CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date: October 5, 2010

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: Request by City Councilmember Mirisch for City Council Consideration of an Order to Review the Planning Commission Approval of a Condominium Project for the Property Located at 9936 Durant Drive.

Attachments:

1. Municipal Code Excerpts BHMC Section 1-4-201, et seq.
2. Adopted Planning Commission Resolution Certifying the Environmental Impact Report (EIR) including adoption of a Statement Overriding Considerations and Mitigation Monitoring and Reporting Program
3. Adopted Planning Commission Resolution approving a Development Plan Review, Density Bonus Permit, R-4 Permit and Tentative Tract Map No. 70035

INTRODUCTION

Councilmember Mirisch has requested that this item be placed on the City Council's agenda to determine if there is support among the Council to order the Planning Commission decision for review by the City Council at a future formal meeting. If the Council orders the review, this matter would be scheduled for consideration at a future duly noticed public hearing.

At its meeting of September 23, 2010, the Planning Commission adopted resolutions approving the demolition of an existing 5-unit apartment building and subsequent construction of a new 14-unit condominium building. Specifically, the Commission adopted the following (See Attachments 2 and 3):

- A resolution certifying the Final Environmental Impact Report (FEIR) findings pursuant to the California Environmental Quality Act,
- A Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program
- A resolution approving a Tentative Tract Map No. 70035, a Density Bonus Permit, an R-4 Permit and a Development Plan Review.

As required by the California Environmental Quality Act (CEQA), an Environmental Impact Report was prepared for the project, which identified three unavoidable impacts associated with the demolition of the existing structure. These impacts relate to the loss of an historic structure (designed by Robert Derrah), the impact on a potential historic district, and the aesthetic impact associated with the loss of the building. In approving the project, the Planning Commission adopted a Statement of Overriding Considerations, which identified the project's benefits, including the production of affordable housing, advancing sustainable development standards and the granting of two units to the City. These units would be:

- Given to the City, free of all liens and encumbrances;
- Restricted as affordable units for a 30 year period, as required under Density Bonus Law;
- Owned by the City into perpetuity; and
- The first residential units owned by the City.

DISCUSSION

Pursuant to Beverly Hills Municipal Code Section 1-4-201, et seq., the City Council may generally order a review of any discretionary decision made by any commission, board, or official of the City. The process to initiate this review and set a hearing is specifically set forth in the municipal code, and those provisions are attached for reference.

The City Council must order any review within 30 days of the final City action, which in this case was September 23, 2010, when the Planning Commission certified the EIR and approved the project with conditions. If a review is ordered, the effectiveness of the Planning Commission's action will be stayed until the Council review is final.

While this project may present specific issues of interest to the City Council, the issue presently before the Council is the limited question of whether to call the item up for hearing at a future formal meeting, and would not include any evaluation or assessment of the merits of the project or the Planning Commission's action. That discussion would take place at a noticed public hearing at a future meeting.

FISCAL IMPACT

The recommendation in this report does not have any significant budget or fiscal impacts for the City. Any staff time dedicated to this effort can be managed within existing resources but will not be paid for by the applicant. If the item is called up for a formal review, it is anticipated that an additional 15 hours of Staff time would be required. In addition to the staff time, noticing of the project (newspaper and mailings) would be absorbed by the City of approximately $1,500.00

RECOMMENDATION

It is recommended that the City Council make a determination as to whether or not the subject Planning Commission action warrants review by the City Council.

Susan Healy Keene, AICP
Approved By

Susan Healy Keene

9/27/2010

ATTACHMENT 1

MUNICIPAL CODE EXCERPTS SECTION 1-4-201

Article 2. Council Ordered Review Of Administrative Decisions

1-4-201: RIGHT TO REVIEW:

The council may order a review of any decision made by any commission, board, or official of the city, except as otherwise provided in this code. Such review may be ordered by motion of the council duly adopted within thirty (30) calendar days after the issuance of the decision. If the council orders a review of a decision, the effectiveness of such decision shall be stayed until council review is final. (1962 Code § 1-6.201; amd. Ord. 94-O-2211, eff. 9-2-1994)

1-4-202: SETTING HEARINGS:

Upon the adoption of an order for a review of a decision, the mayor shall fix a time and place for the hearing. At least ten (10) days prior to the hearing, written notice shall be mailed to the applicant and such other persons who appeared and addressed the board, commission, or official at the previous hearing on the matter, and such other notice as required by law for the previous hearing shall also be given. (1962 Code § 1-6.202)

1-4-203: HEARINGS BY THE COUNCIL:

Unless otherwise ordered and noticed, hearings shall be held as a part of the regular meetings of the council. The hearings shall be do novo in that an independent reexamination of the matter shall be made. The council may decide the matter upon the record or may take additional evidence. Any oral or documentary evidence may be received, but the mayor shall exclude irrelevant, immaterial, or unduly repetitious evidence. It shall not be a ground for objection that the evidence is hearsay or secondary, but the council's decision shall be made upon substantial evidence. (1962 Code § 1-6.203)

1-4-204: DECISIONS AND FINDINGS:

The provisions of sections 1-4-107 and 1-4-108 of this chapter shall be applicable to the decisions of the council. (1962 Code § 1-6.204)

ATTACHMENT 2

RESOLUTION CERTIFYING THE FINAL EIR, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM

RESOLUTION NO. - _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR 9936 DURANT DRIVE PROJECT; ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM.

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

Section 1. Applications were submitted to the City of Beverly Hills (the "City") for the construction of a four-story, 45-foot tall, 24,906 square foot, 13-unit condominium building at 9936 Durant Drive in the City of Beverly Hills (the "Project"). The Project would be constructed on a lot currently occupied by a two-story, 28 foot tall, 12,145 square foot Colonial Revival style apartment building constructed in 1935 and containing five apartment units that would be demolished and replaced by the Project.

Section 2. On December 8, 2008, a Notice of Preparation ("NOP") was distributed to the State Office of Planning and Research and responsible agencies. In addition, a public scoping meeting was held on December 15, 2008 to provide information on the Project and to receive comments on issues to be addressed in the Environmental Impact Report ("EIR").

Section 3. In June of 2009 a Draft Environmental Impact Report (the "DEIR") was prepared for the Project. In accordance with the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code §21000 *et seq.*) and the State Guidelines (the "Guidelines") (14 Cal. Code Regs. §15000 *et seq.*) promulgated with respect thereto, the City analyzed the Project's potential impacts on the environment.

Section 4. The City circulated the DEIR and the Appendices for the Project to the public and other interested parties for a 45-day comment period, consistent with the 45-day public comment period required by Guidelines Section 15105, from June 29, 2009 to August 12, 2009.

Section 5. As a result of public hearings before the Planning Commission, changes were made to the Project by the Applicant in an effort to reduce potentially significant neighborhood compatibility impacts and in an effort to provide greater benefits to the City. These changes include modifications to the façade of the building in order to increase neighborhood compatibility, and agreeing to deed two units to the City for low income housing

purposes which has allowed the Applicant a greater density bonus for a total of 14-units in the building.

Section 6. The City prepared written responses to all comments received on the DEIR and those responses to comments are incorporated into the Final Environmental Impact Report (the "Final EIR"). The Responses to Comments were distributed to all public agencies that submitted comments on the DEIR at least 10 days prior to certification of the Final EIR.

Section 7. The Final EIR is comprised of the DEIR dated June 2009 and all appendices thereto, the Comments and Response to Comments on the DEIR, and the Mitigation Monitoring and Reporting Program.

Section 8. The findings made in this Resolution are based upon the information and evidence set forth in the Final EIR and upon other substantial evidence that has been presented at the hearings and in the record of the proceedings. The documents, staff reports, technical studies, appendices, plans, specifications, and other materials that constitute the record of proceedings on which this Resolution is based are on file for public examination during normal business hours at the Community Development Department, City of Beverly Hills City Hall, 455 N. Rexford Ave. Beverly Hills, California 90210. Each of those documents is incorporated herein by reference.

Section 9. The Planning Commission finds that agencies and interested members of the public have been afforded ample notice and opportunity to comment on the EIR and the Project.

Section 10. Section 15091 of the State CEQA Guidelines requires that the City, before approving the Project, make one or more of the following written finding(s) for each significant effect identified in the Final EIR accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; or,

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or,

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Section 11. Section 15093 of the State CEQA Guidelines requires that if the Project will cause significant unavoidable adverse impacts, the City must adopt a Statement of Overriding Considerations prior to approving the project. A Statement of Overriding

Considerations states that any significant adverse project effects are acceptable if expected project benefits outweigh unavoidable adverse environmental impacts.

Section 12. Environmental impacts identified in the Initial Study and Final EIR that are found to be less than significant and do not require mitigation are described in Sections IV and V, respectively of Exhibit A, attached hereto and incorporated herein by reference.

Section 13. Environmental impacts identified in the Final EIR as potentially significant, but that can be reduced to less than significant levels with mitigation, are described in Exhibit A, Section VI, attached hereto and incorporated herein by reference.

Section 14. Environmental impacts identified in the Final EIR as significant and unavoidable despite the imposition of all feasible mitigation measures are described in Exhibit A, Section VII, attached hereto and incorporated herein by reference.

Section 15. Alternatives to the Project that might eliminate or reduce significant environmental impacts are described in Exhibit A, Section VIII, attached hereto and incorporated herein by reference.

Section 16. A discussion of the Project benefits and a Statement of Overriding Considerations for the environmental impacts that cannot be fully mitigated to a less than significant level are set forth in Exhibit B, attached hereto and incorporated herein by reference.

Section 17. Public Resources Code section 21081.6 requires the City to prepare and adopt a mitigation monitoring and reporting program for any project for which mitigation measures have been imposed to assure compliance with the adopted mitigation measures. The Mitigation Monitoring and Reporting Program is attached hereto as Exhibit C and incorporated herein by reference.

Section 18. Prior to taking action, the Planning Commission reviewed, considered and has exercised its independent judgment in exercising the Final EIR and all of the information and data in the administrative record, and all oral and written testimony presented to it during meetings and hearings, and finds that the Final EIR is adequate and was prepared in full compliance with CEQA. No comments or any additional information submitted to the City have produced any substantial new information requiring additional recirculation or additional environmental review of the Project under CEQA.

Section 19. The Planning Commission of the City of Beverly Hills, California, hereby certifies the Final Environmental Impact Report, adopts findings pursuant to the California Environmental Quality Act as set forth in Exhibit A attached hereto and incorporated herein by reference, adopts the Statement of Overriding Considerations as set forth in Exhibit B attached hereto and incorporated herein by reference, and adopts the Mitigation Monitoring and Reporting Program (MMRP) attached hereto as Exhibit C and incorporated herein by reference.

Section 20. The Secretary shall certify to the adoption of this Resolution, and shall cause this Resolution and his certification to be entered into the Book of Resolutions of the Planning Commission of the City.

Adopted:

_____
Lili Bosse
Chair of the Planning Commission
of the City of Beverly Hills

ATTEST:

_____
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

_____
Jonathan Lait, AICP
City Planner

EXHIBIT A

Findings and Facts in Support of Findings

I. Introduction.

The California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (the "Guidelines") provide that no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that will occur if a project is approved or carried out unless the public agency makes one or more of the following findings:

A. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the EIR.

B. Such changes or alterations are within the responsibility of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

C. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.[1]

Pursuant to the requirements of CEQA, the Planning Commission hereby makes the following environmental findings in connection with the proposed 9936 Durant Drive Project (the "Project"). These findings are based upon evidence presented in the record of these proceedings, both written and oral, the DEIR, and all of its contents, the Comments and Responses to Comments on the EIR, and staff and consultants' reports presented through the hearing process, which comprise the Final EIR ("FEIR").

II. Project Objectives.

As set forth in the EIR, the proposed Project is intended to achieve a number of objectives (the "Project Objectives") as follows:

A. To realize an increased economic return on the property.

B. To convert the use on the Project site from rental property to condominium units suitable for sale.

C. To select planting material that compliments the architectural style.

D. To comply with the City's Green Building Program.

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[1] Cal. Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15091.

E. To maximize water conservation and waste water management.

F. To maximize energy conservation.

G. To provide overall planning efficiency for development of a multi-family structure.

H. To provide two moderate income affordable units.

I. To provide parking that complies with current Municipal Code requirements.

III. Background

During hearings before the Planning Commission, the Commission expressed its concern regarding the compatibility of the project in relation to the surrounding neighborhood. The Commission indicated that the mass and bulk of the project, along with its modern architectural style should be re-evaluated. In response, the Applicant hired an historical architect to modify the project design.

In an effort to provide a greater public benefit to the City, the Applicant has included two units to be deeded to the City as low income units for affordable housing purposes. As the inclusion of low income units allows for a greater density bonus, the Applicant has increased the units in the building from an original 13 units to 14 units.

IV. Effects Determined to be Less Than Significant/No Impact in the Initial Study/Notice of Preparation.

The City of Beverly Hills issued a Notice of Preparation (NOP) and conducted an Initial Study to determine the potential environmental effects of the Project. In the course of this evaluation, the Project was found to have no impact in certain impact categories because a project of this type and scope would not create such impacts or because of the absence of project characteristics producing effects of this type. The following effects were determined not to be significant or to be less than significant for the reasons set forth in the Initial Study, and were not analyzed in the EIR because they require no additional analysis to determine whether the effects could be significant. Revisions to the Project, as described in Section III, do not change the conclusions of the Initial Study.

A. AESTHETICS

1. The Project will not have a substantial adverse effect on a scenic vista.

2. The Project will not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.

3. The Project will not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

B. AGRICULTURAL RESOURCES

1. The Project will not convert prime farmland or farmland of statewide importance to non-agricultural use because there are no agricultural resources on this fully developed urban site.

2. The Project will not conflict with existing zoning for agricultural use or a Williamson Act contract because the property is not zoned for agricultural use and is not subject to a Williamson Act contract.

3. The Project does not involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use because there are no agricultural resources on the site or in the vicinity.

C. AIR QUALITY

1. The Project would not conflict with or obstruct implementation of the applicable air quality plan.

2. The Project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.

3. The Project would not result in a cumulatively considerable net increase in any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

4. The Project would not expose sensitive receptors to substantial pollutant concentrations.

5. The Project would not create objectionable odors affecting a substantial number of people.

6. The Initial Study identified certain standards that ensure impacts remain less than significant and these standards are memorialized in the MMRP.

D. BIOLOGICAL RESOURCES

1. The Project will not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, because the urban site is fully developed.

2. The Project will not have a substantial adverse effect on any riparian habitat identified in local or regional plans, policies, or regulations, or by the California Department of

Fish and Game or U.S. Fish and Wildlife Service, because no such habitat exists on or in the vicinity of the Project site.

3. Federally protected wetlands will not be substantially and adversely affected by the construction or operation of the Project, as none are in existence in the vicinity of the Project site.

4. The Project will not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

5. The Project would not conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance.

6. The Project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan, because there are no such plans that apply to the fully developed urban site.

E. CULTURAL RESOURCES

1. The Project would not cause a substantial adverse change in the significance of an archeological resource pursuant to CEQA Guideline Section 15064.5.

2. The Project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

3. The Project would not disturb any human remains, including those interred outside of formal cemeteries.

4. The Initial Study identified certain standards that ensure impacts remain less than significant, and those standards are memorialized in the MMRP.

F. GEOLOGY AND SOILS

1. The Project will not result in substantial soil erosion or the loss of topsoil.

2. The Project would not be located on expansive soil.

3. The Project will not cause liquefaction or landslides because the site is flat and surrounded by property at similar grade elevations.

4. The Project will not use septic tanks or alternative wastewater disposal systems. No impacts will result here because the Project will be served by sewers.

G. HAZARDOUS AND HAZARDOUS MATERIALS

1. The Project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

2. The Project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

3. The Project is not located within an airport land use plan or, where such plan has not been adopted, within two miles of a public airport or public use airport, and thus the Project would not result in a safety hazard for people residing in the Project area.

4. The Project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

5. The Project will not expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are subject to urbanized areas or where residences are intermixed with wildlands, because the site is not in or adjacent to wildland areas.

H. HYDROLOGY AND WATER QUALITY

1. The Project will not violate any water quality standards or waste discharge requirements, with the exception of the potential water quality impact discussed in Section VI below.

2. The Project would not substantially deplete groundwater supplies.

3. The Project will not substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site, in part because there are no streams or rivers in the vicinity of the project site.

4. The Project will not substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site, in part because there are no streams or rivers in the vicinity of the Project site.

5. The Project will not place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.

6. The Project will not place structures within a 100-year flood hazard area that would impede or redirect flood flows, because the site is not in a flood hazard area.

7. The Project will not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.

8. The Project will not expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow, because the site is sufficiently removed from large bodies of water, and is not near any sloped properties.

I. LAND USE

1. The Project will not physically divide an established community, because it is a site that is already developed.

2. The Project will not conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the Project.

3. The Project will not conflict with any applicable habitat conservation plan or natural community conservation plan, because no such plans apply to the site.

J. MINERAL RESOURCES

1. The Project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.

2. The Project will not result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

K. NOISE

1. The Project will not expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance.

2. The Project will not expose persons to or generate excessive groundborne vibration or groundborne noise levels.

3. The Project will not cause a substantial permanent increase or temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the Project.

4. The Project is not located within an airport land use plan or within two miles of a public airport or public use airport, and thus would not expose people residing in the Project area to excessive noise levels from airport activities.

5. The Project is not located within the vicinity of a private airstrip, and thus would not expose people residing in the Project area to excessive noise levels from airstrip activities.

6. The Initial Study identified certain standards that ensure impacts remain less than significant, and those standards are memorialized in the mitigation monitoring and reporting program.

L. POPULATION AND HOUSING

1. The Project will not induce substantial population growth in the area either directly or indirectly.

2. The Project will not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.

3. The Project will not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

M. PUBLIC SERVICES

1. The Project will not result in substantial adverse physical impacts associated with the provision or need of new or physically altered fire protection services, the construction of which could cause significant environmental impacts, because existing resources are sufficient to provide fire response services.

2. The Project will not result in substantial adverse physical impacts associated with the provision or need of new or physically altered police protection services, the construction of which could cause significant environmental impacts, because existing resources are sufficient to provide police services.

3. The Project will not result in substantial adverse physical impacts associated with the provision or need of new or physically altered schools, the construction of which could cause significant environmental impacts, because it would not generate a significant number of new students.

4. The Project will not result in substantial adverse physical impacts associated with the provision or need of new or physically altered parks, the construction of which could cause significant environmental impacts, because it would not generate a population increase with additional park use demand.

5. The Project is not anticipated to cause any environmental impacts related to any other type of public facility.

N. RECREATION

1. The proposed Project will not increase the use of existing neighborhood or regional parks or other recreation facilities.

2. The proposed Project does not include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

O. TRANSPORTATION/TRAFFIC

1. The Project would not cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system.

2. The Project would not exceed, either individually, or cumulatively, a level of service standard.

3. The Project will not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

4. The proposed Project is not anticipated to substantially increase hazards due to a design feature.

5. The proposed Project will not result in inadequate emergency access.

6. The Project will not result in inadequate parking capacity.

7. The Project will not conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks).

V. Effects Determined to be Less Than Significant Without Mitigation in the EIR.

The EIR found that the proposed Project would have a less than significant impact without the imposition of mitigation on a number of environmental topic areas listed below. For some of these environmental topics, regulatory measures will be imposed as mitigation measures and are detailed in the Mitigation Monitoring and Reporting Program, and will have the effect of ensuring all less than significant impacts remain less than significant. A less than significant environmental impact determination was made for each of the following topic areas listed below, based on the more expansive discussions contained in the Final EIR. Further, the project revisions described in Section III above do not change the following conclusions.

A. AESTHETICS

1. The proposed Project will not create substantial shade/shadows that affect shadow-sensitive viewers.

B. CULTURAL RESOURCES

1. The Project will have a less than cumulatively considerable impact on cultural resources.

C. GEOLOGY AND SOILS

1. The Project will have a less than cumulatively considerable impact with regard to seismic hazards.

D. HYDROLOGY AND WATER QUALITY

1. The Project will have a less than significant impact with regard to site drainage and stormwater flows from the site.

2. The Project will have a less than cumulatively considerable impact with regard to water quality and hydrology issues.

E. HAZARDOUS AND HAZARDOUS MATERIALS

1. The Project is not located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5.

F. TRANSPORTATION/TRAFFIC

1. The Project will not cause any construction related traffic or transportation impacts.

2. The Project will not have any operational transportation and traffic impacts to residential streets.

3. The Project will have less than significant operational transportation and traffic impacts to local intersections.

4. The Project will have a less than significant operational access impact.

5. The Project will have a beneficial impact on parking demand.

6. The Project will have less than significant operational transportation and traffic impacts to the local alley at the rear of the Project.

7. The environmental documentation identifies certain standards that ensure impacts remain less than significant and those standards are memorialized in the mitigation monitoring and reporting program.

VI. Potentially Significant Environmental Impacts Determined to be Mitigated to a Less Than Significant Level.

The EIR identified the potential for the Project to cause significant environmental impacts in the areas of aesthetics, cultural resources, geology and hydrology, hazardous materials, and transportation and traffic. With the exception of those specific impacts to aesthetics and cultural resources as discussed in Section VII below, measures were identified that would mitigate all of these impacts to a less than significant level.

The Planning Commission finds that the feasible mitigation measures for the Project identified in the Final EIR would reduce the Project's impacts to a less than significant level, with the exception of those unmitigable impacts discussed in Section VII below. The Planning Commission will adopt all of the feasible mitigation measures for the Project described in the Final EIR as conditions of approval of the Project and incorporate those into the Project if approved. Further, the project revisions described in Section III above do not change the following conclusions, and those conclusions are equally applicable to the Project and the revised Project.

A. GEOLOGY

1. Soils and Seismic Impacts

The introduction of the Project into a seismically active area, along with the required excavation for the subterranean parking garage has the potential to cause soil and seismic impacts. However, with the incorporation of mitigation, any impact will be reduced to a level of insignificance.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential soil and seismic impact. Specifically, the following regulatory measure is imposed upon the Project to ensure a less than significant impact:

> **Measure Geo–1 (Regulatory Requirement)** –The proposed project shall be designed and constructed in accordance with the requirements and mitigations set forth in Preliminary Soils Engineering Investigation Report completed for the property dated July 17, 2006 and Update letter dated November 28, 2008 and included as Appendix D of the Draft EIR. Further, the applicant shall prepare and submit a project specific geotechnical report prepared for the project by a licensed geologist, under the direction of the City of Beverly Hills and in accordance with all applicable local, state, and federal regulations and standards such as the UBC and Title 9 of the Beverly Hills Municipal Code. The geotechnical report may refine the mitigation measures identified in the Preliminary Soils Engineering Investigation Report and Update letter, and shall also include whether any geologic fault transverses the project site, the potential for expansive soils, liquefaction hazards or other geologic conditions requiring remediation, as well as depth of groundwater. The geotechnical report shall be reviewed and approved by the Building and Safety Division prior to issuance of any grading or building permits. Should a fault, expansive soils, liquefaction hazards, shallow groundwater or other conditions requiring remediation be identified, then the report shall specify any additional remediation measures to be implemented with the approval of the Building and Safety Division. Project construction shall only be allowed to occur if remediation measures satisfy the requirements of the City and the State Division of Mines and Geology and the project can be constructed in a manner which complies with geotechnical safety based building code requirements.

(b) Facts in Support of Findings

The proposed project would introduce a new building into southern California, a seismically active area. Geotechnical hazards are therefore classified as a potential significant impact. According to the Preliminary Soils Engineering Investigation Report prepared by T.K Engineering, the project site is suitable for the proposed development, provided that the recommendations on the soils/geotechnical report which are designed to mitigate area seismic and soil conditions are followed. Seismic safety impacts can therefore be adequately mitigated

through implementation of the measures contained in the final geotechnical/soils report for the project.

Construction of the proposed project requires excavation for the subterranean garage which extends 22 feet below the existing grade. As is common with many projects, excavation for the subterranean parking will be up to, or in close proximity to the property lines. Since there is no space for sloped embankments, a shoring system will be installed prior to excavation. There is the potential for damage to the existing adjacent buildings and utilities in the adjacent street if the shoring system does not perform adequately. This would be a significant impact of the proposed project, which can be mitigated through implementation of standard City and Building Code requirements. Regulatory Measure Geo-1 will ensure any impact is reduced to a less than significant level.

B. HYDROLOGY AND WATER QUALITY

1. Water Quality Impact

Dewatering associated with the development of the Project has the potential to cause a water quality impact. However, with the incorporation of mitigation, any impact will be reduced to a less than significant level.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential water quality impact Specifically, the following measures are imposed upon the Project to ensure a less than significant impact:

Measure Hydro–1 (Regulatory Requirement) - A drainage plan shall be prepared for the project and shall be reviewed and approved by the City's Building and Safety Division and Public Works and Transportation Department prior to approval of project plan. The drainage plan shall identify storm water runoff volumes for the entire site and shall identify the capacity of local storm sewers. The drainage plan shall provide the necessary detention and conveyance infrastructure to ensure that the existing storm sewer capacity would not be exceeded during a design flood via a selection of Best Management Practices from the "Municipal Best Management Practices Handbook", produced and published by the Storm Water Quality Task Force or other mechanisms acceptable to the Building and Safety Division. Examples of BMPs that may be implemented to meet this regulatory requirement include: bio retention planter boxes, vegetated drainage swales and strips, and infiltration wells.

Measure Hydro–2 (Regulatory Requirement) - Prior to the issuance of a grading permit by the City, a Water Quality Management Plan (WQMP) shall be prepared for the project and reviewed and approved by the City's Building and Safety Division and Public Works and Transportation Department. The Plan shall identify the site design, source control and treatment control Best Management Practices (BMPs) that will be implemented on the site to control predictable pollutant runoff and any dewatering of the subterranean parking

structure. A selection of Best Management Practices that can be implemented on the site to control predictable pollutant runoff and any dewatering of the subterranean parking structure are listed in the "Municipal Best Management Practices Handbook", produced and published by the Storm Water Quality Task Force. Examples of BMPs that may be implemented to meet this regulatory requirement include: fossil filters to treat and discharge shallow groundwater to the nearest storm drain; Baker tanks to collect shallow groundwater and haul it to an approved site; sand bags to retain activities runoff on site; and an appropriate tire washing station or tire sediment shakers to limit sediments from being carried off site.

Measure Hydro-3 (Regulatory Requirement) - Prior to issuance of any grading or building permits, the project applicant shall comply with the requirements of Section 9-4-506 of the City's Municipal Code which are applicable to residential projects of 10 units or more and prepare and submit to the City of Beverly Hills a Standard Urban Stormwater Mitigation Plan (SUSMP), to be prepared in accordance with the Los Angeles County Manual for the Standard Urban Storm Water Mitigation Plan, which details the requirements of the SUSMP. The project's SUSMP shall be submitted along with the final building and drainage plans for the project for review and approval of the City's Public Works Department prior to issuance of demolition, grading and construction permits for the proposed project. The drainage plan shall identify storm water runoff volumes for the entire site and shall identify the capacity of local storm sewers. The drainage plan shall demonstrate to the satisfaction of the City's Public Works Department that project plans include sufficient detention and conveyance infrastructure to ensure that the existing storm sewer capacity would not be exceeded during a design flood. The SUSMP shall demonstrate retention of runoff in-site to the satisfaction of the City's Public Works Department using best available technologies or practices selected by the applicant from the "Municipal Best Management Practices Handbook", produced and published by the Storm Water Quality Task Force. Examples of BMPs that may be implemented to meet this regulatory requirement include: down spout filters to treat roof drain runoff; runoff captured by planter box filters which collect and further treat roof runoffs; infiltration basins to collect surface runoff for use as an additional irrigation water source; and inclusion of a fossil filter treatment system as part of the dewatering system to reduce any potential constituents discharged to the storm drain system. Any dewatering system must be permitted by the Regional Water Quality Control Board. The project plans shall demonstrate that adequate site drainage can be accomplished without use of curb drains and that downspouts are designed to discharge to vegetation areas without affecting the integrity of the building.

Measure Hydro-4 (Regulatory Requirement) - Prior to the start of soil disturbing activities at the site, a Stormwater Pollution Prevention Plan (SWPPP) shall be prepared in accordance with, and in order to partially fulfill, the California SWRCB Order No. 99 -08 -DWQ, NPDES General Permit No. CAS000002 (General Construction Permit). The project applicant shall submit

and have the SWPPP approved before issuance of the construction permit for the proposed project. The SWPPP shall specify the erosion control plans for the project and demonstrate that SWPPP includes adequate measures to protect nearby catch basins from pollution and to keep water in site. Structural or treatment control Best Management Practices (BMPs), including, as applicable, post construction treatment control BMPs set forth in project plans shall meet the design standards set forth in the SUSMP and the current municipal NPDES permit. The SWPPP shall meet the applicable provisions of Sections 301 and 402 of the CWA and Title 9, Chapter 4, Article 5, Storm Water and Urban Runoff Pollution Control from the Beverly Hills Municipal Code by requiring controls of pollutant discharges that utilize best available technology (BAT) and best conventional pollutant control technology (BCT) to reduce pollutants. Examples of BAT/BCT that may be implemented during site grading and construction to meet this regulatory requirement include: sand bagging and fencing the site perimeter; protecting nearby catch basins using filter sheets or sand bags to prevent any debris from entering the storm drain system; tire washing stations or tire shakers to reduce sediment tracking off the site; designated areas for cement or chemical materials with BMPs that will contain any potential spill or runoff; and good housekeeping practices to reduce potential pollution runoff.

Measure Hydro-5 (Regulatory Requirement) –The project applicant shall comply with the requirements of the City's dewatering ordinance, Section 9-4-610 of Article 6 of Chapter 4 of Title 9 of the Beverly Hills Municipal Code and obtain a dewatering permit for the proposed project from the City. The City shall not issue the dewatering permit unless dewatering activities would be consistent with requirement of the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles", issued by the California Regional Water Quality Control Board - Los Angeles region, (order no. 96-054), dated July 15, 1996. In addition, the applicant shall be required to obtain an NPDES permit for the dewatering phase of construction from the Regional Water Quality Control Board prior to issuance of construction permits.

Measure Hydro-6 (Regulatory Requirement) – If it is determined by the project civil engineer that a permanent dewatering system is required for the project, the project applicant shall apply for and obtain a dewatering NPDES permit from the Regional Water Quality Control Board and a Shallow Groundwater Permit from the City of Beverly Hills, prior to issuance of the occupancy permit for the proposed project.

(b) Facts in Support of Findings

Regulatory measures Hyrdro-1 and Hydro-2 are standard City Conditions of Approval which ensure compliance with standard regulatory requirements. The remaining measures detailed above would be required in order to ensure a less than significant water quality impact associated with dewatering activities on the project site. As stated more fully in the EIR, groundwater seepage beneath the project site was encountered in the test boring at 26 feet

below ground surface. However, the depth of seepage water will fluctuate over time. The project would construct below-grade parking to a depth of approximately 22 feet below ground surface and during construction, excavation may extend several feet further to allow installation of the garage floor. Consequently, excavation for the subterranean parking may encounter water, and dewatering may be necessary during construction, although volumes are not anticipated to be large, given the depth of the parking structure in relation to current groundwater levels. Dewatering may also be necessary over the operational life of the proposed project. Water would then be discharged into the City storm drain system and could degrade downstream water quality. This is considered a significant water quality impact. This impact can be mitigated through compliance with the City's dewatering ordinance, Section 9-4-610 of Article 6 of Chapter 4 of Title 9 of the Beverly Hills Municipal Code and applicable NPDES permits as detailed in the mitigation measures for the project. Measures Hydro-3 through Hyrdo-6 would ensure any water quality impact is reduced to a less than significant level.

C. HAZARDS AND HAZARDOUS MATERIALS

1. Exposure to Hazardous Materials

Implementation of the proposed project requires demolition of the existing structure which has the potential to release hazardous materials. Implementation of mitigation would be required to ensure a less than significant impact.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential release of hazardous materials impact. Specifically, the following mitigation measure is imposed upon the Project to ensure a less than significant impact:

> **Measure Haz-1 - Asbestos** - Pursuant to Section 9-1-104 of the City's Municipal Code, the building shall be inspected for the presence of asbestos. If the building is found to contain asbestos, the building owner or his representative shall submit a letter to the Director of Building and Safety so stating. If the building is found to contain asbestos, then an asbestos abatement permit shall be obtained from the department upon submittal by the applicant of all necessary documentation as required by Rule 1403 of the South Coast Air Quality Management District. Demolition permits shall then be issued upon submittal of an asbestos abatement completion certificate by qualified contractors. All testing procedures shall follow recognized local standards as well as established California and Federal assessment protocols and SCAQMD Rule 1403. The report of the results of the testing shall identify the location and type of all asbestos in the existing building and shall quantify the areas of asbestos containing materials. Prior to any demolition or renovation, of areas containing asbestos, the asbestos containing material shall be removed in accordance with proper abatement procedures recommended by the asbestos consultant and as required by the SCAQMD. Such measures may include requirements for encapsulation or transport to an appropriate disposal facility.

All abatement activities shall be in compliance with California and Federal OSHA, and with the SCAQMD requirements including SCAQMD Rule 1403. Following completion of the asbestos abatement, the asbestos consultant shall provide a report to the Community Development Department documenting the abatement procedures used, the volume of asbestos-containing materials removed, where the material was moved to, and include transportation and disposal manifests or dump tickets.

Measure Haz-2 Lead - Prior to the issuance of a permit for the demolition of any structure on the project site, the developer shall contract with a licensed lead based paint consultant to conduct sampling of the structure to evaluate for the presence of lead-based paint. Any identified lead based paint located within the building scheduled for demolition shall be abated by a licensed lead based paint abatement contractor, and disposed of according to all state and local regulations. Such measures may include requirements for encapsulation or transport to an appropriate disposal facility. All abatement activities shall be in compliance with California and Federal OSHA requirements. Only lead-based paint trained and certified abatement personnel shall be allowed to perform abatement activities. All lead-based paint removed from these structures shall be hauled and disposed of by a transportation company licensed to transport this type of material. In addition, the material shall be taken to a landfill or receiving facility licensed to accept the waste. Following completion of the lead based paint abatement, the lead based paint consultant shall provide a report to the Community Development Department documenting the abatement procedures used, the volume of lead based paint materials removed, where the material was moved to, and include transportation and disposal manifests or dump tickets.

(b) Facts in Support of Findings

Implementation of the proposed project would include demolition of the existing building on the project site which was constructed in 1935. Building materials sometimes contain hazardous materials that could be released during demolition. The most common hazardous building materials are mercury from old lighting fixtures, asbestos, PCBs and lead. Because of the age of the structure there are several materials, including asbestos containing materials (ACM), lead-based paints (LBP), and PCBs, that may have been used in the construction of the structure, necessitating testing.

Until the 1970s, many types of building products and insulation materials used in homes contained asbestos. Asbestos, which is made up of microscopic fibers, is a naturally occurring mineral with unique qualities which include its strength, fire resistance, resistance to chemical corrosion, poor conduction of heat, noise, and electricity and low cost. Asbestos was widely used in the building industry for a variety of uses, including acoustic and thermal insulation and fireproofing. Asbestos is often found in ceiling and floor tiles, linoleum, and pipes, as well as on structural beams and asphalt.

Lead is a naturally occurring element and heavy metal that was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. Lead compounds

continued to be used as corrosion inhibitors, pigments, and drying agents from the early 1950s to 1972, when the Consumer Products Safety Commission specified limits on lead content in such products. Based on the date of construction, it is likely that lead based paint was used in the construction of the building.

Given the age of the existing apartment building on the project site, there is the potential for project demolition to result in exposure to hazardous materials such as lead and asbestos. This would be a significant impact of the proposed project, which can be mitigated to a level which is less than significant through compliance with the measures detailed above. These measures would require asbestos abatement and lead paint abatement if discovered.

VII. Environmental Effects that Remain Significant and Unavoidable After Mitigation.

In the environmental areas of aesthetics and cultural resources there are instances where environmental impacts would remain significant and unavoidable after mitigation. These areas are discussed below.

A. AESTHETICS

1. Neighborhood Compatibility Impacts

The proposed Project has the potential to be incompatible with the surrounding neighborhood. Although the Applicant has revised the project to address this concern, this impact is still considered significant and unavoidable even with the project revisions and the implementation of mitigation detailed below.

(a) Findings

Changes or alterations have been required in, or incorporated into the Project to attempt to lessen any neighborhood compatibility impact. More specifically, Mitigation Aesthetics-1 is imposed to lessen the significant impact. Nevertheless, this impact will remain significant and unavoidable.

There are no feasible mitigation measures other than Mitigation Aesthetics-1 articulated below that would reduce any potentially significant neighborhood compatibility impact to a less than significant level. Accordingly, specific economic, social, technological, or other considerations make infeasible other mitigation and project alternatives identified in the EIR.

> **Mitigation Aesthetics-1** – The Project shall be subject to review and approval by the City's Architectural Commission. As part of this review and approval, the Project applicant shall provide examples of the materials, finishes, and design elements of the Project, which may be subject to modification by the City's Architectural Commission. Modifications recommended by the City's Architectural Commission shall be incorporated into the design of the Project prior to the issuance of building permits. Any potential modifications, may

include, but not be limited to alterations in the types of materials, finishes, exterior design elements, and landscaping.

(b) Facts in Support of Findings

The proposed project entails construction of a new condominium building on the subject property which contains an historical resource as more fully discussed in the EIR. In its place, a new four-story, 45-foot high, 24,906 square foot building containing 14 units (previously 13 as detailed in the EIR) with two levels of subterranean parking accessed from the alley, is proposed.

The proposed development consists of new construction immediately adjacent to and in close proximity to several identified contributing resources within the potential historic district. The property directly adjacent to the project site to the east (9932 Durant Drive) is a 2-story, Colonial Revival multi-family residence like the existing building on the project site. The presence of these contributing resources largely defines the visual character of the neighborhood.

The introduction of contemporary buildings into the neighborhood whose character is primarily defined by the presence of contributors to a potential historic district has the potential to visually impact neighborhood character if the design of the new construction is not compatible with these contributing resources. Rehabilitation standards 9 and 10, of the Secretary's Standards, provide a means of assessing potential impacts of new construction on an adjacent historical resource and/or an historic district and are thus useful in determining if new construction would be incompatible with the existing neighborhood character. Standard 9 requires that new construction be "differentiated from the old" and "compatible" with the historical resource, while Standard 10 requires reversibility. In assessing conformance of the proposed project with the requirements of Standard 9, differentiation from the old is generally achieved through contemporary design, and compatibility in a combination of elements. Specifically, new construction projects found to be compatible with historic buildings tend to use similar or complementary materials, repeat and/or respect the heights of floors, rhythms, depths of bays, and proportions, use compatible window/door openings and types, and correspond to roof heights and shapes.

As shown in Figure 3.1-9 of the EIR, the design of the originally proposed project analyzed in the EIR does not: use similar or complementary materials; repeat and/or respect the heights of floors, rhythms, depths of bays, and proportions; use compatible window/door openings and types; or include similar roof heights and shapes. The new building appears generally as a solid structure with a flat roof. The façade incorporates some articulation, including an inset entry and open balconies at the east elevation. A solid tower element in a contrasting material is located directly adjacent to the main, centrally located entrance. Although the originally proposed project does use complementary materials by cladding the majority of the building in scored stucco, the contrasting material of the solid tower element draws attention to its dissimilarity to other buildings in the neighborhood.

The originally proposed project is the same height as the contemporary building located directly to the west, which is the tallest building in the Durant Drive neighborhood. This

building, 9950 Durant Drive, located adjacent to the project site is five stories high with parking located at the ground floor level. The remaining three of the four properties constructed after 1960 in the neighborhood are three stories high, constructed on a podium over partially subterranean parking. The originally proposed project's height is not compatible with the property located directly to the east and other nearby contributing resources to the potential Speedway Tract (7710) historic district on Durant Drive which are nearly all two stories in height.

In addition, there is no relationship between the floor heights or roof lines of the originally proposed project and adjacent and nearby contributing resources. This contrast is especially evident given the strong articulation of floor heights identified in stringcourses in many of the surrounding buildings. The proposed project respects the front yard setback of the street, but it does not repeat the rhythm or depth of bays of adjacent and nearby contributing resources. Fenestration appears to be considerably larger than surrounding properties, resulting in a substantially disproportionate pattern of solid to void. In addition, the plane of the front elevation steps back at the third and fourth floors, which also contrasts with the pattern of solid to voids as well as the depth of bays of other buildings in the neighborhood.

Finally, proportions of the originally proposed project are substantially larger than buildings on Durant Drive, including three of the four buildings constructed after 1960 that do not contribute to the potential historic district.

While the originally proposed project appears differentiated from adjacent and nearby contributing resources to the potential historic district, there does not appear to be compatibility between them. The originally proposed project is so entirely distinct, aside from its use of stucco as a cladding material, there is not any relationship between it and adjacent and nearby contributing historical resources. Therefore, the proposed project would degrade the existing visual character or quality of the site and its surroundings and have an aesthetic impact on the neighborhood due to its design incompatibility with adjacent and nearby contributing resources to the potential historic district which create the neighborhood's aesthetic character, and to the neighborhood's sense of time and place.

In an effort to reduce this impact, the Applicant submitted a revised design of the project. The revised project includes a American Colonial Revival/Georgian design which is more relevant to the existing street character. The revised project also includes a reconfiguration of the building layout, more articulation along the front façade achieved by stepping back the building on the ground floor and fourth floor and creating a 12-foot recessed area at the building entrance. The new design provides the same design elements for all four sides of the building. Additionally, the revised building façade is set back 14-feet from the front property line with architectural features extending four feet from the façade.

While the revised design is more compatible with the existing buildings along this portion of Durant Drive, even with the implementation of mitigation Aesthetics-1 that requires Architectural Commission review, this impact to neighborhood compatibility will remain significant. Thus, this impact is considered to be significant and unavoidable.

B. CULTURAL RESOURCES

1. Demolition of an Historic Resource

The proposed project entails the demolition of an existing property that contains a historical resource and is considered to be a significant impact. Even with the imposition of mitigation, this impact will remain significant and unavoidable.

(a) Findings

Changes or alterations have been required in, or incorporated into the Project to attempt to lessen any significant impact related to the demolition of an historic resource. More specifically, Mitigation Cultural-1 detailed below will attempt to lessen any potentially significant impact.

There are no feasible mitigation measures other than Mitigation Cultural-1 articulated below that would reduce any potentially significant impact related to the demolition of an historic resource to a less than significant level. Accordingly, specific economic, social, technological, or other considerations make infeasible other mitigation and project alternatives identified in the EIR.

> **Mitigation Cultural-1** - Prior to issuance of a demolition permit, the existing condition of historical resource shall be documented photographically and in a written narrative. The photographs shall be taken by a professional photographer with experience documenting historic buildings under direction of an architectural historian who meets the *Secretary of the Interior's Professional Qualifications Standards* in architectural history. Photographic documentation shall include one set of large (4 x 5-inch) and medium (6 x 7-centimeter) format black and white negatives and two sets of 8 x 10 inch photographic prints on black and white paper. Film, contact prints, and enlargements shall be archivally processed. The architectural historian shall prepare a written narrative description of the historical resource. The format of the written narrative shall be based on Historic American Buildings Survey (HABS) guidance for such written narrative documentation.
>
> The following documentary materials shall be submitted to the Community Development Director for review and comment: photographic quality black and white copies of all documentation photographs, and photocopies of the written narrative. Upon review and comment and when final edits are approved by the Community Development Director, the original documentation package items shall be deposited in the collection of the Beverly Hills Public Library (negatives, proof sheets, one set of 8 x 10 inch prints, written narrative, any other specified documentation) and in the collection of the California Historical Resource Information Center (one set of 8 x 10 inch prints, written narrative, State of California Department of Parks and Recreation "DPR" series forms, any other specified documentation).

(b) Facts in Support of Findings

The proposed project entails construction of a new condominium building on the subject property which contains an historical resource, a courtyard building designed by renowned architect Robert V. Derrah. Construction of the proposed project necessitates demolition of the existing 1935 building which was found to be an historical resource. According to the thresholds detailed in the EIR, the project will result in a significant impact if it demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance. Demolition of the identified historical resource would constitute a substantial adverse change to that resource and this is deemed a significant impact on the environment. Even with the implementation of Mitigation Cultural-1 which requires historical documentation, this impact will remain significant and unavoidable.

2. Adverse Impact on potential historic district known as the Speedway Tract Historic District.

The proposed project entails the demolition of an existing property that contains a historical resource and is considered to be a significant impact. That structure is one component of a potential historic district, and demolition of the structure would cause a significant impact that, even with the imposition of mitigation, will remain significant and unavoidable.

(a) Findings

Changes or alterations have been required in, or incorporated into the Project to attempt to lessen any significant impact related to the demolition of an historic resource. More specifically, Mitigation Cultural-1 detailed below will attempt to lessen any potentially significant impact.

There are no feasible mitigation measures other than Mitigation Cultural-1 articulated below that would reduce any potentially significant impact to the potentially historic Speedway Tract related to the demolition of an historic resource to a less than significant level. Accordingly, specific economic, social, technological, or other considerations make infeasible other mitigation and project alternatives identified in the EIR.

> **Mitigation Cultural-1** - Prior to issuance of a demolition permit, the existing condition of historical resource shall be documented photographically and in a written narrative. The photographs shall be taken by a professional photographer with experience documenting historic buildings under direction of an architectural historian who meets the Secretary of the Interior's Professional Qualifications Standards in architectural history. Photographic documentation shall include one set of large (4 x 5-inch) and medium (6 x 7-centimeter) format black and white negatives and two sets of 8 x 10 inch photographic prints on black and white paper. Film, contact prints, and enlargements shall be archivally processed. The architectural historian shall prepare a written narrative description of the historical resource. The format of the written narrative shall be

based on Historic American Buildings Survey (HABS) guidance for such written narrative documentation.

The following documentary materials shall be submitted to the Community Development Director for review and comment: photographic quality black and white copies of all documentation photographs, and photocopies of the written narrative. Upon review and comment and when final edits are approved by the Community Development Director, the original documentation package items shall be deposited in the collection of the Beverly Hills Public Library (negatives, proof sheets, one set of 8 x 10 inch prints, written narrative, any other specified documentation) and in the collection of the California Historical Resource Information Center (one set of 8 x 10 inch prints, written narrative, State of California Department of Parks and Recreation "DPR" series forms, any other specified documentation).

(b) Facts in Support of Findings

The proposed project entails demolition of an existing historic structure that is an integral component of a well in tact potentially historic district – the Speedway Tract – followed by construction of a new condominium building on the subject property that would not share the character and historicity of the Speedway Tract. The Planning Commission finds that the demolition of the identified historical resource would constitute a substantial adverse change to the potentially historic Speedway Tract that is deemed a significant impact on the environment. Even with the implementation of Mitigation Cultural-1, which requires historical documentation, this impact on the Speedway Tract will remain significant and unavoidable.

VIII. Project Alternatives.

The Planning Commission considered a range of reasonable alternatives for the proposed Project including, Alternative 1 – No Project Alternative/No Change Alternative, Alternative 2 – Condo Conversion, Alternative 3 – New Four Story Building at Rear of Existing Building, Alternative 4 – New Four Story Building at Rear of Existing Building with Truncated East and West Wings, Alternative 5 – Contemporary Compatible Design.

Alternatives 1, 2, 3, 4, and 5 that were analyzed in the EIR are discussed below and the basis for rejecting each of these alternatives as infeasible is analyzed.

A. ALTERNATIVE 1 – NO PROJECT/NO CHANGE ALTERNATIVE

1. Summary of Alternative

Under this alternative, there would be no change to the existing building or use. As shown in Figure 5-1 of the EIR, the existing building and garage with attached garden pavilion, would remain on the site and would continue as rental property. Maintenance of the property would continue at current levels.

The two-story, 28 foot tall, 12,145 square foot apartment building with five dwelling units would remain. This existing Colonial Revival-style apartment building was constructed in 1935. It was designed by architect Robert V. Derrah who is best known for his Streamline Moderne designs at the Southern California Gas Company, the Coca-Cola Bottling Plant and

Crossroads of the World. As shown in Figure 5-1 of the EIR, the existing building is built on a U-shaped plan. The symmetrical building's center section is open on the ground floor and functions as a passageway to a center landscaped courtyard. Within the formally landscaped courtyard are brick paths flanked by low, clipped hedges, a center lawn area, a pavilion, and climbing vines and bougainvillea on wood trellises. The existing eight one-story rectangular garages which open onto the rear (south) alley would also remain as the parking for the on-site use.

2. Reasons for Rejecting Alternative: Infeasibility

Alternative 1 would eliminate the significant unmitigatable cultural resource impact of the project resulting from the demolition of the existing building which is a cultural resource, as well as the aesthetic impact of the project on the neighborhood. As with the project, impacts to the potential historic district would be less than significant, but further lessened by Alternative 1. The mitigatible geotechnical, hydrology and hazardous materials impacts of the project would not occur. As with the project, there would be no parking impact due to consistency with the applicable zoning code at the time of the building's construction. However, unlike the project, under this alternative provided parking would be less than current code requirements.

The following fundamental project objectives would not be met by Alternative 1 as there would be no change to the existing building or fixtures:

• To maximize water and waste water management.

• To maximize energy conservation.

The following fundamental project objectives would also not be met by Alternative 1:

• To comply with the City's Green Building Program- although compliance would not be required by this alternative.

• To provide overall planning efficiency for development of a multi-family structure. No additional units would be provided.

• To provide two moderate income affordable units.

• To provide parking that complies with current Municipal Code requirements – although compliance with the current per unit code requirements is not required by the Municipal Code for this alternative.

• To convert the use on the project site from rental property to condominium units suitable for sale.

• To realize an increased economic return on the property.

The following fundamental project objective would be met:

• To select planting material that complements the architectural style.

Thus, as can be seen from above, many of the project objectives would fail to be met with Alternative 1 and therefore the Planning Commission finds this as a basis for rejecting this Alternative as socially infeasible.

The Planning Commission hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 1 as infeasible, and by itself, independent of any other reason, would justify rejection of Alternative 1 as infeasible.

B. ALTERNATIVE 2 – COMMON INTEREST DEVELOPMENT (CID OR CONDO CONVERSION)

1. Summary of Alternative

Under this alternative, the existing building and garage with attached garden pavilion would remain on the site and the existing building would be converted to condominiums. Conversion to condominiums does not require any major alterations to the building exterior as shown in Figure 5.1 of the EIR.

The City of Beverly Hills Municipal Code §10.2.707.B allows for conversion of an existing property to a condominium allowing modification or waiver of the current building codes and zoning regulations if the property is a "character contributing building." When the Planning Commission designates a building "a character contributing building," the project may receive relief from current development regulation when compliance with such regulations would require physical alterations to that structure that would damage or remove the character defining features of the building. A character contributing building is defined as: "any multi-family residential building that the planning commission determines, due to its proportions and scale, design elements, and relationship to the surrounding development, is of continued value and contributes to defining the character of the community as a whole."

Article 7, Section 10-2-709 of the City's Zoning Code specifies the physical standards for residential conversions and includes provisions in subsection E which would allow character contributing buildings to be exempt from current landscape and open space requirements. Subsection H specifies the following parking requirements for character contributing buildings:

"Notwithstanding the foregoing, in connection with an application to convert a character contributing building to a common interest development, the planning commission may permit the modification of the required number of on site parking spaces and the minimum standards with regard to stall and aisle dimensions for required parking spaces provided the commission finds that, due to the existing physical limitations of said character contributing building, strict application of the provisions of this subsection would require physical alterations to the structure that would irreparably damage or remove the character defining features of the building. Under no circumstances, however, may the planning commission approve an application to convert an existing multi-family residential apartment building or a common interest development previously created prior to January 1, 2006, to a common interest development that provides less than one covered parking space per unit."

The building's existing eight parking spaces could thus be allowable with planning commission approval of the alternative.

Because the property would continue to be used for multi-family housing, no major alternations are required except for conformance to mandatory minimum zoning and building codes standards, as required. Maintenance of the property would continue at current levels.

2. Reasons for Rejecting Alternative: Infeasibility

Alternative 2 would eliminate the significant unmitigatable cultural resource impacts of the project resulting from the demolition of the existing building which is a cultural resource, as well as the aesthetic impact of the project on the neighborhood. As with the project, impacts to the potential historic district would be less than significant, but further lessened by Alternative 2. The mitigatible geotechnical, hydrology and hazardous materials impacts of the project would not occur. As with the project, there would be no parking impact. However, unlike the project, under this alternative provided parking would be less than current code requirements.

The following fundamental project objectives would not be met by Alternative 2:

• To comply with the City's Green Building Program- although compliance would not be required by this alternative.

• To provide overall planning efficiency for development of a multi-family structure. There would be no increase in units.

• To provide two moderate income affordable units.

• To provide parking that complies with current Municipal Code requirements – although compliance with the current per unit code requirements is not required by the Municipal Code for this alternative.

The following fundamental project objective would be met:

• To select planting material that complements the architectural style.

• To convert the use on the project site from rental property to condominium units suitable for sale.

• To realize an increased economic return on the property.

The following fundamental project objectives would have the potential to be partially realized by Alternative 2:

• To maximize water and waste water management.

• To maximize energy conservation.

Although Alternative 2 would eliminate some of the environmental impacts as detailed above, it would fail to meet parking code requirements, and would also fail to meet many of the

project objectives including the provision for two affordable housing units for the City. As such, this Alternative 2 is socially infeasible, and is rejected.

The Planning Commission hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 2 as infeasible, and by itself, independent of any other reason, would justify rejection of Alternative 2 as infeasible.

C. ALTERNATIVE 3 – NEW FOUR STORY BUILDING AT REAR OF EXISTING BUILDING

1. Summary of Alternative

Under Alternative 3, all character-defining features of the subject property would be retained, including the main building, landscaped courtyard, and garden pavilion. As shown in Figure 5-2 in the EIR, the existing garage would be demolished and one or two levels of subterranean parking would be constructed below the subject property and courtyard. This alternative would require design review of architectural plans by the City's Architectural Commission and the preservation architect to ensure consistency with the conceptual design as well as compatibility of mass, materials, relationship of solids to voids, scale, style, rooflines and color with immediately adjacent and nearby identified historical resources which serve to define the neighborhood character.

Under Alternative 3 a new, four-story residential building would be constructed at the rear of the property, immediately adjacent to the main building without any space between the two, while maintaining code required side and rear yard setbacks. The new residential building at the rear of the property would add approximately 6,300 square feet, and up to four units, for a total of 18,445 square. The garden pavilion would be salvaged and reinstalled in its existing location and landscaped courtyard replanted. It is likely the east and west wings of the main building will require additional shoring during subterranean excavation, although it is also possible that subterranean excavation for parking will necessitate temporary relocation of the existing building off site.

Alternative 3 also includes the possibility of a third floor addition on the rear of the east and west wings of the main building. These additions may also contain rooftop patios. The two rooftop additions at the rear of each east and west wings would add approximately 1,124 square feet for a total of 19,569 square feet. It is assumed that this alternative includes up to 10 units. It is likely the east and west wings of the main building will require additional shoring to allow for a roof top addition.

2. Reasons for Rejecting Alternative; Infeasibility

Alternative 3 would eliminate the significant unmitigatable cultural resource impact of the project resulting from the demolition of the existing building which is a cultural resource, as well as the aesthetic impact of the project on the neighborhood. Unlike the project, impacts to the potential historic district would be less than significant. Like the proposed project, this alternative would have mitigatible geotechnical, hydrological and hazardous materials impacts. As with the project, there would be no parking impact.

The following fundamental project objectives would not be met by this alternative:

• To provide two moderate income affordable units. Although the applicant would have the option to make two of the new units moderate income affordable units, this alternative does not provide an incentive for the applicant due to the smaller square footage of this alternative compared to the project.

The following fundamental project objectives may be met by Alternatives 3:

• To provide overall planning efficiency for development of a multi-family structure. Nine or ten units would be provided.

• To convert the use on the project site from rental property to condominium units suitable for sale.

• To realize an increased economic return on the property. However, per unit construction costs may be greater under this alternative than the proposed project, due to the greater complexity of constructing parking under the existing building.

• To provide parking that complies with current Municipal Code requirements.

• To comply with the Green Building Program because the addition will be more than 50% of the existing building.

• To maximize water and waste water management.

• To maximize energy conservation.

• To select planting material that complements the architectural style.

Alternative 3 fails to meet the project objective of providing affordable housing for the City as the Applicant has no incentive to provide such housing. Thus, even though the environmental impacts appear to be lessened with this alternative, this Alternative is rejected as socially infeasible.

Because this alternative will not meet the project objective to provide much needed affordable housing in the City, the Planning Commission rejects this alternative as infeasible. The Planning Commission hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 3 as infeasible by itself, and independent of any other reason would justify rejection of Alternative 3 as infeasible.

D. ALTERNATIVE 4 – NEW FOUR STORY BUILDING AT REAR OF EXISTING BUILDING WITH TRUNCATED EAST AND WEST WINGS

1. Summary of Alternative

Under Alternative 4, the east and west wings of the main building would be truncated by approximately half, as would be the landscaped courtyard, as Shown in Figure 5-3 of the

EIR. This alternative would require design review of architectural plans by the City's Architectural Commission and the preservation architect to ensure consistency with the conceptual design as well as compatibility of mass, materials, relationship of solids to voids, scale, style, rooflines and color with immediately adjacent and nearby identified historical resources which serve to define the neighborhood character.

Under Alternative 4, the garages would be demolished and two levels of subterranean parking would be constructed below the east and west wings and courtyard. A new, four-story residential building would be constructed at the rear of the property, immediately adjacent to the main building without any space between the two, while maintaining code required side and rear yard setbacks. The new residential building at the rear of the property would add approximately 12,332 square feet for a total of approximately 24,071 square feet. Because the addition is greater than 50% the alternative would be subject to the City's Green Building requirements. This alternative could allow for up to 13 units, depending on the configuration used, although it is likely that a smaller number would be provided. The garden pavilion would be salvaged and reinstalled at the rear of the truncated, replanted landscaped courtyard. It is likely the east and west wings of the main building will require additional shoring during subterranean excavation, although it is also possible that subterranean excavation for parking will necessitate temporary relocation off site.

2. Reasons for Rejecting Alternative: Infeasibility

This alternative would eliminate the significant unmitigatible aesthetics impact of the project on the neighborhood. As with the project, the cultural resource impact to existing 9936 Durant Drive, which is a cultural resource would be significant and unmitigatible. Unlike the project, impacts to the potential historic district would be less than significant. Like the proposed project, this alternative would have mitigatible geotechnical, hydrological and hazardous materials impacts. As with the project, there would be no parking impact.

The following objectives would not be fully met by this alternative:

• None

The following fundamental project objectives may be met by Alternative 3:

• To convert the use on the project site from rental property to condominium units suitable for sale.

• To realize an increased economic return on the property. However, per unit construction costs may likely be greater under this alternative than the proposed project, due to the greater complexity of constructing parking under the existing building and the roof addition.

• To provide parking that complies with current Municipal Code requirements.

• To maximize water and waste water management.

• To maximize energy conservation.

• To select planting material that complements the architectural style.

• To provide overall planning efficiency for development of a multi-family structure. This alternative may allow for up to 13 units, as it includes approximately 24,000 square feet which is similar to the project's 24,906 square feet. However, it is anticipated given the building configuration that 10 or 11 units would be provided.

• To provide two moderate income affordable units. The applicant would have the option to make two of the new units moderate income affordable units, and to provide 13 units on-site.

• To comply with the Green Building program because the addition will be more than 50% of the existing building.

It is unclear whether Alternative 4 would meet all of the project objectives, although it has the potential to meet these objectives. However, the configuration of the design may only allow for 10 or 11 units as noted above, thereby potentially limiting the ability of affordable units to be included. As this Alternative 4 has potential uncertainties with regard to the number of units to be included and it has the potential to fail to meet some project objectives, the Planning Commission hereby rejects it as infeasible.

The Planning Commission hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 4 as infeasible, and by itself, independent of any other reason, would justify rejection of Alternative 4 as infeasible.

E. ALTERNATIVE 5 – CONTEMPORARY COMPATIBLE DESIGN

1. Summary of Alternative

Under this alternative the exterior of the new building proposed to replace the existing historical 9936 Durant Drive building would be redesigned by the project applicant to provide for a contemporary building which is compatible with the Durant Drive neighborhood. The envelope of the project would be limited to that currently proposed and analyzed as the project in this EIR. The envelope of the building, number of units, and location, size and access of the subterranean parking structure would be no greater than currently proposed.

As with Alternatives 3 and 4, to ensure compatibility, designs for the proposed new construction would be reviewed, and approved for conformance with Secretary's Standards applicable to contemporary but compatible new construction by the a preservation architect meeting the Secretary of the Interior's Professional Qualifications Standards in historic architecture. He/she would be required to hold a valid license to practice architecture in the State of California and have extensive demonstrated experience specific to rehabilitating historic buildings and applying the Secretary's Standards to such projects. Recommended modifications from the preservation architect would be reviewed and approved by the City's Architectural Commission and would be required to be incorporated in the project design prior to issuance of building permits. The cost of redesign and review would be at the applicant's expense.

Review of project design would be required to assess if the proposed building is compatible in mass, materials, relationship of solids to voids, scale and color with immediately adjacent and nearby identified historical resources and with the character of the Durant Drive neighborhood. "The relationship of buildings to each other, setbacks… views, driveways and walkways and street trees together create the character of a district or neighborhood." Without imitating the features of historic buildings in the immediate surroundings, the design for adjacent contemporary buildings should: 1) use similar or complimentary materials; 2) repeat and/or respect setbacks, heights of floors, rhythms and depths of bays; and 3) use compatible window/door openings and types. This will help maintain the existing character of the area.

Findings by the City's Architectural Commission and the qualified preservation architect to establish the proposed project's conformance with the Secretary's Standards and compatibility with historical resources would be required prior to issuance of any building permit for the proposed project.

2. Reasons for Rejecting Alternative; Infeasibility

This alternative would eliminate the significant unmitigatable aesthetic impact of the project on the neighborhood. As with the project, the cultural resource impact to existing 9936 Durant Drive, which is a cultural resource would be significant and unmitigatible. As with the project, impacts to the potential historic district also could be significant. Like the proposed project, this alternative would have mitigatible geotechnical, hydrological and hazardous materials impacts. As with the project, there would be no parking impact.

The following fundamental project objectives may be met by Alternative 5:

• To convert the use on the project site from rental property to condominium units suitable for sale.

• To realize an increased economic return on the property. However, per unit construction costs would likely be greater under this alternative than the proposed project, due to the additional cost of building redesign and review.

• To provide parking that complies with current Municipal Code requirements.

• To maximize water waste water management.

• To energy conservation.

• To select planting material that complements the architectural style.

• To comply with the City's Green Building Program.

• To provide overall planning efficiency for development of a multi-family structure. This alternative may allow for up to 13 units, however final unit count would depend on final design.

• To provide two moderate income affordable units. The applicant would have the option to make two of the new units moderate income affordable units, and to provide 13 units on-site.

It is unclear whether Alternative 5 would meet all of the project objectives, although it has the potential to meet these objectives. Further, although this Alternative 5 could potentially provide two moderate income affordable units, the proposed project as revised by the Applicant will be providing two low income affordable housing units that will be deeded to the City. This is an increased social benefit over which the Planning Commission determines that Alternative 5 is socially infeasible.

The Planning Commission hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 5 as infeasible, and by itself, independent of any other reason, would justify rejection of Alternative 5 as infeasible.

F. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Alternative 1 the No Project/No Change and Alternative 2 Condominium Conversion would be the environmentally superior alternatives as impacts would be less than significant. CEQA Guidelines 15126.6(e)(2) requires that where the No Project Alternative is the environmentally superior alternative, another alternative be identified that is environmentally superior. For this reason, in this case Alternative 2 – Condominium Conversion would be the environmentally superior alternative. However, this alternative would fail to realize most of the project objectives which include:

• To realize an increased economic return on the property.

• To convert the use on the project site from rental property to condominium units suitable for sale.

• To select planting material that complements the architectural style.

• To comply with the City's Green Building Program.

• To maximize water conservation and waste water management.

• To maximize energy conservation.

• To provide overall planning efficiency for development of a multi-family structure.

• To provide two moderate income affordable units.

• To provide parking that complies with current Municipal Code requirements.

As the environmentally superior fails to meet many of the project objectives, it is rejected as infeasible in favor of the proposed project as revised by the Applicant.

EXHIBIT B

Statement of Overriding Considerations

The following Statement of Overriding Considerations is made in connection with the proposed approval of the 9936 Durant Drive Condominium Project (the "Project").

CEQA requires the decision-making agency to balance the economic, legal, social, technological or other benefits of a project against its unavoidable environmental risks when determining whether to approve a project. If the benefits of the project outweigh the unavoidable adverse effects, those effects may be considered acceptable. CEQA requires the agency to provide written findings supporting the specific reasons for considering a project acceptable when significant impacts are unavoidable. Such reasons must be based on substantial evidence in the EIR or elsewhere in the administrative record. The reasons for proceeding with this Project despite the adverse environmental impacts that may result are provided in this Statement of Overriding Considerations.

The Planning Commission finds that the economic, social and other benefits of the Project outweigh the significant and unavoidable effects identified in the Final EIR and the record of proceedings. In making this finding, the Planning Commission has balanced the benefits of the Project against its unavoidable impacts and has indicated its willingness to accept those adverse impacts. The Planning Commission finds that each one of the following benefits of the Project, independent of the other benefits, would warrant approval of the Project notwithstanding the unavoidable environmental impacts of the Project as identified in the Final EIR.

A. The development of the 9936 condominium project will provide increased housing in the City of Beverly Hills.

B. The proposed Project includes two low income affordable housing units that will be deeded to the City free and clear and aid the City in meeting the affordable housing needs in the community.

C. The development of the Project will comply with the City's Green Building Standards (BHMC Section 10-3-4600) and advance sustainable development practices within the City.

The Planning Commission finds that the foregoing benefits outweigh the identified significant adverse environmental impacts. The Planning Commission further finds that each of the individual Project benefits discussed above outweighs the unavoidable adverse environmental effects identified in the Final EIR and therefore finds those impacts to be acceptable. The Planning Commission further finds that each of the benefits listed above, standing alone, is sufficient justification for the Planning Commission to override these unavoidable environmental impacts.

EXHIBIT C

Mitigation Monitoring and Reporting Program

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

The California Environmental Quality Act (CEQA) requires that agencies adopting EIRs or Mitigated Negative Declarations take affirmative steps to determine that approved mitigation measures are implemented subsequent to project approval.

Effective January 1, 1989, CEQA was amended to add Section 21081.6, implementing Assembly Bill (AB) 3180. As part of CEQA (state-mandated) environmental review procedures, Section 21081.6 requires a public agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) for assessing and ensuring efficacy of any mitigation measures applied to the proposed project. Specifically, the lead or responsible agency must adopt a reporting or monitoring program for mitigation measures incorporated into a project or imposed as conditions of approval. The program must be designed to ensure compliance during project implementation. As stated in Public Resources Code, Section 21081.6 (a) (1):

> "1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead agency or a responsible agency, prepare and submit a proposed reporting or monitoring program."

AB 3180 provides general guidelines for implementing monitoring and reporting programs. Specific reporting and/or monitoring requirements, to be enforced during project implementation, shall be defined prior to final approval of the proposal by the responsible decision maker(s). In response to established CEQA requirements and those of (AB) 3180 (Public Resources Code Section 21000 et seq.), the proposed MMRP for 9936 Durant Drive shall be submitted for consideration by the decision-makers prior to completion of the environmental review process.

This MMRP will be used by the City of Beverly Hills to ensure compliance with mitigation measures associated with the project and with regulatory requirements. Mitigation measures were identified in the EIR to address significant or potentially significant impacts to the following resources:

- Aesthetics
- Historic Resources
- Geology and Hydrology
- Hazardous Materials

These mitigation measures are included in the MMRP. In addition, regulatory measures were identified in the EIR as having been incorporated into the project. These measures are also included in the MMRP. For each measure, the MMRP specifies: the implementation responsibility and timing and the monitoring responsibility and timing.

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MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
Aesthetics					
Mitigation Aesthetics-1 – The Project shall be subject to review and approval by the City's Architectural Commission. As part of this review and approval, the Project applicant shall provide examples of the materials, finishes, and design elements of the Project, which may be subject to modification by the City's Architectural Commission. Modifications recommended by the City's Architectural Commission shall be incorporated into the design of the Project prior to the issuance of building permits. Any potential modifications, may include, but not be limited to alterations in the types of materials, finishes, exterior design elements, and landscaping.	Applicant	P-PC	CDD	P-BP	
Cultural Resources					
The project will be subject to the following regulatory measure to address unanticipated archeological resources: **Measure Archeo-1** - If archaeological resources are encountered during project construction, all construction activities shall halt until a qualified archeologist examines the site, identifies the archaeological significance of the find, and recommends a course of action. If the archeological resource is determined to be a unique archeological resource, options for avoidance or preservation in place shall be evaluated and implemented if feasible. In the event that avoidance or preservation in place is	Applicant	D-C	CDD	D-C	

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MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
infeasible and the archaeologist determines that the potential for significant impacts to such resources exists, a data recovery program shall be expeditiously conducted. Construction in the vicinity of the find shall not resume until the site archaeologist states in writing that the proposed construction activities will not damage significant archaeological resources.					
The project will be subject to the following regulatory measure to address unanticipated burials on the project site: **Measure Archeo-2** - In the event that human remains are encountered during project construction, pursuant to State Health and Safety Code Section 7050.5, the applicant and project contractor(s) shall halt construction until the County Coroner has made the necessary findings as to the origin and disposition of the remains pursuant to Public Resources Code Section 5097.98.	Applicant	D-C	CDD	D-C	
Mitigation Cultural-1 - Prior to issuance of a demolition permit, the existing condition of historical resource shall be documented photographically and in a written narrative. The photographs shall be taken by a professional photographer with experience documenting historic buildings under direction of a architectural historian who meets the *Secretary of the Interior's Professional Qualifications Standards* in architectural history. Photographic documentation shall include one set of large (4 x 5-inch) and medium (6 x 7-centimeter) format black and white negatives and two sets of 8 x 10 inch photographic prints on black and white paper. Film, contact prints, and	Applicant	P-DP	CDD	P-DP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
enlargements shall be archivally processed. The architectural historian shall prepare a written narrative description of the historical resource based solely text of the cultural resources section of the environmental review document. The format of the written narrative shall be based on Historic American Buildings Survey (HABS) guidance for such written narrative documentation. The following documentary materials shall be submitted to the Community Development Director for review and comment: photographic quality black and white copies of all documentation photographs, and photocopies of the written narrative. Upon review and comment and when final edits are approved by the Community Development Director, the original documentation package items shall be deposited in the collection of the Beverly Hills Public Library (negatives, proof sheets, one set of 8 x 10 inch prints, written narrative, any other specified documentation) and in the collection of the California Historical Resource Information Center (one set of 8 x 10 inch prints, written narrative, State of California Department of Parks and Recreation "DPR" series forms, any other specified documentation).					
Air Quality					
The project would be subject to the following regulatory measure: **Measure AQ– 1** – The following actions shall be required to be performed by the contractor(s) during demolition, to limit fugitive dust:	Contractor	D-C	BO	D-C	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
• Contractor(s) shall apply non-potable water every 4 hours to the area within 100 feet of a structure being demolished, to reduce vehicle trackout. • Contractor(s) shall apply dust suppressants (e.g., polymer emulsion) to disturbed areas upon completion of demolition unless construction activities begin within two weeks of completion of demolition. • Contractor(s) shall apply non-potable water to disturbed soils after demolition is completed or at the end of each day of cleanup. • Demolition activities shall be prohibited when wind speeds exceed 25 mph.					
Measure AQ-2 – The following actions shall be required to be performed by the contractor(s) during construction, to limit fugitive dust: • Contractor(s) shall apply non-potable water every 3 hours to disturbed areas within the construction site. • The required minimum soil moisture shall be 12% for earthmoving. Contractor(s) shall achieve the standard by use of a moveable sprinkler system or a water truck. Moisture content can be verified by lab sample or moisture probe. • Contractor(s) shall insure that all trucks hauling dirt, sand, soil, or other loose materials shall be tarped with a fabric cover and maintain a freeboard height of 12 inches.	Contractor	D-C	BO	D-C	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
• Contractor(s) shall apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days). • Contractor(s) shall apply nonpotable water to the storage pile by hand or apply cover when wind events are declared. • During construction, street sweeping must be conducted frequently as directed by Public Works and Transportation Department. Dirt shall not be tracked out of the construction site.					
Geology And Hydrology					
The project would be subject to the following regulatory measure: **Measure Geo–1 (Regulatory Requirement)** –The proposed project shall be designed and constructed in accordance with the requirements and mitigations set forth in Preliminary Soils Engineering Investigation Report completed for the property dated July 17, 2006 and Update letter dated November 28, 2008 and included as Appendix D of the Draft EIR. Further, the applicant shall prepare and submit a project specific geotechnical report prepared for the project by a licensed geologist, under the direction of the City of Beverly Hills and in accordance with all applicable local, state, and federal regulations and standards such as the UBC and Title 9 of the Beverly Hills Municipal Code. The geotechnical report may	Applicant	D-PC	DPW	P-DP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
refine the mitigation measures identified in the Preliminary Soils Engineering Investigation Report and Update letter, and shall also include whether any geologic fault transverses the project site, the potential for expansive soils, liquefaction hazards or other geologic conditions requiring remediation, as well as depth of groundwater. The geotechnical report shall be reviewed and approved by the Building and Safety Division prior to issuance of any grading or building permits. Should a fault, expansive soils, liquefaction hazards, shallow groundwater or other conditions requiring remediation be identified, then the report shall specify any additional remediation measures to be implemented with the approval of the Building and Safety Division. Project construction shall only be allowed to occur if remediation measures satisfy the requirements of the City and the State Division of Mines and Geology and the project can be constructed in a manner which complies with geotechnical safety-based building code requirements.					
Measure Hydro –1 (Regulatory Requirement) - A drainage plan shall be prepared for the project and shall be reviewed and approved by the City's Building and Safety Division and Public Works and Transportation Department prior to approval of project plan. The drainage plan shall identify storm water runoff volumes for the entire site and shall identify the capacity of local storm sewers. The drainage plan shall provide the necessary detention and conveyance infrastructure to ensure that the existing storm sewer capacity would not be exceeded during a design flood via a selection of Best	Applicant	D-PC	DPW	P-DP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
Management Practices from the "Municipal Best Management Practices Handbook", produced and published by the Storm Water Quality Task Force or other mechanisms acceptable to the Building and Safety Division. Examples of BMPs that may be implemented to meet this regulatory requirement include: bio retention planter boxes, vegetated drainage swales and strips, and infiltration wells.					
Measure Hydro–2 (Regulatory Requirement) - Prior to the issuance of a grading permit by the City, a Water Quality Management Plan (WQMP) shall be prepared for the project and reviewed and approved by the City's Building and Safety Division and Public Works and Transportation Department. The Plan shall identify the site design, source control and treatment control Best Management Practices (BMPs) that will be implemented on the site to control predictable pollutant runoff and any dewatering of the subterranean parking structure. A selection of Best Management Practices that can be implemented on the site to control predictable pollutant runoff and any dewatering of the subterranean parking structure are listed in the "Municipal Best Management Practices Handbook", produced and published by the Storm Water Quality Task Force. Examples of BMPs that may be implemented to meet this regulatory requirement include: fossil filters to treat and discharge shallow groundwater to the nearest storm drain; Baker tanks to collect shallow groundwater and haul it to an approved site; sand bags to retain activities runoff on site; and an appropriate tire washing station or tire sediment shakers to limit sediments from being carried off site.	Applicant	D-PC	DPW	P-GP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
Measure Hydro-3 (Regulatory Requirement) - Prior to issuance of any grading or building permits, the project applicant shall comply with the requirements of Section 9-4-506 of the City's Municipal Code which are applicable to residential projects of 10 units or more and prepare and submit to the City of Beverly Hills a Standard Urban Stormwater Mitigation Plan (SUSMP), to be prepared in accordance with the Los Angeles County Manual for the Standard Urban Storm Water Mitigation Plan, which details the requirements of the SUSMP. The project's SUSMP shall be submitted along with the final building and drainage plans for the project for review and approval of the City's Public Works Department prior to issuance of demolition, grading and construction permits for the proposed project. The drainage plan shall identify storm water runoff volumes for the entire site and shall identify the capacity of local storm sewers. The drainage plan shall demonstrate to the satisfaction of the City's Public Works Department that project plans include sufficient detention and conveyance infrastructure to ensure that the existing storm sewer capacity would not be exceeded during a design flood. The SUSMP shall demonstrate retention of runoff in-site to the satisfaction of the City's Public Works Department using best available technologies or practices selected by the applicant from the "Municipal Best Management Practices Handbook", produced and published by the Storm Water Quality Task Force. Examples of BMPs that may be implemented to meet this regulatory requirement include: down spout filters to treat roof drain runoff; runoff captured by planter box filters which collect and further treat roof runoffs; infiltration basins to collect surface runoff for	Applicant	D-PC	DPW	P-GP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
use as an additional irrigation water source; and inclusion of a fossil filter treatment system as part of the dewatering system to reduce any potential constituents discharged to the storm drain system. Any dewatering system must be permitted by the Regional Water Quality Control Board. The project plans shall demonstrate that adequate site drainage can be accomplished without use of curb drains and that downspouts are designed to discharge to vegetation areas without affecting the integrity of the building.					
Measure Hydro-4 (Regulatory Requirement) - Prior to the start of soil disturbing activities at the site, a Stormwater Pollution Prevention Plan (SWPPP) shall be prepared in accordance with, and in order to partially fulfill, the California SWRCB Order No. 99 - 08 -DWQ, NPDES General Permit No. CAS000002 (General Construction Permit). The project applicant shall submit and have the SWPPP approved before issuance of the construction permit for the proposed project. The SWPPP shall specify the erosion control plans for the project and demonstrate that SWPPP includes adequate measures to protect nearby catch basins from pollution and to keep water in site. Structural or treatment control Best Management Practices (BMPs), including, as applicable, post construction treatment control BMPs set forth in project plans shall meet the design standards set forth in the SUSMP and the current municipal NPDES permit. The SWPPP shall meet the applicable provisions of Sections 301 and 402 of the CWA and Title 9, Chapter 4, Article 5, Storm Water and Urban Runoff Pollution Control from the Beverly Hills Municipal Code by requiring controls of pollutant	Applicant	D-PC	DPW	P-GP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
discharges that utilize best available technology (BAT) and best conventional pollutant control technology (BCT) to reduce pollutants. Examples of BAT/BCT that may be implemented during site grading and construction to meet this regulatory requirement include: sand bagging and fencing the site perimeter; protecting nearby catch basins using filter sheets or sand bags to prevent any debris from entering the storm drain system; tire washing stations or tire shakers to reduce sediment tracking off the site; designated areas for cement or chemical materials with BMPs that will contain any potential spill or runoff; and good housekeeping practices to reduce potential pollution runoff.					
Measure Hydro-5 (Regulatory Requirement) –The project applicant shall comply with the requirements of the City's dewatering ordinance, Section 9-4-610 of Articie 6 of Chapter 4 of Title 9 of the Beverly Hills Municipal Code and obtain a dewatering permit for the proposed project from the City. The City shall not issue the dewatering permit unless dewatering activities would be consistent with requirement of the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles", issued by the California Regional Water Quality Control Board - Los Angeles region, (order no. 96-054), dated July 15, 1996. In addition, the applicant shall be required to obtain an NPDES permit for the dewatering phase of construction from the Regional Water Quality Control Board prior to issuance of construction permits.	Applicant	D-PC	DPW	P-GP	
Measure Hydro-6 (Regulatory Requirement) – If it is determined by the project civil engineer that a	Applicant / Project's Civil	D-PC	DPW	P-OP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
permanent dewatering system is required for the project, the project applicant shall apply for and obtain a dewatering NPDES permit from the Regional Water Quality Control Board and a Shallow Groundwater Permit from the City of Beverly Hills, prior to issuance of the occupancy permit for the proposed project.	Engineer				
Hazardous Materials					
Measure Haz-1 - Asbestos - Pursuant to Section 9-1-104 of the City's Municipal Code, the building shall be inspected for the presence of asbestos. If the building is found to contain asbestos, the building owner or his representative shall submit a letter to the Director of Building and Safety so stating. If the building is found to contain asbestos, then an asbestos abatement permit shall be obtained from the department upon submittal by the applicant of all necessary documentation as required by Rule 1403 of the South Coast Air Quality Management District. Demolition permits shall then be issued upon submittal of an asbestos abatement completion certificate by qualified contractors. All testing procedures shall follow recognized local standards as well as established California and Federal assessment protocols and SCAQMD Rule 1403. The report of the results of the testing shall identify the location and type of all asbestos in the existing building and shall quantify the areas of asbestos containing materials. Prior to any demolition or renovation, of areas containing asbestos, the asbestos containing material shall be removed in accordance with proper abatement procedures	Applicant	D-PC	DBS	P-DP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
recommended by the asbestos consultant and as required by the SCAQMD. Such measures may include requirements for encapsulation or transport to an appropriate disposal facility. All abatement activities shall be in compliance with California and Federal OSHA, and with the SCAQMD requirements including SCAQMD Rule 1403. Following completion of the asbestos abatement, the asbestos consultant shall provide a report to the Community Development Department documenting the abatement procedures used, the volume of asbestos-containing materials removed, where the material was moved to, and include transportation and disposal manifests or dump tickets.					
Measure Haz-2 Lead - Prior to the issuance of a permit for the demolition of any structure on the project site, the developer shall contract with a licensed lead-based paint consultant to conduct sampling of the structure to evaluate for the presence of lead-based paint. Any identified lead based paint located within the building scheduled for demolition shall be abated by a licensed lead based paint abatement contractor, and disposed of according to all state and local regulations. Such measures may include requirements for encapsulation or transport to an appropriate disposal facility. All abatement activities shall be in compliance with California and Federal OSHA requirements. Only lead-based paint trained and certified abatement personnel shall be allowed to perform abatement activities. All lead-based paint removed from these structures shall be hauled and disposed of by a transportation company licensed to transport this type of material. In addition, the	Applicant	D-PC	DBS	P-DP	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
material shall be taken to a landfill or receiving facility licensed to accept the waste. Following completion of the lead based paint abatement, the lead based paint consultant shall provide a report to the Community Development Department documenting the abatement procedures used, the volume of lead based paint materials removed, where the material was moved to, and include transportation and disposal manifests or dump tickets.					
Noise					
The project will be subject to the following standard measure which will further ensure that noise impacts are less than significant: **Noise-1** - Prior to issuance of grading permits, the applicant shall submit a Construction Management Plan satisfactory to the Director of Community Development and the Building Official. The Building Official shall enforce noise attenuating construction requirements. The Construction Management Plan shall include, but not be limited to, the following noise attenuation measures: • Excavation, grading, and other construction activities related to the proposed project shall comply with Section 5-1-206, Restrictions on Construction Activity, of the City Municipal Code. Any deviations from these standards shall require the written approval of the Community Development Director. • During the initial stage of construction, including	Applicant	D-PC	DCD	P-GP	

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MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
site demolition and site preparation/excavation, and when construction activities are within 200 feet of the boundary of the site, an 8-foot temporary sound barrier (e.g., wood fence), with at least 0.5-inch thickness, shall be erected at the project site, to the extent feasible. Sound blankets will also be used. All stationary construction equipment (e.g., air compressor, generators, etc.) shall be operated as far away from the multi-family residences as possible. If this is not possible, the equipment shall be shielded with temporary sound barriers, sound aprons, or sound skins to the satisfaction of the Director of Community Development.					
• Haul routes for construction materials shall be restricted to truck routes approved by the City. Hauling trucks shall be directed to use commercial streets and highways, and, to the extent feasible, shall minimize the use of residential streets. The haul routes and staging areas for the project shall be established to minimize the impact of construction traffic on nearby residential neighborhoods and schools. Generally, haul routes to the 405 Freeway shall utilize Santa Monica Boulevard to minimize impacts to City streets.					
• All construction vehicles, such as bulldozers and haul trucks, shall be prohibited from idling in excess of 10 minutes.					
• The General Contractor and its subcontractors shall inspect construction equipment to ensure that such equipment is in proper operating					

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
condition and fitted with standard factory silencing features. Construction equipment shall use available noise control devices, such as equipment mufflers, enclosures, and barriers.					
Transportation And Traffic					
The project would be subject to the following standard measure: **Measure Trans-1** - The final design of access control to the parking structure will be subject to review and approval by the City Traffic Engineer prior to issuance of the occupancy permit for the project.	Applicant	D-PC	TE	P-OP	
The applicant shall comply with the following regulatory measure during project construction. **Measure Trans–2** - The applicant shall comply with the following requirements during project construction. The applicant shall prepare a construction management plan to include the following: • Hours of Construction shall be limited between the hours of 8:00 a.m. to 6:00 p.m., Monday through Friday. • All delivery trucks shall be scheduled during "off-peak" hours, when vehicle and pedestrian traffic is minimal. • Off-site on-street parking for project construction shall be prohibited on all adjacent streets and alleys. Construction-Related Parking shall be on-	Applicant	P-CP D-C	DPW	P-CP D-C	

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
site or at an off-site location approved by the Director of Public Works. The Construction Management Plan shall address employee and construction-related parking, schedule of construction, and number of vehicles anticipated on-site. • All construction-related trucks destined to the site shall follow the City's truck route plan. The contractor shall coordinate with the City to determine the most adequate route, identify the volume of trucks destined to the site, and delivery/hauling logistics. • A fence shall be installed along the perimeter of the project site to ensure the safety of pedestrians in the neighborhood. The contractor shall provide a flagman at the project site entrance to reduce any conflicts with cars, trucks, and pedestrians. • All heavy hauling and delivery of large construction supplies will be subject to the issuance of heavy hauling permits issued by the Department of Public Works, Engineering Division. Heavy hauling and routing shall be approved by the Engineering Office of the City of Beverly Hills. • In addition, due to the proximity of the site to Beverly Hills High School and Good Shepard Catholic School, the applicant shall provide additional safety measures during the construction phase of the project, including prohibiting heavy vehicle delivery or hauling during the hours that school is opening or closing, as well as excluding the use of the roadway adjacent to the school for construction related					

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MITIGATION	IMPLEMENTATION RESPONSIBILITY	TIMING	MONITORING RESPONSIBILITY	TIMING	MITIGATION COMPLETE?
transporting to and from the site. These measures will also include a requirement for flagmen to be present for traffic control purposes. The project applicant shall be required to keep the site and adjacent areas clean during construction.					
The project would be subject to the following standard measure: **Measure Trans-3 –** The project will be required to provide two feet six inches dedication to widen the alley as required by the Street Master Plan.	Applicant	D-PC	CDD	P- DP	

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ATTACHMENT 3

RESOLUTION APPROVING NEW 14-UNIT CONDOMINIUM

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A TENTATIVE TRACT MAP NO. 70035, A DENSITY BONUS PERMIT, AN R-4 PERMIT AND A DEVELOPMENT PLAN REVIEW TO ALLOW CONSTRUCTION OF A FOURTEEN RESIDENTIAL CONDOMINIUM STRUCTURE ON THE PROPERTY LOCATED AT 9936 DURANT DRIVE

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

Section 1. Gale One properties, property owner (hereinafter referred to as the "Applicant"), has submitted applications requesting approval for a Tentative Tract Map No. 70035, Development Plan Review for a four story, 45 foot high, 14 unit condominium building, a Density Bonus Permit for a density bonus above the Zoning Code allowed density of 11 units and a construction incentive for reduced rear yard setback and an R-4 permit for additional front yard paving for a property located at 9936 Durant Drive (the "Project").

The Project includes the following specific applications:

- A request for Tentative Tract Map (TTM No. 70035) to subdivide the air rights on the subject property to allow the individual sale of 12 market rate units and two one-bedroom low income affordable units to be deeded to the City.

- A request for a Development Plan Review (DPR) to allow construction of a proposed 14-unit condominium project with 42 parking spaces within a two level subterranean garage accessed from the alley. Located at the rear of the building, the alley would be widened by two feet six inches for dedication as required by the Beverly Hills Street Master Plan.
- A request for a Density Bonus Permit for a density bonus and one development incentive. The Applicant is proposing a reduction in the rear setback from 15 feet to 10 foot 5 inches. The project, as proposed, would include three (3) density bonus units above the code allowed eleven units, resulting in a project which would include fourteen units. The Applicant proposes two one-bedroom low-income units that are proposed to be deeded to the City.
- A request for an R-4 Permit to allow for additional walkway within the front setback area.

The Durant Drive is one block long and is oriented in a northeast-southwest direction. It is located close to the western City boundary and is bounded on the east by Lasky Drive and on the west by Moreno Drive. It is one block south of, and parallel to, Santa Monica Boulevard. Beverly Hills High School is located at the western end of Durant Drive, immediately west of South Moreno Drive.

The street is 50 feet in width which is wider than surrounding residential streets. There are 30 parcels on Durant` Drive, all of which contain at least one multi-family residential building. Twenty-five of the thirty properties were constructed in the short time period between 1935 and 1941. Of the remaining five properties, one was constructed in 1954 (9973 Durant Drive, located at the corner of Moreno Drive), three in the early 1960s

(9955 Durant Drive, 9950 Durant Drive, and 9930 Durant Drive), and one in 1985 (9921 Durant Drive).

The project site is located on the south side of Durant Drive. An alley runs along the southern (rear) edge of the project site. The project site is currently developed with a two-story, 28 foot tall, 9,169 square foot apartment building with five dwelling units. The existing Colonial Revival-style apartment building was constructed in 1935. It was designed by architect Robert V. Derrah who is best known for his Streamline Moderne designs at the Southern California Gas Company, the Coca-Cola Bottling Plant and Crossroads of the World. The symmetrical building's center section is open on the ground floor and functions as a passageway to a center landscaped courtyard. Within the formally landscaped courtyard are brick paths flanked by low, clipped hedges, a center lawn area, a pavilion, and climbing vines and bougainvillea on wood trellises. Eight one-story rectangular garages open onto the rear (south) alley.

The proposed 14-unit condominium is comprised of a four-story (45 foot high) structure. The proposed structure would be constructed over a two-level subterranean parking garage. The proposed structures will contain 27,207 square feet of floor area above grade, for a total project area of 50,374 square feet including the subterranean garage. Vehicle access to underground parking is from the alley behind the project site.

Density Bonus Permit. California Government Code Section 65915 and Article 15.2 of the Beverly Hills Municipal Code both stipulate that an Applicant may submit a request to the

City for a 20 percent density bonus and one construction incentive for a project that includes at least 10 percent of total units for lower income households. Two of the proposed project's 14 dwelling units in the project are proposed to be set aside for lower income households and deeded to the City. The Applicant is requesting a density bonus, increasing the number of units allowed at the project site from 11 to 14 and is also requesting a construction incentive of reduced rear setback of 15 feet to 10' 5" feet for relief from the zoning code .

R-4 Permit for Additional Walkways. The Applicant requests four additional walkways to provide street facing access to some of the individual townhome units. The City may grant this request, through an R-4 permit, if the review authority finds that the proposed walkways are compatible with the nearby streetscape and the scale of surrounding development.

Section 2. The Project has been environmentally reviewed pursuant to the California Environmental Quality Act ("CEQA"), (Public Resource Sections 21000, et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines. The Project consists of demolition of the existing, potentially historic, 2-story Colonial-style courtyard apartment building and construction of a multi-family residential structures with a total of 14 dwelling units in an urbanized area. The Applicant submitted a cultural resource report prepared by Peter Moruzzi, Architectural Historian as part of the project application. The cultural resources report concluded that the 9936 Durant Drive is not eligible for California Register and not identified on the 2004 reconnaissance level survey of Tract 7710. The cultural resource report was peer reviewed by City's Historic resource consultant, Chattel Architecture which

concluded 9936 Durant Drive was individually eligible for the California Register and as contributor to Tract 7710 MFR Historic District (the Speedway Tract).

The City prepared an initial study and based on the information contained in the applications filed by the Applicant and peer review of the historic resources reports, concluded that there was substantial evidence that the Project might have significant unavoidable impacts due to the demolition of the potential historic structure. Based upon information contained in the Initial Study, the City ordered the preparation of an environmental impact report (the "EIR") for the Project to analyze the project's potential impacts on the environment. The Planning Commission, by separate Resolution No. _____, which is hereby incorporated by reference, (a) made certain CEQA findings and determinations (b) certified the EIR, (c) adopted a Statement of Overriding Considerations, and (d) adopted a Mitigation Monitoring and Reporting Program. The documents and other material that constitute the record on which this decision is based are located in the Department of Community Development at City Hall, 455 N. Rexford Avenue, Beverly Hills, California 90210, and are in the custody of the Director of Community Development.

Section 3. On June 26, 2009, in accordance with City procedures, a notice of public hearing and notice of completion of Draft Environmental Impact Report was mailed to nearby property owners and residents. The Project was also noticed in the local newspaper. On July 23, 2009, the Planning Commission held a duly noticed public hearing to consider the application and continued the item to a later date. On May 14, 2010, notice of the continued public hearing and revised project

was mailed to nearby property owners and residents. Additionally the revised Project was re-noticed in the local newspaper. On May 27, 2010, the Planning Commission held a duly noticed public hearing to consider the application and continued the item to a later date. On June 25, 2010, a continued public hearing notice were mailed and published. On July 8, 2010, the Planning Commission held a public hearing to consider the application and preliminarily found the public benefit offer to deed the two-low-income units to the City after construction will be sufficient to justify a Statement Overriding Considerations pursuant to CEQA, and requested a resolution approving the project to be prepared, subject to policy direction from the City Council regarding City ownership of low-income units. On July 22, 2010, the City Council decided that City Policy would allow for City ownership of affordable housing units. In light of the Council's policy direction regarding affordable housing units, the Planning Commission held a public hearing on September 23, 2010, to consider the project. Evidence, both written and oral, was presented at said hearing, as well as prior hearings.

Section 4. Based upon the evidence presented in the record on this matter, including the staff reports and oral and written testimony, the Planning Commission hereby find, as follow, with respect to the Density Bonus Permit:

4.1 As proposed the project is in compliance with the affordable housing requirements of State and local law. The incentive of reduced rear setback is appropriate for the project site, which is located in a multi-family residential zone adjacent to an alley. The Planning

Commission hereby grants the density bonus incentive allowing a reduced rear setback as shown on the revised plans reviewed by the Planning Commission on July 8, 2010.

Section 5. Pursuant to Beverly Hills Municipal Code Section 10-3-3104, in reviewing the application for Development Plan Review for this residential project, the Planning Commission considered the following issues:

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

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

5.3 Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards; and

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

Section 6. Based upon the evidence presented in the record on this matter, including the staff reports and oral and written testimony, the Planning Commission hereby finds, as follows, with respect to the Development Plan Review:

6.1 As conditioned, and as allowed under the Density Bonus Permit, the development as proposed conforms to Zoning Code requirements, particularly regarding use, height,

density and parking and would be consistent with the adopted General Plan of the City which designates this as a high density multiple-family residential area. The project meets General Plan Housing Element Objective 2.2, which state the City should "expand supply of housing affordable to lower income households" and Program 2.5 which states the City should promote utilization of the density bonus ordinance.

6.2 As conditioned, the new multi-family development would not adversely affect the existing development located in the area. The condominium building would be harmonious with the existing land use and density in the area. The project will not adversely affect existing and anticipated development in the vicinity. While the existing development in the block is predominantly two-stories, the current zoning standards allow for four stories. The 13-unit, 45-foot project incorporates a fourth floor step-back to reduce the mass of the proposed structure as viewed from Durant Drive. The project contains architectural features associated with the American Colonial style of architecture, which is a prominent style in the district. After review and approval of the Planning Commission, the project will be reviewed by the Architectural Commission. The Architectural Commission shall ensure that the architecture and landscaping proposed is harmonious with development in the area.

6.3 As conditioned, the proposed Project will not create any significant adverse traffic impacts or vehicular or pedestrian safety or circulation problems. A traffic impact analysis was conducted by Willdan who prepared an EIR for the proposed project, to assess the potential impacts of the proposed condominium project. As proposed, the proposed project will result in a net

increase of 50 new daily trips, including five new AM peak hour trips and four net new PM peak hour trips. There is only a small net increase in traffic because the project increases the net number of units on the site by eight units. During the project hearing on July 23, 2009, the Planning Commission requested that additional traffic counts for the alley behind the property be provided. Staff conducted additional 24 hour traffic counts in the residential east-west alley behind the property on two consecutive days (September 18 and 19, 2009) and compared the alley operation with a residential alley in the vicinity and found that the alley traffic trend is similar to any residential alley with an exception that between the hours of 7:00 to 8:00 a.m., the traffic volume increases by as much as 25 vehicles, which appears to be related to high school students who use the alley to get to school. Therefore, the Planning Commission finds that the traffic generated by the proposed multi-family project does not significantly impact the alley. It is not anticipated that the project would generate adverse traffic impacts, traffic hazards, pedestrian/vehicle conflicts, or pedestrian safety hazards. Access to nearby schools has been studied, and the proposed project would not conflict with schoolchildren and other pedestrians who may travel in front of the project site. Regulatory measures are proposed during construction to offset any temporary impacts that would occur over an approximately 18-month construction period.

6.4 As conditioned, the proposed Project will not be detrimental to the public health, safety, or general welfare. The project would be constructed in accordance with the City's Building Code standards and is consistent with the zoning for the area. Prior to the issuance of building permits, a construction management plan is required for review and approval by the

Engineering Division and Building and Safety Division. Public safety issues such construction staging, hauling, off-site parking, and construction hours are addressed. Therefore, the project will not be detrimental to the public health, safety or general welfare.

Section 7. Pursuant to Beverly Hills Municipal Code Section 10-3-3700, in reviewing the application for an R-4 Permit, the Planning Commission considered the following findings:

7.1 Whether the proposal is compatible with the nearby streetscape.

7.2 Whether the proposal is compatible with the scale of surrounding development.

Section 8. Based upon the evidence presented in the record on this matter, including the staff reports and oral and written testimony, the Planning Commission hereby find, as follow, with respect to the R-4 Permit:

8.1 The subject lot is 100 feet wide; therefore, a maximum 10-foot wide walkway is permitted if authorized by an R-4 Permit. A 6'4" walkway is proposed in the middle of the site to gain access to the building. A second 3'8" walkway will provide access to the required exit from the subterranean garage. The front setback will be landscaped with a variety of planting materials and greenery in the front yard of the project offsetting the paved areas. In addition, the project, including the exterior improvements, will be reviewed by the Architectural Commission to make sure that the landscape plan will enhance the streetscape. Therefore, the proposed walkways would be compatible

with the scale of the structure and consistent with other structures in the multi-family residential zones.

8.2 The proposed walkways for entering the building and exiting from the subterranean garage are compatible to the scale of surrounding development. Many of the multifamily residential structures on this portion of Durant Drive are located on single parcels and have direct pedestrian accessibility from the street to the dwelling units. The provision of additional pedestrian walkways is compatible with the scale and configuration of the existing residential structures located on Durant Drive.

Section 9. Pursuant to Section 66474 of the California Government Code, in reviewing the application for Tentative Tract Map No. 70035, the Planning Commission considered the following issues:

9.1 Whether the proposed tentative tract map and the design or improvement of the proposed subdivision are consistent with the General Plan of the City;

9.2 Whether the site is physically suitable for the type of development and the proposed density;

9.3 Whether the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

9.4 Whether the design of the subdivision or type of improvement is likely to

cause serious public health problems and whether the design of the subdivision or the type of improvement will conflict with any public easements; and

9.5 Whether the discharge of waste water from the proposed subdivision into the existing sewer systems will result in a violation of existing requirements prescribed by the California Water Quality Control Board.

Section 10. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby find, as follow, with respect to Tentative Tract Map No. 70035:

10.1 The proposed project site's General Plan land-use designation is multi-family residential, which contemplates development at the density proposed. Therefore, the project and its design are consistent with the General Plan of the City if the density bonus permit is granted. The project meets General Plan Housing Element Objective 2.2, which states the City should "expand supply of housing affordable to lower income households", and Program 2.5 which states the City should promote the utilization of the density bonus ordinance.

10.2 The site is zoned for multi-family residential development in part because it is suitable for such development given the property location and surrounding uses. The proposed density of 14 units meets current Zoning Code requirements with the granting of a density bonus and is appropriate to the site. All necessary utilities are in place to adequately serve the proposed project.

10.3 This project has been evaluated under the requirements of the California Environmental Quality Act (CEQA), and an Environmental Impact Report (EIR) was prepared for

the Project. The EIR indicates that the Project will not cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat. The EIR found no significant impacts to fish, wildlife, or habitat. The EIR identified aesthetics impacts and impacts on cultural resources. However a statement of overriding considerations was adopted in connection with the project.

10.4 The project design has been preliminarily reviewed by the Public Works Department and the Building and Safety Division for code compliance. The project will not encroach into any public easement areas. Therefore, the design of the subdivision and type of improvements are not likely to cause serious public health problems or conflict with any public easement. Access to nearby schools has been studied, and the proposed project should not present conflicts with schoolchildren and other pedestrians who may travel past the project site.

10.5 The project has been preliminarily reviewed by the Public Works Department. Discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the California Regional Water Board provided the NPDES water requirements are complied with. Appropriate conditions of approval are recommended to require compliance with the NPDES Permit requirements. Therefore, the discharge of waste water from the proposed subdivision into the existing sewer systems will not result in a violation of existing requirements presented by the California Water Quality Act Control Board.

Section 11. Based upon the foregoing findings and subject to the Conditions of Approval, the Planning Commission approves the Density Bonus Permit and one construction incentive for

reduced rear setback, the Development Plan Review to allow construction of a 14 unit residential condominium structure, the R-4 Permit for additional paving in the front yard setback and the Tentative Tract Map No. 70035 on the property located at 9936 Durant Drive in the City of Beverly Hills and County of Los Angeles, subject to the conditions set forth in Section 12 below.

Section 12. Conditions of Approval

1. **Compliance with Plans.** The Applicant shall construct and maintain the improvements on the property in substantial conformance with the plans submitted to and approved by the Planning Commission at its meeting of September 23, 2010.

1.A. **Compliance with Zoning Code.** Nothing in this approval shall be deemed to construe approval of any deviation from the City's Zoning Code. Compliance with the code regulations for height shall be verified at the time structural drawings and a plan check is submitted to the City.

2. **Number of Residential Units.** The project shall include no more than 14 residential units, including two one-bedroom low income affordable units and 12 market rate units in accordance with the approved plans.

3. **Affordable units.** The Applicant offered to deed, free and clear, the two one-bedroom affordable units to the City as a public benefit to offset the significant unavoidable environmental impacts of the project. The developer shall post a security cash bond in an amount equal to the fair market value of the units, as established by an appraisal prepared to the satisfaction

of the City, assuming that the units were sold as market rate, rather than affordable units. The bond shall be submitted to the City prior or concurrent with the issuance of building permit, to ensure the units are deeded to the City upon completion of the construction. Further, prior to the issuance of a Certificate of Occupancy for the building or any unit therein, a deed along with an ALTA Owner's Policy of Title Insurance insuring the City that the two units are free and clear of all liens and encumbrances shall be delivered to the City. Upon completion of the units, after recordation of the deeds, and upon issuance of title insurance, the security bond shall be released.

The Applicant shall agree to execute and record any documents, including covenants, necessary to ensure continued affordability for the low-income units for a thirty-year period. Any such documents shall be reviewed, and deemed acceptable, by the Director of Community Development and the City Attorney prior to recordation.

4. **Green Building Design.** The project is required to comply with all applicable zoning regulations for the multi-family projects, including the City's Green Building Program.

5. **Architectural Review.** Prior to issuance of building permits, the design-materials and finishes of the building and proposed landscaping plan shall be subject to review and approval by the Architectural Commission.

The Applicant shall submit a detailed landscape plan, which shall comply with the City's Water Efficient Landscaping Ordinance, for review and approval by the Architectural Commission.

6. **Warning device at garage entrance.** A silent lighted warning device shall be installed at each vehicular entrance/exit that will illuminate whenever a vehicle or truck is leaving the garage, to provide a warning to on-coming vehicular and pedestrian traffic.

7. **CC&R.** Prior to approval of the Final Map and in accordance with the provisions of Section 10-2-704 of the Beverly Hills Municipal Code, the Applicant shall submit a copy of the proposed covenants, conditions and restriction (CC&Rs) for the Project to the Director of Community Development and the City Attorney for review and approval, which CC&Rs shall be recorded before or at the same time as recordation of the final map. The CC&Rs shall include the total number of parking spaces required for each unit and total number of parking spaces required for the Project in total. Further, the CC&Rs shall include the following provisions, which shall also be noted on the final map:

a. The homeowner association fees for the two low income affordable units shall be limited to a maximum of $150 per month. The CC&Rs shall provide that this requirement cannot be amended by the Association without the written authorization of the City.

b. The subject condominium Project consists of fourteen (14) residential condominium units, including two one-bedroom affordable units, and forty-two (42) parking spaces.

c. Required parking spaces shall be permanently assigned to each unit and shall be labeled as such. Four guest parking spaces shall be maintained at all times, bringing the total required parking spaces that shall be maintained to 42. ADA parking stalls shall meet all ADA requirements. Parking spaces shall be used solely for the parking of personal vehicles. Assigned parking spaces may not be leased, subleased, sold separately from the

condominium unit, or otherwise given to others who are not a resident(s) of the condominium unit within the development. These statements shall also be noted on the final map and included in the CC&R's. All common areas and facilities shall be clearly depicted and/or described as such.

d. The Homeowners Association and owners shall be responsible for the operation and maintenance of the private sewer connection to the public sewer in the public right-of-way, the site drainage system, the maintenance of the common areas and facilities, the exterior of the building, the abutting street trees, sidewalks, parkways, street trees and other landscaping, including irrigation, within and along the adjacent public right-of-way and any costs or corrections due to building or property maintenance code enforcement actions.

Such responsibilities shall be enumerated and specified in the project CC&Rs. A recorded copy of said document shall be provided to the City's Planning Division Office.

8. **Environmental Conditions/Mitigation Measures/Regulatory Condition.** The Applicant, and any subsequent developer of the project, shall comply with all mitigation measures set forth in the adopted Mitigation, Monitoring and Reporting Program, which is attached hereto as Exhibit B.

<u>Standard Conditions</u>

Public Works

9. An off-site improvement plan prepared by a registered civil engineer must be submitted to the Civil Engineering Department prior to the issuance of a building permit. This plan must show all improvements in the public right-of-way fronting the proposed project. All facilities to be constructed or relocated within the public right-of-way must be clearly shown.

10. The Applicant shall file a formal written request with the Transportation and Engineering Department for approval of any type of construction encroachment (steel tie-back rods, soldier beams, barricades, etc.) within the public right-of-way. An indemnity bond must be submitted to and approved by the City Attorney prior to excavation. The requirements of City Council Resolution No. 71-R-4269 shall be satisfied.

11. The 2.5-foot strip of dedication along the alley is required under the Beverly Hills Street Master Plan. Prior to sale or occupancy of any unit in the project, the Applicant shall remove and reconstruct the roadway pavement in their half of the alley, including a concrete gutter at the center of the alley, in accordance with the specifications of the City Engineer. This condition includes the relocation of any existing improvements such as meter boxes, pull boxes, etc.

12. No heavy hauling or export of earth material shall occur outside the hours of 10:00 am. to 4:00 p.m., Monday through Friday.

13. Except during concrete pouring, a limit of four hauling trucks per hour (eight truck trips) shall be permitted during all phases of the Project.

14. The Applicant shall post the names and telephone numbers of two construction representatives for the Project on all construction fence signs. Said signs shall also include the name and number for a City contact from the Community Development Department. The representatives'

contact information shall be clearly visible to the general public from the street elevation for the duration of the construction activities and the phone numbers provided shall be manned at all times. The Applicant shall transmit the names and telephone numbers of the representatives to the Director of Community Development.

15. In the event that ground water is encountered during site excavation, a NPDES Permit shall be required from the State Regional Water Quality Control Board for the dewatering operation. The Applicant shall comply with the City's dewatering requirements.

16. Treatment control Best Management Practices (BMPs) will be required for handling the storm water runoff. This will include the installation of a Fossil Filter on the drain line of the subterranean parking prior to occupancy.

17. The Applicant shall comply with the applicable conditions and permits from the Public Works/Engineering Department/Recreation and Parks Department. (Attached is the list of standard conditions.)

18. **Fish and Games Fee.** Within three working day s after approval of this Resolution, the Applicant shall remit to the City two cashier's checks, payable to the County Clerk, in the amount of $75.00 dollars for a documentary handling fee and $2,792.25 for a Fish and Game review fee as required pursuant to Fish and Game Code Section 711.4.

19. **Recorded Covenant.** These conditions of approval shall run with the land and shall remain in full force and effect for the life of this approval. This resolution approving the Development Plan Review Permit, Tentative Tract Map No. 70035, Density Bonus Permit, and R-4 Permit (the "Permits") shall not become effective until the owner of the Project site records a

covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution.

The Applicant shall deliver the executed covenant to the Department of Community Development within 60 days of the Planning Commission decision. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Permits shall be null and void and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Permits.

The covenant required by this condition shall be recorded prior to the recordation of any deed of trust related to construction financing or any other deed related to the construction of the project.

20. **Bond.** A cash deposit of $10,000 shall be deposited with the City to ensure compliance with the conditions of this Resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten (10) days of the notice; and (c) issue a stop work notice until such time that an additional deposit of $10,000 is deposited with the City to cover the costs associated with subsequent violations. Work

shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional $10,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this condition are in addition to any other remedy that the City may have in law or equity, and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code.

21. The Applicant shall secure all necessary permits from the Public Works Department and the Engineering Division prior to commencement of any demolition or Project related work.

22. **Permit** Expiration.

- Subdivision. The Final Map shall be prepared in accordance with the approved Tentative Map, and shall be filed within twenty-four (24) months from the date of approval by the City, unless, prior to expiration of the twenty-four (24) months period, the Planning Division has received a request from the subdivider for an extension of time in writing and receives approval by the City.

- Development Plan Review and R-4 permit; the exercise of rights granted in such approvals shall be commenced within three (3) years after the adoption of such resolution.

Section 13. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: September 23, 2010

_____
Lili Bosse
Chair of the Planning Commission
of the City of Beverly Hills

ATTEST:

_____
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

_____
Jonathan Lait, AICP
City Planner

_____
David D. Gustavson
Director of Public Works and Transportation

EXHIBIT A

CITY OF BEVERLY HILLS
STANDARD CONDITIONS LIST FOR THE PLANNING COMMISSION

ENGINEERING, UTILITIES AND RECREATION & PARKS:

1. The Applicant shall remove and replace all defective sidewalks surrounding the existing and proposed buildings.

2. The Applicant shall remove and replace all defective curb and gutter surrounding the existing and proposed buildings.

3. The Applicant shall comply with all applicable statutes, ordinances and regulations concerning the conversion of residential rental units into condominiums, including, but not limited to, the requirement that the Applicant pay the City of Beverly Hills the condominium conversion tax of $5,638.80, if a certificate of occupancy is issued prior to approval of the final subdivision map by the City Council. (The tax figure is adjusted annually.)

4. The Applicant shall remove all unused landings and driveway approaches. These parkway areas, if any, shall be landscaped and maintained by the adjacent property owner. This landscape material cannot exceed six to eight inches in height and cannot be planted against the street trees. Care shall be taken to not damage or remove the tree existing tree roots within the parkway area. Remove and replace all defective alley and driveway approaches surrounding the existing and proposed buildings.

5. The Applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed project. Every effort shall be made to retain mature street trees. No street trees, including those street trees designated on the preliminary plans, shall be removed and/or relocated unless written approval from the Recreation and Parks Department and the City Engineer is obtained. (See attached Trees and Construction document.)

   Removal and/or replacement of any street trees shall not commence until the Applicant has provided the City with an improvement security to ensure the establishment of any relocated or replaced street trees. The security amount will be determined by the Director of Recreation and Parks, and shall be in a form approved by the City Engineer and the City Attorney.

6. The Applicant shall provide that all roof and/or surface drains discharge to the street. All curb drains installed shall be angled at 45 degrees to the curb face in the direction of the normal street drainage flow. The Applicant shall provide that all groundwater discharges to a storm drain. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Connection to a storm drain shall be accomplished in the manner approved by the City Engineer and the Los Angeles County Department of Public Works. No concentrated discharges onto the alley surfaces will be permitted.

7. 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.

8. The Applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.

9. The Applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site unless otherwise approved by the City Engineer and shall pay the applicable sewer connection fee.

10. The Applicant shall make connection to the City's water system through the existing water service connection unless otherwise approved by the City Engineer. The size, type and location of the water service meter installation will also require approval from the City Engineer.

11. The Applicant shall provide to the Engineering Office the proposed demolition/construction staging for this project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.

12. 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-or-way, and for use of the public right-or-way for staging and/or hauling certain equipment and materials related to the project.

13. 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.

14. During construction all items in the Erosion, Sediment, Chemical and Waste Control section of the general construction notes shall be followed.

15. Condensate from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.

16. Water discharged from a loading dock area must go through an interceptor/clarifier prior to discharging to the storm drain system. A loading dock is not to be confused with a loading zone or designated parking space for loading and unloading.

17. Organic residuals from daily operations and water used to wash trash rooms cannot be discharged to the alley. Examples are grocery stores, mini markets and food services.

18. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges are; rising ground water and garage

sumps.

19. Storm water runoff from automobiles going into a parking garage shall be discharged through a clarifier before discharging into the storm drain system. In-lieu of discharging runoff through a clarifier, parking lots can be cleaned every two weeks with emphasis on removing grease and oil residuals which drip from vehicles. Maintain records of cleaning activities for verification by a City inspector.

20. After completion of architectural review of a new or modified commercial structure, and prior to issuance of the certificate of occupancy, the Applicant is required to comply with the Public Art Ordinance. An application is required to be submitted to the Fine Art Commission for review and approval of any proposed art piece or, as an alternative, the Applicant may choose to pay an in-lieu art fee.

EXHIBIT B

MITIGATION, MONITORING AND REPORTING PROGRAM