

BRENTWOOD RESIDENTS COALITION

April 27, 2011

City Planning Commission
200 N. Spring Street
Los Angeles, CA 90012

**Re: Proposed Modified Parking Requirement District
CPC-2007-2216-CA/ ENV-2011-308-ND
City Planning Commission Hearing Date: April 28, 2011**

Dear Commissioners:

The Brentwood Residents Coalition (“BRC”)¹ strongly opposes the proposed Modified Parking Requirement District Ordinance because the Ordinance weakens current Code by (1) undermining the local-serving and pedestrian-friendly character of neighborhood business districts and (2) impairing the quality of life for those residing in close proximity to such districts. While the BRC recognizes that there are areas within the City of Los Angeles that would benefit from the parking-reduction options enumerated in the Ordinance, parking reductions are *already available* under the current Code through establishment of a Parking Reduction District or by variance. The proposed Ordinance, however, would provide the same and even more extensive parking-reduction options but without the existing Code protections necessary to maintain the integrity of local-serving, pedestrian-friendly neighborhood business districts and the residential neighborhoods surrounding them. The proposed Ordinance must therefore be substantially revised.

1. The Code *Already* Provides The “Tools” Necessary To Reduce Parking Requirements In Unique Areas Where Code-Required Parking Is Not Needed.

The Planning Staff promoted the draft Ordinance in its Q&A materials as a needed replacement for what it characterizes as the existing “one-size-fits-all” approach to parking. The “one-size-fits-all” reference is to the number of parking spaces required under the Municipal Code, which specifies the number of required parking spaces based

¹ Brentwood Residents Coalition is a grass roots, non-profit advocacy group whose purposes are to preserve and enhance the environment and quality of life in Brentwood, to protect the integrity of residential neighborhoods, to assist with planning, to uphold zoning and municipal codes, to encourage traffic safety, and to educate the public on issues that affect quality of life and the environment.

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on the size and use of a structure, not individualized conditions within the immediate geographic area. Staff's description of the existing Code as imposing an inflexible, "one-size-fits-all" approach, however, is incorrect. Indeed, the opposite is true. The Code currently provides flexibility to reduce parking requirements based on individualized and area-specific conditions that justify reduced parking where such reductions would not have adverse impacts.

First, Municipal Code Section 12.32.L allows the designation of an area as a "Parking Reduction District," which exempts structures within such Districts from Code-required parking and imposes less-restrictive parking requirements. This planning tool can be used in the areas where Planning Staff has indicated that parking reductions are most needed. Specifically, the Q&A materials state that the proposed Ordinance would benefit businesses in former Community Redevelopment Agency districts, which had provided for reduced parking as an incentive to development. What is not disclosed in the Q&A, however, is that these parking-requirement reductions are already available under Section 12.32.L. Further, during the March 30, 2011, Public Hearing, it was stated that another area that would benefit from the proposed Ordinance is the Downtown Broadway business area. But, again, the same parking-reduction relief is available under Section 12.32.L. Thus, the proposed Ordinance is not necessary to provide parking reductions in these business districts.

Second, the Code provides another planning tool for reducing code requirements, including parking-related requirements. Variances may be obtained in circumstances where compliance with existing Code would be a hardship on the property owner and conditions imposed on the property owner would protect against any significant adverse impacts that might otherwise result from a reduction of Code-required parking. A variance allows property owners to make individualized showings that existing Code requirements are unnecessarily stringent, thereby providing another tool for avoiding generally applicable parking requirements.

2. The Proposed Ordinance Would Eliminate Protections Necessary To Maintain The Integrity Of Local-Serving Business Districts And Residential Neighborhoods.

There is a significant difference between the existing planning tools for reducing parking requirements and the proposed Ordinance. Section 12.32.L and the variance option require developers and property owners seeking less-than-code-required parking to prove that a reduction of parking would not have adverse impacts. The *mandated findings* for establishing a Parking Reduction District under Section 12.32.L or a variance under Section 562 of the City Charter assure that no parking reduction will be permitted absent

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a showing that there will be no significant, unmitigated impacts. To support such mandated findings, those seeking to avoid the generally-applicable parking requirements must present traffic and parking studies demonstrating that there will be no such impacts. By imposing the burden of proof on the party seeking to avoid the generally applicable rules, these existing laws ensure against the risk that parking reductions will be applied in areas where they will have adverse impacts.

Section 12.32.L Findings. The mandated findings under Section 12.32.L preclude the establishment of a Parking Reduction District unless (1) “a parking overflow impact on residential neighborhoods will not be created nor will traffic congestion increase;” (2) the “need for higher parking requirements” is negated by some combination of parking management programs, transportation alternatives, commercial building access programs, and infrastructure improvements, and that there exists an effective method for monitoring and ensuring compliance with such programs; and (3) the flexible transportation and traffic management approaches, as opposed to a greater number of fixed parking spaces, are more consistent with, among other things, the local community’s character and the general plan of the area. These mandated findings protect against the risk that reduced parking requirements will be applied in areas that would be adversely effected by spillover and growth-inducing impacts that are inconsistent with the character of local-serving business districts and surrounding residential neighborhoods.

Variance Findings. Similarly, existing law restricts the granting of a variance from parking requirements by mandating findings designed to protect against adverse impacts due to the reduction of parking requirements. Specifically, Section 562 of the City Charter precludes the granting of a variance absent findings “(1) that the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations; (2) that there are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity; (3) that the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question; (4) that the granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located; and (5) that the granting of the variance will not adversely affect any element of the General Plan.”

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Proposed Ordinance: No Meaningful Findings. The proposed Ordinance would permit the same type of parking reductions available under Section 12.32.L or by variance but without *any* of the mandated findings specified under Section 12.32.L. By eliminating the Section 12.32.L findings, the proposed Ordinance effectively shifts the burden of proof from developers and property owners seeking a reduction of Code-mandated parking onto the community members who would be adversely impacted by reduced parking requirements.

Planning Staff's prior draft of the proposed Ordinance contained no mandated findings. Presumably in response to criticism, including the attached letter from Councilmember Koretz, that the Ordinance contained no mandated findings, the new draft purports to require "findings" or, more accurately, a "finding" – singular. But instead of requiring meaningful findings such as the Section 12.32.L findings, the new draft requires only the vague "finding" that implementation of a Modified Parking Requirement District is "appropriate." There is no restriction on what may support a finding that imposition of a District would be "appropriate." The Ordinance would simply require that the "appropriateness" finding be made after consideration of "*such factors* as local transit dependency and automobile usage, traffic, available parking, and leve[l] of transit service, and the goals, policies, and objectives set for in the appropriate community plan." The phrase "such factors as" means that **none** of the listed factors *must* be considered and virtually any other **non-listed** factor *may* be considered instead of any of the listed factors. A mandated "finding" that can be made after consideration of virtually *any* factor of the decision-maker's choosing, whether recited or not recited on the Ordinance's *non-exclusive* list of suggested factors, is no real "finding" at all. The Ordinance would thereby confer virtually unlimited discretion on the decision-maker, unlike the carefully crafted Section 12.32.L mandated findings. In short, the current draft of the proposed Ordinance, like the prior draft, requires no meaningful findings.²

By eliminating the Section 12.32.L mandated findings, and replacing them with the vague "appropriateness" finding, the proposed Ordinance effectively shifts the burden of proof from the applicant seeking to reduce Code-required parking to those who support maintaining the generally-applicable Code requirements. By doing so, those who would benefit economically from reduced parking would no longer bear the burden of

² The Staff Reports states that because imposition of a District is a legislative act, Municipal Code Section 12.32.C would require a finding that "adoption of the proposed land use ordinance will be in conformity with public necessity, convenience, general welfare and good zoning practice." This general finding, however, does not require *specific findings* related to parking reductions – those specific findings are only contained in Section 12.32.L, which the proposed Ordinance would delete.

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demonstrating that reduced parking will not impair the character of a neighborhood-serving business district or the residential character of surrounding neighborhoods. Under the proposed Ordinance, it would be the community that would bear the burden of proving that a reduction of parking requirements will have adverse effects. Since the negative impacts of inadequate parking are *widely dispersed* among surrounding residents and those who enjoy their local-serving business districts, there is no assurance that they will (1) be notified of a proposed Modified Parking Requirement District, (2) understand the potential negative impacts, or (3) have a sufficient economic incentive to spend the funds necessary to affirmatively demonstrate the negative impacts of such a District. That is why the burden under *existing law* is placed on those seeking to obtain economic benefit from the requested reduction in parking requirements through the *mandated findings* specified in Municipal Code Section 12.32.L for a Parking Reduction District or Charter Section 562 for a variance.

Finally, the current system works. Indeed, in the two locations where parking reductions have been implemented, Eagle Rock and Atwater Village, the City properly required extensive studies before forming these districts. Developers and property owners seeking to lower parking requirements within an area should always be required to prove that reduced parking requirements will not impose undue burdens on neighboring residents or impair the character of neighborhood-serving business districts. This is required under the current law but would no longer be required under the proposed Ordinance.

The proposed Ordinance must therefore be revised to include the Section 12.32.L findings that are now slated for deletion.

3. Specific Plan Parking Requirements Would Be Compromised By The Proposed Ordinance.

During the Public Hearing, Planning Staff was asked whether Modified Parking Requirement Districts could be imposed in Specific Plan areas. The answer was “No.” But the Municipal Code provides for no such exemption and neither does the proposed Ordinance. This is a significant problem because Specific Plans such as the San Vicente Scenic Corridor Specific Plan have opted-out of the general code requirements for parking by adopting even more stringent parking requirements than generally provided under the Municipal Code. But nothing in the proposed Ordinance prevents a minority of property owners from within a Specific Plan area from deviating from Specific Plan parking requirements by seeking and obtaining a Modified Parking Requirement District. Given this possibility, it is essential that the proposed Ordinance be amended to exempt Specific Plan areas.

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4. The “Change of Use” Strategy Violates Public Policy.

The proposed strategy of allowing nonconforming parking despite a change of use violates public policy. Zoning law is designed to eliminate nonconforming (i.e., “grandfathered”) uses in favor of those conforming to the zoning code. *Sabek, Inc. v. County of Sonoma*, 190 Cal. App. 3d 163, 167-68 (1987). Thus, as emphasized by the Court of Appeal in *Sabek*, the policy underlying the zoning law is to limit not extend the reach of grandfathered nonconforming uses:

“[I]t is the purpose of zoning to crystallize present uses and conditions and eliminate nonconforming uses as rapidly as is consistent with proper safeguards for those affected; that provisions for continuation of a nonconforming use are inserted in zoning ordinances because of the injustice and doubtful constitutionality of compelling immediate discontinuance of the nonconforming use; and that our courts and courts throughout the country generally, have always strictly construed such provisions.... ‘The underlying spirit of a comprehensive zoning plan necessarily implies the restriction, rather than the extension, of a nonconforming use of land, and therefore to whatever extent the particular act fails to make express provision to the contrary, a condition that the lawful nonconforming use of land existing at the time of the adoption of the ordinance may continue must be held to contemplate only a continuation of substantially the same use which existed at the time of the adoption of the ordinance, and not some other and different kind of nonconforming use which the owner of the land might subsequently find to be profitable or advantageous....’” *Sabek, Inc.*, 190 Cal. App. 3d at 167-68 (citations omitted).

The proposed “change of use” strategy undermines public policy by perpetuating nonconforming parking despite a change of use. While there may be unique circumstances where the general public policy favoring the elimination of nonconforming uses does not apply, the proposed Ordinance would allow the exception to swallow the rule. Instead of adopting the proposed Ordinance’s “one-size-fits-all” extension of grandfathered parking, which undermines zoning requirements, those property owners should be required to seek a variance. The individualized findings required for a variance, and the imposition of tailored conditions, assure protection against adverse impacts that might otherwise result from extending grandfathered rights.

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5. The Offsite Parking Strategy Is Inappropriate For Neighborhood Districts.

The Offsite parking strategy is to allow offsite parking up to 1,500 feet away, instead of 750 feet as currently permitted under the Municipal Code. While this proposal may not adversely impact Downtown areas, this strategy would increase spillover parking and traffic circulation in neighborhood business districts adjacent to residential areas. First, allowing required parking to be provided up to 1,500 feet away encourages spillover parking in the residential neighborhoods. Second, the use of such offsite parking increases traffic circulation routes by valets, increasing traffic circulation through the district and adjacent residential streets.

By allowing the use of this so-called planning “tool” in Neighborhood Districts, the proposed Ordinance would violate the General Plan goal of protecting the integrity of Neighborhood Districts. Chapter 3 of the City’s General Plan specifies that development standards applied Downtown are substantially different than and therefore *not* properly applied to Neighborhood Districts, especially local-serving retail areas. *See* General Plan, Chapter 3, Goal 3D, Objective 3.8, and Policies 3.8.1-3.8.2 (Neighborhood Districts); Goal 3G, Objective 3.11 (Downtown Center).

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For these reasons, and those stated by Councilmember Koretz and others at the Public Hearing, the proposed Ordinance should not be implemented unless it is amended to (1) exclude Specific Plan areas, Neighborhood Districts (as that term is defined in the General Plan), and Pedestrian Oriented Districts; (2) limit application to areas within 1/2-mile of public transit stations/lots or dedicated public parking structures; (3) incorporate the Section 12.32.L findings into the Ordinance; (4) require parking and traffic studies to support the Section 12.32.L findings; and (5) provide notice to Neighborhood and Community Councils and all property owners within 1,500 feet of the proposed District.

Sincerely,



Thomas R. Freeman



Wendy-Sue Rosen

Donald G. Keller

Donald G. Keller

Committees:

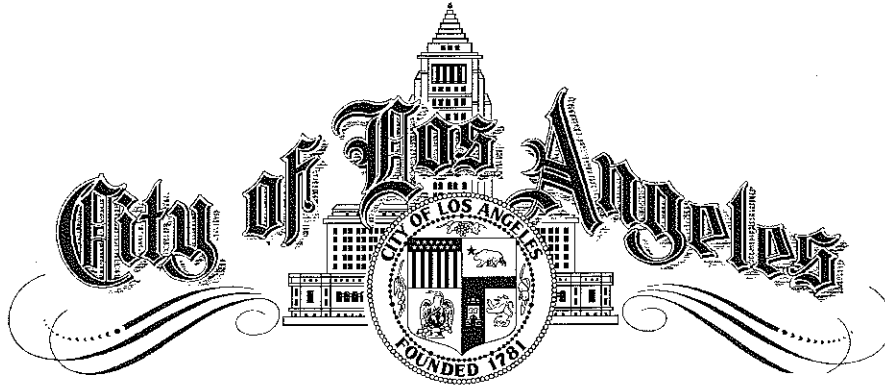
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March 27, 2011

Tom Rothmann
Department of City Planning
200 N Spring Street, 7th Floor
Los Angeles, CA 90012

Re: CPC-2007-2216-CA

Dear Mr. Rothmann:

There are a number of parking concerns across the Fifth Council District. In fact this district faces the worst impacts from commercial spillover parking, renegade valet companies, inadequate boarding house and college area residential parking and other parking problems that cause aggravation and economic loss for residents throughout the district. We have received a large number of comments, both negative and positive, regarding the proposed Modified Parking Districts.

While I have great interest in the increased parking option found in 13.16.D.5 of the proposed ordinance I feel that changes, protections and clarifications are necessary to protect residential neighborhoods from parking intrusion or spillover impacts.

The ordinance should be revised to require specific findings based upon appropriate studies that any proposed modified parking district shall not have spillover impacts on adjacent residential areas and that in the case of a parking decrease that the area is adequately served by transit and public parking facilities.

Furthermore, the requirements for a new district should be clarified to require more than a single parcel, a three-acre shopping center would not be appropriate for a "district" and appropriate protections are necessary to prevent future abuse of the parking districts provision.

While the universal valet and parking credit programs may have some future value further protections need to be added to require an efficient and transparent tracking and monitoring system for such spaces and credits before a district can be enacted.

Any ordinance that proceeds forward through the planning process should also clarify and explicitly require that future adoptions of actual districts shall receive individual study, public notice, hearings and CEQA analysis.

Thank you for your attention to these issues.

Sincerely,

PAUL KORETZ

