

ATTACHMENT 3

PLANNING COMMISSION RESOLUTION No. 1703 –

APPROVING PLANNED DEVELOPMENT PERMIT

RESOLUTION NO. 1703

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A PLANNED DEVELOPMENT PERMIT ASSOCIATED WITH MODIFICATIONS TO CONDITIONS OF APPROVAL AND THE TYPES OF LAND USES ALLOWED WITHIN A PREVIOUSLY APPROVED MIXED-USE DEVELOPMENT ON THE PROPERTY LOCATED AT 9355 WILSHIRE BOULEVARD AND 155 NORTH CRESCENT DRIVE.

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

Section 1. Stanley Stalford, representative on behalf of Metropolitan Crescent Associates, LLC (collectively the "Applicant"), has submitted an application for a Planned Development Permit to amend conditions of approval and permitted land uses associated with a previously approved Planned Development Permit for a mixed-use development. The amendments are intended to allow serviced residences and a restaurant within the mixed-use development on the property located at 9355 Wilshire Boulevard and 155 North Crescent Drive (the "Project").

Section 2. The existing development on the Project site was approved by the Planning Commission and City Council in 2002. The existing development was approved pursuant to a mixed-use overlay zone, Planned Development Permit, and Environmental Impact Report (EIR). The existing development contains a total of 88 apartment units, 39,975 square feet of commercial space, and 534 parking spaces. Construction was initiated in 2004 and

completed in 2006. Since completion of construction, the project site has operated in accordance with the previously granted entitlements.

Section 3. The Project elements requested by the Applicant include the following:

- Serviced Residences: Allow all 88 apartment units to function as serviced residences, which could be rented for any length of stay, provided the stay is not less than 7 days.
- Restaurant Use: Allow an approximately 2,500 square foot restaurant to be located within the portion of the project site located at the intersection of Wilshire Boulevard and North Crescent Drive. The restaurant would be primarily intended to serve AKA residents, but would also be open to the general public.

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 environmental regulations of the City. An Environmental Impact Report (EIR) was previously certified by the City Council on December 3, 2002 for the existing mixed-use development on the subject site. Pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, a lead agency (the City of Beverly Hills in this case) may prepare an addendum to a previously certified EIR if some changes or additions to the EIR are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred. Pursuant to CEQA Guidelines Section 15162, no subsequent

EIR shall be prepared for the Project unless, on the basis of substantial evidence in the light of the whole record, one or more of the following is determined:

- (1) Substantial changes are proposed in the project that will require major revisions of the previous EIR due to the involvement of new, significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance identifies one or more significant effects not discussed in the previous EIR, significant effects previously examined will be substantially more severe than shown in the previous EIR, mitigation measures or alternatives previously found not to be feasible or not analyzed in the EIR would be feasible and would substantially reduce one or more significant effects but the project proponents decline to adopt of the measure or alternative.

The above criteria have been assessed in accordance with the State CEQA Guidelines, and the Project, in the independent judgment of the City, has been determined to be eligible for an addendum to the previously certified EIR because it does not result in any new or substantially increased environmental impacts. Therefore, an addendum to the EIR has been prepared, is incorporated herein by reference, and is hereby adopted by the Planning Commission.

Section 5. Notice of the Project and public hearing was mailed on November 7, 2013 to all single-family property owners within a 500-foot radius of the Project site, all property owners within a 300-foot radius of the Project site, and all residential occupants within

a 300-foot radius of the Project site. Notice was also published in two newspapers of local circulation, the *Beverly Hills Courier* and the *Beverly Hills Weekly*. On November 21 and December 12, 2013 the Planning Commission considered the application at a duly noticed public hearing. Evidence, both written and oral, was presented at the meeting.

Section 6. In reviewing the request for a Planned Development Permit, the Planning Commission considered whether the Project would satisfy the following objectives of the M-PD-2 Mixed-Use Overlay Zone:

1. To ensure that mixed use development in the M-PD-2 zone is consistent with the general plan and any specific plans adopted for the area;
2. To ensure that mixed use development in the M-PD-2 zone will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;
3. To provide for mixed use development that is compatible with the scale and massing of the surrounding neighborhood, through appropriate height, modulation, upper story setbacks, and/or other similar measures;
4. To provide pedestrian friendly amenities along the street level, and setbacks that are generally consistent with other development along the west side of Crescent Drive between Wilshire Boulevard and Santa Monica Boulevard (South Roadway);
5. To promote a combination of land uses and densities within the M-PD-2 zone that will not unduly induce significantly greater traffic to nearby neighborhood streets; provided, however, that achievement of this objective is to be balanced with other

public policy considerations in the event that such considerations are found to be of an overriding nature;

6. To ensure that mixed use development in the M-PD-2 zone will not create any significant, adverse traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will minimize impediments to vehicular circulation and pedestrian safety;

7. To foster uniform planning and development of all parcels in the M-PD-2 zone to ensure unified development in the overlay zone; and

8. To protect the public health, safety or general welfare.

Section 7. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the objectives of the M-PD-2 Mixed-Use Overlay Zone:

1. The Project location is designated for low-density general commercial uses, residential uses, and parking uses. The Project is consistent with this land use designation, and in particular advances the following General Plan Policies:

- Policy H 2.5 Adaptive Reuse. Support innovative strategies for the adaptive reuse of residential and commercial structures to provide for a wide range of housing types.
- Policy LU 15.1 Economic Vitality and Business Revenue. Sustain a vigorous economy by supporting businesses that contribute revenue, quality services and high-paying jobs.

In addition to advancing the above policies, the Project is located in an area that serves as a transition between commercial and residential uses, and the hybrid land use of serviced residences serves as an appropriate transition. For these reasons, the Project is consistent with the elements of the city's general plan. Furthermore, the Project is not located within any specific plan areas;

2. The Project does not result in alteration to the size, scale, or density of the existing mixed-use building. Additionally, the Project is located in an area that serves as a transition between commercial and residential uses, and the hybrid land use of serviced residences serves as an appropriate transition that will contribute to existing and anticipated development in the vicinity, and will promote harmonious development of the area;

3. The existing mixed-use development on the Project site is already constructed and has been in place since 2006. The Project does not result in alteration to the size, scale, density, or design of the existing mixed-use building;

4. The existing mixed-use development on the Project site is already constructed and has been in place since 2006. The Project does not result in alteration to the size, scale, density, or design of the existing mixed-use building. With respect to pedestrian-oriented amenities, the Project includes the addition of a restaurant in place of an existing financial institution. Restaurants are considered to be a pedestrian-oriented land use, while financial institutions are not considered to be a pedestrian-oriented land use. Replacement of the financial institution with a restaurant will enhance the streetscape and enhance the pedestrian experience along the Project's frontage;

5. Based on trip generation rates set forth in the ITE trip generation manual, the Project will result in a negligible increase of approximately 147 average daily vehicle trips, which represents less than a 2% increase on North Crescent Drive. Because of the limited traffic increase associated with the land uses contemplated under the Project, the Project will not unduly induce significantly greater traffic to nearby neighborhood streets;

6. The existing mixed-use development on the Project site is already constructed and has been in place since 2006. The Project does not result in alteration to any of the development's driveways or traffic control devices. Based on trip generation rates set forth in the ITE trip generation manual, the Project will result in a negligible increase of approximately 147 average daily vehicle trips, which represents less than a 2% increase on North Crescent Drive. Because of the limited traffic increase associated with the land uses contemplated under the Project and the fact that the Project will not modify any existing driveways or traffic control devices, the Project will not create any significant, adverse traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will minimize impediments to vehicular circulation and pedestrian safety;

7. The Project does not result in alteration to the size, scale, or density of the existing mixed-use building that was constructed as a unified development of all parcels within the M-PD-2 zone. Additionally, the Project is located in an area that serves as a transition between commercial and residential uses, and the hybrid land use of serviced residences serves as an appropriate transition that fosters uniform planning; and

8. The existing mixed-use development on the Project site is already constructed and has been in place since 2006. The Project does not result in alteration to

the size, scale, density, or design of the existing mixed-use building, does not cause any significant environmental impacts, serves as an appropriate transition between commercial and residential uses, and maintains orderly development of the area.

Section 8. Based on the foregoing, the Planning Commission hereby grants the requested Planned Development Permit, subject to the following conditions:

Special Conditions

1. The conditions set forth in this resolution incorporate all applicable conditions previously imposed on the subject property pursuant to City Council Resolution No. 02-R-11251 and delete or modify conditions that are no longer applicable. Therefore, this resolution and the conditions set forth herein shall supersede City Council Resolution No. 02-R-11251.

2. No uses other than those specifically authorized pursuant to Article 19.3 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code shall be permitted as part of this planned development. This condition shall not be construed to bar the applicant from requesting a modification at a later date to permit additional uses as part of this planned development.

3. No rooftop uses are approved or permitted as part of this planned development. This condition shall not be construed to bar the applicant from requesting a modification at a later date to permit rooftop uses as part of this planned development. Additionally, the outdoor terrace located above the second floor of the development shall be limited to use by residents of the serviced residences and their guests after 10:00 p.m.. No private events, receptions, or parties shall be conducted within the outdoor terrace

except that up to six (6) times per year the terrace can be used at no charge with no amplified music, until 10:00 p.m., provided that the applicant submits written notice to the Director of Community Development at least 24 hours in advance of the event, notifying the Director of the date, time, and type of event to be conducted. In the event that the Director of Community Development determines that the type or frequency of events is resulting in unanticipated impacts, the Director shall have the authority to impose additional conditions on the use of the outdoor terrace, and may, at his or her discretion, schedule a public hearing before the Planning Commission to assess the impacts and impose additional conditions.

4. Prior to issuance of occupancy permits and subject to the review and approval of the Directors of Planning and Transportation, the Applicant shall provide a Loading Management Plan to minimize loading-related impacts from the Project on adjacent land uses. The Loading Management Plan shall designate a delivery monitor to monitor the loading area and deliveries in order to control the circulation activities and to prevent overcrowding in the loading area. Deliveries shall only be made between the hours of 7:00 a.m. and 10:00 p.m.. Additionally, all deliveries shall occur from the alley at the rear of the Project site; provided, however, that incidental deliveries to residents or the reception desk that are not within the control of the Applicant and that are not by FedEx, UPS or other common carriers, shall not be a violation of this condition. The City shall retain the authority to impose additional conditions on the Project to address loading and delivery problems should they arise.

5. The Project shall provide on-site parking for its residential and commercial tenants at all times. Additionally, the Applicant shall reserve up to 10% of

the parking spaces provided for the serviced residences (22 parking spaces) within the first floor of the parking area immediately adjacent to the arrival area for waiting limousines and taxis, and the loading and unloading of passengers. Taxi and limousine activities associated with the Project shall be accommodated within the motor court and shall not be directed to the public right-of-way for loading or unloading of passengers, luggage, or other baggage, or for parking.

6. The Project shall provide two-hour free, validated on-site parking for all patrons of the restaurant component at all times. The Project shall provide one-hour free, validated on-site parking for all patrons of the commercial component at all times. In addition, the rate charged for parking after the initial free period shall not exceed the amount charged at the nearest city parking structure. Signage satisfactory to the Director of Planning shall be posted at the driveway entrance indicating the availability of the free parking in the garage.

7. The Project shall provide free, on-site parking to employees of all commercial tenants at all times.

8. The Project shall be designed to prohibit left turn egress from the Commercial (southern) driveway on Crescent Drive. The applicant shall channelize the driveway to restrict turning movements to right turns only and shall install "Right Turn Only" signs and arrow markings on the pavement, or such other restrictive devices as required by the Director of Transportation and City Engineer.

9. Prior to the issuance of occupancy permits for the Project, the applicant shall install a sign indicating "Yield to Pedestrians Crossing" to warn drivers entering/exiting the residential and commercial garage.

10. The serviced residence use requires lease and occupancy for no less than seven (7) consecutive days and each lease and occupancy shall comply with this requirement and pay the applicable transient occupancy tax and municipal surcharge.

11. The applicant shall mail or otherwise distribute AKA Beverly Hills management contact information, City of Beverly Hills contact information, and 24-hour contact information for dedicated security personnel to all property owners and residential occupants within 500 feet of the project.

12. Valet parking services that may be provided at the project site shall not use residential streets in neighborhoods to the east and south for parking or access to parking, or for retrieval and return of vehicles to the project site.

Standard Conditions

1. Except as otherwise provided by these conditions, the Project shall be constructed and operated in substantial compliance with the plans submitted to and approved by the City Council at its meeting of November 14, 2002, as amended by the Planning Commission at its meeting of December 12, 2013.

2. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

3. This Resolution approving a Planned Development Permit 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 Planning and Community Development within 60 days of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the discretionary approvals shall be null and void and of no further effect. Notwithstanding the foregoing, the Director of Planning and 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 discretionary approvals.

4. 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 shall comply with all such modified or additional conditions.

5. Minor amendments to the plans may be approved by the Director of Community Development. A significant change to the approved Project shall be subject to Planning Commission Review. Construction shall be in conformance with the plans approved herein or as modified by the Planning Commission or Director of Community Development.

6. Project Plans are subject to compliance with all applicable zoning regulations, except as may be expressly modified herein. Project plans shall be subject to a complete Code Compliance review when building plans are submitted for plan check.

Compliance with all applicable Municipal Code and General Plan Policies is required prior to the issuance of a building permit.

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

8. VIOLATION OF CONDITIONS: A violation of any of these conditions of approval may result in revocation of this planned development permit pursuant to the procedures set forth in Beverly Hills Municipal Code Section 10-3-3803.

9. Pursuant to the Development Agreement processed in conjunction with the Project, the applicant, and any successors in interest, have agreed to pay a municipal surcharge pursuant to Section 9(d) of the Development Agreement, which agreement must be recorded against the subject property. If, after following the procedure set forth in Section 11 of the Development Agreement, the applicant and any successors in interest fail to pay the municipal surcharge, the approval of the serviced residential use pursuant to the Planned Development Permit shall expire, and be of no further effect.

10. If one or more of the applicant, property owner, or any other entity with an interest in the property, challenges any provision of this approval or the related Development Agreement seeking to and invalidate any condition of this entitlement or and provision of the Development Agreement, and is successful in invalidating any condition of this project or the Development Agreement, the approval of the serviced residential component of the project shall expire and be of no further force or effect, and

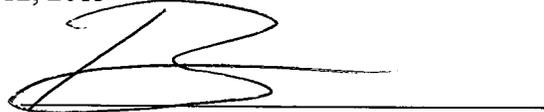
the use of the residential portion of the property shall be returned to traditional multi-family residential units.

11. If the serviced residences use ceases for a period of 6 consecutive months and the Development Agreement has expired, then the entitlement for the serviced residences shall expire, and be of no further force or effect. A cessation of occupancy due to the maintenance, renovation, improvement or reconstruction of the Project shall not be considered a cessation of use for the purposes of this condition.

12. This resolution shall not become effective unless and until the associated amendment to the text of the Mixed Use Overlay Zone that would allow the serviced residence land use in the zone has been duly adopted by the City Council and has taken effect.

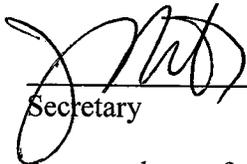
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: December 12, 2013

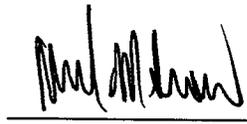


Brian Rosenstein
Chair of the Planning Commission of the
City of Beverly Hills, California

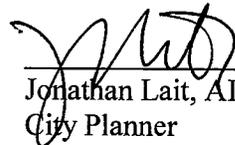
Attest:


Secretary

Approved as to form:


David M. Snow
Assistant City Attorney

Approved as to content:


Jonathan Lait, AICP
City Planner

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

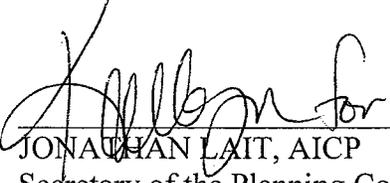
I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1703 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on December 12, 2013, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Block, Corman, Yukelson, Vice Chair Fisher, Chair
 Rosenstein.

NOES: None.

ABSTAIN: None.

ABSENT: None.



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