City of Culver City, California

City Council Agenda Item Report

Meeting Date: 02/11/08	Item Number: PH-1
AGENDA ITEM: 1) Introduction of an Ordinance (Zoning Code Amendment, ZCA P-2007168) Amending Section 17.400.065 of the Culver City Municipal Code Pertaining to Mixed Use Development Standards; and 2) Adoption of a Resolution Establishing a Community Benefit Incentive Program Pertaining to Mixed Use Development.	
Contact Person/Dept.Thomas Gorham & Todd Tipton	Phone Number: (310) 253-5727 & (310) 253-5783
Fiscal Impact: Yes [] No [X]	General Fund: Yes [] No [X]
Public Hearing: [X] Action Item: []	Attachments: [X]
Public Notification: A Notice of Public Hearing was published in the Culver City News (1/10/08 & 1/17/08). All homeowners associations (1/14/08); Architects, designers and planning related consultants on file with the City (1/14/08); Development professionals working with the Community Development Department and Redevelopment Agency (1/14/08); Speakers at the July 2nd, August 6th and October 8th, 2007 Council meetings (1/14/08); Master Notification List (02/07/08).	
Department Approval: Sol Blumenfeld (1/31/08)	City Attorney Approval: Carol Schwab (by H. Baker) (02/06/08)
Fiscal Impact Review: Jeff Muir (by N. Kimball) (02/06/08)	City Manager Approval: Jerry B. Fulwood (02/06/08)

RECOMMENDATION:

Staff recommends the City Council:

1) Introduce Ordinance No. 2008-______, Zoning Code Map Amendment, ZCA P-2007168 (Attachment No.1), amending Section 17.400.065 of the Culver City Municipal Code pertaining to Mixed Use Development Standards; and

2) Adopt Resolution No. 2008-R____ establishing a Community Benefits Incentive Program pertaining to mixed use development.

PROCEDURE:

1. Mayor calls on staff for a brief staff report.
2. Mayor opens the public hearing to allow for public comment, if any.
3. Receive comment from the applicant and public.
4. Mayor seeks a motion to close the public hearing after all testimony has been presented.
5. Council discusses the matter and arrives at its decision.

BACKGROUND:

At its June 13, 2007 meeting, the Planning Commission discussed the issue of density as it relates to mixed-use projects and recommended that the City Council reduce the current density allowance of up to 65 dwelling units per acre (du/ac) in order to address the Commission's and public's concerns over traffic, parking and neighborhood compatibility issues related to mixed-use projects.

On July 2 and August 6, 2007 the City Council conducted hearings and took testimony on proposed revisions to consider reducing density in mixed use development projects and adopting other related development standards.

During the Special Study Session on August 6, 2007 the Council reviewed several key development measures that impact the size and scale of a project and noted concerns about building height particularly in proximity to single family development, traffic generation and building massing. More general concerns were also expressed about project compatibility. After consideration of the staff report, public testimony and materials presented at the Study Session, the Council directed staff to focus upon reducing base density to 35 dwelling units per acre and modifying development standards to reduce height and increase setbacks where a mixed use project abuts residential areas. Further, the Council directed staff to more fully develop a "community benefits" concept in which density could be increased up to 50 dwelling units per acre in return for the project providing a community benefit such as public parking, open space, streetscape improvements, or other City identified benefit.

On October 8, 2007 staff returned to the Council with refinements to the proposed changes to the current Mixed Use Standards including a system of incentive zoning related to community benefits. Following review and discussion, the Council directed staff to establish a neighborhood based community benefit incentive program and to initiate the following changes to the Mixed Use Development Standards:

<u>Density</u>

- Establish a base density of 35 dwelling units per acre (du/ac)
- Allow up to 50 dwelling units per acre (du/ac) with a community benefit
- On lots that are split between jurisdictions allow density equal to adjacent jurisdiction up to a maximum 65 units per acre

Height

- Allow 56' height only where abutting commercial zones or where lot is split between jurisdictions.
- Reduce building height to 45' abutting multifamily zones. Building may step to 56' on lots of 150' or more in depth provided stepped portion is 50' or more from abutting residential property.
- Reduce building height to 35' abutting single family and two family (R-1 & R-2) zones. Building may step to 45' providing the stepped portion of the building is 35' or more from abutting residential (R-1) property.

Other Standards

- Establish building setbacks above the ground floor commercial space to provide building relief along the street frontage and to incorporate open space for residential units
- Establish a minimum commercial floor depth or area for each project to ensure adequate commercial use in mixed use projects.
- Allow Mixed Use in the East Washington Overlay Zone (EWO)

DISCUSSION:

Current Mixed Use Development Standards

The Mixed Use Development Standards are provided in Section 17.400.065 of the Zoning Code and are intended to promote commercial revitalization, redevelopment and reinvestment by providing a new market base with new residential development and by activating commercial neighborhoods with new pedestrian activity, thereby furthering the principles of smart growth and sustainability by minimizing auto trips and bringing shopping, employment and housing closer together. Mixed use development is also seen as an important tool to enable the City to meet its Regional Housing Needs Assessment (RHNA) housing requirements mandated by the State.

Mixed Use is currently permitted in the Commercial Downtown (CD), Commercial Neighborhood (CN) and the Commercial General (CG) zones. Mixed Use is currently not permitted in the East Washington Overlay Zone. The standards permit 65 dwelling units per acre, a 56 foot building height in most commercial zones and a zero foot setback along commercial frontage and a minimum 10 foot setback abutting residential zones, with a 60 degree clear-zone angle maintained as measured from the rear property line.

Planning Commission Recommendations

Based on direction from the City Council staff presented the draft ordinance to the Planning Commission on November 28, 2007. The following summarizes the proposed changes to the Mixed Use Development Standards presented to the Commission:

At the November 28, 2007 meeting, the Planning Commission considered the draft ordinance and adopted Resolution No. 2007-P019 (Attachment No. 2) recommending that the City Council approve the ordinance with the following changes:

- Limit the area subject to the split jurisdiction requirement for increased density to the south side of Washington Boulevard between Del Rey Avenue and Redwood Avenue.
- Added a requirement that commercial uses make up a minimum of 30% of the projects overall development square footage, in addition to the staff proposed minimum 30 foot commercial depth for commercial uses,
- Various clarification (non-substantive) changes to the Building Height and Setback Table

The changes to the Mixed Use Development Standards as recommend by the Planning Commission are presented in “strikethrough/underline” format in Exhibit A contained in the Planning Commission Resolution. The Planning Commission recommended changes are highlighted. The changes are summarized as follows:

- Reference to East Washington Overlay removed (Sub-section B.3.)
- Clarifying statement “or similar agreement” added (Sub-section B.5.)
- “Abutting Jurisdiction” definition provided (Sub-section C.)
- “Split Jurisdiction Lot” definition provided (Sub-section C.)
- 30 foot minimum commercial tenant space depth added (Sub-section D.3.)
- A requirement that commercial uses make up a minimum of 30% of the projects overall development square footage,
- Building Height provisions amended to refer to Table 4-2 and Figure 4-4 (Sub-section E.2.)
- Density provisions amended to reducing density from 65 du/ac to 35 du/ac; and by adding provisions for increases up to 50 du/ac and up to 65

du/ac on split jurisdiction lots provided a community benefit is provided (Sub-section E.3.)

- Building Setback provisions amended to included reference to Table 4-2 and Figure 4-4 (Sub-section E.4.)
- Table 4-2 amended to include new height and setback provisions
- Figure 4-4 added to illustrate building height and setbacks

<u>Split Jurisdiction Lot</u>

Pursuant to City Council direction staff included a provision in the draft Mixed Use Ordinance presented to the Planning Commission that on lots which are split between jurisdictions allowance for density would be equal to an adjacent jurisdiction up to a maximum 65 units per acre with a community benefit. Upon further study, staff discovered that there are approximately 1,300 lots within the CN, CG and CD zones where mixed use would be permitted. Of these, only 102 have “split jurisdiction” between the Culver City and the City of Los Angeles. Of these the majority are in the Washington Boulevard corridor west of the 405 Freeway. More specifically, there are approximately 29 lots between Del Rey Avenue and Redwood Avenue on the south side of Washington (Attachment No. 4) with a 50/50 split between Culver City and Los Angeles. The remaining split jurisdiction lots are split with 25% or less in Los Angeles.

In order to follow the Council’s direction to allow a project that is evenly split between jurisdictions to be built at the same density between jurisdictions, staff recommended to the Planning Commission that this regulation only apply to those lots that had a 50/50 split. The 29 lots and the resulting number of units are not substantial and the increased density will allow the commercial portion of the project to effectively be developed on the Culver City side since the extra residential helps support the overall project revenue to make the project viable as presented in the financial model prepared by the KMA and previously presented to the Council. On half a lot (“split jurisdiction” condition) the project becomes infeasible at 35 du/ac because the project revenue does not justify acquisition and development. [1]

<u>Minimum Commercial Area Requirements</u>

The Commission was concerned that mixed use projects would contain inadequate amounts of commercial use and since one of the objectives of the mixed use ordinance is to help stimulate commercial investment in the commercial corridors, the Commission felt that mixed use projects should contain more commercial use to help ensure that objective is met.

However, staff believes that the proposed minimum commercial area of the projects overall square footage (gross floor area) may so burden mixed use projects financially that they may be infeasible to develop. While adding more commercial to a mixed use project is a good goal, staff noted that if too much commercial use is required in a project, it burdens the project parking, increasing project costs without a corresponding increase in project revenues and makes development of the projects infeasible. Staff presented the conclusions of the City's financial consultant KMA, who noted that as the amount of ground floor commercial increased it displaces the amount of ground level parking and if it displaces so much area that it cannot be accommodated entirely on grade and requires another subterranean parking level, the project construction costs preclude development. The Commission nevertheless felt that the amount of commercial should be increased and lacking more analysis, recommended the amount be set at 30% of the projects overall square footage (gross floor area).

Recognizing the concerns of the Planning Commission, staff has prepared the attached spread sheets (Attachment No. 5) analyzing the effect of the *minimum percentage of gross floor area requirement* for a standard single, double and triple lot. The spread-sheet indicates that at 10%, 20% and 30% of the gross floor area, a 5000 sq. ft. lot (single lot) requires 8, 16 and 24 commercial parking spaces respectively. With 10% of the building GFA developed as ground level commercial, the required commercial parking can be provided on grade, but at 20% and 30% GFA the project parking must be located on an additional subterranean parking level and the cumulative parking required for both the commercial and residential uses at 35 and 48 dwelling units per acre, requires 2 floors of subterranean parking. The extra levels of subterranean parking make the project infeasible.

The *minimum percentage of gross floor area requirement* applied to larger lots of 10,000, 20,000 and 30,000 sq. ft produces the same effect. As the commercial portion of the project increases, it requires more parking and occupies more of the lot at grade, forcing the parking onto more costly subterranean levels. The cumulative effect with required residential parking makes the project infeasible.

Overall, the new Mixed Use Development Standards that reduce density and building height will have repercussions on land values related to mixed use projects, reducing the value until the real estate market establishes a new market equilibrium. The immediate effect will be to reduce interest in mixed used development in the City.[1] With the Commission's proposed changes, adding commercial area and related commercial subterranean parking costs, the likelihood of developing mixed use projects is further diminished. Therefore staff is recommending the commercial area in a project have a 30' minimum depth;

and a floor area that is 10% of the gross floor area of the project or 30 percent of the lot depth whichever is greater. These recommended changes are reflected in Exhibit A to the draft ordinance.

Transit Oriented Development

The City Council previously indicated some interest in allowing a higher density for mixed use developments that are in proximity the Exposition Light Rail line at Washington/National. Staff is recommending that the Council reconsider a provision in the Mixed Use Development Standards to permit Transit Oriented Development (TOD) projects to build up to a density of 65 dwelling units per acre as part of the qualifying criteria for considering a community benefit, providing the development is located within 1250 feet (approximately 4 city blocks) of the transit station. Such development will promote the goals of improved regional mobility, enhanced air quality and is consistent with good planning practice. These recommended changes are reflected in Exhibit A to the proposed ordinance.

Community Benefit Incentive

The City Council considered community benefit zoning to be a useful tool for providing community improvements in exchange for the ability to develop property more intensively. Community Benefit Zoning uses a base density and other typical development standards, but allows the standards to vary when a project provides certain specified public benefits. The development incentive allows the community to achieve particular goals, such as providing day-care, developing a project with extraordinary energy efficiency, creating public parks, libraries or museums or supplying needed parking in a commercial area beyond what is required by code, thereby offering specific physical, social or cultural amenities that benefit the residents of the community. In order to make this zoning system work, it is essential to identify the advantages to the developer and the community. Several large cities have incorporated community benefit zoning in their zoning ordinances. [2]

The idea behind community benefit zoning is that development brings with it the need to provide additional municipal services and facilities to absorb the impacts of added population and services. The process helps establish collaboration between the community and neighborhood during the discretionary permit process. In order to make the process workable, there must be some relationship between the benefit and the cost of providing it and proportionality between the benefit and the measurable impact that the specific project will have upon the community. [3]

As discussed by City Council, the community benefit would only be available when approved by the Planning Commission or City Council through the discretionary permit process. The City Council has suggested that the benefits be established on a neighborhood basis. [4] The community benefit will be adopted by City Council resolution prior to approval of mixed use projects. The process will involve identifying particular neighborhoods where the community benefit incentive zoning should initially be considered. Neighborhood stakeholders will then be notified and the City Council will conduct a hearing to determine the benefit, adopting a resolution that formalizes their decision. The neighborhood based system defines the benefit independently from a project.

Where the benefit is incorporated in larger projects, the City Council may want to use more than one benefit to achieve the goal of proportionality in the community benefit contribution.

Proposed Community Benefit Zoning in Mixed Use Projects:

1. Specific incentives (density increases) that may be granted for development:

   35 units per acre base density, up to 50 units per acre adjacent residential development and up to 65 units per acre where the property is located within two jurisdictions.

2. Specific benefits that are required to grant the development incentives:

   - Streetscape improvements that serve the immediate commercial area Including widened sidewalks, landscaping and street furniture and a contribution toward related maintenance costs.
   - Pocket Parks and Public Open Space (Minimum 5000 sq. ft.)
   - Metered Public parking serving the immediate commercial area and in excess of that required under the Parking Code.
   - Green building construction meeting LEED Silver energy efficiency standards.
   - Development located within 1250 feet of a mass transit station (if proposed change is approved).
   - Other benefits that serve the immediately impacted neighborhood as determined by the Planning Commission or Council.

3. Calculating Community Benefit Contribution.

The method for establishing the developer's contribution must be based on the proportionality of the benefit relative to the developer's profit. Unless there is proportionality, the system will be ineffective as there will be no reason to provide the benefit if the cost of providing it exceeds the revenue for the project.

The community benefit contribution is the proportional share of the community benefit value and calculated as follows:

A. Community Benefit Value:
The formula for calculating the community benefit value is:

DU's Allowed X Market Value Sales Price X .15 (Developer Profit) = Total Benefit Value

B. Community Benefit Contribution:
The community benefit contribution is 50% of the cost of the Community Benefit Value (Additional No. Units Over Base Density.)
The community benefit contribution is met by providing it on-site. Alternately, when the project is located within a specified improvement area , with scheduled streetscape or utility improvements, the contribution may be provided through an in-lieu payment in an amount equivalent to the required community benefit contribution. [5]

Attachment No. 6 is the proposed Resolution establishing a Community Benefit Incentive Program.

Staff is also recommending that for very large projects (lots greater then 30,000 sq. ft.) the developer be given the option to use public open space in addition to providing public parking to meet the community benefit requirement for increased density. For very large projects the added public parking requirement on site, may require additional floor levels of subterranean parking that wipe out the incremental profit gained under the community benefit formula. Therefore staff is recommending that for projects in excess of 30,000 sq. ft. of lot area, the developer be allowed to substitute the public open space (minimum 5000 sq. ft.) for some of the parking area requirement if the requirement causes the developer to provide an additional subterranean level of parking.

ENVIRONMENTAL DETERMINATION:

Section 15162 of the California Environmental Quality Act (CEQA) Guidelines states that when an EIR has been certified for a project no subsequent EIR shall be prepared for a subsequent project whose impacts are fully addressed in the initial EIR, unless there is substantial evidence of the following:

1) The subsequent project will require major revisions to the initial EIR;

2) The circumstances under which the EIR was prepared have significantly changed; or

3) New information of substantial importance, which was not previously known, could impact the project.

Section 15168 of the CEQA Guidelines states that a Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:

- Geographically;
- As logical parts in the chain of contemplated actions;
- In connection with issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or
- As individual activities carried out under the same authorizing statutory or regulatory authority and having similar environmental effects which can be mitigated.

Pursuant to Sections 15162 and 15168 of the California Environmental Quality Act, (CEQA), ZCA P-2007168 is within the scope of the Culver City General Plan Update Program EIR approved on September 24, 1996 (PEIR 1) and the Culver City Redevelopment Plan Amendment and Merger Program Subsequent EIR approved on November 16, 1998 (PEIR 2). The circumstances under which PEIR 1 and PEIR 2 were prepared have not significantly changed and no new significant information has been found that would impact either PEIR 1 or PEIR 2; therefore, no new environmental analysis is required.

SUMMARY:

The proposed revisions to the Mixed Use Development Standards reduce mixed used development base densities by up to 54% from the existing zoning, while allowing increased density when a project includes a qualified community benefit. Building and setback revisions are intended to address issues of building mass and compatibility with abutting residential districts. Additional building step backs are required to address building mass above the commercial frontage, and a minimum commercial space depth and floor area is required to ensure a viable retail component. Community benefit zoning is proposed for increased density only when it is part of a discretionary approval and determined through a public process involving those in the immediate vicinity of the proposed mixed use projects.

FISCAL ANALYSIS:

Mixed-use projects generate a number of on-going general revenues for the City, including sales tax, business tax, base-year property tax and utility users' tax; as well as unrestricted tax increment funds for the Redevelopment Agency. As specific mixed-use projects are identified, more information on the fiscal impact of that particular project will be provided.

Additionally, the fiscal impact of any community benefits will vary from project to project based on the nature of the community benefit that is being provided (i.e. public parking, public open space, etc.). The specific fiscal impact will be discussed as each project is proposed. However, generally, community benefits will have a very positive fiscal impact as they will either save the City and/or Redevelopment Agency money or provide a benefit to the community that would otherwise not be provided by the City and/or Agency due to funding constraints or other factors.

In addition to the revenues generated by mixed use development, there are also associated service impacts (i.e. public safety, infrastructure maintenance, traffic mitigation, etc.). The magnitude of the service impact varies depending on the prior use of the project site. For example, a proposed project site that was previously vacant would have a much greater incremental service impact than a proposed project site that was previously retail or commercial or industrial use. More information on the service impact will be provided as specific projects are proposed.

ATTACHMENTS:

1. Proposed Ordinance No. 2008-______, Zoning Code Map Amendment, ZCA P-2007168
2. Planning Commission Resolution No. 2007-P019
3. November 28, 2007 Planning Commission Minutes
4. Split Jurisdiction Lot Map
5. Development Summary Tables
6. Proposed Resolution No. 2008-R____ establishing a Community Benefit Incentive Program

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City Council Agenda Item Report

MOTION:

That the City Council:

1. Introduce Ordinance No. 2008- , Zoning Code Map Amendment, ZCA P-2007168, amending Section 17.400.065 of the Culver City Municipal Code pertaining to Mixed Use Development Standards; and

2. Adopt Resolution No. 2008-R establishing a Community Benefits Incentive Program pertaining to mixed use development.

Notes:

1. The City's financial consultant, KMA modeled the effect for projects of varying size and found for a project designed per the development parameters in the model, a 20,000 sq. ft site at 35 dwelling units per acre requires a land value of $65 per sq. ft. to justify project development and the same project at 50 units per acre requires a land value of $80 per sq. ft. to justify constructing the project. A 10,000 sq. ft. site requires a land value of $58 per sq. ft. at 35 units per acre and a land value of $71 per sq. ft. at 50 units per acre. A 5,000 sq. ft. site requires a land value of $53 per sq. ft. at 35 units per acre and $54 per sq. ft at 50 units per acre (because the lot is so small it is only possible to develop a few units on it at 50 du/ac.). The model indicates that the smaller the project the less revenue generated and the less value for the land and therefore the less likely it is to get built. The drop in land value is significant. Like all models it provides a snap shot of the effect, but it is illustrative of the potential reduction in land value that will result from the proposed changes. Not all development on commercial property will be affected. Some smaller mixed use projects and certainly all office or retail development and property rehabilitations will be unaffected by the change. Also, current land owners developing mixed use projects will not be as impacted by the changes.
   However, the model indicates:
   a.) The residential component of the project generates a positive land value and this value would be greater, but the residential component is saddled with the second level of subterranean parking because of the extra commercial area at grade.
   b.) The commercial component generates a negative land value that wipes out the positive land value associated with the residential component.

2. Cities which currently use some form of incentive zoning include San Francisco, Portland, Oregon, New York and Los Angeles.
3. The City Council has suggested that the community benefit contribution be provided on site and at a cost equivalent to ½ of the cost of additional units that are available under the incentive zoning.

4. Community benefits can be established on a project basis or neighborhood basis. A project based community benefit would follow the track of the Planning Commission discretionary approval process using a separate public meeting to identify community benefits as part of the hearing process, whereas a neighborhood determined benefit requires organizing predetermined neighborhood hearings in advance of discretionary project hearings. The City Council is the decision making body since the community benefit is not part of a project discretionary review by the Planning Commission. The Planning Commission has the role of confirming the community benefit as part of the project approval.
5. In some cases where the identified community benefit is parking and the project is large, it may be more efficient to allow more than one benefit to be provided in order to minimize the excessive costs associated with providing many floors of subterranean parking.