City of Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 285-1141 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: February 25, 2016

Subject: Regulation of Discontinued Legally Nonconforming and Conditionally Permitted USes

Project Applicant: City Initiated Project

Recommendation: Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code for the establishment of time limits for legally nonconforming and conditionally permitted uses once they have been discontinued for more than five years. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

REPORT SUMMARY

The City Council has directed staff and the Planning Commission to review the City's regulation of discontinued legally nonconforming and conditionally permitted uses and to make recommendations regarding whether a time limit should be established for these uses once they have been discontinued or vacated for some period of time. This report presents the ordinance that staff drafted using the input gathered from the Planning Commission at a study session on February 13, 2014, a public hearing on October 22, 2015, and a City Council/Planning Commission Liaison meeting on November 24, 2015. A resolution and draft ordinance are included as Attachment 1, and the recommendation in this report is that a five-year time limit be established for any such discontinued use.

BACKGROUND

Nonconforming uses are uses that were allowed in the City when initially commenced, but, due to subsequent changes in City ordinances, are now prohibited or require some form of discretionary review, such as a conditional use permit. Nonconforming uses vary based upon the zoning district in which the use is established.

Examples of uses that are nonconforming in commercial areas of the City include:

- Veterinary clinics
- Mini shopping centers established prior to Conditional Use Permit (CUP) requirement.

Attachment(s):
A. Resolution and Draft Ordinance
B. October 22, 2015 Planning Commission Report

Report Author and Contact Information:
Timothea Tway, Associate Planner
(310) 285-1122
ttway@beverlyhills.org

Conditionally permitted uses require review and approval by the Planning Commission. The Planning Commission has the authority to add conditions of approval to a conditional use permit in order to ensure that the granting of the permit will not result in impacts that the use might otherwise cause.

Examples of uses that are conditionally permitted in commercial areas of the City include:

- Convenience stores
- Drive-through facilities
- Mini shopping centers
- Vehicle sales, service or fuel stations
- Private training centers over 2,000 square feet of floor area.

Currently, the City's zoning code regulations allow non-conforming or conditionally permitted uses to continue with no further review, even if the property is left vacant or the use is discontinued for an extended period of time. A property loses the right to a non-conforming or conditionally permitted use when a conforming use is established, unless the non-conforming use is medical and the building is on the City's medical registry. Registered medical buildings are allowed to continue as medical buildings, even if non-medical uses are established in the building for some period of time. Medical uses are governed in an alternate section of the Municipal Code (10-3-1620.1). In all other instances, once a conforming use is established, a non-conforming use cannot later be re-established. Non-conforming uses and conditionally permitted uses cannot be expanded or intensified without further review by the City.

Previous Discussions

On April 2, 2013, staff presented the City Council with information on discontinued conditionally permitted uses and legal nonconforming uses in the City at the request of then Mayor Mirisch after the following concerns were raised regarding the City's regulations:

- During the time in which a property is vacant neighboring properties could change hands, or the community's vision for the area could change;
- Since there is currently no time limit on how long a property can remain vacant and retain its nonconforming or conditionally permitted use rights, property owners, today, might be more apt to allow properties to remain vacant, waiting for a certain business type or rental rate before leasing the property again;
- Leaving a property vacant, and then reusing the property after an extended period of time represents changes to neighborhood character;
- Re-instating nonconforming or conditionally permitted uses after a long period might cause impacts that were not originally foreseen and addressed when the use was originally permitted; and
- Current regulations for the reinstatement of nonconforming and conditionally permitted uses do not provide opportunities for community input.

On February 13, 2014, the Planning Commission held a study session on this topic (Attachment 2). Staff provided the Commission with information on:

- Current regulation on discontinued nonconforming and conditionally permitted uses;
- A summary of other cities' regulations on such uses, and;
- Policy alternatives for consideration.

On October 22, 2015 the Planning Commission held a public hearing at which this item was discussed. The Planning Commission provided the following direction to staff:

- A two-year limit for discontinued, non-conforming uses is not long enough, and a longer term should be considered;
- Optional time extensions should be provided for certain circumstances beyond the control of a property owner (e.g. environmental remediation or an extended economic downturn);
- Convene a meeting of the Planning Commission/City Council Liaison to establish the appropriate time limit for discontinued use expiration

The City Council/Planning Commission Liaison Committee discussed the topic at a meeting on November 24, 2015. At this meeting it was determined that an appropriate amount of time for a limit is five years, and that there should be optional extensions, consistent with the Planning Commission's prior direction, that can be granted by the Planning Commission for special circumstances that are beyond the property owner's control such as environmental remediation or an extended economic downturn. The draft ordinance has been amended to reflect the comments received from the Planning Commission and Planning Commission/City Council liaison Committee.

DISCUSSION

Summary of Draft Ordinance

The draft Ordinance attached to this report includes the following provisions:

- Nonconforming and conditionally permitted uses that are discontinued for more than five years will expire (previously proposed ordinance language allowed for only two years). The five-year clock stops once a property owner applies for planning entitlements or building permits.
- Properties affected by circumstances out of the property owner's control are eligible for extensions on the time limit by way of an extension request to the Planning Commission. The previous ordinance limited time extensions to situations related to government regulations (such as contaminated properties that require remediation).
- The ordinance does not affect residential uses. This provision is per Planning Commission direction during previous discussions on the topic. This has not changed from the previously presented ordinance.

- The ordinance does not affect medical uses. Staff proposes that medical uses are governed by the recently developed medical use overlay zone regulations, which can be found in the Beverly Hills Municipal Code Section 10-3-1620.1. This has not changed from the previously presented ordinance.
- Burden of proof. The burden of proof of continuing operation shall be on the property owner. If a property owner cannot produce proof that a use was in operation, it will be considered to be discontinued. This has not changed from the previously presented ordinance.
- The ordinance is not retroactive. The five-year period for discontinuance of any use on a property shall begin once the ordinance has been adopted and is in effect. This has not changed from the previously presented ordinance.

Summary on Properties Potentially Impacted
Using a list of CUPs compiled by staff over time and the City's Online Business Center, staff identified approximately 101 properties with commercial CUPs that were granted between 1969 to 2015. Generally, the CUPs were granted for the following uses:

- Automotive Uses (32 CUPs)
- Religious/Educational/Museum Uses (25 CUPs)
- Hotel Uses (12 CUPs)
- Other (exercise club over 2,000 square feet, drive-through uses, childcare uses, etc.) (22 CUPs)
- Medical Uses (8 CUPs)

Nonconforming Uses Potentially Impacted
The City does not maintain a comprehensive list of nonconforming uses, however, based on research, there are only several properties in the City that may house legally nonconforming uses. The uses represented in this category include animal hospitals and dry cleaners with on-site processing equipment. Because these uses are no longer allowed anywhere in the City, if they were discontinued for a period of more than five years they may not be allowed to reestablish within the City.

PUBLIC OUTREACH

The City Council identified broad community involvement as an important aspect of the study of discontinued nonconforming and conditionally permitted uses. The Council expressed a desire to engage residents, property owners, and realtors in the study process. In order to ensure the community is informed of this policy discussion, this public hearing has been noticed in the following manner:

- A notice ran in the Beverly Hills Courier on Friday February 12, 2016, and the Beverly Hills Weekly on Thursday, February 18, 2016.
- A courtesy notice was emailed to:

  - Homeowner and community groups in the City
  - The Chamber of Commerce
  - The Southeast Task Force
- A mailed notice was sent to all commercial property owners in the City
- An additional mailed notice was sent to owners and occupants of properties that were identified as housing a conditionally permitted or potentially legally nonconforming use.

CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS

Establishing time limits for the expiration of legally nonconforming and conditionally permitted uses that promote economic vitality while minimizing negative impacts to neighboring property owners and are consistent with goals and policies in the General Plan.

- The Land Use policies found under Land Use Goal 15 "Economic Sustainability" include promoting the revitalization of vacant and underutilized buildings to sustain economic vitality, retaining and building upon key business sectors in the community, and supporting businesses that contribute revenue, quality services and high paying jobs to the City.
- Land Use Policy 2.1 "City Places: Neighborhoods, Districts, and Corridors" calls for the maintenance and enhancement of the character and aesthetic qualities of the City's distinctive neighborhoods.
- Land Use Policy 5.8 "Encroachment of Incompatible Land Uses" calls for the protection of residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible.
- Land Use Goal 12 "Business Districts Adjoining Residential Neighborhoods" calls for fostering compatible relationships between commercial districts and adjoining residential neighborhoods, assuring that the integrity, character and quality of both commercial and residential areas are protected, and quality of life is maintained.

ENVIRONMENTAL REVIEW

The Ordinance 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 City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission finds that adoption of the Ordinance will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Ordinance represents minor alterations in land use limitations and do not result in any changes in land use or density.

RECOMMENDATION

Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code that establishes a time limit for discontinued legally nonconforming and conditionally permitted uses.

Report Reviewed By:

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

Attachment A

Resolution and Draft Ordinance

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ESTABLISH TIME LIMITS FOR LEGALLY NONCONFORMING AND CONDITIONALLY PERMITTED USES TO BE REESTABLISHED ONCE THEY HAVE BEEN DISCONTINUED.

WHEREAS, the Planning Commission has considered the proposed amendments to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendments"); and

WHEREAS, the Planning Commission conducted duly noticed public hearings on October 22, 2015, and February 25, 2016 at which times it received oral and documentary evidence relative to the proposed Amendments; and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have 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 City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in intensity of land use or density. Further, the areas of the City affected by the Amendments have average slopes of not more than 20%.

Section 2. As proposed, the Amendments to the Beverly Hills Municipal Code in Exhibit A would establish a time limit for the reestablishment of a nonconforming or conditionally permitted use after such use has been discontinued. The Amendments require that if a conditionally permitted use or nonconforming use is discontinued on a property for more than five years, a property owner would need to obtain discretionary approval to reestablish the use, if the code still allows the use. As proposed, the Amendments would not affect medical or residential uses.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy "LU 2.1 City Places: Neighborhoods, Districts, and Corridors" Calls for the maintenance and enhancement of the character, distribution, built form, scale, and aesthetic qualities of the City's distinctive residential neighborhoods, business districts, corridors, and open spaces. Land Use Goal 12 "Business Districts Adjoining Residential Neighborhoods" calls for fostering compatible relationships between commercial districts and adjoining residential neighborhoods, assuring that the integrity, character and quality of both commercial and residential areas are protected, and that quality of

life is maintained. General Plan Policy LU 5.8 "Encroachment of Incompatible Land Uses" calls for the protection of residential neighborhoods from the encroachment of incompatible land uses and disruptive traffic.

Section 4. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 5. 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: February 25, 2016

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

Attest:

_____
Ryan Gohlich, AICP
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

_____
Ryan Gohlich, AICP
City Planner

EXHIBIT A

[DRAFT] ORDINANCE NO. 16-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ESTABLISH TIME LIMITS FOR LEGALLY NONCONFORMING AND CONDITIONALLY PERMITTED USES TO BE REESTABLISHED ONCE THEY HAVE BEEN DISCONTINUED

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

Section 1. On October 22, 2015, and February 25, 2016, the Planning Commission held duly noticed public hearings after which it adopted Resolution No. _____, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to establish maximum time limits for abandoned and discontinued legal non-conforming and conditionally permitted uses (collectively, the "Amendments"). On _____, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in intensity of land use or density. Further, the areas of the City affected by the Amendments have average slopes of not more than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan because establishing a maximum time within which legal non conforming uses can be reestablished promotes the following policies: General Plan Policy "LU 2.1 "City Places: Neighborhoods, Districts, and Corridors," which calls for the maintenance and enhancement of the character and aesthetic qualities of the City's distinctive neighborhoods; General Plan Policy LU 5.8 "Encroachment of Incompatible Land Uses," which calls for the protection of residential neighborhoods from the encroachment of incompatible nonresidential uses; and General Plan Goal 12 "Business Districts Adjoining Residential Neighborhoods," which calls for fostering compatible relationships between commercial districts and adjoining residential neighborhoods to ensure that quality of life is maintained.

Section 4. The City Council hereby adds Section 10-3-3806 to Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in Article 38 of Chapter 3 of Title 10 remaining in effect without amendment:

"10-3-3806: TIME LIMITS FOR A DISCONTINUED CONDITIONALLY PERMITTED USE:

A. If a use, which requires a conditional use permit, has been discontinued for a period of five years, the use shall not be reestablished unless a new conditional use permit is granted pursuant to the provisions set forth in this Article. For purposes of determining whether a use has been discontinued, the property owner shall have the burden of proof in demonstrating a continuation of the use.

1. Exceptions:

a. Owners of properties impacted by circumstances that are out of the property owner's control, including, but not limited to, government regulations, the presence of hazardous substances on the property that must be removed in order for the property to be developed

with the approved use, or an extended statewide economic downturn, may request an extension of the five year period from the Planning Commission. The Planning Commission must make the following finding in order to grant an extension:

i. The Conditionally Permitted use is not detrimental to neighborhoods adjacent to the property.

b. Residential uses.

c. Medical uses. Such uses shall be governed by Beverly Hills Municipal Code Section 10-3-1620.1.

d. Reestablishment of a conditionally permitted use may occur after the passage of five years, provided that a complete application for either a planning entitlement or building permit associated with such reestablishment has been filed prior to expiration of the five-year time limit.

Section 5. The City Council hereby amends Section 10-3-4101 of Article 41 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in Article 38 of Chapter 3 of Title 10 remaining in effect without amendment:

"10-3-4101: NONCONFORMING USES:

A nonconforming use may be continued, without alteration or expansion, although such use no longer conforms to the provisions of this chapter.

A. Conversion To Conforming Use: A nonconforming use, or any portion of the nonconforming use, may be converted to a use that conforms to the provisions of this chapter.

1. A nonconforming use may not be resumed once that use is converted to a conforming use.

2. No portion of a building may be occupied by a nonconforming use once that portion of the building is occupied by a conforming use.

B. Expansion of Nonconforming Use: A nonconforming use shall not be expanded. However, a building occupied by a nonconforming use may be enlarged provided that the enlargement meetings the then current development standards and the area of the enlargement is utilized solely by conforming uses.

1. Minor Accommodation: Pursuant to the provisions of article 36 of this chapter, a minor accommodation permit may be issued to allow an awning, canopy or sign to be added to a building located in a residential zone and occupied by a nonconforming use and to allow such awning, canopy or sign to encroach into a required yard if: a) the use is nonconforming solely because the use lacks a conditional use permit, b) the addition will not add floor area to the buildings, c) the sign does not exceed twelve (12) square feet in area unless the planning commission or the city council acts as the reviewing authority for the minor accommodation, and d) the reviewing authority determines that the awning, canopy or sign will not substantially and adversely affect the residential character of the surrounding neighborhood (Ord. 96-O-2272, eff. 1-9-1997; amd. Ord. 02-O-2391, eff. 3-8-2002)

C. Time Limits for a Discontinued Nonconforming Use: If a nonconforming use of a building or land has been discontinued for a period of five years, the nonconforming use shall not be reestablished. Subsequent use of the building and/or land shall conform to the regulations of the zone in which the land is located. For the purposes of determining whether a use has been discontinued, the property owner shall have the burden of proof in demonstrating a continuation of use.

1. Exceptions:

a. Owners of properties impacted by circumstances that are out of the property owner's control, including, but not limited to, government regulations, the presence of hazardous substances on the property that must be removed in order for the property to be developed with the approved use, or an extended statewide economic downtown, may request an extension of the five year period from the Planning Commission. The Planning Commission must make the following finding in order to grant an extension:

i. The Nonconforming use is not detrimental to the neighborhoods adjacent to the property.

b. Residential uses.

c. Medical uses. Such uses shall be governed by Beverly Hills Municipal Code Section 10-3-1620.1.

d. Reestablishment of a nonconforming use may occur after the passage of five years, provided that a complete application for either a planning entitlement or building permit associated with such reestablishment has been filed prior to expiration of the five-year time limit.

Section 6. 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 7. 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 8. 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:

JULIAN A. GOLD, M.D.
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:

MAHDI ALUZRI
City Manager

SUSAN HEALY KEENE
Director of Community Development

Attachment B

October 25, 2015 Planning Commission Report

City of Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 285-1141 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: October 22, 2015

Subject: Regulation of Discontinued Legally Nonconforming and Conditionally Permitted Uses

Recommendation: Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code for the establishment of time limits for legally nonconforming and conditionally permitted uses once they have been discontinued for more than two years. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

REPORT SUMMARY

The City Council has directed staff and the Planning Commission to review the City's regulation of legally nonconforming and conditionally permitted uses and to make recommendations regarding whether a time limit should be established for these uses once they have been discontinued or vacated for some period of time. This report presents the ordinance that staff drafted using the input gathered from the Planning Commission at a study session on February 13, 2014. Staff is now seeking input from the Planning Commission on the draft ordinance on discontinued legally nonconforming and conditionally permitted uses. A draft resolution and draft ordinance are included as Attachment 1, and the recommendation in this report is that a two year time limit be established for any such discontinued use.

BACKGROUND

Nonconforming uses are uses that were allowed in the City when initially commenced, but, due to subsequent changes in City ordinances, are now prohibited or require some form of discretionary review, such as a conditional use permit. Nonconforming uses vary based upon the zoning district in which the use is established.

Examples of uses that are nonconforming in commercial areas of the City include:

- Veterinary clinics
- Mini shopping centers established prior to Conditional Use Permit (CUP) requirement.

Conditionally permitted uses require review and approval by the Planning Commission. The Planning Commission has the authority to add conditions of approval to a conditional use permit in order to ensure that the granting of the permit will not result in impacts that the use might otherwise cause.

Attachments
1, Resolution and Draft Ordinance
2. February, 13, 2014 Planning Commission Report

Report Author and Contact Information:
Timothea Tway
Associate Planner
(310) 285-1122
ttway@beverlyhills.org

Examples of uses that are conditionally permitted in commercial areas of the City include:

- Convenience stores
- Drive-through facilities
- Mini shopping centers
- Vehicle sales, service or fuel stations
- Private training centers over 2,000 square feet of floor area.

Currently, the City's zoning code regulations allow non-conforming or conditionally permitted uses to continue with no further review, even if the property is left vacant or the use is discontinued for an extended period of time. A property loses the right to a non-conforming or conditionally permitted use when a conforming use is established, unless the non-conforming use is medical and the building is on the City's medical registry. Registered medical buildings are allowed to continue as medical buildings, even if non-medical uses are established in the building for some period of time. Medical uses are governed in an alternate section of the municipal code (10-3-1620.1). In all other instances, once a conforming use is established, a non-conforming use cannot later be re-established. Non-conforming uses and conditionally permitted uses cannot be expanded or intensified without further review by the City.

Previous Discussions

On April 2, 2013, staff presented the City Council with information on discontinued conditionally permitted uses and legally nonconforming uses in the City at the request of then Mayor Mirisch after the following concerns were raised regarding the City's regulations:

- During the time in which a property is vacant neighboring properties could change hands, or the community's vision for the area could change;
- Since there is currently no time limit on how long a property can remain vacant and retain its nonconforming or conditionally permitted use rights, property owners, today, might be more apt to allow properties to remain vacant, waiting for a certain business type or rental rate before leasing the property again;
- Leaving a property vacant, and then reusing the property after an extended period of time represents changes to neighborhood character;
- Re-instating nonconforming or conditionally permitted uses after a long period might cause impacts that were not originally foreseen and addressed when the use was originally permitted; and
- Current regulations for the reinstatement of nonconforming and conditionally permitted uses do not provide opportunities for community input.

On February 13, 2014, the Planning Commission held a study session on this topic (Attachment 2). Staff provided the Commission with information on:

- Current regulations on vacated nonconforming and conditionally permitted uses;
- A summary of other cities' regulations on such uses, and;

- Policy alternatives for consideration.

DISCUSSION

Planning Commission Direction

After considering the alternatives for regulating discontinued conditionally permitted and legally nonconforming uses, as well as discussing pros and cons of each, the Planning Commission provided staff with the following direction:

- A time limit should be established for discontinued legally nonconforming and conditionally permitted uses in order to address potential impacts related to the reestablishment of discontinued uses after a prolonged period of time;
- The preferred time limit is two years after a use has been discontinued that it may no longer be reestablished. A one year limit was perceived as being too restrictive for property owners due to the length of time it can take to find a tenant/execute a lease agreement;
- A provision that would allow properties affected by government prohibition to be eligible for an extension on the time limit should be included in the ordinance to give the Planning Commission discretion on projects that may not be operational within two years because they involve other agencies;
- Staff was directed to return to the Planning Commission with information on the businesses and properties this regulation would impact, and;
- The ordinance should address commercial uses in both commercial and residential areas.

Staff has returned with a draft ordinance that incorporates this direction.

Summary of Draft Ordinance

The draft Ordinance attached to this report includes the following provisions:

- Nonconforming and conditionally permitted uses that are discontinued for more than two-years will expire. The clock stops once a property owner submits a complete application for planning entitlements or building permits.
- Properties affected by government prohibition (for example, properties that require remediation for environmental issues) are eligible for an extension on the time limit by way of an extension request to the Planning Commission. Documentation on the government prohibition will need to be provided by the applicant.
- The ordinance does not affect residential uses. This provision is per Planning Commission direction during previous discussions on the topic.
- The ordinance does not affect medical uses. Since medical uses are governed by the recently developed medical use overlay zone regulations, which can be found in the Beverly Hills Municipal Code Section 10-3-1620.1, no new regulations are proposed.
- Burden of proof. The burden of proof of continuing operation shall be on the property owner. If a property owner cannot produce proof that a use was in operation, it will be considered to be discontinued.

- The ordinance is not retroactive. The two year period for discontinuance of any use on a property shall begin once the ordinance has been adopted and is in effect.

Summary on Properties Affected

Using a list of CUPs compiled by staff over time and the City's permit system, staff identified approximately 101 properties with commercial CUPs that were granted between 1969 to 2015. Generally, the CUPs were granted for the following uses:

- Automotive Uses (32 CUPs)
- Religious/Educational/Museum Uses (25 CUPs)
- Hotel Uses (12 CUPs)
- Other (exercise club over 2,000 square feet, drive-through uses, childcare uses, etc.) (22 CUPs)
- Medical Uses (8 CUPs)

Nonconforming Uses Affected:

The City does not maintain a comprehensive list of nonconforming uses, however, based on research, staff has compiled a list of properties that may house legally nonconforming uses. The uses represented in this category include animal hospitals, dry cleaning plants, etc. Some of these uses are no longer allowed anywhere in the City, and if they were discontinued for a period of more than two years they may not be allowed to reestablish within the City.

GENERAL PLAN CONFORMANCE

Establishing regulations for legally nonconforming and conditionally permitted uses that promote economic vitality while minimizing negative impacts to neighboring property owners is consistent with goals and policies in the General Plan.

- The Land Use policies found under Land Use Goal 15 "Economic Sustainability" include promoting the revitalization of vacant and underutilized buildings to sustain economic vitality, retaining and building upon key business sectors in the community, and supporting businesses that contribute revenue, quality services and high paying jobs to the City.
- Land Use Policy 2.1 "City Places: Neighborhoods, Districts, and Corridors" calls for the maintenance and enhancement of the character and aesthetic qualities of the City's distinctive neighborhoods.
- Land Use Policy 5.8 "Encroachment of Incompatible Land Uses" calls for the protection of residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible.
- Land Use Goal 12 "Business Districts Adjoining Residential Neighborhoods" calls for fostering compatible relationships between commercial districts and adjoining residential neighborhoods, assuring that the integrity, character and quality of both commercial and residential areas are protected, and quality of life is maintained.

PUBLIC OUTREACH

The City Council identified broad community involvement as an important aspect of the study of vacant nonconforming and conditionally permitted uses. The Council expressed a desire to engage residents, property owners, and realtors in the study process. In order to ensure the community is informed of this policy discussion, this public hearing has been noticed in the following manner:

- A notice ran in the Beverly Hills Courier on Friday October 9, and the Beverly Hills Weekly on Thursday, October 15.
- A courtesy notice was emailed to:
  - Homeowner and community groups in the City
  - The Chamber of Commerce
  - The Southeast Task Force
- A mailed notice was sent to:
  - All commercial property owners in the City
- An additional mailed notice was sent to:
  - Owners and occupants of properties that were identified as housing a conditionally permitted or potentially legally nonconforming use.

As of the writing of this report, no public correspondence had been received.

ENVIRONMENTAL REVIEW

The Ordinance 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 City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission finds that adoption of the Ordinance will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Ordinance represents minor alterations in land use limitations and does not result in any changes in intensity of land use or density. Furthermore, the changes would apply only to areas of the City with a slope of less than 20%.

RECOMMENDATION

It is recommended that the Planning Commission adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code that establishes a time limit for discontinued legally nonconforming and conditionally permitted uses.

Report Reviewed By:

Ryan Gohlich
City Planner

Attachment 1

Resolution and Draft Ordinance

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ESTABLISH TIME LIMITS FOR LEGALLY NONCONFORMING AND CONDITIONALLY PERMITTED USES TO BE REESTABLISHED ONCE THEY HAVE BEEN DISCONTINUED.

WHEREAS, the Planning Commission has considered the proposed amendment to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendment"); and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on October 22, 2015, at which time it received oral and documentary evidence relative to the proposed Amendment; and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have 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 City's Local CEQA Guidelines (hereafter the "Guidelines"). The Planning Commission finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in intensity of land use or density. Further, the areas of the City affected by the Amendments have average slopes of not more than 20%.

Section 2. As proposed, the Amendments to the Beverly Hills Municipal Code in Exhibit A would establish a time limit for the reestablishment of a nonconforming or conditionally permitted use after such use has been discontinued. The Amendments require that if a conditionally permitted use or nonconforming use is discontinued on a property for more than two years, a property owner would need to obtain discretionary approval to reestablish the use, if the code still allows the use. As proposed, the Amendments would not affect medical or residential uses.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy "LU 2.1 City Places: Neighborhoods, Districts, and Corridors" Calls for the maintenance and enhancement of the character, distribution, built form, scale, and aesthetic qualities of the City's distinctive residential neighborhoods, business districts, corridors, and open spaces. Land Use Goal 12 "Business Districts Adjoining Residential Neighborhoods" calls for fostering compatible relationships between commercial districts and adjoining residential neighborhoods, assuring that the integrity, character and quality of both commercial and residential areas are protected, and that quality of

life is maintained. General Plan Policy LU 5.8 "Encroachment of Incompatible Land Uses" calls for the protection of residential neighborhoods from the encroachment of incompatible land uses and disruptive traffic.

Section 4. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 5. 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: October 22, 2015

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

Attest:

_____
Ryan Gohlich
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

_____
Ryan Gohlich
City Planner

EXHIBIT A

[DRAFT] ORDINANCE NO. 15-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ESTABLISH TIME LIMITS FOR LEGALLY NONCONFORMING AND CONDITIONALLY PERMITTED USES TO BE REESTABLISHED ONCE THEY HAVE BEEN DISCONTINUED

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

Section 1. On October 22, 2015, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. _____, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to establish time limits for abandoned and discontinued non-conforming and conditionally permitted uses (collectively, the "Amendments"). On _____, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in intensity of land use or density. Further, the areas of the City affected by the Amendments have average slopes of not more than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy "LU 2.1 "City Places: Neighborhoods, Districts, and Corridors" calls for the maintenance and enhancement of the character and aesthetic qualities of the City's distinctive neighborhoods, General Plan Policy LU 5.8 "Encroachment of Incompatible Land Uses" calls for the protection of residential neighborhoods from the encroachment of incompatible nonresidential uses, and General Plan Goal 12 "Business Districts Adjoining Residential Neighborhoods" calls for fostering compatible relationships between commercial districts and adjoining residential neighborhoods to ensure that quality of life is maintained.

Section 4. The City Council hereby adds Section 10-3-3806 to Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in Article 38 of Chapter 3 of Title 10 remaining in effect without amendment:

"10-3-3806: TIME LIMITS FOR A DISCONTINUED CONDITIONALLY PERMITTED USE:

A. If a use, which requires a conditional use permit, has been discontinued for a period of 24 consecutive months (two years) the use shall not be reestablished unless through the issuance of a new conditional use permit pursuant to the provisions set forth in this Article. For the purposes of determining whether a use has been discontinued, the property owner shall have the burden of proof in demonstrating a continuation of use.

1. Exceptions:

a. Properties subject to government regulations that may cause discontinuance of a use for a period of time (such as contaminated properties that require remediation) may request a one-time extension of up to one-year from the Planning Commission to

accommodate required action. The Planning Commission must make the following findings in order to grant an extension:

i. A plan has been established to address the required action.

ii. The required action will not take longer than one-year.

iii. The Conditionally Permitted use is not detrimental to the neighborhood.

b. Residential uses.

c. Medical uses. Such uses shall be governed by Beverly Hills Municipal Code Section 10-3-1620.1.

d. Reestablishment of a conditionally permitted use may occur after the passage of two years, provided that a complete application for either a planning entitlement or building permit associated with such reestablishment has been filed prior to expiration of the two-year time limit.

Section 5. The City Council hereby amends Section 10-3-4101 of Article 41 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in Article 38 of Chapter 3 of Title 10 remaining in effect without amendment:

"10-3-4101: NONCONFORMING USES:

A nonconforming use may be continued, without alteration or expansion, although such use no longer conforms to the provisions of this chapter.

A. Conversion To Conforming Use: A nonconforming use, or any portion of the nonconforming use, may be converted to a use that conforms to the provisions of this chapter.

1. A nonconforming use may not be resumed once that use is converted to a conforming use.

2. No portion of a building may be occupied by a nonconforming use once that portion of the building is occupied by a conforming use.

B. Expansion of Nonconforming Use: A nonconforming use shall not be expanded. However, a building occupied by a nonconforming use may be enlarged provided that the enlargement meetings the then current development standards and the area of the enlargement is utilized solely by conforming uses.

1. Minor Accommodation: Pursuant to the provisions of article 36 of this chapter, a minor accommodation permit may be issued to allow an awning, canopy or sign to be added to a building located in a residential zone and occupied by a nonconforming use and to allow such awning, canopy or sign to encroach into a required yard if: a) the use is nonconforming solely because the use lacks a conditional use permit, b) the addition will not add floor area to the buildings, c) the sign does not exceed twelve (12) square feet in area unless the planning commission or the city council acts as the reviewing authority for the minor accommodation, and d) the reviewing authority determines that the awning, canopy or sign will not substantially and adversely affect the residential character of the surrounding neighborhood (Ord. 96-O-2272, eff. 1-9-1997; amd. Ord. 02-O-2391, eff. 3-8-2002)

C. Time Limits for a Discontinued Nonconforming Use: If a nonconforming use of a building or land has been discontinued for a period of 24 consecutive months (two years) the nonconforming use shall not be reestablished. Subsequent use of the building and/or land shall conform to the regulations of the zone in which the land is located. For the purposes of determining whether a use has been discontinued, the property owner shall have the burden of proof in demonstrating a continuation of use.

1. Exceptions:

a. Properties subject to government regulations that may cause discontinuance of a use for a period of time (such as contaminated properties that require remediation) may request a one-time one-year extension from the Planning Commission to accommodate required action. The Planning Commission must make the following findings in order to grant an extension:

i. A plan has been established to address the required action

ii. The required action will not take longer than one-year

iii. The nonconforming use is not harmful to the neighborhood

b. Residential uses.

c. Medical uses. Such uses shall be governed by Beverly Hills Municipal Code Section 10-3-1620.1.

d. Reestablishment of a nonconforming use may occur after the passage of two years, provided that a complete application for either a planning entitlement or building permit associated with such reestablishment has been filed prior to expiration of the two-year time limit.

Section 6. 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 7. 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 8. 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:

JULIAN A. GOLD, M.D.
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:

MAHDI ALUZRI
City Manager

SUSAN HEALY KEENE
Director of Community Development

Attachment 2

February 13, 2014 Planning Commission Report

City of Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 485-1141 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: February 13, 2014

Subject: Discussion regarding regulation of discontinued legally nonconforming and conditionally permitted uses

Recommendation: Discuss and provide direction

Attachments:
1. City Council Report, April 2, 2013
2. City Council Report, July 2, 2013
3. List of Uses Conditionally Permitted in the City
4. Case Studies

REPORT SUMMARY

The City Council directed staff and the Planning Commission to review the City's regulation of legally nonconforming and conditionally permitted uses and to make recommendations regarding whether time limits should be established for these uses once they have been discontinued or vacated for some period of time. This report presents the City's current regulations, issues to be considered, neighboring cities' regulation of legally nonconforming and conditionally permitted uses, and potential alternatives to regulate such uses focusing on the pros and cons of setting a maximum amount of time a property can remain vacant before its legally nonconforming or conditionally permitted use status expires. Staff is seeking Planning Commission input with the goal of striking a balance between limiting impacts to neighborhoods, attracting and retaining businesses, assuring properties can be leased, and meeting the goals and policies of the General Plan.

BACKGROUND

On April 2, 2013, at the request of Mayor Mirisch, the City Council discussed the City's regulation of sites with nonconforming and conditionally permitted uses that have been discontinued or vacant for a period of time. The City Council directed the Planning Commission to review the topic and provide recommendations. Staff returned to the City Council on July 2, 2013, with a scope and timeline for the project in order to further define the project goals and process. The staff reports from these meetings are included as Attachments 1 and 2 to this report.

Report Author and Contact Information:
Timothea Tway
Assistant Planner
(310) 285-1122
ttway@beverlyhills.org

DISCUSSION

Issues Statement

This report serves as an "Issues Statement" pursuant to the work scope presented to City Council on July 2, 2013 (Attachment 2). The Issues Statement includes a summary of the City's current regulations and issues to be considered.

Current Regulations: *Nonconforming Use*

Nonconforming uses are defined in the Beverly Hills Municipal Code (BHMC) as: "A use of property that was permitted at the time that it was lawfully established, but is presently prohibited or presently requires a conditional use permit or other use permit and no such permit has been issued for the use." Examples of types of nonconforming uses that currently exist in the City include:

- A use that was once allowed but is no longer allowed anywhere in the City (example: veterinary clinic);
- A use that is allowed in the City but is no longer allowed in the area where it is currently located (example: hotels in residential zones); and,
- A use that was established by right and did not require a conditional use permit (CUP) or other use permit at the time but would require a CUP or other use permit today because of changes in the Zoning Code since the use was originally established (example: automobile dealerships and service).

Article 41 of the BHMC regulates Nonconforming Buildings, Parking and Uses. As outlined in BHMC Section 10-3-4101, expansion of a nonconforming use is not allowed and a nonconforming use may not be resumed once that use is converted to a conforming use[1]. This section of the code does not address discontinuance or abandonment of nonconforming uses. As a result, a building that most recently housed a legally nonconforming use may remain vacant for any period of time and, so long as there has been no intervening use that conforms to current code, the legally nonconforming use may be reestablished.

Current Regulations: *Conditional Use Permits*

A conditional use permit allows the City to permit uses that may be necessary or desirable to the community, but are recognized to have potential impacts to the neighborhood or adjacent properties. Conditions of approval may be applied during the discretionary review of a conditional use permit to mitigate the potential negative impacts that the proposed use may have on adjacent property, the neighborhood and the public welfare.

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[1] Medical uses have a unique provision that allows the use to be reestablished if discontinued, provided the property owner registered the property with the City.

Examples of uses that are conditionally permitted in commercial areas of the City include:

- Convenience stores
- Drive-through facilities
- Mini shopping centers
- Vehicle sales, service or fuel stations
- Private training centers over 2,000 square feet of floor area.

Examples of uses that are conditionally permitted in residential areas of the City include:

- Educational institutions
- Museums
- Childcare uses
- Senior housing.

Attachment 3 includes a complete list of conditionally permitted uses in commercial and residential areas.

Article 38 of the BHMC regulates Conditional Use Permits. Section 10-3-3802 "Restrictions" states that "in granting a conditional use permit, the planning commission may impose such conditions on the permit as the commission deems necessary or proper to protect adjacent property and the public welfare from potential adverse impacts related to the approved use."

Conditions that may be imposed include "limiting height or area of buildings and structures that would otherwise be permitted by the provisions of this title and conditions that require an applicant to provide parking and loading spaces in excess of the parking and loading spaces." Earlier conditional use permits included minimal conditions and, over time, the Planning Commission has been imposing more conditions on conditional use permits to better address potential impacts and community expectations. There is no language included in the Zoning Code that sets time limits for conditional use permits, whether or not the conditional use has been discontinued.

It is noted that the Beverly Hills Municipal Code does address the discontinued exercise of rights with regard to variances (also referred to as abandonment of the variance). BHMC 10-3-3714 states that "the failure to exercise any right granted by a variance within the time limits provided, or the discontinuance of the exercise of any right heretofore or hereafter granted by a variance for a continuous period of twelve (12) months, shall constitute an abandonment of such variance and such rights shall lapse..." Staff is researching the legislative history and intent of this regulation to better understand why similar provisions have not been adopted for use permits in the Code and will provide more information during the study session.

Land Use Considerations

Allowing the reestablishment of nonconforming or conditionally-permitted uses after a long period of vacancy may:

- cause impacts that were not originally foreseen and addressed when the use was permitted,
- create conflicts with residents and businesses because of changing expectations (traffic, parking, etc.),
- provide inadequate opportunities for community input on impacts of the use.

An owner of a property with a legally nonconforming use or a CUP may be inclined to allow property to remain vacant, sometimes for years, in order to wait for a certain business type or rental rate. This could be problematic because:

- during vacancy the community's vision and goals for the area could change,
- land that remains vacant for an extended period of time may degrade neighborhood character,
- property left vacant could have fiscal impacts on the City.

Review of Neighboring Cities' Regulations

Staff compiled information on regulation of legally nonconforming and conditionally permitted uses as they relate to discontinued uses and vacant properties from several cities in the region including Los Angeles, West Hollywood, Culver City, Santa Monica, Glendale, Pasadena and Malibu. The table below summarizes this information. Attachment 4 provides more information for each city.

Maximum amount of time a property can remain vacant before its nonconforming or conditionally permitted use status expires

City	Legal Nonconforming Use	Conditional Use Permit
Beverly Hills	No Limit	No Limit (Review authority may impose time limit conditions at time of review)
Los Angeles	One year	One year
West Hollywood	One year	No Limit (review authority may impose time limit conditions at time of review)
Culver City	One year (unless director determines that property owner has made legitimate effort to use or lease)	One year
Santa Monica	One year	Six months (requires a revocation hearing before Planning Commission)
Glendale	One year	Limit set by review authority when CUP approved
Pasadena	One year	One year
Malibu	180 days (6 months)	Six months (requires a revocation hearing with Planning Commission)

Legal Nonconforming Uses

As shown in the table above, all but one city (Malibu) examined for this report place a one-year restriction on how long a property can remain vacant before a nonconforming use on the property expires. Malibu has a more stringent requirement of 180 days at which point a nonconforming use is no longer allowed to be reestablished after it has been discontinued.

Conditionally Permitted Uses

The restrictions placed on conditionally permitted uses that have been discontinued or abandoned are not as uniform among the cities reviewed as those for legal nonconforming uses. Three cities, Los Angeles, Culver City and Pasadena, allow a conditionally permitted use to be reestablished up to a year after such use has been discontinued. Santa Monica and Malibu have a six month limit for a conditionally permitted use to be reestablished after discontinuance; however, a hearing by a review body is required to revoke the conditional use permit. Glendale and West Hollywood do not have explicitly stated time limits on conditionally permitted uses but do allow the Planning Commission to impose time limit restrictions on such permits when they are considered for approval (similar to Beverly Hills).

Alternatives

Several policy alternatives are presented below. Each alternative includes discussion of impacts to the City, community, and property owner as well as benefits and considerations.

Alternative 1: No change in regulation (current standard)

One alternative is to continue to allow legally nonconforming and conditionally permitted uses to be authorized indefinitely.

Benefits

- Property owners with nonconforming uses or CUPs could benefit from a wider range of uses/businesses potentially available to occupy their properties, particularly during economic slowdowns when it may be more difficult to lease properties.

Considerations

- Allowing nonconforming and conditionally permitted uses to continue into perpetuity could result in neighborhood incompatibilities when community priorities and expectations change and old uses are reestablished after periods of vacancy.
- If property owners allow a property to remain vacant in order to wait to lease to a certain type of tenant, long vacancies could impact community character, present property maintenance issues and could mean lost revenue for the City.
- No change in the current regulation will continue to result in certain properties remaining vacant for long periods of time.

Alternative 2: Establish a time limit for legally nonconforming uses and conditionally permitted uses

The Planning Commission may wish to consider recommending establishment of a time limit for legally nonconforming uses and conditionally permitted uses that are discontinued or vacated. The time limit established could be different for nonconforming uses and conditionally permitted uses. The most commonly used time period in neighboring jurisdictions is one year after the discontinuance of the use. As noted previously, variances granted by the City of Beverly Hills also expire after one year of discontinued exercise of rights. Given that establishing a time limit on these uses would be a new regulation for property owners in Beverly Hills, the Planning Commission may wish to consider a time limit in excess of one year to provide property owners with additional flexibility to locate desirable tenants to fill vacant spaces. The Planning Commission may wish to consider establishing a time limit between two and five years.

Benefits

- Establishing time limits would give the City more ability to ensure orderly reuse of property consistent with the General Plan.
- Time limits could encourage property owners to establish a conforming use which could be more compatible with the surrounding neighborhood.
- If there were time limits on reestablishment of vacant and discontinued uses, property owners would have an incentive to locate tenants and fill spaces rather than keeping properties vacant waiting for a particular tenant.
- Pursuant to the points above, staff anticipates time limits could result in fewer longtime vacant properties in the City which could have a positive impact on community character, property maintenance and City revenues.

Considerations

- Establishing time limits for discontinued nonconforming uses and CUPs would limit the range of uses/businesses available to a property owner and may limit a property owner's ability to establish a lucrative use on his/her property .
- There may be existing nonconforming uses that the Code no longer allows in the City, and once abandoned pursuant to a proposed time limit, could not be reestablished in Beverly Hills.
- There could be difficulties in administering proposed time limits such as determining that a particular use has or has not been operating during the given time limit.
- From a legal perspective, the City has the ability to introduce a time limit for existing CUPs but there may be considerations related to the rights granted in specific CUPs and whether property owners have had the opportunity to amortize the value of any granted rights over time. If the Planning Commission wishes to pursue a time limit on CUPs, staff will explore these considerations more fully.

GENERAL PLAN CONFORMANCE

Establishing regulations for legally nonconforming and conditionally permitted uses that promote economic vitality while minimizing negative impacts to neighboring property owners is consistent with goals and policies in the General Plan.

- The Land Use policies found under Land Use Goal 15 "Economic Sustainability" include promoting the revitalization of vacant and underutilized buildings to sustain economic vitality, retaining and building upon key business sectors in the community and supporting businesses that contribute revenue, quality services and high paying jobs to the City.
- Land Use Policy 2.1 "City Places: Neighborhoods, Districts, and Corridors" calls for the maintenance and enhancement of the character and aesthetic qualities of the City's distinctive neighborhoods.
- Land Use Policy 5.8 "Encroachment of Incompatible Land Uses" calls for the protection of residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible.
- Land Use Goal 12 "Business Districts Adjoining Residential Neighborhoods" calls for fostering compatible relationships between commission districts and adjoining residential neighborhoods and assuring the integrity, character and quality of both commercial and residential areas are protected and quality of life is maintained.
- LU 12.1 Functional and Operational Compatibility. Require that retail, office, entertainment, and other businesses abutting residential neighborhoods be managed to assure that businesses do not create an unreasonable and detrimental impact on neighborhoods with respect to safety, privacy, noise, and quality of life by regulation of hours of operation, truck deliveries, internal noise, staff parking and on-site loitering, trash storage and pick-up and other similar business activities.

POINTS OF CONSIDERATION

Staff is seeking input and direction from the Planning Commission on the following:

- Should a time limit on legally nonconforming and conditionally permitted uses be established? If so, what is an appropriate amount of time for these uses to be discontinued before the property owner is unable to reestablish the nonconforming use or must apply for a new CUP for the conditionally permitted use?
- If time limit regulations are considered, should they pertain only to properties in commercially zoned areas, or to properties in both commercially zoned areas and commercial uses in areas zoned for residential use? Staff does not recommend including nonconforming residential uses in residential areas in this discussion based on City Council direction which was aimed at impacts of commercial uses on residential areas.
- Any other potential alternatives or issues that the Commission would like to consider.

PUBLIC OUTREACH

The City Council identified broad community involvement as an important aspect of the study of vacant nonconforming and conditionally permitted uses. The Council expressed a desire to engage residents,

property owners, and realtors in the study process. In order to ensure the community is informed of this policy discussion, this public hearing has been noticed in the following manner:

- A notice ran in the Beverly Hills Courier on Friday, February 7, 2014 and the Beverly Hills Weekly on Thursday, February 13, 2014.
- An announcement about the hearing was posted on the City website beginning on Friday, February 7, 2014.
- A notice was sent to:
    - Homeowner and community groups in the City
    - Chamber of Commerce and realty offices that operate in the City
    - The Southeast Task Force
    - Other interested parties.

Staff will continue to keep all of the above groups informed about progress on this issue.

NEXT STEPS

The City Council, at its July 2, 2013 meeting, directed the Planning Commission to study this issue but did not provide specific direction that the City's regulations should be changed and did not appear to unanimously support establishing a time limit on legally nonconforming and conditionally permitted uses. The Planning Commission may wish to discuss the issue and to take the following steps:

- Conduct one additional study session at which staff can provide information such as the number and general location of commercial properties that could be impacted by the establishment of time limits on vacant nonconforming and conditionally permitted uses
- Develop a summary of issues and draft recommendations
- Solicit additional input from the City Council:
    - direct staff to set up a City Council-Planning Commission liaison committee meeting to discuss the issues and recommendations,

      OR
    - direct staff to prepare a City Council study session report that summarizes the Planning Commission's issues and recommendations.

  Either of these options would allow the City Council the opportunity to provide additional direction to the Planning Commission with regard to this issue.

Report Reviewed By:
Jonathan Lait, AICP
City Planner

Attachment 1

City Council Report, April 2, 2013

CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date: April 2, 2013

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: Request by Mayor Mirisch to review the City's regulation of non-conforming and conditionally permitted uses that have been vacant for a period of time.

INTRODUCTION

At the request of Mayor Mirisch, information is being provided on the City's regulation of nonconforming uses and conditionally permitted uses.

DISCUSSION

The City's zoning ordinance regulates the size and location of buildings and permitted land uses. Some land uses are permitted by right, others may be conditionally permitted, and some are prohibited. The use of a property is declared 'nonconforming' when City policies change and the use no longer complies with current codes. For instance, a use that was previously allowed by right when it was established may now require a conditional use permit and, therefore, be determined nonconforming for lack of a conditional use permit.

Pursuant to local regulations (BHMC 10-3-4101), legally authorized uses that are now nonconforming with respect to current land use standards may continue to operate provided there is no expansion or alteration of the nonconforming use. If a nonconforming use is abandoned, the use may be reestablished at some point in the future provided there has not been an intervening use.

Some communities have regulations that would only allow a conforming use to be established once a nonconforming use was abandoned for a period of time, such as one or more years. During economic downturns and increased building vacancies, some property owners may end up losing their nonconforming rights with such regulations. Beverly Hills historically has had no limitation on when a nonconforming use can be reestablished.

Abandoned uses become more complicated when a property owner has previously received a conditional use permit. Since conditional use permit entitlements run with the land, the City may have to undertake a revocation process in certain circumstances to amend or revoke a conditional use permit. If directed by the City Council, there may be other alternatives not presently codified that could allow for certain limitations on conditional use permits that are no longer being used, but remain valid. However, more research with the City Attorney's office would be needed to explore those options.

Replacing nonconforming uses with conforming uses may not be possible in some instances because over time the City's parking and other building regulations have changed. If City Council is interested in establishing time limits on abandoned nonconforming uses, additional research is needed to better understand the possible impacts that parking and other building regulations would have on nonconforming properties.

FISCAL IMPACT

There is no fiscal impact associated with this report.

RECOMMENDATION

This report is provided at the request of a councilmember. Staff will proceed with this item based on direction from the City Council.

Susan Healy Keene
Director of Community Development

Attachment 2

City Council Report, July 2, 2013

CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date:	July 2, 2013
To:	Honorable Mayor & City Council
From:	Jonathan Lait, AICP, City Planner/ Assistant Director of Community Development
	Peter Noonan, AICP CEP, Senior Planner, Community Development
Subject:	Scope and Timeline for Reviewing City's Regulation of Vacant Non-conforming and Conditionally Permitted Uses
Attachments:	1. April 2, 2013 Staff Report

INTRODUCTION

On April 2, 2013, at the request of Mayor Mirisch, the City Council discussed the City's regulation of non-conforming and conditionally permitted uses on sites that have been vacant for extended periods of time. During the discussion, the City Council provided direction to the Planning Commission to review and develop a recommendation regarding current City regulations. This report presents a proposed scope and timeline for completing this work effort and returning to City Council.

The work scope presented in this report includes an analysis of regulations in other cities, potential impacts to neighborhoods, means of providing greater community input, and meeting General Plan goals and policies.

The proposed work plan does not include an analysis of economic implications, or of the ability to attract or retain businesses. If the City Council would like economic aspects explored, an additional work item can be developed which would include a request for a consultant to complete the economic analysis.

DISCUSSION

Non-conforming uses are uses that were allowed by-right at one time in the past, but are now prohibited or require some form of discretionary review, such as a conditional use permit.

Conditionally-permitted uses are uses reviewed and approved by the Planning Commission. The Planning Commission can add conditions of approval to a conditional

use permit in order to make the finding necessary to grant the permit and address any potential impacts which the use might have on the neighborhood.

Currently, the City's zoning code regulations allow non-conforming or conditionally permitted uses to continue with no further review, even if the property is left vacant for an extended period of time. A property loses the right to a non-conforming use when a conforming use is established, unless the non-conforming use is medical and the building is on the City's medical registry. Registered medical buildings are allowed to continue as medical buildings, even if non-medical uses are established in the building for some period of time. In all other instances, once a conforming use is established, a non-conforming use cannot later be re-established. Non-conforming uses and conditionally permitted uses cannot be expanded or intensified without further review by the City.

The Mayor had raised concerns regarding the City's regulations for the Council to consider for the following reasons: (1) during the time in which a property is vacant neighboring properties could change hands, or the community's vision for the area could change; (2) since there is currently no time limit on how long a property can remain vacant and retain its non-conforming or conditionally-permitted use rights, property owners, today, might be more apt to allow properties to remain vacant, waiting for a certain business type or rental rate before leasing the property again; (3) leaving a property vacant, and then reusing the property after an extended period of time represents changes to neighborhood character; (4) re-instating non-conforming or conditionally-permitted uses after a long period might cause impacts that were not originally foreseen and addressed when the use was originally permitted; (5) current regulations for the reinstatement of non-conforming and conditionally-permitted uses does not provide opportunities for community input.

For these reasons, at the April 2, 2013 meeting, the City Council directed staff to identify and explore the issues associated with re-instating non-conforming and conditionally-permitted uses on properties that have been vacant for an extended period of time.

The City Council identified the following aspects for inclusion in the Planning Commission's study:

- Broad community involvement of residents, property owners, and realtors;
- Greater development of the issues and potential alternatives;
- Case studies from other cities.
- Striking a balance between limiting impacts to neighborhoods, attracting and retaining businesses, assuring properties can be leased, and meeting the goals and policies in the City's General Plan.
- Full consideration of potential impacts of current regulations and alternatives, including analysis of the benefits and considerations of setting a maximum amount of time a property can remain vacant and retain its non-conforming or conditionally-permitted rights.
- Potential impacts to neighboring properties from continued non-conforming or conditionally-permitted uses,

- Potential impacts from changing to by-right permitted uses,
- Potential economic implications and impacts on the ability to lease non-conforming or conditionally-permitted properties and on the ability to retain and attract businesses.

Analysis of economic considerations is not included in the proposed work scope since there would be an added cost for a consultant to complete the study. If the City Council would like to include this aspect in the study at this time, an additional work scope can be brought forward with a request for funding.

Work Scope

Staff has developed the following Planning Commission work scope to address City Council direction, with work beginning in the 2013/14 Fiscal Year:

Staff Analysis

1. Staff will develop an issues statement that presents the City's current regulation of non-conforming and conditionally-permitted uses and land use considerations to be studied. The City will identify all properties that could be affected by a change in regulation in order to notify all affected property owners and neighboring residents and tenants. The city will also notify local real estate offices.

2. Staff with provide an update to the Planning Commission presenting the issues statement, and soliciting community input at a public hearing.

3. Staff will then develop case studies from other communities that have an established limit on how long non-conforming or conditionally-permitted properties can remain vacant before losing their rights.

Planning Commission Review and Public Outreach

4. All discussions will occur before the Planning Commission during publically noticed meetings. Affected property owners, neighbors and real estate agents will be notified of all meetings.

    a. At the publically noticed meeting, staff will present the issue statement and case studies to the Planning Commission for consideration. Staff will also present information associated with setting a time limit, including:

        i. Potential impacts from continuing a non-conforming or conditionally-permitted use,
        ii. Potential new impacts from changing to a permitted by-right use,
        iii. Ability to provide greater community input,
        iv. Ability to meet goals and policies in the General Plan.

    b. Planning Commission will consider all public comment when studying alternatives and making its recommendation.

City Council Review

5. The City Council will be presented with the results of the Planning Commission's study and its recommendation.

Timeline

It is anticipated that this item will be completed by summer 2014.

FISCAL IMPACT

There would be no fiscal impact.

RECOMMENDATION

Staff will proceed as outlined in this report, unless otherwise directed by the City Council.

Susan Healy Keene
Director of Community Development

Approved By
Susan Healy Keene

Attachment 3

List of Uses Conditionally Permitted in the City

Conditionally Permitted Uses in Commercial Zones

Zone	Conditionally Permitted Uses
C-3	• Amusement parks. • Brewing or manufacture of alcoholic beverages that is ancillary to a dining or bar use or is ancillary to a retail store that sells alcoholic beverages. • Car washes that: A. Are enclosed in a building; B. Exclusively serve a business whose operation is primarily devoted to the sales, long term leasing or rental of automobiles or other motorized vehicles; C. Are located on the site of the business being served; and D. Do not exceed twenty feet (20') in width or forty feet (40') in length. • Childcare uses licensed pursuant to state law. • Convenience stores not occupying a tenant space whose primary entrance opens into the interior of a commercial building. • Drive-up, drive-in and drive-through facilities • Educational institutions. • Hotels, subject to the provisions of article 28.6 of this chapter. • Mini-shopping centers • Museums. • Nightclubs within the business triangle, • Off site parking • Private training centers of more than two thousand (2,000) square feet of floor area. • Public utility uses • Religious institutions. • Vehicles sales, service or fuel stations
C-3A C-3B	All of the above including Clubs
C-5	• Brewing or manufacture of alcoholic beverages that is ancillary to a dining or bar use or is ancillary to a retail store that sells alcoholic beverages. • Car washes that: A. Are enclosed in a building; B. Exclusively serve a business whose operation is primarily devoted to the sales, long term leasing or rental of automobiles or other motorized vehicles; C. Are located on the site of the business being served; and D. Do not exceed twenty feet (20') in width or forty feet (40') in length. • .

- Convenience stores not occupying a tenant space whose primary entrance opens into the interior of a commercial building.
- Educational institution uses teaching grade levels one through twelve (12).
- Gymnasium uses.
- Museum uses.
- "Nightclub type activity" uses
- Off site parking
- Private screening rooms appurtenant to commercial office uses.
- Religious institution uses.
- Restaurant uses that are located on lots that abut Maple Drive, and that are open after six o'clock (6:00) P.M. However, nothing in this section shall permit the operation of a restaurant in violation of the requirements of section 10-3-2005 of this chapter.
- Theater/auditorium uses with a maximum capacity of no more than four hundred fifty (450) persons.
- Vehicle sales and service uses prohibited by section 10-3-2002 of this chapter, but in existence on September 1, 1991. Any expansion of such use shall require a conditional use permit and shall be limited to property that is contiguous to the site area occupied by the use on September 1, 1991.
- Veterinary hospital uses prohibited by section 10-3-2002 of this chapter, but in existence on September 1, 1991. Any expansion of such use shall require a conditional use permit and shall be limited to the site area occupied by the use on September 1, 1991.
- Those uses not specifically permitted or prohibited by this article or otherwise conditionally permitted by this section. (1962 Code § 10-413; amd. Ord. 94-O-2193, eff. 3-4-1994; Ord. 94-O-2212, eff. 9-9-1994; Ord. 97-O-2283, eff. 8-1-1997; Ord. 99-O-2336, eff. 11-4-1999; Ord. 12-O-2625, eff. 8-3-2012)

Conditionally Permitted Uses in Residential Zones

Zone	Conditionally Permitted Uses
R-1 R-1.5	• Clubs • Educational Institutions • Museums • Public utility uses • Religious institutions
R-1.X	• Museums • Public educational institutions • Public utility uses
R-1.5X2	• Public educational institutions • Public libraries • Publicly owned playgrounds
R-4 R-4-P	• Childcare uses licensed pursuant to state law • Educational institutions • Large community care facilities • Multiple-family housing for the elderly or disabled pursuant to article 12.5 of this chapter • Museums • Public utility uses, except as provided in section 10-3-2754 of the BHMC • Religious institutions • Restaurants located in nonconforming hotels, as provided in section 10-3-1207 of the BHMC
RMCP	• Childcare uses licensed pursuant to state law • Educational institutions • Large community care facilities • Multiple-family housing for the elderly or disabled pursuant to article 12.5 of this chapter • Museums • Public utility uses, except as provided in section 10-3-2754 of the BHMC • Religious institutions • Restaurants located in nonconforming hotels, as provided in section 10-3-1207 of the BHMC • Convenience Retail Uses
Special Needs Housing Overlay Zone	• Large community care facilities • Multiple-family congregate housing for the elderly or disabled pursuant to article 12.8 of chapter 3, title 10 • Single room occupancy housing (SRO) subject to the standards provided in the Code

Multiple-family Congregate Housing for Elderly	• Multiple-family congregate housing for elderly and disabled persons if the application meets the criteria for a conditional use permit

Attachment 4

Case Studies

Vacant Nonconforming Uses / CUPs
Continuation of Use after abandonment or discontinuance

City	Legal Nonconforming Use	Conditional Use Permit
Los Angeles	A building or structure or portion or a building or structure, which contains a nonconforming use which is discontinued for a continuous period of one year, shall only be occupied by a use that conforms to the current use regulations of the zone and other applicable current land use regulations. (section 12.23) **Time limit established: One year**	If a conditional use is abandoned, or is discontinued for a continuous period of one year, it may not be re-established unless authorized in accordance with the procedure prescribed in this section for the establishment of a conditional use. (Sec 12.24) **Time limit established: One year**
West Hollywood	A nonconforming use that is voluntarily discontinued or has ceased operations for one year or more shall not be re-established on the site. Any further use of the site shall comply with all applicable provisions of this Zoning Ordinance. (19.72.050) **Time limit established: One year**	In approving a conditional use permit or minor conditional use permit, the review authority may impose reasonable and necessary specific design, locational, and operational conditions relating to both on- and off-site improvements, which are intended to ensure that: A. The project will comply with all the findings listed in Section 19.52.040; B. On- or off-site improvements (e.g., fire hydrants, streets, street lighting, traffic-control devices, etc.) are provided as reasonable and necessary to carry out the purpose and requirements of the applicable zoning district; and C. Any time limits on the duration of the use are provided as determined to be necessary by the review authority. **Time limit established: None, however the review authority may impose conditions related to time limits on the duration of the use at the time of review.**
Culver City	**B. Abandonment or Discontinuance of Use.** A nonconforming use, which has been abandoned or discontinued for a period of one year, shall not be reestablished, and any subsequent reuse or any new use established shall conform to the current provisions of this Title. **Time limit established: One Year (*unless director determines that property owner has made legitimate effort to use or lease*)**	An Administrative Use Permit or Conditional Use Permit granted pursuant to the provisions of this Chapter that is valid and in effect, shall run with the land and shall continue to be valid upon a change of ownership of the site or structure that was the subject of the use permit application. However, should the activity approved by the use permit be discontinued for a consecutive period of one year, the use permit shall be deemed to be expired and shall become null and void. Upon expiration, further continuation of the activity on-site will require approval of a new Administrative Use Permit or Conditional Use Permit application.(17.530.030) **Time limit established: One Year**

Santa Monica	If a legal, nonconforming use ceases operation for a continuous period of one year or more, that use shall lose its legal, nonconforming status, and the premises on which the nonconforming use took place shall from then on be used for conforming uses only. Uses in a building undergoing restoration or reconstruction shall be exempt from this requirement provided the provisions of Section 9.04.18.020(e) are complied with. Uses discontinued due to an act of nature shall be exempt from this requirement provided reconstruction of the building is commenced within one year of the date the damage occurs and is diligently completed. (9.04.18.030) **Time limit established One Year**	The Planning Commission may, or upon direction from the City Council, revoke any approved Conditional Use Permit in accordance with the following procedures: ... (b) After the hearing, a Conditional Use Permit may be revoked by the Planning Commission, or by the City Council on appeal or review, if any one of the following findings are made: (1) That the Conditional Use Permit was obtained by misrepresentation or fraud. (2) **That the use for which the Conditional Use Permit was granted has ceased or has been suspended for six or more consecutive calendar months....** (9.04.20.12.070) **Time limit established: Six months** (*requires a revocation hearing with PC*)
Glendale	A nonconforming use, or portion thereof, shall be terminated if such use is discontinued for one (1) year or if the building or structure where the use is located loses its nonconforming status due to damage or voluntary reconstruction as provided for in section 30.60.040. (30.60.030) – nonconforming uses **Time limit established: One Year**	For variances, conditional use permits, parking reduction permits, parking use permits, development projects in the SR Special Recreation zone, such rights and privileges shall also be terminated at such time as the applicable review authority may designate in the approval of the variance, conditional use permit, parking reduction permit, parking use permit, or development projects in the SR Special Recreation zone review. A variance or a parking use permit may be terminated by the review authority upon any interruption or cessation of the use permitted by the variance for one year or more in the continuous exercise in good faith of such right or privilege. A parking reduction permit may be terminated by the review authority upon any interruption or cessation of the use permitted by the parking use permit in accordance with Section 30.50.070. (30.41.010) **Time limit established: time limit is set by the Reviewing Authority at time CUP is approved**
Pasadena	Without any further action by the City, a nonconforming use shall lose its nonconforming status and shall not be reestablished if the nonconforming use is discontinued for any reason for a continuous period of at least 12 months. (17.71.060) **Time limit established: One Year**	**Findings.** Any permit issued in compliance with this Section may be revoked or modified on the basis of any of the following, in compliance with Section17.78.090 (Permit Revocation or Modification):... h. The use for which the approval was granted has been discontinued, ceased to exist, or has been suspended for a continuous period of at least 12 months.

		Time limit established: One Year
Malibu	A. Uses which were lawfully established prior to March 26, 1993, and which are no longer permitted or which require a discretionary permit as a result of adoption of this title, or any subsequent amendment thereto, may be continuously maintained, subject to the provisions of this section. B.Uses described in subsection A of this section which are discontinued shall not be resumed. Discontinuance occurs where the use has ceased operating for a period of one hundred eighty (180) days, or has changed so as to be in compliance with this title, or where the structure used for the use has been removed or destroyed. (17.60.040) **Time limit established: 180 Days**	C. Revocation. 1. If it has cause to believe that grounds for revocation or modification may exist, the planning commission shall hold a public hearing upon the question of modification or revocation of a conditional use permit granted under or pursuant to the provisions of this chapter. Notice of such hearing shall be the same as would be required for a new conditional use permit. 2.A conditional use permit shall be revoked if the planning commission finds that one or more of the following conditions exists: a. The conditional use permit was obtained in a fraudulent manner. b. The use for which the conditional use permit was granted had ceased or was suspended for at least six successive calendar months. (17.66.100) **Time limit established: Six Months (*requires a revocation hearing with PC*)**