

## **ATTACHMENT 3**

**PUBLIC COMMENTS RECEIVED DURING OR AFTER THE  
NOVEMBER 21, 2013 PLANNING COMMISSION HEARING**

## Karen Myron

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**From:** Ryan Gohlich  
**Sent:** Tuesday, December 10, 2013 8:04 AM  
**To:** Karen Myron  
**Subject:** PC Public Comments

Can you please have hard copies of the below email available this Thursday? Copies for the PC and public. Thanks!

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**From:** Thomas Levyn [mailto:tlevyn@glaserweil.com]  
**Sent:** Monday, December 09, 2013 4:29 PM  
**To:** RWG DavidSnow  
**Cc:** Ryan Gohlich; Michele McGrath; Jonathan Lait  
**Subject:** Kobor Resolution Comments

Dear Dave,

Please make sure that each Planning Commissioner receives this email immediately so that it can be reviewed and referenced in sufficient time for the hearing on December 12, 2013. Rather than provide a redline, I am submitting comments on the language and context in the draft Resolution:

1. Section 1. Clare Bronowski and I submitted applications pursuant to and consistent with the terms and conditions of a Mutual Release and Settlement Agreement between the City of Beverly Hills and 8767 Wilshire Boulevard, L.P. dated October 23, 2013, referenced by the City as Agreement No. 443-13.
2. Section 7, Paragraph 1: The second line provides that "the medical uses will adversely affect existing and anticipated residential and commercial development in the vicinity and will not promote the harmonious development of the area." At the hearing on November 21, 2013, there was no evidence presented to the Planning Commission, nor any public testimony either oral or written, that commented in any respect on the effect of medical uses on "existing and anticipated residential and commercial development" in the vicinity. In fact, one of the persons who gave public testimony, and who owns the property on the southwest corner of Robertson and Wilshire, commented that the medical uses would enhance the area. Moreover, the staff report provided evidence that the building is appropriate for medical uses.
3. Section 7, Paragraph 1: The third line provides that "the medical uses will be an intensification of land uses that will result in a **substantial** increase in traffic, 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 traveling to and from the Project site circling in search of on-street parking, **each** of which would adversely impact existing and anticipated residential and commercial development in the vicinity." [emphasis added].

In fact, both the staff report and the traffic study, ordered by the City and performed by an independent traffic consulting firm which had absolutely no input from the applicant, [peer reviewed by the City's internal traffic engineer] found that an increase in traffic would not exceed the City's threshold. In fact, the City has agreed to re-stripe Robertson Boulevard to allow for a left-turn into the building. Other than the staff report which cited the traffic study and the fact that it was peer reviewed, and which was in favor of the applications, there was no evidence presented to the Planning Commission that would allow it make this finding. There was no discussion as to what is a "substantial" increase and certainly none that any increase would exceed the City's own threshold.

Further, there was no evidence presented that medical uses would increase handicap placard parking in on-street parking spaces in the adjacent commercial areas [although there was anecdotal comment from a resident that he saw

many handicap placards in cars parked on Arnaz]. Moreover, there was no evidence at all, and there could not be, that vehicles would circle the building in search of on-street parking. As you know, the applicant is required to provide free validated parking to its tenants and patrons. Not one single person, nor any Planning Commissioner, nor any staff person or traffic consultant or engineer, provided any evidence that anyone would circle the building in search of on-street parking when free parking is available in a beautiful new parking structure which is part of the building [rather than where parking spaces are located in a separate parking structure which is near but not attached to the building].

4. Section 7, Paragraph 1: The fourth line provides that “the proposed 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.” This suggested finding is inconsistent with the evidence presented and the public testimony of the Planning Commission’s own staff person, Ryan Gohlich, who stated [and the staff report confirmed] that medical uses for the building as applied are appropriate for the building. There was no evidence presented that the proposed medical use would change the character of the area as the area has many medical buildings. There was evidence that the building is now vacant which is deleterious to the area.

5. Section 8 sets forth the objectives of the Medical Use Overlay Zone and Section 9 states: “The Project would not satisfy **any** of the objectives of the Medical Use Overlay Zone [emphasis added]. Clearly, this general statement is inaccurate as the applicant’s request to be included in the Medical Use Overlay Zone meets several of the objectives based on the staff report, traffic study, peer review of the traffic study, public presentation and evidence submitted to the Planning Commission as described above.

6. Section 11: There is no evidence, much less substantial evidence, that would allow the Planning Commission to make the findings set forth in Section 11. Moreover, the last line in paragraph 1, to wit: “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.” [emphasis added]. There was no evidence presented to the Planning Commission, either by staff, a former Planning Commissioner, a sitting Planning Commissioner or any member of the public, either in writing or orally, to the effect that the project would have been viewed differently.

7. Section 11: For the reasons set forth above as more particularly described in the staff report, the traffic study, peer review of the traffic study, public presentation and evidence submitted to the Planning Commission, the findings denying the applications in Paragraphs 1, 2, 3, 4 and 5 of the draft Resolution cannot be made.

8. Section 13: For the reasons set forth above as more particularly described in the staff report, the traffic study, peer review of the traffic study, public presentation and evidence submitted to the Planning Commissions, the finding in Paragraph 13 of the draft Resolution cannot be made.

As I stated twice at the Planning Commission hearing on November 21, 2013, a careful reading of the Mutual Release and Settlement Agreement [which was attached to the Staff Report], approved unanimously by the City Council and announced by David Snow to the public at a City Council meeting, shows an explicit intent where the City Council can make the findings necessary for approval rather than denial. The Mutual Release and Settlement Agreement was reached after 1 1/2 years of negotiation. The City Council could not have approved the document unanimously and its City Manager could not have signed the Mutual Release and Settlement Agreement if findings for approval could not be made, as the Mutual Release and Settlement Agreement expressly sets out in detail, which exact detail is mirrored by the applications, the terms and conditions under which a Medical Use Overlay Zone and Conditional Use Permit are applicable and to be applied.

It is for the reasons stated that the findings for approval of the applications can be made by the Planning Commission, and I respectfully request that the Planning Commission make the findings for approval and that its Chair sign the draft Resolution of approval as it was attached to the staff report on November 21, 2013.

As always, thank you for your attention to this matter. My comments are not intended to be exhaustive.

Very truly yours,

Tom Levyn

## Glaser Weil

Glaser Weil Fink Jacobs  
Howard Avchen & Shapiro LLP

### Thomas S. Levyn

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To: Chair, City of Beverly Hills Planning Commission, Brian Rosenstein  
Members of the Planning Commission  
Mayor City of Beverly Hills, John Mirisch  
Members of the City Council

From: **City of Beverly Hills Southeast Task Force**

Date: **December 4<sup>th</sup>, 2013**

Re: **Denial of Medical Use Overlay Zone for 8767 Wilshire Boulevard**

**The City of Beverly Hills Southeast Task Force supports the 11/21/2013 Planning Commission's 5-0 vote to deny the request for a Medical Use Overlay Zone for 8767 Wilshire Boulevard.**

This denial conforms to the similar actions taken by the Planning Commission and City Council in 2009, and 2010. **We urge the City Council to concur with the Planning Commission and deny the request for a Medical Use Overlay Zone for 8767 Wilshire Boulevard.**

During the Southeast Task Force deliberations that resulted in the April 2013 report to the City Council, the Task Force was in consensus that more medical office space was not in the best interests of the Southeast. Our residents already experience adverse impacts from the existing medical offices, and more medical offices do not fit our vision for a revitalized Southeast commercial/business environment.

Sincerely,

  
AJ Willmer

  
Isabel Hacker

**For the City of Beverly Hills Southeast Taskforce:**

Chris Biehl

Noah Margo

Don Creamer

Susan Mishler

Howard Goldstein

Dick Seff

Andrea Grossman

AJ Willmer

Isabel Hacker

Attached: April 2, 2013 Staff Report to Mayor and City Council  
Southeast Task Force: Final Report and Southeast Area Map



## **CITY OF BEVERLY HILLS STAFF REPORT**

**Meeting Date:** April 2, 2013  
**To:** Honorable Mayor & City Council  
**From:** Susan Healy Keene, AICP, Director of Community Development  
**Subject:** Request by Mayor Mirisch to discuss ways to incorporate input from the Southeast Task Force on significant projects proposed in the Southeast Area of the City  
**Attachments:** Southeast Task Force: Final Report and Southeast Area Map

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### **INTRODUCTION**

This report is provided at the request of Mayor Mirisch to explore ways to incorporate input from the Southeast Task Force on significant projects proposed in the southeast area of the city (see attached map) prior to consideration by the Planning Commission.

### **BACKGROUND**

In August 2011, the Southeast Task Force was established and chaired by then Vice Mayor Mirisch. The Task Force was comprised of a citizen committee including residents and area stakeholders that discussed, evaluated, and formed recommendations on the revitalization of the southeast area of the city. In addition to the chair, the Task Force included the following participants: Chris Biehl, Don Creamer, Brian Goldberg, Howard Goldstein, Andrea Grossman, Isabel Hacker, Noah Margo, Susan Mishler, Dick Seff, and AJ Wilmer.

The task force recommendations were presented to the City Council on August 7, 2012 and are attached to this report (Attachment A)

### **DISCUSSION**

The Mayor is seeking an opportunity for the Southeast Task Force to provide input on development projects within the task force study area.

There are different approaches that can be used to structure this input process. With any review process, policy makers would want to balance the increased review time to get projects approved and increased uncertainty in obtaining approvals with the need to

ensure adequate opportunities for public engagement. Presently, any significant development in the southeast area would be subject to at least two of the city's four land use, design and cultural heritage commissions.

If the City Council is interested in extending additional opportunities for community involvement in the southeast area, staff requests time to explore various options and to identify possible approaches to advance the Southeast Task Force recommendations.

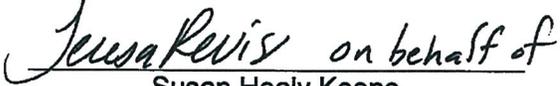
On April 11<sup>th</sup> Study Session, the City Council will visit the southeast area as part of its scheduled site visits for this day.

**FISCAL IMPACT**

There is no fiscal or budget impact associated with this report.

**RECOMMENDATION**

This report is provided at the request of a councilmember. Staff will proceed with this item based on direction from the City Council.

  
Susan Healy Keene  
Director of Community Development