

ATTACHMENT 3

RESOLUTION FOR PLANNED DEVELOPMENT

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A PLANNED DEVELOPMENT PERMIT FOR MEDICAL USE ON THE PROPERTY LOCATED AT 300-336 NORTH CANON DRIVE.

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

Section 1. Elizabeth Camacho, representative on behalf of applicant Thrifty Payless Inc., and WEC 98G-1, LLC, owner of the property at 300-336 North Canon Drive (collectively the “Applicant”), has submitted an application for a Planned Development Permit associated with the conversion of 474 square feet of retail commercial area to medical offices within the existing 19,044 square foot retail/pharmacy store (Rite Aid) located at 300-336 North Canon Drive (the “Project”).

Section 2. The Project is located at the northeast corner of Canon Drive and Dayton Way in the City’s Business Triangle. The site is bordered by commercial uses except to the southeast where the City’s Senior Housing development is located on Crescent Drive at Dayton Way. The site comprises five lots totaling 42,750 square feet and developed with a one story, 19,044 square foot retail/pharmacy store (Rite Aid) located on the northern half of the site, and a two-level parking lot located on the southern half of the site. At the corner of Canon Drive and Dayton Way is an additional 4,675 square-foot commercial space occupied by a physical training use. The proposed Project consists of the establishment of a 474 square-foot convenient care clinic within the existing retail pharmacy store, resulting in 18,570 square feet of retail

pharmacy area and 474 square feet of medical use. The clinic is proposed to be located directly adjacent to the existing pharmacy at the rear of the store. In conjunction with the request for the Planned Development, the Applicant has requested a Medical Use Overlay Zone, which is a zone amendment required to permit new medical use on the site. The request for a Medical Use Overlay Zone is addressed in a separate ordinance.

Section 3. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* “CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the environmental regulations of the City. The project qualifies for a Class 1 Categorical Exemption. This exemption is applicable to projects characterized as minor alterations to existing structures, when the project involves negligible or no expansion of an existing use. The City Council hereby finds that the Project will not to have a significant environmental impact and is exempt from the provisions of CEQA.

Section 4. Notice of the Project and public hearing was mailed on October 23, 2015 to all property owners and residential occupants within a 500-foot radius of the Project site plus block face. Notice was also published in two newspapers of local circulation, the *Beverly Hills Courier* and the *Beverly Hills Weekly*, and posted on the Project site. On November 3, 2015 the City Council considered the application at a duly noticed public hearing. Evidence, both written and oral, was presented at the meeting.

Section 5. In reviewing the request for a Planned Development Permit, the City Council considered whether the following findings could be made in support of the Project:

1. The proposed plan will meet the requirements of the Code. The proposed plan will meet the requirements of the Code by complying with the following restrictions of the Medical Use Overlay Zone:

A. Compliance with all restrictions applicable to the zone or underlying zone. The proposed Project is located in the C-3 Zone and the Project complies with the Beverly Hills Municipal Code restrictions for the C-3 Zone which is the underlying zone for the Project.

B. Medical uses shall not be permitted on the ground floor of any building in the pedestrian oriented zone unless the city council finds, based on substantial evidence, that the proposed location is not pedestrian oriented and is unlikely to become pedestrian oriented in the future. This particular location was developed in the 1960s and reflects a more suburban development model with a large store facing a surface parking lot, rather than facing the street. The large parking area encourages patrons to arrive by vehicle. Subsequent to the development of the retail pharmacy in the 1960s, the Business Triangle developed into a dense and lively urban village adjacent to the subject site but the subject site, by design, does not engage the area. The property owner recently upgraded the store and added an outdoor dining area in front on the alley side of the store. This addition improves the experience of patrons at the site but does not contribute to the pedestrian oriented area due to the distance from the adjacent streets. As a result, the conversion of a small amount of ground floor retail space

to medical use would not negatively impact pedestrian activity currently or in the future.

C. Free parking shall be provided for patrons and employees of medical uses in the development and parking shall be provided that complies with all applicable parking requirements in this chapter. Parking is provided for the project that complies with all applicable parking requirements in the Zoning Code. The Project requires 82 parking spaces to be provided at the Project site and 108 parking spaces are provided including 95 full size regular parking spaces, 5 ADA/accessible spaces, and an additional 8 compact and tandem spaces. A condition of approval of the Project requires free parking to be provided for patrons and employees of medical uses at the site.

2. The proposal will advance objectives of the zone in which it is located. The Project is located in a proposed Medical Use Overlay Zone and the City Council finds that the Project would satisfy the following objectives of the Medical Use Overlay Zone:

A. Medical uses in the particular location are consistent with the elements of the City's general plan and purpose and intent of the Medical Use Overlay Zone. The particular location proposed for medical uses is designated for low-density general commercial uses in the General Plan Land Use Map. The Project is consistent with this land use designation, and in particular advances the following General Plan Policies:

- Policy LU 2.1 City Places: Neighborhoods, Districts, and Corridors. Maintain and enhance the character, distribution, built form, scale, and aesthetic

qualities of the City's distinctive residential neighborhoods, business districts, corridors, and open spaces.

- Policy LU 5.8 Encroachment of Incompatible Land Uses. Protect residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible. Zoning and design review should assure that compatibility issues are fully addressed when nonresidential development is proposed near or within residential areas.
- Policy LU 9.6 Medical Uses. Study, adopt and implement regulations that appropriately regulate medical land uses in the City.
- Policy LU 10.1 Local-Serving Businesses. Promote appropriate development of businesses that serve, are located in proximity to, and are accessible to adjoining residential neighborhoods, such as grocery stores, dry cleaners, and personal care businesses.
- 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.

B. The proposed development and medical use will not result in detrimental impacts to existing or anticipated residential or commercial

development in the vicinity of the project with regard to density, height, scale and massing of the streetscape, garden quality of the city, or any combination thereof; unless the reviewing authority finds the development benefits outweigh the detrimental impacts; will promote harmonious development in the area; and, will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed development. The proposed medical use is located entirely within the existing enclosed building and will not include any new construction other than minimal interior finishing to the approximately 474 square foot area for the proposed clinic use. No exterior changes are proposed and the Project will not materially intensify the existing use or otherwise adversely impact residential or commercial uses in the vicinity.

C. The proposed development and medical use will not result in detrimental impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, loading or manner of operation, unless the reviewing authority finds the development benefits outweigh the detrimental impacts. The development shall provide parking that is designed for ease of use and efficiency, with vehicle ingress and egress and patient drop off and pick up locations that would not adversely impact adjacent properties. The proposed medical use will exist entirely within the existing enclosed building and will not include any construction other than minimal interior finishing. No exterior changes are proposed. The proposed clinic use will occupy approximately 474 square feet

(less than 3% of the existing floor area) and is expected to primarily serve existing customers of the retail pharmacy. A traffic study has been prepared and peer reviewed by the City's traffic engineer to assess the traffic impacts that will be generated by the Project. Based on the information contained in the traffic assessment, the Project will not result in any material increase in traffic levels or parking demand. The site provides convenient on-site parking in excess of the Code parking requirements thus preventing parking intrusion into nearby residential neighborhoods. The parking is entirely accessed from North Canon Drive, a commercial street. The existing ingress, egress, circulation and loading adequately serve the existing uses, with pedestrian access available directly from the on-site parking area, and the proposed use would not require any changes. Because the proposed medical use would provide only limited primary care, customers would not require special access accommodations different from those of the existing retail pharmacy, and would be adequately served by the existing vehicular and pedestrian access and on-site parking facility. Thus, the proposed use would not require measures to address patient drop off or pick up. Based on the subject building's design, access, and available parking, the Project will not adversely interfere with the use and enjoyment of residential or commercial properties in the vicinity of the proposed development;

D. The proposed development and medical use will contribute to and enhance the character of the neighborhood and location, will contribute positively to the image of the city, and shall not undermine efforts to maintain and foster an appropriate mix of uses in the city including a pedestrian friendly

environment in the vicinity of the development. The proposed project involves a small amount of medical use that is compatible with the existing pharmacy use and is intended to enhance the competitiveness of the existing business. By contributing to the continued successful operation of a longtime City business, the project contributes to and enhances the character of the neighborhood and location. The proposed use does not include any addition of square footage, nor any changes to the exterior of the existing store and would therefore not undermine efforts to foster and maintain a pedestrian-friendly environment.

E. The proposed development and medical use contribute to and enhance the city's economic base and granting the request will leave ample space available for future commercial growth including business headquarters, entertainment businesses, information/technology businesses, retail businesses and other businesses as determined by the city. The proposed medical use is expected to support and strengthen the existing retail pharmacy use. Because the proposed use would occupy minimal space within an existing retail store, it would not diminish the existing retail business or occupy space that might otherwise be needed for future commercial growth in the City.

F. A public benefit shall be offered to the city and the public benefit shall, at a minimum, offset any long term impacts to the city that result from allowing a medical use in the city's limited commercial areas. A requirement of granting any Medical Use Overlay Zone is that the applicant shall offer to the City a public benefit that proportionately offsets any long-term impacts to the City that result from allowing the medical use. As proposed, the

public benefit offered by the applicant is the installation of six trees in planters in the upper parking lot, painting and lighting updates to the lower level of the parking structure and stairwells, and enhanced maintenance and security in the parking structure. The parking lot, located directly adjacent to Canon Drive and Dayton Way, is a large expanse of asphalt that currently contains no landscaping. One of the rationales for adoption of the Medical Use Overlay Zone was that medical uses do not contribute to a pedestrian-oriented environment in the same way that retail and restaurant uses do. The proposed trees are intended to improve the aesthetics of the site and will result in areas of shade, providing a more pleasant experience for patrons and reducing the heat island effect produced by large areas of pavement. By creating a better experience for patrons, the trees could encourage additional patronage of the retail pharmacy, which could offset possible reduced retail sales from the conversion of retail floor area to medical use. While the addition of trees in a parking lot would not directly contribute to fostering and maintaining a pedestrian-oriented environment, the addition of trees would improve the general aesthetics of the area which could peripherally contribute to the continued success of the Business Triangle. In addition, proposed improvements to the parking structure include replacing lights and painting the ceiling and stairwells of the lower level a light color to brighten the area, and increasing maintenance and security checks. These improvements will encourage use of the lower level parking by making the area more appealing and therefore will minimize any parking impacts that could result from the new medical use. Based on the foregoing, the proposed trees and parking structure

improvements provide a proportionate benefit offsetting potential impacts of additional medical use.

Section 6. Based on the foregoing, the City Council hereby grants the requested Planned Development Permit, subject to the following conditions:

1. The approval is for conversion of 474 square feet of existing commercial floor area to medical office use. The Project shall be constructed in substantial compliance with the plans and specifications approved by the City Council on November 3, 2015. Any minor changes to the Project, as determined by the Director of Community Development, shall be reviewed and approved by staff. Substantive changes, as determined by the Director of Community Development, shall be returned to the City Council for review and approval.

2. The Project shall comply with Municipal Code parking requirements at all times including the provision of free, onsite parking to all employees and customers of the medical use. Signage shall be posted at the entrance to the parking lot and inside the store, adjacent to the medical use, indicating that medical patrons shall be provided free, onsite parking.

3. All exterior modifications that result from the Project shall be subject to Architectural Review.

4. The City shall monitor the operation of the Project at the site. The City expressly reserves jurisdiction with respect to traffic, parking, and loading 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 conditions are

required for the Project site in order to avoid 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 10-3-1843 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.

5. The authorization for medical use shall only become effective upon the effective date of an ordinance approving application of the Medical Use Overlay Zone to the Project site. Further, none of the approvals granted herein shall become effective unless and until the Applicant performs all of the following:

a. The Applicant has taken such actions as necessary to implement a public benefit as approved by the City Council. The benefits approved include:

i. Providing approximately six (6) trees to break up the parking area and enhance the aesthetics of the parking structure perimeter including along Canon Drive, to be memorialized in a plan prepared by a licensed landscape architect and to be approved by the Director of Community Development.

ii. Providing enhanced painting, lighting, and other potential upgrades to the lower parking level, to be memorialized in a plan to be approved by the Director of Community Development.

6. 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. The property owner shall maintain a minimum of 82 code-compliant parking spaces on site as required for the uses on the 300-336 North Canon Drive site, which, at the time of approval of the Planned Development Permit, was determined as follows: 18,570 SF of Retail/Pharmacy requires 54 parking spaces; 474 SF of Medical Use requires three (3) parking spaces; 255 SF of Open Air Dining on private property requires one (1) parking space; and 4,675 SF of Private Training Center requires 24 parking spaces.

8. APPROVAL RUNS WITH THE LAND. 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 Project.

9. RECORDATION. 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 Community Development within 60 days of the City Council 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 Planned Development Permit shall be null and void and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Planned Development Permit.

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

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Section 7. The City Clerk 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 City of Beverly Hills.

Adopted:

JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills,
California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager


SUSAN HEALY KEENE AICP
Director of Community Development