



AGENDA REPORT

Meeting Date: November 21, 2016

Item Number: E-1

To: Honorable Mayor & City Council

From: Ryan Gohlich, AICP, Assistant Director of Community Development

Subject: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS CERTIFYING THE FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE ONE BEVERLY HILLS PROJECT (FORMERLY THE 9900 WILSHIRE PROJECT);

A RESOLUTION OF THE CITY COUNCIL ADOPTING AN AMENDED AND RESTATED SPECIFIC PLAN FOR A GATEWAY DEVELOPMENT TO THE CITY OF BEVERLY HILLS INCLUDING LUXURY RESIDENTIAL CONDOMINIUMS, A LUXURY HOTEL AND ANCILLARY USES, AND PUBLIC GARDENS FOR THE PROPERTY LOCATED AT 9900 WILSHIRE BOULEVARD (THE FORMER ROBINSONS-MAY DEPARTMENT STORE SITE) AND REFERRED TO AS THE ONE BEVERLY HILLS PROJECT;

AN ORDINANCE OF THE CITY OF BEVERLY HILLS APPROVING AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND WANDA BEVERLY HILLS PROPERTIES, LLC FOR CONSTRUCTION OF LUXURY RESIDENTIAL CONDOMINIUMS, A LUXURY HOTEL AND ANCILLARY USES, AND PUBLIC GARDENS, IN ACCORDANCE WITH THE AMENDED AND RESTATED 9900 WILSHIRE SPECIFIC PLAN FOR PROPERTY AT 9900 WILSHIRE BOULEVARD (THE FORMER ROBINSONS-MAY DEPARTMENT STORE SITE) AND REFERRED TO AS THE ONE BEVERLY HILLS PROJECT; and

A DETERMINATION REGARDING LEGISLATIVE ADVOCACY

Attachments:

1. Redlined Conditions of Approval
2. Redlined Development Agreement
3. Supplemental Responses to Late CEQA Comments
4. Resolution Certifying the Final Supplemental Environmental Impact Report
5. Resolution Adopting the Specific Plan
6. Ordinance Approving the Development Agreement
7. Revised Architectural Plans (Provided as a Separate Attachment)

BACKGROUND

The Proposed Project seeks to convert a portion of the previously approved 9900 Wilshire Specific Plan project (the "Approved Project") from condominiums and retail space into a luxury boutique hotel with ancillary uses. The Proposed Project also includes rooftop amenities, open air dining areas, and a new motor court access from North Santa Monica Boulevard. Additional details and analysis on the Proposed Project was provided to the City Council in the November 7, 2016 Agenda Report.

The Planning Commission held a total of seven meetings to consider the Proposed Project over the course of several months, as listed below:

- May 12, 2016 (Draft SEIR)
- August 23, 2016
- September 19, 2016
- September 26, 2016
- October 10, 2016
- October 13, 2016
- October 19, 2016 (Resolution Adopted)

At the conclusion of the October 19, 2016 meeting, the Planning Commission voted 3-1 in favor of adopting a resolution recommending that the City Council approve the Specific Plan Amendment; finding that the Development Agreement as proposed by the Applicant is consistent with the City's General Plan; and recommending that the City Council make findings regarding the Final SEIR under CEQA.

The City Council held three special meetings to consider the Proposed Project, as listed below:

- November 7, 2016
- November 8, 2016
- November 9, 2016

At the conclusion of the November 9, 2016 meeting, the City Council voted 4-1 in favor of directing the City Attorney to prepare a resolution certifying the Environmental Impact Report, a resolution adopting the Specific Plan amendments, and an ordinance approving the Development Agreement. These resolutions and ordinance are attached to this report.

DISCUSSION

Conditions of Approval.

Over the course of three meetings, the City Council received reports and testimony from City staff and independent environmental and transportation consultants, the project applicant, and from members of the public, including representatives of Oasis West Realty/Beverly Hilton Hotel. After questions and deliberation, the City Council voted to approve the Proposed Project, subject to additional conditions and amendments as follows (see Attachment 1):

- Revision to Condition #10 to clarify that adequate circulation space be provided at all times in the hotel motor court to prevent traffic flow disruptions.

- Revision to Condition #11 to clarify that a total of 30 hotel parking spaces must be reserved for visitors of the public gardens, and that the 30 spaces do not need to be kept available at all times if they are in use by visitors to the garden.
- Revision to Condition #23 specifying that City Staff shall conduct ongoing monitoring of the project operations, including but not limited to traffic, circulation, parking, loading, noise, and events during the first year of project operation, and that prior notice to the project applicant is not required for such monitoring. The revision also provides for specialty consultants to be engaged when needed, with all costs borne by the project applicant. Revisions have also been made to the language in this condition to clarify that any potential changes to the design of the Project resulting from the one-year Planning Commission review will not require any alteration to the structural elements of any buildings.
- Revision to Condition #33 granting the City the right to make any modifications to the traffic signal operations, such as implementing a right-turn arrow for vehicles turning right from Merv Griffin Way onto westbound Santa Monica Boulevard, with all costs of the signal changes being the responsibility of the applicant.
- Revision to Condition #52 to clarify height of construction noise barriers for consistency with Mitigation Measure Noise 1, which requires a 40-foot noise wall along Merv Griffin Way.
- Revision to Condition #79 regarding the requirement for the minimum number of days for rental of condominiums. The number of days has been increased from 90 to 180. This revision was requested by Vice Mayor Krasne subsequent to the November 9, 2016 City Council meeting, and has been agreed to by the project applicant.
- New Condition #94 prohibiting hotel from using its reservation system for the rental of any condominium units in the Project.
- New Condition #95 requiring that the wall between the meeting rooms and pre-function space cannot be moveable, such that those spaces cannot be combined into a single room. Plan sheets showing the wall between the meeting rooms and pre-function space have been updated in the Revised Architectural Plans provided as Attachment 7 to this report.
- New Condition #96 stipulating that the owner of the 9900 Wilshire property shall not agree to closure of Merv Griffin Way without prior approval from the City.
- New Condition #97 expressly requiring compliance with the mitigation monitoring and reporting program.
- New Condition #98 expressly requiring coordination of construction with the City's Santa Monica Reconstruction project to minimize traffic impacts to the extent feasible.

The following additional revisions are also being recommended by Staff in order to facilitate more effective enforcement of project conditions and mitigation measures:

- New Condition #99 requiring recordation of a covenant that includes the resolutions approving the Specific Plan Amendment, certifying the Final SEIR, and the ordinance approving the development agreement.
- Revision to Condition #55 specifying that the required third-party Community Liaison Officer shall be paid for by the developer, but shall be hired by and work for the City.

Development Agreement.

During deliberations, the City Council also requested the following revisions to the development agreement, which have been incorporated into the development agreement (see Attachment 2):

- Section 1, subsection (aa): The reference to "individual" condominium units has been revised so that the section only refers to condominium units.
- Section 10, subsection (d)(ii): This section addresses the security for payment. It has been revised to immediately notify the City if the bank ceases to be a Qualified Issuing Bank. The Payment Security then must be transferred to a Qualified Issuing Bank within three business days.
- Section 10, subsections (d), (f), and (g): Each of these sections has been amended to require reimbursement of the City in the event that the City must enforce the obligations of the sections without resorting to litigation.
- Section 10, subsection (e): The language has been clarified so that it is clear that the value of any lien or encumbrance on the Property shall not be considered when calculating the EMS fee.
- Section 10, subsection (i): This section has been amended to provide that the City will redirect \$250,000 from its Public Benefit Contribution into the Fine Art Fund.

CEQA Determination.

The November 7, 2016 City Council Agenda Report provides analysis regarding the CEQA determination for the Proposed Project. An Environmental Impact Report (EIR) was prepared for the Approved Project, which identified significant and unavoidable environmental impacts and a mitigation monitoring and reporting program (MMRP). The EIR and MMRP were certified by the City Council, and a Statement of Overriding Considerations was adopted.

A Final Supplemental Environmental Impact Report (Final SEIR) was prepared for the Proposed Project. Studies and analysis contained in the Final SEIR identified two areas with an increase in the severity of a previously identified significant and unavoidable impact. An MMRP was prepared and included in the Final SEIR for the Proposed Project. In order to approve the Proposed Project, the City Council will need to adopt a resolution containing updated CEQA findings and an updated Statement of Overriding Considerations. The Supplemental EIR and MMRP for the Proposed Project and the EIR and MMRP

Meeting Date: November 21, 2016

for the Approved Project were made available on the City's website throughout the City's review process, and can be accessed at www.beverlyhills.org/environmental.

Attachment 3 to this report also contains supplemental responses to late comments received from representatives of Oasis West Realty/Beverly Hilton regarding the Final SEIR.

FISCAL IMPACT

The fiscal impacts resulting from adoption of the attached resolutions and ordinance were analyzed and provided in the Agenda Report for the November 7, 2016 City Council Special Meeting. No changes to the Proposed Project's fiscal impact will result from the revisions made to the resolutions and ordinance at prior City Council meetings.

LEGISLATIVE ADVOCACY ALLEGATIONS AND DETERMINATION

During the processing of the applications for the Proposed Project, the City received several letters alleging that former Mayor Barry Brucker promoted the One Beverly Hills Project and urging the City Council to deny the Project on that basis. Beverly Hills Municipal Code Section 1-9-207 provides that any violation of the City's legislative advocate ordinance "shall be grounds for the city to disapprove any contract, approval, permit, or transaction that was related to any such violation."

The City Attorney's office has investigated the allegations, and summarized the conclusions in the memorandum to the City Council dated November 3, 2016, which was included in the agenda materials prepared for the November 7th hearing on the Proposed Project. For the reasons set forth in the November 3rd memorandum, we recommend that the City Council find that the actions taken by Mr. Brucker with respect to the Proposed Project, to the extent that they constituted legislative advocacy, had little effect on influencing the City Council, and the City Council declines to deny the project on the basis.

RECOMMENDATION

It is recommended that the City Council move to make a determination regarding legislative advocacy, adopt the attached resolutions and move to waive the full reading of the ordinance and that the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS APPROVING AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND WANDA BEVERLY HILLS PROPERTIES, LLC FOR CONSTRUCTION OF LUXURY RESIDENTIAL CONDOMINIUMS, A LUXURY HOTEL AND ANCILLARY USES, AND PUBLIC GARDENS, IN ACCORDANCE WITH THE AMENDED AND RESTATED 9900 WILSHIRE SPECIFIC PLAN FOR PROPERTY AT 9900 WILSHIRE BOULEVARD (THE FORMER ROBINSONS-MAY DEPARTMENT STORE SITE) AND REFERRED TO AS THE ONE BEVERLY HILLS PROJECT" be introduced and read by title only.

Susan Healy Keene, AICP

Approved By

