

ATTACHMENT 9

RESOLUTION

RESOLUTION NO. 16-R-_____

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A VESTING TENTATIVE TRACT MAP, DEVELOPMENT PLAN REVIEW, AND DENSITY BONUS PERMIT TO ALLOW THE CONSTRUCTION OF A 8-UNIT CONDOMINIUM PROJECT ON THE PROPERTY LOCATED AT 250 NORTH CRESCENT DRIVE.

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY FINDS, RESOLVES, AND DETERMINES AS FOLLOWS:

Section 1. BH Premier Investments, LP., applicant and property owner (the “Applicant”), has submitted an application for a Vesting Tentative Tract Map to allow the units to be sold individually as condominiums, a Development Plan Review to allow the general construction of the Project, and a Density Bonus Permit based on the inclusion of one very low income housing unit, all of which are associated with the construction of an 8-unit condominium project on the property located at 250 North Crescent Drive (the “Project”). The entitlements required for the Project may be approved by the City Council if specific findings can be made in support of the Project.

Section 2. The Project site is located along North Crescent Drive, between Dayton and Clifton Ways in the Central Area of the City. The project site is immediately bordered by a three-story condominium building with fourth-story penthouse to the north, a three-story apartment building to the south, single-family uses across a 20’-alley to the east, and mixed use to the west, across Crescent Drive. Development on Crescent Drive is characterized by apartment and condominium buildings with heights that range between two to four stories.

The project involves construction of a new four-story, 45-foot tall condominium building containing eight residential units, 14 subterranean parking spaces, and one ground floor parking space. The project is proposed to be constructed in accordance with State Density Bonus standards. The project contains approximately 12,400-square-feet of floor area on a site area of 7,556 square feet. The project includes one level of subterranean parking, four levels of residential units, and a rooftop common area. The project provides seven two-bedroom units and one, one-bedroom unit designated for “very low income” housing. Access to on-site parking would be provided by one driveway from the existing alley at the rear of the site, which would lead from the alley to the underground parking level. Access to the one parking space on the ground floor would also be provided by a second driveway from the existing alley at the rear of the site. Pedestrians would have direct access to the building from Crescent Drive through entrances located on the sides of the new building. The Project includes the following components:

- Density Increase: Density Bonus standards allow for a certain percentage increase in density, which is based on the percentage of “total units” (the maximum number of units allowed under General Plan density standards, without the inclusion of bonus units) that are designated for very low income households. In this case, the number of base units that could be built under the City’s General Plan is 7 units, and the number of very low income units proposed is one. Therefore, 14.3% (one divided by 7) of the base units would be very low income. The Density Bonus standards state that whenever 11% or more of the “total units” are designated for very low income, a 35% increase in density shall be provided. Further, all density calculations are required to be rounded up to the next whole number. Therefore, approval of the Density Bonus Permit,

with the inclusion of one very low income unit, would allow for a maximum density of 10 units.

- **Development Incentives:** Pursuant to the State Density Bonus statute, development projects where at least 10% of the base units are designated for very low income households are eligible to request two development incentives. An applicant may also request a density waiver in addition to the number of incentives to which the applicant is entitled. In the case of the proposed project, 14.3% of the base units are designated for a very low income household, so the project is eligible to receive two development incentives. The applicant requests the following:

- **Additional Height (waiver):** The City's zoning code requires a maximum height of 3 stories or 33 feet for sites located within the Multi-Family Residential Height District A. The applicant requests a waiver of the building height limitation to enable the proposed project to be built at 4 stories and 45 feet in height to accommodate the 8 units contemplated by the project.

- **Reduced Modulation (incentive):** The City's zoning code requires 525 square feet of façade modulation. The applicant is requesting a density bonus incentive to reduce the required modulation by 259-square-feet, which would result in a building with 266 square feet of modulation.

- **Reduced Side Setback Sum (incentive):** The City's zoning code requires the sum for the side setbacks to be at least 19' and each setback to be at least 8'. The applicant requests a density bonus incentive to allow a 3-foot reduction in the sum setback requirement, resulting in 8-foot side setbacks on the north and south of the site, with a side setback sum of 16'.

- Parking: Standard parking requirements set forth in the Municipal Code are based on the number of bedrooms in each unit; however, State law provides that parking requirements set forth in the Density Bonus Statute, which can be invoked at the Applicant's option, prevail over local requirements. The State parking requirements applicable to this project are less stringent than those set forth in the Beverly Hills Municipal Code. Therefore, the applicant requests that the project be subject to the State Density Bonus parking requirements, which require a maximum of one space for studio and one-bedroom units, and a maximum of two spaces for two- and three-bedroom units (inclusive of handicapped and guest parking). Fifteen parking spaces are required for the Project pursuant to the Density Bonus Statute, and the Applicant proposes to provide fifteen standard parking spaces.

Section 3. The Project has been environmentally reviewed pursuant to 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. Projects characterized as in-fill development that meet certain criteria are categorically exempt from CEQA pursuant to Section 15332 of the State CEQA Guidelines. The project meets all five of the following criteria set forth in Section 15332 of the State CEQA Guidelines for in-fill development projects:

a.) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

- b.) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c.) The project site has no value as habitat for endangered, rare, or threatened species.
- d.) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- e.) The site can be adequately served by all required utilities and public services.

Based on the information contained in the Class 32 categorical exemption documentation prepared by the City's environmental consultant, the City Council hereby finds that the project is exempt from further environmental review under CEQA.

Section 4. On March 10, 2016, the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting. At the conclusion of deliberation, the Planning Commission voted to approve the requested entitlements. On April 5, 2016, the City Council voted to call the Planning Commission's decision up for review at a de novo public hearing. At the May 3, 2016 City Council hearing, the City Council scheduled the project's de novo hearing and directed staff to provide additional materials including financial and feasibility analyses, and a shade and shadow study.

Section 5. On September 20, 2016, the City Council considered the application and the additional materials requested at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting. Notice of the Project and public hearing was mailed on September 9, 2016 to all property owners and residential occupants within a 500-foot radius plus block-face of the property. Additionally, notice was published in two newspapers of local circulation, the *Beverly Hills Courier* and *Beverly Hills Weekly*.

Section 6. A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

1. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451;
2. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans;
3. That the site is not physically suitable for the type of development;
4. That the site is not physically suitable for the proposed density or development;
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat;
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems;

7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection will apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Section 7. Based on the foregoing, the City Council hereby finds and determines as follows with respect to the Vesting Tentative Tract Map:

1. As conditioned, the proposed map, project and its design are consistent with the General Plan of the City. The proposed project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is “multi-family residential.” The proposed project will consist of an eight-unit residential condominium structure, and condominium developments are permitted under the General Plan land-use designation for the project site.

2. As conditioned, the site is physically suitable for the type of development and the proposed density. The site is zoned R-4 and has been vacant since the 1960s. Prior to the site’s vacancy, in 1959, a building permit for a 12-

unit apartment was issued by the City. Under the State Density Bonus Statute, the project site can be developed with a maximum density of 10 units; however, the applicant has proposed 8 units. Therefore, the development of 8 units is within the permitted density for the subject property. Because of the project's consistency with development in the surrounding area, adequate public facilities exist to serve an 8-unit residential condominium structure.

3. As conditioned, the Project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The project will not significantly impact the area based upon the increase in the number of residential units at the site. Due to the urban location of the project and the vacant (without vegetation) state of the project site and development in the vicinity, there are no fish or wildlife, or their respective habitats, in the vicinity of the project site that could be potentially impacted by the proposed development.

4. The design of the subdivision and the type of improvements will not cause serious public health problems, and will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The project site will meet City health code standards. Moreover, the project design respects existing easements and will not conflict with any existing easements maintained by the City.

Section 8. In reviewing the request for a Development Plan Review and Density Bonus Permit, the City Council considered whether it could make the following findings in support of the Project:

1. The proposed plan is consistent with the general plan and any specific plans adopted for the area;
2. The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;
3. 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;
4. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards; and
5. The proposed plan will not be detrimental to the public health, safety or general welfare.

Section 9. Based on the foregoing, the City Council hereby finds and determines as follows with respect to the Development Plan Review and Density Bonus Permit:

1. The Project, as authorized by the State Density Bonus Statute, meets all zoning requirements and has been determined to be consistent with the requirements and guidance of the General Plan for residential uses located within

the multi-family residential R-4 zone. The subject site is surrounded by residential and mixed-use development, and the proposed project would therefore be a harmonious addition to the area. Furthermore, the Project is not located within any specific plans adopted for the area and is consistent with the City's Municipal Code standards for development incentives associated with density bonus projects containing affordable housing units.

2. The Project, as authorized by the State Density Bonus Statute, is consistent with the development standards established in the City's Municipal Code and General Plan. Existing development along North Crescent Drive consists of a three-story condominium building with fourth-story penthouse to the north of the site, a three-story apartment building to the south, and apartment and condominium buildings that are typically between two and four stories in height. Based on analysis of the shade and shadow study requested by the City Council, the Project would not cause significant shade and shadow impacts on shade-sensitive uses on existing or planned development on neighboring properties, therefore, construction of the Project, which is a multi-family residential use consistent with surrounding uses, is not anticipated to adversely affect existing and anticipated development on the adjacent, residentially-zoned properties or the RMCP (Multi-Family Residential-Commercial Parking)-zoned properties across Crescent Drive, and is therefore considered to be a harmonious addition that would help to provide additional housing opportunities within the City, including the provision of one unit reserved for very low income households.

3. The Project is residential in nature and does not include any commercial uses.

4. While the Project would increase the floor area of the vacant site by approximately 12,400 square feet, the increase in daily trips to the site is not substantial. The traffic trip generation analysis, conducted as part of the Class 32 Categorical Exemption Report using the Institute of Transportation Engineers (ITE) trip rates, found that the Project would generate an increase of 46 daily trips, four AM peak hour trips, and four PM peak hour trips. The increase in daily vehicle trips represents an increase of approximately 0.7% over Dayton Way's existing volume if all trips occurred on Dayton Way, and an increase of approximately 0.1% over Clifton Way's existing volume if all trips occurred on Clifton Way (Dayton and Clifton Ways both provide access to the alley leading to the Project's subterranean parking). Based on existing traffic volumes and the projected trips, the Project would not generate any significant impacts related to traffic. Vehicular driveway access is provided via the alley at the rear of the Project site, thereby minimizing traffic safety hazards, pedestrian-vehicle conflicts, and pedestrian-safety hazards. Therefore, the Project is not anticipated to result in any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

5. The Project has been designed to be consistent with surrounding development while still being able to accommodate the additional residential units authorized by the State Density Bonus Statute, and is compatible with the existing residential uses along North Crescent Drive. Because the Project has been

designed as a harmonious addition to the neighborhood, and based on the discussions and analysis in Findings 1-4 above, the Project will not be detrimental to the public health, safety, or general welfare. Additionally, State Law precludes a local agency from denying a very low income housing development unless approval of a project would result in a significant and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions. Inconsistency with the zoning ordinance or general plan use designation shall not constitute a specific, adverse impact upon the public health or safety.

Section 10. Based on the foregoing, the City Council hereby grants the requested Vesting Tentative Tract Map, Development Plan Review, and Density Bonus Permit, subject to the following conditions:

1. The City Council hereby approves additional height (density waiver), reduced façade modulation (development incentive), and a reduced side setback sum requirement (development incentive) as a combination of density waivers and development incentives for the Project. The total height of the Project is approved at four stories and 45'. The cumulative reduction in the required side setback sum requirement shall be no more than 3' as requested by the Applicant, resulting in side yard setbacks that shall be a minimum of 8 feet on each side of the building. The required façade modulation is approved at 266 square feet of modulation. Pursuant to the State Density Bonus parking

requirements, the parking is approved at 15 spaces, eight of which are tandem spaces.

2. Beverly Hills Municipal Code §10-3-2813 limits front yard paving to one walkway within the front yard setback. The area located on the southern end of the front setback shall be landscaped subject to the City's architectural review process.

3. Sidewalk, and curb and gutter fronting the site on Crescent Drive shall be removed and replaced (according to City standards), and shall be paid for by the applicant.

4. The pavement and center drainage gutter on the alley at the rear of the property shall be removed and replaced according to the City standards, and shall be paid for by the applicant.

5. A Sewer Area Study may be required based on final approved use and occupancy in order to analyze the existing sewer lines within the City of Beverly Hills which will convey the flow from the subject project. The applicant shall pay for the sewer system upgrades (if needed) due to the additional proposed sewage generated from this project.

6. In accordance with the requirements set forth in City Council Resolution 71-R-4269, the applicant shall file a formal written request with the Civil Engineering Division for approval of any type of temporary construction encroachment (steel tieback rods, etc.) within the public right-of-way. Shoring plans and elevations prepared by a registered civil engineer must be submitted for review by the Civil Engineering Division. Shoring elements shall not project into

the alleys. An indemnity bond must be submitted and approved by the City Attorney prior to excavation.

7. The driveway ramp slopes and transitions shall comply with the City's minimum standards, or any alternate standard approved by the City's Transportation Engineer.

8. The opening of the garage shall have enough setback to satisfy the minimum turning radius for a typical passenger vehicle (25.8 feet) to cover the path of the front overhang.

9. The garage gate shall be installed at a location to provide room for at least one vehicle to wait for opening the gate without blocking the traffic within the alley.

10. To ensure visibility for egress traffic, a visual alarm device shall be installed at the exit ramp by the alley. This device shall light up when a vehicle is leaving the garage, alerting the oncoming traffic in the alley.

11. The Project, whether operated as a rental property, as a for-sale condo project, or a combination thereof shall contain a minimum of one, one-bedroom dwelling unit designed for occupancy by a very low income household. The finishing products used within the affordable unit shall be the same as the products that are used in the other units in the building. The applicant has offered, and the project is hereby conditioned, to require that the affordable unit shall be a rental unit that is rented in accordance with the City's Affordable Housing Guidelines and the provisions of California Government Code Section 65915 or its successor statute and shall be affordable to very low income households for a

minimum of 55 years in accordance with California Government Code Section 65915. Prior to or concurrently with the recordation of the final map, the Applicant shall record covenants and/or deed restrictions as determined by the City Attorney to ensure that the requirements of this condition are recorded against the subject property.

12. The Project shall be subject to the review and approval by the Architectural Commission.

13. To mitigate potential noise impacts to neighboring residents, use of the roof deck areas shall be limited to between the hours of 9:00 a.m. to 9:00 p.m., daily, and signage indicating such restrictions shall be installed on the rooftop.

14. Amplified music shall be prohibited on the rooftop.

15. A 10-foot setback and full screening in the form of landscaping shall be provided at the rear of the rooftop, facing the single-family properties across the alley. The dog washing/exercise area shall not be located within the ten-foot roof rear setback and shall be reviewed for substantial compliance with the plans that were submitted for review and approval by the Planning Commission. In addition, no umbrellas or other man-made structures shall be located within ten feet of the western edge of the roof.

16. In accordance with the provisions of Section 10-2-704 of the Beverly Hills Municipal Code, prior to approval of the Final Map, the applicant shall submit a copy of the proposed covenants, conditions and restrictions (CC&Rs) for the project to the City Attorney for review and approval.

17. The applicant shall submit a Construction Management Plan to the Departments of Building and Safety, Public Works, and Transportation for review and approval prior to issuance of a building permit. The Construction Management Plan shall include, at a minimum- the following:

- a. Written information about the construction parking arrangements, and hauling activities at different stages of construction to be reviewed and approved by the Engineering Division of Public Works and the Building & Safety Department.
- b. Information regarding the anticipated number of workers, the location of parking with respect to schedules of the construction period, the arrangements of deliveries, hauling activities, the length of time of operation, designation of construction staging area and other pertaining information regarding construction related traffic.
- c. 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.
- d. A sign shall be posted on the temporary construction fence with the name and contact

information of the general contractor and the construction supervisor.

- e. No parking shall be allowed in the alley during construction except pursuant to a permit issued by the City.

18. The Project shall be constructed in substantial compliance with the plans and specifications approved by the City Council on September 20, 2016.

19. RECORDATION. The resolution approving a Vesting Tentative Tract Map, Development Plan Review, and Density Bonus 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 the resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver to the executed covenant within the required 60 days, this resolution approving the Project shall be **null and void** and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request,

the Director determines that there have been no substantial changes to any federal, state, or local law that would affect the Project.

20. EXPIRATION. Vesting Tentative Tract Map: The exercise of rights granted in such approval shall be commenced within two (2) years after the adoption of such resolution unless otherwise extended.

21. EXPIRATION. Development Plan Review and Density Bonus Permit: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution unless otherwise extended.

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

23. This approval is for those plans submitted to the City Council on September 20, 2016, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval.

24. Minor amendments to the plans shall be subject to approval 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 City Council or Director of Community Development.

25. 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.

26. APPROVAL RUNS WITH LAND. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

27. Prior to the issuance of a building permit, all applicable Park and Recreation Facilities Taxes required by the Municipal Code shall be paid.

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

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

30. The Applicant shall protect all existing street trees adjacent to the subject site during construction of the 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 first obtained.

31. 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.

32. 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.

33. 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.

34. The Applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.

35. 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.

36. 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.

37. The Applicant shall obtain the appropriate permits from Civil Engineering for the placement of construction canopies, fences, etc., for 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.

38. 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.

39. Condensation from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.

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Section 11. 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 Council of the City.

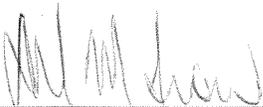
Adopted:

JOHN A. MIRISCH
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
Director of Community Development