

**ATTACHMENT 3**

**PLANNING COMMISSION RESOLUTIONS**

RESOLUTION NO. 1677

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF BEVERLY HILLS  
RECOMMENDING ADOPTION OF AN ORDINANCE  
OF THE CITY OF BEVERLY HILLS AMENDING  
BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-  
3311 REGARDING IN-LIEU PARKING FEES.

WHEREAS, the Planning Commission has considered the proposed amendment to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendment"); and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on March 28, 2013, at which times it received oral and documentary evidence relative to the proposed Amendment; and

WHEREAS, the Planning Commission finds that the proposed Amendment is required for the public health, safety, and general welfare, and that such Amendment is consistent with the general objectives, principles, and standards of the General Plan;

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

Section 1. The Amendment 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,

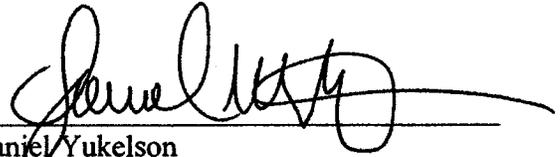
Sections 15000, et seq.), and the City's Local CEQA Guidelines (hereafter the "Guidelines"), and a Class 5 Categorical Exemption has been issued in accordance with the requirements of Section 15305 of the Guidelines to allow minor alterations in land use limitations. The Class 5 exemption is applicable because this Ordinance makes minor changes to the City's in-lieu parking program, which is applicable only in the generally flat business triangle area of the City.

Section 2. The Planning Commission does hereby find that the proposed Zone Text Amendment is intended to create a pilot program for restaurants that provide nightlife and public benefits, and wish to participate in the City's in-lieu parking program for a reduced fee. The amendment will help to promote nightlife in the City, while simultaneously providing broader public benefits by contributing to community events. The pilot program will allow the City to explore alternatives to the standard in-lieu parking program, which will lead to a more flexible program that encourages uses that are beneficial to the City. Any application for reduced in-lieu parking fees pursuant to the pilot program established by the Amendment would be reviewed by the Planning Commission and City Council on a case-by-case basis to ensure that adequate public benefits are provided. For these reasons, the Amendment serves to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendment substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

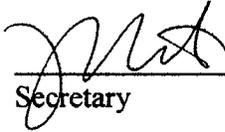
Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: March 28, 2013



Daniel Yukelson  
Acting Chair of the Planning Commission of  
the City of Beverly Hills, California

Attest:

  
Secretary

Approved as to form:

  
David M. Snow  
Assistant City Attorney

Approved as to content:

  
Jonathan Lait, AICP  
City Planner *RLG.*

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       )     SS.  
CITY OF BEVERLY HILLS         )

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1677 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on March 28, 2013, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES:           Commissioners Block, Fisher, Yukelson.

NOES:           None.

ABSTAIN:       None.

ABSENT:        Vice Chair Rosenstein, Chair Corman.

  
\_\_\_\_\_  
JONATHAN LAIT, AICP  
Secretary of the Planning Commission /  
City Planner  
City of Beverly Hills, California

EXHIBIT A

[Draft] ORDINANCE NO. 13-O-\_\_\_\_

ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING  
BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-3311  
REGARDING IN-LIEU PARKING FEES

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS  
FOLLOWS:

Section 1. On \_\_\_\_\_, 2013, the Planning Commission held a duly noticed public hearing, at which the Planning Commission adopted Resolution No. \_\_\_\_\_, recommending that the City Council amend the Zoning Code regarding alternative monthly in-lieu parking fee amounts for certain restaurant uses.

Section 2. The City Council considered this Ordinance at a duly noticed public hearing on \_\_\_\_\_, 2013 and, at the conclusion of the hearing, introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 3. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the "Guidelines"), and the environmental regulations of the City. It has been determined that the adoption of this Ordinance is exempt from CEQA pursuant to Section 15305 of the Guidelines for minor alterations in land use limitations. The Class 5 exemption is applicable because this Ordinance makes minor changes to the City's in-lieu parking program, which is applicable only in the generally flat business triangle area of the City. The City Council has reviewed this determination of exemption, and based on its own independent judgment, concurs with this determination of exemption.

Section 4. The City Council hereby amends Section 10-3-3311 of Article 33 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

**"10-3-3311: WAIVERS, ALTERNATIVE FEES, AND OTHER EXEMPTIONS:**

- A. Pursuant to the requirements, limitations and procedures set forth in this section, the city council or the planning commission may allow a property owner to purchase in-lieu parking to serve a site area in excess of sixteen thousand (16,000) square feet and may waive, in whole or in part, the fees required by section 10-3-3310 of this article.
1. Eligible Uses: The city council or planning commission may only take action pursuant to this subsection A with regard to site areas occupied by, or fees imposed upon, the following uses:
    - a. Museum uses owned and controlled by a nonprofit, tax exempt entity.

- b. Adaptive reuses of a building listed on the National Register of Historic Places.

B. Pursuant to the requirements, limitations and procedures set forth in this section, and as an alternative to payment of the fees required by section 10-3-3310 of this article, the city council or the planning commission may allow a property owner or tenant to purchase alternative monthly in-lieu parking calculated at a rate of eighty-five percent (85%) of the lowest monthly parking rate offered at the City's parking facilities, whether or not the site area exceeds sixteen thousand (16,000) square feet.

1. Eligible Uses: The city council or planning commission may only take action pursuant to this subsection B with regard to site areas occupied by the following uses:

- a. Restaurant uses located on North Canon Drive with a total parking deficit of one hundred (100) or fewer parking spaces that provide (a) live evening musical entertainment at least four (4) days per week and (b) public benefits pursuant to an agreement approved by the City Council.

2. Sunset: The alternative monthly in-lieu parking fee authorized by this subsection B is a pilot program. The city council or planning commission may take action pursuant to this subsection B on applications filed on or before October 31, 2013. Unless the City Council extends this subsection B, this subsection shall be repealed as of November 1, 2013. Any application filed before November 1, 2013 may be processed to conclusion.

CB. Findings Required: The city council or planning commission shall not take action pursuant to this section unless the city council or planning commission finds that:

1. Due to the nature of the proposed use, the proposed use will attract and serve potential retail sales customers to the in-lieu parking district; and
2. The proposed use will not unreasonably deplete parking resources in the in-lieu parking district.

DC. Reviewing Body: The city council shall review an application filed pursuant to this section unless that application accompanies an application that otherwise requires review by the planning commission. If the application filed pursuant to this section accompanies an application that otherwise requires review by the planning commission, then the planning commission shall be the reviewing body for the application filed pursuant to this section.

ED. Procedure: An application filed pursuant to this section shall be submitted to the director of planning and community development. Upon receipt of such application, a hearing regarding the application shall be scheduled before the city council or the planning commission, as provided in subsection D of this section. Notice of the hearing shall be mailed to the applicant at least ten (10) days prior to such hearing.”

Section 5. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, this Ordinance shall be null and void.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31<sup>st</sup>) day after its passage.

Adopted:

Effective:

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JOHN A. MIRISH  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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LAURENCE S. WIENER  
City Attorney

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JEFFREY C. KOLIN  
City Manager

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SUSAN HEALY KEENE  
Director of Community Development

RESOLUTION NO. 1679

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING PARTICIPATION IN THE CITY'S IN-LIEU PARKING PROGRAM AND AN APPLICATION FOR AN EXTENDED HOURS PERMIT FOR THE PROPERTY LOCATED AT 184 NORTH CANON DRIVE (SPAGHETTINI RESTAURANT).

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

Section 1. Murray Fischer, Applicant on behalf of Spaghettini Restaurant, (collectively the "Applicant") has submitted an application to participate in the City's in-lieu parking program and an application for an Extended Hours Permit associated with the establishment of a new restaurant located at 184 North Canon Drive (the "Project").

Section 2. The project site is located near the eastern edge of the City's Business Triangle, which is comprised of a variety of retail, office, and restaurant uses, with buildings varying in size and height. In addition to the commercial uses, the Crescent Apartments development (recently remodeled by AKA Hotels) is located immediately east of the project site. The AKA property is currently used as apartments, but the City is currently processing an application that, if approved, would allow the property to be used for hotel uses, which are considered to be commercial in nature.

The Project consists of the establishment of an approximately 5,000 square foot restaurant, of which, approximately 2,600 square feet would be utilized for dining purposes. In

conjunction with the restaurant use, the Applicant proposes musical entertainment (generally of a jazz genre) that would accompany dining. The restaurant use requires approximately 59 additional parking spaces, which are proposed to be provided through the City's in-lieu parking program. Additionally, the restaurant is proposed to be open until 1:00 AM nightly, which requires approval of an Extended Hours Permit since the Project is located within 170 feet of residentially-zoned properties. In conjunction with the request for in-lieu parking and an Extended Hours permit, the Applicant has requested a Zone Text Amendment to establish a pilot program that would allow reduced in-lieu parking fees for restaurants that provide nightlife and other public benefits. The request for a Zone Text Amendment is separately addressed by Planning Commission Resolution No.1677.

Section 3. 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 (hereafter the "Guidelines"), and a Class 1 Categorical Exemption has been issued in accordance with the requirements of Sections 15301 of the Guidelines for the Project. The Class 1 exemption is applicable because the Project results in operational changes and minor interior tenant improvements to an existing commercial building, and is therefore exempt from further review under the provisions of CEQA.

Section 4. Notice of the Project and public hearing was published in two newspapers of local circulation on March 15, 2013 and March 21, 2013, and on March 18, 2013 a mailed notice was sent to all property owners and residential tenants within a 300-foot radius of

the property, and all single-family residences within a 500-foot radius of the property. On March 28, 2013 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 5. In reviewing the request for in-lieu parking, the Planning Commission considered whether it could make the following findings:

1. Participation in the in-lieu parking district, as approved, will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.
2. Participation in the in-lieu parking district, as approved, will not create any significantly adverse traffic safety impacts, pedestrian-vehicle conflicts, or parking impacts.
3. Participation in the in-lieu parking district will not be detrimental to the public health, safety and welfare.

Section 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the request for in-lieu parking:

1. Although approval of the in-lieu parking request would generate additional demand on the City's existing parking facilities, the parking assessment prepared in conjunction with the project indicates that a sufficient number of parking spaces are available within four nearby, public parking structures to accommodate the requested 59 in-lieu parking spaces. The additional demand of 59 vehicles at the subject parking facilities would not result in a parking shortfall, and would therefore

not adversely affect existing and anticipated development in the vicinity. In fact, approval of the in-lieu parking spaces facilitates the establishment of a restaurant that provides musical entertainment and nightlife, which will be a harmonious and beneficial addition to the Business Triangle.

2. The City's existing public parking facilities and circulation patterns will not be modified as a result of the project, and are already designed to limit traffic safety impacts and pedestrian-vehicle conflicts. Additionally, based on current usage patterns the requested in-lieu parking spaces can be accommodated within existing public parking facilities without adversely impacting the operation of such existing parking facilities. Therefore, participation in the in-lieu parking district is not anticipated to result in traffic safety impacts, pedestrian-vehicle conflicts, or parking impacts.

3. The project involves the conversion of general commercial space to restaurant space, resulting in the need for 59 in-lieu parking spaces. The conversion allows the establishment of a restaurant that provides musical entertainment and nightlife, which will be a beneficial addition to the City's commercial district. The in-lieu parking spaces can be accommodated within existing public parking facilities without adversely impacting the operation of such existing facilities. As a result, the project is not anticipated to be detrimental to the public health, safety and welfare.

Section 7. In reviewing the request for an Extended Hours Permit, the Planning Commission considered whether the Project would result in the following:

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

Section 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Extended Hours Permit:

1. The request for extended hours is related to interior operations. Collection of garbage, litter, and other waste is carried out by restaurant staff during regular operation of the restaurant. An increase in operating hours can be

accommodated by existing resources and staff, and the proposal is not anticipated to result in the accumulation of garbage, litter, or other waste.

2. The subject property is surrounded by commercial development to the north, south, and west. Residential development is located across the alley to the east of the project site. Extended hours restaurant operations will take place toward the front of the restaurant, on North Canon Drive, which provides a buffer between the residential uses. Furthermore, restaurant operations occur indoors, and vehicle circulation occurs by valet. With the incorporation of conditions of approval related to requiring soundproofing and regulating valet routes and operations, the extended hours operation will not result in adverse impacts to surrounding properties.

3. The proposed extended hours would not result in any added light and glare beyond what currently exists at the subject property. The subject property is located on a commercial street, and all operations generating light would occur along North Canon Drive, away from the apartments located east of the subject property.

4. The proposed extended hours would not result in any added odors or noxious fumes beyond what would otherwise exist from the operation of the restaurant. Therefore, extending the hours of operation until 1:00 AM nightly is not anticipated to create any adverse impacts related odors and noxious fumes.

5. The proposed use functions as a restaurant, not as a nightclub, and is not anticipated to result in pedestrian queuing. Furthermore, patrons generally must have reservations, and there is an interior waiting area within the restaurant.

Therefore, no adverse impacts related to pedestrian queuing are anticipated to occur as a result of the project.

6. The requested Extended Hours Permit is related to interior restaurant uses within the premises of an existing commercial building. Because patrons are typically contained within the subject property, the proposal is not anticipated to result in added crime or peril to personal safety and security.

7. The proposed restaurant will provide valet parking, which will generally prevent patrons from parking on residential streets. In the event that a patron does not use valet parking, sufficient public parking garages exist in the vicinity of the restaurant to accommodate patrons. For these reasons, the extended hours use is not anticipated to result in parking intrusion into the residential areas.

8. Restaurant operations during extended hours would primarily generate vehicle trips on commercial streets. Furthermore, traffic volumes after 10:00 PM are typically low, and the City's streets can accommodate the extended hours operation without impacts on traffic volumes and congestion on local residential streets.

9. The location of the subject property is along North Canon Drive. North Canon Drive is a commercial street primarily comprised of retail stores and restaurants that generally do not operate beyond 10:00 PM. Therefore, the proposed project would not result in a concentration of extended hours operations within the vicinity of the subject property.

Section 9. Based on the foregoing, the Planning Commission hereby grants the requested in-lieu parking and Extended Hours Permit, subject to the following conditions:

1. This approval shall not become effective unless and until the proposed Zone Text Amendment and an In-Lieu Parking Agreement have been adopted by the City Council and taken effect.

2. The Applicant shall obtain a valet permit from the Public Works Department, and shall reimburse the City for any costs associated with restricting parking meter service in order to accommodate valet operations. The valet plan shall be subject to review and approval by the Director of Public Works, and shall be designed to prevent vehicle and noise impacts on surrounding residential properties during Extended Hours operations.

3. The restaurant shall not receive any new patrons after 1:00 AM nightly.

4. Prior to the issuance of a building permit, the Applicant shall engage the services of an acoustical consultant to identify areas of the subject property requiring soundproofing. Soundproofing shall be installed in any areas determined necessary by the acoustical consultant for the purpose of preventing sound from being audible at the adjacent residential properties to the east. Upon installation of soundproofing materials, the acoustical consultant shall inspect the soundproofing and submit a written report to the Director of Community Development documenting that such installation was correctly performed. In the event that the soundproofing does not sufficiently reduce noise associated with the

Project, the Director shall have the authority to impose additional conditions on the Project to achieve compliance.

5. During Extended Hours, the Project shall comply with all operational restrictions set forth in BHMC §10-3-1956 regarding operational restrictions for business located in a commercial-residential transition zone.

6. The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Director 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 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 and parking impacts caused by the proposed Project, and the Applicant shall forthwith comply with any additional conditions at its sole expense.

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

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

9. EXPIRATION. The exercise of rights granted in this Resolution shall be commenced within three (3) years after the adoption of such resolution.

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

11. This approval is for those plans submitted to the Planning Commission on March 28, 2013, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval.

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

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

14. The Project shall operate at all times in compliance with Municipal requirements for Noise Regulation.

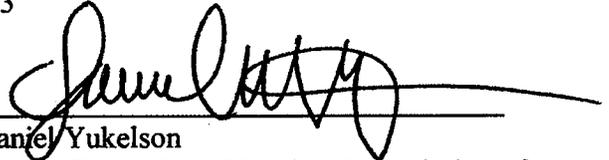
15. The Applicant shall provide for all utility facilities, including electrical transformers required for service to the proposed structure(s), to be installed on the subject site. No such installations will be allowed in any City right-of-way.

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

17. 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.

Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: March 28, 2013



Daniel Yukelson  
Acting Chair of the Planning Commission of  
the City of Beverly Hills, California

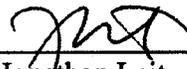
Attest:

  
\_\_\_\_\_  
Secretary

Approved as to form:

  
\_\_\_\_\_  
David M. Snow  
Assistant City Attorney

Approved as to content:

  
\_\_\_\_\_  
Jonathan Lait, AICP *RL*  
City Planner

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )    SS.  
CITY OF BEVERLY HILLS        )

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1679 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on March 28, 2013, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES:           Commissioners Block, Fisher, Yukelson.

NOES:           None.

ABSTAIN:       None.

ABSENT:        Vice Chair Rosenstein, Chair Corman.

  
\_\_\_\_\_  
JONATHAN LAIT, AICP  
Secretary of the Planning Commission /  
City Planner  
City of Beverly Hills, California