



# Planning Commission Report

**Meeting Date:** January 12, 2011

**Subject:** **9360 Wilshire Boulevard  
Thompson Hotel Development**

Request to renew the existing Conditional Use Permit and Development Plan Review Permit for rooftop uses and outdoor dining, a request to modify the existing Conditional Use Permit to allow increased occupancy on the rooftop pool-deck and bar area, and a request for an Extended Hours Permit to allow increased operating hours until 2:00 AM each day of the week on the property located at **9360 Wilshire Boulevard.**

PROJECT APPLICANT: Mitchell Dawson

**Recommendation:** That the Planning Commission:

1. Approve a resolution conditionally approving the request to renew the existing Conditional Use Permit and Development Plan Review Permit, denying the request to modify the existing Conditional Use Permit to allow increased occupancy, and denying the modification of an extended hours permit for rooftop uses on the property located at 9360 Wilshire Boulevard.

## REPORT SUMMARY

The application to modify the hotel rooftop operations was previously reviewed by the Commission at its December 19, 2011 meeting. At that meeting, the Commission directed staff to prepare a resolution conditionally approving the existing Conditional Use Permit and Development Plan Review Permit to continue rooftop operations and ground-level outdoor dining, denying the request to modify the Conditional Use Permit to allow increased occupancy at the rooftop, and denying the modification of an Extended Hours Permit. The attached resolution incorporates the additional conditions of approval requested by the Commission, and the December 19, 2011 staff report is attached for reference.

In addition to the Conditions of Approval set forth in Resolutions 1418 and 1581 (attached), the Commission requested conditions regarding contact information distribution to the surrounding neighborhood, annual review by the Planning Commission, City staff inspection on a quarterly basis, and reduced operating hours be incorporated into the new resolutions. These have been included in the Draft Resolution, Attachment A.

Attachment(s):

- A. Draft Resolution
- B. December 19, 2011 Staff Report
- C. Planning Commission Resolution No. 1418
- D. Planning Commission Resolution No. 1581

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## **ATTACHMENT A**

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING RENEWAL OF A CONDITIONAL USE PERMIT AND DEVELOPMENT PLAN REVIEW PERMIT, DENYING THE REQUESTED MODIFICATION OF THE EXISTING CONDITIONAL USE PERMIT TO ALLOW INCREASED ROOFTOP OCCUPANCY, AND DENYING THE REQUESTED MODIFICATION OF AN EXISTING EXTENDED HOURS PERMIT FOR ROOFTOP USES ON THE PROPERTY LOCATED AT 9360 WILSHIRE BOULEVARD.

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

Section 1. Beverly Pavilion Associates, LLC, (the Property Owner), through its agent Mitch Dawson, has submitted an application to renew existing entitlements associated with hotel dining and rooftop activities (Conditional Use Permit and Development Plan Review Permit), and a request to expand upon and modify rooftop operations. The proposal includes increased rooftop occupancy from 125 persons to 185 persons and expanded rooftop hours from 1:00 AM to 2:00 AM, seven days a week. These proposed changes result in the need for a modification to an existing Conditional Use Permit and modification to an existing Extended Hours Permit for the property located at 9360 Wilshire Boulevard (the "Project").

Section 2. The subject property was developed in the early 1960s, and has been continuously operated as a hotel since that time. The City Council approved development of the property pursuant to the issuance of a variance for increased height and floor area; this development included a restaurant and rooftop pool. In 2006, a Conditional Use Permit and Development Plan Review Permit, granted by the Planning Commission (Resolution No. 1418),

allowed the expansion of rooftop uses, including a larger pool deck, a bar/lounge area, a rooftop gymnasium, and a rooftop food preparation room. At that time, conditions were included that limited the rooftop occupancy to 92 persons, excluding hotel staff, and limited rooftop hours until 1:00 AM, seven days a week.

In 2010, the Planning Commission renewed the existing Conditional Use Permit and Development Plan Review Permit. Modifications to the hotel development and operation, granted by the Commission, included additional outdoor dining along Wilshire Boulevard, additional indoor dining at the first floor and mezzanine level of the hotel, a new stove within the existing rooftop food preparation room, extended hours on Friday and Saturday until 1:00 AM, and an increased rooftop occupancy to a maximum of 125 persons, excluding hotel staff (Resolution No. 1581).

The work associated with these entitlements has been completed and is fully operational, with the exception of the open air dining element. However, a condition of approval imposed by the Planning Commission in 2006 and 2010 called for the Conditional Use Permit and Development Plan Review Permit to expire one year after the original issuance, unless a renewal was applied for and granted. The purpose for the one-year expiration was to provide the Commission with an opportunity to re-review the entitlements and make any modifications that might be needed in order to ensure that the project would function as the Commission had originally intended. The one-year expiration has since passed, and renewal of the entitlements is needed in order for the hotel to continue current rooftop and outdoor dining operations.

Section 3. The subject site is located on the southwest corner of the intersection of Wilshire Boulevard and South Crescent Drive. The subject site is zoned C-3 (Commercial) and

is located immediately outside of the City's Business Triangle. The site area consists of 16,440 square feet, and is developed with an eight-story hotel, of which three levels are used for vehicle parking. The hotel is approved for up to 114 guestrooms. Commercial properties surround the subject property along Wilshire Boulevard to the east and west; multi-family residential properties are located to the north and south of the property. The surrounding multi-family properties to the south range in height between two and four stories, and are separated from the commercial uses on Wilshire Boulevard, and the Thompson Hotel, by a 15' alley.

Section 4. The Project includes the following requests:

1. Renewal of the existing Conditional Use Permit and Development Plan Review Permit to allow for continued operation of the hotel's restaurant and rooftop facilities;
2. Increasing rooftop capacity from 125 persons to 185 persons; and
3. Extending rooftop operating hours until 2:00 AM daily.

Section 5. The requests to modify restaurant and rooftop operations as outlined above result in the need for specific entitlements as follows:

1. Conditional Use Permit: Pursuant to Section 10-3-2862 of the Beverly Hills Municipal Code, a Conditional Use Permit is required whenever existing uses within a hotel are modified/expanded. As a result, the Applicant seeks to modify the existing Conditional Use Permit to allow increased capacity on the rooftop pool-deck and bar area.

2. Development Plan Review: A Development Plan Review permit was previously granted by the Planning Commission in 2006 and 2010 (Resolution No. 1418 and 1581) to allow outdoor dining areas along Wilshire Boulevard (on private property) and at the rooftop bar/lounge area, and also included approval of a rooftop gymnasium for hotel guests and employees. Pursuant to Condition 11 of Planning Commission Resolution No. 1418, and reaffirmed in Planning Commission Resolution No. 1581, the Development Plan Review permit expired one year from the date of issuance and must be renewed.

3. Extended Hours Permit: Because the hotel is located outside the Business Triangle, an Extended Hours Permit is required whenever business operations take place outside the hours of 7:00 AM to 10:00 PM. The hotel currently provides service 24 hours per day; however, the rooftop pool-deck and bar area are currently prohibited from operating beyond 1:00 AM, Sunday through Thursday, and beyond 2:00 AM, Friday and Saturday, pursuant to Condition 9 of Planning Commission Resolution No. 1581, in order to prevent impacts to the surrounding residential neighborhoods. The Applicant requests that the Extended Hours Permit be modified to allow patrons within the rooftop pool-deck and bar area until 2:00 AM, seven days a week.

Section 6. 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. Pursuant to the State CEQA Guidelines Section 15301, existing facilities, the Project qualifies for a Class 1(a) Categorical Exemption, and is not anticipated to have a significant environmental impact. The Class 1(a) exemption is applicable to operational changes within existing structures that would not result in a significant environmental impact.

Section 7. Notice of the Project and public hearing was posted in two newspapers of local circulation and was mailed on December 8, 2011 to all property owners and residential tenants within a 300-foot radius of the property. Written and oral comments were received during the public hearing, primarily in opposition of the Project, and were made a part of the record.

Section 8. In considering the request for a Conditional Use Permit, the Planning Commission may approve the Conditional Use Permit if the Commission finds as follows:

1. The proposed location of any such use will not be detrimental to adjacent property or to the public welfare.

Section 9. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Conditional Use Permit:

The renewal and amendment of the Conditional Use Permit, as conditioned, will result in hotel operations that are substantially similar to existing and previously approved hotel operations. Based on the operating history of the hotel, restaurant operations have not resulted in detriment to adjacent property or to the public welfare; however, rooftop uses have generated

noise that has disrupted adjacent properties. As such, additional operational conditions have been imposed on the Project in order to prevent detriment to the area. Further, the conditions of approval require reassessment of the subject property twelve months from the implementation of the added conditions of approval.

In regard to the requested amendments to the Conditional Use Permit, the proposed increase in rooftop occupancy to 185 persons (excluding hotel staff) is anticipated to be detrimental to the surrounding area, as such an increase in occupancy may result in increased noise levels. The current 125 person rooftop occupancy limit has generated noise complaints, and it is anticipated that the proposed 48% increase in rooftop occupancy would result in increased impacts to the surrounding neighborhood. Subsequently, until such time as the applicant is able to demonstrate that the rooftop uses are no longer resulting in noise complaints, the findings cannot be made to support an increase in rooftop occupancy.

Section 10. In considering the request for Development Plan Review Permit, the Planning Commission may approve the Development Plan Review Permit if the Commission finds as follows:

1. The proposed plan is consistent with the general plan and any specific plans adopted for the area.
2. The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.
3. The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and

adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

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

5. The proposed plan will not be detrimental to the public health, safety or general welfare, and will not result in:

- a. Any significantly adverse parking impacts as a result of employee or patron parking demand;
- b. Any significantly adverse impacts on neighboring properties as a result of the accumulation of garbage, trash, or other waste;
- c. Any significantly adverse impacts on neighboring properties as a result of noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
- d. Any significantly adverse impacts on neighboring properties as a result of light and glare; and
- e. Any significantly adverse impacts on neighboring properties as a result of odors or noxious fumes.

Section 11. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Development Plan Review Permit:

1. The proposed plan was previously reviewed for consistency with the general plan and any specific plans adopted for the area, and was determined

to be in compliance. The proposal is for renewal of a previous approval, and does not change the previous findings.

2. The proposed plan was previously found to promote harmonious development of the area and to not adversely affect existing and anticipated development in the vicinity. The proposal is for renewal of a previous approval, and does not change the previous findings.

3. Noise complaints generated by rooftop uses at the subject property have interfered with the use and enjoyment of residential properties in the vicinity of the subject property. As a result, additional operational conditions are required in order to prevent adverse impacts to surrounding properties. This approval incorporates additional conditions, as well as a provision to reassess the subject property twelve months from the implementation of the added conditions. Therefore, the added conditions and future reassessment of the property ensure that the rooftop uses will not interfere with the enjoyment of residential properties.

4. The proposed plan was previously found to not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards. The proposal is for renewal of a previous approval, and does not change the previous findings.

5. The proposed plan was previously reviewed and determined to not create impacts related to parking, accumulation of garbage, noise, light and glare, or odors and fumes. Noise complaints generated by rooftop uses at the subject

property have demonstrated that the hotel does generate impacts related to noise. As a result, additional operational conditions are required in order to prevent such noise-related impacts to surrounding properties. This approval for renewal incorporates additional conditions, as well as a provision to reassess the subject property twelve months from the implementation of the added conditions. Therefore, with the added operational conditions and future reassessment of the property, the project can be found to not adversely impact parking, accumulation of garbage, noise, light and glare, or odors and fumes.

Section 12. In considering the request for an Extended Hours Permit, the Planning Commission may approve the Extended Hours Permit if the Commission finds that issuance of said permit will not result in any of the following:

1. The accumulation of garbage, litter, or other waste, both on and off of the subject site.
2. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation.
3. Light and glare.
4. Odors and noxious fumes.
5. Pedestrian queuing.
6. Crime or peril to personal safety and security.
7. Use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area.
8. Effects on traffic volumes and congestion on local residential streets.

9. Cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 13. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Extended Hours Permit:

1. The request for Extended Hours is related to rooftop uses only. Collection of garbage, litter, and other waste is carried out by hotel staff during regular operation of the rooftop areas. An increase in operating hours can be accommodated by existing resources and staff, and the proposal is not anticipated to result in the accumulation of garbage, litter, or other waste.

2. Numerous complaints have been received by the City regarding noise between the months of July 2010 and October 2011, reported by surrounding property owners and residential occupants. While previous conditions have been implemented in an effort to reduce noise impacts, noise continues to adversely affect the surrounding neighborhood and the findings cannot be made to support increased operating hours at the rooftop. However, the conditions of approval to maintain rooftop operations until 2:00 AM on Fridays and Saturdays only, to reduce rooftop operations from 1:00 AM to midnight from Sunday through Thursday, and to re-review by the Planning Commission twelve months from the date all new conditions are implemented will ensure that there are no adverse impacts to the surrounding neighborhood.

3. The Extended Hours Permit would not result in any added light and glare beyond what currently exists at the subject property, and the City has not received any complaints that would suggest that light and glare is impacting the surrounding

neighborhood. Therefore, extending the rooftop hours of operation by one hour, Sunday through Thursday, is not anticipated to create any adverse impacts related to light and glare.

4. The Extended Hours Permit would not result in any added odors or noxious fumes beyond what currently exists at the subject property, and the City has not received any complaints that would suggest that odors and noxious fumes are impacting the surrounding neighborhood. Therefore, extending the rooftop hours of operation by one hour is not anticipated to create any adverse impacts related odors and noxious fumes.

5. The Extended Hours Permit is related to rooftop uses only, and the request is for one additional hour beyond current operations. Because the request is related to rooftop activities, rather than ground-floor activities, no adverse impacts related to pedestrian queuing are anticipated to occur as a result of the project.

6. The Extended Hours Permit is related to rooftop uses only, and the request is for one additional hour beyond current operations. The request is related to rooftop activities, rather than ground-floor activities, and patrons of the hotel typically utilize the hotel's valet parking operation or park within the Business Triangle, as parking on the residential streets is regulated by permits. Because patrons are typically contained within the subject property and the request is for a one hour increase, the proposal is not anticipated to result in added crime or peril to personal safety and security.

7. Parking on residential streets in the vicinity of the subject property is regulated by permits and a one-hour time restriction for vehicles without permits, which prevents patrons from parking in these areas. Because the subject property is

immediately adjacent to the Business Triangle, it is more likely that patrons not utilizing the hotel's valet services would park on the City's commercial streets rather than residential streets. Further, the parking demand analysis prepared in conjunction with the Project indicates that sufficient parking is available to accommodate all uses within the subject property without causing overflow onto adjacent streets. Therefore, the Project is not anticipated to result in adverse parking impacts and intrusion into residential areas.

8. The Extended Hours Permit does not modify existing hotel floor area or capacities. The Extended Hours Permit would provide for an additional hour of operation until 2:00 AM, seven days a week. This time period (early AM) typically has lower traffic volumes (as compared to peak hours). Therefore, an operational increase of one hour is not anticipated to adversely impact traffic volumes and congestion on local residential streets.

9. The location of the subject property is along the Wilshire Boulevard commercial corridor. The corridor is primarily comprised of office buildings and retail stores that generally do not operate beyond 10:00 PM. Therefore, the proposed project would not result in a concentration of extended hours operations within the vicinity of the subject property.

Section 14. Based on the foregoing, the Planning Commission hereby grants the requested entitlements, subject to the following conditions:

1. Unless specifically modified by this Resolution, all conditions of approval contained in City Council Resolution No. 3013 shall remain in full force and effect throughout the life of the project.

2. Unless specifically modified by this Resolution, all conditions of approval contained in Planning Commission Resolution No. 1418 and Planning Commission Resolution No. 1581 shall remain in full force and effect throughout the life of the project.

3. Use of all unenclosed rooftop areas shall be prohibited between the hours of 12:00 AM and 5:00 AM, Monday through Friday, and between the hours of 2:00 AM and 5:00 AM, Saturday and Sunday. This condition shall remain in full force and effect unless and until the Planning Commission modifies this restriction at a future public hearing.

4. The City, or an independent consultant retained by the City, shall conduct, at minimum, a quarterly monitoring of the hotel rooftop uses to ensure there is no adverse impact to nearby properties. All costs incurred by the City to conduct such monitoring shall be reimbursed by the applicant.

5. The maximum occupancy of all rooftop areas, excluding hotel staff, shall be limited to 125 persons unless and until the Planning Commission modifies this restriction at a future hearing.

6. The applicant shall mail or otherwise distribute Thompson Hotel management contact information, City of Beverly Hills contact information, and 24-hour contact information for dedicated security personnel and rooftop management to all property owners and residential occupants within 500 feet of the hotel.

7. Hotel personnel shall be stationed at the rooftop elevator lobby to ensure that the maximum occupancy, excluding hotel staff, does not exceed 125 persons at any time.

8. Hotel personnel shall be stationed on the ground-floor of the hotel's valet parking area, adjacent to the alley, and shall prevent patrons from entering the alley after 10:00 PM. Patrons shall instead be directed to use the Wilshire Boulevard access points.

9. The playing of live or prerecorded music within the outdoor dining area located within the public right-of-way along Wilshire Boulevard shall be prohibited.

10. No live entertainment shall be permitted on the rooftop area at any time.

11. There shall be no dancing allowed on the rooftop area at any time, as dancing constitutes a "nightclub" under the City's codes, and nightclubs are not permitted to operate outside the Business Triangle.

12. The hotel shall provide access to Fire Department, Law Enforcement, and/or Code Enforcement Officers at any time.

13. In the event that the hotel violates or fails to comply with any of these conditions, the City may take action to cure such violation, including but not limited to, revocation of this permit.

14. The Planning Commission shall re-review this permit twelve months from the date of implementation of all conditions of approval to determine if the conditions contained in this approval are adequately minimizing disturbances to the adjacent residential properties. Additionally, during the Commission's re-review of this permit, the applicant may request that the Commission revisit the requested increases in rooftop operating hours and maximum capacity limitations. The Applicant shall file all necessary applications and pay all applicable fees associated with said review.

15. Free parking shall be provided to hotel employees, including any consultants or agents retained by the hotel operator in connection with the operation of said facility, at all times.

16. The project shall be built in substantial conformance with the plans as conditioned and approved by the Planning Commission on January 12, 2012.

17. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

18. This resolution granting the renewal of the existing Conditional Use Permit and Development Plan Review Permit, denying the requested modification of the existing Conditional Use Permit, and denying the requested modification of the existing Extended Hours 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 Property Owner shall deliver the executed covenant to the Department of Planning & Community Development **within 60 days** of any City Council approval of the Amendments. At the time that the Property Owner delivers the covenant to the City, the Property Owner shall also provide the City with all fees necessary to record the document with the County Recorder. If the Property Owner fails to deliver the executed covenant within the required 60 days, this resolution approving the Project **shall be null and void and of no further effect**. Notwithstanding the foregoing, the Director of Planning & Community Development may, upon a request by the Property Owner, 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 15. 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:

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Daniel M. Yukelson  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

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Secretary

Approved as to form:

Approved as to content:

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David M. Snow  
Assistant City Attorney

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Jonathan Lait, AICP  
City Planner

## **ATTACHMENT B**



## Planning Commission Report

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**Meeting Date:** December 19, 2011

**Subject:** **9360 Wilshire Boulevard  
Thompson Hotel Development**

Request to renew the existing Conditional Use Permit and Development Plan Review Permit for rooftop uses and outdoor dining, a request to modify the existing Conditional Use Permit to allow increased occupancy on the rooftop pool-deck and bar area, and a request for an Extended Hours Permit to allow increased operating hours until 2:00 AM each day of the week on the property located at **9360 Wilshire Boulevard.**

PROJECT APPLICANT: Mitchell Dawson

**Recommendation:** That the Planning Commission:

1. Conduct a public hearing and receive testimony on the project; and
2. Direct staff to prepare a resolution conditionally approving the request to renew the existing Conditional Use Permit and Development Plan Review Permit, denying the request to modify the existing Conditional Use Permit to allow increased occupancy, and denying the request for an Extended Hours Permit to allow increased operating hours.

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### REPORT SUMMARY

This report analyzes a request to renew an existing Conditional Use Permit and Development Plan Review Permit for the Thompson Hotel, to modify the existing Conditional Use Permit to allow increased occupancy on the rooftop pool-deck and bar area, and a request for an Extended Hours Permit to allow increased operating hours until 2:00 AM each day of the week.

The rooftop pool-deck and bar area is currently limited to 125 persons, excluding hotel staff. The applicant requests a modification of the existing Conditional Use Permit to increase the permitted occupancy by approximately 48%, up to 185 persons. Additionally, the permitted hours of operation are until 1:00 AM, Sunday through Thursday, and until 2:00 AM, Friday and Saturday. The applicant requests an Extended Hours Permit to permit the hours of operation to extend until 2:00 AM each day of the week.

Attachment(s):

- A. Correspondence from Residents Opposing the Project
- B. Staff Recommended Findings and Conditions of Approval
- C. Public Notice
- D. Noise Measurements

Report Author and Contact Information:

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## BACKGROUND

File Date	10/12/2011
Application Complete	11/18/2011
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA Determination (1/17/12)
Applicant(s)	Mitchell Dawson
Owner(s)	Beverly Pavilion, LLC
Representative(s)	Mitchell Dawson
Prior Project Previews	PL1004921 (CUP/DPR Renewal, Zone Text Amendment, Variance Amendment, Extended Hours Permit) PL0600809 (DPR – Open Air Dining) PL0564190 (CUP – Expansion of Pool Deck and Rooftop Gym Amenities)
Prior PC Action	PL1004921 – Approved with conditions PL0600809 – Approved with conditions PL0564190 – Approved with conditions
Prior Council Action	Ordinance No. 10-O-2589 – Approved

## PROPERTY AND NEIGHBORHOOD SETTING

### Property Information

Address	9360 Wilshire Boulevard
Legal Description	Beverly Hills Tract #6380 Lot 1717 and Lot 1718
Zoning District	C-3
General Plan	Commercial Low-Density
Existing Land Use(s)	Commercial Hotel
Lot Dimensions & Area	103.9' x 158.2' = 16,437 SF
Year Built	1963
Historic Resource	The property is not listed on any local, state or federal inventory
Protected Trees/Grove	None

### Adjacent Zoning and Land Uses

North	C-3 Commercial, M-PD-2 Mixed Us Planned Development Overlay
South	R-4 Multiple-Family Residential
East	C-3 Commercial
West	C-3 Commercial

### Circulation and Parking

Adjacent Street(s)	Wilshire Boulevard and South Crescent Drive
Adjacent Alleys	One-way 15' wide alley located at the rear of the property
Parkways & Sidewalks	Wilshire Boulevard: 15' parkway South Crescent Drive: 12.5' parkway
Parking Restrictions	Wilshire Boulevard: Parking prohibited (southside); Restricted peak hour parking (northside) South Crescent Drive: Parking prohibited (eastside); 1-Hour Parking 8:00 AM – 2:30 AM (westside)

Nearest Intersection	Wilshire Boulevard and South Crescent Drive
Nearest Signalized Circulation Element	Wilshire Boulevard and South Crescent Drive
	Wilshire Boulevard: Arterial
	South Crescent Drive: Local
Average Daily Trips	Wilshire Boulevard: 45,000
	South Crescent Drive: 2,400 (south of Wilshire); 9,200 (north of Wilshire)

## **PROJECT HISTORY**

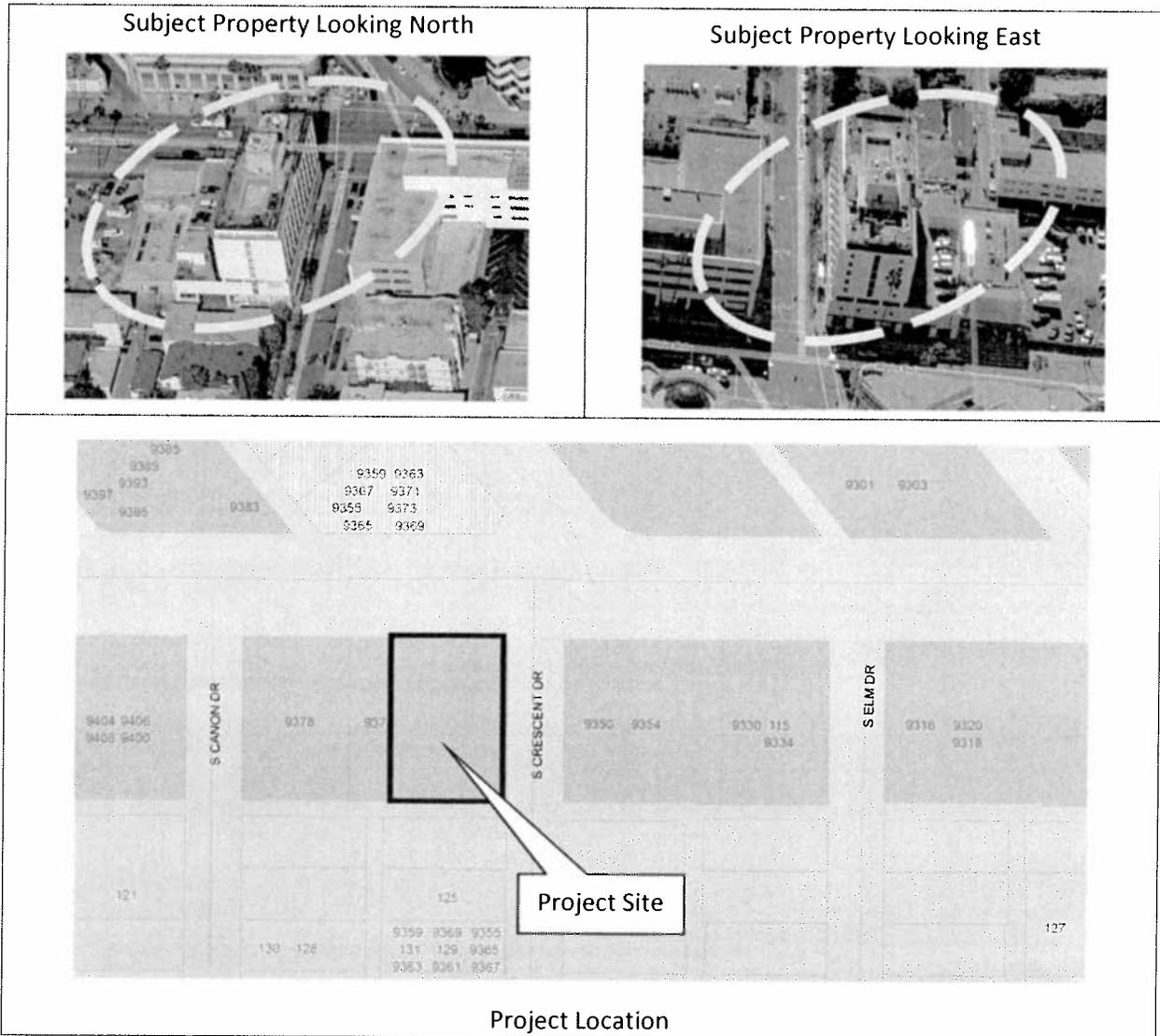
The subject property was developed in 1963, per the Los Angeles County Office of the Assessor, and has been continuously operated as a hotel since that time. The City Council approved development of the property pursuant to the issuance of a variance for increased height and floor area; this development included a restaurant and rooftop pool. A condition of the variance limited the maximum floor area of the restaurant and bar area to 1,500; however, in 2006, a Conditional Use Permit and Development Plan Review Permit was granted by the Planning Commission to allow expanded rooftop uses, including a larger pool deck, a bar/lounge area, a rooftop gymnasium, and a rooftop food preparation room. As a condition of approval, and to prevent detrimental impacts to the surrounding residential neighborhoods, rooftop occupancy was limited to 92 persons, excluding hotel staff, and rooftop hours were limited to 1:00 AM.

In 2010, the applicant submitted for a renewal and modification of the existing Conditional Use Permit and for a renewal of the existing Development Plan Review Permit. The proposed project requested an expansion and modification of hotel dining and rooftop operations. The Planning Commission granted the request for additional outdoor dining along Wilshire Boulevard, additional indoor dining at the first floor and mezzanine levels of the hotel, a new stove within the existing rooftop food preparation room, extended hours on Friday and Saturday until 1:00 AM, and increased occupancy up to 125 persons, excluding hotel staff.

The work associated with these entitlements has been completed and is fully operational, with exception of the open air dining element. However, a condition of approval imposed by the Planning Commission in 2006 and 2010 called for the Conditional Use Permit and Development Plan Review Permit to expire one year after the original issuance, unless a renewal was applied for and granted. The purpose for the one-year expiration was to provide the Commission with an opportunity to re-review the entitlements and make any modifications that might be needed in order to ensure that the project would function as the Commission had originally intended. The one-year expiration has since passed, and a renewal of the entitlements must be granted in order for the hotel to continue current rooftop and outdoor dining operations. Because the applicant has submitted the application and renewal request, no action has been taken by the City to terminate rooftop uses.

### Neighborhood Character

The area near the Thompson Hotel is located on the southwest corner of the intersection of Wilshire Boulevard and South Crescent Drive. The subject property is zoned C-3 (Commercial) and is immediately outside of the City's Business Triangle. It is currently developed with an eight-story hotel, of which three levels are used for vehicle parking. Commercial properties surround the subject property along Wilshire Boulevard; multi-family residential properties are located to the north and south of the property and Wilshire Boulevard. The surrounding multi-family residential properties to the south range in height between two and four stories and are separated from the commercial uses on Wilshire Boulevard, and the Thompson Hotel, by a 15' alley.



**PROJECT DESCRIPTION**

As proposed, the project would renew the hotel’s existing Conditional Use Permit and Development Plan Review Permit, allow increased rooftop occupancy, and allow increased hours of operation at the rooftop. The table below outlines the existing conditions and proposed changes within the hotel as they relate to the project.

REGULATIONS	EXISTING	PROPOSED
<b>Primary Building</b>		
Use	Commercial – Hotel	No Change
Guestrooms	114	No Change
Height	100 Feet (per 1961 variance)	No Change
Parking	129 spaces on-site (required)	No Change

	40 spaces off-site (required)	
<b>Rooftop Hours</b>	5:00 AM – 1:00 AM (Sunday – Thursday) 5:00 AM – 2:00 AM (Friday – Saturday)	5:00 AM – 2:00 AM (Everyday)
<b>Rooftop Occupancy</b>	125	185
<b>Restaurant and Bar Floor Area</b>	2,007 SF (2010 approval)	No Change
<b>Restaurant Seats</b>	140	No Change
<b>Outdoor Dining (no rooftop)</b>	926 SF (2010 approval)	No Change

Requested Permits

The entitlements requested as part of the proposed project are as follows:

**Conditional Use Permit.** The existing Conditional Use Permit for rooftop uses is subject to an annual review by the Planning Commission and a modification is requested to increase the occupancy of the existing roof top pool-deck and bar area from 125 persons to 185 persons.

**Development Plan Review Permit.** The existing Development Plan Review Permit for open air dining and the rooftop gymnasium is subject to an annual review by the Planning Commission

**Extended Hours Permit.** An Extended Hours Permit is required for any site located in a commercial-transition area in the City to operate a business during of the hours of 10:00 PM and 7:00 AM.

**DISCUSSION**

The Applicant seeks to renew and modify the approvals granted by the Planning Commission in 2006 and 2010, which allow for outdoor dining on private property and rooftop uses. There are three components associated with this project: 1) Renewal of existing entitlements; 2) Increased occupancy at the rooftop; and 3) One hour increase in operation hours, Sunday through Thursday. Each of these components is further discussed below.

**RENEWAL OF EXISTING ENTITLEMENTS**

In approving the outdoor dining and rooftop uses in 2006, the Planning Commission required a yearly renewal. Specifically, Condition No. 11 of the Planning Commission Resolution No. 1418 states that:

*...the City may extend the permits for additional one-year terms if the reviewing authority determines that the open air dining and rooftop uses are operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating an adverse impact on the surrounding area.*

This conditioned was reaffirmed during the project renewal in 2010 with Condition No. 4 of the Planning Commission Resolution No. 1581, which reads:

*Unless specifically modified by this Resolution, all conditions of approval contained in Planning Commission Resolution No. 1418 shall remain in full force and effect throughout the life of the project.*

Staff has reviewed the previous approvals and has determined that the open air dining and rooftop uses have been established consistent with the projects approved by the Planning Commission.

Additionally, the Planning Commission imposed conditions of approval regarding the operational aspects of the outdoor dining and rooftop uses to protect the adjacent neighborhood. Staff has reviewed applicable Code Enforcement files and Police Department records regarding complaints involving the Thompson Hotel. Approximately 50 complaints associated with the property have been documented between July 2010 and October 2011. Of those documented, 18 complaints (2 Code Enforcement Cases and 16 calls to the Police Department) have been associated with hotel operation and rooftop uses. The Code Enforcement Cases involved hotel operations, such as early morning deliveries and mechanical equipment, while the calls to the Police Department have generally been associated with loud music, parties, or noise. These cases and calls have predominately been reported by properties in the near vicinity of the hotel. No citations were issued in connection with these complaints, and 9 of the 16 calls to the Police Department resulted in corrective action being needed. One of the two code enforcement cases has been closed and the other is in the process of being closed.

#### *EXPANSION OF ROOFTOP USES*

The project includes a request for intensification of rooftop uses through increased occupancy and hours of operation. Existing approvals permit the rooftop areas of the hotel to be used between the hours of 5:00 AM and 1:00 AM, Sunday through Thursday, and between the hours of 5:00 AM and 2:00 AM, Friday and Saturday. Rooftop uses are restricted to a maximum occupancy of 125 persons. The applicant proposes to extend the hours of operation for one additional hour, Sunday through Thursday, to allow patrons to use the rooftop areas until 2:00 AM each day of the week. Additionally, the applicant proposes to increase the occupancy to 185 persons, a 48% increase over what is currently permitted.

The applicant has submitted noise survey results (Attachment D) indicating that, at the time the surveys were conducted, no impacts were observed at the five selected properties due to rooftop activities. The surveys were conducted on Thursday, October 23, 2011; Friday, October 21, 2011; and Saturday, October 22, 2011.

#### Agency Review

The proposed project was not reviewed by other City departments.

#### **GENERAL PLAN<sup>1</sup> POLICIES**

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

- Policy LU 15.1 Economic Vitality and Business Revenue. Sustain a vigorous economy by supporting businesses that contribute revenue, quality services and high-paying jobs.
- Policy ES 1.4 Retain Existing Industries. Consistent with future economic sustainability plans, encourage existing industries such as luxury retail, tourism, hoteling, finance, entertainment and media businesses and services to remain and expand within the City.

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<sup>1</sup> Available online at [http://www.beverlyhills.org/services/planning\\_division/general\\_plan/genplan.asp](http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp)

**ENVIRONMENTAL ASSESSMENT**

The proposed project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines<sup>2</sup>, and the environmental regulations of the City. The project qualifies for a categorical exemption pursuant to Section 15303 Class 1 (Operation of Existing Facilities).

**PUBLIC OUTREACH AND NOTIFICATION**

The following methods were utilized for public outreach and notification of the renewal of the existing entitlements and proposed modifications of the Conditional Use Permit.

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	10 days	12/9/2011	12/9/2011 (BH Courier) 12/15/2011 (BH Weekly)	10 days
Mailed Notice (Owners & Residents - 300' Radius)	10 days	12/9/2011	12/8/2011	11 days
Website	N/A	N/A	N/A	N/A

Public Comment

As of the date of the preparation of this report, staff has received numerous comments from nearby residents and individuals acting on behalf of nearby residents in opposition of the proposed project. All received correspondence is provided as Attachment A.

**ANALYSIS<sup>3</sup>**

*RENEWAL OF EXISTING ENTITLEMENTS*

The Thompson Hotel is required to seek Planning Commission approval for an annual review of its previously approved outdoor dining and rooftop uses to ensure they are operating according to approved plans without adversely affecting the surrounding area. The outdoor dining and rooftop areas have been established consistent with the approved plans and staff has not identified any code enforcement issues or complaints associated with the rooftop gym or the outdoor dining area and does not believe that the renewal of these aspects of the hotel’s operations are impacting the surrounding area.

Conversely, the rooftop operations have resulted in numerous complaints to the Police Department. These complaints have not resulted in citations, as it has generally been the City’s policy to verbally alert hotel staff to the issue, and if compliance is achieved, the case is closed. The Planning Commission’s

<sup>2</sup> The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

<sup>3</sup> 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.

previous approvals contained specific conditions related to the rooftop uses to offset potential impacts to the surrounding area, including:

- Limiting rooftop occupancy;
- Prohibiting live entertainment;
- Limiting the noise level of pre-recorded (DJ) music not to be audible beyond the hotel's property lines;
- Restricting the hours of operation of rooftop uses;
- Reduced parking rates for non-hotel rooftop guests;
- Installing speakers at rooftop at base of the perimeter wall around the deck areas;
- Prohibiting speakers to be installed on the rooftop cabanas;
- Directing sound toward patrons to prevent possibility of sound being plainly audible beyond property line; and
- Require sound system volume controls be fitted with a locked cover to prevent tampering.

#### *EXPANSION OF ROOFTOP USES*

The project includes a request for intensification of rooftop uses through increased occupancy and hours of operation. Existing approvals permit the rooftop areas of the hotel to be used between the hours of 5:00 AM and 1:00 AM, Sunday through Thursday, and between the hours of 5:00 AM and 2:00 AM, Friday and Saturday. The applicant proposes to extend the hours of operation for one additional hour, Sunday through Thursday, to allow patrons to use the rooftop areas until 2:00 AM. The applicant also proposes to increase the occupancy to 185 persons, a 48% increase from the currently permitted 125 persons.

Due to the complaints generated by late-night rooftop activities, staff recommends maintaining the existing maximum occupancy at 125 persons and operating hours of 5:00 AM to 1:00 AM, Sunday through Thursday, and 5:00 AM to 2:00 AM, Friday and Saturday, until such a time when the Applicant is able to show that the operation of such rooftop uses does not generate complaints beyond a reasonable expectation. Additionally, per conversations with staff at Caulfield's, the existing restaurant has been operational for approximately one month and the full impacts of the restaurant use on the rooftop area are not yet known. The open air dining area of the restaurant is not yet operational and further adverse impacts to the surrounding neighborhood may result at that time when it becomes fully operational.

Furthermore, staff has not identified any other hotels in such a proximity to residential areas that are permitted to have operating hours until 2:00 AM each day of the week. On average, hotels adjacent to residential uses were typically limited to operating hours that end between 10:00 PM and 11:00 PM. No such permits were identified that allowed any hotel within the City to operate until 2:00 AM each day of the week. Such an approval would prove to be precedent setting for the City with potentially adverse impacts to other residential areas throughout Beverly Hills. Below are some of the hours of operation restrictions for hotels located throughout the city:

- L'Ermitage (9291 Burton) – 10:00 PM for rooftop uses
- Avalon Hotel (9400 Olympic) – 11:00 PM for restaurant, open air dining, and poolside lounge
- Beverly Hilton Hotel (9876 S Santa Monica) – 10:00 PM for swimming and other outdoor activities

- Maison 140 (140 Lasky) – 10:00 PM for rooftop pool and lounge area with a maximum occupancy of 84 persons
- Crescent Hotel (403 North Crescent) – 11:00 PM (Sunday through Thursday) and 12:00 AM (Friday and Saturday) for outdoor patio uses

### **NEXT STEPS**

It is recommended that the Planning Commission conditionally approve the renewal for the Conditional Use Permit and Development Plan Review but deny the request for the Extended Hours Permit and increased rooftop occupancy.

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 the applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines, and at the applicant's request or consent.

Report Reviewed By:

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David Reyes, Principal Planner

## ATTACHMENT C

RESOLUTION NO. 1418

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A CONDITIONAL USE PERMIT FOR ROOFTOP USES AND A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING FOR AN EXISTING HOTEL AT PROPERTY LOCATED AT 9360 WILSHIRE BOULEVARD (BEVERLY PAVILION HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS

HEREBY FINDS AND RESOLVES AS FOLLOWS:

Section 1. Pomeranc Group, LLC, owner (“Applicant”), has applied for the following discretionary approvals for an existing eight-story hotel located at 9360 Wilshire Boulevard (Beverly Pavilion Hotel) (the “Project”):

(1) A Conditional Use Permit (“CUP”) to allow construction of a new 1,817 square foot rooftop gymnasium and associated restroom facilities, a 2,000 square foot extension of the existing rooftop pool deck area, and the addition of two trellis structures that intersect a forty-five degree height envelope for rooftop uses.

(2) A Development Plan Review (“DPR”) to allow eight tables and 32 chairs to be located on private property at the northeast corner of the ground floor level of the hotel, which is currently enclosed. The exterior walls of the dining portion of the hotel, facing Wilshire Boulevard will be removed and set back 12 feet, in order to allow for open air dining with a covered roof.

Beverly Hills Municipal Code (“BHMC”) Section 10-3-3109 permits rooftop gymnasiums to exceed the height, story and density limitations established by the BHMC

provided the proposed gymnasium meets certain criteria and is authorized by the Planning Commission through a DPR. In addition, BHMC Section 10-3-3801 expressly provides that the height and area requirements set forth in other provisions of the BHMC shall not apply to conditional uses for which a CUP is granted. The proposed rooftop gymnasium meets all of the criteria imposed by the BHMC except that it will exceed the 45-degree height envelope, measured from the roof's edge. However, the Planning Commission may approve the additional height through the DPR and CUP provided the Commission makes certain findings.

Beverly Hills Municipal Code Section 10-3-3100 permits open air dining for more than two tables or seating for more than eight persons on a site located within 170 feet of a residential zone provided the proposed open air dining area meets certain criteria and is authorized by the Planning Commission pursuant to a DPR. Although the open air dining portion of the hotel is surrounded by the commercial zone to the west, east, and north, and oriented to the commercial zone facing Wilshire Boulevard, the R-4 zone is directly to the south of the hotel site, and therefore, a DPR is required.

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 Categorical Exemption has been issued in accordance with the requirements of Section 15303(e) of the Guidelines.

Section 3. The Planning Commission conducted duly noticed public hearings on the Project on January 25, 2006, and February 23, 2006, at which times oral and documentary evidence was received concerning the application.

Section 4. A 1961 variance authorized the current 79-foot high, eight-story hotel. The hotel is comprised of a ground floor lobby, a mezzanine level with a portion of the garage parking at the second level, garage parking on the third level and hotel rooms on levels four through eight. The roof currently has an accessible terrace, mechanical equipment room, elevator and stair shaft, as well as a pool and deck which is raised eight feet (8') above the roof terrace level. The 1961 variance imposed various conditions on the hotel which run with the land, including the following height and density limitations: (1) The maximum height of the building shall not exceed 100 feet; and (2) the floor area for all development on the site – excluding basement, mezzanine, penthouse, and parking areas of the building – shall not exceed a maximum FAR of 3.5 to 1 (for a total of 57,000 square feet of useable floor area). The hotel is currently in compliance with these conditions. The building height, including the raised pool and deck, is under the 100-foot height limit, and the aggregate floor area of the building is at the 57,000 square-foot limit. It should be noted that the proposed rooftop addition will cause the hotel to exceed the 57,000 square-foot density cap imposed by the 1961 variance. However, the Planning Commission may approve the additional density through the DPR and CUP provided the Commission makes certain findings.

The Project proposes the construction of a 1,817 square-foot addition to the lower roof level, comprised of a gym, men's and women's restroom facilities, and a service/prep room.

These facilities will essentially wrap around the existing pool structure (upper roof level), on the east, south and west sides. The building addition will be set back four feet (4') from the edge of the roof at the east and west sides of the building and seven and one-half feet (7.5') from the edge of the roof at the south side of the building. The service/prep room will be located on the east side of the lower rooftop level and will support the new bar grill that will be located at the north portion of the lower roof level. Two new stairways will flank the existing elevator shaft and provide access to the upper level pool area.

The unenclosed trellised roof shade structures will be located on each side of the water cooler enclosure. New gas fireplaces will be built into the side walls. An eight-foot tall continuous glass windscreen wall will enclose the entire perimeter of the north portion of the lower roof level. With the expansion of the lower level gym, service/prep room, and restroom facilities, the pool deck on the upper level will also expand in size, as it will be the "roof" for these facilities. The upper roof level will include chaise lounge seating, tables and chairs, and private cabana spaces (covered by canvas material) along the south side of the deck. As with the lower level, an eight-foot tall continuous glass windscreen wall will enclose the entire perimeter of the upper level. A continuous landscape planter will run the length of the windscreen walls and will cover the lower half of the glass walls. With these proposed improvements, the unenclosed area of the lower roof level will increase from the currently existing 1,810 square feet to a proposed 2,500 square feet. The usable area of the upper roof level, surrounding the pool, will increase from an existing 1,000 square feet, to a proposed 3,000 square feet. This represents an aggregate net increase of 2,690 square feet of unenclosed roof area. In accordance with

BHMC Section 10-3-2864, the proposed new improvements to the rooftop expand the maximum allowable capacity on rooftop to 92 persons, excluding hotel employees.

In accordance with the requirements of BHMC Section 10-3-2862, a CUP is required for the proposed improvements to permit the rooftop improvements to expand the building envelope of an existing hotel, to create a new outdoor dining area for the existing restaurant, and to permit the rooftop trellises to intersect the 45 degree height envelope from the building roof edge.

The DPR application includes remodeling the existing ground floor dining area, to include eight tables and 32 chairs to be located in a 420 square foot, partially enclosed area (ceiling only) at the northeast portion of the hotel ground floor. The existing shutter doors of the restaurant space, facing Wilshire Boulevard and Crescent Drive at the northeast corner, will be removed and set back 12 feet, to provide the open air dining area. The open air dining will also extend to the west along the Wilshire frontage of the hotel. The open air dining area will be located entirely on private property, and no portion will encroach into the public right-of-way. Planter walls will fully enclose the dining area and separate it from the public sidewalk. The remaining interior dining area will be retained in the same location as currently exists in the ground floor space of the hotel. The total capacity of dining, both open air and interior areas will be 102 persons in a total area of 1,495 square feet. The new floor area devoted to dining and bar area will comply with the 1,500 square-foot limit imposed by the 1961 Variance.

Section 5. In accordance with Beverly Hills Municipal Code Section 10-3-3800, the Planning Commission may authorize the proposed rooftop addition to the existing

hotel, provided the Commission finds that the proposed location of the rooftop addition will not be detrimental to adjacent property or the public welfare. The Planning Commission may impose such conditions as are deemed necessary to preserve the integrity and character of the district, the utility and value of adjacent property, and the general welfare of the neighborhood.

Section 6. As conditioned, proposed Project will aesthetically enhance the existing rooftop of the hotel. The proposed uses on the rooftop constitute amenities commonly provided by a first-class hotel, make the hotel more attractive to hotel guests and visitors to the City, and contribute to the City's tax base. The rooftop additions and the proposed uses will not impair any views or create any shade and shadow impacts to neighboring structures. Further, the proposed improvements will not add height to the building – the existing elevator/stair shaft will remain the highest element of the building. All activity on the rooftop will comply with the City's noise ordinance. As part of the overall remodel of the hotel by the new operator, Thompson Hotel, exterior improvements will include additional façade upgrades beyond the rooftop elements, and all upgrades will be reviewed by the Architectural Commission.

As required by Beverly Hills Municipal Code Section 10-3-3109, use of the rooftop gymnasium will be restricted solely to registered hotel guests and hotel employees, and no admittance or use fees shall be charged for the use of the rooftop gymnasium. Therefore, the expansion of this function room and amenities, ancillary to the hotel operation will not create any additional traffic or parking impacts to the adjacent commercial or residential streets. The 1961 Variance for this site does not include any conditions which prohibit service of food and beverage at the terrace and pool deck area to hotel guests. There will be no food service

provided in the new gymnasium, pursuant to Section 10-3-3109(4). However, food and beverage service at the terrace and pool deck would be part of the hotel's normal service operation as is provided for room service, provided there is no designated area. As conditioned by this resolution, the CUP will expire one year after the issuance of the certificate of occupancy for the Project improvements, with a renewal hearing to determine that the use of the rooftop is operating in a manner substantially the same as described and approved by the Planning Commission, and is not creating an adverse impact on the surrounding area.

Section 7. Pursuant to Beverly Hills Municipal Code Section 10-3-3503, a DPR is required to permit the newly constructed outdoor dining area and for the proposed rooftop gymnasium. In considering the application for the DPR, the Planning Commission considered the following issues:

- (a) Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
- (b) Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;
- (c) Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards;
- (d) Whether the proposed plan will be detrimental to the public health, safety or general welfare; and

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

(f) Whether the proposed plan will create any significantly adverse parking impacts as a result of employee or patron parking demand.

(g) Whether the proposed plan will significantly and adversely affect neighboring properties due to:

- (1) The accumulation of garbage, trash or other waste;
- (2) Noise created by operation of the dining area or by employees or visitors entering or exiting the site;
- (3) Light and glare;
- (4) Odors or noxious fumes.

Section 8. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds with respect to the DPR:

8.1 The proposed improvements are consistent with the General Plan and any specific plans adopted for the area. The proposed open air dining is located in a commercial zone and is permitted in conjunction with a restaurant with the issuance of a DPR. The proposed open air dining area will contribute to the pedestrian atmosphere along Wilshire Boulevard, will create lively activity at the street level, and, as proposed, is a use consistent with the General Plan adopted for the area. The proposed rooftop gymnasium is permitted in the C-3 Zone provided its use is restricted to registered hotel guests and hotel employees. The proposed rooftop

gymnasium allows the hotel to provide an amenity expected of a first-class hotel and is a use consistent with the General Plan adopted for the area.

8.2 The proposed improvements will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The new restaurant dining and bar area will remain the same size (1,500 square feet maximum) that has existed at the site for the past 43 years. The only physical change to the hotel will be to the front portion of the dining area façade, oriented towards Wilshire Boulevard, which will be replaced with shutter doors and set back 12 feet to create the open air dining area. The remaining interior dining area will be reconfigured in order to comply with the 1,500 square foot limit. The open air dining use will be similar to many open air dining uses along the Wilshire Boulevard streetscape. Therefore, the proposed open air dining will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The rooftop gymnasium will be designed to prevent impacts to adjacent development and use will be limited to registered hotel guests and hotel employees only. Therefore, proposed rooftop gymnasium will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

8.3 The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property. The proposed open air dining area will face the commercial zone, towards Wilshire Boulevard and be located at the northeast corner of Crescent Drive. The nearest residential parcel to the south is located over 125 feet away from the proposed open air dining.

The hotel building itself will act as a separation of the open air dining activity or buffer of any potential noise generated by the open air dining. Access to restaurant space from the Crescent Drive elevation shall be used for emergency exit only. In addition, both the BHMC and this resolution impose adequate controls on the rooftop gymnasium to ensure that its use will not interfere with the use and enjoyment of adjacent residential properties. Therefore, the nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

8.4 The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards. Access to the dining area will be from the interior of the hotel, and there will be no entrance or exit directly from the Wilshire Boulevard façade. The open air dining area will be fully enclosed from the sidewalk area by planter walls. Patrons of the restaurant will use the same hotel driveway that is used by hotel guests, which will remove any queuing of cars off Wilshire Boulevard and onto the hotel driveway. The hotel driveway is 25 feet wide, and runs the entire 150-foot length of the hotel site, which will provide queuing space for cars. There will be one exit door of the restaurant facing Crescent Drive, but this door will be used for emergency egress only. The location of the proposed rooftop gymnasium ensures that no pedestrian-vehicle conflicts or pedestrian safety hazards will arise. Moreover, use of the proposed rooftop gymnasium is restricted to registered hotel guests and hotel employees only, thereby ensuring that no additional traffic impacts are created. Therefore, the Project will not create any significantly adverse traffic impacts, traffic safety impacts, pedestrian-vehicle conflicts, or pedestrian safety hazards.

8.5 The proposed plan will not be detrimental to the public health, safety or general welfare. For the reasons set forth in this Section 8, the proposed plan will not be detrimental to the health, safety or general welfare.

8.6 The proposed plan will not create any significantly adverse parking impacts as a result of employee or patron parking demand. The hotel has a full valet parking operation of 120 spaces, and can accommodate up to 140 spaces with tandem/stacked parking. In addition, use of the proposed rooftop gymnasium is restricted to registered hotel guests and hotel employees only. Although a car elevator is necessary to access all 120 parking spaces, the Applicant will be required to implement a parking management plan that will provide for sufficient staffing to ensure that operation of the parking area will not adversely impact parking on the site or in the vicinity of the Project. With the inclusion of conditions that the Applicant shall submit evidence satisfactory to the Director attesting to the availability of sufficient parking, including off-site parking, to meet the parking needs for the hotel and restaurant, and free parking to hotel employees and reduced-rate parking for restaurant patrons, the proposed plan will not create any significantly adverse parking impacts as a result of employee or patron parking demand.

8.7 The proposed plan will not create any significantly adverse impacts on neighboring properties as a result of:

(1) Accumulation of garbage, trash or other waste. As stated above, the proposed open air dining and the rooftop gymnasium will be contained and enclosed within the hotel premises, and restaurant management will properly dispose of garbage.

(2) Noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant. The proposed open air dining area will face Wilshire Boulevard and will be oriented towards the commercial zone. The nearest residential parcel to the south will be over 125 feet from the open air dining area. Employees and visitors will enter from the main entry off Wilshire Boulevard, and the exit door facing Crescent Drive will be used only for emergency egress only. Further, the restaurant is subject to the provisions of the transitional use ordinance. The Applicant has provided an acoustical analysis that concludes the expected sound levels will be below the measured ambient levels, and the sound levels on the rooftop will be inaudible at the alley directly south of the hotel and at six multi-family residences in close proximity to the hotel. In addition, the hours of operation of the rooftop are restricted by this resolution, and use of the rooftop gymnasium is limited to registered hotel guests and hotel employees only. Therefore, the location of the proposed Project will not create any significantly adverse impacts on neighboring properties as a result of noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant.

(3) Light and glare. There will be no light or glare impacts resulting from the proposed open air dining or the proposed rooftop gymnasium. All lighting installed will be required to comply with the BHMC provisions requiring shielding and appropriate placement to direct light and glare away from adjacent uses.

(4) Odors or noxious fumes. The existing restaurant space within the hotel site has an adequate ventilation system that directs odors resulting from the kitchen facilities away from the residential zone to the south. No odors should be associated with the operation of the rooftop gymnasium.

Section 9. Based upon the evidence presented, the Planning Commission hereby conditionally approves the CUP and the DPR, subject to the following mitigation measures and conditions:

1. Except as otherwise provided by these conditions, the Project shall be constructed and operated in substantial compliance with the plans submitted to and approved by the Planning Commission at its meeting of February 23, 2006.
2. The aggregate total number of persons on the rooftop, including both the upper and lower levels, at any given time shall not exceed 92 persons (excluding staff). The hotel management shall install and maintain at all times signage on the rooftop area satisfactory in form and quantity to the Director of Community Development displaying the 92 maximum occupancy limit.
3. No live entertainment shall be allowed on the rooftop area at any time.
4. Pre-recorded, background music which does not interfere with normal speech communication may be played on the rooftop area, provided the volume level conforms to the City's noise level standard and is not audible beyond the hotel's property lines.
5. The glass wind screens surrounding the perimeter of the upper and lower rooftop shall be comprised of clear glass.
6. Free parking shall be provided to hotel employees, including any consultants or agents retained by the operator of the subject hotel in connection with the operation of said facility, at all times.
7. Valet parking shall be provided at all times. Restaurant patrons and non-hotel rooftop guests shall be charged reduced parking rates for said valet parking with validation. The

parking rates charged for said valet parking shall not exceed the average of rates charged for valet parking within a one-half mile radius of the Project.

8. In accordance with the provisions of BHMC Section 10-3-2861, no direct entry into the restaurant shall be allowed from either Wilshire Boulevard or Crescent Drive.
9. The restaurant may replace the existing nonconforming restaurant signage at the site with signs of similar size and quantity. No additional external signage or displays for the restaurant that are visible from any public street shall be permitted.
10. The access to restaurant space located at the Crescent Drive elevation shall be used for emergency egress only and shall not be used to provide entry to the restaurant at any time.
11. The CUP for rooftop uses (gymnasium, restrooms, service/prep room, and trellis structures) and DPR for the open air dining and rooftop gymnasium shall expire after one year from date of the issuance of a certificate of occupancy for the Project. Upon application by the Applicant at least 60 days prior to the expiration of the CUP and DPR (collectively, the "Permits") the City may extend the Permits for additional one-year terms if the reviewing authority determines that the open air dining and the rooftop uses are operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating an adverse impact on the surrounding area. The initial annual renewal hearing shall be conducted by the Planning Commission. The Planning Commission may, in its sole discretion, delegate the annual renewal hearing for subsequent years to the Director of Community Development (the "Director"), and the Director shall conduct all subsequent annual review hearings thereafter.

For any review conducted by the Director, the Director may extend the Permit if the Director determines that the open air dining and rooftop uses are operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating an adverse impact on the surrounding area. Any decision by the Director pursuant to this paragraph may be appealed to the Planning Commission by filing a notice of appeal with the Director within ten days after the Director has issued the decision. Notice of the Director's decision shall be mailed to any person who submits to the Director a written request for such notice. If the matter is appealed to the Planning Commission, the Planning Commission shall hold a noticed public hearing on the matter in accordance with the hearing procedures set forth in Article 38 of Chapter 3, Title 10 of the Beverly Hills Municipal Code.

If neither the Planning Commission nor the Director extend the Permits, then the Permits shall expire and all rights possessed by the applicant under the Permits shall be terminated. Provided, however, that if the Applicant files an application for an extension, any existing Permits shall be extended until the City takes final action on the application. Provided, further, that if the Planning Commission or Director extend only one of the Permits (either the CUP or the DPR) but do not extend the other Permit, only those rights authorized by the Permit that was not extended shall be terminated.

Any application for an extension of the Permits shall be subject to the application fees established by resolution of the City Council. In considering any application for an

extension of the Permits, the Planning Commission or the Director may impose additional conditions of approval on the Project to ensure that the Project does not adversely impact adjacent uses or create significant environmental impacts on the community within the meaning of the California Environmental Quality Act.

12. Keycard access shall be required for all elevators to restrict access to the rooftop to hotel guests and their invitees and authorized members of the general public only.
13. No member of the general public shall be permitted to reserve any portion of the rooftop for meal service at any time unless and until the Applicant or its successor in interest applies for and is granted an amendment to the 1961 Variance removing the 1,500 square-foot limit imposed on floor area devoted to dining and bar area.
14. No use of the rooftop pool area and/or gymnasium shall be permitted between the hours of 1:00 a.m. and 5:30 a.m. daily. The hotel operator shall implement provisions satisfactory to the Director of Community Development to ensure that the rooftop area is emptied by or before 1:00 a.m. daily.
15. Use of the rooftop gymnasium facilities shall be restricted to the hotel guests and hotel employees.
16. Subject to the review and approval of the Architectural Commission, the Applicant shall provide landscaping around the perimeter of outdoor dining areas to create a physical buffer between the open air dining area and the public right-of-way.
17. Subject to the review and approval of the Architectural Commission, the Applicant shall provide landscaping around the perimeter of the rooftop (both upper and lower levels).

18. This Resolution shall not become effective unless and until the Applicant prepares and implements and the Director of Community Development with consultation by the Director of Public Works and Transportation approves a parking management plan. Said parking management plan shall provide, at a minimum, for all of the following:

(a) proof satisfactory to the Director of Community Development of the availability of off-site parking supply to accommodate overflow parking needs;

(b) a description of the valet operations, including, but not limited to, staging, traffic flow, staffing, vehicle storage, queuing on Wilshire Boulevard, special event parking, how overflow demand is covered, and elevator operation;

(c) a description of how patrons and hotel guests will be notified of valet and off-site parking and any proposed signage;

(d) a loading and delivery management plan; and

(e) an employee parking program.

19. 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 or 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.

20. After 12:00 midnight daily, all vehicles shall exit the site onto Wilshire Boulevard. No access onto Crescent Drive shall be permitted after midnight.
21. An annual attestation that the conditions of approval are being met shall be submitted to the City.
22. In order to ensure that the Applicant pays an equitable share of the cost of mitigating future transportation improvements and programs made necessary by the Project, the Applicant shall pay a transportation facilities and programs development fee in accordance with Title 3, Chapter 1, Article 9 of the Beverly Hills Municipal Code as amended. If the amount of such fee has not been established at the time that the fee would be due and payable, the Applicant shall pay such fee within thirty days after the amount of the fee has been established by resolution of the City Council. If the amount of the fee has not been established before occupancy of the Project, then the Applicant's obligation to pay such fee shall expire.
23. A cash deposit of \$10,000 shall be deposited with the City to ensure compliance with the conditions of this Resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work

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

24. 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 a CUP and DPR (together, the "Permits") 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 Permits 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 Permits.

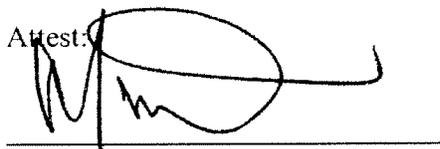
25. The City reserves the right to make modifications and/or impose additional conditions which may become necessary to enable implementation of the specific conditions set forth in this Resolution and the Applicant shall comply with all such modified or additional conditions.

Section 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 certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: March 30, 2006

  
\_\_\_\_\_  
Stacy Marks  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

  
\_\_\_\_\_  
Secretary

[Signatures continue]

Approved as to form:



Robert H. Pittman  
Assistant City Attorney

Approved as to content:



Mandi Aluzri DC  
Director of Community Development



David D. Gustavson  
Director of Public Works

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of 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. 1418 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on March 30, 2006, 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 Furie, Reims, Krasne, Melamed, and Marks.

NOES:           None.

ABSTAIN:       None.



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

## ATTACHMENT D

RESOLUTION NO. 1581

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING RENEWAL OF A CONDITIONAL USE PERMIT AND DEVELOPMENT PLAN REVIEW PERMIT, AND CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT, DEVELOPMENT PLAN REVIEW PERMIT, EXTENDED HOURS PERMIT, AND VARIANCE TO ALLOW MODIFICATIONS TO HOTEL DINING AND ROOFTOP USES ON THE PROPERTY LOCATED AT 9360 WILSHIRE BOULEVARD.

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

Section 1. Thompson Hotels, (the Property Owner), through its agent Mitch Dawson, has submitted an application to renew existing entitlements associated with hotel dining and rooftop activities (Conditional Use Permit and Development Plan Review Permit), and a request to expand upon and modify the hotel dining and rooftop operations. The proposal includes added outdoor dining along Wilshire Boulevard (36 additional seats), added indoor dining at the first floor and mezzanine levels of the hotel (26 additional seats), increased rooftop occupancy from 92 persons to 185 persons, expanded rooftop hours from 1:00 AM to 2:00 AM, and a new stove within an existing rooftop food preparation room. These proposed changes result in the need for a Zone Text Amendment, a Conditional Use Permit, an Extended Hours Permit, and modification of a previously issued Variance for the property located at 9360 Wilshire Boulevard (the "Project").

Approval of the Project, specifically increased restaurant seating capacity, requires amendment of the City's Zoning Code to allow for increased restaurant seating capacity beyond

what is currently allowed under the Zoning Code. Current Zoning Code provisions allow for one restaurant seat per each hotel guestroom, which allows for a maximum of 114 restaurant seats within the subject hotel. The Project includes 156 restaurant seats, which does not comply with the Zoning Code. Concurrently with review of the Project, the Planning Commission considered an Applicant-initiated amendment to Section 10-3-2868 of the Municipal Code to allow one and one-half (1.5) restaurant seats per each hotel guestroom, rather than the current restriction of one restaurant seat per each guestroom (the "Amendment"). This Amendment would allow the proposed 156 restaurant seats. Pursuant to Planning Commission Resolution No. 1580, the Planning Commission has recommended that the City Council adopt the proposed Zone Text Amendment.

Section 2. The subject property was developed in the early 1960s, and although ownership has changed several times over the years, the property has always been used as a hotel. Development of the property was approved by the City Council pursuant to the issuance of a variance for increased height and floor area, and this development included a restaurant and rooftop pool. A condition of the original variance limits the maximum floor area of restaurant and bar area to 1,500 square feet; however, this restriction is eliminated by this Resolution. In 2006 a Conditional Use Permit and Development Plan Review permit was granted by the Planning Commission (Resolution No. 1418) to allow expanded rooftop uses including a larger pool deck, a bar/lounge area, a rooftop gymnasium, and a rooftop food preparation room. As a condition of approval, and to prevent detriment to the surrounding residential properties, rooftop occupancy was limited to 92 persons (excluding hotel staff) and rooftop hours were limited to 1:00 AM.

The work associated with these entitlements has been completed and is fully operational since summer of 2008. However, a condition of approval imposed by the Planning Commission in 2006 called for the Conditional Use Permit and Development Plan Review permit to expire one year after the original issuance, unless a renewal was applied for and granted. The purpose for the one-year expiration was to provide the Commission with an opportunity to re-review the entitlements and make any modifications that might be needed in order to ensure that the project would function as the Commission had originally intended. The one-year expiration has since passed, and renewal of the entitlements is needed in order for the hotel to continue current rooftop and outdoor dining operations.

Section 3. The subject site is located on the south side of Wilshire Boulevard, immediately outside the Business Triangle, in the City's C-3 commercial zone. The site area consists of 16,440 square feet, and is developed with an eight-story hotel (three levels are used for vehicle parking) that is approved for up to 114 guestrooms. The site is surrounded by commercial properties along Wilshire Boulevard, and multi-family residential properties are located immediately north and south of Wilshire Boulevard. The multi-family residential properties typically vary between three and four stories in height, and are generally separated from the commercial uses along Wilshire Boulevard by a 15-20 foot alley.

Section 4. The Project includes the following requests:

1. Renewal of the existing Conditional Use Permit and Development Plan Review Permit to allow for continued operation of the hotel's restaurant and rooftop facilities;
2. Modification of the existing restaurant area to allow a dedicated public entrance along Wilshire Boulevard;
3. Expansion of interior dining and bar areas at the first floor and mezzanine, resulting in 2,007 square feet of interior dining and bar area. Previous approvals allowed for up to 1,500 square feet;
4. Increasing the capacity of restaurant seating from 102 to 156 persons;
5. A 426 square foot expansion of the outdoor dining area along Wilshire Boulevard to provide a total of 926 square feet of outdoor dining area;
6. Installation of a stove within an existing rooftop food preparation room;
7. Increasing rooftop capacity from 92 persons to 185 persons; and
8. Extending rooftop operating hours from 1:00 AM daily to 2:00 AM daily.

Section 5. The requests to modify restaurant and rooftop operations as outlined above result in the need for specific entitlements as follows:

1. Zone Text Amendment: The Applicant requests an amendment to Section 10-3-2868 C.3 of the Beverly Hills Municipal Code. Current code provisions limit restaurant seating within hotels outside the Business Triangle to a capacity of not more than one seat per guestroom. The Applicant seeks to add additional seating beyond this restriction, and is therefore seeking to amend this provision to allow the number of restaurant seats to be set at one and one-half (1.5) seats per

guestroom. Specifically, the Zone Text Amendment would allow for the number of seats requested by the Applicant, and would also apply to other hotels outside the Business Triangle. The Zone Text Amendment is addressed separately under Planning Commission Resolution No.1580, and requires formal adoption by the City Council.

2. Conditional Use Permit: Pursuant to Section 10-3-2862 of the Beverly Hills Municipal Code, a Conditional Use Permit is required whenever existing uses within a hotel are modified/expanded, or if entrances to a hotel restaurant are modified. As a result, the Applicant seeks to modify the existing Conditional Use Permit to allow increased restaurant/lounge space, a new entrance on Wilshire Boulevard to provide direct access to the restaurant space, increased capacity on the rooftop pool-deck and bar area, and modifications to the rooftop food preparation room.

3. Development Plan Review: A Development Plan Review permit was previously granted by the Planning Commission in 2006 (resolution No. 1418) to allow outdoor dining areas along Wilshire Boulevard (on private property) and at the rooftop bar/lounge area, and also included approval of a rooftop gymnasium for hotel guests and employees. Pursuant to Condition 11 of Planning Commission Resolution No. 1418, the Development Plan Review permit expired one year from the date of issuance and must be renewed.

4. Extended Hours Permit: Because the hotel is located outside the Business Triangle, an Extended Hours Permit is required whenever business operations take place outside the hours of 7:00 AM to 10:00 PM. The hotel currently

provides service 24 hours per day; however, the rooftop pool-deck and bar area are currently prohibited from operating beyond 1:00 AM pursuant to Condition 14 of Planning Commission Resolution No. 1418, in order to prevent impacts to the surrounding residential neighborhoods. The Applicant requests that the Extended Hours Permit be modified to allow patrons within the rooftop pool-deck and bar area until 2:00 AM.

5. Variance: Construction of the subject property was originally approved under a Variance granted by the City Council in 1961 pursuant to Resolution No. 3013. The Variance allowed for increased height and floor area beyond what was permitted by-right at the time the project was constructed. One of the conditions of approval within the Variance states that “the total floor area devoted to dining and bar use shall not exceed 1,500 square feet.” The requested expansion will exceed 1,500 square feet and the Applicant seeks to strike this condition from the original Variance.

Section 6. 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. Pursuant to the State CEQA Guidelines Section 15301, existing facilities, and Section 15305, minor alterations in land use limitations, the Project qualifies for a Class 1(a) and Class 5 Categorical Exemption, and is not anticipated to have a significant environmental impact. The Class 1(a) exemption is applicable to minor interior

modifications and operational changes within existing structures that would not result in a significant environmental impact, and the Class 5 exemption is applicable because the changes in land use limitations would result in minor modifications to the amount of restaurant space that could be provided within hotels. Further, any increase in restaurant space within hotels is subject to discretionary review and analysis on a case-by-case basis.

Section 7. Notice of the Project and public hearing was posted in two newspapers of local circulation and was mailed on May 29, 2010 to all property owners and residential tenants within a 300-foot radius of the property. Written and oral comments were received during the public hearing, both in support and opposition of the Project, and were made a part of the record.

Section 8. In considering the request for a Conditional Use Permit, the Planning Commission may approve the Conditional Use Permit if the Commission finds as follows:

1. The proposed location of any such use will not be detrimental to adjacent property or to the public welfare.

Section 9. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Conditional Use Permit:

The renewal and amendment of the Conditional Use Permit, as conditioned, will result in hotel operations that are substantially similar to existing and previously approved hotel operations. Based on the operating history of the hotel, restaurant operations have not resulted in detriment to adjacent property or to the public welfare; however, rooftop uses have generated noise that has disrupted adjacent properties. As such, additional operational conditions have

been imposed on the Project in order to prevent detriment to the area. Further, the conditions of approval require reassessment of the subject property six months from the implementation of the added conditions of approval.

In regard to the requested amendments to the Conditional Use Permit, the proposed increase in rooftop occupancy to 185 persons (excluding hotel staff) is anticipated to be detrimental to the surrounding area, as such an increase in occupancy may result in increased noise levels. However, a maximum occupancy of 125 persons, when appropriately controlled with added conditions of approval, is not anticipated to be detrimental to the surrounding neighborhood. Additional conditions of approval include, but are not limited to, requiring appropriate placement of rooftop speakers, locking the volume controls of the sound system, and providing additional security personnel.

In regard to the expansion of interior restaurant uses and providing direct restaurant access on Wilshire Boulevard, the proposal would result in a 507 square foot increase in restaurant, bar and lounge floor area. This is a 34% increase over previously approved restaurant uses; however, the increase is limited to interior areas only, and restaurant uses have been a component of the hotel since its construction in the 1960s. Sufficient parking is provided to accommodate the requested increase, and a direct entrance to the restaurant on Wilshire Boulevard would be located along a commercial corridor. Because the proposed increase in restaurant uses is consistent with past operations and an access point would be provided along Wilshire Boulevard, rather than Crescent Drive, the proposed increase, as conditioned, is not anticipated to be detrimental to adjacent property or the public welfare.

In regard to the added outdoor dining areas along Wilshire Boulevard, the proposal would result in a 426 square foot increase over current outdoor dining. The outdoor dining would be enclosed by a railing-type barrier, and would be limited to the Wilshire Boulevard side of the hotel, which is a commercial corridor. The expanded outdoor dining area will help to enliven the streetscape, and is in the same general location as existing outdoor dining areas. Parking for the outdoor dining areas would be accommodated both on- and off-site. For the reasons stated above, the outdoor dining areas will not be detrimental to adjacent property or the public welfare.

In regard to the installation of a stove in the existing rooftop food preparation room, the proposal is substantially consistent with existing conditions and will not result in any added floor area or noticeable change to operations. Further, the food preparation room is fully enclosed. Therefore, the addition of a stove to the existing facilities will not be detrimental to adjacent property or the public welfare.

Section 10. In considering the request for Development Plan Review Permit, the Planning Commission may approve the Development Plan Review Permit if the Commission finds as follows:

1. The proposed plan is consistent with the general plan and any specific plans adopted for the area.
2. The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.
3. The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and

adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

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

5. The proposed plan will not be detrimental to the public health, safety or general welfare, and will not result in:

- a. Any significantly adverse parking impacts as a result of employee or patron parking demand;
- b. Any significantly adverse impacts on neighboring properties as a result of the accumulation of garbage, trash, or other waste;
- c. Any significantly adverse impacts on neighboring properties as a result of noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
- d. Any significantly adverse impacts on neighboring properties as a result of light and glare; and
- e. Any significantly adverse impacts on neighboring properties as a result of odors or noxious fumes.

Section 11. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Development Plan Review Permit:

1. The proposed plan was previously reviewed for consistency with the general plan and any specific plans adopted for the area, and was determined

to be in compliance. The proposal is for renewal of a previous approval, and does not change the previous findings.

2. The proposed plan was previously found to promote harmonious development of the area and to not adversely affect existing and anticipated development in the vicinity. The proposal is for renewal of a previous approval, and does not change the previous findings.

3. The proposed plan was previously found to not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property. Noise complaints generated by rooftop uses at the subject property have interfered with the use and enjoyment of residential properties in the vicinity of the subject property. As a result, additional operational conditions are required in order to prevent adverse impacts to surrounding properties. This approval incorporates additional conditions, as well as a provision to reassess the subject property six months from the implementation of the added conditions. Therefore, the added conditions and future reassessment of the property ensure that the rooftop uses will not interfere with the enjoyment of residential properties.

4. The proposed plan was previously found to not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards. The proposal is for renewal of a previous approval, and does not change the previous findings.

5. The proposed plan was previously reviewed and determined to not create impacts related to parking, accumulation of garbage, noise, light and glare, or odors and fumes. Noise complaints generated by rooftop uses at the subject property have demonstrated that the hotel does generate impacts related to noise. As a result, additional operational conditions are required in order to prevent such noise-related impacts to surrounding properties. This approval for renewal incorporates additional conditions, as well as a provision to reassess the subject property six months from the implementation of the added conditions. Therefore, with the added operational conditions and future reassessment of the property, the project can be found to not adversely impact parking, accumulation of garbage, noise, light and glare, or odors and fumes.

Section 12. In considering the request for an Extended Hours Permit, the Planning Commission may approve the Extended Hours Permit if the Commission finds that issuance of said permit will not result in any of the following:

1. The accumulation of garbage, litter, or other waste, both on and off of the subject site.
2. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation.
3. Light and glare.
4. Odors and noxious fumes.
5. Pedestrian queuing.
6. Crime or peril to personal safety and security.

7. Use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area.

8. Effects on traffic volumes and congestion on local residential streets.

9. Cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 13. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Extended Hours Permit:

1. The request for Extended Hours is related to rooftop uses only. Collection of garbage, litter, and other waste is carried out by hotel staff during regular operation of the rooftop areas. An increase in operating hours can be accommodated by existing resources and staff, and the proposal is not anticipated to result in the accumulation of garbage, litter, or other waste.

2. Noise complaints have been reported by surrounding property owners and residential occupants. The noise complaints are a result of improper management of the rooftop area, as well as insufficient conditions of approval associated with previous approvals. Added conditions of approval such as locking volume controls to the sound system and properly locating and equalizing speakers, as well as changes in the management of the rooftop area will correct past issues associated with noise, and ensure that continued rooftop operations will not result in significant noise impacts. Further, the conditions of approval allow rooftop operations until 2:00 AM on Fridays and Saturdays only, and re-review by the Planning Commission is required six months from the date all

new conditions are implemented in order to ensure that all conditions have been successful in preventing noise impacts.

3. The Extended Hours Permit would not result in any added light and glare beyond what currently exists at the subject property, and the City has not received any complaints that would suggest that light and glare is impacting the surrounding neighborhood. Therefore, extending the rooftop hours of operation by one hour is not anticipated to create any adverse impacts related to light and glare.

4. The Extended Hours Permit would not result in any added odors or noxious fumes beyond what currently exists at the subject property, and the City has not received any complaints that would suggest that odors and noxious fumes are impacting the surrounding neighborhood. Therefore, extending the rooftop hours of operation by one hour is not anticipated to create any adverse impacts related odors and noxious fumes.

5. The Extended Hours Permit is related to rooftop uses only, and the request is for one additional hour beyond current operations. Because the request is related to rooftop activities, rather than ground-floor activities, no adverse impacts related to pedestrian queuing are anticipated to occur as a result of the project.

6. The Extended Hours Permit is related to rooftop uses only, and the request is for one additional hour beyond current operations. The request is related to rooftop activities, rather than ground-floor activities, and patrons of the hotel typically utilize the hotel's valet parking operation or park within the Business Triangle, as parking on the residential streets is regulated by permits. Because patrons are typically contained within

the subject property and the request is for a one hour increase, the proposal is not anticipated to result in added crime or peril to personal safety and security.

7. Parking on residential streets in the vicinity of the subject property is regulated by permits and a one-hour time restriction for vehicles without permits, which prevents patrons from parking in these areas. Because the subject property is immediately adjacent to the Business Triangle, it is more likely that patrons not utilizing the hotel's valet services would park on the City's commercial streets rather than residential streets. Further, the parking demand analysis prepared in conjunction with the Project indicates that sufficient parking is available to accommodate all uses within the subject property without causing overflow onto adjacent streets. Therefore, the Project is not anticipated to result in adverse parking impacts and intrusion into residential areas.

8. The Extended Hours Permit does not modify existing hotel floor area or capacities. The Extended Hours Permit would provide for an additional hour of operation until 2:00 AM. This time period (early AM) typically has lower traffic volumes (as compared to peak hours). Therefore, an operational increase of one hour is not anticipated to adversely impact traffic volumes and congestion on local residential streets.

9. The location of the subject property is along the Wilshire Boulevard commercial corridor. The corridor is primarily comprised of office buildings and retail stores that generally do not operate beyond 10:00 PM. Therefore, the proposed project would not result in a concentration of extended hours operations within the vicinity of the subject property.

Section 14. In considering the request for a Variance, the Planning Commission may approve the Variance if the Commission finds as follows:

1. Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

2. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

Section 15. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Variance:

1. The findings for the Variance were previously made by the City Council pursuant to Resolution No. 3013. The Variance was granted for the purposes of increased height and floor area, and not for the purposes of allowing restaurant and bar space. Modifying the condition of approval regarding restrictions on restaurant and bar floor area does not alter the basis by which the findings were previously made for increased height and floor area. As such, the findings to allow increased height and floor area on the subject property can continue to be made and are unaffected by changes to restaurant and bar floor area.

2. The Variance approved by the City Council pursuant to Resolution No. 3013 was previously determined to not constitute a grant of special privileges. The Variance was granted for the purposes of increased height and floor area, and not for the

purposes of allowing restaurant and bar space. Modifying the condition of approval regarding restrictions on restaurant and bar floor area does not alter the basis by which the findings were previously made for increased height and floor area. As such, the findings to allow increased height and floor area on the subject property can continue to be made and are unaffected by changes to restaurant and bar floor area.

Section 16. Based on the foregoing, the Planning Commission hereby grants the requested entitlements, subject to the following conditions:

1. Expansion of the hotel restaurant capacity beyond 114 persons shall not become effective unless and until the proposed Zone Text Amendment regarding the capacity of restaurants in hotels outside the Business Triangle has been adopted by the City Council and has taken effect.

2. Condition d. of City Council Resolution No. 3013, which limits the total floor area of dining and bar uses on the subject property to a maximum of 1,500 square feet, shall be deleted in its entirety. Expansion of restaurant and bar floor area shall instead be controlled by the parking requirements contained in the Beverly Hills Municipal Code, and subject to review in accordance with the City's Conditional Use Permit processing standards.

3. Unless specifically modified by this Resolution, all conditions of approval contained in City Council Resolution No. 3013 shall remain in full force and effect throughout the life of the project.

4. Unless specifically modified by this Resolution, all conditions of approval contained in Planning Commission Resolution No. 1418 shall remain in full force and effect throughout the life of the project.

5. The maximum occupancy of all rooftop areas, excluding hotel staff, shall be limited to 125 persons unless and until the Planning Commission modifies this restriction at a future hearing.

6. Hotel personnel shall be stationed at the rooftop elevator lobby to ensure that the maximum occupancy, excluding hotel staff, does not exceed 125 persons at any time.

7. Hotel personnel shall be stationed on the ground-floor of the hotel's valet parking area, adjacent to the alley, and shall prevent patrons from entering the alley after 10:00 PM. Patrons shall instead be directed to use the Wilshire Boulevard access points.

8. A temporary barrier shall be installed within the hotel's parking area each night to prevent vehicles from entering or exiting the hotel's parking area through the alley after 10:00 PM.

9. Use of all unenclosed rooftop areas shall be prohibited between the hours of 1:00 AM and 5:00 AM, Sunday through Thursday, and between the hours of 2:00 AM and 5:00 AM, Friday and Saturday. This condition shall remain in full force and effect unless and until the Planning Commission modifies this restriction at a future public hearing.

10. Outdoor dining areas located on the public right-of-way shall be limited to the north side of the building, which fronts on Wilshire Boulevard. Outdoor dining on

the public right-of-way shall not be permitted to take place on the east side of the building, which fronts on South Crescent Drive.

11. The playing of live or prerecorded music within the outdoor dining area located within the public right-of-way along Wilshire Boulevard shall be prohibited.

12. Outdoor dining along Wilshire Boulevard shall be set back a minimum of five feet (5') from the easternmost property line of the hotel, which fronts on South Crescent Drive.

13. The property owner of 9360 Wilshire Boulevard shall maintain a minimum of 40 off-site parking spaces. The parking spaces shall be secured through a lease agreement, and be located within 500 feet of the hotel. The parking spaces shall be reserved for the exclusive use of the hotel between the hours of 6:00 PM and 2:00 AM, seven days per week. The property owner shall maintain such a lease agreement throughout the life of the Project, and a copy of the agreement shall be furnished to the City annually.

14. The subject property shall be required to maintain a minimum of 129 on-site parking spaces at all times.

15. All speakers located on the rooftop areas shall be installed at the base of the perimeter wall around the deck areas. Further, no speakers shall be permitted to be installed on the rooftop cabanas.

16. All speakers within the premises shall be located in such a manner so as to direct all sound towards patrons and otherwise prevent the possibility of sound being plainly audible beyond the property line. Further, the sound levels shall be balanced with

an equalizer that will allow for the attenuation of bass frequencies to limit noise from escaping beyond the perimeter walls.

17. Volume controls for the sound system shall be fitted with a locked cover to prevent tampering with the volume levels. Additionally, only hotel management shall be provided with access to the volume controls.

18. The Applicant shall set up an initial sound demonstration for review by City staff once all modifications to the sound system have occurred to demonstrate compliance with all conditions of approval.

19. The applicant shall mail or otherwise distribute Thompson Hotel management contact information, City of Beverly Hills contact information, and 24-hour contact information for dedicated security personnel to all property owners and residential occupants within 500 feet of the hotel.

20. No live entertainment shall be permitted on the rooftop area at any time.

21. There shall be no dancing allowed on the rooftop area at any time, as dancing constitutes a “nightclub” under the City’s codes, and nightclubs are not permitted to operate outside the Business Triangle.

22. The hotel shall provide access to Fire Department, Law Enforcement, and/or Code Enforcement Officers at any time.

23. In the event that the hotel violates or fails to comply with any of these conditions, the City may take action to cure such violation, including but not limited to, revocation of this permit.

24. Once all conditions of this Resolution have been implemented, the Applicant shall, at his sole expense, conduct a new noise study to assess whether the

rooftop operations are occurring in a manner that does not impact the surrounding neighborhood. Said study shall include noise measurements taken between the hours of 10:00 PM and 2:00 AM, on a Thursday, Friday, and Saturday.

25. The Planning Commission shall re-review this permit six months from the date of implementation of all conditions of approval to determine if the conditions contained in this approval are adequately minimizing disturbances to the adjacent residential properties. Additionally, during the Commission's re-review of this permit, the applicant may request that the Commission revisit the requested increases in rooftop operating hours and maximum capacity limitations. The Applicant shall file all necessary applications and pay all applicable fees associated with said review.

26. Free parking shall be provided to hotel employees, including any consultants or agents retained by the hotel operator in connection with the operation of said facility, at all times.

27. The project shall be built in substantial conformance with the plans as conditioned and approved by the Planning Commission on July 8, 2010.

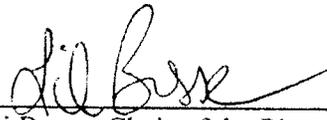
28. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

29. This resolution granting the requested Conditional Use Permit, Development Plan Review Permit, Extended Hours Permit, and Variance 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 Property Owner shall deliver the executed covenant to the Department of Planning &

Community Development **within 60 days** of any City Council approval of the Amendments. At the time that the Property Owner delivers the covenant to the City, the Property Owner shall also provide the City with all fees necessary to record the document with the County Recorder. If the Property Owner fails to deliver the executed covenant within the required 60 days, this resolution approving the Project **shall be null and void and of no further effect**. Notwithstanding the foregoing, the Director of Planning & Community Development may, upon a request by the Property Owner, 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.

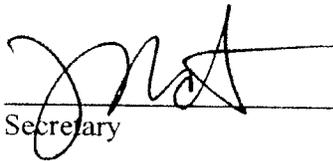
Section 11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: JULY 8, 2010

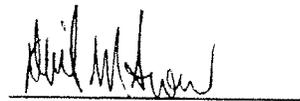


\_\_\_\_\_  
Lili Bosse, Chair of the Planning  
Commission of the City of Beverly Hills,  
California

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. 1581 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on July 8, 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, Furie, Vice Chair Yukelson, and  
                    Chair Bosse.

NOES:           None.

ABSTAIN:       None.

ABSENT:        None.

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