



STAFF REPORT
CITY OF BEVERLY HILLS

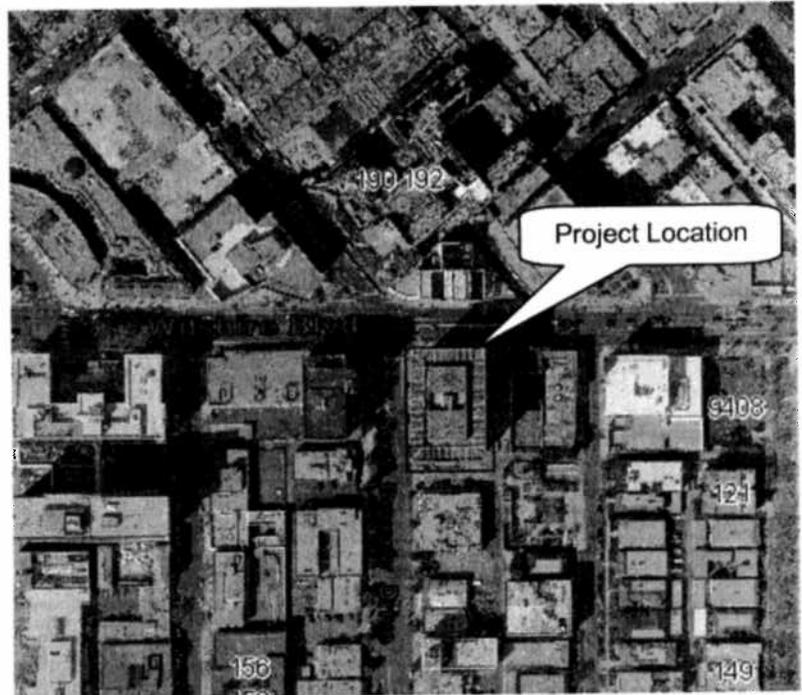
**For the Planning
Commission Meeting of
April 22, 2010**

TO: Planning Commission

FROM: Shena Rojemann,
Assistant Planner

THROUGH: Jonathan Lait, AICP, City
Planner

SUBJECT: A request for an extension
of an existing Condition
Use Permit to allow a
bank/lending use within
the pedestrian orientated
area of the City on the
property located at **9454
Wilshire Boulevard.**



RECOMMENDATION

It is recommended that the Planning Commission adopt the attached resolution, conditionally approving the extension of a Conditional Use Permit to allow a bank/lending use within the Pedestrian Oriented Area of the City.

EXECUTIVE SUMMARY

The applicant, Mitchell J. Dawson, representative of Beverly Wilshire Investment Company, LLC, is requesting an extension of an existing Conditional Use Permit (CUP), allowing a bank/lending use to occupy an existing ground floor space of a building located at 9454 Wilshire Boulevard. The project is located within the City's Pedestrian Oriented Area (Attachment A) and was previously occupied by Commercial Capital Bank, though is currently vacant.

The City's Pedestrian Oriented Area was established to create an urban village design in certain retail areas of the City. Uses in these areas are restricted to preserve the

urban village atmosphere and promote pedestrian friendly development. Pursuant to Beverly Hills Municipal Code §10-3-1654(A)¹, non-retail uses are restricted from occupying a space with a ground floor street frontage of more than twenty five (25) feet in the Pedestrian Oriented Area unless authorized by a CUP. As proposed a bank/lending use would occupy the ground floor space, which has street frontage of 40-feet along Wilshire Boulevard and 85-feet along Beverly Drive.

The existing CUP for the subject space was approved by the Planning Commission on March 24, 2004 (Resolution No. 1324 - Attachment B). This Resolution permitted a bank to occupy the subject space for a period of ten (10) years from the issuance of the certificate of occupancy. City records indicate the certificate of occupancy was issued on October 4, 2004, thus the existing CUP will expire October 4, 2014, unless extended. As communicated by the applicant, attempts to lease the subject space to retail uses have been unsuccessful (Attachment C); however, banking/lending businesses have shown interest. Since banking/lending institutions seek longer term leases, the applicant is requesting to extend the previously approved Conditional Use Permit for 10 years beyond the existing expiration date, with the option of two (2) additional five (5) year extensions, which would extend the approval until October 4, 2034.

GENERAL INFORMATION	
Applicant	Mitchell J. Dawson
Project Owner	Beverly Wilshire Investment Company, LLC
Zoning District	Commercial Zone – C-3
Tenant Space	4,074 square feet

PROJECT DESCRIPTION AND AREA CHARACTERISTICS

The subject site is located on the southeast corner of Wilshire Boulevard and Beverly Drive adjacent to a Metropolitan Transit Authority bus stop. The subject building, also known as the Glendale Federal Savings & Loan building, is a 12-story office building with a 493-stall underground parking facility. The site is located in a C-3 zone, and is surrounded by commercial buildings in all directions. Beverly Drive, north and south of Wilshire, is characterized by retail uses, and Wilshire Boulevard consists of larger scale buildings with offices, including a number of ground floor banks which surround the

¹ BHMC §10-3-1654(A) states that 'no use other than a retail use or hotel shall occupy a space with more than twenty five feet (25') of street frontage on the ground floor of any building or structure located in the pedestrian oriented area', unless authorized with a Conditional Use Permit approved by the Planning Commission.

subject site. A radius map is included with this staff report and shows the surrounding uses within a 500-foot radius of the subject site.

The building was constructed in the late 1960s and the subject ground floor space of 4,074 square feet, was originally designed for a bank use and was initially occupied by Glendale Federal Bank for 25 years. At the time the building was erected there were no zoning standards which restricted the location of uses such as banks in certain commercial areas. After Glendale Federal Bank vacated the subject space, it was occupied by Berlitz Language School (educational institution) under a Conditional Use Permit (approved in December 1998). In November 2003, Berlitz relocated into a smaller space in one of the building's upper floors, making the space available for the most recent tenant, Commercial Capital Bank. Commercial Capital Bank occupied the space since 2004 under the existing CUP (Resolution 1324) until they recently vacated the space.

Although attempts to acquire a retail tenant have been unsuccessful, the applicant has had offers from banking/lending institutions. Pursuant to BHMC §10-3-1650, a banking/lending use is considered a non-retail use, and is restricted to a maximum 25-foot ground floor street frontage. Since the subject space contains 40 feet of street frontage along Wilshire Boulevard and 85 feet of street frontage along Beverly Drive, a Conditional Use Permit is required to permit a banking/lending use to occupy the space. In order to lease the vacant space, the applicant is seeking to extend the existing Conditional Use Permit so they may be capable of providing the longer lease terms desired by banking/lending institutions. As proposed, the applicant is requesting to extend the Conditional Use Permit for ten (10) years beyond the existing expiration date, with the option of up to two (2) five (5) year extensions. If approved, the CUP could potentially be extended for a maximum of 20 years and would not expire until October 4, 2034.

ANALYSIS

On February 17, 1981 the City Council adopted Ordinance No. 81-0-1784 (BHMC §10-3-1650), which established a Pedestrian Oriented Area of the City so as to promote pedestrian usage. The City Council determined that it is necessary to restrict the uses within these areas in order to preserve the urban village atmosphere and promote pedestrian-friendly development. The City Council further found that it is necessary and desirable to protect the public health, safety, and general welfare to prevent the commercial spaces in these areas from being dominated by non-retail uses in order to preserve the City's retail tax base and ensure the City's continued ability to provide essential service to its residents.

Pursuant to Beverly Hills Municipal Code §10-3-1650 which regulates non-retail uses in the Pedestrian Oriented Area of the City, a bank is listed as a "non-retail use." Beverly Drive, including adjoining parcels on Wilshire Boulevard, is located within the designated Pedestrian-Oriented Area. As such, non-retail uses are restricted from

occupying a space with a ground floor street frontage of more than 25 feet (also applies to the corner of two streets) in a Pedestrian-Oriented Area, unless authorized by a CUP². The subject space contains 40 feet of street frontage along Wilshire Boulevard and 85 feet of street frontage along Beverly Drive, which is inconsistent with the intent of the Pedestrian Oriented Area, thus requiring approval of a CUP.

The applicant has provided documentation indicating that the subject space is undesirable for retail uses and that attempts to lease to such uses have been unsuccessful. The applicant has also provided a report documenting an abundance of vacant retail space that currently exists within the business triangle and stated that those vacant spaces compete for the same retail tenants as the subject building (Attachment C). Although staff has not been able to verify the accuracy of the stated vacancy rates, the conclusions of this report are unchanged. Banking/lending institutions have expressed interest in the space and seek a long term lease. A bank/lending institution has occupied the space in previous years with negligible impacts to the area. Furthermore, the surrounding development contains banking/lending uses, such as Bank of America and Union Bank which are also located in the Pedestrian Oriented Area. Therefore, although the use is not pedestrian oriented, it is compatible with the existing uses in the area and therefore, a negative impact to the area is not anticipated.

Although this property serves as a bridge to the pedestrian oriented South Beverly Drive, the bank use has existed at this location on and off since its construction in the late 1960s. The ground floor usage of this property as a bank/lending use is compatible with the existing uses in the immediate proximity and its continued use as such is not anticipated to result in any negative impacts to the surrounding area. However, a future subway stop is currently being considered along the Wilshire Boulevard frontage of the subject space. While the exact location and implementation of the subway through the City is unknown at this time, a synergy between a subway portal at this location and a retail/pedestrian oriented use could enhance and promote the urban village of the City's Pedestrian Oriented Area. The proposed subway stop could also bring more pedestrians to the area and therefore the City may desire a pedestrian oriented use in the future. Therefore, granting an entitlement to allow a bank use at this location for an additional 20 years from the current expiration date (October 4, 2014) could result in an unfavorable non-retail use adjacent to the proposed subway station. However, subject to the Planning Commission's approval, extending the CUP for a maximum of 10 years from the current expiration date, with the option of one five (5) year renewal, may allow for future review and analysis of the impacts of the relationship of a non-retail use to the planned subway stop and the City's Pedestrian Oriented Area.

² The intent of the CUP requirement for banks within pedestrian oriented areas is to provide some controls over the concentration of non-retail uses and prevent these designated areas from being dominated by non-retail uses. With the exception of the 25-foot street frontage limit, banks, like other general retail uses, are allowed to occupy existing commercial spaces within the Pedestrian Oriented Area by-right.

Conditional Use Permit Findings

The Planning Commission may issue a CUP to allow a restricted use to occupy any space, subject to making the following findings:

- 1) The proposed location will not be detrimental to adjacent property or the public welfare.**

The proposed bank would be consistent with the development in the surrounding area. This subject tenant space was originally designed and developed as a bank space, and there are surrounding banks that have existed for many years in the immediate proximity along Wilshire Boulevard. Although the intent of the City's Pedestrian Oriented Area is to preserve the urban village atmosphere and promote pedestrian-friendly development for this area, the proposed bank would occupy a space that was originally intended as a bank, rather than occupy a new location in the area that could potentially change the make-up of the existing retail businesses along Beverly Drive. Therefore, the proposed location will not be detrimental to adjacent property or the public welfare.

- 2) The proposed restricted use is compatible with and will not result in any substantial adverse impacts to the surrounding uses.**

The bank use is compatible with and will not result in any substantial adverse impacts to surrounding uses. Extension of the CUP would not introduce a use that is unique to the surrounding area. This subject tenant space was originally designed and developed as a bank space and has been used as such since it was developed with limited interruption. Further, there are surrounding banks that have existed for many years in the immediate proximity along Wilshire Boulevard. The previous use of the subject tenant space has not resulted in any substantial adverse impacts to surrounding uses and the extension granted herein is not anticipated to result in future impacts.

- 3) Granting the request for a conditional use permit will not result in an over concentration of non-pedestrian oriented uses in the block in which the proposed restricted use will be located**

The granting of this extension of a conditional use permit will not result in an over concentration of non-pedestrian oriented uses in the block in which the restricted use will be located because there is only one building within this block of the pedestrian oriented area and the continued bank/lending use at this location is consistent with previous tenants in the subject space as well as the original use of the ground floor of this building and would be compatible with the existing surrounding banks which occupy corner spaces along the Wilshire corridor

- 4) Granting the request for a CUP will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas.**

The granting of this conditional use extension would not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas. As proposed, a bank/lending use in the subject space would not entail any major physical changes to the exterior of the building and would not expand the footprint of the existing building or result in the construction of additional square footage. The existing driveway access and building entrances would be maintained. Its location within an existing office building does not impact or disturb surrounding retail businesses. This approval allows for the continued use of an already permitted bank use at the subject location rather than allowing the expansion of such a use occupy a new location in the area that could potentially change the make-up of the existing retail businesses along Beverly Drive. Therefore, leave ample space available for future retail growth in this designated pedestrian oriented area.

- 5) The configuration of the building in which the proposed space is located is not suited to pedestrian-oriented retail uses and does not contribute to the pedestrian experience.**

Historically the subject space has been used for non-pedestrian uses without incident. Recent development such as the Montage has aided in the City's efforts to draw pedestrians across Wilshire Boulevard. These recent developments along with the planned subway stop support the need for a long term pedestrian oriented use in the subject space. However, allowing construction of a non-retail use for the next ten (10) years with a five (5) year extension is not anticipated to adversely affect the City's goal of enhancing the pedestrian oriented area in the near term.

PUBLIC NOTICE AND COMMENTS

Notice of the proposed project and public hearing was mailed on April 12, 2010 to all property owners and residential tenants within a 300-foot radius of the property, and all single-family zoned properties within 500 feet from the exterior boundaries of the property. The hearing notice was also published in the *Beverly Hills Courier* on April 9, 2010 and in the *Beverly Hills Weekly* on April 15, 2010. As of the writing of this staff report, no written comments were received.

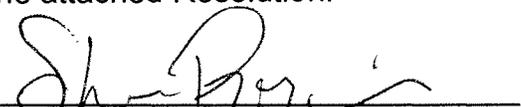
Conditional Use Permit
9454 Wilshire Boulevard
April 22, 2010

ENVIRONMENTAL DETERMINATION

The Project has been assessed in accordance with the authority and criteria contained in 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. Projects which involve the operation and permitting of uses within an existing building involving negligible or no expansion of use are categorically exempt from CEQA pursuant to Section 15301 of the State CEQA Guidelines. The project represents an extension of an existing Conditional Use Permit to allow the continued operation of a bank use in a location of the City designated for retail and restaurant uses. Therefore, this project has been determined to be exempt from further environmental review

RECOMMENDATION

Staff recommends that the Planning Commission approve the request for a Conditional Use Permit, subject to the conditions contained in the attached Resolution.



Shena Rojemann, Assistant Planner

Attachments:

- Attachment A – Pedestrian Oriented Area Map
- Attachment B – Planning Commission Resolution No. 1324
- Attachment C – Applicant submitted documents
- Attachment D – Resolution

Conditional Use Permit
9454 Wilshire Boulevard
April 22, 2010

Attachment A
Pedestrian Oriented Area Map

Conditional Use Permit
9454 Wilshire Boulevard
April 22, 2010

Attachment B
Planning Commission Resolution No. 1324

RESOLUTION NO. 1324

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT FOR A BANK TO BE LOCATED ON THE GROUND FLOOR OF A BUILDING LOCATED IN A PEDESTRIAN ORIENTED AREA AT PROPERTY LOCATED AT 9454 WILSHIRE BOULEVARD (COMMERCIAL CAPITAL BANK)

The Planning Commission of the City of Beverly Hills hereby finds, resolves, and determines as follows:

Section 1. Commercial Capital Bank (tenant) and property owner Beverly Wilshire Investment Co., LLC (collectively, the "Applicant") have applied for a conditional use permit ("C.U.P.") to allow a bank to be located on the ground floor of a building located in the pedestrian oriented area at property located at 9454 Wilshire Boulevard (the "Project"). The ground floor street frontage of the space is 40 feet wide facing Wilshire Boulevard and 85 feet wide facing Beverly Drive. The Zoning Code restricts banks that exceed ground floor street frontage of 25 feet on Wilshire Boulevard and Beverly Drive.

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 February 25, 2004, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, was presented at said hearing.

Section 4. The Applicant requests a C.U.P. to allow an existing ground floor space of a building located in a designated pedestrian oriented area at 9454 Wilshire Boulevard (formerly Berlitz Language Center). The subject site is located at the southeast corner of Wilshire Boulevard and Beverly Drive and has ground floor street frontage of 40 feet on Wilshire Boulevard and 85 feet on Beverly Drive. The 9454 Wilshire building, also known as the Glendale Federal Savings & Loan building, is a 12-story office building with a 493 space (50%

tandem spaces) underground parking facility. Access to parking is provided by two (2), two-way driveways on Beverly Drive and Reeves Drive, respectively. The east-west alley located south of the building provides vehicular access for passenger drop-off and a recessed area for commercial deliveries. The subject ground floor space of 4,074 square feet was originally designed for a bank use and has been the location of Glendale Federal for 25 years, during which time there were no zoning restrictions for the location of banks in the area. Berlitz Language Center occupied the space under a C.U.P. for educational uses from December 1998 to November 2003, at which time it relocated to a smaller space in one of the building's upper floors. The proposed bank space will consist of traditional teller stations, a conference room, the branch manager's office, and a safe deposit and vault area. The north and west entrances (facing Wilshire and S. Beverly, respectively), will include interior ATM vestibules.

Article 16.5 (Restricted Uses in Pedestrian-Oriented Areas) of the Municipal Code restricts non-retail uses from occupying a space with a ground floor street frontage of more than 25 feet (also applies to the corner of two streets) in a Pedestrian-Oriented Area unless authorized by a C.U.P.

Section 5. Pursuant to BHMC Section 10-3.1655, in reviewing the application for a C.U.P. to allow the bank use, the Planning Commission considered the following issues:

- (1) The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses.

- (2) Granting the request for a C.U.P. will not result in an over-concentration of non-pedestrian oriented uses in the block in which the proposed restricted use will be located.
- (3) Granting the request for a C.U.P. will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas.
- (4) The configuration of the building in which the proposed space is located is not suited to pedestrian-oriented retail uses and does not contribute to the pedestrian experience.

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 to the C.U.P. for the bank use:

6.1 As conditioned, the bank use will be compatible with and will not result in any substantial adverse impacts to surrounding uses. The proposed Project will not introduce a new use for the site or a use that is unique to the area. A bank use existed at the site for 25 years. Other bank uses exist in the area including: Bank of the West (Canon Drive and Wilshire Boulevard), Bank of America (Beverly Drive and Wilshire Boulevard) and Union Bank/TD Waterhouse (across Beverly Drive). The Project will serve its intended customer base in the building and the surrounding area. Therefore, the bank use is compatible with and will not result in any substantial adverse impact to surrounding uses.

6.2 As conditioned, granting the request for a C.U.P. will not result in an over-concentration of non-pedestrian oriented uses in the block in which the proposed restricted use will be located. The proposed Project will be compatible with existing surrounding banks which occupy corner spaces along the Wilshire corridor. Because of its location in an existing, architecturally independent commercial office structure, the Project will not impact the pedestrian oriented retail uses along South Beverly Drive. A traffic report prepared for the Berlitz Language Center in 1999 indicates that existing parking (429 spaces, with 50 percent of those spaces in tandem configuration) will be adequate to support parking needs, and the Institute of Traffic Engineers Manual rates analysis indicates that the proposed Project will generate an additional peak parking demand of only nine additional parking spaces. The proposed valet parking to occupants and visitors to the Project will reduce any potential parking shortage. In addition, as documented by the letter attached hereto as Exhibit A and incorporated herein by this reference, the applicant has voluntarily agreed to provide twenty-five (25) unreserved parking spaces in the buildings subterranean parking garage for use by employees of retail businesses on South Beverly Drive to further reduce parking impacts on adjacent streets. Based on the foregoing findings and applicant's representations with respect to parking for adjacent businesses, the Planning Commission finds that the proposed Project will not substantially impact traffic on adjacent streets.

6.3 As conditioned, granting the request for a C.U.P. will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas. The proposed Project does not include physical changes to the exterior of the building and will not introduce any new construction to the site.

The existing driveway access and building entrances will be maintained. The bank will conduct business during normal business hours.

6.4 As conditioned, the configuration of the building in which the proposed space is located is not suited to pedestrian-oriented retail uses and does not contribute to the pedestrian experience. The subject commercial office building is located on the corner of a busy street intersection, used heavily by vehicle and pedestrian traffic. An MTA bus station is located at the corner. Due to the height of the building, the sidewalk area along the southeast corner is often in shade. The architecture of the building, with large fin-like columns, does not lend itself to pedestrian oriented retail uses. Therefore, the location and configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses or the pedestrian experience.

Section 7. Based upon the foregoing, the Planning Commission hereby adopts the Negative Declaration and issues a C.U.P. for the Project, subject to the following conditions:

1. The Project shall substantially comply with the plans submitted to and approved by the Planning Commission at its meeting of February 25, 2004.
2. In accordance with the terms of the letter attached hereto as Exhibit A, the Applicant shall make available 25 parking spaces on-site to serve the needs of employees of retail businesses on South Beverly Drive.
3. The Applicant shall provide free, validated parking for all bank customers.
4. The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Planning Commission, after conducting a duly noticed hearing, determines that

operation of the Bank at this site is having unanticipated traffic and parking impacts, the Planning Commission may impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the Bank and the Applicant shall forthwith comply with any additional conditions at its sole expense.

5. 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, the owner and their heirs, representatives, successors and assigns shall comply with all such modified or additional conditions.
6. The conditions set forth in this resolution shall remain in force for the duration of the life of the permits.
7. This C.U.P. shall expire ten (10) years after the date of issuance of the certificate of occupancy, and all rights granted by this C.U.P. shall terminate at that time. Unless the C.U.P. is renewed, or a new C.U.P. is granted, the Applicant shall immediately cease operation of the bank at this location. The Applicant shall have no right to renewal of the C.U.P. Any application for a new C.U.P. must be filed at least sixty (60) days prior to the expiration of these approvals.

If the Planning Commission does not extend the C.U.P., the C.U.P. shall expire and all rights possessed under the C.U.P. shall be terminated. Provided, however, if the Applicant files an application for an extension, any existing C.U.P. shall be extended until the City takes final action on the application.

Any application for an extension of this C.U.P. shall be subject to the application fees established by Resolution of the City Council.

Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the terms of the resolution granting any such extension.

8. This Resolution approving a C.U.P. shall not become effective until the Applicant signs a statement, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The statement shall include a copy of this resolution as an exhibit.

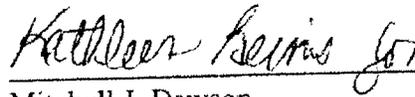
The Applicant shall deliver the executed statement to the Department of Planning and Community Development **within 60 days** of the Planning Commission's adoption of this resolution. If the Applicant fails to deliver the executed statement within the required 60 days, this resolution approving a C.U.P. **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 C.U.P..

9. 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.

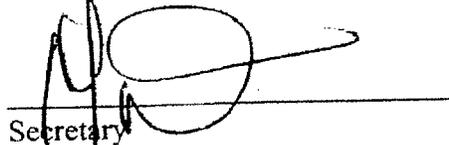
Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 3-24-04

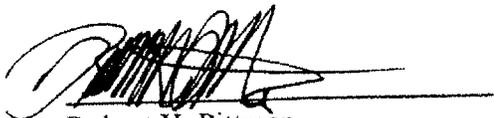


Mitchell J. Dawson
Chairman of the Planning Commission of
the City of Beverly Hills, California

Attest:


Secretary

Approved as to form:


Robert H. Pittman
Assistant City Attorney

Approved as to content:


Mahdi Aluzi
Director of Community Development

Exhibit A

Letter from Applicant

BEVERLY WILSHIRE INVESTMENT COMPANY

OFFICE OF THE BUILDING
9454 WILSHIRE BOULEVARD
BEVERLY HILLS, CA 90212
(310) 274-9826 FAX (310) 274-7346

RECEIVED
CITY OF BEVERLY HILLS

MAR - 5 2004

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

March 3, 2002

Mr. Mahdi Aluzri
Director of Community Development
Beverly Hills Planning Department
455 N. Rexford Drive
Beverly Hills, CA 90210

VIA MAIL & FAX TO: (310) 858-5966

Re: Commercial Capital Bank CUP
9454 Wilshire Building ("Building")
Beverly Hills, CA 90212

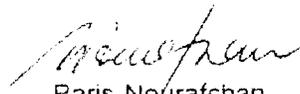
Dear Mr. Aluzri:

This letter will serve to confirm and acknowledge our agreement, as the owner of the subject property, to make available to the employees of the retail businesses on South Beverly Drive who currently park elsewhere, twenty five (25) unreserved parking spaces in the Building's subterranean garage. The twenty five spaces will be offered to the S. Beverly retail employees at a 23% discount. Since the current standard rate for parking is \$130.00 per month, the initial discounted rate to the S. Beverly Drive retail employees will be \$100.00 per month. This rate will be subject to periodic adjustment to reflect inflation and the increase in operating expenses. However, the rate charged to the S. Beverly Drive retail employees shall at all times be 23% less than that charged to the tenants in the Building for similar unreserved parking in our parking facility.

This agreement shall remain in effect until the expiration of the Conditional Use Permit granted to Commercial Capital Bank by the City of Beverly Hills pursuant to the Planning Commission Meeting of February 25, 2004.

We further agree to make the Beverly Hills Chamber of Commerce aware of the terms of the agreement set forth herein.

Very truly yours,

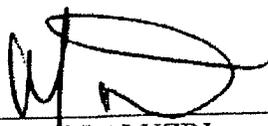

Paris Nouratchan
Company Manager

Letters 5\BWIC-Com.par

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Planning and Community Development (the "Director") of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1324 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on March 24, 2004, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Krasne, Marks, Reims and Felsenthal.
NOES: None.
ABSENT: None.
ABSTAINED: Chairman Dawson.



MAHDI ALUZRI
Secretary of the Planning Commission/
Director of Community Development
City of Beverly Hills, California

Conditional Use Permit
9454 Wilshire Boulevard
April 22, 2010

Attachment C
Applicant submitted documents

LAW OFFICES OF
DAWSON TILEM & GOLE

MITCHELL J. DAWSON
JOSEPH N. TILEM
GARY M. GOLE

9454 Wilshire Boulevard, Penthouse
Beverly Hills, California 90212
Telephone (310) 285-0880 / 273-3313
Facsimile (310) 285-0807

April 7, 2010

Ms. Shena Rojemann
Department of Community Development
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Via Hand Delivery

Re: 9454 Wilshire Boulevard – Application for Extension of Conditional Use Permit

Dear Shena,

I hereby deliver the following documentation in support of the application for Extension of a Conditional Use Permit for the owners of 9454 Wilshire Boulevard at the southeast corner of Wilshire Boulevard and Beverly Drive.

The documentation includes the following:

1. Five sets of photos of the Wilshire frontage of the property in question taken over a period of time and noted as to the date of each individual photograph.
2. A series of letters from various and sundry leasing brokers within the City of Beverly Hills who have specific knowledge of the area, the retail and commercial leasing world in Beverly Hills **and** the property in question. Each of the letters speak for themselves but put forth the same conclusion: retail is not a viable alternative at this location largely based upon the area, the bus stop and the chaos it creates, the economy, the architecture of the building which does not lend itself to retail (the need for an expanse of glass on the ground floor that would be necessary for any retail tenant) and a myriad of other reasons.
3. A schedule of available retail space (not commercial) in the Beverly Hills triangle and on South Beverly Drive reflecting a huge amount of vacant space that would be competing for the same retail tenants that barely exist.
4. Letters from prior tenants, Re/Max and Berlitz School of Languages evidencing the problems which caused the failures of their business in that location.
5. Maintenance letter regarding the smell of urine.
6. Please note just a few of the reasons why retail will not work in this location and the need for the Conditional Use Permit to be extended for the economic vitality of the City and for this property owner:
 - a. The history of the ground floor being vacant for significant periods of time including since August 2007.

Ms. Shena Rojemann

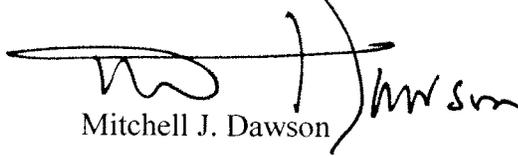
April 7, 2010

Page 2

- b. The amount of vacant retail space in the Beverly Hills commercial district.
- c. The architecture of the building which lends itself to a bank or other financial institution and no other.
- d. The bus stop traffic and people "waiting" for their bus.
- e. Lack of pedestrian traffic in the area.
- f. The lack of retail tenants over the last 40 years at the Wilshire Boulevard-Beverly Drive intersection.
- g. The building was originally designed and developed by Glendale Federal Bank as its flagship for the Westside with the intention of using the ground floor as a bank. The architecture does not lend itself at all to retail on the ground level.

I look forward to your comments.

Very truly yours,



Mitchell J. Dawson

Encls.



April 6, 2010

Chair, Lili Bosse
Vice Chair, Daniel Yukelson
Commissioner Noah Furie
Commissioner Nanaette Cole
Commissioner Craig Corman
Planning Commission
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA. 90210

Re: 9454 Wilshire Boulevard

Dear Chair Bosse and members of the Planning Commission,

On the 22nd of April you will be considering the extension of the CUP for the leasing of ground floor space in the above-referenced building. As I'm sure you're aware, when this building was developed in 1971 by Glendale Federal Savings, it was their Westside flagship location and known to all as the Glendale Federal building. To many, even though they're long gone, it still is.

Throughout its history, whenever a vacancy arose on either the Wilshire Boulevard or S. Beverly Drive side, the owner tried in vain to lease the space to conventional retailers only to discover time and again, for a variety of reasons, they had no interest. The only tenants that have ever been interested in committing to ground floor space in this building are financial and professional service providers, i.e., banks, stock brokerage companies, real estate brokerage companies, etc. Tenants in these sectors will rarely commit to a space without knowing they have sufficient time to both grow their business and amortize the cost of their improvements. Typical leases are for a term of 10 years, and almost always contain the right to extend the term for additional periods of 5 years each.

The most commonly expressed concerns from prospective tenants, and over the years I've represented many that I've exposed to this opportunity are: a) the Wilshire Boulevard side is almost always obscured by buses and appears grimy; b) the only pedestrians are non-shoppers who are either waiting for a bus or getting on and off the bus; c) there is no retail on any of the four corners of this intersection and none going

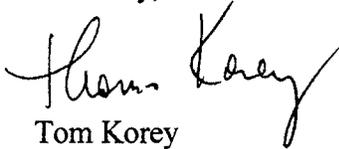
First Property Realty Corporation

350 South Beverly Drive • Suite 340 • Beverly Hills, California 90212-4820 • Telephone 310-789-1900 • Fax 310-789-1911

east; d) when it gets dark in the evening, this corner is generally desolate and uninviting, and d) because the retail community on the south side of Wilshire ends abruptly at the Beverly Wilshire hotel and those shopping during the day on S. Beverly Drive tend to not walk any further north than the east west alley extending from S. Beverly to Reeves Drive, retailers have never demonstrated any interest in investing their money to build out quality retail space in this building.

And, although recent discussions regarding the proposed 'Subway to the Sea' have identified the Wilshire Blvd. / Beverly Drive intersection as one of the city's potential portals, as a former 'strap hanger' myself, it should be pointed out that the average subway rider, other than purchasing something to read or a quick refreshment, is unlikely to patronize nearby retailers as they scurry to and from their destinations. Because of these factors, I strongly urge you to grant the requested CUP extension. By not doing so, for both the building's owner and the city, it will inevitably evolve into a lose-lose situation and have proven to be counter productive.

Sincerely,

A handwritten signature in cursive script that reads "Tom Korey". The signature is written in black ink and is positioned above the printed name and title.

Tom Korey
Senior Vice President



ANTHONY R. PALERMO
Beverly Hills South

April 6, 2010

COLDWELL BANKER
166 N. Canon Drive
Beverly Hills, CA 90210
Tel: (310) 285-7539
Fax: (310) 278-4934
E-Mail: apalermo@coldwellbanker.com

Mr. Paris Nourafchan
Beverly Wilshire Investment Co.
9454 Wilshire Blvd., Suite 220
Beverly Hills, CA 90212
Tel: (310) 274-9826
Email: parispv@aol.com

VIA E-MAIL

Anthony R. Palermo
Director, Retail Leasing and Commercial Development
Coldwell Banker Beverly Hills
DRE License #01244252

Re: 9454 Wilshire Blvd., Suite 220 Beverly Hills, CA 90212.

Dear Paris,

I hope this letter finds you well. It was so good to hear from you a few weeks back, I know that you have been quite busy. I wanted to write you quickly as a follow up to our conversation regarding the difficulties facing the Leasing environment in Beverly Hills.

As you know, this has been a challenging year (at best) and luckily I have been able to remain active thanks to a bountiful portfolio of international clients who look to Beverly Hills as a unique opportunity in the business world, whether it be as a retail operation or to set up local or headquarter offices. The fact that rents have dropped has helped influence prospective Tenants, but more importantly, location remains the most important consideration of any company hoping to gain prominence in the city. That being said, the locations my clients choose and have always chosen (specifically for ground floor retail) have always been first tier locations.

I have tried several times to lease your Wilshire Boulevard at Beverly Drive ground floor location(s) but have come up empty handed every time. The reasons are multi fold; there is little foot traffic and it is outside the pedestrian flow; there is an overly busy vehicle traffic flow coupled with the enormous eyesore of a bus stop and bench at the hard corner; and as such, it is a corner that is routinely a gathering for people in transit and not people interested in shopping. Despite our efforts to get the spaces leased, I have repeatedly made the point that outside of a financial institution use, the ground floor of your building is little served for any retail use.

As far back as 2007, at the height of the market boom, when there was little or no space to be leased and area Landlords could name the price of rent on an almost weekly basis due to the demand for retail space in Beverly Hills, I could not convince retailers to consider your building as a viable ground floor location. In today's market conditions, I do not see how any one could or even would consider the ground floor of your building as satisfactory for retail

given the amount of viable first tier space currently available in Beverly Hills, within the Triangle or south of Wilshire Boulevard.

I believe you must focus on a different approach to the Leasing strategy of the ground floor of your building, focusing outside of retail use. Concurrently, any and all people involved with the well being of both your building as well as the greater good of the environment of the city should be focused in the same direction. If you would like, I would be more than happy to sit down with you in the coming weeks to discuss some options, but I do not want to give you false hope, so please know in advance that they will not be for retail use. Let me know what your schedule permits. Again Paris, it was great catching up with you and I look forward to seeing you soon.

Sincerely,



Anthony R. Palermo
Director, Retail Leasing and Commercial Development
Coldwell Banker Beverly Hills
DRE License # 01244252



9595 WILSHIRE BOULEVARD, BEVERLY HILLS, CA 90212 / TEL 310 278 4747 / FAX 310 278 0607

April 5, 2010

City of Beverly Hills
Planning Department
455 N. Rexford Drive, # G40
Beverly Hills, CA 90210

Re: Ground Floor Space at 9454 Wilshire Boulevard

To Whom it May Concern:

Dembo & Associates has been actively leasing commercial retail properties in Beverly Hills for over 45 years. We remember when Glendale Federal Bank was a prominent tenant in the ground floor space of the 9454 Wilshire Building from the time the office building was completed in 1971.

When the Glendale Federal Bank closed its operations on December 31, 1996, our firm procured and placed Berlitz Language School in the vacated space. Berlitz planned to operate its retail activities in that space.

Regretfully, Berlitz did not last very long, and after they moved out, they asked us to sublease the space for them. The executives and manager at Berlitz stated a severe lack of retail foot traffic as the reason for their vacating. Following Berlitz's departure, we brought Commercial Capital Bank to the ground floor space, which operated there from October 2004 to August 2007. It is our understanding that the Bank was bought by Washington Mutual Bank and the space became vacant again several years ago.

Over the last two and a half years, we have continuously used our best efforts to reach out to various types of retail users. There were many tours and viewings, but traditional retailers do not find the ground floor space at 9454 Wilshire suitable for retail use. We believe the challenges/obstacles to be as follows:

1. **Lack of foot traffic.** Most pedestrian activity takes place in the North Village or further South between Charleville and Gregory.
2. **The architecture of the building.** The large, closely spaced vertical columns create narrow storefronts and a non-retail appearance. Retailers are attracted to large and



9595 WILSHIRE BOULEVARD, BEVERLY HILLS, CA 90212 / TEL 310 278 4747 / FAX 310 278 0607

open window spaces. The newly completed building one block East, located at Wilshire and Canon Drive, is a good example of an open appearance.

3. **The public transit bus stop in front of the Building.** This is a real eyesore and a major deterrent to potential retail users.

In summary, given the above, we believe that the likelihood of attracting traditional retail is highly unrealistic. We believe that the presence of a future subway station at the intersection will not alter the fact that the 9454 Wilshire Boulevard will never be suitable for retail use. We suggest leasing to another financial institution if the opportunity arises. A financial institution will most likely require a minimum term of ten years, with multiple options to extend the lease term.

The 9454 Wilshire is one of Beverly Hills' most prominent office buildings. The fact that the ground floor space is has been vacant for so long has put a strain not only on the Building but on the surrounding community as well.

The solution and best option for the premises is a Bank. The reopening or activation of the corner will be a very positive benefit for the corner and the surrounding neighborhood. The customers that a bank will draw to the south-east corner will help the retail stores on S. Beverly Drive and help that corridor flourish. Many retail tenants on South Beverly are currently hurting and the area cannot afford to have the 9454 Wilshire ground floor remain vacant any longer.

Please contact me should you have further questions or wish to discuss the enclosed.

Sincerely,



Chuck Dembo
Dembo Realty
310-278-4747

Jerry Asher

CB Richard Ellis, Inc.
Office Specialty, Brokerage Services

1840 Century Park East
Suite 700
Los Angeles, CA 90067-2108
T 310.550.2530
F 310.203.9624

April 5, 2010

Jerry.Asher@cbre.com
www.cbre.com

City of Beverly Hills
Planning Commission

Re: 9454 Wilshire Boulevard, Ground Floor
Beverly Hills, CA 90212

Dear Planning Commission Members:

Approximately 30 years ago I sold this office building to its present owner. During our original analysis we only calculated the rent for a ground floor office tenant. Our example was a bank or securities company.

If one were to look at the outside of the building, they would quickly determine, because of the ground to roof columns without any expanse of glass that the ground floor could not easily accommodate a retail tenant.

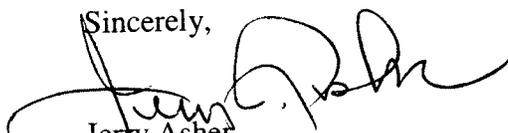
I call your attention to the remaining three corners of Wilshire Boulevard at Beverly Drive. At the Northwest corner on the ground floor is a bank. On the Southwest corner is also a bank, as well as two security companies and a corporate office. Now to the Northeast corner, you know the history of this vacant space, therefore one could easily assume that these corners are not acceptable to retail tenants.

My experience at CB Richard Ellis for over 41 years has been in Retail and Office properties as well as management. Most of the work I have done has been on the Westside with extensive work in Beverly Hills and Century City.

Recently a retail store located in an office building closed in Beverly Hills. It was a popular "name and brand" well known by tourists and Westside shoppers. It had been open for only a few years, it had limited retail walking traffic and no large entry doors at street level to draw customers in.

I hope you will grant the owners their needed "usage clause" so they may attract a good quality tenant to the ground floor space.

Sincerely,



Jerry Asher
(310)550-2530

CresaPartners

C O R P O R A T E R E A L E S T A T E S E R V I C E A D V I S O R S

Atlanta
Austin
Bellevue
Bethesda
Birmingham
Boston
Calgary
Charlotte
Chicago
Cincinnati
Dallas
Denver
Detroit
Fairfield County
Houston
Indianapolis
Kansas City
Long Island
Los Angeles
Memphis
Miami
Minneapolis
Nashville
New York
Ontario
Orange County
Orlando
Ottawa
Palo Alto
Paramus
Philadelphia
Phoenix
Pittsburgh
Portland
Princeton
Raleigh
Sacramento
San Antonio
San Diego
San Francisco
San Jose
Seattle
St. Louis
Toronto
Tucson
Tysons Corner
Vancouver
Washington DC
Woodland Hills

April 5, 2010

City of Beverly Hills
Planning Department
455 N. Rexford Drive, # G40
Beverly Hills, CA 90210

To Whom It May Concern

I have been a leasing broker for the past 40 years, specializing in retail and office leasing on the Westside.

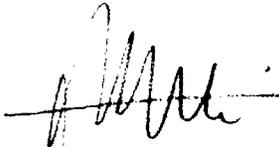
I am very familiar with the 9454 Wilshire Building and have placed many tenants in the Building over the past 25 years. However, as much as I have tried, I have been unable to find a retail tenant for the ground floor space at 9454 Wilshire Boulevard which has been sitting vacant for the past few years since Commercial Capital Bank moved out.

Neither the space nor the Building is suitable for retail use, and the Bus Stop and the people who gather around it, make matters much worse. I do not believe that any user other than a financial institution would be a viable tenant for that space.

There never has been any foot-traffic on that corner and the Montage Hotel did nothing to improve the dynamics of the south-east corner of that intersection, as a retail friendly destination. Nor do I believe the future metro rail will make any difference.

Please do not hesitate to call me if I could be of further assistance.

Sincerely,



Mitchell Leit

THE TENANT'S ADVANTAGE

11726 San Vicente Blvd., Suite 500 ■ Los Angeles, California 90049
tel 310.207.1700 ■ fax 310.207.0930 ■ www.cresapartners.com

Scheid Realty Int'l
9454 Wilshire Blvd. Penthouse Suite, Beverly Hills, CA 90212
Tel: 310-278-9606 Fax: 310-278-1680

April 5, 2010

City of Beverly Hills
Planning Department
455 N. Rexford Drive #G40
Beverly Hills, CA 90210

Re: Ground Floor space at 9454 Wilshire Boulevard

Planning Department:

I am the Owner of Scheid Realty, and a resident of Beverly Hills for the past 25 years. Our Offices have been in the 9454 Wilshire Building for the past 20 years, and at 8383 Wilshire for the previous 5 years. We have brought many Tenants to the 9454 Wilshire Building.

Scheid Realty also had the Exclusive Lease Listing for the 118 S. Beverly Drive Building. I can categorically state that the ground floor space at 9454 is not suitable for retail use. I have tried to introduce several retail users to the ground space, but they have not been interested. The Building was originally designed and built with the intention of having a Bank on the ground floor. This is the former Glendale Federal Building.

A Bank or other Financial Institution are the only tenants that would work in that space. Leaving a space vacant does no one any good. Having a Bank on the ground floor would be good for the surrounding community and the Tenants in the Building. It would also be good for the City which needs the revenues that would be generated by the Business License Tax.

As a long time resident of Beverly Hills, I urge the Planning Commission to approve the extension of the Conditional Use Permit with respect to the 9454 Wilshire Building.

Sincerely,



Phillip Scheid

PJS/rl



200 West Madison Street
Suite 3300
Chicago, IL 60606
Phone 312.881.7000
Fax 312.881.7085
transwestern.net

April 8, 2010

City of Beverly Hills
Planning Department
455 N. Rexford Drive, # G40
Beverly Hills, CA 90210

TO WHOM IT MAY CONCERN:

Re: Ground Floor Space at 9454 Wilshire Boulevard

Transwestern exclusively represents Berlitz School of Languages for all of their commercial real estate needs throughout the United States. In October 1998, Berlitz Languages, Inc. leased the ground floor space of the 9454 Wilshire Building with the intention of adding a retail component to its operations. It was projected that the intersection of Beverly Drive and Wilshire Boulevard would be an ideal retail location. The premises were completely built out to create a retail friendly atmosphere in the subject space. Unfortunately, once they moved in, it was discovered that the Building and the site did not lend itself to retail use, as there was very little or no foot traffic at that site. Further, the building's architecture did not project a retail image. Berlitz elected to cease operations on the ground floor and sub-leased the Premises to a Bank, which was the only tenant that showed any interest in taking over the space.

Sincerely,

Anthony R. Karmin
Executive Vice President | Tenant Advisory Services
TRANSWESTERN
200 West Madison Street
Suite 3300
Chicago, IL 60606
Phone 312.881.7040 | Fax 312.650.8330 | Cell 312.316.1544
tony.karmin@transwestern.net
www.transwestern.net



RE/MAX
Marquee Partners, Inc.

March 31, 2010

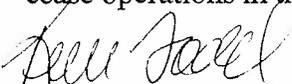
City of Beverly Hills
Planning Department
455 N. Rexford Drive, #G40
Beverly Hills, CA 90210-4817

To Whom It May Concern:

I am the President of RE/Max Marquee Partners, Inc., which occupied the ground floor space at 9454 Wilshire Boulevard from 1997 until 2009. The success of our operations depended heavily on offering brokers and salespersons an attractive environment and a pleasant workplace where they could work and meet with their clients.

From the moment we took occupancy of the ground floor space, we became aware of severe problems related to the bus stop in front of our space which negatively affected our operations. Those waiting at the bus stop, many of whom were unsavory and rude, would gather in front of our storefront, leaning against our windows and sitting on the steps in front of our Wilshire entrance, blocking our visibility to passing traffic, and scratching graffiti and gang related messages into our store front windows. These people left trash all over the sidewalk in front of our Premises and regularly urinated in front of our windows. The situation got so bad that we never used the street entrance into our Premises on Wilshire Boulevard.

For these reasons, we had difficulty keeping brokers and salespeople for any considerable amount of time, and the vacant offices and cubicles increased over the years. By February 2009, our inability to attract brokers and salespeople was so great that we had no alternative but to cease operations in the ground floor space at 9454 Wilshire Boulevard and vacate the space.


Kelli Todd
President

P.O. Box 2420
Redondo Beach, California 90278
Fax (310) 868-2915

DOUGLAS HUFF
1196 Brooklawn Drive
Los Angeles, CA

April 6, 2010

City of Beverly Hills
Planning Department
455 N. Rexford Drive, # G40
Beverly Hills, CA 90210

Re: 9454 Wilshire Boulevard, Beverly Hills, CA 90212

To Whom it May Concern:

I do maintenance and repair for the 9454 Wilshire Building. I have personally witnessed people who are waiting at the bus stop on Wilshire urinate on the Building. It is a constant problem that we have to take care of by frequent power washing although the urine stains have left a permanent mark on the granite outside of the Building and nothing can get the stains out. These people also constantly scratch graffiti into the windows, the columns and window frames. On several occasions they have broken the windows which are very expensive to replace.

I have also witnessed these people vomiting in front of the Building and leaving liquor bottles and other trash on the door steps leading into the ground floor space. Some time ago we received complaints from Pacific Western Bank that the smell of urine was penetrating into the Premises from the outside. I took care of the problem as best as I could by sealing the entire store front with epoxy to keep out the smell.

Sincerely,

Handwritten signature of Douglas Huff in black ink, written in a cursive style.

Douglas Huff



April 12, 2010

City of Beverly Hills
Planning Commission
455 N. Rexford Drive, #G40
Beverly Hills, CA 90210-4817

Dear Members of the Planning Commission:

I am a leasing broker and have been looking for suitable spaces for various tenants. I have been aware of the availability of the ground floor space at 9454 Wilshire Boulevard ever since Commercial Capital Bank and RE/MAX moved out of that space. I showed the space to one of my fitness groups looking for approximately 5,000-8,000 square feet of retail space to open up a fitness studio and retail athletic clothing store. Additionally, I showed the space to another potential tenant, a competitor of Nike, who is looking for a retail space of approximately 4,000-7,000 square feet. Both tenants rejected the space due to the lack of foot traffic, limited visibility due to the architecture of the building, and negative exposure from the crowd constantly found adjacent and loitering by the MTA bus stop. The Building does not project a retail-friendly image and is not suitable for retail tenants.

Please call me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Yatman'.

Ryan Yatman
Secured Properties Inc.

**PROJECTED BEVERLY HILLS LICENSE TAX
FOR THE VACANT GROUND FLOOR SPACE
AT 9454 WILSHIRE BOULEVARD**

Projected Annual Rent 8982 sq. ft. X \$6.75 = \$60,628 X 12 Months = **\$727,542**

Monthly Parking (projected) 27 Spaces x \$150/Mo. X 12 Months = \$ 48,600

Validations (projected) \$4,000/Mo. X 12 Months = \$ 48,000
\$824,142

Beverly Hills Business License Tax @ 2.35%	Year 1 =	19,367	
	2 =	19,948	
	3 =	20,546	
	4 =	21,162	
	5 =	21,798	
	6 =	22,452	
	7 =	23,125	
	8 =	23,819	
	9 =	24,534	
	10 =	25,270	
	11 =	26,028	
	12 =	26,809	
	13 =	27,613	
	14 =	28,441	
	15 =	29,295	
	16 =	31,173	
	17 =	31,079	
	18 =	32,011	
	19 =	32,971	
	20 =	<u>33,960</u>	<u>\$520,401</u>

Conditional Use Permit
9454 Wilshire Boulevard
April 22, 2010

Attachment D
Resolution

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT TO ALLOW A BANK/LENDING USE WITHIN THE PEDESTRIAN ORIENTED AREA OF THE CITY ON THE PROPERTY LOCATED AT 9454 WILSHIRE BOULEVARD.

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. Mitchell Dawson, representative of Beverly Wilshire Investment Company, LLC (collectively the “Applicant”), has applied for a Conditional Use Permit to allow a bank/lending use to occupy the existing ground floor space of a building located at 9454 Wilshire Boulevard (the “Project”), within the City’s Pedestrian Oriented Area. Pursuant to BHMC §10-3-1650, a banking/lending use is considered a non-retail use, and is restricted to a maximum 25-foot ground floor street frontage. Since the subject space contains 40 feet of street frontage along Wilshire Boulevard and 85 feet of street frontage along Beverly Drive, a Conditional Use Permit is required to permit a banking/lending use to occupy the space.

Beverly Hills Municipal Code Section 10-3-1655 B authorizes the Planning Commission to issue a Conditional Use Permit to allow a non-retail use to occupy a space with ground floor street frontage of more than twenty five (25) feet in the Pedestrian Oriented Area provided certain findings can be made.

Section 2. The Project has been assessed in accordance with the authority and criteria contained in 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. Projects which involve the operation and permitting of uses within an existing building involving negligible or no expansion of use are categorically exempt from CEQA pursuant to Section 15301 of the State CEQA Guidelines. The project represents an extension of an existing Conditional Use Permit to allow the continued operation of a bank use in a location of the City designated for retail and restaurant uses. Therefore, this project has been determined to be exempt from further environmental review.

Section 3. The Planning Commission conducted a duly noticed public hearing on April 22, 2010, at which time oral and documentary evidence was received concerning the application.

Section 4. The subject site is located on the southeast corner of Wilshire Boulevard and Beverly Drive. The subject building, known as the Glendale Federal Savings & Loan building, is a 12-story office building with a 493-stall underground parking facility. The site is located in a C-3 zone, and is surrounded by commercial buildings in all directions. Beverly Drive, north and south of Wilshire, is characterized by smaller scale retail uses, and Wilshire Boulevard consists of larger scale buildings with offices, including a number of ground floor banks which surround the subject site.

The building was constructed in the late 1960s and the subject ground floor space of 4,074 square feet, was originally designed for a bank use and was initially occupied by Glendale Federal Bank for 25 years. At the time the building was erected there were no zoning standards

which restricted the location of uses such as banks in certain commercial areas. After Glendale Federal Bank vacated the subject space, it was occupied by Berlitz Language School (educational institution) under a Conditional Use Permit (approved in December 1998). In November 2003, Berlitz relocated into a smaller space in one of the building's upper floors, making the space available for the most recent tenant, Commercial Capital Bank. Commercial Capital Bank was granted a Conditional Use Permit by the Planning Commission to occupy the space on March 24, 2004 (Resolution 1324). This Resolution permitted a bank use to occupy the subject space for a period of ten (10) years from the issuance of the certificate of occupancy. City records indicate the certificate of occupancy was issued on October 4, 2004, thus the existing CUP will not expire until October 4, 2014. Commercial Capital Bank occupied the space since 2004 under the existing CUP until they vacated the space. The Applicant now seeks to amend the entitlements granted under Resolution No. 1324 by extending the length of time that a bank use may occupy the subject ground floor tenant space.

Section 5. Pursuant to Beverly Hills Municipal Code Section 10-3-3800 and 10-3-1655, the Planning Commission may authorize a Conditional Use Permit to allow a non-retail use to occupy a space with ground floor street frontage of more than twenty five (25) feet in the Pedestrian Oriented Area if the Planning Commission finds that:

- (1) The proposed location of any such use will not be detrimental to adjacent property or to the public welfare;
- (2) The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;
- (3) Granting the request for a conditional use permit will not result in an over

concentration of non-pedestrian oriented uses in the block in which the proposed restricted use will be located;

- (4) Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas;
- (5) The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.

Section 6. Based upon the evidence presented at the hearings, including the Staff Report and oral and written testimony, the Planning Commission, hereby finds as follows:

6.1 The proposed location of this bank use will not be detrimental to adjacent property or the public welfare. The proposed bank would be consistent with the development in the surrounding area. This subject tenant space was originally designed and developed as a bank space, and there are surrounding banks that have existed for many years in the immediate proximity along Wilshire Boulevard. Although the intent of the City's Pedestrian Oriented Area is to preserve the urban village atmosphere and promote pedestrian-friendly development for this area, the proposed bank would occupy a space that was originally intended as a bank, rather than occupy a new location in the area that could potentially change the make-up of the existing retail businesses along Beverly Drive. Therefore, the proposed location will not be detrimental to adjacent property or the public welfare.

6.2 The bank use is compatible with and will not result in any substantial adverse impacts to surrounding uses. Extension of the CUP would not introduce a use that is unique to the surrounding area. This subject tenant space was originally designed and developed as a bank space

and has been used as such since it was developed with limited interruption. Further, there are surrounding banks that have existed for many years in the immediate proximity along Wilshire Boulevard. The previous use of the subject tenant space has not resulted in any substantial adverse impacts to surrounding uses and the extension granted herein is not anticipated to result in future impacts.

6.3. The granting of this extension of a conditional use permit will not result in an over concentration of non-pedestrian oriented uses in the block in which the restricted use will be located because there is only one building within this block of the pedestrian oriented area and the continued bank/lending use at this location is consistent with previous tenants in the subject space as well as the original use of the ground floor of this building and would be compatible with the existing surrounding banks which occupy corner spaces along the Wilshire corridor.

6.4. The granting of this conditional use extension would not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas. As proposed, a bank/lending use in the subject space would not entail any major physical changes to the exterior of the building and would not expand the footprint of the existing building or result in the construction of additional square footage. The existing driveway access and building entrances would be maintained. Its location within an existing office building does not impact or disturb surrounding retail businesses. This approval allows for the continued use of an already permitted bank use at the subject location rather than allowing the expansion of such a use occupy a new location in the area that could potentially change the make-up of the existing retail businesses along Beverly Drive. Therefore, leave ample space available for future retail growth in this designated pedestrian oriented area.

6.5. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience. Historically, the subject space has been used for non-pedestrian uses without incident. Recent development such as the Montage and City efforts to draw pedestrians across Wilshire Boulevard along the planned subway stop supports the need for a long term pedestrian oriented use in the subject space. However, allowing continued use of a bank at this location for the next ten (10) years with a five (5) year extension is not anticipated to adversely affect the City's goal of enhancing the pedestrian oriented area in the near term.

Section 7. Based on the foregoing, the Planning Commission hereby grants a Conditional Use Permit subject to the following conditions:

1. The Conditional Use Permit originally approved by Resolution No. 1324, shall be extended for an additional ten (10) years (until October 4, 2024), with a one time option to extend the CUP for five (5) years. All rights granted by this CUP shall terminate at that time. An application to allow for the additional five (5) year period of time must be submitted to the City at least 60 days prior to the expiration date and shall be processed in the same manner as required for Conditional Use Permits at the time the extension is filed.

2. As was conditioned in Resolution No. 1324, the Applicant shall continue to make available 25 parking spaces on-site to serve the needs of employees of retail businesses on South Beverly Drive. Proof of compliance with condition shall be demonstrated to the satisfaction of the Director of Community Development prior to the issuance of any construction permits or occupancy of the subject tenant space by a bank.

3. The Applicant shall provide free, validated parking for all bank customers. Signage to this effect shall be posted in manner and location acceptable to the Director of Community Development prior to the issuance of any construction permits or occupancy of the subject tenant space by a bank.

4. The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Planning Commission, after conducting a duly noticed hearing, determines that operation of the bank/lending use at the site is having unanticipated traffic and parking impacts, the Planning Commission may impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the bank/lending use and the Applicant shall forthwith comply with any additional conditions at its sole expense.

5. A covenant shall be filed by the owner of record within 60 days of the approval of the Conditional Use Permit, in a form approved by the City Attorney, which shall place future buyers on notice of these conditions, and that such restrictions shall run with the land and be binding upon all future owners. The covenant shall be recorded in the Official Records of the County of Los Angeles, and a copy of the covenant shall be filed with the City of Beverly Hills Department of Community Development.

These conditions of approval shall run with the land and shall remain in full force and effect for the duration of the life of this approval. This resolution approving the Conditional Use Permit 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 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 Conditional Use Permit shall be **null and void** and of **no further effect**. Notwithstanding the foregoing, the Director of 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 Conditional Use Permit.

Section 8. 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:

Lili Bosse
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
City Planner

