

ATTACHMENT 2

Planning Commission Resolution No. 1600

RESOLUTION NO. 1600

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW AN APPROXIMATELY 37,000 SQUARE FOOT EXERCISE CLUB TO BE LOCATED ON THE GROUND FLOOR OF A BUILDING LOCATED WITHIN THE BUSINESS TRIANGLE, OCCUPY MORE THAN 25 FEET OF STREET FRONTAGE WITHIN THE PEDESTRIAN ORIENTED AREA, AND UTILIZE SHARED PARKING FACILITIES IN ORDER TO SATISFY THE PARKING REQUIREMENTS SET FORTH IN THE MUNICIPAL CODE, FOR THE PROPERTY LOCATED AT 9465 WILSHIRE BOULEVARD.

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

Section 1. Murray Fischer, Applicant, on behalf of Equinox Fitness Club, (collectively the "Applicant") have submitted an application for a Conditional Use Permit (CUP) to allow the establishment of an approximately 37,000 square foot exercise club to be located on the ground floor of a building located within the Business Triangle, occupy more than 25 feet of street frontage within the Pedestrian Oriented Area, and utilize shared parking facilities in order to satisfy the parking requirements set forth in the Municipal Code on the property locate at 9465 Wilshire Boulevard (the "Project"). An exercise club is a permitted use within the City's commercial zones; however, the Project requires a CUP in order to be located on the ground floor of a building located within the Business Triangle, occupy more than 25 feet of street frontage within the Pedestrian Oriented Area, and utilize shared parking facilities.

Section 2. The Project site is located on the north side of Wilshire Boulevard, in what is identified as the City's Business Triangle, and falls within the Pedestrian Oriented Area of the city. The existing neighborhood character within the vicinity of the Project consists of a variety of commercial developments, which are predominantly occupied by retail and general office uses. The Project site is immediately south of the "William Morris" building, and immediately west of the Montage Hotel. Additionally, the Project site is located immediately east of the "Two Rodeo" development, and northeast of the Beverly Wilshire Hotel.

The Project consists of tenant improvements for and the operation of an approximately 37,000 square foot exercise club within portions of the first, second, and third floors of the existing commercial building at the subject property. Floor area distribution of the exercise club includes 10,300 square feet on the first floor, 7,281 square feet on the second floor, and 19,082 square feet on the third floor. As proposed, the breakdown of uses within the subject commercial building would include 36,663 square feet of exercise club uses, 5,651 square feet of bank uses, and 122,784 square feet of general office uses. This distribution includes a 1,660 square foot area that is currently open-to-below, but would be filled in to create additional space for the exercise club.

Section 3. Parking for the existing Bank of America building is located in a subterranean garage below the building that provides 212 spaces. Additionally, the garage is connected to the William Morris parking garage at levels P1 and P3 of the Bank of America building. The purpose of connecting the two garages was to provide replacement parking for spaces belonging to the Bank of America building that were lost when parking facilities located

on what is now the William Morris site were demolished to make way for the William Morris project.

As a result, the Bank of America building controls a total of 474 spaces within the parking garage, but has access to a total of 959 parking spaces within the entire garage. Based on the total number of parking spaces provided on site and the applicability of shared parking provisions, all existing and proposed uses would comply with the City's parking requirements.

Section 4. The Project includes adding approximately 1,660 square feet of interior floor at the second floor level. The 1,660 square feet of floor area to be added and is currently within the building, but is open-to-below. In order for the Applicant to add 1,660 square feet of floor area, the addition needs to be within the maximum floor area ratio originally approved for the building. The original approvals for the subject building set a maximum floor area ratio of 4.0 to 1, and used the entire block for the purpose of establishing the total site area. Presently, the properties occupying the block have been reconfigured and the William Morris project has been constructed, which renders the original 4.0 to 1 floor area ratio inaccurate. As a result, staff relied on approved square footages for the building, rather than rely on a floor area ratio calculation that is no longer accurate. The subject building was approved for up to 166,131 square feet, and with the added floor area the building would total 165,098 square feet. Therefore, the total floor area of the building, inclusive of the proposed additions, would be within the allowed floor area and compliant with the building's original approvals.

Section 5. 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 Class 1, Class 2, and Class 32 Categorical Exemptions have been issued in accordance with the requirements of Sections 15301, 15302, and 15332 of the Guidelines for the Project. The Class 1, Class 2 and Class 32 exemptions are applicable because the Project results in minor interior and exterior changes to an existing commercial building, demolition and reconstruction of a commercial space within an existing commercial building, and in-fill development within an existing urban area. The exemptions are further supported by technical environmental analysis prepared and reviewed in conjunction with the Project, and no exceptions to the exemptions apply.

The subject property has been identified as a potential contributor to a potential “California Register district of ...Post World War II modern office buildings.” At present there is no established Post World War II modern office building historic district. The Planning Commission finds that the subject building is not a historic resource on that ground, and is not a historic resource itself, as shown by the resource review records. Further, the Planning Commission finds that even if the building were to be deemed a historic resource, the project will not cause a substantial adverse change in the significance of the structure. Specifically, new window displays, a pedestrian entrance, introduction of a small retail component, and installation of a 33 foot opaque storefront will not individually or cumulatively result in a substantial change in the appearance of the building, much less a substantial adverse change to the alleged historic resource. Further, any changes are fully reversible, and no evidence was presented to suggest that the minor building modifications would result in substantial adverse changes to the building appearance. Although the structure is not found to be a historic resource, and the changes

presented to the Planning Commission will not adversely affect the appearance of the structure, the conditions of approval imposed on the project require, as part of the Architectural Review process, review of any changes to the building exterior, including any changes as may be recommended by the Architectural Review Commission, by a qualified historian to ensure changes would not result in a substantial adverse change to the building. Therefore, the Commission finds that the minor exterior changes that would result from the Project will be fully reversible and will not cause a substantial adverse change in the significance of the building.

The Planning Commission also finds that the characteristics of the intersection of Wilshire Boulevard and Beverly Drive, adjacent to the project site, do not constitute an unusual circumstance for purposes of CEQA Guidelines Section 15300.2 (c), and that there will be no adverse impacts to traffic or parking for the reasons documented in the detailed traffic and parking analysis prepared for this project.

Section 6. Notice of the Project and public hearing was mailed on October 1, 2010 to all property owners and residential tenants within a 300-foot radius of the property. Additionally, notice was provided to all commercial tenants of the subject property. Seventeen letters were received from the public in support of the Project, and five letters were received from the public in opposition to the Project. The letters, as well as staff responses, were reviewed and considered by the Commission prior to acting on the Project. On October 14, 2010, November 23, 2010 and January 13, 2011 the Planning Commission considered the application at duly noticed public meetings. Evidence, both written and oral, was presented at said meeting.

Section 7. In considering the request for a Conditional Use Permit, the Planning Commission was required to make the following findings:

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; and
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 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. The Project is commercial in nature, and is consistent with ongoing commercial operations in the vicinity of the Project site. Traffic and parking studies that have been peer reviewed by the City's Transportation Division indicate that the Project will not result in any significant traffic or parking related impacts. Existing site conditions do not include pedestrian oriented development, and the proposed

Project will improve upon the existing conditions by providing window displays, a new pedestrian access point, and a broader range of uses along the subject property's street frontage. Further, all exterior modifications, signage, and window displays will be reviewed by the Architectural Commission to ensure a pedestrian-friendly design. As a result, the proposed Project will not be detrimental to adjacent property or to the public welfare.

2. The proposed exercise club is consistent with commercial operations in the vicinity of the Project site. Although the exercise club is not designated as a pedestrian oriented use, the proposed design will improve upon existing conditions and create a more pedestrian oriented environment. Surrounding ground floor uses consist of general retail and banking/financial uses, and there are no residential properties in the immediate vicinity of the Project site. Based on existing commercial uses and surrounding development the restricted use will be compatible with and will not result in any substantial adverse impacts to surrounding uses.

3. The existing building that the proposed Project is intended to occupy is currently utilized entirely by general office and banking uses, which do not qualify as pedestrian oriented uses. Because the Project would be replacing non-pedestrian oriented uses, the Project will not result in the loss of any pedestrian oriented development. In fact, placement of the exercise club will include the installation of new window displays, a new pedestrian access point, and a broader range of uses along the subject property's street frontage. These changes will help to add some level of pedestrian oriented design, and will not result in an over concentration of non-pedestrian oriented uses in the block.

4. Thorough analysis has been conducted to ensure that the Project will not result in any traffic or parking related impacts. The proposed use is consistent with commercial operations in the vicinity of the Project site, thereby protecting the public health, safety and general welfare. Additionally, the Project does not result in the loss of any existing pedestrian oriented development, and improves upon the building's existing configuration with regard to pedestrian orientation. The Project site is surrounded by pedestrian-oriented developments to the north, east, and west, and leaves ample space for future retail growth in the designated pedestrian oriented areas.

5. The configuration of the existing building on the Project site does not appear to have been designed with pedestrian movement in mind. Existing ground-floor bank uses provide little if any pedestrian oriented atmosphere, nor does the architectural design of the building contribute to the pedestrian experience. The proposed Project, as well as its accompanying architectural modifications to the ground floor will help to improve the pedestrian experience beyond existing site conditions.

Section 9. Based on the foregoing, the Planning Commission hereby grants the requested Conditional Use Permit, subject to the following conditions:

1. The Conditional Use Permit (CUP) shall expire fifteen (15) years from the date of the resolution and all rights granted by this CUP shall terminate at that time. Unless the CUP is renewed, or a new CUP granted, the Applicant shall immediately cease operation of the fitness facility at this location. The Applicant

shall have the right to submit requests for renewal of the CUP but shall have no right to renewal of the CUP. Any application for renewal of the CUP or a new CUP must be filed at least sixty (60) days prior to the expiration of these approvals. If the Planning Commission or City Council on appeal does not renew the CUP, the CUP shall expire and all rights possessed under the CUP shall be terminated. Provided, however, if the Applicant files a timely application for a renewal, any existing CUP shall be extended until the City takes final action on the application. Any application for a renewal of this CUP shall be subject to the application fee established by Resolution of the City Council. Upon expiration of the renewal and any future renewal, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any future renewals granted shall be governed by the provisions of the Beverly Hills Municipal Code.

2. Six (6) months after the opening of the exercise club, the Applicant shall provide to the Director of Community Development parking utilization counts at the subject site to monitor actual parking demand and ensure that the parking demand is being met. Should parking demands be different than those reported under the parking survey prepared in connection with the review of the Project, the Applicant will be required to develop a parking management plan satisfactory to the Directors of Community Development and Transportation to mitigate the parking deficiency.

3. The conditions of approval set forth in this resolution are specifically tailored to address the operation of a fitness facility that substantially conforms to the Project presented to and approved by the Planning Commission at its meeting of January 13, 2011. To ensure that the subsequent fitness facilities operated

at the subject site do not cause adverse impacts to other building tenants or adjacent land uses, any transfer of ownership, management, or control of the proposed fitness facility shall be reviewed by the Director of Community Development to determine whether the proposed operations of the new fitness facility substantially conform to the Project approved by the Planning Commission. If the Director determines that the proposed operations do not substantially conform to the approved Project, the Director shall schedule a hearing before the Planning Commission in accordance with the provisions of Section 10-3-3803 of the Beverly Hills Municipal Code. The Planning Commission expressly reserves jurisdiction at said hearing to revoke the conditional use permit or to impose additional conditions as necessary to ensure that the operation of a subsequent exercise club at the subject site is compatible with adjacent land uses.

4. Prior to the issuance of building permits, all exterior modifications to the building, as well as signage and window displays, shall be submitted to and approved by the Architectural Commission. Although the Planning Commission finds that the exterior modifications will not cause any substantial adverse change in significance and architectural detailing of the building, all exterior modifications shall be reviewed by a qualified historic consultant to ensure no substantial adverse changes will occur.

5. A minimum of 367 on-site parking spaces shall be maintained for use by the exercise club. Up to 334 of the 367 required parking spaces may be provided as shared parking. The Applicant shall record a parking covenant in a form satisfactory to the City Attorney to evidence the shared parking spaces.

6. The Applicant shall provide two (2) hours of free parking to all members and guests of members. The Applicant shall also provide one additional half (1/2) hour of parking at rates comparable to those charged in the nearest City parking structure. The requirements set forth in this condition shall exclude valet parking unless adequate self-parking is not available on the subject site to meet the parking demand generated by the Project.

7. The Applicant shall provide free on-site parking at all times for employees and any other consultants or agents retained by the Applicant in connection with the operation of the Project.

8. No sports medical center shall be allowed as part of the proposed Project. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit a sports medical center.

9. This CUP shall be reviewed annually by the Planning Commission during the exercise club's first three (3) years of operation to ensure that the Project complies with the conditions set forth herein and does not have any unanticipated impacts or adversely affect adjacent uses. The Planning Commission expressly reserves jurisdiction relative to traffic and parking issues and the right to impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project as they arise. Prior to the annual review hearing, the Applicant shall submit an affidavit attesting to its continued compliance with all of the conditions of approval set forth in this Resolution.

10. The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Director determines that operation of the use at this

site is having unanticipated traffic and parking impacts, the Director shall require the Applicant to pay for a parking demand analysis. After reviewing the parking demand analysis, if, in the opinion of the Director, the parking and traffic issues merit review by the Planning Commission, the Director shall schedule a hearing in front of the Planning Commission in accordance with the provisions of Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code. The Planning Commission shall conduct a noticed public hearing regarding the parking and traffic issues and may impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project, and the Applicant shall forthwith comply with any additional conditions at its sole expense. Mitigation may consist of a requirement to provide free valet parking for members.

11. The Applicant shall cap membership in the proposed club at a maximum of four thousand five hundred (4,500) members, including any transfers from other locations. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit additional members.

12. The proposed exercise club shall not be permitted to open for business unless and until the William Morris parking facilities become fully operational and open for use.

13. APPEAL. Decisions of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission action by filing a written appeal with the City Clerk. Appeal forms are available in the City Clerk's office. Decisions involving subdivision maps must be appealed within ten (10) days of the Planning Commission Action. An appeal fee is required.

14. RECORDATION. The 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 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.

15. EXPIRATION. Conditional Use Permit: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

16. VIOLATION OF CONDITIONS: A violation of these conditions of approval may result in a termination of the entitlements granted herein.

17. This approval is for those plans submitted to the Planning Commission on January 13, 2011, a copy of which shall be maintained in the files of

the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval.

18. Project Plans are subject to compliance with all applicable zoning regulations, except as may be expressly modified herein. Project plans shall be subject to a complete Code Compliance review when building plans are submitted for plan check. Compliance with all applicable Municipal Code and General Plan Policies is required prior to the issuance of a building permit.

19. Approval Runs With Land. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

20. Prior to the issuance of a building permit, all applicable Park and Recreation Facilities Tax required by the Municipal Code shall be paid.

21. The Project shall operate at all times in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking or other actions.

22. The Project shall operate at all times in compliance with Municipal requirements for Noise Regulation.

23. The Applicant shall remove and replace all public sidewalks surrounding the Project site that are rendered defective as a result of Project construction.

24. The Applicant shall remove and replace all curbs and gutters surrounding the Project site that are rendered defective as a result of Project construction.

25. The Applicant shall protect all existing street trees adjacent to the subject site during construction of the Project. Every effort shall be made to retain mature street trees. No street trees, including those street trees designated on the preliminary plans, shall be removed and/or relocated unless written approval from the Recreation and Parks Department and the City Engineer is obtained.

26. Removal and/or replacement of any street trees shall not commence until the Applicant has provided the City with an improvement security to ensure the establishment of any relocated or replaced street trees. The security amount will be determined by the Director of Recreation and Parks, and shall be in a form approved by the City Engineer and the City Attorney.

27. The Applicant shall provide that all roof and/or surface drains discharge to the street. All curb drains installed shall be angled at 45 degrees to the curb face in the direction of the normal street drainage flow. The Applicant shall provide that all groundwater discharges to a storm drain. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Connection to a storm drain shall be accomplished in the manner approved by the City Engineer and the Los Angeles County Department of Public Works. No concentrated discharges onto the alley surfaces will be permitted.

28. The Applicant shall provide for all utility facilities, including electrical transformers required for service to the proposed structure(s), to be installed on the subject site. No such installations will be allowed in any City right-of-way.

29. The Applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.

30. The Applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site unless otherwise approved by the City Engineer and shall pay the applicable sewer connection fee.

31. The Applicant shall make connection to the City's water system through the existing water service connection unless otherwise approved by the City Engineer. The size, type and location of the water service meter installation will also require approval from the City Engineer.

32. The Applicant shall provide to the Engineering Office the proposed demolition/construction staging for this Project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.

33. The Applicant shall obtain the appropriate permits from the Civil Engineering Department for the placement of construction canopies, fences, etc., and construction of any improvements in the public right-of-way, and for use of the public right-of-way for staging and/or hauling certain equipment and materials related to the Project.

34. The Applicant shall remove and reconstruct any existing improvements in the public right-of-way damaged during construction operations performed under any permits issued by the City.

35. During construction all items in the Erosion, Sediment, Chemical and Waste Control section of the general construction notes shall be followed.

36. Condensation from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.

37. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges are; rising ground water and garage sumps.

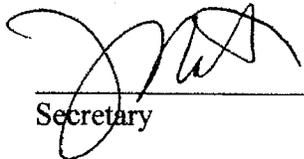
Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: **January 13, 2011**



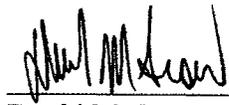
Lili Bosse
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



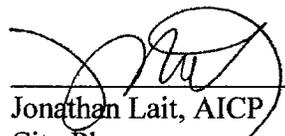
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:

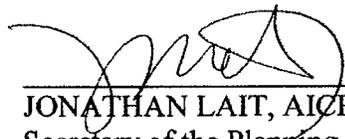


Jonathan Lait, AICP
City Planner

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. 1600 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on January 13, 2011, 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 Rosenstein, Cole, Vice Chair Yukelson and Chair Bosse.
NOES: None.
ABSTAIN: None.
RECUSED: Commissioner Corman.
ABSENT: None.



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