

ATTACHMENT 3

PLANNING COMMISSION

RESOLUTION No. 1788,

**APPROVING A CONDITIONAL USE PERMIT, OPEN
AIR DINING, AND EXTENDED HOURS**

RESOLUTION NO. 1788

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 – 3rd 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)

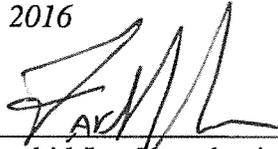
years after the adoption of such resolution unless otherwise extended. Open Air Dining Permit: The exercise of rights granted herein shall be commenced within three (3) years after the adoption of this resolution unless otherwise extended. **The Open Air Dining Permit shall be valid for a period of five (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.

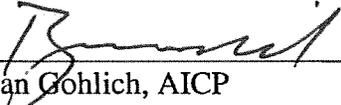
Section 14. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: *September 26, 2016*



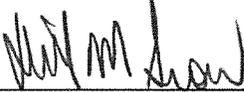
Farshid Joe Shooshani
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



Ryan Gohlich, AICP
Secretary of the Planning Commission

Approved As To Form:



David M. Snow
Assistant City Attorney

Approved As To Content:



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

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

I, RYAN GOHLICH, AICP, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1788 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on September 26, 2016, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Licht, Block, Fisher, Vice Chair Gordon, Chair Shooshani.

NOES: None.

ABSTAIN: None.

ABSENT: None.



RYAN GOHLICH, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California