

ORDINANCE NO. 20-O-2825

AN ORDINANCE OF THE CITY OF BEVERLY HILLS TO
CREATE A MIXED USE OVERLAY ZONE AND APPLY THE
OVERLAY ZONE TO CERTAIN COMMERCIAL ZONED
PARCELS IN THE CITY

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

Section 1. Legislative Findings. Over the past several years, City leadership has expressed a desire to establish uniform regulations to allow mixed use projects in certain commercial areas of the City of Beverly Hills. These regulations would expand the type of development and variety of housing units that are available in the City, act as a catalyst to revitalize commercial corridors, and create an opportunity to provide housing units without displacing existing residents. In addition, the California Legislature has declared a statewide housing emergency in effect until January 1, 2025, with a goal of encouraging significant numbers of new housing units throughout the state. Further, the City of Beverly Hills anticipates that the State will allocate a Regional Housing Needs Assessment of several thousand units for the next 6th housing cycle period from 2021 – 2029, including units of varying affordability levels. Due to these ongoing conditions and in anticipation of increased demand for housing units at various levels of affordability, the City Council finds that certain commercially zoned properties in the City may be appropriately used for residential and commercial mixed use purposes and that such uses are unique and warrant specific development standards and criteria. The Objectives of the Mixed Use Overlay Zone (MU) shall include those objectives set forth in the proposed § 10-3-1872 of the overlay zone, as set forth in full in Section 5 below.

Section 2. On June 19, 2020, the Planning Commission held a duly noticed public hearing after which it adopted Resolutions No. 1918 and 1919 recommending that the City

Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to create a new mixed use overlay zone and apply this overlay zone to certain commercial parcels in the City (collectively, the “Amendments”). On October 13, 2020, the City Council held a duly noticed public hearing, received extensive written and oral testimony, closed the public hearing, and continued deliberations on the matter on October 27, and November 10, 2020, and thereafter introduced this Ordinance.

Section 3. 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. An Initial Study/Negative Declaration was prepared for the Ordinance and Amendments. The City of Beverly Hills is the lead agency, pursuant to CEQA, and is responsible for the preparation of the Initial Study/Negative Declaration. The Planning Commission considered the Draft Initial Study/Negative Declaration at its meeting on June 19, 2020. The City Council considered the Initial Study/Negative Declaration, comments provided on the document, and responses to those comments at its meetings on October 13 and October 27, 2020, and finds, in the exercise of its independent judgment and analysis, and based on the record of proceedings, that there is no substantial evidence that the proposed project would result in significant impacts to Aesthetics, Agricultural and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Transportation/Traffic, Public Services, Recreation, Tribal Cultural Resources, Utilities and Service Systems, or Wildfires. The City Council further finds that the project would result in less than significant impacts for the Mandatory Findings of Significance, because the

proposed project is the creation of a mixed use overlay zone and does not include any physical changes or development in the project area at this time. No significant impacts have been identified as resulting from this project, and therefore, no mitigation measures are required. The City Council, exercising its independent judgment, hereby adopts a Negative Declaration for the ordinance. The documents and other materials that constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 4. The Amendments are consistent with the objectives, principles, and standards of the General Plan. The Amendments include changes to the General Plan Land Use Designation Map of the Land Use Element of the General Plan, to ensure that it is consistent with the proposed mixed use overlay zone map. General Plan Policy Land Use 9.5 Commercial/Residential Mixed Uses calls for the City to study the feasibility of creating mixed use in order to expand the variety of housing types available and to improve commercial/residential transitions. General Plan Policy Land Use 3.2 Fair Share of Regional Housing Needs calls for the City to accommodate the fair share of regional housing needs in a way that contributes to the livability of the City and does not unduly burden the City's fiscal resources. Policy Land Use 5.2 Infill and Replacement Housing calls for the City to accommodate new and renovated housing within existing neighborhoods that is consistent with the contextual parcel sizes, densities, built form and scale. Housing Element Policy Housing 2.8 Transit-Oriented Housing calls for new residential development with access to existing transit stops and near anticipated subway stations. Housing Policy 2.10 Workforce Housing, calls for the city to develop programs to increase the amount of rental and ownership housing that is affordable to the local workforce.

Section 5. The City Council hereby adds Article 18.7 to Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in Chapter 3 remaining in effect without amendment:

ARTICLE 18.7 MIXED USE (MU) OVERLAY ZONE

10-3-1871: MIXED USE (MU) OVERLAY ZONE CREATED:

There is hereby created and established in the City an overlay zone, designated as the Mixed Use (MU) Overlay Zone.

10-3-1872: PURPOSE AND OBJECTIVES OF THE MIXED USE OVERLAY ZONE:

The purpose of the MU Overlay Zone is to provide areas of the City where mixed use development is allowed in order to encourage vibrant, walkable neighborhoods and increase the availability of housing in the City, while preserving the vitality of existing commercial corridors and minimizing displacement of existing residents. The objectives of the MU Overlay Zone shall be as follows:

- A. Expanding the options and opportunities for certain commercial property owners and developers by allowing for combinations of commercial uses, and multi-family residential uses subject to specific standards, rules and procedures;
- B. Creating the potential for more intensive development in certain neighborhoods, while maintaining realistic buffers between commercial and residential zones to ensure there is harmonious development in the area;
- C. Expanding housing options for diverse socio-economic populations in the City including seniors, young people, populations that wish to be transit-adjacent and populations that will benefit from development near an urban core;
- D. Retaining the commercial tax base and streetscape character that exists in the City by encouraging neighborhood-serving and pedestrian-friendly commercial uses;
- E. Concentrating new housing and amenities near existing and anticipated transportation nodes and stations to encourage the use of alternative modes of transportation to automobile travel; and

- F. Allowing projects that are appropriately designed to achieve the desired neighborhood character, while providing development standards to minimize impacts of commercial uses to adjacent residential zones, and to encourage symbiotic uses.

10-3-1873: APPLICATION OF THE MIXED USE OVERLAY ZONE:

The Mixed Use Overlay Zone shall be applied only to commercially zoned properties located in the following areas:

- A. Properties fronting on Wilshire Boulevard between San Vicente Boulevard to the east and Rexford Drive to the west;
- B. Properties located on the southern side of Wilshire Boulevard between Rexford Drive to the east and South Santa Monica Boulevard to the west;
- C. Properties fronting on La Cienega Boulevard between the northern and southern borders of the City;
- D. Properties fronting Robertson Boulevard between the northern and southern borders of the City;
- E. Properties fronting on Olympic Boulevard located between the eastern boundary of the City and Rexford Drive to the west;
- F. Properties fronting on South Doheny Drive between Wilshire Boulevard to the north and Charleville Boulevard to the south.
- G. Properties fronting on San Vicente Boulevard between Wilshire Boulevard and La Cienega Boulevard
- H. Properties fronting on Santa Monica Boulevard (south roadway) between Wilshire Boulevard to the east and South Moreno Drive to the west; and
- I. Properties fronting on South Beverly Drive between Wilshire Boulevard to the north and Charleville Boulevard to the south.

10-3-1874: DEFINITIONS:

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

ADJACENT TO A RESIDENTIAL ZONE: A site that shares a property line with a residentially zoned property or is separated from a residentially zoned property by a public alley.

GROUND FLOOR: The story or floor level within a building that provides direct access to and fronts on a public street, and the elevation of the floor level along the street frontage is an average of three feet above or below the adjacent curb.

MIXED USE DEVELOPMENT: A project that includes commercial and multi-family residential uses within the same structure.

10-3-1875: PROCEDURES FOR APPROVAL:

No mixed use development shall be constructed without approval of a development plan review by the Planning Commission in accordance with article 31 of this chapter.

- A. A public hearing shall be held by the Planning Commission on all development plan review permits for mixed use developments. Noticing shall be completed in accordance with article 2.5 of this chapter and the City's public notice guidelines.
- B. Any decision made by the planning commission pursuant to this article may be appealed to the city council in the manner provided in title 1, chapter 4, article 1 of this code.

10-3-1876: USES PERMITTED:

Except as otherwise provided or restricted by this article, no lot, premises, building or portion thereof in the MU Overlay Zone shall be used for any purpose except the following:

- A. Uses permitted in the applicable underlying zone that meet the development standards of the underlying zone.
- B. Uses conditionally permitted in the applicable underlying zone that meet the development standards of the underlying zone for which an applicant has received a conditional use permit.
- C. Multi-family residential housing units as part of a mixed use project and the usual and customary accessory and appurtenant uses thereto.

10-3-1877: RESTRICTED USES:

The following restrictions shall apply to mixed use development in the MU Overlay Zone :

- A. No medical uses may be included in a mixed use development.
- B. No entertainment uses including, but not limited to, cabarets, nightclubs, and adult entertainment businesses, may be included in a mixed use development.
- C. Residential uses included as part of a mixed use development shall be permitted in all portions of the development regardless of the underlying zone, except that residential uses shall not be permitted within the first forty feet (40') of depth from any street-facing property line of the first floor, except as otherwise allowed through the development plan review request.
- D. Commercial uses included as part of a mixed use development shall only be permitted in those portions of the development in which the underlying zone is a commercial zone unless otherwise approved through a zone text amendment request. Further, no commercial uses shall be allowed above the third story of a mixed use development.
- E. The planning commission shall have authority through conditions imposed on a development plan review permit to prohibit uses not specified herein, on a use by use basis, if it finds that the proposed uses will have a significant adverse impact on adjacent uses, or will not promote harmonious development of the area.

10-3-1878: APPLICABILITY OF UNDERLYING ZONE REGULATIONS:

Except as otherwise specifically provided in this article for mixed use developments, development in a MU Overlay Zone shall comply with the zoning regulations applicable to the underlying zone.

Nothing in this article shall require a development to comply with the provisions of the MU Overlay Zone if the development fully conforms to the requirements of the underlying zone.

10-3-1879: GROUND FLOOR RESTRICTIONS:

Any building in the MU Overlay Zone shall include commercial uses on the ground floor of the building, subject to the use limitations noted in this article.

10-3-1880: HEIGHT LIMIT:

A building in the MU Overlay Zone shall not be constructed, altered, or enlarged so that it is taller than the heights set forth as follows and as displayed in the Mixed Use Overlay Zone Height District Map maintained by the Department of Community Development:

- A. Height District A: A maximum height of 45' and three stories is permitted for properties adjacent to any single-family residential zones and/or multi-family residentially zoned properties located in multi-family height district A, as noted in section 10-3-2804 of this chapter.
- B. Height District B: A maximum height of 45' and four stories is permitted for properties adjacent to multi-family residentially zoned properties located in multi-family height district B, as noted in section 10-3-2804 of this chapter.
- C. Height District C: A maximum height of 55' and five stories is permitted for properties adjacent to multi-family residentially zoned properties located in multi-family height district C, as noted in section 10-3-2804 of this chapter, or other properties in existing mixed use overlay zones.

When a mixed use development is located adjacent to more than one residential zone, the residential zone allowing the shortest height shall dictate the maximum height allowed for the mixed use development.

For the purposes of applying the provisions of Government Code Section 65915, the height limitations and story limitations set forth in this article shall be considered separate requirements.

10-3-1881: RESIDENTIAL DENSITY:

Maximum Density of Residential Units: The number of residential units that may be included in a mixed use development in the MU Overlay Zone shall not exceed one unit per 550 square feet of site area.

10-3-1882: MINIMUM AND AVERAGE FLOOR AREA OF DWELLING UNITS:

The following floor area requirements shall apply to multi-family residential dwelling units within a mixed use development:

- A. Efficiency and One Bedroom Units: Efficiency and one bedroom units shall have a minimum floor area of five hundred (500) square feet each.

- B. Two or More Bedroom Units: A dwelling unit with two or more bedrooms shall have a minimum floor area of eight hundred (800) square feet.
- C. The average of the floor areas of all residential units in a mixed use development shall not exceed 1,750 square feet.
- D. Outdoor Living Space: One-half ($\frac{1}{2}$) of the square footage of outdoor living space required by section 10-3-1886 of this chapter may be counted as part of the floor area of a dwelling unit if such outdoor living space does not project into any required yard, is contiguous to the dwelling unit, and is designated for the exclusive use of the dwelling unit. However, the outdoor living space shall not be counted as more than ten percent (10%) of the required minimum floor area of the dwelling unit.

10-3-1883: PARKING REQUIREMENTS:

- A. Except as otherwise provided in this section, parking requirements for the commercial portion of a building located in the MU Overlay Zone are located in 10-3-2727 through 10-3-2736 inclusive of this chapter.
- B. A mixed use development shall provide parking for the commercial and residential components that can be physically separated. Notwithstanding the foregoing, the planning commission may permit, as part of a development plan review permit, access between parking facilities for the commercial and residential components, such as instances in which the site is physically constrained so that separate facilities are not practical nor feasible.
- C. Parking for the residential portion of the building shall be provided per the requirements of 10-3-2816.
- D. Guest parking for residential units in the MU Overlay Zone shall be provided per the requirements of 10-3-2817.
- E. If parking is provided above ground, all parking, except for driveways and access to loading areas, shall be located behind building space that is dedicated to a permitted use other than parking, and that building space shall be a minimum of forty feet (40') deep as measured from the building facades facing public streets, to prevent direct visibility from adjacent streets unless otherwise approved by the planning commission through a development plan review permit, such as instances in which the site is physically constrained by the depth requirements and unable to provide sufficient parking areas.

- F. The parking component of a mixed use development in the MU Overlay Zone shall be as approved as part of a development plan review.
- G. Parking spaces for the residential component of the building shall be assigned to specific residential units, and shall not be used by patrons of the commercial uses in the building

10-3-1884: SETBACKS AND MODULATION:

Mixed use developments in the MU Overlay Zone shall have the same setbacks as established in the underlying zone, except no setback shall be required at the property line between two zones if the project is proposed across those property lines.

If a building is constructed across two different zones, and modulation is required for buildings in one of the zones, the modulation shall be provided on the portion of the building located in the zone in which the modulation is required. The width of the building for the purpose of calculating modulation shall be the width that is located within the zone that requires modulation.

10-3-1885: LOADING FACILITIES:

Except as otherwise provided in this section, loading facilities for mixed use developments in the MU Overlay Zone shall be provided in accordance with sections 10-3-2740 through 10-3-2744, inclusive, of this chapter, or as otherwise approved by the planning commission as part of a development plan review permit such as instances in which the site is physically constrained and unable to provide such loading facilities.

10-3-1886: OUTDOOR LIVING SPACE REQUIRED:

The residential components of all mixed use developments in the MU Overlay Zone shall provide outdoor living space in accordance with the requirements of section 10-3-2803 of this chapter.

10-3-1887: APPLICATION OF TRANSITIONAL OPERATIONAL STANDARDS:

Unless otherwise provided in this article, all commercial uses in a mixed use development shall comply with the general operational requirements set forth in section 10-3-1956 of this chapter.

10-3-1888: CONVERSION OF EXISTING COMMERCIAL BUILDINGS:

Existing commercial buildings may obtain a development plan review permit to convert to a mixed use building if located in the MU Overlay Zone. Such a project may request relief from the following mixed use standards, if it is not physically feasible to comply with these standards. To determine feasibility, the commission shall evaluate whether the site is physically constrained, with regard to depth and width, whether the existing commercial building does not conform to mixed use standards, and/or whether the existing commercial building would be rendered structurally defective by providing such features.

- A. Parking requirements
- B. Loading facilities
- C. Outdoor Living space
- D. Commercial-residential transitional setbacks, if such buildings have legally nonconforming setbacks
- E. Height limits, if buildings have legally nonconforming heights

Section 6. The official zoning map of the City is hereby amended to apply the MU overlay zone to the following:

- A. Commercial properties fronting on Wilshire Boulevard between San Vicente Boulevard to the east and Rexford Drive to the west;
- B. Commercial properties located on the southern side of Wilshire Boulevard between Rexford Drive to the east and South Santa Monica Boulevard to the west;
- C. Commercial properties fronting on La Cienega Boulevard between the northern and southern borders of the City;

- D. Commercial properties fronting Robertson Boulevard between the northern and southern borders of the City
- E. Commercial properties fronting on Olympic Boulevard located between the eastern border of the City and Rexford Drive to the west
- F. Commercial properties fronting on South Doheny Drive between Wilshire Boulevard to the north and Charleville Boulevard to the south.
- G. Commercial properties fronting on San Vicente Boulevard between Wilshire Boulevard and La Cienega Boulevard
- H. Commercial properties fronting on Santa Monica Boulevard (south roadway) between Wilshire Boulevard to the east and South Moreno Drive to the west; and
- I. Commercial properties fronting on South Beverly Drive between Wilshire Boulevard to the north and Charleville Boulevard to the south.

Section 7. Periodic Review. This Ordinance and the areas to which the Mixed Use Overlay Zone is applied shall be reviewed by the City Council approximately six (6) months and approximately one (1) year after the effective date of this Ordinance.

Section 8. 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 and shall control as to each property to which the MU Overlay Zone has been applied.

Section 9. 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 10. 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.

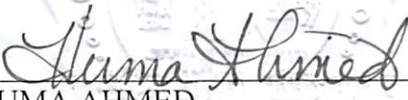
Adopted: November 17, 2020

Effective: December 18, 2020




LESTER J. FRIEDMAN
Mayor of the City of Beverly Hills

ATTEST:




(SEAL)
HUMA AHMED
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



GEORGE CHAVEZ
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development