



## STAFF REPORT

**Meeting Date:** October 18, 2016

**To:** Honorable Mayor & City Council

**From:** Ryan Gohlich, AICP, Assistant Director of Community Development

**Subject:** Request by Mayor Mirisch for City Council Review of the Planning Commission's Decision Approving Construction of a New Restaurant at 250-260 North Canon Drive.

**Attachments:**

1. Municipal Code Excerpts BHMC Section 1-4-201, et seq.
2. Draft Planning Commission Resolution approving a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit
3. Draft Planning Commission Resolution recommending a Zone Text Amendment to the City Council
4. September 26, 2016 Planning Commission Staff Report

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### BACKGROUND

Mayor Mirisch has requested this item be placed on the City Council's agenda to determine if there is Council support to call up for review the subject Planning Commission decision regarding a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit for a new restaurant. If the City Council orders the review, this matter would be scheduled for consideration at a future public hearing.

The Planning Commission conducted public hearings on the proposed project on September 19, 2016 and September 26, 2016. The proposed project requires the following approvals:

1. A Zone Text Amendment, which the Planning Commission has recommended to the City Council and is tentatively scheduled for public hearing by the City Council on November 1, 2016, and
2. Three discretionary permits—a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit—which the Planning Commission has conditionally approved. These approvals are contingent upon City Council adoption of the proposed Zone Text Amendment.

### DISCUSSION

The proposed project consists of a new, three-story restaurant with a subterranean parking garage on the southern portion (currently a surface parking lot) of the site located at 250-260 North Canon Drive. The northern portion of the site is occupied by an

existing office building that would remain. The new restaurant would be approximately 12,000 square feet and would have folding window systems, a retractable roof, and an interior courtyard with open air dining. The required parking for the entire site—both the existing office building and the new restaurant—would be provided by four (4) accessible parking spaces at grade off the alley and 102 parking spaces in a valet-operated subterranean alternative parking facility that would use automobile elevators, mechanical parking lifts, and aisle parking.

In order to be constructed and operated as proposed, the project requires a Zone Text Amendment to allow an alternative parking facility—which uses mechanical parking lifts and/or automobile elevators to store vehicles—to provide required parking in a commercial zone with approval of a Conditional Use Permit. On September 26, 2016, the Planning Commission adopted a resolution recommending the City Council adopt such an ordinance as a pilot program (for up to two projects). The first reading of this draft ordinance is tentatively scheduled for the City Council's formal meeting on November 1, 2016.

In addition, the project requires approval of a Conditional Use Permit to allow use of an alternative parking facility to provide required parking, an Open Air Dining Permit for approximately 6,250 square feet of outdoor dining on private property, and an Extended Hours Permit to allow the restaurant to accept patrons until 1:00 a.m. daily and to operate until 1:30 a.m. daily. On September 26, 2016, the Planning Commission adopted a resolution conditionally approving these permits, contingent upon approval of the Zone Text Amendment by the City Council. It is this resolution that the City Council is considering calling up for review.

The Resolutions adopted by the Planning Commission are attached hereto to provide a more detailed explanation of the Commission's determinations<sup>1</sup> as to the Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit as well as the Commission's recommendation of the Zone Text Amendment. Also attached is the September 26, 2016 Planning Commission staff report, which provides a more detailed description of the project.

Pursuant to Beverly Hills Municipal Code Section 1-4-201, et seq., the City Council may order a review of any decision made by any commission, board, or official of the city. The process to initiate this review and set a hearing is specifically set forth in the municipal code, and those provisions are attached for reference.

The City Council must order any review within 30 days of the Planning Commission's approval, which was on September 26, 2016. If a review is ordered, the Planning Commission's action will be stayed until the Council review is final.

The decision to order a review at the October 18<sup>th</sup> City Council Meeting shall be limited to the question of whether to call the Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit up for a hearing before the City Council at a future formal meeting, and shall not include any evaluation or assessment of the merits or

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<sup>1</sup> The Resolutions adopted by the Planning Commission are pending final signatures. Drafts of the adopted Resolutions are attached to this report for reference.

Meeting Date: October 18, 2016

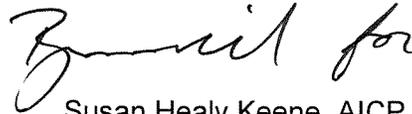
circumstances of the case or the Planning Commission's action. That discussion would take place at a noticed public hearing at an upcoming Council meeting.

**FISCAL IMPACT**

The recommendation in this report does not have significant budget or fiscal impacts for the City. It is noted that a City Council public hearing will result in cost to the City associated with public notices. The public notice cost would total approximately \$3,000.00 and would be appropriated from the City Clerk's budget.

**RECOMMENDATION**

It is recommended that the City Council make a determination as to whether or not the subject Planning Commission action will be called up for review. If the City Council determines to review the Conditional Use Permit, Open Air Dining, and Extended Hours Permit, it is recommended that the hearing be scheduled on the same day as the public hearing on the Zone Text Amendment Ordinance regarding alternative parking facilities. The Zone Text Amendment hearing is tentatively scheduled for November 1, 2016.



Susan Healy Keene, AICP

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Approved By

## **Attachment 1**

Municipal Code Excerpts BHMC  
Section 1-4-201, et seq.

## **Article 2. Council Ordered Review of Administrative Decisions**

### **1-4-201: RIGHT TO REVIEW:**

The council may order a review of any decision made by any commission, board, or official of the city, except as otherwise provided in this code. Such review may be ordered by motion of the council duly adopted within thirty (30) calendar days after the issuance of the decision. If the council orders a review of a decision, the effectiveness of such decision shall be stayed until council review is final. (1962 Code § 1-6.201; amd. Ord. 94-O-2211, eff. 9-2-1994)

### **1-4-202: SETTING HEARINGS:**

Upon the adoption of an order for a review of a decision, the mayor shall fix a time and place for the hearing. At least ten (10) days prior to the hearing, written notice shall be mailed to the applicant and such other persons who appeared and addressed the board, commission, or official at the previous hearing on the matter, and such other notice as required by law for the previous hearing shall also be given. (1962 Code § 1-6.202)

### **1-4-203: HEARINGS BY THE COUNCIL:**

Unless otherwise ordered and noticed, hearings shall be held as a part of the regular meetings of the council. The hearings shall be do novo in that an independent reexamination of the matter shall be made. The council may decide the matter upon the record or may take additional evidence. Any oral or documentary evidence may be received, but the mayor shall exclude irrelevant, immaterial, or unduly repetitious evidence. It shall not be a ground for objection that the evidence is hearsay or secondary, but the council's decision shall be made upon substantial evidence. (1962 Code § 1-6.203)

### **1-4-204: DECISIONS AND FINDINGS:**

The provisions of sections 1-4-107 and 1-4-108 of this chapter shall be applicable to the decisions of the council. (1962 Code § 1-6.204)

## **Attachment 2**

Draft Planning Commission Resolution approving a  
Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT FOR AN ALTERNATIVE PARKING FACILITY AND JOINT USE OF PARKING FACILITIES, AN OPEN AIR DINING PERMIT, AND AN EXTENDED HOURS PERMIT FOR THE PROPERTY LOCATED AT 250-260 NORTH CANON DRIVE.

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

Section 1. Murray D. Fischer, agent on behalf of Neu Investment Corporation (the “Applicant”), has submitted an application for a Conditional Use Permit to allow an Alternative Parking Facility to provide required parking, an application for an Open Air Dining Permit, and an application for an Extended Hours Permit associated with the construction of a new restaurant on the property located at 250-260 North Canon Drive (the “Project”). The Project does not meet all by-right development and operational standards, and therefore requires entitlements that can be granted by the Planning Commission pursuant to the issuance of a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit.

Section 2. The Project site is located on the eastern side of the City’s business triangle, on the east side of the 200 block of North Canon Drive, between Dayton Way and Clifton Way. The site consists of Lots 3 and 4 of Block 12 of Tract Beverly, which are tied together. The north portion of the overall site (Lot 3) is currently developed with an approximately 15,680-square-foot, three-story commercial office building originally permitted in

1940 with major alterations and additions in 1957. The south portion of the site (Lot 4) is currently a surface parking lot with 22 parking spaces serving the existing office building. An additional six (6) parking spaces exist at the rear of the existing building off the alley. A covenant dated December 12, 1956 stipulates that Lot 4 shall provide parking to serve the structure built on Lot 3 for the life of said structure.

The proposed Project consists of a new, three-story building with three levels of subterranean parking for a new restaurant located on the southern (Lot 4) portion of the project site. The Project would retain the existing office building on the north (Lot 3) portion of the site with some modifications to accommodate accessible paths to parking and the new adjacent building. The new restaurant would include the following elements:

- Maximum height of three stories and 45' as defined by the Beverly Hills Municipal Code (BHMC) §10-3-100.
- Floor area of approximately 12,000 square feet, with total floor area on the project site (existing building + new building) not to exceed 28,550 square feet or 2.0 FAR.
- Dining and bar areas that can accommodate approximately 216 patrons within the building and in an outdoor courtyard.
- Dining rooms and kitchens on each of the three above-ground levels. Bars on the ground floor and third floor. Folding window systems on each dining room level that create large openings onto the courtyard area, and a retractable roof over the third floor dining and bar area.

- Open air dining consisting of a ground floor courtyard, separated from the street and alley by building walls and open to the sky, and the dining rooms within the restaurant that can be opened to the outside due to the folding window systems and retractable roof. This requires approval of an Open Air Dining Permit.
- Proposed hours to accept patrons are:
  - Sunday to Thursday: 11:00 a.m. to 11:00 p.m.;
  - Friday and Saturday: 11:00 a.m. to 12:00 a.m. midnight; and
  - Daily – 3<sup>rd</sup> floor lounge only: 5:00 p.m. to 1:00 a.m.

This requires approval of an Extended Hours Permit to accept patrons after 10:00 p.m. daily. The restaurant is conditioned to cease operations at 1:30 a.m. daily.

- Parking:
  - 106 total on-site parking spaces, including 102 parking spaces in a three-level underground alternative parking facility and four (4) surface parking spaces behind the existing building off the alley.
  - A 100% valet-operated alternative parking facility with two automobile elevators used to enter the parking facility from the alley and three subterranean levels with mechanical parking lifts and aisle parking on each level. The alternative parking facility requires adoption of a Zone Text Amendment and approval of a Conditional Use Permit.

- Joint use of parking between a primarily daytime (office) and primarily nighttime (restaurant) use. Twenty-five percent (25%) of the office's required parking spaces are proposed to be jointly used by the restaurant. This joint use requires approval by the Planning Commission.
- The 28 parking spaces existing on the project site would continue to be provided within the 102-parking-space subterranean alternative parking facility and the four (4) accessible parking spaces at the rear of the existing building off the alley.

The requested Zone Text Amendment to allow an alternative parking facility to provide required parking with issuance of a Conditional Use Permit is separately addressed and recommended by Planning Commission Resolution No. \_\_\_\_ for approval by the City Council. Development of the Project is contingent on the City Council adopting an ordinance approving a Zone Text Amendment that is substantially similar to the language recommended by the Planning Commission, and that ordinance becomes effective.

Section 3. This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.), 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 5 Categorical Exemption pursuant to Section 15305 of the State CEQA Guidelines for minor alterations in land use regulations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. The proposed Zone Text Amendment would

allow an alternative parking facility—involving automobile elevators and/or mechanical parking lifts—to be used to provide required parking for commercial uses in commercial zones through approval of a Conditional Use Permit. Both the city as a whole and the commercially-zoned areas of the city have an average slope of less than 20%. The project also qualifies for a Class 32 Categorical Exemption pursuant to Section 15332 of the State CEQA Guidelines for in-fill development projects, as it has been shown to meet all five requirements for in-fill development projects and would not cause a substantial adverse change in the significance of a historical resource. The Planning Commission finds that the project is exempt from the provisions of CEQA.

Section 4. 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. On September 19, 2016 and September 26, 2016, the Planning Commission considered the application at duly noticed public meetings. Evidence, both written and oral, was presented at said meetings.

Section 5. In reviewing the request for a Conditional Use Permit for an alternative parking facility and joint use of parking facilities of a primarily daytime use by a primarily nighttime use, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The proposed location of the alternative parking facility and joint use of parking facilities will not be detrimental to adjacent property or to the public welfare;

2. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable parking solution to provide code-required parking;

3. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;

4. The proposed alternative parking facility and operation thereof will not create any significantly adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

Section 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Conditional Use Permit for an alternative parking facility and joint use of parking facilities of a primarily daytime use by a primarily nighttime use:

1. The alternative parking facility is proposed to be located on a commercial site that is surrounded by other commercial properties and separated by an alley from the Multiple-Family Residential-Commercial Parking (RMCP) zone. Parking will be 100% valet-operated, and restaurant patrons and office visitors will drop-off and pick-up vehicles on North Canon Drive in front of the proposed restaurant. Employees of the office and restaurant will drop-off and pick-up vehicles in the alley. The parking facility will be accessed from the alley. Potential issues regarding queuing and staging within the alley as vehicles wait to enter the automobile elevators are to be managed by leasing 13 surface parking spaces off the alley on the property located at 270 N. Canon Drive, where vehicles can be stored

temporarily during high-volume times (after 5:30 p.m. on weekdays and all day on weekend days). The Traffic Impact Study and environmental assessment demonstrate that traffic impacts in the alley and on surrounding streets due to the parking operations will not be significant. Noise and vibrations in the alley will result from vehicles being driven, however noise from the alternative parking facility mechanisms will not be significant because the garage is subterranean and fully enclosed. The location of the alternative parking facility will not be detrimental to adjacent properties, uses, or the public welfare.

2. The Project site consists of two tied lots, which total approximately 100' wide by 143' deep. The north lot is currently developed with a commercial office building that the Applicant intends to maintain. This leaves a 50' wide area (currently a surface parking lot) available for development. Subterranean or elevated parking with a standard ramp and parking space configuration is extremely difficult to fit in a space that is 50' wide. In particular, accommodating the 106 parking spaces required by the proposed Project in a space this size would require excavation to a depth that is not feasible. The use of an alternative parking facility that provides the Project's full parking requirement and includes two automobile elevators, mechanical parking lifts, aisle parking, and is 100% valet-operated is a reasonable solution given the site's physical constraints resulting from the available lot size, existing building, and quantity of required parking spaces.

3. The use of the proposed alternative parking facility allows almost all of the required parking to be provided in a subterranean garage, and specifically the use of automobile elevators results in a building that does not have to be designed

around large ramps. Both the alternative parking facility and the four (4) disabled access parking spaces will be accessed from the alley at the rear of the Project site. Surface parking is limited to that which is required to provide disabled accessibility, which enhances the urban form of the Project site and character of the surrounding area. Use of the alley will increase, however the alley already exclusively serves commercial and mixed-use buildings. The curb cut and driveway that exists on North Canon Drive in front of the Project site will be eliminated, creating a better pedestrian environment. Furthermore, the provision of all required parking on-site reduces the potential parking impacts of the Project on the surrounding neighborhood. Accordingly, the use of the proposed alternative parking facility thus enhances the design of the Project and will not result in substantial adverse impacts to the character of the surrounding area.

4. Providing all of the 106 required parking spaces on-site limits the distance valet operators will have to travel in vehicles to the parking location, thereby limiting the total miles traveled in the business triangle. It also reduces demand for public parking facilities by Project employees and patrons, because sufficient parking will be provided on-site. The valet circulation route is reasonable and efficient and consists of only right turns. It includes an area for temporarily staging vehicles in leased parking spaces at 270 N. Canon Drive at the north end of the alley to avoid vehicles queuing for the automobile elevators in the alley. The main opportunities for pedestrian-vehicle conflicts are at intersections of streets and alleys where the valets will be making right turns. Valet operators will need to be watchful for pedestrians as does any driver. The proposed alternative parking facility and operation thereof is not

anticipated to create any significantly adverse safety hazards or impacts to traffic, parking, or pedestrians.

Section 7. In reviewing the request for an Open Air Dining Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The proposed open air dining use is consistent with the general plan and any specific plans adopted for the area.

2. The proposed open air dining use will not adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area.

3. The nature, configuration, location, density, and manner of operation of any open air dining use proposed will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

4. The proposed open air dining use will not create any significant traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will not impede the safe and orderly flow of pedestrians along the public right of way.

5. The proposed open air dining use will not create any significantly adverse parking impacts as a result of employee or patron parking demands.

6. The proposed open air dining use will not create any significantly adverse impacts on neighboring properties as a result of:

- a. The accumulation of garbage, trash or other waste;
- b. Noise created by operation of the restaurant or by employees or visitors entering or exiting the restaurant;
- c. Light and glare; or
- d. Odors and noxious fumes.

7. The proposed open air dining use will not be detrimental to the public health, safety, or general welfare.

Section 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Open Air Dining Permit:

1. The proposed open air dining use is consistent with the general plan, and specifically promotes Policy LU 9.1 and Policy LU 11.3 of the general plan, which state:

LU 9.1. Uses for Diverse Customers. Accommodate retail, office, entertainment, dining, hotel, and visitor-serving uses that support the needs of local residents, attract customers from the region, and provide a quality experience for national and international tourists.

LU 11.3. Retail Street Frontages. Require that development and street frontages in districts containing retail uses be designed and developed to promote pedestrian activity including: (a) location and orientation of the building to the sidewalk; (b) transparency of and direct access to the ground floor elevation from the sidewalk; (c) articulation of street-facing elevations to promote interest and sense of quality; (d) inclusion of uses and public spaces that extend interior functions to the

sidewalk such as cafes and plazas; and (e) use of pedestrian oriented signage and lighting.

The proposed open air dining—both the courtyard and operable windows and roof of the building—is an integral part of the high-end dining experience the Applicant intends to provide. The design of the restaurant including the indoor-outdoor feel will help provide the type of unique experience that will attract patrons from the region as well as national and international tourists. In addition, although the open air dining areas do not occupy or open onto the public sidewalk, the transparency of the front façade and interior dining rooms that open into the courtyard will provide a quality, engaging pedestrian environment.

2. The proposed open air dining will be established on private property within the new restaurant building and in a courtyard surrounded by building walls. The open air dining will be fully contained on the southern portion of the Project site. As establishment of the restaurant and open air dining consists of replacing a surface parking lot with a new high-end commercial building, the open air dining will help to promote harmonious development of the area.

3. A mixed-use building with approximately 150 senior housing units is located to the east of the Project site across a 20'-wide alley. The open air dining areas will be located toward the west side of the Project site and shielded from the alley by the kitchen and back-of-house portions of the restaurant building. A condition of approval requires that the folding window systems on the third floor and retractable roof be closed at or before 10:00 p.m. daily. The open air dining will be separated from the residential uses by approximately 80' (rear of the restaurant

building, alley width, and residential setback) and sufficiently shielded by building walls such that noise from the open air dining will not significantly and adversely impact the residential properties in the vicinity.

4. The proposed open air dining will be located entirely on private property and shielded from the public right-of-way. The Project as a whole will have a 100% valet-operated parking system to manage the vehicles of employees and patrons of the Project. The Planning Commission has reviewed the proposed valet circulation route, plans for staging vehicles in leased parking spaces at 270 N. Canon Dr., plans for the alternative parking facility, and a Traffic Impact Study prepared by the Applicant and determined that the Project will not create significant traffic impacts or safety hazards. The valet operation will be required to obtain a valet permit from the City. Thus the open air dining will not create any significant impacts to traffic or pedestrians.

5. Because the proposed open air dining will be located on private property, the Project is required to provide parking for the open air dining in the same way parking is required for indoor uses. The Project is providing the code-required number of parking spaces on-site in a valet-operated alternative parking facility. Employees and patrons of the Project site may have their vehicles parked in the on-site parking facility; therefore the Project and the open air dining will not create significant adverse parking impacts in the surrounding area.

6. The proposed open air dining use must be operated in accordance with the City's commercial-residential transition area requirements. It is located within a commercial district that provides all necessary public services and also

contains other dining establishments, and will therefore not result in the accumulation of garbage, trash, or other waste. The folding window systems on the third floor and the retractable roof must be closed by 10:00 p.m. daily to mitigate any noise or light that could otherwise emanate from the restaurant. The kitchen and back-of-house areas will not have operable windows facing the adjacent RMCP zone. Therefore, it is not anticipated to result in significantly adverse impacts on neighboring properties related to trash, noise, light and glare, or odors.

7. The proposed open air dining use will be located entirely on private property and has been designed in accordance with, and is conditioned to comply with, applicable operational standards for the commercial-residential transition area. Therefore, the open air dining use is not anticipated to be detrimental to the public health, safety, or general welfare.

Section 9. In reviewing the request for an Extended Hours Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The Project would substantially disrupt the peace and quiet of the adjacent neighborhood as a result of any of the following:

a. The accumulation of garbage, litter, or other waste, both on and off of the subject site;

b. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;

c. Light and glare;

- d. Odors and noxious fumes;
- e. Pedestrian queuing;
- f. Crime or peril to personal safety and security;
- g. Use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area;
- h. Effects on traffic volumes and congestion on local residential streets; and
- i. Cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 10. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Extended Hours Permit:

1. The requested extended hours are related to the interior and open air dining and the Project's valet operation. Open air dining will be shielded from adjacent residential and commercial properties during extended hours by the building walls and roof. Project operations will comply with the commercial-residential transition area requirements, including the prohibition on employees congregating behind the buildings or in the alley. The extended hours are not expected to substantially disrupt the peace and quiet of the neighborhood, based on the following:

- a. The Project is located within a commercial district that provides all necessary public services and also contains other dining

establishments. The Project has an interior room for trash collection and will comply with the operational requirements regarding refuse disposal during extended hours. Therefore, the Project will not result in the accumulation of garbage, trash, or other waste.

b. The subject property is surrounded by commercial development to the north, south, and west. Residential development is located across the alley to the east of the project site. The restaurant's extended hours operations will take place indoors or toward the west end of the site where they are shielded by other parts of the building, and a condition of approval requires that the third story folding window systems and retractable roof are closed by 10:00 p.m. daily to limit emissions of noise during extended hours. Vehicle circulation will occur by valet. Compliance with all operational requirements of the commercial-residential transition area is also required. With the incorporation of conditions of approval related to closing up the third floor of the building, prohibiting congregation of people in the alley, and limiting the hours of other noisy activities (e.g. trash, deliveries), the extended hours operation will not result in adverse impacts to surrounding properties because of noise.

c. The project is located in a commercial zone with a mixed use building occupying the property across the alley. Lighting of street-level activities during extended hours is appropriate in this area. The roof is conditioned to be closed by 10:00 p.m. daily. Thus light and glare from the Project are not anticipated to disrupt the peace of the neighborhood.

d. The proposed extended hours would not result in any added odors or noxious fumes beyond what would otherwise exist from the operation of the restaurant. Therefore, the extension of the hours of operation until 1:30 a.m. daily is not anticipated to create any adverse impacts related odors and noxious fumes.

e. The proposed use functions as a high-end restaurant and is not anticipated to result in pedestrian queuing. Furthermore, any patrons entering the restaurant or retrieving their vehicles from the valet station will be on the sidewalk on North Canon Drive, which is 15' wide and can accommodate passage of pedestrians around obstacles such as the valet stand.

f. The requested Extended Hours Permit is related to the operation of a restaurant and parking facility on a commercial site in the business triangle. Because patrons are typically contained within the subject property and vehicles will be parked in an enclosed, on-site garage, the proposal is not anticipated to result in added crime or peril to personal safety and security.

g. The proposed Project will provide all of its code-required parking on-site in a 100% valet-operated facility, which will generally prevent patrons and employees from parking elsewhere on residential streets. In the event that an employee or patron does not use valet parking, sufficient public parking exists in parking garages in the immediate area to accommodate this. For these reasons, the extended hours use is not anticipated to result in parking intrusion into the residential areas.

h. Restaurant operations during extended hours would primarily generate vehicle trips on streets in a commercial area and the alley separating the commercial zone from the RMCP zone. Furthermore, traffic volumes after 10:00 p.m. are typically low, and the City's streets and alley can accommodate the extended hours operation without impacts on traffic volumes and congestion on local residential streets.

i. The Project is located on North Canon Drive, which is a commercial street primarily comprised of retail, restaurant, and office uses. While the retail and office uses generally do not operate beyond 10:00 p.m., many of the restaurants are open later. However, many of these restaurants are on the west side of the street where the hours of operation are not regulated because the properties are more than 170' from a residential or RMCP zone. There is sufficient parking and traffic capacity in the area after 10:00 p.m. to accommodate the various uses that are open late. The addition of extended hours at the proposed Project to the existing concentration of extended hours operations is not anticipated to result in significant cumulative impacts.

Section 11. Based on the foregoing, the Planning Commission hereby grants the requested Conditional Use Permit, Extended Hours Permit, and Open Air Dining Permit subject to the following conditions:

1. This resolution shall not become effective unless and until the associated Zone Text Amendment that would allow a reviewing authority to issue a Conditional Use Permit to allow an alternative parking facility to provide required

parking for a commercial use or uses in a commercial zone has been duly adopted by the City Council and has taken effect.

2. This approval allows an alternative parking facility to provide required parking for the existing and proposed buildings on the Project site, authorizes joint use of parking facilities, allows open air dining in several locations of the proposed restaurant, and establishes allowed extended hours of operation. Specifically:

- a. Conditional Use Permit: This Conditional Use Permit allows the Project to provide the required parking for all uses on the Project site through the use of a 100% valet-operated alternative parking facility and four (4) surface parking spaces. The alternative parking facility will contain three subterranean levels of parking beneath the new restaurant building on the south portion of the Project site. The permitted alternative parking facility will have two (2) automobile elevators that function in lieu of ramps to move vehicles from the ground level (alley) into the subterranean parking garage. Once inside the alternative parking facility, a valet will continue driving the vehicle to a mechanical lift parking space or a parking space in the drive aisle. The vehicles parked in the mechanical lift spaces may be raised and lowered such that vehicles can be stacked two high. Each of the three levels of the alternative parking facility have 28 mechanical lift parking spaces (14

lifts) and six (6) aisle parking spaces. Including the four (4) disabled access parking spaces on the surface off the alley, the Project is providing 106 parking spaces.

- b. Joint Use of Parking Facilities: 25% of the 28 parking spaces that are required for the commercial office building, which is a primarily daytime use, may be jointly used by the restaurant, which is a primarily nighttime use. Therefore the total parking requirement for the Project site is reduced by seven (7) parking spaces to a total requirement of 106 parking spaces.
- c. Open Air Dining: The approved areas for open air dining are approximately 915 square feet in the outdoor courtyard on the ground floor and approximately 5,340 square feet in the restaurant building. The courtyard will be separated from the public right-of-way by building walls and will not have a roof. The three levels of restaurant dining rooms may be fully enclosed or opened to the outside by virtue of folding window systems on all three levels and a retractable roof. The square feet of open air dining identified here include all portions of the restaurant that are outdoors or can be opened to the outside, including the dining and bar area, circulation and lobbies within that area, and serving area behind the bars.
- d. Extended Hours: The approved hours of operation for the restaurant, including the open air dining, are 11:00 a.m. to 1:30

a.m. daily. The restaurant, including open air dining, bar, and lounge areas, shall not receive any new patrons after 1:00 a.m. daily.

3. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on September 26, 2016, a copy of which shall be maintained in the files of the Community Development Department. Minor amendments to the Project, including minor changes to the number of parking spaces required and provided on-site, as determined by the Director of Community Development, shall be reviewed and approved by the Director or his/her designee. Substantive changes to the approved Project, as determined by the Director of Community Development, shall be returned to the Planning Commission for review and approval. Construction shall be in conformance with the plans approved herein or as modified by the Planning Commission or Director of Community Development.

4. 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 provisions is required prior to the issuance of a building permit.

5. Dining and bar areas in the constructed restaurant shall comply with the total square feet of dining and bar area identified in the approved plans.

6. The Project shall not have operable windows in the kitchen or back-of-house areas nor mechanical venting that faces the residential uses in the adjacent RMCP zone.

7. The folding window systems on the third floor and the retractable roof shall be closed at or before 10:00 p.m. daily. Amplified sound in the outdoor courtyard shall cease at 10:00 p.m. daily.

8. During Extended Hours (between 10:00 p.m. and 7:00 a.m. on the following weekday and between 10:00 p.m. and 9:00 a.m. on the following weekend day or holiday), the Project shall comply with all requirements set forth in BHMC §10-3-1956 regarding operational restrictions for a business located in a commercial-residential transition area.

9. Employees of the Project, including valets, shall not congregate behind the buildings or in the alley during Extended Hours. All windows and doors facing the alley and RMCP zone shall remain closed at all times during extended hours except for the immediate purpose of ingress or egress.

10. Nothing in this approval is intended to undermine or invalidate the existing covenant regarding “Automobile Parking on Lot 4, Block 12 of Beverly for Building on Lot 3, said Block and Tract,” dated December 12, 1956.

11. The number of parking spaces required shall be calculated based on the final floor area of the proposed project, including dining and bar area, when building plans are submitted for plan check. The reductions in required parking allowed by-right and authorized by the Planning Commission in this Resolution shall apply as follows:

- a. By-right: 25% of the parking spaces provided for non-dining uses (including those provided for the commercial office building, and the kitchen, back-of-house, circulation, restrooms, etc. of the restaurant) shall be applied toward the required spaces for the restaurant's dining and bar area. Based on the plans approved by the Planning Commission on September 26, 2016, this is a reduction of  $[25\% \times (28 + 26)] = 13$  spaces.
- b. Joint use of parking facilities authorized by the Planning Commission: 25% of the parking spaces provided for the commercial office, a primarily daytime use, may be jointly used by the restaurant, a primarily nighttime use. Based on the plans approved by the Planning Commission on September 26, 2016, this is a reduction of  $[25\% \times 28] = 7$  spaces.

12. The provision and configuration of disabled access parking as shown on the plans approved by the Planning Commission on September 26, 2016 is contingent upon approval from the City's Building & Safety Division during building plan check.

13. Loading space for a van, with minimum dimensions of those shown on the plans approved by the Planning Commission on September 26, 2016, shall be provided and maintained on the Project site to accommodate deliveries to the Project.

14. A maximum of six (6) aisle parking spaces shall be allowed on each of the three (3) levels of the alternative parking facility, as shown on the approved plans.

15. The dimensions of the mechanical lift parking spaces and drive aisle parking spaces shall, at a minimum, comply with the dimensions shown on the plans approved by the Planning Commission on September 26, 2016. Mechanical lift parking spaces shall be at least 19' long and 8' wide with a minimum clear width of 7'-2". At least one level of the stacked mechanical lift parking spaces shall provide a minimum parking space height of 6'-6". Drive aisle parking spaces shall be a minimum of 22' long and 9' wide.

16. Back-Up Power: Prior to issuance of building permits, the Applicant shall provide documentation that the alternative parking facility will be equipped in sufficient capacity with back-up generators to allow operation of the automobile elevators and mechanical parking lifts in case of electrical failure.

17. Redundancies: Prior to issuance of building permits, the Applicant shall provide documentation that each automobile elevator and mechanical parking lift shall be individually operable such that mechanical failure of one would not prevent use of the others.

18. Service Contract: Prior to obtaining a Certificate of Occupancy for the new restaurant building, the Applicant shall submit to the Community Development Department evidence of one or more contracts with entities that provide maintenance and 24-hour emergency service for the automobile elevators and mechanical parking lift systems installed in the alternative parking facility. The

Applicant shall maintain such contract(s) at all times throughout the life of the alternative parking facility.

19. Replacement Parts: At all times, the Applicant shall keep on-site a replacement motor and pump, gearbox, and any other parts not readily obtainable within the same calendar day.

20. Inspection Report: A maintenance inspection report and usage report for the alternative parking facility, prepared at the sole expense of the Applicant, shall be submitted within five (5) business days following a request from the Community Development Department and no less than every six months for review by the City.

21. The Applicant shall provide valet parking to all patrons and employees of the restaurant and existing commercial office building during all hours of operation. Valet charges shall be equivalent to the valet charges at Mastro's Steakhouse, which is the adjacent restaurant located at 246 North Canon Drive. In the event that Mastro's Steakhouse closes, valet charges shall be no higher than those at the nearest restaurant as designated by the Director of Community Development. Parking for employees of the restaurant, and patrons and employees of the office use, shall be provided free of charge.

22. Parking Operations Plan: Prior to issuance of a Certificate of Occupancy the Applicant shall submit an alternative parking facility operations plan for review and approval by the Director of Community Development. The plan shall describe the broadest range of operating hours allowed for the commercial use(s) to be served by the alternative parking facility; the number of parking attendants and

working hours; methods for automobile storage and retrieval during and outside of regular business hours; vehicle drop-off and pick-up location(s) for customers; vehicle circulation path; location of staging area for vehicles waiting to enter the alternative parking facility. The operations plan shall also describe, with regard to the mechanical parking lifts and automobile elevators: maintenance schedules and additional parts inventory requirements to maintain optimal operations.

23. During the operating hours of the restaurant there shall be a minimum of two (2) parking attendants on each of the three levels of the alternative parking facility at any time a level is in use. Additional parking attendants shall be stationed at the front (valet station on North Canon Drive) and rear (alley) of the Project. At other times, the number of parking attendants may be reduced as approved in the Parking Operations Plan. At a minimum, there shall always be at least one (1) parking attendant on duty whenever a car is inside the alternative parking facility.

24. A sign shall be displayed at the valet station, in a form, size, and design as approved by the Director of Community Development, disclosing that the valet utilizes an Alternative Parking Facility with automobile elevators.

25. The Applicant shall obtain a valet permit from the Public Works Department, and shall reimburse the City for any costs associated with restricting parking meter service in order to accommodate valet operations. The valet plan shall be subject to review and approval by the Director of Public Works. To the extent that valet operations occur within the public right-of-way, this approval shall be contingent on the applicant procuring and maintaining a valid valet permit. Valet vehicle staging may occur within no more than two (2) on-street parking spaces.

26. Prior to obtaining a Certificate of Occupancy for the new restaurant building, the Applicant shall submit to the Community Development Department evidence of an executed lease granting the owner and operator of the uses at 250-260 N. Canon Drive exclusive use of a minimum of thirteen (13) parking spaces in the surface parking lot located at the rear of the property at 270 N. Canon Drive, specifically including those parking spaces immediately adjacent to the alley. The hours of the lease shall be, at a minimum, Monday through Friday: between the hours of 5:30 p.m. and 1:00 a.m. the following day; and Saturday and Sunday: between the hours of 1:00 a.m. and 1:00 a.m. the following day. Should the leased spaces become unavailable during the lifetime of this CUP, prior to expiration of the lease, a new lease with the same terms for spaces at an alternate location shall be secured, subject to review and approval by the Director of Community Development. Alternatively, modification of this condition, to allow a different number of leased parking spaces for staging purposes, shall be reviewed by the Planning Commission.

27. 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.

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

29. After one (1) year of operation of the alternative parking facility, the Applicant shall present the City with a study of the parking operation for informational purposes. The study shall at a minimum include information regarding valet circulation on the public right-of-way, staging and queuing of vehicles entering

and exiting the alternative parking facility, movement of vehicles within the garage, maintenance needs of the facility over the first year of operation, and occupancy of the provided parking spaces. The study shall be submitted to the Planning Division of the Community Development Department.

30. The City expressly reserves jurisdiction relative to traffic, parking, loading, and noise issues and the right to impose additional conditions as necessary to mitigate any other unanticipated impacts caused by the proposed Project as they arise. In the event that the Director of Community Development determines operation of the Project is having unanticipated impacts, the Director shall require the Applicant to provide, at their sole cost, a traffic, parking, loading demand, and/or noise analysis to study the impacts. If, in the opinion of the Director, the traffic, parking, loading, and/or noise issues merit review at a public hearing, the full cost of the review hearing and the implementation of any additional conditions or mitigation measures shall be paid for by the Applicant.

31. The Conditional Use Permit, Open Air Dining Permit, and Extending Hours Permit shall be reviewed by the Planning Commission one year after operations have commenced to determine whether operations are causing any adverse impacts and whether additional or revised conditions should be imposed.

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

33. At their sole cost, the Applicant shall remove the existing curb cut from North Canon Drive to the existing surface parking lot and replace the sidewalk adjacent to 250-260 N. Canon Drive in accordance with the City's standard-plan

details. In addition, the Applicant shall repair and/or replace the paving in the alley adjacent to the Project site as needed at the end of construction and prior to issuance of a Certificate of Occupancy.

34. 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.

35. 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.

36. The Applicant shall obtain the appropriate permits from the Civil Engineering Department for the placement of construction canopies, fences, etc., and construction of any improvements in the public right-of-way, and for use of the public right-of-way for staging and/or hauling any equipment and materials related to the Project.

37. The Applicant shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liabilities, losses, damages, or injuries, to property or persons, including any loss or wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of the Applicant, its officers, employees, agents, contractors, or subcontractors, or arising out of mechanical failure or other occurrence, in connection with this Conditional Use Permit and the Alternative Parking Facility. The Applicant

shall obtain, and submit evidence of, adequate insurance against liability, damage, destruction of property, or loss, with the City named as an additional loss payee.

38. 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.

39. RECORDATION. This Resolution 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 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.

40. EXPIRATION. Conditional Use Permit, and Extended Hours Permit: The exercise of rights granted herein shall be commenced within three (3)

years after the adoption of such resolution unless otherwise extended. Open Air Dining Permit: The exercise of rights granted herein shall be commenced within three (3) years after the adoption of this resolution unless otherwise extended. **The Open Air Dining Permit shall be valid for a period of five (5) years from the time of commencement of the exercise of rights granted, and may be renewed for additional five (5) year periods on the same terms and conditions as set forth in this original approval.**

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

42. APPROVAL RUNS WITH LAND. The conditions set forth in this Resolution shall run with the land and shall remain in full force for the duration of the life of the Project.

Section 14. 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:

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Farshid Joe Shooshani  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

---

Ryan Gohlich, AICP  
Secretary of the Planning Commission

Approved As To Form:

Approved As To Content:

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David M. Snow  
Assistant City Attorney

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Ryan Gohlich, AICP  
Assistant Director / City Planner  
Community Development Department

### **Attachment 3**

Draft Planning Commission Resolution recommending a  
Zone Text Amendment to the City Council

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO CONDITIONALLY ALLOW ALTERNATIVE PARKING FACILITIES TO PROVIDE REQUIRED PARKING IN COMMERCIAL ZONES SUBJECT TO A CONDITIONAL USE PERMIT.

WHEREAS, the Planning Commission has considered proposed amendments to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the “Amendments”); and

WHEREAS, the Planning Commission conducted duly noticed public hearing on September 19, 2016, which was continued on September 26, 2016, at which time it received oral and documentary evidence relative to the proposed Amendments; and

WHEREAS, the Planning Commission finds that the proposed Amendments will result in a benefit to the public interest, health, safety, morals, peace, comfort, convenience, or general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan; and

WHEREAS, the Planning Commission, at the September 26, 2016 hearing, also considered conditionally approving a Conditional Use Permit to permit use of an alternative parking facility to provide required parking on the property located at 250-260 North Canon Drive as would be permissible should the proposed zone text amendments be approved;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 *et seq.*), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*), and the environmental regulations of the City. The Planning Commission finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 (Class 5) of Title 14 of the California Code of Regulations. The Class 5 exemption is applicable to the Amendments because the Amendments result in minor changes in land use limitations regarding the manner in which parking is provided, and applies only to properties with an average slope not exceeding 20%. Thus, the Planning Commission hereby finds that the Amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15305.

Section 2. The Planning Commission does hereby find that the proposed Amendments are intended to provide flexibility for properties in commercial zones that wish to utilize mechanical parking lifts and/or automobile elevators to provide required parking. This is accomplished by allowing the Planning Commission, on a case-by-case basis, to issue a Conditional Use Permit to allow the establishment of an alternative parking facility that provides required parking, provided that the proposed alternative parking facility and the use(s) it serves are located in a commercial zone, is 100% valet-operated, and meets other specific criteria. For

these reasons, the Amendments serve to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

Section 3. The Planning Commission does hereby recommend to the City Council adoption of an ordinance amending the Municipal Code to incorporate provisions substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. 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:

\_\_\_\_\_  
Farshid Joe Shooshani  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

\_\_\_\_\_  
Ryan Gohlich, AICP  
Secretary of the Planning Commission

Approved As To Form:

Approved As To Content:

\_\_\_\_\_  
David M. Snow  
Assistant City Attorney

\_\_\_\_\_  
Ryan Gohlich, AICP  
Assistant Director / City Planner  
Community Development Department

**EXHIBIT A**

6 pages excluding this cover

***Amend BHMC §10-3-100: WORDS DEFINED to add the following in alphabetical order:***

ALTERNATIVE PARKING FACILITY: An off-street parking facility in which vehicular storage is accomplished with mechanical parking lifts and/or automobile elevators that are operated by a valet or other driver. An alternative parking facility shall not be a fully automated parking facility that uses mechanical systems to hoist individual vehicles from receiving areas to separate automobile storage areas without a driver.

AUTOMOBILE ELEVATOR: An elevator used to move vehicles vertically into and between levels of a parking garage in lieu of the use of ramps.

MECHANICAL PARKING LIFT: An elevating device that enables the positioning of a vehicle above or below another parking space in a stacked (vertical tandem) fashion.

***Amend BHMC §10-3-1604: CONDITIONALLY PERMITTED USES (C-3 zone)***

***to add the following in alphabetical order:***

Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4

***Amend BHMC §10-3-1702: CONDITIONALLY PERMITTED USES (C-3A zone)***

***to add the following in alphabetical order:***

Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4

***Amend BHMC §10-3-1802: CONDITIONALLY PERMITTED USES (C-3B zone)***

***to add the following in alphabetical order:***

Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4

***Amend BHMC §10-3-2003: CONDITIONALLY PERMITTED USES (C-5 zone)***

***to add the following in alphabetical order:***

Alternative parking facilities used to provide required parking for commercial uses, excluding medical uses, pursuant to section 10-3-2730.4

**Add BHMC §10-3-2730.4 to Article 27 of Chapter 3 of Title 10 of the BHMC:**

**10-3-2730.4: ALTERNATIVE PARKING FACILITY**

An alternative parking facility, as defined in section 10-3-100, may be used to meet the parking requirements of section 10-3-2730 provided the alternative parking facility and the use(s) for which it provides required parking do not include medical uses and are located in a commercial zone on property with a site area not exceeding sixteen thousand (16,000) square feet, and subject to the following:

- A. Conditional use permit required. A conditional use permit, issued pursuant to the provisions of article 38 of this chapter, shall be obtained prior to any alternative parking facility commencing provision of required parking spaces for any use.
- B. Standards. All alternative parking facilities authorized by a conditional use permit shall comply with the following standards:
  1. Except for required ingress and egress, all alternative parking facilities shall be fully enclosed. Alternative parking facilities and portions of buildings that contain alternative parking facilities shall be subject to Architectural Review;
  2. Staging and queuing of vehicles shall occur on private property and shall not impede travel and access within the public right-of-way;
  3. The alternative parking facility shall be operated by one or more parking attendants, as determined through the conditional use permit process, at all times during the hours of operation, so that it is valet-operated to service the use needs of the commercial facility for which it provides required parking;
  4. The design of the alternative parking facility shall meet all applicable California building codes, as approved by the community development department;
  5. An alternative parking facility shall comply with all applicable development standards, including those set forth in Article 16.5 of this chapter, and excluding the City's minimum parking standards if modifications to those standards are approved as part of the conditional use permit;
    - a. The reviewing authority may condition an alternative parking facility to modify standards relating to minimum parking stall size, minimum drive aisle width, and drive aisle parking spaces, provided the applicant demonstrates that the facility will accommodate a range of vehicle types

and will not have an adverse impact on the efficiency of the parking operation or the safety of people or property.

C. Information required for application. Application submittals for an alternative parking facility conditional use permit shall include information that the director of community development deems to be necessary to determine whether the alternative parking facility can adequately meet the parking needs of the proposed development and determine that no substantial negative impacts will result from the facility. At a minimum, the following shall be provided as part of the conditional use permit application:

1. Site Plan: Submittal of a site plan prepared by a design professional indicating all structures; the alternative parking facility location; number of required parking stalls; site ingress and egress; proposed queuing location; and the identification of adjacent land uses;
2. Operations Plan: Submittal of an alternative parking facility operations plan describing the broadest range of operating hours allowed for the commercial use(s) to be served by the alternative parking facility; the number of parking attendants and working hours; methods for automobile storage and retrieval during and outside of regular business hours; vehicle drop-off and pick-up location(s) for customers; vehicle circulation path; location of staging area for vehicles waiting to enter the alternative parking facility. The operations plan shall also describe, with regard to the mechanical parking lifts and automobile elevators: maintenance schedules and additional parts inventory requirements to maintain optimal operations;
3. Technical Studies: Submittal of technical studies demonstrating that the proposed design and operation of the alternative parking facility will not be detrimental to surrounding uses and properties with regard to noise, visual impacts, area parking and circulation, and existing on-site improvements;
4. Disabled Access Parking: Submittal of evidence that the parking provided will comply with all applicable disabled access requirements;
5. Back-Up Power: Prior to issuance of building permits, the applicant shall provide documentation that the alternative parking facility will be equipped with back-up generators with sufficient capacity to allow operation of the parking system in the case of electrical failure. In an alternative parking facility with multiple automobile

elevators, mechanical lifts, or both, each elevator and lift shall be individually operable such that mechanical failure of one would not prevent use of the others.

D. Findings. In addition to the findings outlined in article 38 of this chapter, a conditional use permit shall only be issued if the planning commission finds that:

1. The proposed location of the alternative parking facility will not be detrimental to adjacent property or to the public welfare;
2. Due to circumstances such as lot size, lot shape, lot location, or other existing conditions of the site, the applicant has demonstrated that an alternative parking facility is a reasonable method of providing code-required parking;
3. The use of an alternative parking facility enhances the design of the proposed project and does not result in a substantial adverse impact to the character of the surrounding area;
4. The proposed alternative parking facility and operation thereof will not create any significantly adverse traffic or parking impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

E. Conditions of Approval. The reviewing authority may impose any conditions that are necessary to address any potential adverse impacts resulting from the constriction and use of an alternative parking facility to provide required parking, including but not limited to:

1. Inspection Report: A maintenance inspection report and usage report for any alternative parking facility, prepared at the sole expense of the applicant, shall be submitted at any time upon request from the community development department and no less than every six months for review by the city.
2. Service Contract: The owner of the alternative parking facility shall at all times maintain one or more contracts with an entity or entities that provides maintenance and 24-hour emergency service for the all aspects of the alternative parking facility, including but not limited to any automobile elevators and mechanical parking lifts installed in the alternative parking facility.

F. The conditional use permit for an alternative parking facility authorized by this section 10-3-2730.4 is a pilot program. The city council or planning commission may take action pursuant to this section 10-3-2730.4 on up to two (2) applications. Unless the city council

extends this section 10-3-2730.4. this section 10-3-2730.4 shall be repealed at such time as two (2) applications have been submitted to and approved by the city.

**Attachment 4**

Planning Commission Staff Report  
September 26, 2016



## Planning Commission Report

**Meeting Date:** September 26, 2016

**Subject:** **250-260 North Canon Drive  
Zone Text Amendment, Conditional Use Permit, Open Air Dining  
Permit, and Extended Hours Permit (PL1609328)**

Request for a Zone Text Amendment to allow alternative parking facilities that may use automobile elevators, mechanical lift parking, and aisle parking to provide required parking in commercial zones through a Conditional Use Permit. The proposed project includes a request for a Conditional Use Permit, Open Air Dining Permit, and Extended Hours Permit to allow a new restaurant with a 100% valet-operated alternative parking facility and joint use of parking facilities to be constructed and operate with open air dining and extended hours on the commercial property located at 250-260 North Canon Drive. Pursuant to the provisions set forth in the California Environmental Quality Act (CEQA), the Planning Commission will also consider adoption of a Categorical Exemption for this project.

**Project Applicant:** Murray D. Fischer, applicant representative

**Recommendation:** That the Planning Commission:

1. Conduct a public hearing and receive testimony on the Project; and
2. Adopt a resolution recommending the City Council adopt the proposed Zone Text Amendment creating a CUP for alternative parking facilities that provide required parking; and
3. Adopt a resolution conditionally approving the requested entitlements.

### REPORT SUMMARY

The applicant seeks to construct a new, three-story restaurant with a subterranean parking garage on the southern portion (currently a surface parking lot) of the site located at 250-260 North Canon Drive. The proposed project involves a request for a Zone Text Amendment to allow an "alternative parking facility" (a valet-operated garage with automobile elevators and mechanical parking lifts) to provide the required parking with approval of a Conditional Use Permit (CUP). As proposed, the project would require City Council adoption of a Zone Text Amendment as well as Planning Commission approval of a Conditional Use Permit for an

**Attachment(s):**

- A. Zoning Compliance Table
- B. Required Findings
- C. Draft Resolution Recommending a Zone Text Amendment
- D. Draft Resolution Conditionally Approving a CUP, Open Air Dining, and Extended Hours
- E. Staff Report – Planning Commission meeting of 9/19/2016 (no attachments)
- F. Public Notice
- G. Public Comment
- H. CEQA Categorical Exemption Report, including Traffic Impact Analysis
- I. Architectural Plans (provided under separate cover)

Report Author and Contact Information:  
Emily Gable, Assistant Planner  
(310) 285-1192  
egable@beverlyhills.org



alternative parking facility and joint parking, an Open Air Dining Permit, and an Extended Hours Permit. Any Conditional Use Permit approval would be effective only if the necessary Zone Text Amendments are approved by the City Council and take effect.

During the Planning Commission’s special meeting on September 19, 2016, the Commission reviewed and conducted a public hearing on the subject project. The Commission directed staff to prepare resolutions that would approve the proposed project subject to specific conditions. This report documents the Commission’s comments regarding the project on September 19<sup>th</sup>, and highlights remaining items to be discussed and key points of the attached draft resolutions. This report also summarizes the conclusions of the environmental assessment that is provided in Attachment H.

A detailed project description and analysis of the proposed project can be found in the staff report for the Planning Commission meeting on September 19, 2016 (Attachment E). The project plans and proposal remain unchanged since that report. Staff recommends that the Planning Commission adopt the resolutions recommending the Zone Text Amendment to the City Council and conditionally approving the project.

**BACKGROUND**

File Date	6/15/2016
Application Complete	8/11/2016
Subdivision Deadline	N/A
CEQA Recommendation,	Class 5 Categorical Exemption for minor changes in land use regulations.
pending final analysis	Class 32 Categorical Exemption for in-fill development projects.
Permit Streamlining	N/A

Applicant(s)	Murray D. Fischer, applicant representative
Owner(s)	Neu Investment Corporation
Architect(s)	Nadel Architects

Prior PC Action	None
Prior Council Action	None

**PROPERTY AND NEIGHBORHOOD SETTING**

Property Information

Address	250-260 North Canon Drive, Beverly Hills CA 90210
Assessor’s Parcel No.	4343-006-002 (two lots, tied)
Zoning District	C-3
General Plan	Commercial – Low Density General
Existing Land Use(s)	Commercial (office and surface parking)
Lot Dimensions & Area	Approximately 100’ x 142.5’ (avg. width x avg. depth) = 14,275 sq. ft.
Year Built	1940 / 1957 (major addition & remodel)



Historic Resource           None  
Protected Trees/Grove    No protected trees

Adjacent Zoning and Land Uses

On Same Site	C-3 Commercial Current 250 N. Canon Dr.: three stories, Hilton & Hyland
Northwest	C-3 Commercial 270 N. Canon Dr.: four stories, Zein Obagi
Northeast (across alley)	Multiple-Family Residential-Commercial Parking Zone (RMCP) 225-239 N. Crescent Dr.: four stories, Whole Foods Market, parking, and senior housing
Southeast	C-3 Commercial 238 N. Canon Dr.: three stories, Mastro's
Southwest (across Canon Dr.)	C-3 Commercial 251 N. Canon Dr.: three stories, under construction

Circulation and Parking

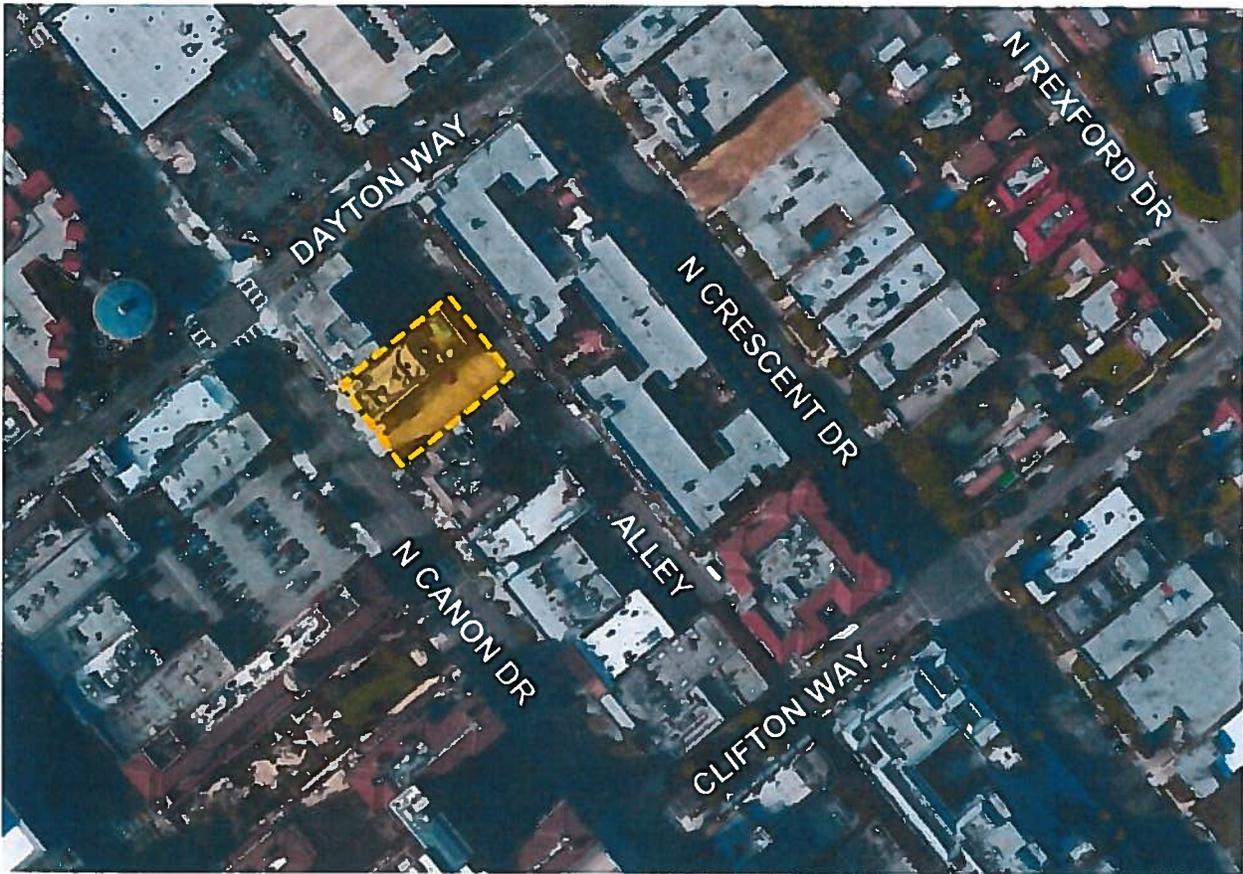
Adjacent Street(s)	N. Canon Dr.
Adjacent Alleys	20'-wide north-south alley to the east of N. Canon Dr. The alley runs between Dayton Way and Clifton Way and traffic is restricted to one- way southbound.
Parkways & Sidewalks	Approximately 15' sidewalk along N. Canon Dr.

Neighborhood Character

The project site is located on the northeast side of N. Canon Dr., between the intersections with Dayton Way and Clifton Way. The property has 100' of street frontage and is currently developed with a three-story commercial office building and a surface parking lot.

The project site is on the eastern edge of the Beverly Hills business triangle. To the west, as well as north and south along N. Canon Dr. is a large commercial area with buildings between one and ten stories in height. The majority of the commercial buildings in this area are two or three stories tall. Restaurants, retail, and commercial offices are the main uses in this area, and area restaurants typically have valet parking. A public park and hotel are located across N. Canon Dr. in the same block.

To the east of the project site is the Multiple-Family Residential-Commercial Parking (RMCP) zone, which allows a mix of multi-family residential, commercial, and parking uses. Behind the project site (immediately across the alley) is a four-story mixed-use building with a ground-floor grocery store and parking and three upper residential floors of senior housing. Farther to the east is a row of multiple-family residences (on the east side of N. Crescent Dr.) and to the east of that is a single-family residential area (on N. Rexford Dr. and east).



**Project Site**



**View from N. Canon Dr. of project site: existing office building and surface parking lot**



## **PROJECT DESCRIPTION**

**Required Approvals.** As proposed, the project requires the following discretionary approvals from the Planning Commission in order to be constructed. In addition, the Zone Text Amendment must be adopted by the City Council:

### **1. Zone Text Amendment:**

- To amend BHMC §10-3-100 (Definitions), BHMC §10-3-1604, BHMC §10-3-1702, §10-3-1802, and BHMC §10-3-2002 (Conditionally Permitted Uses in the C-3, C-3A, C-3B, and C-5 zones), and add BHMC §10-3-2730.4 (Alternative Parking Facility) to allow the use of automobile elevators and mechanical parking lifts to provide required parking in commercial zones through a Conditional Use Permit.

### **2. Conditional Use Permit:**

- Contingent upon adoption of the above Zone Text Amendment, to permit use of a 100% valet-operated alternative parking facility that would include automobile elevators, mechanical parking lifts, and aisle parking, to provide 102 required parking spaces for the existing office building and new restaurant building.
- To permit the joint use of parking facilities, such that up to 50% of the parking facilities of a use considered to be primarily a daytime use (existing office building) may be used to satisfy the parking facilities required for a use considered to be primarily a nighttime use (restaurant). In this case staff supports joint use of 25% of the existing office building's parking facilities.

### **3. Open Air Dining:**

- To permit a total of 6,257 square feet of open air dining (216 seats) on private property. The majority of this area (5,342 square feet) would be within the building that would have operable window systems on all three floors and a retractable roof. A smaller portion of this area (915 square feet) would be located in a courtyard with walls on four sides and no roof.

### **4. Extended Hours Permit:**

- To permit the restaurant use, which is in a Commercial-Residential Transition Area, to receive patrons during Extended Hours (between 10:00 p.m. and 7:00 a.m. on the following weekday and 10:00 p.m. and 9:00 a.m. on the following weekend day or holiday). Specifically, the project requests to be allowed to receive patrons until 1:00 a.m. daily and to operate until 1:30 a.m. daily

## **ENVIRONMENTAL ASSESSMENT**

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 *et seq.*), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*), and the environmental regulations of the City. A Categorical Exemption Report has been prepared by Rincon Consultants, Inc. for the City (Attachment H).



The project appears to qualify for a Class 5 Categorical Exemption pursuant to Section 15305 of the State CEQA Guidelines for minor changes in land use regulations, which states that a Class 5 Categorical Exemption may be applied to minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. The proposed Zone Text Amendment would allow an “alternative parking facility”—involving automobile elevators and/or mechanical parking lifts—to be used to provide required parking for commercial uses in commercial zones through approval of a Conditional Use Permit. Such facilities could currently be used to provide non-required parking. Both the city as a whole and the commercially-zoned areas of the city have an average slope of less than 20%. Therefore the project, and Zone Text Amendment in particular, appears to qualify for a Class 5 Categorical Exemption.

The project also appears to qualify for a Class 32 Categorical Exemption pursuant to Section 15332 of the State CEQA Guidelines for in-fill development projects, which states that a Class 32 Categorical Exemption is allowed when:

- (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.*

Additionally, State CEQA Guidelines Section 15300.2 states that a categorical exemption “shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.”

The attached Categorical Exemption Report analyzed each of the required areas and found that the proposed project appears to be consistent with applicable zoning and general plan designations and policies; occurs on a site that is less than five acres, is surrounded by urban uses, and has no value as habitat; would not result in significant impacts relating to traffic, noise, air quality, or water quality; can be adequately served by all required utilities and public services; and would not cause a substantial adverse change in the significance of a historical resource.

The Planning Commission will consider finding that the project is exempt from the provisions of CEQA.



**PUBLIC OUTREACH AND NOTIFICATION**

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	9/15/2016	4 Days
Newspaper Notice	10 Days	9/9/2016	9/9/2016 (Beverly Hills Courier) 9/15/2016 (Beverly Hills Weekly)	10 Days
Mailed Notice (Owners & Residential Occupants - 500' radius + block-face, commercial occupants within 50')	10 Days	9/9/2016	9/9/2016	10 Days
Property Posting	10 Days	9/9/2016	9/9/2016	10 Days
Website	N/A	N/A	9/15/2016	4 Days

The public hearing on September 19, 2016 was duly noticed. At that meeting, the Commission continued the public hearing to a date certain (September 26, 2016), so no further notice was required. If the Planning Commission recommends the Zone Text Amendment to the City Council, the hearing at which the City Council will consider the ordinance will be duly noticed.

Public Comment

As of the writing of this report, staff has spoken with and received a letter from one resident on N. Rexford Dr. who has concerns about noise, particularly amplified music, from the operation of the project. Additional public comments were presented by residents, property owners, and the applicant team at the public hearing on September 19, 2016. Comments included:

- A resident expressed concern about noise from mechanical equipment and people, particularly late at night. She also expressed concern about the impact of additional valet drop-off/pick-up spaces on that block of N. Canon Drive.
- The owner of the neighboring building to the south (Mastro's) expressed concern that the proposed building might negatively affect views from the third floor of Mastro's.
- A resident spoke in favor of the Zone Text Amendment and asserted that the first finding for the new CUP is too restrictive and that alternative parking facilities should not be constrained to those sites where it is physically too difficult to provide standard parking.

**DISCUSSION AT SEPT. 19<sup>TH</sup> PLANNING COMMISSION MEETING**

At the Planning Commission meeting on September 19, 2016, the following items and issues were discussed:

- Possible remedies if an alternative parking facility's mechanism(s) fails, or for some other reason the parking system does not operate according to the conditions of a CUP:
  - The CUP could be rescinded if a project fails to meet its conditions of approval. Any remedy—changing the machinery, changing the valet operation, purchasing in-lieu parking—could be studied and settled on at that time, based on the specific type of failure.



- Valet staffing: Commissioners discussed requiring a minimum of two (2) valet staff stationed on each level of the parking facility. Additional valet staff should be stationed in front and at the rear of the project site, and overall sufficient staff should be provided to manage and minimize queuing for the elevators and the curbside (on N. Canon Dr.) drop-off/pick-up spaces. Staff recommends that valets be required to be stationed on a level of the parking facility at any that level is in use.
- Parking space dimensions: Some commissioners expressed concern that the 7'-2" wide x 19' long x 6' tall dimensions of the proposed mechanical lift parking spaces would be too small for larger cars. It was also noted that the ceiling height could be constructed such that vehicles on the top level of the mechanical lifts would have additional headroom, and that the largest vehicles could be parked in the drive aisle parking spaces.
- Aisle parking: Commissioners expressed some concern about the dimensions and locations of the six (6) proposed aisle parking spaces on each level of the alternative parking facility. For the purpose of efficiency, aisle spaces would be used last, and commissioners did not suggest additional conditions or alterations to the plans.
- Back-up power and redundancies: The Applicant verified that there would be a generator to provide back-up power for the automobile elevators and mechanical parking lifts. The mechanical lifts can be manually lowered if necessary. Commissioners recommended the automobile elevators be conditioned to be independent systems, such that if one fails the other will continue working, and that a service contract be required.
- Fully-automated parking: Commissioners and a member of the public wondered whether this Zone Text Amendment could also create a CUP to allow fully-automated parking facilities.
  - The Zone Text Amendment has been drafted to allow a narrow set of technologies to provide required parking with a CUP. The applicant is requesting this narrow application and allowing use of fully automated parking facilities to provide required parking should be addressed in a separate process.

## **ITEMS FOR CONSIDERATION**

Among the items the Planning Commission may wish to discuss are:

- Joint use of parking facilities: Staff recommends the Commission permit 25% of the office building's parking spaces to be jointly used by the restaurant (7 office parking spaces would be shared with the restaurant) because the two uses have different peak times of parking demand. The Commission may consider granting a greater (up to 50%) or smaller percentage.
- Pilot projects / sunset clause: There are various options for the proposed project or the associated Zone Text Amendment to act as a pilot project or a limited term amendment to the code as discussed at the prior meeting. Some possibilities are:
  - Adopt the Zone Text Amendment with no sunset clause and approve the proposed project. All future projects that wish to use an alternative parking facility to provide required parking must undergo the CUP process, which ensures oversight of each individual proposal. Include a condition of approval on the proposed project that the applicant shall submit a study of the parking operations to the City after one year of operation so the City can better understand and evaluate potential issues with alternative parking facilities in the future. Direct



staff to schedule a study session on the matter at the time the study is received. Staff recommends this option.

- Adopt the Zone Text Amendment with a clause that the added sections shall be repealed on a certain date (e.g. 1-2 years after adoption of the Amendment) and/or after a certain number (e.g. 2-3 CUPs) have been granted, unless the City Council takes action to extend the availability of the CUP.
- **Extended Hours:** The Commission recommended that the permitted hours match the operating hours of Mastro's, which is next door to the proposed restaurant. Based on the best information staff has at this time, the proposed hours are:
  - The entire restaurant, including open air dining, may accept patrons until 1:00 a.m. daily and operate until 1:30 a.m. daily.
  - The folding window systems on the third floor and the retractable roof shall be closed at or before 10:00 p.m. daily to reduce noise.

The Planning Commission may decide to permit different hours or regulate the closing of the folding window systems and retractable roof to a greater or lesser extent.

#### **DRAFT CONDITIONS OF APPROVAL**

Project-specific conditions of approval regulating the design, construction, and operation of the project are included in the draft resolution provided in Attachment D. The conditions include:

- **Extended Hours and Open Air Dining:**
  - Close the third floor windows and retractable roof and cease amplified music in the outdoor courtyard at 10:00 p.m. daily
  - During Extended Hours (after 10:00 p.m.), comply with all operational requirements of the commercial-residential transition area
- **Parking Configuration:**
  - The number of required parking spaces shall be calculated based on the final floor area of the proposed project
  - Six (6) aisle parking spaces are allowed on each of the three (3) levels of the parking facility
  - Dimensions of parking spaces in the alternative parking facility shall be the size shown on the approved plans or larger
- **Parking Operation:**
  - Provide valet parking for all patrons and employees of all uses on the site
  - Provide a minimum of two parking attendants on each level of the parking facility at any time a level is in use. Additional attendants shall be stationed at the ground level at the front and rear of the Project
  - Obtain a valet permit from Public Works
  - Reimburse the City for costs associated with restricting parking meter service to accommodate valet operations
  - Provide proof of lease for 13 parking spaces at 270 N. Canon Dr. in the evenings Monday through Friday and all day on Saturday and Sunday
  - Submit a study of the parking operation after one year of operation
- **Parking Facility Back-up Power, Redundancies, Service, and Inspections:**
  - Provide proof of back-up generator power
  - Automobile elevators and mechanical parking lifts shall be individually operable such that mechanical failure of one would not prevent use of the others
  - Provide proof of service contract(s)



- Maintenance inspection report(s) to be provided to the City upon request
- General Conditions:
  - Comply with the City's noise regulations at all times
  - The City reserves jurisdiction relative to traffic, parking, loading, and noise issues and reserves the right to impose additional conditions as necessary to mitigate any unanticipated impacts

### **NEXT STEPS**

Staff recommends that the Planning Commission:

1. Conduct a public hearing and receive testimony on the Project; and
2. Adopt a resolution recommending the City Council adopt the proposed Zone Text Amendment creating a CUP for alternative parking facilities that provide required parking; and
3. Adopt a resolution conditionally approving the requested entitlements.

Report Reviewed By:

A handwritten signature in black ink, appearing to read "Ryan Gohlich", written over a horizontal line.

Ryan Gohlich, AICP  
Assistant Director / City Planner  
Community Development Department