

**ATTACHMENT 10**  
**CITY COUNCIL RESOLUTION**

RESOLUTION NO. 16-R-\_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT TO ALLOW A DINING FACILITY IN A NONCONFORMING HOTEL TO BE OPEN TO THE PUBLIC, A DEVELOPMENT PLAN REVIEW TO ALLOW THE ESTABLISHMENT OF AN OPEN AIR DINING AREA THAT WOULD BE SERVED BY EXISTING PARKING SUPPLY AND VALET OPERATIONS, AND AN EXTENDED HOURS PERMIT TO ALLOW A NONCONFORMING HOTEL RESTAURANT, OPEN AIR DINING AREA, AND ROOFTOP USE TO OPERATE DURING EXTENDED HOURS AT 9291 BURTON WAY (L'ERMITAGE HOTEL), AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY FINDS,  
RESOLVES, AND DETERMINES AS FOLLOWS:

**Section 1.** LBH Real Estate LLC, owner of the L'Ermitage Hotel, through its agent Mitchell J. Dawson (collectively the "Applicant"), has submitted an application for a Conditional Use Permit (CUP) to allow a dining facility in a nonconforming hotel to be open to the public, a Development Plan Review (DPR) to establish an open air dining area on a nonconforming hotel site that would be served by existing parking supply, and an Extended Hours Permit to allow a nonconforming hotel restaurant, open air dining area, and rooftop to operate during extended hours at 9291 Burton Way for the L'Ermitage Hotel (the "Project").

**Section 2.** The hotel use was originally constructed in 1976, prior to the Beverly Hills Municipal Code requirement for a CUP for hotel uses. Subsequently, the hotel was granted a DPR to allow open air dining and a CUP for rooftop uses and to allow the hotel

restaurant to be open to the public pursuant to Planning Commission Resolution No. 1094. Upon appeal, the approval of the DPR and CUP was upheld by the City Council pursuant to City Council Resolution 99-R-10211, and the entitlements were subsequently renewed by the Planning Commission pursuant to Planning Commission Resolutions 1138 and 1191. These entitlements established the operational standards for the hotel restaurant, open air dining area, and rooftop event space, including the size, hours, and manner of operation of the open air dining area; the number and frequency of events allowed on the rooftop; access and use restrictions to the hotel restaurant; the manner in which deliveries could be made to the hotel; employee and visitor parking; and the process for renewal of the entitlements. Condition 2 of Resolution No. 1911 states that:

“This CUP and DPR (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 CUP and DPR 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 renewals. ”

The most recent extension of the DPR and CUP was granted in 2009, for three additional years, until February 25, 2012. On March 2, 2015, the Applicant submitted an application for renewal of the DPR and CUP. Just prior to the Planning Commission meeting on April 14, 2016, it was determined that the DPR and CUP were not eligible for renewal and the Applicant was directed to submit applications for new entitlements for the Project. On May 2, 2016, the Planning Commission considered the applications for new entitlements for the Project at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting. At the conclusion of deliberation, the Planning Commission voted to approve the requested entitlements (Resolution No. 1772), subject to conditions of approval regulating certain hotel operations. On May 17, 2016, the City Council ordered review of the Planning Commission's decision at a de novo public hearing. On June 6, 2016, the City Council considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

**Section 3.** The subject site area consists of 31,200 square feet, and is currently developed with an eight-story hotel with 119 guestrooms, a lounge and restaurant in the lobby, an open air dining area, and a rooftop pool and event space. The subject site is located along Burton Way, a major east-west thoroughfare with primarily one- and two-story residential development along the south side, and higher density multi-family residential development along the north side. The project site is abutted by a three-story multi-family residential building to the west. Immediately adjacent to the subject property to the east a new five-story condominium project is currently under construction. To the north is a commercial area consisting of former industrial sites that have over time developed into a cluster of corporate offices for

media/entertainment companies. The project site is separated from this commercial area by a two-way alley that connects Maple Drive and Foothill Road. The alley provides pedestrian and vehicular access to the rear of the buildings along Burton Way.

**Section 4.** The Project includes a request for a Conditional Use Permit to allow the hotel restaurant to be open to the public, a Development Plan Review to allow the establishment of an open air dining area that would be served by existing parking supply, and an Extended Hours Permit to allow the hotel restaurant, open air dining area, and rooftop event space to operate during extended hours in a Commercial-Residential Transition Area. These entitlements were previously granted pursuant to City Council Resolution No. 99-R-10211, and renewed by Planning Commission Resolution Nos. 1138 and 1191 in 2000 and 2001, respectively, with conditions of approval being carried through each subsequent resolution. These entitlements expired because timely renewal did not occur, and this Project is a request for new entitlements for the hotel restaurant and open air dining area, and provides the ability to impose conditions on rooftop events. In addition to the request to allow the hotel restaurant to be open to the public, this Project includes an open air dining area located along Burton Way, with a direct stairway entrance located immediately adjacent to the existing hotel entrance. The open air dining area would contain a maximum of 7 tables and 20 chairs, which is the same amount as was previously approved prior to expiration of the entitlements. There is also a request to allow the open air dining area to utilize existing parking supply on site, and waive the requirement for 14 additional parking spaces that would otherwise be required for 618 square feet of open air dining on private property.

**Section 5.** The request to continue the open air dining area, hotel restaurant, and rooftop operations as outlined above result in the need for specific entitlements as follows:

1. Conditional Use Permit: A Conditional Use Permit was previously granted by the City Council pursuant to Resolution No. 99-R-10211 to allow the hotel restaurant to be open to the public, and was subsequently renewed by the Planning Commission pursuant to Resolution Nos. 1138 and 1191. In addition, the Conditional Use Permit has been used as a means to impose conditions on rooftop operations. These approvals expired due to non-renewal. Therefore, a new Conditional Use Permit is required to allow the hotel restaurant to be open to the public.

2. Development Plan Review: A Development Plan Review was granted by the City Council pursuant to Resolution No. 99-R-10211 to allow an open air dining area containing 7 tables and 20 chairs on private property, and was subsequently renewed by the Planning Commission pursuant to Resolution Nos. 1138 and 1191. These approvals expired due to non-renewal. Therefore, a new Development Plan Review Permit is required to re-establish the open air dining area in a new location near the hotel's Burton Way entrance and to waive the requirement for additional parking for the outdoor dining area.

3. Extended Hours Permit: The subject site is located in a Commercial-Residential Transition Area, and is therefore subject to the operational restrictions for these areas identified in BHMC Article 19.5. In order for the hotel restaurant, open air dining area, and rooftop to operate before 7:00 a.m. and after 10:00 p.m., an Extended Hours Permit is required.

**Section 6.** The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000,

*et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The Project is found to be exempt from further review on the separate and independent bases of Sections 15301 (Class 1), 15302 (Class 2), and 15332 (Class 32) of the Guidelines, as follows:

A Class 1 Categorical Exemption consists of permitting or minor alteration of existing structures involving negligible or no expansion of use. Examples include interior or exterior alterations and additions to existing structures provided that the additions do not result in an increase of more than 10,000 square feet. The proposed project consists of granting entitlements that would govern the operations of a commercial hotel including restaurant and rooftop area, and allowing alterations to the front patio to establish an open air dining area of the same capacity as was previously existing and approved. The use of the hotel, restaurant, open air dining area, and rooftop area would remain substantially the same as what was previously approved and has been in operation for approximately the last 16 years, although perhaps with additional conditions of approval to address compatibility with neighboring uses.

A Class 2 Categorical Exemption consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity. The proposed project includes replacement/re-approval of a previously approved open air dining area on the same site, with the same capacity and function as was previously existing and approved. The hotel restaurant and rooftop structures will remain substantially the same as what was previously approved and has

existed for approximately the last 16 years, although perhaps with additional conditions of approval to address compatibility with neighboring uses.

A Class 32 Categorical Exemption consists of projects characterized as in-fill development meeting the following conditions:

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.

- The proposed project is a legally nonconforming commercial hotel use located in an R-4 multi-family residential zone. Although hotels are no longer a permitted use within an R-4 Zone if constructed new, the City's Zoning Ordinance allows for legally nonconforming uses to be continued without alteration or expansion, and includes specific provisions for the operation of nonconforming hotels in an R-4 Zone. The Zoning Ordinance also allows for restaurants to be operated within a nonconforming hotel located in an R-4 Zone, including the ability to be open to the general public provided that a Conditional Use Permit is first obtained. Additionally, the Zoning Ordinance allows outdoor dining to be established in nonconforming hotels in an R-4 Zone pursuant to the issuance of a Development Plan Review. The proposed project consists of a hotel restaurant, open air dining, and rooftop uses operated in substantially the same manner as when the hotel use was established, and as amended over time by the City Council and Planning Commission. In addition, the project complies with numerous General Plan policies,

including Policies LU 9.1, LU 15.2, and ES 1.4, which relate to retaining existing industries such as luxury hotels, as well as Policies N 1.3, and N 1.4.

2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

- The project site is located in the City of Beverly Hills and consists of 31,200 square feet (approximately 0.72 acres), and is surrounded by urban uses, such as multi-family residential buildings, government buildings, single-family residences, and commercial offices, all of which are typical of an urban environment.

3. The project site has no value as habitat for endangered, rare, or threatened species.

- The project site has been developed with the current structure since 1976, and is located in a developed urban area. There are no known habitats for endangered, rare, or threatened species on the project site.

4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

- Restaurant / Outdoor Dining. The project site has been operating as a commercial hotel with a restaurant open to the public and an open air dining area for approximately 16 years. The proposed project would operate in substantially the same manner as previously approved. The hotel restaurant faces Burton Way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to

an area that is approximately 120 feet from the neighboring residential building to the west, which is approximately 50 feet farther away than the previously approved open air dining area, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. The project will maintain the same number of tables and chairs in the relocated open air dining area as previously approved. Neither live entertainment nor amplified music will be allowed at any time in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been recommended that would prohibit patrons from queuing outside.

- **Rooftop Uses.** Proposed conditions would limit evening functions on the rooftop to twice per week unless authorized by the Director of Community Development, and such functions are limited to a total of 52 per calendar year. Proposed conditions would also require all rooftop functions to cease by 11:00 p.m. on Sundays through Thursdays, and by 12:00 midnight on Fridays, Saturdays, and evenings preceding holidays. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project would not constitute any intensification of the past uses of the restaurant or rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate the traffic flow for the continued use of the hotel restaurant and rooftop area, thus the proposed project would not create any other significantly adverse traffic

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

- Hotel Restaurant. The restaurant kitchen is located inside the hotel, and cooking will not be performed outdoors. Approval of the project will not alter the current venting of the kitchen and the City has received no evidence that the restaurant or rooftop currently create any odors or noxious fumes. Continuation of the previous uses would not result in any significant change to air quality in the vicinity of the project, or the region. The proposed continuation of uses would not result in any water quality issues in that no significant changes to the overall project site would occur, and all restaurant activities would continue to comply with applicable regulations to avoid any impact to water quality.

- For the foregoing reasons, approval of the project, with the proposed conditions of approval, will not result in any significant effects relating to traffic, noise, air quality, or water quality.

5. The site can be adequately served by all required utilities and public services.

- The site is currently served by all required utilities and public services, and no new utilities or public services will be necessary for the proposed project.

**Section 7.** Notice of the Project and public hearing was published in two newspapers of local circulation, the *Beverly Hills Courier* and the *Beverly Hills Weekly*, and was

mailed on May 27, 2016 to all property owners and residential occupants within a 500-foot radius of the property plus block face. Notice of the Project and public hearing was also posted on the property on May 27, 2016.

**Section 8.** In considering the request for a Conditional Use Permit, the City Council considered whether it could make the following findings in support of the Project:

1. The proposed location of any such use will not be detrimental to adjacent property or to the public welfare;
2. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to the accumulation of garbage, trash, or other waste;
3. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
4. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to light and glare;
5. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to odors or noxious fumes;
6. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to parking demand created by the restaurant, including parking demand created by employees; and
7. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to traffic.

**Section 9.** Based on the foregoing, the City Council hereby finds and determines as follows regarding the Conditional Use Permit:

1. Granting the Conditional Use Permit and establishing the conditions of approval to allow for the restaurant and rooftop to be open to the public will result in hotel operations that are substantially similar to previously approved hotel operations, but with more clear and enforceable conditions and penalties for violations. The project will not result in any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the project, as conditioned, have a significant parking impact. The open air dining area will maintain the previously approved maximum of 7 tables and 20 chairs, and does not encroach into the public right of way. Conditions of approval intended to prevent any impacts related to noise are included. The hotel has sufficient parking available within the hotel's on-site parking garage, and valet operations as well as entry to the hotel are provided from Burton Way. Conditions of approval relating to the frequency and hours of rooftop activities have been included to prevent impacts from evening functions. As conditioned, granting the Conditional Use Permit will not be detrimental to adjacent property or the public welfare.

2. As conditioned, 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 areas, completely enclosed in the subterranean garage. For these reasons, as conditioned, the restaurant and rooftop will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to the accumulation of garbage, trash, or other waste.

3. The hotel restaurant faces Burton Way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to an area that is approximately 50 feet farther east of the neighboring residential building to the west, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. Neither live entertainment nor amplified music will be allowed at any time in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been imposed to prohibit patrons from queuing outside. As conditioned, evening functions on the rooftop are limited to twice per week unless authorized by the Director of Community Development, and such functions are limited to a total of 52 per calendar year. As conditioned, all rooftop functions will cease by 10:00 p.m., with guests vacating the rooftop by 11:00 p.m., seven days per week. For these reasons, as conditioned, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant.

4. The restaurant is located on the ground floor, is fully enclosed, and is separated from neighboring residential properties by walls and a courtyard. The rooftop event area is located on the east side of the hotel building, and no lighting will be directed toward the residential property to the east. For these reasons, as conditioned, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to light and glare.

5. The restaurant kitchen is located inside the hotel, and cooking will not be performed outdoors. Approval of the project will not alter the current venting of the kitchen and

the City has received no evidence that the restaurant or rooftop currently create any odors or noxious fumes. For these reasons, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to odors or noxious fumes.

6. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in the vicinity of the project. In order to further reduce the potential for parking impacts, conditions have been imposed requiring the hotel to provide free valet parking for restaurant patrons. 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 been further conditioned to prohibit the use of the hotel rooftop for more than two evening functions per week that involve more than 25 attendees other than hotel guests. Additionally, no more than 52 such functions are permitted during any calendar year. This condition will ensure that the potential increase in parking impacts to the neighboring residential streets generated by opening the restaurant to the public is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also 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. For these reasons, as conditioned, the

restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to parking demand created by the restaurant, including parking demand created by employees.

7. The project will maintain the same number of tables and chairs in the relocated open air dining area as previously approved. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any potential increases in traffic flow for the continued use of the hotel restaurant and rooftop area. For these reasons, as conditioned, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to traffic.

**Section 10.** In considering the request for a Development Plan Review, the City Council considered whether it could make the following findings in support of the Project:

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

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

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

**Section 11.** Based on the foregoing, the City Council hereby finds and determines as follows regarding the Development Plan Review:

1. The General Plan encourages accommodation of hotel uses that attract customers from the region and provide a quality experience for national and international uses. (Policy LU 9.1) The General Plan also encourages retention and improvement of priority businesses, including high-end hotels. (Policy LU 15.2; Policy ES 1.4) Other policies in the General Plan call for maintaining compatible relationships between commercial uses and adjoining residential neighborhoods, limiting hours of commercial and entertainment operations adjacent to residential neighborhoods, and limiting hours of truck deliveries to commercial uses abutting residential neighborhoods. (Policies LU 12, LU 12.1, N 1.3, and N 1.4) Recognizing the need to balance retention of high-end hotels with the desire to maintain compatibility of uses and minimize noise impacts to residential uses, conditions have been imposed that limit the operations of the open air dining area, and mechanisms have been developed to enable efficient enforcement of all conditions of approval. For these reasons, as conditioned, granting the Development Plan Review to allow operation of the relocated open air dining area is consistent with the General Plan. Further, the subject property is not located within any specific plans.

2. Granting the Development Plan Review to allow operation of the relocated open air dining area will not result in an increase in traffic or parking demand beyond what has

occurred for approximately the past 16 years. The number of tables and chairs will not increase beyond what has been previously approved, and the relocated open air dining area is approximately 50 feet farther away from the neighboring residential property to the west. Conditions have been imposed that limit the operations of the open air dining area. For these reasons, as conditioned, granting the Development Plan Review to allow operation of the relocated open air dining area will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

3. Granting the Development Plan Review to allow operation of the relocated open air dining area will not materially alter the nature, density, or height of the project. The relocation and reconfiguration will result in the open air dining area being located approximately 50 feet farther away from the neighboring residential building to the west, and will reduce the likelihood of noise impacts. Conditions have been imposed in order to mitigate any other potential impacts to neighboring residential properties, including but not limited to restrictions on the hours of operation of the open air dining area, prohibiting live entertainment and amplified music, and prohibiting queuing of patrons outside. The Project will also not result in any increase in height, or any increase in hotel rooms or hotel capacity. For these reasons, as conditioned, the nature, configuration, location, density, height and manner of operation of the relocated open air dining area will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

4. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in

the vicinity of the project. In order to further reduce the potential for parking impacts, conditions have been imposed requiring the hotel to provide free valet parking for restaurant patrons. 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 been further conditioned to prohibit the 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 residential streets generated by opening the restaurant to the public is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also 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 project will maintain the same number of tables and chairs in the relocated open air dining area as was previously approved and existed for approximately the past 16 years. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any potential increases in traffic flow for the continued use of the hotel restaurant and rooftop area. For these reasons, as conditioned, granting the Development Plan Review permit to allow operation of the relocated open air dining area will

not result in significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

5. Granting the Development Plan Review to allow operation of the relocated open air dining area will result in hotel operations that are substantially similar to previously approved hotel operations that existed for approximately the past 16 years, but with more clear and enforceable conditions and penalties for violations. The Project will not result in any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards because the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any potential increases in traffic flow for the continued use of the hotel restaurant and rooftop area. Nor will the project, as conditioned, have a significant parking impact. The open air dining area will maintain the previously approved maximum of 7 tables and 20 chairs, and does not encroach into the public right of way. Conditions of approval intended to prevent any impacts related to noise are also included. The hotel has sufficient parking available within the hotel's on-site parking garage, and valet operations as well as entry to the hotel are provided from Burton Way. Conditions of approval relating to the frequency and hours of rooftop activities have been included to prevent impacts from evening functions. For these reasons, as conditioned, granting the Development Plan Review to allow operation of the relocated open air dining area is not anticipated to be detrimental to public health, safety, or general welfare.

**Section 12.** In considering the request to waive the required parking for the open air dining area, the City Council considered whether it could make the following finding in support of the project:

1. The parking demand will be met by means other than those means specified in Section 10-3-2730 B(8) of the Beverly Hills Municipal Code.

**Section 13.** Based on the foregoing, the City Council hereby finds and determines as follows regarding the request to find that the required parking for the open air dining area can be met by existing on-site parking supply and valet operations:

1. Section 10-3-2730 B(8) of the Beverly Hills Municipal Code establishes that parking for open air dining on private property shall be provided as required for indoor dining areas. For this project site, there is a total of approximately 2,481 square feet of bar and dining area, including the proposed outdoor dining area. Thus, the project is subject to a parking requirement of one space per 45 square feet of bar and dining area. The interior bar and dining areas of the hotel are considered legally nonconforming with regard to parking, and there has not been an intensification of those uses that would require any additional parking. Of the total bar and dining area, the open air dining area that is the subject of these entitlements represents approximately 618 square feet, resulting in a parking requirement of 14 spaces. These 14 spaces are subject to the request to determine that parking can be met by on-site supply and valet operations. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in the vicinity of

the project. In order to further reduce the potential for parking impacts, conditions have been imposed requiring the hotel to provide free valet parking for restaurant patrons. 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 been further conditioned to prohibit the use of the hotel rooftop for more than two evening functions per week that involve more than 25 attendees other than hotel guests. Additionally, no more than 52 such functions are permitted during any calendar year. This condition will ensure that the potential increase in parking impacts to the neighboring residential streets generated by opening the restaurant to the public is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also 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 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. For these reasons, as conditioned, the parking demand for the open air dining area can be met by the existing parking supply on-site and through the use of valet parking, and no additional parking is required.

**Section 14.** In considering the request for an Extended Hours Permit, the City Council considered whether it could make the following findings in support of the Project:

1. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of the accumulation of garbage, litter, or other waste, both on and off the subject site;

2. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of noise created by the extended hours operation or by employees or visitors entering or existing the extended hours operation;

3. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of light and glare;

4. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of odors and noxious fumes;

5. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of pedestrian queuing;

6. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of crime or peril to personal safety and security;

7. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area;

8. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of effects on traffic volumes and congestion on local residential streets; and

9. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

**Section 15.** Based on the foregoing, the City Council hereby finds and determines as follows regarding the Extended Hours Permit:

1. As conditioned, 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 areas, completely enclosed in the subterranean garage. For these reasons, as conditioned, operation of the hotel during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of the accumulation of garbage, trash, or other waste, on or off the Project site.

2. The hotel restaurant faces Burton way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to an area that is approximately 50 feet farther east of the neighboring residential building to the west, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. Both live entertainment and amplified music will be prohibited at all times in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been imposed to prohibit patrons from queuing outside. As conditioned, evening functions on the rooftop are limited to twice per week unless authorized by the Director of Community Development, and such functions are limited to a total of 52 per calendar year. As conditioned, all rooftop functions will cease by 10:00 p.m., with all guests vacating the rooftop by 11:00 p.m., seven days per week. For these reasons, as conditioned, operation of the hotel during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of noise created by the extended hours operation or by employees or visitors entering or existing the hotel.

3. The restaurant is located on the ground floor, is fully enclosed, and is separated from neighboring residential properties by walls and a courtyard. The rooftop event space is located on the east side of the hotel building, and is screened from the properties to the west by the elevator shaft, mechanical enclosures, and pool cabanas. No lighting will be directed toward the neighboring properties. The hotel restaurant, open air dining area, and rooftop event space do not include the use of reflective surfaces that could potentially cause glare. For these reasons, as conditioned, operation of the hotel during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of light and glare.

4. The restaurant kitchen is located inside the hotel, and cooking will not be performed outdoors. Approval of the Project will not alter the current venting of the kitchen and the City has received no evidence that the restaurant or rooftop currently create any odors or noxious fumes. For these reasons, hotel operations during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of odors and noxious fumes.

5. The hotel restaurant faces Burton Way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to an area that is approximately 50 feet farther east of the neighboring residential building to the west, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. Neither live entertainment nor amplified music is permitted at any time in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been imposed to prohibit patrons from queuing outside. As conditioned, evening functions on the rooftop are limited to twice per week unless authorized by the Director of Community Development, and such functions are limited to a total of 52 per calendar year. As conditioned,

all rooftop functions will cease by 10:00 p.m., with all guests vacating the rooftop by 11:00 p.m., seven days per week. These conditions will limit the number of events at the hotel, and would ensure that any potential queuing would be limited to earlier evening hours to minimize potential noise or other impacts. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of pedestrian queuing.

6. The project will operate in a manner that is substantially the same as was approved previously, and has existed for approximately the past 16 years. Based on a review of police activity at the project site over the past two years, there have been numerous calls for service relating to excessive noise and parking violations. The police activity does not, however, seem to indicate significant evidence of crimes related to personal safety and security. Conditions have been included that establish a clear and escalating penalty structure in order to encourage compliance with conditions intended to reduce noise and parking violations. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of crime or peril to personal safety and security.

7. The project will maintain the same maximum number of tables and chairs in the relocated open air dining area as previously approved. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any incremental increases in traffic flow for the continued use of the hotel restaurant and rooftop area. For these reasons, as conditioned the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of use of

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

8. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in the vicinity of the project. In order to further reduce the potential for parking impacts, conditions have been imposed requiring the hotel to provide free valet parking for restaurant patrons. 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 been further conditioned to prohibit the 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 residential streets generated by opening the restaurant to the public is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also 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. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and quiet of the

adjacent neighborhood as a result of effects on traffic volumes and congestion on local residential streets.

9. The subject site is a nonconforming hotel in an R-4 Multi-Family zone. There are no other extended hours permits issued for any other commercial buildings in the adjacent neighborhood, which makes the hotel the only extended hours operation within the adjacent neighborhood. Additionally, conditions have been imposed that restrict the hours of operation of the hotel restaurant, open air dining area, and rooftop event space. Restrictions have also been imposed prohibiting pedestrian queueing on the Burton Way sidewalk. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

**Section 16.** Based on the foregoing, the City Council hereby approves the requested entitlements. The following conditions include all relevant conditions of approval previously imposed on the subject site in past entitlements. The Project is subject to the following conditions:

Hotel Restaurant and Open Air Dining Area

1. The open air dining area shall be limited to a maximum of 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 hotel entrance along Burton Way, 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 at any time.

4. No banquets or similar private receptions or parties shall be held at the restaurant. For the purposes of the condition, a banquet or similar private reception or party shall mean any banquet, party, reception or other event during which more than half 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 open air dining 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. Hotel employees shall be prohibited from congregating outside the hotel, and shall be prohibited, to the extent permitted by applicable labor laws, from eating, drinking, or smoking on the sidewalk and other public rights-of-way in the vicinity of the hotel. Lunch trucks/catering trucks servicing hotel employees shall be directed by the hotel to park only in the loading zone immediately adjacent to the hotel on Burton Way, and hotel employees shall be prohibited from patronizing any such truck that is stopped or parked on any other residential street or in the alley.

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 the 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 provide free of charge to patrons of the restaurant.

9. All exterior doors to the restaurant, including the exterior doors closest to the adjacent residences to the west of the hotel shall only be used for emergency ingress and egress. However, the doors immediately adjacent to the open air dining area may be used by patrons to access the open air dining area from within the hotel restaurant, but shall not be held, propped, or otherwise kept open. Additionally, all food service to the open air dining area shall occur from the doors immediately adjacent to the open air dining area.

10. To mitigate privacy and noise impacts from the restaurant, open air dining area, and stairway access to the open air dining area located adjacent to the main hotel entrance, the applicant shall construct and maintain a wall at least seven (7) feet high along the entire western perimeter of the open air dining area, and a wall at least six (6) feet high along a portion of the eastern perimeter of the open air dining area to substantially shield the open air dining area from the stairway access located at the Hotel's main entrance. The applicant shall also maintain a landscape buffer between the open air dining area and Burton Way, satisfactory to the Director of Community Development, of sufficient height and density to substantially reduce light and noise impacts onto Burton Way and reasonably protect the quiet enjoyment of neighbors on the south side of Burton Way. The outdoor space adjacent to the hotel's ground floor rotunda room where the open air dining area was located previously, shall remain unoccupied or be converted into a landscape buffer which shall at all times be off-limits to guests, employees, and patrons of the hotel, restaurant, or open air dining area except for emergency egress or parking garage access by hotel employees.

11. No queuing for the restaurant or outdoor dining area shall occur outside the interior of the hotel. Whenever patrons of the restaurant or outdoor dining area cannot be immediately seated, they shall be directed to the hotel lobby to await seating.

12. The hotel shall not accept any deliveries except during the hours of 9:00 a.m. through 6:00 p.m., Monday through Friday, 10:00 a.m. through 5:00 p.m. on Saturday, and 10:00 a.m. through 3:00 p.m. on Sunday.

13. The loading zone on hotel property adjacent to the alley behind the hotel shall at all times remain free of structures or other obstructions. Delivery trucks shall be prohibited from blocking the alley, from stopping or parking in areas of the alley that provide access to neighboring properties' parking garages or where neighboring properties' garbage bins are located, and from stopping or parking anywhere on Foothill Road or Maple Drive. To ensure compliance with this condition, the applicant shall pay all costs associated with the installation of a sufficient number of closed circuit television ("CCTV") cameras, on the applicant's property to monitor all loading activities occurring in the alley 24 hours per day, 7 days per week. The applicant acknowledges and agrees that photographs or videos taken by such cameras showing violations of this condition shall constitute evidence of such violations for the purposes of Condition Nos. 23 and 24 below. Video footage from the cameras shall be retained for a minimum period of thirty (30) days, and shall be made available to City staff upon request. The Director of Community Development may impose additional conditions on loading operations and/or the location of loading to achieve the greatest level of neighborhood compatibility, but in no event shall permit hours of loading to be extended beyond those set forth in Condition No. 12 above.

14. The applicant shall instruct any limousine company contracted or retained by the hotel to direct its drivers to stop or park exclusively in the loading zone on Burton Way immediately adjacent to the hotel, or on Civic Center Drive to the north of the hotel, and to not stop or park on any other street in the vicinity of the hotel, including but not limited to Foothill Road and the south side of Burton Way. The applicant shall not instruct or encourage, directly or indirectly, any driver of any taxi or limousine to stop or park anywhere other than the loading zone on Burton Way immediately adjacent to the hotel, or on Civic Center Drive, and whenever the topic arises, hotel staff shall explicitly instruct all drivers of taxis and/or limousines not park on any residential street in the vicinity of the hotel (other than Burton way immediately adjacent to the hotel), including but not limited to Foothill Road and the south side of Burton Way. Finally, hotel staff shall walk the north side of Burton Way between Foothill Road and Maple Drive once each day, at or about 5:00 p.m., and collect and dispose of any trash or debris that may be present on the sidewalk or parkway, regardless of whether the trash or debris was generated by hotel operations.

15. The applicant shall maintain all restaurant areas as well as the public right of way directly adjacent to the subject property in a clean and sanitary condition at all times.

#### Rooftop Events

16. Evening functions on the rooftop of the hotel involving more than 25 attendees, excluding persons residing at the hotel, shall not occur more than fifty-two (52) times during any calendar year. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

17. Evening functions on the rooftop of the hotel shall not occur more than twice during any week (Monday through Sunday). However, the applicant may submit a request

to the Director of Community Development or his/her designee (“Director”) to allow one additional event, for a total of three events within a single week, one time during the months of January through March. Any additional events granted pursuant to this request shall be counted toward the maximum of fifty-two (52) events during the calendar year. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

18. Prior to any evening function, the Applicant shall submit a traffic and parking plan for the evening function to the Director of Community Development or his/her designee (“Director”) for approval. No such function shall take place until such traffic and parking plan is approved by the Director. 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 judgment, adequate parking and valet service will be available at the site to prevent parking, traffic, and noise impacts from intruding into the adjacent neighborhood. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

19. The applicant shall file with the Director of Community Development or his/her designee (“Director”) 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 with a written amendment to that schedule at any time that a new 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. Notwithstanding this condition, the applicant shall have the right to submit a request to the Director for an amendment to the schedule of functions less than 48 hours before

commencement of the function. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

20. All rooftop events, including associated live entertainment and amplified sound, shall conclude no later than 10:00 p.m., and all rooftop event attendees shall have vacated the rooftop by 11:00 p.m. every day of the week. To facilitate timely vacation of all rooftop event attendees and minimize the potential for noise impacts outside the hotel entrance on the ground floor, the hotel shall provide the ability for rooftop event attendees to call for their vehicles from the valet at the rooftop. In order to ensure compliance with this condition, the applicant shall pay the full costs of hiring a site monitor to be present at each rooftop event until at least 11:00 p.m. The person(s) designated as site monitor shall be a third party contractor or a member of City staff, and such person(s) shall be subject to prior approval by the Director of Community Development.

21. Deliveries, setup, and/or event breakdown for any rooftop functions shall not occur except during the hours of 9:00 a.m. through 6:00 p.m., Monday through Friday, 10:00 a.m. through 5:00 p.m. on Saturday, and 10:00 a.m. through 3:00 p.m. on Sunday.

22. At all times the hotel shall operate in compliance with the City’s noise ordinance.

#### Penalties for Violations

23. Within ten (10) days of the adoption of this resolution, the applicant shall submit to the City a cash deposit of \$20,000 from which to draw financial penalties in case of any violation(s) of the conditions of approval. If and when the deposit balance reaches \$10,000 or less as a result of such violation(s), the City shall notify the applicant of the remaining balance, and the applicant shall submit to the City within ten (10) business days additional funds

in an amount sufficient to bring the deposit balance back to \$20,000. Failure to make a timely deposit of such additional funds shall cause the Director of Community Development to promptly schedule a hearing before the Planning Commission for revocation of the Conditional Use Permit, Development Plan Review, and Extended Hours Permit granted herein.

24. Upon verification of evidence that a violation of any condition of approval contained herein has occurred, financial penalties shall be withdrawn from the cash deposit in the following amounts for each violation within a single calendar year:

<b>1<sup>st</sup> Violation</b>	<b>2<sup>nd</sup> Violation</b>	<b>3<sup>rd</sup> Violation</b>	<b>4<sup>th</sup> Violation</b>	<b>5<sup>th</sup> Violation</b>
\$1,000	\$2,500	\$5,000	\$10,000	\$10,000 and automatically return to Planning Commission for review and possible revocation. All application fees would be required in addition to the assessed penalty.

The applicant shall be provided a written notice of decision to withdraw the penalty charge, and shall be provided with the evidence demonstrating the occurrence of the violation, and shall have the right to appeal the decision to withdraw the penalty charge from the cash deposit to the Director of Community Development within 14 days of the issuance of the City’s notice of the determination. A written notice of the Director’s decision shall be provided to the applicant, who shall have the right to appeal the decision to the Planning Commission within 14 days of the issuance of the notice of the Director’s decision. The decision of the Planning Commission shall be final, and the applicant shall have no further right to appeal. Upon verification of evidence

that five (5) or more violations of any conditions of approval contained herein have occurred within a single calendar year, in addition to the financial penalties, the entitlements shall be referred to the Planning Commission for further review, and possible revocation. All costs associated with such hearing shall be fully borne by the Applicant.

25. Notwithstanding the provisions of condition 24 above, the City expressly reserves all rights to undertake any and all enforcement actions within its authority should it choose to do so, and shall not be obligated to first exhaust the penalty structure as outlined in conditions 23 and 24 above.

26. Within thirty (30) days after the adoption of this resolution, the applicant shall submit to the City a deposit of \$10,000 for the purpose of offsetting the costs of Code Enforcement activities associated with the project.

27. RECORDATION. This resolution approving the Conditional Use Permit, Development Plan Review, and Extended Hours Permit shall become effective immediately upon adoption of this resolution, however, the Owner of the Project shall deliver to the Department of Community Development an executed covenant accepting the conditions of approval set forth in this resolution within five (5) days of receiving such covenant from the City. The covenant shall be satisfactory in form and content to the City Attorney. The covenant shall include a copy of this resolution as an exhibit. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 5 days, this resolution approving the Project **shall be null and void and of no further effect**. Notwithstanding the foregoing, the Director of Planning & Community Development may, upon a request by the Applicant, grant a waiver from the 5 day time limit if,

at the time of the request, the Director determines that there have been no substantial changes to any federal, state, or local law that would affect the Project.

28. APPROVAL RUNS WITH LAND. The approvals and 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.

29. EXPIRATION AND RENEWAL. The Conditional Use Permit, Development Plan Review, and Extended Hours Permit shall expire twelve (12) months from the date of this approval. Upon application by the Applicant filed at least 30 days prior to the expiration of such permit, the Planning Commission may extend the Permit if the reviewing authority determines that the uses are being operated in a manner approved by the City Council, are abiding by the conditions imposed by the City Council, and are not creating significant adverse impacts on the surrounding neighborhood. Permits shall remain valid until such a time as a decision on a timely filed extension application is made by the Planning Commission. The Applicant shall file all necessary applications and pay all applicable fees associated with said extension requests. Furthermore, in the event the Director of Community Development believes the hotel may not be in compliance with the Conditional Use Permit, Development Plan Review, and Extended Hours Permit provisions, the Director of Community Development or their designee, at their discretion, may require the project be returned to the Planning Commission for further review and analysis prior to the expiration of the entitlements. The Applicant shall file all necessary applications and pay all applicable fees associated with said review.

**Section 17.** The City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the City Council of the City.

Adopted:

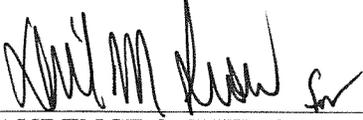
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JOHN A. MIRISCH  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
MAHDI ALUZRI  
City Manager

  
\_\_\_\_\_  
SUSAN HEALY KEENE  
Director of Community Development