



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning
Commission Meeting of
September 25, 2008

TO: Planning Commission

FROM: Georgana Millican, Associate Planner

THROUGH: Jonathan Lait, AICP, City Planner

SUBJECT: Applications for: 1) Modification to a Conditional Use Permit (CUP) approved in February 23, 2006, and, 2) a Development Plan Review and Tentative Parcel Map No. 70466 to allow a commercial condominium conversion at **8536 Wilshire Boulevard**



RECOMMENDATION

It is recommended that the Planning Commission adopt the resolution conditionally approving a modification to Conditional Use Permit, Development Plan Review and Tentative Parcel Map to allow the conversion of a commercial building which is currently under construction, to a commercial condominium building located at **8536 Wilshire Boulevard**. In addition, the new resolution would combine the conditions from previous resolutions granted for Project site and eliminate construction and other conditions that no longer apply. A summary table of conditions from Resolutions 1159, 1290 and 1414 is attached which divides the conditions into "Prior to Construction, Construction and Operation" conditions.

ISSUE

At its meeting of June 26, 2008, the Planning Commission held a public hearing regarding the requested commercial condominium conversion. At that meeting, the Planning Commission directed the applicant to apply for a modification to the CUP approved on February 23, 2006 in order to consolidate the conditions of approval applicable to the requested common interest development units. This item was continued to a later Planning Commission meeting to allow the applicant and staff, time

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to address the concerns raised by the Planning Commission. The following bulleted list summarizes the modifications requested by the applicant:

- Consolidation of the conditions of approval of the previous resolutions applicable to the proposed subdivision;
- Revision of the number of required parking spaces from 102 spaces to 100 spaces, in conjunction with the reduction in the area of allowable medical uses.
- Elimination of Condition No. 19 of Resolution No. 1414 which restricts hours of operation for the medical offices. Condition No. 19 states that no medical patient may arrive before 8:30 a.m. or depart after 5:30 p.m. daily.

The project requires approval of a Development Plan Review Permit and a Tentative Parcel map. Additionally, condominium projects are subject to the regulations of the City's recently adopted Common Interest Development ordinance, which requires compliance with existing zoning, building and fire codes.

For the original CUP approval, the Planning Commission imposed a list of project conditions to ensure that the parking demand is monitored and that parking supply can be adequately met. The conditions related to parking management and operation.

Attached to this report is a table that summarizes all the conditions of approval for the building from Resolutions No. 1290, 1159 and 1414 and breaks the conditions down by timeframe (Pre-Construction, Construction and Operation). In addition, a matrix is attached which provides a list of all the current conditions of approval from Resolution No. 1414 which granted the CUP allowing medical uses at the site, their application to individual owners and whether the conditions needed to be revised to apply to individual owners of the condominium units.

Resolution 1414, Condition No. 18, was originally drafted to be applied to a single owner of the building. However, with the current request for a condominium conversion and the possibility of multiple owners, staff is recommending a modification to the language of the condition, to better apply and enforce to multiple parties. The number of doctors per suite/office is based on square footage with the larger units allowed 2 doctors and the three smallest suites/offices having one doctor each. Parking spaces are based on a 1/200 sq.ft. requirement, however, the conditions of approval do not require the parking to be designated per suite. Staff is not recommending that the parking spaces be designated for each unit, but is providing a breakdown of spaces to show the availability of parking. Parking will continue to be provided on a first come first serve basis.

Below is Condition No. 18 as it reads in Resolution No. 1414, with the proposed language **bolded in italics** and the added table. The modified condition will be added to the Resolution approved for the proposed Common Interest Development.

18. No more than 15 doctors may have office space on the Project Site. **Based on the following table, the total number of doctors shall be distributed amongst the suites with the total number of doctors never to exceed 15.**

SUITE #	OFFICE SQ.FT.	NUMBER OF DOCTORS	# of Parking Spaces
4/2 ND FL	1,865	2	10
5/2 ND FL	1,511	2	8
6/2 nd FL	1,088	1	6
7/2 nd FL	1,455	1	8
8/2 nd FL	1,701	2	9
9/3 rd FL	1,865	2	10
10/3 rd FL	1,681	2	9
12/3 rd FL	1,309	1	7
13/3 rd FL	1,525	2	8

Pursuant to BPMC Section 10-2-7 Common Interest Development Projects, the applicant is required to provide CC&Rs that include provisions for satisfying the parking and access requirements and assuring their continuance; assuring access to the site; and an assurance that all conditions of approval be imposed on the project and shall not be deleted or amended without written consent of the Planning Commission. Article XVIII of the proposed CC&Rs includes provisions (18.1.3) required by the City of Beverly Hills enforcing the Conditions of Approval found in Resolution No. 1414. This requirement will provide the enforceability needed for the existing conditions of approval.

In addition, after careful consideration and discussions with the City Attorney, staff has made a determination that with modified language to Condition No. 18 (limiting the number of doctors at the site) of Resolution 1414, the current Conditional Use Permit can be applied to and enforced with multiple owners of the building (Code Section 10-3-3803 attached). Therefore, staff is not of the opinion that individual Conditional Use Permits are needed for each suite/office. Staff is recommending that the following condition be added:

“All operating conditions of the Conditional Use Permit allowing medical and retail uses at the Project site shall be individually enforced through each individual condominium space. Violations of the operating conditions of this Resolution would be subject to Code Section 10-3-3803 Revocations and Modifications, allowing an individual commercial condominium operating as a

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medical or retail use to individually lose the right to operate as such under the Conditional Use Permit allowing such uses at the Project site.”

Condition No. 19 of Resolution No. 1414 restricts hours of operation for the medical offices on the site. Condition No. 19 states that no medical patient may arrive before 8:30 a.m. or depart after 5:30 p.m. daily. The Applicant is requesting that this condition be removed as the restriction has reportedly made leasing/selling of the medical units very difficult. The medical offices is already subject to the Transition Ordinance (10-3-19.5) which restricts hours of operation from 7:00 a.m. to 10:00 p.m. during the week and 10:00 p.m. and 9:00 a.m., Saturday and Sunday, unless authorized by an Extended Hours Permit. Staff checked with the City's Traffic Engineer on any potential impacts to traffic if the condition restricting the hours for medical uses was removed and the potential increase in traffic would be inconsequential as the peak traffic generation for medical uses is approximately 2 p.m.

GENERAL INFORMATION	
Applicant	Dawson, Tilem & Gole
Project Owner	Wilshire Le Doux Medical Plaza
Zoning District	C-3T-3 Commercial Transition Zone
Parcel Size	12,854 sq.ft.
Permit Streamlining Act Deadline	November 9, 2008

BACKGROUND

The Planning Commission approved the following requests on February 23, 2006:

- An amendment to a Development Plan Review (DPR) to construct a 24,450 square foot, three-story/45-foot high commercial building originally approved by Resolution No.1159 on March 28, 2001.
- A modification to a conditional use permit (CUP) for medical and retail uses approved by Resolution No. 1290 on August 27, 2003.

The approved building is currently under construction and the property owner now seeks approval of a subdivision map to allow each of the 13-units approved in the DPR and CUP to be sold individually. Aside from the request for a condominium map, the applicant is requesting to reduce the number parking spaces from 102 spaces to 100 spaces due to reconfiguration of the parking structure. Because of this reduction, the

square footage of medical uses is reduced from 15,000 square feet to 14,000 square feet. No other changes are proposed to the project as previously approved by the Commission. As conditioned, the project shall comply with all current building, zoning and fire codes. In addition, the conditions of approval granted in conjunction with the previously approved Development Plan Review and Conditional Use Permit shall remain in full force and effect which will be consolidated under the a new resolution for the Planning Commission consideration.

PROJECT DATA SUMMARY

Category	Approved/Under Construction	Required/Allowed by Code
Site Area	12,854 sq.ft.	N/A
Setbacks (facing residential zone)	6 feet	6 feet
Density	2:1 FAR (24,450 sq.ft.)	2:1 FAR
Medical Use (sq.ft.) Office & Retail Uses	14,000 sq.ft. 10,450 sq.ft.	Through CUP process
Height	3 stories/45'	3 stories/45' Through CUP process
Parking Spaces	Medical use: 70 Office & Retail: 30 Total: 100	1/200 (medical) + 1/350 (office/retail)

PROJECT DESCRIPTION

The project involves the conversion of a 13-unit office building to condominium ownership. Further, the applicant is also requesting a modification to the previously approved CUP allowing medical and retail uses at the project site.

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The property is located west of Le Doux Road along the south side of Wilshire Boulevard. The project site consists of an approximate 12,854 square foot parcel which is currently being improved with a 24,450 square foot, three story, 45-foot in height, thirteen-unit medical office building with a four level subterranean garage which takes access from Le Doux Road.

With the exception of the reduction to the total number of parking spaces (102 to 100) and the associated reduction in medical office space, no other physical changes are proposed with the request for conversion to condominium ownership. The project is conditioned to comply with all current fire and building code requirements, including plumbing, electrical and mechanical requirements.

AREA CHARACTERISTICS

The project site is located along Wilshire Boulevard between Le Doux Road and Stanley Drive. The area is characterized by commercial uses of varying heights along Wilshire Boulevard and single-story single family residences south of the project site.

PUBLIC NOTICE AND COMMENTS

Notice of the project and public hearing was mailed on September 12, 2008 as required by the Beverly Hills Municipal Code Section 10-3-3103. In addition, notice of the hearing was published in the Beverly Hills Courier on Friday, September 12, 2008. As of the date of the preparation of this report, no correspondence or calls were received.

ENVIRONMENTAL DETERMINATION

The proposed project has been assessed in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA guidelines. Pursuant to the State CEQA Guidelines Section 15301(k), Existing Facilities and the division of existing commercial buildings into common interest ownership have been determined not to have a significant environmental impact and are exempt from the provisions of CEQA.

GENERAL PLAN AND ZONING ANALYSIS

The General Plan land use designation for the subject property is Commercial and identifies a maximum density of 2.1 FAR and a maximum height of 45 feet. The proposed 24,450 square foot building is currently under construction, no changes are proposed for density, size, height or use. Therefore, the project is consistent with the land use designation of the property called for in the General Plan.

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COMMON INTEREST DEVELOPMENT ORDINANCE

On March 7, 2006, the City Council adopted Ordinance No. 06-2497, establishing criteria for all common interest development projects. As defined in BHMC Section 10-2-101:

Common Interest Development: *A community apartment project, a condominium project, a planned development, and a stock cooperative as defined in section 1351 of the California Civil Code or its successor statute.*

The proposed project is a condominium project and therefore subject to the Common Interest Development ("CID") ordinance, as codified in BHMC Section 10-2-707. The CID ordinance requires all common interest development projects to comply with the current Building Codes and Zoning regulations and all other requirements of the code in effect at the time the application is submitted.

As indicated in the Project Data Summary table, the project complies with applicable zoning requirements. As with new buildings, compliance with current building and fire code regulations (including life safety requirements) for the proposed conversion will be verified upon submittal of a full set of building plans, including structural plans and confirmed through the standard building inspection process. However, since the project involves a proposed conversion to a condominium development, compliance with all applicable regulations shall be verified prior to the approval of the final map, versus prior to a Certificate of Occupancy as in the case of a new building. A condition of approval regarding compliance with existing regulations is included in the draft resolution attached to this report.

DEVELOPMENT PLAN REVIEW AND TENTATIVE PARCEL MAP

Development Plan Review - Pursuant to the Beverly Hills Municipal Code Section 10-3-3100 G, all common interest development require approval of a Development Plan Review. The Planning Commission may consider a request for a Development Plan Review if the Planning Commission can make the following findings:

A. The proposal is consistent with the General Plan and any specific plans adopted for the area.

As conditioned, the Project's design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "commercial – low density". This designation identifies a maximum density of 2:1 FAR and a maximum height of 45

feet. The Project involves the conversion of 24,450 square foot 13-unit office building (currently under construction) to a condominium building with a maximum height of 45 feet.

B. The proposed project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

As conditioned, the Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The site is currently under construction with a three-story, thirteen-unit office building. Existing and anticipated uses in the vicinity are similarly commercial in nature. The proposal to convert the building to a common interest development will not alter the general office use of the site and no physical alterations are anticipated. Therefore, as conditioned, the Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

C. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

As conditioned, the proposed Project will not create any significant adverse traffic impacts or vehicular or pedestrian safety or circulation problems. The project involves the conversion of a thirteen unit general office building, which is currently under construction, and the conversion to Common Interest Development will not alter the number of trips already anticipated by the development. Vehicular ingress and egress is provided via Le Doux Road to a four level subterranean parking garage beneath the office building. Pedestrian access is provided along Wilshire Boulevard, which is fully improved with sidewalk, curb and gutter. The existing access has been reviewed and approved by the Public Works Department and the Building and Safety Division. No changes to the existing access are contemplated by the Project and no impacts are anticipated. Therefore, it is not anticipated that the Project will generate adverse traffic impacts, traffic hazards, pedestrian/vehicle conflicts, or pedestrian safety hazards.

D. The project will not be detrimental to the public health, safety or general welfare.

As conditioned, the Project will not be detrimental to the public health, safety, or general welfare. The Project, as conditioned, is constructed in accordance with the City's Building Code standards. In addition, prior to the approval of the Final Map, the Project shall demonstrate compliance with all life safety requirements set forth in BHMC Section 10-2-709 A. Therefore, as conditioned, and for the reasons discussed in the foregoing paragraphs, the Project will not be detrimental to the public health, safety or general welfare.

Tentative Parcel Map- The Planning Commission may authorize approval of a tentative map if the findings can be made (Government Code Section 66474):

- (a) That the proposed tentative Parcel map and the design or improvements or improvements of the proposed subdivision are consistent with the General Plan of the City.**

As conditioned, the Project and its design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "commercial – low density" allowing for 2:1 FAR and up to 45 feet in height. The Project consists of the conversion of a 24,450 square foot three story 13-unit office building, 45' in height, which is consistent with the FAR and height authorized by the General Plan land-use designation for the Project site. Therefore, the Project and its design are consistent with the General Plan of the City.

- (b) That the site is physically suitable for the type of development and the proposed density.**

As conditioned, the site is physically suitable for the type of development and the proposed density. The site is currently under construction for a three story 13-unit office building, and four-level subterranean parking structure below with access off Le Doux Road along the east property line. No change to the existing use of the site is contemplated by the Project. The site has no unusual seismic or other hazards. Therefore, with the conditions placed on the Project, the site is physically suitable for the type of development and the density.

- (c) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

As conditioned, the Project will not cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat because there are no significant fish or wildlife resources or public health issues on the Project site, and utilities exist that will adequately serve the demands of the Project. The Project site is located in an urbanized neighborhood and involves the conversion of a building that is currently under construction to a common interest development and the building's approved footprint will not be expanded.

(d) Whether the design of the subdivision or type of improvement is likely to cause serious public health problems and whether the design of the subdivision or the type of improvement will conflict with any public easement.

The design of the subdivision and the type of improvements will not cause serious public health problems, and will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The Project involves the conversion of a building that is currently under construction to a common interest development and no changes to the site's access or circulation are proposed. The Project design has been preliminarily reviewed by the Public Works Department and the Building and Safety Division for code compliance. In addition, the Project will not encroach into any public easement areas. Therefore, the design of the subdivision or type of improvements is not likely to cause serious public health problems and the design of the subdivision or the type of improvements will not conflict with any public easement.

CONDITIONAL USE PERMIT

Conditional Use Permit - Pursuant to the Beverly Hills Municipal Code Section 10-3-1642, medical offices and retail uses may be permitted in the C3-T-3 zone if authorized by the issuance of a Conditional Use Permit. The Planning Commission may consider a request for a Conditional Use Permit if the Planning Commission can make the following finding:

1. The proposed location of the medical and retail use will not be detrimental to adjacent property

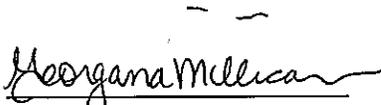
The proposed medical uses will not be detrimental to adjacent property. The medical office uses, along with the general office and retail at the site, are consistent with other activities in the area along Wilshire Boulevard and the building has been designed and conditionally approved to eliminate potential impacts to the residential zone to the south. Retail and medical uses are

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permitted within the C-3-T-3 zone with a conditional use permit, therefore the proposed location of the medical and retail uses will not be detrimental to adjacent property.

2. The proposed location of the medical and retail use will not be detrimental to the public welfare.

The proposed retail and medical uses will not be detrimental to the public welfare. The project site has the additional code required parking for medical uses on-site and as conditioned is not anticipated to have any substantial adverse impact on traffic or parking in the area. The proposed uses are compatible with the uses in the adjacent area. As such, the proposed location of the medical and retail use will not be detrimental to the public welfare.


Georgana Millican

Attachments:

1. Conditions of Previous Resolutions Summary
2. Draft Resolution
3. Matrix
4. Previous Resolutions No. 1159, 1290, 1414
5. Letter from Applicant and Parking Management Plan
6. Staff Report from June 26, 2008
7. Staff Report from May 21, 2008

ATTACHMENT 1

Conditions of Previous Resolutions Summary

SUMMARY OF CONDITIONS FROM RESOLUTIONS 1159, 1290 AND 1414

Timeframe	Condition	Resolution
Prior to Construction		
	1. Project constructed in substantial compliance with plans submitted to PC at March 28, 2001 meeting (1159) and Jan. 12, 2006 (1414).	1159 (1) 1414(1)
	2. Applicant shall submit a final landscape plan for review and approval by the AC prior to issuance of building permits.	1159 (6) 1414 (29)
	3. Applicant shall submit plans of the exterior design, materials and colors for review and approval by the AC.	1159 (9) 1414 (29)
	4. Construction parking plans shall be submitted for review and approval by City Engineer and Director of Building and Safety.	1159 (10) 1414 (5)
	5. Cash deposit of \$5,000 shall be deposited with the City to ensure compliance with the resolution (1159) and (1290) regarding construction activities. Resolution 1414 requires a cash deposit of \$10,000.	1159 (11) 1290 (7) 1414 (38)
	6. Within three days of resolution adoption, a Fish & Game Fee shall be paid.	1159 (12) 1290(6) 1414 (37)
	7. Lot tie covenant tying three lots shall be filed with the City for recordation by the County Recorder.	1159 (13) 1414 (30)
	8. Covenant recorded accepting the conditions of the resolution (1159), (1290), (1414)	1159 (14) 1290 (12) 1414 (40)
	9. Applicant shall maintain the site in an orderly condition prior to the commencement of construction. Name and number of a contact person for site maintenance issues shall be posted at the site and provided to the Director of Community Development.	1290 (8) 1414 (34)
	10. Applicant shall prepare a construction management plan for review and approval by the Engineering Division and Building and Safety Department. Plan shall include a detailed construction parking and hauling plan.	1290(9)

	11. Applicant shall secure all necessary permits from the Public Works Department and the Engineering Division prior to commencement of any demolition or Project related work.	1290 (11) 1414 (2) 1414 (36)
	12. Applicant shall prepare a Fugitive Dust Emission Control Plan shall be prepared, reviewed and approved by the Director of Community of Development prior to the issuance of the grading permits.	1414 (31)
	13. Project shall comply with all applicable Fire Department conditions.	1414 (8)
	14. Applicant shall modify plans to limit the trellis encroachment on the south elevation to a maximum of two feet (2') into the transitional setback along Charleville Boulevard.	1414 (20)
Construction		
	1. All construction parking, staging and hauling shall be in accordance with the approved construction parking and hauling plan. No heavy hauling between 4:00 p.m. and 10:00 a.m.	1290 (9)
	2. Applicant shall provide a permanent dewatering system on-site to discharge groundwater directly to the City's storm drain system.	1414 (3)
	3. A NPDES permit shall be required from the State Regional Water Quality Control Board for permanent dewatering on-site.	1414 (4)
	4. Haul trips are limited to 94 14-cubic yard haul truck trips (47 arrivals, 47 departures) per day.	1414 (6)
	5. Not more than two pieces of diesel equipment shall be permitted to operate on the Project site per day of construction.	1414 (7)
	6. First floor level shall be at least 22.5 inches above the adjacent curb.	1414 (9)
	7. The retail space on the ground floor shall have an unfinished ceiling height of not less than twenty feet (20').	1414 (21)
	8. Applicant shall install a minimum twelve foot (12') construction fence to reduce noise and dust impacts on neighboring residential properties to the south during construction phase.	1414 (32)
	9. Applicant shall protect all existing street trees adjacent to the subject site during the construction of the proposed subdivision.	1414 (35)
Operation		
	1. Permitted uses on the site are limited to office uses.	1159 (2)
	2. Required on-site loading spaces shall be available free of charge to all delivery vehicles to the building.	1159 (3) 1414 (11)
	3. Applicant shall submit a monitoring program for the loading dock area and assign someone to monitor and assist large truck deliveries. Monitoring program shall restrict trucks from blocking or obstructing public streets.	1159 (4) 1414 (25)
	4. Large truck deliveries are permitted between 9:30 a.m. and 4:30 p.m. No deliveries on Sunday. (large	1159 (5)

	truck = > 25)	1414 (25)
	5. The Applicant shall provide free on-site parking at the Project site to all persons who work at the Project site, including but not limited to, all employees of tenants and subtenants of any use located at the Project site (this includes consultants, subconsultants, vendors or agents).	1159 (7) 1414 (12)
	6. There shall be no access to any terrace or balcony on the Charleville Blvd. side of the building except for regularly scheduled building maintenance.	1159 (8)
	7. Medical uses for the Project shall not exceed an aggregate total of 8,000 square feet.	1290 (2)
	8. The driveway entrance shall be clearly marked to specify the entry and exit to the satisfaction of the Director of Community Development or his designee.	1414 (10)
	9. Free validated parking shall be provided to all retail patrons, patients, and visitors to the building at all times. The Applicant or Project operator/property manager shall require medical office tenants to advise all patients of the medical office tenants to advise all patients of the medical office uses of the availability of free validated parking for patients.	1414 (14)
	10. Signage clearly marking the location and availability of loading spaces for all delivery vehicles making deliveries to the building shall be installed and maintained at all times on Project site. The signs shall be installed at such locations reasonably deem necessary to ensure that delivery vehicles do not impede the flow of traffic along Wilshire Blvd.	1414 (15)
	11. All required visitor and patient parking shall be located on the upper levels of the subterranean parking garage, and employee parking shall be restricted to the lower parking level.	1414 (16)
	12. No on-site parking shall be leased to facilities for commercial purposes.	1414 (17)
	13. No more than 15 doctors may have office space on the Project site.	1414 (18)
	14. No medical patients may arrive before 8:30 a.m. or depart after 5:30 p.m.	1414 (19)
	15. The 6,903 square foot ground floor space shall be used to solely house retail uses.	1414 (22)
	16. The CUP and DPR shall be reviewed on an annual basis to ensure that the uses are operating in a substantially similar manner as described to the Planning Commission and in compliance with the conditions imposed by the Planning Commission, resolution and to ensure they are not creating any unanticipated adverse impacts on the surrounding area.	1414 (23)
	17. City retains jurisdiction relative to traffic and parking issues.	1414 (24)
	18. Medical offices shall be subject to the recommendations and procedures of the Dept. of Health and Human Services, including the placement of waste materials in special puncture-resistant containers.	1414 (28)
	19. Applicant shall install a flashing light or similar device at the entrance to the parking structure to warn pedestrians of an exiting vehicle. Lighting shall be directed away from and shielded to prevent "spillover" onto adjacent properties and shall be silent to avoid any noise impacts on adjacent residential uses.	1414 (33)

ATTACHMENT 2
DRAFT RESOLUTION
(TO BE PROVIDED)

**ATTACHMENT 3
MATRIX**

CONDITION No.	AFFECTED BY CID	NEEDS AMENDMENT	PROPOSED CONDITION
Resolution No. 1414			
1-10, 20, 21, 25, 29, 30-38, and 40	No	No	N/A
11. The required on-site loading spaces shall be available free of charge to all of delivery vehicles servicing uses on the project site.	Yes	No	N/A
12. In accordance with Condition 7 set forth in Section 9 of Resolution No. 1159, the free on-site parking shall be provided for all employees of the Project, including any consultants, independent contractors, vendors or agents retained by the operator of any facility on-site in connection with the operation of said facility at all times.	Yes	No	N/A
13. Free validated parking shall be provided to all retail patrons, patients, and visitors to the building at all times. The applicant or Project operator/property manager shall require medical office tenants to advise all patients of the medical office uses of the availability of free validated parking for patients.	Yes	No	N/A
14. Signage, satisfactory in form and quantity to the Director of Community Development, advertising the availability of free validated parking for patients and visitors to the building shall be installed at the main entrance to the parking structure and at such other locations as the Director shall reasonable deem necessary.	Yes	No	N/A
15. Signage, satisfactory in form and quantity to the Director of Community Development, clearly marking the location and availability of loading spaces for all delivery vehicles making deliveries to the building shall be installed and maintained at all times on the project site. The signs shall be installed at	Yes		

CONDITION No.	AFFECTED BY CID	NEEDS AMENDMENT	PROPOSED CONDITION
Resolution No. 1414			
such locations as the Director shall reasonably deem necessary to ensure that delivery vehicles do not impede the flow of traffic along Wilshire Boulevard.			
16. All required visitor and patient parking shall be located on the upper levels of the subterranean parking garage, and employee parking shall be restricted to the lower parking level.	Yes	No	N/A
17. No on-site parking shall be leased to facilities for commercial purposes.	Yes	No	N/A
18. No more than 15 doctors may have office space on the Project Site.	Yes	Yes	See Staff Report for revised language.
19. No medical patients may arrive before 8:30 a.m. or depart after 5:30 p.m.	Yes	No	N/A
22. The 6,903 square foot ground floor space shall be used solely to house retail uses.	Yes	No	N/A
23, 24 and 27 allow for annual review of uses and traffic and parking issues.	Yes	No	
28. Medical offices shall be subject to the recommendations and procedures of the Department of Health and Human Services, including the placement of waste materials in special puncture-resistant containers.	Yes	No	
39. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the project.	No		

**ATTACHMENT 4
PREVIOUS RESOLUTIONS NO.
1159, 1290 & 1414**

RESOLUTION NO. 1159

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A DEVELOPMENT PLAN REVIEW PERMIT FOR CONSTRUCTION OF AN OFFICE BUILDING WITH ABOVE-GROUND AND SUBTERRANEAN PARKING GARAGES AND OF THE PLANNING COMMISSION, SITTING AS A BOARD OF ZONING ADJUSTMENTS TO THE CITY OF BEVERLY HILLS, CONDITIONALLY GRANTING VARIANCES TO ALLOW: BUILDING HEIGHT TO EXCEED THE MAXIMUM ALLOWED IN THE TOP STORY SETBACK, AND EXEMPTION OF PARKING GARAGE SQUARE FOOTAGE FROM TOTAL FLOOR AREA, FOR PROPERTY LOCATED AT 8536 WILSHIRE BOULEVARD

Section 1. Arman Gabay, owner of the property, hereinafter referred to as "Applicant," has submitted an application for a Development Plan Review Permit to construct an 18,900 square-foot two-story office building, with two levels of parking above ground and one level of subterranean parking, and variances to allow: the proposed building to be forty-five (45) feet in height, rather than the 35-foot maximum within the first thirty (30) feet opposite a single-family residential zone; and an exemption of the first and the second floor parking garage square footage from total floor area so long as not less than forty (40) feet of leased space is devoted to retail sales, office or financial institutions, hereinafter referred to as the "Project."

Section 2. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 3. On February 28, 2001 and March 28, 2001, the Planning Commission held a duly noticed public hearings to consider the application. Evidence, both written and oral, was presented at the hearings.

Section 4. In considering the application for the Development Plan Review Permit, the Planning Commission evaluated the following criteria:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;

2. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area.

3. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards;

4. Whether the proposed plan will be detrimental to the public health, safety or general welfare; and

5. Whether the nature, configuration, location, density, height and manner of operation of the commercial development proposed by the plans will significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

Section 5. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds:

1. As conditioned, the proposed Project is consistent with the General Plan of the City. The General Plan designates the property for C3-T3 office uses. The proposed Project is for construction of an office building. The scale of the proposed building is consistent with the surrounding development in the area.

2. As conditioned, the proposed Project will not create any significant adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Based on a traffic study submitted for the Project, there will be no significant impacts from the proposed Project on the pedestrian or vehicular traffic flow of the adjacent streets and alleys. Also, the traffic study concluded that the Project's proposed ingress and egress via the 22-foot wide driveway on LeDoux Road will accommodate both auto and delivery truck access. Furthermore, a roll-down gate will control access into the loading dock to prevent potential conflicts between vehicles and delivery trucks.

3. As conditioned, the proposed Project will not adversely affect existing and anticipated development in the vicinity, will promote harmonious development of the area and will not be detrimental to the public health, safety and welfare. The rear elevation facing Charleville Boulevard incorporates stucco and exposed beams and a top-story setback to delineate the transition to the residential neighborhood. In addition, a terraced planter on Charleville Boulevard will soften the building facade and compliment the landscaping at the ground floor.

4. As conditioned, the nature, configuration, location, density, height and manner of operation of the subject

development will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property. The Project, as conditioned, does not propose any uses that will impact the residential area.

Section 6. Pursuant to Municipal Code Section 10-3.2801, the Planning Commission may grant a variance if, on the basis of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of the Zoning Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Moreover, any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

Section 7. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds as follows with respect to the requested variances.

a. There are special circumstances applicable to the subject property including size, shape and location that warrant

granting the requested variances. Because of these special circumstances, the strict application of the provisions of the Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and under the identical zone classification if a variances were not granted, the Planning Commission, sitting as a Board of Zoning Adjustments to the City of Beverly Hills, considered whether certain findings could be made.

b. The site consists of three lots on the easterly portion of the block between Stanley Drive and LeDoux Road. The proposed Project consists of the construction of a two-story, 45-foot high, 18,900 square foot office building with two levels of parking above ground and one level of subterranean parking. Ingress/egress and loading areas will be provided off LeDoux Road.

c. The site's location is unique in that it is the only C3-T3 (zoned for office uses) block on Wilshire Boulevard and the only through lot to Charleville Boulevard in the easterly end of the City. Therefore, the Project has been designed to modify its appearance and traffic impacts to residential properties. In addition, the site is irregular in size and shape. The site is wider on the western side of the site and narrows substantially at the eastern side of the site. The difficulty of developing the site due to its location and

irregular shape and size have resulted in the site remaining vacant for an extended time, a condition which could lead to deterioration of the area and neighboring residential properties. The Applicant has requested two variances based on the site's unusual location, size and shape.

(1) Section 10-3.1642(b) requires that a commercial structure not exceed two stories or thirty-five (35) feet in height within the first thirty (30) feet in depth directly opposite a single-family residential zone. The Applicant has requested a height variance of forty-five (45) feet in order to buffer the Project's appearance to the residential properties on Charleville Boulevard. The rear elevation facing Charleville Boulevard incorporates stucco and exposed beams and a top-story setback to delineate its transition to the residential neighborhood. The design of the building includes a balcony with a four-foot high wall, architectural features/beams with a setback of twenty-nine (29) feet, facing the residential properties on Charleville Boulevard. In order to further soften the appearance of the building, the Applicant has incorporated trellises at the upper floors.

(2) Section 10-3.181(c) allows the exemption of first and second floor parking garages from the total floor area, as long as not less than forty (40) feet of ground floor are devoted to retail sales, office or financial institutions. To

reduce traffic impacts to the residential area at Charleville Boulevard, and because it is difficult to provide vehicular access and loading onto Wilshire Boulevard due to traffic, ingress/egress for the building is being provided off LeDoux Road. Because fifty-two (52) feet of the 75-foot frontage on LeDoux Road is needed for vehicular access and loading uses, the frontage of the leased space is approximately ten (10) feet. The square footage (1,320 square feet), however, is large enough to support an office use.

d. Thus, strict application of the Code would deprive the Applicant of the ability to provide on-site parking, a privilege enjoyed by other properties in the vicinity and under an identical zone classification.

Section 9. Based upon the foregoing, the Planning Commission hereby adopts the negative declaration for the Project and issues a Development Plan Review Permit for the Project, and the Planning Commission, sitting as a Board of Zoning Adjustments to the City of Beverly Hills, hereby grants the requested variances, subject to the following conditions:

1. Except as otherwise provided by these conditions, the Project shall be constructed in substantial compliance with the revised plans submitted to and approved by the Planning Commission at its meeting of March 28, 2001.

2. Permitted uses on the Project site shall be limited to office uses.

3. The required on-site loading spaces shall be available free of charge to all of the delivery vehicles coming to the building.

4. The Applicant shall submit a monitoring program for the loading dock area for the review and approval of the Director of Transportation, which includes the assignment of an individual who will be responsible for monitoring and assisting during large truck deliveries and the requirement that trucks and other delivery vehicles which exceed 25 (twenty-five) feet in length must park with the cab in (head in) so that the truck can extend into the loading dock area. The monitoring program should also restrict trucks from blocking or obstructing public streets while maneuvering into spaces.

5. Large truck deliveries shall be permitted only between the hours of 9:30 a.m. and 4:30 p.m. As used herein, the term "large truck" shall mean trucks or other delivery vehicles that exceed twenty-five (25) feet in length.

6. The Applicant shall submit a final landscape plan for the review and approval of the Architectural Commission prior to issuance of building permits.

7. The Applicant shall provide free on-site parking at the Project site to all persons who work at the Project site,

including but not limited to, all employees of tenants and subtenants of any use located at the Project site.

8. There shall be no access to any terrace or balcony on the Charleville Boulevard side of the building except for regularly scheduled building maintenance.

9. The Applicant shall submit plans for the building's exterior design, materials and colors of the building for the review and approval of the Architectural Commission.

10. Construction-related parking, staging and hauling shall conform to a construction-related parking, staging and hauling plan submitted by the Applicant and approved by the City Engineer and the Director of Building and Safety. The plan shall prohibit construction related parking on Charleville and Wilshire Boulevards, LeDoux Road and the residential neighborhood, including the prohibition of any use of metered parking spaces for construction vehicles, personnel or equipment. The plan shall provide information including, but not limited to, the anticipated number of workers during construction, the location of parking with respect to the scheduled construction period, the arrangements of deliveries, hauling activities, the length and time of operation of construction equipment, designation of construction staging areas and other information that in the opinion of the City Engineer and the Director of Building and

Safety is necessary to reduce the impacts of the proposed construction related activities and traffic.

11. A cash deposit of \$5,000 shall be deposited with the City to ensure compliance with the conditions of this resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth herein above. All amounts

deposited with the City shall be deposited in an interest bearing account. Applicant shall be reimbursed all interest accruing on monies deposited. The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code.

12. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

13. This resolution approving a Development Plan Review Permit and Variances shall not become effective until the Applicant presents to the City a lot-tie covenant, tying together the three lots that comprise the Project site, signed by the Applicant and satisfactory to the City Attorney, and in a form recordable by the Los Angeles County Recorder. This resolution shall be attached as an exhibit to the covenant. At the time that the Applicant delivers the covenant to the City, the

Applicant shall also provide the City with all fees necessary to record the document with the County Recorder.

14. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project. This resolution approving a Development Plan Review Permit and Variances shall not become effective until the Applicant presents to the City a covenant, signed by the Applicant and satisfactory to the City Attorney, and in a form recordable by the Los Angeles County Recorder, accepting these conditions of approval. This resolution shall be attached as an exhibit to the covenant. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder.

15. The City reserves the right to make modifications and/or impose additional conditions which may become necessary to enable implementation of the specific conditions set forth in this resolution and the Applicant shall comply with all such modified or additional conditions.

Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

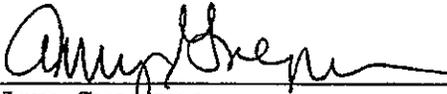
Adopted: 3-28-01


STEPHEN P. WEBB
Chairman of the Planning
Commission for the City
of Beverly Hills

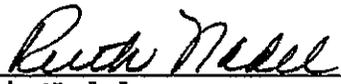
Attest:

P/B 
Secretary

Approved as to form:


Amy Grevson
Assistant City Attorney

Approved as to content:

P/B 
Ruth Nadel
Director of Planning &
Community Development

3/19/01

RESOLUTION NO. 1290

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY GRANTING A CONDITIONAL USE PERMIT FOR MEDICAL OFFICE USES, WITH PARKING PROVIDED ON SITE, AND AMENDING A DEVELOPMENT PLAN REVIEW PERMIT TO ALLOW AN ADDITIONAL LEVEL OF UNDERGROUND PARKING FOR PROPERTY LOCATED AT 8536 WILSHIRE BOULEVARD

Section 1. Sarah Magana Withers on behalf of M & A Gabae, LP, owner, hereinafter referred to as "Applicant," has submitted an application for a Conditional Use Permit ("C.U.P.") to allow medical office uses with associated on-site parking and a request to amend a previously approved Development Plan Review Permit to allow an additional level of underground parking for an 18,900 square foot, two-story office building to be located at 8536 Wilshire Boulevard, hereinafter referred to as the "Project."

On March 28, 2001, the Planning Commission adopted Resolution No. 1159 allowing construction of a 18,900 square foot, two-story office building at the Project site, with parking provided in two above-ground levels and one below-ground (subterranean) level. The Resolution also approved variances to allow a portion of the proposed building to be 45 feet high (rather than 35 feet within the first 30 feet opposite a single-family residential zone, as allowed by Code) and to allow the square footage of the first and second floor parking garage to be excluded from the total floor area calculation of the building. In approving the Resolution, the Planning Commission took into account the fact that the lot was unusual in its location, size and shape. The site's location is unique in that it is the only C3-T3 (zoned for office uses) block on Wilshire Boulevard and the only through lot to Charleville Boulevard in the easterly end of the

City. Therefore, the Project was designed to modify its appearance and traffic impacts to residential properties. In addition, the site is irregular in size and shape. The site is wider on the western side of the site and narrows substantially at the eastern side of the site. The difficulty of developing the site due to its location and irregular shape and size previously resulted in the site remaining vacant for an extended time, a condition which could have lead to deterioration of the area and neighboring residential properties. Therefore, the Planning Commission adopted Resolution No. 1159 approving the Development Plan Review Permit and variances for the office building.

Construction of the office building has not yet commenced, and the Applicant has found many prospective tenants are medical offices. Therefore, the Applicant is requesting a C.U.P. to allow 8,000 square feet of the total 18,900 square feet of the office building be medical office uses, with the 40 parking spaces required for those uses (pursuant to Beverly Hills Municipal Code Section 10-3.2730) being provided on site. The proposed C.U.P. will not result in any changes to the exterior of the Project. The Applicant also is requesting an amendment to the previously approved Development Plan Review Permit to provide for an additional level of underground parking in order to provide the additional required for medical office uses on site. The Applicant is not requesting amendment to the previously approved variances.

Section 2. 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, determined that there was no substantial evidence that approval of the Project may have significant environmental impacts. Accordingly, the City prepared a negative declaration in accordance with Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the Planning Commission independently reviewed and considered the contents of the initial study and the negative declaration prior to deciding whether to approve the Project. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 3. On July 23, 2003, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, was presented at the hearing.

Section 4. In considering the application for the amendment to the Development Plan Review Permit, the Planning Commission evaluated the following criteria:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;

2. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area.

3. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards;

4. Whether the proposed plan will be detrimental to the public health, safety or general welfare; and

5. Whether the nature, configuration, location, density, height and manner of operation of the commercial development proposed by the plans will significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

Section 5. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds:

5.1. As conditioned, the proposed Project is consistent with the General Plan of the City. The General Plan designates the property for C3-T3 office uses. The proposed Project is for construction of an office building, with medical office uses. Office uses are permitted by right in the C3-T3 Zone, and medical office uses are permitted in the C3-T3 Zone with a conditional use permit. The scale of the proposed building is consistent with the surrounding development in the area.

5.2. As conditioned, the proposed Project will not create any significant adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. The traffic study prepared for the Project demonstrates that the increase in traffic in the

area from the Project would be less than significant and the associated risk of traffic safety hazards, vehicular and pedestrian would be correspondingly negligible.

5.3. As conditioned, the proposed Project will promote harmonious development of the area and will not adversely affect existing and anticipated development in the vicinity or be detrimental to the public health, safety and welfare. There will be no visible change to the exterior of the office building approved by Resolution No. 1159, and the additional level of parking will be underground. The C3-T3 Zone was created purposely to encourage office development, and the Project is consistent with this purpose and will promote harmonious development in the area. Further, the proposed Project, inclusive of the medical office uses, are comparable in scale and intensity to adjacent development. Therefore, the Project will not adversely affect existing and anticipated development in the vicinity or be detrimental to the public health, safety and welfare.

5.4. As conditioned, the nature, configuration, location, density, height and manner of operation of the subject development will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property. The Project, as conditioned, does not propose any uses that will impact the residential area. The peak activity at the project will occur during normal business hours (9:00 a.m. to 6:00 p.m.) Monday through Friday when adjacent residential uses are least sensitive to commercial intrusion. Moreover, the traffic study demonstrates that the Project will have no significant traffic impacts on adjacent residential streets. Therefore, the Project will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

5.5. As conditioned, the proposed Project will not be detrimental to the public health, safety or general welfare of the area. Vehicle related activities will be concentrated away from nearby residential uses (on LeDoux). In addition, medical offices will be subject to the recommendations and procedures of the Department of Health and Human Services, including the placement of waste materials in special puncture resistant containers.

Section 6. In considering the application for the Conditional Use Permit, the Planning Commission evaluated the following criteria:

1. The proposed uses will not be detrimental to adjacent property; and
2. The proposed use will not be detrimental to the public welfare.

Section 7. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds:

7.1. As conditioned, the proposed Project will not be detrimental to adjacent property. The proposed retail, commercial, and medical uses are consistent with other activities in the area along Wilshire Boulevard and the building has been designed and conditionally approved to eliminate potential impacts to the residential zone to the south. Medical office uses are specifically permitted in the C3-T3 zone with a conditional use permit, and the proposed Project is compatible with adjacent development and adequate conditions have been imposed to mitigate any potential impacts. Therefore, the Project will not be detrimental to adjacent property.

7.2. The proposed use will not be detrimental to the public welfare. The additional level of underground parking and the establishment of medical uses in the building will not be detrimental to the public health, safety, or general welfare of the surrounding properties. Construction of the building, including the underground parking, are subject to the recommendations of the Geotechnical Engineer for the Project, Professional Service Industries, are contained in a report dated March 18, 2003 and include additional pile shoring and dewatering measures. The additional level of subterranean parking will not alter the scale and mass of the Project when viewed from adjacent properties, and the addition of the second subterranean parking level ensures that sufficient on-site parking is provided to meet the needs of the proposed medical office uses. The proposed medical office uses are compatible with adjacent businesses and development and, for the reasons discussed in this Section 7 and Section 5, above, the project will not be detrimental to the public welfare.

Section 8. Based upon the foregoing, the Planning Commission hereby adopts the negative declaration, grants a Conditional Use Permit, and issues an amended Development Plan Review Permit for the Project, subject to the following conditions:

1. The Project shall be subject to all of the original conditional of approval contained in Resolution No. 1159, adopted on March, 28, 2001. A copy of Resolution No. 1159 is attached hereto as Exhibit A and expressly made a part of this approval by this reference.
2. Medical uses for the Project shall not exceed an aggregate total of 8,000 square feet.
3. In accordance with Condition No. 7 set forth in Section 9 of Resolution No. 1159, the Applicant shall provide free on-site parking for all employees of the Project at all times.

The Applicant shall further provide written proof of the availability and location of free employee parking to the Director of Planning and Community Development prior to the City's issuance of a Certificate of Occupancy for the Project and annually thereafter.

4. All required visitor and patient parking spaces shall be located on the first level of the subterranean parking garage and employee parking, if provided on-site, shall be restricted to the lower parking level.
5. If this Resolution is invalidated for any reason, all provisions of Resolution No. 1159, as originally approved, shall remain in full force and effect.
6. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.
7. A cash deposit of \$5,000 shall be deposited with the City to ensure compliance with the conditions of this resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work

notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code.

8. The Applicant shall maintain the site in an orderly condition prior to commencement of construction, including but not limited to, maintenance of the orderly appearance of existing structures and landscaping on the site, dust suppression for areas cleared by demolition, maintenance of safety barriers and adjacent public sidewalks, and provision of a contact person directly accessible to the public by telephone in the event that the public has any concerns regarding the maintenance of the site. The name and telephone number of the contact person shall be transmitted to the Director of Planning and Community Development and the Director of Building and Safety.

9. Prior to the issuance of building permits, the Applicant shall prepare a construction management plan for review and approval by the Engineering Division and the Building & Safety Department. The plan shall include a detailed construction parking and hauling plan to address construction related traffic impacts. All construction-related parking, staging and hauling shall conform to the construction parking and hauling plan submitted to and approved by the Director of Building & Safety and the City Engineer. The plan shall prohibit any construction-related parking on adjacent residential streets. Adjoining property owners shall be given the opportunity to review such plans prior to the issuance of building permits. No heavy hauling activity shall be permitted between the hours of 4:00 p.m. and 10:00 a.m.
10. In addition to the conditions set forth in this Resolution, the project shall comply with all the original conditions of approval and with all conditions required by the City's various departments, including but not limited to the conditions, if any, imposed by the Departments of Public Works, Engineering, Building & Safety, Fire and Police. A copy of the standard conditions from the Public Works/Engineering Department is attached hereto as Exhibit B and incorporated herein by this reference.
11. The Applicant shall secure all necessary permits from the Public Works Department and the Engineering Division prior to commencement of any demolition or Project related work.
12. This resolution approving Conditional Use Permit and a Development Plan Review shall not become effective until the owner of the Project site records a covenant, satisfactory in

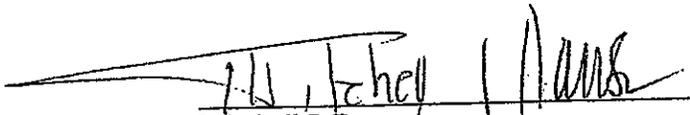
form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit.

The Applicant shall deliver the executed covenant to the Department of Planning and Community Development within 60 days of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Project shall be null and void and of no further effect.

Notwithstanding the foregoing, the Director of Planning and Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Project.

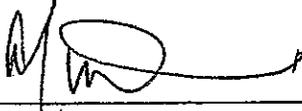
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 8-27-03



Mitchell J. Dawson
Chairman of the Planning Commission of
the City of Beverly Hills, California

Attest:



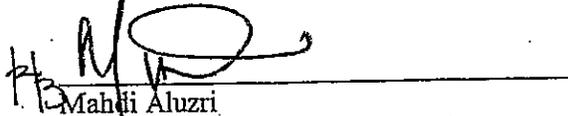
Secretary

Approved as to form:



Robert H. Pittman
Assistant City Attorney

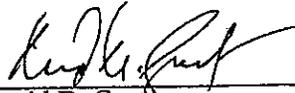
Approved as to content:



Mahdi Aluzri
Director of Planning & Community
Development



Ronald B. Clark
Director of Building & Safety



David D. Gustavson
Director of Civil Engineering

RESOLUTION NO. 1414

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS APPROVING: A TIME EXTENSION AND AMENDMENT FOR A DEVELOPMENT PLAN REVIEW PERMIT; A MODIFICATION TO A CONDITIONAL USE PERMIT FOR MEDICAL USES AND RETAIL USES; AND A VARIANCE FOR ARCHITECTURAL FEATURES AT A THREE STORY COMMERCIAL BUILDING AT 8536 WILSHIRE BOULEVARD

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. Wilshire Le Doux Medical Plaza, L.P., property owner (hereinafter referred to as "Applicant"), has applied for the following discretionary approvals for the construction of a 24,450 square foot, three story/45 foot high commercial building on property located at 8536 Wilshire Boulevard (the "Revised Project"):

1) A time extension and amendment to a Development Plan Review ("DPR") to permit the construction of a 24,450 square foot, three-story/45-foot high commercial building, originally approved by Resolution No. 1159 adopted by the Planning Commission on March 28, 2001;

2) A modification to a Conditional Use Permit to allow additional medical office uses ("CUP") above those previously approved by Resolution No. 1290 adopted by the Planning Commission on August 27, 2003;

3) A variance to allow encroachment of architectural features into the required building setback at Charleville Boulevard, originally approved by Resolution No. 1159, on March 28, 2001; and

4) Approval of a Negative Declaration for the proposed Project.

The Project was originally approved by the Planning Commission on March 28, 2001, through adoption of Resolution No. 1159, and subsequently amended by Resolution No. 1290, adopted on August 27, 2003 (the "Existing Project"). The Existing Project consisted of an 18,900 square foot, two-story/35-foot high commercial building, with a portion of the building 45 feet high; a Conditional Use Permit to allow 8,000 square feet of medical office uses, and a variance to allow proposed architectural features (consisting of a trellis, balcony and planter boxes) in the transition setback area.

In accordance with the provisions of Beverly Hills Municipal Code (the "Municipal Code") Section 10-3-3106, the DPR was due to expire in November 2005. The Applicant timely submitted the instant applications revising the Existing Project in October 2005. The revisions request an extension of time for the DPR until November 2006, increases the size of the building from 18,900 square feet to 24,450 square feet, and modifies the CUP to increase medical office uses by an additional 7,000 square feet (for a total of 15,000 square feet of medical office uses at the Project site).

The current proposal requests an extension of time for an amended DPR to construct a 24,450 square foot commercial building, with 15,000 square feet of medical office uses and 9,450 square feet of general office/retail uses. The Revised Project will also add two additional subterranean levels of parking for a total of four-levels of subterranean parking. The

proposed parking garage will provide 102 standard spaces, with 75 spaces being provided to satisfy the Code-required parking for the medical office uses and 27 spaces to satisfy the Code-required parking for the general office/retail use. Ingress/egress and loading will be provided from Le Doux Road. The Revised Project also reconfigures the loading area and ingress/egress from the site.

Section 2. 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, determined that there was no substantial evidence that approval of the Project may have significant environmental impact. Accordingly, the City prepared a negative declaration in accordance with Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the Planning Commission independently reviewed and considered the contents of the initial study and the negative declaration prior to deciding whether to approve the Project. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which 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 3. On October 26, 2005, and January 12, 2006, the Planning Commission held duly noticed public hearings to consider the Project. Evidence, both written and oral, was presented at said hearings.

Section 4. The Project site is located on the south side of Wilshire Boulevard and is comprised of three vacant through lots on the easterly portion of the block between Stanley Drive to the west and Le.Doux Road to the east. On the north and south the Project site is bordered by Wilshire Boulevard and Charleville Boulevard, respectively. The land uses surrounding the Project site include office, retail, theater and other commercial uses. To the south, across Charleville Boulevard, is a single-family residential zone. The property has an irregular shape with the narrowest portion being on the easterly side (Le Doux). Previously, a gas station was located on the site and in 1988 the tanks were removed. Existing site features include several low-height masonry property walls occurring along the north-west, south and south-east property boundaries, and existing landscaping. Two street trees are located adjacent to the site along Wilshire, and one street tree is located along Charleville. No plans are proposed at this time which would affect the existing street trees.

Section 5. In accordance with the provisions of Beverly Hills Municipal Code Section 10-3-3104, in reviewing the application for a Development Plan Review, the Planning Commission considered the following issues:

- 1) Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
- 2) Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;
- 3) Whether the proposed plan will significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property; and
- 4) Whether the proposed plan will create any significantly adverse traffic impact, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and whether the proposed plan will be detrimental to the public health, safety or general welfare.

Section 6. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby finds as follows with respect the Development Plan Review:

6.1 As conditioned, the proposed Project and its design and improvements are consistent with the General Plan of the City. The General Plan land use map designates the site for low-density general commercial and the property is zoned C-3T-3. The Revised Project proposes a commercial building with a mix of commercial uses consisting of retail, general office uses and medical office uses. All of the proposed uses are permitted under the General Plan designation for the Project site. Office uses are permitted by right in the C-3T-3 Zone, and retail

and medical office uses are permitted in the C-3T-3 Zone with a conditional use permit. The scale of the proposed building is consistent with the surrounding development in the area. Thus, the Revised Project is compatible with the objectives, policies, general land uses and programs articulated in the General Plan, as implemented by the Zoning Ordinance.

6.2 As conditioned, the Revised Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The site currently is a vacant lot. Under the current zoning designation, the Project site could be developed with a maximum floor area ratio of 2.0 and three stories and forty-five feet in height. As proposed, the building will be three stories and 45 feet in height. There are a variety of buildings in this block of Wilshire Boulevard which were built under different zoning standards and restrictions. The Revised Project is similar in scale and mass to surrounding development and provides a good transition from the single family uses to the south to the higher-intensity commercial uses along Wilshire Boulevard. The Revised Project is compatible with the development in the vicinity and will promote harmonious development in the area. As conditioned by this resolution, the Applicant will submit the Project design, including a detailed landscaping plan, to the Architectural Commission for review and approval prior to the issuance of building permits. Therefore, the Revised Project is consistent and harmonious with the nature and type of development designated for the area in the General Plan.

6.3 As conditioned, the nature, configuration, location, density, height and manner of operation of the Revised Project will not significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property. The proposed scale and massing is consistent with the scale and massing of the development along

this area of Wilshire Boulevard. Moreover, as conditioned, the Revised Project imposes operational conditions on the proposed uses that will mitigate any potential adverse impacts on adjacent residential uses from traffic, overflow parking, noise and/or scale and massing. Therefore, the Revised Project will not significantly and adversely interfere with the enjoyment of residential properties in the vicinity of the subject property, and the Revised Project is compatible with residential properties in the vicinity and will promote harmonious development in the surrounding neighborhood.

6.4 As conditioned, the Revised Project will not create any significant adverse traffic impacts or vehicular or pedestrian safety or circulation problems. The Revised Project provides 102 standard on-site parking spaces. The on-site parking meets the Code-required parking for the uses proposed. As conditioned by this Resolution, the Applicant will be required to provide free, validated parking to all retail patrons, patients of the medical office uses, and visitors to the building to ensure that these uses do not create any significant adverse traffic impacts. The Applicant will also be required to provide free parking for employees, including any consultants, independent contractors, vendors or agents retained by the operator of any facility on-site in connection with the operation of said facility, at all times. In addition, the Applicant will be prohibited from leasing out parking on-site for commercial purposes. Ingress/egress to the Revised Project for both the parking and loading will be provided off of Le Doux Road. The City's Traffic Consultant reviewed the proposed ingress/egress and loading for the Revised Project and concluded that it will not create significant traffic impacts. A traffic study prepared for the Revised Project demonstrates that the Revised Project will have no

significant traffic impacts upon the analyzed intersections and the residential streets. Therefore, the Project will have no adverse traffic or parking related impacts on the neighborhood.

6.5 As conditioned, the Revised Project will not be detrimental to the public health, safety, or general welfare. The Project will be constructed in accordance with the City's Building Code standards, and adequate landscaped area has been provided as part of the Project. In addition, incorporation of the operational conditions discussed in Paragraph 6.4, above, further ensure that the Revised Project will promote the public health, safety and general welfare.

Section 7. In considering the application for the CUP, the Planning Commission considered whether the additional medical office uses and retail uses will be detrimental to adjacent property or the public welfare.

Section 8. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds as follows:

8.1. As conditioned, the Revised Project will not be detrimental to adjacent property. The proposed retail, commercial, and medical uses are consistent with other activities in the area along Wilshire Boulevard and the building has been designed and conditionally approved to eliminate potential impacts to the residential zone to the south. Retail and medical office uses are specifically permitted in the C-3T-3 zone with a conditional use permit, and the proposed Project is compatible with adjacent development and adequate conditions have been imposed to mitigate any potential impacts. Therefore, the Revised Project will not be detrimental to adjacent property.

8.2. The proposed retail uses and additional medical office uses will not be detrimental to the public welfare. The additional two levels of underground parking and the establishment of an additional 7,000 square feet of medical uses in the building will not be detrimental to the public health, safety, or general welfare of the surrounding properties. Construction of the building, including the additional underground parking necessitated by the increased medical office uses, are subject to the recommendations of the Geotechnical Engineer for the Project, Van Beveren & Butelo, Inc. contained in a report dated August 22, 2005. These recommendations include, but are not limited to, providing additional pile shoring and dewatering measures. The additional level of subterranean parking will not alter the scale and mass of the Project when viewed from adjacent properties, and the two additional levels of subterranean parking ensures that sufficient on-site parking is provided to meet the needs of the proposed medical office uses. The proposed retail and medical office uses are compatible with adjacent businesses and development and, for the reasons discussed in this Section 6, above, the Revised Project will not be detrimental to the public welfare.

Section 9. Based upon the evidence presented at the public hearings, including the staff report and oral testimony, the Planning Commission hereby finds the following with regard to the request for a variance.

9.1. On March 28, 2001, the Planning Commission approved Resolution No. 1159, which requested this same variance to allow architectural features (trellis/balcony/planter boxes) at the third floor to encroach into the required building setback for the purpose of softening the appearance of the building elevation along Charleville Boulevard. As conditioned,

the proposed metal trellis will encroach two feet (2') into the setback area, while the proposed balcony/planter boxes will be redesigned so that they will not encroach into the setback area. As the previously-granted variance has expired, a new variance is being requested.

9.2. Pursuant to Beverly Hills Municipal Code Section 10-3.3700, the Planning Commission may grant a variance if, on the basis of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the provisions of the zoning code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

9.3. There are special circumstances applicable to the subject property, including size, shape, surroundings, location or topography that warrant granting the requested variance. The Project site includes three easterly lots which are unique because they are shorter in depth and are located along two corners and have three street frontages (at Wilshire Boulevard, Le Doux Road and Charleville Boulevard). BHMC Section 10-3.1642(b) requires an additional building setback of thirty feet for new commercial buildings above thirty-five feet in height for that portion directly opposite to a single family residential zone. The westerly lots in the C-3T-3 Zone are significantly deeper than the easterly lots (Project site), and the thirty foot building setback would have a greater impact on the Project site, in terms of building placement, than on the larger lots.

9.4 Granting the requested variance will not constitute a special privilege. For the reasons discussed in paragraph 9.2, the subject property is unusual in its lot depth and location, and the strict application of the Zoning Ordinance would deprive the Applicant of the rights and privileges enjoyed by other properties in the vicinity under the identical zoning classification. The variance request is to allow the proposed trellis architectural feature to encroach up to two feet (2') into the setback area, and although the request appears to be design-related, it is due, in part, to the constraints of the site. The thirty foot building setback requirement would have a greater impact on the Project site, in terms of building placement, than on the larger westerly lots in the vicinity. Therefore, the variance would not grant special privileges, since all new development on the lots in the C-3T-3 Zone would be required to comply with the zoning requirements. Based on the foregoing, the Planning Commission hereby finds that special circumstances not applicable to other properties in the vicinity and same zone classification constrain development of the property, and strict application of the Beverly Hills Zoning Ordinance will deprive the property owner of the rights and privileges enjoyed by other property owners in the area. Under the circumstances described herein, granting the requested variance is warranted and will not constitute the grant of a special privilege.

Section 10. Based upon the foregoing, the Planning Commission hereby adopts the Negative Declaration and approves an extension of time and an amendment to a Development Plan Review, a modification to a Conditional Use Permit for retail and medical office uses and a Variance for architectural features in the setback area, subject to the following conditions:

**ATTACHMENT 5
LETTER FROM APPLICANT
AND
PARKING MANAGEMENT PLAN**



Law Offices of



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August 11, 2008

RECEIVED
CITY OF BEVERLY HILLS

AUG 15 2008

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

Rita Naziri, Senior Planner
Department of Community Development
455 N. Rexford Drive
Beverly Hills California 90210

Re: Condominium Conversion/Amendment to Conditional Use Permit

Dear Rita:

The Planning Commission indicated they were supportive of the request to subdivide the medical building into condominiums, but at the previous meeting we were advised that we needed to make a formal application to amend the current CUP by separating out the conditions that will permanently apply to the individual doctors who purchase common interest development units from those conditions that apply to the project as a whole; in particular, to those that will have permanent effect on each condominium unit and are not related to the construction of the building. Their reasoning was that a physician who buys a unit should clearly be apprised of his (or her) obligations under the CUP, and that enforcement [by the association or the City] can thus be directed against the particular unit holder without affecting the others who comply with the rules. Further, each unit holder should be specifically apprised of his (her) obligations, and it should be clear in the revised Resolution that the conditions apply severally, and not jointly, as might otherwise be inferred from the Resolution 1414.

When Heather Waldstein was the planner assigned to this project, she requested that we analyze the Resolution 1414 to identify the permanent provisions, and create a matrix. As you know, she is no longer with the City. I prepared the matrix. I enclose herewith another copy for your review.

Rita Naziri, Senior Planner

August 11, 2008

Page 2.

There were six conditions that affected both construction and were also permanent: they are numbered 14,15,18,22,26 and 39.. All of the other conditions clearly were either permanent or only related to construction.

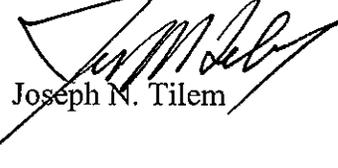
You also requested additional drawings be prepared showing how and where the reduction of parking spaces from the original 102 spaces to 100 spaces occurred. The architect is preparing them. We expect to deliver them to you early next week.

In addition to the foregoing, the owner also now requests the commission consider at the September 18, 2008 meeting a modification of the hours of operation. In attempting to rent the medical suites, it became clear to my client that physicians are not willing to occupy a medical building with the restrictions on hours imposed by the original CUP. Since all parking is on site, and the CUP requires free parking, we believe that such modification will have no impact on the neighbors nor on traffic in the vicinity of the building.

To sum up, there are 3 points requested to be revised in the pending application for amendment to the CUP:

1. Segregate the provisions of the CUP to clearly identify those that are permanent, and make it clear that those conditions affect each individual condominium owner, and not just the developer or owner of the building.
2. Change the number of parking spaces from 102 to 100, and reduce the area of allowable medical uses of the building accordingly.
3. A request that the restrictive hours of operation of the medical suites be eliminated.

Very truly yours,


Joseph N. Tilem

enc.

Tuesday, June 03, 2008

**Matrix of conditions in Planning Commission Resolution 1414 and CC&R's for
8536 Wilshire Boulevard.**

The Conditions are in three categories:

1. Conditions affecting construction and development:
2. Conditions affecting operations
3. Conditions affecting both construction and development, and continued operations.

The conditions in the first category are not affected by CC&R's; these are the sole responsibility of the developer, and will be met at the time the building receives its Certificate of Occupancy, and only after inspection by the Building Department

Conditions # 1,2,3,4,5,6,7,8,9,10,20,21,25,29,30,31,32,33,34,35,36,37,38,40.

The conditions in the second category are addressed by the CC&R's in the matrix below:

Conditions # 11, 12, 13, 16, 17, 19, 23, 24, 26, 28.

The conditions in the third category are addressed in the CC&R's in the matrix below, insofar as they require continued maintenance or operations by the Property Owners Association

Conditions # 14, 15, 18, 22, 27, 39.

Condition #11 and #26 require free on-site loading spaces to be available free of charge to all delivery vehicles serving the Project site, and define the hours of truck deliveries.

Article II of the CC&R's gives the Association [as defined in Section 1.8 of the CC&R's] and its Board of Directors [as defined in Section 1.11 of the CC&R's] the right to enforce parking regulations, including loading regulations, and in particular, Section 2.6 gives the Board power to regulate deliveries to the Premises, per the Resolution #1414 of the Planning Commission.

Article XVIII, Section 18.1.3, of the CC&R's makes the Project subject to all of the terms and conditions of the CUP.

Article XIX gives the City the right to inspect and have access to the premises (Section 19.1) and to enforce the provisions of the CC&R's, and the City is entitled to reimbursement for any costs associated with the enforcement. Further, Section 19.3 provides that notwithstanding any provisions of the CC&R's, they are not a restriction, limitation, waiver, release or modification of any conditions of Planning Commission Resolution #1414, or an abrogation of the city's police power.

Conditions #12 and #13 require free on-site parking for employees, consultants, independent contractors, vendors, agents, retail patrons, patients and visitors at all times.

Article II of the CC&R's gives the Association [as defined in Section 1.8 of the CC&R's] and its Board of Directors [as defined in Section 1.11 of the CC&R's] the right to enforce parking regulations, including issuing permits for authorized users and for visitors and short term parking, per the Resolution #1414 of the Planning Commission.

Article XVIII, Section 18.1.1, of the CC&R's further gives the right to enforce maintenance of the common areas [including the right to receive reimbursement for such enforcement] in the event the Association or its Members fail to maintain the Common Areas to the satisfaction of the City of Beverly Hills.

Article XVIII, Section 18.1.3, of the CC&R's makes the Project subject to all of the terms and conditions of the CUP.

Article XIX gives the City the right to inspect and have access to the premises (Section 19.1) and to enforce the provisions of the CC&R's, and the City is entitled to reimbursement for any costs associated with the enforcement. Further, Section 19.3 provides that notwithstanding any provisions of the CC&R's, they are not a restriction, limitation, waiver, release or modification of any conditions of Planning Commission Resolution #1414, or an abrogation of the city's police power.

Conditions #14 and #15 require maintenance of the signage, installed as required by the Director. The original installations will be approved by the City before the Certificate of Occupancy is issued, but the ongoing maintenance is the responsibility of the Association.

Article II, Section 2.4, of the CC&R's gives the Association [as defined in Section 1.8 of the CC&R's] and its Board of Directors [as defined in Section 1.11 of the CC&R's] the right to enforce all signage requirements both inside and outside the Project per the Resolution #1414 of the Planning Commission.

Article XVIII, Section 18.1.1, of the CC&R's further gives the right to enforce maintenance of the common areas [including the right to receive reimbursement for such enforcement] in the event the Association or its Members fail to maintain the Common Areas to the satisfaction of the City of Beverly Hills.

Article XVIII, Section 18.1.3, of the CC&R's makes the Project subject to all of the terms and conditions of the CUP.

Article XIX gives the City the right to inspect and have access to the premises (Section 19.1) and to enforce the provisions of the CC&R's, and the City is entitled to reimbursement for any costs associated with the enforcement. Further, Section 19.3 provides that notwithstanding any provisions of the CC&R's, they are not a restriction, limitation, waiver, release or modification of any conditions of Planning Commission Resolution #1414, or an abrogation of the city's police power.

Condition #16 requires visitor and patient parking to be located on the upper levels, and employee parking to be on the lower levels.

Article II of the CC&R's gives the Association [as defined in Section 1.8 of the CC&R's] and its Board of Directors [as defined in Section 1.11 of the CC&R's] the right to enforce parking regulations, including issuing assigning parking spaces for visitors and condominiums [Section 2.6] per the Resolution #1414 of the Planning Commission.

Article XVIII, Section 18.1.3, of the CC&R's makes the Project subject to all of the terms and conditions of the CUP.

Article XIX gives the City the right to inspect and have access to the premises (Section 19.1) and to enforce the provisions of the CC&R's, and the City is entitled to reimbursement for any costs associated with the enforcement. Further, Section 19.3 provides that notwithstanding any provisions of the CC&R's, they are not a restriction, limitation, waiver, release or modification of any conditions of Planning Commission Resolution #1414, or an abrogation of the city's police power.

Condition #17 prohibits leasing on-site parking for commercial purposes.

Article II of the CC&R's gives the Association [as defined in Section 1.8 of the CC&R's] and its Board of Directors [as defined in Section 1.11 of the CC&R's] the right to enforce parking regulations, including a prohibition against use of the parking spaces for repair, maintenance or restoration of any vehicle [Section 2.6] per the Resolution #1414 of the Planning Commission.

Article XVIII, Section 18.1.3, of the CC&R's makes the Project subject to all of the terms and conditions of the CUP.

PARKING MANAGEMENT PLAN WILSHIRE LE DOUX PROFESSIONAL BUILDING

I. INTRODUCTION

The Wilshire LeDoux Professional Building (the “building”) located at 8536 Wilshire Boulevard, Beverly Hills, California, is an approximately 24,500 square foot retail, medical and office building with 100 parking spaces in a four-level underground parking facility. Exhibit 1 shows the garage floor plans by level. The parking facility offers valet parking and self-parking. The parking program is designed to provide the utmost service, convenience, and safety for the patrons of the building and the owners of condominium units therein, to prevent traffic from impeding the right-of-way on LeDoux Drive as a result of traffic entering and exiting the building; to encourage tenants, owners and visitors to utilize the on-site parking facilities; and to operate in accordance with the ordinances and regulations of the City of Beverly Hills.

II. PARKING DEMAND AND SPACE ALLOCATION

The parking facility will open one-half hour before the building opens and will close one-half hour after the building closes. The valet service will also be operated the same hours. It is anticipated that most visitors will self-park.

The facility has been designed to handle both self-parking and valet parking. Valet parking and self-parking for visitors will begin on the highest level and move down. Parking for condominium unit owners will be assigned as designated on Exhibit 1.

III. STAFFING

The parking operation will be operated by a professional valet service and supervised by the building manager. The valet service will provide the necessary flexibility to allow the operation to properly react to any changes in traffic flow. Maintenance personnel will be available during all hours when the building is open, commencing at least one-half hour prior to opening and ending no less than one-half hour after closing.

Security for the parking facility will be integrated into the building security program.

IV. TRAFFIC FLOW AND CIRCULATION

Visitors will choose their parking option upon arriving at the driveway entrance. All self-parking cars will go directly down into the parking facility. A valet will be available to assist visitors who request valet service, without extra charge.

V. PARKING EQUIPMENT

The parking equipment will utilize simple control systems with validation capabilities. It will consist of a ticket dispenser, card reader and gate and will be located inside the garage, on level one. The ticket dispenser will be for visitors, while the card reader will be for the tenants and their employees. The cashier will have easy accessibility to assist visitors.

VI. VALIDATED PARKING

Patients, visitors and retail patrons will be offered free parking with validation.

Patients, visitors and retail patrons will also be offered validated valet parking free of charge for a time interval consistent with the aforementioned validation program (i.e., same number of hours free with validation as provided to the self-parkers) from the time the parking facilities open until closing.

The availability of free validated valet parking to patients, visitors and retail patrons shall be posted in locations conspicuous to incoming motorists, and in a manner approved by the Director of Transportation.

All medical offices will advise patients of the availability of free validated parking.

VII. EMPLOYEE PARKING

Free on-site parking shall be provided for all condominium owners, tenants and their employees.

Employees shall be notified not to park in the residential areas. The Condominium Owners Association shall make a good-faith effort to enforce this restriction.

VIII. DELIVERIES/LOADING

Vehicles making regular deliveries shall be routed to use the indoor loading spaces free of charge. All regular deliverers shall be informed of the requirements contained in this Section VIII.

IX. GENERAL PROVISIONS

Nothing in this parking operations plan shall be interpreted to authorize or entitle the participants to operate in a manner contrary to the rules of the Southern California Air Quality Management District or any successor air quality management agency.

X. SUMMARY

The parking facility lends itself well to a combination self-parking and valet operation. Because the peak uses of the building are predictable, the staffing can be planned in advance and executed easily. With the combination valet and self-parking program, the parking operation is very flexible and can be adjusted by either providing more valet parking and/or direct visitors to self-parking depending on the particular demand.

ATTACHMENT 6
STAFF REPORT FROM JUNE 26, 2008



**STAFF REPORT
CITY OF BEVERLY HILLS**

**For the Planning Commission
Meeting of June 26, 2008**

TO: Planning Commission
FROM: Heather Waldstein, Contract Planner
THROUGH: Jonathan Lait, AICP, City Planner



SUBJECT: Request for a Development Plan Review and Tentative Parcel Map (PM 70466) to allow a 24,450 square foot medical office building, currently under construction, to be converted to a commercial condominium building located at **8536 Wilshire Boulevard.**

RECOMMENDATION

It is recommended that the Planning Commission adopt a resolution (Attachment 2) conditionally approving a Development Plan Review and Tentative Parcel Map to allow the conversion of a medical office building which is currently under construction, to a commercial condominium building.

BACKGROUND

On May 21, 2008, the Planning Commission held a public hearing regarding the subject project. The item was continued to the June 26, 2008 Planning Commission meeting to allow the applicant and staff, time to address questions and concerns raised by the Planning Commission. The following bulleted list summarizes the questions and concerns raised at the hearing.

- Matrix of Conditions of Approval
- Maximum number of doctors allowed for the project site.
- Enforceability of conditions of approval across individual suite/office owners.
- Need for individual medical CUPs for each suite/unit.
- Other commercial condominium buildings in the City.

Attached to this report is a matrix that provides a list of all the current conditions of approval, their application to individual owners and the need for revisions.

After researching past approvals for the project site and listening to audio of previous public hearings related to this project, staff has concluded that the requirement for a maximum number of 15 doctors allowed for the project site was determined thorough analysis including review of the Institute of Transportation Engineers (ITE) manual and parking availability for medical office use at the project site. Staff feels that the allowed medical use should be related to square footage since the City's parking requirements for medical use are based on 1 space/200 square feet.

Resolution 1414, Condition No. 18, was originally drafted to be applied to a single owner of the building. However, with the current request for a condominium conversion and the possibility of multiple owners, staff is recommending a modification to the language of the condition, to better apply and enforce to multiple parties. The number of doctors per suite/office is based on square footage with the larger units allowed 2 doctors and the three smallest suites/offices having one doctor each. Parking spaces are based on a 1/200 sq.ft. requirement, however, the conditions of approval do not require the parking to be designated per suite. Staff is not recommending that the parking spaces be designated for each unit, but is providing a breakdown of spaces to show the availability of parking. Parking will continue to be provided on a first come first serve basis.

Below is Condition No. 18 as it reads in Resolution No. 1414, with the proposed language bolded in italics and the added table. The modified condition will be added to the Resolution approved for the proposed Common Interest Development.

18. No more than 15 doctors may have office space on the Project Site. ***Based on the following table, the total number of doctors shall be distributed amongst the suites with the total number of doctors never to exceed 15.***

SUITE #	OFFICE SQ.FT.	NUMBER OF DOCTORS	# of Parking Spaces
4/2 ND FL	1,865	2	9
5/2 ND FL	1,511	2	8
6/2 nd FL	1,088	1	5
7/2 nd FL	1,455	1	7
8/2 nd FL	1,701	2	9
9/3 rd FL	1,865	2	9
10/3 rd FL	1,681	2	8
12/3 rd FL	1,309	1	7
13/3 rd FL	1,525	2	8

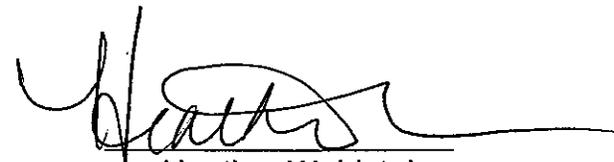
Pursuant to BHMC Section 10-2-7 Common Interest Development Projects, the applicant is required to provide CC&Rs that include provisions for satisfying the parking and access requirements and assuring their continuance; assuring access to the site; and an assurance that all conditions of approval be imposed on the project and shall not be deleted or amended without written consent of the Planning Commission. Article XVIII of the proposed CC&Rs includes provisions (18.1.3) required by the City of Beverly Hills enforcing the Conditions of Approval found in Resolution No. 1414. This requirement will provide the enforceability needed for the existing conditions of approval.

In addition, after careful consideration and discussions with the City Attorney, staff has made a determination that with modified language to Condition No. 18 of Resolution 1414, the current Conditional Use Permit can be applied to and enforced with multiple owners of the building. Therefore, staff does not feel that individual Conditions Use Permits are needed for each suite/office.

In response to the Planning Commission questions regarding other commercial condominium buildings in the City, two requests in the past have been for commercial condominiums but do not compare to the current request. The two previous requests were for the Hustler Building and the Montage, but those were both division of air space on a floor by floor basis. This proposal is for a division by individual suites/units.

PUBLIC NOTICE AND COMMENTS

Notice of the project and public hearing was mailed on May 9, 2008 as required by BHMC Section 10-3-3103. In addition, notice of the hearing was published in the Beverly Hills Courier on Friday, May 9, 2008. This item was continued from the May 21, 2008 Planning Commission public hearing. As of the date of the preparation of this report, no correspondence or calls were received.



Heather Waldstein

Attachments:

1. Matrix of Previous Conditions of Approval
2. Staff Report, May 21, 2008
3. Draft Resolution

Development Plan Review Permit
8536 Wilshire Boulevard
June 26, 2008

4. Previous Resolutions
5. CC&Rs

ATTACHMENT 7
STAFF REPORT FROM MAY 21, 2008

BACKGROUND

The Planning Commission approved a Development Plan Review on February 23, 2006, for a three-story medical office building. The approved building is currently under construction and the property owner now seeks approval of a subdivision map to allow each of the 13-units approved in the DPR to be sold individually. Aside from the request for a condominium map, no changes are proposed to the project previously approved by the Commission. As conditioned, the project will comply with all current building, zoning and fire codes. In addition, the conditions of approval granted in conjunction with the previously approved Development Plan Review shall remain in full force and effect.

GENERAL INFORMATION	
Applicant	Dawson, Tilem & Gole
Project Owner	Wilshire Le Doux Medical Plaza
Zoning District	C-3T-3 Commercial Transition Zone
Parcel Size	12,854 sq.ft.
Permit Streamlining Act Deadline	July 21, 2008

PROJECT DESCRIPTION

The project involves the conversion of a 13-unit office building to condominium ownership. The property is located west of Le Doux Road along the south side of Wilshire Boulevard. The project site consists of an approximate 12,854 square foot parcel which is currently being improved with a 24,450 square foot, three story, 45-foot in height, thirteen-unit medical office building with a four level subterranean garage which takes access from Le Doux Road.

No physical changes are proposed with the request for conversion to condominium ownership. The project is conditioned to comply with all current fire and building code requirements, including plumbing, electrical and mechanical requirements.

PROJECT DATA SUMMARY

Regulation	Approved/Under Construction	Required/Allowed by Code	Compliance
Site Area	12,854 sq.ft.	N/A	N/A
Setbacks PL facing residential zone	6 feet	6 feet (BHMC 10-3-1642)	Complies
Density	2:1 FAR (24,450 sq.ft.)	2:1 FAR (BHMC 10-3-2745)	Complies
Height	45'	45' (BHMC 10-3-2726)	Complies
Parking Spaces	102	1/250 (medical) + 1/350 (office/retail)	Complies
Dimensions	9 x 19		

AREA CHARACTERISTICS

The project site is located along Wilshire Boulevard between Le Doux Road and Stanley Drive. The area is characterized by commercial uses of varying heights along Wilshire Boulevard and single-story single family residences south of the project site.

PUBLIC NOTICE AND COMMENTS

Notice of the project and public hearing was mailed on May 9, 2008 as required by BHMC Section 10-3-3103. In addition, notice of the hearing was published in the Beverly Hills Courier on Friday, May 9, 2008. As of the date of the preparation of this report, no correspondence or calls were received.

ENVIRONMENTAL DETERMINATION

The proposed project has been assessed in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA guidelines. Pursuant to the State CEQA Guidelines Section 15301(k), Existing Facilities, the division of existing commercial buildings into common interest ownership have been determined not to have a significant environmental impact and are exempt from the provisions of CEQA.

GENERAL PLAN AND ZONING ANALYSIS

The General Plan land use designation for the subject property is Commercial and identifies a maximum density of 2.1 FAR and a maximum height of 45 feet. The Project site is currently under construction for a 24,450 sf medical office building on a 12,854 square foot lot, no changes are proposed for density, size, height or use. Therefore, the project is consistent with the land use designation of the property called for in the General Plan.

COMMON INTEREST DEVELOPMENT ORDINANCE

On March 7, 2006, the City Council adopted Ordinance No. 06-2497, establishing criteria for all common interest development projects. As defined in BHMC Section 10-2-101:

COMMON INTEREST DEVELOPMENT: A community apartment project, a condominium project, a planned development, and a stock cooperative as defined in section 1351 of the California Civil Code or its successor statute.

The proposed project is a condominium project and therefore subject to the Common Interest Development ("CID") ordinance, as codified in BHMC Section 10-2-707. The CID ordinance requires all common interest development projects to comply with the current Building Codes and Zoning regulations and all other requirements of the code in effect at the time the application is submitted.

As indicated in the Project Data Summary table, the project complies with applicable zoning requirements. As with new buildings, compliance with current building and fire code regulations (including life safety requirements) for the proposed conversion will be verified upon submittal of a full set of building plans, including structural plans and confirmed through the standard building inspection process. However, since the project involves a proposed conversion to a condominium development, compliance with all applicable regulations shall be verified prior to the approval of the final map, versus prior to a Certificate of Occupancy as in the case of a new building. A condition of approval regarding compliance with existing regulations is included in the draft resolution attached to this report.

DEVELOPMENT PLAN REVIEW AND *TENTATIVE PARCEL MAP*

Development Plan Review - Pursuant to the Beverly Hills Municipal Code Section 10-3-3100 G, all common interest development require approval of a Development Plan Review. The Planning Commission may consider a request for a Development Plan Review if the Planning Commission can make the following findings:

A. The proposal is consistent with the General Plan and any specific plans adopted for the area.

As conditioned, the Project's design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "commercial – low density". This designation identifies a maximum density of 2:1 FAR and a maximum height of 45 feet. The Project involves the conversion of 24,450 square foot 13-unit office building (currently under construction) to a condominium building with a maximum height of 45 feet.

B. The proposed project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

As conditioned, the Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The site is currently under construction with a three-story, thirteen-unit office building. Existing and anticipated uses in the vicinity are similarly commercial in nature. The proposal to convert the building to a common interest development will not alter the general office use of the site and no physical alterations are anticipated. Therefore, as conditioned, the Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

C. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

As conditioned, the proposed Project will not create any significant adverse traffic impacts or vehicular or pedestrian safety or circulation problems. The project involves the conversion of a thirteen unit general office building, which is currently under construction, and the conversion to Common Interest Development will not alter the number of trips already anticipated by the development. Vehicular ingress

and egress is provided via Le Doux Road to a four level subterranean parking garage beneath the office building. Pedestrian access is provided along Wilshire Boulevard, which is fully improved with sidewalk, curb and gutter. The existing access has been reviewed and approved by the Public Works Department and the Building and Safety Division. No changes to the existing access are contemplated by the Project and no impacts are anticipated. . Therefore, it is not anticipated that the Project will generate adverse traffic impacts, traffic hazards, pedestrian/vehicle conflicts, or pedestrian safety hazards.

D. The project will not be detrimental to the public health, safety or general welfare.

As conditioned, the Project will not be detrimental to the public health, safety, or general welfare. The Project, as conditioned, is constructed in accordance with the City's Building Code standards. In addition, prior to the approval of the Final Map, the Project shall demonstrate compliance with all life safety requirements set forth in BHMC Section 10-2-709 A. Therefore, as conditioned, and for the reasons discussed in the foregoing paragraphs, the Project will not be detrimental to the public health, safety or general welfare.

Tentative Parcel Map- The Planning Commission may authorize approval of a tentative map if the findings can be made (Government Code Section 66474):

(a). That the proposed tentative Parcel map and the design or improvements or improvements of the proposed subdivision are consistent with the General Plan of the City.

As conditioned, the Project and its design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "commercial – low density" allowing for 2:1 FAR and up to 45 feet in height. The Project consists of the conversion of a 24,450 square foot three story 13-unit office building, 45' in height, which is consistent with the FAR and height authorized by the General Plan land-use designation for the Project site. Therefore, the Project and its design are consistent with the General Plan of the City.

(b) That the site is physically suitable for the type of development and the proposed density.

As conditioned, the site is physically suitable for the type of development and the proposed density. The site is currently under construction for a three story 13-unit office building, and four-level subterranean parking structure below with access off

Le Doux Road along the east property line. No change to the existing use of the site is contemplated by the Project. The site has no unusual seismic or other hazards. Therefore, with the conditions placed on the Project, the site is physically suitable for the type of development and the density.

(c) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

As conditioned, the Project will not cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat because there are no significant fish or wildlife resources or public health issues on the Project site, and utilities exist that will adequately serve the demands of the Project. The Project site is located in an urbanized neighborhood and involves the conversion of a building that is currently under construction to a common interest development and the building's approved footprint will not be expanded.

(d) Whether the design of the subdivision or type of improvement is likely to cause serious public health problems and whether the design of the subdivision or the type of improvement will conflict with any public easement.

The design of the subdivision and the type of improvements will not cause serious public health problems, and will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The Project involves the conversion of a building that is currently under construction to a common interest development and no changes to the site's access or circulation are proposed. The Project design has been preliminarily reviewed by the Public Works Department and the Building and Safety Division for code compliance. In addition, the Project will not encroach into any public easement areas. Therefore, the design of the subdivision or type of improvements is not likely to cause serious public health problems and the design of the subdivision or the type of improvements will not conflict with any public easement.

Heather Waldstein

Attachments:

1. Plans and Elevations
2. Draft Resolution
3. Previous Resolutions