



## AGENDA REPORT

**Meeting Date:** September 2, 2008  
**Item Number:** F--6  
**To:** Honorable Mayor & City Council  
**From:** City Attorney  
**Subject:** RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS DENYING A REQUEST FOR A ZONING CODE AMENDMENT TO CREATE AN OVERLAY ZONE, A VESTING TENTATIVE TRACT MAP, AND A PLANNED DEVELOPMENT PERMIT TO ALLOW CONSTRUCTION OF A MULTI-FAMILY RESIDENTIAL PROJECT WITH 40 CONDOMINIUM UNITS FOR PROPERTY LOCATED AT 120 PECK DRIVE, 125 S. CAMDEN DRIVE, AND 133 S. CAMDEN DRIVE (CASDEN SFA, LLC)

**Attachments:** Resolution

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### RECOMMENDATION

It is recommended that the City Council adopt the resolution.

### INTRODUCTION

The attached resolution denies an appeal and upholds the Planning Commission's decision denying a request for a zoning code amendment to create an overlay zone, a vesting tentative tract map, and a planned development permit to allow construction of a multi-family residential project with 40 condominium units for property located at 120 Peck Drive, 125 S. Camden Drive, and 133 S. Camden Drive (Casden SFA, LLC).

### BACKGROUND

At its meeting on August 19, 2008, the City Council directed the City Attorney's Office to draft a resolution of findings denying the Project and upholding the decision of the Planning Commission.

### FISCAL IMPACT

No material financial impact on the City's budget is anticipated.

Laurence S. Wiener, City Attorney

A handwritten signature in black ink, appearing to read "Laurence S. Wiener", written over a horizontal line.

Approved By

## RESOLUTION NO.

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS DENYING A REQUEST FOR A ZONING CODE AMENDMENT TO CREATE AN OVERLAY ZONE, A VESTING TENTATIVE TRACT MAP, AND A PLANNED DEVELOPMENT PERMIT TO ALLOW CONSTRUCTION OF A MULTI-FAMILY RESIDENTIAL PROJECT WITH 40 CONDOMINIUM UNITS FOR PROPERTY LOCATED AT 120 PECK DRIVE, 125 S. CAMDEN DRIVE, AND 133 S. CAMDEN DRIVE (CASDEN SFA, LLC)

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. Casden SFA, LLC, property owner (hereinafter referred to as the “Applicant”), initially submitted applications for a zoning code amendment to create two overlay zones, two Vesting Tentative Tract Maps to subdivide air rights, and two Planned Development Permits to allow construction of a mixed-use project with 12,000 square feet of retail/commercial space and 60 residential condominium units for property located on two development sites located at 9588 Wilshire Boulevard, 120 Peck Drive, 125 S. Camden Drive, and 133 S. Camden Drive (the “Project”). The project proposed the establishment of a mixed-use development over separate distinct parcels (Parcels A and B), which are separated by an existing alley. The proposed development on Parcel A included an approximate 87,600 square-foot, 85-foot in height, seven-story mixed-use building containing 20 residential condominium units above 12,000 square feet of ground floor commercial floor area over four levels of subterranean parking containing 70 parking spaces. The proposed development on Parcel B includes an approximate 99,500-square-foot, 55-foot in height, partial four and five story residential building containing 40 residential condominium units over one at-grade level and four subterranean levels of parking containing 327 parking spaces.

The Project included the following specific applications:

- A request for a General Plan Amendment to allow residential uses and greater floor area ratio (FAR) in a commercial zone;
- A request for a zoning code amendment to create two zoning overlays: one on Parcel A to allow a mix of commercial and multi-family residential uses, with increased height and greater FAR; and one on Parcel B to allow a mix of commercial and multi-family residential uses, with increased height and greater massing than otherwise permitted by existing zoning regulations;
- A request to apply the two zoning overlays to the respective subject parcels;

- A request for two Vesting Tentative Tract Maps: one on Parcel A to subdivide the air rights on the subject property to allow the individual sale of 20 residential condominium units and a 12,000 square foot commercial space; and one on Parcel B to subdivide the air rights on the subject property to allow the individual sale of 40 residential condominium units; and
- A request for two Planned Development Permits: one on Parcel A to allow construction of a proposed mixed-use project with 12,000 square feet of commercial/retail space, and 20 residential condominium units; and one on Parcel B to allow construction of a proposed residential project with 40 residential condominium units and a mix of residential and commercial parking spaces.

Section 2. The Planning Commission held duly noticed public hearings to consider the Project and the EIR on August 10, 2006 and March 13, 2008. Evidence, both written and oral, was presented at said hearings.

Section 3. The Project site has a total area of 64,388 square feet, including both Parcels A and B. Parcel A is classified within the Commercial (C-3) Zone with a Commercial Retail Planned Development (C-R-PD) Overlay option. Parcel B is comprised of six individual lots located south of the first alley that runs parallel to Wilshire Boulevard behind Barneys of New York. The lots are separated by a north/south alley, with three lots on either side. These lots are classified within two separate Multi-Family (R-4) Zones: the two most northern lots are located in the Multi-Family Residential-Parking (R-4-P) Zone and within Height District C, which allows a maximum height of 55 feet and 5 stories; while the remaining four lots are located in the Multi-Family Residential (R-4X2) Zone and within Height District B, which allows a maximum height of 45 feet and 4 stories.

Both Parcels A and B are flat, paved with asphalt, and currently used for surface parking. Land uses immediately adjacent to Parcel B include a mix of single-family and apartment residences to the east, south, west, and Barneys New York department store to the north.

Section 4. The Beverly Hills Municipal Code provides that the Planning Commission may recommend adoption of proposed amendments to the General Plan or the Zoning Ordinance provided the Planning Commission finds that the public interest, health, safety, morals, peace, comfort, convenience, or general welfare requires the proposed General Plan Amendment or Zoning Code Amendment. The Planning Commission considered the General Plan Amendments and the Zoning Code Amendments (collectively the "Legislative Amendments") requested by the Applicant for Parcels A and B. The Planning Commission found that the Legislative Amendments, as proposed, are inappropriate for the Project site, incompatible with adjacent development,

and not in the best interests of the public or the general welfare and, for those reasons, denied the request for the proposed amendments to the General Plan and Zoning Code.

4.1 The Planning Commission found that the land uses, as proposed, were not appropriate for the site. The Commission found that Parcel A is located across from the City's Business Triangle, which is recognized throughout the world for its upscale retail and dining establishments. Parcel A has previously been acknowledged by the City as a desirable location for the establishment of commercial uses and has established regulations granting additional height and FAR in conjunction with the development of certain commercial uses. The Planning Commission found that its development with a commercial use would further enhance the City's tax revenues compared to a residential use. The development of this site with a residential use would be incompatible with the commercial nature of the surrounding built environment and would detract from the City's tax revenues.

4.2 Although the Planning Commission determined that mixed-use can be an effective planning tool under the proper circumstances, the Planning Commission found the Project to be incompatible with land use in the area and concluded that mixed use would not be appropriate on the subject site.

Section 5. The Planning Commission considered the accompanying requests for Vesting Tentative Tract Maps and Planned Development Permits to allow construction of the proposed Project. However, because of the Planning Commission's denial of the request for a General Plan Amendment and a Zoning Code Amendment as discussed above, the project contemplated by these related applications would not be consistent with the General Plan or in conformance with the City's Zoning ordinances, and were therefore the development applications were denied on that basis.

Section 6. The Applicant has now abandoned the Parcel A portion of the Project.

Section 7. An appeal was filed by Applicant from the Planning Commission's March 13, 2008 decision to deny a zoning code amendment to create an overlay zone, a Vesting Tentative Tract Map to subdivide air rights, and a Planned Development Permit to allow construction of a multi-family residential project with 40 condominium units for property located at 120 Peck Drive, 125 S. Camden Drive, and 133 S. Camden Drive (the "Project"). The project proposes the establishment of an approximate 99,500-square-foot, 55-foot in height, partial four and five story residential building containing 40 residential condominium units over one at-grade level and four subterranean levels of parking containing 327 parking spaces.

Section 10. The City Council may adopt the proposed amendments to the Zoning Ordinance if the City Council believes that the ordinance would promote the public welfare. The City Council has considered the Zoning Code Amendment ("Legislative Amendment") requested by the Applicant. As more fully detailed below, the City Council finds that the Legislative Amendment, as proposed, is inappropriate for the Project site and not in the best interests of the public or the general welfare and, for

those reasons, hereby denies the request for the proposed amendment to the Zoning Ordinance.

10.1 The City Council has determined that the proposed deviations from existing standards do not serve the interests of the public or the general welfare.

Section 11. The City Council considered the accompanying requests for a Vesting Tentative Tract Map and a Planned Development Permit to allow construction of the proposed Project on Parcel B. However, because of the City Council’s denial of the request for a Zoning Code Amendment as discussed above, the project contemplated by these related applications would not be in conformance with the City’s Zoning ordinances, and are therefore denied on that basis. Additionally, the development applications would be inconsistent with the General Plan policy to minimize conflict between commercial and residential uses. As proposed, the Project does not adequately separate and buffer such uses.

Section 12. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines. The City prepared an initial study and, based on the information contained in the initial study, concluded that there was substantial evidence that the Project might have a significant environmental impact on several specifically identified resources. Pursuant to Guidelines Sections 15064 and 15081, and based upon the information contained in the Initial Study, the City ordered the preparation of an environmental impact report (the “EIR”) for the Project to analyze the Project’s potential impacts on the environment. However, pursuant to Guidelines Section 15061(b)(4), a project that is denied or rejected by the City is exempt from the requirements of CEQA. Accordingly, the City Council did not adopt or certify the EIR in connection with this Project.

Section 13. The City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

Adopted:

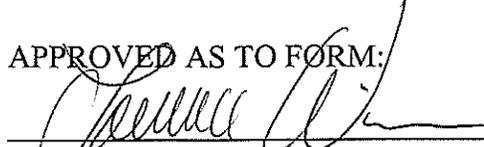
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BARRY BRUCKER  
Mayor of the City of  
Beverly Hills, California

ATTEST:

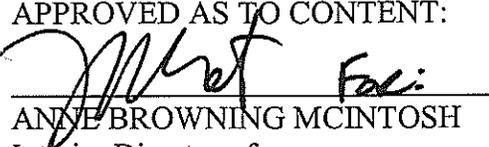
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(SEAL)  
BYRON POPE  
City Clerk

[Signatures continue]

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

  
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ANNE BROWNING MCINTOSH  
Interim Director of  
Community Development