

ATTACHMENT 6

**SEPTEMBER 26, 2016 PLANNING COMMISSION
STAFF REPORT**

(WITHOUT ATTACHMENTS)



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:

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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 19th, 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, pending final analysis	Class 5 Categorical Exemption for minor changes in land use regulations. 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

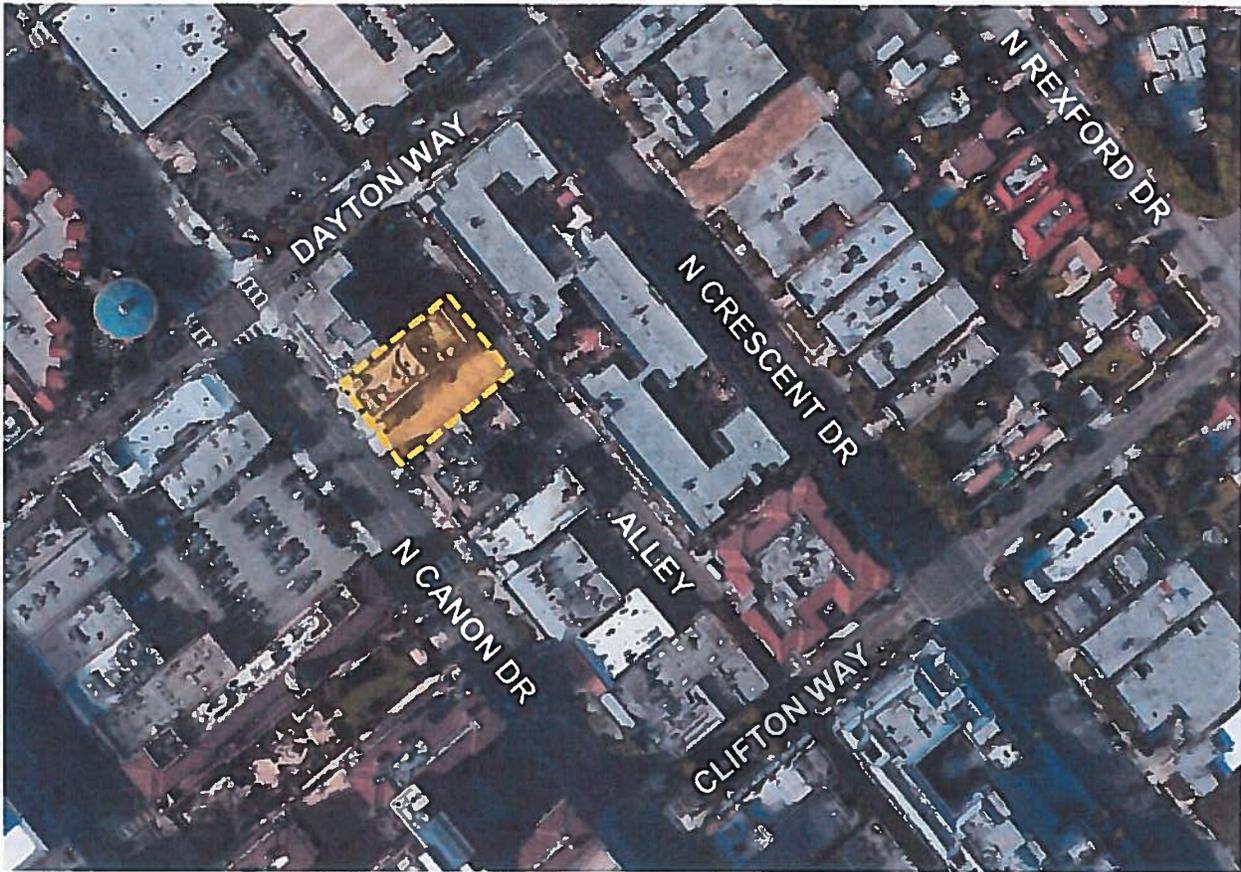
Adjacent Street(s)	N. Canon Dr.
Adjacent Alleys	20'-wide north-south alley to the east of N. Canon Dr. The alley runs between Dayton Way and Clifton Way and traffic is restricted to one- way southbound.
Parkways & Sidewalks	Approximately 15' sidewalk along N. Canon Dr.

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. 19TH 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.

- o 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:
 - o The entire restaurant, including open air dining, may accept patrons until 1:00 a.m. daily and operate until 1:30 a.m. daily.
 - o 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:**
 - o Close the third floor windows and retractable roof and cease amplified music in the outdoor courtyard at 10:00 p.m. daily
 - o During Extended Hours (after 10:00 p.m.), comply with all operational requirements of the commercial-residential transition area
- **Parking Configuration:**
 - o The number of required parking spaces shall be calculated based on the final floor area of the proposed project
 - o Six (6) aisle parking spaces are allowed on each of the three (3) levels of the parking facility
 - o Dimensions of parking spaces in the alternative parking facility shall be the size shown on the approved plans or larger
- **Parking Operation:**
 - o Provide valet parking for all patrons and employees of all uses on the site
 - o 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
 - o Obtain a valet permit from Public Works
 - o Reimburse the City for costs associated with restricting parking meter service to accommodate valet operations
 - o 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
 - o Submit a study of the parking operation after one year of operation
- **Parking Facility Back-up Power, Redundancies, Service, and Inspections:**
 - o Provide proof of back-up generator power
 - o Automobile elevators and mechanical parking lifts shall be individually operable such that mechanical failure of one would not prevent use of the others
 - o 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 blue ink, appearing to read "Ryan Gohlich", written over a horizontal line.

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