

ATTACHMENT 7
PAST RESOLUTIONS

RESOLUTION NO. 75-R- 5307

RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS GRANTING THE APPEAL OF THE
ASHKENAZY DEVELOPMENT CORPORATION CONCERN-
ING JACUZZI SUNDECK AT 9291 BURTON WAY.

WHEREAS, Appellant, Ashkenazy Development Corporation submitted plans on February 26, 1975, indicating that a thirty-one (31') foot by thirty-eight (38') foot sundeck was to be constructed on the roof of the premises located at 9291 Burton Way in the City of Beverly Hills; and

WHEREAS, it was indicated on said plans that the sundeck would exceed the height limitations set forth in the Municipal Code by three (3') feet; and

WHEREAS, through inadvertence, the height change was not noted by the Department of Building and Safety and the plans were stamped "Approved"; and

WHEREAS, Appellant relied on approved plans and had partially constructed the sundeck; and

WHEREAS, upon discovering the fact that the sundeck exceeded the maximum building height, the Building and Safety Department, on July 22, 1975, ordered the sundeck modified to an eighteen (18') foot by twenty (20') foot area; and

WHEREAS, the Appellant filed an Appeal with the City Council from the decision of the Department of Building and Safety; and

WHEREAS, on August 19, 1975, the City Council heard the Appeal;

NOW, THEREFORE, the Council of the City of Beverly Hills does hereby resolve as follows:

Section 1. The Council finds that the sundeck will exceed the maximum permit in height of the building by three (3') feet, but that the Appellant relied upon the approval of the Director of the Department of Building and Safety as permission from the City to substantially undertake construction of the sundeck and to install exposed air conditioning equipment on the assumption that it would be covered by the sundeck. Further,

the Council finds that the sundeck will not be visible to the street.

Section 2. The Appeal of the Appellant, Ashkenazy Development Corporation, is granted and the Appellant may construct the Jacuzzi sundeck on the building located at 9291 Burton Way in the City of Beverly Hills according to the approved and stamped drawings dated February 26, 1975 and May 23, 1975.

Section 3. The City Clerk shall furnish a copy of this Resolution to Ashkenazy Development Corporation, c/o Michelle Ertzan, 8063 Beverly Boulevard, Los Angeles, CA 90048.

Section 4. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolutions of the Council of this City.

Adopted SEPTEMBER 2, 1975

Donna Belmont
ACTING Mayor of the City of
Beverly Hills, California

ATTEST:

Jean M. Yoshijima (SEAL)
City Clerk

APPROVED AS TO FORM
FOR THE CITY ATTORNEY:

Approved as to content:

By: *Jaell Miller*
Sr. Assistant City Attorney

Richard B. ...
City Manager

RESOLUTION NO. 267

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS SITTING AS A BOARD OF ZONING ADJUSTMENTS, GRANTING A VARIANCE FROM PARKING REQUIREMENTS TO THAT PROPERTY LOCATED AT 9291 BURTON WAY

WHEREAS, 9289 Burton Company, a limited partnership, Ashkenazy Development Corporation, general partner, hereinafter referred to as "Applicant", desires to remove four parking spaces from the upper level of the underground parking garage of the building located at 9291 Burton Way, operated as L'Ermitage Hotel, and to replace said parking spaces with an area approximately 322 square feet to be used as storage, an action which would make the remaining number of parking spaces less than required under Section 10-3.2730 of the Municipal Code; and

WHEREAS, Applicant has applied for a variance from the provisions of Section 10-3.2730 requiring that Applicant maintain the number of parking spaces currently provided on the property, on the basis that such parking spaces are not being used, remaining parking would be sufficient for use by Applicant, and the storage space to be built is necessary to efficiently operate L'Ermitage Hotel; and

WHEREAS, the application for a variance was reviewed by the Environmental Review Board and a negative declaration was issued on the basis that no significant environmental impact will result; and

WHEREAS, the Planning Commission sitting as a Board of Zoning Adjustments conducted a hearing on January 28, 1980, at which it received oral and documentary evidence relative thereto, and

the Planning Commission sitting as a Board of Zoning Adjustments finds the following facts:

1. The property is a 26,000 square foot site, developed with a 117 unit, six-story plus two mezzanine level structure, used as a hotel.
2. The structure has 137 parking spaces in a subterranean garage.
3. The property site is zoned R-4 condition C; the structure is a legally non-conforming use.
4. If the existing building and its use were conforming, a maximum number of 29 multi-family units requiring 87 parking spaces would be permitted.
5. The only physically and economically practical way to modify the existing structure to create storage space necessary to efficiently operate the hotel is to eliminate four on-site parking spaces, converting them into such storage space.
6. In the absence of such storage space, Applicant finds it necessary to have daily deliveries of supplies required to operate as a hotel.
7. The structure will be adequately served by a total of 133 parking spaces remaining after elimination of four on-site parking spaces; and

WHEREAS, by granting a variance as requested by Applicant with the condition that Applicant covenant to provide free off-street parking for all its employees, one of the purposes of the regulations requiring parking which is to insure that a property

owner provides adequate parking for its employess, will be satisfied by substantially remedying a parking situation which creates difficulties for such employees, and will insure that no special privilege will be granted to this property that is not accorded to other like properties so situated;

NOW THEREFORE, the Planning Commission sitting as a Board of Zoning Adjustments of the City of Beverly Hills does hereby resolve as follows:

Section 1. The Planning Commission sitting as a Board of Zoning Adjustments finds that, because it is physically and economically impractical for storage space required for the efficient operation of the hotel located on the property to be created in any way other than eliminating four on-site parking spaces and converting such spaces into said storage space, the strict application of Section 10-3.2730 of the Municipal Code would deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, and that the imposing of the conditions required will assure that the adjustment authorized herein will not constitute or grant special privileges inconsistent with the limitations upon other properties in the vicinity and the zone in which the property is situated.

Section 2. The application for a variance from the provisions of Section 10-3.2730 of the Municipal Code requiring that 137 parking spaces be provided for the existing structure of 117 units is granted, subject to the condition that the owner of the property provide a covenant to the property which shall run with the land and which shall be recorded, that the owner shall provide

at all times free parking to any person employed by any business located on the property for which the variance is granted, and that such free parking shall be provided within a distance of 700 feet of the property for which the variance is granted, or, alternatively, free transportation shall be provided between the site of the free parking and the place of employment by said owner for any or all such employees if the free parking provided is located more than 700 feet from the property for which the variance has been granted. Notice that such parking is available shall be posted conspicuously at each entrance to the applicant's property commonly used by said employees. Said covenant shall further provide that if the owner of the property fails at any time to comply with any of the conditions of the covenant, said owner shall remove any structure built in the space where the four on-site parking spaces are located and shall restore said space for use as four onsite parking spaces, or, alternatively, shall take out of service a sufficient number of units so that the remaining number of units is such as is allowed under the Beverly Hills Municipal Code at time of said breach for a structure operated as a hotel which contains 133 on-site parking spaces.

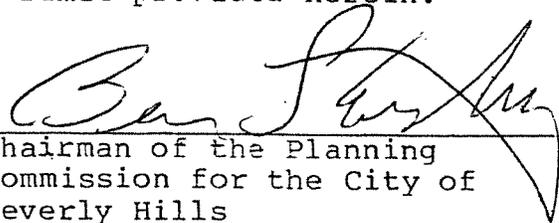
Section 3. If any of the conditions herein imposed in the granting of this variance shall be held by any court of law to be void or beyond the power of the Planning Commission to impose, or if Applicant fails to comply with such conditions, this variance shall be null and void and of no further force or effect. The Planning Commission hereby declares that it would not have granted this variance without each of said conditions, and that without

each of such conditions it would not have made the findings set forth in Section 1 above.

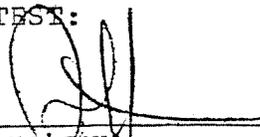
Section 4. The Secretary of the Planning Commission shall certify to the passage, approval and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City; and he shall further mail two certified copies of this resolution to the County Assessor, Los Angeles County, Land Division, Hall of Administration, Los Angeles, California 90012; and he shall further mail three certified copies of this resolution to Applicant, L'Ermitage Hotel, 9291 Burton Way, Beverly Hills, California.

Section 5. This variance shall become effective and in full force and effect at 12:01 a.m. on the 30th day next following the passage of this resolution, in the absence of an appeal to, or order for review by, the City Council; and the rights granted herein shall be void and of no further force or effect unless the exercise of rights granted herein shall have commenced on or before March 26, 1980, provided, however, the Planning Commission may, for good cause shown, extend any time limit provided herein.

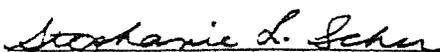
Adopted February 25, 1980.


Chairman of the Planning
Commission for the City of
Beverly Hills

ATTEST:


Secretary

Approved as to form
for the City Attorney:


Assistant City Attorney

Approved as to content:


Director of Planning

RESOLUTION NO. 294

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS SITTING AS A BOARD OF ZONING ADJUSTMENTS, GRANTING A VARIANCE FROM PARKING REQUIREMENTS TO THAT PROPERTY LOCATED AT 9291 BURTON WAY

WHEREAS, 9289 Burton Company, a limited partnership, by Ashkenazy Development Corporation, general partner, hereinafter referred to as "Applicant", desires to remove four required parking spaces from the upper level of the underground parking garage of the building located at 9291 Burton Way, operated as L'Ermitage Hotel, and to replace said parking spaces with a storage area of approximately 576 square feet, an action which would make the remaining number of parking spaces less than required under Section 10-3.2730 of the Beverly Hills Municipal Code; and

WHEREAS, Applicant has applied for a variance from the provisions of Section 10-3.2730 requiring that Applicant maintain 136 parking spaces on the property, on the basis that such parking spaces are not being used, remaining parking would be sufficient for use by Applicant, and the storage space to be built is necessary to efficiently operate L'Ermitage Hotel; and

WHEREAS, the application for a variance was reviewed by the Environmental Review Board and a negative declaration was issued on the basis that no significant environmental impact will result; and

WHEREAS, the Planning Commission sitting as a Board of Zoning Adjustments conducted a hearing on January 28, 1980, and meetings on July 28, 1980, and November 3, 1980, at which times it received oral and documentary evidence relative thereto, and the

Planning Commission sitting as a Board of Zoning Adjustments finds the following facts:

1. The property is a 26,000 square foot site, developed with a 116 unit, six-story plus two mezzanine level structure, used as a hotel.
2. The required number of parking spaces for a hotel with the number and distribution of rooms which are contained on this property is 136.
3. The structure has 137 parking spaces in a subterranean garage, including 7 aisle spaces permitted pursuant to covenant.
4. The property site is zoned R-4 condition C; the structure is a legally non-conforming use.
5. If the existing building and its use were conforming, a maximum number of 29 multi-family units requiring 87 parking spaces would be permitted.
6. The only physically and economically practical way to modify the existing structure to create storage space necessary to efficiently operate the hotel is to eliminate four on-site parking spaces, converting them into such storage space.
7. In the absence of such storage space, Applicant finds it necessary to have daily deliveries of supplies required to operate as a hotel.
8. The structure will be adequately served by the parking spaces remaining after elimination of four on-site parking spaces; and

WHEREAS, by granting a variance as requested by Applicant with the condition that Applicant covenant to provide free off-street parking for all its employees, one of the purposes of the regulations requiring parking, which is to insure that a property owner provides adequate parking for its employees, will be satisfied by substantially remedying a parking situation which creates difficulties for such employees, and will insure that no special privilege will be granted to this property that is not accorded to other like properties so situated;

NOW THEREFORE, the Planning Commission sitting as a Board of Zoning Adjustments of the City of Beverly Hills does hereby resolve as follows:

Section 1. The Planning Commission sitting as a Board of Zoning Adjustments finds that, because it is physically and economically impractical for storage space required for the efficient operation of the hotel located on the property to be created in any way other than by eliminating four on-site parking spaces and converting such spaces into said storage space, the strict application of Section 10-3.2730 of the Municipal Code would deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, and that the imposing of the conditions required will assure that the adjustment authorized herein will not constitute or grant special privileges inconsistent with the limitations upon other properties in the vicinity and the zone in which the property is situated.

Section 2. The application for a variance from the provisions of Section 10-3.2730 of the Municipal Code requiring that

136 parking spaces be provided for the existing structure of 116 units is granted, subject to the conditions that the owner of the property provide a covenant to the property, which shall run with the land and which shall be recorded, which provides as follows:

(1) The owner shall provide at all times free parking to any person employed by any business located on the property for which the variance is granted. Such free parking shall be provided within a distance of 1000 feet of the property for which the variance is granted, or, alternatively, free transportation shall be provided between the site of the free parking and the place of employment by said owner for any or all such employees if the free parking provided is located more than 1000 feet from the property for which the variance has been granted. Notice that such parking is available shall be posted conspicuously at each entrance to the applicant's property commonly used by said employees.

(2) A minimum of 132 on-site parking spaces shall at all times be provided and maintained on the subject property. A maximum of seven (7) such spaces may be aisle spaces. All such spaces shall be maintained in full compliance with all applicable provisions of the Beverly Hills Municipal Code. The owner shall at all times provide and maintain attendant parking for such spaces.

(3) The owner shall reimburse the City of Beverly Hills for the cost of inspections of the subject property made by the City to determine if the terms and conditions of this variance are being met. Such inspections shall be made a maximum of six (6) times per year, at such times as City in its sole discretion may determine. The cost of each such inspection shall be Fifty and no/100ths (\$50.00) Dollars, through June 30, 1981; such amount shall be adjusted on July 1, 1981, and on July 1 of each year thereafter, in accordance with the provisions of section 8-10.01 of the Beverly Hills Municipal Code.

Section 3. If any of the conditions herein imposed in the granting of this variance are held by any court of law to be void or beyond the power of the Planning Commission to impose, or if Applicant fails to comply with any such condition, this variance

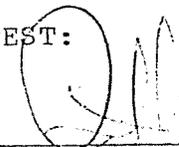
shall be null and void and of no further force or effect, and the owner of the property shall remove any structure built in the space where the four on-site parking spaces are located and shall restore said space for use as four onsite parking spaces, or, alternatively, shall take out of service a sufficient number of units so that the remaining number of units is the number which would have been required under the Beverly Hills Municipal Code existing at the time the building permit was issued for a structure operated as a hotel which contained 132 on-site parking spaces, provided that a maximum of seven (7) aisle spaces may be used in computation of the number of spaces available. The Planning Commission hereby declares that it would not have granted this variance without each of said conditions, and that without each of such conditions it would not have made the findings set forth in Section 1 above. This variance shall supersede any and all variances previously granted, or covenants or agreements heretofore agreed to between the City of Beverly Hills and Applicant or its predecessors in interest pertaining to this property.

Section 4. 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. He shall mail two certified copies of this resolution to the County Assessor, Los Angeles County, Land Division, Hall of Administration, Los Angeles, California 90012, and shall mail three certified copies of this resolution to Applicant, L'Ermitage Hotel, 9291 Burton Way, Beverly Hills, California.

Section 5. This variance shall become effective and in full force and effect at 12:01 a.m. on the 30th day next following the passage of this resolution, in the absence of an appeal to, or order for review by, the City Council.

Adopted December 8, 1980.

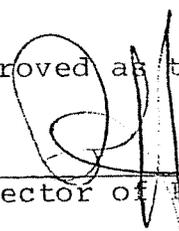
Winston Miller
Chairman of the Planning
Commission for the City of
Beverly Hills

ATTEST:


Secretary

Approved as to form
for the Acting City Attorney:

Stephanie L. Scher
Assistant City Attorney

Approved as to content:


Director of Planning

RESOLUTION NO. 83-R- 6759

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF BEVERLY HILLS GRANTING
A VARIANCE TO THE L'ERMITAGE HOTEL
AT 9289 BURTON WAY

WHEREAS, 9289 Burton Company, a limited partnership, hereinafter referred to as "Applicant" has filed a variance application to permit construction of an attached stairwell/elevator addition to the L'Ermitage Hotel, at 9289 Burton Way, and;

WHEREAS, this variance request was reviewed by the Environmental Review Board and a negative declaration was issued on the basis that no significant environmental impact will result from granting of this variance; and

WHEREAS, the Planning Commission sitting as a Board of Zoning Adjustments held a public hearing on January 24, 1983, at which time it received oral and documentary evidence relative to the variance application, and after consideration denied the variance; and

WHEREAS, applicant then filed a timely appeal from the decision of the Board of Zoning Adjustments with the City Council, and

WHEREAS, the City Council held duly noticed public hearings July 19, 1983 and August 2, 1983, at which time it considered the record and received further oral and documentary evidence on the matter.

NOW, THEREFORE, the Council of the City of Beverly Hills after consideration of all evidence presented does hereby find and determine as follows:

Section 1. a) The property site consists of Lots 3 through 7, inclusive of Block 16, Tract 5647 of the City of Beverly Hills; is improved with a one hundred and sixteen (116) unit, eight story hotel; the property is zoned R-4; and the hotel is a legally nonconforming use.

b) The variance request is to permit construction of an elevator/stairwell structure attached to the hotel, with the proposed structure exceeding existing zoning height limits by approximately twenty (20') feet; exceeding existing maximum structure width by approximately fifty-five (55') feet; and allowing four of the presently required parking spaces be provided as aisle parking spaces.

Section 2. Construction of the proposed elevator/stairwell will provide enhanced fire safety protection to hotel occupants. The site of this property is surrounded by residential structures and precludes such installation except by variance. Granting of the variance does not constitute a special privilege to the subject property since it is the only large hotel in the vicinity, and the variance would allow this hotel to maximize fire protection and facilitate access to all floors including the roof of the structure.

On April 8, 1980 the applicant was granted a variance (Resolution No. 294) which reduced the number of required parking spaces from one hundred and thirty six (136) to one hundred and thirty two (132), and further provided that seven of these parking spaces could be aisle parking spaces. The present parking variance request

is to allow an additional four (4) aisle parking spaces to be substituted for four (4) designated parking spaces, in order to facilitate limousine and valet parking accommodations. Granting this requested parking variance will attenuate traffic hazards and parking congestion on the street, by providing adequate on-site facilities for valet and limousine service, and thereby reduce noise and congestion on Burton Way.

Section 3. The application for the variance is hereby granted subject to the following conditions:

a) That a single site covenant be executed by the owner of the adjacent sixteen unit hotel structure located on Lot 2, Block 16, Tract 5647, and by the applicant, which would covenant both parcels together legally into a single site, under the conditions and provisions contained in Attachment "A", which is incorporated herein by reference.

b) That a fully automatic fire sprinkler system be installed in the adjacent hotel which is situated on Lot 2; said installation to be completed within six months of City approval of plans and that the new elevator/stairwell be equipped with a fully automatic fire sprinkler system.

c) That the elevator/stairwell addition conform to plans on file with the City, and specifically, that the elevator equipment be located on the roof of the hotel.

d) That the elevator/stairwell structure be soundproofed and pressurized.

e) That a paved exitway be constructed between the hotel structure on Lot 2 and the L'Ermitage Hotel in conformance with the plans submitted to the City.

f) The owner shall provide at all times free parking to any person employed by any business located on the property for which the variance is granted. Such free parking shall be provided within a distance of 1000 feet of the property for which the variance is granted, or, alternatively, free transportation shall be provided between the site of the free parking and the place of employment by said owner for any or all such employees if the free parking provided is located more than 1000 feet from the property for which the variance has been granted. Notice that such parking is available shall be posted conspicuously at each entrance to the applicant's property commonly used by said employees.

g) Parking required by subsection (f) above should not be less than sixteen (16) spaces.

h) A minimum of 132 on-site parking spaces shall at all times be provided and maintained on the subject property. A maximum of eleven (11) such spaces may be aisle spaces, and all other spaces shall be maintained in full compliance with all applicable provisions of the Beverly Hills Municipal Code. The owner shall at all times provide and maintain attendant parking for all apaces.

i) Guest parking needs of the adjacent hotel on Lot 2 shall be accommodated in the L'Ermitage parking facility.

j) The owner shall reimburse the City of Beverly Hills for the cost of inspections of the subject property made by the City to determine if the terms and conditions of this variance are being met. Such inspections shall be made a maximum of six (6) times per year, at such times as City in its sole discretion may determine. The cost of each such inspection shall be sixty-five and

no/100ths (\$65.00) Dollars, through June 30, 1984; such amount shall be adjusted on July 1, 1984, and on July 1 of each year thereafter, in accordance with the provisions of section 8-10.01 of the Beverly Hills Municipal Code.

Section 4. Variance No. 294 granted on December 8, 1980, and the Covenant in conjunction therewith which was executed on April 24, 1981 and recorded in the office of the Los Angeles County Recorder on June 9, 1981 as Document Number 81-572892 is hereby superseded.

Section 5. This variance constitutes a variance from the general plan and applicable zoning regulations, and shall take effect upon execution and recordation of the covenant attached hereto.

Section 6. The City Clerk shall furnish a copy of this resolution after it has been approved and fully executed by the City, to: 9289 Burton Company, a limited partnership - Attn: Ashkenazy Development Corporation - 9291 Burton Way, Beverly Hills, California 90210.

Section 7. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and her certification to be entered in the Book of Resolutions of the

Council of this City.

Adopted August 16, 1983

Annabelle Heiferman
ANNABELLE HEIFERMAN, Acting
Mayor of the City of
Beverly Hills

ATTEST:

Jean Ushijima (SEAL)
JEAN USHIJIMA, City Clerk

Approved as to form
for the City Attorney:

John O'Connor
JOHN O'CONNOR
Assistant City Attorney

Approved as to content:

Edward Kreins
EDWARD KREINS
City Manager

Anthony Nisich
ANTHONY NISICH
Director of Building & Safety

Irwin Kaplan
IRWIN KAPLAN
Planning Director

RECORDING REQUESTED BY

6759 10

AND WHEN RECORDED MAIL TO

Name	City Clerk
Street Address	City of Beverly Hills 450 North Crescent Drive
City & State	Beverly Hills, California

SPACE ABOVE THIS LINE FOR RECORDER'S USE

C O V E N A N T

WHEREAS, on August 16, 1983, the City Council of the City of Beverly Hills by Resolution No. 83-R- 6759 granted a variance to 9289 Burton Company, a limited partnership for an elevator/stairwell addition and a parking variance to the L'Ermitage Hotel situated on / the site consisting of Lots 3 through 7 of Block 16, Tract No. 5647 in the City of Beverly Hills, and

WHEREAS, as a condition of granting said variance, the City required that a covenant be executed by 9289 Burton Company, and the owner of the adjacent property described as Lot 2 of Block 16 of Tract No. 5647 in the City of Beverly Hills, which would be a covenant running with the land, and would covenant the two properties into a single site as defined in the Beverly Hills Municipal Code.

NOW, THEREFORE, the undersigned parties represent, covenant, promise, and agree for the benefit of the City of Beverly Hills as follows:

Section 1. 9289 Burton Company, a limited partnership, hereby represents and warrants that it is the owner of Lots 3 through 7 of Block 16, Tract No. 5647 in the City of Beverly Hills, County of Los Angeles, State of California.

Section 2. PENELOPE RUTH DANZ ASHKENAZY hereby represents and warrants that she is the owner of Lot 2 of Block 16, Tract No. 5647 in the City of Beverly Hills, County of Los Angeles, State of California.

Section 3. The parties hereby covenant that their respective properties shall be deemed as a single site as defined in the Municipal Code of the City of Beverly Hills for so long as either property is used for hotel purposes.

DATED: August 16, 1983

9289 Burton Way, a limited
partnership

Approved as to form:

Charles D. Haughton
CHARLES D. HAUGHTON
City Attorney

By
ASHKENAZY Development Corporation

GARY W. NIELSEN
Executive Vice President

Approved as to content:

Anthony Nisich
ANTHONY NISICH
Director of Building & Safety

PENELOPE RUTH DANZ ASHKENAZY

Irwin Kaplan
IRWIN KAPLAN
Planning Director

RESOLUTION NO. 493

RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BEVERLY HILLS SITTING
AS A BOARD OF ZONING ADJUSTMENTS GRANTING
A FRONT YARD SETBACK VARIANCE TO PERMIT
ENCROACHMENT INTO THE FRONT SETBACK BY TWO
SCULPTURES AT 9291 BURTON WAY

9289 Burton Co., dba L'Ermitage Hotel, hereinafter referred to as "Applicant," has applied for a front yard setback variance for the property located at 9291 Burton Way. This application requests a variance to permit encroachment into the front setback by two sculptures which are presently located approximately twelve feet (12') from the front property line. The required front lot line setback is twenty feet (20').

The above request, if granted, would constitute a variance from Beverly Hills Municipal Code Section 10-3.2504.1(b).

The application for this variance was reviewed by the Environmental Review Board and a negative declaration was issued on the basis that no significant environmental impact will result from granting this variance.

The Planning Commission, sitting as a Board of Zoning Adjustments, conducted a duly noticed public hearing on October 26, 1987, at which time it received oral and documentary evidence relative to the application, and now finds and determines as follows:

1. The project site is located on the north side of Burton Way between Foothill Road and Maple Drive, and is currently developed with an eight-story hotel structure. The parcel is located in an R-4 zone. The location, surroundings and size of the site, produce special circumstances that warrant a variance. Burton Way is a primary street with heavy traffic. Most R-4 lots are located on secondary streets which are more residential in nature and experience mostly local traffic. Also, the hotel on the project site is the largest building on Burton Way. These two circumstances combine to deprive the hotel site of the aesthetic quality enjoyed by other R-4 properties. By allowing the sculptures to be placed in the front setback, the City will allow the hotel to increase the aesthetic quality of the site.

The hotel is a legal nonconforming use in the R-4 zone. As such, granting of the variance would not constitute a special privilege because the hotel is in a unique situation. There are very few hotels in the R-4 zone and none along Burton Way. Nor is there any structure as large.

2. The Planning Commission sitting as a Board of Zoning Adjustments hereby grants a variance from Beverly Hills Municipal Code Section 10-3.2504.1(b) to encroach into the required twenty foot (20') front lot line setback and allow two sculptures to remain approximately twelve (12') feet from the front property line.

3. The Secretary of the Planning Commission shall certify the passage, approval, and adoption of this resolution,

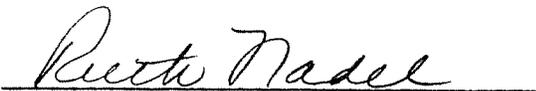
and shall cause this resolution and this certification to be entered in the Book of Resolutions of the Planning Commission of the City; and is directed to mail a copy of this resolution to Applicant.

4. This variance shall become effective and in full force and effect at 12:01 a.m. on the 30th day next following the passage of the resolution unless appealed, or called up for review by the City Council.

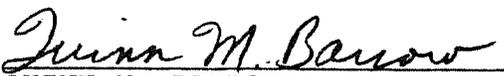
Adopted: November 23, 1987


Chairman of the Planning
Commission for the City of
Beverly Hills

ATTEST:


Secretary

Approved as to form:


QUINN M. BARROW
Assistant City Attorney

Approved as to content:


IRWIN MOSS KAPLAN
Director of Planning and
Community Development

wqmb133
11/18/87

RESOLUTION NO. 890

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS SITTING AS A BOARD OF ZONING ADJUSTMENTS CONDITIONALLY GRANTING SETBACK AND ROOFTOP VARIANCES FOR THE LOWELL HOTEL AT 9291 BURTON WAY AND MODIFYING A PARKING VARIANCE FOR THE LOWELL HOTEL

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

Section 1. Lahotel Corporation, hereinafter referred to as "applicant," has applied for the following setback and rooftop variances as part of the renovation of The Lowell Hotel (formerly L'Ermitage Hotel) at 9291 Burton Way ("the project").

A. A variance from Beverly Hills Municipal Code Sections 10-3.2505.2 and 10-3.2606 to allow the following elements to encroach into required street setbacks:

1. Fountain structures
2. Planter walls and other walls above three feet in height
3. A limestone cap at the front entry to the building and the refacing of the exterior building walls with limestone materials that will intrude into the setback
4. Iron lattice for landscaping adjacent to the front wall of the building
5. A stair with a railing
6. A handicap ramp with side rails
7. A valet stand and baggage handling conveyor belt or lift
8. Canopy and awning structures
9. Benches
10. Hedges

B. A variance from Beverly Hills Municipal Code Section 10-3.2529 to allow paving in the front setback in

addition to the existing paving and in excess of the maximum limitation on paving.

C. A variance from Beverly Hills Municipal Code Sections 10-3.2505, 10-3.2505.1, 10-3.2505.2, 10-3.2607, and 10-3.2608 to allow the following elements to encroach into required side and rear setbacks:

1. The refacing of the exterior building walls with limestone materials that will intrude into the setback
2. Walls and hedges in excess of height limitations
3. Patios and planters which cause the garage to exceed a height of three feet above grade
4. A stair with a landing
5. An enclosed one story connector between the buildings
6. Hedges
7. Awnings

D. A variance from Beverly Hills Municipal Code Section 10-3.1206 to allow a dining facility door opening through an exterior wall.

E. A variance from Beverly Hills Municipal Code Sections 10-3.135 and 10-3.2725 to allow the following elements to be constructed, placed or enlarged above the height limit in the R-4 Zone:

1. Enlargement of the existing pool
2. Placement of a service room at the existing elevator structure
3. Construction of bathrooms which exceed one hundred square feet in area and construction of a stairway enclosure behind the existing mechanical penthouse
4. Placement of three canvas cabanas at the pool
5. Construction of planter walls around the perimeter of the roof behind the parapet
6. Construction of walls and screens to beautify the existing fireplace flues
7. Placement of an iron lattice on existing walls to support landscaping

8. Placement of landscaping at and above the parapet along the perimeter of the roof
9. Placement of a fountain on the westerly side of the existing mechanical penthouse
10. Placement of an iron trellis structure that separates the pool area from the terrace and connects the mechanical penthouse and the elevator structure
11. Placement of fixed benches in the pool area
12. Placement of vent pipes
13. Placement of chimneys

Section 2. The applicant has also requested a modification to conditions of existing parking variances granted by Beverly Hills Planning Commission Resolution No. 294 and Beverly Hills City Council Resolution No. 83-R-675. The modification would allow the applicant to utilize up to sixteen aisle parking spaces to meet the parking requirements established in those variances. As originally adopted, the variances limited the applicant to seven aisle spaces and eleven aisle spaces, respectively.

Section 3. Two initial studies and negative declarations have been prepared for the proposed project. Based on the initial studies, the proposed negative declarations and the comments thereon, the Planning Commission, sitting as the Board of Zoning Adjustments, finds that the negative declarations represent the independent judgement of the City and that there is no substantial evidence that the project may have a significant impact on the environment. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development

and are in the custody of the Director of Planning and Community Development.

Section 4. The Planning Commission, sitting as a Board of Zoning Adjustments, conducted a duly noticed public hearing on March 10, 1994 and April 27, 1994 at which time it received oral and documentary evidence concerning the variance applications and the application to modify the condition of the previously granted parking variances.

Section 5. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds:

a. Pursuant to Beverly Hills Municipal Code Section 10-3.2801, the Planning Commission may grant a variance if, on the basis of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of the zoning code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. 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.

b. There are special circumstances applicable to the subject property, including size, shape, surroundings, location or topography that warrant granting the requested variance. The strict application of the provisions of the Beverly Hills Municipal Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and under the identical zone classification if a variance were not granted. The property is characterized by an unusually large grade change along the frontage of the property. Additionally, the project's location is unique because both the front and rear of the property are exposed to extraordinary noise levels. The front of the property faces Burton Way, a major thoroughfare with heavy traffic. The project is located near a signalized intersection and vehicles which approach the intersection during a red signal must stop and start in front of the project, creating a greater noise impact than at most other locations along Burton Way. The rear of the property is adjacent to a vehicle maintenance yard that is located in the newly created public-service zone. Furthermore, due to the newly created public service zone, other public service uses with adverse noise or odor impacts could be located adjacent to the project site. Thus, due to its topography, location, and surroundings, and as described below in detail, the property cannot provide required access to disabled persons and the property is deprived of the privilege of quiet enjoyment that is enjoyed by other properties in the vicinity that are subject to identical zoning regulations. The requested variances are necessary to address the deprivation.

1. Street Setback

(a) Fountains in street setback.

The project's entrance faces Burton Way, a major thoroughfare with heavy traffic. Additionally, the project is located near a signalized intersection and vehicles which approach the intersection during a red signal must stop and start in front of the project, creating a greater noise impact than at most other locations along Burton Way. Placement of the fountains in the street setback are required to mask the traffic noise so that the property is not deprived of the privilege of quiet enjoyment that is enjoyed by similar properties.

(b) Handicap ramp and rails and planter walls in street setback.

Both California and federal law require that all level changes be accessible by a wheelchair. Because of the topography of site, the current ramp to the entrance does not adequately allow a wheelchair to reach the public areas of the hotel. Due to the grade change of the site, the proposed ramp must be constructed in the street setback in order to meet requirements that have been adopted since the existing buildings were constructed.

(c) Canopies, awnings, baggage conveyor belt and valet stand.

Due to its location adjacent to a public service zone use that has noise and odor impacts, the project cannot reasonably be accessed from any street except

Burton Way. The hotel is deprived of the ability to construct an aesthetically acceptable covered or enclosed rear entrance as could be constructed by other properties in the vicinity and under the identical zone classification. In order to provide an alternate covered entrance for occupants during inclement weather, and facilities to greet occupants upon arrival, a canopy from the front door to the building setback line is required, as well as awnings, a baggage conveyor belt and valet stand.

(d) New walls exceeding three feet in height in the first 20% of the front setback.

The topography of the site requires placement of walls exceeding three feet in height in the front setback. The site drops in elevation more than three feet from west to east. In order to provide the wheelchair access ramp required by law, and for which a variance is required as discussed above, it is necessary to raise these walls to support the grade change and paving associated with the ramp.

(e) New hedges exceeding three feet within first 20% of front setback.

Because of the vehicular noise caused by the hotel's location, as described above, seven-foot high hedges are necessary to act as a noise buffer.

(f) New benches, excess paving, new stair and stair railings, new limestone wall and cap at entry, and new iron lattice.

Due to the establishment of the adjacent public service zone after construction of the building, residents and guests using outdoor space, other than in the street setback, may be exposed to noxious noise and odors from public service uses such as the nearby vehicle maintenance facility. Therefore, due to its location and surroundings, the subject property is deprived of the type of useable outdoor space enjoyed by other properties in the same zone. In order to provide a small amount of aesthetically acceptable usable outdoor space at ground level, benches, paving, stairs, stair railings, a limestone wall and caps, and iron lattice are required in the street setback.

2. Side and Rear Setback.

(a) New patio structure and planters that cause the garage to exceed a height of three feet above grade.

As described above, the surroundings of the subject property are unique to R-4 zoned properties because Burton Way borders the front of the property and a service yard for City vehicles is located adjacent to the rear of the property. The vehicles and related activities in the service yard are unsightly and noisy. Increased wall height and planters at the rear of the property are necessary to screen the view and buffer noise to provide the property with a measure of quiet enjoyment that is equivalent to that

enjoyed by other R-4 zoned properties in the vicinity and under an identical zone classification.

(b) Refacing of exterior building wall in side setback, and new stair landing and stair in rear setback.

The topography of the current site creates a need for a variance to accommodate the refacing, new stair landing, and the stair in the rear setback. Because there is a grade change between the existing buildings, state and federal law require ramping for wheelchair access. The rear addition at the service elevator is required to create a ramp to allow access to the service elevator from all ground floor areas. Additionally, the stair landing is necessary to allow the fire stair from all upper floors to empty, as required, into an outdoor space.

(c) Walls and hedges in excess of height limits and the enclosed connection between the two existing structures.

Due to the location of the subject property adjacent to noxious uses, as described above, walls and fences above otherwise permitted height limits, and the connection between the two buildings, are necessary in order to allow occupants of the property, including occupants travelling between buildings, to enjoy the same quiet atmosphere enjoyed by occupants of similar R-4 zoned properties.

3. Roof Deck.

Due to the location of the site between Burton Way and the Public Service Zone that was established after construction of the hotel and which contains vehicle maintenance uses, the ground floor exterior areas of the property cannot be quietly and enjoyably used for outdoor recreational and passive recreational activities. Since this property is deprived of a privilege enjoyed by other properties, namely, the ability to quietly utilize exterior yard areas for recreational and passive recreational uses, variances are appropriate to allow such uses on the roof of the building. The variances described in Paragraph E of Section 1 are necessary to allow such recreational activity to occur on the roof in a manner that provides both facilities and an aesthetic atmosphere equivalent to that which could be provided in yard areas of similar R-4 zoned properties.

4. Dining Facility Door Opening.

The project requires a variance to permit a dining facility door through an exterior wall, other than a service door to a garage or warehouse, because, due to its location adjacent to a public service zone, the project cannot expand in order to accommodate an addition that would allow a required second egress through a wall other than an exterior wall.

Section 6. Based on the evidence presented, including the staff report and oral testimony, the Planning Commission finds that the proposed modification to the conditions of the

variances granted by Planning Commission Resolution No. 294 and City Council Resolution No. 83-R-675 would not adversely affect the public health, safety or welfare, grant a special privilege or alter the findings of those resolutions. Valet parking will be used for guests and visitors of the hotel project. No self parking will be permitted. Therefore, as concluded by the City's parking analysis, sixteen aisle spaces can be used effectively.

Section 7. Based on the foregoing, the Planning Commission sitting as a Board of Zoning Adjustments to the City of Beverly Hills hereby approves the negative declarations prepared for the project, grants the requested variances described in Section 1 of this resolution, and hereby modifies Resolution Nos. 294 and 83-R-675, as described in Section 2, subject to the following conditions:

1. The project shall substantially conform to the plans submitted to the Planning Commission on March 10, 1994, as modified by the Plans approved at the Planning Commission meeting of April 27, 1994, except as otherwise provided in this resolution.

2. The applicant shall provide adequate valet parking at all times to prevent queuing of cars waiting for valet parking. The valet parking rates shall be sufficiently similar to the rates prevailing in the immediate area to ensure that the relative cost of valet parking will not discourage the use of such parking.

3. The applicant shall take all necessary and appropriate measures, from time to time, to ensure that any and all vehicles entering the project site, loading or unloading passengers or goods, approaching to enter or to load or unload, or leaving the project site shall not impede, or cause the impediment of, the public right-of-way.

4. If the City Engineer determines that vehicles entering the project site, loading or unloading passengers or goods, approaching to enter or to load or unload, or leaving the project site, are impeding, or causing the impediment of, the public right-of-way at any time, then the applicant shall forthwith comply with additional conditions that are imposed by the City Engineer and designed to prevent vehicles from impeding the public right-of-way or causing the impediment of the public right-of-way. The applicant shall be responsible for financing the cost of such additional conditions.

5. The Applicant shall develop, submit and comply with a parking program that is satisfactory to the Director of Transportation. The purpose of such program shall be to ensure that the project does not create a parking impact on surrounding streets.

6. In order to ensure that no employee of any business operating on the site will park on residential streets, the applicant shall ensure that all employees park either on-site or in an off-site facility approved by the Director of Transportation.

7. If the Director of Transportation determines that employees of the project are using street parking or are otherwise failing to park in those locations designated for employee parking in the parking program approved by the Director of Transportation, then the applicant shall forthwith comply with any additional conditions that are imposed by the Director and designed to ensure that employees will utilize those facilities designated for employee parking in the parking program. The applicant shall be responsible for financing the cost of such additional conditions.

8. The applicant shall take all available measures to ensure that taxis, limousines and other vehicles for hire servicing the project's patrons shall travel only on arterial streets and shall not travel on residential streets to move between the staging area and the patron loading area.

9. The applicant shall provide at least 134 on-site parking spaces, of which a maximum of sixteen (16) may be aisle spaces.

10. The applicant shall ensure that all deliveries are made to the existing loading space located in the alley at the rear of the project site. The applicant shall not accept deliveries from any vehicle not located in the loading space. In addition, if the Director of Planning and Community Development determines that loading activities are creating a substantial adverse noise impact on adjacent property, then the Director may impose additional conditions on the applicant restricting delivery and loading hours. The applicant shall forthwith comply

with such conditions. The applicant shall be responsible for financing the cost of such additional conditions.

11. The applicant shall protect all existing street trees adjacent to the project site during construction of the proposed project. No street trees, including those street trees designated on the preliminary plans, shall be removed and/or relocated except in compliance with City ordinances and policies and unless the applicant obtains approval from the Director of Recreation and Parks and the City Engineer. Removal and/or replacement of any street tree shall not commence until the applicant has provided the City with an improvement security to ensure the regrowth of any relocated or replaced street tree. The security amount will be determined by the Director of Recreation and Parks, and the security shall be in a form approved by the City Engineer and the City Attorney.

12. If the Director of Planning and Community Development, in the Directors' sole discretion, determines that the operation of the fountain located in the front setback creates a substantial adverse noise impact on adjacent property, then the Director may limit the hours of operation of the fountain. The applicant shall forthwith comply with any such limitation imposed by the Director. The applicant shall be responsible for financing the cost of such additional conditions.

13. No rooftop mechanical equipment shall be located within sixteen feet (16') of the westerly property line as shown on the plans approved at the Planning Commission meeting of April

27, 1994. All venting from the kitchen shall be directed toward the east.

14. All rooftop equipment on the westerly hotel building shall be enclosed and such enclosures shall completely shield the view of such equipment from the adjacent residential property.

15. The applicant shall develop and comply with a landscaping plan that is satisfactory to the Director of Planning and Community Development. The landscaping plan shall provide for landscaping along the westerly wall of the project and in the westerly side setback. The landscaping plan shall also provide for modulation of the facade of the hedge located in the front setback and shall provide for uplighting of the front hedge. All landscaping shall be planted and maintained in conformity with the landscaping plan.

16. The dining area shall not exceed 1,295 square feet.

17. There shall be no dining facility doors that shall open to the patio, with the exception of an emergency exit door that will trigger an alarm if opened, unless outdoor dining is approved by the City.

18. The last seating for the dining facility shall be no later than 11:00 p.m. The Director of Planning and Community Development may require the last seating of the dining facility to occur at an earlier time if the Director determines that the operation of the dining facility is creating a substantial adverse noise or odor impact on adjacent property. In addition,

the Director may restrict the opening hour of the dining facility if the Director determines that the operation of the dining facility is creating a substantial noise or odor impact. The applicant shall forthwith comply with any such additional restrictions imposed by the Director. The applicant shall be responsible for financing the cost of such additional restrictions.

19. No receptions, parties or other organized * functions shall be conducted on the roof after 10:00 p.m., nor shall any music, live or recorded, be played or broadcast on the roof after 10:00 p.m. In addition, the Director of Planning and Community Development may limit the nature, size, operation, or hours of rooftop uses if the Director determines that such rooftop uses are creating a substantial adverse impact on adjacent properties. The applicant shall forthwith comply with any such restrictions imposed by the Director. The applicant shall be responsible for financing the cost of such additional conditions.

20. The applicant shall remove and replace all damaged sidewalk fronting the proposed project, at no cost to the City.

21. The applicant shall remove and replace all damaged curb and gutter fronting the proposed project, at no cost to the City.

22. The applicant shall remove all unused driveway approaches, if any, at no cost to the City.

23. The applicant shall provide that all groundwater discharges to a storm drain. Connection to a storm drain shall

be accomplished in a manner approved by the City Engineer and the Los Angeles County Department of Public Works.

24. The applicant shall ensure that all utility facilities, including electrical transformers, required for service to the proposed structure be installed on the subject site. No such installations will be allowed in any City right-of-way.

25. The applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site.

26. All construction related parking and hauling shall conform to a construction parking and hauling plan prepared and submitted by the applicant and satisfactory to the City Engineer and the Director of Building and Safety. No construction-related parking shall be permitted on residential streets and no heavy vehicle hauling activities shall be permitted between the hours of 4:00 p.m. and 10:00 a.m.

27. Before issuance of any excavation, grading or building permit for the project, a cash deposit of \$25,000 shall be deposited with the City to ensure compliance with the requirements of the Beverly Hills Municipal Code relating to construction activities and all conditions of this resolution relating to construction activities. Such deposit shall be returned to the applicant upon occupancy of the project if the City determines that the applicant is not responsible for more than two violations during any twelve month period of: (1) the requirements of the Beverly Hills Municipal Code relating to

construction activities, or (2) the conditions of this resolution relating to construction activities. If the City determines that the applicant is responsible for three or more such violations, the City may: (a) utilize the deposit to cover costs of enforcement; (b) notify applicant that applicant may request a hearing before the City within ten days of the notice; and/or (c) issue a stop work notice until such time that applicant deposits additional funds sufficient to raise the total deposit to \$50,000, to cover the costs associated with subsequent violations. If applicant timely requests a hearing, said deposit will not be utilized by the City, and an additional deposit will not be required, until after such time that applicant has been provided an opportunity to appear and offer evidence to the City Manager, or the City Manager's designee, regarding the grounds for retention, and the City determines that substantial evidence supports retention. If the City determines that applicant is responsible for a subsequent violation, the City may retain additional funds from the deposit, issue a stop work notice, and require the deposit of additional funds sufficient to raise the total deposit to \$50,000 pursuant to the procedure set forth hereinabove. All amounts deposited with the City shall be deposited in an interest bearing account. Applicant shall be reimbursed all interest accruing on monies deposited. All principal and interest not retained by the City shall be returned to applicant or its successor in interest upon occupancy of the project.

28. Before occupancy of the project, \$10,000 shall be deposited into an escrow account, with conditions satisfactory to the City Attorney, or applicant shall deliver to the City a letter of credit in the same amount, in a form and with conditions satisfactory to the City Attorney, to ensure compliance with the requirements of the Beverly Hills Municipal Code relating to operation of the project and all conditions of this resolution relating to operation of the project. The escrow instructions or letter of credit shall provide that if the City determines that the applicant is responsible for three or more violations of the requirements of the Beverly Hills Municipal Code relating to operation of the project or conditions of this resolution relating to operation of the project during any twelve month period, the City may: (a) draw on the escrow account or letter of credit to cover costs of enforcement; (b) notify applicant that applicant may request a hearing before the City within ten days of the notice; and (c) suspend the certificate of occupancy until such time that an additional deposit of funds sufficient to restore the escrow account to \$10,000 is deposited in the escrow account, or an additional letter of credit is delivered to the City in the same amount, to cover the costs associated with subsequent violations. If the applicant timely requests a hearing, the escrow account or letter of credit shall not be drawn upon, additional funds shall not be required to be deposited, and the certificate of occupancy shall not be suspended until after such time that the applicant has been provided an opportunity to appear and offer evidence to the City

Manager or the City Manager's designee regarding the grounds for drawing upon the escrow account or letter of credit, and the City determines that substantial evidence supports drawing upon the escrow account or letter of credit. If the City determines that the applicant is responsible for a subsequent violation, the City may draw additional money from the escrow account or letter of credit, require the deposit of additional funds to restore the escrow account or letter of credit to \$10,000, and may suspend the Certificate of Occupancy pursuant to the procedure set forth hereinabove. The escrow account or letter of credit required by this condition may be reduced to \$5,000 after the project has been occupied for five years if the applicant has been responsible for no more than three violations of the conditions of the Beverly Hills Municipal Code relating to operation of the project or the conditions of this resolution relating to operation of the project. The escrow account or letter of credit required by this condition may be discontinued after the project has been occupied for ten years. However, the Director of Planning and Community Development may require the escrow account or letter of credit to be extended or reestablished if the Director determines that there have been continuing violations of operating conditions or there has been a change in the nature of operation of the project. If the escrow account or letter of credit has been discontinued, the applicant shall reestablish the escrow account or letter of credit within thirty days after receipt of written notice from the Director regarding the requirement to reestablish the account or letter. The applicant

may appeal the decision of the Director to the City Council .
within thirty days after the applicant has received notice of the
decision pursuant to this Paragraph no. 28.

29. Condition nos. 27 and 28 of this Section 7 shall
not be the sole remedies available to the City in the event that
applicant violates the conditions contained in this resolution.
The City retains all power it may have under law or equity to
remedy any violation of the conditions set forth in this
resolution.

30. The applicant may appeal to the City Council any
condition imposed upon the applicant pursuant to condition nos.
4, 7, 10, 12, 18, or 19 of this Section 7. Such appeal must be
filed with the City Clerk within ten calendar days after the
applicant receives written notice regarding the imposition of the
additional condition. The City Council shall hold a noticed
public hearing regarding the imposition of such condition and
shall uphold the imposition of the condition if the City Council
determines that impacts of the project reasonably require the
imposition of the condition, and that the condition will
appropriately address one or more of the impacts set forth in the
above listed conditions.

The appeal rights granted to the applicant pursuant to
this Condition no. 30 shall also be granted to any interested
party who has communicated with the staff person responsible for
determining whether to impose an additional condition, the City

Manager, or the City Manager's designee regarding the circumstances warranting the imposition of the condition in question. For the purposes of allowing such interested party to appeal the condition, such party shall receive notice of the imposition of the condition, if such notice is requested in writing.

31. The applicant shall participate in all Southern California Air Quality Management District and City of Beverly Hills Transportation Demand Management programs and all other such City-wide or regional programs to the extent required by such programs.

32. Within thirty days after adoption of this resolution, the applicant shall record in the office of the Los Angeles County Recorder a covenant accepting the conditions of this resolution and attaching this resolution as an exhibit. The applicant shall provide a conformed copy of the recorded document to the Director of Planning and Community Development.

33. The requirements set forth in this resolution shall be binding upon the applicant's successors, heirs and assigns.

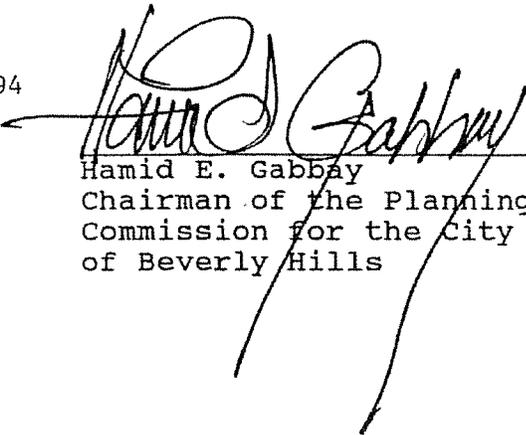
34. All vents on the westerly hotel building shall be directed to the east.

35. The grease vent and hood for the cooking equipment in the dining facility shall be a Southern Engineering Systems Model HVXWB, or its equivalent approved by the Director of Building and Safety. The hood and vent shall be maintained so that the hood and vent operate at no less than ninety five

percent (95%) efficiency in extracting grease from the air which passes through the hood and vent.

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

Adopted: April 27, 1994



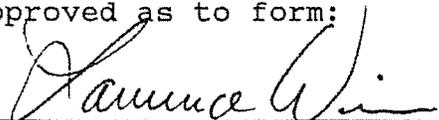
Hamid E. Gabbay
Chairman of the Planning
Commission for the City
of Beverly Hills

ATTEST:



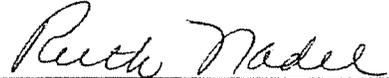
Ruth Nadel
Secretary

Approved as to form:



Laurence S. Wiener
Assistant City Attorney

Approved as to content:

PS. 

Ruth Nadel
Director of Planning &
Community Development

4/22/94

RESOLUTION NO. 1094

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND GRANTING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AT PROPERTY LOCATED AT 9291 BURTON WAY (L'ERMITAGE HOTEL)

Section 1. Ronald Orr, on behalf of L'Ermitage Hotel (hereafter "Applicant"), has submitted an application for a Conditional Use Permit and Development Plan Review Permit to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9291 Burton Way (hereafter "Project"). Title 10, Chapter 3, Article 12 of the Beverly Hills Municipal Code provides that a public restaurant may be permitted within a nonconforming hotel in a multiple-family residential zone if the Planning Commission issues a Conditional Use Permit (hereafter "C.U.P.") for the restaurant. Furthermore, the Municipal Code provides that open air dining may be permitted within a nonconforming hotel if the Planning Commission issues a Development Plan Review Permit (hereafter "D.P.R.") to allow the open air dining.

Section 2. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have

any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 3. On February 24, March 24, 1999, and April 28, 1999, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, was presented at said hearing.

Section 4. In considering the application for the C.U.P., the Planning Commission considered whether the restaurant will be detrimental to adjacent property or the public welfare or will have a substantial adverse impact on the use and enjoyment of surrounding residential properties. As part of its determination, the Planning Commission considered whether the restaurant will be detrimental to adjacent property or the public welfare or will have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to:

- (1) the accumulation of garbage, trash, or other waste;
- (2) noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
- (3) light and glare;
- (4) odors or noxious fumes;

- (5) parking demand created by the restaurant, including parking demand created by employees; or
- (6) traffic.

The Planning Commission also considered the following criteria:

(a) Whether the hotel is located on a street identified as an "arterial" street or "collector" street in the City's General Plan;

(b) Whether the dining and bar floor area of all restaurants and private dining rooms in the hotel exceeds the floor area of any dining and bar area that existed on or before November 1, 1995;

(c) Whether there would be any live entertainment performed;

(d) Whether banquets or similar private receptions or parties are to held at the restaurant;

(e) Whether patrons of the restaurant are to be seated after 11:00 p.m.; and

(f) Whether parking is provided free of charge to employees to ensure that employees do not park in the public right-of-way.

Section 5. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds as follows:

1. As conditioned, the restaurant will not be detrimental to adjacent property or the public welfare and will

not have a substantial adverse impact on the use and enjoyment of surrounding residential properties.

The proposed Project is consistent with the General Plan of the City. The General Plan encourages stability in the land use pattern of the City. The Project will allow a long standing non-conforming dining use to continue at the Project site.

As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project, as conditioned, have a significant parking impact. The Project is limited to twenty (20) tables with seating for forty-eight (48) persons. The outdoor dining area is limited to seven (7) tables with seating for twenty (20) persons and does not encroach into the public right-of-way. Also, the Project site will have valet parking and has sufficient on-site space to accommodate one hundred thirty-six (136) cars parked by valet attendants.

However, because it is impossible to require patrons of the restaurant to use valet parking, and because such patrons may impact the adjacent residential neighborhoods by using available street parking in the area, the Project has further been conditioned upon there not being any larger functions on the rooftop (i.e. functions involving more than 25 non-hotel guests), which functions could create further parking intrusions into adjacent neighborhood areas, without first closing the outdoor dining facility. Such condition will ensure that any potential

increase in parking impacts to the neighboring street generated by opening the restaurant to the public and expanding the restaurant into the outdoor area is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation.

Additionally, a traffic and parking plan is required to be submitted in connection with any rooftop functions of greater than 25 persons to ensure that in granting the Applicant the right to have a facility with an intensified use on the ground-floor level, other impacts associated with the Project are mitigated so that the totality of impacts of the commercial hotel operation on the neighboring properties is not excessive.

The Applicant has requested a waiver of the 32 parking spaces required by the restaurant use (one space is required for every 45 square feet of dining area). The Commission finds that the provision of valet parking at the site coupled with the conditions upon the rooftop functions will minimize any cumulative parking impacts that may otherwise be generated by the expanded restaurant use. Also, as indicated, the hotel has 124 rooms and 136 on-site parking spaces (including 16 aisle spaces). As conditioned, sufficient parking should exist without the provision of the 32 parking spaces.

Additionally, due to the Project's location on a major arterial street, Burton Way, which can accommodate the potential increases in traffic flow from the expanded restaurant use, the Project, as conditioned, should not create any other

significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards.

Parking by employees is not anticipated to impact neighboring properties or otherwise impact traffic, as employees are provided parking by the hotel free of charge and the number of employees is not significantly increasing due to the opening of the restaurant to the public or the addition of the outdoor dining facility.

2. The Project will not be detrimental to adjacent property or the public welfare and will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties for the following additional reasons:

The proposed Project faces Burton Way and is completely enclosed with no direct access from the sidewalk. The area proposed for dining is about 30 percent of the total patio area and is located in the section of the patio that is farthest away from any adjacent property. Also, operation of the open air dining area will cease at 11:00 p.m. and both live entertainment and amplified music will be prohibited at all times in the open air dining area. Banquets or similar private receptions or parties are prohibited in the restaurant.

Also, as stated, the operation of the open air dining area is further conditioned upon its being closed during periods where larger functions on the rooftop are occurring that may have intrusive noise or traffic impacts in the vicinity of the project. Such large functions on the rooftop have also been limited to one per week as a condition of the outdoor dining

approval. Such conditions ensure that neighbors in the vicinity will not have to be subjected either simultaneously or frequently to excessive noise and/or traffic problems from patrons of the restaurant and persons attending larger rooftop functions. These conditions are designed so that the number of potential impacts and intrusions from the commercial hotel upon the neighboring properties (i.e., parking, foot-traffic, noise, privacy), which the Commission is allowing to increase through the granting of these permits, is tempered through limiting the frequency and intensity by which any one of the potentially intrusive impacts is allowed to occur. For these reasons, the Project, as conditioned, should not be detrimental to adjacent property or the public welfare or otherwise create substantial and adverse impacts in the surrounding residential neighborhoods.

It is also important to note that the proposed Project has been designed to be compatible with surrounding developments. The Project will not alter the scale or height of the existing building.

3. The Project, as conditioned, will not significantly interfere with the use and enjoyment of residential properties in the vicinity for the additional reason that entry and exiting from the restaurant will occur through the interior of the hotel. Although the potential for additional noise impacts exists from the intensified use of the restaurant, either through added noise from the outdoor diners or from the added outdoor restaurant operations, and, although additional intrusions upon the privacy of the neighbors may occur through

added activities such as restaurant patrons leaving their seats to make use of the adjacent patio area (which area is within the sight path of the adjacent residential property), conditions are being imposed upon other potentially intrusive functions of the hotel operation, such as the number, size and frequency of rooftop functions, to ensure that the totality of impacts of the hotel's commercial operation will not interfere with the neighboring residential property owners' use of their residences.

The neighboring residential units closest to the restaurant's operation also have the option of being retrofitted with dual-glazed windows to further prevent noise intrusions into the units and the hours of operation of the restaurant and outdoor dining facility are being restricted so that the potential for intrusive impacts are further minimized. Service of food will occur through a door to the outdoor facility that is furthest away from the adjacent residential units so as to further limit any noise or privacy impacts on the neighbors' residences.

4. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties. The Applicant is required to maintain the subject area in a clean and sanitary condition. There is an on-site trash compactor and trash storage area, completely enclosed in the subterranean garage.

5. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties. The open air dining area faces Burton

Way and no lighting will be directed toward residential properties.

6. Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project. Cooking will not be performed in the open air dining area. Approval of the project will not alter the current venting of the kitchen and the Commission has received no evidence that the restaurant currently creates odors or noxious fumes.

7. Finally, the dining bar and floor area of all restaurants and private dining rooms in the hotel is not being expanded beyond that which was in place as of November 1, 1995. Therefore, the impacts from the proposed Project are further minimized.

Section 6. In considering the application for the Development Plan Review Permit, the Planning Commission considered the following issues:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;

2. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;

3. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards;

4. Whether the proposed plan will be detrimental to the public health, safety or general welfare; and

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

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

7. Whether the proposed plan will significantly and adversely affect neighboring properties due to:

- a. The accumulation of garbage, trash or other waste;
- b. Noise created by operation of the dining area or by employees or visitors entering or exiting the site;
- c. Light and glare;
- d. Odors or noxious fumes.

Section 7. Based upon the evidence presented, including the staff report and oral testimony, and for all of the reasons set forth in Section 5 above, the Planning Commission hereby finds:

1. The proposed Project is consistent with the General Plan of the City.

2. As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety

hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project have a significant parking impact.

3. As conditioned, the proposed Project will not adversely affect existing and anticipated development in the vicinity, will promote harmonious development of the area, and will not be detrimental to the public health, safety and welfare.

4. As conditioned, the nature, configuration, location, density, height and manner of operation of the proposed Project will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

5. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties.

6. As conditioned, any noise impact that will be created by the Project or by employees or visitors entering or exiting the Project will be minimized.

7. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties.

8. Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project.

Section 8. Based upon the foregoing, the Planning Commission hereby issues a C.U.P. to permit the operation of a public restaurant at the Project site. The Planning Commission also hereby issues a D.P.R. for open air dining at the Project

site as shown on the plans submitted to the Commission. These permits are subject to the following conditions:

1. The open air dining shall be limited to seven (7) tables and twenty (20) chairs.

2. The tables and chairs shall be located in the patio area adjacent to the existing building as shown on the plans submitted to the Planning Commission and shall not at any time be permitted to encroach into the public right-of-way.

3. No live entertainment or amplified sound shall be allowed in the open air dining area.

4. No banquets or similar private receptions or parties shall be held at the restaurant. For the purposes of this Section, a banquet or similar private reception or party shall mean any banquet, party, reception or other event during which the restaurant, or a substantial portion of the restaurant, is closed to the public except by invitation or advanced reservation.

5. The hours of operation of the restaurant (indoor) shall be from 6:30 a.m. to 11:00 p.m. daily.

6. The patio operations of the restaurant shall commence no earlier than 8 a.m. and the restaurant shall not seat patrons after 9 p.m. daily. The patio operations of the restaurant shall cease when the outdoor fountain adjacent to the patio area is not in operation.

7. Off street parking shall be provided free of charge to employees.

8. Except for the doors immediately adjacent to the outdoor dining area, any exterior doors to the restaurant or exterior doors providing access to the outdoor dining area shall remain closed at all times except for the immediate purpose of ingress or egress. Additionally, all food service to the outdoor dining area shall occur from the doors immediately adjacent to the outdoor dining area. The exterior restaurant doors closest to the adjacent residence to the west of the hotel shall only be used for emergency ingress and egress.

9. Functions on the rooftop of the hotel involving more than 25 attendees, excluding persons residing at the hotel, shall not occur more than once a week. While such functions of 25 attendees or more are occurring, the hotel shall close the outdoor dining facility on the street level. Additionally, prior to any such function of 25 persons or more occurring on the rooftop, the Applicant shall submit a traffic and parking plan for the function to the Director of Transportation for her approval. No such function shall take place until such traffic and parking plan is approved by the Director of Transportation. The Applicant shall file with the Director of Planning on the last day of each month a written schedule of the dates and times of each function of 25 or more attendees planned for the following month. The Applicant shall provide the Director of Planning with a written amendment to that schedule any time there is a new event added to the schedule or there is a change in the dates or times of any originally listed events. Any such

amendment shall be provided at least 48 hours before the event that is the subject of the amendment is to occur.

10. If the affected residents and property owners so desire, the Applicant shall take all reasonable actions necessary to retrofit with dual-glazed glass the windows located on the facade of the neighboring building immediately adjacent to the restaurant and outdoor dining facility. The Applicant shall pay the reasonable costs of such retrofitting. The Applicant is only required to take those steps and cover such costs that, in the opinion of the Director of Building and Safety, are reasonable to effect this condition. If in the opinion of the Director of Building and Safety the Applicant has taken such reasonable steps and paid or offered to pay such reasonable costs and the installation of the dual-glazed glass windows has still not been completed, Applicant will be deemed to have satisfied this condition. Any decision of the Director of Building and Safety in this regard is appealable to the Planning Commission pursuant to a noticed public hearing.

11. The fountain in the patio area adjacent to the outdoor dining area shall operate from 7:30 a.m. to 10:30 p.m, seven days a week.

12. The Applicant shall install a landscape buffer of sufficient height and density to prevent the spilling over of light and to reasonably protect the privacy of the neighbors along the western property line of the hotel immediately adjacent to the restaurant.

13. All conditions of the valet parking permit shall be incorporated as conditions of approval of this C.U.P. and D.P.R.

14. The C.U.P. and D.P.R. shall expire one year after the date of adoption of this resolution. Unless the C.U.P. and D.P.R. are renewed, or a new C.U.P. and D.P.R. are issued, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal of the C.U.P. or D.P.R. Any application for renewal of the C.U.P. and D.P.R. must be filed at least sixty days prior to the expiration of these approvals.

15. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the permits.

16. Within thirty (30) days after the adoption of this Resolution, the Applicant shall present to the City a signed covenant, signed by the Applicant and the property owner and satisfactory to the City Attorney, and in a form recordable by the Los Angeles County Recorder, accepting these conditions of approval.

This resolution shall be attached as an exhibit to the covenant.

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.

17. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's

check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

Section 8. Nothing in this resolution shall be interpreted to limit the authority of the City to impose conditions on the approval of any valet parking permit application.

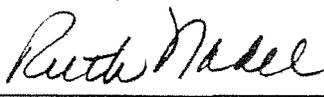
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: April 28, 1999



Linda J. Briskman
Chairman of the Planning
Commission of the City of
Beverly Hills, California

ATTEST:


Secretary of

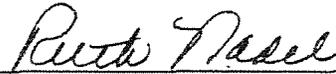
Approved as to form:



David R. Daniels
Assistant City Attorney

5/13/99

Approved as to content:



Ruth Nadel *DN*
Director of Planning &
Community Development

RESOLUTION NO 99-R-10211

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AFFIRMING THE DECISION OF THE PLANNING COMMISSION CONDITIONALLY APPROVING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AT PROPERTY LOCATED AT 9291 BURTON WAY (L'ERMITAGE HOTEL)

The City Council of the City of Beverly Hills does resolve as follows:

Section 1 The Beverly Hills South Side Neighborhood Association in conjunction with the Beverly Hills North Homeowner's Association and the Beverly Hills Municipal League; and the applicant L'Ermitage Hotel, have submitted appeals of the Planning Commission decision conditionally approving a Development Plan Review Permit for open air dining and conditionally approving a Conditional Use Permit to allow a hotel dining facility to be open to the public at property located at 9291 Burton Way (the "Project") The appeals of the Planning Commission decision to the City Council were timely filed

Section 2. On April 28, 1999, the Planning Commission held a duly noticed public hearing to consider the application for the Project filed by the L'Ermitage Hotel (the "Applicant"). Evidence, both written and oral, was presented at said hearings. Based upon the evidence presented to it, the Planning Commission approved the Project, subject to certain conditions

Section 3. On July 20, 1999, the City Council held a duly noticed public hearing to consider the appeals. Evidence, both written and oral, including the staff report and supporting documentation, was presented at that hearing. At the conclusion of the public hearing, the Council directed staff to prepare a resolution affirming the decision of the Planning Commission and denying the appeals.

Section 4 Based upon the evidence presented regarding the application for the Conditional Use Permit, the City Council hereby finds:

1 As conditioned, the restaurant will not be detrimental to adjacent property or the public welfare and will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties for the reasons described below

As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project, as conditioned, have a significant parking impact. The Project is limited to twenty (20) tables with seating for forty-eight (48) persons. The outdoor dining area is limited to seven (7) tables with seating for twenty (20) persons and does not encroach into the public right-of-way. The Project site will have valet parking and has sufficient on-site space to accommodate one hundred thirty-six (136) cars parked by valet attendants. A parking analysis has

indicated that the available parking will be sufficient to meet the needs of the Project

However, because it is impossible to require patrons of the restaurant to use valet parking, and because such patrons may impact the adjacent residential neighborhoods by using available street parking in the area, the Project has further been conditioned to limit its impact on the surrounding residential area by prohibiting use of the hotel rooftop for more than two evening functions per week that involve more than twenty-five attendees other than hotel guests. Additionally, no more than fifty-two such functions are permitted during any calendar year. This condition will ensure that the potential increase in parking impacts to the neighboring streets, and the associated intrusion into the residential character of the neighborhood, generated by opening the restaurant to the public and expanding the restaurant into the outdoor area is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation

Additionally, a traffic and parking plan is required to be submitted in connection with any rooftop function involving more than 25 attendees who are not hotel guests. This condition will further ensure that the Project will not have a substantial and adverse impact on neighboring properties due to the occurrence of other events at the hotel that might place a strain on available parking and valet resources to be used by the Project

The Applicant has requested a waiver of the 32 parking spaces required by the restaurant use (one space is required for every 45 square feet of dining area). The City Council finds that the provision of valet parking at the site coupled with the conditions placed upon the conduct of rooftop functions will minimize any cumulative parking impacts that may otherwise be generated by the expanded restaurant use. Also, as indicated, the hotel has 124 rooms and 136 on-site parking spaces (including 16 aisle spaces). As conditioned, and based on the parking analyses presented to the City Council, sufficient parking is available to serve the Project without the provision of an additional 32 parking spaces.

Due to the Project's location on a major arterial street, Burton Way, which can accommodate the potential increases in traffic flow from the expanded restaurant use, the Project, as conditioned, should not create any other significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards.

Parking by employees is not anticipated to impact neighboring properties or otherwise impact traffic, as employees are provided parking by the hotel free of charge and the number of employees is not significantly increasing due to the opening of the restaurant to the public or the addition of the outdoor dining facility.

2 The Project will not be detrimental to adjacent property or the public welfare and will not have a substantial adverse impact on the use and enjoyment of surrounding

residential properties due to noise for the following additional reasons

The proposed Project faces Burton Way and is completely enclosed with no direct access from the sidewalk. The area proposed for dining is approximately 30 percent of the total patio area and is located in the section of the patio that is furthest from the neighboring residential property. Also, operation of the open air dining area will cease at 10:30 p.m. and both live entertainment and amplified music will be prohibited at all times in the open air dining area. Banquets or similar private receptions or parties are also prohibited in the restaurant.

For these reasons, and based on the noise studies and consultant reports presented to the City Council, the Project, as conditioned, should not be detrimental to adjacent property or the public welfare due to noise or otherwise create substantial and adverse impacts in the surrounding residential neighborhoods.

3. The Project, as conditioned, will not significantly interfere with the use and enjoyment of residential properties in the vicinity for the additional reason that entry and exiting from the restaurant will occur through the interior of the hotel. Although the potential for additional noise impacts exists from the intensified use of the restaurant, either through added noise from the outdoor diners or from the added outdoor restaurant operations, and, although additional intrusions upon the privacy of the neighbors may occur through

added activities such as restaurant patrons leaving their seats to make use of the adjacent patio area (which area is within the sight path of the adjacent residential property), conditions are being imposed upon other potentially intrusive functions of the hotel operation, such as the number, size and frequency of rooftop functions, to ensure that the impacts of the hotel's commercial operation as a whole, including the outdoor dining, will not interfere with the neighboring residential property owners' use of their residences

The neighboring residential units closest to the restaurant's operation also have the option of being retrofitted with dual-glazed windows to further prevent noise intrusions into the units and the hours of operation of the restaurant and outdoor dining facility are being restricted so that the potential for intrusive impacts are further minimized. Service of food will occur through a door to the outdoor facility that is furthest from the adjacent residential units so as to further limit any noise or privacy impacts on the neighbors' residences.

4. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties. The Applicant is required to maintain the subject area in a clean and sanitary condition. There is an on-site trash compactor and trash storage area, completely enclosed in the subterranean garage.

5. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties. The open air dining area faces Burton

Way and no lighting will be directed toward residential properties

6 Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project. Cooking will not be performed in the open air dining area. Approval of the project will not alter the current venting of the kitchen and the City Council has received no evidence that the restaurant currently creates odors or noxious fumes

Section 5. Based upon the evidence presented regarding the application for the Development Plan Review Permit, the City Council hereby finds

1 The proposed Project is consistent with the General Plan of the City. The General Plan encourages stability in the land use pattern of the City. The Project will allow a long standing non-conforming dining use to continue at the Project site. The Project incorporates mechanisms such as landscaping, screening and operational measures to mitigate the potential impact on adjacent residential uses.

2. As conditioned, for the reasons set forth above, the proposed Project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project have a significant parking impact.

3. As conditioned, for the reasons set forth above, the proposed Project will not adversely affect existing and anticipated development in the vicinity, will promote harmonious

development of the area, and will not be detrimental to the public health, safety and welfare

4. As conditioned, for the reasons set forth above, the nature, configuration, location, density, height and manner of operation of the proposed Project will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property

5. As conditioned, for the reasons set forth above, no garbage, trash or other waste from the Project will adversely impact neighboring properties.

6. As conditioned, for the reasons set forth above, any noise impact that will be created by the Project or by employees or visitors entering or exiting the Project will be minimized

7. Due to the nature of the proposed Project, for the reasons set forth above, no significant light or glare from the Project will impact neighboring properties

8. Due to the nature of the proposed Project, for the reasons set forth above, no odors or noxious fumes will result from the Project

Section 6. Based on the foregoing, the City Council hereby affirms the Planning Commission decision and conditionally approves a Development Plan Review Permit for open air dining, conditionally approves a Conditional Use Permit to allow a hotel dining facility to be open to the public, and waives additional

parking requirements at property located at 9291 Burton Way
subject to the following conditions:

1 The open air dining shall be limited to seven (7)
tables and twenty (20) chairs

2. The tables and chairs in the open air dining area
shall be located in the patio area adjacent to the existing
building and easterly of that building as shown on the plans
submitted to the City Council and shall not at any time be
permitted to encroach into the public right-of-way.

3 No live entertainment or amplified sound shall be
allowed in the open air dining area

4. No banquets or similar private receptions or
parties shall be held at the restaurant. For the purposes of
this Section, a banquet or similar private reception or party
shall mean any banquet, party, reception or other event during
which the restaurant, or a substantial portion of the restaurant,
is closed to the public except by invitation or advanced
reservation

5 The restaurant shall not seat any patron indoors
before 6:30 a.m. or after 11 00 p m. daily. Additionally, the
patio operations of the restaurant, including any movement of
tables and chairs or the setting of dishes and silverware, shall
commence no earlier than 8 00 a.m and the restaurant shall not
seat patrons in the open air dining area before 8:00 a.m. or
after 9:00 p m daily All diners shall have exited the outdoor
dining area no later than 10 30 p m

6 The fountain in the patio area adjacent to the outdoor dining area shall commence operation each morning at 7:30 a.m., seven days per week. The fountain shall cease operation each day when the last diner in the patio area finishes dining and exits the patio. The last patron shall not be presumed to have exited the patio at any time before 9:00 p.m. In addition, whether or not diners remain in the patio area, the fountain shall cease operation at 10:30 p.m. each night and all remaining diners shall exit the patio at that time. No outdoor dining activity shall occur when the outdoor fountain adjacent to the patio area is not in operation.

7 At the time that a reservation is accepted for dining at the restaurant, the holder of the reservation shall be informed that valet parking is available and offered free of charge to restaurant patrons. The holder of the reservation shall also be asked to use the valet parking as a courtesy to the residential neighbors of the hotel.

8. Off street parking shall be provided free of charge to employees. Valet parking shall be provided free of charge to patrons of the restaurant.

9. Except for the doors immediately adjacent to the outdoor dining area, all exterior doors to the restaurant and exterior doors providing access to the outdoor dining area shall remain closed at all times except for the immediate purpose of ingress or egress. Additionally, all food service to the outdoor dining area shall occur from the doors immediately adjacent to the outdoor dining area. The exterior restaurant doors closest

to the adjacent residence to the west of the hotel shall only be used for emergency ingress and egress

10. Evening functions on the rooftop of the hotel involving more than 25 attendees, excluding persons residing at the hotel, shall not occur more than twice during any week (Monday through Sunday) In addition, such evening functions shall not occur more than fifty-two times during any calendar year. Prior to any such evening function, the Applicant shall submit a traffic and parking plan for the evening function to the Director of Transportation for the Director's approval. No such function shall take place until such traffic and parking plan is approved by the Director of Transportation. The Director may, without limitation, require the traffic and parking plan to address limousine parking and to include free off-site parking for employees and the provision of adequate valet parking attendants so that, in the Director's judgement, adequate parking and valet service will be available at the site to prevent parking, traffic and noise impacts from intruding into the adjacent residential neighborhood The Applicant shall file with the Director of Planning on the last day of each month a written schedule of the dates and times of each evening function of 25 or more attendees, excluding persons residing at the hotel, planned for the following month The Applicant shall provide the Director of Planning with a written amendment to that schedule at any time that a new evening function is added to the schedule or there is a change in the date or time of any originally listed function. Any such amendment shall be provided at least 48 hours

before commencement of the function that is the subject of the amendment. For the purposes of this Condition No 10, "evening function" shall mean any function which does not conclude before 6:00 p.m.

11. If the affected residents and property owners so desire, the Applicant shall pay the reasonable costs necessary to retrofit with dual-glazed glass the windows located on the facade of the neighboring building immediately adjacent to the restaurant and outdoor dining area. The Applicant is only required to pay such costs that, in the opinion of the Director of Building and Safety, are reasonable to effect this condition. If in the opinion of the Director of Building and Safety the Applicant has taken such reasonable steps, including arrangements as necessary to avoid any out of pocket expense to the adjacent property owner, as are necessary to effect this condition, but the apartment owner or apartment tenants have failed to cooperate to effect this condition, then the Applicant will be deemed to have satisfied this condition. Any decision of the Director of Building and Safety in this regard is appealable to the Planning Commission pursuant to a noticed public hearing.

12. The Applicant shall install a landscape buffer of sufficient height and density, satisfactory to the Director of Planning, to prevent the spilling over of light and to reasonably protect the privacy of the neighbors along the western property line of the hotel immediately adjacent to the restaurant. Such landscape buffer shall be installed prior to operation of the outdoor dining area.

13. The Applicant shall not accept any delivery except during the following hours 8 00 a m through 9:00 p.m., Monday through Friday, 9:00 a m. through 9:00 p.m. on Saturday, and 9:00 a.m. through 8 00 p m on Sunday

14 All conditions of the valet parking permit for the hotel, as they now exist or as they may be amended in the future, shall be incorporated as conditions of approval of this C.U.P. and D.P.R.

15. This C.U.P and D.P.R. shall expire one year after the date of adoption of this resolution and all rights granted by this C.U.P and D.P.R. shall terminate at that time. Unless the C.U.P. and D.P.R. are renewed, or a new C U P and D.P.R. are issued, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal of the C.U.P. or D.P.R. Any application for a new C U P and D P R. must be filed at least sixty days prior to the expiration of these approvals.

16. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the permits

17. Within thirty (30) days after the adoption of this Resolution, the Applicant shall present to the City a signed covenant, signed by the Applicant and the property owner and satisfactory to the City Attorney, and in a form recordable by the Los Angeles County Recorder, accepting these conditions of approval. The covenant shall include a statement, satisfactory to the City Attorney, specifically acknowledging that the

Applicant understands that unless a new C U.P. and D.P R. are issued, the Applicant has no right to continue to operate the public restaurant and outdoor dining facility after expiration of the C.U P. and D.P R. The statement shall also provide that the Applicant understands that any application for a new C U.P. and D P.R. shall be evaluated as a new application and the Applicant has no right or understanding that a new C.U.P. or D P R. shall be issued.

This resolution shall be attached as an exhibit to the covenant.

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

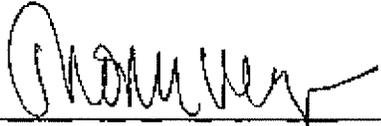
18. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711 4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

19. Each condition set forth in this resolution and imposed on the Project as part of this C U.P and D.P.R. is essential to the City Council's findings to approve the C.U.P. and D P.R. Therefore, to the extent that any condition set forth in this resolution is invalidated by a court of competent

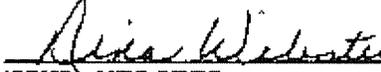
jurisdiction, the C U.P. and D.P R shall be considered to be invalid in their entirety and the applicant shall have no right to exercise any privilege granted by the C.U P and D.P.R.

Section 7 The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Council of this City

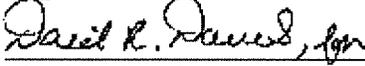
Adopted August 3, 1999


THOMAS S. LEVYN
Mayor of the City of
Beverly Hills, California

ATTEST:

 (SEAL)
NINA WEBSTER
City Clerk

Approved as to form


LAURENCE S WIENER
City Attorney

Approved as to content.


MARK SCOTT
City Manager


RUTH NADEL
Director of Planning &
Community Development

FOR 
RONALD B. CLARK
Director of Building and
Safety

RESOLUTION NO. 1138

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RENEWING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY (L'ERMITAGE) AT 9291 BURTON WAY TO CONTINUE TO BE OPEN TO THE PUBLIC

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On August 3, 1999 the City Council approved Resolution No. 99-R-10211 issuing a development plan review ("D.P.R.") permit for open air dining and granting a conditional use permit ("C.U.P.") to Lahotel (hereafter "Applicant") to allow a hotel dining facility to be open to the public, at 9291 Burton Way for L'Ermitage Hotel. The City Council's decision was subject to 19 conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 15 of Resolution No. 99-R-10211 states that the C.U.P. and D.P.R. shall expire one year after the date of adoption of Resolution No. 99-R-10211, unless the C.U.P. and D.P.R. are renewed. The expiration date of these approvals is August 3, 2000.

Allan Cooper, of the law firm of Ervin, Cohen and Jessup, on behalf of the Applicant, submitted an application to renew these approvals on June 1, 2000.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the project or to the environment that would cause the project to significantly impact the environment. Therefore, the original negative declaration and mitigation measures imposed represent the independent judgment of the City and there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On July 13, 2000, the Planning Commission held a duly noticed public hearing to consider the application for renewal. Evidence, both written and oral, was presented at said hearing.

Section 5. Based upon the foregoing, the Planning Commission hereby finds that as conditioned under Resolution No. 99-R-10211, the operation of the restaurant and outdoor dining has not had an adverse impact on the surrounding neighborhood, there have been no violations of the conditions of the D.P.R. or the C.U.P., and there have been no violations of the Beverly Hills Municipal Code. Therefore, the Planning Commission hereby adopts the findings set forth in Resolution No. 99-R-10211, and renews the C.U.P. and D.P.R. for an additional one year period, subject to all conditions set forth in Resolution No. 99-R-10211 except as modified below:

1. Condition No. 15 of Resolution No. 99-R-10211 is hereby deleted. This C.U.P. and D.P.R. shall expire one year after the date of adoption of this resolution and all rights granted by this C.U.P. and D.P.R. shall terminate at that time. Unless the C.U.P. and D.P.R. are renewed, or a new C.U.P. and D.P.R. granted, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal of the C.U.P. or D.P.R. Any application for a new C.U.P. and D.P.R. must be filed at least sixty days prior to the expiration of these approvals.

If the Planning Commission does not extend the C.U.P. and D.P.R., the C.U.P. and D.P.R. shall expire and all rights possessed under the Permits shall be terminated. Provided,

however, if the Applicant files an application for an extension, any existing C.U.P. and D.P.R. shall be extended until the City takes final action on the application.

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

Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the provisions of the Beverly Hills Municipal Code.

2. The Applicant shall not instruct nor otherwise encourage, directly or indirectly, any driver of any taxi or limousine to park on any residential street in the vicinity of the hotel, including but expressly not limited to, the south side of Burton Way. When the topic arises, hotel staff shall be instructed to encourage drivers of taxis and/or limousines not to park on any residential street in the vicinity of the hotel, including but expressly not limited to, the south side of Burton Way. The Applicant shall also attempt to clearly identify, through the use of a special vehicle tag or other similar means, those limousines that are contracted to the hotel in order to provide an adequate enforcement tool to insure that these

vehicles do not park on any residential streets in the vicinity of the hotel.

3. This resolution, and all covenants and conditions contained herein, shall run with the land and shall remain in full force for the duration of the life of the Project. The Applicant shall have this resolution recorded by the Los Angeles County Recorder in a form satisfactory to the City Attorney, and the Applicant shall provide the City with all fees necessary to record the document with the County Recorder.

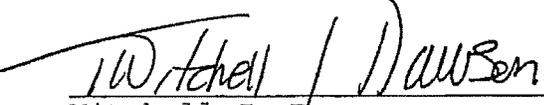
4. Within three working days after approval of this resolution, the applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

Section 6. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in Resolution No. 99-R-10211, and all provisions of the Beverly Hills Municipal Code.

Section 7. If this Resolution is invalidated for any reason, all provisions of Resolution No. 99-R-10211, as originally approved, shall remain in full force and effect.

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

Adopted: 8-23-00



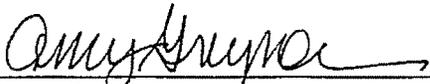
Mitchell J. Dawson
Chairman of the Planning
Commission for the City of
Beverly Hills

Attest:



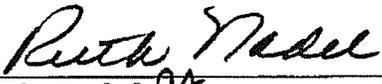
Secretary 

Approved as to form:



Amy Greyson
Assistant City Attorney

Approved as to content:



Ruth Nadel 
Director of Planning &
Community Development

RESOLUTION NO. 1191

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RENEWING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY (L'ERMITAGE HOTEL) AT 9291 BURTON WAY TO CONTINUE TO BE OPEN TO THE PUBLIC

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On August 3, 1999 the City Council approved Resolution No. 99-R-10211 issuing a development plan review permit ("D.P.R.") for open air dining and granting a conditional use permit ("C.U.P.") to Raffles L'Ermitage Beverly Hills Hotel (hereafter the "Applicant") to allow a hotel dining facility to be open to the public, at 9291 Burton Way for L'Ermitage Hotel (the "Project"). The City Council's decision was subject to 19 conditions to minimize impacts of the Project on neighboring residential properties. Subsequently, on July 13, 2000 the Planning Commission renewed the D.P.R. and the C.U.P., subject to 4 conditions.

Section 2. Condition No. 1 of Planning Commission Resolution No. 1138 states that the C.U.P. and D.P.R. shall expire one year after the date of adoption of Resolution No.

1138, unless the C.U.P. and D.P.R. are renewed. The expiration date of these approvals is August 3, 2001. Allan Cooper, of the law firm of Ervin, Cohen and Jessup, on behalf of the Applicant, timely submitted an application to renew these approvals on June 1, 2001.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. The continued operation of the project will not have a significant impact on the environment. Accordingly, the Planning Commission finds that the original negative declaration previously adopted by the Planning Commission and the mitigation measures imposed therein continue to represent the independent judgment of the City, and the Planning Commission further finds that there is no substantial evidence that the renewal of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On July 25, 2001, the Planning Commission held a duly noticed public hearing to consider the application for renewal. Evidence, both written and oral, was presented at said hearing.

Section 5. Based upon the foregoing, the Planning Commission hereby finds that as conditioned under Planning Commission Resolution No. 1138 and City Council Resolution No. 99-R-10211 (the "Resolutions"), the operation of the restaurant and outdoor dining has not had an adverse impact on the surrounding neighborhood, there have been no violations of the conditions of the D.P.R. or the C.U.P., and there have been no violations of the Beverly Hills Municipal Code. The Planning Commission further finds that it can continue to make each of the findings contained in the Resolutions in an affirmative manner, and hereby readopts those findings and renews the C.U.P. and D.P.R. for an additional one year period, subject to all conditions set forth in the Resolutions, except as modified below:

1. Condition No. 1 of Resolution No. 1138 is hereby deleted.

2. This C.U.P. and D.P.R. (collectively the "Permits") shall expire one year after the date of adoption of this resolution and all rights granted by these Permits shall

terminate at that time. Unless the Permits are renewed as provided hereafter, or a new C.U.P. and D.P.R. are granted, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area, and the Applicant shall have no further right to renewal of the Permits.

Upon application by the Applicant, the Director of Planning and Community Development (the "Director") may extend the Permits if the Director determines that the public restaurant and outdoor dining area are operating in a manner substantially the same as described to and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating any adverse impact on the surrounding area. Any application for a renewal of the Permits shall be filed at least sixty days prior to the expiration of these approvals.

If, in the opinion of the Director, an application to renew the C.U.P. and D.P.R. merits review by the Planning Commission, the Director may refer such application to the Planning Commission, and the Planning Commission shall serve as the reviewing authority and shall conduct a noticed public hearing regarding the request to renew the Permits.

Any decision by the Director pursuant to this condition No. 2 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 a written request for such notice to the Director. If the matter is appealed to the Planning Commission, the Planning Commission shall hold a noticed public hearing on the matter.

If either the Director or the Planning Commission does not extend the Permits, 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.

Any application for an extension of these Permits shall be subject to the application fees established by Resolution of the City Council.

Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the provisions of the Beverly Hills Municipal Code.

Section 6. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolutions, and all provisions of the Beverly Hills Municipal Code.

Section 7. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

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

Adopted: 8-22-01



Stephen F. Webb
Chairman of the
Planning Commission of the
City of Beverly Hills,
California

ATTEST:


Secretary

Approved as to form:


Robert H. Pittman
Assistant City Attorney

Approved as to content:


Ruth Nadel
Director of Planning &
Community Development

8/6/01