



## AGENDA REPORT

**Meeting Date:** February 2, 2010  
**Item Number:** D-2

**To:** Honorable Mayor & City Council

**From:** Susan Healy Keene, AICP, Director of Community Development

**Subject:** APPEAL OF THE PLANNING COMMISSION'S DECISION DENYING A REQUEST FOR AMENDMENT OF A DEVELOPMENT PLAN REVIEW PERMIT FOR THE PROPERTY LOCATED AT 8767 WILSHIRE BOULEVARD.

**Attachments:**

1. Project Plans
- 2.A. Background 2005 Application, under separate cover (copy on file with City Clerk for review by public)
- 2.B. Background 2006 Application, under separate cover (copy on file with the City Clerk for review by public)
- 2.C. Background 2008 Application, under separate cover (copy on file with the City Clerk for review by public)
3. Comment Letters
4. Off-site Parking Documentation

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### **RECOMMENDATION**

It is recommended that the City Council direct Staff to prepare a resolution denying the appeal and upholding the decision of the Planning Commission to deny a request for amendment to an existing Development Plan Review Permit for the property located at 8767 Wilshire Boulevard.

### **EXECUTIVE SUMMARY**

The issue before the City Council is an appeal of the Planning Commission's denial of an amendment to a Development Plan Review (DPR) permit that was previously approved by the City Council in December of 2006. Alex DeGood, agent for the property owner, George Kobor/Kobor Family Trust, filed the appeal. Ben Reznik, another agent for the property owner, has prepared written correspondence regarding this case and, for ease of reference, property

owner and agents are simply referred to as "Applicant" in this report. The approved project, which is currently under construction, includes conditions of approval imposed by the City Council that prohibit certain intense land uses, such as medical uses, and also require that 51 parking spaces proposed by the applicant beyond zoning code requirements be made available for use by the general public. Central to the amendment is a request to allow medical uses within the building and to eliminate the public parking spaces. The amendment is the evolution of a series of three formal entitlement applications submitted to the City beginning in 2005. The administrative history of this project is documented through these three applications, as follows:

- 1) An application for a Development Plan Review Permit to allow the construction of a three-story, 75,000-square foot general office and retail building with 371 parking spaces. This application was withdrawn with no formal action was taken;
- 2) An application for a Variance and Development Plan Review Permit to allow the construction of a four-story, 75,116-square foot general office and retail building with 358 parking spaces. This project was approved by the Planning Commission, and subsequently upheld by the City Council on appeal by a neighboring resident. This project is currently under construction; and
- 3) An application for an amendment to the approved Development Plan Review to allow medical uses within the project and to eliminate the public parking spaces required to be provided by the project. The requested amendment was denied by the Planning Commission and is before the City Council on appeal by the Applicant.

A description of the approved project, requested amendments and summary of the project background is presented below. A complete history, including staff reports and supporting documentation, for all entitlement applications submitted to the City has been provided to the Council under separate cover and in advance of this report and are identified as Attachments 2A, 2B and 2C. In addition, the issue of required parking at the subject property for the benefit of the property at 480 South Robertson (City of Los Angeles) is also clarified.

## **BACKGROUND**

### ***Required Off-Site Parking***

The supplemental Staff Report for the Planning Commission's meeting of September 24, 2009 (Tab 6 Attachment 2C), indicates that further research is required to determine whether or not the subject property is required to provide parking spaces for a property located at 480 South Robertson Boulevard in the City of Los Angeles (also owned by Kobor). This research has been concluded, and subject property does not appear to be encumbered by any requirement to provide off-site parking for any other property (See Attachment 4).

In its analysis of the proposed amendments, staff identified a Covenant and Agreement affecting the subject property. This document, identified as Instrument No. 90-1935347 was recorded with the Los Angeles County Recorder's Office on November 19, 1990 and requires that 51 parking spaces be provided on the subject property as required parking for the medical building located at 480 South Robertson Boulevard in the City of Los Angeles, also owned by Kobor (Attachment 4).

Additional research has shown that, the subject property was required to provide 82 required parking spaces, not 51, as identified by recorded covenant No. 91-198415 (Attachment 4). In 1994, Kobar sought a variance from the City of Los Angeles to provide 157 two and three deep tandem parking spaces (all on-site) to provide the required parking for the 480 South Robertson building and also requested that the covenant requiring the off-site parking be terminated. A letter from former Beverly Hills Director of Planning and Community Development, Ruth Nadel was written to the City of Los Angeles Planning Department requesting that the variance be denied (Attachment 4). The letter indicates that the property located at 8767 Wilshire Boulevard is required to provide 82 parking spaces for the property located at 480 South Robertson Boulevard, consistent with the more recent covenant.

As indicated in the excerpt from Los Angeles City Council File 95-0383, on appeal, the City Council approved the variance to allow tandem parking and granted the termination of the covenant for the off-site parking at 8767 Wilshire Boulevard. The covenant was terminated, as indicated in the attached Instrument, recorded as No. 95-1357669. The excerpts from the Council file are also attached (Attachment 4).

While the 1990 covenant requiring 51 parking spaces does not appear to have been terminated due to an oversight, it was in fact replaced by the 1991 covenant to provide 82 parking spaces. This covenant was later terminated when the Los Angeles City Council approved a variance to allow tandem parking in the 480 South Robertson building. Therefore, the subject property is not required to provide required parking for the benefit of another property.

### ***First Application – Project Withdrawn***

On June 28, 2005, an application for a Development Plan Review permit was submitted to the City. The application requested approval of a three-story plus mezzanine, general office and retail building containing 75,000 square feet, and a subterranean parking garage for 371 cars. On November 16, 2005, the Planning Commission held a public hearing to discuss the project. Concerns expressed by the Commission included:

- Visibility of parking spaces in the parking garage (circulation);
- Development of parking underground in exchange for free public parking;
- Functionality of the loading area as proposed;
- Setback on Robertson Boulevard to accommodate the sidewalk and deceleration lane;
- Work with Architectural Commission regarding the project design;
- Excavation and hauling impacts;
- Potential for medical use in the project;
- Possibility of car storage on the project site;
- The number of parking spaces that would trigger a requirement for an additional egress;
- Lack of employee parking in the area;
- Southbound left turn into the project site (on Robertson Boulevard);
- Robertson Boulevard easement for deceleration lane;
- Line of sight for school children who often cross at Wilshire Boulevard;
- Possibility of extra height be explored to provide a porte cochere without increasing the FAR in order to get cars off of Robertson Boulevard efficiently;

The Applicant subsequently withdrew this application to consider these issues and revise the project.

### ***Second Application – Project Approved***

On June 5, 2006, a second application that included both a Development Plan Review Permit and a Variance (to allow 4-stories and 68-feet in height) was submitted to the City. The requested project was for a 75,116 square foot, four-story office/retail commercial building with four levels of subterranean parking containing 358 parking spaces. The number of parking spaces represented a surplus of 143 parking spaces compared to what was required by the zoning code. A maximum of 92 of these surplus spaces were designated to be used as vehicle storage for nearby car dealerships. Prior to this approved application, the site was used as a surface parking lot, including the storage of vehicles by BMW, and the Applicant indicated a desire to continue this use within the proposed subterranean garage of the new project.

On August 10, 2006, the Planning Commission held a public hearing to consider the request. The Planning Commission requested a resolution conditionally approving the project to be brought back to the September 14, 2006 Planning Commission meeting. On September 14, 2006, the Planning Commission adopted Resolution No. 1442, conditionally approving the project.

In approving the project, the Planning Commission imposed a number of conditions and restrictions on the project, including a prohibition of certain uses that might result in potential traffic impacts or were otherwise found to be inappropriate at this location, including Condition No. 17, which states “The following uses shall be prohibited on the Project site:

- Medical Uses;
- Vehicle dealership related automotive uses (with the exception that a maximum of 92 of the surplus spaces may be used as car storage for nearby car dealerships);
- Adult Entertainment/Massage Uses;
- Bars/Taverns/Liquor Stores;
- Pharmacy;
- Markets;
- Exercise Facilities;
- Hair/Nail Salons; and
- Uses that would create potential traffic impacts on the Wilshire/Robertson Boulevard intersection.”

In response to this condition, the former Applicant for the property owner, Mr. Joe Tilem, indicated that his client would prefer a medical use at this location but does accept the condition that it never be a medical use (Tab 9 of Attachment 2.B., Planning Commission Minutes of August 10, 2006).

Condition 18 further restricted food/restaurant uses with the condition that:

“No more than 3,000 square feet of building floor area shall be used for restaurant purposes, and no more than 1,500 square feet of building area shall be dedicated to dining and bar area. For purposes of this condition, smaller non-destination food service establishments such as coffee shops, fast food establishments; or similar establishments shall not be permitted.”

In addition, the Commission required that 21 parking spaces be made available for use by the general public (Condition No. 31).

The approval was subsequently appealed to the City Council by a neighboring property owner. The City Council conducted a de novo hearing on the project on December 12, 2006. The Council considered public testimony, both oral and written, and the action of Planning Commission, deliberated and denied the appeal and upheld the Planning Commission's approval with the added conditions contained in City Council Resolution No. 07-R-12273. The added City Council conditions are enumerated below:

- No roof-top uses shall be permitted;
- 51 (compared to 21 required by Planning Commission) parking spaces be required to be made available for use by the general public and be located on the first and second levels of parking;
- That the building be developed in an environmentally sensitive and sustainable manner to the satisfaction of the Director of Community Development.

The Property Owner accepted these conditions of approval and recorded a Covenant and Agreement, identified as Instrument No. 20071374806, with the Los Angeles County Recorder's Office agreeing to these conditions.

***Third Application –Amendment Request Denied by Planning Commission, Under Appeal***

A request for amendment to the approved project was submitted to the City on October 15, 2008 and deemed complete for filing on November 14, 2008. The application requested an amendment to the conditions of approval imposed by the City Council to allow medical and pharmacy uses within the building, to eliminate the 51 public parking spaces required to be provided by the project, and to allow a non-destination, coffee shop type restaurant, as not previously permitted. Notwithstanding the determination of completeness, pursuant to Section 15109 of the Guidelines for the California Environmental Quality Act, 14 Cal. Code Regs, Sec. 15000 et seq. (CEQA Guidelines), on January 22, 2009, the City suspended the 180-day environmental review time period for the subject project because the project applicant did not provide the information necessary, in this case a revised traffic report and air quality and noise analysis to properly analyze potential environmental impacts associated with proposed revisions to the project.

The applicant submitted the required documents on July 15, 2009, which allowed project processing to recommence.

The Planning Commission conducted a public hearing on September 24, 2009, received testimony, both oral and written, and deliberated. The Commission concurred that they could not make all of the findings necessary to grant the requested amendment to the Development Plan Review permit. Therefore, the Planning Commission directed staff to prepare a resolution denying the application for adoption at its meeting of October 22, 2009. At that meeting, the Commission discussed the draft resolution prepared by staff, received testimony from the Applicant and requested that the hearing on the resolution be continued until November 19, 2009 (Staff Report and Applicant's letters Tab 4 of Attachment 2C) in order to allow the Applicant time to submit additional materials in support of their arguments that the denial of the application was not appropriate.

On November 9, 2009, the Applicant submitted a letter in support of its position that the findings for approval of the project could be made and that the draft resolution denying the project was not legally sound (Tab 4 of Attachment 2C). At the November 19, 2009 Planning Commission meeting, the Commission received testimony from the Applicant, discussed the draft resolution and the Applicant's position as outlined in their letters. After deliberation, the Planning Commission unanimously adopted Resolution No. 1561, denying the amendment to the Development Plan Review Permit (Tab 2 of Attachment 2.C).

### **APPROVED PROJECT/REQUESTED AMENDMENTS**

The project under appeal is an application for an amendment to a previously approved Development Plan Review permit that approved the construction of a 75,116 square-foot, four-story, 68-foot high commercial building on the northeast corner of Wilshire and Robertson Boulevards that is currently under construction. As approved, potential uses of the building include retail, restaurant (maximum 3,000 square feet – with up to 1,500 square feet dining and bar area), vehicle storage for nearby vehicle dealerships and general commercial offices. As identified above, the use and operation of the building is restricted through conditions of approval imposed by the City Council.

The Applicant requests an amendment to the existing approval to allow the following uses/ and square footage allocation: 54,900 square feet of medical uses, 4,696 square feet of general office area, 2,000 square feet of restaurant/sundry shop area, 1,116 square feet of pharmacy uses, and 12,404 square feet of retail uses. The Applicant also seeks to eliminate the requirement to provide 51 parking spaces for public use. The specific conditions of approval to City Council Resolution No. 07-R-12273 that the Applicant is requesting to modify are as follows:

- **Condition No. 17** - Prohibits any medical or pharmacy uses within the building. This condition was imposed on the project to limit potential future traffic and parking related impacts that might result from a medical use of the building.

***Applicant Requested Revision*** – Allow 54,900 square feet of medical uses and 1,116 square feet of pharmacy area to serve the medical tenants.

- **Condition No. 18** - Prohibits any non-destination food service establishments such as coffee shops, fast food establishments or similar establishments designed to primarily serve building tenants. As first imposed by the Planning Commission, this restriction of uses was solely related to traffic. Coffee shops and fast food type of uses are high turnover uses that generate more vehicular trips than other types of restaurants. However, as modified by the City Council a further prohibition was established for restaurants designed to primarily serve building tenants.

***Applicant Requested Revision*** – Allow either a 2,000 square foot (with dining and bar area under 1,000 square feet) restaurant or sundry shop designed to serve building tenants and patrons.

- **Condition No. 31** – Requires a minimum of 51 parking spaces provided in the building to be made available for use by the general public and be located on the first or second floors of the parking levels.<sup>1</sup>

**Applicant Requested Revision** – Modify Condition No. 31 to eliminate the requirement that a minimum of 51 parking spaces be made available for use by the general public and be located on the first or second floors of the parking levels. It should be noted that the total number of parking spaces currently being developed in the building was reduced from 358 as approved by Council to 336 due to federally mandated ADA requirements and building code required structural changes during the plan check process and a building permit was issued with 336 parking spaces. This 336 space garage still allows for all 215 code required parking spaces and the 51 parking spaces for the public with a surplus of 70 parking spaces which could be utilized as vehicle storage.

Since medical uses require more parking spaces per square foot than general office uses, all of the parking spaces proposed on the site, including the public parking spaces and the parking spaces previously identified for vehicular storage use, would be required to satisfy the medical use. As proposed, the total number of parking spaces required for the amendments would be 333, leaving only three (3) surplus parking spaces

## **DISCUSSION**

### ***ACTION OF THE PLANNING COMMISSION***

The project considered by the Planning Commission, and now before the City Council on appeal, was a request for amendment of a development plan review permit, which is required to be evaluated under Section 10-3-3104 of the BHMC. The Planning Commission, or City Council on appeal, may only approve a Development Plan Review Permit if all of the findings are affirmatively made:

- A. The proposed plan is consistent with the general plan and any specific plans adopted for the area.
- B. The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.
- C. The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.
- D. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

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<sup>1</sup> The Property Owner accepted this condition of approval and recorded a covenant agreeing to this condition with County Clerk's office, as identified in Tab 1 of Attachment 2B.

E. The proposed plan will not be detrimental to the public health, safety or general welfare.

After receiving a staff report and supporting materials, receiving oral and written testimony from the project Applicant and members of the public, and deliberating, the Planning Commission concluded that it was not able to make findings B, C, D and E of BHC Section 10-3-304, which must be made to approve the project, and voted 5-0 to deny the requested amendments. As indicated above, a complete package of the documentation reviewed by the Planning Commission, as well as a detailed history of previous applications associated with this project, were provided to the City Council under separate cover, in advance of this report. The Planning Commission's decision to deny the requested amendments was based on the information contained in the administrative record of this case, which indicates that approval of the request would result in an intensification of use and traffic generation and a decrease in the amount of planned parking in the area. Specifically, approval of the amendment would eliminate the condition to provide 51 parking spaces for use by the general public and remove the condition of approval restricting certain intense land uses, such as medical. In its deliberations, the Commission also considered arguments from the Applicant which asserted that the Commission's findings were insufficient because they improperly use the word "potential" and are not based on substantial evidence in the record and that denial of the amendment is unwarranted because of a recent Planning Commission approval of a conversion of general office to medical office space. These issues are discussed below.

### ***INCREASE IN LAND USE INTENSITY AND TRAFFIC***

Planning Commission Resolution No. 1561 sets forth the Planning Commission's findings, including that the increased traffic resulting from the medical office use would be detrimental to nearby residences and businesses. A traffic study was prepared in conjunction with the proposed amendments to evaluate potential impacts associated with a change from general commercial to medical office. The study, which was prepared by the Applicant and reviewed and approved by the City's Traffic Engineer, concludes that the approval of the amendments would result in a three-fold increase in vehicular trips for the conversion of general office to medical office (from 649 trips for the existing permitted general office area to over 2,000 for the proposed medical office conversion)<sup>2</sup>. A comparison of the vehicular trip characteristics that was considered by the Commission is provided below.

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<sup>2</sup> As indicated in the table, the overall number of trips that would result from the proposed amendments is more than two times that of the currently permitted project (1,321 trips for the permitted project compared to 2,970 trips for proposed project).

<b>Daily Trip Comparison: Permitted Project vs. Proposed Amendment</b>		
Use	Size	Daily Trips
<u>Permitted Project</u>	Total – 75,116 sq.ft.	<b>1,321 daily trips</b>
General Office	58,930 sq.ft.	649
Retail	16,070 sq.ft.	712
<u>Proposed Amendment</u>	Total – 75,116 sq.ft.	<b>2,970 daily trips</b>
Medical Office	54,900 sq.ft.	2,030
General Office	4,696 sq.ft.	127
Retail	12,404 sq.ft.	533
Pharmacy	1,116 sq.ft.	101
Quality Restaurant *	2,000 sq.ft.	180

The Commission found that the proposed medical use would result in three times more trips compared to the permitted general office use. Overall, approval of the amendment would result in 1,649 additional trips compared to the existing permitted project, more than doubling the amount of trips associated with the project as originally approved by the City Council. The Commission found that this doubling of the traffic would increase the likelihood of incursions of commercial and office traffic and parking into nearby residential areas. The Commission also found that the additional trips in conjunction with a reduction in parking had the potential to create significantly adverse traffic impacts, traffic safety hazards and pedestrian-vehicle conflicts.

The Commission considered the Applicant’s argument that the increase in traffic was insufficient to support the findings of denial. The Applicant argued that there is no evidence that the increase in trips will have deleterious impacts and indicated that the City’s California Environmental Quality Act (CEQA) analysis finds that the traffic will not have a “significant environmental impact.” In response, the Commission noted that the findings required to approve a Development Plan Review Permit are contained in Section 10-3-3104 of the BHMC, and are separate and apart from the environmental analysis required by CEQA. The Commission concluded that the traffic impacts resulting from the proposed amendments would have adverse effects on the surrounding neighborhood even though the medical use may not trigger a significant environmental impact as defined by CEQA. Even though a project may not have significant impacts per CEQA thresholds, there may still be substantial evidence sufficient to conclude that permit findings cannot be made. A complete discussion of the CEQA analysis for this project is provided under the heading of *Environmental Determination*, later in this report.

**LOSS OF 51 PARKING SPACES AVAILABLE FOR USE BY THE PUBLIC**

As indicated above, the Property Owner accepted the conditions of approval imposed by the City Council, including the requirement to provide 51 parking spaces within the building for the use of the general public. Planning Commission Resolution No. 1561 sets forth the Planning Commission's finding that the elimination of these public parking spaces would increase the likelihood of incursions of commercial and office traffic and parking into the nearby residential areas and would adversely affect existing and anticipated development in the vicinity and would not promote harmonious development of the area. This resolution also states that approval of the requested amendment would result in a reduction in parking that would otherwise be available for the area. In its discussion of the potential loss of the 51 parking spaces currently required to be provided for use by the general public, the Commission pointed out that the property owner and their counsel, at the December 12, 2006 City Council hearing, indicated that the area was in desperate need of public parking. Additionally, the Commission considered the fact that this area was identified by the City's Transportation Division and by the General Plan Subcommittee as being deficient in public parking.

The Applicant contended that the reduction in parking spaces would not result in an adverse impact because the referenced 51 parking spaces do not exist, and have never existed. The 51 parking spaces are a condition of approval of the existing Development Plan Review Permit required by the City Council. The Applicant agreed to this condition, recorded its acceptance in a covenant, prepared construction documents, obtained building permits and has commenced construction of the project with the understanding that these parking spaces must be provided. The Commission appropriately considered the effect of the loss of these 51 spaces on the project and also the impacts in the area that may result from construction of the permitted building and intensification of use without the 51 additional parking spaces the project as presently approved would provide.

**PLANNING COMMISSION'S FINDINGS CONTAINED IN RESOLUTION NO. 1561**

Through its deliberations, the Commission considered the Applicant's position that the findings contained in the resolution were insufficient because they improperly used the word "potential." The Applicant also stated the findings in the resolution were improper because they did not rely on substantial evidence in the record and that the evidence in the record does not lead to the findings adopted by the Commission.

In approving a Development Plan Review Permit, BHMC Section 10-3-3104 requires the reviewing authority to find that a project *will not* result in adverse impacts. For instance, the required findings include that a project: "...will not adversely affect ...development in the vicinity..." and "...will not create any significantly adverse traffic impacts...." Based on the evidence before them, the Commission could not find definitively that the project would not result in adverse impacts. The resolution adopted by the Planning Commission includes findings that the amendment has the "potential to adversely affect existing and anticipated residential and commercial development in the vicinity," and that it has "the potential to create significantly adverse traffic impacts...." The Applicant stated that every project has the *potential*

to create adverse impacts on surrounding properties and therefore this project's potential to create adverse impacts could not be relied upon to make findings to deny the project. The word potential was used because the Commission does not have the ability to look into the future with absolute certainty. Finding that the project has the potential to have adverse impacts means that it is capable or likely soon to have adverse impacts. The Commission determined that not every project has the potential to result in adverse impacts, but in this case, concluded that the facts presented before them showed that this project is capable of causing such impacts. The Applicant also indicated that the removal of the 51 parking spaces and the addition of 1,380 daily trips compared to the currently approved project are an insufficient basis for the findings made. The Commission concluded that loss of the 51 parking spaces and addition of 1,380 daily trips to the site could result in adverse or significantly adverse effects on residences and commercial neighbors of the project.

### ***CONDITIONAL USE PERMIT FOR 9090 WILSHIRE BOULEVARD***

The Applicant argued before the Planning Commission that denial of this project would be inconsistent with its approval of the conversion of general office space to medical office space in the building located at 9090 Wilshire Boulevard. However, the Planning Commission determined that these two cases are not similar to each other and that each case stands on its own merits.

First, the 9090 Wilshire Boulevard project involved an application for a conditional use permit for off-site parking. The project before the Planning Commission, and now before the City Council, involves a request for amendment to an existing Development Plan Review Permit. Pursuant to BHMC Section 10-3-3800, in order to approve a Conditional Use Permit, "...the planning commission may authorize conditional uses as specified in this code if the planning commission finds that the proposed location of any such use will not be detrimental to adjacent property or to the public welfare." Because findings that must be made to approve the subject application are different from the findings necessary for the 9090 Wilshire project, the two projects are not comparable.

Further, as pointed out during Planning Commission deliberations, every case stands on its merits and the Commission has the discretion to look at each case individually. The facts associated with the two cases are different and therefore the Commission reached different conclusions in each case. The 9090 Wilshire is a smaller building than the subject building (47,000 square feet versus 75,000 square feet) and the number of added daily trips to the 9090 Wilshire project was projected to be 505 not 1,380. The subject project is located in an area identified by the General Plan Topic Committee and the City's Transportation Department as deficient in parking. No similar deficiency has been identified as to the 9090 Wilshire property. Finally, there was no loss of planned for and covenanted public parking associated with 9090 Wilshire project. For these reasons the Commission did not believe that the approval of off-site parking for the 9090 Wilshire project was a relevant consideration in determining whether or not the required Development Plan Review findings could be made for approval of the amendments to the 8767 Wilshire project.

As described above, based on the evidence in the record, including arguments from the Applicant, the Commission concluded that the mandatory findings necessary to approve the amendments could not be made.

## **APPEAL**

### **APPEAL STATEMENT**

On November 20, 2009, the Applicant filed an appeal of the Planning Commission's decision. There are two issues identified as the basis for the appeal. First, the appeal states that the decision of the Planning Commission, "...relies on illegal, improper findings that are not supported by substantial evidence in the administrative record." Second, the appeal statement indicates that the decision of the Planning Commission "denies the Owner equal protection under the law, in that it denies the Property development rights conferred on similarly situated properties."

### **STAFF RESPONSE**

The Appeal does not present additional arguments or information beyond that previously considered by the Planning Commission, as described above.

*Illegal, Improper Findings* – As discussed above, the Planning Commission relied on evidence contained in the administrative record that indicates approval of the requested amendments would result in an increase in land use and traffic intensity, including more than doubling the number of daily trips compared to the approved project and a loss of 51 planned for public parking spaces in an area that is parking deficient. These facts lead the Commission to determine that the proposed amendments would result in potentially adverse impacts. Therefore, the Commission could not make the findings required for approval of the Development Plan Review permit.

*Equal Protection* – The appeal letter does not clarify what development rights have been conferred by the Commission or what similarly situated properties are the subject of this argument. However, as noted above, the Planning Commission, or City Council on appeal, has the authority to review each case presented before them independently, based on the individual merits of each. The Applicant previously argued this project could not be denied in light of the recent approval of the conditional use permit at 9090 Wilshire Boulevard. As detailed above, the findings required for approval of the Conditional Use Permit at 9090 Wilshire Boulevard are not the same as the findings for the Development Plan Review Permit required at 8767 Wilshire Boulevard, therefore, the projects are not comparable.

## **ENVIRONMENTAL DETERMINATION**

The proposed amendment has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. An Initial Study was prepared for the previous project approved by the Commission at its September 14, 2006 meeting to analyze potential impacts that might be generated by the then proposed project. Based on the Initial Study prepared for the then proposed project, traffic and circulation were identified as an environmental factor that

could possibly be impacted. A traffic study was prepared to study this potential impact, and it was determined that the then proposed project would not generate any significant impacts after a proposed mitigation measure was identified. Therefore, a Mitigated Negative Declaration was adopted by the City Council at its December 12, 2006 meeting.

Because the proposed amendment utilizes the same site location and approximately the same footprint, square footage, and mass of the previously approved project, and because that project is currently under construction, the previously adopted Mitigated Negative Declaration has been carried forward, pursuant to Section 15164 of the California Environmental Quality Act. In addition, an addendum to the Mitigated Negative Declaration has been prepared to analyze changes in trip generation and circulation which may result due to the different uses associated with the new project when compared to the previously approved project (Tab 7, Attachment 6 of Attachment 2C). The Applicant has not appealed the CEQA determination, although the hearing on the appeal is de novo.

However, pursuant to CEQA Guidelines Section 15270, a project that is denied or rejected by the City is statutorily exempt from the requirements of CEQA. In the instant situation, the Planning Commission denied the subject application, and took no action with respect to CEQA. Should the City Council choose to grant the appeal and approve the amendments, the addendum to the Mitigated Negative Declaration should be adopted as the appropriate environmental clearance.

### **PUBLIC NOTICE AND COMMENTS**

Notice of the City Council public hearing for the Appeal was provided to all property owners and residential tenants within a 300-foot radius of the property, and all owners of single-family zoned properties within 500 feet of the property. The notice of proposed project appeal and public hearing was mailed on January 15, 2010. In addition, notice of the proposed project was published in the Beverly Hills Courier on Friday, January 15, 2010 and in the Beverly Hills Weekly on Thursday, January 21, 2010. Numerous letters and emails were received regarding the proposed project (Attachment 3).

### **CONCLUSION**

In order to approve the requested amendments, the zoning code requires that specific findings enumerated in BHMC Section 10-3-3104 be made in the affirmative. The Planning Commission could not make the required findings and therefore denied the amendment request. The Planning Commission's decision to deny the requested amendments was based on the information contained in the administrative record of this case, which indicates that approval of the request would result in an intensification of use and traffic generation and a decrease in the amount of planned parking in the area. Specifically, approval of the amendment would result in 1,649 more daily trips to the project site and eliminate the condition to provide 51 parking spaces for use by the general public in an area that is currently deficient in parking.

In its appeal, the Applicant has not presented any documentation or arguments in support of its position that have not previously been analyzed by the Planning Commission. Therefore, it is recommended that the City Council direct staff to prepare a resolution denying the requested amendments.

Meeting Date: February 2, 2010

**FISCAL IMPACT**

There is no significant impact associated with staff's recommendation.

Susan Healy Keene, AICP  
Director of Community Development



A handwritten signature in black ink, consisting of a large, stylized 'S' followed by the word 'for' in a cursive script. The signature is written over a horizontal line.

# **ATTACHMENT 1**

**PLANS – UNDER SEPARATE COVER**

**ATTACHMENT 2A**

**ATTACHMENT 2B**

**ATTACHMENT 2C**

**PROVIDED UNDER SEPARATE COVER**

# **ATTACHMENT 3**

**COMMENT LETTERS TO THE CITY COUNCIL**

**From:** Rsmly@aol.com [mailto:Rsmly@aol.com]  
**Sent:** Monday, January 25, 2010 9:12 PM  
**To:** Byron Pope  
**Subject:** I do not want the project changed to medical use.

To Mr. Pope:

Please forward this to the mayor and the members of the city council.

I do not want the project at 8767 Wilshire Blvd. changed to medical use.  
This project will generate too much traffic. It does not have enough parking. More cars would be parking on the residential streets. There is no public benefit to this.  
Nothing has changed to warrant reversing the previous decisions.

Thank you!

Rosemary Hilb Weinglass  
711 N. Doheny Drive  
Beverly Hills, CA 90210

**From:** Jeff Book [mailto:jeffbook@yahoo.com]  
**Sent:** Monday, January 25, 2010 10:24 AM  
**To:** Byron Pope  
**Subject:** 8767 Wilshire Blvd.

To the City Council:

We have lived on Clifton Way for 17 years, one block away from the new construction at 8767 Wilshire Blvd. We are concerned by the request to change the new building's purpose from general office to medical purposes. Traffic is already dense, and daytime parking is almost impossible to find. We have read that authorizing a medical use would mean eliminating all but 3 of the required public parking spaces, while greatly multiplying the daily number of trips to the building, with the obvious additional pressure this would bring on traffic and parking. The neighborhood is already stressed in this regard, and we would be opposed to making it even more crowded.

Also, builders should not engage in "bait and switch" tactics, by winning approval for one type of relatively low-impact building, and then with construction already underway, pushing for a much higher intensity use at the last minute. Given the potential negative impact on the neighborhood, we encourage the Council to uphold the rejection of this change.

Sincerely,

Jeff Book  
Carlos Salazar

8747 Clifton Way Apt 406  
Beverly Hills, CA 90211  
Home (310) 278-9846

**From:** donnaaklein@aol.com [mailto:donnaaklein@aol.com]

**Sent:** Monday, January 25, 2010 10:49 AM

**To:** Byron Pope

**Subject:** 8767 Wilshire Blvd.

We are residents of Beverly Hills and are opposed to the new building at 8767 Wilshire Blvd. becoming a medical building. The developer is trying to take advantage of our city. Please do not override the vote of the Planning Commission and The Government Affairs Committee of the Chamber of Commerce.

Our city has enough problems without sending the message that any developer can come into the city and do as they wish, regardless of how the residents of the city feel about the project.

**This is not what I want for my city!!**

- There will be TRIPLE the amount of trips per day for medical uses than there would be for general office use!
- Traffic at the intersection of Wilshire & Robertson will increase to 2,970 trips per day, just for this one building!
- There will be more traffic in this neighborhood throughout the entire day! That includes mid-day when our children are returning from school.
- More cars will be driving through our residential streets!
- All but 3 of the 51 public parking spaces the City required in granting approval for the development will be eliminated causing more parking on our residential streets!

Thank you!

Donna Klein, registered voter

Mark Klein, registered voter

Brandon Klein, registered voter

**From:** RADELL SIMON [mailto:dellsy@sbcglobal.net]  
**Sent:** Monday, January 25, 2010 11:20 AM  
**To:** Byron Pope  
**Subject:** STOP THE 8767 WILSHIRE MEDICAL BUILDING

We absolutely don't want the 8767 Wilshire project to become a medical building. That intersection is already so over-crowded and difficult to get through, the additional traffic from such a building would then negatively impact the other residential through streets in the area (La Peer, Willaman, Charleville, etc). What about the impact on Horace Mann? Our daughter was hit by a car on an over-crowded Charleville in front of that school and as a result she suffers from life-long injuries. We don't want that to happen to another child or any other person.

Please stop this horrendous development. Thank you.

Radell and Sydney Brown  
444 S Doheny Dr  
Beverly Hills 90211

Radell & Sydney

-----Original Message-----

From: Nan Corman [mailto:[ncorman@sbcglobal.net](mailto:ncorman@sbcglobal.net)]

Sent: Monday, January 25, 2010 9:32 AM

To: Byron Pope

Subject:

Hi Byron...

Our son Craig is on the Planning Commission and voted against the Wilshire=Robertson building proposal.

He explained it to us. We support his decision against it.

Nan and Gene Corman

**From:** rjcdds@aol.com [mailto:rjcdds@aol.com]  
**Sent:** Monday, January 25, 2010 9:01 AM  
**To:** Byron Pope  
**Subject:** 8767 wilshire

Please do not allow changes to allow a medical building without parking. I work at 8920 Wilshire and our parking is often full. Have the developers even considered the fact that if patients can not park they will not come? You allowed the Academy of Motion Pictures to build without parking- don't do the same with 8767.

Ron Cooper  
117 N Gale Dr.

**From:** Bill [mailto:swd27@earthlink.net]  
**Sent:** Sunday, January 24, 2010 10:30 AM  
**To:** Byron Pope  
**Subject:** 8767 Wilshire

Elected people:

First you allowed a project to be built that exceeds current code. NOW that the "camel's nose" is "under the tent" the owners want to create a disaster for traffic at the Robertson/Wilshire corner. We have already endured several months of such problems during this construction.

If they made an error in their planning, WE should not bear the brunt.

Do not allow them to change the use. If they can not afford to finish as approved, then TEAR IT DOWN and make a park out of it.

Sincerely,

S>W> Disalvo  
Beverly Hills Trustee for Vector Control Commission

**From:** Norman Bogner [mailto:[nbogner@roadrunner.com](mailto:nbogner@roadrunner.com)]  
**Sent:** Saturday, January 23, 2010 12:11 PM  
**To:** Byron Pope  
**Cc:** Bettye  
**Subject:** Building usage changes

Norman Bogner  
165 N. Arnaz Dr.  
Beverly Hills, CA 90211  
Tel: 310-553-1769  
Fax: 310-553-1765  
E-mail: [nbogner@roadrunner.com](mailto:nbogner@roadrunner.com)  
Web: [www.normanbogner.com](http://www.normanbogner.com)

January 23, 2010

Dear City Clerk,

My wife, Bettye Bogner, and I oppose changing the use of the building at 8767 Wilshire Blvd. We have suffered traffic jams on our street, electrical outages and cannot even walk down to Wilshire without a problem caused by this construction. They have blighted a residential neighborhood.

Sincerely,

Norman Bogner

-----Original Message-----

From: Susan Berk [mailto:susanwberk@me.com]

Sent: Wednesday, January 27, 2010 11:19 AM

To: Byron Pope

Cc: WebCBH MAYORANDCITYCOUNCIL

Subject: 8767 Wilshire Blvd - Hearing on 2/2/10

Byron

Attached please find the following regarding the change of use to medical for the development at 8767 Wilshire Blvd:

- 1) 8 pages containing 24 signatures and comments from residents who oppose the change.
- 2) 5 pages containing 15 signatures and comments from businesses who are concerned about the change.

These signatures and comments need to be put into the 8767 Wilshire Blvd. package for the Council and made part of the public record. The originals will be handed in at the meeting on February 2.

Please confirm back to me that you received these attachments. Let me know if you need any additional information.

Take care,

Susan Berk  
Community Resource Partners  
310-713-4700

8767 Wilshire Blvd

Name: Norman + Bettye Bogner Address: 165 N. Arnez Dr.  
Phone Number: 310-553-1269 Email: nbogner@roadrunner.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: It will destroy the neighborhood +  
cause traffic jams on Robertson  
Signature: Norman Bogner Date: Jan 23, 2010

Name: Mark Relan Address: 163 north Arnez #3  
Phone Number: 650 302-0385 Email: JamieRuan33@AOL.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: I'm planning to move because of the construction  
Signature: [Signature] Date: 1-23-10

Name: Shad Brice Address: 155 1/2 N. Arnez Dr  
Phone Number: 424-2703 601 Email: Shadellab@gmail.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

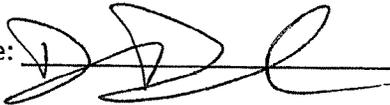
Comments: BASE & Switch  
Signature: Shad Brice Date: Jan 23 '10

8767 Wilshire Blvd

Name: David Dobkin Address: 153 N Arroyo Drive  
Phone Number: 310 652 6879 Email: dave@reycatapp.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

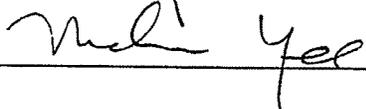
Comments: Too much traffic, no!

Signature:  Date: 1/23/10

Name: Melvin Yee Address: 153 3/4 N. Arroyo Dr.  
Phone Number: 310-657-5765 Email: \_\_\_\_\_

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

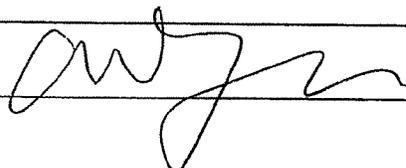
Comments: myee@mednet.ucla.edu

Signature:  Date: 1-23-2010

Name: Andrew Taylor Address: 142 North Arroyo Dr  
Phone Number: 310 847 0582 Email: \_\_\_\_\_

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_

Signature:  Date: 1/23/10

8767 Wilshire Blvd

Name: Hop Brothers Address: 140 N. ARNAZ DR #5  
Beverly Hills CA 90211  
Phone Number: 310 691-0928 Email: Hopbrothers@yahoo.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: no more traffic

Signature: [Signature] Date: 1-23-10

Name: Ellen Goldsmid Address: 146 N. Arnaz Dr. #10  
Phone Number: 3-657-3172 Email: ellenjreg@yahoo.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_

Signature: [Signature] Date: 1/23/10

Name: Mike Cook Address: 148 N. Arnaz Dr. #C  
Phone Number: 310 435 1056 Email: cookm1@RA.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: Traffic

Signature: [Signature] Date: 1/23/10

8767 Wilshire Blvd

Name: BRYAN PARKER Address: 152 N. ARNAZ DR #A  
Phone Number: (323) 829 3335 Email: bryandouglasparke@yahoo.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: There will be too much traffic and activity at night

Signature: [Signature] Date: ~~Jan 23~~ Jan 23, 2010

Name: SOL SHOUMER Address: 156 1/2 N ARNAZ BH  
Phone Number: 310-200-6326 Email: SOLESHO@YAHOO.COM

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: NOT ENOUGH PARKING ON ARNAZ DR.

Signature: [Signature] Date: 1/23/2010

Name: Ronald Rose Address: 170 N. Arnaz Dr Apt 2  
Phone Number: 415-602-5843 Email: ronny.rose@qmail.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

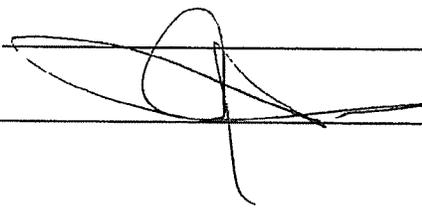
Comments: we already don't have enough parking!!!

Signature: [Signature] Date: 1/23/10

8767 Wilshire Blvd

Name: David Golshirazi Address: 8737 Clifton Way  
Phone Number: 310-941-6453 Email: \_\_\_\_\_

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_  
Signature:  Date: 1/23/10

Name: Phyllis Levine Address: 190 N. Clark Dr.  
Phone Number: (310) 652-6510 Email: feevee@gmail.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_  
Signature: Phyllis Levine Date: 1-23-10

Name: Farah Saghian Address: 175 N. Clark Dr.  
Phone Number: (310) 278-0837 Email: \_\_\_\_\_

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: Not enough parking  
Signature: F. Saghian Date: 1-23-10

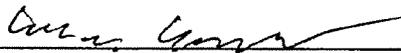
8767 Wilshire Blvd

Name: Carlos Escamela Address: 169 N. Clark Dr. #C

Phone Number: (310) 358-7800 Email: Ridder1981@yahoo.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_

Signature:  Date: 1/23/10

Name: Newcomb Borge Address: 159. N. Clark

Phone Number: (415) 847-5815 Email: newcombberge@yahoo.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: Where's the integrity?

Signature:  Date: 1/23/10

Name: Stephanie Heymann Address: 151 No. Clark Dr.

Phone Number: (310) 652-6684 Email: STACY ZEESMOM, WebTV.net

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: Unnecessary, too much traffic

Signature: Stephanie Heymann Date: 1/23/10

8767 Wilshire Blvd

Name: SARAH PERREN Address: 144 N. CLARK DR #102.

Phone Number: 310-702-0269 Email: SARPERREN@GMAIL.COM

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_

Signature:  Date: 1-23-10

Name: Susan Farokhi Address: 145 N CLARK DR

Phone Number: 310 854 4454 Email: Susan\_fj@yahoo.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_

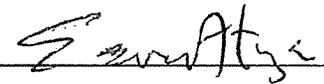
Signature:  Date: 1. 23 10

Name: Ezra Atiya Address: 135 N Clark Dr.

Phone Number: 310. 659 1252 Email: EzraAtiyaDesigns.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: \_\_\_\_\_

Signature:  Date: 1/23/10

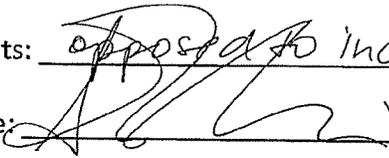
8767 Wilshire Blvd

Name: AGATHA ZALEWSKI Address: 129 N. CLARK DR.

Phone Number: 310 560 9245 Email: alex.zalewski@gmail.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: opposed to increased traffic + parking affected

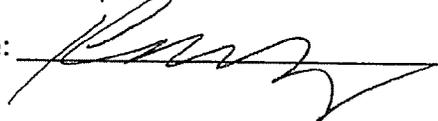
Signature:  Date: 1/23/10

Name: Ryan van de Brien Address: 121 N. Clark dr

Phone Number: 949 812.2953 Email: Ryanvandy@yahoo.com

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: Oppose the increase traffic.

Signature:  Date: 1/23/10

Name: Birk Lindley Address: 121. n clark dr.

Phone Number: 310 614-1805 Email: \_\_\_\_\_

I am opposed to the change of the use of the building at 8767 Wilshire Blvd to medical.

Comments: Opposed to increased traffic

Signature:  Date: 1/23/10

8767 Wilshire Blvd

Name: Jonas Benameur Address: 132 N Robertson Blvd  
BENAMEUR  
Phone Number: 310 360 75 35 Email: JBenameur@Hotmail.com

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: trafficking / parking

Signature: [Signature] Date: 01-22-2010

Name: Charles S. Lee (son of Chang-shin) Address: 128 N. Robertson Blvd.  
Phone Number: 626-664-1118 Email: chazlee@gmail.com

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: Parking, Construction Errors (sagging foundation), loss of business

Signature: [Signature] Date: 1/22/10

Name: Andrea's Solutions Address: 450 S ROBERTSON BLVD  
Phone Number: 310-273-8160 Email: \_\_\_\_\_

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: PARKING — !!!

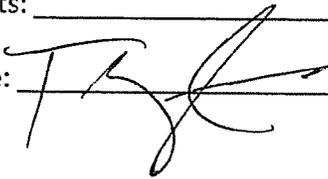
Signature: [Signature] Date: 1-21-2010

8767 Wilshire Blvd

Name: Clive Christian  
Taryn Zigterman Address: 181 N. Robertson Blvd.  
Phone Number: 310 854-3862 Email: taryn@cliveca.com

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

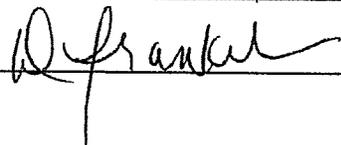
Comments: \_\_\_\_\_

Signature:  Date: 01/22/10

Name: CARTER HARDWARE  
DEBRA FRANKEL Address: 153 N Robertson Blvd  
Phone Number: 310 6571940 Email: dfrankel@carterhardware.com

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: PARKING + TRAFFIC

Signature:  Date: 1/22/10

Name: European Fine Antiques  
Daniel Deljani Address: 121 N. Robertson Blvd.  
Phone Number: 310-289-0707 Email: \_\_\_\_\_

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: parking

Signature:  Date: 1-22-10

8767 Wilshire Blvd

LES MERCHANTS

Name: SINA Tournin Address: 29920 MIRANDA ST.  
Phone Number: 310-386-2483 Email: JICIA+1997@gmail.com

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: \_\_\_\_\_

Signature: [Handwritten Signature] Date: 1/22/10

Caravan Rug/Corp.

Name: David Nhdung Address: 8725 Wilshire Blvd  
Phone Number: 310 358-1222 Email: info@CaravanRug.com

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: 51 Parking Spaces.

Signature: [Handwritten Signature] Date: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

I am concerned about the change of the approved use of the building at 8767 Wilshire Blvd.

Comments: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

I am a business owner or resident in the area surrounding the building currently under construction at 8767 Wilshire Blvd. I am concerned about this property being converted to medical, due to the increased traffic on already congested streets.

Ben M. Naples  
E 165 N. ROBERTSON  
BLVD. CA 90211  
LIMINAL ET AL

Signature, Address and Business Name

Sham C. Gank  
1009 N. Robertson Blvd  
SHAM MAN MUELE

Signature, Address and Business Name

[Signature]  
205 N ROBERTSON BLVD  
FRANCOIS 'S CO

Signature, Address and Business Name

DEAN A MURPHY  
257 N. ROBERTSON BLVD  
BLH CA 90211  
DECORATIVE STEEP

Signature, Address and Business Name

[Signature]  
157 N. Robertson Blvd  
Robert Burns Liquor.

Signature, Address and Business Name

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Signature, Address and Business Name

Concerned about street congestion.

181 N. Robertson Blvd.

Beverly Hills, Ca 90211

Clive Christian

Tayshah Ziff

Dr. Tayshah

185 N. Robertson.

Scin in Couture.

**From:** Seidel350 [mailto:seidel350@aol.com]  
**Sent:** Wednesday, January 27, 2010 12:04 PM  
**To:** Byron Pope  
**Subject:** 8767 Wilshire Blvd.

Dear Brian,

Please convey to the Mayor and the City Council our objection to the conversion of 8767 Wilshire to a medical building. Roberston Blvd is a very congested street and the Los Angeles Fire Department often uses going both north and south. It is a half a block from Horace Mann School with children often crossing at the intersection. The loss of public parking would create a hardship in a congested area. As far as we know Medical Buildings do not add to the financial health of the city. Please do not approve the change.

Thank you

Joan & Arnold Seidel

**From:** Dave Dobkin [mailto:dave@revitapop.com]  
**Sent:** Wednesday, January 27, 2010 12:13 PM  
**To:** Byron Pope  
**Cc:** WebCBH MAYORANDCITYCOUNCIL  
**Subject:** The construction at 8767 Wilshire Blvd.

To Whom It May Concern:

I am writing in opposition to the proposed zoning change at the project located at 8767 Wilshire Blvd. We currently live at 153 N. Arnaz Dr., which is very close to the construction site. The developer has shown little regard for its neighbors, or the neighborhood. We have already been severely inconvenienced by the construction, and are adamantly opposed to any rezoning that would increase traffic in the neighborhood. We have already dealt with a power outage, living with generators outside our house for 4 months, dump trucks parking and idling outside our house for hours at a time, as well as the added traffic and parking of the workers themselves.

We have put up with these inconveniences as we know they would only be temporary, however, by changing the zoning of the building to a medical building, would greatly increase the neighborhood traffic on a full time basis.

We have a small child and regularly take him on walks on our street and to the park located directly next door. Throughout the day, we are already subject to speeding cars down our street who do not obey the posted speed limits, causing a serious risk to our children. The proposed zoning change would increase the amount of drivers looking for parking and overall traffic into our neighborhood further exasperating the traffic issue on our street. We therefore request that the zoning change be denied. If possible, we would also request that the city add speed bumps to our street near the park to slow down the traffic.

Sincerely,

David Dobkin

---

Dave Dobkin  
revitaPOP  
888-MB12-POP x100  
[dave@revitaPOP.com](mailto:dave@revitaPOP.com)

**ATTACHMENT 4**  
**OFF-SITE PARKING DOCUMENTS**

Recorded at the request of  
and mail to:

GEORGE KOBOR  
(Name)

200 N. ROBERTSON BLVD. STE 200  
(Address)  
BEVERLY HILLS, CA 90211

90 1935347

100 N. Robertson

RECORDED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA  
1 MIN. 2 P.M. NOV 19 1990

FEE  
\$5  
A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONVENANT AND AGREEMENT  
REGARDING MAINTENANCE OF OFF-STREET PARKING SPACE

The undersigned hereby certify that we are the owners of the hereinafter legally described real property located in the City of Los Angeles, County of Los Angeles, State of California  
LOTS 15, 16, 17, 18, 19 and 20, TRACT 4988  
(INSIDE CITY OF BEVERLY HILLS)

LD, CK  
DATE 11-19-90

as recorded in Book 54-A, Page 98 & 99, Records of Los Angeles County.

Parking site address: 100 NORTH ROBERTSON BLVD. BEVERLY HILLS, CALIFORNIA  
And pursuant to Section 12.26E5 of the Los Angeles Municipal Code the undersigned hereby covenant and

agree to and with said City that an off-site parking area containing not less than FIFTY ONE (51) (number) usable and accessible automobile parking spaces which comply with Section 12.21A5 of the Los Angeles Municipal Code will be provided and maintained on the above described property to provide the required parking for the use or the building located at 480 SO. ROBERTSON, BEVERLY HILLS

in said City upon that land legally described as follows: PARCEL B, PARCEL MAP  
LOS ANGELES NO. 1674 & LOTS 1,2,3, TR 4988 CITY OF BEVERLY HILLS

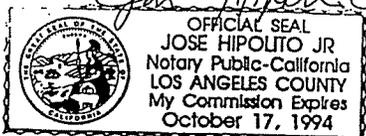
as recorded in Book 25/54, Page 14/98, 99, Records of Los Angeles County. This covenant and agreement shall run with the land and shall be binding upon ourselves, any future owners, encumbrancers, their successors, heirs or assignees and shall continue in effect so long as the use or building requiring such parking is maintained without providing off-street automobile parking spaces on the same lot and/or another lot as required by the provisions of the Los Angeles Municipal Code or unless otherwise released by authority of the Superintendent of Building of the City of Los Angeles.

Dated this 30th day of OCTOBER, 19 90  
Signature of Parking Site Owner \_\_\_\_\_ (sign)  
GEORGE KOBOR

(I) (WE) the mortgagee or trust deed beneficiary agree to the above stated conditions by affixing (my) (our) signature hereto:  
Signature of Mortgagee or Trust Deed Beneficiary \_\_\_\_\_ (sign)

There is no mortgage or trust deed affecting this property. I declare under penalty of perjury that the foregoing statement is true and correct. Executed at Los Angeles, California on this 30th day of OCTOBER, 19 90  
Signature of Parking Site Owner \_\_\_\_\_ (sign)  
GEORGE KOBOR

(NOTARIZATION FOR INDIVIDUAL)  
STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS.  
On this 30th day of OCTOBER in the year 1990, before me, the undersigned, a Notary Public in and for said County and State, personally appeared GEORGE KOBOR  
personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this Instrument and acknowledged that he (she or they) executed it.



WITNESS my hand and official seal.

(NOTARIZATION FOR CORPORATION)  
STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS.  
On this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within Instrument as the \_\_\_\_\_ President and as the \_\_\_\_\_ Secretary on behalf of the Corporation therein named and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.  
WITNESS my hand and official seal.

MUST BE APPROVED BY  
Dept. of Building & Safety  
prior to recording

FOR DEPARTMENT USE ONLY  
Branch Office LA  
125 R 110

APPROVED BY \_\_\_\_\_

Recorded at the request of  
and mail to:  
**GEORGE KOBOR**  
(Name)  
**200 N. ROBERTSON BL. STE 200**  
(Address)  
**BEVERLY HILLS, CA 90211**

**91-198415**

RECORDED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA

**31 MIN. PAST. 2 P.M. FEB 8 1991**

FEE  
**\$5**

**COVENANT AND AGREEMENT  
REGARDING MAINTENANCE OF OFF-STREET PARKING SPACE**

The undersigned hereby certify that we are the owners of the hereinafter legally described real property located in the ~~CITY OF BEVERLY HILLS~~ COUNTY OF LOS ANGELES, STATE OF CALIFORNIA LOTS 15, 16, 17, 18, 19 and 20, TRACT 4988 (INSIDE CITY OF BEVERLY HILLS)

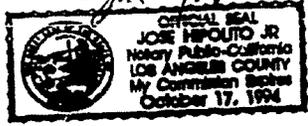
as recorded in Book 54-A, Page 98 & 99, Records of Los Angeles County.  
Parking site address: 100 NORTH ROBERTSON BLVD. BEVERLY HILLS, CALIFORNIA  
And pursuant to Section 12.28E5 of the Los Angeles Municipal Code the undersigned hereby covenant and agree to and with said City that an off-site parking area containing not less than EIGHTY FOUR (84) (number) usable and accessible automobile parking spaces which comply with Section 12.21A8 of the Los Angeles Municipal Code will be provided and maintained on the above described property to provide the required parking for the use of the building located at 480 SO. ROBERTSON, LOS ANGELES, KNOWN AS 250 NO. ROBERTSON, BEVERLY HILLS in said City upon that land legally described as follows: PARCEL B, PARCEL MAP LOS ANGELES NO. 1674 & LOTS 1, 2, 3, TR 4988 CITY OF BEVERLY HILLS

as recorded in Book 25/54A, Page 14/98, 99, Records of Los Angeles County.  
This covenant and agreement shall run all of the above described land and shall be binding upon ourselves, and future owners, encumbrancers, their successors, heirs or assigns and shall continue in effect until released by the authority of the Superintendent of Building of the City of Los Angeles upon submittal of request, applicable fees and evidence that this Covenant and agreement is no longer required by law.

Dated this 4th day of FEBRUARY, 1991  
Signature of Parking Site Owner [Signature] (sign)  
**GEORGE KOBOR** (sign)

(I) (WE) the mortgagee or trust deed beneficiary agree to the above stated conditions by affixing (my) (our) signature hereto:  
Signature of Mortgagee or Trust Deed Beneficiary \_\_\_\_\_ (sign)

There is no mortgage or trust deed affecting this property. I declare under penalty of perjury that the foregoing statement is true and correct. Executed at Los Angeles, California on this 4th day of FEBRUARY, 1991  
Signature of Parking Site Owner [Signature] (sign)  
**GEORGE KOBOR** (sign)

(NOTARIZATION FOR INDIVIDUAL)  
STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS.  
On this 4TH day of FEBRUARY in the year 1991 before me, the undersigned, a Notary Public in and for said County and State, personally appeared GEORGE KOBOR  
\_\_\_\_\_ and  
\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument and acknowledged that he (she or they) executed it.  
WITNESS my hand and official seal.  


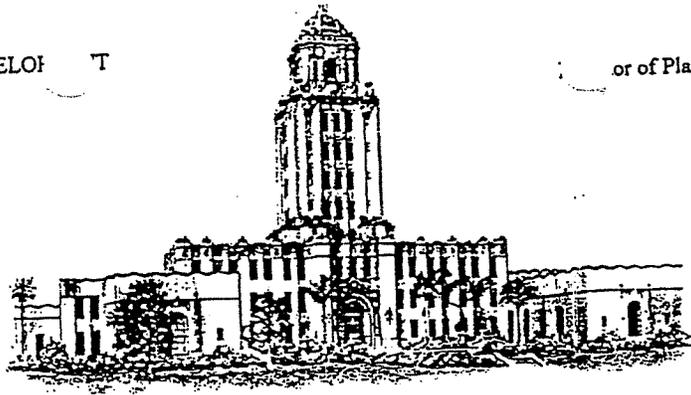
(NOTARIZATION FOR CORPORATION)  
STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS.  
On this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the \_\_\_\_\_ President and as the \_\_\_\_\_ Secretary on behalf of the Corporation therein named and acknowledged to me that such Corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.  
WITNESS my hand and official seal.

MUST BE APPROVED BY  
Dept. of Building & Safety  
prior to recording  
APPROVED BY [Signature]  
A S 2-21: 07-00 Entered on \_\_\_\_\_ Date \_\_\_\_\_

FOR DEPARTMENT USE ONLY  
Branch Office LOS ANGELES  
District Map 135 B 169  
Affidavit Number \_\_\_\_\_

PLANNING & COMMUNITY DEVELOPMENT  
455 N. Rexford Drive  
Beverly Hills, CA 90210-4817

RUTH NADEL  
Director of Planning & Community Development  
(310) 285-1123  
FAX: (310) 858-5966



## CITY OF BEVERLY HILLS

September 8, 1994

Mr. Albert Landini, Associate Zoning Administrator  
City Planning Department  
City of Los Angeles  
200 North Spring Street, Room 600  
Los Angeles, California 90012

RE: No. ZA 94-0486 (ZV)  
480 South Robertson Boulevard

Dear Mr. Landini:

The City of Beverly Hills has received a Notice of Public Hearing for a variance to permit 157 on-site, two and three deep tandem parking spaces to satisfy the code required 222 parking spaces for an existing 68,000 square foot commercial office structure at 480 South Robertson Boulevard. The application also includes a request to remove an existing parking covenant for 82 off-site parking spaces (Covenant No. 56408) that was required when the building was converted from general commercial uses to medical uses. The applicant is also seeking the removal of two metered parking spaces in front of the subject building in order to install a passenger loading area.

The staff of the City of Beverly Hills supports the conclusions of the Los Angeles Planning Department staff report (dated August 25, 1994) that "the surrounding residential areas and the City of Beverly Hills would be impacted by overflow parking" if the variance request were granted. The request to remove the existing parking covenant to maintain 82 off-site parking spaces should also be denied. Therefore, the City of Beverly Hills requests that the application be denied.

Directly abutting the property to the south of the site in the City of Beverly Hills is a three-story commercial structure with subterranean parking that is located in both Beverly Hills and Los Angeles. To the west, across Robertson Boulevard, are office and retail buildings also located within the City of Beverly Hills. To the east, along Arnaz Drive, are residentially zoned properties.

The three-story office building in the City of Beverly Hills was permitted in 1985. This building is also owned by the applicant, Mr. George Kobor. Under the existing Beverly Hills Municipal Code, an existing building that was built before 1989 with parking at a ratio of at least one space for every 350 square feet of floor area may satisfy the Code required parking of one space for every 200 square feet of medical uses by restriping the existing parking facility, including the use of tandem and compact parking spaces, provided that the restriped parking plan is approved by the Director of Transportation and free, validated, valet parking is provided to all patrons of the medical uses within the building. The City of Beverly Hills recognizes the need to have some flexibility with respect to utilization of existing parking facilities when uses within a building are likely to change. This existing building, along with others in the City of Beverly Hills, has been accommodated by increasing the amount of parking within the existing structure (through restriping). A total of 142 parking spaces exist in this building after restriping, which permits 21,400 square feet of medical uses, or approximately 64% of the structure.

The off-site parking located at 100 North Robertson is located entirely within the City of Beverly Hills. While the City of Beverly Hills would prefer that the required parking for the 480 South Robertson building be provided on-site, we feel that the existence of the covenant, if enforced, provides a small measure of insurance that there can be relief of the parking impacts of this building. While a recorded covenant exists which requires the maintenance of 82 usable and accessible parking spaces for the building at 480 South Robertson Boulevard, this lot is being leased to Beverly Hills BMW for the storage of new and used automobiles. The applicant is currently in direct violation of the requirements of the Los Angeles Zoning Code, and no approval or grants should be permitted and this violation should be cured. The City of Los Angeles should enforce this covenant and the applicant should be required to utilize this off-site parking facility.

The two buildings, 200 North Robertson and 480 South Robertson, comprise one site. Each jurisdiction which has control over the respective building has accommodated, to the maximum extent possible under relevant codes, these existing buildings. Any further reduction or manipulation of the parking supply for these two buildings will likely have detrimental impacts on the adjacent commercial and residential properties, in both Los Angeles and Beverly Hills.

The City of Beverly Hills objects to the removal of the covenant as long as those uses remain in the building located at 480 South Robertson.

The medical office parking requirements have changed in both Los Angeles and Beverly Hills as both cities recognized that there is greater parking demand generated from medical office use than from general office use. The request for a variance to waive parking that is required by Code is inappropriate. The applicant should be required to provide the Code required number of parking spaces based on the proposed mix of uses in the building, whether these spaces are provided on-site or in an off-site location.

The City of Los Angeles has established the parking requirements for medical uses, and this building should provide parking at those ratios if the applicant wishes to have those uses. There is no justification for applying a different standard for parking for this building than for any other building in the City of Los Angeles. The subject property is not being denied any substantial property right currently. The applicant knowingly executed a covenant to provide off-site parking as a prerequisite to converting a portion of the existing building to medical uses.

Lastly, all of Robertson Boulevard north of Wilshire, including portions in Los Angeles and Beverly Hills, is heavily reliant on on-street metered parking and it seems inappropriate to lose any spaces for the benefit of a single building.

In conclusion, the City of Beverly Hills respectfully requests that the application be denied and that the existing, legally-binding covenants to provide 82 parking spaces at 100 North Robertson be enforced.

Thank you for the opportunity to comment on this proposed variance request. If there are any questions regarding these comments, please do not hesitate to contact Daniel Gleiberman at 310-285-1123.

Sincerely,



RUTH NADEL  
Director of Planning & Community  
Development

cc: Hon. Z. Yaroslavsky  
Beverly Hills City Council  
Mark Scott, City Manager

RN:mmr

95 1357669

Recorded at the request of and mail to:  
Planning Associates, Inc.

(Name)  
5910 Lemona Ave., 2nd Floor  
(Address)  
Van Nuys, CA 91411

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA  
11:21 AM AUG 18 1995

FEE  
\$7  
J

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**TERMINATION OF COVENANT AND AGREEMENT**

The Superintendent of Building of the City of Los Angeles does hereby terminate the covenant and agreement recorded on the 8th day of February, in the year, 1991, as Document # 91-198415, or in Book \_\_\_\_\_, Page \_\_\_\_\_, Records of the County of Los Angeles, affecting the property legally described as follows:

LEGAL DESCRIPTION: ~~PARCEL 1, PARCEL 2, PARCEL 3, LOS ANGELES NO. 4431, 6 LOTS 1, 2, 3, TR. 4989~~  
~~CITY OF LOS BEVERLY HILLS~~

LOTS 15, 16, 17, 18, 19 & 20 TR 4988

which property is known as (ADDRESS): 100 NORTH ROBERTSON BLVD., BEVERLY HILLS, CA  
as recorded in Book 54A, Page 98, 99, Records of the County of Los Angeles.

Dated: This 16<sup>th</sup> day of August, in the year, 1995.

*Paul Wong*  
Superintendent of Building, City of Los Angeles, California

Branch Office L.A. District Map 135B169 B & S Aff. 91-198415

This covenant and agreement can be terminated for the reason:  
COUNCIL APPROVED VARIANCE UNDER COUNCIL FILE 95-0383, ZA 94-04862V, BZA 5067, MAKE THE  
OFFSITE COVENANT RECORDED AS DOCUMENT 91-198415 NO LONGER NECESSARY.

Verified by: Bob Queen

I am (we are) the owner(s) of the above-described property and do hereby approve the termination of the Covenant and Agreement.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

*George Kobor*  
\_\_\_\_\_  
(Sign)  
KOBOR FAMILY TRUST BY GEORGE KOBOR (Sign)  
(Owner of Property)

(Department of Building and Safety)

(STATE OF CALIFORNIA, COUNTY OF LA)

On 8/16/95 before me, KHANH NGUYEN, personally appeared Khanh Nguyen, personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
Signature Khanh Nguyen  
(S & S 31a Rev 5/18/93)

Khánh Nguyễn  
Comm # 202791  
NOTARY PUBLIC  
LOS ANGELES COUNTY  
Comm Expires Aug 22 1996

\*\*\*\*\*  
Office of the City Clerk, City of Los Angeles

This report was generated by the Council File Management System on 01/27/2010  
\*\*\*\*\*

**Council File Number**

95-0383

**Title**

480 SOUTH ROBERTSON

**Subject**

BZA 5067 - ZA 94-0486 ZV - Req Ccl approval to permit a medical office building to provide 157 on site valet parking spaces with a 2 space drop off area with 60% (100 spaces) being compact car spaces in lieu of the required 222 parking spaces with no more than 40% being compact for property located at 480 South Robertson Blvd. Applicant: G K Development TIME LIMIT FILE

**Last Change Date**

02/27/1996

**Council District**

5

**Initiated by**

Board of Zoning Appeals

**Archive History**

- 2-22-95 - For ref
- 2-22-95 - Ref to P&LUM Comt
- 2-23-95 - File to Yaroslavsky OK
- 3-9-95 - File to P&LUM Comt Clk for rept
- 3-13-95 - Set for P&LUM Comt on 3-21-95 & in Ccl 3-29-95
- 3-21-95 - P&LUM Comt Disposition - Deny appeal; add conditions; & approve new findings
- 3-29-95 - P&LUM Comt rept ADOPTED TO RESOLVE TO DENY appeal of Burton Way Homeowners Association, protestant, from the entire determination of the Board of Zoning Appeals (BZA), THEREBY SUSTAINING the decision of BZA to grant a variance from LAMC 12.21-A.4.c & 12.21-A.5.c (parking), & thereby permitting a medical office bldg located at 480 S. Robertson Blvd to provide 157 on-site valet parking spaces with a 2-spaces drop off area, & with 60 percent (100 spaces) being compact car spaces in lieu of the required 222 parking spaces with no more than 40 percent being compact, in the (Q)C2-1VL Zone, within the Wilshire District Plan, subj to Conditions of Approval.  
Applicant: G.K. Development BZA 5067  
ZA 94-0486-ZV
- 5. CLARIFY the Board of Zoning Appeals action of approval, to permit the termination of Off-site Parking Covenant No. 91-198415, & to specify the amt of the subj bldg's floor area by use as stated in rept.
- 6. ADOPT the Board of Zoning Appeals' Conditions of Approval, including the clarification of Conditions Nos. 3 & 8 to include the word "validated" so as to refer to "free validated parking."
- 7. ADD a further Condition of Approval to require the applicant to submit a rept to the City Planning Dept after one year, on the record of operation of parking accommodations for the subj bldg - Mit Neg Dec, Findings ADOPTED
- 3-30-95 - File to Mayor FORTHWITH
- 4-5-95 - Mayor's message concurred in action of 3-29-95
- 4-7-95 - File to P&LUM Comt Clk OK

4-10-95 - File in files  
8-25-95 - File to Ron Black - Bldg & Safety - 847-4073  
1-12-96 - File in files  
12-26-95 - For Ccl - Planning Associates, Inc. request for clarification of a variance allowing reduced parking for an office building located at 480 S. Robertson Blvd. - to P&LUM Comt Clk per req  
1-4-96 - Set for P&LUM Comt on 1-9-96  
1-9-96 - P&LUM Comt Disposition - Cont to 1-23-96  
2-13-96 - P&LUM Comt rept ADOPTED to EXPRESS for the record, that in granting a variance from certain Municipal Code parking requirements for property at 480 South Robertson Boulevard, it was the intent of the City Ccl's March 29, 1995 action to provide adequate parking for the uses then proposed for the site, and that other legally permmissible uses which would created reduced demand for parking would be consistent with this Ccl action.  
NOTE & FILE the applicant's request for clarification of the prior Ccl action, as the City Atty advises that variation from the uses described in the Ccl's grant would require formal action by the City.  
2-20-96 - File to P&LUM Comt Clk OK  
2-27-96 - File in files