



AGENDA REPORT

Meeting Date: April 21, 2011
Item Number: G-4
To: Honorable Mayor & City Council
From: City Attorney
Subject: A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING A CONDITIONAL USE PERMIT TO ALLOW AN EXERCISE CLUB TO BE LOCATED ON THE GROUND FLOOR OF A BUILDING LOCATED WITHIN THE BUSINESS TRIANGLE, OCCUPY MORE THAN 25 FEET OF STREET FRONTAGE WITHIN THE PEDESTRIAN ORIENTED AREA, AND UTILIZE SHARED PARKING, FOR THE PROPERTY LOCATED AT 9465 WILSHIRE BOULEVARD

Attachments: 1. Resolution

RECOMMENDATION

It is recommended that the City Council adopt the resolution.

INTRODUCTION

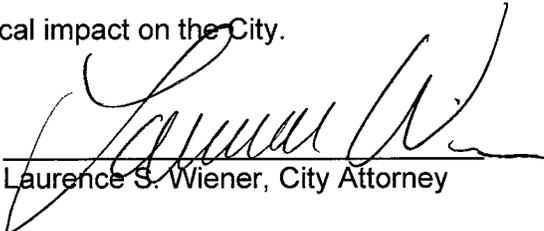
The attached resolution approves a conditional use permit for the proposed Equinox exercise club. The conditional use permit authorizes the exercise club to: (1) be located on the ground floor, (2) occupy more than 25 feet of street frontage within the pedestrian oriented area of the City, and (3) utilize shared parking. The exercise club proposes to occupy the Bank of America building 9465 Wilshire Boulevard.

DISCUSSION

At its meeting on April 5, 2011, the City Council directed the City Attorney's Office to draft a resolution of findings approving the conditional use permit.

FISCAL IMPACT

The adoption of the resolution will have no direct fiscal impact on the City.


Laurence S. Wiener, City Attorney

Attachment 1

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING A CONDITIONAL USE PERMIT TO ALLOW AN EXERCISE CLUB TO BE LOCATED ON THE GROUND FLOOR OF A BUILDING LOCATED WITHIN THE BUSINESS TRIANGLE, OCCUPY MORE THAN 25 FEET OF STREET FRONTAGE WITHIN THE PEDESTRIAN ORIENTED AREA, AND UTILIZE SHARED PARKING, FOR THE PROPERTY LOCATED AT 9465 WILSHIRE BOULEVARD

The City Council of the City of Beverly Hills hereby finds, and resolves as follows:

Section 1. Equinox Fitness Club (the “Applicant”) submitted an application for a Conditional Use Permit (“CUP”) to allow an exercise club: (1) to be located on the ground floor of a building located within the Business Triangle, (2) to occupy more than 25 feet of street frontage within the Pedestrian Oriented Area, and (3) to utilize shared parking facilities in order to satisfy the City’s parking requirements. The exercise club is proposed to be located at 9465 Wilshire Boulevard (the “Project”). An exercise club is a permitted use within the City’s commercial zones. The Project requires a CUP in order to: (1) be located on the ground floor of a building within the Business Triangle, (2) occupy more than 25 feet of street frontage within the City’s Pedestrian Oriented Area, and (3) utilize shared parking facilities.

The Project site is located on the northwest corner of the intersection of Wilshire Boulevard and Beverly Drive, in a building commonly referred to as the “Bank of America building.” The building is located within the Pedestrian Oriented Area of the City. The existing neighborhood character within the vicinity of the Project consists of a variety of commercial developments, which are predominantly occupied by retail and general office uses. The Project site is immediately south of an office building soon to be occupied by Metro Goldwyn Mayer

(“MGM”) and across Beverly Drive from the Montage Hotel. Additionally, the Project site is located immediately east of the “Two Rodeo” development, and northeast of the Beverly Wilshire Hotel.

The Project consists of tenant improvements for and the operation of an approximately 37,000 square foot exercise club within portions of the first, second, and third floors of the existing commercial building at the subject property.

Parking for the existing Bank of America building is located in a subterranean garage below in the MGM building parking garage, which is connected to the Bank of America building at levels P1 and P3 of the Bank of America building. As a result, the Bank of America building has access to a total of 959 parking spaces within the entire garage.

Section 2. Notice of the Project and public hearing before the Planning Commission was mailed on October 1, 2010 to all property owners and residential tenants within a 300-foot radius of the property. Additionally, notice was provided to all commercial tenants of the subject property. On October 14, 2010, November 23, 2010 and January 13, 2011 the Planning Commission considered the application at duly noticed public meetings. On January 13, 2011, the Planning Commission adopted a resolution approving the CUP.

Section 3. An appeal from the decision of the Planning Commission 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) (hereinafter referred to as the “Appellant”).

Section 4. Notice of the appeal hearing was mailed on March 25, 2011 to the Applicant, the Appellant, and all parties who received notice of the Planning Commission

hearing. Notice was also published in two newspapers of general circulation. On April 5, 2011, the City Council held a de novo public hearing to consider the application for the CUP.

Section 5. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*, the “State Guidelines”), and the City’s Local CEQA Guidelines (the “City Guidelines”). Class 1, Class 2, and Class 32 Categorical Exemptions have been issued in accordance with the requirements of Sections 15301, 15302, and 15332 of the State Guidelines. The Class 1, Class 2 and Class 32 exemptions are applicable because the Project results in minor interior and exterior changes to an existing commercial building, demolition and reconstruction of a commercial space within an existing commercial building, and in-fill development within an existing urban area. The exemptions are further supported by the technical environmental analysis prepared and reviewed in conjunction with the Project.

No exceptions to the categorical exemptions apply. The City Council finds that there is no substantial evidence of a reasonable possibility that the activity will have a significant environmental effect due to unusual circumstances. The accident count comparisons between Los Angeles intersections and the intersection of Beverly Drive/Wilshire Boulevard presented by the Appellant were inappropriate because the studies being compared did not measure comparable accident rates.

Additionally, the City Council finds that the Project will not cause a substantial adverse change in the significance of an historic resource. The Bank of America building has not been identified as a historic resource itself, but as a contributor to a potential historic district. Based on the conditions of this CUP, the staff report regarding consultation with the City’s

historic resources consultant, and the presentation from Mr. George Taylor Loudon, the Council finds that the proposed changes to the Bank of America building would not alter character defining features of the Bank of America building, and would be reversible.

Section 6. In considering the request for the CUP, the City Council was able to make the following findings as further detailed in Section 7:

1. The proposed location of the use 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;
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;
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
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.

Section 7. Based on the evidence presented at the hearing, including the staff report and written and oral testimony, the City Council hereby finds and determines as follows:

1. The proposed location of the Project will not be detrimental to adjacent property or to the public welfare. The Project is commercial in nature, and is compatible with ongoing commercial operations in the vicinity of the Project site by

providing additional services to shoppers and workers, including additional dining, retail and exercise opportunities. 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. Based on parking survey data, the office uses in the Bank of America building are primarily daytime uses. Also, based on survey data from the Westwood Equinox club, the proposed use will be primarily an early morning and nighttime use. The survey data indicates that most exercise club patrons visit during the hours before 9:00 a.m. and after 5:00 p.m. Additionally, the heaviest per hour use is during these hours. The parking facility is located on site and has more than 500 parking spaces and a parking utilization study prepared by a certified traffic engineer has concluded to the satisfaction of the City Council that the parking facilities exceed the demand for parking spaces that will be generated by the Project and other uses in the Bank of America building.

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 further the City's General Plan goals of encouraging pedestrian oriented streets and shopping areas and will not be detrimental to adjacent property or to the public welfare.

2. The proposed Project is compatible with and will not result in any substantial adverse impacts to surrounding uses. The proposed Project is commercial

in nature and will complement commercial operations in the vicinity of the Project site by providing additional services to shoppers and workers, including additional dining, retail and exercise opportunities. 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. Existing site conditions do not include pedestrian oriented development. The proposed Project will provide 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.

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 Project will be located. The existing Bank of America building 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, the Project will include the installation of new window displays, a new pedestrian access point, and a broader range of uses along the building's street frontage. These changes will improve the pedestrian orientation of the building and therefore the block on which the building is located. Thus, the proposed Project 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. Traffic and parking studies have concluded that the Project will not result in any traffic or parking related impacts. For the reasons discussed above, the proposed Project will improve the pedestrian orientation of the building and the area, thereby furthering the City's General Plan goals and will add a retail use to the street level of the Bank of America building. Additionally, the Project does not result in the loss of any existing pedestrian oriented development. The Project site is surrounded by pedestrian-oriented developments to the north, east, and west, and therefore leaves ample space for future retail growth in the designated pedestrian oriented areas in addition to the retail growth caused by the Project itself.

5. The configuration of the Bank of America building in which the Project will be 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. The architectural design of the building does not contribute to the pedestrian experience due to its setback and blank walls at the street level. The proposed Project, including its architectural modifications to the ground floor, will help to improve the pedestrian experience for the reasons discussed above.

6. The subject property has been identified as a potential contributor to a potential "California Register district of ...Post World War II modern office

buildings.” At present there is no established Post World War II modern office building historic district. The City Council finds that the subject building is not a historic resource on that ground, and is not a historic resource itself, as shown by the resource review records. Further, the City Council finds that even if the building were to be deemed a historic resource, the Project will not cause a substantial adverse change in the significance of the structure. Specifically, new window displays, a pedestrian entrance, introduction of a small retail component, and installation of a 33 foot opaque storefront will not individually or cumulatively result in a substantial change in the appearance of the building, much less a substantial adverse change to the alleged historic resource. Further, any changes are fully reversible, and no evidence was presented to suggest that the minor building modifications would result in substantial adverse changes to the building appearance. Although the structure is not found to be a historic resource, and the changes presented to the City Council will not adversely affect the appearance of the structure, the conditions of approval imposed on the project require, as part of the Architectural Review process, review of any changes to the building exterior, including any changes as may be recommended by the Architectural Review Commission, by a qualified historian to ensure changes would not result in a substantial adverse change to the building. Therefore, the City Council finds that the minor exterior changes that would result from the Project will be fully reversible and will not cause a substantial adverse change in the significance of the building.

7. The City Council also finds that the characteristics of the intersection of Wilshire Boulevard and Beverly Drive, adjacent to the project site, do

not constitute an unusual circumstance for purposes of CEQA Guidelines Section 15300.2 (c), and that there will be no adverse impacts to traffic or parking for the reasons documented in the detailed traffic and parking analysis prepared for the Project. The accident count comparisons between Los Angeles intersections and the intersection of Beverly Drive/Wilshire Boulevard presented by the Appellant were inappropriate because the studies being compared did not measure comparable accident rates.

Section 8. Based on the foregoing, the City Council hereby denies the appeal and grants the requested Conditional Use Permit, subject to the following conditions:

1. The Conditional Use Permit (CUP) shall expire fifteen (15) years from the date of the resolution and all rights granted by this CUP shall terminate at that time. Unless the CUP is renewed, or a new CUP granted, the Applicant shall immediately cease operation of the exercise club at this location. The Applicant shall have the right to submit requests for renewal of the CUP but shall have no right to renewal of the CUP. Any application for renewal of the CUP or a new CUP must be filed at least sixty (60) days prior to the expiration of these approvals. If the Planning Commission or City Council on appeal does not renew the CUP, the CUP shall expire and all rights possessed under the CUP shall be terminated. Provided, however, if the Applicant files a timely application for a renewal, any existing CUP shall be extended until the City takes final action on the application. Any application for a renewal of this CUP shall be subject to the application fee established by Resolution of the City Council. Upon expiration of the renewal and any future renewal, the Applicant may apply for further extensions pursuant to the procedures set forth above.

2. Six (6) months after the opening of the exercise club, the Applicant shall provide to the Director of Community Development parking utilization counts at the subject site to monitor actual parking demand and ensure that the parking demand is being met. Should parking demands be different than those reported under the parking survey prepared in connection with the review of the Project and the Director determines that parking supply is insufficient to meet the demands of the exercise club, then the Applicant shall develop a parking management plan satisfactory to the Directors of Community Development and Transportation to mitigate the parking deficiency. If at any time the Director of Community Development determines that parking demand or parking supply may no longer reflect the conditions that were monitored six (6) months after opening of the exercise club, then the Director may require additional parking utilization counts. Should parking demands at that time be different than those reported under the parking survey prepared in connection with the review of the Project and the Director determines that parking supply is insufficient to meet the demands of the exercise club, then the Applicant shall develop a parking management plan satisfactory to the Directors of Community Development and Transportation to mitigate the parking deficiency.

3. The conditional approval set forth in this resolution is specifically tailored to address the operation of a fitness facility that substantially conforms to the Project plans presented to and approved by the City Council at its meeting of April 5, 2011. The Project shall be operated in substantial conformity with the presentation to the Planning Commission and the City Council. To ensure that the subsequent fitness facilities operated at the subject site do not cause adverse impacts to other building

tenants or adjacent land uses, any transfer of ownership, management, or control of the proposed fitness facility shall be reviewed by the Director of Community Development to determine whether the proposed operations of the new fitness facility substantially conform to the Project as presented to and approved by the City Council. If the Director determines that the proposed operations do not substantially conform to the approved Project, then the Director shall schedule a hearing before the Planning Commission in accordance with the provisions of Section 10-3-3803 of the Beverly Hills Municipal Code. The Planning Commission expressly reserves jurisdiction at said hearing to revoke the conditional use permit upon a finding that the Project operations do not substantially conform to Project presented to the Planning Commission and the City Council, or to impose additional conditions as necessary to ensure that the operation of a subsequent exercise club at the subject site is compatible with adjacent land uses.

4. Prior to the issuance of building permits, all exterior modifications to the building, as well as signage and window displays, shall be submitted to and approved by the Architectural Commission. Although the City Council finds that the exterior modifications will not cause any substantial adverse change in significance and architectural detailing of the building, all exterior modifications shall be reviewed by a qualified historic consultant to ensure no substantial adverse changes will occur.

5. A minimum of 367 on-site parking spaces shall be maintained for use by the exercise club. Up to 334 of the 367 required parking spaces may be provided as shared parking. The Applicant and the Project site owner shall record a

parking covenant in a form satisfactory to the City Attorney to evidence the shared parking spaces.

6. The Applicant shall provide two (2) hours of free parking to all members and guests of members during weekdays. The Applicant shall also provide one additional half (1/2) hour of parking at rates comparable to those charged in the nearest City parking structure. The Applicant shall provide three (3) hours of free parking to all members and guests of members during weekends. The requirements set forth in this condition shall exclude valet parking unless adequate self-parking is not available on the Project site to meet the parking demand generated by the Project.

7. The Applicant shall provide free on-site parking at all times for trainers who assist patrons of the exercise club and any other employees, independent contractors, and any other consultants or agents retained by or associated with the Applicant in connection with the operation of the Project.

8. No sports medical center shall be allowed as part of the proposed Project. This condition shall not be construed to bar the Applicant from requesting a CUP modification at a later date to permit a sports medical center.

9. This CUP shall be reviewed annually by the Planning Commission during the exercise club's first three (3) years of operation to ensure that the Project complies with the conditions set forth herein and does not have any unanticipated impacts or adversely affect adjacent uses. The Planning Commission expressly reserves jurisdiction with regard to traffic and parking issues and reserves the right to impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project as they arise. Prior to the annual

review hearing, the Applicant shall submit an affidavit attesting to its continued compliance with all of the conditions of approval set forth in this Resolution.

10. The City expressly reserves jurisdiction with regard to traffic and parking issues. In the event the Director determines that operation of the Project at this site is having unanticipated traffic or parking impacts, the Director shall require the Applicant to pay for a City controlled traffic and parking analysis. After reviewing the traffic and parking analysis, if, in the opinion of the Director, the parking or traffic issues merit review by the Planning Commission, the Director shall schedule a hearing before the Planning Commission in accordance with the provisions of Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code. The Planning Commission shall conduct a noticed public hearing regarding the parking and traffic issues and may impose additional conditions as necessary to mitigate any unanticipated traffic or parking impacts caused by the proposed Project, and the Applicant shall forthwith comply with any additional conditions at its sole expense. Mitigation may consist of a requirement to provide free valet parking for members.

11. The Applicant shall cap membership in the proposed exercise club at a maximum of four thousand five hundred (4,500) members, including any transfers from other locations. This condition shall not be construed to bar the Applicant from requesting a modification of this conditional use permit at a later date to permit additional members.

12. The proposed exercise club shall not be permitted to open for business unless and until the MGM building parking facility becomes fully

operational and available for use by the exercise club patrons, employees and others visiting the exercising club.

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

14. TERMINATION. The exercise of rights granted by this conditional use permit shall be commenced within three (3) years after the adoption of this resolution by opening the proposed Project to patrons. If such rights have not been exercised within such time, then this conditional use permit shall automatically terminate and shall be of no further force and effect.

15. VIOLATION OF CONDITIONS: A violation of these conditions of approval is grounds for revocation of the conditional use permit pursuant to the procedures set forth in the Beverly Hills Municipal Code.

16. This approval is conditioned upon substantial compliance with those plans submitted to the City Council for the City Council hearing on April 5, 2011, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be substantially consistent with such plans, except as otherwise specified in these conditions of approval.

17. Project plans must comply with all applicable zoning regulations. Project plans shall be subject to a complete Code compliance review when building plans are submitted for plan check. Compliance with the Municipal Code is required prior to the issuance of a building permit.

18. Approval Runs With Land. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

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

20. The Project shall not unreasonably disturb nearby tenants, properties or residents due to light, noise, activities, or parking by patrons, employees or others visiting the Project.

21. The Project shall operate at all times in compliance with the City's ordinances concerning noise.

22. The Applicant shall remove and replace all public sidewalks surrounding the Project site that are damaged as a result of Project construction.

23. The Applicant shall remove and replace all curbs and gutters surrounding the Project site that are damaged as a result of Project construction.

24. The Applicant shall protect all existing street trees adjacent to the subject site during construction of the 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.

25. Removal and/or replacement of any street trees shall not commence until the Applicant has provided the City with 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 the security shall be in a form approved by the City Engineer and the City Attorney.

26. 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.

27. 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.

28. The Applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the applicable utility company and the City.

29. 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.

30. 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.

31. 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.

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

33. 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.

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

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

36. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges include, without limitation, rising ground water and garage sumps.

37. In the event of any court action or proceeding challenging the approval of this resolution or otherwise challenging the approval of this conditional use permit, the Project, or the environmental review conducted in conjunction with this Project, the Applicant shall defend, at its own expense, the action or proceeding. In addition, the Applicant shall reimburse the City for the City's cost of defending any such court action or proceeding. The Applicant shall also pay any award of costs, expenses and fees that the court having jurisdiction over such challenge makes in favor of any challenger and against the City. The Applicant shall cooperate with the City in any such defense as the City may reasonably request and may not resolve such challenge without the agreement of the City. In the event the Applicant fails or refuses to reimburse the City for its cost to defend any challenge to the approval of this conditional use permit, the Project, or the environmental review conducted in conjunction with this Project, the City shall have the right to revoke this conditional use permit approval.

In order to ensure compliance with this condition, within twenty (20) days after notification by the City of the filing of any claim, action or proceeding to attack,

set aside, void or annul the approval of this conditional use permit or the Project, the Applicant shall deposit with the City cash or other security in the amount of seventy five thousand dollars (\$75,000), satisfactory in form to the City Attorney, guaranteeing indemnification or reimbursement to the City of all costs related to any action triggering the obligations of this condition. If the City is required to draw on that cash or security to indemnify or reimburse itself for such costs, the Applicant shall restore the deposit to its original amount within thirty (30) days after notice from the City. Additionally, if at any time the City Attorney determines that an additional deposit or additional security up to an additional fifty thousand dollars (\$50,000.00) is necessary to secure the obligations of this section, the Applicant shall provide such additional security within thirty (30) days of notice from the City Attorney. The City shall promptly notify the Applicant of any claim, action or proceeding within the scope of this condition.

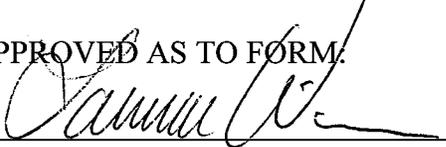
Section 9. The City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his Certification to be entered in the Book of Resolutions of the City.

Adopted:

BARRY BRUCKER
Mayor of the City of
Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:
 *For:*

SUSAN HEALY KEENE
Director of Community Development