



STAFF REPORT

ZONING AMENDMENT REGARDING CABARETS IN C-1 (NEIGHBORHOOD COMMERCIAL) AND C-2 (GENERAL COMMERCIAL) ZONING DISTRICTS

Honorable Mayor and Council members:

Summary

On November 18, 2003, by a vote of 6 to 0, the Planning Commission adopted a resolution recommending zoning amendments to Sections 5.2 (C-1 – Neighborhood Commercial) and 5.4 (C-3 – Highway Commercial) of the Belmont Zoning Ordinance (BZO). Adoption of the zone text amendments would add the word “cabaret” to the list of conditionally permitted uses in the C-1 Commercial Zoning District. Because of the “pyramidal” structure of the BZO commercial zoning districts, listing a use as conditional in the C-1 zone would render it conditional in the subsequent commercial zones (C-2, C-3, and C-4). Thus removing the word “cabaret” from the list conditional uses in the C-3 zone would also eliminate a redundancy if it is added to the C-1 District list of conditional uses.

Presently, cabarets are only permitted in the C-3 and C-4 zones and only after a CUP has been granted to a specific property for such use. By listing cabarets as a conditionally permitted use in the C-1 zone (and by extension in the C-2 and other commercial zones), the City will provide for controlled development of cabarets in these more restrictive commercial zoning districts.

A copy of the Planning Commission resolution, November 18, 2003 staff report, and meeting minutes are attached to this memo. A public hearing has been noticed for this item.

Background

On October 14, 2003, the City Council initiated the Zoning Ordinance amendment regarding “cabarets” in the C-1 and C-2 zones. No change to the definition of cabarets was suggested. As discussed earlier, the amendments were presented for Commission review at its November 18, 2003 meeting, and were recommended for approval to the Council.

At the 11/18/03 Planning Commission meeting, three members of the public addressed the Commission; all persons generally supported the proposal and urged the Commission to approve the amendments.

Required Findings – Zoning Ordinance Amendments

The only finding for amending the zoning ordinance is the determination of whether the amendment is required to achieve the objectives of the Zoning Plan and the General Plan for the City (Section 16.5). As described in the attached ordinance, the Planning Commission has analyzed the relevant policies and concluded that the required finding is met by the proposed amendments.

In their discussions, the Commissioners reasoned that the amendment would be more responsive to the physical environment, existing development, and needs of the community. Furthermore, by allowing cabarets in the C-1 and C-2 districts, subject to a Conditional Use Permit, it would foster more activity and energy in Belmont's Neighborhood and General Commercial districts. The CUP process will allow the City to determine if a proposed property is adequate in size and shape, if the access is safe and efficient, if the site plan is appropriate and if there are additional controls needed to assure the cabaret fits into the neighborhood. Finally, the Commission believed the amendments advance the goal of providing a precise guide for physical development of the City.

Environmental Clearance (CEQA)

The proposed zone text amendments are subject to environmental review under the provisions of the California Environmental Quality Act (CEQA). An environmental impact assessment was prepared for the amendments and determined that they would have a less than significant impact on the environment. Staff has included the Initial Study/Negative Declaration as part of the staff report attachments. Staff recommends the City Council adopt a Negative Declaration for the proposed amendments if the City Council concludes it can make the required findings.

Zone Text Amendments

The 11/18/03 Commission recommended amendments to the City Council for adoption are as follows:

1. Amend Section 5.2.2 (C-1 Neighborhood Commercial – Conditional Uses) of the Belmont Zoning Code as follows (new text is denoted in bold *italics*, and text to be deleted is denoted in ~~strikeout~~):
 - 5.2.2 **CONDITIONAL USES** - The following Conditional Uses shall be permitted only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:
 - (a) Automobile service stations as regulated by Section 19.
 - (b) Automobile parking lots (commercial) not associated with a use on site.
 - (c) Temporary uses regulated by Section 9.5.2(d).

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- (d) Churches and other religious institutions which do not provide sleeping accommodations.
- (e) Pet stores.
- (f) Uses which require exterior-mounted refrigeration or mechanical equipment capable of creating noise or venting vapor or odors, within 100 feet of an area designated for residential use on the general plan.
- (g) Public buildings and grounds utility and service structures, when found by the Commission to be necessary for the public health, safety, or welfare.
- (h) Private clubs and lodges and philanthropic institutions which do not provide sleeping accommodations.
- (i) Public and private libraries, and museums.
- (j) Any use conducted outside of a completely enclosed building and any use involving storage of materials or merchandise outside of a completely enclosed building.
- (k) Any use conducted before 7 am or after 11 pm.
- (l) Incidental and accessory structures and uses located on the same site with, and necessary to, the operation of a Conditional Use.
- (m) Car wash, not to exceed four (4) stalls, coin operated self-service type not including the use of mechanical conveyors, blowers, or steam cleaning, when included within a group of permitted neighborhood retail and service establishments located together within a single parcel of land at least five (5) acres in size.
- (n) Temporary circuses and carnivals.
- (o) Other uses, which in the opinion of the Planning Commission, are similar to those listed Permitted Use.
- (p) Taverns and lounges.
- (q) In existing buildings, replacement of uses permitted by Section 5.2.1(a) by accounting, law, investment, real estate, medical, professional, or general business office uses at the ground floor.

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- (r) In a new building, establishment of accounting, law, investment, real estate, medical, professional, or general business office uses at the ground floor.
- (s) New buildings and building additions.
- (t) ***Cabarets.***

2. Amend Section 5.4.2 (C-3 Highway Commercial – Conditional Uses) of the Belmont Zoning Code as follows (new text is denoted in bold *italics*, and text to be deleted is denoted in ~~strikeout~~):

5.4.2 **CONDITIONAL USES** - The following Conditional Uses shall be permitted upon the granting of a Use Permit in accordance with the provisions of Section 11 of this Ordinance.

- (a) Any use which is a Conditional Use in the General Commercial or C-2 Districts.
- (b) Ambulance Service.
- (c) Automobile and Vehicular Sales, new or used, including boats, recreational vehicles and trailers.
- (d) Automobile washing business, including the use of the mechanical conveyors, blowers and steam cleaning.
- (e) Drive through establishments offering foods or service to customers in automobiles.
- (f) Mortuary.
- (g) Motel.
- (h) Storage warehouse for the storage of household goods and furniture.
- (i) Machinery sales, rental and service, when conducted wholly within an enclosed building.
- (j) Animal Clinic.
- (k) Vehicular repair shops except vehicle body repair and painting.
- (l) Vehicular towing operations.
- ~~(m) Cabarets.~~

~~(n)~~ (m) All structures exceeding 28 feet or two stories in height.

Fiscal Impact

None.

Recommendation

Staff recommends that the Council introduce for first reading the attached draft ordinance amending Section 5.2.2 (C-1 – Neighborhood Commercial – Conditional Uses) and Section 5.4.2 (C-3 – Highway Commercial – Conditional Uses) of the Belmont Zoning Ordinance.

Alternatives

1. Reject the amendments
2. Adopt alternative language. (Please note that a substantially different proposal may require returning it to the Planning Commission for further review)

Public Contact

None.

Attachments

- I. Resolution adopting Negative Declaration – Exhibit A
- II. Draft Ordinance amending Section 5.2.2 (C-1 – Neighborhood Commercial – Conditional Uses) and Section 5.4.2 (C-3 – Highway Commercial – Conditional Uses) of Belmont Zoning Ordinance – Exhibit B
- III. Negative Declaration & Initial Study – November 2003 – Exhibit C
- IV. November 18, 2003 Planning Commission Staff Report, Resolution, & Meeting Minutes – Exhibit D

Respectfully submitted,

Carlos de Melo
Principal Planner

Craig A. Ewing, AICP
Community Development
Director

Jere A. Kersnar
City Manager

RESOLUTION NO. _____

EXHIBIT A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
ADOPTING A NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE FOR A ZONE
TEXT AMENDMENT TO SECTIONS 5.2 (C-1 NEIGHBORHOOD COMMERCIAL) AND 5.4 (C-3

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HIGHWAY COMMERCIAL) OF THE BELMONT ZONING ORDINANCE FOR CABARET USES
(APPL. NO. 03-0106)

WHEREAS, a Negative Declaration of Environmental Significance has been prepared for a Zone Text Amendment to Sections 5.2 (C-1 Neighborhood Commercial) and 5.4 (C-3 Highway Commercial) of the Belmont Zoning Ordinance (Ordinance 360) for Cabaret Uses; and,

WHEREAS, a public hearing was duly noticed, held on December 9, 2003, and closed; and,

WHEREAS, the City Council has considered the impacts of the proposed amendment as set forth in the Initial Study/Negative Declaration of environmental significance attached as part of the December 9, 2003 Staff Report, and finds that there are no significant effects on the environment as stated in the report.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby adopts a Negative Declaration of Environmental Significance as the appropriate CEQA documentation for the Zone Text Amendment to Sections 5.2 (C-1 – Neighborhood Commercial) and 5.4 (C-3 – Highway Commercial) of the Belmont Zoning Ordinance (Ordinance 360) for Cabaret Uses pursuant to the provisions of the Public Resources Code known as the California Environmental Quality Act, and City-adopted implementation guidelines.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting held on December 9, 2003 by the following vote:

AYES,
COUNCIL MEMBERS: _____

NOES,
COUNCIL MEMBERS: _____

ABSENT,
COUNCIL MEMBERS: _____

ABSTAIN,
COUNCIL MEMBERS: _____

RECUSED,
COUNCIL MEMBERS: _____

CITY CLERK, City of Belmont

MAYOR, City of Belmont

ORDINANCE NO. _____

EXHIBIT B

ORDINANCE AMENDING SECTIONS 5.2 (C-1 – NEIGHBORHOOD COMMERCIAL) AND 5.4 (C-3 – HIGHWAY COMMERCIAL) OF THE BELMONT ZONING ORDINANCE NUMBER 360 FOR CABARET USES

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WHEREAS, on October 14, 2003, the City Council initiated a Zoning Ordinance amendment regarding “cabarets” in the C-1 and C-2 zones for Commission consideration of possible amendments to Sections 5.2 (C-1 – Neighborhood Commercial) and 5.4 (C-3 – Highway Commercial) of the Zoning Ordinance; and,

WHEREAS, on November 18, 2003, the Planning Commission, following notification in the prescribed manner, conducted a public hearing, at which hearing the Commission considered public testimony and a staff report, and recommended an amendment to Sections 5.2 (C-1 – Neighborhood Commercial) and 5.4 (C-3 – Highway Commercial) of the Zoning Ordinance; and,

WHEREAS, on December 9, 2003, the City Council, following notification in the prescribed manner, conducted a public hearing, at which hearing the Council considered public testimony and a staff report on the aforementioned amendments; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

WHEREAS, the City Council hereby adopts the staff report (dated December 9, 2003) and the facts contained therein as its own findings of fact; and,

WHEREAS, the City Council has adopted a Negative Declaration for the amendment pursuant to the provisions of the California Environmental Quality Act (CEQA); and,

WHEREAS, the City Council after consideration of all testimony and reports hereby determines that the proposed amendments to Section 5.2.2 (C-1 – Neighborhood Commercial – Conditional Uses) and Section 5.4.2 (C-3 – Highway Commercial – Conditional Uses) of the Belmont Zoning Ordinance to allow, with Conditional Use Permit approval, cabaret uses in the C-1 & C-2 Commercial Zoning Districts is required to achieve the objectives of the Zoning Plan and General Plan for the City. Adoption of the proposed amendments would provide a more precise guide for physical development of the City, and thereby protect and promote the comfort, convenience and general welfare of the community and fulfill the General Community Goals and Policies of the General Plan.

Section 1: NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Belmont that Section 5.2.2 – C-1 – NEIGHBORHOOD COMMERCIAL DISTRICT – COMMERCIAL USES of the Belmont Zoning Ordinance be hereby amended to read as follows:

5.2.2 CONDITIONAL USES - The following Conditional Uses shall be permitted only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

- (a) Automobile service stations as regulated by Section 19.
- (b) Automobile parking lots (commercial) not associated with a use on site.
- (c) Temporary uses regulated by Section 9.5.2(d).
- (d) Churches and other religious institutions which do not provide sleeping accommodations.
- (e) Pet stores.

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- (f) Uses which require exterior-mounted refrigeration or mechanical equipment capable of creating noise or venting vapor or odors, within 100 feet of an area designated for residential use on the general plan.
- (g) Public buildings and grounds utility and service structures, when found by the Commission to be necessary for the public health, safety, or welfare.
- (h) Private clubs and lodges and philanthropic institutions which do not provide sleeping accommodations.
- (i) Public and private libraries, and museums.
- (j) Any use conducted outside of a completely enclosed building and any use involving storage of materials or merchandise outside of a completely enclosed building.
- (k) Any use conducted before 7 am or after 11 pm.
- (m) Incidental and accessory structures and uses located on the same site with, and necessary to, the operation of a Conditional Use.
- (m) Car wash, not to exceed four (4) stalls, coin operated self-service type not including the use of mechanical conveyors, blowers, or steam cleaning, when included within a group of permitted neighborhood retail and service establishments located together within a single parcel of land at least five (5) acres in size.
- (n) Temporary circuses and carnivals.
- (o) Other uses, which in the opinion of the Planning Commission, are similar to those listed Permitted Use.
- (p) Taverns and lounges.
- (q) In existing buildings, replacement of uses permitted by Section 5.2.1(a) by accounting, law, investment, real estate, medical, professional, or general business office uses at the ground floor.
- (r) In a new building, establishment of accounting, law, investment, real estate, medical, professional, or general business office uses at the ground floor.
- (u) New buildings and building additions.
- (v) Cabarets.

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NOW THEREFORE, BE IT FURTHER ORDAINED by the City Council of the City of Belmont that Section 5.4.2 – C-3 – HIGHWAY COMMERCIAL DISTRICT – COMMERCIAL USES of the Belmont Zoning Ordinance be hereby amended to read as follows:

5.4.2 CONDITIONAL USES - The following Conditional Uses shall be permitted upon the granting of a Use Permit in accordance with the provisions of Section 11 of this Ordinance.

- (a) Any use which is a Conditional Use in the General Commercial or C-2 Districts.
- (b) Ambulance Service.
- (c) Automobile and Vehicular Sales, new or used, including boats, recreational vehicles and trailers.
- (d) Automobile washing business, including the use of the mechanical conveyors, blowers and steam cleaning.
- (e) Drive through establishments offering foods or service to customers in automobiles.
- (f) Mortuary.
- (g) Motel.
- (h) Storage warehouse for the storage of household goods and furniture.
- (i) Machinery sales, rental and service, when conducted wholly within an enclosed building.
- (j) Animal Clinic.
- (k) Vehicular repair shops except vehicle body repair and painting.
- (l) Vehicular towing operations.
- (m) All structures exceeding 28 feet or two stories in height.

SECTION 2: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

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SECTION 3: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 4: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

INTRODUCED this _____ day of _____, 2003.

* * * * *

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the _____ day of _____, 2004.

AYES,
COUNCIL MEMBERS: _____
NOES,
COUNCIL MEMBERS: _____
ABSENT,
COUNCIL MEMBERS: _____
ABSTAIN,
COUNCIL MEMBERS: _____
RECUSED,
COUNCIL MEMBERS: _____

MAYOR, City of Belmont

ATTEST:

CITY CLERK, City of Belmont