



AGENDA REPORT

Meeting Date: November 3, 2011

Item Number: F-4

To: Honorable Mayor & City Council

From: Ara Maloyan, Deputy City Engineer
Tristan Malabanan, Civil Engineer

Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING AN AGREEMENT CONTAINING AN IRREVOCABLE OFFER OF DEDICATION OF A TEN (10) FOOT WIDE EASEMENT ALONG THE WESTERN SIDE OF THE PROPERTY LOCATED AT 9261 ALDEN DRIVE, BEVERLY HILLS FOR PUBLIC STREET OR ALLEY PURPOSES

Attachments:

1. Resolution
2. Planning Commission Resolution No. 1343 (Adopted 9/22/2004)
3. Vicinity map

RECOMMENDATION

Staff recommends that the City Council approve the resolution for an agreement containing an irrevocable offer of dedication of property for public street or alley purposes and direct the City Engineer to accept this offer from the property owner of a 10 foot wide easement along the western side of their property located at 9261 Alden Drive.

INTRODUCTION

Pursuant to Planning Commission Resolution No. 1343 (adopted 9/22/2004) granting a conditional use permit modification to allow religious institute use of this property, Young Israel of North Beverly Hills (owner of the property at 9261 Alden Drive) was conditioned to dedicate a 10 foot wide easement along the western side of their property for public street or alley use.

DISCUSSION

Currently, a 10 foot wide publically owned north-south alley right-of-way connects Alden Drive to Commercial Center Street immediately adjacent to 9261 Alden Drive west property line. However, this alley has been closed at Alden Drive by Mercedes-Benz because they currently use it for their dealership operations. On September 15, 2011,

staff initiated discussions with Mercedes-Benz and Tishman Speyer (owner of the adjacent property on the west side of the alley) regarding their previous 10 foot wide dedication, which occurred in 1987, and their responsibility to maintain. At this time Tishman Speyer will not be required by the city to improve the existing 10 foot wide alley because Mercedes-Benz has indicated that this public alley is vital to their operations. Consequently, with respect to the proposed dedication, Young Israel of North Beverly Hills will also not be required to improve this area at this time as it is not necessary for service or traffic circulation. It is proposed that the City and Young Israel of North Beverly Hills enter into The Agreement Containing Irrevocable Offer of Dedication and Covenants Concerning Real Property (the "Agreement"), attached hereto as Exhibit 1. Young Israel of North Beverly Hills will still be required to complete improvements to the existing Commercial Center Street on the north side of their property and miscellaneous concrete work on the south side of their property.

On December 7, 2010, the developer of the property at 9261 Alden Drive applied for and was issued a Public Works permit on August 11, 2011 to construct alley improvements on the 10 foot wide easement that is being dedicated and accepted under this resolution; and other miscellaneous improvements.

Staff will work with Tishman Speyer, Mercedes-Benz, and Young Israel of North Beverly Hills to secure indemnification for the City since the existing and proposed public right-of-way dedications are and will be utilized for private use, respectively.

Once the attached offer of dedication is accepted, the City will have the right for future use and public access of the 20 foot north-south wide public right-of-way that runs between Alden Drive and Commercial Center Street.

FISCAL IMPACT

No fiscal impact at this time.

 David D. Gustavson
Approved By

Attachment 1

RESOLUTION NO. 11-R _____

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING AN AGREEMENT CONTAINING AN IRREVOCABLE OFFER OF DEDICATION OF A TEN (10) FOOT WIDE EASEMENT ALONG THE WESTERN SIDE OF THE PROPERTY LOCATED AT 9261 ALDEN DRIVE, BEVERLY HILLS FOR PUBLIC STREET OR ALLEY PURPOSES

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

Section 1. Young Israel of North Beverly Hills ("Owner") is the fee owner of certain real property (the "Property") located within the City of Beverly Hills (the "City") known as 9261 Alden Drive, and which Property is described as Lot 1, Block 14 of Tract No. 5647, in the City of Beverly Hills, County of Los Angeles, State of California as per map recorded in book 60 page 88 of Maps in the Office of the County Recorder of said County.

Section 2. Owner has agreed to enter into that certain Agreement Containing Irrevocable Offer of Dedication and Covenants Concerning Real Property (the "Agreement") attached hereto as Exhibit 1, by which Agreement Owner irrevocably offers to dedicate a ten (10) foot easement (the "Easement") over the western side of the Property to the City for public street and/or alley purposes, as described in the Agreement. Such dedication is in conformance with the Beverly Hills Municipal Code.

Section 3. The City Council hereby approves the Agreement and authorizes and directs the City Engineer to execute the Agreement.

Section 4. The City Clerk is hereby authorized and directed to take appropriate action to record the Agreement with the County Recorder of the County of Los Angeles.

Section 5. The City Clerk is directed to furnish a copy of this Resolution to the Owner at the address of record.

Section 6. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

Adopted:

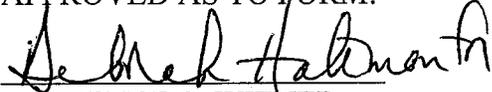
BARRY BRUCKER
Mayor of the City of
Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

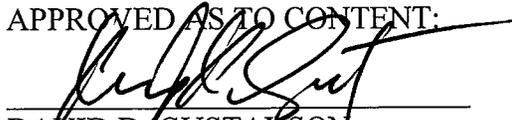
(SEAL)

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



DAVID D. GUSTAVSON
Director of Public Works & Transportation



KARL KIRKMAN
Risk Manager

Exhibit 1

**Agreement Containing Irrevocable Offer of Dedication
and Covenants Concerning Real Property**

Recording Requested By and
When Recorded Return To:

City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Attn: City Clerk

Free Recording per Gov't Code Sec. 6103

AGREEMENT CONTAINING
IRREVOCABLE OFFER OF DEDICATION
AND COVENANTS CONCERNING REAL PROPERTY

THIS AGREEMENT CONTAINING IRREVOCABLE OFFER OF DEDICATION AND COVENANTS CONCERNING REAL PROPERTY (this "Agreement") is made as of _____, 2011, by **YOUNG ISRAEL OF NORTH BEVERLY HILLS** ("Owner"), in favor of the **CITY OF BEVERLY HILLS**, a municipal corporation (the "City").

1. **IRREVOCABLE OFFER OF DEDICATION.** Owner hereby makes an irrevocable offer (the "Offer") to dedicate to City an easement (the "Easement") for public street and/or alley purposes, as applicable, over that certain real property (the "Property") described on Exhibit A, attached hereto and incorporated herein by reference.

Mode of Acceptance of Offer. The Offer may be accepted by City any time by adoption of a Resolution of the City Council of the City accepting the dedication of the Easement (the "Resolution of Acceptance"). The Resolution of Acceptance will authorize the appropriate City official to execute an instrument (the "Acceptance") accepting the Offer in substantially the form attached hereto as Exhibit B, which is incorporated herein by reference.

2. **COVENANTS.** Owner covenants, for itself, its successor and assigns, as follows:

a. **Removal of Encroachments.** To remove, at Owner's sole cost and expense, all improvements and fixtures upon the Property which the City Engineer reasonably determines will constitute encroachments onto the Easement upon City's acceptance of the Easement (the "Encroachments"). The removal shall be performed in accordance with the following:

(1) City shall give a written notice to Owner, which notice shall: (i) describe the Encroachments that must be removed; (ii) direct Owner to remove them; and (iii) specify the date by which the removal must be completed, which date shall be no less than sixty (60) days after the date the notice is given.

(2) The Owner shall remove the Encroachments by the date specified in the notice.

(3) In the event Owner shall fail to remove the Encroachments by that date, or if Owner delays in the removal of the Encroachments such that the removal cannot practicably be completed by that date, City may immediately enter the Property and remove or cause the removal of the Encroachments at Owner's cost. Owner shall, immediately upon demand, reimburse City for City's actual costs incurred in removing the Encroachments.

b. **Construction of Improvements.** To install and complete to the satisfaction of the City Engineer any improvements that the City Engineer determines are required to effectuate the purpose of the Easement.

3. **Covenants Run With the Land.** The covenants made in this Agreement and the Offer shall run with the land and shall burden the Property for the benefit of City. The covenants and the Offer shall inure to the benefit of, or bind, as the case may require, the respective heirs, representatives, successors and assigns of City and Owner. Owner authorizes City to record this Agreement in Official Records of the Recorder's Office of the County of Los Angeles.

4. **Limitation on City Liability and Indemnification.**

a. Owner and City agree that City shall have no liability with respect to the Property or the Easement, whether resulting from the maintenance or failure to maintain same or otherwise, and shall not assume any responsibility for the Property or the Easement or any improvements or fixtures thereon or therein, unless and until both of the following occur:

(1) City adopts the Resolution of Acceptance; and

(2) the removal of all Encroachments and the construction of all Improvements have been completed to the satisfaction of the City Engineer.

b. Owner agrees to continue to maintain the Property and assume all liability for the condition of the Property until both of the conditions set forth in Section 4(a) have occurred. Owner agrees to indemnify, hold harmless, protect and defend City, its Council, and each member thereof, directors, officers, agents, employees and attorneys, from all claims, causes of action, suits, damages or other liabilities occurring in, on or about the Easement and/or the Property until both of the conditions set forth in Section 4(a) have occurred.

5. **Address for Notices.** Any notices, demands or communications under this Agreement shall be given as follows:

To Owner: Young Israel of North Beverly Hills
 9261 Alden Drive
 Beverly Hills, California 90210

To City: City of Beverly Hills
 455 North Rexford Drive, Room G10
 Beverly Hills, California 90210
 Attn: City Engineer

Written notices, demands and communications between City and Owner shall be sufficiently given by personal service or dispatched by first class mail, postage prepaid, return receipt requested, to the addresses set forth above. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section. Notwithstanding anything to the contrary contained herein, notice personally served shall be presumed to have been received as of the date of such service, and notices sent via mail as provided herein shall be presumed to have been received on the second business day after deposit of same in the mail.

IN WITNESS WHEREOF, Owner has executed this Agreement as of the date first written above.

"Owner":

*/ _____

[Signatures continued]

Acknowledged and agreed [must be signed by all parties having an interest in the Property, including beneficiaries and trustees in deeds of trust, as shown by a current abstract of title (NOT preliminary report) furnished by the Owner]:

*/ _____

*/If a corporation is signing, two officers must sign, one from each of the following groups:

- (1) chairman of the board, the president or any vice president; and
- (2) the secretary, any assistant secretary, the chief financial officer or any assistant treasurer.

Also note: each binding signature must be notarized.

Approved as to Form:

Approved as to Content:

LAURENCE S. WIENER
City Attorney

CHRIS THEISEN
City Engineer

Exhibit A

Legal Description of Easement Area

SCALE: 1"=30'

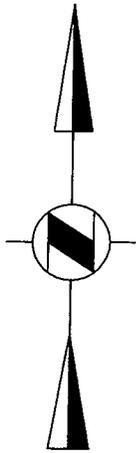
SHT. ONE OF ONE SHTS

EXHIBIT MAP

IN THE CITY OF BEVERLY HILLS
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

LOT 7 TR 9796
MB 137-45

SOUTH LINE
LOT 2, BLK
14, TR 5647
MB 60-88



ALLEY

10'

10'

150.00'

N00°08'56"W

HEREIN DESC. 10' WIDE DEDICATION

N00°08'56"W

150.00'

ALLEY

N89°51'04"E

100.00'

90.00'

FD 1"IP, NO REF.

HEREIN DESCRIBED
DEDICATION

POR. LOT 1
BLOCK 14
TR 5647
MB 60-88

9261 ALDEN DRIVE

150.00'

N00°08'56"W

90.00'

N89°51'04"E

100.00'

12.20'

FD. & HELD CHIS "+"
© P/L PROD. ON TOP CURB

FD. & HELD
L&T, TAGGED
L.S. 5573
2' O/S

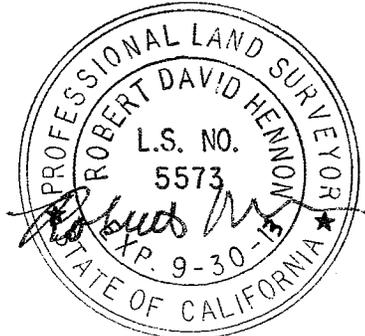
ALDEN DRIVE 30'

423.13'

100.00'

257.11'

N89°51'04"E 780.24' MEAS



MAPLE DRIVE

FOOTHILL ROAD

TAX PARCEL 4342-007-018

CORNER RECORD - PWFD 1316-865

DATE: 9-20-05

THOM. GDE: 632 G-1

FILE: 2390.DWG

PROJECT NO:2390D

HENNON

Surveying & Mapping, Inc.

601 E. GLENOAKS BLVD., SUITE 208
GLENDALE, CALIFORNIA 91207
(818)243-0640

FAX: (818)243-0650

Exhibit B

Form of Acceptance of Offer

Recording Requested by
and when recorded return to:

CITY OF BEVERLY HILLS
455 N. Rexford Drive
Beverly Hills, CA 90210
Attn: City Clerk

Exempt from recording fees pursuant to G.C. §6103
Exempt from Documentary Transfer Taxes pursuant to R & T Code §11922

ACCEPTANCE OF DEDICATION OF EASEMENT

The CITY OF BEVERLY HILLS, a municipal corporation ("Grantee"), hereby accepts the offer (the "Offer") of dedication of easement (the "Easement") made by _____ ("Grantor") in that certain Agreement Containing Irrevocable Offer of Dedication and Covenants Concerning Real Property (the "Agreement") by and between Grantor and Grantee dated as of _____, and recorded in Official Records of the Recorder's Office for the County of Los Angeles on _____ as Instrument No. _____.

The Easement is an easement for public street and/or alley purposes over that certain real property located in the City of Beverly Hills, County of Los Angeles, State of California, described on Exhibit A, attached hereto and incorporated herein by reference.

The Offer and this Acceptance of Dedication of Easement arises from and is made pursuant to the Agreement.

The undersigned was authorized to execute and record this Acceptance of Dedication of Easement on behalf of Grantee pursuant to resolution of the City Council of Grantee adopted on _____.

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the date set forth below.

"Grantee":

CITY OF BEVERLY HILLS, a municipal corporation

By: [EXHIBIT ONLY]
City Engineer

Dated: _____

State of California }
}

County of Los Angeles }

On _____, _____, before me, _____, a _____,
personally appeared _____,
_____, personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

(seal)

Attachment 2

RESOLUTION NO. 1343

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
BEVERLY HILLS CONDITIONALLY GRANTING A MODIFICATION
TO A CONDITIONAL USE PERMIT TO ALLOW RELIGIOUS
INSTITUTION USES FOR PROPERTY LOCATED AT 9261 ALDEN
DRIVE (YOUNG ISRAEL OF NORTH BEVERLY HILLS)

Section 1. Jeff Winter, on behalf of Young Israel of North Beverly Hills (together, the "Applicant"), have submitted an application for a for a modification to a Conditional Use Permit ("C.U.P.") to allow the construction of a two-story, 44-foot, 3 inch high religious institution in the C-5 (commercial) zone at property located at 9261 Alden Drive (Young Israel of North Beverly Hills) (hereafter the "Project"). The revised Project increases the height, number of stories and density of the Project. In addition, the sanctuary area seating (Men's Seating) is increased by 67 seats. In addition, a second floor has been added to provide a Women's Seating Section with 120 seats (an increase of six seats over the prior proposal) and office space which was relocated from the first floor.

On October 23, 2002, the Planning Commission approved Resolution No. 1255 allowing religious uses at 9261 Alden Drive and reducing the City's parking and loading requirements for this institution subject to adoption of a Zoning Code amendment to modify the required parking and loading facilities for religious institution uses in the C-5 zone (BHMC Sec. 10-3.3801). The Zoning Code amendment was granted by the City Council in December 2002.

As approved by Resolution No. 1255, the Project consisted of a one story, 28-foot tall religious institution with a floor area of approximately 11,670 square feet. The approved Project provided twenty-two (22) on-site parking spaces – 21 spaces, including one accessible

parking space and six (6) tandem parking spaces, in a subterranean garage and one additional accessible space off of the alley on the north side of the building – and one loading space on the north side of the proposed building. The approval granted a waiver of 191 Code-required parking spaces pursuant to BHMC Section 10-3.3801.

The modified Project requires 227 parking spaces and two loading spaces. As noted, the Project provides 22 on-site parking spaces and one loading space. The Applicant is requesting that the Commission grant a waiver for an addition 14 parking spaces as authorized by Code Section 10-3-3801. The Applicant has arranged for off-site parking across the street in the Maple Plaza building at 335-345 North Maple Drive for evenings and weekends. On August 18, 2004, the Applicant submitted a supplemental traffic and parking assessment which was peer reviewed by the City's traffic consultant. The traffic and parking assessment demonstrates that the Applicant's proposed parking would be adequate as long as off-site parking is available as needed.

Section 2. 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.), and the City's Local CEQA Guidelines. The City prepared an initial study and, based on the information contained in the initial study, determined that there was no substantial evidence that approval of the Project may have significant environmental impact. Accordingly, the City prepared a negative declaration in accordance with Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the Planning Commission

independently reviewed and considered the contents of the initial study and the negative declaration prior to deciding whether to approve the Project. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 3. On August 25, 2004, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, was presented at said hearing.

Section 4. Beverly Hills Municipal Code Section 10-3-2003 authorizes the Planning Commission to issue a C.U.P. to permit a religious institution to be located in the C-5 Zone provided that the Commission finds that the proposed location of the use will not be detrimental to adjacent property or the public welfare or safety. The Project site is located in the C-5 Zone.

Section 5. Based upon the evidence presented, the Planning Commission hereby finds that, as conditioned, the location of the use at the Project site will not be detrimental

to adjacent property or the public welfare. The religious institution has operated at 9350 Civic Center Drive for several years without an adverse impact on adjacent property or the public welfare. The 9350 Civic Center site is located within 500 feet of the Project site. As conditioned, the proposed use will not create adverse traffic or parking impacts. Based on the traffic and parking report presented to the Planning Commission, the proposed use will not generate a significant demand for parking. Moreover, the Applicant has arranged off-site parking in the Maple Plaza building (335-345 North Maple Drive) for evenings, weekends, holidays and special events, as necessary. The Maple Plaza parking structure contains almost 800 parking spaces and has more than sufficient surplus parking available after 6:00 p.m. to accommodate any parking needs generated by the proposed use. In addition, on-street metered parking adjacent to the Project is also available to serve the parking needs of the use. The religious institution has only three full-time employees whose parking can easily be accommodated by the available parking on-site. In addition, the arrival and departure of members who attend daily services will generally occur between 6:00 a.m. and 8:00 a.m., Monday through Friday. No driving is permitted on the Sabbath (sundown on Friday to sundown on Saturday) or certain religious holidays. Accordingly, the proposed use will generate no parking or traffic impacts during these times. Furthermore, the Planning Commission has expressly conditioned this approval to require that the proposed use be operated at all times in a manner such that the number of vehicles requiring parking at the Project Site does not exceed the number of parking spaces available on the Project Site unless off-site parking arrangements satisfactory to the Director of Community Development are made. With implementation of this condition, the Project will not be detrimental to adjacent property or the public welfare. Furthermore, as conditioned, the proposed

use at the Project site will not create excessive noise, unpleasant odors, noxious fumes, excessive light and glare, or substantial interference with neighboring properties. The use will be conducted indoors and during limited hours. Limited cooking or other odor producing activities will be conducted at the Project site in conjunction with the Project, and the proposed kitchen facilities on the Project site will not be equipped with appliances that require grease hoods.

Section 6. Beverly Hills Municipal Code Section 10-3-3801 authorizes the Planning Commission to reduce parking and loading space requirements for the Project provided the Project meets the following criteria:

(a) The use of the subject site is limited to religious institutional uses.

(b) Except as otherwise permitted by the conditional use permit, no social events shall be allowed at the subject site. For the purposes of this section, 'social events' shall include: (1) celebrations associated with weddings and other life-cycle events; (2) fund-raising events not involving a religious service, such as bingo games or auctions; (3) gatherings of more than five (5) persons to foster interaction among congregation members or among congregation members and other members of the community, including but not limited to events such as dances, discussions, study groups or lectures.

(c) The Applicant submits evidence satisfactory to the Planning Commission that establishes that the proposed use will have no traffic or parking related impacts on adjacent streets or land uses as a result of the requested reduction in the parking and/or loading requirements. Such evidence may include, but not be limited to, a traffic and parking utilization study prepared by a certified traffic engineer.

Section 7. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds as follows with respect to the request for the reduction of required parking:

7.1 The use of the subject site will be limited to religious institutional uses. No religious school or programs are proposed in connection with the Project except for a children's enrichment program that will be provided at the same time that the parents are attending services. Childcare will not be provided at the subject site, except as a service to members of the institution during or in conjunction with religious services.

7.2 Except as expressly permitted by this Resolution, no social events shall take place at the Project site. The Applicant has indicated that Young Israel of North Beverly Hills offers no school or after school programs. A children's enrichment program will be provided at the same time that the parents are attending services. During services, the multipurpose room will be used to supervise children while their parents are attending religious services. No weddings will be held at the Project site, and the site will not be used for non-religious social activities. The use of the loading area will be very limited. Current deliveries are for food for weekly services and occasional delivery for supplies. The loading facility at the site will be adequate to accommodate the anticipated delivery vehicles and the delivery schedule.

7.3 As conditioned, the proposed Project will have no traffic or parking related impacts on adjacent streets or land uses as a result of the requested reduction in the parking and/or loading requirements. The Beverly Hills Municipal Code requires 227 parking spaces and two loading spaces to serve the Project. However, based on the revised traffic report

presented to the Planning Commission, the Project, as conditioned, will not generate any need for parking spaces beyond that provided on-site. On Friday evenings, Saturdays and certain Jewish holidays, religious practices dictate that driving is prohibited, therefore, traffic and parking impacts will be negligible. Furthermore, the religious institution has only three full-time employees and, as conditioned, will be operated in a manner such that the number of vehicles requiring parking at the site at any one time does not exceed the number of on-site parking spaces available unless off-site parking arrangements satisfactory to the City are made. With regard to loading spaces, no deliveries are expected to be made to the site by truck. Therefore, there does not appear to be a need for additional loading spaces beyond the one proposed.

The Applicant indicates that most of the daily attendees will drive to the facility. However, maximum attendance at these daily services is not expected to exceed 15 congregants. As noted above, attendance at regular Sabbath services (Friday evenings and Saturdays), as well as High Holy Day services (when attendance will be at its peak), will not generate parking needs because driving is prohibited by religious practice. The morning peak hour traffic is expected to be 14 vehicle trips. Both the arrivals and departures will be early in the commute period, 6:00 a.m. and 8:00 a.m. Holiday services, on all holidays when driving is permitted, are held after sundown, between 7:00 p.m. and 11:00 p.m., which is after peak traffic hours. Based on the City staff analysis, the synagogue will generate a total of 160 weekday vehicle trips per day, 2 and 25 vehicle trips during the morning and evening peak hours, respectively, or approximately 50 percent less vehicle trips per weekday than a 30,000-square foot office building.

The Project will provide 22 on-site parking spaces. Twenty-one parking spaces, including six tandem spaces, will be accessible from a subterranean garage. As conditioned by

this Resolution, a parking attendant will be required on site at all times the tandem parking spaces are utilized. One parking space and the proposed loading space will be at grade level accessed from the alley to be constructed behind the Project site (the proposed Project will dedicate ten feet along the west side of the property for a future alley via an irrevocable offer to dedicate the ten feet by the adjacent property owner). A traffic study, prepared by Linscott Law & Greespan, indicates that the members of the synagogue live within walking distance of the synagogue. Based on a parking observation survey that was conducted for the existing synagogue located at 9350 Civic Center Drive, on Friday evening January 4, 2002 and Saturday morning of January 5, 2002, no motorists were observed parking their cars and proceeding to the synagogue, and no pedestrians were observed walking from the City parking structure to the synagogue. Fifteen attendees are expected at weekday morning services, between 6:00 a.m. and 7:15 a.m., when driving is permitted. The supplemental Traffic and Parking Assessment conducted by Katz, Okitsu and Associates in August of 2004 confirms that the modifications to the Project size will not significantly increase the level of attendance and, therefore, will not be expected to change the weekday peak hour traffic analysis. However, to make up any parking deficiency, the Applicant has made arrangements with Maple Plaza to obtain off-site parking, if needed, and will provide free parking to attendees of the synagogue in the Maple Plaza parking structure, or an alternative acceptable to the City. As conditioned by this Resolution, the Applicant will provide a parking attendant at the Maple Plaza's monthly driveway on Alden Drive to provide access for synagogue attendees to park in the facility. Maple Plaza management indicates that up to 200 spaces will be available on weekends and in the evenings after 6:00 p.m. Parking is also available at 14, ten-hour metered parking spaces located on the north side of

Alden Drive between Foothill Road and Maple Drive after 6:00 p.m. Monday through Friday and on Foothill Road and along Civic Center Drive after 6:00 p.m. Monday through Friday. Most of the metered spaces in this area experience heavy usage after 8 a.m., after the hours of the religious institution use. Additional parking is also available in the City's Civic Center Parking Structure, which is open 24 hours each day and within walking distance (500 feet) of the Project site. The available parking in the area is sufficient to service the requirements of the proposed use.

A revised Parking Management Plan, including a Construction Management Plan, and a written agreement with the Maple Plaza building management (or an alternative acceptable to the City), and signage to inform that free parking is available for synagogue attendees at the Maple Plaza building or a City-approved alternative site will be required as a condition precedent to the issuance of building permits for the Project. Such signage shall also clearly indicate that parking in nearby residential neighborhoods is prohibited. Furthermore, the Applicant will be required to annually submit an affidavit attesting to compliance with the conditions set forth in this resolution, including those related to parking for the facility. In the event the Director of Community Development determines that operation of the Project at this site is having unanticipated traffic and parking impacts, the City expressly reserves jurisdiction relative to such traffic and parking issues. The Director shall have the authority to require the Applicant to submit a parking demand analysis. If, after reviewing the parking demand analysis, the Director determines the parking and traffic issues merit review by the Planning Commission, the Director shall schedule a hearing in front of the Planning Commission in accordance with the provisions of Article 38 of Chapter 3 or Title 10 of the Beverly Hills Municipal Code.

7.4 As conditioned by this Resolution, the Project will have no traffic or parking related impacts on adjacent streets or land uses as a result of the requested reduction in the parking and/or loading requirements. This Resolution contains specific requirements to ensure that the parking reduction granted by this Resolution does not cause adverse traffic or parking related impacts on adjacent streets in the event the Project site is no longer utilized for religious institution purposes or is transferred to a different religious institution. Specifically, this Resolution requires that any proposed transfer of the property be reviewed by the Planning Commission to ensure that the parking provided is sufficient to meet the parking demands generated by the proposed use of any transferee. In addition, the Resolution requires that the proposed structure be constructed in such a manner that, if the Property ceases to be utilized for religious institution purposes, the Applicant or any successor in interest can remove the mezzanine level or other floor area sufficient without compromising the structural integrity of the building to allow the on-site parking provided to satisfy the then current Code-required parking for the new use.

Section 8. Based upon the foregoing, the Planning Commission hereby approves the Applicant's request for a modification to the C.U.P. granted pursuant to Resolution No. 1255, for the construction of a religious institution use, subject to the following conditions:

1. The Applicant shall record a covenant, satisfactory in form and content to the City Attorney, requiring that if the Property is ever used for another religious institution or for a non-religious use, the Applicant or its successor shall either demolish sufficient square footage in the structure such that the available on-site parking satisfies the then current

Municipal Code required parking for the proposed use or, if an in-lieu parking program is available for the C-5 area, purchase sufficient in-lieu parking spaces at the then current rate to satisfy the then current Code-required parking for the proposed use.

2. The Applicant shall ensure that the proposed building is constructed in such a manner that the mezzanine level or other floor area can be removed without compromising the structural integrity of the building.
3. The Applicant shall submit written verification of the agreement with the owners and operators of the parking facilities located at 335-345 North Maple Drive.
4. The Applicant shall submit evidence satisfactory to the Director fo Community Development demonstrating that sufficient off-site private parking spaces shall be available to satisfy any on-site parking shortfall that may exist.
5. If this Resolution is invalidated for any reason, all provisions of Resolution No. 1255, shall remain in full force and effect.
6. A cash deposit of \$5,000 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 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.

7. The Applicant shall dedicate a 10 foot strip of property along the west side of Lot 1 for alley purposes to the City of Beverly Hills. Prior to the issuance of any building permit for the Project, the Applicant shall prepare and execute all documentation required by the City Engineer and the City Attorney and pay all required fees in order to effect the dedication.
8. The Applicant shall construct a public alley in accordance with the requirements of the City Engineer in the 10 foot strip of property to be dedicated for alley purposes. The construction of this alley shall not commence until offsite improvement plans prepared by a registered civil engineer have been submitted and approved by the City Engineer. All facilities to be constructed or relocated within the public right-of-way shall be clearly shown on these plans.
9. Except as modified by this Resolution, all conditions of approval of Resolution No. 1255 shall remain in full force and effect. For convenience, said conditions of approval are set forth below:

The following conditions are from Resolution No. 1255 (as modified by this Resolution):

10. Except as otherwise provided in this Resolution the Project shall substantially comply with the plans submitted by the Applicant for the Planning Commission meeting of August 25, 2004 (the "Approved Plans"). A copy of the Approved Plans is on file with the Department of Community Development.
11. The Project shall comply with the applicable standard conditions and shall obtain all necessary permits from the Department of Transportation & Engineering. The Standard Conditions List is attached hereto as Exhibit A and incorporated herein by this reference.
12. The use of the Project site shall be limited to religious uses, which may include religious services and religious instruction. Nothing in this condition shall preclude the Applicant from using the Project site for discussion groups, study groups, lectures or activities directly related to the functioning of the religious institution (such as board or sisterhood meetings), provided that if the number of attendees at any of the aforementioned events or activities will exceed the available on-site parking, the Applicant makes off-site parking arrangements satisfactory to the Director of Community Development to accommodate all parking needs generated by the attendees of such events or activities at the Project site as more fully described in Condition No. 13 below.
13. Religious services shall only be conducted from 6:00 a.m. to 8:00 a.m. and from 5:00 p.m. to 10:00 p.m., Monday through Friday, and from 6:00 a.m. to 10:00 p.m., on Saturday and Sunday. Thirteen (13) times during the year, when religious practices dictate, religious services may also be conducted between 7:30 a.m. and 5:00 p.m., Monday through Friday. Religious services shall not be conducted at any other time. The limitation on the hours of services set forth in this condition shall not apply to the observances on *Simchat Torah*.
14. Social events shall only be permitted if they relate directly to an on-site religious observance or practice.

15. No religious school or programs shall be permitted on the Project site except for a children's enrichment program that will be provided at the same time that the parents are attending religious services.
16. The religious institution shall be operated at all times in a manner such that the number of vehicles requiring parking at the Project Site does not exceed the number of on-site parking spaces, unless the Applicant makes off-site parking arrangements satisfactory to the Director of Community Development to accommodate any parking needs generated by the use of the Project site.
17. No attendance at any activity shall exceed the maximum occupancy permitted by the Uniform Building Code and as approved by the Building and Fire Departments of the City of Beverly Hills.
18. No food or alcoholic beverage shall be served at the Project site except following or in connection with a religious service or observance. No parties, banquets, receptions, or other catered events of any kind shall be held at the Project site at any time.
19. No expansion of any religious institution use shall be permitted, including without limitation, the establishment of a religious school or a school operating under state license.
20. Childcare shall not be provided at the subject site, except as a service to members of the institution during or in conjunction with religious services.
21. Prior to the issuance of building permits, the Applicant shall submit a revised Parking Management Plan for review and approval by the Director of Community Development. Said plan shall include, but not be limited to, a Construction Management Plan, a written agreement with the Maple Plaza building management (or an alternative reasonably acceptable to the Director), provisions for an on-site parking attendant during all times the tandem parking is in use, and signage to inform congregants that free parking is

available for synagogue attendees at the Maple Plaza building or a City-approved alternative site shall be provided. All signage required by this condition shall be clearly visible and shall indicate the hour when a parking monitor would be available and that parking in nearby residential neighborhoods is prohibited. The location and nighttime illumination of the sign shall be approved by the Director of Community Development.

22. At all times driving is permitted, employee parking shall be provided on-site.
23. The Applicant shall notify all congregants and visitors that they are prohibited from parking along the east side of Maple Drive or further east in the residential area and shall post a sign, satisfactory to the Director of Community Development, inside the synagogue to remind congregants of this prohibition. The Applicant shall further include notice of this prohibition in all mailings or flyers advertising events (religious or otherwise) or approved events or activities at the Project site.
24. Construction of the Project may require the removal of metered parking spaces along Alden Drive. Prior to removal of any metered space, the Applicant shall reimburse the City for the loss of revenue that results from the removal of such metered parking spaces. The amount of the reimbursement shall be established by the Director of Transportation.
25. The Applicant shall not sublease space within the Project site to another use, or another tenant.
26. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project. A recorded covenant, accepting all above conditions, is required to be signed by the Applicant.
27. This C.U.P. shall expire three years after the issuance of a certificate of occupancy. A comprehensive review of the operations will be required prior to any extension of the C.U.P. to ascertain if the religious institution is operating in a manner substantially the same as described and approved by the Commission. Unless the C.U.P. is renewed or

extended, or a new C.U.P. is issued, the Applicant shall immediately cease operation of the religious institution. The Applicant shall have no right to renewal of the C.U.P. Any application for a new C.U.P. must be filed at least sixty (60) days prior to the expiration of these approvals.

If the Planning Commission does not extend the C.U.P., the C.U.P. shall expire and all rights possessed under the C.U.P. shall be terminated. Provided, however, if the Applicant files an application for an extension, any existing C.U.P. shall be extended until the City takes final action on the application.

Any application for an extension of this C.U.P. shall be subject to the application fees established by Resolution of the City Council.

Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the provisions of the Beverly Hills Municipal Code.

28. This C.U.P. may not be transferred or assigned by the Applicant without the prior review and consent of the Planning Commission. Any transfer of tenancy or title at the Project Site shall automatically require a comprehensive review of the operations of the proposed new tenant and/or owner prior to any transfer of the C.U.P. to ascertain if the proposed new tenant and/or owner will operate in a manner substantially the same as described and approved by the Commission. Unless the transfer of the C.U.P. is approved, the new tenant and/or owner shall immediately cease operation of the site as a religious institution or any other use that requires more parking than available on the Project site. The new tenant and/or owner shall have no right to transfer of the C.U.P. Any application for a transfer of the C.U.P. must be filed at least sixty (60) days prior to the transfer of tenancy and/or title. If the Planning Commission does not approve the transfer of the C.U.P., the

C.U.P. shall expire and all rights possessed under the C.U.P. shall be terminated. Any application for a transfer of this C.U.P. shall be subject to the application fees established by Resolution of the City Council.

29. At such time as the religious institutional use authorized by this C.U.P. is discontinued or converted to another use, the area in the subterranean garage denoted on the Approved Plans as "Ritual Bath Area" shall be used for a combination of regular and tandem parking spaces to create an aggregate total of 29 parking spaces in the subterranean garage. Provisions shall be made for an on-site parking attendant during all times tandem parking is in use.
30. The Applicant shall annually submit an affidavit to the Director of Community Development attesting to compliance with the conditions of approval set forth in this Resolution and the sufficiency of the on-site parking to satisfy the parking needs generated by the use. The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Director of Community Development determines that operation of the use at this site is having unanticipated traffic and parking impacts, the Director shall require the Applicant to pay for a parking demand analysis. After reviewing the parking demand analysis, if, in the opinion of the Director, the parking and traffic issues merit review by the Planning Commission, the Director shall schedule a hearing in front of the Planning Commission in accordance with the provisions of Article 38 of Chapter 3 or 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 impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project, and the Applicant shall forthwith comply with any additional conditions at its sole expense.

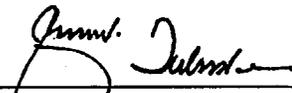
31. Except as authorized by this resolution, the Project shall comply with the City's zoning and building codes.
32. The Project shall be subject to the review and approval of the Architectural Commission and shall comply with any conditions imposed by the Architectural Commission.
33. The Applicant shall comply with the requirements of the street tree mitigation plan of the Recreation and Parks Department, attached hereto as Exhibit B and incorporated herein by this reference.
34. Within three (3) working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.
35. This Resolution approving a C.U.P. shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of 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 decision on the Zoning Code amendment. 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 this Development Plan Review Permit and Conditional Use Permit 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 Conditional Use Permit.

Section 9. 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: 9-22-04

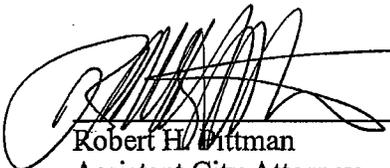


Jerrold S. Felsenthal
Chairman of the Planning Commission of
the City of Beverly Hills, California

Attest:


Secretary

Approved as to form:



Robert H. Pittman
Assistant City Attorney

Approved as to content:



Mahdi Aluzri
Director of Community Development



David Gustavson
Director of Transportation & Engineering

Attachment 3



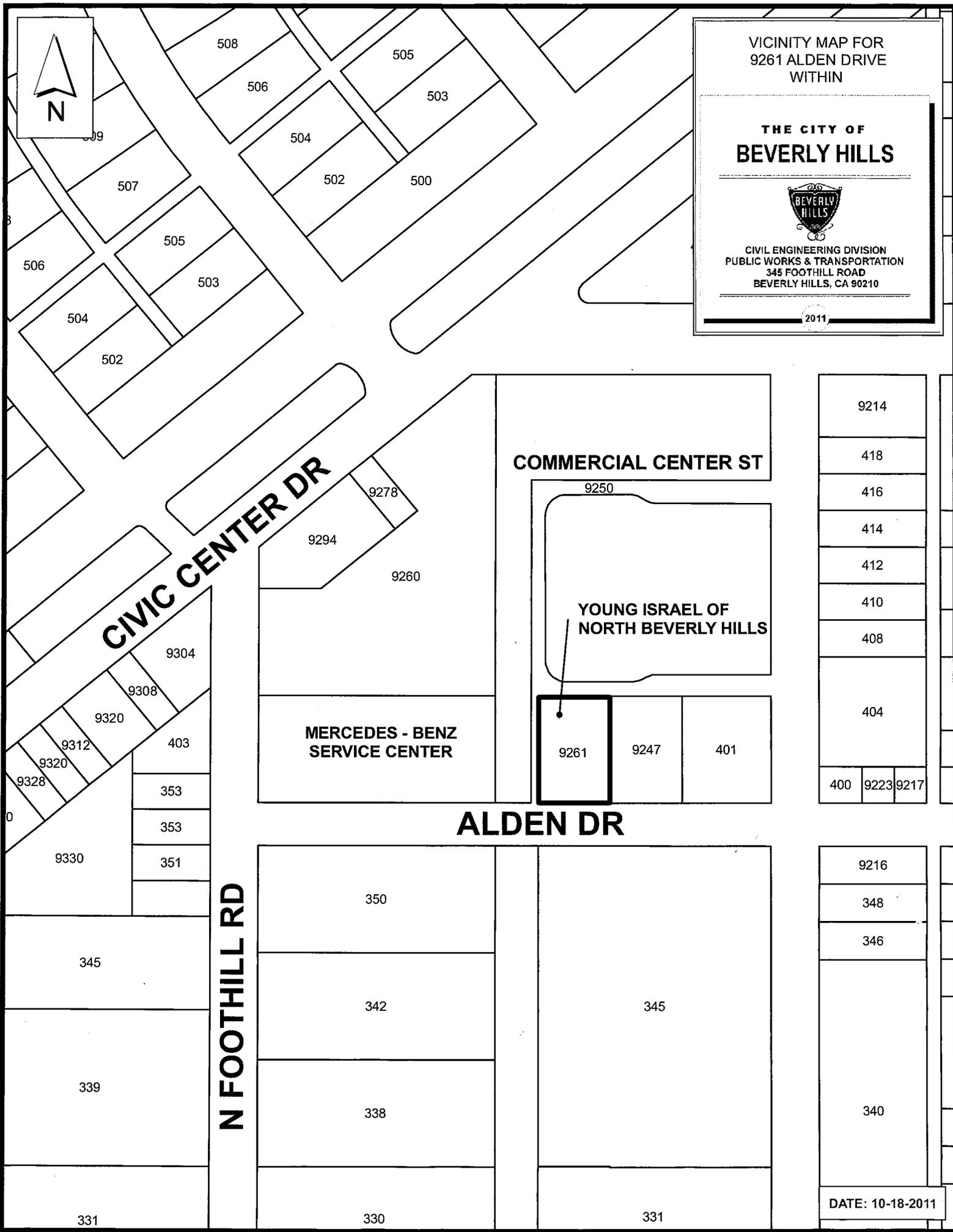
VICINITY MAP FOR
9261 ALDEN DRIVE
WITHIN

**THE CITY OF
BEVERLY HILLS**



CIVIL ENGINEERING DIVISION
PUBLIC WORKS & TRANSPORTATION
345 FOOTHILL ROAD
BEVERLY HILLS, CA 90210

2011



CIVIC CENTER DR

COMMERCIAL CENTER ST

ALDEN DR

N FOOTHILL RD

**MERCEDES - BENZ
SERVICE CENTER**

**YOUNG ISRAEL OF
NORTH BEVERLY HILLS**

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DATE: 10-18-2011