



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: November 4, 2010
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development
Subject: Request by City Councilmember Mirisch for City Council
Consideration of an Order to Review the Planning Commission
Approval of an Overnight Stay Permit for the Property Located at
9001 Wilshire Boulevard.

Attachments:

1. Planning Commission Staff Report, dated October 14, 2010
2. Planning Commission Resolution, dated October 14, 2010

INTRODUCTION

Councilmember Mirisch has requested that this item be placed on the City Council's agenda to determine if there is support among the Council to order a review of the Planning Commission decision. If the Council orders the review, this matter would be scheduled for consideration at a future duly noticed public hearing.

At its meeting of October 14, 2010, the Planning Commission adopted a resolution approving a request for an overnight stay permit at the subject address. The approval entitles an existing 6,000 square foot surgery center to have up to four beds used for post operative care between the hours of 10pm and 6am.

The attached Planning Commission resolution details the findings supporting the request and the conditions imposed on the operation. The project was approved 3-2 with Chair Bosse and Commissioner Furie voting no. The dissenting minority wanted to have additional information regarding the other five overnight stay permit operations in the city and the extent to which calls for emergency service were made from those establishments prior to voting on the project. The requested information was not available at the time of the vote.

DISCUSSION

Pursuant to Beverly Hills Municipal Code Section 1-4-201, et seq., the City Council may generally order a review of any discretionary decision made by any commission, board, or official of the City. The process to initiate this review and set a hearing is specifically set forth in the municipal code, and those provisions are attached for reference.

Meeting Date: November 4, 2010

The City Council must order any review within 30 days of the final City action, which in this case was October 14, 2010, when the Planning Commission approved the Overnight Stay Permit with conditions. If a review is ordered, the effectiveness of the Planning Commission's action will be stayed until the Council review is final.

While this project may present specific issues of interest to the City Council, the issue presently before the Council is the limited question of whether to call the item up for hearing at a future formal meeting, and would not include any evaluation or assessment of the merits of the project or the Planning Commission's action. That discussion would take place at a noticed public hearing at a future meeting.

If a hearing is scheduled, the City Council would evaluate the project based on the same standards, or findings, the Planning Commission used, including (summarized):

- adequate on-site parking, patient drop off/pick up
- Free employee parking during evening / morning hours
- Impacts to the general health, safety or public welfare
- Overconcentration of overnight stay uses
- Impacts to the pedestrian environment

FISCAL IMPACT

The recommendation in this report does not have any significant budget or fiscal impacts for the City. Any staff time dedicated to this effort can be managed within existing resources but will not be paid for by the applicant. If the item is called up for a formal review, it is anticipated that an additional 15 hours of Staff time would be required. In addition to the staff time, noticing of the project (newspaper and mailings) would be absorbed by the City of approximately \$1,500.00

RECOMMENDATION

It is recommended that the City Council make a determination as to whether or not the subject Planning Commission action warrants review by the City Council.

 ^{FOL:}
Susan Healy Keene, AICP
Approved By

ATTACHMENT 1

PLANNING COMMISSION STAFF REPORT DATED OCTOBER 14, 2010



Planning Commission Report

Meeting Date: October 14, 2010

Subject: **9001 Wilshire Blvd. Suite 106** (Overnight Stay Permit for Surgery Center)
Request for an overnight stay permit to allow stays of less than 24 hours in a specialty clinic, for ambulatory surgical care patients who may need additional recovery time from surgery performed earlier in the day. The request is to allow no more than four (4) patients to remain overnight at any one time. No patients would not be admitted or discharged during overnight hours (10 PM to 6 AM).

PROJECT APPLICANT: Beverly Hills Surgery Center LLC/Roberto Macatangay

Recommendation: It is recommended that the Planning Commission adopt the resolution for the requested overnight stay permit

REPORT SUMMARY

The City's Overnight Stay Ordinance was originally adopted on January 8, 2002 with certain standards and regulations and was amended on February 2, 2004 to allow surgery centers adjacent to residential zones to be able to apply for the overnight stay permit.

The Beverly Hills Surgery Center has been in operation since July 17, 2009 to perform outpatient surgeries. The applicant is requesting to provide care and services for four (4) patients after surgery when require post-surgery monitoring between the hours of 9:00 p.m. to 6:00 a.m., if approved. The patients of surgery center would be allowed to stay up to 24 hours in the center for ambulatory surgical care. Without an overnight stay permit, no post operative care is allowed between 10:00 p.m. and 6:00 a.m. During the overnight stay hours (10 p.m. to 6:00 a.m.), the surgery center would not admit or discharge any patient. This proposed operational change results in the need for an Overnight Stay Permit. A permit, if issued, would be non-transferable and would expire one year from the date of issuance unless an application for renewal is submitted. Such a renewal application would be reviewed in the same way as the initial application.

It appears that the proposed overnight stay would not have any impact to the neighboring properties. Due to the location of the parking and adherence to the required standards and regulations as specified in the municipal code and the suggested conditions of approval. Therefore, staff recommends approval of the project subject to the attached conditions of approval.

Attachment(s):

- A. [Zoning Compliance Table](#)
- B. [Staff Recommended Findings and Conditions of Approval](#)
- C. [Public Notice](#)
- D. Correspondence
- E. Architectural Plans

Report Author and Contact Information:

Rita Naziri, Senior Planner
(310) 285-1136
rnaziri@beverlyhills.org

BACKGROUND

File Date 5/6/2010
Application Complete 7/30/2010
Subdivision Deadline N/A
Permit Streamlining 1/30/2011

Applicant(s) Beverly Hills Surgery Center LLC/Roberto Macatangay
Owner(s) Kama Investment /Iraj Ziatabari
Representative(s) Roberto Macatangay

Prior Project Previews None
Prior PC Action None
Prior Council Action None

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address 9001 Wilshire boulevard
Legal Description TR 7005 Lots 283,284 and 285
Zoning District C-3 Commercial
General Plan Low Density General Commercial
Existing Land Use(s) Commercial Building (Retail and medical uses)
Lot Dimensions & Area 21,549 sq.ft.
Year Built 1983
Historic Resource The property is not listed on any local, state or federal inventory
Protected Trees/Grove None

Adjacent Zoning and Land Uses

North Multi-family residential structures
South Commercial Buildings
East Commercial buildings
West Commercial buildings

Circulation and Parking

Adjacent Street(s) Almont Drive and Wilshire Boulevard
Adjacent Alleys 20 foot wide alley, west/east direction
Parkways & Sidewalks Wilshire Blvd.:
Public right-of-way: 100'
Street width: 70
Sidewalk & parkway:15' on each side
Almont Drive:
Public right-of-way: 55'
Street width: 30'
Sidewalk & parkway:12.5' on each side

Parking Restrictions Wilshire Boulevard: 1-hour parking 10 a.m. to 3 p.m. No parking 7 a.m.-10 a.m. and 3 a.m.-7 p.m.
Almont Drive: 2-hour parking 8 a.m. to 6 p.m. Monday-Friday, no parking

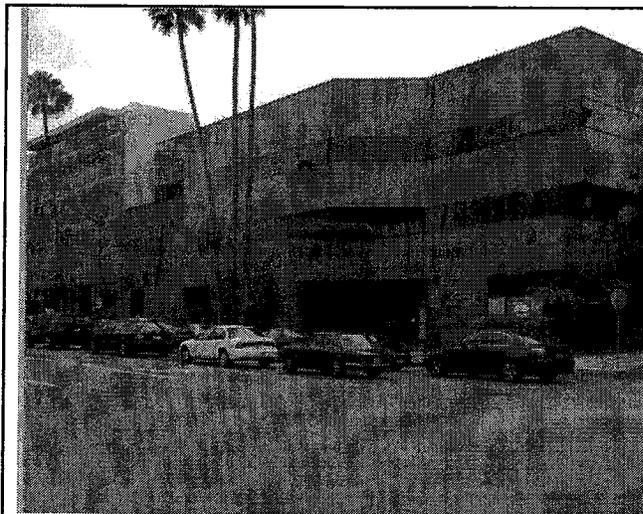
any other time daily.

Nearest Intersection	Wilshire Blvd and Doheny Drive
Circulation Element	Almont Drive: Local Street Wilshire Boulevard: Major Arterial
Estimated Daily Trips	Wilshire Blvd. (East): 20,260 Wilshire Blvd (West) : 23,100 Almont Drive (North and South) total: 800

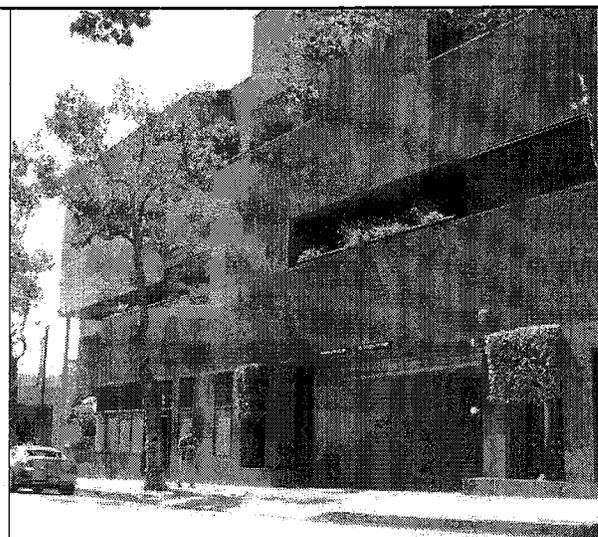
Neighborhood Character

The project site is located on the northwest corner of Wilshire Boulevard and Almont Drive between Doheny Drive and Robertson Boulevard. The property is improved with a three-story commercial office building housing a pharmacy and medical offices. The Beverly Hills Surgery Center is located in Suite 106 on the first floor. Parking for the building is provided in a subterranean garage accessed from Almont Drive.

The site is bordered on the west by a five-story medical office building, to the east across Almont Drive, seven story office building housing the Academy of Motion Picture Arts & Sciences, to the north a series of multi-family structures across the alley and to the south a series of one- and two story commercial buildings.



View from Wilshire Blvd.



View from Almont Drive

PROJECT DESCRIPTION

The applicant has requested an Overnight Stay Permit to keep up to four patients overnight at the Beverly Hills Surgery Center to allow post operative recovery and care during the hours of 10:00 p.m. to 6:00 a.m. The surgical center is located on the first floor of the building at suite #106. The facility has four operating rooms and one post-operative recovery room with six beds. No part of the surgical center is adjacent to or in any way overlooks the residences to the north of the 9001 Wilshire building. Offices associated with the surgical center are also located in sections of the first floor not adjacent to residences. During regular business hours, the surgery center has 12 employees. During overnight hours, the center would have four employees present. Parking for all employees is provided within the subterranean garage which is accessed from Almont Drive garage entrance.

The building has 141 parking spaces for approximately 42,000 square feet of commercial space which is greater than the required one parking space per 350 square feet for an Overnight Stay Permit. There are no other night uses in the building.

Requested Permits

The Overnight Stay Permit Ordinance was originally adopted by the City Council on January 8, 2002 and amended on February 6, 2004. Overnight Stay Permits are subject to the following restrictions on overnight stays intended to mitigate impacts on neighboring properties:

- No more than a total of four patients at one time may remain overnight in any specialty clinic.
- Must provide Code-compliant on-site parking that shall not be less than one space per 350 square feet. Such on-site parking will be available free of charge for any employees using the facility from 6:00 p.m. to 7:00 a.m.
- Not permitted on Saturday or Sunday.
- Shall not discharge patients between 10:00 p.m. and 6:00 a.m.
- Shall only be permitted for patients recovering from surgeries performed earlier in the day.
- Shall not perform surgeries between 10:00 p.m. and 6:00 a.m.
- Shall not permit family members or other visitors to stay at the clinic during overnight hours.
- Shall comply with all applicable federal, state and local laws.
- Shall not receive deliveries nor permit any loading activities during overnight hours unless conducted entirely within an enclosed structure and from a public right-of-way that is not adjacent to a residential or RMCP zone.
- All doors that face a residential zone shall remain closed at all times during the overnight hours except for the immediate purpose of ingress or egress.
- Employees shall not congregate behind the building or in any open area or public right-of-way separating the building from a residential or RMCP zone during overnight hours.
- Specialty clinics, or the physicians or dentists who operate such specialty clinics, must be licensed by the State of California.
- Permits granted pursuant to the Ordinance are specific to the applicant and do not run with the land.

- Permits are also non-transferable and currently must be renewed every two years for surgery center in commercial zones and not adjacent to residential zones. However, if the surgery center located adjacent to residential zones all rights granted shall expire one year after the permit is granted.

ZONING CODE COMPLIANCE¹

Overnight Stay Permits may be granted to specialty clinics as defined in BHM² to allow overnight stays of less than 24 hours for ambulatory surgical care patients at surgical centers subject to certain requirements. Beverly Hills Surgery Center meets the definition of a specialty clinic and is eligible to apply for an Overnight Stay Permit because it meets the parking requirements, is operated by physicians licensed by the State of California, is not part of a hospital, and will provide elective, ambulatory surgical care for patients who remain less than 24 hours, as required by Code. Beverly Hills Surgery Center will not be providing services that are excluded by BHM.

Agency Review³

The following City Departments conducted a preliminary project review as it relates to other technical provisions of local and state law:

- TRANSPORTATION DIVISION. N/A
- CIVIL ENGINEERING. N/A
- BUILDING AND SAFETY/CODE ENFORCEMENT. Based on a report in the Los Angeles Times regarding the Beverly Hills Surgery Center with respect to the compliance with local building and building maintenance codes, zoning codes and State and Health codes, the Code Enforcement Office coordinated a meeting with police, fire, planning, public works and finance departments/divisions and scheduled a site visit. After conducting a field inspection and reviewing the plans on file, no violations were found.
- FIRE DEPARTMENT. N/A
- POLICE DEPARTMENT. N/A
- COMMUNITY SERVICES. N/A

GENERAL PLAN⁴ POLICIES

The General Plan includes several goals and policies. Some policies relevant to the Planning Commission's review of the project include:

- Policy 5.1 Neighborhood Conservation. Maintain the uses, densities, character, amenities, character, and quality of the City's residential neighborhoods, recognizing their contribution to the City's, identity, economic value and quality of life

ENVIRONMENTAL ASSESSMENT

¹ Available online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

² Section 10-3.1604.5

³ Recommended conditions of approval by other departments are provided in the Analysis section of this report.

⁴ Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines⁵, and the environmental regulations of the City. The project qualifies for a categorical exemption pursuant to Section 15301 Existing Buildings (Class 1) of the Guidelines for operational changes to an existing facility, which will not generate any significant environmental impacts.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	N/A	N/A
Newspaper Notice	N/A	N/A	N/A	
Mailed Notice (Owners & Residents - 300' Radius)	N/A	10 days	October 4, 2010	11 days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	N/A	N/A

Applicant Outreach Efforts

No information provided by the applicant.

Public Comment

As of the time of this writing, no correspondence has been received by Planning Division regarding this request.

ANALYSIS⁶

Summary

Not including the subject report, the Planning Division has received five overnight stay applications since the adoption of the ordinance in 2002. Of the five requests, four were approved administratively; one by the Planning Commission in 2004. Potential issues to consider in granting an approval include:

- Impacts to the adjacent residential neighborhood
- Parking impacts
- Operational impact including additional staff during extended hours

Beverly Hills Surgical Center does not appear to result in any impacts to neighbors or on-street parking because, the surgery center as designed is not facing the adjacent residential developments. The surgery center will provide on-site parking within the subterranean garage for all employees and patients during the overnight stay hours. In addition, to ensure that the extended hours would not impact the adjacent residential neighborhood, additional conditions of approval are proposed for the proposed project including no scheduled shift changes of medical personnel during the overnight period. However, this will not preclude additional medical personnel if necessary.

⁵ The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

⁶ The analysis provided in this section is based on draft findings prepared by the report author prior to the public hearing. The Planning Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to modify the findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.

Special Conditions of Approval

The recommendation in this report is for approval. In addition to standard conditions of approval, the following project-specific conditions are recommended (also see Attachment B):

1. **Free Parking.** The Beverly Hills Surgical Center shall provide free, validated parking for its employees and patients (Attachment B Condition #1).
2. **Parking Sign.** The applicant shall install a sign at the entrance to the 9001 Wilshire Boulevard garage that indicates parking shall be free of charge at all times for patients of the Beverly Hills Surgical Center (Attachment B Condition #2).
3. **Personnel shift during overnight stay period.** There shall be no scheduled shift changes of medical personnel during the overnight period (10:00 pm. to 6:00 am.). However, this does not preclude the applicant from calling additional medical personnel on-site if necessary (Attachment B Condition #3).
4. **Number of Beds.** No more than a total of four patients at one time may remain overnight in any specialty clinic (Attachment B Condition #4).
5. **Permit Validation.** The Overnight Stay Permit shall be valid only for one year from the date of issuance unless an application for renewal of the Overnight Stay Permit is submitted to the Director of Community Development not less than sixty (60) days prior to the expiration of the Permit pursuant to Section 10-3.3657 of the Code (Attachment B Condition #5).
6. **Revocation or modification.** The overnight stay permit shall be modified or revoked in case of violation of conditions of approval or violation of BHMC regarding overnight stay permit provision which the permit was granted for or fraudulent act to obtain such permit and operation of the overnight stay constitutes or creates a nuisance (Attachment B Condition #6).
7. **Loading zone area.** The loading area shall not be used as parking for any tenants of the building including the Beverly Hills Surgery Center. The property owner shall restore the loading area to two loading spaces prior to issuance of permits by the Building & Safety Division (Attachment B Condition #7).

NEXT STEPS

That the Planning Commission adopt the resolution for the requested overnight stay permit.

Alternatively, the Planning Commission may consider the following actions:

1. Approve the project with modified findings or conditions of approval.
2. Deny the project, or portions of the project, based on revised findings.
3. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines, and at applicant's request or consent.

Report Reviewed By:

David Reyes, Principal Planner

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ATTACHMENT A
Table - Zoning Compliance

REGULATIONS	PERMITTED / ALLOWED	PROPOSED PROJECT	NOTES
Primary Building			
Height	45' [BHMC 10-3-2726]	45'	
Lot Coverage / Floor Area	2.0 FAR [BHMC 10-3-2745]	2.0 FAR 42,867 Sq.ft.	
Front Setback	N/A	N/A	
Rear Setback	N/A	N/A	
Side Setback	N/A	N/A	
Street Side Setback	N/A	N/A	
Modulation			
Open Space	N/A	N/A	
Parking & Circulation			
Parking Spaces	125	141	Non-conforming parking
Loading Zones	2 loading space	N/A	The loading is located off the alley behind the building; however, it has been used as parking area which is not permitted by Code.
Transition Zone	[BHMC 10-3-1951-1956)	The project will comply prior to issuance of permits from the Building & Safety Division.	All commercial structures within 170 feet of residential are subject to City's commercial-residential transition standards.
Vehicle Access			

ATTACHMENT B
Draft Findings and Conditions of Approval

DRAFT FINDINGS

Overnight Stay Permit

An Overnight Stay Permit may be granted for a specialty clinic if each of the following findings can be made:

- 1. The building housing the specialty clinic provides adequate on-site parking that complies with all applicable parking requirements of this Code, and such parking is provided at a rate of at least one (1) space per 350 square feet of area for all existing building.**

The building provides 141 parking spaces in a subterranean garage which is in excess of the minimum requirement of one parking space per 350 square feet of floor area (121 parking spaces) for surgery centers to apply for the Overnight Stay Permit. There are no other night uses in the building and the existing parking should be sufficient to accommodate four overnight patients and the staff needed to monitor the patients. Currently, Almont Drive is restricted to two-hour parking 8 am to 6 pm Monday through Friday and no parking in any other time daily. At the southerly end of Almont Drive, adjacent to the subject building is public parking metered until 6:00 p.m. The request before the Commission is for an Overnight Stay Permit for four patients who would use the underground garage facility and the permit would not create parking problems in the project area.

- 2. The on-site parking provided is available free-of-charge for employees of the specialty clinic between the hours of 6:00 p.m. and 7:00 a.m. or such other parking arrangements to ensure that the overnight stay permit causes no impacts on adjacent streets.**

The applicant provides 18 parking spaces within the subterranean garage for the employees of the Beverly Hills Surgical Center. Approval of the project is conditioned to ensure all employees be provided free on-site parking between the hours of 6:00 p.m. and 7:00 a.m.

- 3. The proposed hours of operation for the specialty clinic applying for the overnight stay permit will not adversely impact adjacent uses or the general health, safety or public welfare.**

The applicant currently receives patients between 7:00 a.m. and 6:00 p.m. The applicant proposes continuing to receive patients during the same hours, 7:00 a.m. to 6:00 p.m. The street entrance to the building is on Wilshire Boulevard but it is expected that persons associated with the overnight stay would enter the building through the subterranean garage. The garage entrance to the building is on Almont Drive at the north end of the building near the Multi-family residences. There is an electronic gate at the garage entrance which is open during the day but usually closed at night. Patients and staff associated with the overnight stay would arrive during normal business hours so it is not expected that adjacent residents would be impacted by the overnight stay to a degree greater than any impacts currently experienced.

As regulated by Code, only one visitor would be permitted to accompany the overnight stay patient and no other visitors would be allowed in the facility between the hours of 10:00 p.m. and 6:00 a.m. Patients would not be discharged between the hours of 10:00 p.m. and 6:00 a.m. These restrictions on hours, as well as the operational regulations of Commercial Transition Zone that apply to aspects

of the 9001 Wilshire building will ensure that the proposed hours of operation for Beverly Hills Surgical Center will not adversely impact adjacent uses or the general health, safety and welfare.

4. Granting the request for an Overnight Stay Permit would not lead to an over-concentration of such overnight stays in the subject building.

This would be the first Overnight Stay Permit approved in this building and the sixth approved in the City, so there is not an over-concentration of such permits at this time in any area of the City. Based on staff research, it appears none of the previously approved overnight stay permits are renewed as required by permit. Therefore, all previously approved overnight permits are expired.

5. Granting the request for an overnight stay permit would not result in adverse impacts to the pedestrian environment adjacent to or in the vicinity of the site for the proposed overnight stay permit.

The Beverly Hills Surgery Center already exists and is not in an area of the City traditionally identified as a pedestrian-oriented environment. The tenant space in has no street frontage that would impact a pedestrian experience. It is therefore not expected that granting the permit request will result in adverse impacts to the pedestrian environment adjacent to or in the vicinity of the site.

6. The building housing the specialty clinic provides adequate patient drop-off/pick-up locations that comply with all applicable parking requirements of this Code, and granting the request for an overnight stay permit will not result in adverse impacts to traffic circulation on adjacent streets.

Access to the building garage housing the specialty clinic will be from Almont Drive. All parking, including patient drop off/pick up, will be in the subterranean garage and patients and staff will enter the offices directly from the garage. With the parking requirements and the restrictions on hours of operation for the surgery center, it is not expected that an addition of four patients and associated staff at night will result in adverse impacts to traffic circulation on adjacent streets.

7. If the building housing the specialty clinic is located adjacent to a residential zone, the building provides adequate on-site parking that, in addition to all other requirements, is located such that overnight usage of said parking facilities will not adversely impact the adjacent residences.

The building provides 141 on-site parking spaces. The applicant indicates that there will be four employees present during overnight stay hours and eighteen parking spaces are designated for the employees use. Although, the building is located near residential zones, the existing on-site parking should be adequate to accommodate the requested permit. The parking is subterranean and the parking entrance is shielded from the adjacent residences. It is not expected that the overnight stay will adversely impact adjacent residences.

DRAFT CONDITIONS

Project Specific Conditions

1. **Free Parking.** The Beverly Hills Surgical Center shall provide free, validated parking for its employees and patients.
2. **Parking Sign.** The applicant shall install a sign at the entrance to the 9001 Wilshire Boulevard garage that indicates parking shall be free of charge at all times for patients of the Beverly Hills Surgical Center.
3. **Personnel shift during overnight stay period.** There shall be no scheduled shift changes of medical personnel during the overnight period (10:00 pm. to 6:00 am.). However, this does not preclude the applicant from calling additional medical personnel on-site if necessary.
4. **Number of Beds.** No more than a total of four patients at one time may remain overnight in any specialty clinic.
5. **Permit Validation.** The Overnight Stay Permit shall be valid only for one year from the date of issuance unless an application for renewal of the Overnight Stay Permit is submitted to the Director of Community Development not less than sixty (60) days prior to the expiration of the Permit pursuant to Section 10-3.3657 of the Code.
6. **Revocation or modification.** The overnight stay permit shall be modified or revoked in case of violation of conditions of approval or violation of BHMC regarding overnight stay permit provision which the permit was granted for or fraudulent act to obtain such permit and operation of the overnight stay constitutes or creates a nuisance.
7. **Loading zone area.** The loading area shall not be used as parking for any tenants of the building including the Beverly Hills Surgery Center. The property owner shall restore the loading area to two loading spaces prior to issuance of permits by the Building & Safety Division.

Standard Conditions

8. **Substantial compliance.** The Project shall substantially comply with the plans submitted to and reviewed by the Planning Commission at its meeting of September 23, 2010.
9. **Zoning Compliance.** The project is required to comply with all applicable zoning regulations for the Overnight Stay Permit (set forth in BHMC Section 10-3-1604.5 (d) and the transitional zone operational standards including:
 - No more than a total of four patients at one time may remain overnight in any specialty clinic.
 - Must provide and maintain on-site parking that shall not be less than one space per 350 square feet.
 - Not permitted on Saturday or Sunday.
 - Shall not discharge patients between 10:00 p.m. and 6:00 a.m.

- Shall only be permitted for patients recovering from surgeries performed earlier in the day.
 - Shall not perform surgeries between 10:00 p.m. and 6:00 a.m.
 - Shall not permit family members or other visitors to stay at the clinic during overnight hours.
 - Shall comply with all applicable federal, state and local laws.
 - Shall not receive deliveries nor permit any loading activities during overnight hours unless conducted entirely within an enclosed structure and from a public right-of-way that is not adjacent to a residential or RMCP zone.
 - All doors that face a residential zone shall remain closed at all times during the overnight hours except for the immediate purpose of ingress or egress.
 - Employees shall not congregate behind the building or in any open area or public right-of-way separating the building from a residential zone during overnight hours.
 - Specialty clinics, or the physicians or dentists who operate such specialty clinics, must be licensed by the State of California.
 - Permits granted pursuant to the Ordinance are specific to the applicant and do not run with the land.
 - Permits are also non-transferable and currently must be renewed every two years for surgery center in commercial zones and not adjacent to residential zones. However, if the surgery center located adjacent to residential zones all rights granted shall expire one year after the permit is granted.
10. **Approval not transferrable.** The Permit shall be specific to the applicant to which it is granted and shall not run with the land or be transferred pursuant to BHMC 10-3.3656.
11. **Violation and penalties.** A violation of any of provision of the overnight stay permit is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine an imprisonment. Any person found to have violated any provision of the overnight permit shall be deemed guilty of a separate and distinct offense for each day, or portion thereof, during which such violation continues, and shall be punishable accordingly.
12. **Appeals.** The following are appeal procedures from the planning commission determination:
- Any appeal petition from the Planning Commission decision shall be filed with the city clerk within fourteen (14) calendar days after the date of the decision.
13. **Recorded Covenant.** The resolution approving Over Night Stay 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 the 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 Project 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 Project.

ATTACHMENT C
Public Notice



NOTICE OF PUBLIC HEARING

DATE: October 14, 2010
TIME: 1:30 PM, or as soon thereafter as the matter may be heard
LOCATION: Council Meeting Room 280A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its REGULAR meeting on Thursday, October 14, 2010, will hold a public hearing beginning at **1:30 PM**, or as soon thereafter as the matter may be heard to consider:

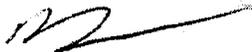
An overnight stay permit to allow stays of less than 24 hours in a specialty clinic located at **9001 Wilshire Boulevard**, Suite 106, for ambulatory surgical care patients who may need additional recovery time from surgery performed earlier in the day. The request is to allow no more than four patients to remain overnight at any one time. The patient would not be admitted or discharged during overnight hours. The building has parking of at least one parking space per 350 square feet of area. The building is located within 170 feet of residences.

The subject project 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. The project qualifies for a categorical exemption pursuant to Section 15301 (Class 1) of the Guidelines for operational changes to an existing facility, which will not generate any significant environmental impacts.

Any interested person may attend the meeting and be heard or present written comments to the Commission.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact **Rita Naziri, Senior Planner** in the Planning Division at 310.285.1136, or by email at rnaziri@beverlyhills.org. Copies of the applications, plans, and Categorical Exemption are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.



David Reyes, Principal Planner

Mailed: October 4, 2010

City of Beverly Hills 455 N. Rexford Drive Beverly Hills, California 90210 p (310) 285-1141 f (310) 858-5966 BeverlyHills.org

ATTACHMENT 2

PLANNING COMMISSION RESOLUTION DATED OCTOBER 14, 2010

RESOLUTION NO. 1588

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING AN OVERNIGHT STAY PERMIT FOR A SPECIALTY CLINIC LOCATED AT 9001 WILSHIRE BOULEVARD SUITE 106.

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

Section 1. Roberto Macatangay on behalf of Beverly Hills Surgery Center, Applicant (hereinafter referred to as the "Applicant"), has submitted an application for an Overnight Stay Permit (the "Permit") for a specialty clinic located at 9001 Wilshire boulevard Suite 106 (the "Project").

The Permit would allow four patients recovering from outpatient surgery at the specialty clinic to remain overnight, for a period not to exceed twenty-four (24) hours. The patients may not be admitted or discharged during the nighttime hours; nor may the visitors arrive or depart during nighttime hours. The building has parking of at least one parking space per 350 square feet of area to accommodate parking needs. The Permit for the specialty clinic is non-transferrable and expires one year from the date of issuance unless a renewal application is submitted. Any renewal application would be reviewed as a new application.

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 (hereafter the "Guidelines"), and the City's

environmental guidelines, and a Class 1 Categorical Exemption has been issued in accordance with the requirements of Section 15301 Existing Buildings of the Guidelines for operational changes to an existing facility, which will not generate any significant environmental impacts.

Section 3. The Planning Commission conducted a duly noticed public hearing on October 14, 2010 at which time oral and documentary evidence was received concerning the application.

Section 4. The project site is located on the northwest corner of Wilshire Boulevard and Almont Drive between Doheny Drive and Robertson Boulevard. The property is improved with a three-story commercial office building housing a pharmacy and medical offices. The Beverly Hills Surgery Center is located in Suite 106 on the first floor. Parking for the building is provided in a subterranean garage accessed from Almont Drive.

The site is bordered on the west by a five-story medical office building, to the east across Almont Drive, seven story office building housing the Academy of Motion Picture Arts & Sciences, to the north a series of multi-family structures across the alley and to the south a series of one-and two story commercial buildings.

The Applicant has been operating an outpatient surgery center in the same location at 9001 Wilshire Boulevard since 2009. The Applicant has requested a Permit to keep up to four patients overnight at the Beverly Hills Surgery Center when it would be in the best interest of the patient for health and safety reasons. The surgical center is located on the first floor of the building at suite 106. The facility has four operating rooms and one post-operative recovery room with six beds. No part of the surgical center is adjacent to or in any way overlooks the residences to the north of the 9001

Wilshire building. Offices associated with the surgical center are also located in sections of the first floor not adjacent to residences. During regular business hours (7 a.m. to 6 p.m.), the surgery center has 12 employees. During overnight hours, the center would have four employees present. Parking for all employees is provided within the subterranean garage which is accessed from Almont Drive garage entrance.

The building has 141 parking spaces for approximately 42,000 square feet of commercial space which is greater than the required one parking space per 350 square feet for a Permit. There are no other night uses in the building.

Section 5. In considering the application for the Permit, the Planning Commission considered the following issues:

1. The building housing the specialty clinic provides adequate on-site parking that complies with all applicable parking requirements of this Code, and such parking is provided at a rate of at least one (1) space per 350 square feet of area for all existing building.
2. The on-site parking provided is available free-of-charge for employees of the specialty clinic between the hours of 6:00 p.m. and 7:00 a.m. or such other parking arrangements to ensure that the Permit causes no impacts on adjacent streets
3. The proposed hours of operation for the specialty clinic applying for the Permit will not adversely impact adjacent uses or the general health, safety or public welfare
4. Granting the request for a Permit would not lead to an over-concentration of such overnight stays in the subject building.
5. Granting the request for a Permit would not result in adverse impacts to the

pedestrian environment adjacent to or in the vicinity of the site for the proposed Permit.

6. The building housing the specialty clinic provides adequate patient drop-off/pick-up locations that comply with all applicable parking requirements of this Code, and granting the request for a Permit will not result in adverse impacts to traffic circulation on adjacent streets.

7. If the building housing the specialty clinic is located adjacent to a residential zone, the building provides adequate on-site parking that, in addition to all other requirements, is located such that overnight usage of said parking facilities will not adversely impact the adjacent residences.

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

6.1. The building provides 141 parking spaces in a subterranean garage which is in excess of the minimum requirement of one parking space per 350 square feet of floor area (121 parking spaces) for surgery centers to apply for the Permit. There are no other night uses in the building and the existing parking should be sufficient to accommodate four overnight patients and the staff needed to monitor the patients. Currently, Almont Drive is restricted to two-hour parking 8:00 am to 6:00 pm Monday through Friday and no parking in any other time daily. At the southerly end of Almont Drive, adjacent to the subject building is public parking metered until 6:00 p.m. The request before the Commission is for a Permit for four patients who would use the underground garage facility and the Overnight Stay Permit would not create parking problems in the project area.

6.2. The Applicant provides 18 parking spaces within the subterranean garage for the employees of the Beverly Hills Surgical Center. Approval of the project is conditioned to ensure all employees and patients staying overnight be provided free on-site parking between the hours of 6:00 p.m. and 7:00 a.m.

6.3. The Applicant currently receives patients between 7:00 a.m. and 6:00 p.m. The Applicant proposes continuing to receive patients during the same hours, 7:00 a.m. to 6:00 p.m. The street entrance to the building is on Wilshire Boulevard but it is expected that persons associated with the overnight stay would enter the building through the subterranean garage. The garage entrance to the building is on Almont Drive at the north end of the building near the multi-family residences. There is an electronic gate at the garage entrance which is open during the day but usually closed at night. Patients and staff associated with the overnight stay would arrive during normal business hours so it is not expected that adjacent residents would be impacted by the overnight stay to a degree greater than any impacts currently experienced.

As regulated by Code, only one visitor would be permitted to accompany the overnight stay patient and no other visitors would be allowed in the facility between the hours of 10:00 p.m. and 6:00 a.m. Patients would not be discharged between the hours of 10:00 p.m. and 6:00 a.m. These restrictions on hours, as well as the operational regulations of Commercial Transition Zone that apply to aspects of the 9001 Wilshire building will ensure that the proposed hours of operation for Beverly Hills Surgical Center will not adversely impact adjacent uses or the general health, safety and welfare.

6.4 This would be the first Permit approved in this building and the sixth approved in the City, so there is not an over-concentration of such permits at this time in any area of the City. Based on staff research, it appears none of the previously approved overnight stay permits are renewed as required by permit. Therefore, all previously approved overnight permits are expired.

6.5 The Beverly Hills Surgery Center already exists and is not in an area of the City traditionally identified as a pedestrian-oriented environment. The tenant space in has no street frontage that would impact a pedestrian experience. It is therefore not expected that granting the permit request will result in adverse impacts to the pedestrian environment adjacent to or in the vicinity of the site.

6.6 Access to the building garage housing the specialty clinic will be from Almont Drive. All parking, including patient drop off/pick up, will be in the subterranean garage and patients and staff will enter the offices directly from the garage. With the parking requirements and the restrictions on hours of operation for the surgery center, it is not expected that an addition of four patients and associated staff at night will result in adverse impacts to traffic circulation on adjacent streets.

6.7 The building provides 141 on-site parking spaces. The Applicant indicates that there will be four employees present during overnight stay hours and eighteen parking spaces are designated for the employees use. Although, the building is located near residential zones, the existing on-site parking should be adequate to accommodate the requested permit. The parking is subterranean and the parking entrance is shielded from the adjacent residences. It is not expected that the overnight stay will adversely impact adjacent residences.

Section 7. Based on the foregoing, the Planning Commission hereby approves the application for an Overnight Stay subject to the following conditions:

Project Specific Conditions

1. **Free Parking.** The Beverly Hills Surgical Center shall provide free, validated parking for its employees and patients staying overnight.
2. **Parking Sign.** The Applicant shall install a sign at the entrance to the 9001 Wilshire Boulevard garage that indicates parking shall be free of charge at all times for patients of the Beverly Hills Surgical Center.
3. **Personnel shift during overnight stay period.** There shall be no scheduled shift changes of medical personnel during the overnight period (10:00 pm. to 6:00 am.). However, this does not preclude the Applicant from calling additional medical personnel on-site if necessary.
4. **Number of Beds.** No more than a total of four patients at one time may remain overnight in any specialty clinic.
5. **Permit Validation.** The Permit shall be valid only for one year from the date of issuance unless an application for renewal of the Permit is submitted to the Director of Community Development not less than sixty (60) days prior to the expiration of the Permit pursuant to Section 10-3.3657 of the Code.
6. **Revocation or modification.** The Permit shall be modified or revoked in case of violation of conditions of approval or violation of BHMC regarding overnight stay permit provision which the permit was granted for or fraudulent act to obtain such permit and operation of the overnight stay constitutes or creates a nuisance.

7. **Loading zone area.** The loading area shall not be used as parking for any tenants of the building including the Beverly Hills Surgery Center. The property owner shall restore the loading area to two loading spaces prior to issuance of permits by the Building & Safety Division.

Standard Conditions

8. **Substantial compliance.** The Project shall substantially comply with the plans submitted to and reviewed by the Planning Commission at its meeting of September 23, 2010.
9. **Zoning Compliance.** The project is required to comply with all applicable zoning regulations for the Permit (set forth in BHMC Section 10-3-1604.5 (d) and the transitional zone operational standards including:
- No more than a total of four patients at one time may remain overnight in any specialty clinic.
 - Must provide Code-compliant on-site parking that shall not be less than one space per 350 square feet. Such on-site parking will be available free of charge for any employees using the facility from 6:00 p.m. to 7:00 a.m.
 - Not permitted on Saturday or Sunday.
 - Shall not discharge patients between 10:00 p.m. and 6:00 a.m.
 - Shall only be permitted for patients recovering from surgeries performed earlier in the day.
 - Shall not perform surgeries between 10:00 p.m. and 6:00 a.m.

- Shall not permit family members or other visitors to stay at the clinic during overnight hours.
- Shall comply with all applicable federal, state and local laws.
- Shall not receive deliveries nor permit any loading activities during overnight hours unless conducted entirely within an enclosed structure and from a public right-of-way that is not adjacent to a residential or RMCP zone.
- All doors that face a residential zone shall remain closed at all times during the overnight hours except for the immediate purpose of ingress or egress.
- Employees shall not congregate behind the building or in any open area or public right-of-way separating the building from a residential zone during overnight hours.
- Specialty clinics, or the physicians or dentists who operate such specialty clinics, must be licensed by the State of California.
- Permits granted pursuant to the Ordinance are specific to the Applicant and do not run with the land.
- Permits are also non-transferable and currently must be renewed every two years for surgery center in commercial zones and not adjacent to residential zones. However, if the surgery center located adjacent to residential zones all rights granted shall expire one year after the permit is granted.

10. **Approval not transferrable.** The Permit shall be specific to the Applicant to which it is granted and shall not run with the land or be transferred pursuant to BHMC 10-3.3656.

11. **Violation and penalties.** A violation of any of provision of the overnight stay permit is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine an imprisonment. Any person found to have violated any provision of the Permit shall be deemed guilty of a separate and distinct offense for each day, or portion thereof, during which such violation continues, and shall be punishable accordingly.
12. **Appeals.** The following are appeal procedures from the planning commission determination:
13. Any appeal petition from the Planning Commission decision shall be filed with the city clerk within fourteen (14) calendar days after the date of the decision.
14. **Recorded Covenant.** The resolution approving 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 the 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 Project 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 Project.

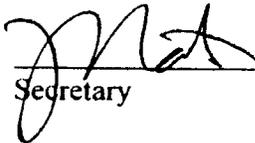
Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: October 14, 2010



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

ATTEST:



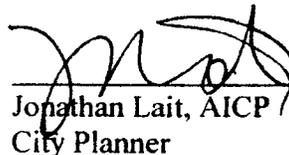
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:



Jonathan Lait, AICP
City Planner

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

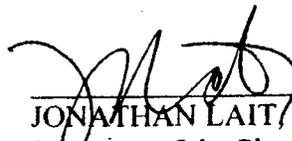
I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1588 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on October 14, 2010, 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 Cole, Corman, and Vice Chair Yukelson

NOES: Commissioner Furie and Chair Bosse.

ABSTAIN: None.

ABSENT: None.



JONATHAN LAIT, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California