



AGENDA REPORT

Meeting Date: April 5, 2011

Item Number: D-1

To: Honorable Mayor & City Council

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

Subject: AN APPEAL OF THE PLANNING COMMISSION'S DECISION APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE ESTABLISHMENT OF AN EQUINOX EXERCISE CLUB AT 9465 WILSHIRE BOULEVARD.

Attachments:

1. Appeal Petition
2. Planning Commission Resolution No. 1600
3. Planning Commission Staff Report - 1/13/2011
4. Class 32 Categorical Exemption Report
5. Parking Study
6. Parking Management Plan
7. Public Correspondence Supporting Project
8. Letters Opposing Project - Includes Staff Response
9. Architectural Plans (Under Separate Cover)

RECOMMENDATION

It is recommended that the City Council grant approval of a Conditional Use Permit to allow the establishment of an Equinox exercise club at 9465 Wilshire Boulevard.

INTRODUCTION

This is an appeal of the January 13, 2011 decision of the Planning Commission approving a Conditional Use Permit to allow the establishment of an approximately 37,000 square foot exercise club. The Conditional Use Permit approval included the following elements:

1. Exercise club to be located on the ground floor of a building (Bank of America building at Wilshire and Beverly) located within the Business Triangle;

2. Exercise club to occupy more than 25 feet of street frontage within the Pedestrian Oriented Area; and
3. Parking to be provided through shared facilities within the subterranean garage.

Subsequent to the Planning Commission's approval of the Project, a timely appeal was filed by Todd Elliot, attorney on behalf of Ron and Sharon Gart and Neighbors Organized to Protect the Environment in Beverly Hills (N.O.P.E. Beverly Hills). The appeal contests the validity of the findings made by the Planning Commission, as well as the environmental analysis performed by the City in its review of the Project. This report outlines the basis for the Planning Commission's approval, responds to the information contained in the appeal petition, and makes a recommendation to approve the Conditional Use Permit.

BACKGROUND

Project Description

The Project consists of the following elements:

- Approximately 36,663 square foot exercise club to be established in the Bank of America building at the intersection of North Beverly Drive and Wilshire Boulevard. Project to occupy 10,300 square feet on the first floor, 7,281 square feet on the second floor, and 19,082 square feet on the third floor.
- Project includes a 1,660 square foot interior addition within an area that is currently open between two levels (open-to-below), but would be filled in to create the desired layout for the exercise club.
- Total building occupancy as approved would be 36,663 square feet of exercise club uses, 5,651 square feet of bank uses, and 122,784 square feet of general office uses.
- Project requires 367 parking spaces, of which 334 spaces would be provided through shared parking in the building's subterranean garage.

The subject property has street frontage along Wilshire Boulevard and North Beverly Drive. A subterranean parking garage is located beneath the subject property and has recently been expanded joining with the newly constructed parking garage at 245 North Beverly Drive (MGM). Combined, the parking garages provide a total of 959 parking spaces beneath the two buildings. Ingress and egress to the parking garage is provided along North Beverly Drive, along the rear alley of the property, and at Dayton Way.

Additional details regarding the Project description are contained in the attached January 13, 2011 Planning Commission staff report (Attachment 3)

Required Entitlements

The Equinox exercise club approved by the Planning Commission on January 13, 2011 required the issuance of a Conditional Use Permit. A Conditional Use Permit is required for the following components of the Project:

1. To allow an exercise club to be located on the ground floor of a building located within the Business Triangle;
2. To allow portions of the exercise areas to be visible from a public street or sidewalk (exercise areas at the third floor would be visible);
3. To allow the exercise club to occupy more than 25 feet of ground-floor street frontage within the Pedestrian Oriented Area (90 feet of street frontage along North Beverly Drive and 33 feet of street frontage along Wilshire Boulevard); and
4. To allow the use of shared parking facilities in order to satisfy the parking requirements set forth in the Municipal Code. A total of 334 parking spaces would need to be approved as "shared" parking spaces in order for the proposed exercise club to meet code requirements with regard to parking.

Summary of Planning Commission Deliberations and Findings

The Planning Commission reviewed the Project on October 14, 2010 and January 13, 2011. At the October 14, 2010 meeting the Planning Commission requested that the hearing be continued to a later date in order to allow for additional analysis to be prepared relative to parking management, vehicle trip generation, and environmental impacts. Subsequently, a full traffic study (Attachment 4), parking management plan (Attachment 6), and Categorical Exemption environmental analysis (Attachment 4) were prepared.

On January 13, 2011 the Planning Commission conducted a site visit at the subject property, held a public hearing, and reviewed all additional documentation and analysis prepared in conjunction with the Project. Upon the conclusion of all testimony and review of all documents related to the Project, the Planning Commission determined that the required findings could be made in support of the Project, and that no detrimental impacts would occur as a result of the Project.

The Planning Commission voted unanimously in support of the Project, and all Project-specific findings and conditions are detailed in Attachment 2 (Planning Commission Resolution No. 1600). Commissioner Corman did not participate in the decision because of a potential conflict of interest.

APPEAL

The appellant identifies the following main points as the basis for the appeal:

1. The Planning Commission's approval violates shared parking provisions set forth in BHMC §10-3-1618;
2. The Planning Commission erred in making findings of fact in support of the Project;
3. The Project is inconsistent with the General Plan; and
4. The Project violates CEQA, is not eligible for a Categorical Exemption, and an Environmental Impact Report must be prepared.

Further, it should be noted that the appeal petition contains no new information that had not previously been considered by the Planning Commission prior to rendering a decision on the

Project. Therefore, staff is not recommending that the matter be remanded to the Planning Commission.

APPEAL ANALYSIS

The following section restates each of the main points provided in the Appeal Petition and provides analysis of each point.

The Planning Commission's approval violates shared parking provisions set forth in BHMC §10-3-1618¹.

The appellant cites excerpts from the Beverly Hills Municipal Code relating to shared parking requirements and their applicability to the Project, and provides explanations as to why the Project does not meet the eligibility requirements for shared parking. The appellant claims that in order for an exercise club to be eligible for shared parking, it must be demonstrated that:

1. The use of a parking facility proposed for shared parking must be primarily a daytime use;
2. The exercise club must be considered to be primarily an early morning and/or nighttime use; and
3. The exercise club must have different peak hours of operation than the daytime use.

¹ 10-3-1618: EXERCISE CLUBS AND PRIVATE TRAINING CENTERS; PARKING RESTRICTIONS:

B. Notwithstanding the provisions of section 10-3-2730 of this chapter, the planning commission may issue a conditional use permit to allow up to fifty percent (50%) of the parking facilities of a use that is primarily daytime use to be used to satisfy the parking facilities required by this article for an exercise club or private training center considered to be primarily an early morning and/or nighttime use, provided the latter use has different peak hours of operation than the daytime use, and provided further that all of the following criteria are met:

1. The parking facilities are located on site in an existing building in the business triangle, as defined in section 10-3-3301 of this chapter; and
2. The parking facilities have a minimum of five hundred (500) parking spaces; and
3. A parking utilization study prepared by a certified traffic engineer establishes, to the satisfaction of the planning commission, that the parking facilities required by this chapter exceed the demand for parking spaces that will be generated by the proposed use and the other uses in the subject building. (Ord. 94-O-205, eff. 8-6-1994; amd. Ord. 02-O-2415, eff. 12-19-2002)

As explained below, however, the alleged criterion 2 is based on misinterpretation of the Code. Further, the appellant states reasons why the Project is not in compliance with the code provisions. These reasons, as well as the basis for the Planning Commission's approval, are discussed as follows:

1. *The appellant states that the primary users of the parking facilities cannot be considered to be primarily daytime uses because many of these businesses do not maintain "normal business hours" that occur during daytime hours. The appellant provides data on the hours of operation of businesses within the subject property to show that many of the office uses within the buildings served by the parking facilities operate until 6:00 PM or later, and as a result are not daytime uses.*

Contrary to the conclusions reached by the appellant, if an office use stays open until 6:00 PM or later it does not necessarily mean that such office use cannot be classified as being "primarily" a daytime use. Historically, office uses have been determined to be daytime uses, and a recent example of this determination includes the office uses in the building at 9601 Wilshire Boulevard (Sports Club LA). Notwithstanding the fact that certain office uses may remain open later than 5:00 PM, general office uses, as well as entertainment office uses, conduct the majority of their business during daytime hours. As a result, the vast majority of employees are present at an office building during daytime hours, and their presence gradually declines into the later afternoon and evening hours. The same can be said for client meetings, which typically occur during daytime hours.

The City's conclusion that the office uses are "primarily" daytime uses is supported by parking survey data provided in the January 13, 2011 Planning Commission staff report showing that the Bank of America Building (at full occupancy) sees its peak parking demand of 392 spaces occur at 2:00 PM. Based on the data collected, the office uses generate the greatest parking demand (70% or more of the 392-space peak) between the hours of 10:00 AM and 5:00 PM, typical daytime hours. Parking utilization outside the hours of 10:00 AM and 5:00 PM does not exceed a maximum of 57% of the peak hour demand, reinforcing the fact that the office uses are primarily daytime uses. As a result, the parking spaces used by the office uses are considered to be eligible for use as shared parking spaces.

2. *The appellant states that the exercise club cannot be considered as being a "primarily" early morning and/or nighttime use unless a full 50% or more of all exercise club usage occurs during morning or nighttime hours. The Municipal Code does not define "primarily" and the appellant has inferred this to mean 50% or more of the exercise club's operations must occur in the morning (before 8:00 AM) or evening (after 7:00 PM). Moreover, the appellant asserts that another nearby Equinox facility conducts no more than 35% of its business before 8:00 AM or after 7:00 PM.*

Although the appellant concludes that the exercise club is not primarily an early morning and/or nighttime use, this conclusion relies on assumptions and interpretations made by the appellant that are not based on the definitions or intent of the Municipal Code, nor are they in keeping with the City's past application of zoning regulations to other projects.

First, the municipal code distinguishes between “exercise clubs” and “private training centers.” The Beverly Hills Municipal Code has specific definitions for each of type of land use as follows:

“EXERCISE CLUB: A membership facility, or other facility for which usage fees are charged, that includes any one of the following, alone or in combination: a) an exercise, aerobic, gymnasium, martial arts, and/or dance studio area, including, but not limited to, an exercise area designed for young children; b) weight training equipment; or c) game courts. **Exercise club does not include private training centers**, or any facility that is accessory to a public educational institution or accessory to a private educational institution that is included on the list of private schools prepared pursuant to California Education Code section 33190.” (BHMC Section 10-3-100; emphasis added.)

“PRIVATE TRAINING CENTER: A facility used for individual exercise or training activities, where, during exercise or physical training activities, there is an on-site ratio of students to instructor and/or trainer of no more than five to one (5:1) and no more than fifteen (15) people, including instructors and trainers, engage in exercise or training activities at any one time. ‘Private training center’ does not include any facility that is accessory to a public educational institution or accessory to a private educational institution that is included on the list of private schools prepared pursuant to Education Code section 33190.” (BHMC Section 10-3-100)

The proposed facility is clearly an exercise club, and is not a private training center because, among other things, the number to people engaged in simultaneous exercise will be far in excess of the fifteen permitted for a private training center.

Contrary to appellant’s assertions, Section 10-3-1618 requires a determination regarding the use being primarily an early morning and/or nighttime use for private training centers, but not for exercise clubs. Specifically, Section 10-3-1618 B provides:

“Notwithstanding the provisions of section 10-3-2730 of this chapter, the planning commission may issue a conditional use permit to allow up to fifty percent (50%) of the parking facilities of a use that is primarily daytime use to be used to satisfy the parking facilities required by this article for an exercise club or private training center considered to be primarily an early morning and/or nighttime use, provided the latter use has different peak hours of operation than the daytime use, and provided further that all of the following criteria are met...”

The requirement for peak hours of operations falling in hours other than the daytime use applies to both exercise clubs and private training centers. The term “latter use” includes both exercise clubs and private training centers, whereas the former use for purposes of this section is the daytime use with which parking would be shared.

Even if the inquiry into whether the exercise club is primarily an early morning and/or nighttime use were required, which it is not, the facts support a conclusion that the use is primarily an early morning / nighttime use. The appellant, in its analysis, has assigned early morning and/or nighttime hours as those hours before 8:00 AM and after 7:00 PM, and has also assumed that an eligible exercise club must conduct 50% or more of its operations outside of "daytime" hours. Historically, the City has determined morning and nighttime hours to be those hours before 9:00 AM and after 5:00 PM, which differs from the timing utilized by the appellant. As a result, a daily average of approximately 59% of all weekday business at the Westwood Equinox occurs during early morning and/or nighttime hours, which supports the exercise club's designation as an early morning and/or nighttime use. Therefore, even though not required, the evidence supports the conclusion that the Equinox use is primarily an early morning and nighttime use.

- 3. The appellant states that the exercise club does not have peak hours of operation that differ substantially from those of the general office uses in the building, and that a parking shortfall will result from this situation. The appellant has prepared his own calculations and analysis using peak parking demand ratios established in the Project's parking study and concludes that a shortfall of approximately 20 parking spaces will occur when these ratios are used. Consequently, the appellant questions the availability of parking spaces.*

In his analysis, the appellant fails to provide a correlation between the assertion that a shortfall will occur and the empirical parking data provided in the parking study. The empirical parking data shows that exercise club uses peak in the morning (approximately 8:00 AM and 9:00 AM) and evening (approximately 6:00 PM), while office uses peak in the afternoon (approximately 11:00 AM to 3:00 PM). Furthermore, the parking study provides an hourly breakdown of total parking demand that shows shared parking spaces will accommodate all uses and that a shortfall will not occur. Finally, the parking study was prepared by a licensed transportation engineer and was peer reviewed by the City's transportation engineer, whereas the argument presented by the appellant does not include any analysis prepared by a licensed transportation engineer.

The Planning Commission erred in making findings of fact in support of the Project.

The appellant states that the Planning Commission failed to make the required findings of fact that the Project would not be detrimental to adjacent properties or the public welfare. The basis for this claim, as identified in the appeal petition, is that the Project would be detrimental to adjacent property or the public welfare because the Project would result in uses that are not pedestrian-oriented, increased traffic, incompatibility with surrounding uses, and increased vehicle conflicts.

Contrary to the assertions made by the appellant, the Planning Commission did adopt findings of fact in support of the Project, and found that the Project would not be detrimental to adjacent properties or the public welfare. The findings adopted by the

Planning Commission are provided in Attachment 2, and specific responses to the appellant's claims are as follows:

Pedestrian-Oriented Uses and Compatibility with Surrounding Uses

The appellant states that the project is not pedestrian-oriented, is not compatible with the surrounding area, and will limit future retail opportunities.

The Project consists of an exercise club and ancillary retail and food service uses. Because the primary use is an exercise club the Project is not considered to be a pedestrian-oriented development, and thus requires a Conditional Use Permit to be located on the ground floor of the Business Triangle. The Planning Commission found that the Project would be replacing an existing non pedestrian-oriented bank use, and would not result in any net increase in non pedestrian-oriented uses or an overconcentration of non pedestrian-oriented uses. Further, the Planning Commission found that the Project would result in pedestrian friendly enhancements to the building façade and streetscape, thereby enhancing the existing pedestrian experience. This determination is further supported by letters from various residents, as well as employees of local businesses, indicating that they live or work near the Project site and plan to walk to the exercise facilities, thereby enhancing pedestrian activity (see Attachment 7). For these reasons the Planning Commission determined that the Project would not be detrimental to adjacent properties or the public welfare, nor would it limit future development of the area. Mr. Elliot's appeal petition asserts that there will be no "future retail growth" as a result of the exercise club. However, this statement ignores the fact that the adjacent MGM building provides much opportunity for future pedestrian oriented uses, and that the Project will in fact not limit future retail growth in the area.

Vehicle Trip Generation

The appellant asserts that the traffic study in conjunction with the Project is inadequate because it does not study two stop-controlled intersections (Rexford/Dayton and Roxbury/Charleville), and that traffic impacts may result from the Project.

A full traffic study was prepared in conjunction with the Project. The traffic study analyzed seven signalized intersections and three residential street segments, was peer reviewed by the City's transportation engineer, and was provided to the Planning Commission in their review of the Project. The traffic study indicated that the Project would result in a net increase of approximately 1,130 average daily vehicle trips, but would not result in any significant environmental impacts with regard to traffic. The stop-controlled intersections identified by the appellant were not studied because they were determined to not be in close enough proximity to the Project site to result in an impact once all vehicle distribution is applied. This determination is further supported by the fact that these stop-controlled intersections were not studied in connection with the William Morris project (245 N. Beverly Drive), which generated a far greater number of vehicle trips (approximately 4,000 trips per day). Based on lower trip volumes once distribution patterns were assigned, it was determined that the identified stop-controlled intersections did not require further study.

Vehicle Conflicts

The appellant asserts that the added vehicle trips associated with the Project will result in vehicle conflict impacts to the intersection at Wilshire Boulevard and Beverly Drive. The appellant bases this claim on an intersection accident study released by the City of Los Angeles Controller's office, which claims that two of the most dangerous intersections in Los Angeles experienced a cumulative 24 traffic accidents over a two year period, whereas the intersection at Beverly Drive and Wilshire Boulevard experienced 97 accidents over a two year period. As a result, the appellant states that the unique circumstance of high accident rates should have prevented the Planning Commission from making the required findings.

The traffic accident data provided by the appellant is very misleading and does not provide an accurate comparison of traffic accidents at the Project intersection versus those at the Los Angeles intersections identified as being the most dangerous. The intersection accident study prepared for Los Angeles, when read in its entirety, clearly states that the only accidents tabulated were those that resulted from motorists running red lights. There was no tabulation for other types of accidents because the available data was insufficient, and the purpose of the study was to determine whether red light cameras reduced accidents caused specifically by motorists running red lights. In comparison, the 97 accidents at Beverly and Wilshire referenced by the appellant resulted from all calls for service related to vehicle accidents near the intersection. Of the 97 accidents reported, not a single one resulted from a vehicle running a red light, nor did any of the accidents (where a police report was filed) actually occur within the intersection. All reported accidents that included a police report occurred outside the intersection itself, and were predominantly related to minor rear-end accidents and vehicles changing lanes into each other. Consequently, the appellant's claim of vehicle impacts is unfounded and not supported by any factual evidence.

The Project is inconsistent with the General Plan

The appellant states that the Project is inconsistent with two General Plan policies related to creating pedestrian-oriented environments. The referenced policies are as follows:

LU 2.8 Pedestrian-Active Streets. *Require that buildings in business districts be oriented to, and actively engage the street through design features such as build-to lines, articulated and modulated façades, ground floor transparency such as large windows, and the limitation of parking entries directly on the street. Parking ingress and egress should be accessed from alleys where feasible. (Imp. 2.1)*

LU 11.1 Preservation of Pedestrian-Oriented Retail Shopping Areas. *Preserve, protect and enhance the character of the pedestrian-oriented retail shopping areas, which are typified by a variety of retail shops with displays to attract and hold the interest of pedestrian shoppers, to ensure the continuity of the pedestrian experience. (Amended by Resolution No. 80-R-6218, 8-19-80.) (LU 2.2.3, pg LU-6)*

The first General Plan policy referenced by the appellant is related to the design and construction of buildings, and has nothing to do with the actual use of the building. Notwithstanding the fact that the Project results in very minimal changes to the actual exterior of the building and maintains the integrity of its original configuration, the

Planning Commission found that the proposed modifications would actually add pedestrian-friendly features to the building such as a food and retail component of the exercise club, visual window displays, a new pedestrian access point, and enhanced landscaping and planters, and would therefore be in keeping with the goals and policies of the General Plan. The second General Plan policy referenced by the appellant relates to preserving pedestrian-oriented retail shopping areas, and the appellant states that the Project does not preserve, protect, or enhance the pedestrian-oriented retail areas. In reviewing the Project the Planning Commission found that approval of the exercise club would result in the replacement of an existing, non pedestrian-oriented bank use, would not result in any net loss of pedestrian-oriented development, would include display windows (rather than closed off walls as indicated by the appellant), and would actually result in pedestrian enhancements to the building façade and streetscape (as noted above) that would serve to promote the goals and policies of the General Plan.

The proposed Project violates the requirements of CEQA.

During its CEQA review the City determined that the Project is exempt from being subject to an Environmental Impact Report because the Project qualifies for three different Categorical Exemptions. Complete Categorical Exemption documentation is attached to the January 13, 2011 Planning Commission staff report, and the appellant's objections to the use of the Categorical Exemptions are discussed as follows:

Special Circumstances

The appellant states that there are special circumstances associated with the Project, and a reasonable possibility that the Project may have a significant impact on the environment. As a result, the appellant argues that the Project is not eligible for a Categorical Exemption. Specifically, the appellant references the unique circumstance of an accident-prone intersection, and potential impacts to traffic and circulation, noise, and historical resources.

As is discussed above under "Vehicle Conflicts" the intersection at Beverly and Wilshire has not been shown to be particularly accident-prone, and the appellant's reference to several "dangerous" intersections in Los Angeles is an inaccurate comparison that fails to substantiate a unique circumstance. Further, staff's analysis, as outlined in the Categorical Exemption Report, demonstrates that the Project does not have the potential to result in impacts to traffic and circulation, noise, and historical resources.

Class 32 Categorical Exemption

The appellant asserts that the Class 32 Exemption is invalid because the City did not adequately study potential impacts to traffic, noise, and historical resources. With regard to noise, the appellant states that the Categorical Exemption Report failed to analyze the Project's impact on ambient noise. With regard to historic resources, the appellant alleges the subject property has been identified as a potential contributor to a potential historic district.

The City determined that the Project was exempt from CEQA pursuant to a Class 32 Exemption, which can be used when an infill project meets specific criteria. As is discussed earlier in this report, a full traffic study was prepared to assess potential traffic impacts. The technical data contained in the traffic study clearly demonstrates

that the Project will not result in a significant adverse impact, and the appellant provides no technical data to substantiate the presence of a traffic impact. Concerning noise, the Categorical Exemption Report does provide analysis of noise impacts, and concludes that the Project will not result in any significant impacts to ambient noise. Concerning historic resources, the designation referenced by the appellant, identifying the building as being a potential contributor to a potential district, means that the subject building is not a standalone historic resource by itself, and does not represent the necessary historic qualities to be considered an individual resource. At most, the building is a contributor to a potential district. The Planning Commission found that the minor exterior changes contemplated as a part of the Project would not cause a substantial adverse change in the significance of the building, and all anticipated changes will be fully reversible. Finally, as a condition of approval and part of the project's Architectural Review process, the Planning Commission required that any exterior changes be reviewed by a qualified historian to ensure that said changes do not result in a substantial adverse change to the building. As a result, the Project remains eligible for a Categorical Exemption, and will not result in a significant adverse impact due to unusual circumstances.

Class 2 Categorical Exemption

The appellant states that this exemption is invalid because it relates only to full reconstruction of existing buildings with substantially the same purpose.

The City determined that the Project was also exempt from CEQA pursuant to a Class 2 Exemption, which relates to the reconstruction of existing facilities. The City determined that the exemption is applicable because in this case, the Project envisions utilization of the same amount of area in an existing commercial building for another commercial use, and includes tenant improvements necessary to accommodate the new commercial use. The Class 2 Exemption allows for complete destruction of a commercial building, and replacement with a new structure of substantially the same size, purpose, and capacity. It further would allow for reconstruction of schools and hospitals with increased capacity of 50 percent or less. This project involves removal and replacement of tenant improvements, with no expansion in the gross floor area (the Project results in changes to net floor area, but not gross floor area) or commercial capacity, and is well within the scope of the Class 2 exemption.

Class 1 Categorical Exemption

The appellant states that the exemption is not applicable because the new use requires a CUP and results in a greater than negligible expansion of an existing use.

In addition to the above exemptions, the City determined that the Project was exempt from CEQA pursuant to a Class 1 Exemption, which relates to interior and exterior modifications to existing buildings. The appellant, however, misconstrues this Project to convert general office and bank space to a commercial exercise club as a "change in use." The previous office and bank uses of the site were permitted commercial uses in the commercial zone, as is an exercise club (BHMC Sec. 10-3-1601). Contrary to the appellant's statement, the specific use of an exercise club is a by-right use, and only requires a CUP because of its ground-floor location and request for shared parking. From the City's perspective, all of these uses are permitted commercial uses, and thus the proposed project does not constitute a change in, or expansion of the previous commercial use of this existing building.

FINDINGS

Staff recommends that the following findings be made in support of the Project:

1. *The proposed location of the use will not be detrimental to adjacent property or to the public welfare;*

The Project is commercial in nature, and is consistent with ongoing commercial operations in the vicinity of the Project site. Traffic and parking studies that have been peer reviewed by the City's Transportation Division indicate that the Project will not result in any significant traffic or parking related impacts. Existing site conditions do not include pedestrian oriented development, and the proposed Project will improve upon the existing conditions by providing window displays, a new pedestrian access point, and a broader range of uses along the subject property's street frontage. Further, all exterior modifications, signage, and window displays will be reviewed by the Architectural Commission to ensure a pedestrian-friendly design. As a result, the proposed Project will not be detrimental to adjacent property or to the public welfare.

2. *The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;*

The proposed exercise club is consistent with commercial operations in the vicinity of the Project site. Although the exercise club is not designated as a pedestrian oriented use, the proposed design will improve upon existing conditions and create a more pedestrian oriented environment. Further, as evidenced by letters from the public supporting the Project, various residents, as well as employees of local businesses, live or work near the Project site and plan to walk to the exercise facilities, thereby enhancing pedestrian activity. Surrounding ground floor uses consist of general retail and banking/financial uses, and there are no residential properties in the immediate vicinity of the Project site. Based on existing commercial uses and surrounding development the restricted use will be compatible with and will not result in any substantial adverse impacts to surrounding uses.

3. *Granting the request for a conditional use permit will not result in an over concentration of non-pedestrian oriented uses in the block in which the proposed restricted use will be located;*

The existing building that the proposed Project is intended to occupy is currently utilized entirely by general office and banking uses, which do not qualify as pedestrian oriented uses. Because the Project would be replacing non-pedestrian oriented uses, the Project will not result in the loss of any pedestrian oriented development. In fact, placement of the exercise club will include the installation of new window displays, a new pedestrian access point, and a broader range of uses along the subject property's street frontage. These changes will help to add some level of pedestrian oriented design, and will not result in an over concentration of non-pedestrian oriented uses in the block.

4. *Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas; and*

Thorough analysis has been conducted to ensure that the Project will not result in any traffic or parking related impacts. The proposed use is consistent with commercial operations in the vicinity of the Project site, thereby protecting the public health, safety and general welfare. Additionally, the Project does not result in the loss of any existing pedestrian oriented development, and improves upon the building's existing configuration with regard to pedestrian orientation. The Project site is surrounded by pedestrian-oriented developments to the north, east, and west, and leaves ample space for future retail growth in the designated pedestrian oriented areas.

5. *The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.*

The configuration of the existing building on the Project site does not appear to have been designed with pedestrian movement in mind. Existing ground-floor bank uses provide little if any pedestrian oriented atmosphere, nor does the architectural design of the building contribute to the pedestrian experience. The proposed Project, as well as its accompanying architectural modifications to the ground floor will help to improve the pedestrian experience beyond existing site conditions.

General Plan. In addition to the above findings staff recommends that the City Council find that the Project is consistent with the goals and policies of the General Plan, and specifically furthers the following General Plan policies:

LU 2.8 Pedestrian-Active Streets. *Require that buildings in business districts be oriented to, and actively engage the street through design features such as build-to lines, articulated and modulated façades, ground floor transparency such as large windows, and the limitation of parking entries directly on the street. Parking ingress and egress should be accessed from alleys where feasible. (Imp. 2.1)*

The Project adds pedestrian-friendly features to the building such as a food and retail component of the exercise club, visual window displays, a new pedestrian access point, and enhanced landscaping and planters. Additionally, the Project will be utilized by residents, as well as employees of local businesses, that live or work near the Project site and will walk to the exercise facilities. Therefore, the Project will further the goal of promoting pedestrian-active streets by enhancing the streetscape and providing increased pedestrian activity.

LU 11.1 Preservation of Pedestrian-Oriented Retail Shopping Areas. *Preserve, protect and enhance the character of the pedestrian-oriented retail shopping areas, which are typified by a variety of retail shops with displays to attract and hold the interest of pedestrian shoppers, to ensure the continuity of the pedestrian experience. (Amended by Resolution No. 80-R-6218, 8-19-80.) (LU 2.2.3, pg LU-6)*

The Project results in the replacement of an existing, non pedestrian-oriented bank use, and would not result in any net loss of pedestrian-oriented development. The Project includes a food and retail component of the exercise club, visual window displays, a new pedestrian access point, and enhanced landscaping and planters. These improvements enhance existing conditions and preserve the City's existing pedestrian oriented retail shopping areas.

RECOMMENDED ACTION

Based on the forgoing information, staff recommends that the Council direct the City Attorney's office to prepare a resolution making findings and granting the Conditional Use Permit.

FISCAL IMPACT

No fiscal impact to the City is anticipated from a Council decision in this matter.

PUBLIC NOTICE AND COMMENTS

A public hearing notice was mailed on March 25, 2011 to the Appellant, applicant, and all parties originally noticed, and was published in the Beverly Hills Courier and the Beverly Hills Weekly, two newspapers of local circulation. Numerous public comments were received during the Planning Commission hearings, and are attached to the original Planning Commission staff report for reference.

RECOMMENDED CONDITIONS OF APPROVAL

Staff recommends that all original conditions imposed by the Planning Commission pursuant to Resolution No. 1600 (Attachment 2) also be imposed as conditions of any City Council approval resolution.

for Susan Healy Keene, AICP
Director of Community Development



Approved By