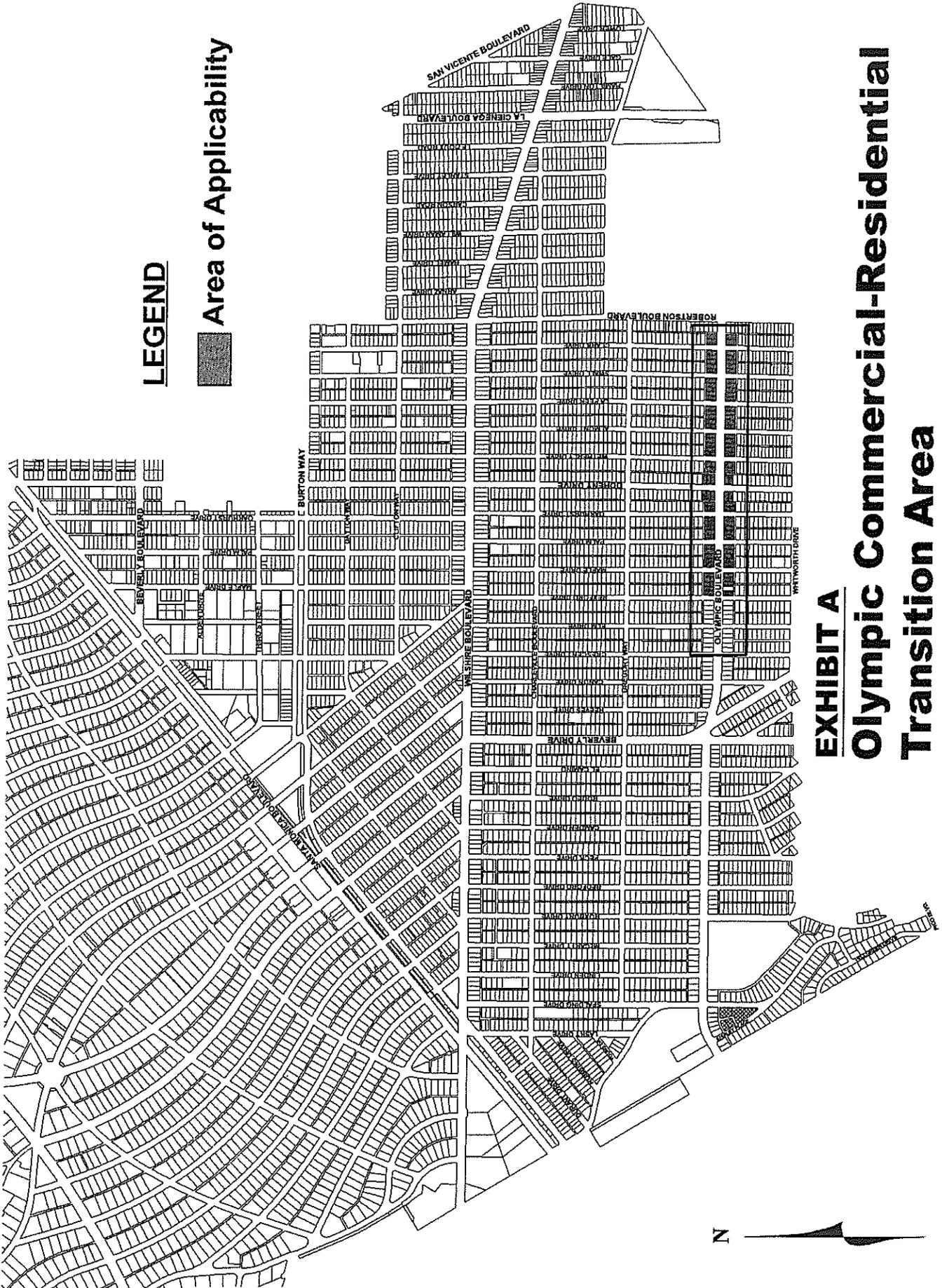
APPROVED AS TO CONTENT:



RODERICK J. WOOD
City Manager



ANNE BROWNING MCINTOSH
Interim Director of Community
Development



LEGEND

 Area of Applicability

EXHIBIT A
Olympic Commercial-Residential
Transition Area