



Planning Commission Report

Meeting Date: December 8, 2016

Subject: **250-260 North Canon Drive
Conditional Use Permit, Open Air Dining Permit, and Extended
Hours Permit (PL1609328)**
Request to amend a Conditional Use Permit, Open Air Dining Permit, and
Extended Hours Permit to allow a new restaurant with a 100% valet-
operated alternative parking facility and joint use of parking facilities to be
constructed and operate with open air dining and extended hours on the
commercial property located at 250-260 North Canon Drive. The
requested entitlements were previously approved, and a CE adopted in
accordance with the California Environmental Quality Act (CEQA), on
September 26, 2016.

Project Applicant: Murray D. Fischer, applicant representative

Recommendation: That the Planning Commission:
1. Conduct a public hearing and receive testimony on the Project; and
2. Adopt a resolution conditionally approving the requested entitlements.

REPORT SUMMARY

The applicant seeks to amend previously approved entitlements for a new, three-story restaurant with a subterranean parking garage on the southern portion (currently a surface parking lot) of the site located at 250-260 North Canon Drive. The proposed project included a Zone Text Amendment to allow an "alternative parking facility" (a valet-operated garage with automobile elevators and mechanical parking lifts) to provide the required parking with approval of a Conditional Use Permit (CUP), as well as an Open Air Dining Permit and an Extended Hours Permit.

On September 26, 2016, the Planning Commission recommended a Zone Text Amendment to the City Council and approved a CUP, Open Air Dining Permit, and Extended Hours Permit for the proposed project. The resolution (No. 1788) would not become effective unless and until the associated Zone Text Amendment was adopted by the City Council and has taken effect. The City Council made changes to the Zone Text Amendment language before adopting the Ordinance on November 21, 2016.

Attachment(s):

- A. Required Findings
- B. Letter from Alain Ducasse
- C. Draft Amended PC Resolution conditionally approving a CUP, Open Air Dining, and Extended Hours
- D. Ordinance No. 16-O-2712 adopted 11/21/2016
- E. Redline showing changes made to previously-approved Resolution No. 1788
- F. Public Notice
- G. Architectural Plans (provided under separate cover)

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The Planning Commission's approval of amendments to the conditions of approval of the CUP, Open Air Dining Permit, and Extended Hours Permit for the restaurant at 250-260 North Canon Drive is now required in order to comply with the alternative parking facility zoning code provisions that were ultimately adopted by the City Council.

This report documents the changes the City Council made to the Zone Text Amendment as well as draft amendments to the Planning Commission resolution approving the CUP, Open Air Dining Permit, and Extended Hours Permit.

The project plans and proposal remain unchanged since the prior approval, as the changes only pertain to operational conditions, rather than project design. Staff recommends that the Planning Commission adopt the amended resolution conditionally approving the project.

PROJECT DESCRIPTION

On November 21, 2016, the City Council adopted Ordinance 16-O-2712, which amends BHMC §10-3-100 (Definitions), BHMC §10-3-1604, BHMC §10-3-1702, §10-3-1802, and BHMC §10-3-2002 (Conditionally Permitted Uses in the C-3, C-3A, C-3B, and C-5 zones), and adds BHMC §10-3-2730.4 (Alternative Parking Facility) to allow the use of automobile elevators and mechanical parking lifts to provide required parking in commercial zones through a Conditional Use Permit. The Ordinance will become effective at 12:01 AM on December 22, 2016.

Required Approvals. As proposed, the project requires the following discretionary approvals from the Planning Commission in order to be constructed:

1. Conditional Use Permit:

- To permit use of a 100% valet-operated alternative parking facility that would include automobile elevators, mechanical parking lifts, and aisle parking, to provide 102 required parking spaces for the existing office building and new restaurant building.
- To permit the joint use of parking facilities, such that up to 50% of the parking facilities of a use considered to be primarily a daytime use (existing office building) may be used to satisfy the parking facilities required for a use considered to be primarily a nighttime use (restaurant). In this case the Planning Commission previously authorized joint use of 25% of the existing office building's parking facilities.

2. Open Air Dining Permit:

- To permit a total of 6,257 square feet of open air dining (216 seats) on private property. The majority of this area (5,342 square feet) would be within the building that would have operable window systems on all three floors and a retractable roof. A smaller portion of this area (915 square feet) would be located in a courtyard with walls on four sides and no roof.



3. Extended Hours Permit:

- To permit the restaurant use, which is in a Commercial-Residential Transition Area, to receive patrons during Extended Hours (between 10:00 p.m. and 7:00 a.m. on the following weekday and 10:00 p.m. and 9:00 a.m. on the following weekend day or holiday). Specifically, the project requests to be allowed to receive patrons until 1:00 a.m. daily and to operate until 1:30 a.m. daily.

The Planning Commission previously approved a resolution granting these entitlements. However, due to modifications made by the City Council to the Zone Text Amendment Ordinance before its adoption, new and revised conditions of approval are required for these entitlements. The changes are discussed below.

ENVIRONMENTAL ASSESSMENT

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 *et seq.*), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*), and the environmental regulations of the City.

The Planning Commission previously adopted a Class 32 Categorical Exemption, finding the project exempt from further review under CEQA. The modified conditions of approval contemplated in this report do not alter the project's design, and have no effect on the previously conducted analysis. Therefore, the previously adopted Categorical Exemption continues to apply to the project and represents the City's independent judgement. Accordingly, no further environmental review is required at this time.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	12/2/2016	6 Days
Newspaper Notice	10 Days	11/28/2016	11/25/2016 (Beverly Hills Courier) 12/1/2016 (Beverly Hills Weekly)	10 Days
Mailed Notice (Owners & Residential Occupants - 500' radius + block-face, commercial occupants within 50')	10 Days	11/28/2016	9/9/2016	10 Days
Property Posting	10 Days	11/28/2016	11/28/2016	10 Days
Website	N/A	N/A	12/2/2016	6 Days

All Planning Commission and City Council hearings have been duly noticed. At the September 19, 2016 meeting two members of the public spoke about their concerns regarding traffic and noise generated by the project and the massing of the building. A letter received by staff before that meeting also expressed concerns about noise from the restaurant and restaurant



employees. Another resident spoke in favor of the Zone Text Amendment and recommended the ordinance not include standards or findings that would restrict the use of alternative parking facilities to small sites where providing code-required parking is difficult. As of the writing of this report, staff has not received any additional comments on this matter.

COUNCIL ACTION, ORDINANCE AND RESOLUTION CHANGES

The City Council adopted Ordinance No. 16-O-2712 (Attachment D) enabling alternative parking facilities that obtain a CUP to provide required parking in commercial zones as a pilot program. In adopting the Ordinance, the City Council made changes to the Zone Text Amendment that had been recommended by the Planning Commission¹. For the CUP, Open Air Dining, and Extended Hours permits granted by the Planning Commission to comply with the adopted Ordinance, some conditions of approval must be modified. Therefore, Planning Commission Resolution No. 1788, which granted the CUP, Open Air Dining, and Extended Hours permits, is null and void. A new resolution, provided in Attachment C, includes modified conditions of approval to comply with the adopted Ordinance.

The issues discussed by the City Council, the changes the Council made to the Zone Text Amendment, and the modifications made in the resolution now before the Planning Commission (if any) are as follows (additions and deletions to the Zone Text Amendment indicated with underline and ~~striketrough~~):

The Council wanted to ensure alternative parking facilities approved pursuant to new code section 10-3-2730.4 will be completely concealed from view.

- Change to Zone Text Amendment, §10-3-2730.4 B.1: Except for required ingress and egress, all alternative parking facilities shall be fully enclosed and below grade.
 - The alternative parking facility of the proposed project is below grade. No change is needed.

The Council wanted to ensure staging for the alternative parking facility, if it occurs off site, is within a reasonable distance.

- Change to Zone Text Amendment, §10-3-2730.4 B.2: Staging and queuing of vehicles shall occur on private property within a reasonable distance from the alternative parking facility and shall not impede travel and access within the public right-of-way.
 - If necessary, staging will occur in 13 leased parking spaces at 270 N. Canon Drive, which is the property neighboring the subject site. The leased parking spaces are between 75 and 180 feet from the entrance to the alternative parking facility. In prior discussions, the Planning Commission indicated this was a reasonable distance.

The Council clarified language in the finding regarding impacts to traffic and pedestrians.

- Change to Zone Text Amendment, §10-3-2730.4 D.4: The proposed alternative parking facility and operation thereof will not create any significantly material adverse traffic or

¹ The Planning Commission recommended Zone Text Amendment language to the City Council in Resolution No. 1787.



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

- This is a small semantic change. Traffic was previously evaluated and the proposed project will not create any material adverse impacts on traffic or pedestrian movement or safety. No change is needed.

The Council modified the mechanism by which the pilot program will be repealed.

- Change to Zone Text Amendment, §10-3-2730.4 F: Unless the city council extends this section 10-3-2730.4, this section 10-3-2730.4 shall be repealed ~~at such time as two (2) applications have been submitted to and approved by the city after one (1) year of operational experience with each of the two projects.~~
 - The subject project is the first application for an alternative parking facility CUP. This change does not affect the proposed project.

The City Council had concerns about alternative parking facilities being able to provide an adequate parking supply. Therefore, the Council added a provision to the ordinance requiring projects be conditioned to prohibit all employees from parking on site, and require free parking to be provided for all employees at an off-site and off-street parking facility. An exception is provided for cases in which an existing covenant requires employee parking to be provided on site, as is the case with the existing office building on the subject site.

- Change to the Zone Text Amendment, §10-3-2730.4 E.3 (New required condition of approval): Employee parking shall not be allowed on the site. A property on which an alternative parking facility is permitted shall provide free paid parking for all employees at an off-site and off-street parking facility. Verification of off-site location shall be provided to the Director of Community Development and shall be updated whenever employee parking demand changes. This provision shall not apply to covenanted parking spaces for employee use when the property on which an alternative parking facility is located includes parking required to be provided on the site pursuant to the provisions of a covenant.
 - Staff recommends the Planning Commission add a new Condition #22: This new condition prohibits restaurant employees from parking on site, requires free parking to be provided for all restaurant employees off site, and requires verification of the parking location to be provided to the Director of Community Development whenever employee parking demand changes.
 - Staff recommends the Planning Commission modify Condition #23 regarding valet parking: This condition is altered to exclude restaurant employees from those that will receive valet parking on site, and to clarify why office employees may park on site.

The City Council felt that high-end businesses utilizing alternative parking facilities for parking would require at least three valet drop off / pick up spaces on the adjacent city street.

- Change to the Zone Text Amendment, §10-3-2730.4 E.4 (New required condition of approval): If valet drop off locations associated with a property utilizing an alternative parking facility are proposed on city streets, excluding alleys, there shall be valet drop off space to accommodate a minimum of three vehicles.



- Staff recommends the Planning Commission modify Condition #27 regarding valet permit: This condition is altered to require a minimum of three on-street valet drop off/pick up spaces.

The City Council wanted to encourage luxury businesses and thus tied the use of an alternative parking facility to provision of a luxury service or product, as determined by the City Council. Along with the Ordinance, on November 15, 2016 the City Council adopted a determination that "a restaurant operated by Alain Ducasse meets the requirement that the use for which an alternative parking facility is allowed provides a luxury restaurant service."

Although negotiations between the property owner/developer and the Ducasse organization are ongoing (See letter from Alain Ducasse, Attachment B), discussions with the applicant lead staff to believe that Mr. Ducasse will ultimately be the operator of the proposed restaurant. If that does not occur and a different operator is proposed, the alternative operator will go to the City Council for a new luxury determination.

- Change to the Zone Text Amendment, §10-3-2730.4 E.5 (New required condition of approval): A Conditional use permit for an Alternative Parking facility must be for a use providing a luxury service or product, such as, but not limited to, a restaurant whose chef or operator has operated or is operating a Michelin star rated restaurant, or a luxury brand retail establishment, as determined by the city council in its discretion.
 - Staff recommends the Planning Commission add Section #4 to the resolution: The resolution now notes that the City Council made the luxury determination regarding a restaurant operated by Alain Ducasse.
 - Staff recommends adding a new Condition #4: This new condition states the proposed restaurant shall be operated by Alain Ducasse, or if the operator or use should change at any time, the City Council shall review the proposal and determine whether the new restaurant operator or new use will provide a luxury service or product.

Because of its concerns that alternative parking facilities will not provide sufficient parking, the City Council added the provision that projects be conditioned to require review of the parking of any alternative parking facility that has been granted modifications to the City's minimum parking standards. The review shall be conducted by the City Council or Planning Commission after six (6) months and one (1) year of operation.

- Change to the Zone Text Amendment, §10-3-2730.4 E.6 (New required condition of approval): If granted a parking reduction pursuant to § 10-3-2730.4 B. 5, the project's parking shall be reviewed by either the city council or planning commission after 6 months and 1 year of commencement of the use. If the reviewing body determines the reduced parking is insufficient, the applicant shall be required to make arrangements to provide sufficient parking either through the in lieu parking program, if available, providing additional covenanted parking spaces, or other means, as directed by the reviewing body.
 - The following recommended conditions of approval in the attached resolution now indicate that the granted reductions and modifications to parking requirements shall be reviewed by the Planning Commission or City Council, as determined by the Director of Community Development, six (6) months and one (1) year after operations begin:



- Condition #2.b regarding joint use of parking facilities
 - Condition #12 regarding reductions in required parking
 - Condition #15 regarding aisle parking spaces
 - Condition #16 regarding allowed minimum dimensions of mechanical lift parking spaces and aisle parking spaces
- Staff recommends modifications to Condition #31 and #32: These conditions of approval have been reorganized from the previously-approved Resolution. They now specify what items shall be reviewed after six months of operation (parking), and after one year of operation (parking, Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit).

ANALYSIS

The modifications made to the draft resolution for the Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit change where restaurant employees shall park, how many valet drop off spaces shall be required on North Canon Drive, and when and what aspects of the project shall be reviewed once the project is operational. None of these new or altered conditions create major changes to the proposed project. The findings made by the Planning Commission in the previously-approved Resolution No. 1788 regarding the requested entitlements are still applicable, with minor modifications regarding restaurant employee parking.

The new draft resolution complies with the Zone Text Amendment for alternative parking facilities adopted by the City Council without requiring significant changes to the proposed project.

NEXT STEPS

Staff recommends that the Planning Commission:

1. Conduct a public hearing and receive testimony on the Project; and
2. Adopt a resolution conditionally approving the requested entitlements.

Report Reviewed By:

Ryan Gohlich, AICP
Assistant Director / City Planner
Community Development Department



Attachment A
Required Findings

Zone Text Amendment Findings

1. In considering the application for a Zone Text Amendment, the Planning Commission shall consider whether the Zone Text Amendment will result in a benefit to the public interest, health, safety, morals, peace, comfort, convenience, or general welfare.

Conditional Use Permit Findings

The following findings incorporate the language of the proposed Zone Text Amendment:

1. A conditional use permit shall only be issued for an alternative parking facility to provide required parking if the Planning Commission finds that:
 - a. The proposed location of the alternative parking facility will not be detrimental to adjacent property or to the public welfare;
 - b. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable method of providing code-required parking;
 - c. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;
 - d. The proposed alternative parking facility and operation thereof will not create any significantly adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.
2. A conditional use permit for joint use of parking facilities may be authorized by the Planning Commission under the following conditions:
 - a. Up to fifty percent (50%) of the parking facilities of a use considered to be primarily a daytime use may be used to satisfy the parking facilities required by this article for a use considered to be primarily a nighttime use.
 - b. A covenant as described in section 10-3-2734 of this chapter shall be recorded in the office of the county recorder, which covenant may include such reasonable conditions as the planning commission may impose.



Open Air Dining Permit Findings

The reviewing authority shall approve an open air dining permit application if all of the following findings can be made:

1. The proposed open air dining use is consistent with the general plan and any specific plans adopted for the area.
2. The proposed open air dining use will not adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area.
3. The nature, configuration, location, density, and manner of operation of any open air dining use proposed will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.
4. The proposed open air dining use will not create any significant traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will not impede the safe and orderly flow of pedestrians along the public right of way.
5. The proposed open air dining use will not create any significantly adverse parking impacts as a result of employee or patron parking demands.
6. The proposed open air dining use will not create any significantly adverse impacts on neighboring properties as a result of:
 - a. The accumulation of garbage, trash or other waste;
 - b. Noise created by operation of the restaurant or by employees or visitors entering or exiting the restaurant;
 - c. Light and glare; or
 - d. Odors and noxious fumes.
7. The proposed open air dining use will not be detrimental to the public health, safety, or general welfare.

Extended Hours Permit Findings

The Planning Commission shall grant an extended hours permit if it finds that the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of any of the following:

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



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250-260 N. Canon Drive

December 8, 2016

Attachment B

Letter from Alain Ducasse

November 18, 2016

Mayor John A. Mirisch
455 N. Rexford Dr.
Beverly Hills, CA 90210

Re: Zoning Text Amendment Request by Neu Development Company for a New Restaurant
at 250-260 N. Canon Drive

Dear Mr. Mayor:

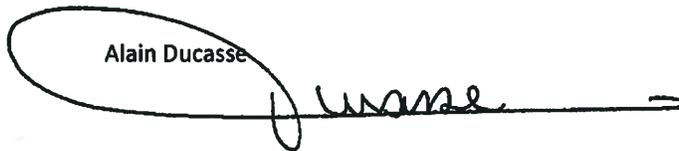
This letter addresses the above-referenced pending zoning text amendment.

Under the amendment, the proposed use is a luxury restaurant. My brand and, in fact, my personal involvement, have been discussed in the presentations, and we appreciate that the City has recognized that we meet the required high standards.

That being said, the purpose of this letter is to make you aware in the event you are not already, that, at this time, there is no agreement in place between Neu Development Company and my organization. Our discussions have been ongoing for two years and we are hopeful a deal can be reached, but there is no certainty that will be the case. I believe disclosure of that fact is necessary in the event my organization's involvement in this project is relevant to your deliberations.

Very truly yours,

Alain Ducasse

A handwritten signature in black ink, appearing to read 'Alain Ducasse', written over a horizontal line. The signature is enclosed in a large, hand-drawn oval.

cc: Beverly Hills City Council
Richard Neu
Murray Fischer



Planning Commission Report

250-260 N. Canon Drive

December 8, 2016

Attachment C

Draft Amended Planning Commission Resolution conditionally approving a
Conditional Use Permit, Open Air Dining, and Extended Hours

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT FOR AN ALTERNATIVE PARKING FACILITY AND JOINT USE OF PARKING FACILITIES, AN OPEN AIR DINING PERMIT, AND AN EXTENDED HOURS PERMIT FOR THE PROPERTY LOCATED AT 250-260 NORTH CANON DRIVE.

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

Section 1. Murray D. Fischer, agent on behalf of Neu Investment Corporation (the “Applicant”), has submitted an application for a Conditional Use Permit to allow an Alternative Parking Facility to provide required parking, an application for an Open Air Dining Permit, and an application for an Extended Hours Permit associated with the construction of a new restaurant on the property located at 250-260 North Canon Drive (the “Project”). The Project does not meet all by-right development and operational standards, and therefore requires entitlements that can be granted by the Planning Commission pursuant to the issuance of a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit.

Section 2. The Project site is located on the eastern side of the City’s business triangle, on the east side of the 200 block of North Canon Drive, between Dayton Way and Clifton Way. The site consists of Lots 3 and 4 of Block 12 of Tract Beverly, which are tied together. The north portion of the overall site (Lot 3) is currently developed with an approximately 15,680-square-foot, three-story commercial office building originally permitted in

1940 with major alterations and additions in 1957. The south portion of the site (Lot 4) is currently a surface parking lot with 22 parking spaces serving the existing office building. An additional six (6) parking spaces exist at the rear of the existing building off the alley. A covenant dated December 12, 1956 stipulates that Lot 4 shall provide parking to serve the structure built on Lot 3 for the life of said structure.

The proposed Project consists of a new, three-story building with three levels of subterranean parking for a new restaurant located on the southern (Lot 4) portion of the project site. The Project would retain the existing office building on the north (Lot 3) portion of the site with some modifications to accommodate accessible paths to parking and the new adjacent building. The new restaurant would include the following elements:

- Maximum height of three stories and 45' as defined by the Beverly Hills Municipal Code (BHMC) §10-3-100.
- Floor area of approximately 12,000 square feet, with total floor area on the project site (existing building + new building) not to exceed 28,550 square feet or 2.0 FAR.
- Dining and bar areas that can accommodate approximately 216 patrons within the building and in an outdoor courtyard.
- Dining rooms and kitchens on each of the three above-ground levels. Bars on the ground floor and third floor. Folding window systems on each dining room level that create large openings onto the courtyard area, and a retractable roof over the third floor dining and bar area.

- Open air dining consisting of a ground floor courtyard, separated from the street and alley by building walls and open to the sky, and the dining rooms within the restaurant that can be opened to the outside due to the folding window systems and retractable roof. This requires approval of an Open Air Dining Permit.
- Proposed hours to accept patrons are:
 - Sunday to Thursday: 11:00 a.m. to 11:00 p.m.;
 - Friday and Saturday: 11:00 a.m. to 12:00 a.m. midnight; and
 - Daily – 3rd floor lounge only: 5:00 p.m. to 1:00 a.m.

This requires approval of an Extended Hours Permit to accept patrons after 10:00 p.m. daily. The restaurant is conditioned to cease operations at 1:30 a.m. daily.

- Parking:
 - 106 total on-site parking spaces, including 102 parking spaces in a three-level underground alternative parking facility and four (4) surface parking spaces behind the existing building off the alley.
 - A 100% valet-operated alternative parking facility with two automobile elevators used to enter the parking facility from the alley and three subterranean levels with mechanical parking lifts and aisle parking on each level. The alternative parking facility requires adoption of a Zone Text Amendment and approval of a Conditional Use Permit.

- Joint use of parking between a primarily daytime (office) and primarily nighttime (restaurant) use. Twenty-five percent (25%) of the office's required parking spaces are proposed to be jointly used by the restaurant. This joint use requires approval by the Planning Commission.
- The 28 parking spaces existing on the project site would continue to be provided within the 102-parking-space subterranean alternative parking facility and the four (4) accessible parking spaces at the rear of the existing building off the alley.

The requested Zone Text Amendment to allow an alternative parking facility to provide required parking with issuance of a Conditional Use Permit was separately addressed and recommended by Planning Commission Resolution No. 1787 for approval by the City Council. Development of the Project is contingent on the City Council adopting an ordinance approving a Zone Text Amendment that is substantially similar to the language recommended by the Planning Commission, and that ordinance becomes effective.

Section 3. On September 26, 2016, the Planning Commission adopted Resolution No. 1787, recommending the City Council adopt a Zone Text Amendment to allow an alternative parking facility to provide required parking with issuance of a Conditional Use Permit. The Planning Commission also adopted Resolution No. 1788, approving the requested Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit contingent upon City Council adoption of an ordinance approving a Zone Text Amendment that was substantially similar to the language recommended by the Planning Commission.

During public meetings on November 1, 2016 and November 15, 2016, the City Council made changes to the language of the Zone Text Amendment and on November 21, 2016, the City Council adopted Ordinance No. 16-O-2712 to conditionally allow alternative parking facilities to provide required parking in commercial zones as a pilot program. The Ordinance goes into effect at 12:01 a.m. on December 22, 2016.

The changes made by the City Council to the Zone Text Amendment are such that the approval of the Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit granted by Planning Commission Resolution No. 1788 does not meet all the required conditions. Therefore, **Planning Commission Resolution No. 1788 is null and void and of no further effect.** This Resolution incorporates conditions of approval compliant with the Zone Text Amendment and is adopted in its stead.

Section 4. During its public meeting on November 15, 2016, the City Council made a determination that a restaurant operated by Alain Ducasse meets the requirement that the use for which an alternative parking facility is allowed provides a luxury service or product.

Section 5. This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the environmental regulations of the City. The project qualifies for a Class 32 Categorical Exemption pursuant to Section 15332 of the State CEQA Guidelines for in-fill development projects, as it has been shown to meet all five requirements for in-fill development projects and would not cause a substantial adverse change in the significance of a

historical resource. The Planning Commission finds that the project is exempt from the provisions of CEQA.

Section 6. On September 19, 2016 and September 26, 2016, the Planning Commission considered the Project application at duly noticed public meetings. Evidence, both written and oral, was presented at said meetings. On November 1, 2016, November 15, 2016 and November 21, 2016, the City Council considered the request for a Zone Text Amendment at duly noticed public meetings. Evidence, both written and oral, was presented at said meetings. Notice of the Project and public hearing was again posted on site and mailed to all property owners and residential occupants within a 500-foot radius plus block-face of the property on November 28, 2016. On December 8, 2016, the Planning Commission considered the application at a duly noticed public meeting.

Section 7. In reviewing the request for a Conditional Use Permit for an alternative parking facility and joint use of parking facilities of a primarily daytime use by a primarily nighttime use, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The proposed location of the alternative parking facility and joint use of parking facilities will not be detrimental to adjacent property or to the public welfare;
2. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable parking solution to provide code-required parking;

3. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;

4. The proposed alternative parking facility and operation thereof will not create any material adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

Section 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Conditional Use Permit for an alternative parking facility and joint use of parking facilities of a primarily daytime use by a primarily nighttime use:

1. The alternative parking facility is proposed to be located on a commercial site that is surrounded by other commercial properties and separated by an alley from the Multiple-Family Residential-Commercial Parking (RMCP) zone. Parking will be 100% valet-operated, and restaurant patrons and office visitors will drop-off and pick-up vehicles on North Canon Drive in front of the proposed restaurant. Employees of the office will drop off and pick up vehicles in the alley. The parking facility will be accessed from the alley. Potential issues regarding queuing and staging within the alley as vehicles wait to enter the automobile elevators are to be managed by leasing 13 surface parking spaces off the alley on the property located at 270 N. Canon Drive, where vehicles can be stored temporarily during high-volume times (after 5:30 p.m. on weekdays and all day on weekend days). The Traffic Impact Study and environmental assessment demonstrate that traffic impacts in the alley and on surrounding streets due to the parking operations will not be

significant. Noise and vibrations in the alley will result from vehicles being driven, however noise from the alternative parking facility mechanisms will not be significant because the garage is subterranean and fully enclosed. The location of the alternative parking facility will not be detrimental to adjacent properties, uses, or the public welfare.

2. The Project site consists of two tied lots, which total approximately 100' wide by 143' deep. The north lot is currently developed with a commercial office building that the Applicant intends to maintain. This leaves a 50' wide area (currently a surface parking lot) available for development. Subterranean or elevated parking with a standard ramp and parking space configuration is extremely difficult to fit in a space that is 50' wide. In particular, accommodating the 106 parking spaces required by the proposed Project in a space this size would require excavation to a depth that is not feasible. The use of an alternative parking facility that provides the Project's full parking requirement and includes two automobile elevators, mechanical parking lifts, aisle parking, and is 100% valet-operated is a reasonable solution given the site's physical constraints resulting from the available lot size, existing building, and quantity of required parking spaces.

3. The use of the proposed alternative parking facility allows almost all of the required parking to be provided in a subterranean garage, and specifically the use of automobile elevators results in a building that does not have to be designed around large ramps. Both the alternative parking facility and the four (4) disabled access parking spaces will be accessed from the alley at the rear of the Project site. Surface parking is limited to that which is required to provide disabled accessibility,

which enhances the urban form of the Project site and character of the surrounding area. Use of the alley will increase, however the alley already exclusively serves commercial and mixed-use buildings. The curb cut and driveway that exists on North Canon Drive in front of the Project site will be eliminated, creating a better pedestrian environment. Furthermore, the provision of all required parking on-site reduces the potential parking impacts of the Project on the surrounding neighborhood. Accordingly, the use of the proposed alternative parking facility thus enhances the design of the Project and will not result in substantial adverse impacts to the character of the surrounding area.

4. Providing all of the 106 required parking spaces on site limits the distance valet operators will have to travel in vehicles to the parking location, thereby limiting the total miles traveled in the business triangle. It also reduces demand for public parking facilities by Project employees and patrons, because sufficient parking will be provided on site. The valet circulation route is reasonable and efficient and consists of only right turns. It includes an area for temporarily staging vehicles in leased parking spaces at 270 N. Canon Drive at the north end of the alley to avoid vehicles queuing for the automobile elevators in the alley. The main opportunities for pedestrian-vehicle conflicts are at intersections of streets and alleys where the valets will be making right turns. Valet operators will need to be watchful for pedestrians as does any driver. The proposed alternative parking facility and operation thereof is not anticipated to create any material adverse safety hazards or impacts to traffic, parking, or pedestrians.

Section 9. In reviewing the request for an Open Air Dining Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The proposed open air dining use is consistent with the general plan and any specific plans adopted for the area.

2. The proposed open air dining use will not adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area.

3. The nature, configuration, location, density, and manner of operation of any open air dining use proposed will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

4. The proposed open air dining use will not create any significant traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will not impede the safe and orderly flow of pedestrians along the public right of way.

5. The proposed open air dining use will not create any significantly adverse parking impacts as a result of employee or patron parking demands.

6. The proposed open air dining use will not create any significantly adverse impacts on neighboring properties as a result of:

- a. The accumulation of garbage, trash or other waste;
- b. Noise created by operation of the restaurant or by employees or visitors entering or exiting the restaurant;

- c. Light and glare; or
- d. Odors and noxious fumes.

7. The proposed open air dining use will not be detrimental to the public health, safety, or general welfare.

Section 10. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Open Air Dining Permit:

1. The proposed open air dining use is consistent with the general plan, and specifically promotes Policy LU 9.1 and Policy LU 11.3 of the general plan, which state:

LU 9.1. Uses for Diverse Customers. Accommodate retail, office, entertainment, dining, hotel, and visitor-serving uses that support the needs of local residents, attract customers from the region, and provide a quality experience for national and international tourists.

LU 11.3. Retail Street Frontages. Require that development and street frontages in districts containing retail uses be designed and developed to promote pedestrian activity including: (a) location and orientation of the building to the sidewalk; (b) transparency of and direct access to the ground floor elevation from the sidewalk; (c) articulation of street-facing elevations to promote interest and sense of quality; (d) inclusion of uses and public spaces that extend interior functions to the sidewalk such as cafes and plazas; and (e) use of pedestrian oriented signage and lighting.

The proposed open air dining—both the courtyard and operable windows and roof of the building—is an integral part of the high-end dining experience the Applicant intends to provide. The design of the restaurant including the indoor-outdoor feel will help provide the type of unique experience that will attract patrons from the region as well as national and international tourists. In addition, although the open air dining areas do not occupy or open onto the public sidewalk, the transparency of the front façade and interior dining rooms that open into the courtyard will provide a quality, engaging pedestrian environment.

2. The proposed open air dining will be established on private property within the new restaurant building and in a courtyard surrounded by building walls. The open air dining will be fully contained on the southern portion of the Project site. As establishment of the restaurant and open air dining consists of replacing a surface parking lot with a new high-end commercial building, the open air dining will help to promote harmonious development of the area.

3. A mixed-use building with approximately 150 senior housing units is located to the east of the Project site across a 20'-wide alley. The open air dining areas will be located toward the west side of the Project site and shielded from the alley by the kitchen and back-of-house portions of the restaurant building. A condition of approval requires that the folding window systems on the third floor and retractable roof be closed at or before 10:00 p.m. daily. The open air dining will be separated from the residential uses by approximately 80' (rear of the restaurant building, alley width, and residential setback) and sufficiently shielded by building

walls such that noise from the open air dining will not significantly and adversely affect the residential properties in the vicinity.

4. The proposed open air dining will be located entirely on private property and shielded from the public right-of-way. The Project as a whole will have a 100% valet-operated parking system to manage the vehicles of employees and patrons of the Project. The Planning Commission has reviewed the proposed valet circulation route, plans for staging vehicles in leased parking spaces at 270 N. Canon Dr., plans for the alternative parking facility, and a Traffic Impact Study prepared by the Applicant and determined that the Project will not create significant traffic impacts or safety hazards. The valet operation will be required to obtain a valet permit from the City. Thus the open air dining will not create any significant impacts to traffic or pedestrians.

5. Because the proposed open air dining will be located on private property, the Project is required to provide parking for the open air dining in the same way parking is required for indoor uses. The Project is providing the code-required number of parking spaces on-site in a valet-operated alternative parking facility. Restaurant patrons may have their vehicles parked in the on-site parking facility; therefore the Project and the open air dining will not create significant adverse parking impacts in the surrounding area.

6. The proposed open air dining use must be operated in accordance with the City's commercial-residential transition area requirements. It is located within a commercial district that provides all necessary public services and also contains other dining establishments, and will therefore not result in the accumulation

of garbage, trash, or other waste. The folding window systems on the third floor and the retractable roof must be closed by 10:00 p.m. daily to mitigate any noise or light that could otherwise emanate from the restaurant. The kitchen and back-of-house areas will not have operable windows facing the adjacent RMCP zone. Therefore, it is not anticipated to result in significantly adverse impacts on neighboring properties related to trash, noise, light and glare, or odors.

7. The proposed open air dining use will be located entirely on private property and has been designed in accordance with, and is conditioned to comply with, applicable operational standards for the commercial-residential transition area. Therefore, the open air dining use is not anticipated to be detrimental to the public health, safety, or general welfare.

Section 11. In reviewing the request for an Extended Hours Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The Project would substantially disrupt the peace and quiet of the adjacent neighborhood as a result of any of the following:

a. The accumulation of garbage, litter, or other waste, both on and off of the subject site;

b. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;

c. Light and glare;

d. Odors and noxious fumes;

- e. Pedestrian queuing;
- f. Crime or peril to personal safety and security;
- g. 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;
- h. Effects on traffic volumes and congestion on local residential streets; and
- i. Cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 12. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Extended Hours Permit:

1. The requested extended hours are related to the interior and open air dining and the Project's valet operation. Open air dining will be shielded from adjacent residential and commercial properties during extended hours by the building walls and roof. Project operations will comply with the commercial-residential transition area requirements, including the prohibition on employees congregating behind the buildings or in the alley. The extended hours are not expected to substantially disrupt the peace and quiet of the neighborhood, based on the following:

- a. The Project is located within a commercial district that provides all necessary public services and also contains other dining establishments. The Project has an interior room for trash collection and will

comply with the operational requirements regarding refuse disposal during extended hours. Therefore, the Project will not result in the accumulation of garbage, trash, or other waste.

b. The subject property is surrounded by commercial development to the north, south, and west. Residential development is located across the alley to the east of the project site. The restaurant's extended hours operations will take place indoors or toward the west end of the site where they are shielded by other parts of the building, and a condition of approval requires that the third story folding window systems and retractable roof are closed by 10:00 p.m. daily to limit emissions of noise during extended hours. Vehicle circulation will occur by valet. Compliance with all operational requirements of the commercial-residential transition area is also required. With the incorporation of conditions of approval related to closing up the third floor of the building, prohibiting congregation of people in the alley, and limiting the hours of other noisy activities (e.g. trash, deliveries), the extended hours operation will not result in adverse impacts to surrounding properties because of noise.

c. The project is located in a commercial zone with a mixed use building occupying the property across the alley. Lighting of street-level activities during extended hours is appropriate in this area. The roof is conditioned to be closed by 10:00 p.m. daily. Thus light and glare from the Project are not anticipated to disrupt the peace of the neighborhood.

d. The proposed extended hours would not result in any added odors or noxious fumes beyond what would otherwise exist from the operation of the restaurant. Therefore, the extension of the hours of operation until 1:30 a.m. daily is not anticipated to create any adverse impacts related odors and noxious fumes.

e. The proposed use functions as a high-end restaurant and is not anticipated to result in pedestrian queuing. Furthermore, any patrons entering the restaurant or retrieving their vehicles from the valet station will be on the sidewalk on North Canon Drive, which is 15' wide and can accommodate passage of pedestrians around obstacles such as the valet stand.

f. The requested Extended Hours Permit is related to the operation of a restaurant and parking facility on a commercial site in the business triangle. Because patrons are typically contained within the subject property and vehicles will be parked in an enclosed, on-site garage, the proposal is not anticipated to result in added crime or peril to personal safety and security.

g. The proposed Project will provide all of its code-required parking on-site in a 100% valet-operated facility, which will generally prevent patrons and office employees from parking elsewhere on residential streets. In the event that an employee or patron does not use valet parking, sufficient public parking exists in parking garages in the immediate area to accommodate this. Restaurant employees will be provided with free off-site

parking at an off-street parking facility. For these reasons, the extended hours use is not anticipated to result in parking intrusion into the residential areas.

h. Restaurant operations during extended hours would primarily generate vehicle trips on streets in a commercial area and the alley separating the commercial zone from the RMCP zone. Furthermore, traffic volumes after 10:00 p.m. are typically low, and the City's streets and alley can accommodate the extended hours operation without impacts on traffic volumes and congestion on local residential streets.

i. The Project is located on North Canon Drive, which is a commercial street primarily comprised of retail, restaurant, and office uses. While the retail and office uses generally do not operate beyond 10:00 p.m., many of the restaurants are open later. However, many of these restaurants are on the west side of the street where the hours of operation are not regulated because the properties are more than 170' from a residential or RMCP zone. There is sufficient parking and traffic capacity in the area after 10:00 p.m. to accommodate the various uses that are open late. The addition of extended hours at the proposed Project to the existing concentration of extended hours operations is not anticipated to result in significant cumulative impacts.

Section 13. Based on the foregoing, the Planning Commission hereby grants the requested Conditional Use Permit, Extended Hours Permit, and Open Air Dining Permit subject to the following conditions:

1. This resolution shall not become effective unless and until the associated Zone Text Amendment that would allow a reviewing authority to issue a Conditional Use Permit to allow an alternative parking facility to provide required parking for a commercial use or uses in a commercial zone has been duly adopted by the City Council and has taken effect.

2. This approval allows an alternative parking facility to provide required parking for the existing and proposed buildings on the Project site, authorizes joint use of parking facilities, allows open air dining in several locations of the proposed restaurant, and establishes allowed extended hours of operation. Specifically:

- a. Conditional Use Permit: This Conditional Use Permit allows the Project to provide the required parking for all uses on the Project site through the use of a 100% valet-operated alternative parking facility and four (4) surface parking spaces. The alternative parking facility will contain three subterranean levels of parking beneath the new restaurant building on the south portion of the Project site. The permitted alternative parking facility will have two (2) automobile elevators that function in lieu of ramps to move vehicles from the ground level (alley) into the subterranean parking garage. Once inside the alternative parking facility, a valet will continue driving the vehicle to a mechanical lift parking space or a parking space in the drive aisle. The vehicles parked in the mechanical lift

spaces may be raised and lowered such that vehicles can be stacked two high. Each of the three levels of the alternative parking facility have 28 mechanical lift parking spaces (14 lifts) and six (6) aisle parking spaces. Including the four (4) disabled access parking spaces on the surface off the alley, the Project is providing 106 parking spaces.

- b. Joint Use of Parking Facilities: 25% of the 28 parking spaces that are required for the commercial office building, which is a primarily daytime use, may be jointly used by the restaurant, which is a primarily nighttime use. Therefore the total parking requirement for the Project site is reduced by seven (7) parking spaces to a total requirement of 106 parking spaces. This reduction shall be reviewed by the Planning Commission or City Council after six (6) months and one (1) year of commencement of the restaurant and alternative parking facility use, and may be modified at that time.
- c. Open Air Dining: The approved areas for open air dining are approximately 915 square feet in the outdoor courtyard on the ground floor and approximately 5,340 square feet in the restaurant building. The courtyard will be separated from the public right-of-way by building walls and will not have a roof. The three levels of restaurant dining rooms may be fully enclosed or opened to the outside by virtue of folding window

systems on all three levels and a retractable roof. The square feet of open air dining identified here include all portions of the restaurant that are outdoors or can be opened to the outside, including the dining and bar area, circulation and lobbies within that area, and serving area behind the bars.

- d. Extended Hours: The approved hours of operation for the restaurant, including the open air dining, are 11:00 a.m. to 1:30 a.m. daily. The restaurant, including open air dining, bar, and lounge areas, shall not receive any new patrons after 1:00 a.m. daily.

3. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on December 8, 2016, a copy of which shall be maintained in the files of the Community Development Department. Minor amendments to the Project, including minor changes to the number of parking spaces required and provided on-site, as determined by the Director of Community Development, shall be reviewed and approved by the Director or his/her designee. Substantive changes to the approved Project, as determined by the Director of Community Development, shall be returned to the Planning Commission for review and approval. Construction shall be in conformance with the plans approved herein or as modified by the Planning Commission or Director of Community Development.

4. The Project's restaurant shall be operated by Alain Ducasse. If at any time the operator of the restaurant changes, or the proposed use of the restaurant

building changes, the operation must be reviewed by the City Council which shall determine whether the new restaurant operator or new use will provide a luxury service or product.

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

6. Dining and bar areas in the constructed restaurant shall comply with the total square feet of dining and bar area identified in the approved plans.

7. The Project shall not have operable windows in the kitchen or back-of-house areas nor mechanical venting that faces the residential uses in the adjacent RMCP zone.

8. The folding window systems on the third floor and the retractable roof shall be closed at or before 10:00 p.m. daily. Amplified sound in the outdoor courtyard shall cease at 10:00 p.m. daily.

9. During Extended Hours (between 10:00 p.m. and 7:00 a.m. on the following weekday and between 10:00 p.m. and 9:00 a.m. on the following weekend day or holiday), the Project shall comply with all requirements set forth in BHMC §10-3-1956 regarding operational restrictions for a business located in a commercial-residential transition area.

10. Employees of the Project, including valets, shall not congregate behind the buildings or in the alley during Extended Hours. All windows and doors

facing the alley and RMCP zone shall remain closed at all times during extended hours except for the immediate purpose of ingress or egress.

11. Nothing in this approval is intended to undermine or invalidate the existing covenant regarding “Automobile Parking on Lot 4, Block 12 of Beverly for Building on Lot 3, said Block and Tract,” dated December 12, 1956.

12. The number of parking spaces required shall be calculated based on the final floor area of the proposed project, including dining and bar area, when building plans are submitted for plan check. The reductions in required parking allowed by-right and authorized by the Planning Commission in this Resolution are listed below. Although these reductions are granted by this Resolution on December 8, 2016, they may be modified pursuant to BHMC §10-3-2730.4 B.5 if the Planning Commission or City Council determines additional parking is required. These reductions shall be reviewed by the Planning Commission or City Council, as determined by the Director of Community Development, after six (6) months and one (1) year of commencement of the restaurant and alternative parking facility use, and may be modified at that time.

- a. By-right: 25% of the parking spaces provided for non-dining uses (including those provided for the commercial office building, and the kitchen, back-of-house, circulation, restrooms, etc. of the restaurant) shall be applied toward the required spaces for the restaurant’s dining and bar area. Based on the plans approved by the Planning Commission on

December 8, 2016, this is a reduction of $[25\% \times (28 + 26)] = 13$ spaces.

- b. Joint use of parking facilities authorized by the Planning Commission: 25% of the parking spaces provided for the commercial office, a primarily daytime use, may be jointly used by the restaurant, a primarily nighttime use. Based on the plans approved by the Planning Commission on December 8, 2016, this is a reduction of $[25\% \times 28] = 7$ spaces.

13. The provision and configuration of disabled access parking as shown on the plans approved by the Planning Commission on December 8, 2016 is contingent upon approval from the City's Building & Safety Division during building plan check.

14. Loading space for a van, with minimum dimensions of those shown on the plans approved by the Planning Commission on December 8, 2016, shall be provided and maintained on the Project site to accommodate deliveries to the Project.

15. A maximum of six (6) aisle parking spaces shall be allowed on each of the three (3) levels of the alternative parking facility, as shown on the approved plans. This parking configuration shall be reviewed by the Planning Commission or City Council after six (6) months and one (1) year of commencement of the restaurant and alternative parking facility use, and may be modified at that time.

16. The dimensions of the mechanical lift parking spaces and drive aisle parking spaces shall, at a minimum, comply with the dimensions shown on the plans approved by the Planning Commission on December 8, 2016. Mechanical lift parking spaces shall be at least 19' long and 8' wide with a minimum clear width of 7'-2". At least one level of the stacked mechanical lift parking spaces shall provide a minimum parking space height of 6'-6". Drive aisle parking spaces shall be a minimum of 22' long and 9' wide. This parking configuration shall be reviewed by the Planning Commission or City Council after six (6) months and one (1) year of commencement of the restaurant and alternative parking facility use, and may be modified at that time.

17. Back-Up Power: Prior to issuance of building permits, the Applicant shall provide documentation that the alternative parking facility will be equipped in sufficient capacity with back-up generators to allow operation of the automobile elevators and mechanical parking lifts in case of electrical failure.

18. Redundancies: Prior to issuance of building permits, the Applicant shall provide documentation that each automobile elevator and mechanical parking lift shall be individually operable such that mechanical failure of one would not prevent use of the others.

19. Service Contract: Prior to obtaining a Certificate of Occupancy for the new restaurant building, the Applicant shall submit to the Community Development Department evidence of one or more contracts with entities that provide maintenance and 24-hour emergency service for the automobile elevators and mechanical parking lift systems installed in the alternative parking facility. The

Applicant shall maintain such contract(s) at all times throughout the life of the alternative parking facility.

20. Replacement Parts: At all times, the Applicant shall keep on-site a replacement motor and pump, gearbox, and any other parts not readily obtainable within the same calendar day.

21. Inspection Report: A maintenance inspection report and usage report for the alternative parking facility, prepared at the sole expense of the Applicant, shall be submitted within five (5) business days following a request from the Community Development Department and no less than every six months for review by the City.

22. Employees of the restaurant shall not park on site. Free paid parking for all employees of the restaurant shall be provided at an off-site and off-street parking facility. Verification of the off-site location shall be provided to the Director of Community Development and shall be updated whenever employee parking demand changes.

23. The Applicant shall provide valet parking to all patrons of the restaurant and existing commercial office building located on the project site during all hours of operation. Employees of the existing commercial office building shall also be provided with valet parking during all hours of operation, pursuant to BHMC §10-3-2730.4 E.3 and the existing covenant regarding “Automobile Parking on Lot 4, Block 12 of Beverly for Building on Lot 3, said Block and Tract,” dated December 12, 1956. Valet charges shall be equivalent to the valet charges at Mastro's Steakhouse, which is the adjacent restaurant located at 246 North Canon Drive. In the

event that Mastro's Steakhouse closes, valet charges shall be no higher than those at the nearest restaurant as designated by the Director of Community Development. Parking for patrons and employees of the office use shall be provided free of charge.

24. Parking Operations Plan: Prior to issuance of a Certificate of Occupancy the Applicant shall submit an alternative parking facility operations plan for review and approval by the Director of Community Development. The plan shall describe the broadest range of operating hours allowed for the commercial use(s) to be served by the alternative parking facility; the number of parking attendants and working hours; methods for automobile storage and retrieval during and outside of regular business hours; vehicle drop-off and pick-up location(s) for customers; vehicle circulation path; location of staging area for vehicles waiting to enter the alternative parking facility. The operations plan shall also describe, with regard to the mechanical parking lifts and automobile elevators: maintenance schedules and additional parts inventory requirements to maintain optimal operations.

25. During the operating hours of the restaurant there shall be a minimum of two (2) parking attendants on each of the three levels of the alternative parking facility at any time a level is in use. Additional parking attendants shall be stationed at the front (valet station on North Canon Drive) and rear (alley) of the Project. At other times, the number of parking attendants may be reduced as approved in the Parking Operations Plan. At a minimum, there shall always be at least one (1) parking attendant on duty whenever a car is inside the alternative parking facility.

26. A sign shall be displayed at the valet station, in a form, size, and design as approved by the Director of Community Development, disclosing that the valet utilizes an Alternative Parking Facility with automobile elevators.

27. The Applicant shall obtain a valet permit from the Public Works Department, and shall reimburse the City for any costs associated with restricting parking meter service in order to accommodate valet operations. The valet plan shall be subject to review and approval by the Director of Public Works. To the extent that valet operations occur within the public right-of-way, this approval shall be contingent on the applicant procuring and maintaining a valid valet permit. The valet drop off/pick up area on city streets shall accommodate a minimum of three (3) vehicles.

28. Prior to obtaining a Certificate of Occupancy for the new restaurant building, the Applicant shall submit to the Community Development Department evidence of an executed lease granting the owner and operator of the uses at 250-260 N. Canon Drive exclusive use of a minimum of thirteen (13) parking spaces in the surface parking lot located at the rear of the property at 270 N. Canon Drive, specifically including those parking spaces immediately adjacent to the alley. The hours of the lease shall be, at a minimum, Monday through Friday: between the hours of 5:30 p.m. and 1:00 a.m. the following day; and Saturday and Sunday: between the hours of 1:00 a.m. and 1:00 a.m. the following day. Should the leased spaces become unavailable during the lifetime of this CUP, prior to expiration of the lease, a new lease with the same terms for spaces at an alternate location shall be secured, subject to review and approval by the Director of Community Development.

Alternatively, modification of this condition, to allow a different number of leased parking spaces for staging purposes, shall be reviewed by the Planning Commission.

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

30. The Project shall operate at all times in compliance with Beverly Hills Municipal Code requirements for Noise Regulation.

31. Six Month Review: After six (6) months of operation of the alternative parking facility, the following shall be reviewed by either the Planning Commission or City Council as determined by the Director of Community Development:

- a. A study of the parking operation. The study shall at a minimum include information regarding valet circulation on the public right-of-way, staging and queuing of vehicles entering and exiting the alternative parking facility, movement of vehicles within the garage, maintenance needs of the facility over the first year of operation, and occupancy of the provided parking spaces. The study shall be submitted to the Planning Division of the Community Development Department. If the reviewing body determines the reduced parking outlined in Condition of Approval No. 11 of this Resolution is insufficient, the applicant shall be required to make arrangements to provide sufficient parking either through the in lieu parking program, if available,

providing additional covenanted parking spaces, or other means, as directed by the reviewing body.

32. One Year Review: After one (1) year of operation of the alternative parking facility, the following shall be reviewed by either the Planning Commission or City Council as determined by the Director of Community Development:

- a. A study of the parking operation. The study shall at a minimum include information regarding valet circulation on the public right-of-way, staging and queuing of vehicles entering and exiting the alternative parking facility, movement of vehicles within the garage, maintenance needs of the facility over the first year of operation, and occupancy of the provided parking spaces. The study shall be submitted to the Planning Division of the Community Development Department. If the reviewing body determines the reduced parking outlined in Condition of Approval No. 11 of this Resolution is insufficient, the applicant shall be required to make arrangements to provide sufficient parking either through the in lieu parking program, if available, providing additional covenanted parking spaces, or other means, as directed by the reviewing body.
- b. The Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit, to determine whether operations are

causing any adverse impacts and whether additional or revised conditions should be imposed.

33. The City expressly reserves jurisdiction relative to traffic, parking, loading, and noise issues and the right to impose additional conditions as necessary to mitigate any other unanticipated impacts caused by the proposed Project as they arise. In the event that the Director of Community Development determines operation of the Project is having unanticipated impacts, the Director shall require the Applicant to provide, at their sole cost, a traffic, parking, loading demand, and/or noise analysis to study the impacts. If, in the opinion of the Director, the traffic, parking, loading, and/or noise issues merit review at a public hearing, the full cost of the review hearing and the implementation of any additional conditions or mitigation measures shall be paid for by the Applicant.

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

35. At their sole cost, the Applicant shall remove the existing curb cut from North Canon Drive to the existing surface parking lot and replace the sidewalk adjacent to 250-260 N. Canon Drive in accordance with the City's standard-plan details. In addition, the Applicant shall repair and/or replace the paving in the alley adjacent to the Project site as needed at the end of construction and prior to issuance of a Certificate of Occupancy.

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

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

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

39. The Applicant shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liabilities, losses, damages, or injuries, to property or persons, including any loss or wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of the Applicant, its officers, employees, agents, contractors, or subcontractors, or arising out of mechanical failure or other occurrence, in connection with this Conditional Use Permit and the Alternative Parking Facility. The Applicant shall obtain, and submit evidence of, adequate insurance against liability, damage, destruction of property, or loss, with the City named as an additional loss payee.

40. APPEAL. Decisions of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission action by filing a written appeal with the City Clerk. Appeal forms are available in the

City Clerk's office. Decisions involving subdivision maps must be appealed within ten (10) days of the Planning Commission Action. An appeal fee is required.

41. RECORDATION. This Resolution shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of the resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Project shall be **null and void** and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60 day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Project.

42. EXPIRATION. Conditional Use Permit, and Extended Hours Permit: The exercise of rights granted herein shall be commenced within three (3) years after the adoption of such resolution unless otherwise extended. Open Air Dining Permit: The exercise of rights granted herein shall be commenced within three (3) years after the adoption of this resolution unless otherwise extended. **The Open Air Dining Permit shall be valid for a period of five (5) years from the time of commencement of the exercise of rights granted, and may be renewed for**

additional five (5) year periods on the same terms and conditions as set forth in this original approval.

43. VIOLATION OF CONDITIONS. A violation of any of these conditions of approval may result in termination of the entitlements granted herein.

44. APPROVAL RUNS WITH LAND. The conditions set forth in this Resolution shall run with the land and shall remain in full force for the duration of the life of the Project.

Section 14. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: *December 8, 2016*

Farshid Joe Shooshani
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Ryan Gohlich, AICP
Secretary of the Planning Commission

Approved As To Form:

Approved As To Content:

David M. Snow
Assistant City Attorney

Ryan Gohlich, AICP
Assistant Director / City Planner
Community Development Department





Planning Commission Report

250-260 N. Canon Drive

December 8, 2016

Attachment D

Ordinance No. 16-O-2712, adopted 11/21/2016

ORDINANCE NO. 16-O- 2712

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
CONDITIONALLY ALLOW ALTERNATIVE PARKING
FACILITIES TO PROVIDE REQUIRED PARKING IN
COMMERCIAL ZONES AS A PILOT PROGRAM

WHEREAS, the City Council has considered proposed amendments to the City of Beverly Hills Municipal Code, as more fully described below (the “Amendments”); and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on September 19, 2016, which was continued on September 26, 2016, at which time it received oral and documentary evidence related to the proposed Amendments; and

WHEREAS, the Planning Commission, at the September 26, 2016 hearing, also considered and conditionally approved a Conditional Use Permit to permit use of an alternative parking facility to provide required parking on the property located at 250-260 North Canon Drive as would be permissible should the proposed zone text amendments be approved; and

WHEREAS, the City Council conducted a duly noticed public hearing on November 1, 2016, at which time it received oral and documentary evidence related to the proposed Amendments; and

WHEREAS, the City Council finds that the proposed Amendments will result in a benefit to the public interest, health, safety, morals, peace, comfort, convenience, or general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan.

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

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 *et seq.*), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*), and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (Class 5) of Title 14 of the California Code of Regulations. The Class 5 exemption is applicable because the Amendments result in minor changes in land use limitations regarding the manner in which parking is provided and applies only to properties with an average slope not exceeding 20%. Thus, the City Council hereby finds that the Amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15305.

Section 2. The City Council does hereby find that the proposed Amendments are intended to provide flexibility for properties in commercial zones that wish to utilize mechanical parking lifts and/or automobile elevators to provide required parking. This is accomplished by allowing the Planning Commission, on a case-by-case basis, to issue a Conditional Use Permit to allow the establishment of an alternative parking facility that provides required parking, provided that the proposed alternative parking facility and the use(s) it serves are located in a commercial zone, is 100% valet-operated, and meets other specific criteria. For these reasons, the Amendments serve to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

Section 3. The City Council hereby amends Section 10-3-100 of Article 1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code by adding three definitions with all other definitions in the section remaining unchanged.

The term “Alternative Parking Facility” is added between the terms “Alley” and “Architectural Projections” as they presently appear in Section 10-3-100, to read as follows:

“ALTERNATIVE PARKING FACILITY: An off-street parking facility in which vehicular storage is accomplished with mechanical parking lifts and/or automobile elevators that are operated by a valet or other driver. An alternative parking facility shall not be a fully automated parking facility that uses mechanical systems to hoist individual vehicles from receiving areas to separate automobile storage areas without a driver.”

The term “Automobile Elevator” is added between the terms “Architectural Projections” and “Average Roof Height” as they presently appear in Section 10-3-100, to read as follows:

“AUTOMOBILE ELEVATOR: An elevator used to move vehicles vertically into and between levels of a parking garage in lieu of the use of ramps.”

The term “Mechanical Parking Lift” is added between the terms “Maximum Potential Side Facade” and “Medical Laboratory” as they presently appear in Section 10-3-100, to read as follows:

“MECHANICAL PARKING LIFT: An elevating device that enables the positioning of a vehicle above or below another parking space in a stacked (vertical tandem) fashion.”

Section 4. The City Council hereby amends Section 10-3-1604 of Article 16 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally permitted use before “Amusement Parks” to read as follows with all other provisions in Section 10-3-1604 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

Section 5. The City Council hereby amends Section 10-3-1702 of Article 17 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally permitted use before “Amusement Parks” to read as follows with all other provisions in Section 10-3-1702 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

Section 6. The City Council hereby amends Section 10-3-1802 of Article 18 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally permitted use before “Amusement Parks” to read as follows with all other provisions in Section 10-3-1802 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

Section 7. The City Council hereby amends Section 10-3-2003 of Article 20 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add one new conditionally

permitted use before “Brewing or manufacture of alcoholic beverages” to read as follows with all other provisions in Section 10-3-2003 remaining unchanged:

“Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4.”

Section 8. The City Council hereby adds new Section 2730.4 to Article 27 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-2730.4: ALTERNATIVE PARKING FACILITY

An alternative parking facility, as defined in section 10-3-100, may be used to meet the parking requirements of section 10-3-2730 provided the alternative parking facility and the use(s) for which it provides required parking do not include medical uses and are located in a commercial zone on property with a site area not exceeding sixteen thousand (16,000) square feet, and subject to the following:

- A. Conditional use permit required. A conditional use permit, issued pursuant to the provisions of article 38 of this chapter, shall be obtained prior to any alternative parking facility commencing provision of required parking spaces for any use.
- B. Standards. All alternative parking facilities authorized by a conditional use permit shall comply with the following standards:
 - 1. Except for required ingress and egress, all alternative parking facilities shall be fully enclosed and below grade. Alternative parking facilities and portions of buildings that contain alternative parking facilities shall be subject to Architectural Review;

2. Staging and queuing of vehicles shall occur on private property within a reasonable distance from the alternative parking facility and shall not impede travel and access within the public right-of-way;
3. The alternative parking facility shall be operated by one or more parking attendants, as determined through the conditional use permit process, at all times during the hours of operation, so that it is valet-operated to service the use needs of the commercial facility for which it provides required parking;
4. The design of the alternative parking facility shall meet all applicable California building codes, as approved by the community development department;
5. An alternative parking facility shall comply with all applicable development standards, including those set forth in Article 16.5 of this chapter, and excluding the City's minimum parking standards if modifications to those standards are approved as part of the conditional use permit;
 - a. The reviewing authority may condition an alternative parking facility to modify standards relating to minimum parking stall size, minimum drive aisle width, and drive aisle parking spaces, provided the applicant demonstrates that the facility will accommodate a range of vehicle types and will not have an adverse impact on the efficiency of the parking operation or the safety of people or property.

C. Information required for application. Application submittals for an alternative parking facility conditional use permit shall include information that the director of community development deems to be necessary to determine whether the alternative parking facility

can adequately meet the parking needs of the proposed development and determine that no substantial negative impacts will result from the facility. At a minimum, the following shall be provided as part of the conditional use permit application:

1. **Site Plan:** Submittal of a site plan prepared by a design professional indicating all structures; the alternative parking facility location; number of required parking stalls; site ingress and egress; proposed queuing location; and the identification of adjacent land uses;
2. **Operations Plan:** Submittal of an alternative parking facility operations plan describing the broadest range of operating hours allowed for the commercial use(s) to be served by the alternative parking facility; the number of parking attendants and working hours; methods for automobile storage and retrieval during and outside of regular business hours; vehicle drop-off and pick-up location(s) for customers; vehicle circulation path; location of staging area for vehicles waiting to enter the alternative parking facility. The operations plan shall also describe, with regard to the mechanical parking lifts and automobile elevators: maintenance schedules and additional parts inventory requirements to maintain optimal operations;
3. **Technical Studies:** Submittal of technical studies demonstrating that the proposed design and operation of the alternative parking facility will not be detrimental to surrounding uses and properties with regard to noise, visual impacts, area parking and circulation, and existing on-site improvements;

4. Disabled Access Parking: Submittal of evidence that the parking provided will comply with all applicable disabled access requirements;
5. Back-Up Power: Prior to issuance of building permits, the applicant shall provide documentation that the alternative parking facility will be equipped with back-up generators with sufficient capacity to allow operation of the parking system in the case of electrical failure. In an alternative parking facility with multiple automobile elevators, mechanical lifts, or both, each elevator and lift shall be individually operable such that mechanical failure of one would not prevent use of the others.

D. Findings. In addition to the findings outlined in article 38 of this chapter, a conditional use permit shall only be issued if the planning commission finds that:

1. The proposed location of the alternative parking facility will not be detrimental to adjacent property or to the public welfare;
2. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable method of providing code-required parking;
3. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;
4. The proposed alternative parking facility and operation thereof will not create any material adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

- E. Conditions of Approval. The reviewing authority may impose any conditions that are necessary to address any potential adverse impacts resulting from the constriction and use of an alternative parking facility to provide required parking, including but not limited to:
1. Inspection Report: A maintenance inspection report and usage report for any alternative parking facility, prepared at the sole expense of the applicant, shall be submitted at any time upon request from the community development department and no less than every six months for review by the city.
 2. Service Contract: The owner of the alternative parking facility shall at all times maintain one or more contracts with an entity or entities that provides maintenance and 24-hour emergency service for the all aspects of the alternative parking facility, including but not limited to any automobile elevators and, mechanical parking lifts installed in the alternative parking facility.
 3. Employee parking shall not be allowed on the site. A property on which an alternative parking facility is permitted shall provide free paid parking for all employees at an off-site and off-street parking facility. Verification of off-site location shall be provided to the Director of Community Development and shall be updated whenever employee parking demand changes. This provision shall not apply to covenanted parking spaces for employee use when the property on which an alternative parking facility is located includes parking required to be provided on the site pursuant to the provisions of a covenant.

4. If valet drop off locations associated with a property utilizing an alternative parking facility are proposed on city streets, excluding alleys, there shall be valet drop off space to accommodate a minimum of three vehicles.
 5. A Conditional use permit for an Alternative Parking facility must be for a use providing a luxury service or product, such as, but not limited to, a restaurant whose chef or operator has operated or is operating a Michelin star rated restaurant, or a luxury brand retail establishment, as determined by the city council in its discretion.
 6. If granted a parking reduction pursuant to § 10-3-2730.4 B. 5, the project's parking shall be reviewed by either the city council or planning commission after 6 months and 1 year of commencement of the use. If the reviewing body determines the reduced parking is insufficient, the applicant shall be required to make arrangements to provide sufficient parking either through the in lieu parking program, if available, providing additional covenanted parking spaces, or other means, as directed by the reviewing body.
- F. The conditional use permit for an alternative parking facility authorized by this section 10-3-2730.4 is a pilot program. The city council or planning commission may take action pursuant to this section 10-3-2730.4 on up to two (2) applications. Unless the city council extends this section 10-3-2730.4, this section 10-3-2730.4 shall be repealed after one (1) year of operational experience with each of the two projects.

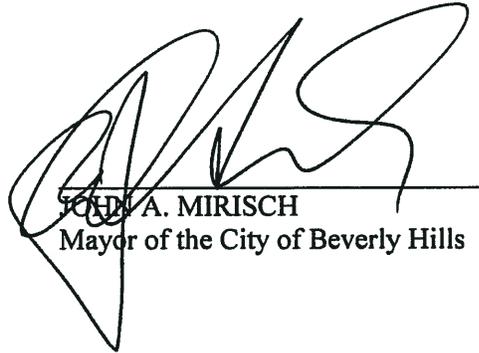
Section 9. **Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 10. **Publication.** The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

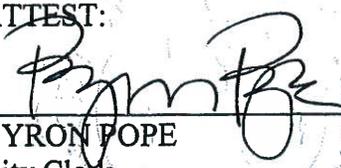
Section 11. **Effective Date.** This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: November 21, 2016

Effective: December 22, 2016



TODD A. MIRISCH
Mayor of the City of Beverly Hills

ATTEST:


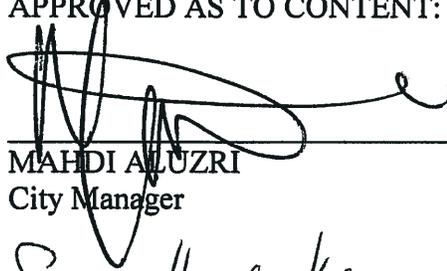
BYRON POPE
City Clerk (SEAL)

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development



Planning Commission Report

250-260 N. Canon Drive

December 8, 2016

Attachment E

Redline showing changes made to previously-approved Resolution No. 1788

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT FOR AN ALTERNATIVE PARKING FACILITY AND JOINT USE OF PARKING FACILITIES, AN OPEN AIR DINING PERMIT, AND AN EXTENDED HOURS PERMIT FOR THE PROPERTY LOCATED AT 250-260 NORTH CANON DRIVE.

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

Section 1. Murray D. Fischer, agent on behalf of Neu Investment Corporation (the "Applicant"), has submitted an application for a Conditional Use Permit to allow an Alternative Parking Facility to provide required parking, an application for an Open Air Dining Permit, and an application for an Extended Hours Permit associated with the construction of a new restaurant on the property located at 250-260 North Canon Drive (the "Project"). The Project does not meet all by-right development and operational standards, and therefore requires entitlements that can be granted by the Planning Commission pursuant to the issuance of a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit.

Section 2. The Project site is located on the eastern side of the City's business triangle, on the east side of the 200 block of North Canon Drive, between Dayton Way and Clifton Way. The site consists of Lots 3 and 4 of Block 12 of Tract Beverly, which are tied together. The north portion of the overall site (Lot 3) is currently developed with an approximately 15,680-square-foot, three-story commercial office building originally permitted in

1940 with major alterations and additions in 1957. The south portion of the site (Lot 4) is currently a surface parking lot with 22 parking spaces serving the existing office building. An additional six (6) parking spaces exist at the rear of the existing building off the alley. A covenant dated December 12, 1956 stipulates that Lot 4 shall provide parking to serve the structure built on Lot 3 for the life of said structure.

The proposed Project consists of a new, three-story building with three levels of subterranean parking for a new restaurant located on the southern (Lot 4) portion of the project site. The Project would retain the existing office building on the north (Lot 3) portion of the site with some modifications to accommodate accessible paths to parking and the new adjacent building. The new restaurant would include the following elements:

- Maximum height of three stories and 45' as defined by the Beverly Hills Municipal Code (BHMC) §10-3-100.
- Floor area of approximately 12,000 square feet, with total floor area on the project site (existing building + new building) not to exceed 28,550 square feet or 2.0 FAR.
- Dining and bar areas that can accommodate approximately 216 patrons within the building and in an outdoor courtyard.
- Dining rooms and kitchens on each of the three above-ground levels. Bars on the ground floor and third floor. Folding window systems on each dining room level that create large openings onto the courtyard area, and a retractable roof over the third floor dining and bar area.

- Open air dining consisting of a ground floor courtyard, separated from the street and alley by building walls and open to the sky, and the dining rooms within the restaurant that can be opened to the outside due to the folding window systems and retractable roof. This requires approval of an Open Air Dining Permit.
- Proposed hours to accept patrons are:
 - Sunday to Thursday: 11:00 a.m. to 11:00 p.m.;
 - Friday and Saturday: 11:00 a.m. to 12:00 a.m. midnight; and
 - Daily – 3rd floor lounge only: 5:00 p.m. to 1:00 a.m.

This requires approval of an Extended Hours Permit to accept patrons after 10:00 p.m. daily. The restaurant is conditioned to cease operations at 1:30 a.m. daily.

- Parking:
 - 106 total on-site parking spaces, including 102 parking spaces in a three-level underground alternative parking facility and four (4) surface parking spaces behind the existing building off the alley.
 - A 100% valet-operated alternative parking facility with two automobile elevators used to enter the parking facility from the alley and three subterranean levels with mechanical parking lifts and aisle parking on each level. The alternative parking facility requires adoption of a Zone Text Amendment and approval of a Conditional Use Permit.

- o Joint use of parking between a primarily daytime (office) and primarily nighttime (restaurant) use. Twenty-five percent (25%) of the office's required parking spaces are proposed to be jointly used by the restaurant. This joint use requires approval by the Planning Commission.
- o The 28 parking spaces existing on the project site would continue to be provided within the 102-parking-space subterranean alternative parking facility and the four (4) accessible parking spaces at the rear of the existing building off the alley.

The requested Zone Text Amendment to allow an alternative parking facility to provide required parking with issuance of a Conditional Use Permit ~~is~~was separately addressed and recommended by Planning Commission Resolution No. ~~_____~~1787 for approval by the City Council. Development of the Project is contingent on the City Council adopting an ordinance approving a Zone Text Amendment that is substantially similar to the language recommended by the Planning Commission, and that ordinance becomes effective.

Section 3. On September 26, 2016, the Planning Commission adopted Resolution No. 1787, recommending the City Council adopt a Zone Text Amendment to allow an alternative parking facility to provide required parking with issuance of a Conditional Use Permit. The Planning Commission also adopted Resolution No. 1788, approving the requested Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit contingent upon City Council adoption of an ordinance approving a Zone Text Amendment that was substantially similar to the language recommended by the Planning Commission.

During public meetings on November 1, 2016 and November 15, 2016, the City Council made changes to the language of the Zone Text Amendment and on November 21, 2016, the City Council adopted Ordinance No. 16-O-2712 to conditionally allow alternative parking facilities to provide required parking in commercial zones as a pilot program. The Ordinance goes into effect at 12:01 a.m. on December 22, 2016.

The changes made by the City Council to the Zone Text Amendment are such that the approval of the Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit granted by Planning Commission Resolution No. 1788 does not meet all the required conditions. Therefore, Planning Commission Resolution No. 1788 is null and void and of no further effect. This Resolution incorporates conditions of approval compliant with the Zone Text Amendment and is adopted in its stead.

Section 4. During its public meeting on November 15, 2016, the City Council made a determination that a restaurant operated by Alain Ducasse meets the requirement that the use for which an alternative parking facility is allowed provides a luxury service or product.

Section ~~35~~. This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the environmental regulations of the City. ~~The project qualifies for a Class 5 Categorical Exemption pursuant to Section 15305 of the State CEQA Guidelines for minor alterations in land use regulations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. The proposed Zone Text Amendment would~~

~~allow an alternative parking facility involving automobile elevators and/or mechanical parking lifts to be used to provide required parking for commercial uses in commercial zones through approval of a Conditional Use Permit. Both the city as a whole and the commercially-zoned areas of the city have an average slope of less than 20%.~~ The project ~~also~~ qualifies for a Class 32 Categorical Exemption pursuant to Section 15332 of the State CEQA Guidelines for in-fill development projects, as it has been shown to meet all five requirements for in-fill development projects and would not cause a substantial adverse change in the significance of a historical resource. The Planning Commission finds that the project is exempt from the provisions of CEQA.

Section 46. ~~Notice of the Project and public hearing was mailed on September 9, 2016 to all property owners and residential occupants within a 500-foot radius plus block face of the property.~~ On September 19, 2016 and September 26, 2016, the Planning Commission considered the Project application at duly noticed public meetings. Evidence, both written and oral, was presented at said meetings. On November 1, 2016, November 15, 2016 and November 21, 2016, the City Council considered the request for a Zone Text Amendment at duly noticed public meetings. Evidence, both written and oral, was presented at said meetings. Notice of the Project and public hearing was again posted on site and mailed to all property owners and residential occupants within a 500-foot radius plus block-face of the property on November 28, 2016. On December 8, 2016, the Planning Commission considered the application at a duly noticed public meeting.

Section 57. In reviewing the request for a Conditional Use Permit for an alternative parking facility and joint use of parking facilities of a primarily daytime use by a primarily nighttime use, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The proposed location of the alternative parking facility and joint use of parking facilities will not be detrimental to adjacent property or to the public welfare;
2. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable parking solution to provide code-required parking;
3. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;
4. The proposed alternative parking facility and operation thereof will not create any significantly-material adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

Section 68. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Conditional Use Permit for an alternative parking facility and joint use of parking facilities of a primarily daytime use by a primarily nighttime use:

1. The alternative parking facility is proposed to be located on a commercial site that is surrounded by other commercial properties and separated by an alley from the Multiple-Family Residential-Commercial Parking (RMCP) zone.

Parking will be 100% valet-operated, and restaurant patrons and office visitors will drop-off and pick-up vehicles on North Canon Drive in front of the proposed restaurant. Employees of the office ~~and restaurant~~ will drop off and pick up vehicles in the alley. The parking facility will be accessed from the alley. Potential issues regarding queuing and staging within the alley as vehicles wait to enter the automobile elevators are to be managed by leasing 13 surface parking spaces off the alley on the property located at 270 N. Canon Drive, where vehicles can be stored temporarily during high-volume times (after 5:30 p.m. on weekdays and all day on weekend days). The Traffic Impact Study and environmental assessment demonstrate that traffic impacts in the alley and on surrounding streets due to the parking operations will not be significant. Noise and vibrations in the alley will result from vehicles being driven, however noise from the alternative parking facility mechanisms will not be significant because the garage is subterranean and fully enclosed. The location of the alternative parking facility will not be detrimental to adjacent properties, uses, or the public welfare.

2. The Project site consists of two tied lots, which total approximately 100' wide by 143' deep. The north lot is currently developed with a commercial office building that the Applicant intends to maintain. This leaves a 50' wide area (currently a surface parking lot) available for development. Subterranean or elevated parking with a standard ramp and parking space configuration is extremely difficult to fit in a space that is 50' wide. In particular, accommodating the 106 parking spaces required by the proposed Project in a space this size would require excavation to a depth that is not feasible. The use of an alternative parking facility that provides the

Project's full parking requirement and includes two automobile elevators, mechanical parking lifts, aisle parking, and is 100% valet-operated is a reasonable solution given the site's physical constraints resulting from the available lot size, existing building, and quantity of required parking spaces.

3. The use of the proposed alternative parking facility allows almost all of the required parking to be provided in a subterranean garage, and specifically the use of automobile elevators results in a building that does not have to be designed around large ramps. Both the alternative parking facility and the four (4) disabled access parking spaces will be accessed from the alley at the rear of the Project site. Surface parking is limited to that which is required to provide disabled accessibility, which enhances the urban form of the Project site and character of the surrounding area. Use of the alley will increase, however the alley already exclusively serves commercial and mixed-use buildings. The curb cut and driveway that exists on North Canon Drive in front of the Project site will be eliminated, creating a better pedestrian environment. Furthermore, the provision of all required parking on-site reduces the potential parking impacts of the Project on the surrounding neighborhood. Accordingly, the use of the proposed alternative parking facility thus enhances the design of the Project and will not result in substantial adverse impacts to the character of the surrounding area.

4. Providing all of the 106 required parking spaces on site limits the distance valet operators will have to travel in vehicles to the parking location, thereby limiting the total miles traveled in the business triangle. It also reduces demand for public parking facilities by Project employees and patrons, because sufficient parking

will be provided on site. The valet circulation route is reasonable and efficient and consists of only right turns. It includes an area for temporarily staging vehicles in leased parking spaces at 270 N. Canon Drive at the north end of the alley to avoid vehicles queuing for the automobile elevators in the alley. The main opportunities for pedestrian-vehicle conflicts are at intersections of streets and alleys where the valets will be making right turns. Valet operators will need to be watchful for pedestrians as does any driver. The proposed alternative parking facility and operation thereof is not anticipated to create any ~~significantly-material~~ adverse safety hazards or impacts to traffic, parking, or pedestrians.

Section ~~79~~. In reviewing the request for an Open Air Dining Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

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

4. The proposed open air dining use will not create any significant traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will not impede the safe and orderly flow of pedestrians along the public right of way.

5. The proposed open air dining use will not create any significantly adverse parking impacts as a result of employee or patron parking demands.

6. The proposed open air dining use will not create any significantly adverse impacts on neighboring properties as a result of:

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

7. The proposed open air dining use will not be detrimental to the public health, safety, or general welfare.

Section 810. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Open Air Dining Permit:

1. The proposed open air dining use is consistent with the general plan, and specifically promotes Policy LU 9.1 and Policy LU 11.3 of the general plan, which state:

LU 9.1. Uses for Diverse Customers. Accommodate retail, office, entertainment, dining, hotel, and visitor-serving uses that support the needs of local

residents, attract customers from the region, and provide a quality experience for national and international tourists.

LU 11.3. Retail Street Frontages. Require that development and street frontages in districts containing retail uses be designed and developed to promote pedestrian activity including: (a) location and orientation of the building to the sidewalk; (b) transparency of and direct access to the ground floor elevation from the sidewalk; (c) articulation of street-facing elevations to promote interest and sense of quality; (d) inclusion of uses and public spaces that extend interior functions to the sidewalk such as cafes and plazas; and (e) use of pedestrian oriented signage and lighting.

The proposed open air dining—both the courtyard and operable windows and roof of the building—is an integral part of the high-end dining experience the Applicant intends to provide. The design of the restaurant including the indoor-outdoor feel will help provide the type of unique experience that will attract patrons from the region as well as national and international tourists. In addition, although the open air dining areas do not occupy or open onto the public sidewalk, the transparency of the front façade and interior dining rooms that open into the courtyard will provide a quality, engaging pedestrian environment.

2. The proposed open air dining will be established on private property within the new restaurant building and in a courtyard surrounded by building walls. The open air dining will be fully contained on the southern portion of the Project site. As establishment of the restaurant and open air dining consists of

replacing a surface parking lot with a new high-end commercial building, the open air dining will help to promote harmonious development of the area.

3. A mixed-use building with approximately 150 senior housing units is located to the east of the Project site across a 20'-wide alley. The open air dining areas will be located toward the west side of the Project site and shielded from the alley by the kitchen and back-of-house portions of the restaurant building. A condition of approval requires that the folding window systems on the third floor and retractable roof be closed at or before 10:00 p.m. daily. The open air dining will be separated from the residential uses by approximately 80' (rear of the restaurant building, alley width, and residential setback) and sufficiently shielded by building walls such that noise from the open air dining will not significantly and adversely ~~impact-affect~~ the residential properties in the vicinity.

4. The proposed open air dining will be located entirely on private property and shielded from the public right-of-way. The Project as a whole will have a 100% valet-operated parking system to manage the vehicles of employees and patrons of the Project. The Planning Commission has reviewed the proposed valet circulation route, plans for staging vehicles in leased parking spaces at 270 N. Canon Dr., plans for the alternative parking facility, and a Traffic Impact Study prepared by the Applicant and determined that the Project will not create significant traffic impacts or safety hazards. The valet operation will be required to obtain a valet permit from the City. Thus the open air dining will not create any significant impacts to traffic or pedestrians.

5. Because the proposed open air dining will be located on private property, the Project is required to provide parking for the open air dining in the same way parking is required for indoor uses. The Project is providing the code-required number of parking spaces on-site in a valet-operated alternative parking facility. ~~Employees and patrons of the Project site~~Restaurant patrons may have their vehicles parked in the on-site parking facility; therefore the Project and the open air dining will not create significant adverse parking impacts in the surrounding area.

6. The proposed open air dining use must be operated in accordance with the City's commercial-residential transition area requirements. It is located within a commercial district that provides all necessary public services and also contains other dining establishments, and will therefore not result in the accumulation of garbage, trash, or other waste. The folding window systems on the third floor and the retractable roof must be closed by 10:00 p.m. daily to mitigate any noise or light that could otherwise emanate from the restaurant. The kitchen and back-of-house areas will not have operable windows facing the adjacent RMCP zone. Therefore, it is not anticipated to result in significantly adverse impacts on neighboring properties related to trash, noise, light and glare, or odors.

7. The proposed open air dining use will be located entirely on private property and has been designed in accordance with, and is conditioned to comply with, applicable operational standards for the commercial-residential transition area. Therefore, the open air dining use is not anticipated to be detrimental to the public health, safety, or general welfare.

Section 911. In reviewing the request for an Extended Hours Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The Project would substantially disrupt the peace and quiet of the adjacent neighborhood as a result of any of the following:

a. The accumulation of garbage, litter, or other waste, both on and off of the subject site;

b. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;

c. Light and glare;

d. Odors and noxious fumes;

e. Pedestrian queuing;

f. Crime or peril to personal safety and security;

g. 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;

h. Effects on traffic volumes and congestion on local residential streets; and

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

Section ~~10~~12. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Extended Hours Permit:

1. The requested extended hours are related to the interior and open air dining and the Project's valet operation. Open air dining will be shielded from adjacent residential and commercial properties during extended hours by the building walls and roof. Project operations will comply with the commercial-residential transition area requirements, including the prohibition on employees congregating behind the buildings or in the alley. The extended hours are not expected to substantially disrupt the peace and quiet of the neighborhood, based on the following:

a. The Project is located within a commercial district that provides all necessary public services and also contains other dining establishments. The Project has an interior room for trash collection and will comply with the operational requirements regarding refuse disposal during extended hours. Therefore, the Project will not result in the accumulation of garbage, trash, or other waste.

b. The subject property is surrounded by commercial development to the north, south, and west. Residential development is located across the alley to the east of the project site. The restaurant's extended hours operations will take place indoors or toward the west end of the site where they are shielded by other parts of the building, and a condition of approval requires that the third story folding window systems and retractable roof are closed by 10:00 p.m. daily to limit emissions of noise during extended hours. Vehicle circulation will occur by valet. Compliance with all operational

requirements of the commercial-residential transition area is also required. With the incorporation of conditions of approval related to closing up the third floor of the building, prohibiting congregation of people in the alley, and limiting the hours of other noisy activities (e.g. trash, deliveries), the extended hours operation will not result in adverse impacts to surrounding properties because of noise.

c. The project is located in a commercial zone with a mixed use building occupying the property across the alley. Lighting of street-level activities during extended hours is appropriate in this area. The roof is conditioned to be closed by 10:00 p.m. daily. Thus light and glare from the Project are not anticipated to disrupt the peace of the neighborhood.

d. The proposed extended hours would not result in any added odors or noxious fumes beyond what would otherwise exist from the operation of the restaurant. Therefore, the extension of the hours of operation until 1:30 a.m. daily is not anticipated to create any adverse impacts related odors and noxious fumes.

e. The proposed use functions as a high-end restaurant and is not anticipated to result in pedestrian queuing. Furthermore, any patrons entering the restaurant or retrieving their vehicles from the valet station will be on the sidewalk on North Canon Drive, which is 15' wide and can accommodate passage of pedestrians around obstacles such as the valet stand.

f. The requested Extended Hours Permit is related to the operation of a restaurant and parking facility on a commercial site in the

business triangle. Because patrons are typically contained within the subject property and vehicles will be parked in an enclosed, on-site garage, the proposal is not anticipated to result in added crime or peril to personal safety and security.

g. The proposed Project will provide all of its code-required parking on-site in a 100% valet-operated facility, which will generally prevent patrons and office employees from parking elsewhere on residential streets. In the event that an employee or patron does not use valet parking, sufficient public parking exists in parking garages in the immediate area to accommodate this. Restaurant employees will be provided with free off-site parking at an off-street parking facility. For these reasons, the extended hours use is not anticipated to result in parking intrusion into the residential areas.

h. Restaurant operations during extended hours would primarily generate vehicle trips on streets in a commercial area and the alley separating the commercial zone from the RMCP zone. Furthermore, traffic volumes after 10:00 p.m. are typically low, and the City's streets and alley can accommodate the extended hours operation without impacts on traffic volumes and congestion on local residential streets.

i. The Project is located on North Canon Drive, which is a commercial street primarily comprised of retail, restaurant, and office uses. While the retail and office uses generally do not operate beyond 10:00 p.m., many of the restaurants are open later. However, many of these restaurants are on the west side of the street where the hours of operation are not regulated

because the properties are more than 170' from a residential or RMCP zone. There is sufficient parking and traffic capacity in the area after 10:00 p.m. to accommodate the various uses that are open late. The addition of extended hours at the proposed Project to the existing concentration of extended hours operations is not anticipated to result in significant cumulative impacts.

Section ~~H~~13. Based on the foregoing, the Planning Commission hereby grants the requested Conditional Use Permit, Extended Hours Permit, and Open Air Dining Permit subject to the following conditions:

1. This resolution shall not become effective unless and until the associated Zone Text Amendment that would allow a reviewing authority to issue a Conditional Use Permit to allow an alternative parking facility to provide required parking for a commercial use or uses in a commercial zone has been duly adopted by the City Council and has taken effect.

2. This approval allows an alternative parking facility to provide required parking for the existing and proposed buildings on the Project site, authorizes joint use of parking facilities, allows open air dining in several locations of the proposed restaurant, and establishes allowed extended hours of operation. Specifically:

- a. Conditional Use Permit: This Conditional Use Permit allows the Project to provide the required parking for all uses on the Project site through the use of a 100% valet-operated alternative parking facility and four (4) surface parking spaces.

The alternative parking facility will contain three subterranean levels of parking beneath the new restaurant building on the south portion of the Project site. The permitted alternative parking facility will have two (2) automobile elevators that function in lieu of ramps to move vehicles from the ground level (alley) into the subterranean parking garage. Once inside the alternative parking facility, a valet will continue driving the vehicle to a mechanical lift parking space or a parking space in the drive aisle. The vehicles parked in the mechanical lift spaces may be raised and lowered such that vehicles can be stacked two high. Each of the three levels of the alternative parking facility have 28 mechanical lift parking spaces (14 lifts) and six (6) aisle parking spaces. Including the four (4) disabled access parking spaces on the surface off the alley, the Project is providing 106 parking spaces.

- b. Joint Use of Parking Facilities: 25% of the 28 parking spaces that are required for the commercial office building, which is a primarily daytime use, may be jointly used by the restaurant, which is a primarily nighttime use. Therefore the total parking requirement for the Project site is reduced by seven (7) parking spaces to a total requirement of 106 parking spaces. This reduction shall be reviewed by the Planning Commission or City Council after six (6) months and one (1) year of

commencement of the restaurant and alternative parking facility use, and may be modified at that time.

- c. Open Air Dining: The approved areas for open air dining are approximately 915 square feet in the outdoor courtyard on the ground floor and approximately 5,340 square feet in the restaurant building. The courtyard will be separated from the public right-of-way by building walls and will not have a roof. The three levels of restaurant dining rooms may be fully enclosed or opened to the outside by virtue of folding window systems on all three levels and a retractable roof. The square feet of open air dining identified here include all portions of the restaurant that are outdoors or can be opened to the outside, including the dining and bar area, circulation and lobbies within that area, and serving area behind the bars.
- d. Extended Hours: The approved hours of operation for the restaurant, including the open air dining, are 11:00 a.m. to 1:30 a.m. daily. The restaurant, including open air dining, bar, and lounge areas, shall not receive any new patrons after 1:00 a.m. daily.

3. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on ~~September 26~~December 8, 2016, a copy of which shall be maintained in the files of the Community Development Department. Minor amendments to the Project, including

minor changes to the number of parking spaces required and provided on-site, as determined by the Director of Community Development, shall be reviewed and approved by the Director or his/her designee. Substantive changes to the approved Project, as determined by the Director of Community Development, shall be returned to the Planning Commission for review and approval. Construction shall be in conformance with the plans approved herein or as modified by the Planning Commission or Director of Community Development.

4. The Project's restaurant shall be operated by Alain Ducasse. If at any time the operator of the restaurant changes, or the proposed use of the restaurant building changes, the operation must be reviewed by the City Council which shall determine whether the new restaurant operator or new use will provide a luxury service or product.

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

5.6. Dining and bar areas in the constructed restaurant shall comply with the total square feet of dining and bar area identified in the approved plans.

6.7. The Project shall not have operable windows in the kitchen or back-of-house areas nor mechanical venting that faces the residential uses in the adjacent RMCP zone.

7.8. The folding window systems on the third floor and the retractable roof shall be closed at or before 10:00 p.m. daily. Amplified sound in the outdoor courtyard shall cease at 10:00 p.m. daily.

8.9. During Extended Hours (between 10:00 p.m. and 7:00 a.m. on the following weekday and between 10:00 p.m. and 9:00 a.m. on the following weekend day or holiday), the Project shall comply with all requirements set forth in BHMC §10-3-1956 regarding operational restrictions for a business located in a commercial-residential transition area.

9.10. Employees of the Project, including valets, shall not congregate behind the buildings or in the alley during Extended Hours. All windows and doors facing the alley and RMCP zone shall remain closed at all times during extended hours except for the immediate purpose of ingress or egress.

10.11. Nothing in this approval is intended to undermine or invalidate the existing covenant regarding “Automobile Parking on Lot 4, Block 12 of Beverly for Building on Lot 3, said Block and Tract,” dated December 12, 1956.

11.12. The number of parking spaces required shall be calculated based on the final floor area of the proposed project, including dining and bar area, when building plans are submitted for plan check. The reductions in required parking allowed by-right and authorized by the Planning Commission in this Resolution ~~shall apply as follows:~~ are listed below. Although these reductions are granted by this Resolution on December 8, 2016, they may be modified pursuant to BHMC §10-3-2730.4 B.5 if the Planning Commission or City Council determines additional parking is required. These reductions shall be reviewed by the Planning Commission

or City Council, as determined by the Director of Community Development, after six (6) months and one (1) year of commencement of the restaurant and alternative parking facility use, and may be modified at that time.

a. By-right: 25% of the parking spaces provided for non-dining uses (including those provided for the commercial office building, and the kitchen, back-of-house, circulation, restrooms, etc. of the restaurant) shall be applied toward the required spaces for the restaurant's dining and bar area. Based on the plans approved by the Planning Commission on ~~September 26~~December 8, 2016, this is a reduction of $[25\% \times (28 + 26)] = 13$ spaces.

b. Joint use of parking facilities authorized by the Planning Commission: 25% of the parking spaces provided for the commercial office, a primarily daytime use, may be jointly used by the restaurant, a primarily nighttime use. Based on the plans approved by the Planning Commission on ~~September 26~~December 8, 2016, this is a reduction of $[25\% \times 28] = 7$ spaces.

~~12.13.~~ The provision and configuration of disabled access parking as shown on the plans approved by the Planning Commission on ~~September 26~~December 8, 2016 is contingent upon approval from the City's Building & Safety Division during building plan check.

~~13.14.~~ Loading space for a van, with minimum dimensions of those shown on the plans approved by the Planning Commission on ~~September 26~~December 8, 2016, shall be provided and maintained on the Project site to accommodate deliveries to the Project.

~~14.15.~~ A maximum of six (6) aisle parking spaces shall be allowed on each of the three (3) levels of the alternative parking facility, as shown on the approved plans. This parking configuration shall be reviewed by the Planning Commission or City Council after six (6) months and one (1) year of commencement of the restaurant and alternative parking facility use, and may be modified at that time.

~~15.16.~~ The dimensions of the mechanical lift parking spaces and drive aisle parking spaces shall, at a minimum, comply with the dimensions shown on the plans approved by the Planning Commission on ~~September 26~~December 8, 2016. Mechanical lift parking spaces shall be at least 19' long and 8' wide with a minimum clear width of 7'-2". At least one level of the stacked mechanical lift parking spaces shall provide a minimum parking space height of 6'-6". Drive aisle parking spaces shall be a minimum of 22' long and 9' wide. This parking configuration shall be reviewed by the Planning Commission or City Council after six (6) months and one (1) year of commencement of the restaurant and alternative parking facility use, and may be modified at that time.

~~16.17.~~ Back-Up Power: Prior to issuance of building permits, the Applicant shall provide documentation that the alternative parking facility will be

equipped in sufficient capacity with back-up generators to allow operation of the automobile elevators and mechanical parking lifts in case of electrical failure.

17.18. Redundancies: Prior to issuance of building permits, the Applicant shall provide documentation that each automobile elevator and mechanical parking lift shall be individually operable such that mechanical failure of one would not prevent use of the others.

18.19. Service Contract: Prior to obtaining a Certificate of Occupancy for the new restaurant building, the Applicant shall submit to the Community Development Department evidence of one or more contracts with entities that provide maintenance and 24-hour emergency service for the automobile elevators and mechanical parking lift systems installed in the alternative parking facility. The Applicant shall maintain such contract(s) at all times throughout the life of the alternative parking facility.

19.20. Replacement Parts: At all times, the Applicant shall keep on-site a replacement motor and pump, gearbox, and any other parts not readily obtainable within the same calendar day.

20.21. Inspection Report: A maintenance inspection report and usage report for the alternative parking facility, prepared at the sole expense of the Applicant, shall be submitted within five (5) business days following a request from the Community Development Department and no less than every six months for review by the City.

22. Employees of the restaurant shall not park on site. Free paid parking for all employees of the restaurant shall be provided at an off-site and off-

street parking facility. Verification of the off-site location shall be provided to the Director of Community Development and shall be updated whenever employee parking demand changes.

23. The Applicant shall provide valet parking to all patrons ~~and employees~~ of the restaurant and existing commercial office building located on the project site during all hours of operation. Employees of the existing commercial office building shall also be provided with valet parking during all hours of operation, pursuant to BHMC §10-3-2730.4 E.3 and the existing covenant regarding “Automobile Parking on Lot 4, Block 12 of Beverly for Building on Lot 3, said Block and Tract,” dated December 12, 1956. Valet charges shall be equivalent to the valet charges at Mastro's Steakhouse, which is the adjacent restaurant located at 246 North Canon Drive. In the event that Mastro's Steakhouse closes, valet charges shall be no higher than those at the nearest restaurant as designated by the Director of Community Development. Parking for ~~employees of the restaurant, and~~ patrons and employees of the office use, shall be provided free of charge.

~~21.~~

22-24. Parking Operations Plan: Prior to issuance of a Certificate of Occupancy the Applicant shall submit an alternative parking facility operations plan for review and approval by the Director of Community Development. The plan shall describe the broadest range of operating hours allowed for the commercial use(s) to be served by the alternative parking facility; the number of parking attendants and working hours; methods for automobile storage and retrieval during and outside of regular business hours; vehicle drop-off and pick-up location(s) for customers;

vehicle circulation path; location of staging area for vehicles waiting to enter the alternative parking facility. The operations plan shall also describe, with regard to the mechanical parking lifts and automobile elevators: maintenance schedules and additional parts inventory requirements to maintain optimal operations.

~~23-25.~~ During the operating hours of the restaurant there shall be a minimum of two (2) parking attendants on each of the three levels of the alternative parking facility at any time a level is in use. Additional parking attendants shall be stationed at the front (valet station on North Canon Drive) and rear (alley) of the Project. At other times, the number of parking attendants may be reduced as approved in the Parking Operations Plan. At a minimum, there shall always be at least one (1) parking attendant on duty whenever a car is inside the alternative parking facility.

~~24-26.~~ A sign shall be displayed at the valet station, in a form, size, and design as approved by the Director of Community Development, disclosing that the valet utilizes an Alternative Parking Facility with automobile elevators.

~~25-27.~~ The Applicant shall obtain a valet permit from the Public Works Department, and shall reimburse the City for any costs associated with restricting parking meter service in order to accommodate valet operations. The valet plan shall be subject to review and approval by the Director of Public Works. To the extent that valet operations occur within the public right-of-way, this approval shall be contingent on the applicant procuring and maintaining a valid valet permit. The Valet valet drop off/pick up area on city streets shall accommodate a minimum of three (3) vehicles. ~~vehicle staging may occur within no more than two (2) on street parking spaces.~~

26-28. Prior to obtaining a Certificate of Occupancy for the new restaurant building, the Applicant shall submit to the Community Development Department evidence of an executed lease granting the owner and operator of the uses at 250-260 N. Canon Drive exclusive use of a minimum of thirteen (13) parking spaces in the surface parking lot located at the rear of the property at 270 N. Canon Drive, specifically including those parking spaces immediately adjacent to the alley. The hours of the lease shall be, at a minimum, Monday through Friday: between the hours of 5:30 p.m. and 1:00 a.m. the following day; and Saturday and Sunday: between the hours of 1:00 a.m. and 1:00 a.m. the following day. Should the leased spaces become unavailable during the lifetime of this CUP, prior to expiration of the lease, a new lease with the same terms for spaces at an alternate location shall be secured, subject to review and approval by the Director of Community Development. Alternatively, modification of this condition, to allow a different number of leased parking spaces for staging purposes, shall be reviewed by the Planning Commission.

27-29. The Project shall operate at all times in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking or other actions.

28-30. The Project shall operate at all times in compliance with Beverly Hills Municipal Code requirements for Noise Regulation.

31. Six Month Review: After six (6) months of operation of the alternative parking facility, the following shall be reviewed by either the Planning Commission or City Council as determined by the Director of Community Development:

~~-a. A study of the parking operation. The study shall at a minimum include information regarding valet circulation on the public right-of-way, staging and queuing of vehicles entering and exiting the alternative parking facility, movement of vehicles within the garage, maintenance needs of the facility over the first year of operation, and occupancy of the provided parking spaces. The study shall be submitted to the Planning Division of the Community Development Department. If the reviewing body determines the reduced parking outlined in Condition of Approval No. 11 of this Resolution is insufficient, the applicant shall be required to make arrangements to provide sufficient parking either through the in lieu parking program, if available, providing additional covenanted parking spaces, or other means, as directed by the reviewing body. After one (1) year of operation of the alternative parking facility, the Applicant shall present the City with a study of the parking operation for informational purposes. The study shall at a minimum include information regarding valet circulation on the public right of way, staging and queuing of vehicles entering and exiting the alternative parking facility, movement of vehicles within the garage, maintenance needs of the facility over the first year of operation, and occupancy of the provided parking spaces. The~~

~~study shall be submitted to the Planning Division of the
Community Development Department.~~

32. One Year Review: After one (1) year of operation of the
alternative parking facility, the following shall be reviewed by either the Planning
Commission or City Council as determined by the Director of Community
Development:

a. A study of the parking operation. The study shall at a minimum
include information regarding valet circulation on the public
right-of-way, staging and queuing of vehicles entering and
exiting the alternative parking facility, movement of vehicles
within the garage, maintenance needs of the facility over the
first year of operation, and occupancy of the provided parking
spaces. The study shall be submitted to the Planning Division
of the Community Development Department. If the reviewing
body determines the reduced parking outlined in Condition of
Approval No. 11 of this Resolution is insufficient, the applicant
shall be required to make arrangements to provide sufficient
parking either through the in lieu parking program, if available,
providing additional covenanted parking spaces, or other
means, as directed by the reviewing body.

b. ~~The Conditional Use Permit, Open Air Dining Permit, and
Extending~~Extended Hours Permit, shall be reviewed by the
Planning Commission one year after operations have

commenced to determine whether operations are causing any adverse impacts and whether additional or revised conditions should be imposed.

~~30.~~ The City expressly reserves jurisdiction relative to traffic, parking, loading, and noise issues and the right to impose additional conditions as necessary to mitigate any other unanticipated impacts caused by the proposed Project as they arise. In the event that the Director of Community Development determines operation of the Project is having unanticipated impacts, the Director shall require the Applicant to provide, at their sole cost, a traffic, parking, loading demand, and/or noise analysis to study the impacts. If, in the opinion of the Director, the traffic, parking, loading, and/or noise issues merit review at a public hearing, the full cost of the review hearing and the implementation of any additional conditions or mitigation measures shall be paid for by the Applicant.

~~31.33. The Conditional Use Permit, Open Air Dining Permit, and Extending Hours Permit shall be reviewed by the Planning Commission one year after operations have commenced to determine whether operations are causing any adverse impacts and whether additional or revised conditions should be imposed.~~

~~32.34.~~ Prior to the issuance of a building permit, all applicable Park and Recreation Facilities Taxes required by the Municipal Code shall be paid.

~~33.35.~~ At their sole cost, the Applicant shall remove the existing curb cut from North Canon Drive to the existing surface parking lot and replace the sidewalk adjacent to 250-260 N. Canon Drive in accordance with the City's standard-plan details. In addition, the Applicant shall repair and/or replace the paving in the alley

adjacent to the Project site as needed at the end of construction and prior to issuance of a Certificate of Occupancy.

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

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

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

37.39. The Applicant shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liabilities, losses, damages, or injuries, to property or persons, including any loss or wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of the Applicant, its officers, employees, agents, contractors, or subcontractors, or arising out of mechanical failure or other occurrence, in connection with this Conditional Use Permit and the Alternative Parking Facility. The Applicant

shall obtain, and submit evidence of, adequate insurance against liability, damage, destruction of property, or loss, with the City named as an additional loss payee.

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

39.41. RECORDATION. This Resolution shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of the resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Project shall be **null and void** and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60 day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Project.

40.42. EXPIRATION. Conditional Use Permit, and Extended Hours Permit: The exercise of rights granted herein shall be commenced within three (3)

years after the adoption of such resolution unless otherwise extended. Open Air Dining Permit: The exercise of rights granted herein shall be commenced within three (3) years after the adoption of this resolution unless otherwise extended. **The Open Air Dining Permit shall be valid for a period of five (5) years from the time of commencement of the exercise of rights granted, and may be renewed for additional five (5) year periods on the same terms and conditions as set forth in this original approval.**

41.43. VIOLATION OF CONDITIONS. A violation of any of these conditions of approval may result in termination of the entitlements granted herein.

42.44. APPROVAL RUNS WITH LAND. The conditions set forth in this Resolution shall run with the land and shall remain in full force for the duration of the life of the Project.

Section 14. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: ~~September 26, 2016~~ December 8, 2016

Farshid Joe Shooshani
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Ryan Gohlich, AICP
Secretary of the Planning Commission

Approved As To Form:

Approved As To Content:

David M. Snow
Assistant City Attorney

Ryan Gohlich, AICP
Assistant Director / City Planner
Community Development Department



Attachment F
Public Notice



NOTICE OF PUBLIC HEARING

HEARING DATE: Thursday, December 8, 2016

TIME: 1:30 PM, or as soon thereafter as the matter may be heard

LOCATION: Commission Meeting Room 280-A
Beverly Hills City Hall (2nd Floor)
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its REGULAR meeting on Thursday, December 8, 2016, will hold a public hearing beginning at 1:30 PM, or as soon thereafter as the matter may be heard, to consider a request to amend a resolution that allows a new restaurant with a 100% valet-operated alternative parking facility to be constructed and operate with open air dining and extended hours on the commercial property located at **250-260 North Canon Drive**.

The Planning Commission previously considered the proposed project at meetings on September 19, 2016 and September 26, 2016. The Commission approved a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit for the proposed project, contingent upon City Council approval of a Zone Text Amendment to allow alternative parking facilities to provide required parking in commercial zones as a pilot program.

The City Council made changes to the proposed Zone Text Amendment in public hearings on November 1, 2016 and November 15, 2016, before adopting the Ordinance on November 21, 2016. The changes made by the City Council require additional and revised conditions to be placed on the project's Conditional Use Permit regarding employee parking, valet drop-off spaces, and City review of parking reductions and operations.

Therefore, the Planning Commission will consider approval of an amended Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit that includes the revised conditions necessary to comply with the Zone Text Amendment approved by the City Council. The proposed project at 250-260 North Canon Drive requires the following entitlements:

Conditional Use Permit. The proposed project includes a request for a Conditional Use Permit to allow the use of automobile elevators, mechanical parking lifts, and aisle parking to accommodate 102 code-required parking spaces for the new restaurant and existing office

building on the subject property. The 100% valet-operated parking would be provided in three subterranean levels accessed from the alley.

Open Air Dining Permit. The proposed restaurant requires a permit for 6,257 square feet of open air dining (216 seats) on private property. The majority of this area (5,342 square feet) would be within the building that would have operable window systems on all three floors and a retractable roof. A smaller portion of this area (915 square feet) would be located in a ground-level courtyard with walls on four sides and no roof.

Extended Hours Permit. The proposed restaurant requires an Extended Hours Permit in order to receive patrons after 10 PM. The requested hours would allow the restaurant to receive patrons until 1:00 AM daily and to operate until 1:30 AM daily.

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 *et seq.*), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*), and the environmental regulations of the City. The project appears to qualify for a Class 32 Categorical Exemption pursuant to Section 15332 of the State CEQA Guidelines for in-fill development projects. The Planning Commission will consider finding that the project will not have a significant environmental impact and is exempt from the provisions of CEQA.

Any interested person may attend the meeting and be heard or present written comments to the Commission. Please note that any communication received by the City becomes part of the public record.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact **Emily Gable, Assistant Planner** in the Planning Division at (310) 285-1192, or by email at egable@beverlyhills.org. Copies of the project plans and associated application materials are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

Sincerely:


Emily Gable, Assistant Planner

Mailed: November 28, 2016



Planning Commission Report

250-260 N. Canon Drive

December 8, 2016

Attachment G
Architectural Plans

PROVIDED UNDER SEPARATE COVER