City of Culver City, California
City Council Agenda Item Report

Meeting Date: 02/19/08	Item Number: PH-1
AGENDA ITEM: Introduction of an Ordinance (Zoning Code Amendment, ZCA P-2007168) to amend Section 17.400.065 of the Culver City Municipal Code pertaining to Mixed Use Development Standards and Adoption of a Resolution establishing a Community Benefit Incentive Program.	
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Fiscal Impact: Yes [] No [X]	General Fund: Yes [] No [X]
Public Hearing: [X] Action Item: []	Attachments: [X]
Public Notification: Master Notification List (02/14/08).	
Department Approval: Sol Blumenfeld (2/14/08)	City Attorney Approval: Carol Schwab
Fiscal Impact Review: Jeff Muir	City Manager Approval: Jerry B. Fulwood

RECOMMENDATION:

Staff recommends that the City Council:

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

2) Adopt Resolution No. 2007-R____establishing a Community Benefits Incentive Program.

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 the February 11, 2008 City Council meeting staff presented a draft Mixed Use Ordinance and Community Benefits resolution and was directed to provide more information regarding the following issues:

1. The maximum retail (footage and percent) that can be provided in a mixed use project while ensuring that it is viable from a cost and revenue perspective.
2. The "break-even" point" of mixed use projects with the impact of such development quantified for an area in terms of taxable revenue.
3. The option to include a range of densities at transit serving locations in addition to mass transit stations, providing increased density does not abut R1 single and R2 two family development.
4. Restrictions on the commercial component in mixed use projects to retail and not service related uses such as a bank, office or similar non-retail use that does not generate sales tax.
5. Defining the type of commercial in mixed use projects
6. Defining the process and timing for establishing Community Benefits in an area.

At the February 11th 2007 meeting, staff presented the following changes to the Mixed Use Development Standards and discussed the reasons why mixed use development is important for the City.[1]

Density

- 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:

The Council generally favored the draft mixed use standards that provide trade offs for increased height and development intensity adjacent to single and multifamily neighborhoods. However, it had concerns with the quantity and type of commercial development within mixed use projects and the impact of reduced projects on city revenues. Staff was directed to quantify these impacts and provide new development standards related to transit oriented development. Staff was also directed to provide more detail regarding the Community Benefit process which can be incorporated in the Community Benefit resolution. The development standard changes discussed below are reflected in the attached draft ordinance in addition to the changes recommend by the Planning Commission presented in “strikethrough/underline” format in Exhibit A contained in the Planning Commission Resolution.[2] The Community Benefit resolution has been modified to incorporate greater detail about the process for identifying community benefits.

Staff is recommending the following options to address Council’s concerns regarding the amount of commercial development in mixed use projects:

1) Establish the minimum commercial requirement of **35% of the lot area** based upon residual parking that results from one subterranean parking level. This standard was derived by calculating the additional parking that typically results (beyond code required) from one subterranean floor level. The residual parking is shown on the Attachment No. 1.
2) Utilize Agency funds to subsidize the cost of the additional subterranean parking that results from requiring **30% of the gross floor area** for commercial use. These subsidies would be applied to the first three projects in development areas along the City’s commercial corridors to stimulate area reinvestment.
3) Reduce parking standards to allow greater commercial development without the added burden of providing additional parking to accommodate the **30% gross floor area** requirement.

Discussion of Options:

Option One:

This option entails quantifying the net parking spaces that result from providing one subterranean floor level for typical lot sizes of 5000, 10,000, 15,000 and 20,000 sq. ft. and calculating the net additional floor area that can be accommodated given the parking provided on that level. The additional commercial area is approximately 40% but reduced to 35% to account for unusual lot shapes or configurations that may affect project parking. The parking calculation is quantified on Attachment No. A.

Staff has also quantified the net taxable income from the Option 1 which is described on the spread sheet on Attachment No. B The estimated net annual income derived from this option varies from $363,000 to $1,089,000 depending on the size of the mixed use projects. The spread sheet indicates that revenues are generated from the commercial components of the mixed use projects. Staff believes that while it would be better to have more commercial use in a project, the reality is that most of the City's commercial corridors would only marginally change in size with redevelopment and most would remain one and two stories given lot depth and market area. The proposed commercial developments in mixed use projects at the proposed size, produces some benefit of over the current condition.

As was noted at prior Council meetings, the new mixed use development standards that reduce density and building height have repercussions on land values, reducing the value until the real estate market establishes anew market equilibrium. The immediate effect will be to reduce interest in mixed used development in the city.[4] With the Commission's proposed changes adding commercial area and related commercial subterranean parking costs, the likelihood of developing mixed use projects is diminished. Staff believes that it is better to generate some commercial development and that the Council should recognize the importance encouraging commercial development in mixed use projects at the proposed scale.

Option Two

Option Two involves subsidizing the additional parking required for projects providing commercial use at the rate of 30% of the gross floor area for one mixed use project in identified commercial corridors districts. Staff has identified 8 commercial corridor districts. The additional parking cost to the Agency is estimated to be $5.6 million. The intent of this option would be to stimulate area revitalization.

Option Three

Option Three involves reducing the required parking standards for projects that provide commercial use at the rate of 30% of the gross floor area of the building. This option will result in increased commercial development without a corresponding increase in development costs. A potential consequence of this proposal may be spill over parking in adjacent neighborhoods.

Retail Uses

The Council has asked staff consider restrictions on the commercial component in mixed use projects to allow only retail and not service related uses such as a bank, office or similar non-retail use that does not generate sales tax. Staff has made changes to the draft ordinance that restricts commercial uses in mixed use projects to be only "retail" type uses as allowed in the underlying CN, CG or CD zone district.

Transit Oriented Development

The City Council was amenable to staff's recommendation that the Council reconsider a provision in the Mixed Use Development Standards to permit Transit Oriented Development (TOD) projects to go 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 750 feet of the transit station. These recommended changes are reflected in Exhibit A to the draft ordinance. In addition, the Council asked staff to explore the option to allow higher density at transit serving locations in addition to mass transit stations, provided the increased density does not abut R1 single and R2 two family zones. These transit serving locations could be identified as the City's major corridors that are served by bus lines including Sepulveda Boulevard, Washington Boulevard, Overland Avenue; Jefferson Boulevard; and Slauson Avenue. The idea would be to allow an increase in density up to 65 du's per acre with a community benefit at a "transit node" similar to the provision applied to a transit station described above. A "transit node" would be where bus lines intersect on these major corridors. Based on staff's analysis, most of these "transit nodes" are located adjacent to R1 and R2 zones where the Council has sought to reduce density. Staff believes that the proposed ordinance allows for an increase from the 35 du's per acre to 50 du's per acre along all commercial corridors subject to the community benefit provisions. Although not as high as the density that might be achieved next to a transit station, this increased density still promotes the goals of improved regional mobility, enhanced air quality and is consistent with good planning practice.

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.

The nexus of the proposed community benefit requirement is that added 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. 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.

Summary of 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 Draft City Council 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.

SUMMARY OF PROCESS FOR ESTABLISHING COMMUNITY BENEFITS

1. Identify commercial areas (districts coterminous with commercial corridors) that that may utilize the community benefit incentives. Staff has proposed eight commercial districts for the community benefit program. (See Attachment No. C)
2. Identify a menu of select community benefits applicable to each district.
3. Arrange community meetings for various districts to prioritize benefits.

4. Community meetings to be conducted in nearby City or school facilities.
5. Provide memorandum to City Council regarding outcome of meetings.
6. City Council deliberates on specific benefits and adopts resolution identifying benefits for each district.
7. Applicant for each mixed use project will be apprised of required community benefit during Preliminary Plan Review.
8. Planning Commission conducts discretionary hearing and community benefit is codified in project conditions of approval.

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, and 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.

While the net financial impact of mixed-use projects is positive for the City, requirements or restrictions that make potential projects infeasible due to additional costs to the developers that can't be recovered through the project will make it unlikely that mixed-use development will occur. As identified previously in the report, the 30% requirement for commercial uses will likely result in projects becoming financially infeasible, and therefore not proposed. Also, it is staff's opinion that the reductions in base densities from 65 d.u./acre to 35 d.u./acre will also significantly reduce the number of mixed-use proposals that will be presented. So while the net financial impact of mixed-use may be positive, there will be no financial impact if such development does not take place. Additionally, as mentioned previously, the reduction of density and building height will likely have a downward effect on property value for parcels included in the mixed-use zoning areas. This will reduce future property tax to the City and Agency for properties that sell at a lower value than they would have under the existing ordinance, or from properties that appeal their current value based on the change.

Option One allows the City to derive some revenue from mixed use projects at a level less than 30% of the gross floor area of a mixed use project. Staff has estimated that no more than 5% (or 100 projects) will be developed along commercial corridors over the next five years with $726,000 of taxable revenue (sales, business license and property taxes) derived from these projects annually. The Agency will derive up to $710, 000 of tax increment and the total Agency and City revenue will be $1.43 million dollars annually.

Option Two allows the City to derive revenues of up to 30% of the gross floor area, at a subsidized cost of $5.6 million dollars by the Agency. The total taxable revenue generated for the City is $726,000 annually and the total tax increment to the Agency is $710,000 over five years. The expectation would be that the Agency and City would help prime reinvestment in targeted areas.

Option Three
Option Three allows the City to derive revenues of up to 30% of the gross floor area of a project with estimated revenues to the City of $726,000 annually and the total tax increment to the Agency of $710,000 over five years.

Notes:
1. 3000 sq. ft. x 2.42 = $7,260 x 100 = $726,000 after 5 years.
2. $5.6 million = 1 level subterranean parking in each of 8 commercial districts.
3. ($726,000 + $710,000 = $1.43 million

ATTACHMENTS:

1. Revised Draft Ordinance No. 2008-______, Zoning Code Map Amendment, ZCA P-2007168
2. Planning Commission Resolution No. 2007-P019 (Distributed with February 11, 2007 Packet)
3. November 28, 2007 Planning Commission Minutes (Distributed with February 11, 2007 Packet)
4. Split Jurisdiction Lot Map(Distributed with February 11, 2007 Packet)
5. Revised Development Summary Tables
6. Revised Draft City Council Resolution No. 2008-R____ establishing a Community Benefit Incentive Program
7. Table 1 – Fiscal Impacts of New Development

MOTION:

That the City Council:

1. Introduce Ordinance No. 2008-______, Zoning Code Map Amendment, ZCA P-2007168, to amend 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.

Notes:

1. 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.

2. 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:

- 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.)
- Amended Building Setback provisions are shown on 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

3. Recognizing the concerns of the Planning Commission, staff has prepared the attached spread sheets 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 increase 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. 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.

4. 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.

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.