

ATTACHMENT J

PUBLIC NOTICE



NOTICE OF PUBLIC HEARING

DATE: November 21, 2013
TIME: 7:00 PM, or as soon thereafter as the matter may be heard
LOCATION: Commission Meeting Room 280A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its SPECIAL meeting on Thursday, November 21, 2013, will hold a public hearing beginning at 7:00 PM, or as soon thereafter as the matter may be heard to consider the following entitlements for the property located at the northeast corner of Robertson and Wilshire Boulevards at **8767 Wilshire Boulevard**:

Medical Overlay Zone: A request to apply the City's Medical Overlay Zone to the subject property to allow medical office uses. If approved, up to 33,802 square feet of medical office space could be established within the existing building. This would be equal to approximately 45% of the building's floor area;

Development Plan Review: A request to amend the previously approved Development Plan Review for the subject property. The proposed amendments would modify the project's existing conditions of approval, and would eliminate prohibitions on medical office space, automobile sales uses, and pharmacies. The amendments would also allow for increased restaurant space within the building, and would establish a fee structure for providing public parking on weekdays and weekends at the subject property; and

Conditional Use Permit: A request for a Conditional Use Permit to allow the establishment of a luxury automobile showroom within the building's ground floor. The proposal includes a showroom only, and no service operations would occur on-site.

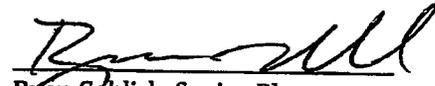
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. A Mitigated Negative Declaration (MND) was previously adopted by the City Council on January 30, 2007 for the existing commercial building on the subject site. Therefore, it is expected that an addendum to the original MND will be prepared to evaluate the project changes outlined above, and will be presented to the Planning Commission for consideration.

Any interested person may attend the meeting and be heard or present written comments to the Commission.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact Ryan Gohlich, Senior Planner in the Planning Division at 310.285.1194, or by email at rgohlich@beverlyhills.org. Copies of the project plans and associated application materials are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

Sincerely,


Ryan Gohlich, Senior Planner

Mailed November 8, 2013

ATTACHMENT K

PRIOR PLANNING COMMISSION RESOLUTIONS

RESOLUTION NO. 1442

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A DEVELOPMENT PLAN REVIEW PERMIT FOR CONSTRUCTION OF A COMMERCIAL BUILDING WITH RETAIL, RESTAURANT AND OFFICE USES AND FOUR LEVELS OF SUBTERRANEAN PARKING; AND OF THE PLANNING COMMISSION, SITTING AS A BOARD OF ZONING ADJUSTMENTS TO THE CITY OF BEVERLY HILLS, CONDITIONALLY GRANTING A HEIGHT VARIANCE TO ALLOW A BUILDING HEIGHT OF FOUR STORIES WITH A ROOF LINE OF 56 FEET AND AN ARCHITECTURAL FEATURE OF 68 FEET IN HEIGHT, FOR PROPERTY LOCATED AT 8767 WILSHIRE BOULEVARD

Section 1. Joseph N. Tilem, Attorney, on behalf of Kobar Family Trust, owner, hereinafter referred to as the "Applicant," has submitted an application for a Development Plan Review ("D.P.R.") for construction of a 75,116 square foot, four-story (68 feet high) office/retail commercial building with subterranean parking for 358 cars at property located at 8767 Wilshire Boulevard, hereinafter referred to as the "Project."

The Project site is located in the commercial (C-3) zone. Beverly Hills Municipal Code Section 10-3.2726 permits a maximum building height of three stories or 45 feet whichever is less. The proposed Project will exceed the permitted height and number of stories, therefore, the applicant has filed an application seeking a variance from height requirement.

Beverly Hills Municipal Code Section 10-3.2745 allows a maximum floor area ratio (FAR) of 2:0. The Project site is within 170 feet of residential zone to the east; therefore, the Project site is in a commercial-residential transition area. As such, the Project must comply with the City's commercial-residential transition ordinance (Sections 10-3.1951 thru 1960), which addresses special issues of interface between the different uses. The Project complies with the design standards

(primarily setbacks) of the ordinance, but is also required to comply with operational standards that protect the adjacent residential uses during nights and weekends.

Beverly Hills Municipal Code Section 10-3-2730 requires one parking space for every 350 square feet of floor area. Code Section 10-3.2741 requires three truck loading spaces be provided on-site.

Development Plan Review is required for all new commercial buildings. In addition, the City's Architectural Commission will review the Project to assure that it is of a high standard of visual quality.

The proposed Project entails the construction of a 75,116 square-foot, four-story, 56 feet high to the roofline with a 68-foot high architectural feature at the center, office/retail commercial building on the northeast corner of Wilshire Boulevard and Robertson Boulevard, at 8767 Wilshire Boulevard. The Project will provide 358 parking spaces in four-level subterranean garage with ingress and egress from Robertson Boulevard and an egress only driveway on Wilshire Boulevard. Loading activity will be conducted within the building, at three truck loading areas located along the northeast wall, accessible from the Robertson Boulevard entrance and will exit onto Wilshire Boulevard. While the proposed Project would exceed the three-story/45-foot height limit, it would conform to the 2:0 floor to area ratio ("FAR") which limits the building to the same amount of floor area as a three-story building.

The subject property consists of six lots. A BMW automobile dealership storage facility and a small commercial building (located in the southeastern portion of the site) currently occupy the site. Adjacent to the property to the north are a variety of commercial developments including retail stores and offices. Across Wilshire Boulevard to the south is a three-story office/medical building. Across Robertson Boulevard to the west is a two-story commercial

building. Adjacent to the property to the east is a two story commercial building; and two and three story multi-family residential properties facing Amaz Drive. There are no alleys separating the Project site from the adjacent properties to the east and north. Street trees on Wilshire Boulevard are Mexican Fan Palm trees and street trees on Robertson Boulevard are Ficus trees. Four palm trees on Wilshire Boulevard are proposed to be removed and replaced.

On November 16, 2005, the Planning Commission reviewed a proposal by Applicant for a three-story plus mezzanine proposal at the Project site. The Planning Commission continued the public hearing to January 25, 2006, at which time, the Commission directed the Applicant to substantially revise the project to address the following issues: proposed mix of uses; parking issues; project access; loading design; street setback; construction impacts; design issues and neighbors' privacy. On January 25, 2006, the Applicant withdrew its application because of the number of design changes required. The current Project, designed by Richard Spina of CSA Architects was submitted to the Planning Commission for review on June 5, 2006.

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, with the proposed mitigation measures, determined that there was no substantial evidence that approval of the Project may have significant environmental impacts. Accordingly, the City prepared a mitigated 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 mitigated negative declaration prior to deciding whether to approve the Project.

Based on the initial study, the mitigated negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the mitigated negative declaration prepared for the Project represents the independent judgment of the City and that, with the proposed mitigation measures, 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 10, 2006, 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. In considering the application for the development plan review, the Planning Commission evaluated the following criteria:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
2. Whether the nature, configuration, location, density, height and manner of operation of the commercial development proposed by the plans will significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.
3. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;
4. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards; and

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

Section 5. Based upon the evidence presented, including the staff report and written and oral testimony, the Planning Commission hereby finds as follows with respect to the development plan review:

5.1. The proposal is consistent with the General Plan and any specific plans adopted for the area. The proposed Project design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is Low Density Commercial. The proposed Project consists of 75,116 square feet of office/retail uses which is permitted in the C-3 Zone. The proposed Project will have a height exceeding the Low Density Commercial land use designation, but the height is intended to compensate for the unusual configuration of the property and its associated physical constraints in developing the site more conventionally. The proposed development including its density is generally consistent with the General Plan designation for the subject site

5.2. The proposed Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The site is not optimally used at present. Under the current zoning designation, the Project site could be developed with a maximum density of 2.0 FAR and three stories/ 45 feet in height. As proposed, the building conform to the 2.0 FAR requirement, but will exceed the height limitation. As proposed, the Project would house general office and retail uses with prospects for a high end restaurant or vehicle storage. However, the building would not be used for medical offices or coffee shops.

The proposed building façade is of a contemporary design, using glazing and granite veneer as the predominant exterior finish for the building elevations facing Wilshire Boulevard and Robertson Boulevard. The pedestrian entrance to the building will be located towards the center of the building at the corner of Wilshire Boulevard and Robertson Boulevard. The building as proposed will have modulation and setbacks throughout the building facades.

Although the proposed Project will increase the building height and number of stories, the maximum density (FAR) on the site will remain the same as allowed by the General Plan. The proposed building would be 68 feet in height, 23 feet higher than the maximum allowed by Code. However, the height is concentrated at the center of the building at the intersection of Wilshire Boulevard and Robertson Boulevard. The overall height of the building to the roof line is 56 feet which is 11 feet higher than permitted by Code. The Project proposes setbacks and modulation throughout the building facades. The proposal is set back a minimum of 10 feet on the ground floor and 20 feet on the upper floors with landscaping to maintain adequate privacy for multi-family residences at the rear of the property. In November 2005, when the Planning Commission reviewed the previously proposed project for this site, it was noted that additional height may be considered. Implementation of the Project will improve the appearance of the site and area and is consistent and harmonious with the nature and type of developments designated for the area in the General Plan.

5.3. The nature, configuration, location, density, height and manner of operation of the Project will not significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property. Although the proposed Project will increase the height /number of stories of the building, the density on the site will remain the same as the General Plan allows. Although the height of the proposed structure is higher than the

maximum development permitted on the site, the building mass is concentrated in the center of the building and ample setbacks are provided at the rear to provide privacy and light for neighboring structures. The Project also proposes surplus parking for public use that could be beneficial for small developments in the area needing parking for their customers. As a result, the Project will potentially reduce the intrusion of commercial parking demand into the nearby residential areas, in part because all tenants will be required to provide validated parking. Therefore, the proposed Project will not significantly and adversely interfere with the enjoyment of residential properties in the vicinity of the subject property.

5.4. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards. As a result of recommendations in the traffic analysis, the Project proposes the addition of a right-turn lane along Wilshire Boulevard in front of the Project to facilitate right turns at Robertson Boulevard and to mitigate the Project-related impact at the intersection of Wilshire Boulevard and Robertson Boulevard. In order to add the new right-turn lane, the width of the sidewalk will be decreased from 15 feet to 10 feet.

The Project also provides three loading spaces, two of which are located near the driveway entrance. Since the loading area location could impact garage circulation and access from the Robertson Boulevard Driveway entrance, the Project will provide a loading management plan prior to building occupancy to ensure that loading and delivery activities do not impede the garage access. The Applicant stated that the tenants will be given a monthly schedule for delivery.

5.5. The Project will not be detrimental to the public health, safety or general welfare. The Project will be constructed in accordance with the City's Building Code standards and is generally consistent with the zoning for the area. Prior to the issuance of building permits, a

construction management plan is required for review and approval by the Engineering Division and Building and Safety Division. Public safety issues such as construction staging, hauling, off-site parking, and construction hours are addressed. Therefore, the Project will not be detrimental to the public health, safety or general welfare.

Section 6. Pursuant to Municipal Code Section 10-3.2801, the Planning Commission may grant a variance if, on the basis of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of the Zoning Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Moreover, any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

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 requested variance.

The maximum building height permitted in the C-3 zone is 45 feet and 3 stories. The applicant seeks a variance to construct a building with overall height of 68 feet (the building height to the roof line is 56 feet except for the architectural feature at the building center facing the intersection of Wilshire and Robertson Boulevards). Properties in this segment of Wilshire Boulevard have varying characteristics relative to lot configuration. However, no other property has the subject property's unusual combination of shape and location. The subject property is on an "L" shaped lot that is more difficult to utilize effectively than the conventional rectangular shaped lots

in the vicinity and zone. In addition, the subject property is located at a major intersection (Wilshire Boulevard and Robertson Boulevard), which makes it difficult to provide access without impacting circulation. The Project is required to dedicate property for a dedicated turn lane to minimize its impact on traffic. Further, unlike similarly zoned properties, there is no alley between this commercial property and neighboring residentially zoned properties that would otherwise serve as a buffer between the different land uses, and which necessitated incorporation of the loading areas within the building interior to address noise, traffic, and land use compatibility issues. Each and all of these factors present unique constraints on the property.

Therefore, findings for a variance to allow construction of the proposed structure can be made based on the unique shape and location characteristics of the subject property. The strict application of the Code would deprive the Applicant of the use of the commercial property to the extent other than other properties in the same zone, which is a privilege enjoyed by other properties in the vicinity and under an identical zone classification, because of the property shape and location.

Section 8. Based upon the foregoing, the Planning Commission hereby adopts the mitigated negative declaration, finds that considering the whole record that there is no evidence that the proposed project would have any potential for adverse effects on wildlife resources or habitat and has thus rebutted the presumption of adverse effect in 14 California Code of Regulations Section 753.5(d), and issues a Development Plan Review and a Variance for the Project, subject to the following mitigation measures and conditions:

Mitigation Measures

Measure1. Water or a stabilizing agent shall be applied to exposed surfaces in sufficient quantity to prevent generation of dust plumes.

Measure 2. Track-out shall not extend 25 feet or more from an active operation, and track-out shall be removed at the conclusion of each workday.

Measure 3. A wheel washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the Project site.

Measure 4. All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).

Measure 5. All trucks hauling soil, sand, and loose materials shall maintain at least six inches of freeboard in accordance with California Vehicle code Section 23114.

Measure 6. Traffic speeds on unpaved roads shall be limited to 15 miles per hour.

Measure 7. Operations on unpaved surfaces shall be suspended when winds exceed 25 miles per hour.

Measure 8. Heavy-equipment operations shall be suspended during first and second stage smog alerts.

Measure 9. On-site stock piles of debris, dirt, or rusty materials shall be covered or watered at least twice per hour.

Measure 10. All construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.

Measure 11. Grading and construction contractors shall use quieter equipment as opposed to noisier equipment (such as rubber tired equipment rather than track equipment).

Measure 12. Equipment staging areas shall be located on the western portion of the Project site, as far as possible from 141 and 143 N. Amaz Drive residential developments.

Measure 13. During construction, sound attenuation blankets with a Sound Transmission Class rating of 20 or more shall be used on the second, third, and fourth floors that face

141 and 143 N. Arnaz Drive Development. The sound attenuation blankets shall break the line of sight between the construction activities and 141 and 143 N. Arnaz Drive.

Measure 14. All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed Project. A sign, legible at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicated the dates and duration of construction activities, as well as provided a telephone number where residents can in quire about the construction process and register complaints.

Measure 15. A “noise disturbance coordinator” shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and would be required to implement reasonable measures such that the complaint is resolved. All notices that are sent to residential units within 500 feet of the construction site and all signs posted at the construction site shall list the telephone number for the disturbance coordinator.

Measure 16. A right-turn lane shall be added to the westbound approach to the intersection of Wilshire Boulevard and Robertson Boulevard.

Further, the Planning Commission hereby adopts the attached Mitigation Monitoring Program attached hereto as Exhibit A.

Conditions of Approval

1. The Project shall be subject to the review and approval by the Architectural Commission.
2. A detailed parking management plan shall be provided to indicate the operation of the parking garage including public parking operation.
3. The Applicant shall provide free of charge parking for all employees of the building.

4. Two-hour free, validated on-site parking shall be provided for patrons of all tenants, including retail, offices, restaurants and other uses that may occupy all or part of the building, and the applicant shall provide appropriate signage at entrances to the parking area informing patrons of the validated parking requirements. The informational signage shall be subject to approval by the Director of Community Development and shall be installed prior to issuance of a certificate of occupancy.
5. Parking spaces, as noted on the staff report, with obscured visibility and potential backing out conflict shall be used as reserved or employee parking spaces.
6. Not more than 80 haul truck trips per day (40 arrivals, 40 departures) shall be permitted per day during construction.
7. No more than five pieces of diesel equipment shall be permitted to operate on the Project site per day.
8. Staging of construction-related vehicles on the City's streets is prohibited.
9. A detailed construction management plan shall be provided prior to issuance of building permit.
10. Prior to the issuance of a certificate of occupancy, a loading management plan shall be provided to include the delivery hours and a delivery monitor with responsibility for controlling the circulation of trucks. The delivery monitor shall be responsible for directing the incoming/out going cars while one or more delivery trucks are present.
11. "Right Turn Only" signs and arrow marking on the pavement shall be installed at Wilshire Boulevard and Robertson Boulevard driveways.
12. Exit onto Robertson Boulevard shall be designed with raised barriers to force right-only turn movement when exiting the property.

13. A silent warning device shall be installed at each exit from the garage that would light up whenever a vehicle is leaving the garage, warning the on-coming vehicular and pedestrian traffic.
14. Security gates shall be constructed at each garage entrance and exit.
15. The proposal requires the removal of three metered parking spaces. Prior to removal of the metered parking spaces, the Applicant shall compensate the City for the lost revenues of the removed spaces.
16. The proposal requires removal and relocation of street lights, traffic signal pole, pull boxes, under ground wiring, striping, marking, sign installations. The Applicant shall hire a registered civil engineer to prepare plans and specifications for review and approval by the City. All works shall be performed by the Project contractor/sub-contractors.
17. The following uses shall be prohibited on the Project site: medical uses; vehicle dealership-related automotive uses, except that a maximum of 92 parking spaces may be used as car storage for nearby car dealerships; adult entertainment businesses; massage parlors; bars or taverns; liquor stores; markets; exercise facilities; hair or nail salons; pharmacies; and uses that would create potential traffic impacts on the Wilshire Boulevard/ Robertson Boulevard intersection.
18. No more than 3,000 square feet of building floor area shall be used for restaurant purposes, and no more than 1,500 square feet of building area shall be dedicated to dining and bar area. For purposes of this condition, smaller non-destination food service establishments such as coffee shops, fast food establishments, or similar establishments shall not be permitted.

19. The Applicant shall comply with the applicable conditions and permits from the Public Works/Engineering Department/ Recreation, Transportation Department and Parks Department. (Attached hereto as Exhibit B is the list of conditions).
20. The Applicant shall provide a permanent dewatering system on site to discharge the groundwater directly to the City's storm drain system and comply with the applicable City ordinances, and shall provide for future connection to reclaimed water lines if deemed appropriate and feasible by City's Department of Public Works.
21. The Applicant shall obtain the necessary NPDES permit from the State Regional Water Quality Control Board for the permanent dewatering prior to the issuance of grading permits.
22. The Project shall comply with the applicable Fire Department conditions.
23. An extended hours permit is required for any commercial uses that receive patrons between the hours of 10:00 p.m. and 7:00 a.m.
24. An off-site improvement plan prepared by a registered civil engineer must be submitted to the Engineering and Transportation Department for review and approval prior to the issuance of grading permits. This plan must show all improvements in the public-right-of-way adjacent to the proposed improvement site. All facilities to be constructed or relocated within the public right-of-way must be clearly shown.
25. The Applicant shall file a formal written request for approval of any type of temporary construction encroachment within the public right-of-way.
26. An encroachment permit is required for the subterranean garage encroachment into the public right-of-way.
27. Pedestrian access on Robertson Boulevard shall be maintained during construction. A pedestrian canopy shall be constructed along Robertson Boulevard.

28. The Applicant shall provide all necessary supporting documentation to the City for the City Council actions concerning right-of-way dedications by the Applicant, including all legal descriptions and drawing signed and stamped by a land surveyor licensed to practice in California.
29. The Applicant shall submit the appropriate fees for processing of the right-of-way issues through the City Council, and shall comply with the applicable city ordinances.
30. Sidewalk paving material is subject to review by the City Council.
31. A maximum of 92 of the 358 parking spaces may be used as overflow storage of vehicles for nearby auto dealerships, and a minimum of 21 of the 358 parking spaces shall be made available for use by the general public.
32. The Property Owner shall not enter into any covenant dedicating use of the excess parking provided by the project for off-site projects or uses, unless the Planning Commission first approves the use of the excess parking for off-site projects or uses and allows such a covenant.

Standard Conditions

33. The Project shall be constructed in substantial compliance with the plans submitted to and approved by the Planning Commission at its meeting of August 10, 2006.
34. The Applicant shall comply with the requirements of the street tree mitigation plan of the Recreation and Parks Department attached hereto as Exhibit C and incorporated herein by this reference.
35. The City shall monitor the operation of the Project at the site. The City expressly reserves jurisdiction with respect to traffic and parking issues. Should the business or activity conducted at the Project site change so that, in the opinion of the Director of Community

Development, additional parking is required for the Project site in order to avoid significantly adverse traffic safety impacts, pedestrian vehicle conflicts, or parking impacts, then, regardless of the use at the site, additional conditions, including the requirement of providing parking spaces may be imposed upon the Project site by the Planning Commission pursuant to a public hearing noticed in accordance with the procedures set forth in Section 10-3-3307 of the Beverly Hills Municipal Code. Any decision of the Planning Commission in this regard may be appealed in the manner provided by Title 1, Chapter 4, of the Beverly Hills Municipal Code. This condition is in addition to the requirements set forth in Section 10-3-3315 of the Beverly Hills Municipal Code.

36. Construction related parking, staging and hauling shall conform to a construction parking, staging and hauling plan submitted by the Applicant and approved by the City Engineer and the Director of Community Development. The Applicant shall provide to the City Engineer the proposed staging for demolition and construction of the Project so that the City Engineer may determine the amount, appropriate routes, and time of day that heavy hauling truck traffic will need to travel to the subject site.
37. 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 an 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 procedures 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.

38. The City reserves the right to make modifications and/or impose additional conditions which may become necessary to enable implementation of the specific conditions set forth in this resolution and the Applicant, the owner and their heirs, representatives, successors and assigns shall comply with all such modified or additional conditions.
39. This Resolution approving a Development Plan Review and a Variance 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 Planning Commission's decision memorialized in 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 a Development Plan Review and a Variance 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 Development Plan Review and the Variance.

40. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the permit.
41. Within three 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.

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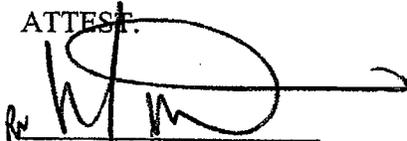
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Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of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

Adopted: September 14, 2006

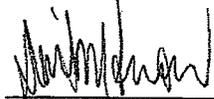


Stacy Marks
Chair of the Planning Commission
of the City of Beverly Hills, California

ATTEST.


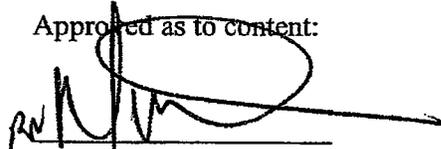
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:



Mahdi Aluzri
Director of Community Development



David D. Gustavson
Director of Public Works & Transportation

EXHIBIT A

MITIGATION MONITORING PROGRAM

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
Transportation/Circulation.			
<input type="checkbox"/> A right-turn lane shall be added to the westbound approach to the intersection of Wilshire Boulevard and Robertson Boulevard.	Department of Engineering/Transportation and Department of Community Development	The applicant shall hire a civil engineering consultant to prepare plans for the City's review. Upon approval, the applicant shall hire a sub-contractor to implement the measure.	This measure shall be implemented prior to issuance of certificate of occupancy.
Air Quality.			
<input type="checkbox"/> Water or a stabilizing agent shall be applied to exposed surfaces in sufficient quantity to prevent generation of dust plumes.	Community Development Department	The applicant shall submit a construction management plan to the Director of Community Development prior to issuance of any grading or construction permits. The Construction Management Plan shall be reviewed by the department and filed with the Building & Safety Division prior to issuance of grading permits. The plan check engineer will review the plan to ensure that the plan complies with this measure. The inspectors in the field will also review the work to ensure that it complies with the requirements noted in the Construction Management Plan. Any cleaning of the public right-of-way shall be to the specifications of the City Engineer.	The affidavit shall be submitted prior to the commencement of any work on the project site. This measure shall be in effect until the issuance of the certificate of occupancy.

Completed

Completed

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
Track-out shall not extend 25 feet or more from an active operation and track-out shall be removed at the conclusion of each workday.	Community Development Department	See above	See above
A wheel washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the project site.	Community Development Department	See above	See above
All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).	Community Development Department	See above	See above
All trucks hauling soil, sand, and loose materials shall maintain at least six inches of freeboard in accordance with California Vehicle Code Section 23114.	Community Development Department	See above	See above
Traffic speeds on unpaved roads shall be limited to 15 miles per hour.	Community Development Department	See above	See above
Operations on unpaved surfaces shall be suspended when winds exceed 25 miles per hour.	Community Development Department	See above	See above
Heavy-equipment operations shall be suspended during first and second stage smog alerts.	Community Development Department	See above	See above

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
On-site stock piles of debris, dirt, or rusty materials shall be covered or watered at least twice per hour.	Community Development Department	See above	See above
Noise.			
All construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.	Community Development Department	The primary contractor shall submit to the department a program and an affidavit attesting to the compliance with this measure as part of the Construction Management Plan.	The program and affidavit shall be submitted prior to the commencement of any work on the project site. This measure shall be in effect until the issuance of the certificate of occupancy.
Grading and construction contractors shall use quieter equipment as opposed to noisier equipment (such as rubber tired equipment rather than track equipment).	Community Development Department	See above	See above.
Equipment staging areas shall be located on the western portion of the project site, as far as possible from 141 and 143 N. Arnaz Drive residential developments.	Community Development Department	See above	See above
During construction, sound attenuation blankets with a Sound Transmission Class rating of 20 or more shall be used on the second, third, and fourth floors that face 141 and 143 N. Arnaz Drive Development. The sound attenuation blankets shall break the line of sight between the construction activities and 141 and 143 N. Arnaz Drive.	Community Development Department	See above	See above

Completed

Completed

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicated the dates and duration of construction activities, as well as provided a telephone number where residents can in quire about the construction process and register complaints.	Community Development Department	See above	See above
A "noise disturbance coordinator" shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and would be required to implement reasonable measures such that the complaint is resolved. All notices that are sent to residential units within 500 feet of the construction site and all signs posted at the construction site shall list the telephone number for the disturbance coordinator.	Community Development Department	The primary contractor shall submit to the department a program and an affidavit attesting to the compliance with this measure as part of the Construction Management Plan. A noise disturbance coordinator shall be required to maintain a log of complaints for the City's inspection.	See above

EXHIBIT B

**PUBLIC WORKS/ENGINEERING
STANDARD CONDITIONS**

EXHIBIT C

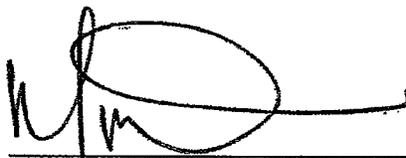
**STREET TREE MITIGATION PLAN OF THE
RECREATION AND PARKS DEPARTMENT**

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Community Development (the "Director") of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1442 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on September 14, 2006, 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 Krasne, Reims, Melamed, and Marks.

NOES: Commissioner Furie.



MAHDI ALUZRI
Secretary of the Planning Commission/
Director of Community Development
City of Beverly Hills, California

RESOLUTION NO. 1561

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BEVERLY HILLS DENYING A
REQUEST FOR AMENDMENT OF A DEVELOPMENT
PLAN REVIEW PERMIT FOR THE PROPERTY
LOCATED AT 8767 WILSHIRE BOULEVARD.

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

Section 1. The Kobor Family Trust, (the "Applicant") has submitted an application for an amendment to a Development Plan Review, which was conditionally approved by City Council Resolution No. 07-R-12273, permitting the construction of a commercial building with retail, restaurant, and commercial office uses at the property located at 8767 Wilshire Boulevard (referred to as the "Project" and "Project Site," respectively). The Applicant requests amendment of the conditions of approval to (1) eliminate the condition to provide 51 parking spaces for use by the general public (Condition No. 31 of Resolution No. 07-R-12273) and (2) to remove the prohibition on medical and other intense uses of the building currently under construction at the Project Site (Condition Nos. 17 and 18 of Resolution No. 07-R-12273) (collectively referred to as the "Amendment").

The Project Site is located on the northeast corner of Wilshire Boulevard and Robertson Boulevard and is an L-shaped site consisting of six lots that were previously occupied by the BMW automobile dealership storage facility and a small commercial building (located in the southeastern portion of the site) which has been demolished as part of the construction of the building that is currently underway. Adjacent to the property to the north are a variety of commercial developments including retail stores and medical and general commercial offices.

Across Wilshire Boulevard to the south is a three-story office/medical building. Across Robertson Boulevard to the west is a two-story commercial building. Adjacent to the property to the east is a two story commercial building; and two and three story multi-family residential properties facing North Arnaz Drive. There are no alleys separating the Project Site from the adjacent properties to the east or north. The Project's conditions of approval require construction of a right-turn lane on west-bound Wilshire Boulevard to north-bound Robertson Boulevard as a mitigation measure.

The Amendment is a request to revise the previously approved Development Plan Review that allows the construction of a 75,116 square-foot, four-story, 68-foot high commercial building at the Project Site. As approved, allowable uses of the building include retail, restaurant (maximum 3,000 square feet – with up to 1,500 square feet dining and bar area), vehicle storage for nearby vehicle dealerships and general commercial offices. As identified above, the use and operation of the building is restricted by the existing conditions of approval.

The Applicant requests the Amendment to allow the following building use and square footage allocation: 54,900 square feet of medical uses, 4,696 square feet of general office area, 2,000 square feet of restaurant/sundry shop area, 1,116 square feet of pharmacy uses, and 12,404 square feet of retail uses. The Applicant also seeks to eliminate the condition requiring provision of 51 parking spaces for public use, a condition the Applicant accepted during the proceedings leading to approval of the Project by the City Council.

Section 2. Pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA")), and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*) Section 15061(b)(4), a project that is denied or rejected is exempt from the requirements of CEQA.

Section 3. Notice of the Amendment and public hearing was mailed on September 14, 2009 to all property owners and residential tenants within a 300-foot radius of the Project Site, and all single-family zoned properties within a 500-foot radius of the exterior boundaries of the Project Site. A courtesy notice with an address clarification was sent out on September 17, 2009 to the notice radius. The revised hearing notice was also published in the Beverly Hills Courier on September 18, 2009. On September 24, 2009, the Planning Commission conducted a site visit and considered the Amendment request at a duly noticed public hearing. Evidence, both written and oral, was presented at said hearing.

Section 4. In considering the application for the Amendment to the Development Plan Review Permit, the Planning Commission considered the following criteria:

A. Whether the Amendment is consistent with the general plan and any specific plans adopted for the area;

B. Whether the Amendment will adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;

C. Whether the nature, configuration, location, density, height and manner of operation of any commercial development proposed by the Amendment will significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property;

D. Whether the Amendment will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards; and

E. Whether the Amendment will be detrimental to the public health, safety or general welfare.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the findings set forth in Section 4 above:

As proposed, the Amendment would allow medical uses, pharmacy uses and restaurant or sundry shop uses designed to primarily serve the tenants of the building. In addition, the Amendment would eliminate the condition to provide 51 parking spaces for use by the general public. In granting the original approval, which permitted construction of the building, both the Planning Commission and the City Council concluded that medical uses have the potential result in negative impacts on the adjacent residential uses, and thus imposed conditions of approval to prohibit medical uses and other similarly intense uses. Technical traffic studies prepared to analyze the medical uses sought by the Amendment indicate that the proposed change in use from the original approval of general office to medical uses increases the number of daily vehicular trips by over 225% (from 604 daily trips to 1,984 daily trips for the medical component alone). Moreover, the Amendment proposes to eliminate the 51 public parking spaces that the Applicant previously agreed to provided at the Project Site, which agreement is memorialized as a recorded covenant and agreement accepting the terms and conditions of the City's prior approval. The intensification of land use combined with the loss of planned public parking amplifies the Project's potential interference with the use and enjoyment

of residential and commercial properties in the vicinity of the Project Site because of the dramatic increase in traffic levels and reduced parking opportunities, which increase the likelihood of incursions of commercial and office traffic and parking into nearby residential areas. Further, the additional impacts anticipated from the Amendment, including the loss of the 51 public parking spaces and increased traffic would adversely affect existing and anticipated development in the vicinity and would not promote harmonious development of the area. The Planning Commission also finds that there have been no significant changes in circumstances that would warrant reconsideration of the restrictions imposed on the Project approval to address the concerns related to impacts on nearby residential and commercial land uses.

Although the Planning Commission could make Finding A regarding general plan consistency, it cannot make the remainder of the required findings.

Section 5.1 The Planning Commission hereby finds that the Amendment has the potential to adversely affect existing and anticipated residential and commercial development in the vicinity and will not promote harmonious development of the area due to the loss of the 51 public parking spaces, the increase in traffic generated by the proposed uses, and the adverse impacts of the parking reduction and traffic impact on existing and future land uses.

Section 5.2 The Planning Commission hereby finds that the proposed nature, configuration, location, density, height and manner of operation of the commercial development proposed by the Amendment has the potential to significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property due to the intensification of the use with the proposed medical use, the related increase in traffic levels in the Project vicinity, and the reduction in public parking that would otherwise be available for the area.

Section 5.3 The Planning Commission hereby finds that the proposed Amendment has the potential to create significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards due to the additional trips that would be generated by the amended Project and the reduction in public parking supply that would otherwise be available for the area.

Section 5.4 The Planning Commission hereby finds that the proposed Amendment has the potential to be detrimental to the public health, safety or general welfare, as well as to both residential and commercial neighbors, due to the loss of the 51 public parking spaces, the intensification of the use and associated additional traffic in the residential areas near the Project Site.

Section 6. Based on the foregoing, the Planning Commission hereby denies the Development Plan Review Permit, and finds that this action is exempt from the provisions of the California Environmental Quality Act, pursuant to State Guidelines Section 15061(b)(4) for project denials.

Section 7. 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.

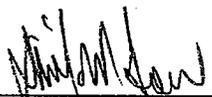
Adopted: November 19, 2009


Nanette H. Cole
Chair of the Planning Commission of the
City of Beverly Hills, California

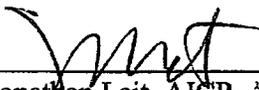
Attest:


Secretary

Approved as to form:


David M. Snow
Assistant City Attorney

Approved as to content:


Jonathan Lait, AICP *Am on*
City Planner

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

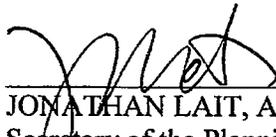
I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1561 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on November 19, 2009, 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 Corman, Furie, Yukelson, Vice Chair Bosse, and
 Chair Cole.

NOES: None.

ABSTAIN: None.

ABSENT: None.



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

ATTACHMENT L
PRIOR CITY COUNCIL RESOLUTIONS

RESOLUTION NO. 07-R-12273

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS DENYING AN APPEAL AND AFFIRMING THE DECISION OF THE PLANNING COMMISSION CONDITIONALLY ISSUING A DEVELOPMENT PLAN REVIEW PERMIT FOR CONSTRUCTION OF A COMMERCIAL BUILDING; CONDITIONALLY GRANTING A HEIGHT VARIANCE TO ALLOW A BUILDING HEIGHT OF FOUR STORIES WITH A ROOFLINE OF 56 FEET AND AN ARCHITECTURAL FEATURE OF 68 FEET IN HEIGHT; AND ADOPTING A MITIGATED NEGATIVE DECLARATION, FOR PROPERTY LOCATED AT 8767 WILSHIRE BOULEVARD

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. An appeal was filed by Bob Noparvar (hereinafter referred to as the "Appellant") from the Planning Commission's September 14, 2006 decision to adopt a Mitigated Negative Declaration and conditionally approve requests for a development plan review permit and a variance to construct a four-story office /retail commercial building with subterranean parking at 8767 Wilshire Boulevard.

Section 2. The Kobar Family Trust (hereinafter referred to as the "Applicant") submitted an application for a Development Plan Review Permit ("D.P.R.") and a variance to permit construction of a 75,116 square foot, 68-foot tall, four-story office/retail commercial building with subterranean parking for 358 cars at property located at 8767 Wilshire Boulevard ("Project").

The Project site is located in the commercial (C-3) zone. Beverly Hills Municipal Code (the "Municipal Code") Section 10-3-2726¹ permits a maximum building height of three

¹ All further Section references are to the Beverly Hills Municipal Code unless otherwise noted

stories and 45 feet. The proposed Project will exceed the permitted height and number of stories. Accordingly, the Applicant concurrently filed an application seeking a variance from the height limitations.

The Municipal Code establishes development standards for all projects in the C-3 Zone. Section 10-3-2730 requires one parking space for every 350 square feet of floor area. Section 10-3-2741 requires this Project to provide three truck loading spaces on-site. Section 10-3-2745 allows a maximum floor area ratio (FAR) of 2:0. In addition, the Project site is located within 170 feet of a residential zone to the east, and, therefore, is within a commercial-residential transition area. As such, the Project must comply with the City's commercial-residential transition ordinance (the "transition ordinance" codified in Sections 10-3-1951 thru 1960, inclusive, of the Municipal Code), which addresses special issues of interface between the different uses. The Project complies with the design standards of the transition ordinance. However, it must also comply with operational standards that protect the adjacent residential uses during nights and weekends.

Development Plan Review is required for all new commercial buildings. In addition, the City's Architectural Commission must review the Project.

The proposed Project entails the construction of a 75,116 square-foot, four-story office/retail commercial building – 56 feet high to the roofline with a 68-foot high architectural feature at the center – located on the northeast corner of Wilshire Boulevard and Robertson Boulevard at 8767 Wilshire Boulevard. The Project will provide 358 parking spaces in a four-level subterranean garage with ingress and egress from Robertson Boulevard and an egress-only driveway on Wilshire Boulevard. All loading activity will be conducted from three enclosed truck loading areas located along the northeast wall of the building. Delivery vehicles will access the loading areas

from the Robertson Boulevard entrance and will exit onto Wilshire Boulevard. While the proposed Project would exceed the three-story/45-foot height limit, it would conform to the maximum allowable 2.0 floor to area ratio ("FAR"), which limits the building to the same amount of floor area as a three-story building.

The subject property consists of six lots. A BMW automobile dealership storage facility and a small commercial building (located in the southeastern portion of the site) currently occupy the site. Adjacent to the property to the north are a variety of commercial developments including retail stores and offices. Across Wilshire Boulevard to the south is a three-story office/medical building. Across Robertson Boulevard to the west is a two-story commercial building. Adjacent to the property to the east is a two story commercial building; and two and three story multi-family residential properties facing Arnaz Drive. There are no alleys separating the Project site from the adjacent properties to the east and north. Street trees on Wilshire Boulevard are Mexican Fan Palm trees and street trees on Robertson Boulevard are Ficus trees. Implementation of the Project will require the removal and replacement of four (4) palm trees on Wilshire Boulevard.

Section 3 The Applicant initially presented a design which consisted of a three-story plus mezzanine, 45-foot tall office building. The Planning Commission reviewed that design at its meeting of November 15, 2005, and continued the public hearing to January 25, 2006, at which time the Commission directed the Applicant to substantially revise the project to address the following issues: (1) the proposed mix of uses on the Project site; (2) parking issues; (3) project access; (4) loading design; (5) street setback; (6) construction impacts; (7) design issues; and (8) neighbors' privacy. In light of the number of design changes requested by the Planning Commission,

the Applicant withdrew its initial application on January 25, 2006. The Applicant submitted the current Project, designed by Richard Spina of CSA Architects, to the Planning Commission for review on June 5, 2006. The current Project reflects the comments received from staff and the Planning Commission at the January 25, 2006 Planning Commission meeting. On September 14, 2006, the Planning Commission adopted Planning Commission Resolution No. 1442 adopting the mitigated negative declaration and monitoring plan and conditionally issuing a development plan review permit to allow construction of the Project; and, sitting as a board of zoning adjustments, conditionally granting a height variance to allow the Project to exceed the building height limitations imposed by the Municipal Code.

Section 4. 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, with the proposed mitigation measures, determined that there was no substantial evidence that approval of the Project may have significant environmental impacts. Accordingly, the City prepared a mitigated negative declaration in accordance with Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the City Council independently reviewed and considered the contents of the initial study and the mitigated negative declaration prior to deciding whether to approve the Project. Based on the initial study, the mitigated negative declaration, the comments received thereon, and the record before the City Council, the City Council hereby finds that the mitigated negative declaration

prepared for the Project represents the independent judgment of the City and that, with the proposed mitigation measures, 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 5. On December 12, 2006, the City Council conducted a duly noticed public hearing to consider the appeal. Evidence, both oral and written, was presented at the City Council's *de novo* hearing.

Section 6. The Appellant timely filed its appeal alleging that:

- (1) The Applicant falsely represented the basis for the variance request based on location, shape of land and hardship,
- (2) The shape of the Project site does not preclude development of a conventional 3-story, 45-foot Code-conforming structure;
- (3) The need to facilitate traffic on Wilshire Boulevard does not justify the proposed 4-story building which moves back the building on Wilshire Boulevard to create a right turn lane;
- (4) Municipal Code Section 10-3-3700(b) further illustrates that the Applicant's justification for the variance request is false and inconsistent with the law;
- (5) A Full Environmental Impact Report should be provided, not a simple traffic count to assess the project impact located at the intersection of two major arterials; and

(6) The Project provides additional public parking on Robertson Boulevard for car storage which would deprive adjacent residents of privacy, comfort and quite enjoyment of their property.

Section 7. In considering the application for the development plan review, the City Council evaluated the following criteria:

- 1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;**
- 2. Whether the nature, configuration, location, density, height and manner of operation of the commercial development proposed by the plans will significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.**
- 3. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;**
- 4. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards; and**
- 5. Whether the proposed plan will be detrimental to the public health, safety or general welfare.**

Section 8. Based upon the evidence presented at the hearing, including the staff report and written and oral testimony, the City Council hereby finds as follows with respect to the development plan review

8.1. The proposal is consistent with the General Plan and any specific plans adopted for the area. The proposed Project design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is Low Density Commercial. The proposed Project consists of 75,116 square feet of office/retail uses within the permitted 2.0 FAR. The proposed Project will also be within the general intensity of use set forth on the Land Use Element Map. As noted above, the Project will not exceed 2.0 FAR. Although a small portion of the Project will have a height exceeding 45 feet, this is located at the center of the Project at the intersection of Robertson Boulevard and Wilshire Boulevard and is offset by increased setbacks to protect adjacent residential uses. The Project also is an anchor location as it is on the corner of two of the City's major streets and through its use of height along Wilshire Boulevard and Robertson Boulevard and setbacks from adjacent residential areas, the Project orients development towards and along Wilshire Boulevard and Robertson Boulevard in order to complement the scale and character of adjacent residential areas

8.2. The proposed Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The site is currently used as a surface parking lot and does not presently contribute to the aesthetic character of the area.

The proposed Project is of a contemporary design, using glazing and granite veneer as the predominant exterior finish for the building elevations facing Wilshire Boulevard and Robertson Boulevard. The pedestrian entrance to the building will be located towards the center of the building at the corner of Wilshire Boulevard and Robertson Boulevard. The building as

proposed will have modulation and setbacks throughout the building facades, including those facing adjacent residential uses.

Although the proposed Project will increase the building height and number of stories, the maximum density (FAR) on the site will be consistent with that allowed by the General Plan. The height of the building is concentrated at its center at the intersection of Wilshire Boulevard and Robertson Boulevard. The Project is set back from residential uses a minimum of 10 feet on the ground floor and 20 feet on the upper floors with landscaping to maintain adequate privacy for multi-family residences at the rear of the property. Implementation of the Project will improve the appearance of the site and area and is consistent and harmonious with the nature and type of developments designated for the area in the General Plan.

8.3. The nature, configuration, location, density, height and manner of operation of the Project will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property. The density of the Project will be as provided in the General Plan. Although the height of the Project exceeds the zoning limitations, the building is concentrated in the center of the building and ample setbacks are provided at the rear to provide privacy and light for neighboring structures. The Project also proposes surplus parking for public use that could be beneficial for small developments in the area needing parking for their customers. As a result, the Project will potentially reduce the intrusion of commercial parking demand into the nearby residential areas. Additionally, all tenants will be required to provide validated parking. Therefore, the proposed Project will not significantly and adversely interfere with the enjoyment of residential properties in the vicinity of the subject property.

8.4. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards. As a result of recommendations in the traffic analysis, the Project proposes the addition of a right-turn lane along Wilshire Boulevard in front of the Project to facilitate right turns at Robertson Boulevard to mitigate the Project-related impact at the intersection of Wilshire Boulevard and Robertson Boulevard. In order to add the new right-turn lane, the width of the sidewalk will be decreased from 15 feet to 10 feet.

The Project also provides three loading spaces, two of which are located near the driveway entrance. Since the loading area location could impact garage circulation and access from the Robertson Boulevard Driveway entrance, the Project will provide a loading management plan prior to building occupancy to ensure that loading and delivery activities do not impede the garage access.

8.5. The Project will not be detrimental to the public health, safety or general welfare. The Project will be constructed in accordance with the City's Building Code standards. Prior to the issuance of building permits, a construction management plan is required for review and approval by the Engineering Division and Building and Safety Division. Public safety issues such as construction staging, hauling, off-site parking, and construction hours are addressed. Therefore, the Project will not be detrimental to the public health, safety or general welfare.

Section 9. Pursuant to Municipal Code Section 10-3-2801, the City Council may grant a variance if, on the basis of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of the

Zoning Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Moreover, any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

Section 10 Based upon the evidence presented at the hearing, including the staff report and oral testimony, the City Council hereby finds as follows with respect to the requested variance:

The maximum building height permitted in the C-3 zone is 45 feet and three (3) stories. The Applicant seeks a variance to construct a building with an overall height of 68 feet (the building height to the roof line is 56 feet except for the architectural feature at the building center facing the intersection of Wilshire and Robertson Boulevards). Properties in this segment of Wilshire Boulevard have varying characteristics relative to lot configuration. However, no other property has the subject property's unusual combination of shape and location. The subject property is on an "L" shaped lot that is more difficult to utilize effectively than the conventional rectangular shaped lots in the vicinity and zone. In addition, the subject property is located at a major intersection (Wilshire Boulevard and Robertson Boulevard), which makes it difficult to provide access without impacting circulation. The Project is required to dedicate property for a dedicated turn lane to minimize its impact on traffic. Further, unlike similarly zoned properties, there is no alley between this commercial property and neighboring residentially zoned properties that would otherwise serve as a buffer between the different land uses, and which necessitated incorporation of

the loading areas within the building interior to address noise, traffic, and land use compatibility issues. Each and all of these factors present unique constraints on the property.

Therefore, the City Council concurs with the Planning Commission's determination that the findings for a variance to allow construction of the proposed structure can be made based on the unique shape and location characteristics of the subject property. The strict application of the Code would deprive the Applicant of the use of the commercial property to the same extent as other properties in the same zone, which is a privilege enjoyed by other properties in the vicinity and under an identical zone classification, because of the property shape and location.

Section 11. Based upon the foregoing, the City Council hereby denies the appeal and adopts the mitigated negative declaration, and issues a Development Plan Review Permit and a Variance for the Project, subject to the following mitigation measures and conditions:

Mitigation Measures

Measure 1. Water or a stabilizing agent shall be applied to exposed surfaces in sufficient quantity to prevent generation of dust plumes.

Measure 2. Track-out shall not extend 25 feet or more from an active operation, and track-out shall be removed at the conclusion of each workday.

Measure 3. A wheel washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the Project site.

Measure 4. All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).

Measure 5. All trucks hauling soil, sand, and loose materials shall maintain at least six inches of freeboard in accordance with California Vehicle code Section 23114.

Measure 6. Traffic speeds on unpaved surfaces shall be limited to 15 miles per hour.

Measure 7 Operations on unpaved surfaces shall be suspended when winds exceed 25 miles per hour.

Measure 8 Heavy-equipment operations shall be suspended during first and second stage smog alerts

Measure 9. On-site stock piles of debris, dirt, or rusty materials shall be covered or watered at least twice per hour.

Measure 10. All construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.

Measure 11. Grading and construction contractors shall use quieter equipment as opposed to noisier equipment (such as rubber tired equipment rather than track equipment).

Measure 12. Equipment staging areas shall be located on the western portion of the Project site, as far as possible from 141 and 143 N Arnaz Drive residential developments

Measure 13. During construction, sound attenuation blankets with a Sound Transmission Class rating of 20 or more shall be used on the second, third, and fourth floors that face 141 and 143 N. Arnaz Drive development. The sound attenuation blankets shall break the line of sight between the construction activities and 141 and 143 N. Arnaz Drive.

Measure 14. All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed Project. A sign, legible

at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicated the dates and duration of construction activities, as well as provided a telephone number where residents can inquire about the construction process and register complaints.

Measure 15. A "noise disturbance coordinator" shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause, if any, of the noise complaint (e.g. starting too early, bad muffler, etc.) and shall be required to implement reasonable measures such that the complaint is resolved. All notices that are sent to residential units within 500 feet of the construction site and all signs posted at the construction site shall list the telephone number for the disturbance coordinator.

Measure 16. A right-turn lane shall be added to the westbound approach to the intersection of Wilshire Boulevard and Robertson Boulevard

Further, the City Council hereby adopts the attached Mitigation Monitoring Program attached hereto as Exhibit A.

Conditions of Approval

- 1 The Project shall be subject to the review and approval by the Architectural Commission.
- 2 A detailed parking management plan, satisfactory to the Director of Community Development shall be provided to indicate the operation of the parking garage including public parking operation
- 3 The Applicant shall provide free of charge parking for all employees working in the building.
- 4 Two-hour free, validated on-site parking shall be provided for patrons of all tenants, including retail, offices, restaurants and other uses that may occupy all or part of the building,

and the Applicant shall provide appropriate signage at entrances to the parking area informing patrons of the validated parking availability. The informational signage shall be subject to approval by the Director of Community Development and shall be installed prior to issuance of a certificate of occupancy.

- 5 Parking spaces, as noted on the staff report, with obscured visibility and potential backing out conflict shall be used as reserved or employee parking spaces.
- 6 Not more than 80 haul truck trips per day (40 arrivals, 40 departures) shall be permitted per day during construction
- 7 No more than five pieces of diesel equipment shall be permitted to operate on the Project site per day.
- 8 Staging of construction-related vehicles on the City's streets is prohibited
- 9 A detailed construction management plan, satisfactory to the Director of Public Works, shall be provided prior to issuance of a building permit.
- 10 Prior to the issuance of a certificate of occupancy, a loading management plan, satisfactory to the Director of Community Development, shall be provided and shall include delivery hours and a delivery monitor with responsibility for controlling the circulation of trucks. The delivery monitor shall be responsible for directing the incoming/out going cars while one or more delivery trucks are present.
- 11 "Right Turn Only" signs and arrow marking on the pavement shall be installed at Wilshire Boulevard and Robertson Boulevard driveways.
- 12 Exit onto Robertson Boulevard shall be designed with raised barriers to force right-only turn movement when exiting the property.

- 13 A silent warning device shall be installed at each exit from the garage that would light up whenever a vehicle is leaving the garage, warning the on-coming vehicular and pedestrian traffic.
- 14 Security gates shall be constructed at each garage entrance and exit.
- 15 The proposal requires the removal of three metered parking spaces. Prior to removal of the metered parking spaces, the Applicant shall compensate the City for the lost revenues of the removed spaces in an amount designated by the City's Chief Financial Officer.
- 16 The proposal requires removal and relocation of street lights, a traffic signal pole, pull boxes, under ground wiring, striping, marking, and sign installations. The Applicant shall hire a registered civil engineer to prepare plans and specifications for review and approval by the City. All works shall be performed by the Project contractor/sub-contractors.
- 17 The following uses shall be prohibited on the Project site: medical uses; vehicle dealership-related automotive uses, except that a maximum of 92 parking spaces may be used as car storage for nearby car dealerships, adult entertainment businesses; massage parlors; bars or taverns; liquor stores; markets; exercise facilities; hair or nail salons; pharmacies; and uses that, in the sole opinion of the Director of Community Development, would create potential traffic impacts on the Wilshire Boulevard/ Robertson Boulevard intersection.
- 18 No more than 3,000 square feet of building floor area shall be used for restaurant purposes, and no more than 1,500 square feet of building area shall be dedicated to dining and bar area. Non-destination food service establishments such as coffee shops, fast food establishments, or similar establishments designed to primarily serve building tenants shall not be permitted.

- 19 The Applicant shall comply with the applicable conditions and permits from the Public Works/Engineering Department/ Recreation, Transportation Department and Parks Department. (Attached hereto as Exhibit B is the list of conditions).
- 20 The Applicant shall comply with the applicable City ordinances related to use of groundwater and dewatering, including but not limited to Section 9-4-610 of the Beverly Hills Municipal Code, and shall provide for future connection to reclaimed water lines if deemed appropriate and feasible by City's Department of Public Works
- 21 The Applicant shall obtain the necessary NPDES permit from the State Regional Water Quality Control Board for the permanent dewatering prior to the issuance of grading permits.
- 22 The Project shall comply with the applicable Fire Department conditions as identified through the building permit plan check process..
- 23 As provided in the Beverly Hills Municipal Code, an extended hours permit is required for any commercial uses that receive patrons between the hours of 10:00 p.m. and 7:00 a.m.
- 24 An off-site improvement plan prepared by a registered civil engineer must be submitted to the Engineering and Transportation Department for review and approval prior to the issuance of grading permits. This plan must show all improvements in the public-right-of-way adjacent to the Project site. All facilities to be constructed or relocated within the public right-of-way must be clearly shown.
- 25 The Applicant shall file a formal written request for approval of any type of temporary construction encroachment within the public right-of-way.
- 26 An encroachment permit is required for the subterranean garage encroachment into the public right-of-way.

- 27 Pedestrian access on Robertson Boulevard shall be maintained during construction. A pedestrian canopy shall be constructed along Robertson Boulevard.
- 28 The Applicant shall provide all necessary supporting documentation to the City for the City Council to take action concerning right-of-way dedications offered by the Applicant, including all legal descriptions and drawings signed and stamped by a land surveyor licensed to practice in California.
- 29 The Applicant shall submit the appropriate fees for processing of the right-of-way issues through the City Council, and shall comply with the applicable city ordinances.
- 30 The Applicant shall replace the sidewalk adjacent to the Project and sidewalk paving material shall be subject to review by the City Council.
- 31 A maximum of 92 of the 358 parking spaces may be used as overflow storage of vehicles for nearby auto dealerships, and a minimum of 51 of the 358 parking spaces shall be made available for use by the general public. The 51 spaces to be available for use by the general public shall be located on the first and second levels of parking.
- 32 The Property Owner shall not enter into any covenant dedicating use of the excess parking provided by the Project for off-site projects or uses, unless the Planning Commission first approves the use of the excess parking for off-site projects or uses and allows such a covenant.
- 33 Roof-top uses shall not be permitted.
- 34 The Applicant shall develop the Project in an environmentally sensitive and sustainable manner to the satisfaction of the Director of Community Development. The Director of

Community Development shall consider techniques and measures such as those used in seeking LEED certification from the U.S. Greenbuilding Counsel.

Standard Conditions

- 35 The Project shall be constructed in substantial compliance with the plans submitted to and approved by the Planning Commission at its meeting of August 10, 2006.
- 36 The Applicant shall comply with the requirements of the street tree mitigation plan of the Recreation and Parks Department attached hereto as Exhibit C and incorporated herein by this reference.
- 37 The City shall monitor the operation of the Project at the site. The City expressly reserves jurisdiction with respect to traffic and parking issues. Should the business or activity conducted at the Project site change so that, in the opinion of the Director of Community Development, additional parking or other mitigation is required for the Project site in order to avoid significantly adverse traffic safety impacts, pedestrian vehicle conflicts, or parking impacts, then, regardless of the use at the site, additional conditions, including the requirement of providing parking spaces, may be imposed upon the Project site by the Planning Commission pursuant to a public hearing noticed in accordance with the procedures set forth in Section 10-3-3307 of the Beverly Hills Municipal Code. Any decision of the Planning Commission in this regard may be appealed in the manner provided by Title 1, Chapter 4, of the Beverly Hills Municipal Code.
- 38 Construction related parking, staging and hauling shall conform to a construction parking, staging and hauling plan submitted by the Applicant and approved by the City Engineer and

the Director of Community Development. The Applicant shall provide to the City Engineer the proposed staging for demolition and construction of the Project so that the City Engineer may determine the amount, appropriate routes, and time of day that heavy hauling truck traffic will need to travel to the subject site.

- 39 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 an 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 procedures 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.

- 40 The City reserves the right to make modifications and/or impose additional conditions which may become necessary to enable implementation of the specific conditions set forth in this resolution and the Applicant, the owner and their heirs, representatives, successors and assigns shall comply with all such modified or additional conditions.
- 41 This Resolution approving a Development Plan Review and a Variance 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 Planning Commission's decision memorialized in 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 a Development Plan Review and a Variance 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 Development Plan Review and the Variance.

- 42 The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the permit.
- 43 Within three 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 appropriate amount for a documentary handling fee in connection with Fish and Game Code requirements plus the Department of Fish and Game filing fee imposed pursuant to Fish and Game Code Section 711.4.

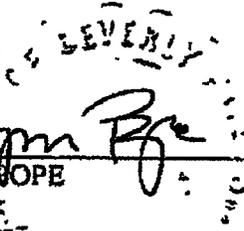
Section 11. The City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

Adopted: January 30, 2007



STEPHEN P. WEBB
Mayor of the City of
Beverly Hills, California

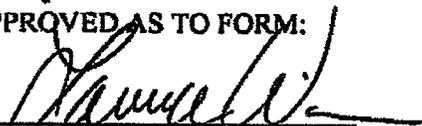
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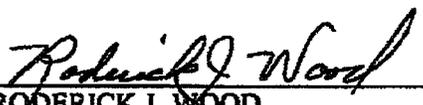
BYRON HOPE
City Clerk

(SEAL)

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:


RODERICK J. WOOD
City Manager

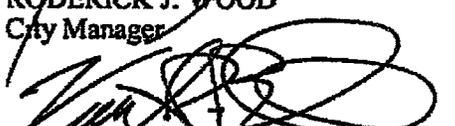

VINCENT P. BERTONI, AICP
Acting Director of Community Development

EXHIBIT A
MITIGATION MONITORING PROGRAM

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
Transportation/Circulation.			
<input type="checkbox"/> A right-turn lane shall be added to the westbound approach to the intersection of Wilshire Boulevard and Robertson Boulevard.	Department of Engineering/ Transportation and Department of Community Development	The applicant shall hire a civil engineering consultant to prepare plans for the City's review. Upon approval, the applicant shall hire a sub-contractor to implement the measure.	This measure shall be implemented prior to issuance of certificate of occupancy.
Air Quality.			
<input type="checkbox"/> Water or a stabilizing agent shall be applied to exposed surfaces in sufficient quantity to prevent generation of dust plumes.	Community Development Department	The applicant shall submit a construction management plan to the Director of Community Development prior to issuance of any grading or construction permits. The Construction Management Plan shall be reviewed by the department and filed with the Building & Safety Division prior to issuance of grading permits. The plan check engineer will review the plan to ensure that the plan complies with this measure. The inspectors in the field will also review the work to ensure that it complies with the requirements noted in the Construction Management Plan. Any cleaning of the public right-of-way shall be to the specifications of the City Engineer.	The affidavit shall be submitted prior to the commencement of any work on the project site. This measure shall be in effect until the issuance of the certificate of occupancy.

Completed

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
Track-out shall not extend 25 feet or more from an active operation and track-out shall be removed at the conclusion of each workday.	Community Development Department	See above	See above
A wheel washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the project site.	Community Development Department	See above	See above
All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).	Community Development Department	See above	See above
All trucks hauling soil, sand, and loose materials shall maintain at least six inches of freeboard in accordance with California Vehicle Code Section 23114.	Community Development Department	See above	See above
Traffic speeds on unpaved roads shall be limited to 15 miles per hour.	Community Development Department	See above	See above
Operations on unpaved surfaces shall be suspended when winds exceed 25 miles per hour.	Community Development Department	See above	See above
Heavy-equipment operations shall be suspended during first and second stage smog alerts.	Community Development Department	See above	See above

Completed

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
On-site stock piles of debris, dirt, or rusty materials shall be covered or watered at least twice per hour.	Community Development Department	See above	See above
Noise.			
<input type="checkbox"/> All construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.	Community Development Department	The primary contractor shall submit to the department a program and an affidavit attesting to the compliance with this measure as part of the Construction Management Plan.	The program and affidavit shall be submitted prior to the commencement of any work on the project site. This measure shall be in effect until the issuance of the certificate of occupancy.
Grading and construction contractors shall use quieter equipment as opposed to noisier equipment (such as rubber tired equipment rather than track equipment).	Community Development Department	See above	See above.
Equipment staging areas shall be located on the western portion of the project site, as far as possible from 141 and 143 N. Amaz Drive residential developments.	Community Development Department	See above	See above
During construction, sound attenuation blankets with a Sound Transmission Class rating of 20 or more shall be used on the second, third, and fourth floors that face 141 and 143 N. Amaz Drive Development. The sound attenuation blankets shall break the line of sight between the construction activities and 141 and 143 N. Amaz Drive.	Community Development Department	See above	See above

Completed

Robertson Wilshire Office Building Mitigation Monitoring Program			
Mitigation Measures	Responsible Agency	Monitoring Procedure and Reporting Mechanism	Implementation Schedule
<p>All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicate the dates and duration of construction activities, as well as provide a telephone number where residents can inquire about the construction process and register complaints.</p>	<p>Community Development Department</p>	<p>See above</p>	<p>See above</p>
<p>A "noise disturbance coordinator" shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and would be required to implement reasonable measures such that the complaint is resolved. All notices that are sent to residential units within 500 feet of the construction site and all signs posted at the construction site shall list the telephone number for the disturbance coordinator.</p>	<p>Community Development Department</p>	<p>The primary contractor shall submit to the department a program and an affidavit attesting to the compliance with this measure as part of the Construction Management Plan. A noise disturbance coordinator shall be required to maintain a log of complaints for the City's inspection.</p>	<p>See above</p>

EXHIBIT B
PUBLIC WORKS/ENGINEERING
STANDARD CONDITIONS

CITY OF BEVERLY HILLS
STANDARD CONDITIONS LIST
FOR THE PLANNING COMMISSION

ENGINEERING, UTILITIES AND RECREATION & PARKS:

1. The applicant shall remove and replace all defective sidewalk surrounding the existing and proposed buildings.
2. The applicant shall remove and replace all defective curb and gutter surrounding the existing and proposed buildings.
3. The applicant shall comply with all applicable statutes, ordinances and regulations concerning the conversion of residential rental units into condominiums, including, but not limited to, the requirement that the applicant pay the City of Beverly Hills the condominium conversion tax of \$5,638.80*, if a certificate of occupancy is issued prior to approval of the final subdivision map by the City Council. (*The tax figure is adjusted annually.)
4. The applicant shall remove all unused landings and driveway approaches. These parkway areas, if any, shall be landscaped and maintained by the adjacent property owner. This landscape material cannot exceed six to eight inches in height and cannot be planted against the street trees. Care shall be taken to not damage or remove the tree existing tree roots within the parkway area. Remove and replace all defective alley and driveway approaches surrounding the existing and proposed buildings.
5. The applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed project. Every effort shall be made to retain mature street trees. No street trees, including those street trees designated on the preliminary plans, shall be removed and/or relocated unless written approval from the Recreation and Parks Department and the City Engineer is obtained. (See attached Trees and Construction document.)

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

Standard Conditions List
for the Planning Commission

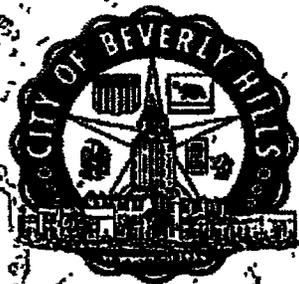
6. The applicant shall provide that all roof and/or surface drains discharge to the street. All curb drains installed shall be angled at 45 degrees to the curb face in the direction of the normal street drainage flow. The applicant shall provide that all groundwater discharges to a storm drain. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Connection to a storm drain shall be accomplished in the manner approved by the City Engineer and the Los Angeles County Department of Public Works. No concentrated discharges onto the alley surfaces will be permitted.
7. The applicant shall provide for all utility facilities, including electrical transformers required for service to the proposed structure(s), to be installed on the subject site. No such installations will be allowed in any City right-of-way.
8. The applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.
9. The applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site unless otherwise approved by the City Engineer and shall pay the applicable sewer connection fee.
10. The applicant shall make connection to the City's water system through the existing water service connection unless otherwise approved by the City Engineer. The size, type and location of the water service meter installation will also require approval from the City Engineer.
11. The applicant shall provide to the Engineering Office the proposed demolition/construction staging for this project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.
12. The applicant shall obtain the appropriate permits from the Civil Engineering Department for the placement of construction canopies, fences, etc., and construction of any improvements in the public right-of-way, and for use of the public right-of-way for staging and/or hauling certain equipment and materials related to the project.
13. The applicant shall remove and reconstruct any existing improvements in the public right-of-way damaged during construction operations performed under any permits issued by the City.

Standard Conditions List
for the Planning Commission

14. During construction all items in the Erosion, Sediment, Chemical and Waste Control section of the general construction notes shall be followed.
15. Condensate from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.
16. Water discharged from a loading dock area must go through an interceptor/clarifier prior to discharging to the storm drain system. A loading dock is not to be confused with a loading zone or designated parking space for loading and unloading.
17. Organic residuals from daily operations and water used to wash trash rooms cannot be discharged to the alley. Examples are grocery stores, mini markets and food services.
18. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges are; rising ground water and garage sumps.
19. Storm water runoff from automobiles going into a parking garage shall be discharged through a clarifier before discharging into the storm drain system. In-lieu of discharging runoff through a clarifier, parking lots can be cleaned every two weeks with emphasis on removing grease and oil residuals which drip from vehicles. Maintain records of cleaning activities for verification by a City inspector.
20. After completion of architectural review of a new or modified commercial structure, and prior to issuance of the certificate of occupancy, the applicant is required to comply with the Public Art Ordinance. An application is required to be submitted to the Fine Art Commission for review and approval of any proposed art piece or, as an alternative, the applicant may choose to pay an in-lieu art fee.

EXHIBIT C

**STREET TREE MITIGATION PLAN OF THE
RECREATION AND PARKS DEPARTMENT**



PROTECTING

CITY

PARKWAY

STREET TREES

DURING

PRIVATE

PROPERTY

CONSTRUCTION



PROTECTING CITY PARKWAY STREET TREES DURING PRIVATE PROPERTY CONSTRUCTION

In addition to their numerous environmental benefits, trees in the parkway areas along the streets of Beverly Hills are a tremendous asset to residential and commercial communities. Street trees are protected by Beverly Hills Municipal Code (Sec. 5-6.1001) as follows: "It is illegal for parties who are not official representatives or authorized agents of the City of Beverly Hills to prune, remove, make attachment to, or otherwise damage a City street, park or protected tree."

It is a violation of this City code to affix a sign, residence number plaque, mirror, light fixture, etc. to a City tree.

The maintenance and protection of street trees is a shared responsibility between property owners and the City of Beverly Hills. If you feel that a street tree is unhealthy, damaged or in need of pruning, please contact the Department of



Recreation and Parks Urban Forestry Division at 310 550 4638.

Construction activities can have severe and long lasting effects on the health of trees. Consideration must be given to street trees during a project's planning stages. Tree loss or damage can have a significant effect on the uniformity and value of a tree canopy along a street. The planning and implementation of any construction project must include the preservation of this important City asset.

Planning and protecting the health of trees during construction is part of doing business in the City of Beverly Hills.

This brochure is provided to assist you to avoid endangering City trees during your construction project

PROJECT PLANNING

- During the design process, please consider the long term affects that construction may have on City trees. Plan activities carefully, as the City of Beverly Hills will seek compensation for any damage to the trees caused by your construction activities.
- For any projects that include construction work in the public right-of-way, plans that accurately depict the public right-of-way will need the approval of the Departments of Recreation and Parks and Civil Engineering prior to any permits being issued by the Department of Building and Safety.
- All preliminary plans, sketches and drawings should identify all City parkway trees adjacent to the project site. The actual location and canopy diameter of City trees must be shown clearly on the plans.
- A tree protection plan must be included in the initial plan submittal package. The tree protection plan may include a fenced tree protection zone, and must demonstrate how the parkway will be watered and maintained for the duration of the project. If it is determined that the proposed construction work will jeopardize the health of a street tree, or if the tree protection plan is deemed inadequate, you may be asked to provide a detailed report by a certified arborist showing the adequate protection of the tree and its value based on the International Society of Arboriculture (ISA) recognized standards.
- The negative effects of construction may take years to become apparent in the decline of trees. A claim may be filed with you and your general liability carrier should damage become apparent at a later date.
- You may wish to retain an International Society of Arboriculture (ISA) Certified Arborist to assist you with your project. Contact information is provided in this brochure.



*Do not design projects at
the expense of trees*

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PROJECT APPROVAL

- All construction related permits will be processed by the Department of Building and Safety. Public Works permits are required for trucking, hauling and work conducted in the public right-of-way.
- The tree protection plan must be approved by the Recreation and Parks Urban Forest Division. If a tree protection zone fence is required, it must be installed and inspected prior to the commencement of any demolition or construction work. These inspections can be arranged by calling (310) 550-4638



Maintain the tree protection zone fencing and parkway condition at all times

SPECIFICATIONS

- A tree protection zone may require that the entire parkway be fenced. Fencing may be of a chain link or flexible configuration, but may not exceed 4 feet in height. Fence installation should be such that lines of sight are maintained so as to avoid any vehicle or pedestrian hazards. A warning sign must be displayed on the street side of the fence. The size of the sign must be no less than 8.5 x 11 inches. The sign must clearly state: "Warning Tree Protection Zone". The sign shall clearly list the name and current contact information of the project owner or authorized representative.

DURING THE PROJECT

- **Maintain the integrity of the tree protection zone fencing and keep the parkway site clean and maintained at all times.**
- **The site will be inspected by Building and Safety Department and the Urban Forest Division of the Recreation and Parks Department. If the tree protection plan is not complied with, or proves inadequate, additional measures may be required.**
- **It is recommended that trees be deep watered on a weekly basis for the duration of the project.**



Do not allow cranes or other equipment to damage City trees.

RESOLUTION NO. 10-R-12736

RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS DENYING AN APPLICATION FOR
AMENDMENT OF A DEVELOPMENT PLAN REVIEW
PERMIT FOR THE PROPERTY LOCATED AT 8767
WILSHIRE BOULEVARD

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. The Kobor Family Trust, (the "Applicant") has submitted an application for an amendment to a Development Plan Review Permit, which was conditionally approved by City Council Resolution No. 07-R-12273, permitting the construction of a commercial building with retail, restaurant, and commercial office uses at the property located at 8767 Wilshire Boulevard (referred to as the "Project" and "Project Site," respectively). The application requests amendment of the Permit's conditions of approval to (1) eliminate the condition to provide 51 parking spaces for use by the general public (Condition No. 31 of Resolution No. 07-R-12273) and (2) to remove the prohibition on medical and other intense uses of the building currently under construction at the Project Site (Condition Nos. 17 and 18 of Resolution No. 07-R-12273) (collectively referred to as the "Amendment").

The Project Site is located on the northeast corner of Wilshire Boulevard and Robertson Boulevard and is an L-shaped site consisting of six lots that were previously occupied by the BMW automobile dealership storage facility and a small commercial building (located in the southeastern portion of the site) which has been demolished as part of the construction of the Project. Adjacent to the property to the north are a variety of commercial developments including retail stores and medical and general commercial offices. Across Wilshire Boulevard to the south along Robertson Boulevard is a three-story office/medical building and Horace

Mann elementary school. Across Robertson Boulevard to the west is a two-story commercial building. Adjacent to the property to the east is a two story commercial building, and two and three story multi-family residential properties facing North Arnaz Drive. There are no alleys separating the Project Site from the adjacent properties to the east or north.

The Amendment requests revision to the previously approved Development Plan Review Permit that allows the construction of a 75,116 square-foot, four-story, 68-foot high commercial building at the Project Site. As approved, allowable uses of the building include retail, restaurant (maximum 3,000 square feet – with up to 1,500 square feet dining and bar area), vehicle storage for nearby vehicle dealerships and general commercial offices. As noted above, the use and operation of the building is restricted by the existing conditions of approval.

The Amendment would allow the following building use and square footage allocation: 54,900 square feet of medical uses, 4,696 square feet of general office uses, 2,000 square feet of restaurant/sundry shop uses, 1,116 square feet of pharmacy uses, and 12,404 square feet of retail uses. The Amendment would eliminate conditions on the Project that the Applicant accepted in connection with the initial approval of the Project by the City Council.

Section 2. Pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”)), and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), a project that is denied or rejected is exempt from the requirements of CEQA.

Section 3. On September 24, 2009, the Planning Commission conducted a site visit and considered application for the Amendment at a duly noticed public hearing. Evidence, both written and oral, was presented at said hearing. At the conclusion of its

deliberations, the Planning Commission directed staff to prepare a resolution denying the application for the Amendment.

Section 4. The Planning Commission considered the draft Resolution at its October 22, 2009 meeting and, based on objections from the Applicant and a request for additional information from the Applicant's attorneys, continued the matter to the November 19, 2009 meeting, at which time the Commission adopted the Resolution No. 1561 denying the Amendment application.

Section 5. On November 20, 2009 the Applicant filed a timely appeal of the Planning Commission's decision. The City Council considered the appeal at its February 2, 2010 meeting, at which the City Council conducted a duly notice public hearing and considered de novo the evidence, both written and oral, that was presented at the hearing.

Section 6. Section 10-3-3104 of the Beverly Hills Municipal Code provides that the City Council shall approve a development plan review application only if it makes each of the following findings:

A. The proposed plan is consistent with the general plan and any specific plans adopted for the area;

B. The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;

C. The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property;

D. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards; and

E. The proposed plan will not be detrimental to the public health, safety or general welfare.

Section 7. Based on the foregoing, the City Council hereby finds and determines as follows with respect to the findings set forth in Section 6 above:

As proposed in the Amendment, the development plan would allow medical uses, pharmacy uses and restaurant or sundry shop uses. In addition, the Amendment would eliminate the condition to provide 51 parking spaces for use by the general public. In granting the original approval, which permitted construction of the Project, both the Planning Commission and the City Council concluded that medical uses have the potential to result in negative impacts on the adjacent commercial and residential uses, and thus imposed conditions of approval to prohibit medical uses and other similarly intense uses. At the time of the initial approval, the Applicant agreed to the conditions of approval and subsequently recorded a covenant memorializing its acceptance of the conditions of approval. Further, if medical uses had been requested at the time of the initial approval, the building design, access and egress configurations, and other project design issues would have been viewed differently.

Traffic studies prepared to analyze the proposed Amendment indicate that the proposed change from general office to medical uses increases the number of daily vehicular trips by over 225% (from 604 daily trips to 1,984 daily trips for the medical component alone). Further, additional evidence in the record suggests that the increase in traffic may exceed the projections of the traffic study. Moreover, the Amendment proposes to eliminate the 51 public

parking spaces that the Applicant previously agreed to provide at the Project Site. The intensification of land use caused by a change from general office to medical office in conjunction with the loss of planned public parking amplifies the Project's potential interference with the use and enjoyment of residential and commercial properties in the vicinity of the Project Site because the dramatic increase in traffic levels would be combined with reduced parking opportunities, which increase the likelihood of incursions of commercial and office traffic and parking into nearby residential areas. Further, as discussed below, the additional impacts anticipated from the Amendment, with or without the loss of the 51 public parking spaces, would adversely affect existing and anticipated development in the vicinity and would not promote harmonious development of the area.

Although the City Council could make the finding set forth in Section 6.A above regarding general plan consistency, it cannot make the remainder of the required findings.

Section 7.1 The City Council hereby finds that the Amendment will adversely affect existing and anticipated residential and commercial development in the vicinity and will not promote harmonious development of the area. The Amendment will result in a loss of 51 parking spaces available to the general public, a substantial increase in traffic generated by the proposed intensification of land uses, increased handicapped placard parking in on-street parking spaces in the adjacent commercial areas and on residential streets, and increased traffic on commercial and residential streets related to vehicles circling in search of on-street parking, each of which would adversely effect existing and anticipated residential and commercial development in the vicinity. Approval of the medical use would change the character of the area and would not promote harmonious development of the area because it would not result in a synergy of uses that would lead to a vibrant commercial area, and instead would inhibit

development in the area of the Project due to the impact on street parking, the impact on traffic, and the over concentration of medical uses.

Section 7.2 The City Council hereby finds that the proposed nature, location, and manner of operation of the commercial development proposed by the Amendment will significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property due to the intensification of the use that would lead to an increase in traffic levels in the Project vicinity, the reduction in public parking that would otherwise be available for the area, an increase in handicapped placard parking in residential areas, and the traffic related to vehicles searching for on-street parking. Further, approval of the requested Amendment would result in an increase in traffic on local residential streets such as Clifton Way and Arnaz Drive because of the limitations on access and egress to the building that requires medical patrons driving to the Project from the north or leaving the site with the desire to travel in a southerly direction to utilize local streets rather than Robertson or Wilshire Boulevards. Additionally, those patrons unfamiliar with the building and traveling to the building from the north or west will often drive through residential areas on Hamel Drive and Charleville Boulevard in order to access the building. Increased use of this path of travel will significantly and adversely interfere with the use and enjoyment of residential properties.

Section 7.3 The City Council hereby finds that the proposed Amendment will create significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards due to the additional trips that would be generated by the amended Project. Additionally, these trips, in combination with the increased use of on-street parking by persons with handicapped placards, will result in an increase in vehicles circulating for access to and egress from the building, including circulation past the Horace Mann Elementary School

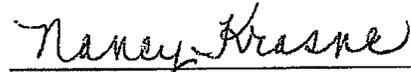
during the time that children are being dismissed from school, which coincides with the peak hours for traffic generated by medical uses. Finally, the reduction in public parking opportunities within the building will also lead to increased traffic circulation along Robertson Boulevard and in nearby residential neighborhoods.

Section 7.4 The City Council hereby finds that the proposed Amendment will be detrimental to the public health, safety or general welfare for any one of the reasons discussed in Sections 7.1, 7.2 or 7.3 above. Additionally, the replacement of Class A office space with medical uses will have an adverse impact on the general welfare of the City by reducing the space available to those uses which support the community's character and diversify its economic base.

Section 8. Based on the foregoing, the City Council hereby denies the application for the Amendment to the Development Plan Review Permit, and finds that this action is exempt from the provisions of the California Environmental Quality Act, pursuant to California Public Resources Code Section 21080(b)(5) and the State CEQA Guidelines.

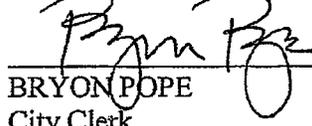
Section 9. The City Clerk shall certify to the adoption of this Resolution, and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the City Council.

Adopted: February 16, 2010



NANCY KRASNE
Mayor of the City of
Beverly Hills, California

ATTEST:



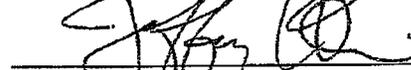
BRYON POPE
City Clerk

APPROVED AS TO FORM:

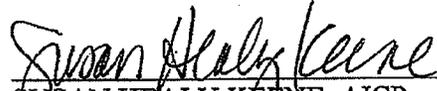


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



JEFFREY KOLIN
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development

ATTACHMENT M
ARCHITECTURAL PLANS
(PROVIDED AS A SEPARATE ATTACHMENT)